



PLANNING COMMITTEE

DATE: Tuesday, 12 April 2022

TIME: 6.00 pm

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

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 01255686007.

DATE OF PUBLICATION: Monday, 4 April 2022

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 Meetings held on 2 and 15 March 2022 (Pages 1 - 46)

To confirm and sign as correct records, the minutes of the meetings of the Committee, held on Wednesday 2 March 2022 and Tuesday 15 March 2022.

3 Declarations of Interest

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

4 Questions on Notice pursuant to Council Procedure Rule 38

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

5 A.1 PLANNING APPLICATION 21/00977/DETAIL - LAND TO THE SOUTH OF WEELEY ROAD, EAST OF BIRCH AVENUE AND PINE CLOSE, GREAT BENTLEY (Pages 47 - 108)

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

6 A.2 PLANNING APPLICATION 21/00978/FUL – LAND TO THE SOUTH OF WEELEY ROAD, GREAT BENTLEY (Pages 109 - 148)

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

7 A.3 PLANNING APPLICATION – 21/01527/FUL – 152 CONNAUGHT AVENUE FRINTON ON SEA, CO13 9AD (Pages 149 - 158)

This application was deferred at Planning Committee on the 18th January 2022, to enable amended plans to be provided by the applicant to Frinton and Walton Town Council for consideration to overcome their objection to the proposal. However, their request for a more symmetrical two-sloped design would be beyond the financial means of the applicant, it is also considered by Officers to increase the visual impact of the proposal. Therefore, as there appears no way forward, the applicant has requested that the application be considered (unamended) by the Planning Committee on its merits.

8 **A.4 PLANNING APPLICATION – 21/00386/FUL – 121 - 123 HIGH STREET HARWICH, CO12 3AP (Pages 159 - 176)**

The application has been called in by Councillor I Henderson.

The proposal is for the construction of a new part two/part three storey building to provide 8 units of residential accommodation and 1 additional commercial unit (ground floor commercial unit as well as the existing shopfront to be retained). The site is located within the settlement development boundary of Harwich and Dovercourt and the Dovercourt Conservation Area.

9 **A.5 PLANNING APPLICATION – 22/00416/FUL – MARTELLO CAR PARK WEST ROAD, CLACTON ON SEA CO15 1AH (Pages 177 - 182)**

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

This application seeks planning permission for the erection of a new beacon for the Queen's platinum jubilee.

INFORMATION FOR VISITORS

PRINCES THEATRE 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 four fire exits in the auditorium and follow the exit signs out of the building.

Please follow the instructions given by any member of staff and they will assist in leaving the building.

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

The assembly point for the Princes Theatre is in the car park to the left of the front of the building as you are facing it. Your calmness and assistance is greatly appreciated.

PUBLIC ATTENDANCE AT PLANNING COMMITTEE MEETINGS

Welcome to this evening's meeting of Tendring District Council's Planning Committee.

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

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

Rights of members of the public to film and record meetings

Under The Openness of Local Government Bodies Regulations 2014, which came into effect on 6 August 2014, any person is permitted to film or record any meeting of the Council, a Committee, Sub-Committee or the Cabinet, unless the public have been excluded from the meeting for the consideration of exempt or confidential business.

Members of the public also have the right to report meetings using social media (including blogging or tweeting).

The Council will provide reasonable facilities to facilitate reporting.

Public Behaviour

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

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

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

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

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

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**MINUTES OF THE MEETING OF THE PLANNING COMMITTEE,
HELD ON WEDNESDAY, 2ND MARCH, 2022 AT 6.00 PM
IN THE COMMITTEE ROOM, TOWN HALL, STATION ROAD, CLACTON-ON-SEA,
CO15 1SE**

Present:	Councillors White (Chairman), Alexander, Baker, Casey, Codling, Fowler, V Guglielmi, Harris and Placey
Also Present:	Councillor Stock OBE (Leader of the Council)
In Attendance:	Lisa Hastings (Deputy Chief Executive & Monitoring Officer), Gary Guiver (Acting Director (Planning)), Graham Nourse (Assistant Director (Planning)), Linda Trembath (Senior Solicitor (Litigation and Governance) & Deputy Monitoring Officer), Joanne Fisher (Planning Solicitor), Susanne Chapman-Ennos (Planning Team Leader), Keith Durran (Committee Services Officer) and Matt Cattermole (Communications Assistant)

207. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

An apology for absence was received from Councillor Bray (with Councillor V E Guglielmi substituting).

208. DECLARATIONS OF INTEREST

There were none on this occasion.

209. QUESTIONS ON NOTICE PURSUANT TO COUNCIL PROCEDURE RULE 38

There were none on this occasion.

210. A.1 PLANNING APPLICATION - 21/01810/VOC - BATHSIDE BAY, STOUR ROAD, HARWICH, CO12 3HF

The Committee recalled how, in 2003, Hutchison Ports (UK) Limited (“HPUK”) had applied for planning permission for the construction of a new container terminal and related works at Bathside Bay, Harwich, and the provision of compensatory habitats at Little Oakley and Hamford Water. On 29th March 2006, permissions, inter alia, for reclamation works and a container terminal; a small boat harbour; the managed realignment of the coastline and creation of compensatory inter-tidal habitats off-site, and listed building consent in respect of the partial demolition of the long berthing arm attached to a listed Train Ferry Gantry had been granted by the Secretary of State, following concurrent Public Inquiries held between 20th April 2004 and 21st October 2004. Those developments had been subject to rigorous assessments and had been found on balance to be acceptable. In particular, with regard to the then Habitats Regulations, the Secretary of State had found that Imperative Reasons of Overriding Public Interest (IROPI) outweighed the identified harm to the integrity of a European site (the Stour and Orwell Estuaries SPA).

Members were reminded that, in 2010, HPUK had applied for replacement planning permissions for the reclamation works and container terminal (the Container Terminal), and a small boat harbour (the Small Boat Harbour). Those permissions (10/00202/FUL

and 10/00203/FUL) had been granted by the Council on 14 February 2013 and remained extant, but that development needed to have commenced on, or before, 29th March 2022.

The Committee heard how the application now before them sought permission to vary eight of the conditions that had formed part of the 2013 planning permission for the development of the Container Terminal at Bathside Bay, in order to allow for a phased start to the development by 29th March 2022. It was proposed that the list of approved plans specified in one condition be amended, with seven of the originally approved plans being superseded. The applicant had also requested that the wording of seven other conditions be amended to change the timing of their requirements. The original conditions required that details of specific elements of the scheme would be submitted to, and approved by, the Council prior to the commencement of the development, and in the case of one condition required that off-site highway works be implemented before the development could be operated. The applicant had proposed that the wording of those conditions be changed so that an initial phase of the development could commence without those conditions having to be discharged first.

Members were aware that there was a related application (21/01792/VOC) in respect of the Small Boat Harbour, which was the subject of a separate report and would be considered later in the meeting. There was also an application (21/02144/FUL) for planning permission for the provision of compensatory habitats at Little Oakley and Hamford Water. The reclamation works forming part of the Container Terminal and Small Boat Harbour permissions would lead to the loss of approximately 69ha of feeding habitat in the Stour and Orwell Estuaries SPA and it was necessary for compensatory habitats to be created. One of the permissions granted by the Secretary of State in 2006 had been for the compensatory habitats to be created at Little Oakley, but that permission had now lapsed and the applicant now sought a fresh permission for the same development, which would be the subject of a separate report and consideration by the Committee.

Members were informed that this application had been subject to objections from some of the nature conservation bodies, including Natural England. In the view of Officers the most significant objections raised concern about the adequacy of the compensatory measures and the change in July 2020 to the boundary of the Suffolk Coast and Heaths Area of Outstanding Natural Beauty. In its objection Natural England took the view that the likely effects of the proposed development on the SPA and AONB had not been adequately addressed in the application material, and it had not been shown to Natural England's satisfaction that the proposed compensatory habitats at Little Oakley would be sufficient. The applicant had met with Natural England to discuss its objection, following which on 11 February 2022 the applicant's agent had submitted a letter responding to the points raised by Natural England. It was the applicant's view that the Environmental Statement and shadow Habitats Regulations Assessment submitted with the application provided an up-to-date assessment of the ecological value of the site and the potential impacts of the development, based on the best, reasonably available, information. It was also stated that the proposed compensatory habitats at Little Oakley were sufficient and their delivery was properly secured.

Members heard how the change to the boundary of the AONB and the likely impact of the proposed development on it were matters which Officers and Members could judge for themselves as part of their assessment of the planning merits (taking into account the Council's statutory duty under section 85 of the Countryside and Rights of Way Act

2000, policy and any relevant representations). There were, however, particular legal requirements relating to development proposals that might affect an SPA. Under the Habitats Regulations the Council had to carry out an appropriate assessment (sometimes called a Habitats Regulations Assessment (HRA)) of the implications of the proposed development on the SPA. As the appropriate nature conservation body, Natural England had an important role to play in this and due weight had to be given to its advice. The Council should not deviate from its advice in this area unless it had cogent reasons for doing so.

The Committee was informed that Officers were satisfied that the variation to the planning conditions and the approved plans were capable of being justified and acceptable, subject to the provision of adequate compensatory habitats. The proposed development remained broadly consistent with the Council's planning policies, provided it secured the required protection of environmental, ecological and amenity interests. It was accepted that the proposed amendments to the layout of the port were necessary for a variety of operational and practical reasons and did not fundamentally alter the nature of the approved scheme. Further, the Planning Practice Guidance (PPG) provided that "*...pre-commencement conditions should only be used where there is a clear justification, which is likely to mean that the requirements of the condition (including the timing of compliance) are so fundamental to the development permitted that it would otherwise be necessary to refuse the whole permission...*" (Paragraph: 007 Reference ID: 21a-007-20180615). Officers were also of the view that the likely impact on the AONB (as extended) would not provide a reason for refusal.

The Committee was advised that, if ultimately, the decision was taken to grant the application, the new planning permission would need to restate the previous planning conditions (save as varied by the Committee) which would control the development. However, bearing in mind that a number of other pre-development conditions on the 2013 planning permission were being sought to be discharged (or partially discharged), pursuant to 21/01625/DISCON and 21/01817/DISCON, to enable the first phase to go ahead on existing land i.e. without land reclamation/marine works taking place, in line with the PPG those were provisionally recommended to be amended to compliance conditions wherever possible.

The Committee was reminded that the work to update the planning conditions and the list of approved plans was on-going and it was therefore recommended that Members grant the Assistant Director of Planning authority to continue to update the remaining pre-commencement planning conditions (nos. 3, 5, 7, 9, 10, 11, 12, 13, 14, 16, 17, 25, 27, 29, 30, 32, 33, 34, 35, 36, 38, 39, 40, 48 & 49) as those were discharged by the Council through the discharge of conditions applications prior to the issuing of any new planning permission pursuant to this application. There would also need to be appropriate planning obligations in place to ensure (amongst other things) delivery of the compensatory habitats at Little Oakley, and again the Assistant Director (Planning) would require authority to approve such supplemental, or other legal, agreement as was necessary to make the development acceptable so that if Members ultimately resolved to grant planning permission there was an appropriate legal framework of obligations in place.

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 (SC-E) in respect of the application.

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

- (1) further consultation responses received from Essex County Council’s Highways Department and National Highways;
- (2) proposed amended wording for planning condition numbers 41 to 44 and 47;
- (3) a further letter of representation from a local resident;
- (4) the applicant’s response to Natural England’s consultation letter dated 4 February 2022 including supporting documents;
- (5) further comments from the Council’s ecologist; and
- (6) a further recommended planning condition requiring a breeding bird survey.

James Bowles, agent for the Applicant, spoke on behalf of the application.

Councillor Neil Stock OBE, Leader of the Council and the portfolio holder with responsibility for Planning, spoke on behalf of the application.

QUESTIONS	ANSWERS
There is a possibility that TDC will refuse the Little Oakley application; how will that impact this application? Have Natural England actually objected to the terms of new conditions?	There is legal condition for the Applicant to secure a compensatory habitat somewhere else, otherwise the applicant cannot move on to the next phase. Natural England have objected as they are not sure if the Little Oakley site would be suitable.
What are the A120 improvements?	The highway arrangements are still to be agreed with the relevant conditions.
Do you have any idea of the increase of traffic that would be generated?	That information is not available and not a matter for consideration at this meeting.
How many jobs?	770 direct jobs and 540 indirect jobs.
Changes to 106 agreement? Handled by committee or legal?	There will be minor changes to the Section 106 agreements.
Have Network Rail been consulted in relation to the rail changes?	They have not been consulted so far.
Should Network Rail be consulted?	It is incumbent on the developer to enter into those talks before moving on in phases.
Are the 770 jobs for the specific area?	Yes
If the road doesn’t meet the workload in the future, is there any safe guard to make sure the roads are improved?	Yes
Are we assured that we can get A120 improved?	Yes
How does the proposed cycling aspect of the A120 fit in/work?	In conditions and in the Section 106, in the deed of variation there are travel plan requirements.

Following discussion by the Committee, it was moved by Councillor Harris, seconded by Councillor Alexander and unanimously:-

RESOLVED that, subject to compliance with regulation 64(5) of the Habitats Regulations (notification of the Secretary of State), the Assistant Director (Planning) (or equivalent authorised officer) be authorised to grant planning permission for the development, subject to:-

- (a) the completion of a supplemental legal agreement under section 106 of the Town and Country Planning Act 1990 to secure the provision of appropriate compensatory habitats and other matters necessary to make the proposed development acceptable;
- (b) the conditions stated in section 11 of the committee report; the revision of pre-commencement conditions nos. 3, 5, 7, 9, 10, 11, 12, 13, 14, 16, 17, 25, 27, 29, 30, 32, 33, 34, 35, 36, 38, 39, 40, 48 & 49 to compliance conditions (only where details have been submitted to and approved in writing by the local planning authority pursuant to 21/01625/DISCON and 21/01817/DISCON); and the addition of a further condition to secure further bird surveys, a compensation Implementation and Management Plan, and an Adaptive Management Plan as set out above; and
- (c) that the Assistant Director (Planning) be authorised to refuse planning permission in the event that an appropriate legal agreement has not been completed by March 29th 2022.

Planning Conditions and Reasons

- 1) The development shall be commenced on or before 29th March 2022.

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 to ensure consistency with the planning permission for the construction of the Bathside Bay Container Terminal and to allow sufficient time to implement highway mitigation and improvement measures therefore, other infrastructure improvements and the provision of compensatory habitat.

- 2) The development hereby approved shall be implemented in accordance with the following plans, drawings and documents hereby approved:

H1001/01	Application Boundary
H1001/02	Rev. C Overall Master Plan
H1001/03	Rev. B RTG Layout Sections X-X
H1001/04	Existing and Proposed Flood Defences
H1001/05	Sheet 1 Existing Topographic Survey
H1001/05	Sheet 2 Existing Topographic Survey
H1001/05	Sheet 3 Existing Topographic Survey
H1001/05	Sheet 4 Existing Topographic Survey
H1001/05	Sheet 5 Existing Topographic Survey
H1001/05	Sheet 6 Existing Topographic Survey
H1001/05	Sheet 7 Existing Topographic Survey
H1001/06	Terminal Office General Arrangement Floor Plans
H1001/07	Terminal Office Elevations and Sections
H1001/08	Terminal Control Gate General Arrangement
H1001/09	Logistics Facility General Arrangement Plan
H1001/10	Logistics Facility – Elevations
H1001/11	Driver Facilities Building Plan and Elevations

H1001/12	Mess / Amenity Block General Arrangement Plans
H1001/13	Mess / Amenity Block Elevations
H1001/16	Workshop Facility General Arrangement Plan
H1001/17	Workshop Facility Elevations
H1001/18	Lighting Layout
1514LO/52 Rev. A	Structural landscape work and planting proposals Sheet 1 of 3
1514LO/52	Structural landscape work and planting proposals Sheet 2 of 3
1514LO/52	Structural landscape work and planting proposals Sheet 3 of 3
1514LO/53	Illustrative planting Inset Plans & Earthwork Proposals
1514LO/54 Rev. A	Overall Landscape Masterplan
1514LO/55 Rev. A	Terminal Office Landscape Proposals
21026-LSI-Z1-00-DR-A-2000 A – Rev .C01	General Arrangement Plan
Gr. Floor 21026-LSI-Z1-00-DR-A-2050 A – Rev .C01	General Arrangement Elevations S. 21026-LSI-Z1-00-DR-A-2051 A – Rev .C01
General Arrangement Elevations E-W 21026-LSI-Z1-00-DR-A-2052 A – Rev .C01	General Arrangement Elevations N. 21026-LSI-Z1-00-DR-A-2070 A – Rev .C01
General Arrangement Sections S01 / S02 21026-LSI-Z1-00-DR-A-2071 A – Rev .C01	General Arrangement Sections S03 / S04 21026-LSI-Z1-00-DR-A-2072 A – Rev .C01
General Arrangement Section S05 60666559-ACM-BB-LA-10-0002 Rev.02	General Arrangement Phase 1 – Sheet 2 of 2 Planning and Design Statement dated April 2003
	Planning Statement dated October 2021
	Environmental Statement dated 13 October 2021

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

- 3) No development permitted hereby shall commence until a scheme of phasing substantially in accordance with Application Drawing H 1001/02/A has been submitted to and approved in writing by the Local Planning Authority. The scheme shall provide (inter alia) for:
- (a) the construction of the quay wall comprised in the development to begin at the western end of the area marked Phase 1 on Plan H 1001/02/A and proceed thereafter in an easterly direction;
 - (b) the timing of implementation of the landscaping scheme in accordance with Condition 5 below; and
 - (c) the notification of commencement and completion of construction of each phase. The development shall be implemented in accordance with the approved scheme of phasing.

Reason - To protect the amenity of the residents or Bathside, Old Harwich and the ecology of Bathside Bay and to ensure an orderly development and compliance with the Environmental Statement.

- 4) The development shall be carried out in accordance with the Planning and Design Statement dated April 2003 and Planning Statement dated October 2021 identified

in Condition 2 above save insofar as otherwise provided in any condition attached to this permission.

Reason - To ensure that the development is carried out in accordance with the design principles set out in the Environmental Statement.

- 5) No part of the development hereby permitted shall be commenced until a landscaping scheme, including a programme for its implementation according with the indicative scheme shown in the application drawings, including details of screen mounding and tree planting, has been submitted to and approved in writing by the Local Planning Authority. The landscaping scheme as approved shall be implemented during the first planting season following completion of topsoil dressing works at the development site. Any tree or shrub dying or becoming seriously diseased within five years of completion of the relevant phase of the development shall be replaced with a suitable specimen of similar species in accordance with the approved scheme.

Reason - To ensure the establishment of a new landscape character in the interests of visual and residential amenity.

- 6) No phase of the development shall commence operation until a landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas of that phase of the development, has been submitted to and approved in writing by the Local Planning Authority. The landscape management plan shall be carried out as approved.

Reason - To ensure the proper management and maintenance of the approved landscaping in the interests of visual and residential amenity.

- 7) No phase of the development shall commence until details of the design and external appearance of the buildings and hardstanding areas to be constructed within that phase of the development according with the Planning and Design Statement dated April 2003 have been submitted to and approved in writing by the Local Planning Authority. The details shall include dark block paving for the container stacking area and quayside comprised in the development. The development shall be carried out in accordance with the details as approved.

Reason - To ensure that the development is carried out in the interests of visual amenity.

- 8) Except with the prior written agreement of the Local Planning Authority and Local Highway Authority, top soil comprised in the development is not to be undertaken using material from any source other than from the managed realignment site at Little Oakley and which shall not be delivered from the said site at Little Oakley other than by sea.

Reason - To ensure that beneficial use is made of available materials and to minimise HGV road traffic entering the site, in the interests of highway safety.

- 9) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order amending, revoking and re-enacting that Order with or without modification), no development shall begin until a written scheme showing full details of fences, walls, gates or other means of enclosure has been submitted to and approved In writing by the Local Planning Authority. The development hereby permitted shall be carried out in accordance with the details as so approved.

Reason - In the interests of security and visual amenity.

- 10) No part of the development hereby permitted shall be commenced until drawings showing both foul and surface water drainage (including the provision of all oil and diesel interceptors) incorporating a Sustainable Drainage System (SuDS) connected with the development have been submitted to and approved In writing by the Local Planning Authority and thereafter any works in relation to the development shall be undertaken in accordance with the approved drawings.

Reason - To prevent pollution.

- 11) No part of the development hereby permitted shall begin until a scheme for the design of the proposed 'Wetland area' comprised in the development has been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the scheme as approved.

Reason - To ensure appropriate environmental and drainage standards for the proposed wetland area.

- 12) No part of the development (including ground works) hereby permitted shall commence until a programme of archaeological work (including marine archaeology) for the site (including any works that might be necessary and practicable to preserve the remains in situ) has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved programme.

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

- 13) No part of the development hereby permitted shall be commenced until a written Construction Management Plan (CMP) together with a certificate that the same has been submitted in that form to National Highways and Natural England has been submitted to the Local Planning Authority and Local Highway Authority and approved by each of them in writing. The CMP shall include details of management during the construction phase of the development of the matters contained in Conditions 14 to 20 inclusive (construction noise and vibration), a Construction Traffic Management Plan in accordance with the Bathside Bay Construction Traffic Management Plan produced by ERM and dated 7th June 2004, Conditions 25-27 (construction lighting) and Conditions 29-33 (construction dust management) of this permission.

Furthermore, the CMP shall incorporate environmental measures to protect biodiversity, to include the following:

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

The development hereby permitted shall be carried out in accordance with the CMP as so approved.

Reason - To ensure that the construction impacts of the development are kept within acceptable limits; and to conserve protected and Priority species and allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 (as amended) and s40 of the NERC Act 2006 (Priority habitats & species) as updated by the Environment Act 2021.

- 14) No part of the development hereby permitted shall be commenced until details relating to the control of noise and vibration from the construction of the development have been submitted to and approved in writing by the Local Planning Authority. These details shall include the following:
 - (a) definitions of roles and responsibilities;
 - (b) the adoption of best practice for the specification and procurement of quiet plant and equipment;
 - (c) consultation and reporting processes for noise and vibration;
 - (d) noise and vibration monitoring procedures, including recording measures and the location of measuring instruments for each phase of the development;
 - (e) action to be taken in the event of non-compliance with (b) to (c) above;
 - (f) a record of the occasions on which percussive piling operations take place;
 - (g) complaint response procedures;
 - (h) requirements to provide environmental noise awareness training to operatives; and
 - (i) construction methods for percussive piling designed to minimise the noise generated by such operations through practical methods such as shrouding or other appropriate alternative methods.

The development hereby permitted shall be carried out in accordance with the approved details.

Reason - To ensure that the noise and vibration impacts of the development are kept within acceptable limits.

- 15) All plant, machinery and vehicle used on site in constructing the development shall be fitted with effective silencers at all times which shall be maintained in accordance with the manufacturers' recommendations and current British Standards applicable thereto. No such plant shall be left running when not being operated.

Reason -To ensure that the noise impacts of the development are kept within acceptable limits.

- 16) Where any vehicle or plant is required to be fitted with a reverse warning system, such vehicles or plant shall not be installed or used prior to the approval in writing by the local Planning Authority of such a system. In operating such vehicles or plant the approved system shall be used.

Reason - To ensure that the noise Impacts of the development are kept within acceptable limits.

- 17) No percussive piling operation for the development shall be carried out except in accordance with a programme for that phase which shall first have been approved in writing by the Local Planning Authority. The said programme shall provide that:

(i) no percussive piling operations shall be undertaken in relation to the construction of the development during more than thirteen weekends in any six months; and

(ii) except with the prior written approval of the Local Planning Authority no more than three hours of percussive piling of tubular piles for the main quay wall shall take place on any day.

Reason -To ensure that the noise impacts of the development are kept within acceptable limits.

- 18) Except with the prior written agreement of the Local Planning Authority, no percussive piling operations shall be undertaken in relation to the construction of any part of the development outside the hours of:

(a) 08:00 to 18:00 Monday to Friday; and

(b) 09:00 to 13:00 on Saturday;

or at any time on Sundays or Bank or Public Holidays, provided that percussive piling operations may be undertaken in relation to the construction of the development outside the permitted hours:

(i) in the case of emergency, or

(ii) where piling is required on the grounds of safety or environmental protection; and

(iii) In either case the situation would otherwise be dangerous to life or limb.

The Local Planning Authority shall be promptly notified in writing of any event of this type and the reason why percussive piling took place outside the permitted hours.

Reason - To protect residential amenity during construction.

19) The noise from construction activities in relation to the development shall not exceed the following daytime free-field equivalent sound pressure levels, as measured at a height of 1.5 m above ground level at the nearest residential property to the development:

(a) 67 dB LAeq 12H and 85 dB LA1 5 mins (in relation to percussive piling operations) during the hours of 07:00 to 19:00 on Mondays to Fridays, excluding Bank Holidays;

(b) 55 dB LAeq 1hr during the hours of 19:00 to 23:00 on Mondays to Fridays, excluding Bank Holidays; (

(c) 67 dB LAeq 6hr and 85 dB LA1 5 mins (in relation to percussive piling operations) during the hours of 07:00 to 13:00 on Saturdays; and

(d) 50 dB LAeq 1hr at all other times.

Reason - To ensure that the noise impacts of the development are kept within acceptable limits and to protect residential amenity.

20) Vibration levels from piling or other construction activities in relation to the development, as measured immediately adjacent to the nearest residential property or vibration sensitive structure for that phase shall not exceed a peak particle velocity of 5mm/s.

Reason - To protect residential amenity.

21) No part of the development hereby permitted shall be operated until an Operational Noise and Vibration Management and Monitoring Plan (NVP), relating to the control of noise and vibration from the operation of the development has been submitted to and approved in writing by the Local Planning Authority. The NVP shall include the following:

(a) definitions of roles and responsibilities in relation to the obligations contained in the NVP;

(b) requirements for the adoption of best practice for the specification and procurement of quiet plant and equipment;

(c) consultation and reporting processes in relation to noise and vibration;

(d) noise and vibration monitoring and recording procedures;

(e) action to be taken in the event of non-compliance;

(f) complaint response procedures; and

- (g) a requirement to provide environmental noise awareness training to operatives.

The development hereby permitted shall be carried out in accordance with the approved NVP.

Reason -To protect residential amenity.

- 22) Noise from the operation of the development and emanating from the site shall not exceed a free-field sound pressure level of 55 dB LAeq 1 hr at any residential property existing at the date of this permission measured at a height of 4 m above local ground level between the hours of 23:00 to 07:00.

Reason -To protect residential amenity.

- 23) No stack or stacks of containers on any part of the development hereby permitted shall exceed five containers in height save that nothing in this condition shall preclude the lifting of containers above any stack of five containers.

Reason -In the interests of visual amenity.

- 24) There shall be no stacking of containers (other than containers on HGV trailers) more than one high on land south of the rail terminal comprised in the development.

Reason - In the interests of visual amenity.

- 25) No phase of the development hereby permitted shall be begun until a written scheme of construction lighting for that phase has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of:

- (a) definitions of roles and responsibilities;
- (b) design including locations of the construction lighting in accordance with conditions 26 and 27 to this permission;
- (c) installation of the construction lighting;
- (d) management of the construction lighting; and
- (e) construction lighting monitoring procedures and action to be taken in the event of noncompliance.

The development hereby permitted shall be carried out in accordance with the approved scheme.

Reason - To protect amenity and ensure navigational safety.

- 26) The height of fixed lighting installations used in the construction of the development shall not exceed twelve metres above ground level.

Reason - To ensure that the construction lighting impacts of the development are kept within acceptable limits.

- 27) No phase of the development shall commence until details of the luminaires to be mounted on lighting columns on site in connection with the construction of the development have been submitted to and approved in writing by the Local Planning Authority. The details shall include:
- (a) use of luminaires with high quality optical systems of flat glass construction, where appropriate;
 - (b) limits upon the aiming angle of the peak Intensity of the luminaire to maintain the light from the luminaire generally within 75 degrees from the downward vertical; and
 - (c) use of the most appropriate photometry reflectors available at the date of this permission.

The development shall be carried out in accordance with the approved details.

Reason - To minimise any possible glare or sky glow caused by the construction lighting for the development and to minimise the effect of the construction lighting on the surrounding areas.

- 28) No part of the development permitted by this planning permission shall commence operation until a scheme for the provision and control of operational lighting (including high mast lighting and column lighting) on that part of the site has been installed in accordance with a scheme which has first been submitted to an approved by the Local Planning Authority. The operational lighting scheme shall include the following:
- (a) use of luminaires with high quality optical systems of Hat glass construction for high mast lighting;
 - (b) use of full cut-off luminaires which do not produce upward spread of light near to or above the horizontal;
 - (c) a restriction on the luminaire tilt angle to maximum of 8 degrees above the maximum peak of intensity angle or luminaire;
 - (d) the direction of high mast lighting so as to minimise direct light into windows or properties in the proximity of the development site;
 - (e) a reduction of the heights of high mast lighting towers and columns towards the boundary of the site;
 - (f) automatic extinguishment of ship to shore gantry crane boom arm floodlighting and maintenance access walkway lighting on the raising or a crane boom arm 10 degrees from the horizontal operation position;
 - (g) access and safety luminaries on access walkways and ladders shall be fitted with diffusers;
 - (h) the working lighting of the ship to shore gantry cranes shall be switched off when not in use for any extended period of time, retaining only access, safety and security lighting;
 - (i) ship to shore gantry crane boom arm, floodlighting luminaries located beyond the riverside edge of berthed vessels shall be manually turned off when not in use;
 - (j) working lighting of rubber tyre gantry cranes shall be switched off when not in use for an extended period of time, retaining only access, safety and security lighting;
 - (k) operational lighting monitoring procedures and action to be taken in the event of noncompliance.

The lighting scheme hereby permitted shall be carried out and maintained in accordance with the approved scheme.

Reason – To minimise any possible glare or sky glow caused by the operational lighting for the development and to minimise the effect of the operational lighting on navigational aids or signs, public roads and local residential areas.

29) No part of the development hereby permitted shall begin until a construction dust management plan has been submitted to and approved in writing by the Local Planning Authority. The construction dust management plan shall include details of:

- (a) definitions of roles and responsibilities;
- (b) the adoption of best practice for the specification of plant and equipment;
- (c) the consultation and reporting processes;
- (d) dust monitoring procedures;
- (e) action to be taken in the event of non-compliance; and
- (f) complaint response procedures.

The development hereby permitted shall be carried out in accordance with the approved plan.

Reason - To ensure that appropriate construction dust management measures are in place.

30) No part of the development hereby permitted shall be commenced until details of the cleaning and maintenance programme for the site roads to be used during construction have been submitted to and approved in writing by the Local Planning Authority. The programme shall include details of:

- (a) the use of water bowsers and sprays for damping down of hard surface site roads;
- (b) sweeping of hard surface site roads; and
- (c) grading and maintenance of loose aggregate surface site roads.

The development shall be operated in accordance with the approved programme.

Reason - To prevent deterioration and build-up of contaminating materials able to emit dust.

31) All vehicles used to transport materials to or from the site during construction shall be sheeted so as not to deposit materials on the highway.

Reason - To prevent deposits on the highway and the emission of dust in the interest of local amenity and highway safety.

