



PLANNING COMMITTEE

DATE:	Tuesday, 5 July 2022
TIME:	6.00 pm
VENUE:	Committee Room - Town Hall, Station Road, Clacton-on-Sea, CO15 1SE

MEMBERSHIP:

Councillor White (Chairman)
Councillor Fowler (Vice-Chairman)
Councillor Alexander
Councillor Baker
Councillor Codling

Councillor V Guglielmi
Councillor Harris
Councillor Placey
Councillor Wiggins

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DATE OF PUBLICATION: Monday, 27 June 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 Last Meeting (Pages 1 - 22)

To confirm and sign as a correct record, the minutes of the meeting of the Committee, held on Tuesday, 7th June 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 District of Tendring **and** which falls within the terms of reference of the Committee.

5 Report of the Assistant Director of Planning - A.1 - Planning Application - 21/01523/FUL - Land Adjacent Cliphead Farm, Harwich Road, Little Bentley (Pages 23 - 58)

The application is before the Planning Committee following a call-in request from Councillor McWilliams due to concerns with the highway safety impacts, the increase in size of the development to that previously approved, and the impacts to neighbouring amenities.

The proposal is for the construction of six buildings for Class E use (including offices, financial, professional and medical services) which will amount to 3,016sqm of floorspace, including a new vehicular access off Harwich Road and ancillary works including landscaping and parking provision.

6 Report of the Assistant Director of Planning - A.2 - Planning Application 21/02027/FUL - The College, Colchester Institute, Church Road, Clacton-on-Sea

The application is referred to the Planning Committee following the member referral request of Pier Ward Councillor Paul Honeywood, due to concerns over parking provision and highways impact, and the effect of the proposal on the living conditions of existing residents. The application is the subject of a current non-determination appeal, listed to be considered by the Inquiry procedure lasting for 6 days in September 2022.

When the appeal was submitted the jurisdiction of the Council to determine the application was removed. Therefore, the purpose of this report is to obtain Members resolution as to whether or not they would have approved the application had they been in a position to determine it. Members should note that an extension of time for the submission of the Council's Statement of case for the appeal has been agreed until Friday 15 July 2022.

Date of the Next Scheduled Meeting

The next scheduled meeting of the Planning Committee is to be held in the Committee Room - Town Hall, Station Road, Clacton-on-Sea, CO15 1SE at 6.00 pm on Tuesday, 2 August 2022.

Information for Visitors

FIRE EVACUATION PROCEDURE

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**MINUTES OF THE MEETING OF THE PLANNING COMMITTEE,
HELD ON TUESDAY, 7TH JUNE, 2022 AT 6.00 PM
IN THE COMMITTEE ROOM - TOWN HALL, STATION ROAD, CLACTON-ON-SEA,
CO15 1SE**

Present:	Councillors White (Chairman), Alexander, Baker, Codling, Fowler, Harris, McWilliams and Wiggins.
Also Present:	Councillor Bray.
In Attendance:	Gary Guiver (Acting Director (Planning)), Graham Nourse (Assistant Director (Planning)), John Pateman-Gee (Planning Manager), Susanne Chapman-Ennos (Planning Team Leader), Jacob Jaarsmar (Planning Team Leader), Emma Haward (Leadership Support Assistant) and Mark Wilson (Development Technician - Technical).

11. VICE-CHAIRMAN OF THE PLANNING COMMITTEE

The Leader of the Council (Councillor Stock OBE) had recently appointed Councillor Jeff Bray to serve on the Cabinet as the Planning Portfolio Holder and, as a consequence of that appointment, Councillor Bray had ceased to be both a member of the Planning Committee and its Vice-Chairman. The Planning Committee was therefore required, under Council Procedure Rule 33.5, to fill this vacancy by electing a successor Vice-Chairman for the remainder of the 2022/2023 Municipal Year.

It was moved by Councillor Baker and seconded by Councillor Allen that Councillor Fowler be elected Vice-Chairman of the Planning Committee for the remainder of the 2022/2023 Municipal Year.

It was then moved by Councillor Harris and seconded by Councillor Codling that Councillor Alexander be elected Vice-Chairman of the Planning Committee for the remainder of the 2022/2023 Municipal Year.

On being put to the vote it was:-

RESOLVED – that Councillor Fowler be elected Vice-Chairman of the Planning Committee for the remainder of the 2022/2023 Municipal Year.

Councillor Alexander then graciously congratulated Councillor Fowler on her successful election.

12. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

Apologies for absence had been received from Councillor Placey, (substituted by Councillor Allen) and Councillor V Guglielmi, (substituted by Councillor McWilliams).

13. MINUTES OF THE LAST MEETING

It was moved by Councillor Alexander, seconded by Councillor Codling and **RESOLVED** that the minutes of the last meeting of the Committee held on 10 May 2022 be approved as a correct record, subject to it being clarified in the list of Committee members present that Councillor Baker had been absent for items 9 & 10.

14. DECLARATIONS OF INTEREST

There were no declarations of interest.

15. QUESTIONS ON NOTICE PURSUANT TO COUNCIL PROCEDURE RULE 38

There were none on this occasion.

16. REPORT OF ACTING DIRECTOR (PLANNING) - A.1 - PLANNING APPLICATION 17/01229/OUT - LAND ADJACENT AND TO THE REAR OF 755 AND 757 ST JOHNS ROAD, CLACTON-ON-SEA, CO16 8BJ

There were no declarations of interest for this application.

The Committee was reminded that the application site known as 'Rouses Farm' comprised 42 hectares of predominantly agricultural land on the western side of Clacton on Sea and north of Jaywick. This land had been allocated for a major residential and mixed-use development in the Council's adopted Local Plan and outline planning permission was now being sought for up to 950 residential units; a new Neighbourhood Centre comprising a local healthcare facility and units for shops, food and drink and/or a community centre; a 2.1ha site for a new primary school; and associated roads, open space, drainage, landscaping and other associated infrastructure.

Members were aware that the site had been allocated through Adopted Local Plan Policy SAMU4 for a mix of residential development of use to 950 new homes; community facilities including a new two-form entry primary school and public open space. The proposal, the subject of the outline application, had been aligned with that allocation description. Officers had worked positively with the applicants to resolve all technical planning issues with a view to bringing the application to this meeting with a recommendation of approval.

It was therefore reported that this was an application for outline planning permission with all matters reserved with the exception of access. Other matters such as appearance, landscaping, layout and scale were reserved for approval at a later date and therefore this application sought only to establish the principle of residential and mixed-use development of this allocated site, and the arrangements for access. The applicant had provided details of how they proposed to access the site off St. John's Road and Jaywick Lane and the Highway Authority, having modelled the impacts of this development on the highway network as part of the Local Plan process, had had no objections, in principle, to the proposed arrangements, subject to conditions requiring the approval of further details and certain off-site highway improvements.

The Committee was reminded that permission for the proposed development had previously been given at its meeting held in May 2018, subject to within 6 months of that resolution that a Section 106 agreement had been signed. However, this agreement had taken significantly longer than anticipated, primarily due to the complexity of resolving a number of legal matters with the various landowners.

In addition to the above, the Outline Permission had required the use of third party land to provide Off-Site Bird Mitigation , which had also required agreement with landowners and a licence before the Section 106 Agreement could be agreed.

It was noted that the Section 106 Agreement was now ready for signature. However, given the length of time that had elapsed since the original Planning Committee resolution and following legal advice, it had been necessary for the application to revert back to Members for consideration and a fresh decision. The Officer report now before the Committee highlighted those areas where there had been a shift in the policy landscape since May 2018 which warranted the re-assessment of the relevant material planning consideration where indicated.

Members were made aware that, due to the large scale and potential impacts of the development, planning regulations had required the preparation of an Environmental Statement. The applicant's Environmental Statement contained a thorough assessment of the following matters: landscape & visual; ecology and nature conservation; archaeology and cultural heritage; transport & access; air quality; noise & vibration; soils and agriculture; hydrology, flood risk & drainage; ground conditions and contamination; and socio-economics. The Environmental Statement had concluded that no significant adverse or cumulative effects on the environment had been identified during the construction and operational phases of the proposed development. The Council, as the Local Planning Authority (LPA) had undertaken a full re-consultation, which had included all relevant statutory consultees and which offered them an opportunity to provide comments on the full re-evaluation of the original July 2017 Environmental Statement to determine if the original findings were still valid. The re-evaluation report was titled 'Comment on the Evidence Base supporting 17/01229/OUT', it had been widely circulated to the statutory consultees and was available on the Council's website. Natural England, Historic England and the Environment Agency were the key consultees for development requiring an Environmental Statement and their comments, as well as other statutory consultation responses and third party comments had all been taken into account and addressed as appropriate through the Officers' assessment of the application. None of those consultees had raised a concern in this regard and Planning Officers were therefore satisfied that the application could be recommended for approval for the full reasons and justifications as set out in the Officer report.

It was reported that this application had been the subject of 5 local objections raising general concerns about the impact of the development in this location. They had all been considered by Officers and had been addressed accordingly in the Officer report.

Officers were content that, subject to the imposition of reasonable planning conditions and Section 106 planning obligations, the general principle of this level of development on the allocated site was acceptable. It complied with the policy requirements of Site Allocation SAMU4; was in keeping with both the site's location to the west of Clacton and along with the need to facilitate on site strategic landscaping, open space and the retention of existing landscape features, there was no policy conflict and the proposal constituted a sustainable form of development. Furthermore, subject to details and mitigation, Officers were satisfied that the proposal would not harm the living conditions of existing and future residents, or result in any materially detrimental impacts, whilst significantly boosting housing supply within the District. The Applicant was committed to bringing forward a Reserved Matters Application for Phases 1 & 2 of the Development in the coming months, in order to allow work to commence on site early in 2023.

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

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

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

(1) A minor amendment to the description of the development to reflect recent changes to the Use Classes Order:

Outline application (all matters reserved except means of access) for the redevelopment (including demolition) of the site for up to 950 residential units (including affordable housing) with a new Neighbourhood Centre comprising a local healthcare facility of up to 1500sqm NIA and up to 700sqm GFA for use Classes E(a) (shops), E(b) (food and drink) and/or F.1 (community centre); a 2.1ha site for a new primary school; and associated roads, open space, drainage, landscaping and other associated infrastructure.

(2) Amend recommendation sections (Section 1 - page 22 and Section 8 – page 48):-

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):**

And; 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 months, as the requirements necessary to make the development acceptable in planning terms had not been secured through a s106 planning obligation (to be added to section 8)

(3) A new **condition 42** thus follows:-

Concurrently with the submission of the reserved matters as outlined in condition 3, full details of the market housing mix of each phase shall be submitted to and approved in writing by the Local Planning Authority and implemented as may be approved.

Reason: To ensure the mix of dwelling sizes, types and tenure reflects the requirements as set out in Local Plan policy LP2

(4) A further late objection received for the following reasons:-

- Existing roads and infrastructure would be overwhelmed
- Existing agricultural land and public footpath offer a welcome escape
- Impact on local wildlife
- The open space between Jaywick/Clacton and St Osyth is a valuable break in

Officer Comment – the matters raised are addressed in the 'Assessment' section of the report under the 'Principle of Development', 'Ecology and Nature Conservation', 'Landscape & Visual Impact' and 'Transport and Access'

Stuart Willsher, the agent acting on behalf of the applicant, spoke in support of the application.

Matters raised by Members of the Committee:-	Officer's response thereto:-
A member of the Committee asked Officers if they could clarify if they were looking at an original or new application?	The Planning Officer advised that the original application was before the Committee, due to delays whereby the legal agreements had not been signed within the time limit agreed previously by the Committee.
It was also asked that if the Committee refused the application, what were the implications to the Local Plan?	The Acting Director advised that if the application was to be refused, the allocation was on the assumption that the supply would be widened. The Local Plan would be impacted if the application was refused.
A member of the Committee raised concerns regarding the loss of agricultural land.	The Planning Officer advised that although the application was for up to 950 dwellings, there was enough scope for landscaping to be considered and 30% of the site was proposed for Open Space.
A member of the Committee also raised concerns regarding the Health Centre.	The Planning Officer referred to the requirement of the health centre, whereby the development could not occupy dwellings in phases 3 or 4 until a neighbourhood centre site was developed and fully functional. Confirmation would be received from the Local Authority. The Planning Officer also referred Councillors to the Land Use Parameter Plan which showed an allocated neighbourhood centre, where there should be 'infrastructure or financial contributions'.
A Councillor asked if the access would be considered in reserved matters. Were traffic-calming measures conditioned?	The detail outline of the application considered the accesses however, it did not consider the layout. The Planning Officer advised that a condition could be imposed for traffic calming measures however; there was no current evidence of need for such measures.
A member of the Committee referred to section 6.18 of the officer's report regarding offsite mitigation; would it be in the developer's control?	The Planning Officer advised that mitigations included to be secured by condition in the Ecological Plan were such as: conservation headland, field margins, mainline track etc. The Local Authority would control the off-site mitigation.
Could the healthcare contribution be increased?	The Planning Officer confirmed that it would be written into the legal agreement with the potential to be increased in line with inflation.
Would a community centre be included?	The Planning Officer advised that this aspect was a separate phase of the development.
A member of the Committee asked if a school would be secured or whether contributions would be made?	The proposal included details of the land for the use of the school and financial contributions. ECC would retain the land from the developer and it would be the responsibility of the Education Authority to secure the land for school purposes.
A member of the Committee	The Planning Officer advised that one EV charging

<p>raised electric Vehicle charging points; how many charging points are required for each property?</p>	<p>point per dwelling would be considered.</p>
<p>A member of the Committee asked if an up-to-date traffic survey was necessary.</p>	<p>The Planning Officer advised that the Local Plan was subject to traffic modelling processes, the cumulative impact had been examined as part of the application.</p>

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

- a) **Within 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):**
- 20% On-site Affordable Housing
 - Provision of land on-site for a new healthcare facility together with a 554,900 financial contribution towards its provision. [In the event that the land is not required, the financial contribution will be spent on health facilities elsewhere (to be determined by the NHS);
 - Transfer of new open space, including proposed equipped play areas to the Council or a management company;
 - Land for a new primary school and early years and childcare facility on site with financial contributions towards the provision of those facilities;
 - Financial contributions to create additional secondary school places;
 - New neighbourhood centre;
 - Financial contributions towards RAMS and off-site ecological mitigation;
 - A £500,000 financial contribution towards public transport provision;
 - Review clause for 20% affordable housing provision. Timing of review to be agreed by officers with agent and shall be restricted to uplift as may be available above the 20%. Any additional provision will be financial contribution towards affordable housing offsite;
 - The Section 106 agreement shall ensure that any contribution of NHS/healthcare triggered shall be spent within the West Clacton area only; and
 - The timing of Heath Care provision on site or contribution instead to be agreed by officers with agent.
- b) the planning conditions stated in section 8.2 of the Officer report and as set out below.
- 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 months, as the requirements necessary to make the development acceptable in planning terms had not been secured through a Section106 planning obligation.

Conditions and Reasons:

- 1 The first application for the approval of reserved matters for at least the first phase of development shall be made to the Local Planning Authority no later than three years from the date of this permission. All subsequent applications for approval of reserved matters shall be made to the Local Planning Authority before the expiration of ten years from the date of this permission.
Reason - To comply with the requirements of Section 92 of the Town and Country Planning Act 1990.
- 2 The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.
Reason - To comply with the requirements of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.
- 3 No development on any phase shall be commenced until plans and particulars of "the reserved matters" referred to in the above conditions relating to the appearance, landscaping (including a hard and soft landscaping scheme for that phase), layout and scale, for that phase, have been submitted to and approved, in writing, by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
Reason - The application as submitted does not provide sufficient particulars for consideration of these details.
- 4 No development shall commence until a Phasing Plan and Programme for the development has been submitted to and approved in writing by the Local Planning Authority. The document shall identify the physical extent of each proposed phase of development and an indicative timescale for implementation of each phase. The development shall be carried out in accordance with the approved Phasing Plan and Programme.
Reason - To ensure the scheme is brought forward in a timely and comprehensive manner in the interests of proper planning, highway safety and amenity. Given the scale and mixed use nature of the development, the definition of phases will also enable more specific planning conditions to be discharged, as appropriate, on a phase-by-phase basis to assist in the timely delivery of the whole scheme.
- 5 The development hereby permitted shall be carried out in accordance with the following approved Drawing Nos: 160259-X-00-DR-C610 and 160259-00-X-DR-C601, and each phase or phases of the residential development so approved shall be completed in accordance with a hard and soft landscaping scheme, agreed pursuant to condition 3 above.
Reason - For the avoidance of doubt and in the interests of proper planning.
- 6 The reserved matters shall be in general conformity with the following plans and documents unless as otherwise varied by an approved Phasing Plan and Programme pursuant to condition 4:
P.1509_08 Sheet No. 07 Rev. F - Phasing Parameter Plan
P.1509_08 Sheet No. 06 Rev. C - Density Parameter Plan
P.1509_08 Sheet No. 04 Rev. B - Land Use Parameter Plan
P.1509_08 Sheet No. 03 Rev. E - Access and Movement Parameter Plan
P.1509_08 Sheet No. 02 Rev. C - Open Space Parameter Plan
P.1509_08 Sheet No. 01 Rev. B - Building Height Parameter Plan
P.1509_07 Rev. G - Masterplan
P.1509_13 E - Design and Access Statement

- Reason - To establish reasonable limits to the layout of the development in the interests of good design, layout, appearance and residential amenity.
- 7 The development hereby permitted comprises:
- a) No more than 950 dwellings
 - b) A single continuous site of not less than 2.1 hectares for a new Primary School
 - c) A neighbourhood centre comprising a local health facility with an net internal area of no less than 1500 square metres and no more than 700 square metres gross floor area for uses falling with Classes E(a) (Display or retail sale of goods, other than hot food), E(b) (Sale of food and drink for consumption (mostly) on the premises), E(d) (Indoor sport, recreation or fitness (not involving motorised vehicles or firearms or use as a swimming pool or skating rink), E(e) Provision of medical or health services (except the use of premises attached to the residence of the consultant or practitioner), E(f))Creche, day nursery or day centre (not including a residential use)
- Reason - To ensure compliance with the description of development hereby approved.
- 8 No development of any phase shall take place before an Environmental Construction Management Plan for the construction of the development of such a phase hereby approved has been submitted to, and approved in writing by, the Local Planning Authority. The demolition and construction works on that phase shall be carried out in accordance with the approved Environmental Construction Management Plan for that phase.
- Details submitted in respect of each of the Environmental Construction Management Plan(s), incorporated on a plan, shall provide for wheel cleaning facilities during the excavation, site preparation and construction stages of the development on the relevant phase. The method statement(s) shall also include details of a construction traffic management plan, a soil management plan, the loading and unloading of plant and materials, hours of construction, dust suppression strategy, means of recycling materials, the provision of parking facilities for contractors during all stages of the development on that phase (excavation, site preparation and construction) and the provision of a means of storage and/or delivery for all plant, site huts, site facilities and materials and means of safeguarding the public right of way during construction of that phase.
- Reason - To ensure that development is carried out in a controlled manner while minimising impacts on the surrounding residential properties and also in the interests of highway safety.
- 9 Prior to the first residential occupation or operation of the school (whichever comes first) within Phases 1, 1A or 2 as shown on Phasing Parameter Plan Drawing No. P.1509_08 Sheet No. 07 Rev. F, the signalised junction onto St Johns Road as shown in principle on Drawing No. 160259-00-X-DR-C601, including pedestrian and cycle infrastructure, shall be provided in accordance with detail to be submitted to and agreed in writing with the Local Planning Authority.
- Reason - To provide adequate highway infrastructure to accommodate the increased level of traffic on the surrounding highway network created as a result of the development in the interest of highway safety and efficiency.
- 10 Prior to the first residential occupation or occupation of the Neighbourhood Centre (whichever comes first) within Phases 2A, 3 or 4 as shown on Phasing Parameter Plan Drawing No. P.1509_08 Sheet No. 07 Rev. F, the signalised junction onto Jaywick Lane as shown in principle on Drawing No. 160259-00-X-DR-C610, shall be provided in accordance with details to be submitted to and agreed in with the Local Planning Authority. The details submitted shall

- incorporate a toucan crossing facility together with a 3 metre wide section of cycleway to the east of Jaywick Lane to allow the existing Toucan Crossing to be removed.
- Reason - To provide adequate highway infrastructure to accommodate the increased level of traffic on the surrounding highway network created as a result of the development in the interest of highway safety and efficiency.
- 11 Prior to the first occupation of Phase 3 or 4 (whichever comes first) as shown on Drawing No. P.1509_08 Sheet No. 07 Rev. F a link road through the application site connecting St Johns Road to Jaywick Lane shall be provided in accordance with details to be submitted to and agreed in writing by the Local Planning Authority. The details submitted shall provide for a road with a carriageway width of 6.75 metres with 1 x 2 metre footway and 1 x 3.5 metres shared footway/cycleway and show appropriately positioned bus stops equipped with current infrastructure.
- Reason - To provide adequate highway infrastructure to accommodate the increased level of traffic on the surrounding highway network created as a result of the development in the interest of highway safety and efficiency.
- 12 Prior to the first residential occupation or occupation of the Neighbourhood Centre (whichever comes first) within Phases of Phases 2A, 3 or 4 as shown on Phasing Parameter Plan Drawing No. P.1509_08 Sheet No. 07 Rev. F, a 3 metre wide cycleway/footway across the Jaywick Lane frontage, including surfacing/reconstruction of the existing footway shall be provided in accordance with details to be submitted to and agreed in writing by the Local Planning Authority.
- Reason - To provide adequate highway infrastructure to accommodate the increased level of traffic on the surrounding highway network created as a result of the development in the interest of highway safety and efficiency.
- 13 Prior to the first occupation of the 250th dwelling hereby permitted St Johns Road/Jaywick Lane junction improvements to include the provision of a standard roundabout (increasing the inscribed circle diameter to 22 metres), increasing the entry width of both St John's Road approaches to the roundabout and the provision of a 'through lane' on St Johns Road shall be provided in accordance with detail submitted to and agreed in writing by the Local Planning Authority.
- Reason - To provide adequate highway infrastructure to accommodate the increased level of traffic on the surrounding highway network created as a result of the development in the interest of highway safety and efficiency.
- 14 Prior to the first occupation of the 250th dwelling hereby permitted St Johns Road/Cloes Lane junction improvements to include either the installation of a signal controlled junction or an alternative junction arrangement as shown on drawing no. 160259-X-00-DR-C-604 REV A and Fig. 6.7 of the Submitted Transport Assessment shall be provided in accordance with detail submitted to and agreed in writing by the Local Planning Authority.
- Reason - To provide adequate highway infrastructure to accommodate the increased level of traffic on the surrounding highway network created as a result of the development in the interest of highway safety and efficiency.
- 15 Prior to the first occupation of the 500th dwelling hereby permitted St Johns Road/Peter Bruff Avenue junction improvements to include but not be restricted to increasing the entry width of both St John's Road approaches to the roundabout as shown on drawing no. 160259-X-00-DR-C-608 REV A and Fig. 6.10 of the submitted Transport Assessment (such junction improvements are to be limited to the extent of adoptable highway) shall be provided in accordance with detail submitted to and agreed in writing by the Local Planning Authority.

