



PLANNING COMMITTEE

DATE: Tuesday, 7 December 2021

TIME: 6.00 pm

VENUE: Council Chamber - Council Offices,
Thorpe Road, Weeley, CO16 9AJ

MEMBERSHIP:

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

Most Council meetings are open to the public and press. The space for the public and press will be made available on a first come first served basis. The meeting will normally be live streamed and the link to this is available at www.tendringdc.gov.uk/livemeetings. Those attending the meeting may therefore be filmed. After the meeting the recording of the live stream will normally be available using the same link.

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

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

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

DATE OF PUBLICATION: Monday, 29 November 2021

AGENDA

1 Apologies for Absence and Substitutions

The Committee is asked to note any apologies for absence and substitutions received from Members.

2 Minutes of the Last Meeting (Pages 1 - 18)

To confirm and sign as a correct record, the minutes of the meeting of the Committee, held on Tuesday, 23 November 2021.

3 Declarations of Interest

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

4 Questions on Notice pursuant to Council Procedure Rule 38

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

5 A.1 PLANNING APPLICATION – 20/00307/DETAIL – TURPINS FARM ELM TREE AVENUE KIRBY LE SOKEN ESSEX CO13 0DA (Pages 19 - 40)

This application is referred to Planning Committee at the request of the previous Planning Committee who when the outline consent was given resolution to granted requested that all reserved matters applications are determined by Planning Committee. Cllr Turner has also requested that the application be 'called in' to Planning Committee.

The current application seeks approval of the reserved matters relating to outline planning permission 16/00031/OUT which 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 includes details of appearance, landscaping, layout and scale which were not included as part of the outline. Details of the access have been approved as part of the outline consent.

6 A.2 PLANNING APPLICATION – 21/00186/FUL – CROSSWAYS CENTRE FRATING ROAD GREAT BROMLEY COLCHESTER ESSEX (Pages 41 - 68)

Crossways Centre is located within Frating which is a 'Smaller Rural Village'. Access would not be via the primary highway network. Instead, it would be from the B1029 Frating Road. The site is not a protected or allocated employment site and the proposal is for a B8 storage and distribution use. The site is located outside of the settlement development boundary.

The proposal is 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.

7 **A.3 PLANNING APPLICATION – 21/01411/FUL – LAND ADJACENT THORPE CROSS LODGE 26 FRINTON ROAD THORPE LE SOKEN CLACTON ON SEA ESSEX (Pages 69 - 82)**

This application is referred to the Planning Committee by the Ward Councillor for Thorpe Le Soken for the following reasons:

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

This application seeks 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 was permitted in August 2021.

8 **A.4 PLANNING APPLICATION – 21/01747/ADV – STARLINGS BLOCK LAND TO THE SOUTH OF HIGH STREET HARWICH ESSEX (Pages 83 - 90)**

This application is referred to the Planning Committee as the applicant is Tendring District Council.

The application involves the display of four non-illuminated artistic-impressions of the proposed re-development of the site, as approved under application 21/01145/FUL.

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, 21 December 2021.

Information for Visitors

FIRE EVACUATION PROCEDURE

There is no alarm test scheduled for this meeting. In the event of an alarm sounding, please calmly make your way out of any of the fire exits in the hall and follow the exit signs out of the building.

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

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

Your calmness and assistance is greatly appreciated.

Tendring District Council



PLANNING COMMITTEE MEETINGS PUBLIC SPEAKING SCHEME March 2021

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

TO WHICH MEETINGS DOES THIS SCHEME APPLY?

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

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

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

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

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

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

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

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

WHICH MATTERS ARE COVERED BY THIS SCHEME?

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

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

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

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

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

HOW DO I ARRANGE TO SPEAK AT THE MEETING?

You can:-

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

Email: democraticservices@tendringdc.gov.uk

OR

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

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

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

WHAT WILL HAPPEN WHEN THE MATTER CONCERNED IS CONSIDERED?

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

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

WHAT SHOULD I SAY AT THE MEETING?

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

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

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

WHO DO I CONTACT FOR MORE INFORMATION?

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

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

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

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

**MINUTES OF THE MEETING OF THE PLANNING COMMITTEE,
HELD ON TUESDAY, 23RD NOVEMBER, 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, Harris and Placey
Also Present:	Councillors Coley, Davis and G V Guglielmi.
In Attendance:	Gary Guiver (Acting Director, Planning), Graham Nourse (Assistant Director, Planning), Joanne Fisher (Planning Solicitor), Trevor Faulkner (Planning Manager), Jacob Jaarsmar (Planning Team Leader), Emma Haward (Leadership Support Officer) and Matthew Cattermole (Communications Assistant).

165. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

Apologies were received from Councillor Fowler with no substitute.

166. 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 26 October 2021 be approved as a correct record subject to following alterations:

1. Minute 156, Councillor Baker's declaration of interest should read '...due to formerly being a Ward Member of the adjacent Ward'.
2. Minute 162, the reasons for refusal of application 21/00208/FUL - Land Rear of Strangers Way, Church Road, Brightlingsea were as follows:-
 - a. *Contrary to 'Backland Development' Policies HG13 of the adopted Local Plan and Policy SP7 of the emerging Local Plan by reason of it introducing a long and narrow driveway access in a location close to the side elevation and rear garden of Strangers Way which would result in increased noise, vehicular movements and light pollution to the neighbouring property; and*
 - b. *Contrary to Policy SP7 of the emerging Local Plan in that it would introduce a cramped form of development which would be out of character with the surrounding area, which is predominately characterised by detached dwellings with large rear gardens.*

167. DECLARATIONS OF INTEREST

Councillor Baker declared a personal interest in planning application **A.1 21/00650/OUT – LAND EAST OF BROMLEY ROAD LAWFORD CO11 2HS**. He stated that he was predetermined and that therefore, he would not participate in the Committee's deliberations and decision making on this application.

Councillor Coley, who was present in the public gallery, declared a personal interest in planning application **A.1 21/00650/OUT – LAND EAST OF BROMLEY ROAD**

LAWFORD CO11 2HS due to his being both a Director and the Chairman of the Lawford Housing Enterprise Trust.

Councillor G V Guglielmi, who was also present in the public gallery, also declared a personal interest in planning application **A.1 21/00650/OUT – LAND EAST OF BROMLEY ROAD LAWFORD CO11 2HS** due to his being a Director of the Lawford Housing Enterprise Trust.

168. QUESTIONS ON NOTICE PURSUANT TO COUNCIL PROCEDURE RULE 38

There were none on this occasion.

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

Earlier in the meeting, Councillor Baker had declared a personal interest in this planning application. He had declared that he was predetermined and therefore did not participate in the Committee's deliberations and decision making on this application.

Earlier in the meeting Councillor Coley, present in the public gallery, had declared a personal interest in this planning application due to his being both a Director and the Chairman of the Lawford Housing Enterprise Trust.

Earlier in the meeting Councillor G V Guglielmi, present in the public gallery, had also declared a personal interest in this planning application due to his being the Director and Chairman of the Lawford Housing Enterprise Trust.

The Committee was reminded that outline planning permission (all matters apart from access - reserved) had been granted on 13th April 2017 for a mixed development of 360 houses and community facilities/open space on 22.76ha of land to the south of Lawford, under application ref. 15/00876/OUT. In 2020, there had been subsequently a Section 73 approval under planning reference 20/00458/OUT, to vary condition 9 of 15/00876/OUT relating to the delivery requirement of the spine road and access to Long Road before the 201st occupation. That application had also included bringing forward the delivery of a mini roundabout at the junction of Wignall Street and Bromley Road to the 180th occupation, as opposed to the 200th occupation as then required.

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

Members were aware that the site lay outside the defined settlement boundary of the saved Local Plan but within the settlement boundary of the emerging Local Plan. The principle of residential development had been established through the granting of outline planning permission, which had also established the position of the access.

In the opinion of Officers the detailed plans complied with the outline requirements and were considered acceptable with no significant material harm to visual or residential amenity, or highway safety.

Members were advised that a legal agreement, ‘Deed of Variation’ was required for this application in order to ensure the new outline approval linked into the original Section 106 Agreement.

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

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

An update sheet had been circulated to the Committee prior to the meeting with details of an amendment proposed to Condition 5 as follows:

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

18/00304/DISCON and 18/01548/DISCON (Phase 1) and 19/01698/DISCON and 20/01597/DISCON (Phase 2)

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

Reason - To protect highway efficiency of movement and safety.”

Will Vote, the agent acting on behalf of the applicant, spoke in support of the application.

Councillor Coley, a local Ward Member, spoke in favour of the application.

Councillor G V Guglielmi, a local Ward Member, spoke against the application.

Matters raised by a Member of the Committee:-	Officer’s response thereto:-
A member of the Committee requested clarification that approving the roundabout would speed up the development process to 6 months.	The Planning Officer confirmed.
It was raised by a member of the Committee issues regarding the construction traffic.	The Planning Officer confirmed that whilst 359 properties could be occupied through the variation of this condition, at present only circa 260 dwellings could be constructed via Bromley Road/Dead Lane, and the phases beyond this point will need to seek this Council’s agreement via a Construction Management Plan. It may well

	be that the developer will need to seek construction access from Long Lane for these phases.
Concerns regarding the lack of access into and out of the development were raised by another member of the Committee.	The Planning Officer confirmed that ECC Highways looked at the scheme and considered access to the site from a single access road from Bromley Road to be acceptable until such time as the link is created to Long Road
A member of the Committee raised concerns regarding the prolonged use of heavy construction along Dead Lane. The Member suggested a condition whereby, the lane was not used for heavy construction but plumbers and electricians etc.	At present only circa 260 dwellings could be constructed via Bromley Road/Dead Lane, and the phases beyond this point will need to seek this Council's agreement via a Construction Management Plan. It may well be that the developer will need to seek construction access from Long Lane for these phases.

Following discussion by the Committee, it was moved by Councillor Harris, seconded by Councillor Bray 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 deed of variation to the original legal agreement under the provisions of section 106 of the Town and Country Planning Act 1990.
- b) the conditions stated in section 8.1 of the Officer report and as 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 Deed of Variation of the original Section 106 planning obligation.

Conditions and Reasons:

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

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

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

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

Phase 1 Reserve Matters Approval 17/01527/DETAIL

Phase 2 Reserve Matters Approval 19/01475/DETAIL

Phase 3 Reserve Matters Approval 20/00480/DETAIL

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

- 19/01498/NMA Non Material Amendment to approval of 15/00876/OUT for substitution of "Cornelia" house type for "Barbier" house type at plots 86-87, 90-93, 100-101. Proposed substitution of "Cornelia" house type for "Cornelia Variation" housetype at plots 54-57. Change of rear and side elevations, and internal layout to "Alexander" house type at plots 75-79.
- 19/01751/DETAIL Reserved matters application following outline permission 15/00876/OUT - Application to substitute "Cornelia" house type for "Barbier" house type at plots 86-87, 90-93, 100-101 as previously approved by 17/01527/DETAIL. Proposed substitution of "Cornelia" house type for "Cornelia Variation" house type at plots 54-57. Change of rear and side elevations, and internal layout to "Alexander" house type at plots 75-79.
- 19/00211/FUL Re-location of approved electrical substation (retrospective) and parking spaces.
- 20/00178/NMA Non Material Amendment to approval of 15/00876/OUT for substitution of plots 39, 60 and 81 from "Braithewaite Variation" house type to "Braithewaite" house type. Hand plot 63.
- 21/00741/NMA Application for a Non-Material Amendment to Planning Permission ref: 15/00876/OUT dated 13/04/2017 for the proposed substitution of the hipped Albertine for the gabled Albertine house type
- K287-002C Proposed Mini Roundabout Details Approval of the details of the siting, design and external appearance of the dwellings, the means of access thereto and the landscaping of the site (hereinafter called "the Reserved Matters") shall be obtained for each agreed phase of the development before any development on such phase is commenced. The development shall be carried out in accordance with any such approval.

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

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

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

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

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

5. Unless otherwise agreed in writing with the Local Planning Authority, the Construction Management for Phase 1 and Phase 2 shall be implemented in accordance with the details approved in the following discharge of condition applications: 18/00304/DISCON and 18/01548/DISCON (Phase 1) and 19/01698/DISCON (Phase 2)

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

Reason - To protect highway efficiency of movement and safety.

6. No more than 180 dwellings on the development shall be occupied until a miniroundabout at the junction of Wignall Street and Bromley Road as shown in principle on approved Ardent Consulting Engineers drawings K297-002C has been completed. No more than 200 dwellings on the development shall be occupied until the upgrade to the Public Right of Way which runs through the proposal site between Long Road and Dead Lane (details shall be agreed with the Local Planning Authority prior to commencement of the development) have been completed.

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

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

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

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

8. Unless otherwise agreed in writing with the Local Planning Authority, the surface water drainage scheme for Phase 1, Phase 2 and Phase 3 shall be implemented in accordance with the details approved in the following discharge of conditions application: 18/00304/DISCON (Phase 1) and 19/01698/DISCON (Phase 2) and 20/00773/DISCON (Phase 3)

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

In particular the drainage scheme shall include:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13. Unless otherwise agreed in writing with the Local Planning Authority, the tree protection measures for Phase 1, Phase 2 and Phase 3 shall be implemented in

accordance with the details approved in the following discharge of conditions applications:

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

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

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

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

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

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

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

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

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

15. Unless otherwise agreed in writing with the Local Planning Authority, the lighting, refuse storage/collection point and the manufacturer and types and colours of the external facing and roofing materials for the dwellings in Phase 1, Phase 2 and Phase 3

shall be implemented in accordance with the details approved in the following discharge of condition applications:

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

Within any other defined phase of the scheme, no development shall commence until precise details of lighting, refuse storage/collection points and the manufacturer and types and colours of the external facing and roofing materials for the dwellings to be used in the construction of that phase have been submitted to and approved, in writing, by the Local Planning Authority. Such lighting, refuse points and materials so approved shall be those used in the development.

Reason - To ensure a satisfactory development in relation to external appearance.

16. Unless otherwise agreed in writing with the Local Planning Authority, the Construction

Management Plans of Phase 1 and 2 shall be implemented in accordance with the approved details within the following discharge of condition applications:

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

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

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

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

17. Within the hereby permitted development, no dwelling shall be occupied until a high-speed broadband connection is installed utilising resistant tubing to that dwelling.

Unless otherwise agreed in writing with the Local Planning Authority, all connections shall be in accordance with the details set out in the GTC letter dated 4 July 2017. If the applicant is unable to achieve this standard of connection, and can evidence through consultation that this would not be possible, practical or economically viable an alternative superfast (i.e. will provide speeds greater than 24mbps) wireless service will be considered acceptable.

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

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

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

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

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

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

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

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

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

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

The Chairman informed the Committee that this item had been deferred at the request of the Applicant.

The Committee noted the forgoing.

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

It was reported that this application had been referred to the Planning Committee at the request of Councillor Anne Davis, due to her stated concerns over the potential, in her opinion for the proposal to adversely affect the living conditions of neighbouring residents, some of whom were elderly, by virtue of noise and disturbance. Furthermore, Councillor Davis had stated that she was concerned that the fencing around the site was not in keeping with the character and appearance of the area, and that there was insufficient parking for the number of residents and staff proposed.

Members were made aware that Frinton and Walton Town Council had also objected to the proposal, due to its concern over land use conflict with adjacent housing. Essex County Council however supported the application, and no other third party representations had been received prior to the publication of the Officer report.

The Committee was informed that the proposal was located within the Settlement Development Boundary and was felt by Officers to be acceptable in principle, in accordance with the policies of the development plan, and a lawful use certificate had previously been granted for a more intensive C2 Residential Institution use of the site. Officers considered that some weight should also be given to the policy compliant reuse of a vacant and underused site.

Members were assured that Officers had fully assessed the proposal having regard to the provisions of the development plan and site specific circumstance. Officers had found that the proposal would not have any unacceptable adverse effect on the living conditions of neighbours, or result in demonstrable harm to highway safety or the character and appearance of the area, and that approval 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 approval.

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

An update sheet had been circulated to the Committee prior to the meeting with details of further third party representations and the comments of the Officers in response thereto.

Karen Carter, the applicant, spoke in support of the application.

Councillor Anne Davis, the local Ward Member, spoke against the application.