- 32) No part of the development hereby permitted shall be commenced until written details of a wheel wash facility and its location have been submitted to and approved in writing by the Local Planning Authority and Local Highway Authority. The development hereby permitted shall be carried out so as to ensure that vehicles leaving the development site during construction first pass through the approved wheel wash facility.

Reason - To prevent the deposits of materials on the public road network.

- 33) No part of the development hereby permitted shall be operated until a plan for the handling of materials and stockpiling of new construction materials on site (using physical containment, partial shielding where available and water misting/sprays where appropriate) has been submitted to and approved in writing by the Local Planning Authority. The development hereby permitted shall be carried out in accordance with the approved plan.

Reason - To prevent the migration of dust off the site.

- 34) No part of the development hereby permitted shall be commenced until an ambient dust monitoring strategy has been submitted to and approved in writing, by the Local Planning Authority. The ambient dust monitoring strategy shall include details of the following:

- (a) three months' 'baseline' data;
- (b) the numbers and locations of deposit gauge units;
- (c) monthly sampling requirements;
- (d) wind direction monitoring requirements;
- (e) assessment criteria;
- (f) reporting processes; and
- (g) action to be taken in the event of non-compliance with the approved assessment criteria.

The development hereby permitted shall be carried out in accordance with the approved ambient dust monitoring strategy.

Reason - To provide a long term record and a comparison with baseline dust concentrations.

- 35) No part of the development hereby permitted shall be commenced until details of measures to mitigate gas migration and accumulation, in accordance with the recommendations contained in the Bathside Bay Development Project Landfill Gas Investigation Report Ref E6702/1991/OCT/L6, have been submitted to and approved in writing by the Local Planning Authority. The development hereby permitted shall be carried out in accordance with the approved details.

Reason - To prevent gas migration and minimise gas accumulation, in the interests of public safety.

- 36) No part of the development hereby permitted shall be commenced until a flood evacuation plan has been submitted to and approved in writing by the Local Planning Authority and the Local Highway Authority. The development hereby

permitted shall be carried out and operated in accordance with the approved plan.

Reason -To ensure that appropriate flood evacuation measures are put in place.

- 37) All buildings constructed as part of the development shall have a minimum ground floor level of at least 4.6 m AODN with the provision of dry access at the same or higher levels to all such buildings.

Reason - To provide protection in the event of flooding.

- 38) No part of the development hereby permitted shall be commenced until a scheme for concrete pouring and filling Works has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include the following:

- (a) monitoring procedures: and
- (b) remedial action works to be undertaken in the event of spillage.

The development hereby permitted shall be carried out in accordance with the scheme as so approved.

Reason -To minimise risk of accidental pollution of watercourses during construction works.

- 39) No part of the development hereby permitted shall be commenced until a scheme for pollution control has been submitted to and approved in writing by the Local Planning Authority. The development hereby permitted shall be carried out and operated in accordance with the scheme as so approved.

Reason - To prevent the migration of pollutants from the site to adjoining land and for public safety.

- 40) No site clearance for the development hereby permitted shall be commenced until a scheme for the translocation of reptiles, invertebrates and coastal vegetation within the site has been submitted to and approved by the Local Planning Authority. The scheme shall include the following:

- (a) exclusion fencing to be erected around the site;
- (b) tinning to be carried out over a minimum of 60, 70 or 90 suitable days for a low, medium or high population level respectively, between the months of March and September;
- (c) relocation of the reptiles found to areas of suitable habitat outside the exclusion fencing.

The development hereby permitted shall be carried out and operated in accordance with the scheme as so approved.

Reason - To avoid harm to reptiles, invertebrates and coastal vegetation.

- 41) Prior to the commencement of the construction of Phases 3 and 4 of the development hereby permitted (as shown on approved drawing H1001-19-B) details of a scheme for the improvement of the A12(T)/A120(T)/A1232 Ardleigh Crown Interchange in such form as National Highways and Local Highway Authority may approve in writing, have been submitted to and approved in writing by the Local Planning Authority. The details of the said works shall secure improvement of the A12(T)/A 120(T)/A 1232 Ardleigh Crown Interchange in accordance with the standards set out in the Design Manual for Roads and Bridges and meet the requirements of DfT Circular 02/2013. The strategic road network and the delivery of sustainable development, or any subsequent revisions, modifications, or successors to this Circular.

Reason – In order that the A120 Trunk Road continues to serve its purpose as part of the national strategic road network and to satisfy the reasonable requirements of road safety on the A120 and connecting roads.

- 42) Prior to the commencement of the construction of Phases 3 and 4 of the development hereby permitted (as shown on approved drawing H1001-19-B), details of a scheme for the improvement of the A120(T) Parkeston Road/Station Road/Europa Way roundabout, in such form as National Highways and Local Highway Authority may approve in writing, shall have been submitted to and approved in writing by the Local Planning Authority. The details of the said works shall secure improvement of the A120(T) Parkeston Road/Station Road/Europa Way roundabout in accordance with the standards set out in the Design Manual for Roads and Bridges and meet the requirements of DfT Circular 02/2013. The strategic road network and the delivery of sustainable development, or any subsequent revisions, modifications, or successors to this Circular.

Reason - In order that the A120 Trunk Road continues to serve its purpose as part of the national strategic road network and to satisfy the reasonable requirements of road safety on A120 and connecting roads.

- 43) No part of Phases 2, 3 and 4 of the development hereby permitted (as shown on approved drawing H1001-19-B) shall be operated as a container terminal until the approved improvement works referred to in Conditions 41 and 42 have been implemented and/or opened to traffic as the case may be.

Reason – In order that the A120 Trunk Road continues to serve its purpose as part of the national strategic road network and to satisfy the reasonable requirements of road safety on the A120 and connecting roads.

- 44) No part of Phases 2, 3 and 4 of the development hereby permitted (as shown on approved drawing H1001-19-B) shall commence operation as a container terminal unless:

- (i) the necessary powers and consents have been obtained for the improvement of the route of the A120(T) (including from Ramsey Bridge roundabout to Parkeston) together with consequential and ancillary improvements thereto and to the A120 and any side roads and access between and in the vicinity of:

- (a) the A120 (T)IA133 Interchange at Hare Green and Horsley Cross roundabout to no less a standard than a two lane dual carriageway; and
- (b) from Horsley Cross Roundabout to Ramsey Bridge Roundabout to no less a standard than a wide single carriageway; and
- (ii) the Local Highway Authority has announced proposals relating to the local highway network including the A120 from Parkeston roundabout to Morrisons roundabout required as a result of the proposals referred to at (i) above; and
- (iii) an agreement or agreements have been concluded pursuant to section 278 Highways Act 1980 to secure funding of such route improvement works together with all such consequential and ancillary improvements to the A120 (T), A120 and any side roads in such form and upon such route as may thereafter be authorised pursuant to orders under the Highways Act 1980 and associated instruments made therewith; and
- (iv) the necessary powers and consents and agreements to implement the works referred to at paragraphs (i) and (ii) above have been secured; and
- (v) the works referred to at paragraphs (i) and (ii) above shall be carried out in accordance with the standards set out in the Design Manual for Roads and Bridges and meet the requirements of DfT Circular 02/2013 'The strategic road network and the delivery of sustainable development', or any subsequent revisions, updates, successor to this Circular.

Reason – In order that the A 120 Trunk Road continues to serve its purpose as part of the national strategic road network and to satisfy the reasonable requirements of road safety on the A120 and connecting roads.

- 45) That part of the development hereby permitted as shown by magenta and green colouring on the drawing H1001/02 Rev C shall not be paved or equipped with ship to shore gantry cranes or used for any purpose that generates road traffic until the improvements to the A120 (T) referred to in Condition 44 above have been completed and opened to traffic so that for the avoidance of doubt no more than six cranes shall be provided at the development until such time as the said improvements have been completed.

Reason - In order that the A120 Trunk Road continues to serve its purpose as part of the national strategic road network and to satisfy the reasonable requirements of road safety on the A120 and connecting roads.

- 46) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order amending, revoking and re-enacting that Order with or without modification) unless and until the improvements referred to in Condition 44 above have been completed, the areas referred to in Condition 45 above shall not be used for any purpose unless the same relates to the construction of the development or would not result in the arrival or departure of traffic to or from the development by road.

Reason - In order that the A120 Trunk Road continues to serve its purpose as part of the national strategic road network and to satisfy the reasonable requirements of road safety on the A120 and connecting roads.

- 47) Except where the works referred to in Condition 44 above have been opened to traffic, when this condition shall cease to have effect, the development shall not be operated except in accordance with a scheme (accompanied by a certificate that the same has been supplied to and approved by the Local Highway Authority and National Highways) approved by the Local Planning Authority providing for traffic management and safety measures to remain in place until the works referred to in Condition 44 have been opened for traffic.

Reason - In order that the A 120 Trunk Road continues to serve its purpose as part of the national strategic road network and to satisfy the reasonable requirements of road safely on the A120 and connecting roads.

- 48) No part of the development hereby permitted shall be commenced until such time as details of the means of vehicular access to the site from the A120 have been submitted to and approved in writing by the local Planning Authority and the Local Highway Authority. The development shall not be operated until the vehicular access has been constructed in accordance with the approved details and opened to traffic.

Reason - In order that the A120 Trunk Road continues to serve its purpose as part of the national strategic road network and to satisfy the reasonable requirements of road safety on the A 120 and connecting roads.

- 49) No phase of the development hereby permitted shall be commenced until a detailed scheme and layout of hard standing for lorries and cars, including a requirement that no charge be levied for HGVs delivering or collecting goods from the development and reasonable and proper provision for disabled people in accordance with the plans hereby approved has been submitted to and approved in writing by the local Planning Authority and Local Highway Authority. The development shall be implemented in accordance with the approved scheme and layout which shall be retained thereafter.

Reason - To secure the proper layout and function of parking areas.

- 50) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order amending, revoking and re-enacting that Order with or without modification) no linkspan (or other structure to permit the use of the development hereby permitted or any part thereof) by RoRo type vehicles (here including vehicles referred to at paragraph (iii) below) shall be constructed pursuant to this planning permission or otherwise and no part of the development shall be used:

- (a) for the import or export of RoRo vehicles or goods carried by RoRo vehicles (at the time of import or export); or
- (b) for the storage or handling of RoRo vehicles; or
- (c) for the loading or unloading of RoRo vehicles from any vessel; or

- (d) for the collection or deposition of passengers arriving or departing as passengers by sea on vessels capable of carrying over 50 passengers. In this Condition;

"RoRo vehicle" means a wheeled vehicle capable of being used upon the public highway for the carriage of passengers or freight whether capable of moving under its own power or otherwise (e.g. trailer) including motorcycles, cars, buses and HGVs (in each case including any trailer) but does not include:

- (i) vehicles in use for the conveyance of goods, persons or containers to, from or within the development where the vehicle so used is not imported or exported with the goods, persons or containers;
- (ii) vehicles contained within containers;
- (iii) specialist vehicles used for the conveyance of awkward unusually large or bulky or unusual loads including solid wheel flat bed (MAPI) trailers (or similar); or
- (iv) vehicles delivered to the development for the use in its construction or operation

Reason - To ensure that the development is not used for roll-on, roll-off traffic in place of container traffic.

- 51) No part of the development hereby permitted shall be operated until a written emergency port closure scheme setting out:

- (i) procedures for the evacuation and/or closure of the development in the event of an emergency;
- (ii) procedures to be followed in the event of the closure of the development to sea traffic;
- (iii) the areas of HGV parking within the development to be used in the event of the closure of the development to sea traffic;
- (iv) procedures for notification and liaison with emergency services and highway authorities; and
- (v) procedures to be followed in the event of closure to or restrictions upon the use of the A120 and/or A120(T) by HGVs, together with a certificate that the same has been submitted in that form to Highways England has been submitted to and approved in writing by the Local Planning Authority and Local Highway Authority. The scheme shall be implemented as so approved.

In the conditions 'HGV' means a heavy goods vehicle of COBA Vehicle Category OGV1 and/or OGV2 as defined in the Design Manual for Roads and Bridges. Volume 13. Section 1 (May 2002).

Reason - To ensure appropriate responses to emergencies and port closure.

- 52) No part of the development hereby permitted shall commence operation until a scheme providing for the operation of the development in accordance with measures designed to secure controls on activities likely to adversely affect air quality as a result of activities on that part of the site has been installed in accordance with a written scheme which has first been submitted to and approved in writing by the Local Planning Authority. The scheme shall include:

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- (i) a strategy for the procurement of plant, machinery and vehicles to be used in operating the development complying with Government air quality objectives from time to time for control of emissions including (where appropriate) the fitting and use of catalytic convertors;
 - (ii) a requirement that the development should be capable of being retrofitted with apparatus for the purposes of the supply of electricity from land to vessels berthed alongside;
 - (iii) procedures for liaison and review in relation to the prospects of securing improvements to emissions from the development and the adoption of reasonable measures identified as being necessary as a result of such liaison and review; and
 - (iv) a requirement upon the terminal operator to request that the Harwich Haven Authority imposes reductions in vessel speeds in order to limit emissions.

The development shall be operated in accordance with the scheme so approved.

Reason – For the protection of air quality and, so far as reasonably possible, its improvement.

- 53) No part of Phases 2, 3 and 4 of the development hereby permitted shall commence operation until a scheme for the provision of noise attenuation measures designed to mitigate the impact of traffic noise arising from the operation of the development on residential and/or noise sensitive properties at or in the vicinity of Wix Road Ramsey has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be carried out prior to commencement of the operation of the development.

Reason – To protect residential amenity.

- 54) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification) the hereby permitted container terminal shall not be extended to include land within the existing Harwich International Port without the submission of a planning application and the prior written permission of the local Planning Authority or the Secretary of State.

Reason - For the avoidance of doubt as to the scope of this permission.

- 55) No part of Phase 2 of the development shown on drawing no. H1001/19/Rev B shall commence until:

- (1) additional evidence to confirm the usage of Bathside Bay and the Little Oakley managed realignment site by waterbirds over the non-breeding season in the context of the Stour and Orwell Estuaries SPA and the Hamford Water SPA, respectively, has been gathered from:

- (a) existing available data; and/or

- (b) pre-construction surveys carried out in accordance with details agreed in writing by the Local Planning Authority in consultation with Natural England; and

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- (2) a further breeding bird survey of Bathside Bay and the Little Oakley managed realignment site has been carried out in accordance with details agreed in writing by the Local Planning Authority in consultation with Natural England; and
 - (3) a report confirming whether the additional data and/or surveys indicate that;
 - (a) any further or different compensatory measures; and/or
 - (b) further monitoring of the effectiveness of compensatory measures,are needed to ensure that the overall coherence of the national site network of SACs and SPAs is protected has been submitted to and approved in writing by the Local Planning Authority in consultation with Natural England; and
 - (4) if the report submitted in accordance with sub-paragraph (3) indicates that any further or different compensatory measures and/or further monitoring are needed to ensure that the overall coherence of the national site network of SACs and SPAs is protected, such measures:
 - (a) are reflected in a Compensation Implementation and Management Plan and an Adaptive Management Plan that have been submitted to and approved in writing by the Local Planning Authority [in consultation with Natural England]; and
 - (b) have been secured by an appropriate planning obligation under section 106 of the Town and Country Planning Act 1990.

Reason: To confirm that sufficient compensatory measures have been secured to ensure that the overall coherence of the national site network of SACs and SPAs is protected.

211. A.2 PLANNING APPLICATION - 21/01792/VOC - BATHSIDE BAY, STOUR ROAD, HARWICH CO12 3HF

The Committee was reminded of the relevant background information to this application which had been previously reported in relation to report item A.1 above.

Members heard how the application now before them sought permission to vary one of the conditions (no. 20) on the 2013 planning permission for the Small Boat Harbour (10/00203/FUL). It was proposed that the wording be amended to change the timing of the condition. The original condition had required that the details of the operational lighting were submitted and approved prior to the commencement of the development.

The applicant had proposed that the wording be changed so that the details were submitted and approved, and the operational lighting installed, prior to each phase of the harbour becoming operational. There was a parallel application (21/01810/VOC) for permission to vary conditions attached to the 2013 Container Terminal permission.

The Committee was informed that Officers were satisfied that the variation proposed to the Small Boat Harbour permission was justified and acceptable though Members were

reminded of the concerns and objections of Natural England as previously reported and recorded above in relation to report item A.1.

It was reported that, in the light of Natural England's recent objection, which had not been withdrawn, Officers were reluctant to recommend the grant of permission but given the significance of the Container Terminal development, with which the Small Boat Harbour was inextricably linked, and the limited time in which to consider it, Officers believed it was appropriate to put the application before Members now.

If, ultimately the decision was taken to grant this application, the new planning permission would need to restate the previous planning conditions (save as varied by the Committee) which would control the development. However, bearing in mind that a number of other pre-development conditions on the 2013 planning permission were being sought to be discharged (or partially discharged), pursuant to applications 21/01624/DISCON and 21/01816/DISCON, to enable the first phase to go ahead on existing land i.e. without land reclamation/marine works taking place, in line with the PPG those were provisionally recommended to be amended to compliance conditions wherever possible.

The Committee was reminded that the work to update the planning conditions was ongoing and it was therefore recommended that Members grant the Assistant Director of Planning authority to continue to update the remaining pre-commencement planning conditions as those were discharged by the Council through the discharge of conditions applications prior to the issuing of a new planning permission, pursuant to this application. There would also need to be appropriate planning obligations in place to ensure (amongst other things) delivery of the compensatory habitats at Little Oakley, and again the Assistant Director (Planning) would require authority to approve such supplemental or other legal agreement as was necessary to make the development acceptable, so that if Members resolved to grant planning permission there was an appropriate legal framework of obligations in place.

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 (SC-E) in respect of the application.

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

- 1) further consultation response received from Essex County Council's Highways Department;
- 2) the applicant's response to Natural England's consultation letter dated 4 February 2022 including supporting documents;
- 3) further comments from the Council's ecologist; and
- 4) a further recommended planning condition requiring a breeding bird survey.

Following discussion by the Committee, it was moved by Councillor Harris, seconded by Councillor Fowler and:-

RESOLVED that, subject to compliance with regulation 64(5) of the Habitats Regulations (notification of the Secretary of State), the Assistant Director (Planning) (or equivalent authorised officer) be authorised to grant planning permission for the development, subject to:-

- (a) the completion of a supplemental legal agreement under section 106 of the Town and Country Planning Act 1990 to secure the provision of appropriate compensatory habitats and other matters necessary to make the proposed development acceptable;
- (b) the conditions stated in section 11 of the committee report; the revision of pre-commencement conditions nos. 3, 5, 7, 9, 10, 11, 12, 13, 14, 16, 17, 25, 27, 29, 30, 32, 33, 34, 35, 36, 38, 39, 40, 48 & 49 to compliance conditions (only where details have been submitted to and approved in writing by the local planning authority pursuant to 21/01625/DISCON and 21/01817/DISCON); and the addition of a further condition to secure further bird surveys, a compensation Implementation and Management Plan, and an Adaptive Management Plan as set out above; and
- (c) that the Assistant Director (Planning) be authorised to refuse planning permission in the event that an appropriate legal agreement has not been completed by March 29th 2022.

Conditions and Reasons

- 1) The development shall be commenced on or before 29th March 2022.

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 to ensure consistency with the planning permission for the construction of the Bathside Bay Container Terminal and to allow sufficient time to implement highway mitigation and improvement measures therefore, other infrastructure improvements and the provision of compensatory habitat.

- 2) The development hereby approved shall be implemented in accordance with the following plans, drawings and documents hereby approved:

H1002/01	Application Boundary
H1002/02 Rev. B	Small Boat Harbour Master Plan
H1001/03	Existing Topographic Survey
H1001/07	Lighting Layout
H1001/08	Fisherman's Store Location Plan
H1001/09	Fisherman's Store General Arrangement
H1001/10	Fisherman's Store Sections and Elevations
H1001/11	Fisherman's Store East Elevation
H1001/12 Rev. A	Division Wall Sections
H1001/13	Train Ferry Pier Termination Details
1514LO/50	Landscape Proposals
1514LO/51	Details of Quayside (Landscape)
1514LO/52	Structural Landscape Works
1514LO/53	Illustrative Planting Insets & Sections
	Planning and Design Statement dated April 2003
	Planning Statement dated October 2021
	Environmental Statement dated 13 October 2021

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

- 3) No part of the development hereby permitted shall be begun until a landscaping scheme including a programme in accordance with the indicative scheme shown in application drawings 1514LO/50, 1514LO/52 and 1514LO/53, including details of screen mounding and tree planting, has been submitted to and approved in writing by the Local Planning Authority. The scheme as so approved shall be implemented during the first planting season following completion of topsoil dressing works at the development site. Any tree or shrub dying or becoming seriously diseased within five years of planting shall be replaced by a specimen of the same or similar species in accordance with the approved scheme.

Reason - To ensure the establishment of a new landscape character in the interests of visual and residential amenity.

- 4) The small boat harbour hereby permitted shall not be brought into use as such unless and until a landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas, has been submitted to and approved in writing by the Local Planning Authority. The landscape management plan shall be carried out as so approved.

Reason - To ensure the long term maintenance of the landscaping elements of the development.

- 5) The development shall be carried out in accordance with the Planning and Design Statement dated April 2003 identified in Condition 2 above except insofar as otherwise provided for in any condition attached to this permission.

Reason - To ensure that the development is carried out in accordance with the design principles set out in the relevant documents.

- 6) No phase of the development shall begin until details of the design and external appearance, including materials of the buildings, structures and areas of hardstanding to be constructed within the development, according with the Planning and Design Statement dated April 2003 and identified in Condition 2 have been submitted to and approved in writing by the local planning Authority. The development shall be carried out in accordance with the details as so approved.

Reason - To enable proper control to be exercised over the design and external appearance of the development in the interests of visual amenity.

- 7) Except with the prior written agreement of the Local Planning Authority and Local Highway Authority, top soil comprised in the development is not to be undertaken using material from any source other than from the managed realignment site at Little Oakley and which shall not be delivered from the said site at Little Oakley other than by sea.

Reason - To ensure that beneficial use is made of available materials and to minimise HGV road traffic entering the site, in the interests of highway safety.

- 8) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order amending, revoking and re-enacting that Order with or without modification), no development shall begin until a written scheme showing full details of fences, walls, gates or other means of enclosure has been submitted to and approved In writing by the Local Planning Authority. The development hereby permitted shall be carried out in accordance with the details as so approved.

Reason - In the interests of security and visual amenity.

- 9) Development pursuant to this planning permission shall not begin until drawings showing both foul and surface water drainage (including the provision of all oil and diesel Interceptors) connected with the development have been submitted to and approved In writing by the Local Planning Authority and thereafter any works in relation to the development shall be undertaken in accordance with the drawings as so approved except as otherwise first agreed In writing by the Local Planning Authority.

Reason - To prevent pollution.

- 10) No part of the development (including ground works) hereby permitted shall commence until a programme of archaeological work to the site (including marine archaeology and any works which might be necessary and practicable to preserve any archaeological remains in situ) has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved programme.

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

- 11) No part of the development hereby permitted shall be commenced until a written Construction Management Plan (CMP) together with a certificate that the same has been submitted in that form to National Highways and Natural England has been submitted to and approved in writing by the Local Planning Authority and Local Highway Authority. The CMP shall include details of the management during the construction phase of the development of the matters contained in Conditions 12 to 18 inclusive (construction noise and vibration), a Construction Traffic Management Plan in accordance with the Bathside Bay Construction Traffic Management Plan produced by ERM and dated 7th June 2004, Condition 19 (construction lighting) and Condition 21 (construction dust management) of this permission.

Furthermore, the CMP shall incorporate environmental measures to protect biodiversity, to include the following:-

- a) Risk assessment of potentially damaging construction activities.
- b) Identification of "biodiversity protection zones".
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
- d) The location and timing of sensitive works to avoid harm to biodiversity features.

- e) The times during construction when specialist ecologists need to be present on site to oversee works.
- f) Responsible persons and lines of communication.
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
- h) Use of protective fences, exclusion barriers and warning signs.
- i) Containment, control and removal of any Invasive non-native species present on site

Reason - To ensure that the construction impacts of the development are kept within acceptable limits; and to conserve protected and Priority species and allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 (as amended) and s40 of the NERC Act 2006 (Priority habitats & species) as updated by the Environment Act 2021.

- 12) No part of the development hereby permitted shall be commenced until details relating to the control of noise and vibration from the construction of the development have been submitted to and approved in writing by the local Planning Authority. These details shall include the following:-

- (a) definitions of roles and responsibilities;
- (b) the adoption of best practice for the specification and Procurement of quiet plant and equipment;
- (c) consultation and reporting processes for noise and vibration;
- (d) noise and vibration monitoring procedures including recording measures and the location of measuring instruments;
- (e) action to be taken in the event of non-compliance with (b) to (d) above;
- (f) a record of the occasions on which percussive piling operations take place;
- (g) complaint response procedures;
- (h) a requirement to provide environmental noise awareness training to operatives; and
- (i) construction methods for percussive piling designed to minimise the noise generated by such operations through practical methods such as shrouding or other appropriate alternative methods.

The development hereby permitted shall be carried out In accordance with the approved details.

Reason -To ensure that the noise and vibration impacts of the development are kept within acceptable limits.

- 13) All plant, machinery and vehicles used on site in constructing the development shall be fitted with effective silencers at all times which shall be maintained in accordance with the manufacturers' recommendations and current British Standards applicable thereto. No such plant shall be left running when not being operated.

Reason -To ensure that the noise impacts of the development are kept within acceptable limits.

- 14) Where any vehicle or plant is required to be fitted with a reverse warning system, such vehicles or plant shall not be used or installed prior to the approval of such a

system in writing by the Local Planning Authority. In operating such vehicles or plant the approved system shall be used.

Reason -To ensure that the noise impacts of the development are kept within acceptable limits.

15) No percussive piling operation for the development shall be carried out except in accordance with a programme for that phase which shall first have been approved in writing by the Local Planning Authority. The said programme shall provide that:

- (i) no percussive piling operations shall be undertaken in relation to the construction of the development during more than thirteen weekends in any six months; and
- (ii) except with the prior written approval of the Local Planning Authority no more than three hours of percussive piling of tubular piles for the main quay wall shall take place on any day.

Reason -To ensure that the noise impacts of the development are kept within acceptable limits.

16) Except with the prior written agreement of the Local Planning Authority, no percussive piling operations shall be undertaken in relation to the construction of any part of the development outside the hours of:

- (a) 08:00 to 18:00 Monday to Friday; and
- (b) 09:00 to 13:00 on Saturday;

or at any time on Sundays or Bank or Public Holidays, provided that percussive piling operations may be undertaken in relation to the construction of the development outside the permitted hours:

- (i) in the case of emergency, or
- (ii) where piling is required on the grounds of safety or environmental protection; and
- (iii) in either case the situation would otherwise be dangerous to life or limb.

The Local Planning Authority shall be promptly notified in writing of any event of this type and the reason why percussive piling took place outside the permitted hours.

Reason - To protect residential amenity during construction.

17) The noise from construction activities in relation to the development shall not exceed the following daytime free-field equivalent sound pressure levels, as measured at a height of 1.5 m above ground level at the nearest residential property to the development:

(a) 67 dB LAeq 12H and 85 dB LA1 5 mins (in relation to percussive piling operations) during the hours of 07:00 to 19:00 on Mondays to Fridays, excluding Bank Holidays;

(b) 55 dB LAeq 1hr during the hours of 19:00 to 23:00 on Mondays to Fridays, excluding Bank Holidays;

(c) 67 dB LAeq 6hr and 85 dB LA1 5 mins (in relation to percussive piling operations) during the hours of 07:00 to 13:00 on Saturdays; and

(d) 50 dB LAeq 1hr at all other times.

Reason - To ensure that the noise impacts of the development are kept within acceptable limits and to protect residential amenity.

- 18) Vibration levels from piling or other construction activities in relation to the development, as measured immediately adjacent to the nearest residential property or vibration sensitive structure for that phase shall not exceed a peak particle velocity of 5mm/s.

Reason - To protect residential amenity.

- 19) No part of the development hereby permitted shall be begun until a written scheme of construction lighting has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of:

(a) definitions of roles and responsibilities;

(b) design including locations of the construction lighting;

(c) Installation of the construction lighting;

(d) management of the construction lighting; and

(e) construction lighting monitoring procedures and action to be taken in the event of noncompliance. The development hereby permitted shall be carried out in accordance with the approved scheme.

Reason - In the interests of visual amenity and ensure safety.

- 20) No part of the hereby permitted development shall commence operation until a scheme relating to the provision and control of operational lighting on that part of the site has been installed in accordance with a scheme which has been submitted to and approved in writing by the Local Planning Authority. The lighting scheme shall be carried out in accordance with the scheme so approved.

Reason - To minimise any possible glare or sky glow caused by the operational lighting for the development and to minimise the effect of the operational lighting on navigational aids or signs, public roads and local residential areas.

21) No part of the development hereby permitted shall begin until a construction dust management plan has been submitted to and approved in writing by the Local Planning Authority. The construction dust management plan shall include details of:

- (a) definitions of roles and responsibilities;
- (b) the adoption of best practice for the specification of plant and equipment;
- (c) the consultation and reporting processes;
- (d) dust monitoring procedures;
- (e) action to be taken in the event of non-compliance; and
- (f) complaint response procedures.

The development hereby permitted shall be carried out in accordance with the approved plan.

Reason - To ensure that appropriate construction dust management measures are in place.

22) All vehicles used to transport materials to or from the site during construction shall be sheeted so as not to deposit materials on the highway.

Reason - To prevent deposits on the highway and the emission of dust in the interest of local amenity and highway safety.

23) No part of the development hereby permitted shall be commenced until written details of a wheel wash facility and its location have been submitted to and approved in writing by the Local Planning Authority and Local Highway Authority. The development hereby permitted shall be carried out so as to ensure that vehicles leaving the development site during construction first pass through the approved wheel wash facility.

Reason - To prevent the deposits of materials on the public road network.

24) No part of the development hereby permitted shall be operated until a plan for the handling of materials and stockpiling of new construction materials on site (using physical containment, partial shielding where available and water misting/sprays where appropriate) has been submitted to and approved in writing by the Local Planning Authority. The development hereby permitted shall be carried out in accordance with the approved plan.

Reason - To prevent the migration of dust off the site.

25) No part of the development hereby permitted shall be commenced until details of measures to mitigate gas migration and accumulation, in accordance with the recommendations contained in the Bathside Bay Development Project Landfill Gas Investigation Report Ref E6702/1991/OCT/L6, have been submitted to and

approved In writing by the Local Planning Authority. The development hereby permitted shall be carried out in accordance with the approved details.

- 26) No part of the development hereby permitted shall be commenced until a scheme for concrete pouring and filling works has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include the following:

- (a) monitoring procedures; and
- (b) remedial action works to be undertaken in the event of spillage.

The development hereby permitted shall be carried out in accordance with the scheme as so approved.

Reason - To minimise risk of accidental pollution of watercourses during construction works.

- 27) No part of the development hereby permitted shall be commenced until a scheme for pollution control has been submitted to and approved in writing by the Local Planning Authority. The development hereby permitted shall be carried out and operated in accordance with the scheme as so approved.

Reason - To prevent the migration of pollutants from the site to adjoining land and for public safety.