- Reason - To provide adequate highway infrastructure to accommodate the increased level of traffic on the surrounding highway network created as a result of the development in the interest of highway safety and efficiency.
- 16 Prior to the first occupation of the 500th dwelling hereby permitted either:
a) St Johns/A133 improvements for the St John's/A133 Roundabout to include but not be restricted to increasing the flare length and entry width of both the St John's Road west approach and the London Road south approach to the roundabout as shown in principle on the planning application drawings, in particular as shown on drawing no. 160259-X-00-DR-C-609 REV A and Fig. 6.12 of the submitted Transport Assessment (which show the maximum extent of such increased flare length and entry width) (such junction improvements are to be limited to the extent of adoptable highway) shall be provided in accordance with detail submitted to and agreed in writing by the Local Planning Authority; or
b) an alternative scheme for the delivery of such highway works shall be submitted to and agreed in writing by the Local Planning Authority
- Reason - To provide adequate highway infrastructure to accommodate the increased level of traffic on the surrounding highway network created as a result of the development in the interest of highway safety and efficiency.
- 17 Prior to the occupation of the first residential dwelling hereby permitted improvements to the two bus stops on St Johns Road nearest to the St Johns Road site access shall be provided in accordance with details submitted to and agreed in writing by the Local Planning Authority. Such details shall include timetable information, bus stop signage and raised kerbs and hardstanding.
- Reason - To provide adequate highway infrastructure to accommodate the increased level of traffic on the surrounding highway network created as a result of the development in the interest of highway safety and efficiency and to promote the use of sustainable transport.
- 18 Prior to the occupation of the first residential dwelling hereby permitted appropriate pedestrian access from the site to the bus stop(s) on St Johns Road referred in Condition No. 17 (using either the site or existing adoptable highway) shall be provided in accordance with details submitted to and agreed in writing by the Local Planning Authority.
- Reason - To provide adequate highway infrastructure to accommodate the increased level of traffic on the surrounding highway network created as a result of the development in the interest of highway safety and efficiency and to promote the use of sustainable transport.
- 19 Prior to the occupation of the phase 1A Primary School or the phase 2A Neighbourhood Centre, if the Link Road has not been completed pursuant to Condition No. 11 and is open for use by the public, an alternative footpath/cycleway to allow access between the northern and eastern parts of the sites and the school and neighbourhood centre shall be provided in accordance with details submitted to and approved in writing by the Local Planning Authority which shall remain in place until the Link Road has been completed pursuant to Condition No. 11 .
- Reason - To allow for connectivity through site to encourage the use of sustainable forms of transport.
- 20 Prior to first residential occupation of the each phase of the development hereby permitted, a Residential Travel Plan for that phase shall be submitted to and approved by the Local Planning Authority for approval in consultation with Essex County Council. This shall include, but not limited to, details of the monitoring of the implementation of the travel plan details of a Residential Travel Information Pack to be provided to new households on that phase aimed at promoting the

benefits of sustainable transport in support of the objective to secure a modal shift from the private car and increase the use of sustainable modes of travel. Such approved Travel Plan shall then be actively implemented for a minimum period from first occupation of that phase of the development until 1 year after final residential occupation on that phase.

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

- 21 Upon first occupation of each dwelling hereby permitted, each household will be provided with a Residential Travel Information Pack, the details of which will have been agreed pursuant to condition 20.

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

- 22 . No works shall take place within a Phase of development hereby permitted (other than site investigations, the provision of the spine road, formation of service trenches or provision of services or agreed landscaping or formation of agreed surface water attenuation features) until a detailed Surface Water Drainage Scheme for that phase, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the local planning authority. The detailed surface water drainage scheme for each phase shall include but not be limited to:

- a) Provision of a detailed surface water drainage scheme for that phase of development and details of how this integrates and complies with the surface water drainage system for the development site as a whole;
- b) Provide details of the discharge rates from that phase and demonstrate how this ensures that development as a whole will achieve discharge rates to the Greenfield 1 in 1 for all storm events up to and including the 1 in 100 year rate plus 40% allowance for climate change;
- c) Detail any surface water storage within the Phase and demonstrate how it integrates with the development as a whole to provide sufficient surface water storage to ensure no off site flooding as a result of the development during all storm events up to and including the 1 in 100 year plus 40% climate change event;
- d) Final modelling and calculations for all areas of the drainage system to serve that phase, having regard to totality of development permitted;
- e) Detail how the phase will contribute to the achievement of the appropriate level of treatment for all runoff leaving the site as a whole, in line with the CIRIA SuDS Manual C753;
- f) Detailed engineering drawings of each component of the drainage scheme within that Phase or to serve that Phase;
- g) A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features relevant to that phase;
- h) An implementation plan providing a timetable for the implementation of the detailed surface water drainage scheme for that phase.

The scheme shall subsequently be implemented on the relevant phase in accordance with the agreed details.

Reason - To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site; to ensure the effective operation of SuDS features over the lifetime of the development and to provide mitigation of any environmental harm which may be caused to the local water environment.

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- 23 No works within a Phase of development shall take place (other than site investigations) until a scheme to minimise the risk of offsite flooding caused by surface water run-off and groundwater during construction works within that Phase together with measures to prevent pollution has been submitted to, and approved in writing by, the Local Planning Authority. The scheme shall subsequently be implemented as approved.
Reason - To ensure development does not increase flood risk elsewhere and does not contribute to water pollution.
- 24 There shall be no residential occupation within a Phase of development until a Maintenance Plan for the Surface Water Drainage detailing the management and maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies for that phase has been submitted to and agreed, in writing, by the Local Planning Authority. Should any part on the relevant phase be maintainable by a maintenance company, details of long term funding arrangements for that phase should be provided for approval.
Reason - To ensure appropriate maintenance arrangements are put in place to enable the surface water drainage system to function as intended to ensure mitigation against flood risk.
- 25 No development on a phase shall commence until a Foul Water Strategy for that phase has been submitted to and approved in writing by the Local Planning Authority. The Foul Water Strategy for each phase shall include a timetable for implementation and a phasing strategy having regard to the phasing of the development as a whole. Development of the relevant phase shall be undertaken in accordance with the Foul Water Strategy for that phase and thereafter managed and maintained in accordance with the approved details.
Reason - To prevent environmental and amenity problems arising from flooding.
- 26 A. No development or preliminary ground-works within any defined phase of the development shall commence until a Programme of Archaeological Trial Trenching for that phase has been secured and undertaken in accordance with a Written Scheme of Investigation for that Phase, which has been submitted by the applicant, and approved by the Local Planning Authority. Following the completion of this initial phase of archaeological work for a phase, a summary report will be prepared and a mitigation strategy detailing the approach to further archaeological excavation and/or preservation in situ through re-design of the development within that Phase, shall be submitted to the Local Planning Authority.
B. No development within a Phase or preliminary groundwork within a Phase can commence on those areas of the Phase containing archaeological deposits, until the satisfactory completion of archaeological fieldwork, as detailed in the mitigation strategy for that Phase, which has been signed off by the Local Planning Authority.
C. Following completion of the archaeological fieldwork for the Phase, a post-excavation assessment for that Phase shall be submitted to the Local Planning Authority (within six months of the completion date, unless otherwise agreed in advance with the Local Planning Authority), which will result in the completion of post-excavation analysis, preparation of a full site archive and report ready for deposition at the local museum, and submission of a publication report.
Reason - The proposed development is located within an area with potential for below ground archaeological deposits. The development would result in harm to non-designated heritage assets with archaeological interest.

- 27 Unless otherwise agreed by the Local Planning Authority, development other than that required to be carried out as part of an approved scheme of remediation must not commence until parts A to D of this condition for that phase have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until part D has been complied with in relation to that contamination.
- A. Site Characterisation
- An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:
- (i) a survey of the extent, scale and nature of contamination;
 - (ii) an assessment of the potential risks to:
 - o human health,
 - o property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
 - o adjoining land,
 - o groundwaters and surface waters,
 - o ecological systems,
 - o archaeological sites and ancient monuments;
 - (iii) an appraisal of remedial options, and proposal of the preferred option(s). This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.
- B. Submission of Remediation Scheme
- A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.
- C. Implementation of Approved Remediation Scheme
- The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works. Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.
- D. Reporting of Unexpected Contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of A, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of B, which is subject to the approval in writing of the Local Planning Authority.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with C.

E. Long Term Monitoring and Maintenance

A monitoring and maintenance scheme to include monitoring the long-term effectiveness of the proposed remediation and the provision of reports on the same must be prepared, both of which are subject to the approval in writing of the Local Planning Authority.

Following completion of the measures identified in that scheme and when the remediation objectives have been achieved, reports that demonstrate the effectiveness of the monitoring and maintenance carried out must be produced, and submitted to the Local Planning Authority.

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

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

- 28 No development shall take place within a Phase until precise details of the provision, siting, height, design and materials of all boundary walls and fences which face onto public spaces/highways or private drives within that Phase have been submitted to and approved in writing by the Local Planning Authority. The boundary walls and fences so approved shall be erected prior to the building/s to which they relate being first occupied and shall thereafter be retained in their approved form.

Reason - To ensure a satisfactory development in terms of appearance and functionality, in the interests of amenity.

- 29 No phase of development shall commence until precise details of the manufacturer and types and colours of the external facing and roofing materials to be used in the construction of that phase have been submitted to and approved, in writing, by the Local Planning Authority. Such materials so approved shall be those used in that particular phase of development.

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

- 30 Prior to commencement of any phase of development, details of all refuse/recycling storage and collection points required to serve that phase of development shall be submitted to and approved in writing by the Local Planning Authority. Each refuse/recycling storage and collection point so approved shall be provided prior to first occupation of any dwelling to which it relates and shall be retained thereafter as approved.

Reason - To ensure a satisfactory development in terms of appearance and functionality in the interests of amenity.

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- 31 Within each phase of development, all planting, seeding or turfing shown on the landscaping details required to be submitted and approved under Condition No. 3 above shall be carried out on that phase during the first planting and seeding season (October - March inclusive) following the first occupation of that phase of development or in such other phased arrangement as may be agreed in writing by the Local Planning Authority.
Reason - In order to ensure the earliest practicable implementation of new planting required to mitigate the impact of development, in the interests of local and residential amenity.
- 32 The implementation of the development shall take place at all times in accordance with the Tree Survey/Protection Plan Drawing Ref: TPP Rev. A (dated 27.04.17) submitted with the Outline application. No development within a phase shall commence until details of tree protection measures for that phase, including during the construction phase, have been submitted to and approved in writing by the Local Planning Authority and such measures as approved shall be implemented fully in accordance with such requirements.
Reason - In order to ensure the protection of trees, in the interests of local and residential amenity.
- 33 Within the hereby permitted development, no dwelling shall be occupied until a high-speed broadband connection is installed to that dwelling.
Reason - To ensure the development is able to be equipped with high speed broadband to enable opportunities for web-based communication and homeworking.
- 34 Prior to commencement of development of a Phase, the applicants shall submit to the Local Planning Authority, in writing, a Local Recruitment Strategy for that Phase such strategy is to include details of how the applicant/ developer shall use their reasonable endeavours to advertise jobs locally and encourage the recruitment of employees and other staff from the locality of the application site, for the construction of that phase of the development. The approved Local Recruitment Strategy shall be adhered to for that phase therein after.
Reason - To promote and encourage the recruitment of employees and other staff in the locality of the application site.
- 35 Prior to commencement of a phase of development (excluding site investigation, levelling and ground works and remediation) a scheme for the provision and implementation of water efficiency measures, during the construction and occupational phases of the development in that phase shall be submitted to and agreed in writing by the Local Planning Authority. The scheme shall include a clear timetable for the implementation of the measures in relation to the construction and occupancy of the development on that phase. The development of the relevant phase shall be constructed and the measures provided and made available for use on that phase in accordance with such timetables as may be agreed by the Local Planning Authority for that phase.
Reason - To enhance the sustainability of the development through better use of water, energy and materials.
- 36 Other than for external lighting within the curtilage of a dwellinghouse or lighting within the public highway, details of external lighting for each phase of the development hereby approved shall be submitted to and approved in writing by the Local Planning Authority prior to its installation. These external lighting details for each phase shall consider how the use of such lighting will avoid, or minimise harm caused by light pollution and the development of that phase shall be carried out in accordance with the approved details.

- Reason - To ensure that new external lighting of the development is not harmful to biodiversity or local amenity.
- 37 No development within a phase (excluding site investigation and remediation) shall commence until details of existing and proposed levels within that Phase of the site, finished floor levels and identifying all areas of cut or fill within that Phase, have been submitted to and approved in writing by the Local Planning Authority. The development of the relevant shall be carried out in accordance with the approved details for that phase.
- Reason - To protect the impact on neighbours and in the interest of visual amenity.
- 38 No development shall commence within a phase of the development until a Landscape Management Plan for that phase has been submitted to, and approved in writing by, the Local Planning Authority. The Landscape Management Plan(s) shall include design objectives, management responsibilities and maintenance schedules for the landscaped elements of the development on that phase. The development of the relevant phase shall be implemented and thereafter maintained in line with the details and timescales in the approved plan for that phase.
- Reason - To ensure proper planning, management and maintenance of the approved landscaping; landscaped areas; sustainable urban drainage features; public open space; amenity space and play areas and equipment in the interests of amenity; sustainability and the character and appearance of the area.
- 39 No development shall commence within a phase of the development until an Ecological Management Plan for that phase has been submitted to, and approved in writing by the Local Planning Authority. The Ecological Management Plan will reflect the mitigation strategy as contained within the Phase 2 Ecological Surveys and Assessment at Appendix 7 of the submitted Environmental Statement and the Natural England Consultation Response dated 5th June 2018. The development of that phase shall be implemented in line with the measures contained within the approved Ecological Management Plan for that phase.
- Reason - In order to safeguard protected wildlife species and their habitats and in the interests of biodiversity and to ensure best practice measures are used on site during both construction and occupation phases of development to minimise the impact on birds and wildlife and to promote biodiversity.
- 40 Prior to above ground works in any phase identified within the phasing plan, a scheme for the provision of electric vehicle charging facilities for the dwellings, neighbourhood centre, and school hereby approved shall have first been submitted to and approved in writing by the local planning authority. Thereafter the charging facilities shall be installed in a working order prior to first occupation of the dwelling.
- Reason - To enhance the sustainability of the development through better use of energy and materials.
- 41 No phase of the development identified within the Phasing plan shall be occupied until 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 enhance the sustainability of the development through better use of energy and materials.

42 Concurrently with the submission of the reserved matters as outlined in condition 3, full details of the market housing mix of each phase shall be submitted to and approved in writing by the Local Planning Authority and implemented as may be approved.

Reason: To ensure the mix of dwelling sizes, types and tenure reflects the requirements as set out in Local Plan policy LP2

43 Details of the spine road layout shall include details of traffic calming/speed reduction measures as necessary with the reserved matters for layout where it relates to the spine road and shall be carried out as may be approved and thereafter retained.

Reason: In the interests of highway and pedestrian safety.

17. REPORT OF ACTING DIRECTOR (PLANNING) - A.2 - PLANNING APPLICATION 16/02039/OUT - LAND OFF LONDON ROAD, CLACTON-ON-SEA

There were no declarations of interest for this application.

The Committee was informed that this application had been referred to it at the request of the Acting Director of Planning.

Members were advised that the application site comprised two parcels of land, of approximately 10.6 hectares (combined), which were situated immediately to the south and west of the B1441 London Road, on the northern edge of Clacton-on-Sea. The land parcels were subdivided by a farm track which provided access to an arable field to the south which was within separate ownership. The A133 lay adjacent to the western boundary of parcel 1.

Overall, the site consisted of two former horticultural nurseries (including a dwelling at Langford Nursery); a dwelling known as Little Ditches within the north eastern corner of the site; woodland, orchard, grassland and scrub land that had regenerated naturally over time; as well as a redundant builder's yard towards the eastern side of the site. The land in question was predominantly green and essentially rural in its nature, with a mix of uses within the area typical of its urban fringe location, but provided an important role in keeping Clacton separate from the village of Little Clacton.

It was reported that this was an outline planning application, with access and layout to be determined at this stage. All other matters (appearance, scale and landscaping) were reserved for future determination.

The Committee was reminded that the application had originally been submitted for 220 Dwellings, including 20 Affordable Homes and 21 Self-Build Plots. This had been revised in spring 2020, and had removed the Montana Nurseries site from the northern end of the site, with associated amendments to its access, and changed the description of the proposed development to entirely self-build and custom homes, including 67 affordable homes.

Members were informed that there would be two access points into the development site, one for each parcel, and the layout as identified on the submitted plans showed a series of loop roads and cul-de-sacs proposed, with building forms being mainly detached.

It was noted that the existing trees and vegetation to the perimeter of the parcels would largely be retained, along with a number of trees within the development zones. An ecological buffer adjacent to Picker's Ditch would be maintained, denoted as an 'Enhanced Ecology Zone' on the layout drawing, along with two woodland areas.

The Committee was advised that, as set out within Paragraph 47 of the NPPF, planning law required that applications for planning permission be determined in accordance with the Development Plan, unless material considerations indicated otherwise. In this case the application site was located outside of a designated settlement development boundary. The site fell within the area of countryside which separated Clacton from Little Clacton, and was designated as Green Gap. Adopted Local Plan Policy PPL6 stated that Strategic Green Gaps, as shown on the Policies Maps and Local Maps, would be protected in order to retain the separate identity and prevent coalescence of settlements. Any development permitted must be consistent with other policies in the plan and must not (individually or cumulatively) lead to the coalescence of settlements.

It was felt by Officers that the existing green gap would be greatly diminished by virtue of the introduction of a substantial built form into largely open countryside of a fairly undeveloped nature; and the introduction of 220 new homes on the application site would amount to a detrimental effect upon the local landscape, eroding the existing spaciousness found along the southern and western sides of London Road, whilst also bringing the settlements of Clacton and Little Clacton much closer together.

Officers informed Members that, whilst the evidence submitted demonstrated that there was a potential need for self-build and custom build units, the application was partly speculative, in that the proposed occupiers were unknown. Furthermore, whilst there was no exact definition of small scale, it was not considered that 220 dwellings (153 market dwellings) could be considered small scale in this instance.

The Committee was made aware that this application was in outline form with layout being included as part of this application, therefore the layout of the development would be fixed. This meant that potential owners would have less flexibility regarding the size and position of the proposed dwellings.

Members of the Committee were advised that it was accepted by Officers that the proposal could have provided for those on the Council's self/custom build housing register, and that the scheme would have also enabled the construction of 67 Affordable homes for the benefit of those within the District who were in housing need, if permitted. Short-term the application would have also facilitated the provision of construction related jobs, and would have benefitted local supply chains for building materials, trades etc.

However, when considering the planning balance Officers had concluded that the adverse impacts of the development significantly and demonstrably outweighed the benefits, when assessed against the policies set out within the NPPF taken as a whole.

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

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 containing details following receipt of a letter from Councillor G V Guglielmi in support of the application and further information in relation to the application submitted from the applicant.

Laura Hamlyn, a representative acting on behalf of the applicant, spoke in support of the application.

Councillor Bray, the Member for the adjacent Little Clacton Ward, spoke against the application.

Matters raised by Members of the Committee:-	Officer's response thereto:-
A member of the Committee asked what was the land mass of the site?	The Planning Officer advised that the site was predominately a dis-used builders yard and scrubland.
Would the area have to be deforested to achieve the proposed plots?	The perimeter trees would have been retained, a number of trees within the site had been proposed to be removed. The majority of vegetation would be removed as shown in the application plans.
Another member of the Committee raised concerns regarding well-established trees. Where is the designation of Pickers Ditch?	The Planning Officer advised that Pickers Ditch ran alongside the boundary.
Had the objections been addressed? Would PPL5 be a suitable reason for refusal?	The comments had not yet been addressed, PPL5 was a suitable ground for refusal of the application.

Following discussion by the Committee, it was moved by Councillor Harris, seconded by Councillor Alexander and unanimously **RESOLVED** that the Assistant Director for Planning be authorised to **REFUSE** planning permission for the development for the reasons set out in paragraph 8.2 of the Officer report and as set out below:-

Reasons for Refusal:-

1. The proposed development is located outside of a designated settlement development boundary and as such is on land designated as open countryside and which is defined as a part of the Strategic Green Gap in the Tendring District Local Plan (Section 2) 2022, under Policy PPL6. This policy states that Strategic Green Gaps will be protected in order to retain the separate identity and prevent coalescence of settlements. Any development permitted must be consistent with other policies in the plan and must not (individually or cumulatively) lead to the coalescence of settlements'.