Matters raised by a Member of the Committee:-	Officer’s response thereto:-
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<p>A member of the Committee referred to the layout of the individual units and whether there was adequate floor space.</p>	<p>The Planning Officer confirmed that there was a consistent layout throughout including; a bedroom, bathroom, kitchen and living area. Each unit exceeded floor space standards and was policy compliant.</p>
<p>A member of the Committee asked whether the units will be sound proofed from each other.</p>	<p>The Planning Officer confirmed that the conversion works would need to comply with current Building Regulations which include acoustic attenuation for new partition walls</p>
<p>Another member of the Committee asked about the existing approval of use of the building for 6 or more individuals.</p>	<p>The Planning Officer confirmed that in 2020 the Council had approved a Lawful Development Certificate for use as a care home for up to 6 children. This proposal was for up to 4 young adults.</p>
<p>How long on average would individuals live at the premises?</p>	<p>The Planning Officer confirmed that individuals would be at the premises medium to long-term.</p>
<p>What reassurance could be provided if there was a noise concern? What actions could be taken?</p>	<p>In terms of noise concern, the Council was in support of residential units in appropriate locations as set out in 6.3-6.14 of the report. Management and support would be provided 24/7 on site with an appropriate management plan.</p>
<p>A member referred to the hedge located on the main road, and asked if it could be conditioned so that it is maintained.</p>	<p>The Planning Officer referred to condition 7 where the hedge was to be retained. An additional condition could be imposed to seek a Landscape Management Plan or alternatively, condition 7 could be amended to include maintenance provisions.</p>
<p>The report identified complex needs in relation to physical disabilities. Were there considerations to be taken into account with regards to access, doors and floor space?</p>	<p>The Planning Officer referred to 5.4 with regards to the types of disabilities and impairments, the proposal detailed the accommodation necessary fundamentally for C2 use, Planning Services felt that this was substantial.</p>
<p>Could an electrical vehicle charging point be installed?</p>	<p>The Planning Officer confirmed that this could be a condition recommended by the Committee.</p>

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

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

- Financial Contribution towards RAMS

-
- b) the conditions as stated in section 8.2 of the Officer report apart from condition 7 which is amended to include provisions for maintenance plus the additional condition in respect of an electric vehicle charging point and as reproduced below.
- c) the Head of 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 begun before the expiration of three years from the date of this permission.

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

2. The development hereby permitted shall be carried out in strict accordance with the following approved plans: Drawing No. 3499-PA-LOC, Location Plan Drawing No. PA-10-A, Site Plan Drawing No. PA-11-B, Proposed Floor Plans and Elevations.

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

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

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

4. No vehicle connected with the works to arrive on site before 07:30 or leave after 19:00 (except in the case of emergency). Working hours to be restricted between 08:00 and 18:00 Mondays to Saturdays (finishing at 13:00 on Saturdays) with no working of any kind permitted on Sundays or any Public/Bank Holiday whilst construction works and alterations are being carried out.

Reason: In the interests of protecting neighbouring residential amenity.

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

Reason: In the interests of protecting neighbouring residential amenity.

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

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

7. The hedge behind the footway along Garden Road shall be retained for the lifetime of the development. In addition, prior to occupation of the building a hedge

maintenance scheme shall be submitted to and agreed in writing by the local planning authority and thereafter maintained in accordance with the approved scheme.

Reason: In the interests of visual amenity.

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

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

9. Electric Vehicle Charging Point condition (and reason) needs to be added here.

PLUS ADDITION OF FOLLOWING CONDITION:

10. Prior to commencement of development a scheme for the provision of an electric vehicle charging facility to serve the use hereby approved shall have first been submitted to and approved in writing by the local planning authority. Thereafter the charging facility shall be installed in a working order prior to first occupation of premises.

Reason: In order to promote sustainable transport.

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

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

Members were made aware that the proposal involved the formation of a number of ponds within the John Weston Nature Reserve in order to provide additional feeding opportunities for waders and to increase the biodiversity of the overall site. The nature reserve formed part of 'Hamford Water'.

The proposal was considered by Officers to be acceptable and there had been no objections received from Essex County Council's Archaeology or Ecology departments or from Natural England, subject to their recommended conditions to ensure that biodiversity mitigation and enhancement measures were secured.

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

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

Following discussion by the Committee, it was moved by Councillor Alexander, seconded by Councillor Placey and unanimously **RESOLVED** that the Assistant Director

(Planning) (or equivalent authorised officer) be authorised to grant planning permission for the development, subject to the following:

Conditions and Reasons:

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

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

2. The development hereby permitted shall be carried out in accordance with the following approved drawings: 2008/00 Site Layout Plan 2008/02A Proposed Elevations and Floor Plans

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

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

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

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

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

4. No development or preliminary groundworks of any kind shall take place until a programme of archaeological investigation has been secured in accordance with a written scheme of investigation which has been submitted by the applicant, and approved in writing by the local planning authority. No development or preliminary groundworks of any kind shall take place until the completion of the programme of archaeological investigation identified in the written scheme of investigation defined above. The applicant will submit to the local planning authority a post excavation assessment (to be submitted within six months of the completion of the fieldwork). This will result in the completion of post excavation analysis, preparation of a full site

archive and report ready for deposition at the local museum, and submission of a publication report.

Reason: To allow proper investigation and recording of the site which is potentially of archaeological and historic significance.

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

It was reported that this was an application for a Non-Material Amendment (NMA). As the Council was the applicant, and in accordance with the Council's Constitution, the application had been referred to the Planning Committee for its determination.

Members were informed that this application sought changes to the original planning permission (21/00871/FUL - 'Proposed business units, covered market, community garden, public WCs and associated public realm') granted on 9th July 2021 in accordance with the Planning Committee's decision on 6th July 2021.

The Committee was advised that Section 96A of the Town and County Planning Act 1990 stated that in deciding whether a change was material, a Local Planning Authority must have regard to the effect of the change on the planning permission as originally granted. The Planning Practice Guidance confirmed that there was no statutory definition of 'non-material'. It would be dependent on the context of the overall scheme – an amendment that was non-material in one context may be material in another. The local planning authority must be satisfied that the amendment sought was non-material in order to grant such an application.

The key test as to the acceptability of an NMA application was whether the change was material to any development plan policy. If the answer was 'no', as in this case, three further tests should be applied namely:

- "1. Is the proposed change significant in terms of its scale, in relation to the original approval?"*
- 2. Would the proposed change result in a detrimental impact either visually or in terms of amenity?"*
- 3. Would the interests of any third party or body who participated in, or were informed of, the original decision be disadvantaged in any way?"*

Members were informed that it was considered that the answer to all three tests above was no and that the application was therefore recommended by Officers for approval.

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

Councillor Placey had not previously participated in the Committee's site visits to this location and therefore she did not participate in the Committee's deliberations and decision making on this application.

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

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

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

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

The meeting was declared closed at 7.56 pm

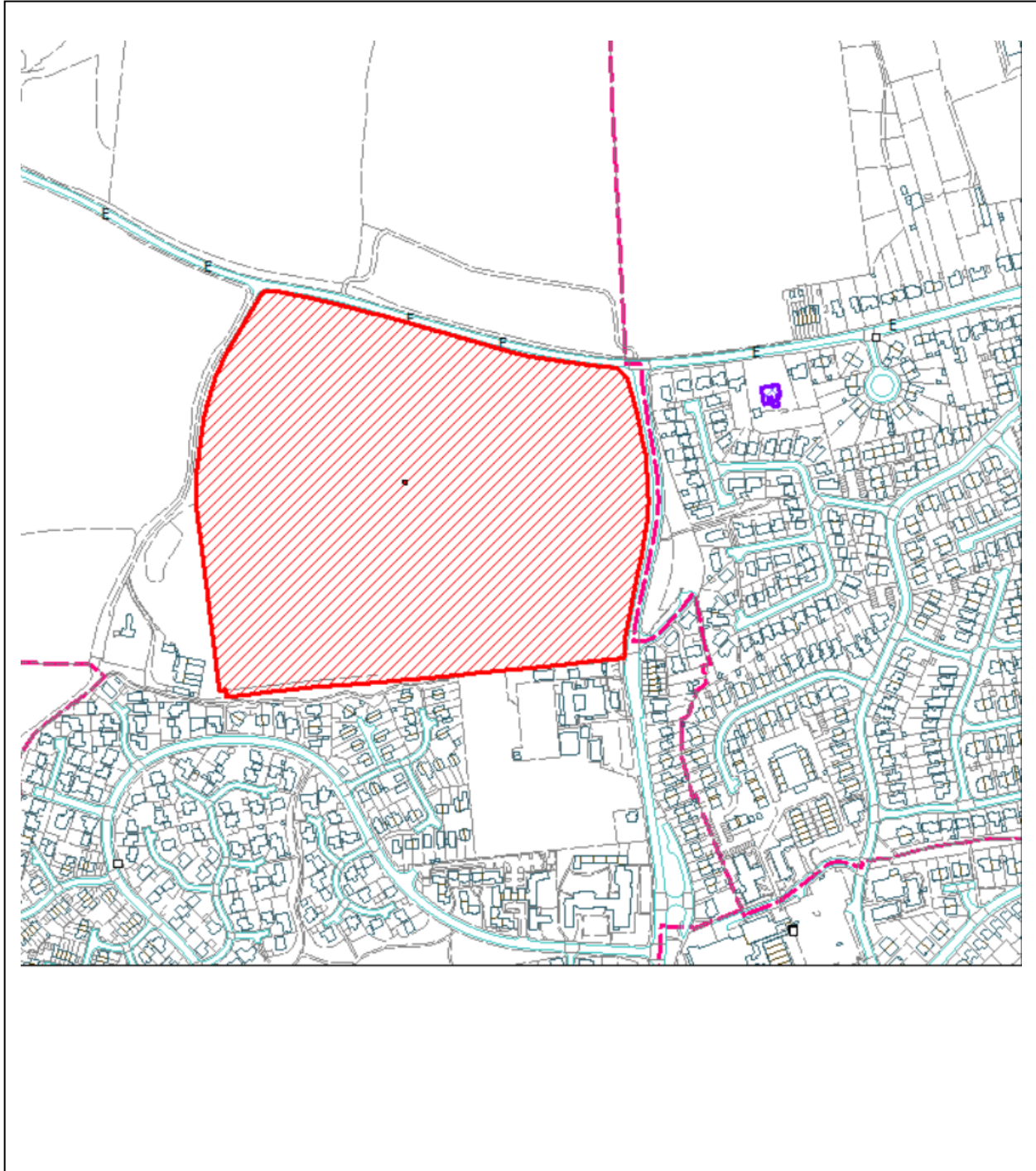
Chairman

PLANNING COMMITTEE

7th December 2021

REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING

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



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Application: 20/00307/DETAIL

Town / Parish: Frinton & Walton Town Council

Applicant: The Burghes Estate

Address: Turpins Farm Elm Tree Avenue Kirby Le Soken Essex CO13 0DA

Development: Reserved matters for outline approval 16/00031/OUT including appearance, landscaping, layout and scale.

1. Executive Summary

- 1.1. This application is referred to Planning Committee at the request of the previous Planning Committee who when the outline consent was given resolution to granted requested that all reserved matters applications are determined by Planning Committee. Cllr Turner has also requested that the application be 'called in' to Planning Committee.
- 1.2. The current application seeks approval of the reserved matters relating to outline planning permission 16/00031/OUT which 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 includes details of appearance, landscaping, layout and scale which were not included as part of the outline. Details of the access have been approved as part of the outline consent.
- 1.3. As established through the granting of outline application 16/00031/OUT the principle of residential development for up to 210 dwellings on this site is acceptable.
- 1.4. The detailed design, layout, landscaping and scale are considered acceptable. The proposal would result in no material harm to residential amenity or highway safety.
- 1.5. The application is therefore recommended for approval subject to a legal agreement to secure the necessary financial contribution towards RAMS.

Recommendation:

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

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

- Financial Contribution towards RAMS

Subject to the conditions stated in section 8.2

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

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

2.6 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**

16/00031/OUT	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.	Approved	01.03.2017
21/01667/VOC	Variation of condition 16 of application 16/00031/OUT to change the form of junction specified in the condition from a priority junction with right turn lane to a simple priority junction. And to re-word the Condition to specify footway provision and dropped kerb/tactile crossing points on Walton Road and Elm Tree Avenue in accordance with an amended drawing.	Approved	24.11.2021

4. **Consultations**

ECC Highways Dept
08.10.2021

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

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

Prior to the occupation of any of the proposed development the internal road site access and footway

layout shall be provided in principle and accord with Drawing Numbers:

- TW024-PL-02 E Amended development layout
- TW024-PL-03 A Amended detailed layout
- TW024-PL-08 A Amended parking layout
- TW027-GR-01 00 Amended sg1 garages - proposed floor plan and elevations.
- TW027-GR-02 00 Amended sg2 garages - proposed floor plan and elevations.

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

Prior to occupation of 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 in accordance with policy DM1.

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.

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.

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.

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

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

Cycle parking shall be provided for those properties 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.

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

Informative:

1: Prior to occupation, the development each pedestrian crossing point shall be constructed with a drop kerb and tactile paving on both sides of the road in accordance with the Essex Design Guide.

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.

TDC Tree & Landscape Officer
25.06.2021

In terms of the level of detail provided and shown on the soft landscaping plans the information is sufficient to enable the reserved matter relating to soft landscaping as required by planning permission 16/00031/OUT, to be discharged.

With regard to the future use and accessibility of the open space associated with this development and the existing open space and pedestrian path/walkway on the existing development to the south; 'Edenside' it appears that an opportunity will be missed if new links are not created to formally link the current development with the existing adjacent development.

If one or two new links were created from the proposed open space on the southern boundary of this development with the existing 'Edenside' walkway then not only would the public's recreational opportunities increase but there would be the opportunity to move freely between the developments which may reduce vehicular movements to nearby shops and schools.

5. **Representations**

5.1. Frinton and Walton Town Council object to the application for the following reasons:

- It is an obscene application on a beautiful site
- Gross overdevelopment
- Lacks imagination and quality of design

5.2. 3 neutral comments have been received which raise the following points:

- Taylor Wimpey must guarantee that the infrastructure will be put in place to support the new properties
- All trees and hedgerows must be kept in place and reinforced in some parts, to maintain privacy and to reduce noise to neighbouring properties.
- An abundance of wildlife live in the trees and hedgerows and they must be given protection.
- The track entrance to Walton Road is on a blind corner and would become a death trap with people, especially children trying to cross the road at that point.
- A 30mph speed restriction needs to be put in place along Walton Road to increase safety at the Elm Tree Road junction.
- A restriction must be put on the deeds for the houses that back onto the track on the western edge. No gates must be allowed. This will stop people using the track as an access point.
- The four proposed houses in the south west corner of the site should be turned round so that the windows do not overlook Turpin Barn and Turpins Farm Cottage.
- A new tree survey and newt survey need to be done as they are both out of date now.
- The parking allocated for the school is positive in principle but how will these spaces not be used by the residents of the estate? How will the spaces be distinguished? Does there need to be more spaces available to accommodate both sets of users? The road is a very busy road currently and access via Elm Tree Avenue seems likely to cause further congestion. Can access via another road be considered?
- Delighted to confirm that earlier objections concerning the hedgerow on the southern border has been addressed.
- The development would have minimal impact on existing residents as long as during the construction phase working hours are constrained to normal working hours and the construction traffic is managed intelligently.

5.3. 39 letters of objection have been received which raise the following concerns regarding the proposal:

- Lack of infrastructure – doctors, dentists and school places.
- Overlooking to neighbouring residential properties
- Will cause over populating of the area
- Overdevelopment of the site
- Proposal adversely impacts upon the adjacent green gap between, Frinton, Walton and Kirby Le Soken.
- Spacing between individual dwellings must reflect the primacy of this sensitive site.
- Increase in traffic on the local road network
- No new dwellings are needed with all the other local development taking place.
- Loss of prime agricultural land
- Will cause greatly increased traffic trying to pass through the junction at the entrance to Kirby Le Soken
- Allowing limited parking for school pick up on this proposed development will be inadequate for the amount of increased volume of traffic.
- Negative impact on the environment, through demolition of green space, CO2 emissions of building and increased air pollution due to additional traffic.
- The sewerage system is unable to cope with additional housing.
- The flooding issues in the area will be increased due to additional surface water run off
- There are no job opportunities in the towns around.
- To have the entrance to a large housing estate next to the school is dangerous
- Loss of wildlife and habitat
- No bungalows are proposed
- Insufficient parking
- Roads are unsuitable for large construction vehicles, particularly at Kirby Le Soken

- The density is still too great
- Gardens are small and do not allow for mixed uses.
- The parking for some houses is tandem rather than side by side which is likely to cause problems for the purchasers and lead to on road parking
- The houses should be built to incorporate the latest green technology
- Poor public transport infrastructure

6. Assessment

Site Context

6.1. The application site comprises a square 11.7 hectare parcel of greenfield agricultural land between the northern edge of Frinton-on-Sea and the rural settlement of Kirby-le-Soken. The site lies south of Walton Road beyond which are the coastal slopes overlooking Hamford Water with views across to Harwich and Felixstowe. The site lies west of Elm Tree Avenue opposite existing residential development and is located a relatively short distance from the Triangle Shopping Centre. The site lies east of Turpins Farm House and its access track, immediately north of Hamford Primary School and the existing residential estate at Edenside and its associated network of green paths.