- 28) No site clearance for the development hereby permitted shall be commenced until a scheme for the translocation of reptiles, invertebrates and coastal vegetation within the site has been submitted to and approved by the Local Planning Authority. The scheme shall include the following:

- (a) exclusion fencing to be erected around the site;
- (b) tinning to be carried out over a minimum of 60, 70 or 90 suitable days for a low, medium or high population level respectively, between the months of March and September;
- (c) relocation of the reptiles found to areas of suitable habitat outside the exclusion fencing.

The development hereby permitted shall be carried out and operated in accordance with the scheme as so approved.

Reason - To avoid harm to reptiles, invertebrates and coastal vegetation.

- 29) Development shall not begin until details of the means of vehicular access to the site from the A120 have been submitted to and approved in writing by the Local Planning Authority and the Local Highway Authority. The development shall not be operated until the vehicular access has been constructed in accordance with the approved details and opened to traffic.

Reason - In order that the A120 Trunk Road continues to serve its purpose as part of the national strategic road network and to satisfy the reasonable requirements of road safety on the A120 and connecting roads.

- 30) Development pursuant to this planning permission shall not begin until a scheme of provision to be made for disabled people to gain access to public areas forming part of the development shall have been submitted to and approved in writing by the Local Planning Authority. The agreed scheme shall be implemented before the development hereby permitted is brought into use.

Reason - To ensure disabled persons access to buildings on the site.

- 31) Except with the agreement of the Local Planning Authority, no dredging operations shall be undertaken in relation to the construction of the development outside the hours of:

(a) 07:00 hours to 19:00 hours Monday to Fridays;

(b) 07:00 hours to 13:00 hours Saturdays;

or at any time on Sundays or on Bank or Public Holidays.

Reason - To ensure that the noise impacts of the development are kept within acceptable limits and to protect residential amenity.

- 32) Before the development is begun written details of the layout, construction and surfacing of the internal roadways and hardstanding for cars comprised in the development shall be submitted to and approved in writing by the local Planning Authority and Local Highway Authority. The development shall be implemented in accordance with the details so approved and retained thereafter.

Reason - To ensure a safe layout and a satisfactory standard of construction for internal roadways.

- 33) No part of Phase 2 of the development shown on drawing no. H1001/19/Rev B shall commence until:

(5) additional evidence to confirm the usage of Bathside Bay and the Little Oakley managed realignment site by waterbirds over the non-breeding season in the context of the Stour and Orwell Estuaries SPA and the Hamford Water SPA, respectively, has been gathered from:

(a) existing available data; and/or

(b) pre-construction surveys carried out in accordance with details agreed in writing by the Local Planning Authority in consultation with Natural England; and

(6) a further breeding bird survey of Bathside Bay and the Little Oakley managed realignment site has been carried out in accordance with

details agreed in writing by the Local Planning Authority in consultation with Natural England; and

- (7) a report confirming whether the additional data and/or surveys indicate that;
- (c) any further or different compensatory measures; and/or
- (d) further monitoring of the effectiveness of compensatory measures,

are needed to ensure that the overall coherence of the national site network of SACs and SPAs is protected has been submitted to and approved in writing by the Local Planning Authority in consultation with Natural England; and

- (8) if the report submitted in accordance with sub-paragraph (3) indicates that any further or different compensatory measures and/or further monitoring are needed to ensure that the overall coherence of the national site network of SACs and SPAs is protected, such measures:

- (a) are reflected in a Compensation Implementation and Management Plan and an Adaptive Management Plan that have been submitted to and approved in writing by the Local Planning Authority, in consultation with Natural England; and
- (b) have been secured by an appropriate planning obligation under section 106 of the Town and Country Planning Act 1990.

Reason: To confirm that sufficient compensatory measures have been secured to ensure that the overall coherence of the national site network of SACs and SPAs is protected.

The meeting was declared closed at 7.34 pm

Chairman

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Planning Committee

15 March 2022

**MINUTES OF THE MEETING OF THE PLANNING COMMITTEE,
HELD ON TUESDAY, 15TH MARCH, 2022 AT 6.00 PM
IN THE COMMITTEE ROOM - TOWN HALL, STATION ROAD, CLACTON-ON-SEA,
CO15 1SE**

Present:	Councillors White (Chairman), Bray (Vice-Chairman), Alexander, Baker, Casey, Codling, Harris and Placey
Also Present:	Councillor Peter Cawthron and Councillor Lynda McWilliams (Portfolio Holder for Partnerships)
In Attendance:	Gary Guiver (Acting Director (Planning)), Graham Nourse (Assistant Director (Planning)), Joanne Fisher (Planning Solicitor), Susanne Chapman-Ennos (Planning Team Leader), Naomi Hart (Planning Officer), Nick Westlake (Planning Officer), Emma Haward (Leadership Support Assistant) and Matt Cattermole (Communications Assistant)

212. ORDER OF BUSINESS

The Chairman advised the Committee and members of the public present that Agenda Items 1 - 4 and 8 would be taken first on the agenda followed by Items 5, 6 and 7.

213. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

Apologies were received from Councillor Fowler, with no substitute.

214. DECLARATIONS OF INTEREST

Councillor Baker declared a personal interest in **A.5 Planning Application 21/01748/FUL – KINGSCLIFF HOTEL, 55 KINGS PARADE, HOLLAND ON SEA, CLACTON ON SEA CO15 5JB** due to his having “called-in” the application. He informed the Committee that he was not pre-determined but further stated that he would withdraw from the meeting at the appropriate juncture and would take no part in the Committee’s deliberations on this application.

Councillor Bray declared a personal interest in **Planning Applications A.3 21/02064/FUL (PLOT 4), A.2 21/02099/FUL (PLOT 5) and A.4 21/01856/FUL (PLOT 6) – LAND REAR OF HOLLY LODGE, BETTS GREEN ROAD, LITTLE CLACTON**, due to his being the Ward Member and that he had “called-in” the applications. He informed the Committee that he was not pre-determined but further stated that he would withdraw from the meeting at the appropriate juncture and would take no part in the Committee’s deliberations on this application.

215. QUESTIONS ON NOTICE PURSUANT TO COUNCIL PROCEDURE RULE 38

There were none on this occasion.

216. A.1 PLANNING APPLICATION 21.01560.FUL - LAND TO THE SOUTH OF MICHAEL WRIGHT WAY

Members were reminded that the application had been “called in” by Councillor Lynda McWilliams, the local Ward Member. Her reasons included that, in her opinion, the development would have a negative impact on the character and appearance of the area, and there were concerns regarding the increase in traffic within the village with the subsequent impact on pedestrian safety in the area. In addition, Councillor McWilliams felt that there would be a negative impact on neighbours in terms of a loss of residential amenity, via overlooking and the development would add to increased pressure on local services. Finally, as this was not an allocated site for housing considered that this land should not have been used for such a purpose when there was a positive housing supply within the District.

It was reported that the proposal was for the erection of 6 detached dwellings with associated parking and landscaping. The site was located within the defined Settlement Development Boundary of Great Bentley and formed part of the red line area of the original Admirals Farm development to the east of the site that currently had approval for 59 dwellings. The land had been allocated as ‘landscaping’ and not designated Public Open Space within the original plans for the Admirals Farm development. The proposed Children’s Playground had been moved to the field opposite the host site. As such, it was considered by Officers that there was not an, in principle, objection to using this site as an area for housing provision sustainably within the District.

Members were also reminded that the proposal was considered by Officers to be of a size, scale and design in keeping with the overall grain of residential development in the surrounding area. There were no concerns raised regarding the amenity impact on the neighbouring residential properties and subject to conditions it was considered to be acceptable in regards to Highways, Parking, Landscaping and Appearance.

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

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

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

- (1) An additional condition, in accordance with Environmental Protection’s original advice as detailed within the committee report, was recommended.
- (2) Further to the existing legal requirements, a linking obligation was required to ensure that prior to any occupation of any new dwelling approved the LEAP (approved via 21/00739/FUL) to the north of the host site was completed in full and that provision was made for its future management and maintenance as public open space land.
- (3) To ensure the health of the existing hedge to the south and east of the host site, the proposed fence within the development should be a minimum distance of 0.5 from the existing hedge. To that affect, condition 4 was suggested to be re worded.
- (4) An amendment to the Officer Recommendation as follows:

a) Within six (6) 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
- Financial Contribution towards Affordable Housing Provision
- Education Contributions
- Open Space Contribution
- Prior to the occupation of any new dwelling approved on the Site in accordance with this application, that the LEAP (Locally Equipped Play Area) approved under Planning Permission reference 21/00739/FUL to the north of the Site is completed in full and that provision is made for its future management and maintenance as public open space land.

Emma Walker, the agent acting on behalf of the applicant, spoke in support of the application.

Peter Harry, a local resident, spoke against the application.

Councillor McWilliams, the local Ward Member, spoke against the application.

Matters raised by Members of the Committee:-	Officer’s response thereto:-
A member of the committee asked Planning Officers to confirm if there was any interest for the proposed doctors’ surgery.	The Planning Officer confirmed that the doctors’ surgery was originally put forward for planning permission however, this was refused, and therefore, a contribution was given to the existing surgery. There was not a planning condition or legal obligation to obstruct the doctors’ surgery granted in 2016.
Were there any reasons for this area not being considered for public space and now suitable for housing?	The Planning Officer advised that in 2015, 25 dwellings were approved with the doctors’ surgery, the development had less of an impact on the conservation area.
Was the development within the permitted development area?	Members were referred to the Local Plan whereby, the site laid within the permitted development boundary.
Was there a minimal decrease in the play area and what percentage?	The Planning Officer confirmed that in terms of the size of the play area, there was a minimal reduction in the Officer’s opinion. The Planning Officer advised that the play area originally had a surplus of 11.7%, the reduction was in the region of 0.3-0.5% resulting to a surplus of approximately 10% of public space. There was a request for a considerable amount of funds of around £20-25,000 to be issued to Great Bentley Parish Council to purchase play equipment.
Approximately, how many dwellings would there be in total?	The Planning Officer advised that there would be 80 dwellings in total on site. Fundamentally, the Planning Inspector increased the use of the land for an additional 25 units away from the conservation area so the impact was negligible.

Was there any affordable or social housing included?	The Planning Officer informed the Committee that there were offsite housing contributions, so no affordable housing available.
A Committee member asked Planning Officers to confirm that under SPL1, that Great Bentley was identified as a rural service centre?	The Planning Officer confirmed that was correct.
A Committee member referred to the movement of the 30 mph sign, could the Planning Officer advise where this would have been placed?	The Planning Officer showed the Committee on the map where the existing sign was and where it would be moved to.
Could the Planning Officer advise what the boundary distance was?	The landscape buffer was approximately 20-25m.
A member of the Committee asked Planning Services to clarify the definition of windfall site.	The Planning Manager advised that the 75 dwellings refused in 2016 were part of the committed housing supply within the local plan, a site to be considered similar to that of the plan, was considered a windfall site.

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

- On grounds of loss of landscaped Open Space and impact on character of locality.

217. A.5 PLANNING APPLICATION 21/01748/FUL - KINGSCLIFF HOTEL, 55 KINGS PARADE, HOLLAND-ON-SEA CO15 5JB

Earlier in the meeting, Councillor Baker, had , for the reasons therein stated, declared a personal interest in **A.5 Planning Application 21/01748/FUL – KINGSCLIFF HOTEL, 55 KINGS PARADE, HOLLAND ON SEA, CLACTON ON SEA CO15 5JB.**

Members were made aware that the application had been referred to the Planning Committee at the request of Councillor Baker due to the fact that, in his opinion, the building was out of character and did not improve the street scene; it was poorly designed and had a negative impact on the street scene; it was not in accordance with emerging Plan (Part 2) Policy SPL3 or PP2; and the negative impact upon neighbours.

It was reported that this application sought planning permission for the retention of the constructed dining pod. Other matters reported included:-

- The application site was located within the settlement development boundary of the Tendring District Local Plan 2013-2033.

- Local Plan Policy PP8 stated that to attract visitors to the Tendring District and support economic growth in tourism, the Council would generally support proposals that would help to improve the tourism appeal of the District to visitors.
- A condition had been proposed by Officers in regards to lighting and to restrict the use of music within the pod.
- The dining pod was considered by Officers to be acceptable in terms of its design and appearance and it was considered that it would not cause any material impact upon neighbouring amenities.

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

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

An update sheet had been circulated to the Committee prior to the meeting with details of an amendment to condition 3 as follows:

'Music shall not be played within the dining pod between the hours of 11.30pm and 9am Monday to Saturday, or between the hours of 11.00pm and 9am on Sundays.'

Reason – To protect the amenity of the nearby residential dwellings.'

Councillor Baker, who had called-in the application, spoke against the application, following which he withdrew from the meeting whilst the Committee deliberated on this application.

Matters raised by Members of the Committee:-	Officer's response thereto:-
A member of the Committee asked if this was a retrospective planning application.	The Planning Officer confirmed that this was so.
Did the condition in relation to music and sound also comply with the adjacent bandstand?	The Planning Officer confirmed that the same conditions apply although a case is ongoing due there being no planning permission for the bandstand.
It was raised by a member of the Committee in relation to the subject of temporary planning permission, could the Officer confirm the background?	The Planning Officer advised that temporary permission was not granted, however, permitted development rights were permitted for COVID-related purposes which had expired in January this year. Due to the structure being fixed, it required planning permission.
A member of the Committee referred to SPL3 regarding the character. Concerns were also raised regarding the potential to set a precedent.	

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

Conditions and Reasons

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

- Drawing No. KH100 REV A

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

2 Any lighting within the dining pod shall be located, designed and directed/screened so that it does not cause Avoidable Intrusion to neighbouring properties.

Reason - To protect the amenity of nearby residential dwellings

3 No music of any kind shall be played within the dining pod at any time unless otherwise agreed in writing by the Local Planning Authority.

Reason – To protect the amenity of nearby residential dwellings.

4 The dining pod hereby approved shall not be occupied at any time other than for purposes ancillary to the Kingscliff Hotel, 55 Kings Parade, Holland on Sea.

Reason - The site is unsuitable for an independent tourism or restaurant use in this location.

Councillor Bray left the meeting at this time and withdrew to the public gallery due to his interests in relation to the following applications.

218. A.2 PLANNING APPLICATION 21/02099/FUL - PLOT 5, LAND REAR OF HOLLY LODGE, BETTS GREEN ROAD, LITTLE CLACTON

Earlier in the meeting, Councillor Bray had, for the reasons stated therein, declared a personal interest in **A.2 Planning Application 21/02099/FUL PLOT 5 – LAND REAR OF HOLLY LODGE, BETTS GREEN ROAD, LITTLE CLACTON, CO16 9NH**

The Committee was reminded that this application was before Members at the request of Councillor Bray, the local Ward Member.

The Committee was made aware that the application related to the wider development approved under planning application references 16/02108/OUT, 18/00872/DETAIL and 20/01073/DETAIL (the later DETAIL for amendments to the access only) for 8 bungalows on land to the rear of the property known as Holly Lodge, Betts Green Road, Little Clacton. The outline application, and subsequent reserved matters, had been approved by officers under delegated powers. Outline consent had been approved subject to a condition requiring the dwellings to be single storey only.

It was reported that the application now before the Committee sought full planning permission for the erection of a chalet style 1.5 storey dwelling, varying the height, design and layout of the previously approved bungalow on Plot 5. The proposed dwelling would have an eaves height of 4 metres (previously 2.4 metres) and an overall ridge height of 7.41 metres (previously 5.3 metres). Plot 5 was located to the north-west corner of the wider site, away from existing neighbouring dwellings fronting Harwich Road.

Members were also reminded that Councillor Bray had referred the application to the Planning Committee due to his concerns with: street scene impact and harm to the character of the area from the increased height of the dwelling; the increased size and height leading to a cramped appearance; harm to neighbouring amenities; and the potential to cause greater strain on the 'unmade' Betts Green Road from the enlarged dwelling(s).

Members were informed that Betts Green Road and Harwich Road comprised a variety of single, 1.5 and 2 storey dwellings. The proposal, in the opinion of Officers, would add variety to the character of the development itself. Sufficient space was retained around the dwelling and to neighbouring properties to not appear cramped or result in any material harm to residential amenities. The proposed dwelling did not increase the number of bedrooms originally approved and did not increase the parking requirements.

The Committee was made aware that, whilst there would be a clear increase in height, having carefully considered the individual merits of the application, the plot layout and distance to neighbouring dwellings, it was felt by the Officers that the revised proposal would not result in any material harm that would have justified a refusal of planning permission.

Members noted that application reference 21/00289/FUL for a similar variation to Plot 1 had been approved by officers under their delegated powers on 30th July 2021. Concerns had been raised by Councillor Bray and neighbouring residents at the time, but that application had not been referred to the Committee for determination. That application had been amended to address the concerns and had subsequently been approved in the absence of any demonstrable material harm.

As the development had commenced under the originally approved applications 16/02108/OUT, 18/00872/DETAIL and 20/01073/DETAIL and the necessary financial contribution toward recreational disturbance (RAMS) had been paid, this current application did not require a unilateral undertaking.

It was reported that, in the absence of any material harm resulting from the revised proposal for Plot 5, the application was 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.

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

An update sheet had been circulated to the Committee prior to the meeting with details of an additional letter of objection.

Peter Le Grys, the agent acting on behalf of the applicant, spoke in support of the application.

Parish Councillor John Cutting, representing Little Clacton Parish Council, spoke against the application.

Councillor Bray, the local Ward Member, spoke against the application.

Matters raised by Members of the Committee:-	Officer's response thereto:-
A member of the Committee referred to the amended floor plans of the development.	The Planning Officer confirmed that the floor plans were changed however, the number of bedrooms remained the same.
It was asked by a member of the Committee, could the Planning Officer confirm the increase in height from bungalow to chalet bungalow? With the exception of Plot 1, the bungalows surrounding, were they single storey?	It was confirmed by the Planning Officer that the height was increased by 2.1m. The Planning Officer referred to the presentation plans where there were a mixtures of single storey and 1.5 storey dwellings. Single storey dwellings were sited adjacent to the site.
A member of the Committee asked the Planning Officer to clarify the position on page 42, paragraph 6.6, where the application sought full planning permission for 1 chalet bungalow dwelling.	The Planning Officer referred to the dwelling to a 1.5 storey dwelling rather than a chalet bungalow.
Would the need for single storey dwellings outweigh the need for higher storey dwellings?	There is a consistent need for single storey dwellings considering a retirement market, there are no specific need for bungalows, nor is this restricted. The Committee are asked to consider the development and whether it was appropriate for the location.
What was the widest part of the road leading into the development site?	The Planning Officer confirmed that the access was not considered part of the application due to permission already being granted for 8 dwellings.
A Committee member asked what the impact was and was the impact unacceptable and not suitable for the land. What would be the policies?	The use of the land was acceptable. The two main focuses were the visual impact, according to officers' advice and loss of amenities, and this would be considered substantial on appeal (SPL3).
Where were the parking spaces if this application were to be approved?	Both applications allocated 2 spaces per dwelling in line with the Adopted Parking Standards.

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

- On the grounds of adverse impact on neighbouring dwellings, loss of character and overdevelopment.

219. A.3 PLANNING APPLICATION 21/02064/FUL - PLOT 4, LAND REAR OF HOLLY LODGE, BETTS GREEN ROAD, LITTLE CLACTON

Councillor Bray, had earlier in the meeting, for the reasons stated therein, declared a personal interest in **A.3 Planning Applications 21/02064/FUL PLOT 4 – LAND REAR OF HOLLY LODGE, BETTS GREEN ROAD, LITTLE CLACTON, CO1 9NH.**

Members were informed that this application was before Members at the request of Councillor Bray the local Ward Member.

It was reported that the application, similarly to the one that considered by the Committee, related to the wider development approved under planning application references 16/02108/OUT, 18/00872/DETAIL and 20/01073/DETAIL (the later DETAIL for amendments to the access only) for 8 bungalows on land to the rear of the property known as Holly Lodge, Betts Green Road, Little Clacton. The outline application, and subsequent reserved matters had been approved by officers under delegated powers. Outline consent had been approved subject to a condition requiring the dwellings to be single storey only.

The application now before the Committee sought full planning permission for the erection of a chalet style 1.5 storey dwelling, varying the height, design and layout of the previously approved bungalow on Plot 4. The proposed dwelling would have an eaves height of 4 metres (previously 2.4 metres) and an overall ridge height of 7.41 metres (previously 5.3 metres) with all three rear facing first floor dormer windows to be obscure glazed (serving en-suites and a bathroom). Plot 4 was located to the south-west corner of the wider site, adjacent to 85 and 87 Harwich Road.

The Committee was aware that Councillor Bray had referred the application to Planning Committee due to his concerns with: street scene impact and harm to the character of the area from the increased height of the dwelling; the increased size and height leading to a cramped appearance; harm to neighbouring amenities; and the potential to cause greater strain on the 'unmade' Betts Green Road from the enlarged dwelling(s).

Members were also aware that Betts Green Road and Harwich Road comprised a variety of single, 1.5 and 2 storey dwellings and that Officers felt that this proposal would add variety to the character of the development itself. Sufficient space had been retained around the dwelling and to neighbouring properties to not appear cramped or result in any material harm to residential amenities. The proposed dwelling did not increase the number of bedrooms originally approved and did not increase the parking requirements.

Members were also aware that, whilst there would be a clear increase in height, the Officers, having carefully considered the individual merits of the application, the plot layout and distance to neighbouring dwellings, believed that the revised proposal would not result in any material harm that would have justified a refusal of planning permission.

Members noted once more that application reference 21/00289/FUL for a similar variation to Plot 1 had been approved by officers under delegated powers on 30th July 2021. Whilst concerns had been raised by Councillor Bray and neighbouring residents at the time, that application had not been referred to the Committee for determination. That application had been amended to address the concerns and subsequently approved in the absence of any demonstrable material harm.

The Committee also noted once more that the development had commenced under the originally approved applications 16/02108/OUT, 18/00872/DETAIL and 20/01073/DETAIL and the necessary financial contribution toward recreational disturbance (RAMS) had been paid. Therefore, this current application did not require a unilateral undertaking.

It was reported that, in the absence of any material harm resulting from the revised proposal for Plot 4, the application was 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.

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

An update sheet had been circulated to the Committee prior to the meeting with details of an additional letter of objection.

Peter Le Grys, the agent acting on behalf of the applicant, spoke in support of the application.

Parish Councillor John Cutting, representing Little Clacton Parish Council, spoke against the application.

Councillor Bray, the local Ward Member, spoke against the application.

The Chairman, at this time, requested approval from Members of the Committee to continue the meeting past the allowed period of 3 hours, as required by Council Procedure Rule 35.1. It was moved by Councillor Placey, seconded by Councillor Casey and **RESOLVED** that the Committee continue its deliberations.

Matters raised by Members of the Committee:-	Officer’s response thereto:-
Could the Planning Officer confirm that the rear windows were obscure glazed?	The Planning Officer confirmed that this was so.

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

- On grounds of adverse impact on neighbouring dwellings, loss of character and overdevelopment.

220. A.4 PLANNING APPLICATION 21/01856/FUL - PLOT 6, LAND REAR OF HOLLY LODGE, BETTS GREEN ROAD, LITTLE CLACTON

Councillor Bray, had earlier in the meeting, for the reasons stated therein, declared a personal interest in **A.4 Planning Application 21/01856/FUL PLOT 6 – LAND REAR OF HOLLY LODGE, BETTS GREEN ROAD, LITTLE CLACTON, CO16 9NH.**

Members were aware that this application was before Members at the request of Councillor Bray, the local Ward Member.

The Committee noted once more all of the background information to this application which had been previously reported to Members in the course of its deliberations of the two previous applications.

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 (SC-E) in respect of the application.

An update sheet had been circulated to the Committee prior to the meeting with details of an additional letter of objection.

Peter Le Grys, the agent acting on behalf of the applicant, spoke in support of the application.

Parish Councillor John Cutting, representing Little Clacton Parish Council, spoke against the application.

Councillor Bray, the local Ward Member, spoke against the application.

Matters raised by Members of the Committee:-	Officer’s response thereto:-
A member of the Committee asked where the waste contractors would access the properties’ waste bins?	The Planning Officer could not confirm the location of the waste collection points.
To the Officers knowledge, where would residents hold their wheelie bins and where would this be stored for collection from the waste contractor?	The circumstances for waste collection were not yet known.

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

- On grounds of adverse impact on neighbouring dwellings, loss of character and overdevelopment.

221. DATE OF NEXT MEETING

It was noted that the stated next meeting date for Thursday 31st March was incorrect and that the next meeting of the Planning Committee would be held at **6pm** on **Wednesday 30th March 2022** in the **Committee Room, Town Hall, Station Road, Clacton-on-Sea CO15 1SE**.

The meeting concluded at 21:34 pm.

The meeting was declared closed at 9.34 pm

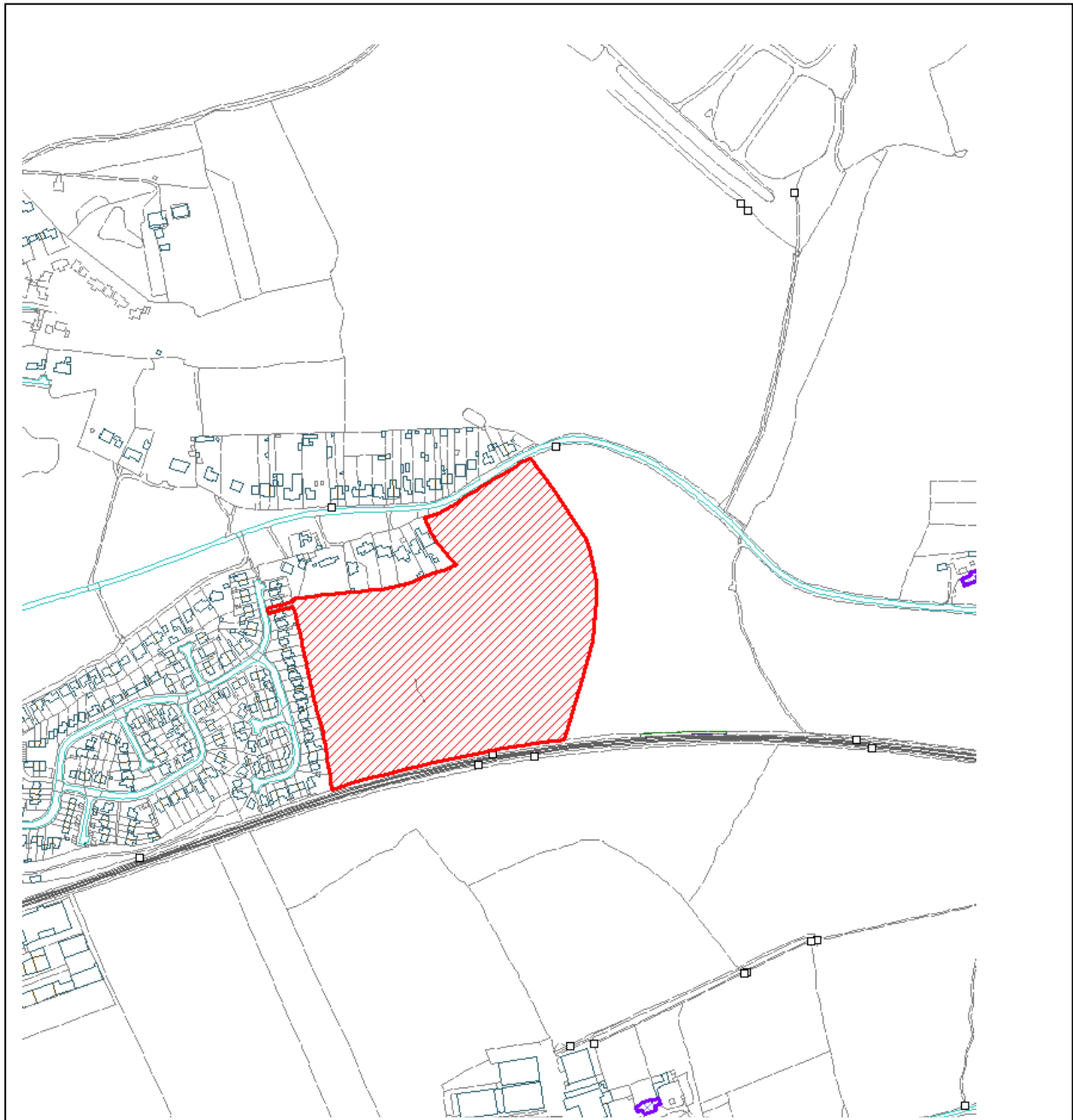
Chairman

PLANNING COMMITTEE

12th April 2022

REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING

A.1 PLANNING APPLICATION – 21/00977/DETAIL – LAND TO THE SOUTH OF WEELEY ROAD AND TO THE EAST OF BIRCH AVENUE AND PINE CLOSE GREAT BENTLEY



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Application: 21/00977/DETAIL

Town / Parish: Great Bentley Parish Council

Applicant: Taylor Wimpey London

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

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

1. Executive Summary

1.1 This application was originally brought before Planning Committee on the 21st December 2021. Updates to the report are shown in bold text throughout.

1.2. The application was deferred for the following reasons:

- The footpath link to Birch Avenue as proposed was too narrow to be considered acceptable in principle
- Retention of Oak trees in the field
- Visibility splays to access
- Archaeological exploration
- Clustering of affordable housing to be reconsidered and better 'pepper potted' across the development
- Consideration to be given to extending 30mph speed limit to the east along Weeley Road

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

1.3 Footpath Link

The applicant has agreed to purchase the dwelling 76 Birch Avenue. Therefore, the constrained width of the footpath and cycle connection has been resolved. The applicant is now able to comply with the condition applied to the outline consent as demonstrated in the amended plans submitted with this application.

1.4 Retention of two Oak trees in the site

The two large mature Oaks situated in the western portion of the site were included in the submitted tree report. They have both been classified as B-category trees due to the presence of decay at the base of each tree. In addition, the Council's Tree and Landscape Officer has visually inspected these trees on three separate occasions to assess their condition. He has concluded that whilst the trees are clearly visible from the adjacent highway and are prominent features in their setting, they have a limited, safe, useful life expectancy, resulting from decay in the main stems of both trees. For this reason, the trees do not meet the

criteria under which they merit formal legal protection by means of a Tree Preservation Order. Consequently they are not a physical constraint on the development potential of the site.

The landscaping proposals for the site include provision for over 100 new trees to be planted, Officers therefore conclude no objection to the loss of the two Oaks.

1.5 Visibility splays to access

The Highway Authority have requested visibility splays of 2.4 metre setback with 90 metres in each direction from the proposed access with Weeley Road. These visibility splays would accord with the requirements in the Design Manual for Roads and Bridges (DMRB). Given the location of the proposed site access, and proximity to a change in speed limit from 60mph to 30 mph, the Highway Authority have required the more onerous 90m visibility splay contained in DMRB to be provided, rather than the 57 metre visibility splay for traffic speeds of up to 37 mph in Manual for Streets (2007).

The Highway Authority have no objection subject to additional conditions, which include moving the existing 30 mph sign, 50 metres to the east.

1.6 Archaeological exploration

A Desk Based Assessment and a geophysics survey have been carried out. These reports have not identified any features of archaeological origin, the results of the geophysics will need to be assessed through a programme of targeted trial trench evaluation. ECC Archaeology have recommended additional conditions which are included within the recommendation.