The existing Strategic Green Gap would be greatly diminished by virtue of the introduction of substantial built form into a largely rural area. Consequently, the introduction of 220 new homes on the application site would amount to a clear and very real detrimental effect upon the local landscape, eroding the existing spaciousness found along the southern and western sides of London Road, and giving rise to an unnatural incursion into the Strategic Green Gap, whilst also bringing the settlements of Clacton-on-Sea and Little Clacton much closer together, which would be harmful to the character and appearance of the area.

The proposal is therefore contrary to the above policies and paragraph 174 b) of the National Planning Policy Framework (NPPF) which requires the intrinsic character and beauty of the countryside to be recognised.

2. The NPPF defines self-building and custom housing as ‘housing built by an individual, a group of individuals, or persons working with them or for them, to be occupied by that individual’. It also states that ‘such housing can be either market or affordable housing’. A legal definition is also provided within the Self-building and Custom Housebuilding Act 2016 which states that ‘self-build and custom building means the building or completion by individuals, associations of individuals, or persons working with or for individuals or associations of individuals, of houses to be occupied as homes by those individuals. But it does not include the building of a house on a plot acquired from a person who builds the house wholly or mainly to plans or specifications decided or offered by that person’.

Policy LP7 of the Tendring District Local Plan states that ‘the Council will consider, on their merits, proposals for small developments of new self-build and custom built homes on land outside of, but within a reasonable proximity to, settlement development boundaries, where they will still support a sustainable pattern of growth in the District and are brought forward by individuals or associates of individuals who will occupy those homes’.

It is therefore considered that the proposal is contrary to the above mentioned policies in that the proposal is not a small development and that there is insufficient information to demonstrate that the proposal meets the criteria of self-build and custom build housing as the development is partially speculative and layout is included as part of the application which gives less flexibility to potential owners.

3. The NPPF states Local Planning Authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be sought where they meet all of the following tests: necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonable related in scale and kind to the development.

The proposed development would trigger the requirement for the following:

- Affordable Housing - 30% delivery of the total amount of dwellings proposed;
- Ecology - RAMS payment of £137.71 per dwelling i.e. £30,158.49;
- Education - Early Years & Childcare - £265,868 index linked to April 2020;
- Secondary Education - £809,473 index linked to April 2020;
- School Transport - £385,548 Index Linked to April 2020;
- Healthcare - Additional Primary Healthcare provision (floorspace) to mitigate impacts arising from the development - £128,511.68;

Highways - Upgrading of the 4 nearest bus stops in the vicinity of the site, as appropriate, to current Essex County Council specification and a Residential Travel Plan, including an annual monitoring fee.

Public Open Space - Delivery of Public Open Space and Play Areas, with arrangements for future ownership and management.

These requirements would need to be secured through planning obligations pursuant to S106 of the Town and Country Planning Act 1990. At the time of issuing this decision neither a S106 Agreement or Unilateral Undertaking had been completed. As such the proposal is contrary to Local Plan Policies HP1, HP5, LP5, PP12, PPL4, CP1 and CP2, as well as NPPF paragraphs 63, 93, 95, 98, 104 and 182 and Regulation 63 of the Conservation of Habitat and Species Regulations 2017.

4. The proposed development fails to demonstrate that adequate provision/details for foul water sewage discharge could be achieved without detriment to the local water environment given the current availability and capability of local infrastructure. On this basis, the proposal was considered contrary to PPL5, SP6 Part E, and DI1.

The meeting was declared closed at 20:25.

Chairman

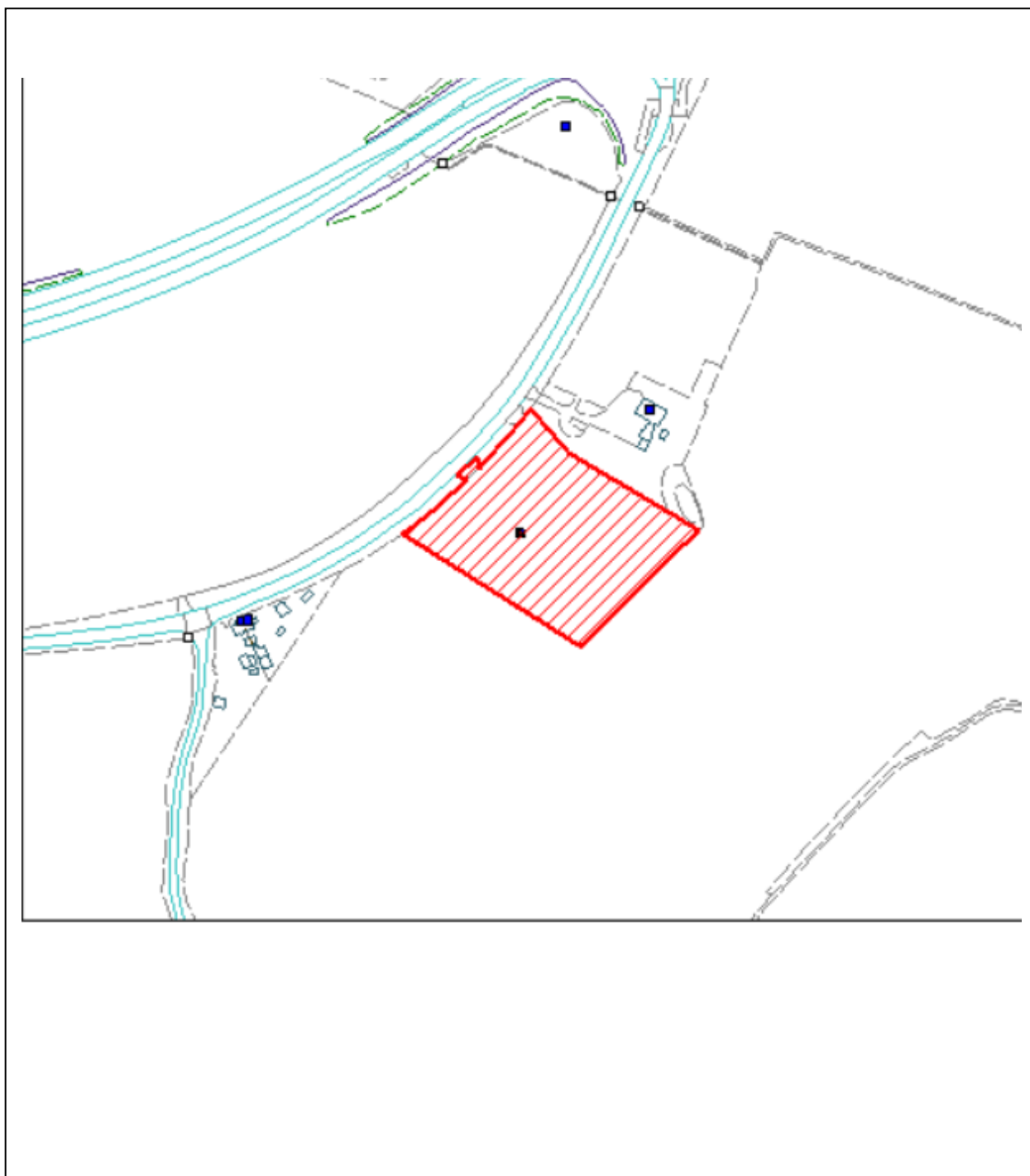
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PLANNING COMMITTEE

5 JULY 2022

REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING

A.1 PLANNING APPLICATION – 21/01523/FUL – LAND ADJACENT CLIPHEDGE FARM HARWICH ROAD LITTLE BENTLEY



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Application: 21/01523/FUL

Town / Parish: Little Bentley Parish Council

Applicant: Mr Neil Naphthine - BrandArt Ltd

Address: Land adjacent Cliphedge Farm Harwich Road Little Bentley Essex

Development: Erection of six buildings to serve Class E(c) and E(e) uses (comprising offices, financial, professional, and medical services) with ancillary car parking, landscaping, new vehicular access point off and stopping up of existing access.

1. **Executive Summary**

- 1.1 The application is before the Planning Committee following a call-in request from Councillor McWilliams due to concerns with the highway safety impacts, the increase in size of the development to that previously approved, and the impacts to neighbouring amenities.
- 1.2 The proposal is for the construction of six buildings for Class E use (including offices, financial, professional and medical services) which will amount to 3,016sqm of floorspace, including a new vehicular access off Harwich Road and ancillary works including landscaping and parking provision.
- 1.3 Under relevant appeal decision APP/P1560/W/19/3226387 (dated 26th May 2020), planning permission was previously granted on this site for the development of two buildings for office uses measuring 1,687sqm of floorspace, which also included for a new vehicular access off Harwich Road and ancillary parking and landscaping. This permission remains extant and is a material consideration in the determination of this application.
- 1.4 In respect of the development proposal the subject of this report, Officers are content that the buildings are of a suitable design for this rural location and do not consider there to be significant harm to the amenities of any neighbouring residents. Essex Highways Authority raise no objections, and the parking being provided is in accordance with the Essex Car Parking Standards. There is no significant harm to trees and the soft landscaping scheme provided would sufficiently soften, screen and enhance the development. Following the submission of an amended Preliminary Ecological Assessment, ECC Place Services (Ecology) raise no objections, and the Environment Agency, Natural England and Essex SuDS also do not object on flood risk and drainage grounds.
- 1.5 The proposal will result in a significant increase in bulk and floorspace to the scheme previously allowed, as well as a significant increase in hardstanding for car parking, and by its very nature, having regard to the immediate and wider context, will result in a level of harm to the character and appearance of the area, thereby resulting in minor conflict with Adopted Policies SPL3 and PPL3 as well as Paragraph 130 of the NPPF. However, the development does allow for sufficient levels of soft landscaping, particularly to all boundaries, and retains good separation distances between each building, thereby ensuring the development does not appear overdeveloped.
- 1.6 In addition, the proposed development represents a strong economic boost to the District, with provision for up to 152 jobs, which compares favourably to the extant permission that provided for 36 jobs. The proposal would therefore set a positive and progressive tone for commercial development in the district, which currently has very poor provision of commercial office space, and what provision there is, is generally of very poor quality. In addition, a Sequential Test has

been undertaken, which demonstrates there are no other sequentially preferable sites where the development could instead be located.

- 1.7 Taking all of the above into consideration, Officers consider that the strong economic benefits of the proposal outweigh the identified harm to the character and appearance of the area, and on balance are recommending approval.

Recommendation:

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

- a) **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):**
 - **Highways Contribution towards speed restrictions, workplace travel plan, provision of bus stops and footways**
- b) Subject to the conditions stated in section 8.2

2. Planning Policy

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

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

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
SP3 Spatial Strategy for North Essex
SP5 Employment
SP6 Infrastructure and Connectivity
SP7 Place Shaping Principles

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

SPL1 Managing Growth
SPL3 Sustainable Design
PP4 Local Threshold Impact
PP5 Town Centre Uses
PP6 Employment Sites
PP7 Employment Allocations
PP13 The Rural Economy
PPL1 Development and Flood Risk
PPL3 The Rural Landscape
PPL4 Biodiversity and Geodiversity
PPL5 Water Conservation, Drainage and Sewerage
PPL7 Archaeology
PPL10 Renewable Energy Generation
CP1 Sustainable Transport and Accessibility

Supplementary Planning Guidance:

Essex County Council Parking Standards Design and Good Practice Guide 2009
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

10/00799/FUL	Alteration and change of use of redundant agricultural building to storage and distribution (B8) and alteration of existing access to highway.	Withdrawn	12.10.2010
11/00014/FUL	Alteration and change of use of redundant agricultural building to storage and distribution (B8) and alteration of existing access to highway. As amended by Landscape Plan Drawing No. 10.629.1 Rev C received on 26 January 2011 and Proposed Floor Plans, Section and Elevations Drawing dated January 2011 and received on 3 February 2011.	Withdrawn	13.04.2011
17/02014/FUL	Two office buildings, including ancillary site works (car parking, landscaping, surface water management pond, new vehicular access points off Harwich Road and stopping up of existing access).	Refused (Allowed at appeal)	09.10.2018

4. Consultations

ECC SuDS Consultee 12.01.2022	No objection subject to the conditions detailed in paragraph 8.2 below.
Environment Agency 29.12.2021	Foul Drainage We note that the proposal is to dispose of foul water via a Package Treatment Plant as there is no mains sewerage available in this area.

In addition to planning permission the applicant may also require an Environmental Permit from the Environment Agency. Please note that the granting of planning permission does not guarantee the granting of an Environmental Permit. Upon receipt of a correctly filled in application form we will carry out an assessment. It can take up to 4 months before we are in a position to decide whether to grant a permit or not.

Domestic effluent discharged from a treatment plant/septic tank at 2 cubic metres or less to ground or 5 cubic metres or less to surface water in any 24 hour period must comply with General Binding Rules provided that no public foul sewer is available to serve the development and that the site is not within a Groundwater Source Protection Zone.

A soakaway used to serve a non-mains drainage system must be sited no less than 10 metres from the nearest watercourse, not less than 10 metres from any other foul soakaway and not less than 50 metres from the nearest potable water supply, spring or borehole.

Where the proposed development involves the connection of foul drainage to an existing non-mains drainage system, the applicant should ensure that it is in a good state of repair, regularly de-sludged and of sufficient capacity to deal with any potential increase in flow and loading which may occur as a result of the development.

Where the existing non-mains drainage system is covered by a permit to discharge then an application to vary the permit will need to be made to reflect the increase in volume being discharged. It can take up to 13 weeks before we decide whether to vary a permit.

Building Control and
Access Officer
01.03.2022

No adverse comments at this time.

Regeneration
25.02.2022

The Economic Growth Team strongly support and endorse this application which seeks to provide circa 37,000 sq.ft of predominantly office accommodation in a development that, if approved, would set a positive and progressive tone for commercial development (with flexible unit sizes) in the district.

The district has very poor provision of commercial office space, and that which is available is generally of very poor quality (with notable exceptions at Lanswood Park near Elmstead Market and the Evolve development on the district's eastern border with Colchester).

Generally private sector developers active in Tendring focus their attention on bringing forward sites for residential development (and sometimes on sites earmarked for employment uses), with little or no interest in bringing forward commercial development for employment. While it is true that some of the district's established

businesses have in recent years invested in the expansion of their current accommodation, this has been facilitated in response to their own business requirements. This application promotes the development of commercial space on (in part) a speculative basis (supported by an identified demand/need) and it is this approach that will assist in growing the district's economy and broadening Tendring's business base.

The proposed development will provide capacity for circa 242 jobs (67 of which are already confirmed) with office accommodation catering for higher value employment uses.

The site occupies a key location in close proximity to strategic transport infrastructure, making the site more attractive than employment sites in Clacton or Harwich. It is not thought that the development of this site would have any negative impact on employment sites or existing commercial activity in the neighbouring settlements of Brightlingsea or Manningtree.

The Council's Employment Land Review and Economic Development Strategy demonstrate there is a need for the district to build its commercial business base. The provision of quality office accommodation, such as that promoted within this application, will help the district provide a competitive working environment that will attract businesses requiring higher level skills, which pay higher level wages - thereby making a significant contribution to the economic growth of the district.

The site would include

- Flexible modern business Space not currently available in the immediate area
- Accommodation suitable for
- Business start-ups
- Hybrid working
- Move-on space
- A net zero carbon development meeting the highest environmental and energy efficiency standards.
- Reducing the need for workers to commute outside of the district.

Businesses have already been identified to occupy Blocks 1, 2 and 6, which amounts to more than 50% of the development. This is will create important new job opportunities for the residents of the district.

The new development would also help support established local supply chain businesses, those which would service businesses within the proposed development and those which would maintain the buildings and the estate. Inter alia these include those supply chain businesses providing:

- Food and welfare for staff
- Office supplies
- Building and site maintenance
- CCTV
- Heating and mechanical engineering

- Landscaping and hard surfaces
- Security
- HR support
- Financial services

The Economic Growth Team also welcome proposals to form a new access onto the site which takes into account the observations raised by ECC Highways.

In conclusion the Council's Economic Growth Team commend this application for approval.

Affinity Water
22.03.2022

No comments.

Highways England
22.03.2022

No objections.

Environmental Protection
16.03.2022

Thank you for your consultation regarding the proposed development above. The Environmental Protection Team's comments are given below:

Noise

I have reviewed the noise report compiled SRL dated 30th June 2021 and EP have no comments to make other than it should be noted that the acoustician recommends plant noise limits for future installations. This is noted in the summary on page 3 of the report.

Contaminated Land

I have reviewed the Contaminated Land Phase 1 desk study compiled by Geosphere Environmental Ltd dated 19th June 2017. The recommendation on Page 3 should be implemented.

Noise from Construction

In order to minimise potential nuisance to nearby existing residents caused by construction, ground work and/or demolition works, Pollution and Environmental Control ask that conditions as detailed within paragraph 8.2 below are attached.

Anglian Water Services
Ltd
28.02.2022

Thank you for your consultation. Having reviewed the development, there is no connection to the Anglian Water sewers, we therefore have no comments.

If this is to change, please re-consult with us.

Essex County Council
Archaeology
17.03.2022

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

The proposed development lies adjacent to Clip Hedge Farm along the historic Harwich Road. Harwich road is considered to be Roman in origin and Roman pottery has been recovered close to the road at Hare Green to the west. To the north Iron age pottery was found in a pocket of black ash together with some bone while erecting a pylon. Little archaeological investigation has taken place in the area, however aerial photography has revealed cropmarks suggestive of occupation and activity to the south and southwest of the site and find spots of pottery and metal detecting finds dating to the medieval period have been recovered from the surrounding fields. Settlement and activity along the route of the historic road is evident from the medieval period onwards. Clip Hedge Farm is depicted on the Tithe map of c.1840 and may be medieval in origin.

The above application proposes development across much of the site which would require groundworks that is likely to impact on any potential surviving archaeological remains.

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

RECOMMENDATION: Archaeological trial trenching and excavation

1. No development or preliminary groundworks of any kind shall take place until a programme of archaeological investigation has been secured in accordance with a written scheme of investigation which has been submitted by the applicant, and approved in writing by the local planning authority.
2. No development or preliminary groundworks of any kind shall take place until the completion of the programme of archaeological investigation identified in the WSI defined in 1 above.
3. The applicant will submit to the local planning authority a post excavation assessment (to be submitted within six months of the completion of the fieldwork, unless otherwise agreed in advance with the Planning Authority). This will result in the completion of post excavation analysis, preparation of a full site archive and report ready for deposition at the local museum, and submission of a publication report.

Reason for recommendation

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

Further Recommendations:

A professional team of archaeologists should undertake the archaeological work. The archaeological work will comprise initial trial trenching evaluation. A brief outlining the level of

archaeological investigation will be issued from this office on request. Tendring District Council should inform the applicant of the recommendation and its financial implications.

If you have any questions about this advice, please do not hesitate to contact me.

ECC Highways Dept
31.03.2022

The information that was submitted in association with the application has been fully considered by the Highway Authority. A site visit was undertaken in conjunction with this planning application. The information submitted with the application has been thoroughly assessed and conclusions have been drawn from a desktop study with the observations below based on submitted material. It is noted that the application is similar to previous planning application 17/02014/FUL that the Highway Authority did not object to at the time and was allowed on appeal in May 2020; while eighty percent of vehicle movements will be coming from the A120. Similar to the previous application the proposal offers adequate parking (116 spaces including 12 Blue Badge spaces) and turning facilities plus new bus stop and footway infrastructure that will provide a link between these facilities and the site. Taking these factors into account:

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

1. 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 185 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 occupation of the development a vehicular turning facility, of a design to be approved in writing by the Local Planning Authority shall be constructed, surfaced, and maintained free from obstruction within the site at all times for that sole purpose.

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

3. The vehicular access/ road junction shall be constructed at right angles to the highway boundary and to the existing carriageway and shall be provided in principle and accord with amended drawing number: 6793-1113-P5, but not be limited to, the following aspects:

-Carriageway measuring no less than 6.75m in width for the first 22 metres.

-Kerb radii measuring a maximum or no more than 8m.

- o A straight section of carriageway to be provided from the entrance junction for 22 metres.
- 2-metre-wide footway on both sides of the junction and continued around the kerb radii.
- Appropriate pedestrian crossing facilities (drop kerbs/ tactile paving).
- Any other reasonable items to ensure the access is in accordance with current policy standards.

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

4.The gradient and proposed vehicular access/ road junction shall be in accordance with DMRB standards.

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

5.Prior to commencement of the development details showing the means to prevent the discharge of surface water from the development onto the highway shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be carried out in its entirety prior to the access becoming operational and shall be retained at all times.

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

6.The existing access shall be suitably and permanently closed to the satisfaction of the Local Planning Authority, incorporating the reinstatement to full height of the highway verge, to the satisfaction the Highway Authority immediately the proposed new access is brought into use.

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

7.Prior to occupation the two following items shall be provided entirely at the Developer's expense:
-Two bus stops, shelters x2, timetables, raised kerbs as shown on the submitted plans
-Sections of footway (2 metres in width) with associated pedestrian drop kerbs and tactile paving as shown on the plans thereby giving pedestrian access to the aforementioned bus stops.

Reason: To make adequate provision within the highway for the additional pedestrian traffic generated within the highway as a result of the proposed development.

This condition requires a Legal Agreement between the Applicant/Developer and the Highway Authority using the powers

in Section 278 of the Highways Act, 1980.

8. A financial contribution of £10,000 (to be index linked) towards future speed reduction measures on Harwich Road in the vicinity of the site (not restricted to but including the introduction of a 50-mph speed limit). This condition requires a Legal Agreement between the Applicant/Developer and the Highway Authority using the powers in Section 106 of the Highways Act, 1980.

Reason: To make the speed limit compatible with the 50-mph speed limit on the other approaches to the A120 roundabout and to protect highway efficiency of movement and safety and to ensure the proposal site is accessible, in accordance with policy DM1 and DM17.