6.2. The topography of the site slopes gently downwards from the existing housing estate to Walton Road and the edge of the steeper coastal slopes. The northern boundary of the site is formed by a strong hedgerow with a lower hedgerow containing a number of mature trees along the eastern boundary along Elm Tree Avenue. A greater number of mature trees are found along the sites western boundary along Turpins Farm House and within the green corridor along the north of the Edenside estate.

6.3. The predominant style of property on the adjoining housing estate is of mixed size and type in typical brick-built 1980s/1990s style with some care home/institutional use buildings interspersed with well-maintained and attractive open spaces, landscaping and green links. Development to the east on the opposite side of Elm Tree Avenue contains a mix of inter-war and post-war detached and semi-detached properties, Victorian Farm Cottages and more modern estate development backing onto an attractive area of incidental open space and landscaping.

Planning History

6.4. Outline planning permission was granted in March 2017 under reference 16/00031/OUT 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 access, all other matters were reserved for future consideration.

6.5. More recently an application (21/01667/VOC) to vary condition 16 on the above decision notice was granted, which altered the proposed access from a priority junction with right turn lane to a simple priority junction.

Proposal

6.6. The current application seeks approval of the reserved matters relating to outline planning permission 16/00031/OUT, which granted approval to 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 includes details of appearance, landscaping, layout and scale which were not included as part of the outline. Details of the access have been approved as part of the outline consent and as recently varied through application ref. 21/01667/VOC.

- 6.7. The proposal seeks planning permission for 210 dwellings; 5 x 5 bedroomed dwelling (2.4%); 71 x 4 bedroomed dwellings (33.8%); 91 x 3 bedroomed dwelling (43.3%) and 43 x 2 bedroomed dwellings (20.5%). All of the proposed dwellings are two storey in height. Out of the 210 dwellings proposed 18 will be affordable dwellings which will be gifted to the Council.
- 6.8. There are two main areas of public open space proposed; the main one being to the north of the site and the other is proposed in the south-eastern corner of the site. Overall, a total of 3 play areas are proposed including a LEAP.
- 6.9. In the south east corner of the site a 30 space car park is provided as a school drop off and parking facility.

Principle of Development

- 6.10. The principle of development has been established by the granting of outline planning permission for 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 under 16/00031/OUT.
- 6.11. Condition No. 4 of decision notice 16/00031/OUT states that 'the reserved matters shall be in general conformity with the revised Illustrative Concept Plan Drawing No. UK15044-001-Rev. B'. This drawing shows an area of open space to the northern part of the site; access from Elm Tree Avenue and with a pedestrian/cycle and emergency access onto Walton Road and a 30 space car park for school pick-up and drop-off in the south eastern corner of the site. Furthermore, Condition 6 of 16/00031/OUT states that 'the maximum number of dwellings to be contained in the development shall be up to (but no more than) 210 dwellings'. This application seeks reserved matter consent for 210 dwellings.
- 6.12. The proposed plan complies with the above conditions; therefore there can be no 'in principle' objection to the proposed development.

Appearance

- 6.13. 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; 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.
- 6.14. In terms of materials, a mix of slate and plain clay roof tiles and a mixture of red brick render and weatherboarding are proposed. No specific details of these materials have been provided at this stage; however, the use of acceptable materials can be secured by condition. The proposed mix will ensure variety and visual interest across the development.
- 6.15. The proposed dwellings are all two storey in height and are of a fairly traditional design with appropriate detailing; it is considered that they would not be out of character with the surrounding area.
- 6.16. It is, therefore considered that the detailed design and appearance of the proposed dwellings is acceptable.

Layout

- 6.17. Condition No. 4 of the outline consent requires the reserved matters application to be in general conformity with the revised Illustrative Concept Plan Drawing No. UK15044-001-Rev. B' and Condition No. 6 requires the maximum number of dwellings to be no more than 210. The proposed development is in general conformity with this plan and therefore meets this condition. At outline stage, it was considered that development in general conformity to this plan is acceptable in principle, subject to detailed considerations.
- 6.18. Each of the proposed dwellings, have their own private amenity space. Policy HG9 of the Saved Plan requires 50 sq. m for 1 bed dwellings, 75 sq. m for 2 bed dwellings and 100 sq. m for dwellings with 3 or more beds. Out of the 210 dwellings proposed two of the proposed dwellings do not have garden sizes that meet the above standards. One is Plot 24, which is a 3 bedroom dwelling which is provided with a 93 sq. m garden where the requirement is 100 sq. m. The second is Plot 95, which is a 2 bedroom dwelling which is provided with 74 sq. m where the requirement is for 75 sq. m. Officers consider that such a shortfall in private amenity space, especially given the amount of open space provided would not be sufficient to warrant a reason for refusal of this application.
- 6.19. 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.
- 6.20. In conclusion, there is no objection to the layout of the proposed development.

Scale

- 6.21. All of the proposed dwellings are two storey in height with single storey garages, where provided. Given the character of the surrounding area it is considered that the scale of development proposed is acceptable.

Highway Safety/Parking

- 6.22. Concerns have been raised regarding the impact of increase traffic, especially so close to a primary school. Details of the access and principle of development have already been established through the granting of the outline consent, so it is not possible to consider these issues at this stage.
- 6.23. Under consideration as part of this application is the detailed layout, therefore the internal road layout and parking arrangements. Essex County Council Highways have been consulted on the application and raise no objections subject to 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.
 - Size of parking spaces
 - Provision of cycle parking for those properties without a garage
- All of the above conditions are recommended to be imposed, with the exception of the condition relating to sizes of car parking spaces as this is already imposed on the outline consent.
- 6.24. With regard to the school drop off, pick up parking, a condition on the outline consent requires it to be provided at the developer's expense prior to first occupation of

any dwelling. Therefore, there is certainty that this provision will be provided. However, concern has been raised that this may be used by residents instead. In relation to parking provision the Parking Standards: Design and Good Practice document states that for dwellings with 2 or more bedrooms 2 parking spaces shall be provided and a visitor parking space is required per 4 dwellings. All of the proposed dwellings have at least 2 car parking spaces with the larger dwellings having 2 spaces plus a single or double garage. 52 visitor parking spaces are also proposed throughout the site, which meets the requirements. Therefore, as parking provision is in excess of what is required, it is therefore considered that sufficient parking is provided without relying on the school drop off/pick up parking as extra parking.

Landscaping/Biodiversity and Ecology

- 6.25. A number of the letters of objection raise concern regarding loss of hedgerow, wildlife and habitat. This was an issue that was considered at outline stage when a Phase 1 Extended Habitat Survey was submitted and the impact was considered acceptable. It is noted that a Condition was imposed on the original consent which requires an Ecological Mitigation Scheme and Management/Enhancement Plan to be submitted, this requirement still applies.
- 6.26. The Landscaping Plans show that the existing vegetation around the boundaries of the site will be maintained, with other forms of landscaping throughout the site. The Council's Landscape Officer considered that the level of detail provide is acceptable. The only comments raised are that of future accessibility to the existing development to the south, this has been raised with the agent but is not possible due to landownership issues.
- 6.27. Under the Habitats Regulations, a development which is likely to have a significant effect or an adverse effect (alone or in combination) on a European designated site must provide mitigation or otherwise must satisfy the tests of demonstrating 'no alternatives' and 'reasons of overriding public interest'. There is no precedent for a residential development meeting those tests, which means that all residential development must provide mitigation. The contribution is secured by Unilateral Undertaking.
- 6.28. The application site lies within the Zone of Influence (Zol) for Hamford Water Ramsar and SAC, with the site being located around 0.6 km from the Ramsar and SAC. New housing development within the Zol would be likely to increase the number of recreational visitors at these sites and, in combination with other developments it is likely that the proposal would have significant effects on the designated site. Mitigation measures must therefore be secured prior to occupation.
- 6.29. A proportionate financial contribution of £127.30 per dwelling would need to be secured in accordance with the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) requirement, together with the provision of Suitable Accessible Natural Green Space (SANGS), which is proposed. Natural England have been consulted, but no response has been received at the time of writing this report. An update will be provided at Planning Committee.

Impact on Residential Amenity

- 6.30. To the east of the site on the opposite side of Elm Tree Avenue are the properties of Ashes Close. There will be some overlooking towards the rear of these properties by 5 of the proposed dwellings, however, given the distance of separation, intervening vegetation and the fact that they are on opposite sides of Elm Tree Avenue, it is not considered that any overlooking would be significant.

- 6.31. To the south of the site lies Hamford Primary Academy and residential properties in Edenside and Honywood Way. Along this boundary, the proposed hedgerow will be retained and there is sufficient distance between the existing and proposed dwellings for there not to be any significant adverse impact on neighbours' amenities.
- 6.32. Towards the south-west corner of the site is Turpins Barn and Turpins Farm Cottage, the existing vegetation along this boundary will be retained, which will provide some screening. However, there will be some increase in overlooking, although given that the proposed dwellings are at least 15 metres from the boundary it is not considered that this will be sufficient to warrant a reason for refusal.
- 6.33. 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.

S106 of the Town and Country Planning Act 1990

- 6.34. A legal agreement was secured at outline stage requiring:
- A financial contribution towards Early Years and Childcare, Primary Education and Secondary Education
 - Affordable Housing
 - Provision of Open Space and Car Park
 - A financial contribution towards Healthcare
- This legal agreement and all conditions on the outline consent will still apply.

Accessibility and Adaptability

- 6.35 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'.
- 6.36 All properties meet Nationally Described Space Standards, and M4(2) and M4(3) properties are provided, in line with the policy expectation.

Renewable Energy Provision

- 6.37 As part of the outline approval Condition 28 required each dwelling to be fitted with super-fast broadband which will support flexible and sustainable working patterns. The original outline approval did not include a requirement for an electric charging point for each dwelling; however, a condition is included in the recommendation to ensure this infrastructure is delivered.

More generally, renewable energy provision is addressed in emerging policies 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.

- 6.38 Consequently, when assessing PPL10 Renewable Energy Generation in particular, the emerging policy now requires that residential applications should be accompanied by an 'Energy and Sustainability Statement'. In this case, such a Statement has not been forthcoming, and as this emerging policy should now be given considerable weight - due to the advance nature of the adoption process of the emerging plan and lack of objections to the policy therein - it is considered that this issue can be best addressed through the following planning condition.

Prior to the occupation of any dwelling a scheme detailing how a minimum of 20% of the energy needs generated by the development can be achieved through

renewable energy sources shall be submitted to and approved in writing by the local planning authority. The scheme shall detail the anticipated energy needs of the scheme, the specific renewable technologies to be incorporated, details of noise levels emitted (compared to background noise level) and how much of the overall energy needs these will meet and plans indicating the location of any external installations within the development. The development shall be carried out in accordance with the approved details and shall be retained as such thereafter

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

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

7. Conclusion

- 7.1. As established through the granting of outline application 16/00031/OUT the principle of residential development for up to 210 dwellings on this site is acceptable.
- 7.2. The detailed design, layout, landscaping and scale are considered acceptable. The proposal would result in no material harm to residential amenity or highway safety.
- 7.3. The application is therefore recommended for approval subject to a legal agreement to secure the necessary financial contribution towards RAMS.

8. Recommendation

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

CATEGORY	TERMS
Financial Contribution towards RAMS	£127.30 per dwelling

8.2. Conditions and Reasons

- 1 The development hereby permitted shall be 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

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.

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.

Conditions Precedent

The applicant is reminded that this detailed planning consent is subject to conditions attached to the outline permission for this development reference 16/00031/OUT or

21/01667/VOC. Please refer to the outline planning permission to ensure full compliance with all conditions.

Legal Agreement Informative - Recreational Impact Mitigation

This application is the subject of a legal agreement and this decision should only be read in conjunction with this agreement. The agreement addresses the following issues: mitigation against any recreational impact from residential developments in accordance with Regulation 63 of the Conservation of Habitat and Species Regulations 2017.

Highways

Prior to occupation, the development each pedestrian crossing point shall be constructed with a drop kerb and tactile paving on both sides of the road in accordance with the Essex Design Guide.

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

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

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

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

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

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

9.2 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.

9.3 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.

9.4 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

9.5 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.

9.6 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).

9.7 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

9.8 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.

9.9 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**

10.2 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/>.

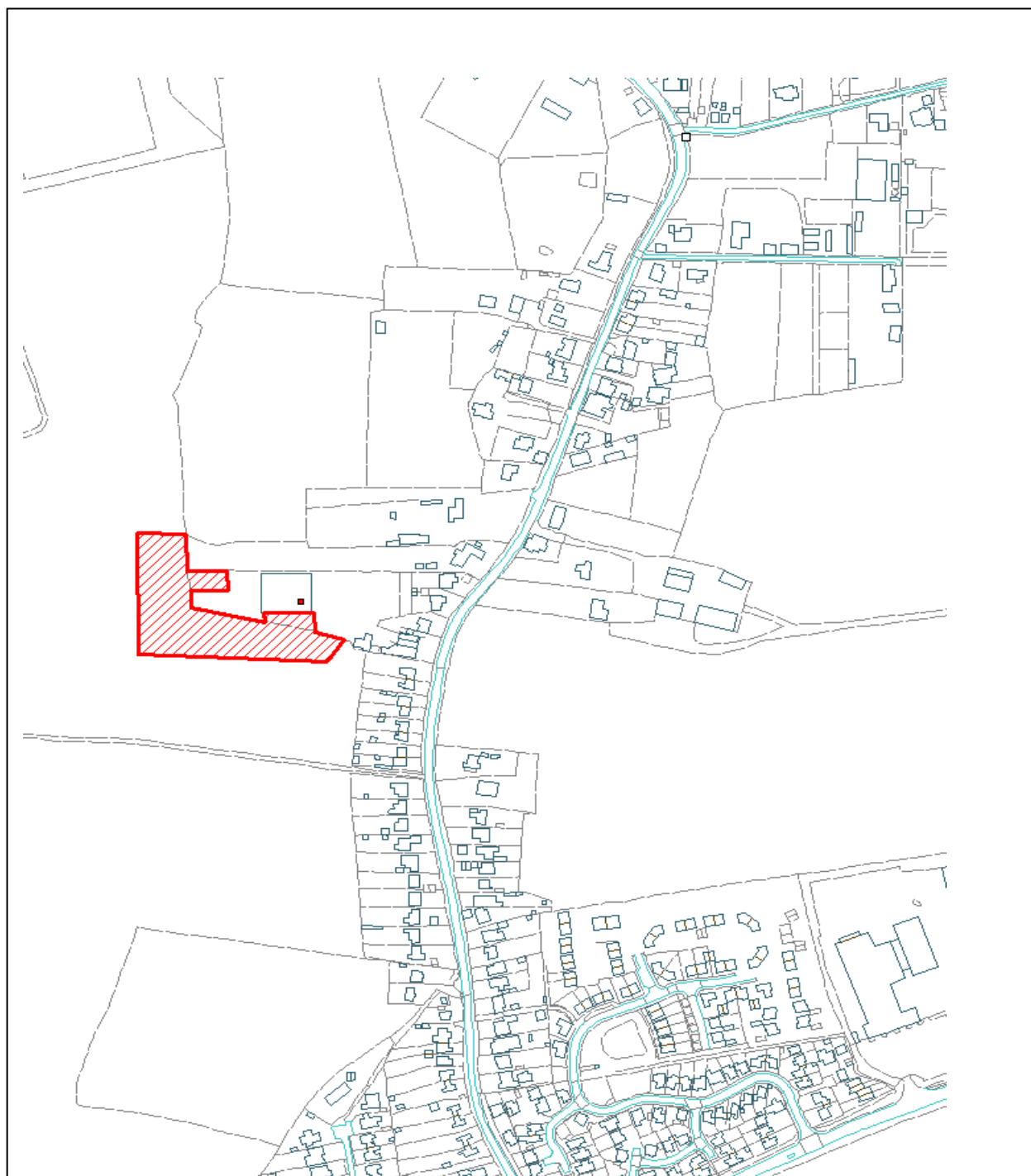
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PLANNING COMMITTEE

07th DECEMBER 2021

REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING

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



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Application: 21/00186/FUL

Town / Parish: Great Bromley Parish Council

Applicant: Mr Gray Rowe - PalletPlus

Address: Crossways Centre Frating Road Great Bromley Colchester CO7 7JW

Development: Erection of warehouse extension, loading bay extension, service yard extension and formation of SuDS attenuation pond (part retrospective).