1.7 Clustering of affordable housing to be reconsidered

Officers consider the placement of affordable homes complies with Policy LP5, whereby no more than 10 affordable homes are clustered together. The affordable units are currently spread across the western part of the site and interspersed by market homes. This has not been amended.

1.8 Consideration to be given to extending 30mph speed limit to the east along Weeley Road

ECC Highways have recommended moving the existing 30mph sign 50 metres to the east of the proposed access. However, this is covered by a 'Speed Limit Order' process or 'Traffic Regulation Order' which is a separate statutory process that can attract comment/objections and that outcome cannot therefore be pre judged. Nevertheless, the ECC Highways Network Assurance Manager has agreed the use of the planning condition in this case, subject to the 'Speed Limit Order' process being followed.

In any event, the current visibility splays with the existing road signage remaining in place is well in excess of what is expected in a 30mph zone, as outlined in the Manual For Streets. ECC Highways have no objection to the visibility splays proposed with the current road signage remaining in place.

Other Updates

- 1.9 **The applicant has made some minor amendments to the scheme including the repositioning of some car parking to allow the required electric vehicle charging infrastructure. In addition, Plots 3 and 4 facing Weeley Road have been enhanced to improve the street scene. The roof now incorporates a gable and render has been added to the front elevation.**
- 1.10 This application was referred to Planning Committee at the request of the Assistant Director of Planning as the original outline application was refused by the Local Planning Authority and the decision was overturned by the Planning Inspectorate.
- 1.11 The current application seeks approval of the reserved matters relating to outline planning permission 17/0881/OUT, which granted planning permission for the erection of up to 136 dwellings with access from Weeley Road, informal recreation space, a local area of play and associated development. This application includes details of appearance, landscaping, access, layout and scale which were not included as part of the outline.
- 1.12 As established through the granting of outline application 17/0881/OUT the principle of residential development for up to 136 dwellings on this site is acceptable. The detailed design, layout, landscaping, access and scale are considered acceptable. The proposal would result in no material harm to residential amenity or highway safety.
- 1.13 The application is therefore recommended for approval subject to a legal agreement to secure the management of the open space, drainage features, landscaping and non-adopted highway network.

Recommendation:

That the Assistant Director for Planning be authorised to grant planning permission for the development subject to:-

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

Drainage

- ensuring the drainage feature outside the red line boundary (subject of application 21/00978/FUL) are linked to this application and have to be constructed and fully operational before any dwelling on the host site is occupied.
- the long-term maintenance of the drainage features outside of the red line boundary (subject of application 21/00978/FUL)

Landscape Management Company to include maintenance of:

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

b) Subject to the conditions stated in section 8.2

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

2. **Planning Policy**

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

National Planning Policy Framework July 2021 (NPPF)

National Planning Practice Guidance (NPPG)

Tendring District Local Plan 2013-2033 and Beyond (Section 1 adopted January 2021)

SP1 Presumption in Favour of Sustainable Development

SP2 Recreational disturbance Avoidance and Mitigation Strategy (RAMS)

SP3 Spatial Strategy for North Essex

SP4 Meeting Housing Needs

SP6 Infrastructure and Connectivity

SP7 Place Shaping Principles

Tendring District Local Plan 2013-2033 and Beyond Section 2 (adopted January 2022)

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
- LP5 Affordable Housing**
- 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

- 2.2 Planning law requires that decisions on 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 (the Framework). The 'development plan' for Tendring comprises, in part, Sections 1 and 2 of the Tendring District Council 2013-33 and Beyond Local Plan (adopted January 2021 and January 2022, respectively), together with any neighbourhood plans that have been brought into force.
- 2.3 In relation to housing supply:

The Framework requires Councils boost significantly the supply of housing to meet objectively assessed future housing needs in full. In any one year, Councils must be able to identify five years 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, Paragraph 11 d) of the Framework requires granting 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 (what is often termed the 'tilted balance').

- 2.4 The Local Plan fixes the Council's housing requirement at 550 dwellings per annum. On 19 October 2021 the Council's Strategic Housing Land Availability Assessment (SHLAA) updated the housing land supply position. The SHLAA demonstrates in excess of a six-and-a-half-year supply of deliverable housing land. On 14 January 2022 the Government published the Housing Delivery Test (HDT) 2021 measurement. Against a requirement for 1420 homes for 2018-2021, the total number of homes delivered was 2345. The Council's HDT 2021 measurement was therefore 165%. As a result, the 'tilted balance' at paragraph 11 d) of the Framework does not apply to applications for housing.

3. Relevant Planning History

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

21/01947/DISCON	Discharge of Conditions 11 (Noise survey) and 13 (Bat survey) of application APP/P1560/W/19/3231554 (17/01881/OUT)	Approved 24/02/2022
21/01949/DISCON	Discharge of Condition 10 (Contamination assessment) of application APP/P1560/W/19/3231554 (17/01881/OUT)	Current
21/02025/DISCON	Discharge of conditions 6 (foul water strategy) and 7 (detailed surface water drainage scheme) of application 17/01881/OUT, allowed on appeal APP/P1560/W/19/3231554.	Condition 6 approved 20/01/2022
22/00329/DISCON	Discharge of conditions 5 (Construction phasing plans) and 8 (Construction method statement) of application 17/01881/OUT, allowed on appeal APP/P1560/W/19/3231554.	Current
22/00333/DISCON	Discharge of conditions 9 (SuDS management plan and drainage strategy plan) of application 17/01881/OUT, allowed on appeal APP/P1560/W/19/3231554.	Current
21/01257/OUT	Variation of condition 12 of application 17/01881/OUT (allowed on appeal APP/P1560/W/19/3231554) to remove the reference within condition 12 which requires the pedestrian/cycle link between the site and Birch Avenue to be 3 metres in width. Also allowing for this link between the site and Birch Avenue to be a pedestrian link only.	Refused 22.12.2021

4. Consultations

TDC
Environmental
Protection
12.10.2021

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

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

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

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

- Noise Control

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

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

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

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

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

- Emission Control

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

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

Reason: In the interest of protecting residential amenity

Noise:

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

Reason: In the interest of protecting residential amenity

Contaminated Land:

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

Reason: to protect workers and end users of the site

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

**Natural
England
11.02.2022**

Thank you for your consultation on the above which was received by Natural England on 08 December 2021

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

SUMMARY OF NATURAL ENGLAND'S ADVICE - European designated sites¹

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

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

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

NO OBJECTION - SUBJECT TO APPROPRIATE MITIGATION BEING SECURED

We understand that you have screened this proposed development and consider that it falls within scope of the

Essex Coast RAMS, and that you have undertaken a Habitats Regulations Assessment (HRA) (Stage 2: Appropriate Assessment) in order to secure any necessary recreational disturbance mitigation, and note that you have recorded this decision within your planning documentation.

We consider that without appropriate mitigation the application would:

- have an adverse effect on the integrity of European designated sites within scope of the Essex Coast RAMS**
- damage or destroy the interest features for which Sites of Special Scientific Interest have been notified.**

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

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

Other advice

Sites of Special Scientific Interest Impact Risk Zones

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

Further general advice on the consideration of protected species and other natural environment issues is provided in APPENDIX 2 of this letter.

**ECC Highways
29.03.2022**

All housing developments in Essex which would result in the creation of a new street (more than five dwelling units communally served by a single all-purpose access) will be

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

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

1. As indicated on drawing no. 48737/C/003 E and prior to occupation of the development, the road junction / access at its centre line shall be provided with a minimum clear to ground visibility splay dimensions of 2.4 metres by 90 metres in both directions, as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the road junction / access is first used by vehicular traffic and retained free of any obstruction at all times.

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

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

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

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

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

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

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

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

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

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

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

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

7. Residential Travel Plan: Prior to first occupation of the proposed development, the Developer shall submit a residential travel plan to the Local Planning Authority for approval in consultation with Essex County Council. Such approved travel plan shall then be actively implemented for a minimum period from first occupation of the development until 1 year after final occupation. It shall be accompanied by an annual monitoring fee of £1,533 per annum, index linked, (80-449 dwellings = £1,533 per annum) - dependant on size of development to be paid to Essex County Council. All fees are index-linked with the Government's Consumer Price Index (CPI).

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

8. Prior to the first occupation of the development, the existing speed limit terminal signs to the east of the site shall

be replaced and moved eastwards no more than 50 metres and provided with 30-mph carriageway roundel at the applicant's expense.

Reason: To protect highway efficiency of movement and safety and to ensure the proposal site is accessible, in accordance with policy DM1 and DM17.

Note: The developer will need to pay for the necessary Traffic Regulation Order in addition to the provision of the associated signing and lining.

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

Informative:

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

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

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

3: 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.

4: 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.

5: Any tree planting proposed within the highway must be agreed with the Highway Authority. Trees must be sited clear of all underground services and visibility splays and must be sympathetic to the street lighting scheme. All proposed tree planting must be supported by a commuted sum to cover the cost of future maintenance, to be agreed with the Highway Authority.

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

**ECC Highways
Additional
Comment
29/03/2022**

The sight line specification of 2.4 metres by 90 metres

1. With regard to forming the access the developer is able to utilise land which is either in their control or forms part of the public highway.

The reserved matters approval allows matters such as access for example which were 'reserved' at the time of the outline application to be agreed in principle. As indicated previously prior to the developer carrying out any works within the highway they will be required to enter into an agreement with the Highway Authority under Section 278 of the Highway Act. At this time the developer will submit detailed design drawings to the Highway Authority for further review and road safety audit. Matters such as drainage and statutory undertakers equipment will be addressed at this detailed design stage.

2. The sightlines are marked on the Highway Limits of Adoption drawing numbered 48737/C/003 Revision D. As indicated previously visibility measurements are taken at 2.4m back from the carriageway edge, this is deemed to be the position of a driver without the car bonnet encroaching into the carriageway. From this point 90 metre visibility splays are required in either direction along Weeley Road and these can be provided within public highway or land within the control of the developer. Sightlines are required not only for emerging vehicles from the site to see traffic on Weeley Road but also that vehicles on Weeley Road may have sufficient advance warning of any emerging vehicles and that they may come to a stop within the specified site stopping distance (SSD), in this case 90 metres.

The standards require that visibility splays are measured to the nearside carriageway edge on either side of the access/junction. The visibility splay effectively an envelope of visibility along the road and whilst 90 metres is shown to the west of the site access a tangential visibility splay of 2.4 metres by 41 metres is also shown. If this is provided in association with the 2.4 metre by 90 metre visibility splay this will provide a 'field' of vision to the west over the area between the two aforementioned visibility splays together with additional unencumbered visibility over the existing carriageway of Weeley Road.

Similarly to the west visibility will be available over all of the pink area forming part of the 2.4m by 90 metre visibility splay and the carriageway of Weeley Road.

**ECC Highways
Additional
Comment
30/03/2022**

As indicated previously recent speed survey data captured to the east of the proposed site access and bend supports this approach. The results of that survey indicated that a 2.4m x 93m visibility splay would be acceptable. (This survey was undertaken further east of the bend).

The planning condition sought by the Highway Authority for the proposed site access required visibility splays of 90 metres in each direction along Weeley measured from a 2.4 metre set back distance the position a typical car driver would be located at without encroaching onto Weeley Road). These visibility splays would accord with the requirements contained in the Design Manual for Roads and Bridges (DMRB) for a 30 mph speed limit. The DMRB provides design guidance for trunk roads and motorways. In more recent years additional design guidance on visibility splays has emerged within two documents known as the Manual for Streets 1 and 2. This covers lower speed areas including 30 mph speed limits but where speeds are below 37 mph. The Manual for Streets allows significant reductions for the length of visibility splays but in this particular case mindful of the location of the proposed site access and proximity to a change in speed limit from the National Speed limit of 60mph to 30 mph the Highway Authority have require the more onerous visibility standards contained in DMRB to be provided. Recent speed survey data captured to the west of the site access supports this approach. (the speed survey data that was carried out within the de-restricted section further east of the proposed development that was undertaken in May 2021, westbound average 85%ile speeds heading towards the proposed access were recorded at 43.7-mph)

Finally prior to the developer carrying out any works within the highway they will be required to enter into an agreement with the Highway Authority under Section 278 of the Highway

Act. At this time the developer will submit detailed design drawings to the Highway Authority for further review and Road Safety Audit which would ensure amongst other things that appropriate visibility splays are provided.

**ECC Highways
Additional
Comment
31/03/2022**

Regarding the parking arrangements for the two properties in Birch Avenue, the option of one parking space per property although not ideal should be acceptable as there is no existing kerb side parking stress within the cul-de-sac plus the village has good public transport links (railway station nearby) and we have to be mindful of the appeal decision that went before in association with this aspect of the application.

**ECC SuDS
21.02.2022**

Thank you for your email received on 4 February 2022 which provides this Council with the opportunity to assess and advise on the proposed surface water drainage strategy for the above mentioned planning application.

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

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

- Non-statutory technical standards for sustainable drainage systems**
- Essex County Council's (ECC's) adopted Sustainable Drainage Systems Design**

Guide

- The CIRIA SuDS Manual (C753)**
- BS8582 Code of practice for surface water management for development sites.**

Lead Local Flood Authority position

Having reviewed the Flood Risk Assessment and the associated documents which accompanied the planning application, we do not object to the granting of planning permission 21/00977/DETAIL.

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>

- Please note that the NPPF now states that the aim of sequential testing is to steer new development areas with the lowest risk of flooding from any source

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

Summary of Flood Risk Responsibilities for your Council

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

- Sequential Test in relation to fluvial flood risk;
- Safety of people (including the provision and adequacy of an emergency plan,

temporary refuge and rescue or evacuation arrangements);

- Safety of the building;
- Flood recovery measures (including flood proofing and other building level resistance and resilience measures);
- Sustainability of the development.

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

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

INFORMATIVES:

- Essex County Council has a duty to maintain a register and record of assets which have a significant impact on

the risk of flooding. In order to capture proposed SuDS which may form part of the future register, a copy of the SuDS assets in a GIS layer should be sent to suds@essex.gov.uk.

- Any drainage features proposed for adoption by Essex County Council should be consulted on with the relevant Highways Development Management Office.
- Changes to existing water courses may require separate consent under the Land Drainage Act before works take place. More information about consenting can be found in the attached standing advice note.
- It is the applicant's responsibility to check that they are complying with common law if the drainage scheme proposes to discharge into an off-site ditch/pipe. The applicant should seek consent where appropriate from other downstream riparian landowners.
- The Ministerial Statement made on 18th December 2014 (ref. HCWS161) states that the final decision regarding the viability and reasonableness of maintenance requirements lies with the LPA. It is not within the scope of the LLFA to comment on the overall viability of a scheme as the decision is based on a range of issues which are outside of this authority's area of expertise.

• We will advise on the acceptability of surface water and the information submitted on all planning applications submitted after the 15th of April 2015 based on the key documents listed within this letter. This includes applications which have been previously submitted as part of an earlier stage of the planning process and granted planning permission based on historic requirements. The Local Planning Authority should use the information submitted within this response in conjunction with any other relevant information submitted as part of this application or as part of preceding applications to make a balanced decision based on the available information.

TDC Building Control
16.07.2021

No adverse comments at this time.

Anglian Water Services Ltd
18.08.2021

Assets Affected

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

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

Foul Water

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

Surface Water

AW have reviewed the applicant's submitted surface water drainage information (Drainage Strategy) and have found that the proposed method of surface water discharge does not relate to an Anglian Water owned asset. As such, it is outside of our jurisdiction and AW are unable to provide comments on the suitability of the surface water discharge. The Local Planning Authority should seek the advice of the Lead Local Flood Authority or the Internal Drainage Board. The Environment Agency should be consulted if the drainage system directly or indirectly involves the discharge of water into a watercourse. Should the proposed method of surface water management change to include interaction with Anglian Water operated assets, we would wish to be re-consulted to ensure that an effective surface water drainage strategy is prepared and implemented. A connection to the public surface water sewer may only be permitted once the requirements of the surface water hierarchy as detailed in Building Regulations Part H have been satisfied. This will include evidence of the percolation test logs and investigations in to discharging the flows to a watercourse proven to be unfeasible.

TDC Waste
Management
01.12.2021

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

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

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

**Waste
Management
08.02.2022**

Access roads to be constructed to suitable standard to allow full access to 26 tonne, 2.5 metre wide collection vehicles.

TDC Housing
03/12/2021

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

**TDC Tree
Landscape
Officer
03.12.2021**

& In terms of soft landscaping the information provided by the applicant is comprehensive and shows a good level of new planting that is sufficient to soften, screen and enhance the appearance of the development.

The scheme includes the planting of approximately 100 new trees and makes provision for the planting and maintenance of boundary landscaping as a buffer zone between the new development and existing adjacent properties.

With regard to public concerns regard the two large mature oaks situated in the main body of the land; these trees were included in the tree report submitted by the applicant in support of the application. In addition to this I have visually inspected them on three separate occasions to assess their health and condition and to see if they could be retained.

Whilst the trees are clearly visible from the adjacent highway and are prominent features in their setting they have a limited safe useful life expectancy resulting from decay in the main stems of both trees. For this reason the trees do not meet the criteria under which they merit formal legal protection by means of a Tending District Council and consequently they are not a physical constraint on the development potential of the application site.

Essex Police
07/12/2021

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

The applicant and the Essex Police have been involved in constructive consultation; Essex Police is content the ethos of

ECC Ecology
09/12/2021

Crime Prevention Through Environmental Design (CPTED) is being addressed adequately within this development.

No objection subject to securing biodiversity mitigation and enhancement measures

Summary

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

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

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

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

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

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

The mitigation measures identified in the Preliminary Ecological Appraisal (EECOS, June 2021), Bat Surveys (EECOS, September 2021) and Reptile Survey (EECOS, September 2021) should be secured and implemented in full. This is necessary to conserve and

enhance protected and Priority species particularly bats, Badger, reptiles and nesting birds.

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

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

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

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

This will enable LPA to demonstrate its compliance with its statutory duties including its biodiversity duty under s40 NERC Act 2006 as updated by the Environment Act 2021.

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

ECC Ecology recommend that submission for approval and implementation of the details below should be a condition of any planning consent.

Recommended conditions

1. ACTION REQUIRED IN ACCORDANCE WITH ECOLOGICAL APPRAISAL RECOMMENDATIONS

"All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Preliminary Ecological Appraisal (EECOS, June 2021), Bat Surveys (EECOS, September 2021) and Reptile Survey (EECOS, September 2021) as already submitted with the planning application and agreed in principle with the local planning authority prior to determination.

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

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

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

4.

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

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

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

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

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

A Biodiversity Enhancement Layout, providing the finalised details and locations of the enhancement measures contained within the Preliminary Ecological Appraisal (EECOS, June 2021), Bat Surveys (EECOS, September 2021), Reptile Survey (EECOS, September 2021) and Biodiversity Net Gain Assessment (EECOS, December 2021), shall be submitted to and approved in writing by the local planning authority.

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

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

4. PRIOR TO OCCUPATION: LANDSCAPE AND ECOLOGICAL MANAGEMENT PLAN

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

The content of the LEMP shall include the following:

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

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

objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details.

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

5. PRIOR TO OCCUPATION: WILDLIFE SENSITIVE LIGHTING DESIGN SCHEME

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

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

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

ECC
Archaeology
29/03/2022

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

A number of cropmark complexes in the surrounding area attest to the archaeological potential of the area of the proposed development. These include ring-ditches of probable Bronze Age date, settlement enclosures and trackways of later prehistoric or Roman date and probable medieval field boundaries.

Archaeological investigation to the north has demonstrated the survival of medieval archaeological remains and residual prehistoric archaeological remains. Recent excavation less

than 500m to the north has revealed significant Late Iron Age/Roman activity, including weaving and metalworking, indicating a nearby settlement. Historic maps reveal a number of former field boundaries which are no longer extant and a historic pond, still visible through aerial photography.

Since the original application was submitted there has been a number of archaeological investigations carried out in the vicinity of the application site which has provided greater detail on the nature and survival of archaeological remains within the area. A Desk Based Assessment has been completed and a geophysics survey has been carried out within the site which has not identified any features of archaeological origin, the results of the geophysics will need to be assessed through a programme of targeted trial trench evaluation.

The following recommendations are made in line with the National Planning Policy Framework (Para 205):

RECOMMENDATION: Archaeological trial trench evaluation

1. No development or preliminary groundworks of any kind shall take place until a programme of archaeological investigation has been secured in accordance with a written scheme of investigation which has been submitted by the applicant, and approved in writing by the local planning authority.

2. No development or preliminary groundworks of any kind shall take place until the completion of the programme of archaeological investigation identified in the WSI defined in 1 above.

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

Public Open
Space
29/03/2022

We can confirm that we are happy with the proposed design and layout of the LAP and this will serve not only the proposed development but also cater for toddlers of the surrounding area. There is a LEAP on located at Heckfords Road in Great Bentley village which available for older children.

5. Representations

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

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

5.2 42 letters of objection have been received which raise the following concerns regarding the proposal:

- It does not respect the local context and street pattern and increases the density of building within what is currently an open countryside;
- building behind the established property lines of Weeley Road, Birch Avenue and Pine Close, there would be an unsympathetic change to the established character of the area;
- significant overshadowing and loss of privacy to the established properties;
- significant increase of traffic through the village green and Weeley Road to the highway network;
- Shair Lane junction to the A133 is not suited to the increase in traffic volume;
- additional traffic through the village, which already has significant traffic and parking issues;
- trees previously proposed for planting along the northern boundary have been removed from the plan;
- The link to Birch Avenue should be wide enough to provide a safe and convenient route for all users, pedestrians, cyclists, prams, mobility scooters;
- Visibility splays is a major safety issue for this access;
- A Restrictive Covenant is in place for 74 and 76 preventing any fencing beyond the front elevation of the houses;
- The access should conform to Highways guidance;
- There is a concentration of affordable housing on the north western area of the plot. Shouldn't these be equally distributed throughout the whole site?
- Residents of Pine Close who will be overlooked by properties built at the bottom of their short rear gardens;
- There is no proposed buffer zone and the laurels will be within the gardens of the new houses with nothing to stop the new residents pulling them up if they are so inclined. The buffer zone should be reinstated;
- There is no assurance that this planting will remain;
- The Inspector made his decision having had sight of a copy of option agreements to purchase 74 Birch Avenue and not based on an agreement to buy only the garage of 74 Birch Avenue;
- The property designs could be improved and a better palette of materials, textures and brickwork should be used;

- The surroundings roads are not suitable to cope with the extra traffic and dangers this brings, this will bring. The amenities are not sufficient;
- Noise will also be an issue with these plots gardens close to our boundary and our neighbours;
- All the small affordable housing squashed into one area backing the existing properties in Birch and Pine Close and all the larger aesthetically pleasing houses at the start of the main entrance;
- Great Bentley and the local area's infrastructure is already struggling;
- No benefit for the village of Great Bentley;
- Overlooking to neighbouring residential properties;
- Overdevelopment of the site;
- The application fails to adhere to condition 4 of the original outline approval;
- The access would face on the frontage of existing properties;
- Loss of trees and wildlife;
- There are road safety issues with the access and lack of visibility;
- Light Pollution of cars leaving the access;
- The sewage infrastructure cannot cope;
- Is there compensation for the residents effected?
- The properties living opposite the access to the site will not be able to safely leave their driveways;
- Most motorists go well over 30mph in this location;
- The development should be tree lined;
- There is not a biodiversity net gain;
- The houses are too large, not in line with the Strategic Housing Market Assessment;
- There are not clear visibility sight lines at the point of access;
- Condition 4d) of the original approval relating to Road improvements at the Heckford road and A133 junction has not taken place.
- There is no speed survey undertaken at the entrance to the site.
- There have been two serious accidents on the bend to the east of the site over the last 12 years.
- The visibility splays do not take into account the end in the road thus reducing thinking distances.
- There is a lack of planting
- Lack of consideration given to archaeological remains on site.
- There are no single storey buildings.
- Sewage concerns have not been taken into account.
- The proposed Children's Play Area often gets flooded
- **The access to Birch Avenue will leave two dwellings without any off road parking.**
- **Destruction of trees and vegetation within and around the site, loss of biodiversity, flora and fauna including the daffodils to the front of the site.**
- **Lack of one and two bed properties**
- **Insufficient planting on the northern (lack of trees in particular) and western boundaries**
- **Lack of integration of affordable housing through the scheme**
- **The link is not being included within the curtilage of 74 Birch Avenue**
- **There have been 2 serious crashes in the area in the last 12 years.**

- **Horse riders use this area and the additional traffic shall make it difficult for them.**
- **There is no speed survey taken at the access to Weeley Road**
- **Insufficient activities for recreation**
- **Lack of covered bike storage areas.**
- **Impact on parking within Birch Avenue with both 74 and 76 Birch Avenue losing parking spaces.**
- **How will the visibility splays be maintained.**
- **The dwellings opposite the entrance shall have to deal with 4 lanes of traffic rather than 2 they have at present.**
- **Due to the blockages in the drainage a condition for the pumping station to be upgraded should be introduced before works commence.**
- **The developers have also failed to explain how they will provide a two-metre wide footway along the Weeley Road frontage of the site**
- **How will this development will contribute to an enhanced quality of life for the residents of Great Bentley?**
- **The “local areas of play” and “informal recreation” seem to have been dropped by the developers from the headline of their latest Reserved Matters application**
- **The Local Area of Play is substandard in size and quality.**
- **The land to the east was indicated as Public open Space and is now only farm / agricultural land.**

6. Assessment

6.1 Site Context

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

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

6.4 Planning History

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

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

- 6.7 Also relevant is the variation in conditions Application 20/01176/OUT for the 'Removal of condition 4d for planning application 17/01881/OUT (allowed at appeal APP/P1560/W/19/3231554) as off-site works no longer required'. This was approved on 30.11.2020.
- 6.8 The original outline application was also approved with a signed Section 106 document to secure:

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

6.9 Proposal

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

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

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

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

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

6.14 **Separate to the host application, there is another application (21/00978/FUL) being considered on the neighbouring field to the east. This is for engineering operations required in support of the application for Reserved Matters including an attenuation basin, public footpath, access visibility and construction access. Only 21/00977/DETAIL is assessed in this report.**

6.15 Principle of Development

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

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

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

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

6.18 Condition 4 states:

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

Full details of access including the following measures:

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

Full details of appearance, including the following measures:

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

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

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

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

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

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

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

6.21 The applicant, Taylor Wimpey, has agreed terms to purchase the residential property to the north of the proposed link to Birch Avenue. Therefore, the constraint of third-party land that was previously restricting the width of the footpath and cycle connection has been resolved. The applicant is now able to comply with the condition applied to the outline consent. This is demonstrated in the amended plans submitted with this application.

6.22 Nonetheless, the principle of development for up to 136 dwellings has been agreed via the original outline approval of application 17/01881/OUT.

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

6.24 Assessment

6.25 The principal issues are:

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

6.26 Scale including Housing Mix and Affordable Housing Provision

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

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

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

30% of the total, this was confirmed in the appeal decision. Of this number, 12 or 30% are shared ownership and 29 or 70% are affordable rents.

- 6.29 All the affordable dwellings (41) are either 2 bed (34%) or 3 bed (66%) units. There are 95 market houses on the site, a schedule of the house types has been given by the applicant. Overall, both private and market housing have floor sizes equal to or in excess of, the national minimum floor size requirements. All of the proposed dwellings are two storeys in height, approximately half have single storey garages. Given the character of the surrounding area it is considered that the scale of development proposed is acceptable. Officers have no objection to the proposed housing mix on offer in this rural edge location.
- 6.30 The application was deferred from the December 2021 Planning Committee to address Policy LP5 which states ‘...to avoid an over-concentration of council housing in one location, no single group of council houses will exceed ten dwellings’. The applicant is reluctant to change the affordable housing provision which currently demonstrates that no more than 10 Affordable units are clustered together. The appearance of these dwellings is not dissimilar to the market dwellings on site. Officers accept the positioning and form of these units and do not consider the arrangement to be contrary to Policy LP5. TDC Housing have also confirmed they accept the affordable housing mix and the tenure split.**
- 6.31 Appearance
- 6.32 All of the houses are of an attractive functional modern design. They are all between 2 - 5 bedroom proportions, mostly semi-detached and detached houses with 5 dwelling plots forming short 3 dwelling terraces. The different houses types benefit from features such as, porches, soldier courses above and below the windows, front gable projections, some with external chimney stacks and occasional bay windows. There is also the very positive use of render and Hardiplank Cladding Weatherboarding, an Essex tradition, in both Black and White on approximately 8% of the properties and in some cases on the garages themselves.
- 6.33 These materials are found in the surrounding areas and will help the development assimilate into the area and help create a ‘sense of place’. The roof tiles shall be either a plain red roof tile, dark brown plain tile or a reconstituted Slate. The proposed mix will ensure variety and visual interest across the development.
- 6.34 Officers recommend a condition is attached to the decision to see samples of all the materials, before development can commence. The outline parameter plan for landscaping and layout has been closely adhered to and there is no reason to conclude the proposed appearance of the buildings, would create any harm to the setting of any of the neighbouring residential units. This conclusion is strengthened via the positive landscape buffers, discussed further in the Landscaping section below.
- 6.35 Within the appeal decision the Inspector noted that whilst the Conservation Area adjoins the north-western corner of the site, ‘any impact is localised and negligible’. Officers do not consider the development would cause any harm to the Conservation Area, especially given the landscaping offset that has been factored into the layout. The conclusion of the Inspector remain relevant here, in that the development before

members would have a neutral impact on the setting of the nearby Heritage assets and no objection is raised on harm to the nearby heritage assets.