9. Prior to first occupation of the proposed development, the Developer shall submit a workplace travel plan to the Local Planning Authority for approval in consultation with Essex County Council. Such approved travel plan shall be actively implemented for a minimum period of 5 years. It shall be accompanied by a monitoring fee of £6,132 (plus the relevant sustainable travel indexation) to be paid before occupation to cover the 5-year period.

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.

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

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

11. The cycle / powered two-wheeler parking shall be provided in accordance with the EPOA Parking Standards. The approved facility shall be secure, convenient, covered and provided prior to occupation and retained at all times.

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

12. 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 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.

Notes:

- Prior to any works taking place in the highway the developer should enter into an S278 agreement with the Highway Authority under the Highways Act 1980 to regulate the construction of the highway works
- All or some of the above requirements may attract the need for a commuted sum towards their future maintenance (details should be agreed with the Highway Authority as soon as possible)
- Street lighting will be provided in accordance with ECC Operational Plan.
- All highway related details should be agreed with the Highway Authority.
- The proposed junction layout and footway proposals will require an initial Stage 1 Road Safety Audit.

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

3: The Highway Authority cannot accept any liability for costs associated with a developer's improvement. This includes design

check safety audits, site supervision, commuted sums for maintenance and any potential claims under Part 1 and Part 2 of the Land Compensation Act 1973. To protect the Highway Authority against such compensation claims a cash deposit or bond may be required.

Natural England
14.03.2022

Thank you for your consultation.

Natural England has previously commented on this proposal and made comments to the authority in our email dated 23rd February 2022 (Our Ref: 384109).

The advice provided in our previous response applies equally to this amendment although we made no objection to the original proposal.

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

Should the proposal be amended in a way which significantly affects its impact on the natural environment then, in accordance with Section 4 of the Natural Environment and Rural Communities Act 2006, Natural England should be consulted again. Before sending us the amended consultation, please assess whether the changes proposed will materially affect any of the advice we have previously offered. If they are unlikely to do so, please do not re-consult us.

Tree & Landscape Officer
01.03.2022

With regard to the impact of the development proposal on trees and hedges on the application site and adjacent land the applicant has provided a tree survey and report that has been carried out in accordance with BS5837: 2012 Trees in relation to design, demolition and construction ' Recommendations.

The report adequately demonstrates that the development proposal can be implemented without causing harm to retained trees and that the installation of underground services close to the boundary hedge, adjacent to Cliphedge Farm, will not impinge on the Root Protection Areas (RPA's) of the retained trees or boundary hedge.

The information provided in relation to soft landscaping is sufficient to secure a good level of new planting that will soften screen and enhance the appearance of the development

Tree & Landscape Officer
23.03.2022

Further to previous comments and in relation to the avoidance of damage to existing vegetation on the application site and on adjacent land it may be possible to investigate the use of 'Trenchless Technology' which avoids the need to excavate a traditional trench to install underground services.

Essex County Council
Ecology
13.05.2022

Thank you for re-consulting Place Services on the above application.

Holding objection due to insufficient ecological information on

European Protected Species (Hazel Dormice)

Summary

We have reviewed the documents supplied by the applicant, relating to the likely impacts of development on protected & Priority habitats and species and identification of proportionate mitigation.

Although not mentioned in the Updated Ecology Report (Skilled Ecology, March 2022), NBN Atlas (<https://nbnatlas.org/>) shows two records of Hazel Dormice in 2011 and 2020 within 2km of the proposed development. One record is within the Little Bentleyhall Wood Local Wildlife Site (LoWS), approximately 600m from the site, a coppiced Hazel and Sweet Chestnut Ancient woodland. Suitable habitat appears to be present given the boundary hedgerows and scrub on site, which are both planned to be partly removed. It is considered possible that Hazel Dormice are likely to be present within and around the site.

Therefore, we are not satisfied that there is sufficient ecological information available for determination of this application and recommend that details of survey results, likely impacts and mitigation measures for Hazel Dormice is provided prior to determination.

The results of these surveys are required prior to determination as government advice states that surveys should be asked for if "distribution and historical records suggest dormice may be present" and "the development will affect an area of woodland, hedgerow or scrub suitable for dormice" Furthermore, paragraph 99 of the ODPM Circular 06/2005 highlights that: "It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision."

This information is therefore required to provide the LPA with certainty of impacts on legally protected and Priority species and be able to secure appropriate mitigation either by a mitigation licence from Natural England or a condition of any consent. This will enable the LPA to demonstrate compliance with its statutory duties, including its biodiversity duty under s40 NERC Act 2006 and prevent wildlife crime under s17 Crime and Disorder Act 1998.

Furthermore, the Local Planning Authority, as a competent authority, should have regard to the requirements of The Conservation of Habitats and Species Regulations 2017 (as amended) when reaching planning decisions and must not leave this until the licence application stage (based on the judgement in the Hack Green Group (Appellant) v Cheshire East Council [2006] - APP/R0660/W/15/3131662). Therefore, if a European Protected Species Mitigation Licence is required for this application, appropriate mitigation measures to support the provision of the

licence must also be outlined prior to determination to allow certainty to the LPA that a licence will likely be granted.

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

We look forward to working with the LPA and the applicant to receive the additional information required to support a lawful decision and overcome our holding objection.

No objection subject to securing biodiversity mitigation and enhancement measures.

Summary

We have further reviewed the recently submitted Updated Ecology Report (Skilled Ecology, June 2022), and Consultee Response - Skilled Ecology (Skilled Ecology, June 2022), along with the Ecology Cover Letter (Skilled Ecology, April 2022), MAGIC maps (magic.defra.gov.uk/) and aerial photography, relating to the likely impacts of development on designated sites, protected species and Priority species & habitats and identification of appropriate mitigation measures.

Essex County Council
Ecology
10.06.2022 (following
submission of updated
Preliminary Ecological
Assessment)

We are now satisfied that there is sufficient ecological information available for determination of this application.

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

The mitigation measures identified in the Updated Ecology Report (Skilled Ecology, June 2022) should be secured by a condition of any consent and implemented in full. This is necessary to conserve and enhance protected and Priority species particularly Hazel Dormice, Great Crested Newt, bats, nesting bird, Hedgehogs, Brown Hare, Badgers, and Reptiles.

We also support the proposed reasonable biodiversity enhancements of 12 Bat bricks, 6 Sparrow terraces, 4 Starling bricks, 5 Swift bricks, 12 Bee bricks, and Hedgehog friendly fencing which have been recommended by the Updated Ecology Report (Skilled Ecology, June 2022) to secure net gains for biodiversity, as outlined under Paragraph 174d of the National Planning Policy Framework (2021). We further support the enhancements of wildflower grassland areas, native scrub areas, further hedge and shrub planting, tree planting, and sedum roofs for bin and cycle stores which have been recommended by the Ecology Cover Letter (Skilled Ecology, April 2022), and demonstrates measurable net gains for biodiversity on site. These reasonable biodiversity enhancement measures should be outlined within a Biodiversity Enhancement Strategy and should be secured by a condition of any consent.

It is also recommended by the Ecology Cover Letter (Skilled Ecology, April 2022), that a Landscape and Ecological Management Plan (LEMP) should be considered to maximise the proposed enhancements and any retained habitat for the benefit of local wildlife. The LEMP should also be secured by a condition of any consent

In addition, the Updated Ecology Report (Skilled Ecology, June 2022), highlights that it is likely bats could be foraging/commuting within and around the site. Therefore, if any external lighting is to be proposed, it is advised that a sensitive lighting scheme is developed to minimise any impacts. This should summarise the following measures will be implemented:

- Light levels should be as low as possible as required to fulfil the lighting need.
- Warm White lights should be used at <3000k. This is necessary as lighting which emit an ultraviolet component or that have a blue spectral content have a high attraction effect on insects. This may lead in a reduction in prey availability for some light sensitive bat species.
- The provision of motion sensors or timers to avoid the amount of 'lit-time' of the proposed lighting.
- Lights should be designed to prevent horizontal spill e.g. cowls, hoods, reflector skirts or shields.

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

Impacts will be minimised such that the proposal is acceptable, subject to the conditions below based on BS42020:2013. We 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 Updated Ecology Report (Skilled Ecology, June 2022) as already submitted with the planning application and agreed in principle with the local planning authority prior to determination.

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

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

2. PRIOR TO ANY WORKS ABOVE SLAB LEVEL: BIODIVERSITY ENHANCEMENT STRATEGY

“A Biodiversity Enhancement Strategy for protected and Priority species shall be submitted to and approved in writing by the local planning authority, following the details contained within Updated Ecology Report (Skilled Ecology, June 2022) and Ecology Cover Letter (Skilled Ecology, April 2022).

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

- a) Purpose and conservation objectives for the proposed enhancement measures;
- b) detailed designs to achieve stated objectives;
- c) locations of proposed enhancement measures by appropriate maps and plans;
- d) timetable for implementation demonstrating that works are aligned with the proposed phasing of development;
- e) persons responsible for implementing the enhancement measures;
- f) details of initial aftercare and long-term maintenance (where relevant).

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

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

3. PRIOR TO BENEFICIAL USE: 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 the beneficial use of the development [or specified phase of development].

The content of the LEMP shall include the following:

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

And if any external lighting is to be proposed

4. PRIOR TO BENEFICIAL USE: WILDLIFE SENSITIVE LIGHTING DESIGN SCHEME

“A lighting design scheme for biodiversity shall be submitted to

and approved in writing by the local planning authority. The scheme shall identify those features on site that are particularly sensitive for bats and that are likely to cause disturbance along important routes used for foraging; and show how and where external lighting will be installed (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).

5. Representations

5.1 Little Bentley Parish Council have objected to the scheme, raising the following concerns:

- a) Much larger scale than that previously approved;
- b) Speculative development with no particular end users specified, which reduces its economic benefits;
- c) Development such as this should be subject of the sequential test;
- d) Position has now changed following adoption of Local Plan;
- e) Outside of a settlement development boundary and constitutes development in the countryside; and
- f) Design does not represent a rural character.

5.2 Great Bromley Parish Council have objected to the proposed development for the following reasons:

- a) The land is Grade 1 arable;
- b) The Europark development is going ahead within 2 miles and this proposal is not needed;
- c) Believe there is an Article 4 directive on the site;
- d) The site is open countryside;
- e) Loss of wildlife and damage to the environment;
- f) Set a precedent for future developments;
- g) Out of character;
- h) Significant increase in size of the development

5.3 Little Bromley Parish Council have objected to the proposed development for the following reasons:

- a) The site falls outside of a settlement development boundary and Little Bentley is classes as a 'smaller rural settlement', which is the least sustainable location for growth;
- b) The development is out of character with the area, and is much larger in scale to that previously approved;
- c) The scheme is speculative and has no relation to local business and community needs;
- d) Not sensitive to its surroundings;
- e) No significant options to create a significant sustainable access; and
- f) Could set a precedent.

- 5.4 Councillor McWilliams objects to the proposed development and called for it to be determined by the Planning Committee due to highway safety concerns, impacts to neighbouring amenities, and the increase in size of the development to that previously allowed.
- 5.5 In addition, 39 letters of objection (as well as two letters of support) have been received, highlighting the following concerns:
- a) Adverse impacts of increased traffic;
 - b) Inadequate screening of the development;
 - c) Site is a greenfield location;
 - d) No need for the development;
 - e) Impact to local landscape;
 - f) Harm to biodiversity;
 - g) No infrastructure to support development;
 - h) Light pollution;
 - i) Noise pollution;
 - j) Will set a precedent for future development;
 - k) Too close to existing residential properties;
 - l) Outside of a settlement development boundary;
 - m) Insufficient parking provision;

6. Assessment

Site Description

- 6.1 The application site, which measures 1.30 hectares, lies on the south-eastern side of Harwich Road, midway between the villages of Hare Green to 0.5km the west and Little Bentley 1km to the east. Colchester lies 7km to the west.
- 6.2 The site itself consists of large flat fields, enclosed by trimmed hedges and occasional standard trees. The wider context predominantly consists of a rural character, with large areas of agricultural land to all sides. Immediately adjacent to the north of the site is Clip Hedge Farm including the dwelling and associated outbuildings, with the boundary to this property separated by extensive and mature conifers. To the north-west and north-east lies the A120, with the recently installed roundabout located approximately 250 metres to the north of the site. A pair of cottages ('Thicks Cottages') lie 85m to the west along Harwich Road.
- 6.3 The site falls outside of a recognised settlement development boundary within the adopted local plan, although it does fall within a landscape area described as Bromley Heaths Landscape Character Area (LCA). The neighbouring villages of Frating, Great Bromley and Little Bentley are all classed as Smaller Rural Settlements where there is limited shopping and service opportunities. Elmstead Market (5km) and Great Bentley (3km), which also benefits from a rail station with links to Colchester and Clacton on Sea, are classed as Rural Service Centres and offer a higher standard of provision. Local bus services are limited to an hourly frequency during normal working hours.

Planning History

- 6.4 In October 2018, under planning reference 17/02014/FUL, an application on this site for 1,687sqm of office development comprising two buildings was refused by the Planning Committee. The reasons for this were that the proposal was considered to be in an isolated location, remote from local services and public transport links and therefore reliant on private vehicles. In addition, the proposal would promote an unacceptable level of traffic visiting the site to the serious detriment of neighbouring amenities, and also it would be harmful to the existing rural character of the locality. A second refusal reason related to the proposal adversely impacting on wildlife and protected species, in particular the presence of Great Crested Newts,

and the suggested mitigation measures were not sufficient to overcome the potential adverse impacts.

- 6.5 An appeal was lodged against this refusal and under appeal reference APP/P1560/W/19/3226387 (dated 26th May 2020), the appeal was allowed. The Inspector, in coming to their conclusion, highlighted the proposal would create an attractive hub for a growing business with approximately 36 people being employed, which would be a positive boost for the local economy, and would also sit comfortably within the landscape and would protect the rural character. In addition, the harm to neighbouring amenities and local biodiversity was not considered to be significant. Therefore, whilst it was acknowledged that harm would be caused through conflict with the spatial strategy which directs employment development to defined settlements, this did not significantly and demonstrably outweigh the benefits of the scheme.

Proposal

- 6.6 This application seeks planning permission for the construction of six buildings to form a commercial business park measuring a total of 3,016sqm.
- 6.7 All of the units will be within Class E(c) and E(e) uses (comprising offices, financial, professional and medical services uses), and are allocated as follows:
- Building 1 - (2.5 storeys with 733sqm floorspace) – Offices
 - Building 2 – (single storey with 236sqm floorspace) – Offices/Studio
 - Building 3 – (two storeys with 618sqm floorspace) - Offices
 - Building 4 – (1.5 storeys with 416sqm floorspace) - Offices
 - Building 5 – (two storeys with 352sqm floorspace) - Offices
 - Building 6 – (single storey with 661sqm floorspace) – medical clinic for preparation and fitting of wheelchairs
- 6.8 Car parking would be provided for 116 cars, including 12 disabled parking spaces. There would also be 54 cycle spaces and 4 motorcycle parking facilities.
- 6.9 The proposal also includes ancillary site works, including landscaping, a new vehicular access from Harwich Road to the north-west, and the stopping of the existing access.

Principle of Development

- 6.10 Adopted Local Plan Policy PP2 (Retail Hierarchy) states that specific centres across the Tendring District will be the focus for 'town centre uses' which include retail, leisure, commercial, office, tourism and cultural, community and residential development. The Council will promote a mix of appropriate town centre uses within these defined centres with 'active street frontages' at ground floor level. Proposals must be properly related in their scale and nature having regard to the above hierarchy.
- 6.11 Policy PP7 (Employment Allocations) of the Adopted Tendring District Council Local Plan (2022) allocates 32ha of land for new development within use classes B2 (General Industry) and B8 (Storage and Distribution) to support a diversity of employment opportunities. Further, it states that proposals for new employment-related development on land outside of these allocations will be considered having regard to their potential to support economic growth in the district and the requirements of other policies in this Local Plan.
- 6.12 The application site falls outside of a recognised settlement development boundary within the recently adopted local plan. Given the wording of Policy PP7 above, and the recent nature of the Local Plan being adopted, the Council has a sufficient and up to date employment land allocation until the end of the Plan period of 2036. The site is not allocated for employment related uses in the recently adopted Local Plan.

- 6.13 However, a material consideration is the previous appeal decision allowed in May 2020 which has allowed for two office buildings on this site (a total of 1,687sqm of development). Within the decision to allow this development the Inspector has confirmed that the principle of such development on this site is acceptable. That notwithstanding, the proposal subject of this application does provide for a significant expansion of commercial activities compared to this extant planning permission, as well as now including former A2 (financial and professional services) and D1 (non-residential institution) uses.
- 6.14 Chapter 6 of the NPPF (2021) identifies that decisions should help create the conditions in which business can invest and that significant weight should be placed on the need to support economic growth taking into account both local business needs and wider opportunities for development. Paragraph 83 advises that decisions should enable sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings. Paragraph 84 makes it clear that decisions should recognise that sites to meet local business needs in rural areas may have to be found beyond existing settlements and in locations that are not well served by public transport.
- 6.15 The Inspector noted that the principle of encouraging different modes of transport is reflected in the NPPF, however the NPPF also states at paragraph 103 that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and that this should be taken into account in decision making.
- 6.16 Adopted Policy PP13 is concerned with supporting the rural economy and states that, to support growth in the rural economy the Council may grant planning permission for buildings that are essential to support agricultural and farm diversification schemes. This is subject to details consideration against other policy requirements in the Local Plan. The latter part of adopted policy PP7 states that proposals for new employment-related development on land outside of these allocations will be considered having regard to their potential to support economic growth in the district and the requirements of other policies in this Local Plan.
- 6.17 The applicant has provided within their submission a supporting statement that demonstrates the economic benefits of the proposal, which are summarised below:
- The development has the potential to result in up to 152 jobs, with the total number currently confirmed being 67 jobs (this relates purely to Buildings 1, 2 and 6, with the remaining buildings end users not currently known);
 - Following the increase in home/hybrid working following the Covid-19 pandemic, this has created a need for smaller regional centres, and the site could become such a hub, drawing further investment into the district;
 - New businesses located within the site could look to utilise local suppliers within Tendring for a range of needs; and
 - The design of the development incorporates flexibility of unit sizes, enabling businesses to grow and 'move-on' within the development rather than having to seek accommodation outside the district.
- 6.18 The Council's Economic Growth Team have been consulted and strongly support the scheme, as it would set a positive and progressive tone for commercial development in the District. Currently the District has a very poor provision of commercial office space, and that which is available is generally of very poor quality.
- 6.19 Therefore, in this instance it is considered that the proposal is in accordance with the aims and aspirations of national and local plan policies mentioned above, in so far that it concerns the

proposed expansion of an established rural business that would support rural economic growth. This is provided that the proposals can be accommodated without an adverse impact on the landscape character of the countryside and satisfactory access and parking is provided. These issues are covered in more detail below.

Sequential Test

- 6.19 Paragraph 87 of the NPPF states local planning authorities should apply a sequential test to planning applications for main town centre uses which are neither in an existing centre nor in accordance with an up-to-date plan. Main town centre uses should be located in town centres, then in edge of centre locations; and only if suitable sites are not available (or expected to become available within a reasonable period) should out of centre sites be considered. Paragraph 88 of the NPPF further adds that when considering edge of centre and out of centre proposals, preference should be given to accessible sites which are well connected to the town centre. Applicants and local planning authorities should demonstrate flexibility on issues such as format and scale, so that opportunities to utilise suitable town centre or edge of centre sites are fully explored.
- 6.20 Adopted Local Plan Policy PP4 states that Applications for retail, leisure and office development outside of a centre will require an impact assessment if the development is over specific floorspace thresholds for the nearest defined Town Centre. On this occasion, the nearest defined Town Centre's are Manningtree (4.2 miles apart) and Brightlingsea (4.8 miles apart), and therefore the Sequential Test is required for any developments in excess of 250sqm floorspace.
- 6.21 The Inspector within the previous appeal decision previously reviewed the proposal against the Sequential Test, and confirmed the following:
- "The alternative sites identified would not be suitable for a number of reasons relating specifically to the ability for the business to have a site with a road frontage, and to allow the use of office space and exhibition space. Of those that may offer a road frontage, there was no specific evidence as to when the sites may be available, or if it would match the remaining criteria. Only one of the sites was available with a freehold interest, however that did not meet other criteria. Due to the nature of the appellant's business requiring large exhibition spaces to replicate client retail spaces, and supporting office space, I am satisfied that the alternative sites would not be appropriate, and therefore there are no sequentially preferable sites and the sequential test is passed."*
- 6.22 It is acknowledged that the proposal subject of this application is a significant expansion to that previously assessed by the Inspector. Accordingly, a revised Sequential Test has been provided that has assessed a total of 12 sites in the surrounding area that are either currently being marketed or that have been granted planning consent but are not yet developed. In summary all of these sites are either of an insufficient size to accommodate the development proposed, do not currently have sufficient units remaining, or are not in a suitable location for the development being proposed.
- 6.23 In addition to this, it must also be acknowledged that the intention behind the scheme is to provide a mix of uses and floor spaces contained within Class E, specifically financial, professional, office and medical services. Other uses contained within Class E, such as food and drink consumed on the premises, and retail, do not form part of the proposal. As a result, a scheme of the size being proposed would not be able to be accommodated within the main town centres of Manningtree and Brightlingsea because it has been demonstrated that there are no suitable, available or sufficient sites to accommodate the proposed development. Further, the application site has an extant planning permission for employment uses and it is perfectly reasonable that the applicant would wish to locate this latest extended development proposal, which will continue to include employment uses on this site.

6.24 Given the above, and the Inspector's previous comments within the appeal decision, it is considered that there are no alternative sites that would be appropriate for the development proposed, and as such there are no sequentially preferable sites and the sequential test is therefore passed.