1. Executive Summary

- 1.1 Crossways Centre is located within Frating which is a 'Smaller Rural Village'. Access would not be via the primary highway network. Instead, it would be from the B1029 Frating Road. The site is not a protected or allocated employment site and the proposal is for a B8 storage and distribution use. The site is located outside of the settlement development boundary.
- 1.2 The proposal is 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.
- 1.3 The proposal does not meet the criteria for being an acceptable location for an expanded B8 storage and distribution use, and the proposal is considered to result in unacceptable highway safety impacts. Although it would not harm the landscape character, it is considered 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.
- 1.4 Whilst the economic benefits of approving the scheme are acknowledged, they are not considered to outweigh the identified harms. The proposal is considered to be contrary to the development plan, and refusal of planning permission is therefore recommended.

Recommendation:

That the Head of Planning be authorised to refuse planning permission for the development, for the reasons set out within Section 8.1 of the report below.

2. Planning Policy

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

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

Local:

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

QL2 Promoting Transport Choice
QL11 Environmental Impacts and Compatibility of Uses (part superseded)
COM1 Access for All
COM2 Community Safety

COM21	Light Pollution
COM31a	Sewerage and Sewage Disposal
EN1	Landscape Character
ER2	Principal Business and Industrial Areas
EN4	Protection of the Best and Most Versatile Agricultural Land
EN6	Biodiversity
EN6b	Habitat Creation
EN11a	Protection of International Sites: European Sites and Ramsar Sites
EN12	Design and Access Statements
EN13	Sustainable Drainage Systems
EN17	Conservation Areas
EN23	Development with the Proximity of a Listed Building
ER1	Employment Sites
ER7	Business, Industrial and Warehouse Proposals
TR1	Transport Assessment
TR1a	Development Affecting Highways
TR2	Travel Plans
TR3a	Provision for Walking
TR7	Vehicle Parking at New Development

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

Section 1 (adopted):

SP1	Presumption in Favour of Sustainable Development
SP3	Spatial Strategy for North Essex
SP7	Place Shaping Principles

Section 2 (emerging):

SPL1	Managing Growth
SPL2	Settlement Development Boundaries
SPL3	Sustainable Design
PPL1	Development and Flood Risk
PPL3	The Rural Landscape
PPL4	Biodiversity and Geodiversity
PPL5	Water Conservation, Drainage and Sewerage
PPL8	Conservation Areas
PPL9	Listed Buildings
CP1	Sustainable Transport and Accessibility
DI1	Infrastructure Delivery and Impact Mitigation

Supplementary Planning Guidance:

Essex County Council Development Management Policies 2011 (the Highways SPD)
Essex County Council Parking Standards Design/Good Practice Guide 2009 (the Parking SPD)
Tendring Landscape Character Assessment 2001 (TLCA)

Status of the Local Plan

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

- 2.3 The 'development plan' for Tendring comprises, in part, the 'saved' policies of the 2007 Local Plan. Paragraph 219 of the Framework allows local planning authorities to give due weight to policies adopted prior to its publication according to their degree of consistency with the policies in the Framework. On the 26th January 2021 Section 1 of the 2013-2033 Local Plan was adopted and now also forms part of the 'development plan' for Tendring, superseding some of the more strategic policies in the 2007 Local Plan. Notably, the housing and employment targets were found sound and have been fixed, including the housing requirement of 550 dwellings per annum.
- 2.4 Paragraph 48 of the Framework allows weight to be given to policies in emerging plans, according to their stage of preparation, the extent to which there are unresolved objections to relevant policies, and the degree of consistency with the policies of the Framework. In this regard 'Proposed Modifications' to the emerging Section 2 of the 2013-33 Local Plan, which contains more specific policies and proposals for Tendring, has been examined and hearing sessions have now closed. The main modifications recommended to make the plan legally compliant and sound were considered at the Council's Planning Policy and Local Plan Committee on 29th June 2021.
- 2.5 The Council held a six-week public consultation on the Main Modifications and associated documents which began on 16th July 2021. The consultation closed at 5pm on 31st August 2021. On 24th November 2021, the Council received the Inspectors' final report and schedule of main modifications. Subject to a number of modifications, the plan is legally compliant and meets the Government's soundness requirements. Adoption is anticipated early next year. Section 2 will then join Section 1 as part of the development plan, superseding in full the 2007 Local Plan. Section 2 of the 2013-33 Local Plan is therefore at a very advanced stage of preparation and should be afforded considerable weight.

3. Relevant Planning History

19/00216/FUL	Proposed construction of covered loading bay to existing warehouse building.	Approved	01.05.2019
13/00921/LUEX	Mixed or composite use for Class B8 storage, vehicle repair and maintenance (sui generis) and transport depot (sui generis).	Split decision (considered earlier)	07.07.2014
12/00430/FUL	Variation of condition 03 of planning permission TEN/1729/81 to include use as a distribution warehouse.	Approved	11.06.2012
12/01182/LUEX	Existing Lawful Use Certificate for use as a transport depot, warehouse and distribution centre, and commercial vehicle repair workshop (Breach of Condition 3 of TEN/1729/81) and breach of condition 07 of TEN/1729/81 (hours of operation).	Refused	20.05.2013
12/00430/FUL	Variation of condition 03 of planning permission TEN/1729/81 to include use as a distribution warehouse.	Approved	11.06.2012

12/00482/FUL	Erection of warehouse.	Approved	08.08.2012
07/00893/FUL	Erection of canopy to create covered loading area.	Approved	20.07.2007
98/01525/FUL	(Crossways Centre, 17 Frating Road, Great Bromley) Erection of poles for lighting and CCTV	Approved	02.02.1999
93/00912/FUL	Continuation of display and sale of vehicles	Refusal	12.10.1993
95/01011/FUL	Variation of condition No. 7 of consent TEN/1729/81 to permit the use of bays 1, 2, 3 up to 6pm on Saturdays for the repair and maintenance of commercial vehicles.	Withdrawn	06.10.2004
95/01010/FUL	Variation of condition No. 3 of consent TEN/1729/81 to include the use of bays 5, 6, 7 and 8 by Systematic Logistics Ltd for all purposes falling within Class B8 of the Use Classes Order	Approved	18.10.1995
TEN/1211/84	Additional Office Accommodation	Approved	
TEN/1729/81	Proposed commercial vehicle repair workshop	Approved	
TEN/496/62	Installation of two pumps and tanks for petrol filling station	Approved	

4. Consultations

TDC Tree & Landscape Officer
05.05.2021

The application site consists of land that currently forms part of the existing operational land and adjacent land that is in agricultural use. The current extent of The Crossways Centre is separated from the adjacent agricultural land by an established hedgerow comprising several specimen Oaks.

It is apparent that the proposed change of use of land and the incorporation of agricultural land into the adjacent operational facility would result in the removal of the existing boundary hedgerow and trees and have the potential to adversely affect the character and appearance of the area.

In terms of the amenity value of the hedgerow and the trees contained therein it was noted that the hedgerow species comprise of primarily Hawthorn (Crataegus

monogyna) and Blackthorn (*Prunus spinosa*) with specimen Oaks (*Quercus robur*) at irregular intervals.

The hedgerow is in reasonable condition although the Oaks are showing weak extension growth and die-back within their crowns possibly as a result of the relatively recent concreting and hard surfacing within the existing Crossways Centre,

As the hedgerow is on the boundary of land being used for commercial purposes it does not fall within the scope of The Hedgerow Regulations 1997 and does not fall within the scope of any other legislation under which it could be afforded formal legal protection.

The trees, along with the hedgerow, help to screen the site although the degree to which overlooking occurs is limited to those points within the rear gardens of properties close to the application site. The site cannot be seen from the public highway to the east and there are no Public Rights of Way to the west from which views of the application site are available [corrected in further comment of 29.09.21 below]. Consequently the trees have low amenity value and the local landscape character will not be significantly altered or otherwise affected by the development proposal.

On balance it is considered that the condition of the trees and their low amenity value means that they do not meet the criteria under which they merit formal legal protection by means of a Tendring District Council Tree Preservation Order.

In terms of soft landscaping the applicant has submitted a plan showing the position of a noise reduction barrier and new planting on the whole length of the southern and western boundaries of the application site. If the proposed 3m wide boundary planting comprised of indigenous species and contained specimen trees then in the long term the development proposal would result in an increase in the total length of the hedgerow on the boundary of the application site.

In the long term the proposed soft landscaping would replicated the current level of screening.

Further information will be required in relation to plant species and specification for the proposed new planting which should incorporate new specimen Oak trees at approximately 10 -12m centres. This information could be provided prior to the determination of the application or secured by a condition attached to any planning permission that may be granted.

TDC Tree & Landscape Officer
20.05.2021

The applicant has submitted detailed soft landscaping proposals relating the replacement trees and hedgerow

on the boundary with the adjacent agricultural land.

The scheme is both simple and comprehensive. It is sufficient to secure a satisfactory level of screening and would result in a net increase in the length of the hedge and the number of specimen oaks contained in the hedge.

TDC Tree & Landscape Officer
29.09.2021

Notwithstanding, and in addition to, previous consultation responses these comments are submitted to correct an inaccuracy in a previous consultation response and to provide an assessment of the scope and efficacy of the Landscape and Visual Technical Note submitted by the applicant to quantify the impact of the development proposal on the local landscape character.

Firstly, in order to address the inaccuracy, included in a previous consultation response, it is not correct to say that there are no Public Rights of (PROW) to the west of the application site from which views of the application site are available.

Footpath GB166-14 runs south from Harwich Road, Gt Bromley to Morehams Farm and then becomes a Permissive Path southwards towards the A133. The application site can be viewed from part of the PROW and from the Permissive Path,

In order to assess the impact of the development on the local landscape character the applicant has provided a Landscape and Visual Technical Note that has been completed in accordance with national advice set out in 'Guidance for Landscape and Visual Impact Assessment (GLVIA) third edition (published by the Landscape Institute and the Institute of Environmental Management and Assessment 2013), and 'An Approach to Landscape Character Assessment' (published by Natural England, 2014).

The Technical Note recognises in Section 5.1.2 that harm to the landscape character will result from the change of use of land from agriculture to commercial use, but that the scale of the change is 'minor' and that it will have only a limited impact on the plateau landscape character.

The conclusion section of the Technical Note states that *'In visual terms the extended development will only be visible from a very limited number of locations' and that 'in any event these locations already experience a view of built development and that any changes will be seen in that context'*

In terms of its efficacy the Landscape and Visual Technical Note it is considered that the document accurately describes the existing baseline qualities of the

local landscape character, in accordance with the published National, County and District level Landscape Character Assessments.

It is also considered that the Landscape and Visual Note provides a realistic reflection of the degree to which the development proposal will affect the local landscape character.

Therefore, taking into account the level of screening that will be achieved by the soft landscaping associated with the development proposal, it is clear that neither significant change nor harm would result from the implementation of the development as proposed.

ECC Highways Dept
24.09.2021

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 original and additional information submitted with the application has been thoroughly assessed and conclusions have been drawn from a desktop study with the observations below based on submitted material, google earth image dated March 2021.

The site is situated on a stretch of Frating Road that is subject to a 30MPH speed limit that is predominately residential. The current vehicular access serving the site is situated in between two private dwellings and has a continuous drop kerb serving a forecourt. Access to the rear of the premises is between two existing buildings with a height restriction and only wide enough for a single vehicle.

There is evidence of parking on the front forecourt and issues with heavy goods vehicles stacking up on Frating Road waiting to enter the site. In addition, there appears to be evidence of two road traffic collisions involving vehicles from the company in the vicinity of the site access, the most recent incident occurred around 5.30am on Tuesday 14th September and was attended by Essex Police.

From a highway and transportation perspective the impact of the proposal is NOT acceptable to the Highway Authority for the following reasons:

1. The proposal would intensify the use of an existing access onto B1029 Frating Road (secondary distributor) where the existing access has deficiencies in geometric layout which is not in accordance with current safety standards. The main function of this highway is that of carrying traffic freely and safely between centres of population. The existence of an access in this location is a matter of fact and therefore some degree of conflict and

interference to the passage of through vehicles already occurs but the intensification of that conflict and interference which this proposal would engender would lead to a deterioration in the efficiency of the through road as a traffic carrier to the detriment of highway safety.

2. Although the proposal is within a semi-urban location there is limited public transport facilities, currently the site has to rely on off-site parking and particularly in light of the revised SUDs proposal required for the site this practice is likely to continue, as such the overall parking provision is considered to be inadequate for the density and size of the application. The proposal if permitted would set a precedent for future similar developments which would likely lead to inappropriate parking detrimental to the general safety of all highway users and undermine the principle of seeking to discourage on-street parking in the locality.

The proposal is therefore contrary policies DM1, DM3 and DM8 contained within the County Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

Informative:

1: As far as can be determined from the submitted information the existing entrance to the rear of the site will be unchanged and only wide enough for a single vehicle to enter and leave the site at any one time. There is evidence of heavy goods vehicles having to wait to enter the site now; the expansion of the site will have a detrimental impact on additional vehicle movements that will be using the site; leading a deterioration in the efficiency of the through road as a traffic carrier to the detriment of highway safety.

2: Due to the existing width of the site access there is a concern that articulated lorries will cause an unacceptable degree of hazard to highway users and have no alternative but to wait on the forecourt to allow a vehicle(s) to exit the site potentially blocking the footway and/or straddle the carriageway to the detriment of highway safety particularly as there is no segregation between pedestrian and vehicle movements at the existing entrance forcing pedestrians into the carriageway.

3: As far as can be determined from the submitted information the current business employs 54 full-time employees and with the proposed expansion this will increase by 27 full-time employees. The revised car parking provision indicates 47 spaces plus 2 blue badge

parking spaces. The overall parking for heavy goods vehicles highlights a total of 40 spaces. For light industry B8 use (storage and distribution) you would be looking at 1 space per 150sqm, there is evidence that off-site parking already occurs. During a site visit approximately 27 vehicles were recorded using this off-site parking area adjacent to Frating Road.

4: No details or information on whether the Developer shall be responsible for the provision and implementation of a Workplace Travel Plan, for employment sites with 50 or more employees, approved by Essex County Council.

TDC Waste Management
22.02.2021

No comments.

TDC Environmental Protection
26.11.2021

Noise:

The submitted Noise Impact Assessment dated November 2020 confirms the undertaking of a relevant noise assessment in relation to the proposal, including that of the Wheel Washing Facility. The report shows that existing noise levels determined at appropriate locations, would not be adversely increased by the introduction of a wheel washing facility. However, it has come to our attention that the wheel washing facility is no longer within the proposal and as such the predicted measurements and impact can be disregarded. However the report still addresses the noise from the HGV's and site activity and stated that ambient levels of the current operations were measured to be 64dB(A)(LAeq 15mins), however there are no predictions for the impact of the increase in HGV movement and site activities may have on this level. In light of this there is some uncertainty as to whether the proposal would result in a significant increase in ambient noise, which may result in an adverse impact to nearby residential dwellings. And as such, with specific reference to the recommendations, shown in section 2, pages 4 – 5; it is noted that these provisions are being implemented under the recommendation of the applicant, rather than any requirement for mitigation highlighted in the report; these measures should assist in the reduction of perceived noise, and we would not be adverse to their implementation, and as such would request this is attached to any approval. These recommendations are outlined in section 2 of the aforementioned report and relate to the provision and installation of acoustic screening. This will assist in dampening any further sound emitted as a result of site activity

I can confirm that the EP Team are satisfied with the contents of the above report and would suggest the above proposed attenuation screening are conditioned on any subsequent approval, so as to ensure any

disturbance from these activities is minimised.

REASON: to protect the amenity of nearby residential dwellings and minimise any potential adverse impact associated with increased noise

*NB: As you are aware the EP Team have been and are currently in receipt of complaints concerning an alleged noise nuisance emanating from the site; the details of the complaints relate to noise associated with site activity and noise associated with vehicular movement off site (movement of HGV entering and leaving the site). I can advise that we have not, at this time, identified a statutory nuisance emanating from the current operations. However our most recent investigation is still ongoing, and as such we will continue to monitor the situation. The submission of a noise complaint, does not, at this time, negate the above comments

Lighting:

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

REASON – to protect the amenity of nearby residential dwellings

Air Quality:

With reference to the potential impact increased HGV movement may have on the current air quality of the vicinity, the EP Team are requesting confirmation on the predicted increase in movement from the site. Available information suggests that increasing the site will therefore reduce the movement of vehicles as there will be space for the fleet on site, where as currently vehicles are arriving on site to drop off, and then having to leave for the evening, and then return for the morning. The proposal would indicate this would in fact reduce the number of vehicle movements to and from the site? However, we have also received information indicating that this proposal would actually increase the vehicle movement? As a result of this confusion we would like confirmation on the expected vehicular movements. We would look to request an Air Quality assessment if there is an increase of:

- 500 LGVs (outside of an Air Quality Management Area) and/or
- Increase by 100 HGVs (outside of an Air Quality

Management Area)

This would be identified as daily, on local roads with a nearby receptor. Further information on this and information on assessment criteria in relation to Land Use Planning and Development Control: Planning for Air Quality (Institute of Air Quality Management), can be found at: air-quality-planning-guidance.pdf (iaqm.co.uk)

REASON: to protect public health

TDC Building Control and Access
Officer
14.04.2021

No comments.