- 6.36 All of the proposed dwellings address the street, to create an active street frontage. There are some dwellings which also have side elevations that face onto the street or footpaths. These elevations are either set back from the street or in less prominent locations within the development and are therefore considered to be acceptable and not result in any adverse impact. **The applicant has made some minor amendments to the scheme including the repositioning of some car parking to allow the required electric vehicle charging infrastructure. In addition, Plots 3 and 4 facing Weeley Road have been enhanced to improve the street scene. The roof now incorporates a gable and render has been added to the front elevation.**
- 6.37 The proposed dwellings are all two storey in height and are of a functional modern design with appropriate detailing; it is considered that they would not be out of character with the surrounding area. Subject to planning conditions, the appearance of the buildings will be reflective of the vernacular and styles found locally and ultimately officers do not object to their appearance. It is, therefore considered that the detailed design and appearance of the proposed dwellings is acceptable.
- 6.38 Layout
- 6.39 The original outline planning permission was for up to 136 dwellings. This application seeks to achieve 136 dwellings on site. The entire site covers an area of 7.7 hectares, therefore, across the site a net density of 17.8 dwellings per hectare is achieved. It is considered that this low housing density in keeping with the semi-rural nature of the site and lower than the minimum density that is generally required under Policy LP3 of the Local Plan. Part of the reason this figure is achieved is due to the drainage features being located on the neighbouring field to the east.
- 6.40 The road and footway widths are all accepted by ECC Highways, ensuring that the internal road layout can safely and comfortably accommodate emergency services, waste collection services etc. All of the houses would benefit from a combination of either garaging and or surface parking, which in all instances would be compliant with parking standards. The application is fully policy compliant in terms of garden sizes and internal room sizes, no objection on layout is raised. All the plots are provided with areas for bin and cycle provision (this shall be secured via planning condition) and meet the National Minimum Floor size allowances. **The plots without garages have sheds to the rear, controlled by Planning condition.**
- 6.41 To the west of the site on the opposite side of Birch Avenue and Pine Close, there will be some overlooking towards the rear of these properties, however, given the distance of separation and intervening vegetation it is not considered that any overlooking would be significant. Equally, this conclusion would be true in terms of impact on the existing properties to the south of Weeley Road that back onto the site. **However, the two dwellings closest to the western boundary, namely Plots 33 and 47, that are side on the boundary. Are recommended to have the Permitted Development Rights for additional west facing windows both at first floor and within the roof space removed, to achieve satisfactory residential amenity levels.**

- 6.42 It is accepted that there will be some noise and disturbance to neighbouring residents during the construction phase, however, there is a condition on the outline consent that requires a Construction Method Statement to be submitted and adhered to. Overall, residential amenity for future residents would be acceptable having regard to overlooking, overshadowing or over dominance. There has been a suggestion to remove permitted development rights for roof extensions in the properties that back on to Birch Avenue and Pine Close, however, the offset from the boundary and in time the 5m wide tree belt (landscape buffer) shall minimise any potential concerns in this regard. As such, it has not been recommended that Permitted Development Rights for loft conversions be removed.
- 6.43 As established, all the dwellings are two-storey dwellings and intelligently laid out. This is positive for on street surveillance, that is achieved in all aspects of the site. In particular overlooking the Local Area of Play and the footpath link to Birch Avenue. With regard to the footpath to Birch Avenue, the applicant shall include maintenance of the footpath into the management scheme for the public open space. Officers also recommend, notwithstanding the details on the plans, a further lighting condition be attached to ensure suitable illumination of this area and the site as a whole. The revisions to the plans have been fully supported by Essex Police.
- 6.44 The wider site layout is arranged around five character areas.
1. Public Frontage
 2. Central Green
 3. Rural Frontage
 4. Central Streets
 5. Private Mews
- 6.45 There is a higher density within the Central Streets and Private Mews areas to the west of the development. The central, southern and eastern areas, including the Public Frontage (opposite Weeley Road), known as the Central Green and Rural Frontage are less densely grouped together, with more space between the dwellings. These varied but simple modern designed streetscapes demonstrate a positive design response, which assists in breaking up the built form on this more sensitive rural edge location. The differing areas provide focal points within the scheme, help to give a differing sense of place and wayfinding. As well as the landscape buffers, additional trees are being planted at the entrance by Weeley Road, by the central open space and along the southern boundary. This all helps soften a pleasant semi-rural spacious organic layout. As highlighted above, the drainage features on the east field help with this arrangement.
- 6.46 Importantly, the layout follows closely the Parameter Plan agreed via the outline appeal decision. Condition No. 3 of the outline consent requires:
- ‘The proposed development shall be carried out in accordance with the following approved plans: 9000 Rev A (Site Location Plan) and 9600 Rev A (Parameter Plan - Land Use) but only in respect of those matters not reserved for later approval’*
- 6.47 The proposed development is in accordance with the Parameter Plan and therefore meets this condition. Parking is provided either to the front or sides of the dwellings, they are situated in small clusters, in appropriate locations throughout the site and therefore

do not dominate the proposed development. In conclusion, there is no objection to the layout of the proposed development.

6.48 There has been some comments received about the size of the Local Area for Play (LAP). These features are classified as a small area of open space specifically designated and primarily laid out for very young children (4 to 6 years of age) to play close to where they live. The area should be appropriate for low-key games; flat and level with grass surfacing. The recommended minimum size is 100m² (in the Open Space Supplementary Planning Document 2008). The host LAP is 113m² being circular in nature. There was no planning condition requiring a certain size. Also, there is a generous area of grass land around this feature that could be used for the young children and their guardians. Overall, Officers are content with what is proposed. The area is not designed for older children who may wish to use The Green, that includes a LEAP (behind the Doctors Surgery), to the west of the site within Great Bentley itself. This Open Space is some 12 hectares in size in total. As a point of reference, a Local Equipped Area for Play (LEAP) is an area of open space specifically designated and laid out with features including equipment for children who are beginning to go out and play independently close to where they live. This was not intended for the host site. ECC Suds have been made aware of the drainage issues in this area where the LAP will be positioned and are assessing the appropriate measures accordingly via a separate discharge of condition application. The host development provides for the 10% Public Open Space requirement that can be used for 'informal recreation'. The Public Open Space Officer has not objected to the proposals including the content of the LAP proposed.

6.49 Landscaping

6.50 The outline approval included a Landscape Parameter Plan '9600 Rev A (*Parameter Plan - Land Use*)'. The Reserved Matters are in accordance with this plan.

6.51 Overall, the landscape provided is in conformity with the outline plan, the only difference is that there is a proposed attenuation basin in the eastern section of the neighbouring site, whereas in the Landscape Parameter Plan all the attenuation basins were on the southern side of the site. The revised plans have included a landscape buffer to the west of the site where tree planting shall take place and a landscape buffer to the north of the site adjacent to the existing properties on the southern side of Weeley Road. On the Parameter Plan, the northern landscape buffer adjacent to the existing properties on Weeley Road is narrower than that of the western landscape buffer. The amended plans have a fenced off private landscape buffer to the north and west of the site.

6.52 The dedicated northern landscape buffer is 3m wide and shall allow for a hedge line to be established. Officers recommend a condition that this hedge once developed should be maintained at a height of at least 2.5 metres. The trees have been taken out of this section due to concerns over long term maintenance, they were also previously in the garden areas of the proposed plots. The western landscape buffer is also now fenced off and within private ownership. This buffer is wider on the Parameter Plan and 5m wide on the plans. This allows for tree planting to take place as there is room for maintenance.

6.53 There remains 10% Public Open Space (including a Local Area for Play, three public green spaces, and a pedestrian path to the Public Footpath 11 in the northwest of the site) and 12% Landscaping (including the landscaping buffers). Officers consider the level of Public Open Space and landscaping provided on site to be acceptable. Furthermore, there is no objection to the provision of an attenuation basin to the east of the site, although that is assessed more fully via application 21/00978/FUL. All the Public Open Space, communal Landscaping (including the buffers to the north and west), along with the Footpath Link to Birch Avenue are to be managed by a private Management Company. The legal agreement, subject to an approval to this recommendation, shall be updated to include the landscaping buffers to the north and west and well as maintenance of the footpath link to Birch Avenue.

6.54 The Council's Landscape Officer has fully supported the comprehensive detailed planting proposals, that includes a good mix of tree, shrub and hedgerow species along with ferns and herbaceous species to provide interest and colour. Officers recommend that conditions be imposed to secure landscaping replacement within 5 years should planting not survive. There is a comment on the landscaping plans for the northern section next to the existing properties on Weeley Road that says:

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

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

6.55 With regard to the possible retention of the two large mature Oaks situated in the western portion of the site. The trees were included in the tree report submitted by the applicant in support of the application. They have both been classified as B-category trees due to the presence of decay at the base of each tree. In addition, the Council's Tree and Landscape Officer has visually inspected these trees on three separate occasions to assess their health and condition and to see if they could be retained.

The Tree and Landscape Officer has concluded that whilst the trees are clearly visible from the adjacent highway and are prominent features in their setting, they have a limited, safe, useful life expectancy, resulting from decay in the main stems of both trees. For this reason, the trees do not meet the criteria under which they merit formal legal protection by means of a Tree Preservation Order. Consequently the Tree and Landscape Officer has concluded, they are not a physical constraint on the development potential of the application site.

The landscaping proposals for the site include provision for over 100 new trees to be planted, comprising a range of species and including a number of Oak trees. Furthermore, there is 10% Public Open Space and 12% Landscaping across the site. Given these factors, Officers conclude the proposed loss of the two Oaks in the main field are not considered objectional in this case.

Natural England have confirmed no objections to the application on the 20th December 2021. They advise: '*...that an appropriate planning condition or obligation is attached to any planning permission to secure the on-site mitigation measures, including links to footpaths in the surrounding area. The financial*

contribution (as index linked) should be secured through an appropriate and legally binding agreement, in order to ensure no adverse effect on integrity.'

All these measures have been included in the recommendation. As an aside, the land to the east of the site was not included as Public Open Space on the approved Parameters Plan at appeal stage. Nor was this land conditioned to be Public Open Space. Therefore, Officers have no objections to its use as agricultural land.

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

6.57 Access

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

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

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

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

Full details of access including the following measures:

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

- d) *Improvements to the junction of Heckfords Road and the A133, to include appropriate lining and signage, two number traffic islands and high level beacons;*
- e) *The provision of a 0.5 metre wide overhang strip adjacent to the carriageway.'*

6.61 The revised plans (including the landscaping) have included all these details as required by the outline planning condition. ECC Highways have carefully assessed the plans submitted including the Adoptable Limits Plan that includes the visibility splays. They have confirmed no objections to the Highway access arrangements. There is a section of the visibility splay that is outside the red line boundary of the host site, namely the section to the west of the access to Weeley Road. However, this can be covered by a section 278 agreement of the Highways Act 1980 that allows developers to enter into a legal agreement with Essex Highways to make permanent alterations or improvements to a public highway, as part of a planning approval. **This shall also allow for paving to the north of the site to connect with the existing pavement on the north of Weeley Road, via tactile 'dropped paving'**. As such, Officers have no objections to the access from Weeley Road as these deal with the required elements of condition 4 of the outline approval.

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

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

'No development shall commence until details of the:

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

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

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

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

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

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

- 6.65 This 'link' is clearly between the properties of 74 and 76 Birch Avenue, indeed it is within the Red line Site plan of the original application, Drawing Number: 9000 Rev A. Therefore, this shows that the 'link' was intended to be between 74 and 76 Birch Avenue. The initial outline application 17/01881/OUT included part of 76 Birch Avenue within the red line boundary (notice was served on 76 Birch Avenue). **The applicant, Taylor Wimpey, has agreed terms to purchase the residential property to the north of the proposed link to Birch Avenue (76 Birch Avenue). Therefore, the constraint of third-party land that was previously restricting the width of the footpath and cycle connection has been resolved. The applicant is now able to comply with the condition applied to the outline consent that said the link would be within the curtilage of 74 Birch Avenue and be 3 metres in width. However, the red line of the original Perimeters Plan and Site Plan is clearly shown between the boundaries of 74 and 76 Birch Avenue. As previously experienced via refused application 21/01257/OUT, a 3 metre path cannot be solely achieved within the curtilage of 74 Birch Avenue. Importantly, the outline condition does not limit the location of the path to being 'only' or 'exclusively' within the curtilage of 74 Birch Avenue. Therefore, the use of 76 Birch Avenue to accommodate this path is also considered acceptable in this instance. Especially given the previous difficulties experienced in achieving a 3 metre path solely within the curtilage of 74 Birch Avenue via application 21/01257/OUT.**
- 6.66 **The amended plans submitted with this application demonstrate there is a minimum of 1 metre from the fence to the residential dwellings to the north and south of the path, allowing for servicing purposes. The link itself is 3 metres wide with an approximate 0.3m either side before the fence for drainage. There are no objections to the design of the link and this is considered to fulfil the requirements of the outline planning conditions. Both 74 and 76 Birch Avenue would lose 1 parking space however, both dwellings can park one car off street in front of their houses. ECC Highways do not object to this arrangement citing the nearby train station, ability to park on street in quiet cul de sac location, and the principle for a link to Birch Avenue being agreed at the appeal stage.**
- 6.67 **With regards to the impact of the footpath on residential amenity with the most effected neighbours at 74 and 76 Birch Avenue. The principle of the link was accepted by the Appeal Inspector. The issue of how to best erect a boundary treatment between the two sides has to be addressed as part of this application. What has been put forward is in Officers option the best option for retaining privacy, accessing household services, ensuring highway safety and ultimately, pedestrian /cycle management, through the link to the footpaths beyond. Officers are aware of a legal 'covenant' set when the properties on Birch Avenue were first built forbidding any fencing built forward of the front building line. However, this is civil matter and has no bearing on Planning law or the decision making in this case.**

- 6.68 The maintenance of the 'link' including the fencing and any upkeep required will be transferred to a management company. This shall be included within the updated legal agreements. Notwithstanding the details on the plans, officers suggest a further lighting condition to assess the details of the lighting in the area especially once within the host site itself. In terms of drainage, this would still be covered by the original drainage condition (no. 7) of the outline permission.
- 6.69 The Highway Authority has confirmed that they have no objection to the application as submitted from an access and highway layout perspective. The internal road widths and pavement widths have been checked and are considered acceptable; as is the quantum of parking. Essex County Council Highways have recommended the following conditions:
- Development to be in accordance with the submitted plans
 - To ensure adequate visibility splays are provided and maintained.
 - To require further details of the layout, levels, gradients, surfacing, traffic calming and means of surface water drainage.
 - To ensure any proposed boundary planting is a minimum of 1 metre back from the highway boundary and any visibility splay.
 - To ensure the provision of car parking and turning areas prior to first occupation.
 - Provision of cycle parking for those properties without a garage
 - Construction Management Plan
 - Residential Travel Plan
 - The moving of the 30 mph sign 50 metres to the east.
- 6.70 All of the above conditions are recommended to be imposed other than the Residential Travel Plan as this was imposed at outline stage.
- 6.71 **The Highway Authority, ECC Highways, have requested visibility splays of 90 metres in each direction from the proposed access with Weeley Road. This splay should be measured from a 2.4 metre set back distance. These visibility splays would accord with the requirements contained in the Design Manual for Roads and Bridges (DMRB). In this particular, case mindful of the location of the proposed site access and proximity to a change in speed limit from the National Speed limit of 60mph to 30 mph. The Highway Authority have required the more onerous visibility standards contained in DMRB to be provided. Rather than the 57 metre visibility requirement for traffic speeds of up to 37 mph in the Manual for Streets (2007).**
- 6.72 **ECC Highways have proposed conditions that require the implementation of appropriate visibility splays from the outset of the development, as well as those that ensure they are kept clear and free of planting in perpetuity. The visibility splay land will be offered up for adoption by the Highway Authority. Also, a sperate condition is included to move the existing 30 mph sign, 50 metres to the east, therefore extending the 30mph zone into Great Bentley from the east.**
- 6.73 **Finally, prior to the developer carrying out any works within the highway the applicant will be required to enter into an agreement with the Highway Authority under Section 278 of the Highway Act. At this time the developer will submit detailed design drawings to the Highway Authority for further review and a Road Safety Audit which would ensure amongst other things that appropriate visibility**

splays are provided. Subject to the recommended planning conditions, no objections are raised regarding the visibility splays from Officers.

- 6.74 Separate to this, there is a recent speed survey carried out in May 2021 to the east of the entrance road. The data from this formed the rationale behind the temporary Construction Site Access associated with the second application on the neighbouring site, 21/00978/FUL.
- 6.75 This speed survey captured speeds of 43.7-mph when using the average 85thile speeds, for traffic entering into Great Bentley from the east (east to west). However, the point at which the survey was carried out is some 200m from the proposed entrance to the host site. The location of this speed survey is therefore well within the 60 mph speed limit area. At that point the absolute minimum visibility splays recommended for west bound traffic was 97m and a maximum of 124.2m. Furthermore, ECC Highways have confirmed that there has only been one slight accident on the long bend of Weeley Road to the east of the host site, in the last 10 years. Although members of the Public cite 2 accidents in 12 years.
- 6.76 Nevertheless, Officers would stress that the proposed access location is within the 30 mph zone for Great Bentley. The existing 30mph sign is approximately 50 metres to the east of the centre point of the proposed site entrance. Subsequently, the 90 metre visibility splay is considered acceptable in this instance. (Noting that Manual for Streets suggests a 57 metre splay with traffic speeds at 37 mph).
- 6.77 ECC Highways have recommended a further planning condition to move the existing 30 mph sign, an additional 50 to the east. However, this is subject to a separate Traffic Regulation Order / assessment before ECC Highways can confirm the move. What is important to remember in this case is that ECC Highways are satisfied even if the status quo remains in terms of street signage and 30 mph sign locations. The submitted 90 metre visibility splays requested are both deliverable in practice and more than sufficient in length to maintain highway safety.
- 6.78 Separately Officers recommend that the 'Welcome to Great Bentley Signs' that are currently in the same location as the existing 30 mph sign are moved 50 metres the east. These signs are on highway land and the signs can be moved. As such if the 30 mph sign remains in place (if the TRO does not permit the 30 mph sign to be moved). Only a single 30 mph sign shall remain in that location. Therefore, improving visibility in that area.

Overall, there are no objections to the development in relation to Access matters.

6.79 Biodiversity

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

- 6.81 The mitigation described in the Appropriate Assessment, being a combination of on-site measures (circular dog walking routes and/or links to the surrounding public rights of way (PRoW); in addition to signage/leaflets to householders to promote these areas for recreation; dog waste bins). There are also connections to the Off-Site public rights of way.
- 6.82 Having considered the proposed avoidance and mitigation measures above, Tendring District Council conclude that with mitigation the project will not have an Adverse Effect on the Integrity of the European sites included within the Essex Coast RAMS. This conclusion has been shared by Natural England, however at the time of writing their formal response has not been received, This shall be updated at the time of Committee.
- 6.83 As well as the onsite landscaping and landscape buffers, off-site habitat proposals have been included within the landscaping plans to achieve at least 10% Biodiversity Net Gain. This includes the SUD drainage basin immediately south-east outside the planning application boundary and additional associated wildflower grassland and mixed native shrub planting across 0.8 hectares of new habitat within existing arable land. This provides an additional 6.9 habitat units. The total change from the current baseline is therefore +1.84 habitat units or +12.34% Biodiversity Net Gain. These findings have been accepted by officers and no objection is raised. There have been no objections from ECC Ecology who have a number of suggested planning conditions relating to ecological enhancements. These have been included in the recommendation.
- 6.84 The applicant has provided full details of appearance, of the bat roost features to be incorporated into the fabric of the dwellings, in accordance with the recommendation made at Paragraph 6.8 of the applicant's Preliminary Ecological Assessment (October 2017). Also, this is in accordance with the outline planning condition 4 i). Indeed, ECC Ecology have confirmed all the ecological conditions of the Appeal for the outline application (ref APP/P1560/W/19/3231554) have been met; updated bat surveys have been undertaken, integrated bat boxes have been included in the design and precautionary measures for vegetation clearance on site have been set out. Subsequently, no objection is raised.
- 6.85 Drainage
- 6.86 At the appeal stage, a surface water scheme had been proposed which demonstrates that surface water management is achievable in principle and conditions have been imposed requiring further details. Namely Condition 6 relating to Foul Water Strategy, Condition 7 relating to Surface Water Drainage, Condition 8 relating to Surface Water Runoff and Condition 9 relating to Surface Water Drainage Management of application 17/01881/OUT (approved on appeal APP/P1506/W/19/ 3231554).
- 6.87 These details shall be assessed separately prior to commencement of development and are not up for consideration under this Reserved Matters application. Condition 7 (Surface Water Drainage) is being assessed under application 21/02025/DISCON. This is not yet discharged. The location of land in the centre of the site, proposed for the LAP, that is prone to flood, is known to ECC Suds and they are assessing this element of the surface water drainage arrangements accordingly.**

- 6.88 As part of this application the applicant has moved the attention basins to the eastern field. This is being dealt with via application 21/00978/FUL.
- 6.89 Essex County Council Flood and Water Management Team have no objection other than to recommend a legal agreement be put in place for the long-term maintenance of the drainage feature outside of the red line boundary. This has been recommended in the updated legal agreement. Anglian Water, have also been consulted on the application, and raise no objection to the details submitted at this stage. Anglian Water originally did not object to this development and stated the Thorrington Water Recycling Centre has the capacity to deal with this development.
- 6.90 Accessibility and Adaptability
- 6.91 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'.
- 6.92 All properties meet Nationally Described Space Standards, and M4(2) and M4(3) properties are provided, in line with the policy expectation.
- 6.93 Renewable Energy Provision
- 6.94 The emerging policies on such matters, include SPL3 Sustainable Design, PPL5 Water conservation, drainage and sewage and most critically, PPL10 Renewable Energy Generation. These policies will make it local policy to provide energy saving measures that could include renewables energy provision on all new residential developments.
- 6.95 Consequently, when assessing PPL10 Renewable Energy Generation in particular, the applicant has provided a 'Energy and Sustainability Statement'. This attempts to fulfil the emerging policy PPL10. This emerging Policy is given considerable weight due to the advance nature of the adoption process of the emerging plan and lack of objections to the policy. The Local Planning Department welcomes the report from the applicant that suggests 23.8% energy savings will be obtained on site. This is more than the minimum 20% the LPA normally require.
- 6.96 The Energy Statement provides information stating Solar Photovoltaics are most suitable for the proposal, however there are no plans stating how the panels will be arranged.
- 6.97 Therefore, the LPA recommends the following condition:

'Notwithstanding the details contained within the submitted Energy Statement, prior to the occupation of any dwelling a scheme and plans detailing how a minimum of 20% of the energy needs generated by the development can be achieved through renewable energy sources shall be submitted to and approved in writing by the local

planning authority. The scheme shall detail the anticipated energy needs of the scheme, the specific renewable 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.'

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

6.99 Archaeology

A Desk Based Assessment has been completed and a geophysics survey has been carried out within the site which has not identified any features of archaeological origin, the results of the geophysics will need to be assessed through a programme of targeted trial trench evaluation. ECC Archaeology have recommended stage conditions relating to Archaeology to be included in the recommendation.

6.100 S106 of the Town and Country Planning Act 1990

6.101 A legal agreement was secured at outline stage requiring:

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

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

Drainage

- ensuring the drainage feature outside the red line boundary (subject to application 21/00978/FUL) is linked to this application and has to be constructed and fully operational before any dwelling on the host site is occupied.
- the long-term maintenance of the drainage feature outside of the red line boundary (subject to application 21/00978/FUL)

Landscape Management Company to include maintenance of:

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

6.103 Other Matters

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

7. Conclusion

7.1 As established through the granting of outline application 17/01181/OUT, at appeal, the principle of residential development for up to 136 dwellings on this site is acceptable. This scheme provides a range of housing within landscaped surroundings to create safe, attractive and characterful streets. The appearance does not feel cramped or overdeveloped. The detailed design, appearance, layout, landscaping, access and scale are considered acceptable. The proposal would result in no material harm to residential amenity or highway safety.

7.2 The new homes have policy compliant private gardens, sufficient off-street parking provision and include capacity for the storage of cycles and refuse. Sustainable drainage has been utilised to manage surface water runoff and the highways are designed to meet the necessary safety standards and compliment the different character areas of the site. The landscaped perimeter of the site will provide benefits for local biodiversity, help with lessening the impact on residential amenity as well as retaining the character of Great Bentley.

7.3 Ultimately, the proposals bring forward much-needed housing in a manner that is considered a sympathetic and high-quality addition to Great Bentley. The proposal is considered compliant with the parameter plans as set out and approved at Outline stage. The application is, therefore recommended for approval subject to a legal agreement updates and planning conditions listed below.

8 Recommendation

8.1 The Planning Committee is recommended to grant planning permission subject to the following conditions and informatives and the prior completion of a section 106 legal agreement with the agreed Heads of Terms, as set out in the table below:

CATEGORY	TERMS
Drainage	<ul style="list-style-type: none"> • ensuring the drainage feature outside the red line boundary (subject to application 21/00978/FUL) is linked to this application and has to be

	<p>constructed and fully operational before any dwelling on the host site is occupied.</p> <ul style="list-style-type: none"> the long-term maintenance of the drainage feature outside of the red line boundary (subject to application 21/00978/FUL)
Landscape Management Company to include maintenance of:	<ul style="list-style-type: none"> Link Path to Birch Avenue including fencing Non adoptable Highway (roads and pavements) Landscaping Buffers and wider landscaping including pedestrian link to the North East) Public Open space

8.2 Conditions and Reasons

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

21.5138.08 p	Amended soft landscape proposals overall
20.1464.300 n	Amended proposed parking layout plan
20.1464.301 m	Amended proposed density plan
20.1464.303 n	Amended proposed garden area and depth plan
20.1464.304 n	Amended proposed refuse strategy plan
20.1464.306 n	Amended proposed affordable housing plan
20.1464.307 m	Amended proposed distribution plan
20.1464.308 l	Amended affordable cluster plan
20.1464.560	Amended house type 3b m4(3) plans and elevations
21.5138.09	Amended suds area
20.1464.309 h	Amended adaptable and accessible dwellings plan
48737/c/001 d	Amended alignment contours
48737/c/002 d	Amended drainage layout
48737/c/003 e	Amended highway limits of adoption
20.1464.100 aa	Amended proposed site layout plan
20.1464.302 q	Amended proposed material plan
20.1464.305 m	Amended proposed storey height plan
20.1464.311 h	Amended land uses plan
48737/c/006 n	Amended footpath to birch avenue
22 Dec 2021	Amended schedule of accommodation
20.1464.423 a	House type na32 (byford) - variant 4 plans and elevations

20.1464.421 a and elevations	Amended ht na32 byford (variant 2) - proposed floor plans
20.1464.434 a	Amended ht na43 lanford (variant 3) - proposed floor plans
20.1464.435 a	Amended ht na43 lanford (variant 3) - proposed elevations
20.1464.440	Amended ht na44 manford (variant 1) - proposed floor plans
20.1464.441	Amended ht na44 manford (variant 1) - proposed elevations
20.1464.442	Amended ht na44 manford (variant 2) - proposed floor plans
20.1464.443	Amended ht na44 manford (variant 2) - proposed elevations
20.1464.450	Amended ht na51 wayford (variant 1) - proposed floor plans
20.1464.451	Amended ht na51 wayford (variant 1) - proposed elevations
20.1464.460	Amended ht nt30 ardale (variant 1) - proposed floor plans
20.1464.461	Amended ht nt30 ardale (variant 1) - proposed elevations
20.1464.462	Amended ht nt30 ardale (variant 2) - proposed floor plans
20.1464.481	Amended ht nt42 waysdale (variant 1) - proposed elevations
20.1464.482 a	Amended ht nt42 waysdale (variant 2) - proposed floor plans
20.1464.483 a	Amended ht nt42 waysdale (variant 2) - proposed elevations
20.1464.484 b	Amended ht nt42 waysdale (variant 3) - proposed floor plans
20.1464.485 b	Amended ht nt42 waysdale (variant 3) - proposed elevations
20.1464.494	Amended ht woodman (variant 3) - proposed floor plans
20.1464.403	Amended ht na22 blandford (variant 4) - proposed floor plans and elevations
20.1464.402	Amended ht na22 blandford (variant 3) - proposed floor plans and elevations
20.1464.401 a	Amended ht na22 blandford (variant 2) - proposed floor plans and elevations
20.1464.400 a	Amended ht na22 blandford (variant 1) - proposed floor plans and elevations
20.1464.410 a and elevations	Amended ht na34 colrford (variant 1) - proposed floor plans
20.1464.411 a and elevations	Amended ht na34 colrford (variant 2) - proposed floor plans
20.1464.412 and elevations	Amended ht na34 colrford (variant 3) - proposed floor plans
20.1464.413 and elevations	Amended ht na34 colrford (variant 4) - proposed floor plans
20.1464.422 and elevations	Amended ht na32 byford (variant 3) - proposed floor plans
20.1464.430	Amended ht na43 lanford (variant 1) - proposed floor plans
20.1464.431	Amended ht na43 lanford (variant 1) - proposed elevations
20.1464.432 a	Amended ht na43 lanford (variant 2) - proposed floor plans
20.1464.433 a	Amended ht na43 lanford (variant 2) - proposed elevations
20.1464.463	Amended ht nt30 ardale (variant 2) - proposed elevations
20.1464.464 a	Amended ht nt30 ardale (variant 3) - proposed floor plans
20.1464.465 a	Amended ht nt30 ardale (variant 3) - proposed elevations
20.1464.466	Amended ht nt30 ardale (variant 4) - proposed floor plans
20.1464.467	Amended ht nt30 ardale (variant 4) - proposed elevations
20.1464.470 a	Amended ht nt31 kingdale (variant 1) - proposed floor plans
20.1464.471 a	Amended ht nt31 kingdale (variant 1) - proposed elevations
20.1464.472	Amended ht nt31 kingdale (variant 2) - proposed floor plans
20.1464.473	Amended ht nt31 kingdale (variant 2) - proposed elevations

20.1464.480 Amended ht nt42 waysdale (variant 1) - proposed floor plans
 20.1464.495 Amended ht woodman (variant 3) - proposed elevations
 20.1464.496 Amended ht woodman (variant 4) - proposed floor plans
 20.1464.497 Amended ht woodman (variant 4) - proposed elevations
 20.1464.550 a Amended garages - proposed floor plans and elevations
 20.1464.420 Amended ht na32 byford (variant 1) - proposed floor plans
 and elevations

20.1464.490 Amended ht woodman (variant 1) - proposed floor plans
 20.1464.491 Amended ht woodman (variant 1) - proposed elevations
 20.1464.492 Amended ht woodman (variant 2) - proposed floor plans
 20.1464.493 Amended ht woodman (variant 2) - proposed elevations

20.5168.d1 1fr bat tube - (schwegler) standard arrangement

Shared ownership and affordable rent plots Received 30 Nov 2021
 Energy and sustainability statement Received 15 Nov 2021

Preliminary Ecological Appraisal (EECOS, June 2021)
 Bat Surveys (EECOS, September 2021)
 Reptile Survey (EECOS, September 2021)
 Biodiversity Net Gain Assessment (EECOS, December 2021)

Tree survey Received 01 Jul 2021
 Tree survey and impact assessment Received 01 Jul 2021
 1604-kc-xx-ytree-tpp01rev0 Tree protection plan
 1604-kc-xx-ytree-tcp01rev0 Tree constraints plan
 Archelogy Desk Based Assessment (RPS Dated 17 Feb 2022)
 Geophysical Survey Report (Sumo Dated 09 March 2022)

21.5138.07 j Amended soft landscape proposals (sheet 7 of 7)
 21.5138.01 l Amended soft landscape proposals (sheet 1 of 7)
 21.5138.04 o Amended soft landscape proposals (sheet 4 of 7)
 21.5138.05 i Amended soft landscape proposals (sheet 5 of 7)
 21.5138.06 j Amended soft landscape proposals (sheet 6 of 7)
 21.5138.02 n Amended soft landscape proposals (sheet 2 of 7)
 21.5138.03 l Amended soft landscape proposals (sheet 3 of 7)

20.1462.030 c Site plan

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

- As indicated on drawing no. 48737/C/003 E and prior to occupation of the development, the road junction / access at its centre line shall be provided with a minimum clear to ground visibility splay dimensions of 2.4 metres by 90 metres in both directions, as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the road junction / access is first used by vehicular traffic and retained free of 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.

- 3. Prior to the occupation of any of the proposed development the internal road site access and footway layout shall be provided in principle and accord with drawing numbers:**
 - **20.1464.100 AA** Amended proposed site layout.
 - **20.1464.300 N** Amended Parking layout plan.
 - **20.1464.550** Garages - proposed floor plans and elevations.
 - **48737/c/003 E** Amended highway limits of adoption.
 - **48737/c/006 N** Amended footpath to Birch Avenue.