Landscape and Visual Impact

6.25 Paragraph 174(b) of the NPPF states that planning decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside.

6.26 Adopted Policy PPL3 confirms the Council will look to protect the rural landscape and refuse planning permission for any proposed development which would cause overriding harm to its character or appearance.

6.27 Adopted Policy SPL3, Part A (c) requires that development respects or enhances local landscape character, views, skylines, landmarks, existing street patterns, open spaces and other locally important features.

6.28 The Inspector in approving the earlier scheme noted, *"the area has a rural feel to it with villages and business sites (a number of which appear as farm clusters that have evolved) interspersed with large fields and open landscapes, delineated by the various trunk roads."*

6.29 However, in also considering the agricultural building design, good landscaping scheme and hard landscaping elements being constructed in light colour permeable block paving, the Inspector concluded *"I find that the proposal would sit comfortably within the landscape and would protect the rural character . . . It would comply with Policies SPL3 and PPL3 of the emerging plan which amongst other things require development to make a positive contribution to the local character and prohibits development that would cause overriding harm to the character of the rural landscape."*

6.30 Upon consultation to this revised larger scheme, the Council's Tree and Landscapes Officer initially confirmed that in terms of the impact of the development on the countryside the application site is situated in the Bromley Heaths Landscape Character Area (LCA) as defined and described in the Tendring District Landscape Character Assessment. The document identifies one of the pressures on the LCA being the 'Urbanising impact of facilities, including buildings and lighting, associated with the A120'. Whilst the development is clearly not directly associated with the A120, the recognised pressure identified in the LCA reflects the potential impact of development associated with, and close to, the A120.

6.31 Therefore the development of the land would, by its very scale and nature, have a detrimental impact on both the character and appearance of the local landscape character. However, a good quality landscaping scheme that addresses both boundary treatment and the internal layout, would soften and screen the development and help to mitigate the harm caused by the change of use of the land.

6.32 Following this, additional landscaping information was provided by the applicant, and the Council's Tree and Landscape Officer, following re-consultation, clarified that the information provided in relation to soft landscaping is sufficient to secure a good level of new planting that will soften screen and enhance the appearance of the development.

6.33 In summary Officers accept that the development results in a degree of harm to the character and appearance of the local landscape by its very nature. However, a material consideration is the extant planning permission for the development of two office buildings on this site, which is the baseline position on which this application must be assessed against. The development

subject of this planning application is larger than the extant planning permission, with six buildings as opposed to two, however a good landscaping scheme has been provided that would help to soften and screen the development. Given this, and that this site has an extant planning permission to be developed regardless of the determination of this planning application, on balance Officers consider that the harm to the landscape is not to such a significant level that it warrants recommending a reason for refusal.

Impact to Trees

- 6.34 With regard to the impact of the development proposal on trees and hedges on the application site and adjacent land the applicant has provided a tree survey and report that has been carried out in accordance with BS5837: 2012 Trees in relation to design, demolition and construction ' Recommendations.
- 6.29 The report adequately demonstrates that the development proposal can be implemented without causing harm to retained trees and that the installation of underground services close to the boundary hedge, adjacent to Cliphedge Farm, will not impinge on the Root Protection Areas (RPA's) of the retained trees or boundary hedge.
- 6.30 The information provided in relation to soft landscaping is sufficient to secure a good level of new planting that will soften screen and enhance the appearance of the development.

Design, Layout, Scale and Appearance

- 6.31 Paragraph 130 of the National Planning Policy Framework (NPPF) (2021) requires that developments are visually attractive as a result of good architecture, are sympathetic to local character, and establish or maintain a strong sense of place.
- 6.32 Adopted Policy SP7 of the 2013-33 Local Plan seeks high standards of urban and architectural design, which responds positively to local character and context. Adopted Policy SPL3 Part A (b) requires that development relates well to its site and surroundings, particularly in relation to its siting, height, scale, massing, form, design and materials.
- 6.33 Adopted Policy PPL3 confirms the Council will protect the rural landscape and refuse planning permission for any proposed development which would cause overriding harm to its character or appearance,
- 6.34 In respect of the design of the buildings, the Inspector in allowing the previous development on the site, stated the following:

“The proposal would incorporate two buildings. Building 1 would face towards the front of the site. At its tallest building 1 would be the same height as the large adjacent farmhouse, however for the majority of its length it would be smaller in scale with a pitched metal roof. The proposed materials would include brick for external surfaces with metal framed openings for doors and windows. Building 2 would be set behind building 1 and would be smaller in scale whilst utilising the same palette of materials. Therefore, whilst the building would have a B1a use, the overall shape and form of the proposal would be similar to agricultural buildings which are commonly found within the area.”

- 6.35 The proposal includes a mixture of single storey, 1.5 storey, two storey and 2.5 storey buildings, which in line with the extant permission on the site continue to include a shape and form that is of a similar appearance to agricultural buildings, further emphasised with the use of red brick, black timber weather boarding and reconstituted slate/red pan tiles. Building 1, which is located centrally to the front of the site, is the same size and design as that previously approved and will serve as a focal point for the development, with the remaining buildings reduced in size across

the rest of the site. Given the earlier Inspector comments, there are no objections to the proposed design of the buildings.

- 6.36 With respect to the proposed bulk and layout, the proposal will result in a significant increase in the level of floorspace, with the six buildings covering 3,016sqm (as opposed to the previous and extant permission for 1,687sqm).
- 6.37 Within the previous appeal decision, the Inspector was clear that decisions should recognise that sites to meet local business needs in rural areas may have to be found beyond existing settlements, however in these circumstances it is important to ensure the development is sensitive to its surroundings.
- 6.38 Furthermore, the Inspector confirmed support for the use of light colour permeable block paving with differing patterns, as well as the use of extensive trees, shrubs and perennial planting interspersed within the parking area, as these all contributed to breaking up the hard surfaces and adding visual interest to the site.
- 6.39 The proposal submitted includes for a total of six buildings of varying size, with all buildings set back from both the highway and all boundaries. In addition, there are good separation distances between each building, which helps to retain a relatively spacious appearance. However to accommodate this additional floorspace, there is also an increase in the level of hardstanding to facilitate the car parking requirements. Consequently, while there is good levels of soft landscaping to each boundary, this is less than was provided previously, and in addition there is less planting interspersed within the main body of the site, which creates a feeling of overbearing built form in this rural location.
- 6.40 In terms of the impact of the development on the countryside, the application site is situated in the Bromley Heaths Landscape Character Area (LCA) as defined and described In the Tendring District Landscape Character Assessment. The document identifies one of the pressures on the LCA being the *'Urbanising impact of facilities, including buildings and lighting, associated with the A120'*. Whilst the development is clearly not directly associated with the A120, the recognised pressure identified in the LCA reflects the potential impact of development associated with, and close to, the A120.
- 6.41 The development of the land would, by its very scale and nature, have a detrimental impact on both the character and appearance of the local landscape character. However, it is accepted that a good quality landscaping scheme would soften and screen the development and help to mitigate the harm caused by the change of use of the land.
- 6.42 Therefore in summary the proposed development does include good levels of soft landscaping, as well as rural style buildings of a good design and varying sizes which maintain good separation distances, all of which aid in reducing the visual harm and help the proposal assimilate well within this rural location. However, it is also acknowledged that the development would represent a significant increase in bulk, and as a result, the level of floorspace previously allowed at appeal, as well as significant additional hardstanding to accommodate the necessary car parking requirements, which naturally results in a level of harm to the areas character. On balance, whilst it is difficult to conclude that the proposal is a form of overdevelopment, given the spacing/soft landscaping to all boundaries and that sufficient parking is provided, Officers do feel there is a degree of harm to the character and appearance of the surrounding area, representing a minor conflict with the aforementioned national and local planning policies.

Highway Safety

- 6.43 Paragraph 108 of the National Planning Policy Framework 2021 seeks to ensure that safe and suitable access to a development site can be achieved for all users. Paragraph 111 of the Framework states that Development should only be prevented or refused on highways grounds

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

- 6.44 Policy SPL3 (Part B) of the Adopted Local Plan seeks to ensure that access to a new development site is practicable and the highway network will be able to safely accommodate the additional traffic the proposal will generate and provision is made for adequate vehicle and cycle parking.
- 6.45 Adopted Policy CP1 (Sustainable Transport and Accessibility) states proposals for new development must be sustainable in terms of transport and accessibility and therefore should include and encourage opportunities for access to sustainable modes of transport, including walking, cycling and public transport. In addition, planning applications for new major development likely to have significant transport implications will normally require a Transport Statement. If the proposal is likely to have significant transport implications or a Transport Assessment, the scope of which should be agreed in advance between the District Council and the applicant, in consultation with Essex County Council as the Highway Authority.
- 6.46 It is acknowledged that the proposed access correlates with that previously approved on the site, however the development would result in an intensification of the use of this access.
- 6.47 Essex Highways Authority have been consulted and do not object to the development subject to a series of conditions relating to visibility splays, a vehicular turning facility, the vehicular access/road junction being constructed at right angles to the existing carriageway, the gradient of the proposed access, details of the means to discharge surface water, the suitable closing of the existing access, provision of two bus stops/shelters and sections of footway two metres in width, the marking out of parking bays, cycle provision, and the submission of a Construction Management Plan. All of these conditions are considered to be reasonable and are recommended to be included in the event planning permission is granted.
- 6.48 In addition two further conditions relating to a financial contribution towards future speed restrictions and the submission of a workplace travel plan have been recommended. However, these cannot be agreed via condition, and instead need to be secured by way of a legal agreement. Given the number of employees the proposal generates and that it is not located in a highly sustainable location, it is considered that these are reasonable requests.
- 6.49 The Essex Parking Standards have not been updated since the introduction of Class E, however do state that Use Class A2 would previously have required one space per 20sqm of floorspace, Use Class B1 would have required one space per 30sqm of floorspace, and for Use Class D1 one space per full time equivalent member of staff as well as three spaces per consulting room. There are four clinic rooms and seven staff members proposed for the proposed medical building (Building 6).
- 6.50 Depending on the eventual use of Buildings 1-5, there would be a requirement for between 79 and 118 parking spaces, with an additional 12 spaces required for Building 6. Therefore a total requirement of 91 and 130 parking spaces are required when assessed against the Essex Parking Standards. The proposal demonstrates a total of 116 parking spaces, 12 of which are for disabled persons, as well as 54 cycle spaces and four PTW spaces. These all adhere with the Essex Parking Standards.
- 6.51 Therefore, subject to the inclusion of the recommended conditions, Officers do not consider that the development would result in significant highway safety harm to justify recommending a reason for refusal.

Impact to Neighbouring Amenities

- 6.52 Paragraph 130 of the National Planning Policy Framework (2021) confirms planning policies and decisions should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.
- 6.53 Policy SP7 of Section 1 of the 2013-33 Local Plan requires that the amenity of existing and future residents is protected. Section 2 Policy SPL 3 (Part C) seeks to ensure that development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties.
- 6.54 Within the previous decision on this site for two buildings, concern was raised by the Planning Committee in relation to the impacts to neighbouring amenities, particularly to Cliphedge Farm to the north. However, in allowing the application, the Inspector stated the following:
- “Whilst I appreciate that the development would change the view from the windows on the side of Cliphedge Farm and the outbuilding to the front of the property, I do not consider that it would be oppressive or result in a loss of privacy. There is an element of noise from the A120 and Harwich Road, and I do not consider that the proposal would result in an increase in traffic and activity that would be detrimental to the living conditions of those occupying Cliphedge Farm due to noise or disturbance.”*
- 6.55 Given this, the Inspector concluded that the proposal was compliant with local plan policies seeking to ensure adequate daylight, outlook and privacy for existing residents. As such the baseline position is that it has previously been accepted that the development of the application site can be undertaken without significant harm to neighbouring amenities, and therefore the key consideration for this application is to assess the impacts of the additional development being proposed.
- 6.56 The development is larger than that previously approved, and it is acknowledged that Building 2 is located close to the boundary for Cliphedge Farm. Therefore, during discussions with the applicant, amended plans have been provided that have reduced this building from 1.5 storey to single storey. Given this amendment, the overall separation distances and proposed soft landscaping to complement the existing boundary vegetation, there is not considered to be significant harm in respect of loss of daylight/sunlight or the proposal appearing oppressive.
- 6.57 In respect of potential noise disturbances, Officers accept that the increased development will see more vehicular movements from those entering and exiting the site than previously approved. Notwithstanding the earlier comments relating to significant separation distances, the surrounding area (including the A120 and new roundabout) must also be taken in to consideration, as must the extant permission on the site. Given all of the above, and that the application form confirms opening hours of 7am to 6pm Monday to Friday, 9am to 4pm Saturdays and no opening on Sundays/Bank Holidays, the noise generated from the development is not considered to be excessive enough to warrant recommending a reason for refusal.
- 6.58 An objection received has raised concerns with regards to the impacts of the proposed picnic tables, which are located to the north-eastern section of the site, on the amenities of the adjacent property. However, given that these would only be expected to be used at limited hours during the working day, and the significant separation distance discussed above, the harm generated from this is not considered significant enough to recommend a reason for refusal.

Impact to Biodiversity

- 6.59 Paragraph 174 of the Framework states planning decisions should contribute to and enhance the natural and local environment, by minimising impacts and providing net gains for biodiversity.
- 6.60 Paragraph 180(a) of the NPPF confirms that in assessing planning applications where significant harm to biodiversity as a result of a development cannot be avoided, adequately mitigated or, as a last resort, compensated for, then planning permission should be refused.
- 6.61 Adopted Policy SP7 requires that all new development should incorporate biodiversity creation and enhancement measures. Adopted Policy SPL3 Part A(d) includes that the design and layout of development should maintain or enhance ecological value.
- 6.62 Following consultation, ECC Place Services (Ecology) initially raised a holding objection given that the Ecological Impact Assessment accompanying the application submission was out of date (being approximately five years old).
- 6.63 Accordingly a further survey was undertaken in March 2022 and an updated Ecology Report was provided by the applicant, alongside a biodiversity net gain calculation document. Following further consultation ECC Place Services (Ecology) again raised a holding objection due to insufficient ecological information on European Protected Species (Hazel Dormice) having been provided. There was therefore not considered to be sufficient ecological information available to be able to determine the planning application.
- 6.64 However, following the submission of a revised Preliminary Ecological Assessment that accounted for Hazel Dormice, the previous objections have now been removed, with ECC Place Services (Ecology) stating that there is now sufficient information to provide certainty of the likely impacts to the Local Planning Authority, and also the information provided demonstrates that with appropriate mitigation measures secured the development can be made acceptable. Conditions to secure such mitigation and enhancement measures are recommended to be included.

Drainage

- 6.65 Policy PPL1 states that all development proposals should include appropriate measures to respond to the risk of flooding on and/or off site and that on sites of 1ha or more, development proposals must be accompanied by a Flood Risk Assessment. Furthermore, all major development proposals should consider the potential for new Blue and Green Infrastructure to help mitigate potential flood risk and include such Green Infrastructure, where appropriate.
- 6.66 Policy PPL5 requires that all new development must make adequate provision for drainage and sewage treatment and should include sustainable drainage systems (SuDS). Applicants should explain and justify the reasons for not using SuDS if not included in their proposals. Furthermore, proposals for development must demonstrate that adequate provision exists for sewage disposal.
- 6.67 Policy SPL3, Part B criterion g), requires that development reduces flood risk and integrates sustainable drainage within development, creating amenity and enhancing biodiversity.
- 6.68 Paragraph 167 of the Framework provides that when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere.
- 6.69 Intermodal Transportation Ltd were appointed by the applicant to produce a Flood Risk Assessment. The method proposed for the drainage of surface water from the site would be to discharge a controlled flow from the development into a nearby ditch. The runoff would be collected by a gravity network discharged to an attenuation buried cellular structure. The

discharge from the attenuation would be controlled by a pump at a rate of 1.5l/s to the nearby ditch.

- 6.70 Essex SuDS have been consulted and have stated that having reviewed the Flood Risk Assessment (FRA) and the associated documents which accompany the planning application, they do not object subject to conditions relating to being in accordance with the FRA, the submission of a maintenance plan, and maintaining yearly logs of maintenance.
- 6.71 With regards to foul drainage, this would be achieved by a gravity sewer serving each plot and draining to a pump station in the eastern corner of the site. This would lift the foul sewerage into a treatment plant. The clean water would then be discharged, via a pump at a rate of 1.8l/s, to the nearby ditch. In addition, the site is not close to any designated site of importance to biodiversity, nor is it located within close proximity to any watercourse. The site is not located within a Drinking Water Safeguard Zone or a Source Protection Zone, and the site is sufficiently large enough to accommodate a soakaway.
- 6.72 During the determination of the application, to address potential concerns to the neighbouring residential property, a revised plan has been provided that shows the drainage easement from the site will now run past 'Clip Hedge Farm' and further north away from the site. Initially it was more closely related to this property.
- 6.73 The Environment Agency and Natural England have been consulted and note that foul water is to be disposed of via a Package Treatment Plant as there are no mains sewerage available in the area, and have raised no objections.

Planning Balance and Conclusion

- 6.74 This planning application seeks permission for the erection of a commercial business park measuring a total of 3,016sqm and comprising six buildings. Given the context that there is an extant planning permission for 1,687sqm of office development comprising two buildings on this site, Officers are content that the buildings are of a suitable design for this rural location and do not consider there to be significant harm to the amenities of any neighbouring residents. Essex Highways Authority raise no objections, and the parking being provided is in accordance with the Essex Car Parking Standards. There is no significant harm to trees and the soft landscaping scheme provided would sufficiently soften, screen and enhance the development. Following the submission of an amended Preliminary Ecological Assessment, ECC Place Services (Ecology) raise no objections, and the Environment Agency, Natural England and Essex SuDS also do not object on flood risk and drainage grounds.
- 6.75 Officers acknowledge the significant increase in bulk and resultant floorspace to the scheme previously allowed, as well as a significant increase in hardstanding for car parking. The development does allow for sufficient levels of soft landscaping, particularly to all boundaries, and retains good separation distances between each building, thereby ensuring the development does not appear overdeveloped. However due to the increase in bulk and hardstanding for car parking (over and above the levels allowed under the appeal) the proposal results in a level of harm to the character and appearance of the area, and therefore represents a minor conflict with Adopted Policies SPL3 and PPL3 as well as Paragraph 130 of the NPPF.
- 6.76 The above notwithstanding, the proposed development represents a strong economic boost to the District, with provision for up to 152 jobs, which compares favourably to the extant permission that provided for 36 jobs. Given this, the Council's Economic Growth Team offer strong support and consider it would set a positive and progressive tone for commercial development in the district, which currently has very poor provision of commercial office space, and what provision there is, is generally of very poor quality. In addition, a Sequential Test has been undertaken, and Officers are content that it has been demonstrated there are no other sequentially preferable sites where the development could instead be located.

6.77 Taking all of the detailed considerations above into consideration, on balance Officers consider that the strong economic benefits of the proposed development outweigh the identified harm to the character and appearance of the surrounding area, and accordingly the planning application is recommended for approval.

7. Recommendation

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

7.2 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 Numbers:

6793-1111-P3 - Location Plan, 6793-1113-P5 – Proposed Site Plan, 6793-1311-P2 – Unit 1 Proposed Elevations, 6793-1212-P3 – Unit 2 Proposed Plans & Elevations, 6793-1213-P2 – Unit 3 Proposed Plans, 6793-1313-P3 – Unit 3 Proposed Elevations, 6793-1214-P2 – Unit 4 Proposed Plans, 6793-1314-P3 – Unit 4 Proposed Elevations, 6793-1401-P3 – Site Sections, 6793-1601-P2 – Aerial View, 6793-1602-P2 – Site Entrance View,

2075-WWA-ZZ-XX-DR-L-0300 PL05 – Outline Planting Plan, 2075-WWA-ZZ-XX-DR-L-0100 PL05 – Landscape Layout, 6793-1122-P3 – Vehicle Tracking Plan, 3225.101 1.0 – Site Plan Proposed Amendments to Electricity Infrastructure, IT2199/DE/01 Rev B – Easement Plan for Site Drainage, IT2199/DS/002 Rev B – Proposed Foul Water Drainage Strategy, EDS 07-3102.01 Rev C – Unit or Padmount Substation in a GRP Enclosure Civil Layout – Sheet 1 of 3, EDS 07-3102.01 Rev A – Unit or Padmount Substation in a GRP Enclosure Earthing Layout – Sheet 2 of 3, EDS 07-3102.01 Rev A – Unit or Padmount Substation in a GRP Enclosure Small Power and Lighting – Sheet 3 of 3, EDS 07-3102.15 Rev B – Freestanding brick-built substation for a transformer up to 1000kVA Earth Ring, EDS 07-3102.BE Rev A – Earthing arrangements for freestanding substations with brick enclosures', and EDS 07-3102.BP Rev B – Small power and lighting for brick-built, integral and basement secondary substations.

Documents titled 'Noise Impact Assessment' dated 30th June 2021, 'Design and Access Statement' dated February 2022, Infiltration Testing at Clip Hedge Farm, Little Bentley', 'Updated Preliminary Ecological Appraisal' dated 2nd June 2022, 'Biodiversity Net Gain Calculation' dated 27th April 2022, 'Supporting Statement' dated 25th April 2022, Flood Risk Assessment and Drainage Strategy' dated March 2022, 'Alder Park Utilities Note' dated 22nd February 2022, 'Arboricultural Impact Assessment' dated 23rd February 2022, 'Sustainability Statement' dated November 2021, 'Transport Assessment' dated July 2021, 'Travel Plan Framework' dated July 2021, Landscape and Visual Impact Assessment' dated December 2021, and 'Impact Assessment Report' dated 6th December 2021.

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

- 3 Prior to first use 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 185 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.