Anglian Water Services Ltd
26.02.2021

ASSETS

Section 1 - Assets Affected

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

WASTEWATER SERVICES

Section 2 - Wastewater Treatment

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

Section 3 - Used Water Network

Development may lead to an unacceptable risk of flooding downstream. Anglian Water will need to plan effectively for the proposed development, if permission is granted. We will need to work with the applicant to ensure any infrastructure improvements are delivered in line with the development. In order to make an accurate capacity assessment, we require the submission of a foul drainage strategy showing the proposed discharge location and conveyance method.

We therefore request a condition requiring phasing plan and drainage strategy.

(1) INFORMATIVE - Notification of intention to connect to the public sewer under S106 of the Water Industry Act Approval and consent will be required by Anglian Water, under the Water Industry Act 1991. Contact Development Services Team 0345 606 6087.

(2) INFORMATIVE - Notification of intention to connect to the public sewer under S106 of the Water Industry Act Approval and consent will be required by Anglian Water, under the Water Industry Act 1991. Contact

Development Services Team 0345 606 6087.

(3) INFORMATIVE - Protection of existing assets - A public sewer is shown on record plans within the land identified for the proposed development. It appears that development proposals will affect existing public sewers. It is recommended that the applicant contacts Anglian Water Development Services Team for further advice on this matter. Building over existing public sewers will not be permitted (without agreement) from Anglian Water.

(4) INFORMATIVE - Building near to a public sewer - No building will be permitted within the statutory easement width of 3 metres from the pipeline without agreement from Anglian Water. Please contact Development Services Team on 0345 606 6087.

(5) INFORMATIVE: The developer should note that the site drainage details submitted have not been approved for the purposes of adoption. If the developer wishes to have the sewers included in a sewer adoption agreement with Anglian Water (under Sections 104 of the Water Industry Act 1991), they should contact our Development Services Team on 0345 606 6087 at the earliest opportunity. Sewers intended for adoption should be designed and constructed in accordance with Sewers for Adoption guide for developers, as supplemented by Anglian Water's requirements.

Section 4 - Surface Water Disposal

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

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

Section 5 - Suggested Planning Conditions

Anglian Water would therefore recommend the following planning condition if the Local Planning Authority is mindful to grant planning approval.

Used Water Sewerage Network (Section 3)

We have no objection subject to the following condition: Condition Prior to the construction above damp proof course, a scheme for on-site foul water drainage works, including connection point and discharge rate, shall be submitted to and approved in writing by the Local Planning Authority. Prior to the occupation of any phase, the foul water drainage works relating to that phase must have been carried out in complete accordance with the approved scheme. Reason To prevent environmental and amenity problems arising from flooding.

ECC SuDS Consultee
26.10.2021

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:

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

We also 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>

Environment Agency

Not received.

5. **Representations**

5.1 The application was publicised by press and site notices and neighbours of the site were notified in writing. In response there were 195 contributors: 132 in support and 63 in objection.

5.2 Objections raised therein may be summarised as follows:

- Inappropriate village location in a 'Smaller Rural Settlement', the least sustainable settlement within the settlement hierarchy, with poor links to the A120 for the type of development proposed.
- The proposal is contrary to saved Policies E3 and ER7, adopted Policy SP3 and the Framework.

- The proposal is located beyond the Settlement Development Boundary.
- Better alternative locations exist, such as the business park in Ardleigh.
- Harm to highway and pedestrian safety due to increased volume of HGV traffic.
- Insufficient parking
- Loss of agricultural land
- Harm to the character and appearance of the area – landscaping would take time to establish
- Harm to landscape character
- Appeals for smaller developments have been dismissed due to harm to character and appearance (19/01872/FUL)
- Harm to the living conditions of neighbours (noise and disturbance, and privacy).
- Harm to Ecology, including protected species
- Increased surface water discharge and therefore risk of flooding.
- Loss of trees/hedgerows
- Light pollution

5.3 Support raised therein may be summarised as follows:

- Benefits to the local economy
- Employment creation
- Provides logistics links for Harwich Freeport
- Support for other local businesses and a network pallet service
- Current arrangements are restrictive and create unnecessary vehicle movements
- The proposal relocates on-site operations away from the adjacent housing

5.4 Great Bromley Parish Council objects to the application for the following reasons:

- Impact on local residents in terms of noise, particularly outside of permitted hours and overnight disturbing sleep
- Light pollution and impact on local residents
- Increased HGV usage on a B road in a residential area
- Change of use of land not in the application
- Permitted hours not being adhered to in accordance with previous conditions
- Flooding issues along Frating Road

5.5 The application is the subject of a call-in request from the Ward Councillor for Frating, Lynda McWilliams, in the event that approval were recommended. The grounds for the call-in request are:

- Highways impact/highway infrastructure
- Increased flood risk
- Impact on neighbours (noise and disturbance/light pollution)
- Effect on the character and appearance of the area

5.6 While refusal of the application is recommended, the application is referred to the Planning Committee at the discretion of the Assistant Director (Planning), due to the employment aspects of the proposal raising more than significant local issues.

6 Assessment

The Site

6.1 Crossways Centre is operated by Pallet Plus as a B8 storage and distribution centre, comprising warehouse building, loading bay and concrete service yard. Broadly speaking the

site is rectangular in shape with a narrow road frontage with Frating Road from which access is taken, through an archway formed in a flat-roofed building at the front of the site, which is set back from the road behind a small forecourt. At the time of application the site included other uses, including a car workshop to the front of the site and a commercial business within the warehouse. To the north and south are dwellings fronting Frating Road. The remainder of the site to the west and south is surrounded by cultivated agricultural land.

The Proposal

- 6.2 Permission is sought for extensions to both the warehouse (approximately 762m² in footprint measured externally), and loading bay (approximately 464m² in footprint measured externally), and extension of the site's service yard area onto adjacent agricultural land. Materials for the extensions described in the application are insulated steel composite sheeting with plastisol coating, to match the existing. Ridge heights would follow those of the existing buildings. Acoustic fencing behind landscaping is proposed to the southern and western boundaries. The fence would measure approximately 3m in height and would be timber boarded. The site measures 0.94 hectares and would approximately double the land take of the overall site area.
- 6.3 Amongst other things, the application is supported by the following main information:
- Full plans, including visualisations
 - Transport Note (and subsequent revisions)
 - Travel Plan
 - Vehicle tracking plans
 - Landscape Visual Technical Note
 - Noise Assessment
 - Preliminary Ecology Appraisal
 - SuDS drainage details (and subsequent calculations/revision).
 - Landscaping Plan
 - Details of boundary fencing
 - Justification for planning application
- 6.4 An HGV washing facility initially proposed as part of the application has now been omitted, in order to accommodate an attenuation basin within the site to enable a Sustainable urban Drainage System (SuDS). During the course of considering the application an unauthorised expansion of the site has been undertaken at the applicants own risk, described by them as an '*emergency expansion area*'. As a matter of procedure, the description has therefore been amended with the agreement of the applicant to reflect this, in order to refer to the part-retrospective nature of the proposal, and to more accurately describe the development proposed (deletion of car wash and inclusion of attenuation basin).
- 6.5 Because some works have already taken place, the proposal ought to be considered, in part, under Section 73A of the Town and Country Planning Act 1990 for development already carried out in part. The Planning Practice Guidance (PPG) makes clear it cannot be assumed that planning permission will be granted, and the Local Planning Authority should take care not to fetter its discretion prior to the determination of any application for planning permission - such an application must be considered in the normal way (Paragraph: 012 Reference ID: 17b-012-20140306).

The Principle of Development

- 6.6 When Section 1 of the 2013-33 Local Plan was adopted in January this year saved Policy QL1 and the spatial strategy of the 2007 Local Plan were superseded. The spatial strategy for Tendring is now set out in Policy SP3, under which existing settlements will be the principal focus for additional growth. Emerging Policy SPL1 sets out a settlement hierarchy, within

which Frating is identified as a 'Smaller Rural Settlement'. The proposal is located outside of the proposed settlement development boundary (SDB) under emerging Policy SPL2 (Local Map B.9 Frating). Development will be accommodated within or adjoining settlements according to their scale, sustainability and existing role.

- 6.7 The Council wishes to support the growth of existing firms and will grant permission for extensions to established businesses, providing they have an acceptable impact on visual and residential amenity, rural amenity, and transportation considerations.
- 6.8 Saved Policy ER2 directs proposals for employment development towards the principal business and industrial areas and allocated sites set out in Policies QL5 (b) and ER1. In turn, saved Policy QL5 (b) refers to Land East of Pond Hall Farm (27 hectares gross), whereas saved Policy ER1 lists a number of allocated employment sites, none of which include the application site.
- 6.9 The proposal is for the expansion of a storage and distribution operation which falls within the B8 Use Class. Saved Policy ER7 is therefore relevant. Amongst other things, this policy states that in considering proposals for the expansion of warehousing sites the Council will need to be satisfied that the following criteria are met:
- a. the scale and nature of the proposal is appropriate to the locality, including its relationship with adjacent uses;*
- 6.10 Frating is a relatively small village, identified as a "Smaller Rural Settlement" in the settlement hierarchy. The proposed expansion of B8 storage and distribution use in this location would not be a good fit with adjoining residential land uses.
- b. there is no unacceptable impact on amenity in terms of appearance, noise, smell, dirt or other pollution;*
- 6.11 As is considered below, it is considered that the expansion of the use would be likely to have a harmful effect on the character and appearance of the area and result in unacceptable harm to the living conditions of neighbouring residents by virtue of noise and disturbance, harm to outlook and privacy.
- c. satisfactory vehicular access and adequate car parking is provided. Major new industrial or warehousing sites including transport storage operations must have direct access onto the primary route network;*
- 6.12 As is considered below, the existing vehicular access is unsatisfactory and the site does not have direct access to the primary route network; access to the site is via the B1029 which runs through a village.
- d. mains water together with mains sewerage and/or adequate waste water and trade effluent treatment facilities can be made available;*
- 6.13 There is no conflict with this criterion; Anglian Water comment that Great Bromley Water Recycling Centre that will have available capacity for these waste water flows.
- e. the site has acceptable storage facilities. The open storage of goods, containers, waste materials or finished products will not be allowed where such activity is considered to be visually intrusive;*
- 6.14 While the proposal would provide additional warehousing to reduce the amount of open storage, the proposal as a whole is considered to be harmful to visual amenity.

f. in relation to a change of use, that the existing premises are suitable for the purpose;

6.15 There is no conflict with this criterion.

g. in relation to new sites, the need for a comprehensive Design Brief, including a landscaping scheme has been considered and where necessary prepared; and

6.16 The proposal is not for an entirely new site, and landscaping proposals have been submitted. Therefore, there is no conflict with this criterion.

h. opportunities for promoting the movement of freight by rail or through the district's ports are in no way compromised by the development proposed.

6.17 There is no conflict with this criterion.

In rural locations permission may exceptionally be granted for extensions to existing businesses where new employment opportunities would be generated providing the criteria above can be met and the proposals can be accommodated without an adverse impact on the landscape character of the countryside.

6.18 The proposal is in a village location and would create employment opportunities, and it would not harm landscape character. Nevertheless, it would be harmful to the character and appearance of the area and fail to meet a number of the above criteria.

6.19 Emerging Policy PP6 seeks to protect existing employment sites falling within the B8 use class, whereas emerging Policy PP7 provides site allocations for the provision of new B8 storage and distribution uses. The latter states that Proposals for new employment-related development on land outside of allocations will be considered having regard to their potential to support economic growth in the district and the requirements of other policies in the emerging Local Plan.

6.20 For the above reasons, and as is considered in detail below, there is conflict with the criteria of saved Policy ER7. Because the proposal would conflict with other policies in the emerging Local Plan, it would also not meet the requirements of emerging Policy PP7 for being an acceptable location for new employment-related development outside of the site allocations. For these reasons, the proposal is unacceptable in principle.

Highway Safety/Parking

6.21 Saved Policies TR1a, TR3a and TR7, together and amongst other things, require: transport assessments for proposals which are likely to have transportation implications; provision for walking, and; compliance with adopted parking standards. For B8 uses, saved Policy ER7 (c) requires satisfactory vehicular access and adequate car parking is provided, and that major new industrial or warehousing sites including transport storage operations must have direct access onto the primary route network. Emerging Policy SPL3 Part B (a) requires that access is practicable and be able to safely accommodate additional traffic generated.

6.22 Paragraph 111 of the Framework states that Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. Paragraph 113 states that all developments that will generate significant amounts of movement should be required to provide a travel plan, and the application should be supported by a transport statement or transport assessment so that the likely impacts of the proposal can be assessed.

6.23 Essex County Council as Local Highway Authority (ECC Highways) have conducted a detailed site visit and have considered the submitted Transport Note and subsequent revisions. They

observe that the area is predominantly residential and located within a 30 mph restriction. Further, that access to the site is located between residential properties, with a continuous dropped kerb frontage, access to the site being the subject of a width restriction which does not allow for two vehicle passing. The Highway Authority notes that this leads to vehicles stacking on the highway as they wait to enter the site. For a significant B8 storage and distribution use, the width of the site frontage is relatively narrow, and would not appear to be capable of accommodating the radii curves, dropped footway crossing, and pedestrian refuge, that one might expect for development of this nature. In any case, there are no such access improvement proposals before the Council.

- 6.24 Having considered the submitted traffic data and following subsequent clarification, ECC Highways do not find that the proposal would result in residual cumulative impacts on the highway network that would be severe. Nevertheless, they conclude that from a highway and transportation perspective the impact of the proposal is unacceptable; access is via a substandard access onto a secondary distributor road. The access is deficient in terms of its geometry and there is existing conflict and interference with the free-flow of traffic, and intensification of the use would be harmful to highway safety. Furthermore, there are limited public transport facilities, and there is evidence that as a consequence of the introduction of a drainage attenuation pond parking has been displaced from the site. The proposal would fail to meet the required level of parking provision.
- 6.25 During the course of the application a number of revised access proposals were submitted, involving either partial or total demolition of the building at the front of the site. However, discussions with Highways concluded with the informal advice that none of the alternatives would assuage their highway safety objections. In some respects, revised access arrangements would be worse in highway safety terms; for instance, revised vehicle tracking associated with partial demolition would require HGVs to cross onto the opposite side of the carriageway when existing the site. Furthermore, removal of the building at the front of the site would have wider implications for the effect of the proposal on the street scene. In any case, a revised re-submission would be the appropriate way to consider such a fundamental change, in order to ensure that third parties are not prejudiced.
- 6.26 The agent has supplied a copy of the goods vehicles operator's licence dated 18 November 2021 (for 45 motor vehicles and 25 trailers (including semi-trailers)), and states that no objections were made following consultation with the Council. Further, that there would be no increase in HGVs at the site over those currently permitted, and that a planning condition could limit the number of HGVs to those permitted under the licence. However, it is not clear how a limitation on the number of vehicles would translate into traffic movements, or be reasonable and enforceable in view of the nature of the proposal applied for. Because of this, such a condition would be inappropriate - it would fail to meet the tests set out at Paragraph 56 of the Framework.
- 6.27 The agent states that there would be no increase in HGV traffic as a result of the development; the proposal is to secure more efficient operation, and because of this fewer traffic movements would arise as a result. Nevertheless, given the substantial increase in warehouse and loading space, and the overall site area expansion applied for, it is considered highly likely that the proposal would result in increased HGV movements using a substandard access. Having regard to the comments of ECC Highways, it is considered that the proposal would result in an unacceptable impact on highway safety. As a result, the proposal would conflict with saved Policies TR1a, ER7 (c) and emerging Policy SPL3 Part B (a).

Landscape and Character and Appearance

- 6.28 Saved Policy EN1 seeks to protect the quality of the district's landscape and its distinctive local character, and where possible secure its enhancement, whereas saved Policy E7 (b) requires that there is no unacceptable impact on amenity, in terms of appearance. Adopted Policy SP7

states that development should respond positively to local character and context to preserve and enhance the quality of existing places and their environs.