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

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

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

- 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 car parking and turning areas have 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 first occupation of any dwelling hereby approved, the details of the Cycle parking shall be provided for those dwellings without a garage in accordance with the EPOA Parking Standards. The details shall be submitted to and approved in writing by the Local Planning Authority. The approved facilities shall be secure, convenient, covered and provided prior to first occupation and retained at all times.**

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

8. **Subject to the Traffic Regulation Order being successful, the existing speed limit terminal signs to the east of the site shall be replaced and moved eastwards no more than 50 metres and provided with 30-mph carriageway roundel at the applicant's expense, prior to the first occupation of the development.**

Reason: To protect highway efficiency of movement and safety and to ensure the proposal site is accessible.

9. 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.

10. 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.

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

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

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

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

13. No development shall commence until precise details the manufacturer and types and colours of the external facing materials and roofing materials for the dwelling to be used

in the construction have been submitted to and approved, in writing, by the Local Planning Authority.

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

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

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

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

Reason: In the interests of residential amenity.

16. All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Preliminary Ecological Appraisal (EECOS, June 2021), Bat Surveys (EECOS, September 2021) and Reptile Survey (EECOS, September 2021) as already submitted with the planning application and agreed in principle with the local planning authority prior to determination.

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

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

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

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

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

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

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

18. Prior to any works above slab level a Biodiversity Enhancement Layout, providing the finalised details and locations of the enhancement measures contained within the Preliminary Ecological Appraisal (EECOS, June 2021), Bat Surveys (EECOS, September 2021), Reptile Survey (EECOS, September 2021) and Biodiversity Net Gain Assessment (EECOS, December 2021), shall be submitted to and approved in writing by the local planning authority.

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

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

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

The content of the LEMP shall include the following:

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

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

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

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

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

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

- 21. Notwithstanding the provisions of Article 3, Schedule 2, Part 1 Class A and C of the Town and Country Planning (General Permitted Development)(England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), no additional first floor side windows (facing westwards) or roof lights (facing westwards) shall be erected or carried at plots at Plots 33 or 47 except in accordance with drawings showing the siting and design of such alterations which shall previously have been submitted to and approved, in writing, by the Local Planning Authority.**

Reason - In the interest of the amenity of the occupants of adjacent dwellings, and in the interest of the visual amenity of the locality.

- 22. a) No development or preliminary groundworks of any kind shall take place until a programme of archaeological investigation has been secured in accordance with a written scheme of investigation which has been submitted by the applicant, and approved in writing by the local planning authority.**

b) No development or preliminary groundworks of any kind shall take place until the completion of the programme of archaeological investigation identified in the WSI defined in 1 above.

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

Reason: in the interests of preserving, any possible historic artefacts found on the host site.

- 23. Prior to the first occupation of the development, the existing ‘Great Bentley village signs and associated ‘Village award sign’ to the east of the site shall be replaced and moved eastwards no more than 50 metres at the applicant’s expense.**

Reason: To protect highway efficiency of movement and safety and to ensure the proposal site is accessible.

8.3 Informatives

Positive and Proactive Statement

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

Legal Agreement Informative - Recreational Impact Mitigation

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

Highways Informatives:

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

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

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

3: 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.

4: 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.

5: Any tree planting proposed within the highway must be agreed with the Highway Authority. Trees must be sited clear of all underground services and visibility splays and must be sympathetic to the street lighting scheme. All proposed tree planting must be supported by a commuted sum to cover the cost of future maintenance, to be agreed with the Highway Authority.

6: 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.

Note: The developer will need to pay for the necessary Traffic Regulation Order in addition to the provision of the associated signing and lining.

Suds Informative

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

2. Any drainage features proposed for adoption by Essex County Council should be Note: The developer will need to pay for the necessary Traffic Regulation Order in addition to the provision of the associated signing and lining.

consulted on with the relevant Highways Development Management Office.

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

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

5. The Ministerial Statement made on 18th December 2014 (ref. HCWS161) states that the final decision regarding the viability and reasonableness of maintenance requirements lies with the LPA. It is not within the scope of the LLFA to comment on the overall viability of a scheme as the decision is based on a range of issues which are outside of this authority's area of expertise.

7. Additional Considerations

Public Sector Equality Duty (PSED)

- 7.1 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:
- 7.2 A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
- 7.3 B. Advance equality of opportunity between people who share a protected characteristic and those who do not. This may include removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; taking steps to meet the special needs of those with a protected characteristic; encouraging participation in public life (or other areas where they are underrepresented) of people with a protected characteristic(s); and
- 7.4 C. Foster good relations between people who share a protected characteristic and those who do not, including tackling prejudice and promoting understanding.
- 7.5 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, being married or in a civil partnership, race including colour, nationality and ethnic or national origin, religion or belief, sex and sexual orientation.
- 7.6 The PSED must be considered as a relevant factor in making this decision but does not impose a duty to achieve the outcomes in section 149 and section 149 is only one factor that needs to be considered, and may be balanced against other relevant factors.
- 7.7 It is considered that the recommendation to grant permission in this case would not have a disproportionately adverse impact on a protected characteristic.

Human Rights

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

Finance Implications

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

8. Background Papers

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

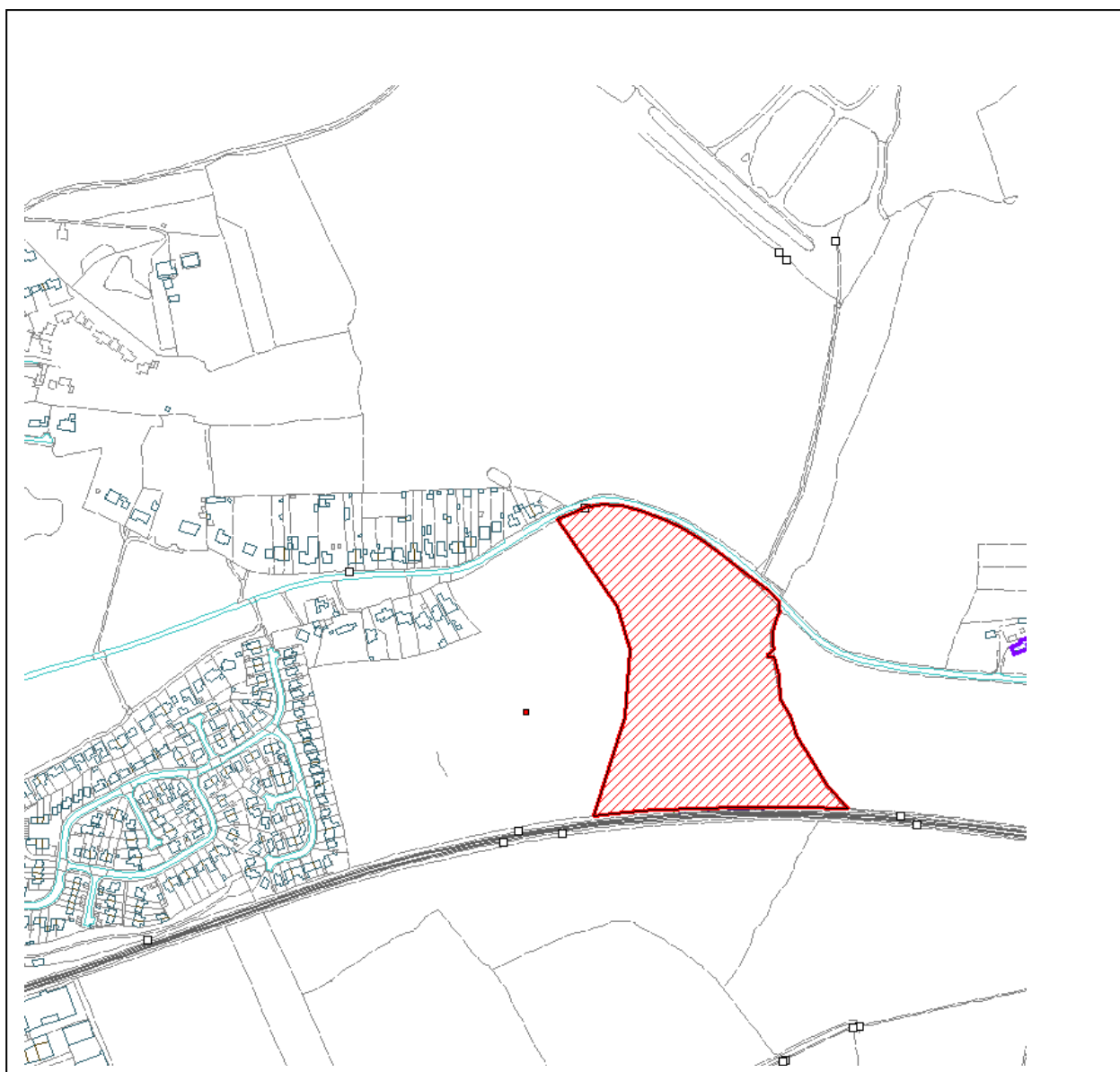
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PLANNING COMMITTEE

12th April 2022

REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING

A.2 PLANNING APPLICATION – 21/00978/FUL – LAND TO THE SOUTH OF WEELEY ROAD GREAT BENTLEY



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Application: 21/00978/FUL

Town / Parish: Great Bentley Parish
Council

Applicant: Taylor Wimpey London

Address: Land to The South of Weeley Road Great Bentley Essex

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

1. **Executive Summary**

- 1.1 **This application was originally brought before Planning Committee on the 21st December 2021. Updates to the report are shown in bold text throughout.**
- 1.2. **The application was deferred as the associated applications to the west of the site, the Section 73 application for a narrower link to Birch Avenue and the Reserved Matters application for the associated outline application were refused and deferred. No new information is shown directly related to this application, the following documents have also been revised to replace those previously submitted under the full planning application 21/00978/FUL simply in the interests of consistency: 48737-C-004C – Drainage Layout (Eastern land) and 48737-C-005B – Construction Access.**
- 1.3 This application is referred to Planning Committee at the request of the Assistant Director of Planning as the original outline application was refused by the Local Planning Authority and the decision was overturned by the Planning Inspectorate.
- 1.4 The current application seeks approval of the engineering operations required in support of application for Reserved Matters submitted on adjacent land Ref: 21/00977/DETAIL (136 dwellings) including attenuation basin, public footpath, access visibility and construction access.
- 1.5 The detailed design, layout, landscaping and scale are considered acceptable. The proposal would result in no material harm to residential amenity or highway safety. The loss of the agricultural land is considered acceptable due in part to the modest size of the drainage features proposed and their location.
- 1.6 The application is, therefore recommended for approval subject to a legal agreement to secure the management of the open space, drainage features, landscaping and non-adopted highway network.

Recommendation:

That the Assistant Director for Planning be authorised to grant planning permission for the development subject to:-

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

Drainage

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

Landscape Management Company to include maintenance of:

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

- b) Subject to the conditions stated in section 8.2
- c) That the Assistant Director for Planning be authorised to refuse planning permission in the event that such legal agreement has not been completed within the period of 6 (six) months, as the requirements necessary to make the development acceptable in planning terms had not been secured through a s106 planning obligation.

2. Planning Policy

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

National Planning Policy Framework July 2021 (NPPF)

National Planning Practice Guidance (NPPG)

Tendring District Local Plan 2013-2033 and Beyond (Section 1 adopted January 2021)

SP1 Presumption in Favour of Sustainable Development

SP2 Recreational disturbance Avoidance and Mitigation Strategy (RAMS)

SP3 Spatial Strategy for North Essex

SP4 Meeting Housing Needs

SP6 Infrastructure and Connectivity

SP7 Place Shaping Principles

Tendring District Local Plan 2013-2033 and Beyond Section 2 (*adopted January 2022*)

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

LP5 Affordable Housing

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

Status of the Local Plan

- 2.2 Planning law requires that decisions on 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 (the Framework). The 'development plan' for Tendring comprises, in part, Sections 1 and 2 of the Tendring District Council 2013-33 and Beyond Local Plan (adopted January 2021 and January 2022, respectively), together with any neighbourhood plans that have been brought into force.

In relation to housing supply:

- 2.3 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 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, Paragraph 11 d) of the Framework requires granting 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 (what is often termed the 'tilted balance').
- 2.4 The Local Plan fixes the Council's housing requirement at 550 dwellings per annum. On 19 October 2021 the Council's Strategic Housing Land Availability Assessment (SHLAA) updated the housing land supply position. The SHLAA demonstrates in excess of a six-and-a-half-year supply of deliverable housing land. On 14 January 2022 the Government published the Housing Delivery Test (HDT) 2021 measurement. Against a requirement for 1420 homes for 2018-2021, the total number of homes delivered was 2345. The Council's HDT 2021 measurement was therefore 165%. As a result, the 'tilted balance' at paragraph 11 d) of the Framework does not apply to applications for housing.

3. Relevant Planning History

17/01881/OUT	Outline planning permission for up to 136 dwellings, informal recreation space, a local area of play and associated development.	Refused Appeal Allowed	21.12.2018 15.05.2020
20/01176/OUT	Removal of condition 4d for planning application 17/01881/OUT (allowed at appeal APP/P1560/W/19/3231554) as off-site works no longer required.	Approved	30.11.2020

21/30012/PREAPP	Pre-application for Reserved Matters further to Outline Planning Permission reference APP/P1560/W/19/3231554 in relation to 17/01881/OUT for the residential development for up to 136 dwellings, informal recreation space, a local area of play and associated development.	10.03.2021
21/00978/FUL	Proposed engineering operations required in support of application for Reserved Matters submitted on adjacent land (136 dwellings) including attenuation basin, public footpath, access visibility and construction access.	Current
21/01947/DISCON	Discharge of Conditions 11 (Noise survey) and 13 (Bat survey) of application APP/P1560/W/19/3231554 (17/01881/OUT)	Approved 24/02/2022
21/01949/DISCON	Discharge of Condition 10 (Contamination assessment) of application APP/P1560/W/19/3231554 (17/01881/OUT)	Current
21/02025/DISCON	Discharge of conditions 6 (foul water strategy) and 7 (detailed surface water drainage scheme) of application 17/01881/OUT, allowed on appeal APP/P1560/W/19/3231554.	Condition 6 approved 20/01/2022
22/00329/DISCON	Discharge of conditions 5 (Construction phasing plans) and 8 (Construction method statement) of application 17/01881/OUT, allowed on appeal APP/P1560/W/19/3231554.	Current
22/00333/DISCON	Discharge of conditions 9 (SuDS management plan and drainage strategy plan) of application	Current

17/01881/OUT, allowed on appeal
/APP/P1560/W/19/3231554.

21/01257/OUT Variation of condition 12 of application 17/01881/OUT (allowed on appeal APP/P1560/W/19/3231554) to remove the reference within condition 12 which requires the pedestrian/cycle link between the site and Birch Avenue to be 3 metres in width. Also allowing for this link between the site and Birch Avenue to be a pedestrian link only. Refused 22.12.2021

4. Consultations

Natural England
06.10.2021

SUMMARY OF NATURAL ENGLAND'S ADVICE - European designated sites¹

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

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

In the context of your duty as competent authority under the provisions of the Habitats Regulations², it is therefore anticipated that, without mitigation, new residential development in this location is 'likely to

have a significant effect' on one or more European designated sites, through increased recreational pressure, either when considered 'alone' or 'in combination' with other plans and projects.

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

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

Sites of Special Scientific Interest Impact Risk Zones

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

Lead Local Flood Authority position

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

Condition 1

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

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

ECC SuDS have the following advisory comments:

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

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

INFORMATIVES:

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

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

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

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

appropriate from other downstream riparian landowners.

ECC Highways Dept
31.03.2022

Please note this supersedes the previous recommendation dated: 18 November 2021 for this application.

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

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

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

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

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

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

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

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

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

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

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

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

5. Prior to occupation of the site, the temporary road junction / access at its centre line shall be provided with a minimum clear to ground visibility splay with dimensions of 4.5 metres by 97 metres to the south-east and 4.5 metres by 124.2 metres to the north-west, as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the road junction /

access is first used by vehicular traffic and retained free of any obstruction at all times.

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

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

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

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

Informative:

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

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

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

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

application form, which must be returned with the appropriate fee.

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

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

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

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

TDC Tree & Landscape Officer
22.07.2021

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

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

Drawing No 48737/G/FIG02 is annotated to the effect that the land will be available for 'Informal Recreation' however no other information has been provided regarding the layout of the land. In this regard it would be helpful to know what works will be carried out in terms of preparing the land for this purpose.

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

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

Essex County Council Ecology
09.12.2021

No objection subject to securing biodiversity mitigation and enhancement measures

Summary

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

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

A hydrobrake will be installed in the culvert to limit the amount of water entering Weeley Brook from the proposed SuDS which will negate any potential

impacts on Otter and Water Vole. Although additional land for nesting Skylark cannot be secured through these applications, provision of undisturbed and open wildflower areas will increase the foraging capacity of the arable field for farmland birds including Skylark.

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

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

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

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

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

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

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

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

This will enable LPA to demonstrate its compliance with its statutory duties including its biodiversity duty under s40 NERC Act 2006 as updated by the Environment Act 2021.

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

ECC Ecology recommend that submission for approval and implementation of the details below should be a condition of any planning consent.

Recommended conditions

1. ACTION REQUIRED IN ACCORDANCE WITH ECOLOGICAL APPRAISAL RECOMMENDATIONS

All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Preliminary Ecological Appraisal (EECOS, June 2021), Bat Surveys (EECOS, September 2021) and Reptile Survey (EECOS, September 2021) as already submitted with the planning application and agreed in principle with the local planning authority prior to determination.

This may include the appointment of an appropriately competent person e.g. an ecological clerk of works (ECoW) to provide on-site ecological expertise during construction. The appointed person

shall undertake all activities, and works shall be carried out, in accordance with the approved details."

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

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

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

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

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

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

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

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

A Biodiversity Enhancement Layout, providing the finalised details and locations of the enhancement measures contained within the Preliminary Ecological Appraisal (EECOS, June 2021), Bat Surveys (EECOS, September 2021), Reptile Survey (EECOS, September 2021) and Biodiversity Net Gain Assessment (EECOS, December 2021), shall be submitted to and approved in writing by the local planning authority.

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

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

4. PRIOR TO OCCUPATION: LANDSCAPE AND ECOLOGICAL MANAGEMENT PLAN

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

The content of the LEMP shall include the following:

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

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

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

5. PRIOR TO OCCUPATION: WILDLIFE SENSITIVE LIGHTING DESIGN SCHEME

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

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

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

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

TDC Environmental Protection
07/12/2021

Construction and Demolition:

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

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

o Noise Control

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

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

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

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

5) Prior to the commencement of any piling works which may be necessary, a full method statement shall be agreed in writing with the Planning Authority (in consultation with Pollution and Environmental Control). This will contain a rationale for the piling method chosen and details of the techniques to be employed which minimise noise and vibration to nearby residents.

6) If there is a requirement to work outside of the recommended hours the applicant or contractor must submit a request in writing for approval by Pollution and Environmental Control prior to the commencement of works.

o Emission Control

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

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

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

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

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

**ECC Archaeology
31/03/2022**

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

A number of cropmark complexes in the surrounding area attest to the archaeological potential of the area of the proposed development. These include ring-ditches of probable Bronze Age date, settlement enclosures and trackways of later prehistoric or Roman date and probable medieval field boundaries.

Archaeological investigation to the north has demonstrated the survival of medieval archaeological remains and residual prehistoric archaeological remains. Recent excavation less than 500m to the north has revealed significant Late Iron Age/Roman activity, including weaving and metalworking, indicating a nearby settlement. Historic maps reveal a number of former field boundaries which are no longer extant and a historic pond, still visible through aerial photography.

Recent archaeological investigations carried out in the vicinity of the application site has provided greater detail on the nature and survival of archaeological remains within the area. The proposed development lies in close proximity to the Weeley Brook and so there is potential for waterlogged deposits to survive which contain important paleoenvironmental evidence. Fieldname evidence suggests there may have been historic industrial activity along the brook and it would have been an important resource since prehistoric times.

Any groundworks associated with the development have potential to impact on archaeological remains and will need to be evaluated through trial trenching prior to development.

The following recommendations are made in line with the National Planning Policy Framework (Para 205): **RECOMMENDATION:**

Archaeological trial trench evaluation

1. No development or preliminary groundworks of any kind shall take place until a programme of archaeological investigation has been secured in accordance with a written scheme of investigation which has been submitted by the applicant, and approved in writing by the local planning authority.
2. No development or preliminary groundworks of any kind shall take place until the completion of the programme of archaeological investigation identified in the WSI defined in 1 above.

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

5. Representations

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

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

5.2 There have been 8 letters of objection have been received however only 3 directly relate to the host application. The comments raise the following points:

- **The path to the Public Right of Way is not suitable for cyclists**
- **Development proposed is outside development boundary**
- **Application 21/00977/DETAIL relies on creation of habitats on this site to secure net gain, but neither application has detail on how this will be achieved**
- **No indication of footpath type across site or how it will cross ditch**
- **Not even a desk-based archaeological assessment provided for this site which has been highlighted as potentially significant**

6. Assessment

Site Context

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

6.2 The neighbouring field to the east measuring some 7.7ha is the location of the development for upto 136 dwellings approved via 17/01881/OUT allowed on appeal (ref APP/P1560/W/19/3231554) dated 15/05/2020. That neighbouring site is subject a separate application:

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

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

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

Planning History

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

OUTLINE APPLICATION CONDITIONS 15/00876/OUT		Timing
1	Reserved Matters- appearance, landscaping, layout, access and scale	Reserved Matter
2	Time Frame For Reserved Matters	Three Years post Decision – Must commence 2 Years after the last Reserve Matter application
3	Approved Plans	Reserve Matters
4	Access, Layout and Ecological Requirements	Reserve Matters
5	Construction Method Statement	Prior to Commencement
6	Foul Water Strategy	Prior to Commencement
7	Surface Water Drainage	Prior to Commencement
8	Surface Water Runoff	Prior to Commencement
9	Surface Water Drainage Management	Prior to Commencement
10	Land Contamination Assessment	Prior to Commencement
11	Railway Noise Survey	Prior to Commencement
12	Footpath Link to Birch Avenue and Public Footpath 11 to the North East	Prior to Commencement

13	Bat Survey	Prior to Commencement
14	Travel Information Packs	Prior to Commencement
15	Driveways to be porous material	Compliance
16	Unbound material near highways	Compliance
17	Parking Sizes	Compliance
18	Site clearance	Bird survey Dependant

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

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

Proposal

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

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

Principle of Development

6.8 The proposal is outside the settlement boundary, however no significant built form is proposed. Notably, principle of the footpath link to Public Right of Way 11 to the north west has been established through the approval of the original application via condition 12 of the outline approval. Furthermore, there are significant public benefits to the scheme in that a footpath to the wider public open space is being created, and additional biodiversity measures are proposed to the south of the site. In addition to this, a further landscaping condition can be attached to the recommendation to soften the residential development to the west. Due in part to the modest loss of agricultural land and the significant public and biodiversity benefits created, there is no objection to the principle of the development. The land to the east of the main residential site was not included as Public Open Space on the approved Parameters Plan at appeal stage. Nor was this land conditioned to be Public Open Space. Therefore, Officers have no objections to its used

as agricultural land, although a small section of this land (approximately 10%) will be lost to accommodate the drainage features and landscaping.

Loss of Agricultural Land

- 6.9 The land classification maps identifies the site as being Grade 2 and 3 land, that is classed as good to moderate. The drainage features and landscaping shall involve the loss of some agricultural land. However, the size is not significant given the size of the drainage features. Furthermore, these features are to the far south of the site.
- 6.10 The pre-amble to policy PPL3 in the Local Plan states *“In order to promote sustainable development, in considering where to select sites for new development in this Local Plan, the Council has taken particular care to assess the value of the landscape and, where practical, allocate sites with the lowest sensitivity, thereby helping to protect valued landscapes and the best and most versatile agricultural land.”*
- 6.11 Given the biodiversity gains achieved (see next section), also the lowering of the density per hectare on the development site to the west, officers consider that the loss of the agricultural land at this site would not be significant or unacceptable. This conclusion is based on the modest scale of the loss and the fact that the land in question is at the lower end of the quality range. The scale of loss would be insufficient to adversely affect the development and diversification of agricultural and other land based rural businesses and no objection is raised.

Landscaping/Biodiversity

- 6.12 No trees or other significant vegetation will be adversely affected by the development proposal. Other than the footpath link, there will be no public access to the rest of the land. The drainage features shall have no disenable impact on the wider landscape and no objection is raised. Officers recommend (as an additional public benefit) a landscaping condition. This can help soften the two dwellings on the neighbouring site that border the host site (plots 136 and 119). Thus, improving views of the wider residential development from the east. There is sufficient Public Open Space (10%) on the residential site (21/00977/DETAIL) and landscaping (12%) to conclude that no further public open space land is required on the host site.
- 6.13 Subject to planning conditions, the proposed works will ultimately not look incongruous once completed within the existing setting of the land. Indeed, they shall be largely indistinguishable from the existing appearance.
- 6.14 From the biodiversity perspective, ECC Ecology have no objections to the scheme, they have noted that a hydrobrake will be installed in the culvert to limit the amount of water entering Weeley Brook from the proposed SuDS which will negate any potential impacts on Otter and Water Vole. Furthermore, the application provides for an additional area of undisturbed and open wildflower to the south of the site. This will increase the foraging capacity of the arable field for farmland birds including Skylark. Subject to the recommended Planning Conditions suggested by ECC Ecology, an acceptable net biodiversity gain shall take place.
- 6.15 Natural England have commented on the scheme and suggested that a Habitats Regulations Assessment (HRA) (Stage 2: Appropriate Assessment) is required.

However, this is only if the development proposed 100 dwellings or more. In this case no dwellings are being created hence the assessment is not required. The assessment has taken place on the neighbouring site 21/00977/DETAIL, Natural England have agreed with the findings although at the time of print, their formal comments have not been received. This shall be included in the update sheet.

- 6.16 The legal agreement secured at outline stage is being updated to secure Public Open Space (POS) within the development and will also include the link from the residential site via the footpath to the east to the Public Right of Way 11 to the north west.
- 6.17 Overall, subject to planning conditions, the detailed design, appearance, layout and scale is considered acceptable.

Highway Safety/Parking

- 6.18 The Highway Authority has confirmed that they have no objection to the application as submitted from an access and highway layout perspective. As the application involves a temporary construction access ECC Highways have requested on commencement of development a temporary 30-mph speed limit and temporary Traffic Regulation Order shall be in place. This shall include Traffic Management signage either side of the temporary construction access. The reason for this is to ensure that vehicles can enter and leave the highway in a controlled manner and the removal of and to preclude the creation of unnecessary points of traffic conflict in the highway following development in the interests of highway safety.
- 6.19 Further to this, Essex County Council Highways have recommended the following conditions:
- Construction Management Plan
 - Sufficient kerb Radi to be shown
 - temporary 30-mph speed limit and temporary Traffic Regulation Order
 - No discharge of surface water onto the Highway.
 - visibility splays
 - Limits to unbound material within 10 of the highway

- 6.20 All of the above conditions form part of the recommendation below. Officers also recommend a condition which would confirm the material details of the footpath to be agreed before development, together with details of how the path with cross the drainage ditch. Overall, subject to Planning Condition, there are no objections to the development in relation to Access matters.

Drainage

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

Archaeology

- 6.22 **ECC Archaeology have responded saying a number of cropmark complexes in the surrounding area attest to the archaeological potential of the area of the proposed development. These include ring-ditches of probable Bronze Age date, settlement enclosures and trackways of later prehistoric or Roman date and probable medieval field boundaries. Archaeological investigation to the north has demonstrated the survival of medieval archaeological remains and residual prehistoric archaeological remains. Recent excavation less than 500m to the north has revealed significant Late Iron Age/Roman activity, including weaving and metalworking, indicating a nearby settlement.**
- 6.23 **Furthermore, the proposed development lies in close proximity to the Weeley Brook and so there is potential for waterlogged deposits to survive which contain important paleoenvironmental evidence. Fieldname evidence suggests there may have been historic industrial activity along the brook and it would have been an important resource since prehistoric times.**
- 6.24 **The recommendation is for archaeological trial trench evaluation in the area. Officers suggest that the area being used for drainage features should be that where the trial pits are dug, as this would be commensurate with the development proposal.**
- 6.25 S106 of the Town and Country Planning Act 1990
- 6.26 A legal agreement was secured at outline stage on the neighbouring site to the west (17/0881/OUT) securing:
- On-site Affordable Housing (30% of the overall development)
 - Health contributions
 - Education contribution
 - Provision of open space including a locally equipped area of play and the need to secure its future management
 - RAMS payments, index linked. Therefore, any uplift in required payments over time has been factored into the payment.
- 6.27 This legal agreement and all conditions on the outline consent will still apply. The additional legal agreement (Deed of Variation) shall ensure the following:

Drainage

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

Landscape Management Company to include maintenance of:

- Link Path to Birch Avenue inc fencing
- Non adoptable Highway (roads and pavements)

- Landscaping Buffers and wider landscaping inc pedestrian link to the North East)
- Public Open space

7. **Conclusion**

- 7.1 As established through the granting of outline application 17/01181/OUT, at appeal, the principle of residential development for up to 136 dwellings on the neighbouring site is acceptable. This application provides the drainage features of this neighbouring development and also the footpath across the field to the wider Public Rights of Way beyond.
- 7.2 The proposed developments shall have a negligible impact on the wider landscape. An additional landscaping condition will provide benefits for local biodiversity and help with lessening the impact on residential amenity as well as retaining the character of Great Bentley. The additional also includes a bio diversity net gain that subject to planning conditions is supported by ECC Ecology. The loss of agricultural land can be supported given the wider public benefits of the scheme and the low magnitude of farmland loss.
- 7.3 In the absence of any significant material harm, the application is, therefore recommended for approval subject to a legal agreement updates and planning conditions listed below.

8. **Recommendation**

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

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

8.2 Conditions and Reasons

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

48737/c/005 b Amended construction access
48737/c/004 c Amended drainage layout - east
20.1464.40b Amended proposed site layout (infrastructure)
20.1462.31 Site plan (infrastructure)
21.5138.09 Suds area – associated with application 21/00977/DETIAL
Preliminary Ecological Appraisal (EECOS, June 2021)
Bat Surveys (EECOS, September 2021)
Reptile Survey (EECOS, September 2021)
Biodiversity Net Gain Assessment (EECOS, December 2021)

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

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

Reason:

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

3. No development shall commence until an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), has been submitted to and approved in writing by the Local Planning Authority (LPA). If any contamination is found, a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the approved development shall be submitted to and approved in writing by the LPA. The site shall be remediated in accordance with the measures and timescale approved and a verification report confirming the site has been

remediated in accordance with the approved details shall be submitted to and approved in writing by the LPA. If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the LPA. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to the LPA within 21 days of the report being completed and shall be approved in writing by the LPA.

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

4. No development shall take place, including any ground works or demolition, until a Construction Management Plan has been submitted to, and approved in writing by, the local planning authority. The approved plan shall be adhered to throughout the construction period. The Plan shall provide for:
 - i. vehicle routing,
 - ii. the parking of vehicles of site operatives and visitors,
 - iii. loading and unloading of plant and materials,
 - iv. storage of plant and materials used in constructing the development,
 - v. wheel and underbody washing facilities.
 - vi. Before and after condition survey to identify defects to highway in the vicinity of the access to the site and where necessary ensure repairs are undertaken at the developer expense when caused by developer.