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

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

- 5 Prior to the first use of the hereby approved development, the vehicular access/road junction shall be constructed at right angles to the highway boundary and to the existing carriageway and shall be provided in principle and accord with amended drawing number: 6793-1113-P5, but not be limited to, the following aspects:

- Carriageway measuring no less than 6.75m in width for the first 22 metres.
- Kerb radii measuring a maximum or no more than 8m.
- A straight section of carriageway to be provided from the entrance junction for 22 metres.
- 2-metre-wide footway on both sides of the junction and continued around the kerb radii.
- Appropriate pedestrian crossing facilities (drop kerbs/ tactile paving).

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

- 6 The gradient and proposed vehicular access/road junction shall be constructed in accordance with DMRB standards.

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

- 7 Prior to development exceeding slab level of the development details showing the means to prevent the discharge of surface water from the development onto the highway shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be carried out in its entirety prior to the access becoming operational and shall be retained at all times.

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 The existing access shown on the approved drawings shall be suitably and permanently closed to the satisfaction of the Local Planning Authority, incorporating the reinstatement to full height of the highway verge, prior to the proposed new access is brought into use unless an alternative timeframe is agreed in writing by the Local Planning Authority.

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

- 9 The proposed development shall not be occupied until such time as the vehicle parking area indicated on the approved plans, including any parking spaces for the mobility impaired, has been hard surfaced, sealed and marked out in parking bays. The vehicle parking area and

associated turning area shall be retained in this form at all times. The vehicle parking shall not be used for any purpose other than the parking of vehicles that are related to the use of the development unless otherwise agreed with the Local Planning Authority.

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

- 10 The cycle/powered two-wheeler parking shall be provided in accordance with the EPOA Parking Standards. The approved facility shall be secure, convenient, covered and provided prior to occupation and retained at all times.

Reason: To ensure appropriate cycle/powered two-wheeler parking is provided in the interest of highway safety.

- 11 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 as may be agreed shall be adhered to throughout the construction period. As a minimum the Plan shall provide details for:
- a) vehicle routing,
 - b) the parking of vehicles of site operatives and visitors,
 - c) loading and unloading of plant and materials,
 - d) storage of plant and materials used in constructing the development,
 - e) wheel and underbody washing facilities;
 - f) hours of construction to be agreed;
 - g) mobile plant to be resident on site during extended works shall be fitted with non-audible reversing alarms (subject to HSE agreement);
 - h) details of piling to be carried out;
 - i) details of all construction waste management, including recycling;
 - j) details of dust prevention measures

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.

- 12 Operational use of the site as hereby permitted shall be confined to the following hours:

Mondays to Fridays – 7am – 6pm
Saturdays – 9am – 4pm
Sundays and Bank Holidays – Closed

There shall be no working outside of these agreed hours.

Reason – In the interests of protecting the amenities of neighbouring residents.

- 13 The buildings hereby permitted shall not be occupied until works to accommodate charging points for electrical vehicles have been provided on the site to serve the development hereby permitted, in accordance with details that have first been submitted to and approved in writing by the local planning authority. The points shall thereafter be retained.

Reason - In order to support sustainable transport.

- 14 Unless previously agreed in writing by the Local Planning Authority, there shall be no external floodlighting installed or erected within the site.

Reason - To ensure adequate safeguarding of the amenity of nearby properties, protected species and prevent the undesirable, disruptive and disturbing effects of light pollution.

15 All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Updated Ecology Report (Skilled Ecology, June 2022).

Reason: To conserve and enhance protected and Priority species.

16 Prior to any works above slab level, a Biodiversity Enhancement Strategy for protected and Priority species shall be submitted to and approved in writing by the local planning authority. The content of the Biodiversity Enhancement Strategy shall include the following:

- a) Purpose and conservation objectives for the proposed enhancement measures;
- b) detailed designs to achieve stated objectives;
- c) locations of proposed enhancement measures by appropriate maps and plans;
- d) timetable for implementation demonstrating that works are aligned with the proposed phasing of development;
- e) persons responsible for implementing the enhancement measures;
- f) details of initial aftercare and long-term maintenance (where relevant).

The works shall be implemented in accordance with the approved details prior to occupation or as agreed in the timetable(d) that may be approved and shall be retained in that manner thereafter.

Reason: To enhance protected and Priority species and habitats.

17 Prior to occupation of the hereby approved use, 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.
- 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.

Reason: To enhance protected and Priority species and habitats.

18 Prior to occupation of the hereby approved use, a lighting design scheme for biodiversity shall be submitted to and approved in writing by the local planning authority. 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.

Reason: To enhance protected and Priority species and habitats.

19 a) No development or preliminary groundworks of any kind shall take place until a Written Scheme of Investigation has been submitted to, 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 Written Scheme of Investigation.

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.

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

Reason: To avoid pollution to local amenity.

- 21 The development permitted by this planning permission shall be carried out in accordance with the approved Flood Risk Assessment and the mitigation measures detailed within it. The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing/phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

Reason: To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site, and to ensure the effective treatment of surface water runoff to prevent pollution.

- 22 Prior to occupation of the hereby approved 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, shall be submitted to, and agreed in writing by, the Local Planning Authority. Should any part be maintainable by a maintenance company, details of long term funding arrangements should be provided.

Reason: To ensure appropriate maintenance arrangements are put in place to enable the surface water drainage system to function as intended to ensure mitigation against flood risk.

- 23 The applicant or any successor in title must maintain yearly logs of maintenance which should be carried out in accordance with the approved Maintenance Plan. These must be available for inspection upon a request by the Local Planning Authority.

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

- 24 The building shall be used for Class E(c) and E(e) and for no other purpose including any other purpose in Class E of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (or in any provision equivalent to that Class in any Statutory instrument revoking and re-enacting that Order with or without modification).

Reason - In order to allow the Local Planning Authority to assess the impacts of any alternative uses not considered within this application.

7.3 Informatives

Positive and Proactive Statement:

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning

policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

Highways Informatives:

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

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

8. Additional Considerations

Public Sector Equality Duty (PSED)

- 8.1 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:
 - 8.2 A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
 - 8.3 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
 - 8.4 C. Foster good relations between people who share a protected characteristic and those who do not, including tackling prejudice and promoting understanding.
- 8.5 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.
- 8.6 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.
- 8.7 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

- 8.8 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.
- 8.9 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).
- 8.10 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

- 8.11 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.
- 8.12 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.

9. Background Papers

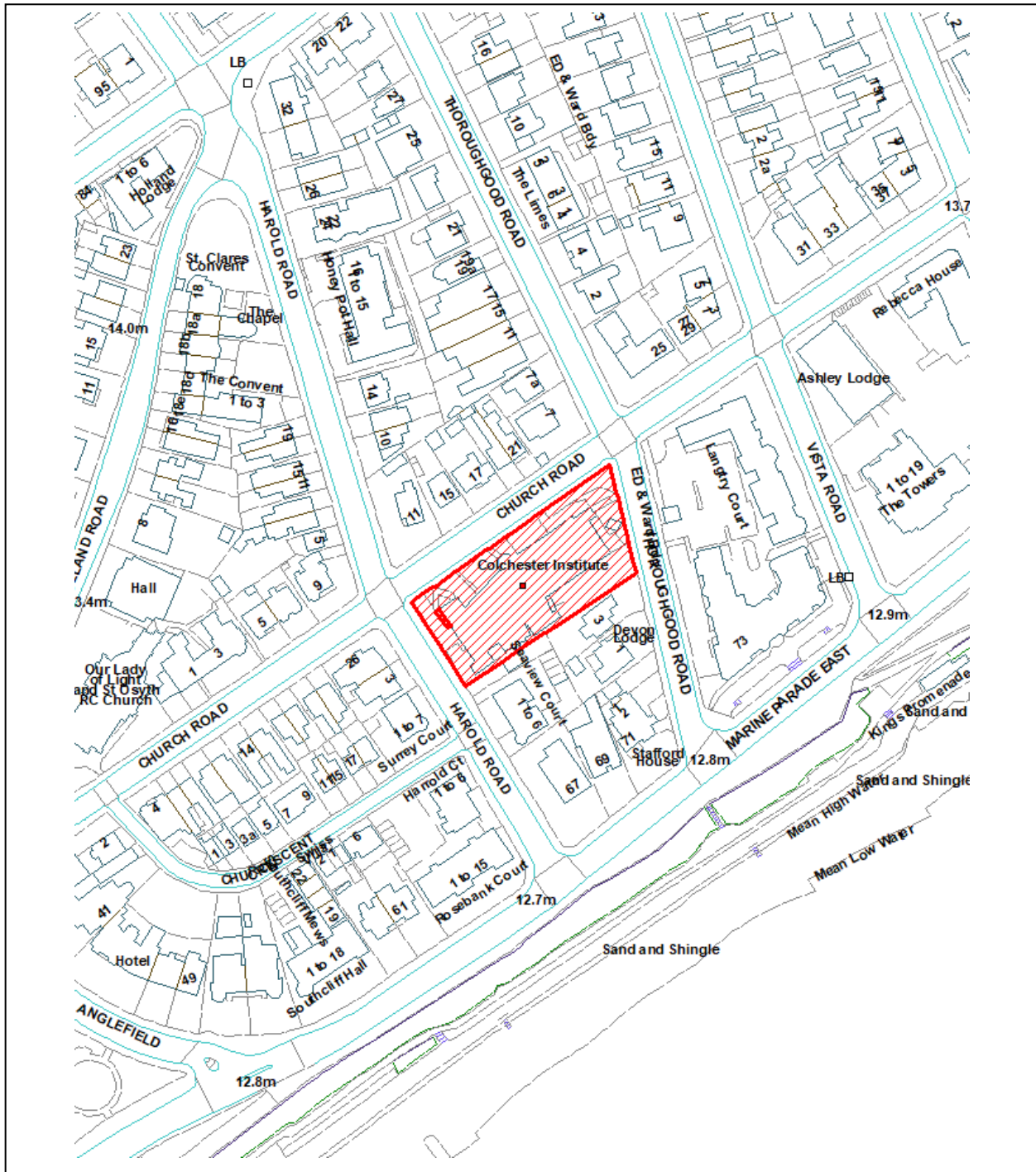
- 9.1 In making this recommendation, officers have considered all plans, documents, reports and supporting information submitted with the application together with any amended documentation. Additional information considered relevant to the assessment of the application (as referenced within the report)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

PLANNING COMMITTEE

5 July 2022

REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING

A.2 PLANNING APPLICATION – 21/02027/FUL – THE COLLEGE COLCHESTER INSTITUTE CHURCH ROAD CLACTON ON SEA



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Application: 21/02027/FUL

Town / Parish: Clacton Non Parished

Applicant: Churchill Retirement Living

Address: The College Colchester Institute Church Road Clacton On Sea CO15 6JQ

Development: Redevelopment for retirement living accommodation for older people (sixty years of age and/or partner over fifty five years of age) comprising 61 retirement apartments including communal facilities, access, car parking and landscaping.

1. Executive Summary

- 1.1 The application is referred to the Planning Committee following the member referral request of Pier Ward Councillor Paul Honeywood, due to concerns over parking provision and highways impact, and the effect of the proposal on the living conditions of existing residents. The application is the subject of a current non-determination appeal, listed to be considered by the Inquiry procedure lasting for 6 days in September 2022. When the appeal was submitted the jurisdiction of the Council to determine the application was removed. Therefore, the purpose of this report is to obtain Members resolution as to whether or not they would have approved the application had they been in a position to determine it. Members should note that an extension of time for the submission of the Council's Statement of case for the appeal has been agreed until Friday 15 July 2022.
- 1.2 The proposal attracted objection from Essex County Council Heritage and the Local Highway Authority. The former consider that the proposal would result in less than substantial harm to the Conservation Area, the latter that there is inadequate parking provision and circulation space. In addition, there would be some limited impact on the living conditions of adjoining neighbours. However, the proposal is acceptable in principle and there are very considerable benefits to regeneration, and in the re-use of a deteriorating brownfield site for much needed specialist housing delivery. These are considerations which are afforded strong Local Plan policy support. Furthermore, officers consider that the public benefits clearly outweigh the less than substantial heritage harm and resultant development plan conflict. Officers further consider that a technical conflict with the Parking SPD would not give rise to unacceptable highway safety impacts, or residual cumulative impacts on the highway network that would be severe. As such, in applying the appropriate local and national planning policy tests, the appeal should not be defended on highways grounds. All other detailed technical matters including a holding objection from the Lead Local Flood Authority would be capable of being addressed through the use of appropriately worded planning conditions. Overall, officers conclude that the benefits would very clearly outweigh the harms and development plan/Parking SPD conflict.
- 1.3 The proposal is accompanied by a viability report, attesting that the proposal would be unviable with Local Plan Policy requirements for 30% affordable housing provision. This is to be the subject of an independent appraisal prior to the inquiry, the outcome of which will determine whether or not affordable housing contributions could be provided. Ultimately, if the appeal proceeds, this will be a matter for the Secretary of State appointed Inspector to determine.

Recommendation:

That the Assistant Director for Planning be authorised to confirm that, had the Council as Local Planning Authority been able to determine the application, it would have resolved to grant planning permission for the development subject to the following:

- a) **The results of an independent viability appraisal, completion by the applicant of a legal undertaking as part of the appeal (and/or other proceeding) under the provisions of section 106 of the Town and Country Planning Act 1990, dealing with the following matters to include:**
- **Financial Contribution towards RAMS**
 - **Affordable Housing Provision**
 - **NHS contribution**
 - **Open Space contribution**
- b) And the conditions stated in section 8.2.
- c) Or otherwise resolved to refuse planning permission should the results of the viability appraisal not be concluded to the Assistant Director's satisfaction.

Should the recommendation above be agreed, ultimately this would be the case presented to the appeal unless the appeal is withdrawn. Should the appeal be withdrawn, this resolution would be considered the resolution delegated to the Assistant Director for Planning to carry forward to resolution.

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 (The PPG)

Tendring District Shared Strategic Section 1 Local Plan (January 2021)
Tendring District Section 2 Local Plan (January 2022)

Relevant Section 1 Policies

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

Relevant Section 2 Policies

- SPL1 Managing Growth
- SPL2 Settlement Development Boundaries
- SPL3 Sustainable Design
- HP1 Improving Health and Wellbeing
- HP2 Community Facilities
- HP3 Green Infrastructure
- HP5 Open Space, Sports and Recreation Facilities

LP1	Housing Supply
LP2	Housing Choice
LP3	Housing Density and Standards
LP4	Housing Layout
LP5	Affordable Housing
PP12	Improving Education and Skills
PP14	Priority Areas for Regeneration
PPL1	Development and Flood Risk
PPL4	Biodiversity and Geodiversity
PPL5	Water Conservation, Drainage and Sewerage
PPL8	Conservation Areas
PPL9	Listed Buildings
PPL10	Renewable Energy Generation and Energy Efficiency Measures
CP1	Sustainable Transport and Connectivity
CP2	Improving the Transport Network
CP3	Improving the Telecommunications Network
DI1	Infrastructure Delivery and Impact Mitigation

Supplementary Planning Guidance

Essex County Council Development Management Policies 2011 (the Highways SPD)

Essex County Council Parking Standards Design and Good Practice Guide 2009

Essex Design Guide

RAMS SPD

Open Space SPD

Open Spaces Strategy

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

00/00590/FUL	Extensions and roofing (Variation to planning permission 99/01908/FU).	Approved	25.05.2000
99/01908/FUL	New lift and lobby structure, new pitched roof on whole lecture block.	Approved	15.03.2000
03/00533/FUL	Telecommunications: 8.7m wall mounted flagpole, 2 antennas and GRD shroud, 1 Gable mounted antenna and 1 0.2m transmission dish with equipment cabin and ancillary development.	Approved	11.06.2003
04/00023/FUL	Gas storage facility.	Approved	22.03.2004
12/01409/FUL	Addition of glazed front extension to cafe area.	Withdrawn	11.02.2013
13/00474/FUL	Proposed additional storage area with a rear door opening onto existing path.	Approved	01.07.2013
15/01040/FUL	Single storey extension associated external landscaping works.	Approved	16.09.2015
21/30048/PREAPP	Proposed conversion of main 4 storey building into approximately 22 apartments of a mix of one and two bedrooms, with a mansard style roof on the main building to provide further residential units, 4 apartment Undertaking external renovations / enhancements to improve the visual outlook of the building. This is to include providing as many of the apartments with balconies. Proposed demolishing of the two storey attached building and erect a 4 storey building to provide a mix of 1 and 2 bedroom apartments, approximately 16 in total. The building is provided with existing vehicular accesses and areas of hardstanding. The proposed development will be provided with a minimum of 18 spaces. Secure cycle storage will be provided, along with bin stores.	Not pursued – closed.	

4. Consultations

Anglian
Water
Services Ltd
10.01.2022

ASSETS

Section 1 - Assets Affected

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

WASTEWATER SERVICES

Section 2 - Wastewater Treatment

The foul drainage from this development is in the catchment of Clacton-Holland Haven Water Recycling Centre which currently does not have capacity to treat the flows the development site. Anglian Water are obligated to accept the foul flows from the development with the benefit of planning consent and would therefore take the necessary steps to ensure that there is sufficient treatment capacity should the Planning Authority grant planning permission.

Section 3 - Used Water Network

This response has been based on the following submitted documents: Flood Risk and Drainage Technical Note The sewerage system at present has available capacity for these flows. If the developer wishes to connect to our sewerage network they should serve notice under Section 106 of the Water Industry Act 1991. We will then advise them of the most suitable point of connection.

Section 4 - Surface Water Disposal

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

Anglian Water has reviewed the submitted Flood Risk and Drainage Technical Note and can confirm that the strategy outlined is acceptable to us. We require these documents to be listed as approved plans/documents if permission is granted. Note to applicant - Surface Water Hierarchy evidence will need to be submitted at 106 application stage.

Section 5 - Suggested Planning Conditions

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

Surface Water Disposal (Section 4)

No condition required. We require these documents to be listed as approved plans/documents if permission is granted. Note to applicant - Surface Water Hierarchy evidence will need to be submitted at 106 application stage.

ECC Urban
Design
Advisor
18.02.2022

Overall, whilst the principle of this development is accepted in redeveloping the land into a usable living space for the elderly, we have some concerns regarding some aspects of the overall approach to the built form, particularly in regard to the historical precedence and character of the local context. As a result, we have indicated in this response areas of the development which require further consideration and design development in order to meet the high expectations and opportunities this redevelopment presents from an urban design perspective.

Site Layout & Landscape

We have significant concerns regarding the proposed access strategy for the development. The main pedestrian arrival point is located to the south-west of the building along Harold Road. For a building of this magnitude the proposed access seems underwhelming and a missed opportunity, especially when considering the symmetrical design of the Church Road elevation.

We would have expected the proposals to include a more prominent entrance to set the character and welcome residents and visitors to a new residential community. The main entrance located within the rear elevation is completely hidden away from the street scene and surrounded by the car park to the east. We also have reservations over directing pedestrians around the western perimeter of the boundary in order to access the main street (Church Road) and further amenities towards the north-east. It is suggested to review multiple access zones, where a more prominent arrival space into the site is located along Church Road, supplemented by secondary entrances along the side elevations.

The proposals illustrate that the existing vehicular access point will be maintained along Thoroughgood Road with car parking for approximately 20 spaces. It is understood that due to the nature of this building being a retirement living apartment block as opposed to a traditional care home, there is a reduced need for parking due to low levels of staff, combined with the town centre location. We recommend reviewing the adopted parking standards and providing a justification for the proposed approach, considering the policy requirement, sustainable location, access to sustainable transport and the quantum of residential apartments (including visitor spaces).

There also seems a missed opportunity to enhance the quality of the external spaces on site by providing a carefully considered landscape strategy, with planting and materials specified to ensure safe and quality spaces are provided for residents. The current landscape proposals appear to be minimal in terms of their impact upon on site; we have concerns over the usability of the offset green wedges around the perimeter of the building. The inclusion of more street furniture to increase opportunities of social areas will help to reinforce this strategy, creating more substantial outdoor spaces for residents.

In addition, boundary treatments to the primary frontage of the site will be important to tie into the overall approach of the architecture, to ensure that the quality of the built form is enhanced through the use of hard materials for any raised walls along with suitable boundary planting, as opposed to standard fencing.

Built Form & Massing

The scheme is proposing a retirement living building to include 61 no apartments to replace the derelict college institute building that is currently located on site. As outlined above, our main concern relate to how the proposed development fits within the surrounding context of the site, which requires greater justification into the massing and detailed elements to ensure it ties in successfully with the key architectural characteristics of the conservation area.

It is clear that the proposals are seeking to emulate the adjacent Grade II listed building, and whilst this approach is welcomed it is considered that the current elevations do not satisfy the level of detail and articulation expected for this type of development in this location. It is important to consider this scheme as providing a precedent for new development coming forward within the conservation area in the future, as well as referencing surrounding new developments undertaken in a similar traditional approach that have been designed well.

There is an opportunity to increase the variation within the proposal, as the current building appears very consistent across each elevation. For example, whilst it is understood that the use of gables is prominent within the local area, we question why greater variation in gable heights have not been used to signify key entrance points or vistas of the site.

We also have concerns regarding the proposed form and massing which appears too excessive in, particular towards the western boundary. The current building has a stepped down approach in height from 4 storeys at the east to 2 storeys at the west. As a result, we have concerns that the proposal of a 4-storey building across the whole site fundamentally impacts the relation between this development and its historical surroundings. The massing strategy and material selection of the building should be carefully considered and discussed with the heritage consultant as to what would be most appropriate within the setting of the Listed building and Conservation Area. We would seek further justification of this approach.

As outlined above, the entrance to the main building appears rather underwhelming when considering the prominence this elevation will have on the street scene. Buildings of this nature are usually characterised by a highly detailed grand entrance porch which welcomed residents and visitors into the main lobby/communal area of the retirement apartment block. Due to the number of future residents who will be walking from the public transport amenities to the north and town centre to the east, it is considered that the primary routes and desire lines would be leading to the Church Road elevation. We would seek a clear justification why a prominent entrance along Church Road has not been explored to enhance to the main elevation.