- 6.29 Emerging Policy PPL3 states that the Council will protect the rural landscape and refuse planning permission for any proposed development which would cause overriding harm to its character or appearance. Policy PPL3 Part A (b) requires that development relates well to its site and surroundings, particularly in relation to its siting, height, scale, massing, form, design and materials. Policy PPL3 Part A (c) requires that development respects or enhances local landscape character, views, skylines, landmarks, existing street patterns, open spaces and other locally important features.
- 6.30 The Framework at Paragraph 174 b) states that planning decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside. Under the Tendring Landscape Character Assessment 2001 (TLCA) the site is located within the 7A 'Bromley Heaths' Landscape Character Area. The TLCA describes the Bromley Heaths as an elevated plateau that extends from Colchester to Wix in the east, Thorrington in the south, and corresponds to the highest part of the district. In terms of change the TLCA, amongst other things, recognises pressure for large scale built development at major road junctions with potential for a very high visual impact.
- 6.31 Against this background, the Council's Tree and Landscape Officer has commented that the proposed change of use of land and the incorporation of agricultural land into the adjacent operational facility would result in the removal of the existing boundary hedgerow and trees, and have the potential to adversely affect the character and appearance of the area. The extent of the site, prior to this application, was separated from adjacent agricultural land by an established hedgerow comprising several specimen Oaks. The hedgerow and the trees [now removed] comprised of primarily Hawthorn (*Crataegus monogyna*) and Blackthorn (*Prunus spinosa*) with specimen Oaks (*Quercus robur*) at irregular intervals. The hedgerow was noted as being in reasonable condition, although the Oaks showed weak extension growth and die-back within their crowns, possibly as a result of previous concreting and hard surfacing within the existing Crossways Centre.
- 6.32 Notably, the Council's Landscape Officer further comments that as the hedgerow is on the boundary of land being used for commercial purposes it does not fall within the scope of The Hedgerow Regulations 1997, and does not fall within the scope of any other legislation under which it could be afforded formal legal protection. Trees which have been removed along the existing boundary were considered to be of low amenity value, would not have met the criteria for legal protection, and wider landscape character would not be significantly altered. In the long term the proposed soft landscaping would replicate the previous level of screening. Advice was given that further information would be required.
- 6.33 In response to these comments and officer concern that the proposal has the potential to harm landscape character and the character and appearance of the area, the applicant submitted a Landscape and Visual Technical Note (LVTN), and plans detailing soft landscaping proposals relating to replacement trees and a hedgerow on the boundary of the site. In its own right, in isolation, the landscaping scheme was found to be both simple and comprehensive, and sufficient to secure a satisfactory level of screening which would result in a net increase in the length of the hedge and the number of specimen Oaks.
- 6.34 In a final comment, the Council's Landscape Officer corrected an inaccuracy in previous comments [public visibility from footpaths], and provide an assessment of the scope and efficacy of the LVTN, to quantify the impact of the development on the local landscape character. It was acknowledged that Public Footpath GB166-14 runs south from Harwich Road, Gt Bromley to Morehams Farm, and then becomes a Permissive Path southwards towards the A133. The application site can be viewed from both these routes. The LVTN has been completed in accordance with national advice set out in 'Guidance for Landscape and

Visual Impact Assessment third edition (published by the Landscape Institute and the Institute of Environmental Management and Assessment 2013), and 'An Approach to Landscape Character Assessment' (published by Natural England, 2014).

- 6.35 The LVTN recognises in Section 5.1.2 that harm to the landscape character will result from the change of use of land from agriculture to commercial use, but that the scale of the change is 'minor' and that it will have only a limited impact on the plateau landscape character. The conclusion section of the LVTN states that 'In visual terms the extended development will only be visible from a very limited number of locations' and that 'in any event these locations already experience a view of built development and that any changes will be seen in that context'
- 6.36 In terms of its efficacy, the LVTN accurately describes the existing baseline qualities of local landscape character, in accordance with the published National, County and District level Landscape Character Assessments. The LVTN provides a realistic reflection of the degree to which the development proposal will affect the landscape character. Concluding on the effect of the proposal on landscape character and the level of screening that would be achieved by the proposed landscaping, the Council's Landscape Officer concludes that neither significant change nor harm would result.
- 6.37 Nevertheless, together with the long rear gardens of dwellings to the north and tree lined field boundaries, there is a very regular linear edge to the village. This strong spatial character is apparent in views from the permissive path to the south/southwest and the public right of way to the west/northwest. In these views, the edge of the well-established linear edge of the village is clearly defined by existing planted boundaries. The development would project abruptly to the west beyond the established settlement fringe, and would appear as a somewhat arbitrary extension of the village. HGVs parked on the extended site would be highly visibly. As a result, it would appear as an incongruous projection into the countryside setting of the village.
- 6.38 Furthermore, in the absence of any detailed lighting report or assessment it is likely that external lighting required to facilitate the operation of the development would accentuate the incongruity of its siting and projection into the countryside setting of the village, and the Council cannot be certain that it would not result in unacceptable light pollution of the nocturnal sky. Saved Policy COM21 states that planning permission will not be granted for external lighting for any development if it would cause an unacceptable visual intrusion. Emerging Policy PPL3 states that new development within the rural landscape should minimise the impact of light pollution on the site and its surroundings. Paragraph 185 (c) of the Framework states that planning decisions should limit the impact of light pollution from artificial light on local amenity.
- 6.39 To some extent, proposed landscaping would in time provide the same visual screening as was previously afforded. However, in the short to medium term the development would be conspicuous in terms of its siting and layout, and it would not overcome the awkward and incongruous appearance of the development. Notwithstanding the lack of any identified harm to wider landscape character, for the above reasons, officers consider that the proposal would be harmful to the character and appearance of the area, and significant weight should be given to this harm. As such, the proposal would be contrary to saved Policy E7, adopted Policy SP7, and emerging Policy PPL3 Part A (b). It would also conflict with Paragraphs 174 and 185 (c) of the Framework.

Effect on the Living Conditions of Neighbours

- 6.40 Part-Saved Policy QL11, adopted Policy SP7, and emerging Policy SPL3 together seek to avoid land use conflict and protect the amenity of neighbours. Saved Policy ER7, amongst other things, requires that the scale and nature of a proposal is appropriate to the locality,

including its relationship with adjacent uses, and that there is no unacceptable impact on amenity in terms of appearance, noise, smell, dirt or other pollution. Framework Paragraph 130 (f) states that planning decisions should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.

- 6.41 There are some benefits associated with the proposal. Acoustic barriers would assist in preventing the transmission of noise emanating from the site. However, they are not dependant on the proposal; they could be installed independently. The proposed warehouse building would act as an acoustic buffer to sound emanating from the site eastwards, and the expanded site area would allow for better circulation of vehicles and allow for the parking away from dwellings at the east of the site. Moreover, the Council's Environmental Protection Team concur with the findings of the submitted noise report, and no statutory noise nuisance would be created.
- 6.42 Nevertheless, the proposal is likely to result in an intensification of the use of the site, and access to Crossways is sandwiched between residential properties. The dwelling to the north is immediately adjacent to the access, and at a slightly lower level. Increased HGV movements would have an unacceptable adverse effect on the amenity of the occupants, having regard to noise and disturbance. It is also highlighted that HGV headlights would shine into the main habitable rooms at the front of this dwelling and cause disturbance at night, and during the late afternoon and early morning in autumn and winter months. Whilst it is accepted that at present this already occurs, intensification of the use would exacerbate this to an unacceptable degree. The use of planning conditions to secure an acoustic and visual barrier would not be capable of overcoming this harm; due to the change in levels and required height, such a requirement would have an overbearing effect on outlook.
- 6.43 Furthermore, at the north western edge the extension of the service yard wraps around the foot of the garden of a dwelling to the north. While this dwelling has an exceptionally long garden, and there is no right to a view across third party land, the appearance of parked HGVs and boundary fencing at the foot of the garden to this property creates an oppressive outlook. Although the property has ample outdoor amenity space adjacent to the dwelling itself, it is apparent that the end of this garden has been well used in the evenings as it faces west. The proposal would also result in a loss of privacy for the occupants. Although proposed landscaping would, in time, soften this impact, the installation of an acoustic barrier would effectively close off the outlook from the end of the garden. Although the harm would be limited in view of the existing high boundary treatment to the south of the garden, and while a significant amount of useable outdoor amenity space would remain available to the occupants that would not be impacted upon, this harm counts against the proposal.
- 6.44 For the above reasons, the proposal would have an unacceptable harmful effect on the living conditions of the occupants of neighbouring dwellings. Significant weight should be attached to this harm, which renders the proposal contrary to saved Policies QL11, ER7, adopted Policy SP7, and emerging Policy SPL3. It would also conflict with Paragraph 130 (f) of the Framework.

Loss of Agricultural Land

- 6.45 Saved 2007 local plan policy EN4 seeks to protect the best and most versatile agricultural land (BMV). BMV land is that which falls within grades 1, 2 and 3a of the Agricultural Land Classification. This policy states that areas of poorer quality agricultural land should be used in preference to that of higher quality land, except where other sustainability considerations suggest otherwise. Also, that development will not be permitted on BMV land unless special justification can be shown.

- 6.46 Paragraph 174 (a) of the Framework states that planning policies and decisions should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan) [emphasis added]. Paragraph 174 (b) states that decisions should recognise the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the BMV land, and of trees and woodland [emphasis added].
- 6.47 The planning practice guidance recognises that soil is an essential natural capital asset that provides important ecosystem services – for instance, as a growing medium for food, timber and other crops, as a store for carbon and water, as a reservoir of biodiversity and as a buffer against pollution (Paragraph: 002 Reference ID: 8-002-20190721).
- 6.48 According to the Agricultural Land Classification (ALC) Strategic Map, the site is located on land that is predicted to be grade 1 'Excellent', which is land with no or very minor limitations, where yields are high and less variable than on land of lower quality. However, the ALC Strategic Map is a large scale prediction, and it is not suitable for the definitive classification of any local area or site. Post 1998 ALC Magic Map data is inconclusive, and no detailed site survey report has been submitted. Nevertheless, the proposal would lead to a loss of agricultural land with a site area stated as being just under a hectare, and third party objection is made on this basis.
- 6.49 In the absence of a field survey, the Council cannot be certain there would not be a loss of BMV land and/or conflict with the development plan in this regard. Were this the sole concern, the economic benefits of the proposal might provide special justification. Nevertheless, there is a degree of conflict with saved Policy EN4 which weighs against the proposal.
- 6.50 Following Schedule 4 paragraph (y) of the Development Management Procedure Order 2015, before granting planning permission for large-scale non-agricultural development planning authorities must consult Natural England on all non-agricultural applications that result in the loss of more than 20 hectares (ha) of BMV land if the land is not in accordance with the provision of the development plan. Because the site area is below the threshold and the recommendation is to refuse, no consultation has therefore been necessary.

The Fall-back Position

- 6.51 The site has a complex planning history, as set out above. The applicant asserts earlier planning permissions and lawful use certificates granted create a 'fall-back' position; use of the existing site and buildings for a B8 storage and distribution use is lawful on an unrestricted basis. However, upon reviewing the history of the site in conjunction with Legal Services, officers do not draw the same conclusions; some parts of the existing warehouse building are not covered by a lawful use certificate for B8 use, and conditions of some earlier permissions may continue to apply.
- 6.52 While some weight could potentially be given to the site's history and the certificate of lawful use issued by the Council's identified fall-back position, this is substantially reduced by limitations and conditions. In any case, the proposal is for a significantly greater amount of development, both within and outside the existing buildings, and, for the reasons set out below, the fall-back position would be less harmful. The fall-back position should therefore be afforded limited weight.

Renewable and Energy Conservation Measures

- 6.53 Emerging Policies PPL10 and SPL3, together, require consideration be given to renewable energy generation and conservation measures. Proposals for new development of any type

should consider the potential for a range of renewable energy generation solutions, appropriate to the building(s), site and its location, and be designed to facilitate the retro-fitting of renewable energy installations.

- 6.54 Paragraph 112 of the Framework states that applications for development should be designed to enable charging of plug-in and other ultra-low emission vehicles (ULEV) in safe, accessible and convenient locations. However, recent UK Government announcements that ULEV charging points will become mandatory for new development have yet to be published.
- 6.55 The proposal includes a significant amount of new roof space (in addition to that already 'in situ') which have the potential to incorporate solar photovoltaic installation. Car parking areas have the potential for the provision of ULEV charging points. The use of planning conditions to require schemes for the consideration and installation of these measures would be capable of addressing these policy requirements.

Flood Risk and Drainage

- 6.56 Saved Policy EN13 requires that development proposals should normally include Sustainable Urban Drainage Systems (SuDS). Adopted Policy SP7, amongst other things, states that all new development should include measures to promote environmental sustainability, including provision of appropriate water/wastewater and flood mitigation measures. Criterion g) of Part B to Emerging Policy SPL3 requires development reduces flood risk and integrates sustainable drainage within the development. Emerging Policy PPL5 also requires that new development makes adequate provision for drainage and should include SuDS.
- 6.57 Paragraph 159 of the Framework states that inappropriate development in areas at risk of flooding should be avoided. Paragraph 167 of the Framework states that when determining applications local planning authorities should ensure that flood risk is not increased elsewhere, and, where appropriate, applications should be supported by a site specific flood risk assessment (FRA).
- 6.58 There have been a number of recent surface water flooding events in the locality and understandably a number of local residents and Ward Councillor McWilliams are concerned about the effect of the increase in hard surfacing, and potential for surface water run-off to increase the risk of flooding elsewhere. The Parish Council have been liaising with a number of agencies to seek solutions to local drainage problems.
- 6.59 The site area is below 1 hectare in size and therefore the Environment Agency are not a statutory consultee. However, they were consulted but have not commented in this instance. Nevertheless, in view of the well-founded concerns in relation to the risk of flooding and the above policy requirements, officers have worked with the applicant to secure a SuDS solution. Following the introduction of an attenuation basin with micro calculations and multiple revised drainage engineering details, Essex County Council as Lead Local Flood Authority (LLFA) have withdrawn earlier objections. Subject to conditions to require implementation of the submitted measures, the LLFA are satisfied that the development would not increase the risk of flooding.

Protected Species and Biodiversity

- 6.60 Saved Policy EN6 states that development proposals will not be granted planning permission unless the existing local biodiversity is protected and enhanced. Policy EN6 (a) considers protected species, whereas EN6 (b) refers to habitat creation. The fourth bullet of adopted Policy SP7 requires that all new development should incorporate biodiversity creation and enhancement measures. Emerging Policy SPL3 Part A (d) includes that the design and layout of development should maintain or enhance ecological value.

- 6.61 In accordance with Paragraph 174 of the Framework planning decisions should contribute to and enhance the natural and local environment, by minimising impacts and providing net gains for biodiversity. Section 40 of The Natural Environment and Rural Communities Act 2006 extended the biodiversity duty set out in the Countryside and Rights of Way Act to public bodies and statutory undertakers, to ensure due regard is had to the conservation of biodiversity; “Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity”.
- 6.62 The submitted Preliminary Ecological Appraisal (PEA) finds that the proposal falls outside of identified protected sites (statutory and non-statutory) and any SSSI Impact Risk Zones, and would not be expected to have any effect upon protected sites. The hedgerow removed was found to be species poor, but its removal would result in a low level loss of habitat for tree nesting birds, and a low level loss of potential foraging features for bats. Trees to be felled were found to have a low bat roost potential, and no further survey work was recommended. However, as precautionary measures, mitigation in the form of soft landscaping is recommended to avoid any such impacts, together with a ‘soft-fell’ approach to tree felling and the installation of bird and bat roost features.
- 6.63 As the Council’s Landscape Officer has commented, the hedgerow that has been removed would not have been protected under the Hedgerow Regulations, and specimen Oaks that have been removed showed weak extension growth and die-back within their crowns, and would not therefore have warranted protection. The application is supported by a detailed planting scheme that would result in a net increase in the length of hedgerow and the number of specimen oaks. This would deliver net gains in biodiversity and address the findings of the PEA.
- 6.64 Notwithstanding the concerns of objectors, there is no evidence that protected species have been harmed. Subject to the use of conditions to require the implementation of the proposed plantings scheme, the mitigation measures set out in the PEA would be sufficient to ensure no loss of habitat would arise. The proposal would not therefore conflict with the development plan or the Framework in these regards.

Economic and Other Benefits

- 6.65 Pallet Plus is a part of the pallet network, specialising in the palletised freight of goods to the UK, Ireland and Europe. The submitted justification states that the application follows a fire in Europa Way, Parkeston in 2007. Having sought to promote a site at Horsley Cross which was dismissed on appeal, the opportunity to occupy part of the Crossways Centre arose. The applicant has subsequently acquired the site and say it is a suitable location to provide logistics services within Essex. The applicant states that they need to expand their operations, and that suitable employment land within Tendring for such uses is in short supply. Recent agreements with a competitor in Ardleigh are stated as having saved 27 local jobs, and the existing workforce at the time of application was stated as being 81 across various roles. Furthermore, the lease of a site in Ardleigh has expired so relocation to The Crossways Centre is required.
- 6.66 The submission states that an average of 700 deliveries are undertaken every day. The pandemic has led to Government recognition of the role local transport and logistics play in maintaining the essential supply of goods. The application also states that instead of 4 of 5 HGVs delivering to Clacton each day, these are now consolidated onto one vehicle. The local market share is cited as being approximately 65-70% which reduces HGV traffic on local roads. Furthermore, other networks have expressed an interest that would further reduce the carbon footprint of local distribution. Earlier objection to unsustainable locations in terms of access to the local employment market have been addressed by the proposed development of

an existing employment site, with easy access the existing and proposed housing development.