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

5. On commencement of development the temporary construction access, as shown in principle on drawing 48737/c/005 b Amended construction access shall be constructed at right angles to the existing carriageway. The width of the access at its junction with the highway shall not be less than 7.3 metres retained at that width for 22 metres within the site and shall be provided with an appropriate kerb radius of no less than 15 metres. Upon completion of the development / numbered occupancy, the temporary construction vehicular access shall be suitably and permanently closed incorporating the reinstatement to full height of the highway verge / footway / cycleway / kerbing . Full details to be agreed in writing with the Local Planning Authority.

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

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

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

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

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

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

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

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

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

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

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

o Noise Control

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

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

o Emission Control

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

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

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

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

10. All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Preliminary Ecological Appraisal (EECOS, June 2021), Bat Surveys (EECOS, September 2021) and Reptile Survey (EECOS, September 2021) as already submitted with the planning application and agreed in principle with the local planning authority prior to determination.

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

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

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

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

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

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

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

12. Prior to any works above slab level a Biodiversity Enhancement Layout, providing the finalised details and locations of the enhancement measures contained within the Preliminary Ecological Appraisal (EECOS, June 2021), Bat Surveys (EECOS, September 2021), Reptile Survey (EECOS, September 2021) and Biodiversity Net Gain Assessment (EECOS, December 2021), shall be submitted to and approved in writing by the local planning authority.

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

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

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

The content of the LEMP shall include the following:

- a) Description and evaluation of features to be managed including wildflower areas within the residential development and within and surrounding the SUDS area.
- b) Ecological trends and constraints on site that might influence management.
- c) Aims and objectives of management.
- d) Appropriate management options for achieving aims and objectives.
- e) Prescriptions for management actions.
- f) Preparation of a work schedule (including an annual work plan capable of being rolled

forward over a five-year period).

- g) Details of the body or organisation responsible for implementation of the plan.
- h) Ongoing monitoring and remedial measures.

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

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

14. Notwithstanding the details on the approved plan 21.5138.09 Suds area, no development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a scheme of soft landscaping works for the entire site, which shall include any proposed changes in ground levels and also accurately identify spread, girth and species of all existing trees, shrubs and hedgerows on the site and indicate any to be retained, together with measures for their protection which shall comply with the recommendations set out in the British Standards Institute publication "BS 5837:2012 Trees in relation to design, demolition and construction. Particular attention shall be given to the western boundary adjacent to proposed plots 136 and 119 of application 21/00977/DETIAL. A minimum of 10 landscape buffer (in width from the boundary) shall be presented to soften the site adjacent to the close board fencing associated with these proposed dwellings and related garden areas.

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

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

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

16. Notwithstanding the details submitted on the approved plans, the full technical details of the connection of the footpath to Weeley Road shall be submitted to the Local Planning Authority. The plans shall include a culvert over the existing drainage ditch adjacent to Weeley Road and details as to how the path connects with Weeley Road, also the details of the surface material used for the path across the site. The approved details shall be implemented in full, retained and maintained for perpetuity by the Management

Company responsible for the site. These works shall be fully completed and operational prior to the occupation of any residential dwelling associated with the residential development to the west of the site subject of the original application 17/01881/OUT or any related Section 73 application following the original planning approval.

Reason: In the interests of Highway Safety and in the interests of adequate drainage provision.

17. a) No development or preliminary groundworks of any kind shall take place until a programme of archaeological investigation has been secured in accordance with a written scheme of investigation, for the areas being used for the attenuation basin and associated drainage features which has been submitted by the applicant, and approved in writing by the local planning authority.

b) No development or preliminary groundworks of any kind shall take place until the completion of the programme of archaeological investigation identified in the WSI defined in 1 above.

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

Reason: in the interests of preserving, any possible historic artefacts found on the host site.

8.3 Informatives

Positive and Proactive Statement

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

Legal Agreement Informative - Recreational Impact Mitigation

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

Highways Informative:

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

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

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

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

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

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

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

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

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

Drainage Informative

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

9. Additional Considerations

Public Sector Equality Duty (PSED)

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

Human Rights

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

Finance Implications

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

10. Background Papers

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

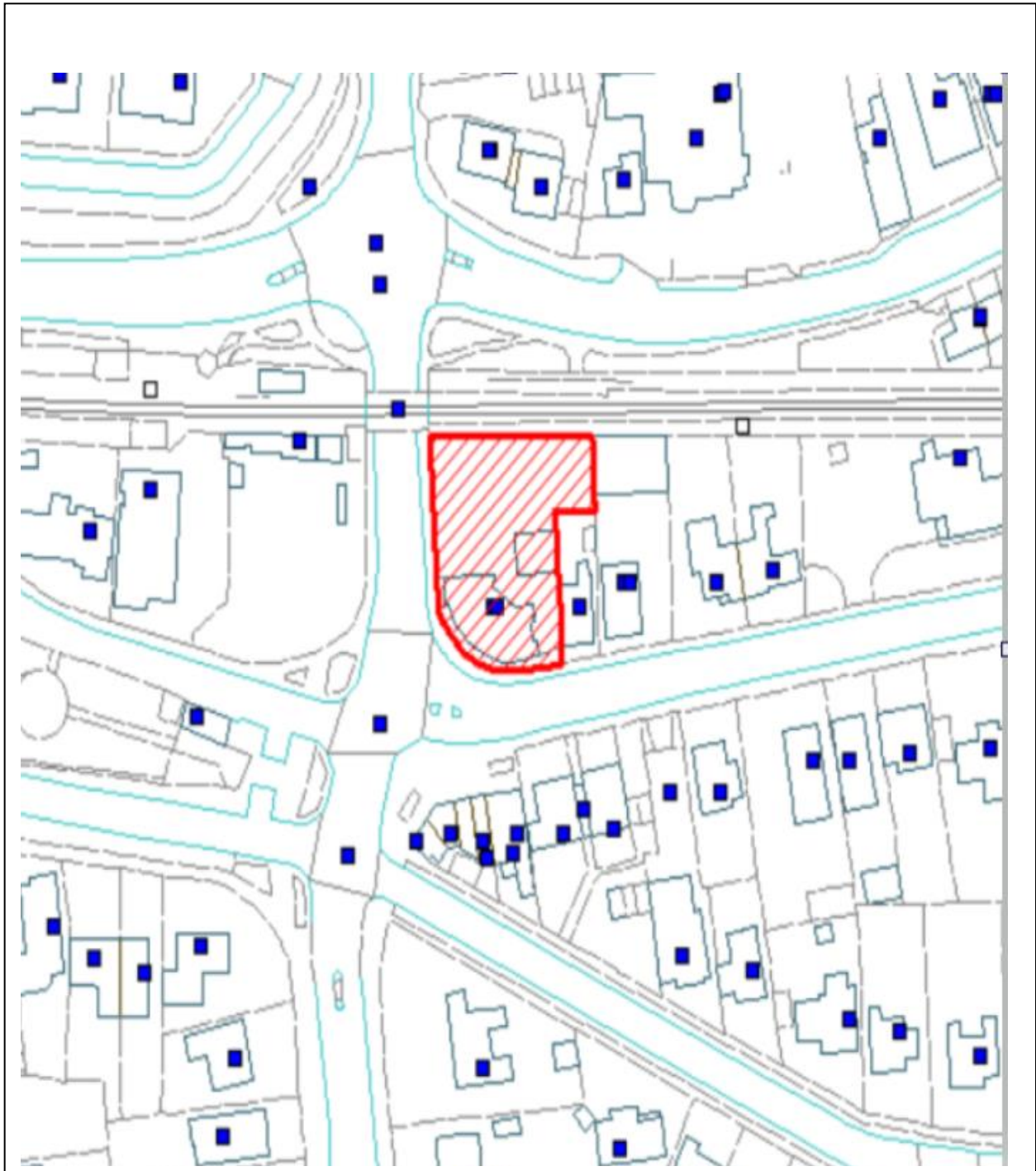
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PLANNING COMMITTEE

12th April 2022

REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING

A.3 PLANNING APPLICATION – 21/01527/FUL – 152 CONNAUGHT AVENUE FRINTON ON SEA CO13 9AD



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Application: 21/01527/FUL

Town / Parish: Frinton & Walton Town Council

Applicant: M+M Pharmacy

Address: 152 Connaught Avenue Frinton On Sea CO13 9AD

Development: Proposed disabled access.

1. **Executive Summary**

- 1.1 Councillor Nick Turner called in the application, in relation to the impact of the proposal on the Conservation Area.
- 1.2 This application was deferred at Planning Committee on the 18th January 2022, to enable amended plans to be provided by the applicant to Frinton and Walton Town Council for consideration to overcome their objection to the proposal. However, their request for a more symmetrical two-sloped design would be beyond the financial means of the applicant, it is also considered by Officers to increase the visual impact of the proposal. Therefore, as there appears no way forward, the applicant has requested that the application be considered (unamended) by the Planning Committee on its merits.
- 1.3 The proposal is for a disabled access ramp to be located at the front entrance to the pharmacy. The site is located within the defined Settlement Development Boundary of Frinton-on-Sea and sits within the Frinton and Walton Conservation Area.
- 1.4 The proposal is considered to be of a size, scale and design in keeping with the overall site and surrounding area. There are no concerns regarding the impact on the neighbouring residential properties and subject to conditions the proposal is considered acceptable.

Recommendation:

That the Assistant Director for Planning be authorised to grant planning permission for the development subject to:-

- a) Subject to the conditions stated in section 8.2

2. **Planning Policy**

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

National Planning Policy Framework July 2021

National Planning Practice Guidance

Tendring District Local Plan 2013-2033 and Beyond Section 1 (adopted January 2021)

SP7 Place Shaping Principles

Tendring District Local Plan 2013-2033 and Beyond Section 2 (adopted January 2022)

SPL3 Sustainable Design

PPL8 Conservation Areas

Status of the Local Plan

2.2 Planning law requires that decisions on 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 (the Framework). The 'development plan' for Tendring comprises, in part, Sections 1 and 2 of the Tendring District Council 2013-33 and Beyond Local Plan (adopted January 2021 and January 2022, respectively), together with any neighbourhood plans that have been brought into force.

3. Relevant Planning History

91/00976/FUL	Change of use first floor flat to offices.	Approved	16.10.1991
92/00337/FUL	(152 Pole Barn Lane, Frinton-on-Sea) Change of use to Wine Bar and Restaurant with single storey rear extension to provide kitchen and toilets	Refused	12.05.1992
92/00921/FUL	(152 Pole Barn Lane, Frinton on Sea) Change of use, wine bar and restaurant with extension for kitchen and toilets	Refused	27.10.1992
94/00994/FUL	Proposed neighbourhood resource centre - to convert existing shop for office use and upgrade staff kitchen and toilet facilities to adapt for disabled access/ facility	Approved	04.10.1994
08/00230/FUL	Change of use from Business Use (B1) to Retail Use (A1).	Refused	06.05.2008
08/01270/FUL	Change of use from B1(a) to A1 (Aquatic shop / pet shop).	Approved	31.10.2008
10/00968/FUL	Variation of Condition 2 of 08/01270/FUL, to vary the use from A1 Aquatic/Pet Shop to A1 Housewares and Gifts.	Withdrawn	12.10.2010
11/01359/FUL	Variation of condition 02 of planning permission 08/01270/FUL to allow use as a beauty parlour.	Withdrawn	15.12.2011
11/01477/FUL	Change of use from A1 to beauty salon.	Approved	07.02.2012

20/30236/PREAPP Formation of disabled access ramp. 05.01.2021

21/01527/FUL Proposed disabled access. Current

4. Consultations

Essex County Council Heritage
Comments on original proposal

The development site is located within Walton and Frinton Conservation Area, at the primary entrance into the Conservation Area from the north. The early-nineteenth century building is a prominent feature of the streetscape occupying a corner location the junction of several roads. Built in a hybrid art-deco neo-georgian in style, the building is noted in the Conservation Area Character Appraisal for its bronze glazing and excellent detailing. It is apparently a former County Council building and is a positive contributor to the Conservation Area and the streetscape. The building could be considered a non-designated heritage asset for its historic communal interest as a focus of local government, and also for its architectural and artistic interest, given the aforementioned excellent architectural detailing of the shopfront and wider street-facing elevation.

ECC Heritage are unopposed to the provision of access to the shop, however the currently proposed ramp fails through its form and detailing to be sympathetic to the architectural articulation, materials, and detailing of the existing shopfront. The proposed railings and ramp would detract from the symmetrical architectural appearance of the building. The ramp would partly obscure and cover over the base of the architrave, steps, plinth and bronze framing and vents to the windows. This unbalancing of the shop's elevation and the loss of detailing would be detrimental to the architectural appearance of the non-designated heritage asset. In covering over the above outlined materials, these materials are likely to be damaged and would deteriorate. The proposals would result in a detrimental impact to the significance of the shop, making paragraph 203 of the NPPF relevant here.

In unbalancing the symmetrical façade of the shop, and partly obscuring parts of the façade, the proposals would fail to preserve or enhance the character and appearance of the Conservation Area. The proposals would be detrimental to the architectural appearance of the positively contributing building, resulting in low-level less than substantial harm to the significance of the Conservation Area. Paragraph 202 of the NPPF is therefore relevant here. Paragraph 206 of the NPPF is also relevant here regarding the poor-quality design.

ECC Heritage recommend the applicant engages in the pre-application process with the Local Planning Authority to

discuss their ambitions for providing ramped access to the shop. There may be potential for level access to be achieved through another area of the building, or through a more sympathetically designed scheme.

Essex County Council Heritage
Comments on amended
proposal

This letter should be read in addendum to previous advice.

The scheme has been revised. The principle of harm (as outlined in previous consultation) has not been overcome given the ramp will not compliment the host building nor the prominent corner plot in the Conservation Area.

However, if it is deemed a ramp on this corner is acceptable (ie benefits outweigh harm) then I would have no objection to this form of ramp and would recommend conditions attached for samples of all materials to be agreed.

5. Representations

- 5.1 Frinton & Walton Town Council: REFUSAL on the grounds that it does not enhance the area. The town council would like to see a design in keeping with area and building design, to include a further ramp on the other side, giving symmetry.
- 5.2 The application was deferred at Planning Committee on the 18th January 2022, to enable amended plans to be provided by the applicant to the Town Council. However, their request for a more symmetrical two-sloped design would be beyond the financial means of the applicant, it is also considered by Officers to increase the visual impact of the proposal. Therefore, as there appears no way forward, the applicant has requested that the application be considered (unamended) by the Planning Committee on its merits.
- 5.3 No other representations have been received.

6. Assessment

Site Context

- 6.1 The site serves a large detached two-storey building located on the corner of Connaught Avenue and Pole Barn Lane, adjacent to the level crossing. The site lies within the Frinton and Walton Conservation Area; however, the building is not listed. The building is an attractive curved shape, finished in mostly exposed brickwork, with the ground floor entrance section being painted white render, with large windows and associated signage. The surrounding streetscene is formed of mostly residential buildings of differing scale and design, with exposed brickwork being a common design choice.

Proposal

- 6.2 The application seeks full planning permission to construct a disabled access ramp to the front entrance of the pharmacy, to ensure the building is more accessible for elderly or disabled customers.
- 6.3 The application was originally submitted with handrails and brick facing. In response to concerns raised by ECC Heritage the handrails were removed, and the base was amended to reflect the stone plinth of the host building and to be surfaces with Chelsea setts.

Principle of Development

- 6.4 The 'development plan' for Tendring comprises, in part, Sections 1 and 2 of the Tendring District Council 2013-33 and Beyond Local Plan (adopted January 2021 and January 2022, respectively), together with any neighbourhood plans that have been brought into force. The site lies within the Frinton-on-Sea Settlement Development Boundary as established within the adopted local plan.
- 6.5 Policy SPL3 (Sustainable Design) of the Local Plan (section 2) seeks to ensure that developments provide safe and convenient access for people of all abilities and as such the 'principle' of this application will support that requirement by improving access to the pharmacy for elderly and disabled customers. It is noted that customers with mobility limitations currently are required to ring a bell outside of the shop to be served on the street, as they are unable to scale the existing steps.

Appearance

- 6.6 One of the core planning principles of The National Planning Policy Framework (NPPF) as stated at paragraph 130 is to always seek to secure high quality design. Adopted Policy SPL3 aims to ensure that all new development makes a positive contribution to the quality of the local environment, relates well to its site and surroundings particularly in relation to its form and design and does not have a materially damaging impact on the amenities of occupiers of nearby properties.
- 6.7 The proposed access ramp would measure 1.6 metres wide, with the sloped section being 5 metres long, leading to a flat-plateaued section measuring 2.4 by 1.5 metres. The structure would reach an overall height of 0.5 metres. It is noted that this would lead customers to a height consistent with the existing access steps to the front of the building. The proposal would be limited in scale, and feature a low profile design which would reduce the impact of the slope on the visual amenity of the building and surrounding area.
- 6.8 The site can accommodate a proposal of this size and scale whilst ensuring that there would be negligible impact on the adjacent pathway. The design is also consistent and sympathetic to the existing host building materials.
- 6.9 The proposal will be located to the front of the building so would be visible from the streetscene, however the limited profile and sympathetic design are not deemed to have a materially negative impact on visual amenity.

Highway Safety/Parking

- 6.10 The proposal neither generates additional nor reduces the parking provision at the site and would have no impact on highway safety.

Impact on Conservation Area and non-designated heritage asset

- 6.11 Paragraph 202 of the NPPF states: Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset (the Frinton and Walton Conservation Area), this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
- 6.12 Paragraph 203 of the NPPF states: The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

- 6.13 As the site is located within the Frinton and Walton Conservation Area, ECC Heritage have been consulted. They provided feedback on the original plans, which were critical of the impact of the ramp on the visual amenity and detailing of the host building. The amended plans are deemed to overcome these issues, by removing the handrail, reducing the scale of the structure, and incorporating a stone external finish and Chelsea Setts, which is more sympathetic to the existing building. The updated heritage comment, states that whilst the proposal would not compliment the host building, if the need for a ramp outweighs these considerations they would have no objection to a ramp of this type, subject to samples of materials.
- 6.14 All alternative access locations have been explored by the applicant and this proposal is deemed to be the most suitable location to access the front of the shop. There is a clear need for the provision of this ramp to enable the accessibility of this community facility by elderly and disabled customers, which is very much in-line with Policy SPL3 which states that '*...the design and layout of the development maintains and/or provides safe and convenient access for people with mobility impairments*'. As such, it is considered 'on balance' the need to achieve improved access for those less able (which also helps fulfil statutory requirements under 'Part M' (Access for Disabled People) of the Buildings Regulations) outweighs the minor impact on the significance of the building, and on the appearance of the Conservation Area.

Impact on Residential Amenity

- 6.13 Paragraph 17 of the NPPF, states that planning should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings. In addition, Policy SPL3 of the adopted plan states that amongst criteria 'development will only be permitted if the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties'.
- 6.14 By virtue of the significant separation distance between the host site and the neighbouring dwellings, it is deemed that the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties.

7 Conclusion

- 7.1 The proposed development is considered to accord with the National and Local Plan Policies identified above. In the absence of material harm resulting from the proposal (albeit low-level less than substantial harm to the appearance of the Conservation Area has been identified), on balance it is considered that the clear benefits of the proposal in terms of supporting improved access for those with mobility impairments supports the recommendation for approval.

8 Recommendation

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

8.2 Conditions and Reasons

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

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

2. The development hereby permitted shall be carried out in accordance with the following approved plans; Drawing No.

- 152/CAF/6 (Received 2nd December 2021)

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

3. No above ground works shall commence until samples of the ramp surface and stone facing materials have been submitted to and agreed, in writing, by the Local Planning Authority. Such details as may be agreed shall be those used in the development and permanently maintained as such.

Reason - To ensure materials are of a very high quality to respect the building and its setting within the Frinton and Walton Conservation Area.

8.3 Informatives

Positive and Proactive Statement

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

9 Additional Considerations

Public Sector Equality Duty (PSED)

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

- 9.7 It is considered that the recommendation to grant permission in this case would not have a disproportionately adverse impact on a protected characteristic.

Human Rights

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

Finance Implications

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

10 Background Papers

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

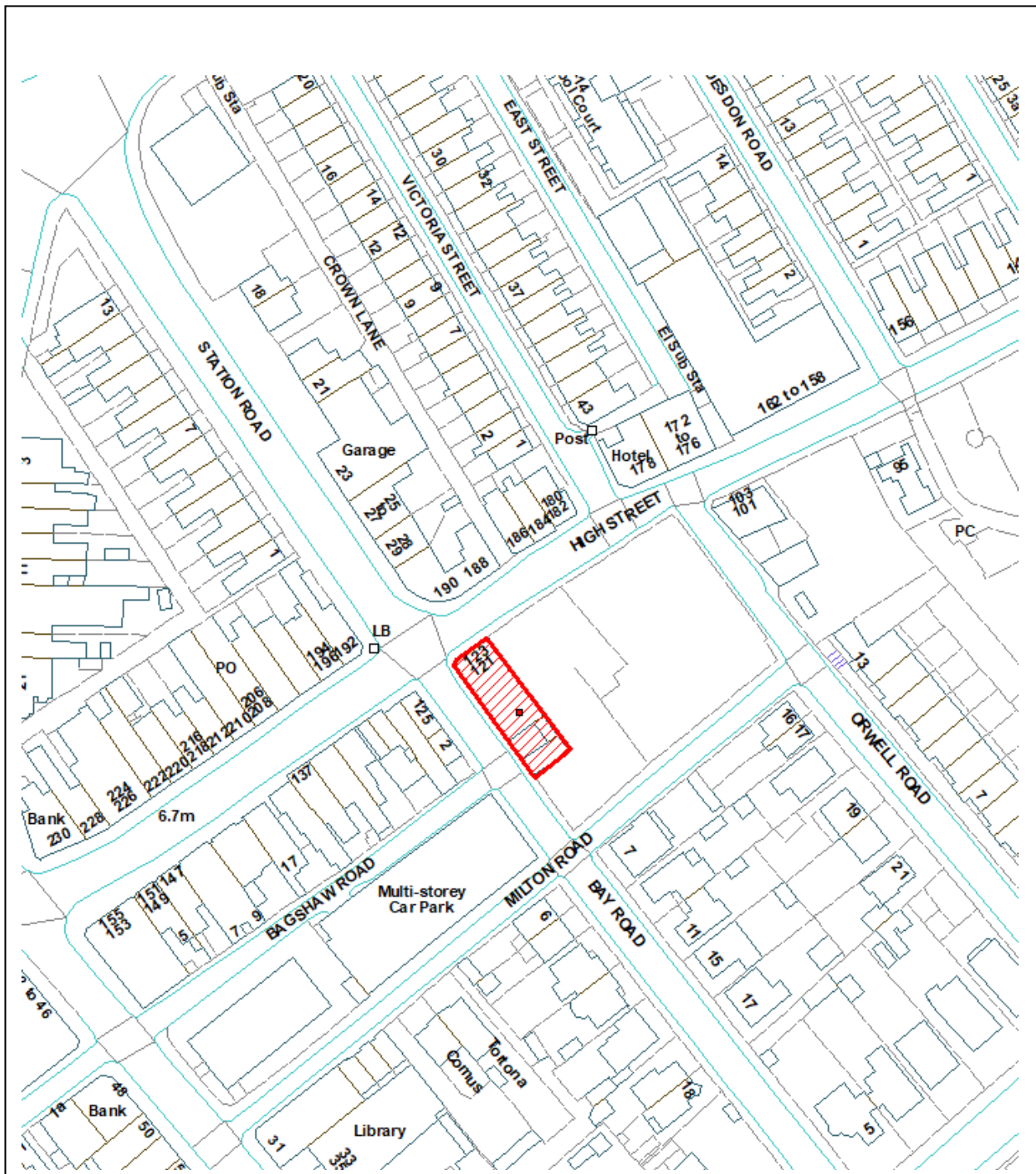
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PLANNING COMMITTEE

12th April 2022

REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING

A.4 PLANNING APPLICATION – 21/00386/FUL – 121 - 123 HIGH STREET HARWICH CO12 3AP



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Application: 21/00386/FUL

Town / Parish: Harwich Town Council

Applicant: Mr Marcus Clarke

Address: 121 - 123 High Street Harwich CO12 3AP

Development: Proposed retention of existing frontage and ground floor commercial unit, demolition of rear outbuildings and construction of a part two/part three storey building, to form 7no. one-bedroom self-contained units and 1no. studio self-contained unit and first floor commercial unit with associated cycle storage and refuse stores to rear.

1. Executive Summary

- 1.1 The application has been called in by Councillor Henderson
- 1.2 The proposal is for the construction of a new part two/part three storey building to provide 8 units of residential accommodation and 1 additional commercial unit (ground floor commercial unit as well as the existing shopfront to be retained). The site is located within the settlement development boundary of Harwich and Dovercourt and the Dovercourt Conservation Area.
- 1.3 The proposed scheme has been amended in line with extensive consultation with ECC Place Services Heritage Officers and is considered to be of a size, scale and design in keeping with the Conservation Area. Subject to conditions and mitigation there are no concerns raised regarding the impact on the environment, neighbouring residential properties, the recently approved car park, area and the proposal is acceptable in regards to Highways and Parking impacts.

Recommendation:

That the Assistant Director for Planning be authorised to grant planning permission for the development subject to:-

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

2. Planning Policy

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

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

Tendring District Local Plan 2013-2033 and Beyond North Essex Authorities' Shared Strategic
Section 1 Plan (adopted January 2021)

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

Tendring District Local Plan 2013-2033 and Beyond Section 2 (adopted January 2022)

SPL1	Managing Growth
SPL2	Settlement Development Boundaries
SPL3	Sustainable Design
HP5	Open Space, Sports & Recreation Facilities
LP1	Housing Supply
LP2	Housing Choice
LP3	Housing Density and Standards
LP4	Housing Layout
PPL4	Biodiversity and Geodiversity
PPL5	Water Conservation, Drainage and Sewerage
PPL8	Conservation Areas
PPL9	Listed Buildings
PPL10	Renewable Energy Generation
CP1	Sustainable Transport and Accessibility
PP5	Town Centre Uses
PP14	Priority Areas for Regeneration

Supplementary Planning Guidance:

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

Status of the Local Plan

- 2.2 Planning law requires that decisions on 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 (the Framework). The 'development plan' for Tendring comprises, in part, Sections 1 and 2 of the Tendring District Council 2013-33 and Beyond Local Plan (adopted January 2021 and January 2022, respectively), together with any neighbourhood plans that have been brought into force.

In relation to housing supply:

- 2.3 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 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, Paragraph 11 d) of the Framework requires granting 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 (what is often termed the 'tilted balance').

2.4 The Local Plan fixes the Council's housing requirement at 550 dwellings per annum. On 19 October 2021 the Council's Strategic Housing Land Availability Assessment (SHLAA) updated the housing land supply position. The SHLAA demonstrates in excess of a six-and-a-half-year supply of deliverable housing land. On 14 January 2022 the Government published the Housing Delivery Test (HDT) 2021 measurement. Against a requirement for 1420 homes for 2018-2021, the total number of homes delivered was 2345. The Council's HDT 2021 measurement was therefore 165%. As a result, the 'tilted balance' at paragraph 11 d) of the Framework does not apply to applications for housing.

3. Relevant Planning History

09/00084/FUL	Proposed demolition of 121/123 High Street, Dovercourt. Construction of new retail/office unit and 10 residential units.	Approved	23.04.2009
09/00141/CON	Proposed demolition of 121/123 High Street, Dovercourt.	Approved	23.04.2009

4. Consultations

Town / Parish Council

Town Clerk
Harwich Town Council
07.04.2021

Harwich Town Council objects to this application on the grounds that it is both an inappropriate and overdevelopment of the site and that it will have a significant negative impact on the privacy of existing residents in Bay Road and Milton Road. The parish council believes that the height of the proposed development is entirely out of keeping with the existing street scene.

There is inadequate parking provided and this proposal would remove off-street parking from an existing business operating on the site.

The site is presently designated as an employment site and the parish council does not believe that it is appropriate to turn a site at the heart of Dovercourt town centre from a viable employment site into a residential one. The proposed bin site would be inappropriate in that it is directly below two of the Juliette balconies within the proposed application (*Officer Note: these balconies have now been removed*) and would also have a significant negative impact on the planned use of the adjoining site (Old Queens Hotel). (*Officer Note: permission has been granted for the new open space and car park adjacent to the site*).

ECC Highways Dept
11.05.2021 (First
Consultation)

Objection raised re parking

ECC Highways Dept
21.02.2022 (Second
Consultation)

Following on from Amended plans received.

The site is in a town centre location where there is good transport links and is in walking distance of Dovercourt Railway Station; the Highway Authority would not deem the application of current Parking Standards necessary in this instance. It is noted that the majority of the units will be one-bedroom dwellings and parking is not available within the development and will not be specifically supplied by the North Essex Parking Partnership either as the side roads in the vicinity of the site are largely unrestricted. The town centre location means that many services are within walking distance of the proposed flats, considering these factors:

From a highway and transportation perspective the impact of the proposal is acceptable to Highway Authority subject to conditions and mitigation regarding the provision of cycle parking, Travel packs, construction management plan and a financial contribution towards residential parking scheme in the area.

UU Open Spaces
08.04.2021

There is currently a deficit of 12.59 hectares of equipped play in Harwich and Dovercourt.

Recommendation

No contribution is being requested on this occasion as units are only 1 bedroom.

Building Control
23.03.2021

No adverse comments at this time.

Housing Services

No comments received

Environmental Protection
06.01.2022

No objection subject to conditions regarding:

Contaminated Land mitigation, Asbestos survey, provision of a demolition and construction method statement, noise control, emission control and external lighting.

Essex County Council
Heritage
06.01.2022

The development site is located within Dovercourt Conservation Area and is in close proximity to the Grade II listed 101 and 103 Main Road (List UID: 1187917), and Orwell Terrace, Grade II listed as The Convent (List UID: 1298462).

This scheme has gone through extensive consultation with the Heritage department and they commend the applicant on their approach to collaborative working with regard to getting an appropriate design for this site in the Conservation Area.

Subject to the provision of one additional drawing (now provided), there are no objections to this application.

5. Representations

- 5.1 One representation and an objection from the Harwich Society have been received following a public consultation which included a site notice posted at the site, press advert and neighbour consultation letters sent out to the adjacent properties.

Summary of Matters Raised:

- Loss of light and overshadowing to neighbouring properties and new seating/parking area adjacent
- Loss of privacy due to balconies/windows overlooking neighbouring properties and rear gardens
- Lack of private amenity space
- Ample vacant commercial floorspace already exists in Dovercourt town centre
- Sufficient housing can be provided in the District
- Overdevelopment of the site
- Would have been better if the site could have been acquired by TDC for inclusion in the town square development
- Lack of on street parking in the area
- Lack of parking for loading and unloading building materials etc. during construction
- Health and Safety implications of loss of footpath during construction
- Additional traffic is to be diverted along Milton Road and Bay Road, when car park development commences could impact highway safety
- Car Park opposite the site is also due to be redeveloped resulting in additional disruption in the area.
- Building out of character with two storey residential properties in Bay Road
- Increase in noise and disturbance from construction work and future residents
- Increase demand on local resources such as doctors/schools/dentists etc. which are already at full capacity.

The relevant material considerations raised have been fully assessed within the main appraisal section of the report. The construction health and safety concerns and parking for delivery vehicles raised can be dealt with by the submission of a Construction Management Plan, which can be secured by condition.