Summary

Overall, it is considered that this scheme requires some further justification in regard to the built form, with a clear design rationale as to how it responds to the local heritage constraints and town centre context of the site. It is questioned that more could be done in terms of enhancing its connections with the town centre and prominence on the main street scene, and further exploration and/or justification behind these strategies are required. The external spaces are currently insufficient and miss a number of opportunities to create and enhance the provision of green space, planting and boundary treatments to create usable

social spaces would help to substantiate the overall quality of the scheme.

Historic
England
07.02.2022

On the basis of the information available to date, we do not wish to offer any comments. We suggest that you seek the views of your specialist conservation and archaeological advisers, as relevant.

It is not necessary for us to be consulted on this application again, unless there are material changes to the proposals. However, if you would like detailed advice from us, please contact us to explain your request.

Housing
Services

No comment recorded.

Essex
County
Council
Heritage
04.01.2022

The site is located within the Clacton Seafront Conservation Area and within the setting of several designated and non-designated heritage assets.

I do not support this application. I do consider there is opportunity for redevelopment of this site, which enhances the character and appearance of the Conservation Area, however this has not been realised in this proposal.

The massing and scale of the proposal is inappropriate to its context. Whilst there is existing height at the site, this does not extend across the full site. The height of the new building sits incongruous with the neighbouring buildings in Church Road. The height of the building draws reference from buildings down Thoroughgood Road which are less relevant in experience of the streetscape in this part of the Conservation Area. The views provided are also not from street level and as such do not accurately provide an impression of the proposal's impact. I recommend accurate visual representations should be provided from agreed viewpoints.

I also do not support the design of the proposal. The existing nineteenth century buildings (from which this design draws influence) present much more interesting elevations which include several planes through the incorporation of bay windows and other features. The proposed elevations are largely flush, and whilst gables have been added, the result is a poor pastiche of the quality architecture in the Conservation Area.

The proposal fails to preserve or enhance the character and appearance of the Conservation Area. This harm should be considered under paragraph 202 of the NPPF. The application is also not considered compliant with paragraph 197 (c) and 206 of the NPPF.

Should this application be approved I recommend conditions are attached requiring samples of all external materials. With regard to brick, these should be presented on sample boards with pointing mortar. The brick should also be stipulated in an appropriate brick bond (not stretcher bond). Conditions should be added for details of windows and doors (not in UPVC) also.

ECC
Highways
Dept.
02.02.2022

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

The Highway Authority will protect the principle use of the highway as a right of free and safe passage of all highway users. Although the site is in a town centre location with local railway and other public transport facilities available, the overall parking provision for the density of the application is considered to be inadequate for the application as proposed.

The proposal if permitted would set a precedent for future similar developments which would likely lead to inappropriate parking detrimental to the general safety of all highway users and undermine the principle of seeking to discourage on-street parking in the locality.

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

1 The proposal appears to show 20 off-street parking spaces for the new 61 retirement apartments, where the Parking Standards Design and Good Practice September 2009 stipulates a minimum one space per dwelling for a development of this type. This would potentially lead to increased kerbside parking stress in the vicinity of the development site.

2 The Highway Authority raises concerns over the constrained parking spaces they appear to fail to be provided sufficient manoeuvring or circulatory space for pedestrians. In particular there seems to be a lack of Blue Badge and/or visitor parking spaces provided, for a development this type. The restricted width of the car spaces proposed is likely to impede manoeuvring for drivers/ passengers should they have mobility problems.

3 As far as can be determined from the submitted plans the proposal fails to provide sufficient off-street parking spaces with dimensions in accord with current Parking Standards, each vehicular parking space shall have minimum dimensions of 2.9 metres x 5.5 metres. This will lead to vehicles being left parked in the adjacent highway already heavily used as it is close to the beach and other amenities and popular in the summer months, potentially adding additional kerbside stress, obstruction or congestion contrary to highway safety and Policy DM1 and DM8.

4 There appears to be a lack of Cycle / Powered Two-wheeler parking being provided in accordance with the EPOA Parking Standards and in accordance with Policy DM8. These facilities shall be secure, convenient, covered and provided prior to occupation and retained at all times.

The Highway Authority may consider a revised application which addresses the issues raised above.

NHS East
Essex CCG
30.12.2021

2.0 Existing Healthcare Position Proximate to the Planning Application Site

2.1 The proposed development is likely to have an impact on the services of 4 GP practices including 2 branch surgeries operating within the vicinity of the application site. These GP practices and branch surgeries do not have capacity for the additional growth resulting from this development.

2.2 The proposed development will be likely to have an impact on the NHS funding programme for the delivery of primary healthcare provision within this area and specifically within the health catchment of the development. As the commissioner of primary care services, North East Essex CCG would therefore expect these impacts to be fully assessed and mitigated.

3.0 Review of Planning Application

3.1 North East Essex CCG acknowledge that the planning application does not

appear to include a Health Impact Assessment (HIA) or propose any mitigation of the healthcare impacts arising from the proposed development.

3.2 A Healthcare Impact Assessment (HIA) has been prepared by North East Essex CCG to provide the basis for a developer contribution towards capital funding to increase capacity within the GP Catchment Area.

4.0 Assessment of Development Impact on Existing Healthcare Provision

4.1 The existing GP practices do not have capacity to accommodate the additional growth resulting from the proposed development. The development could generate approximately 140 residents and subsequently increase demand upon existing constrained services.

4.2 The primary healthcare services directly impacted by the proposed development and the current capacity position are shown in Table 1.

Table 1: Summary position for primary healthcare services within 2km catchment (or closest to) the proposed development

Premises	Weighted List Size ¹	NIA (m ²) ²	Capacity ³	Spare Capacity (NIA m ²) ⁴
East Lynne Medical Centre	9,706	341.55 ²	4,981	-324.01
St. James Surgery - Including branch surgery (Church Square Surgery)	17,450	689.04 ²	10,049	-507.53
Ranworth Surgery	10,527	298.30 ²	4,350	-423.53
Old Road Surgery - Including Branch surgery (Clacton Road Surgery)	9,825	533.89 ²	7,786	-139.85
North Road Surgery (Branch) – Including Main Practice (North Clacton Medical Group – Crusader)	13,931	834.01 ²	12,163	-121.23
Kennedy Way Medical Centre (Branch) – Including Main Practice and other branch surgeries of Clacton Community Practice (Green Elms, Nayland Drive & Kennedy Way Medical Centre)	20,825	1724.83 ²	25,154	296.79
Total	82,264	4,421.62	64,483	1,219.36

Notes:

1. The weighted list size of the GP Practice based on the Carr-Hill formula, this figure more accurately reflects the need of a practice in terms of resource and space and may be slightly lower or higher than the actual patient list.
2. Current Net Internal Area occupied by the Practice
3. Based on 120m² per 1750 patients (this is considered the current optimal list size for a single GP within the East DCO). Space requirement aligned to DH guidance within "Health Building Note 11-01: facilities for Primary and Community Care Services"
4. Based on existing weighted list size

5.0 Healthcare Needs Arising From the Proposed Development

5.1 At the earliest stage in the planning process it is recommended that work is undertaken with NHS England and Public Health England to understand the current and future dental needs of the development and surrounding areas giving consideration to the current dental provision, current oral health status of the area and predicted population growth to ensure that there is sufficient and appropriate dental services that are accessible to meet the needs of the development but also address existing gaps and inequalities.

5.2 Encourage oral health preventative advice at every opportunity when

planning a development, ensuring that oral health is everybody's business, integrating this into the community and including this in the health hubs to encourage and enable residents to invest in their own oral healthcare at every stage of their life.

5.3 Health & Wellbeing Statement

As an Integrated Care System it is our ambition that every one of the one million people living in Suffolk and North East Essex is able to live as healthy a life as possible and has access to the help and treatment that they need in the right place, with good outcomes and experience of the care they receive.

Suffolk and North East Essex Integrated Care System, recognises and supports the role of planning to create healthy, inclusive communities and reduce health inequalities whilst supporting local strategies to improve health, social and cultural wellbeing for all aligned to the guidance in the NPPF section 91.

The way health and care is being delivered is evolving, partly due to advances in digital technology and workforce challenges. Infrastructure changes and funds received as a result of this development may incorporate not only extensions, refurbishments, reconfigurations or new buildings but will also look to address workforce issues, allow for future digital innovations and support initiatives that prevent poor health or improve health and wellbeing.

The NHS Long term plan requires a move to increase investment in the wider health and care system and support reducing health inequalities in the population. This includes investment in primary medical, community health services, the voluntary and community sector and services provided by local authorities so to boost out of hospital care and dissolve the historic divide between primary and community health services. As such, a move to health hubs incorporating health and wellbeing teams delivering a number of primary and secondary care services including mental health professionals, are being developed. The Acute hospitals will be focussing on providing specialist treatments and will need to expand these services to cope with additional growth. Any services which do not need to be delivered in an acute setting will look to be delivered in the community, closer to people's homes.

The health impact assessment (HIA) submitted with the planning application will be used to assess the application. This HIA will be cross-referenced with local health evidence/needs assessments and commissioners/providers own strategies so to ensure that the proposal impacts positively on health and wellbeing whilst any unintended consequences arising are suitably mitigated against.

5.4 The development would give rise to a need for improvements to capacity, in line with emerging STP Estates Strategy; by way of refurbishment, reconfiguration, extension, or potential relocation for the benefit of the patients of Ranworth Surgery & East Lynne Surgery or through other solutions that address capacity and increased demand as outlined in 5.3 - Health & Wellbeing Statement. For this a proportion of the cost would need to be met by the developer.

- 5.5 Table 2 provides the Capital Cost Calculation of additional primary healthcare services arising from the development proposal.

Table 2: Capital Cost calculation of additional primary healthcare services arising from the development proposal

Existing Primary Care Premise	Additional Population Growth (61 dwellings) ⁵	Additional floorspace required to meet growth (m ²) ⁶ <small>MUST BE TO TWO DECIMAL PLACES</small>	Spare Capacity (NIA) ⁷	Capital required to create additional floor space (£) ⁸
East Lynne Medical Centre	70	4.81	-324.01	£17,500
Ranworth Surgery	70	4.81	-423.53	£17,500
Total	140	9.62	-747.54	£35,000

Notes:

5. Calculated using the Tendring District average household size of 2.2 taken from the 2011 Census: Rooms, bedrooms and central heating, local authorities in England and Wales (rounded to the nearest whole number).
6. Based on 120m² per 1750 patients (this is considered the current optimal list size for a single GP within the East DCO). Space requirement aligned to DH guidance within "Health Building Note 11-01: facilities for Primary and Community Care Services"
7. Existing capacity within premises as shown in Table 1
8. Based on standard m² cost multiplier for primary healthcare in the East Anglia Region from the BCIS Public Sector Q1 2020 price & cost Index, adjusted for professional fees, fit out and contingencies budget (£3,872/m²), rounded to nearest £100.

5.6 A developer contribution will be required to mitigate the impacts of this proposal. North East Essex CCG calculates the level of contribution required, in this instance to be £35,000. Payment should be made before the development commences.

5.7 North East Essex CCG therefore requests that this sum be secured through a planning obligation linked to any grant of planning permission, in the form of a Section 106 planning obligation.

6.0 Conclusions

6.1 In its capacity as the primary healthcare commissioner, North East Essex CCG has identified that the development will give rise to a need for additional primary healthcare provision to mitigate impacts arising from the development.

6.2 The capital required through developer contribution would form a proportion of the required funding for the provision of capacity to absorb the patient growth generated by this development.

6.3 Assuming the above is considered in conjunction with the current application process, North East Essex CCG would not wish to raise an objection to the proposed development. Otherwise the Local Planning Authority may wish to review the development's sustainability if such impacts are not satisfactorily mitigated.

6.4 The terms set out above are those that North East Essex CCG deem appropriate having regard to the formulated needs arising from the development.

6.5 North East Essex CCG is satisfied that the basis and value of the developer contribution sought is consistent with the policy and tests for imposing planning obligations set out in the NPPF.

6.6 North East Essex CCG look forward to working with the applicant and the Council to satisfactorily address the issues raised in this consultation response and would appreciate acknowledgement of the safe receipt of this letter.

UU Open
Spaces
07.01.2022

There is currently a deficit of 41.08 hectares of play and Open Space in the Clacton/Holland area.

Recommendation

A contribution is relevant and justified to this planning application, although the application is for retirement properties, the residents will require access to useable open space. Therefore the contribution received would be used to make improvements at the public gardens on Clacton seafront.

Tree &
Landscape
Officer
22.12.2021

The site frontage facing Church Road contains a few specimen trees that soften the appearance of the existing building when viewed from street level. The trees are a Maple, a Sycamore, a Purple Leaved Plum and a Rowan. The grounds contained a few isolated shrubs that add little to the appearance of the site.

In order to show the extent of the constraint that the trees on the land, and adjacent land, are on the development potential of the land the applicant has provided a detailed tree survey and report. This information is in accordance with BS5837: 2012 Trees in relation to design, demolition and construction ' Recommendations.

Although the Sycamore (T1) and the Norway Maple (T6) of the tree report have reasonable amenity value their shape, form and condition are such that they do not merit retention. None of the trees on the application site, or adjacent land, meet the criteria under which they merit formal legal protection by means of a Tending District Council Tree Preservation Order.

The applicant has also submitted a drawing entitled Landscape Strategy that sets out the broad scope of the soft landscaping, including tree planting, that would be carried should the planning application be approved

The development would, if approved result in an increase in the number of trees in the locality and the associated soft landscaping would be likely to bring about an improvement to the appearance of the public realm.

Details of the soft landscaping proposals shown on plan number JBA 21-277 SK02 Landscape Strategy should be secured by a planning condition.

ECC SuDS
Consultee
20.01.2022

Lead Local Flood Authority position

Having reviewed the Flood Risk Assessment and the associated documents which accompanied the planning application, we wish to issue a holding objection to the granting of planning permission based on:

- Sufficient storage should be provided to ensure no internal flooding as a result of the development during all storm events up to and including the 1 in 30 year storm event and no off site flooding as a result of the development during all storm events up to and including the 1 in 100 year plus 40% climate change event. Modelling should be provided for all events up to 1 in 100 plus 40% climate change to evidence this.
- The appropriate level of treatment should be provided for all runoff leaving the site, in line with the Simple Index Approach in chapter 26 of the CIRIA SuDS Manual C753.

Essex
Police
Designing
out Crime
Office
18.01.2022

Security forms a key part of a sustainable and vibrant development and Essex Police considers that it is important that this site is designed incorporating the maximum achievable benefit of crime prevention through environmental design for which Secured By Design (SBD) is the preferred enabler, in this case Secured by Design - Homes.

SBD is the national official police security initiative that works to improve the security of building and their immediate surroundings to provide a safe and secure environment to help reduce the opportunities for crime and minimise the fear of crime, as referenced in the NPPF, 'Promoting Healthy and Safe Communities'.

Whilst there are no apparent concerns with the layout of this site, Essex Police recommend that the developer seeks to achieve the Secured by Design - Homes accreditation in respect of all relevant aspects of this proposed development, Achieving the award will demonstrate to residents that their security has been considered and incorporated "by design" to the current approved, and therefore proven effective, standard.

We would welcome the opportunity to consult with the developer to provide a safe and secure environment for this development and would invite them to contact us via designingoutcrime@essex.police.uk.

5. Representations

5.1 Four third-party representation were received. Objection raised therein on material planning grounds may be summarised as follows:

- Overlooking, loss of light and privacy (Nos. 3 and 7 Thoroughgood Road) – the proposal will extend out further than the existing building.
- Lack of parking for future residents and staff – parking would overspill – there should be at least one space per flat/less units.
- Original walling in the conservation area should be retained.
- Concern over demolition and construction management, and working hours/days.
- A colony of pigeons would be displaced.

5.2 Pier Ward Councillor Paul Honeywood has expressed concerns over the highways impact and the effect of the development on the living conditions of existing residents.

6. Assessment

Background

6.1 Framework Paragraph 39 states that early engagement has significant potential to improve the efficiency and effectiveness of the planning application system for all parties. Good quality pre-application discussion enables better coordination between public and private resources and improved outcomes for the community.

6.2 A pre-application enquiry was submitted to the Council in March of 2021 and two meetings with officers were held. At the first meeting informal officer advice given [on initial proposals which differ from the formal application] can be summarised as follows:

- The proposal was acceptable in principle.
- Massing and scale were considered to be too great.

- The proposal would be harmful to the Conservation Area and setting of nearby Listed Buildings – the proposals would need to be informed by a Heritage Assessment.
 - The design was inappropriate.
 - While the County Council charge separately for pre-application advice, parking provision was very light. Separate consultation with ECC Highways was recommended.
 - It was agreed to be a use falling within the C3 Use Class, and so Local Plan affordable housing policy requirements would apply.
 - Contributions under the RAMS SPD would be required.
- 6.3 Following the first meeting it was agreed that a further meeting would be beneficial, to include ECC Heritage. At this second meeting officer concerns were echoed and detailed conservation advice was given. This included that; balconies should be removed from the Harold Road/Church Road elevations; the building should be set back from Church Road with usable amenity space provided to the front, and; reference to older buildings in the conservation area should be made. Because the pre-application advice service allows for up to three meetings, it was recommended that revised plans be submitted for further consideration and a further meeting was offered. Notwithstanding this offer, a further pre-application meeting was not pursued and the current application [which is materially different from the pre-application scheme] was submitted.
- 6.4 During the course of considering the application, as set out in full under consultations above, objections were received from ECC as Local Highway Authority, ECC Place Services Heritage, and ECC as Lead local Flood Authority. Concerns were also expressed by ECC Urban Design. These were raised with the applicant. Because the application is accompanied by a viability report, details were also supplied of the Council's approach to independent viability appraisal and an undertaking to pay the Council's reasonable costs was required and sought.
- 6.5 In March of this year the Council received revised plans and further drainage information, followed shortly after by notification in accordance with the Rosewell Review, confirming that a non-determination appeal was to be submitted requesting the Inquiry procedure in order to protect the applicant's contractual position with the purchase of the site. An extension of time request to consider the revised/additional information and report the matter to the Committee was not responded to, and no undertaking to pay the Council's reasonable costs in seeking an independent appraisal was received. The revised plans have not been accepted and the scheme before Members is as submitted.

Site Context

- 6.6 The application site is located on Church Street within Clacton-on-Sea Conservation Area (the Conservation Area) and extends between Harold Road and Thoroughgood Road on either side. The site has road frontages to all three streets. The existing building is of part four storey, part two storey construction, with a single storey rear offshoot. The former college building is externally clad in beige brick, with some cladding, and roofed in grey profiled-metal sheeting. To the east of the site is the Grade II Listed Grand Hotel. To the north, south and west are a mixture of dwellings and a number of flatted developments. To the southwest of the site at the end of Church road is the Grade II Listed Our Lady of Light and Saint Osyth Church, and its Grade II Listed Lychgate.

Proposal

- 6.7 Full planning permission is sought for the construction of 61 apartments (41 one bed and 17 two bed) for occupancy by those over sixty and cohabitating partner over fifty-five, including communal facilities, car parking and landscaping. The site measures 0.25 hectares and the proposed building would be of four storey construction with two, three storey projecting bays to the front and a three storey rear projection, together with an attached single storey refuse store. Lifts to all floors would be accommodated. The ground floor would include an owners lounge,

coffee bar, reception and office. Storage facilities for mobility scooters would be provided, together with 20 car parking spaces (from the submitted block plan) notwithstanding the description of the proposal above. Vehicular access to the site would be from Thoroughgood Road. Materials proposed include red and white brick, red, brown and dark grey roof tiles, and reconstituted stone in yellow and mid-grey bands, heads and cills.

6.8 The application is supported by the following:

- Full plans and elevations
- Statement of Community Involvement
- Planning Statement
- Design and Access Statement
- Heritage Assessment
- Ecological Assessment
- Flood Risk and Drainage Technical Note
- Affordable Housing and Viability Report
- Design Character Board
- Landscape Strategy
- Arboricultural Assessment
- Tree Protection Plan (for retained trees)

Principle of Development

6.9 The proposal is located in an edge of centre location within the Settlement Development Boundary (SDB) of Clacton-on-Sea which is a Strategic Urban Settlement at the top of the Settlement Hierarchy. Under Policy SPL2 within SDBs there is a general presumption in favour of new development. The proposal is therefore in accordance with the spatial strategy established under Section 1 Policy SP3 and Section 2 Policies SPL1 and SPL2, and is acceptable in principle.

Housing Provision

6.10 Section 1 Policy SP4 Meeting Housing Needs sets out the District's minimum housing requirement. From the above Status of the Local Plan Section the Council has a comfortable 5-year supply of housing land and the titled balance does not apply to proposal for new housing. Notwithstanding the Council's strong housing land supply position, the proposal would deliver an efficient re-use of the site in a sustainable location and bring a benefit in the context of Framework Paragraph 60, which sets out the Government's objective of significantly boosting the supply of homes.

6.11 The proposal is for age-restricted general market housing. Notwithstanding the proposed age restriction on leases, the applicant states that the average age of purchasers is 78 years old, with the average age of all occupiers being late 80s. Amongst other things, Section 2 Policy LP2 Housing Choice states that the Council will support the development of residential accommodation aimed at meeting the future needs of older residents. The supporting information with the application highlights the need for under occupation among the elderly to be addressed, downsizing being key to tackling the national housing crisis, and the need for an increased supply in retirement housing.

6.12 Guidance on housing for older and disabled people set out within the PPG includes Paragraph: 001 Reference ID: 63-001-20190626, which states:

"The need to provide housing for older people is critical. People are living longer lives and the proportion of older people in the population is increasing. In mid-2016 there were 1.6 million people aged 85 and over; by mid-2041 this is projected to double to 3.2 million. Offering older

people a better choice of accommodation to suit their changing needs can help them live independently for longer, feel more connected to their communities and help reduce costs to the social care and health systems. Therefore, an understanding of how the ageing population affects housing needs is something to be considered from the early stages of plan-making through to decision-taking.”