- 6.67 Officers recognise that the effects of the fire in 2007 and unsuccessful earlier attempts to secure permission for an alternative site, and the expiry of leases on other sites operated by the applicant will all have impacted on the business. It is also recognised that the applicant is an important local employer providing storage and distribution services, the demand for which has grown significantly during the pandemic. However, officers cannot agree that there is a lack of suitable employment land within the Tendring District; the emerging Section 2 Local Plan only a matter of days ago has been found legally compliant and sound. Nevertheless, the proposal would assist in employment retention and generation, and support the Council's aims and objectives in this regard. There is general support for such proposals, and the benefits to the local economy are likely to be significant. Significant weight should be attached to these benefits. Furthermore, Paragraph 81 of the Framework makes clear that planning decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.

Other Matters

- 6.68 An objector refers to a dismissed appeal following refusal of application reference 19/01872/FUL, which was for 5 dwellings. However, the proposal was for a different form of development in a different location, and the merits and site circumstances were not the same. Each case must be considered on its own merits, and this decision should not therefore attract weight.
- 6.69 Some objectors refer to concern over the effect of the development on local air quality. However, while traffic movements are likely to increase, there is little evidence to suggest that air quality would be unduly impacted, and the proposal does not lie within an air quality management area. Although traffic volumes would be likely to increase, it is not anticipated that this would be to the level where an Air Quality Assessment would be required.

7 Conclusions and Planning Balance

- 7.1 The site does not meet the criteria for being an acceptable location for a significant expansion of a B8 storage and distribution use. The development would be likely to have unacceptable effects on pedestrian and highway safety, and harm the living conditions of neighbours. While it would not erode wider landscape character, the scheme would also be harmful to the character and appearance of the area. Significant weight should be given to these harms. Approval would lead to the loss of agricultural land which is likely to be of a high grade, which counts against the development.
- 7.2 There is no evidence the proposal would harm protected species and the proposed landscaping scheme would deliver a net gain in biodiversity. Subject to conditions, the development would not be at risk of flooding, or unduly increase the risk of flooding elsewhere. Energy efficiency, ULEV charging, and renewable energy generation development plan requirements could be addressed via the use of planning conditions. Furthermore, parking provision would meet the required standards. These are all neutral factors in the planning balance.
- 7.3 In its favour the proposal would support job retention and creation, and deliver economic benefits to which significant weight should be given. Due to the terms of earlier planning approvals and the limitations of lawful use certificates granted, the fall-back position is not entirely clear. The proposal would be significantly more harmful, and the fall-back position should therefore be afforded only limited weight.

- 7.4 The combination of the significant weight that should be given to the economic benefits of the development and the limited weight that could be given to the fall-back position do not outweigh the cumulative substantial weight given to the identified harms to pedestrian and highway safety, the character and appearance of the area, and the living conditions of neighbours. While the proposal would contribute towards achieving the Framework's economic objective of sustainable development, it would conflict with the environmental and social objectives. The scheme is severally contrary to the development plan, and planning permission should therefore be refused.
- 7.5 Having regard to the policies of the emerging Local Plan and allocations contained therein, the Council has a sufficient supply of employment land. However, even if it were the case that the Council's policies for the supply of employment land were considered to be out of date and the titled balance set out at paragraph 11 (d) ii of the Framework were therefore engaged, for the above reasons, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.

8 Recommendation

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

Reasons

1. The proposal does not meet the criteria for being a suitable location for a B8 storage and distribution development and it would be harmful to highway and pedestrian safety. As a result, the proposal is contrary to saved Policies TR1a, ER7, and emerging Policy SPL3. It would also be at odds with Paragraph 111 of the Framework.
2. The proposal would have an unacceptable harmful effect on the living conditions of the occupants of neighbouring dwellings, having regard to noise and disturbance, privacy and outlook. Accordingly, the proposal conflicts saved Policies QL11, ER7, adopted Policy SP7, and emerging Policy SPL3. It would also conflict with Paragraph 130 (f) of the Framework.
3. The proposal would be harmful to the character and appearance of the area. Consequently, the development fails to meet the requirements of saved Policy E7, adopted Policy SP7, and emerging Policy PPL3 Part A (b). It would also conflict with Paragraphs 174 and 185 (c) of the Framework.

9 Additional Considerations

Public Sector Equality Duty (PSED)

- 9.3 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:
- 9.4 A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
- 9.5 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

- 9.6 C. Foster good relations between people who share a protected characteristic and those who do not, including tackling prejudice and promoting understanding.
- 9.7 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.
- 9.8 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.
- 9.9 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

- 9.10 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.
- 9.11 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).
- 9.12 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

- 9.13 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

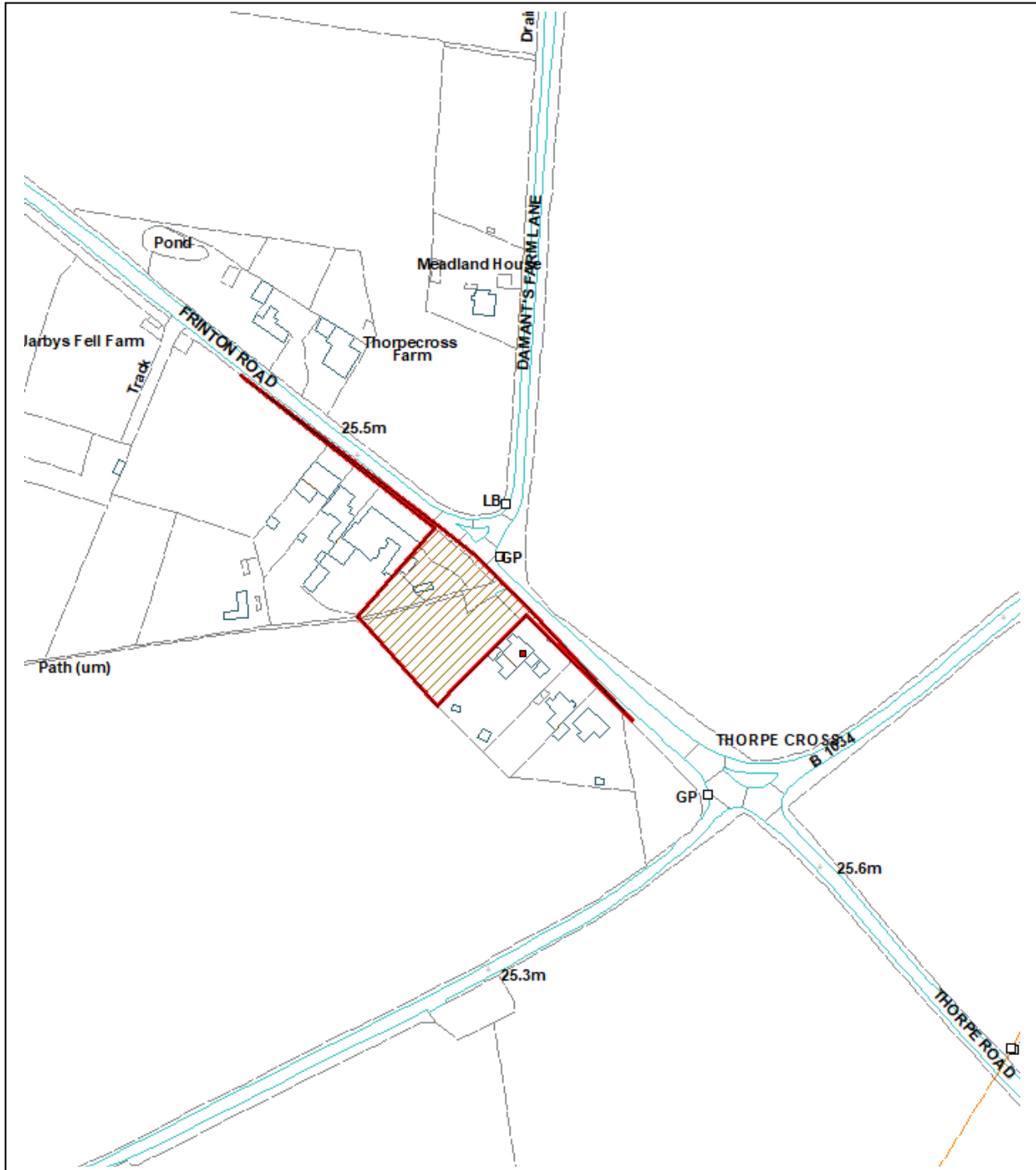
In making this recommendation, officers have considered all plans, documents, reports and supporting information submitted with the application together with any amended documentation. Additional information considered relevant to the assessment of the application (as referenced within the report) also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

7th December 2021

REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING

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



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Application: 21/01411/FUL

Town / Parish: Thorpe Le Soken Parish Council

Applicant: Marks Tey Farms Limited

Address: Land adjacent Thorpe Cross Lodge 26 Frinton Road Thorpe Le Soken Clacton On Sea Essex CO16 0HR

Development: Variation of conditions 3, 5, and 6 (occupation conditions) of planning application 21/00028/FUL

1. Executive Summary

- 1.1 This application is referred to the Planning Committee by the Ward Councillor for Thorpe Le Soken for the following reasons:

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

- 1.2 This application seeks 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 was permitted in August 2021.

- 1.3 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.

- 1.4 The proposed variations to these conditions are summarised accordingly:-

	Condition	Variation
3	The use hereby permitted shall be solely for holiday accommodation. No person shall occupy the site for more than 28 consecutive days.	The use hereby permitted shall be solely for holiday accommodation. No person shall occupy the site for more than 56 consecutive days.
5	No caravan shall be occupied between 1 November and 28 February inclusive in any year.	No caravan shall be occupied for any continuous period of 6 weeks, within the winter months, in any year.
6	Occupation of the caravans is prohibited by	Occupation of the caravans is prohibited

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.	by those detailed in the Management Strategy as submitted and approved by the Council, unless otherwise amended in writing by agreement from the Council.
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- 1.5 The wording and restrictive requirements of all other conditions remain as per the existing approval.
- 1.6 The principle of the development has been established through the granting of application 21/00028/FUL.
- 1.7 The proposal will not result in any material harm to amenity or highway safety.

Recommendation:

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

- a) Subject to the conditions stated in section 8.2

2. Planning Policy

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

NPPF National Planning Policy Framework July 2021

National Planning Practice Guidance

Relevant Section 1 Policies (adopted)

SP1 Presumption in Favour of Sustainable Development

SP3 Spatial Strategy for North Essex

SP7 Place Shaping Principles

Adopted Tendring District Local Plan 2007 (part superseded)

ER16 Tourism and Leisure Uses

ER20 Occupancy Timescales

Relevant Section 2 Policies (emerging)

PP8 Tourism

PP10 Camping and Touring Caravan Sites

PP13 The Rural Economy

Local Planning Guidance

Essex Design Guide

Status of the Local Plan

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

3. Relevant Planning History

91/01235/FUL	Protective garden wall.	Refused	11.12.1991
92/00169/FUL	Retention of front boundary wall and side fencing (resubmission of application TEN/91/1235)	Refused	31.03.1992
92/01252/FUL	(Thorpe Cross Lodge, 26 Frinton Road, Thorpe le Soken) Retention of brick store	Approved	14.12.1992
20/00645/FUL	Erection of 4no. holiday caravans.	Refused	08.09.2020
21/00028/FUL	Erection of 4 holiday caravans.	Approved	02.08.2021
21/01411/FUL	Variation of conditions 3, 5, and 6 (occupation conditions) of planning application 21/00028/FUL	Current	

4. Consultations

Due to the nature of the application; no consultations with external consultees were deemed necessary.

5. Representations

5.1 One letter of objection has been received which includes the following concerns:-

- road safety
- sanitation
- overcrowding
- accidents opposite the proposed site
- increased possibility of fatalities

Thorpe Le Soken Parish Council objects on the basis that the conditions placed on this application were imposed to stop this becoming a permanent habitable residence. The area is not suitable or in keeping to have caravans dotted in between a residential street scene. At that location, the vehicle speeds are fast and there is a slight blind turning from the site which makes it dangerous. The public footpath will also be affected by further residential and vehicle movements.

6. Assessment

Site Description

- 6.1 The site extends to approximately 0.32 hectares opposite Damants Farm Lane, Thorpe le Soken. The site lies 1.5 miles to the east of Thorpe le Soken. The site is currently occupied by two caravans which are sited towards the north-west boundary, with residential properties to the north and south with farmland to the west of the site.
- 6.2 A public footpath runs through the site and links to the main settlement which is a short walk away.
- 6.3 The site is of a semi mixed rural character with a hedge running along part of the front boundary with the highway and a newly planted hedge within the site. A fence demarks the route of the public footpath.

Relevant History

- 6.4 Application (20/00645/FUL) was refused planning permission for three principle reasons, namely that: (1) the access would not provide for adequate visibility and would intensify use of the footpath at the point of access resulting in the potential for a conflict with users of the footpath; (2) the enclosure of a public footpath and creating 'structures' in the setting of a footpath would result in significant harm; (3) the potential disturbance to neighbouring properties as a result of additional car movements.
- 6.5 Application 21/00028/FUL was accompanied by sufficient additional information and justification to consider recommending approval. Permission was granted in August 2021 with 19 conditions imposed. Four of the conditions pertained to controlling the occupation of the units and eleven conditions pertained to highways requirements.

Proposal

- 6.6 When planning permission is granted, development must take place in accordance with the permission and conditions attached to it, and with any associated legal agreements.

- 6.7 New issues may arise after planning permission has been granted, which require modification of the approved proposals.
- 6.8 An application can be made under section 73 of the Town and Country Planning Act 1990 to vary or remove conditions associated with a planning permission. Permission granted under section 73 takes effect as a new, independent permission to carry out the same development as previously permitted subject to new or amended conditions. The new permission sits alongside the original permission, which remains intact and unamended.
- 6.9 This application proposes amending the wording of three of the four occupancy-controlling conditions, which were attached to the approved application. The wording of the other sixteen conditions remain as previously imposed.

Assessment

Principle of Development

- 6.10 The principle of the development has been established through the granting of application 21/00028/FUL.

Tourist & Leisure Developments

- 6.11 Paragraph 84 of the National Planning Policy Framework 2021 states that planning policies and decisions should enable the sustainable growth and expansion of all types of business in rural areas including sustainable rural tourism and leisure developments which respect the character of the countryside.
- 6.12 Saved Policy ER16 of the Tendring District Local Plan 2007 states that proposals for tourism and leisure uses will be permitted provided that;
 - a) The development is accessible to all potential visitors and users
 - b) There is suitable vehicular and public transport access to the site and parking provision, especially where the proposal is likely to generate large traffic volumes. Proposals should be located close to the main road network and link to other public rights of way wherever possible
 - c) The type of use proposed would not cause undue disturbance by reason of noise. Uses creating high levels of noise should be located well away from residential property and sensitive wildlife areas
 - d) There will not be an adverse effect on agricultural holdings and the proposal would not result in an irreversible loss of high quality agricultural land
 - e) Where appropriate opportunities are taken to improve the damaged and despoiled landscapes and enhance the landscape character of the area.

In addition, Saved Policy ER20 states that the occupation of all types of holiday units, including chalets and caravans, will not be permitted between 14 January and 1 March in any year. Occupancy may be further restricted to the period 1 March and 31 October where the site;

- i. Lacks the necessary and appropriate infrastructure and services for longer occupation
 - ii. Is located in an area of flood risk, or adjacent to a site designated for reasons of nature conservation.
- 6.13 It is clear from the set of conditions imposed on planning permission 21 /0028/FUL that the static caravans are to be restricted to holiday usage only; the proposed changes to the wording of the occupancy conditions do not seek to diminish this overarching control over the

wider use of the site. The proposed changes would however give a greater flexibility as to when the use is proposed.

Proposed Amendment to Condition 3

- 6.14 Currently, Condition 3 controls the length of time that a unit can be occupied. The condition currently reads *'The use hereby permitted shall be solely for holiday accommodation. No person shall occupy the site for more than 28 consecutive days.'*
- 6.15 It is proposed to amend the length of time that the units can consecutively be occupied. The requested amendment is to increase this to 56 days. It is considered that the proposed increase in letting duration would allow for greater flexibility and is likely to further support the sustainable growth and expansion of a business in a rural area, including sustainable rural tourism and leisure developments without diminishing the restrictive aims of Policy ER20 which are that unrestricted occupation of holiday accommodation is *'unsuited for such a purpose by virtue of its construction standards and setting in areas not suitable for permanent residential occupation particularly in the winter months'*.