6. **Assessment**

Site Context

- 6.1 The application site is located on the south eastern side of High Street, Harwich, at the junction with Bay Road, which slopes uphill towards the seafront. The site is located within the Settlement Development Boundary of Harwich and Dovercourt with Dovercourt Town Centre identified by the Council, as a priority area for regeneration. The site comprises of a commercial unit with shop front facing High Street, offices behind and a beauty salon in a wooden structure to the rear, with two parking spaces in between the two buildings. Along High Street and the adjacent part of Bay Road there are parking restrictions preventing parking between 8am-6pm Mon-Sat, however to the rear of the site and further along Bay Road there are no parking restrictions in place.
- 6.2 The surrounding area is made up of two and three storey buildings with commercial premises at ground floor and flats above fronting High Street. To the east and rear (south) of the site is an area of vacant Council owned land on which planning permission has been granted for a surface-level public car park, public toilet facilities, landscaped public open space and associated works (application ref: 21/01145/FUL). It is anticipated that this car park will replace that existing in Milton Road, which is located opposite the site on the Bay Road side. At present no details have been submitted regarding the redevelopment of the Milton Road car park site.

- 6.3 The site is located within the Dovercourt Conservation Area however the building the subject of this application is not statutorily listed. The special character and appearance of the Dovercourt Conservation Area derives from parts of the town centre most closely associated with its early development as a seaside resort. These include Orwell Terrace (opposite the site), as erected by John Bagshaw, and the adjacent Cliff Park Gardens created from his former private garden after his bankruptcy. The High Street and the station approaches retain an interesting blend of 19th and early 20th century architecture. High Street forms the core of the area, shoppers and traffic contributing to its character. Cliff Park Gardens leads on to Beacon Hill, where an important coastal defence site is now a Scheduled Ancient Monument and a wildlife habitat. The site is also located Flood Zone 1 which has a low risk of flooding.

Proposal

- 6.4 The application seeks planning permission to construct a part two storey/part three storey building to form 7 one bedroom self-contained residential units, 1 studio unit and a commercial unit (Class E/Beauty Salon use) at first floor. The front shop part of the existing building is to be retained, including the commercial (Class E use), with an additional door to the eastern side to facilitate access to the third floor. Enclosed cycle storage and refuse stores are located to the rear at ground floor.
- 6.5 The building measures approximately 9.4m wide and 30.4m deep, with an eaves height of some 9m and a maximum height of 12m.
- 6.6 The proposal would provide:

Ground Floor

83.6sqm Class E space
1 no 1 bed 2 person unit – 69sqm
Covered area with 8 lockers and 21 cycle spaces
Two bin stores, residential and commercial

First floor

42.3sqm of Class E/beauty salon space
1 no. 1 bed 2 person flat – 51sqm
1 no. 1 bed 2 person flat – 56sqm
1 no. 1 bed 2 person flat – 65sqm

Second Floor

1 no. 1 bed 2 person flat – 51sqm
1 no. 1 bed 2 person flat – 56sqm
1 no. 1 bed 2 person flat – 65sqm
Studio unit 1 bed 1 person - 42.1sqm

- 6.7 The proposed materials are facing brickwork to match local vernacular and white render, slate roof tiles, timber sash windows, Voussoir Brick lintels and black powder coated aluminium rainwater goods.

Principle of Development

- 6.8 Policy SPL2 seeks to encourage sustainable patterns of growth and carefully control urban sprawl, each settlement listed in Policy SPL1 (with the exception of the Tendring Colchester Borders Garden Community) is defined within a 'Settlement Development Boundary' as shown on the relevant Policies Map and Local Map. The application site is located within the settlement development boundary of Harwich and Dovercourt, which is classified as a Strategic Urban settlement having a larger populations and a wide range of existing infrastructure and facilities, making it the most sustainable location for growth.

- 6.9 Heritage matters aside (considered later in the report), Policy SPL2 states that within the Settlement Development Boundaries, there will be a general presumption in favour of new development subject to detailed consideration against other relevant Local Plan policies (including heritage matters) and any approved Neighbourhood Plans.
- 6.10 Policy PP5 states that within Town Centre boundaries proposals for development or change of use for 'main town centre uses' as well as residential development will be permitted where they comply with other relevant policies in this Local Plan and support the vitality and viability of the town centre.
- 6.11 Additionally Policy PP14 identifies Dovercourt Town Centre as a priority area for regeneration and seeks to focus investment in social, economic and physical infrastructure and initiatives to improve vitality, environmental quality, social inclusion, economic prospects, education, health, community safety, accessibility and green infrastructure along with preserving and/or enhancing the heritage assets of these areas, including the at risk conservation area of Dovercourt, in which the site is located.
- 6.12 Therefore it is considered that there is strong policy support for the principle of the proposed development in this location, within the defined settlement development boundary and would support the Council's regeneration objective for Dovercourt Town Centre and the Conservation Area, subject to the detailed considerations relevant to this proposal as set out below.

Layout, Scale and Appearance including impacts on the Conservation Area and nearby Listed Buildings

- 6.13 The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. (Para 126 NPPF).
- 6.14 Policy SP7 states that all new development should respond positively to local character and context to preserve and enhance the quality of existing places and their environs. Policy SPL3 seeks to provide new development which is well designed and maintains or enhances local character and distinctiveness.
- 6.15 Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act imposes a statutory duty on the Local Planning Authority to have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act states that special attention should be paid to the desirability of preserving or enhancing the character or appearance of conservation areas.
- 6.16 Policy PPL8 seeks to preserve or enhance the character or appearance of the Conservation Area. Policy PPL9 states that proposals for new development affecting a listed building or its setting will only be permitted where they will protect its special architectural or historic interest, its character, appearance and fabric.
- 6.17 Within the Dovercourt Conservation Area review document, the application building, located on the corner of Bay Road referred to as the old Harwich Printing Company offices, is described as a single storey building with a stuccoed side elevation to Bay Road and a period shop front to the High Street.
- 6.18 The design of the new building has been carefully considered, with the applicant working closely in conjunction with ECC Place Services, Heritage Officers to achieve a high quality well designed building, with many distinct and harmonising features including extensive detailing

which befits a building of this size within this sensitive Conservation Area location and is considered to significantly enhance the character and appearance of the Conservation Area. The original ground floor front and side elevation is to be retained and restored. The traditional design has drawn reference from the buildings across the High Street in terms of height, fenestration detailing, materials and the original shop front, including the mouldings have been retained.

- 6.19 The application site is adjacent to the recently approved car park, public toilet facilities, landscaped public open space and associated works under application ref: 21/01145/FUL, which would much improve this derelict and vacant site after the demolition of the Queens Hotel and associated buildings following extensive fire damage in 2011. However this results in a very open area to the east of the site, along the High Street to the junction with Orwell Road and views of the Grade II Listed Buildings, 101 and 103 Main Road and Orwell Terrace are highly visible from the site and vice versa.
- 6.20 Proposals for new development affecting a listed building or its setting will only be permitted where they will protect its special architectural or historic interest, its character, appearance and fabric (Policy PPL9). Submitted drawing No. SK-001 Rev A shows the setting of the new building in relation to the Listed Building Orwell Terrace which is a five storey building, across the approved open space/car park. Nos. 101 and 103 Main Road is a three storey building. The proposed building of a similar three storey nature and traditional design is considered to make significant improvements to the character of the Conservation Area and the overall regeneration of this area. Therefore it is not considered that the proposed building would lead to substantial harm to the setting of these nearby Listed Buildings and would positively contribute to the renewed vitality of this area of the High Street.
- 6.21 Due to the prominence of the building within the Conservation Area the Heritage Officer concludes that the overall success of the scheme will be realised through the use of high quality materials and fixtures and as such has recommended conditions to be added to any grant of planning permission to require samples of all external materials, details and drawings of all external doors, windows, rainwater goods, balconies and the eaves and shopfront detailing to be submitted and agreed by the Local Planning Authority and to also undertake and submit a scheme of archaeological building recording at least commensurate with a 'Level 2 Record' as outlined in Historic England guidance Understanding Historic Buildings.
- 6.22 The internal layout of the proposed units are in excess of the requirements in the Governments' Technical housing standards – nationally described space standards (2015), in terms of their overall gross internal area (GIA) and bedroom sizes in terms of width and floor space. From the details submitted all habitable rooms have external windows maximising the natural light to the main habitable living areas.
- 6.23 The applicant has stated that the current businesses (offices, estate agents and beauty salon) on site would be accommodated within the new building, which is in line with the objectives of Policy PP5 which would see main town centre uses remain on the site and provide an active frontage to the High Street elevation.
- 6.24 Therefore the proposal is considered to be acceptable and policy compliant in these regards.

Parking and Highway Safety

- 6.25 Paragraph 110 of the NPPF seeks to ensure that safe and suitable access to a development site can be achieved for all users. Policy SP7 seeks new development to include parking facilities that are well integrated as part of the overall design. Policy SPL3 seeks the provision for adequate vehicle and cycle parking and Policy CP1 seeks to encourage more sustainable modes of transport, such as walking, cycling and public transport. The Essex County Council Parking Standards 2009 set out the parking requirements for new development.

- 6.26 The Council's adopted Parking Standards states that one bedroom properties should be provided with one off street car parking space. Each space should measure 5.5m x 2.9m.
- 6.27 There is no provision made within the proposed scheme to provide any off street parking for the units – there is therefore conflict with the above mentioned Parking Standards. However the site is considered to be within a sustainable location with extremely good transport links by bus and train along with a wide range of amenities within walking and/or cycling distance of the site. A reduction in car parking provision in a location such as this is not considered to be of a concern, particularly as the units are only one-bedroom max 2 person occupancy. A large indoor secure area is allocated for cycle parking (21 spaces with 2 electric cycle charging points) and 1 locker per unit is also provided.
- 6.28 Furthermore the Highway Authority has been consulted on this application and subject to conditions and mitigation regarding provision of cycle parking, Residential Travel Information Pack provision, the submission of a Construction Management Plan and a financial contribution for residential parking/waiting schemes the proposal is considered to be acceptable by the Highway Authority.
- 6.29 With regard to the financial contribution of £5000 which has been requested, paragraph 57 of the NPPF states that:
- Planning obligations must only be sought where they meet all of the following tests:
- a) necessary to make the development acceptable in planning terms;
 - b) directly related to the development; and
 - c) fairly and reasonably related in scale and kind to the development
- 6.30 The proposal is considered to be acceptable in planning terms given that the site is in close proximity to a wide range of facilities within walking distance and a number of public transport opportunities. It is considered that the financial contribution would be directly related to the development as it will go towards the introduction of any future waiting restriction/resident parking scheme in the vicinity of the building and/or side roads subject to any scheme being put forward by the North Essex Parking Partnership or considered a requirement should inconsiderate parking arise as a result of the development.
- 6.31 As the proposal is for a new building of 8 residential units, it is considered that the contribution is fair and reasonable in relation to the scale and size of development in this central town centre area, where provision of off street parking is minimal. Therefore it is considered by officers that this request for a contribution would meet these three tests and this financial contribution has been requested as part of the signed Unilateral Undertaking in relation to this development.

Residential Amenity

- 6.32 The NPPF, Paragraph 130 maintains that policies and decisions should result in new development that creates places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.
- 6.33 Policy SPL3 seeks new development that is designed and orientated to ensure adequate daylight, outlook and privacy for future and existing residents, provision is made for adequate private amenity space, waste storage and recycling facilities and the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties.
- 6.34 The nearest neighbours to the proposed building are located across Bay Road, opposite the building and across the new seating area and Milton Road to the rear. Windows to the rear

elevation have been kept to a minimum and would serve the main living area of just two of the proposed units. Furthermore the proposed balconies to the Bay Road elevation have been removed and replaced with sash windows, thus reducing any perceived or actual overlooking to the residents opposite. Balconies are retained to the eastern elevation which would overlook the new car parking area and is some distance away from the residential dwellings in Orwell Road.

- 6.35 Therefore the proposal is not considered to impact on the residential amenity of these neighbouring properties and would provide a good level of amenity for the future occupiers, in that all habitable rooms are served by adequate daylight and outlook.
- 6.36 There is a small access way to the rear to facilitate access to the cycle parking, with a refuse compound accessed from Bay Road. There is no communal amenity space provided within the site, however given the central location of the building and the close proximity to the coast and open green space, including the new public space area adjacent to the building, the lack of amenity space provision is not considered to be a robust reason for refusal in this town centre location.

Class E uses in a residential area

- 6.37 The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 introduced a new use class:-

Class E. Commercial, Business and Service which encompasses the use, or part use, for all or any of the following purposes:-

- (a) for the display or retail sale of goods, other than hot food, principally to visiting members of the public,
- (b) for the sale of food and drink principally to visiting members of the public where consumption of that food and drink is mostly undertaken on the premises,
- (c) for the provision of the following kinds of services principally to visiting members of the public—
 - (i) financial services,
 - (ii) professional services (other than health or medical services), or
 - (iii) any other services which it is appropriate to provide in a commercial, business or service locality,
- (d) for indoor sport, recreation or fitness, not involving motorised vehicles or firearms, principally to visiting members of the public,
- (e) for the provision of medical or health services, principally to visiting members of the public, except the use of premises attached to the residence of the consultant or practitioner,
- (f) for a crèche, day nursery or day centre, not including a residential use, principally to visiting members of the public,
- (g) for—
 - (i) an office to carry out any operational or administrative functions,
 - (ii) the research and development of products or processes, or
 - (iii) any industrial process,
being a use, which can be carried out in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit.

- 6.38 Whilst it is acknowledged that the proposed building is sited in a Town Centre location comprising of a mix of uses in the immediate vicinity, a Class E use proposed within the building at ground and first floor encompasses a wide range of uses which would be in close proximity to the residential units, therefore it is considered necessary to assess the Class E uses with regard to their impact on residential amenity. Overall the majority of the uses as outlined above are deemed to be acceptable in this location. However as Class E includes such a wide range of

uses some of which could have the potential to adversely impact on the residential amenities of the future occupiers of the residential units, due to the possibility of early morning, late night and weekend operations. Therefore it is considered reasonable in the circumstances of this case to limit the opening hours of the commercial units (to between 07:00 and 22:00 Monday to Friday, 08:00 and 22:00 on Saturdays and 9:00 and 18:00 on Sundays and Bank Holidays) in order to prevent any adverse impacts on the amenity of the future occupiers. This can be secured by way of a condition to any grant of planning permission.

- 6.39 The existing use to the rear of the building is a beauty salon and it is proposed that this use is moved to the new first floor unit of the proposed building, to maintain the operation of the existing building. A beauty salon use is classed as a Sui Generis use and therefore would not be included under the general Class E use. However in its operation is it considered to be of a very similar nature to a shop, hairdressers or medical/health service, being a unassuming operation with low noise levels and generally compatible in close proximity to residential properties.
- 6.40 Therefore for clarity purposes and in the interests of residential amenity as well as maintaining the viability of this town centre location, it is considered reasonable to add a condition to any grant of planning permission outlining the permitted uses and opening hours for both the first and ground floor commercial units.

Financial Contribution - Recreational Disturbance (RAMS)

- 6.41 Under the Habitats Regulations, a development which is likely to have a significant effect or an adverse effect (alone or in combination) on a European designated site must provide mitigation or otherwise must satisfy the tests of demonstrating 'no alternatives' and 'reasons of overriding public interest'. There is no precedent for a residential development meeting those tests, which means that all residential development must provide mitigation.
- 6.42 This new residential development lies within the Zone of Influence. The site is not within or directly adjacent to one of the European designated sites, but is approximately but is approximately 273 metres from the Stour and Orwell Estuaries RAMSAR and SPA. The Council's Habitats Regulation Assessment has concluded that, with the proposed mitigation, the project would not have an Adverse Effect on the Integrity of the sites included within the Essex Coast RAMS and therefore the proposal is in accordance with the Essex Coast RAMS SPD.
- 6.43 The contribution is to be secured by the unilateral undertaking to be completed in relation to this application. Therefore there is certainty that the development would not adversely affect the integrity of European Designated Sites in accordance with PPL4 and Regulation 63 of the Conservation of Habitat and Species Regulations 2017.

Ecology and Biodiversity Implications

- 6.44 Policy PPL4 seeks to protect and enhance the local biodiversity and geodiversity. The site is not of any specific designation, it is in a built-up area and has very low to no biodiversity value. The building is currently occupied and there is a high level of human activity and movement in and around the building. Whilst the proposed development would intensify the built form within the site, given the town centre location it is not considered that the proposal will result in a loss in biodiversity and mitigation is secured to ensure the development would not adversely affect the integrity of European Designated Sites in accordance with PPL4 and Regulation 63 of the Conservation of Habitat and Species Regulations 2017 (as outlined above).

7. Conclusion

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

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 Unilateral Undertaking legal agreement.

8.2 Conditions and Reasons

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

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

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

Drawing No: P-001 Rev F – Proposed Floor Plans
Drawing No: P-002 Rev D – Roof Plan
Drawing No: P-003 Rev E – Proposed Elevations
Drawing No: P-004 Rev E – Proposed site relationship Bay Road
Drawing No: P-005 Rev A – Proposed Site Plan
Drawing No: SK-001 Rev A – Proposed perspective

3. Prior to the commencement of development, a Demolition and Construction Management Plan, including method statements shall be submitted to, and approved in writing by, the Local Planning Authority. The approved plan and method statements shall be adhered to throughout the construction period. The Plan shall provide for:

- the parking of vehicles of site operatives and visitors,
- loading and unloading of plant and materials,
- storage of plant and materials used in constructing the development,
- wheel and underbody washing facilities.
- The following noise control measures:
 - The use of barriers to mitigate the impact of noisy operations will be used where possible. This may include the retention of part(s) of the original buildings during the demolition process to act in this capacity.
 - The selection and use of machinery to operate on site, and working practices to be adopted will, as a minimum requirement, be compliant with the standards laid out in British Standard 5228.
 - Mobile plant to be resident on site during extended works shall be fitted with non-audible reversing alarms (subject to HSE agreement).
 - If there is a requirement to work outside of the recommended hours the applicant or contractor must submit a request in writing for approval by Pollution and Environmental Control prior to the commencement of works.
- The following emission control measures:
 - All waste arising from the demolition process, ground clearance and construction processes to be recycled or removed from the site subject to agreement with the Local Planning Authority and other relevant agencies.

- No materials produced as a result of the site development or clearance shall be burned on site.
- All reasonable steps, including damping down site roads, shall be taken to minimise dust and litter emissions from the site whilst works of construction and demolition are in progress.
- All bulk carrying vehicles accessing the site shall be suitably sheeted to prevent nuisance from dust in transit.

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

4. Prior to the commencement of development a scheme of archaeological building recording at least commensurate with a 'Level 2 Record' as outlined in Historic England guidance understanding Historic Buildings - A Guide to Good Recording Practice must be undertaken and submitted to the Local Planning Authority.

Reason: To maintain a record of this historic building within the Conservation Area.

5. Prior to the commencement of above ground works samples of all external materials to be used in the development, including but not limited to brick (and pointing), render (including colour), presented on 1mx1m boards along with full details of windows, doors, balconies, rainwater goods and any other external fixtures must be submitted to and agreed by the Local Planning Authority. The approved materials only are to be used in the development. No development shall be commenced until a schedule of external finish materials including hard surface treatments, roof tiles, brick and brick masonry bond shall be submitted to and agreed, in writing, by the Local Planning Authority. Such materials as may be agreed shall be those used in the development and permanently maintained as such.

Reason - To ensure materials are of a very high quality to respect the Conservation Area

6. Prior to the commencement of any above ground works, detailed drawings showing the finish of the front and side eaves detail and the shopfront alterations must be submitted to and approved by the Local Planning Authority. All works must be carried out as per the approved details.

Reason: To maintain the integrity of the original building within the Conservation Area

7. Prior to the commencement of any piling works which may be necessary, a full method statement shall be agreed in writing with the Planning Authority (in consultation with Pollution and Environmental Control). This will contain a rationale for the piling method chosen and details of the techniques to be employed which minimise noise and vibration to nearby residents.

Reason: In the interests of residential amenity

8. Prior to the occupation of the commercial units hereby approved, no extraction, air conditioning or refrigeration equipment shall be installed, unless express planning permission has been obtained. Any equipment approved shall be satisfactorily installed and maintained in the approved form and operational manner thereafter.

Reason - In the interest of neighbouring residential amenity.

9. The commercial uses hereby permitted shall be limited to Class E use (ground floor only) and Class E and Beauty Salon use (Sui Generis use - first floor only) as defined in The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 (or any Order

revoking and re-enacting that Order with or without modification) and the commercial units shall operate between the hours of 07:00 and 22:00 Monday to Friday, 08:00 and 22:00 on Saturdays and 9:00 and 18:00 on Sundays and Bank Holidays.

Reason - To ensure that the use is appropriate within this mixed commercial and residential location, in the interests of residential amenity

10. Prior to first occupation of the residential units hereby approved, the Cycle parking and locker area must be provided as indicated on Drawing No. P-001 F. The approved facility shall be retained in perpetuity.

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

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

Reason: Due to the lack of parking provision at the site this would promote sustainable development and alternative transport options in the area

12. No vehicle connected with the development hereby approved shall 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: To protect the amenity of nearby residential premises and to protect the health of nearby residents and site workers

13. Prior to or during construction, if any unexpected ground conditions are encountered during the following processes must be followed:
 - a. All site works at the position of the suspected contamination will stop and the Local Planning Authority and Environmental Health Department will be notified as a matter of urgency.
 - b. A suitably trained geo-environmental engineer should assess the visual and olfactory observations of the ground and the extent of contamination and the Client and the Local Authority should be informed of the discovery.
 - c. The suspected contaminated material will be investigated and tested appropriately in accordance with assessed risks. The investigation works will be carried out in the presence of a suitably qualified geo-environmental engineer. The investigation works will involve the collection of solid samples for testing and, using visual and olfactory observations of the ground, delineate the area over which contaminated materials are present.
 - d. The unexpected contaminated material will either be left in situ or be stockpiled (except if suspected to be asbestos) whilst testing is carried out and suitable assessments completed to determine whether the material can be re-used on site or requires disposal as appropriate.
 - e. The testing suite will be determined by the independent geo-environmental specialist based on visual and olfactory observations.
 - f. Test results will be compared against current assessment criteria suitable for the future use of the area of the site affected.
 - g. Where the material is left in situ awaiting results, it will either be reburied or covered with plastic sheeting.

- h. Where the potentially contaminated material is to be temporarily stockpiled, it will be placed either on a prepared surface of clay, or on 2000-gauge Visqueen sheeting (or other impermeable surface) and covered to prevent dust and odour emissions.
- i. Any areas where unexpected visual or olfactory ground contamination is identified will be surveyed and testing results incorporated into a Verification Report.
- j. A photographic record will be made of relevant observations.
- k. The results of the investigation and testing of any suspect unexpected contamination will be used to determine the relevant actions. After consultation with the Local Authority, materials should either be: o re-used in areas where test results indicate that it meets compliance targets so it can be re-used without treatment; or o treatment of material on site to meet compliance targets so it can be re-used; or o removal from site to a suitably licensed landfill or permitted treatment facility.
- l. A Verification Report will be produced for the work.

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

- 14. An asbestos survey should be carried out prior to the construction works. Any asbestos containing materials must be safely removed by a qualified contractor.

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

- 15. No external lighting shall be installed at the site unless express planning permission has been obtained.

Reason: to protect the amenity of nearby residential dwellings

9. **Informatives**

9.1 Positive and Proactive Statement

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

Highway Informatives:

- 9.2 In main urban areas with frequent and extensive public transport, cycling and walking links, the EPOA Parking Standards recommend that a reduced parking standard provision may be applied to residential developments. A reduced parking standard provision level can be applied to this proposal as it is located very close to regular public transport services and public car parking facilities.
- 9.3 All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works. The applicants should be advised to contact the Development Management Team by email at development.management@essexhighways.org
- 9.4 On the completion of the Development, all roads, footways/paths, cycle ways, covers, gratings, fences, barriers, grass verges, trees, and any other street furniture within the Site and in the area, it covers, and any neighbouring areas affected by it, must be left in a fully functional repaired/renovated state to a standard accepted by the appropriate statutory authority.

- 9.5 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.

10. Additional Considerations

Public Sector Equality Duty (PSED)

- 10.1 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:
- 10.2 A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
- 10.3 B. Advance equality of opportunity between people who share a protected characteristic and those who do not. This may include removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; taking steps to meet the special needs of those with a protected characteristic; encouraging participation in public life (or other areas where they are underrepresented) of people with a protected characteristic(s); and
- 10.4 C. Foster good relations between people who share a protected characteristic and those who do not, including tackling prejudice and promoting understanding.
- 10.5 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, being married or in a civil partnership, race including colour, nationality and ethnic or national origin, religion or belief, sex and sexual orientation.
- 10.6 The PSED must be considered as a relevant factor in making this decision but does not impose a duty to achieve the outcomes in section 149 and section 149 is only one factor that needs to be considered, and may be balanced against other relevant factors.
- 10.7 It is considered that the recommendation to grant permission in this case would not have a disproportionately adverse impact on a protected characteristic.

Human Rights

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

Finance Implications

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

11. Background Papers

- 11.1 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/>.

Application: 22/00416/FUL

Town / Parish: Clacton Non Parished

Applicant: Mrs Jeanette Thomasson - Tendring District Council

Address: Martello Carpark West Road Clacton On Sea CO15 1AH

Development: Proposed erection of a new beacon for the Queen's platinum jubilee.

1. **Executive Summary**

- 1.1 This application has been referred to the Planning Committee as Tendring District Council is the applicant.
- 1.2 This application seeks planning permission for the erection of a new beacon for the Queen's platinum jubilee.
- 1.3 The application site is located within the settlement development boundary of Clacton on Sea.
- 1.4 Local Plan Policy PP8 states that to attract visitors to the Tendring District and support economic growth in tourism, the Council will generally support proposals that would help to improve the tourism appeal of the District to visitors.
- 1.5 The proposed beacon is considered acceptable in terms of design and appearance and it is not considered to cause any material impact upon neighbouring amenities.

Recommendation:

That the Assistant Director for Planning be authorised to grant planning permission for the development subject to:-

- a) Subject to the conditions stated in section 8.2

2. **Planning Policy**

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

National Planning Policy Framework July 2021

National Planning Practice Guidance

Tendring District Local Plan 2013-2033 and Beyond North Essex Authorities' Shared Strategic Section 1 Plan (adopted January 2021)

SP7 Place Shaping Principles

Tendring District Local Plan 2013-2033 and Beyond Section 2 (adopted January 2022)

PP8 Tourism

SPL3 Sustainable Design

Local Planning Guidance

Essex Design Guide

Status of the Local Plan

- 2.2 Planning law requires that decisions on 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 (the Framework). The 'development plan' for Tendring comprises, in part, Sections 1 and 2 of the Tendring District Council 2013-33 and Beyond Local Plan (adopted January 2021 and January 2022, respectively), together with any neighbourhood plans that have been brought into force.

3. Relevant Planning History

11/01311/FUL	Installation of cables in conjunction with the Gunfleet Sands Wind Farm from landfall at Martello Bay coach and car park to the Veolia Water site at the Waterglade Retail Park and the erection of a substation at the Veolia Water Site.	Approved	16.03.2012
13/00827/FUL	Variation of condition 2 of planning permission 11/01311/FUL to substitute approved drawing no CLH001a for amended drawing no's J10595/C/020 Issue G, J10595/C/017 Issue E and J10595/C/007 Issue H.	Approved	07.11.2013

4. Consultations

Environmental Health
24.03.2022

With reference to the above application, I can advise that the EP Team have no comments to make.

5. Representations

- 5.1 Clacton is non parished.
- 5.2 No letters of representations have been received.

6. Assessment

Site Description

- 6.1 The application site refers to Martello Car Park, West Road, Clacton on Sea. The application site is a piece of greenery located to the east of the entrance to the Car Park located between Parade West and West Road. The application site is located within the settlement development boundary of Clacton on Sea.

Proposal

- 6.2 This application seeks planning permission for the erection of a new beacon for the Queen's platinum jubilee.

Principle of Development

- 6.3 Policy PP8 of the Tendring District Local Plan 2013 – 2033 states that to attract visitors to the Tendring District and support economic growth in tourism, the Council will generally support proposals that would help to improve the tourism appeal of the District to visitors, subject to other relevant policies in the Local Plan. It is therefore considered that the principle of the beacon is acceptable in this location subject to the detailed considerations below.

Design and Appearance

- 6.4 One of the core planning principles of The National Planning Policy Framework (NPPF) as stated at paragraph 130 is to always seek to secure high quality design. Policies SP1 and SPL 3 of the Adopted Local Plan aim to ensure that all new development makes a positive contribution to the quality of the local environment, relates well to its site and surroundings particularly in relation to its form and design and does not have a materially damaging impact on the amenities of occupiers of nearby properties.
- 6.5 The proposed beacon will be visible to the street scene of West Road and Parade West. The total height of the post is approximately 6.2 metres with the basket measuring approximately 1.2 metres. The beacon will total approximately 7.4 metres in height. The beacon will be constructed from a steel pole and steel basket which is considered acceptable to ensure the longevity and maintenance of the proposal.
- 6.6 Although visible to the street scene, the proposed beacon is well set back from the highway and it is considered that the design and appearance is acceptable and would result in no material harm to visual amenity, the character of the surrounding area, or highway safety.

Impact upon Neighbouring amenities

- 6.7 Policy SP7 of the Tendring District Local Plan 2013-2033 requires that all new development protects the amenity of existing and future residents and users with regard to noise, vibration, smell, loss of light, overbearing and overlooking.
- 6.8 There are no immediate neighbours to the application site. To the south east is the Public House, 'The Toby Carvery', however due to a distance of approximately 13 metres as well as the nature of the proposal it is not considered to cause any impact upon the neighbouring amenities.
- 6.9 To the north of the application site on the opposite side of the road is Clacton-on-Sea Bowling Club, although the beacon will be visible, due to the distance the proposal is not considered to cause any adverse impact. The proposed beacon will be visible to Marina Point flats, however due to the significant separation distance as well as the nature of the proposed beacon, it is not considered to cause any adverse impact.

7. Conclusion

- 7.1 The proposed beacon is considered acceptable in this location in terms of visual amenity, residential amenity, and highway safety.

8. Recommendation

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

8.2 Conditions and Reasons

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

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

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

- Beacon Plan – Scanned 9th March 2022
- Location Plan – Scanned 9th March 2022

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

8.3 Informatives

Positive and Proactive Statement

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

9. Additional Considerations

Public Sector Equality Duty (PSED)

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

9.2 A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;

9.3 B. Advance equality of opportunity between people who share a protected characteristic and those who do not. This may include removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; taking steps to meet the special needs of those with a protected characteristic; encouraging participation in public life (or other areas where they are underrepresented) of people with a protected characteristic(s); and

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

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

- 9.6 The PSED must be considered as a relevant factor in making this decision but does not impose a duty to achieve the outcomes in section 149 and section 149 is only one factor that needs to be considered, and may be balanced against other relevant factors.
- 9.7 It is considered that the recommendation to grant permission in this case would not have a disproportionately adverse impact on a protected characteristic.

Human Rights

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

Finance Implications

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

10. Background Papers

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