Proposed Amendment to Condition 5

- 6.16 Currently, Condition 5 controls the seasonal period that a unit can be occupied. The condition currently reads *'No caravan shall be occupied between 1 November and 28 February inclusive in any year.'*
- 6.17 It is proposed to amend the restrictive period during the winter; the requested amendment is to restrict occupation to a period of 6 weeks throughout the winter months in order to allow potential maximum local economic benefit. The pre-amble to Policy ER20 states *'...wherever possible occupation of these holiday homes should be restricted to certain times of the year, principally the summer holiday season, the Christmas and New Year period and at weekends'*. Condition 5 currently prevents occupation of the holiday homes at Christmas and New Year. Emerging Policy PP10 states that *'To ensure that any tents and/or touring caravans/motorhomes are not used as permanent dwellings, camping and touring caravan/motorhome sites will be subject to holiday occupancy conditions and their use limited to certain periods of the year.'* The amendment to the wording of Condition 5 does not conflict with the aims of Policy ER20 in regards to limited occupation during certain periods of the year.

Proposed Amendment to Condition 6

- 6.18 At present, Condition 6 controls the groups of people who can occupy the caravan units. The groups are laid out in writing in the Management Strategy. The condition currently reads *'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.'*
- 6.19 It is proposed to amend the condition so that the details (which are stated in the Management Strategy itself) are not replicated in the condition itself. The condition would therefore read as *'Occupation of the caravans is prohibited by those detailed in the Management Strategy as submitted and approved by the Council, unless otherwise amended in writing by agreement from the Council.'*
- 6.20 Paragraph 56 of the National Planning Policy Framework (NPPF) states that *'Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Agreeing conditions early is beneficial to all parties involved in the process and can speed up decision making.'* It is considered that re-listing the prohibitions stipulated in the

Management Strategy within the condition itself was an unnecessary duplication. For this reason it is considered entirely acceptable for the wording of the condition to state "Occupation of the caravans is prohibited by those detailed in the Management Strategy as submitted and approved by the Council, unless otherwise amended in writing by agreement from the Council."

Visual and Landscape Impact

- 6.21 Paragraph 8 of the National Planning Policy Framework 2021 (NPPF) sets out the overarching objectives for achieving sustainable development, one being the environmental objective which requires the planning system to contribute to protecting and enhancing our natural, built and historic environment. Furthermore, Paragraph 130 of the NPPF requires that development should respond to local character and history, and reflect the identity of local surroundings. It goes on to say that local distinctiveness should be promoted and reinforced. Draft Policies SPL3 and PPL3 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) seeks to ensure that development is appropriate in its locality and does not harm the appearance of the landscape.
- 6.22 It was previously considered through the originally approved application ref. 21/00028/FUL, that in order to facilitate access to the application site the existing hedgerow across the entire site frontage (in front of the ditch) would need to be removed before first occupation to ensure that the future outward growth of the hedgerow 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. It was concluded that this would not have a significant impact on the character of the area. No other significant trees or hedgerows were considered to be adversely affected by the development proposal.
- 6.23 As previously, details of soft landscaping, including hedgerow planting to strengthen screening and to both soften and enhance the appearance of the development will be secured by condition on this variation of condition application. The proposal ensures a low key, transient visual and landscape impact further minimised by being almost fully screened by proposed boundary planting.
- 6.24 For the reasons set out above, the proposed use as sought to be varied in terms of occupation restrictions, will not result in any significant or demonstrable harm to the landscape character or setting of the heritage assets.

Residential Amenities

- 6.25 The NPPF, at paragraph 130 states that planning should always seek to secure a good standard of amenity of all existing and future occupants of land and buildings. These sentiments are carried forward in adopted Policy SP7 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).
- 6.26 The positioning of three of the units towards the south-west (rear) boundary of the site - one of these units would be approximately 4m from the side boundary with the residential property No. 26 Frinton Road - has already been agreed through the original permission. It was considered, that in order to protect the amenities of this property a scheme of planting be proposed to act as a buffer and this condition will be carried forward onto this application. In addition, the occupation of the units will still be controlled through the agreed Management Plan referred to in amended condition 6.

Access, Highway Safety and Parking

- 6.27 Paragraph 110 of the National Planning Policy Framework 2021 seeks to ensure that safe and suitable access to a development site can be achieved for all users. This sentiment is carried

forward in adopted Policy SP7 of the Tendring District Local Plan 2013 -2033 and Beyond Publication Draft (June 2017).

- 6.28 With respect to the original permission, following negotiations and the submission of speed surveys, the impact of the proposal was considered acceptable to the Highway Authority subject to mitigation and conditions which are carried forward onto this recommendation.

Recreational Disturbance

- 6.29 The proposal is for holiday units is outside the scope of the Essex Coast RAMS. However, Natural England state applications involving tourist accommodation could still potentially have recreational disturbance impacts (and other impacts) on designated sites.
- 6.30 With the imposition of an appropriately worded condition restricting the occupation of the site for holiday use only, no harm to designated sites will result from the development and therefore no financial contribution toward mitigation is required in this instance.

7. Conclusion

- 7.1 The proposed changes to the wording of Conditions 3, 5 and 6 (the control of occupation of the approved caravans) do not diminish or undermine the planning controls previously imposed. The changes still ensure the protection of the amenities of adjoining residential amenities and ensure that the development will remain as holiday accommodation.

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 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 continuous period of 6 weeks, within the winter months, 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.

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.

8.3 Informatives

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and 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.

Highway Informatives:-

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

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

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

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.

As discussed with the agent, the existing hedgerow across the entire site frontage (in front of the ditch) should be removed before first occupation to ensure that the future outward growth of the hedgerow 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.

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

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

9. Additional Considerations

Public Sector Equality Duty (PSED)

- 9.1 In making your decision you must have regard to the PSED under section 149 of the Equality Act 2010 (as amended). This means that the Council must have due regard to the need in discharging its functions to:
- A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
 - B. Advance equality of opportunity between people who share a protected characteristic and those who do not. This may include removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; taking steps to meet the special needs of those with a protected characteristic; encouraging participation in public life (or other areas where they are underrepresented) of people with a protected characteristic(s); and
 - C. Foster good relations between people who share a protected characteristic and those who do not, including tackling prejudice and promoting understanding.
- 9.2 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.
- 9.3 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.
- 9.4 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

- 9.5 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.
- 9.6 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).
- 9.7 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

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

10. Background Papers

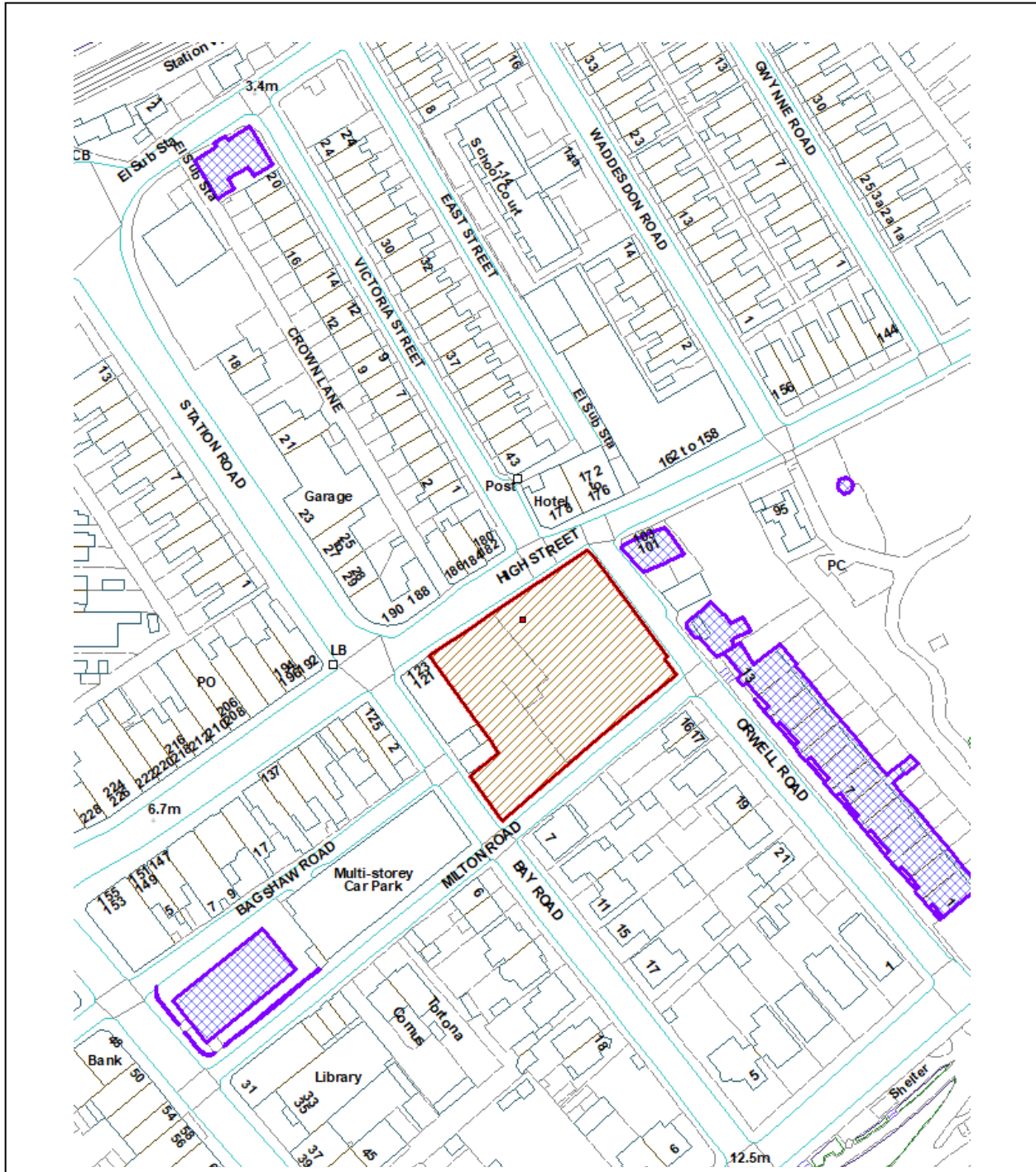
10.1 In making this recommendation, officers have considered all plans, documents, reports and supporting information submitted with the application together with any amended documentation. Additional information considered relevant to the assessment of the application (as referenced within the report)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

PLANNING COMMITTEE

7th December 2021

REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING

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



DO NOT SCALE

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Application: 21/01747/ADV

Town / Parish: Harwich Town Council

Applicant: Kirstin Foley - Tendring District Council

Address: Starlings Block Land to The South of High Street Harwich Essex CO12 3A

Development: Consent to display 4 no. proposed advertisement boards to show what the site will look like when it is finished.

1. **Executive Summary**

- 1.1 This application is referred to the Planning Committee as the applicant is Tendring District Council.
- 1.2 The application involves the display of four non-illuminated artistic-impressions of the proposed re-development of the site, as approved under application 21/01145/FUL.
- 1.3 The site is within Dovercourt Conservation Area and an area subject to regeneration. The principle of development is acceptable subject to the detailed consideration below.
- 1.4 The proposal will not result in any material harm to amenity or highway safety.

Recommendation:

That the Head of Planning be authorised to grant advertisement consent for the development:-
Subject to the conditions stated in section 8.2.

2. **Planning Policy**

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

National Policy:

NPPF National Planning Policy Framework February 2021
National Planning Practice Guidance

Local Policy:

Tendring District Local Plan 2007

EN18a - Advertisement Control in Conservation Areas
TR1a - Development Affecting Highways

Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017); Section 1

SP1 - Presumption in Favour of Sustainable Development

Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017); Section 2

SPL3 Sustainable Design

Local Planning Guidance

Development Affecting Highways

Status of the Local Plan

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

3. Relevant Planning History

12/00478/CON	Demolition of buildings leaving site clear for possible development.	Approved	05.07.2012
21/01145/FUL	Proposed development of a surface-level public car park, public toilet facilities, landscaped public open space and associated works.	Approved	29.09.2021
21/01747/ADV	Consent to display 4 no. proposed advertisement boards to show what the site will look like when it is finished.	Current	

4. Consultations

ECC Highways Dept

ECC Highways note that the signs are non-illuminated and will be fixed to the existing hoarding that surrounds the boundary of the site. Considering these factors:

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

Essex County Council Heritage
08.11.2021

Unopposed to this application. Recommend that a condition is attached to any decision notice issued requiring the signage and hoarding be taken down before the site's first use.

5. **Representations**

No contributions have been received in response to the publicity of the application.

6. **Assessment**

Site Context

- 6.1 The application relates to an 'L-shaped' parcel land to the south of High Street, Dovercourt. The site is known locally as 'The Starlings Site' and is bound by Orwell Road to the north-east, Milton Road to the south-east, and Bay Road along part of the south-western side. The remaining section of the western boundary is adjoined by the single-storey retail/business unit and associated structures of No. 121-123 High Street. The site slopes down from south to north.
- 6.2 The site was previously occupied by The Queen's Hotel at Nos. 119-121 High Street, commercial properties of Stour Place (Nos. 105 - 117 High Street) and Starlings Garage to the east, between the hotel and Orwell Road.
- 6.3 The site is currently secured by site hoarding to all sides which has been in place since the buildings were demolished and the site was cleared.
- 6.4 The north-western side of the application site, fronting High Street, falls within the Dovercourt Conservation Area. Immediately to the north-east and east of the site are nos.101-103 Main Road Dovercourt and 1-13 Orwell Road Dovercourt which are all Grade II Listed Buildings.
- 6.5 The site is located within the defined Town Centre and the 'Dovercourt Town Centre Regeneration Area' as designated by the adopted Local Plan (2007). This aspiration and policy provision has been continued through the emerging Section 2 Local Plan (2013-2033), which also looks to identify Dovercourt Town Centre as a 'priority area for regeneration'

Proposal

- 6.6 Advertisement consent is sought for the display of four non-illuminated placards which will be adhered to the existing hoarding.
- 6.7 For planning purposes, 'advertisement' is defined in section 336(1) of the Town and Country Planning Act 1990 (as amended) as:

'...any word, letter, model, sign, placard, board, notice, awning, blind, device or representation, whether illuminated or not, in the nature of, and employed wholly or partly for the purposes of, advertisement, announcement or direction, and (without prejudice to the previous provisions of this definition) includes any hoarding or similar structure used or designed, or adapted for use and anything else principally used, or designed or adapted principally for use, for the display of advertisements.'

- 6.8 The placards are proposed in the following locations:-

- Milton Road; one placard, sited centrally through the width of the boundary hoarding
- Orwell Road, one placard, sited centrally through the width of the boundary hoarding
- High Street; two placards, sited equidistant apart from each other.

- 6.9 The Milton Road and High Street placards measure 4500mm (wide) by 2000mm (high); the Orwell Road placard is marginally smaller at 3000mm (wide) by 2000mm (high).
- 6.10 All placards depict a full-colour artistic impression of a Local Market and include an extract from the approved plans showing the design and siting of the public facilities.
- 6.11 As is standard with advertisement consent, the period of time sought for their display is five years.

Principle of Development

- 6.12 Advertisements are controlled with reference to their effect on amenity and public safety only, so the regime is lighter touch than the system for obtaining planning permission for development.

Amenity

- 6.13 The signage to the hoarding would not be unduly prominent within the street scene due to the size of the placards against the backdrop of the hoardings.
- 6.14 Further, the north-west elevation of the sites hoarding face towards commercial streetscenes which contain a very high number of advertisements of both illuminated and non-illuminated nature in a number of modern and traditional finishes.
- 6.15 For these reasons, the signage would respect the character of the area in terms of finishing material; would be to an appropriate size and design in relation to the fascia upon which they are to be displayed; are of the minimum size necessary to convey its message; and otherwise, would have no adverse effect on visual amenity or highway safety.
- 6.16 Whilst the signage is on the opposite side of the road from residential properties on both Orwell Road and Milton Road, no illumination is proposed. For this reason, the signs would not materially harm the amenity of these properties.

Public Safety

- 6.17 Essex County Council Highway raise no objections to the development subject to the construction being carried out adhering to arrangements made with the Service Management Office (SMO1) contact details in the informative.

7. Conclusion

- 7.1 The display of four non-illuminated placards, adhered to the sites existing perimeter hoardings would not harm the amenity of occupiers of adjacent properties nor the character of the wider area, nor would the placards cause a distraction or danger to passing motorists.

8. Recommendation

- 8.1 The Planning Committee is recommended to grant advertisement consent subject to the following conditions and informatives.

8.2 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.

8.3 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 subject to arrangements made with Essex Highways Development Management Team.

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:
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- 9.7 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.

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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/>.