- 6.13 PPG Paragraph: 016 Reference ID: 63-016-20190626 states that in assessing planning applications for specialist housing for older people:

“Decision makers should consider the location and viability of a development when assessing planning applications for specialist housing for older people. Local planning authorities can encourage the development of more affordable models and make use of products like shared ownership. Where there is an identified unmet need for specialist housing, local authorities should take a positive approach to schemes that propose to address this need.”

- 6.14 Framework Paragraph 69 acknowledges that small and medium sized sites can make an important contribution to meeting housing requirement of an area, and are often built-out relatively quickly. To promote the development of a good mix of sites local planning authorities should support the development of windfall sites through their policies and decisions, giving great weight to the benefits of using suitable sites within existing settlements for homes.
- 6.15 For the above local and national planning policy reasons, officers would advise that the provision of age-restricted housing on a windfall site of this size should therefore be afforded great weight.

Regeneration

- 6.16 The site is located within the Clacton Town Centre and Seafront Priority Area for Regeneration, as identified on the Proposals Map under Policy PP14. This policy states that the area will be a focus for 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. The existing building is vacant and in rapidly deteriorating condition, attracting incidents of anti-social behaviour. In its current condition the site detracts from the environmental quality of the locality and poses a potential risk to community safety.
- 6.17 The proposal would bring about the comprehensive re-development of the site which would contribute, in part, to addressing the above policy objectives. As Paragraph 120 c) of the Framework includes, planning policies and decisions should give substantial weight to the value of using suitable brownfield land within settlements for homes and other identified needs. Paragraph 124 d) states that planning policies and decisions should support development that makes efficient use of land, taking into account the desirability of maintaining an area's prevailing character and setting (including residential gardens), or of promoting regeneration and change. The spending of local occupants in the town centre and these positive regeneration aspects of the proposal ought to be given very considerable weight.

Character and Appearance

- 6.18 Paragraph 126 of the Framework states that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.
- 6.19 Policy LP4 criterion h) requires that development delivers new dwellings that are designed to high standards of architecture, which respect local character and which together with a well-

considered site layout, create a unique sense of place, whereas criterion k) requires compliance with all other requirements of the Local Plan.

- 6.20 The first bullet of Policy SP7 states that new development should respond positively to local character and context to preserve and enhance the quality of existing places and their environs. Policy SPL3 Part B criterion c) states that development must respect or enhance local landscape character, views, skylines, landmarks, existing street patterns, open spaces and other locally important features.
- 6.21 Having regard to the existing 1970's building it is of little architectural merit, and in its current deteriorating condition detracts significantly from the character and appearance of the area. The proposal is for a replacement building of a similar form and scale to other four storey developments in the local area, and takes its cues from the established architecture. The proposal would follow the established building line and create active frontages onto surrounding roads. Notwithstanding the above comments from ECC Urban design, the most appropriate entrance would be from the car park. The proposal would represent a significant visual enhancement in pure character and appearance terms, and there would be no undue policy conflict. Having regard to the building that it would replace, the proposal would be sufficiently attractive to comply the requirements of the Framework.

Heritage

- 6.22 The site is located within the Clacton Seafront Conservation Area, within the setting of a number of listed buildings. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention shall be paid to the desirability of "preserving or enhancing the character or appearance" of the Conservation Area. In accordance with section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the LBCA Act), special regard must be paid to the desirability of preserving listed buildings potentially affected by the proposals, or their settings or any features of special architectural or historic interest which they may possess. Following Paragraph 193 of the Framework, great weight should be given to the conservation of these heritage assets.
- 6.23 Policy PPL8 states that new development within a designated Conservation Area, or which affects its setting, will only be permitted where it has regard to the desirability of preserving or enhancing the special character and appearance of the area, especially in terms of:
- a. scale and design, particularly in relation to neighbouring buildings and spaces;*
 - b. materials and finishes, including boundary treatments appropriate to the context;*
 - c. hard and soft landscaping;*
 - d. the importance of spaces and trees to the character or appearance; and*
 - e. any important views into, out of, or within the Conservation Area.*
- 6.24 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. Where a proposal will cause harm to a listed building, the relevant paragraphs of the Framework should be applied dependent on the level of harm caused.
- 6.25 Policy PP14 states that the Council will seek to preserve or enhance the heritage assets of Priority Regeneration Areas, including the at risk conservation areas (which includes Clacton Seafront).
- 6.26 Framework Paragraph 197 states that in determining applications, local planning authorities should take account of:

- a) *the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;*
- b) *the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and*
- c) *the desirability of new development making a positive contribution to local character and distinctiveness.*

6.27 Historic England has stated that they do not wish to comment on the application. ECC Heritage have expressed concerns over the massing and scale of the proposal which they consider to be inappropriate to its context - although there is existing height to the building to be demolished, this does not extend across the full site, and the building would be incongruous with dwellings opposite the site. Furthermore, ECC Heritage object to the design because the external elevations are largely flush, and they consider the proposal represents a '*poor pastiche of the quality architecture in the Conservation Area*'. The conclusion is drawn that the proposal fails to preserve or enhance the character and appearance of the conservation area. No concern is raised in relation to the setting of Listed Buildings in the area, although comment is made with regard to the setting of non-designated heritage assets (dwellings on the opposite side of Church Road). However, the response concludes that should the application be approved, conditions are recommended to require samples of all external materials, sample boards with pointing (stipulating that there shall be an appropriate brick bond (not stretcher bond)). Conditions are also recommended to require details of windows and doors which should not be UPVC.

6.28 The existing gross internal floor space (GIA) is stated as being 3053 sq.m² against a proposed GIA of 4472 sq.m², with a resultant net increase of 1419 sq.m². As ECC Heritage observe, this is due to the larger spread of the proposed building and its envelope across the site. Having given special attention to the conservation of the conservation area, it is considered that the effect would not be significant, resulting in less than substantial harm. There would be no direct harm from the increased mass and spread of the proposed building to the significance of the Grade II Listed Grand Hotel, the Grade II Listed Our Lady of Light and Saint Osyth Church, or its Grade II Listed Lychgate. Moreover, there would be benefits that would flow from the removal of the existing building which currently detracts from the character and appearance of the area and the setting in which the above heritage assets are enjoyed. While the spread of the building across the site and its overall mass would be increased, its main ridge height would be lower than that of the existing college building. For these reasons, the change to the Conservation Area would be moderate on the 'less than substantial scale'. Nevertheless, great weight should be given to both the conservation of the conservation area and the less-than substantial harm identified by ECC Heritage.

6.29 As set out at Paragraph 7.7.8 of the Section 2 Local Plan, the Council's Local List has yet to be published. ECC Heritage consider there to be a number of non-designated heritage assets affected by the proposal – dwellings opposite the site. However, even accepting that there is the potential to affect non-designated heritage assets, their setting is already heavily compromised by the existing building, which would be removed and replaced with a building that were more sympathetic to its surroundings. It is not considered that the proposal would result in harm to their setting simply by virtue of its increased massing and scale.

6.30 Following the Council's expert heritage consultee comments, the proposal would result in less than substantial harm to the conservation area, by virtue of its larger spread across the site, and due to concerns over the pastiche design. As such, there would be a degree of conflict with Policy PPL8 a) and the conservation objectives of Policy PP14. Under the above statutory duty and following Paragraph 199 of the Framework, great weight should be given to the asset's conservation, irrespective of whether any harm amounts to less than substantial harm.

6.31 Paragraph 202 of the Framework includes that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal. Consideration of this is returned to under Heritage Balance and Planning Balance below.

Highway Safety/Parking

6.32 Paragraph 104 of the Framework states that transport issues should be considered from the earliest stages of development proposals, amongst other things, so that: a) the potential impacts of development on transport networks can be addressed; c) opportunities to promote walking, cycling and public transport use are identified and pursued, and e) parking and other transportation considerations are integral to the design of scheme. Paragraph 110 states that it should be ensured that appropriate opportunities to promote sustainable transport modes can be, or have been taken up. Also, that safe and suitable access to the site can be achieved for all users and that the design of streets, parking areas, other transport elements and the content of associated standards reflects current national guidance.

6.33 Paragraph 105 states that the planning system should actively manage patterns of growth in support of these objectives. Significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. This can help to reduce congestion and emissions, and improve air quality and public health. However, opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making.

6.34 Paragraph 111 of the Framework makes clear that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or if the residual cumulative impacts on the road network would be severe.

6.35 Within this context, Paragraph 112 states that applications for development should:

a) give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas; and second – so far as possible – to facilitating access to high quality public transport, with layouts that maximise the catchment area for bus or other public transport services, and appropriate facilities that encourage public transport use;

b) address the needs of people with disabilities and reduced mobility in relation to all modes of transport;

c) create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles, avoid unnecessary street clutter, and respond to local character and design standards;

d) allow for the efficient delivery of goods, and access by service and emergency vehicles; and

e) be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations.

6.36 National planning policy is reflected in Section 2 Policy CP2 Improving the Transport Network, which states that proposals will not be granted planning permission if there would be an unacceptable impact on highway safety, or if the residual cumulative impact on the road network would be severe. Amongst other things, Policy SPL3 requires that access to the site is practicable and the highway network will, following any required mitigation, be able to safely accommodate the additional traffic the proposal will generate and not lead to severe traffic

impact. The design and layout of the development should maintain and/or provide safe and convenient access for people with mobility impairments. Adequate vehicle and cycle parking should be provided. The ninth bullet of Policy SP7 requires all new development includes parking facilities that are well integrated as part of the overall design.

- 6.37 The parking concerns of representations received are fully acknowledged. Similar accommodation in the area with low levels of parking provision is said to result in visiting care workers, who may visit multiple times a day, being unable to park close by, and this can restrict the time they have allocated per visit to spend with those in need of their care while they walk to the site. ECC as Local Highway Authority (the highway authority) object due to a shortfall in parking provision, because of concern over parking space sizes and circulatory space, and in the absence of parking facilities for cycles/powered two-wheeler parking.
- 6.38 The proposal is for 61 apartments, 17 of which would be two bed, the remaining being one bed units. Although the application form states that there are currently no parking spaces, there would appear to be approximately 7 to the rear of the existing building. From submitted drawing no. 40039CL-PA02, the proposal incorporates 20 spaces, which would equate to approximately 0.33 spaces per apartment (rounded up). This would well below the Parking SPD requirement of one space per dwelling - the resultant shortfall in provision would be 41 spaces.
- 6.39 However, the site is located within a sustainable location close to the centre of Clacton where the development would be well placed to be served by public transport infrastructure. The site was formerly in use as a college campus building, and that of itself would generate a significant number of vehicular movements associated with the comings and goings of staff, students, servicing and deliveries. Furthermore, in view of its location and the type of age restricted accommodation proposed, it is unlikely that all future occupants would have a car. There is on street parking available in the locality, and the North Essex Parking Partnership confirm that there are significant amounts of 24 hour limited waiting spaces along the sea-front, that summer parking is well catered for, and that there is no recorded pressure for residents parking permits in the area. The use of conditions could require a revised parking layout to address circulatory and pedestrian access concerns, and the provision of safe and secure storage for cycles. The proposal already incorporates covered mobility scooter parking for people with mobility impairments.
- 6.40 Therefore, notwithstanding the technical conflict with the Parking SPD and thereby Policies DM1 and DM8 of the Highways SPD, bringing all these factors together in terms of use and location there is a careful judgement to be made on what is a reasonable level of parking. On balance, it is not considered that the proposal would create unacceptable highway safety impacts or residual cumulative impacts on the highway network that would be severe, even during the peak holiday season months. As such, in accordance with Policy CP2 and Framework Paragraph 111, officers would advise that a putative reason for refusal on highway grounds would be unlikely to succeed at appeal.

Landscaping

- 6.41 The first bullet of Policy SP7 states that new development should respond positively to local character and context to preserve and enhance the quality of existing places and their environs. Policy SPL3 Part B criterion c) states that development must respect or enhance local landscape character, views, skylines, landmarks, existing street patterns, open spaces and other locally important features. Amongst other things, criterion d) of Part B requires that the design and layout of development maintains or enhances important existing site features of landscape value.
- 6.42 ECC Urban Design have commented that there is a missed opportunity to enhance the quality of external spaces by providing a carefully landscape strategy. However, the proposal is accompanied by a Landscape Strategy Masterplan. The Council's landscape officer has

considered this and in summary comments, while a Sycamore and Norway Maple on the site have reasonable amenity value, their shape form and condition are such that they do not merit retention. Furthermore, that none of the trees on the application site meet the criteria for formal protection by means of a Tree Preservation Order. If approved, the landscape officer concludes that there would be an increase in the number of trees in the locality and the associated soft landscaping would be like to bring about an improvement to the appearance of the public realm.

6.43 Subject to the conditions, the proposal would not conflict with the above policy requirements.

Living Conditions

6.44 The final bullet of Policy SP7 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. Policy SPL3, Part B criterion e), requires that buildings and structures are designed and orientated to ensure adequate daylight, outlook and privacy for future and existing residents. Part B, criterion f), necessitates provision is made for adequate private amenity space. Part C, criterion a), requires that development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties.

6.45 Amongst other things, Framework Paragraph 119 states that planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions.

6.46 Paragraph 174 provides that planning decisions should contribute to and enhance the natural and local environment by preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality.

6.47 Paragraph 130 f) includes that planning decisions should ensure that developments create places that are safe, inclusive and accessible, and which promote health and well-being with a high standard of amenity for existing and future users.

6.48 Objection has been received from neighbouring residents. The objection is considered to be based on the spread of the proposed building that would extend further across the site, giving rise to concerns of overlooking, loss of privacy, and loss of light. In considering these concerns, it is agreed that a degree of overlooking may result from a distance and the nature of users of the site for education looking out is different from the proposed residential use. However, the ridge height of the main body of the building would be lower than the 4 storey element of the existing college building. It is not therefore considered that the proposal would give rise to any unacceptable significant loss of privacy, daylight or sunlight for existing occupants.

RAMS and Biodiversity

6.49 Local Plan Policy PPL4 requires that sites designated for their international, European and national importance to nature conservation will be protected from development likely to have an adverse effect on their integrity. The policy states that as a minimum there should be no significant impacts upon any protected species.

6.50 The site is situated within the Zone of Influence of internationally important sites for biodiversity covered by the Essex Coast RAMS SPD, which requires a financial contribution to fund mitigation measures. In order to mitigate the effect of the proposal on these designated sites and comply with the Conservation of Habitats and Species Regulations 2017, in accordance with Policies SP2, PPL4 and the RAMS SPD a per-unit financial contribution would be necessary.

- 6.51 Policy SPL3, Part A criterion d), requires that the design and layout of development maintains or enhances site features, including ecological value. The preamble to Policy PPL4 states that where a development might harm biodiversity an ecological appraisal will be required to be undertaken, and the potential for harm should be considered and addressed in any application.
- 6.52 Paragraph 174 d) of the Framework requires that planning decision should contribute to and enhance the natural and local environment by minimising impacts on and providing net gains for biodiversity. Paragraph 180 d) states that opportunities to improve biodiversity in and around developments should be integrated as part of their design.
- 6.53 The application is supported by the requisite Ecological Assessment. The assessment concludes that no ecological features that would affect the principle of development have been identified, and that no adverse impacts to any statutory or non-statutory sites or species are anticipated. In order to deliver a net gain in biodiversity, the proposal incorporates landscape planting to benefit wildlife and the provision of bird and bat boxes. As the landscape officer comments, there would be a net increase.
- 6.54 Subject to a conditional requirement for precise details and implementation, there would be no harm to protected species of their habitat, a net gain in biodiversity at the site, and no conflict with the above biodiversity policies.
- 6.55 The active nests of all wild birds are protected under the Wildlife & Countryside Act 1981 (As amended). This protection would, in part, address third-party concern about displacement of pigeons. It would not however be reasonable to seek to control where the local pigeon population might roost during construction works, as this would fail the legal tests for the use of conditions.

Drainage and Flood Risk

- 6.56 Policy PPL1 states that all development proposals should include appropriate measures to respond to the risk of flooding on and/or off site and that on sites of 1ha or more, development proposals must be accompanied by a Flood Risk Assessment. Furthermore, all major development proposals should consider the potential for new Blue and Green Infrastructure to help mitigate potential flood risk and include such Green Infrastructure, where appropriate.
- 6.57 Policy PPL5 requires that all new development must make adequate provision for drainage and sewage treatment and should include sustainable drainage systems (SuDS). Applicants should explain and justify the reasons for not using SuDS if not included in their proposals. Furthermore, proposals for development must demonstrate that adequate provision exists for sewage disposal. Policy SPL3, Part B criterion g), requires that development reduces flood risk and integrates sustainable drainage within development, creating amenity and enhancing biodiversity.
- 6.58 Paragraph 167 of the Framework provides that when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere.
- 6.59 The proposal is located within Flood Zone 1 and is not known to be susceptible to flooding. The submitted Flood Risk and Drainage Technical Note concludes that the development will be safe from flooding throughout its lifetime, and that it will actively reduce the flood risk to properties within the downstream catchment. The proposal would make use of on-site attenuation (existing ground conditions precluding soakaways). All drainage would be designed in accordance with the Building Regulations and the Construction Industry Research and Information Association (CIRIA) SuDS Manual C753, and would become the responsibility of the building operator. Beyond the 100-year critical storm, exceedance runoff would be directed towards any residual areas of open space and/or car parking, where any above ground storage could be utilised.

- 6.60 There is a technical objection from ECC as Lead Local Flood Authority who were required to be consulted. In summary, the objection is based on the need to demonstrate sufficient storage to ensure no internal flooding and no off site flooding as a result of the development during all storm events, up to and including the 1 in 100 year plus 40% climate change event. Modelling should be provided to evidence this, and the appropriate level of treatment should be provided for all runoff leaving the site, in line with the Simple Index Approach in chapter 26 of the CIRIA SuDS Manual C753. Best practice guidance is offered.
- 6.61 The applicant has responded with further information. However, because an extension of time was not agreed and an appeal lodged instead this additional information has not been considered formally. Nevertheless, officers consider that given the information available a planning condition is reasonable to require a revised SuDS scheme that would be capable of addressing the objection, in order to comply with the above policies.

Education

- 6.62 The proposal would result in the loss of a former educational facility. Policy PP12 Improving Education and Skill states that Proposals involving the redevelopment of educational facilities will be considered against Policy H2 Community Facilities. This policy in turn states that the loss of existing community or cultural facilities will be resisted, unless replacement facilities are provided which meet the needs of the local population, or necessary services can be delivered from other facilities without leading to or increasing any shortfall in provision. Or, alternatively, if it has been demonstrated that there is no longer a community need for the facility or demand for another community use on site.
- 6.63 The submitted planning statement states that the College undertook a review of all the institute's facilities to assess their requirements and whether they were required for the future of the institution. Through this site review it was concluded that site was out of date in the facilities it could provide to the college and was no longer fit for purpose. All the activity that took place at the site could be accommodated within the other campus's more adequately. The application building was therefore released and sold by Colchester Institute in March 2021, having been marketed since autumn 2020. No evidence of this marketing exercise was submitted with the application.
- 6.64 However, the applicant states that in terms of the other campus sites the Colchester campus is the largest of the Colchester Institutes sites, and boasts a wide range of refectories, a brand new fitness gym, a sports hall, a library and Learning Resources Centre, and a large number of classrooms with interactive presentational facilities. The campus benefitted from a multi-million pound re-development in 2009, focussing mainly on Music and Performing Arts, Engineering, and Construction. In September 2012 the new Higher Education Centre for degree students was opened and this later became the University Centre Colchester building. They also state that the Braintree Campus is Colchester Institute's second largest campus which has been comprehensively redeveloped in the past three years, with all buildings and learning spaces and workshops, studios and classrooms appointed to the very highest standards.
- 6.65 Because of this the application states that the Clacton-on-Sea site became surplus to requirements. The building as an educational facility was no longer required and was therefore sold. The appellant states that it is clear from the above that there was no longer a need for the Clacton site and therefore the development complies with the above Local Plan requirements.
- 6.66 While the application was not supported by evidence of marketing for alternative education or community use, it is not an unreasonable conclusion to draw that the existing dated building is not fit for modern educational purposes. It has been demonstrated that the necessary education services can be delivered from other facilities, without leading to, or increasing, any shortfall in provision. Furthermore, in view of its scale and the investment that would be required, it would be unrealistic to expect a community use to come forward. Therefore, notwithstanding the

absence of any evidence of marketing, it is not considered it would have been reasonable to have refused planning permission for this policy reason. Being for occupation by older people, it is not considered that the proposal would be likely to increase demands for education infrastructure in the locality.

Healthcare Provision

- 6.67 Section 2 Local Plan Policy DI1 Infrastructure Delivery and Impact Mitigation requires that all new development should be supported by and have access to the necessary infrastructure. The Glossary defines this as including healthcare provision, and, where a development proposal requires additional infrastructure capacity, Policy DI1 requires financial contributions towards new or expanded facilities and the maintenance thereof.
- 6.68 Policy HP1 Improving Health and Wellbeing states that the Council will work to improve the health and wellbeing of residents in Tendring by working in partnership with the NHS and Public Health England (PHE), to ensure residents can access high quality primary and secondary health care services. The submission of a Health Impact Assessment (HIA) is required for all development sites delivering 50 or more dwellings (Policy HP 1 (e)). The policy states that this should be carried out in accordance with the advice and best practice published by PHE. Policy HP1 (f) requires mitigation towards new or enhanced health facilities from developers where new housing would result in a shortfall or worsening of health provision.
- 6.69 In responding to consultation, NHS East Essex Care Commissioning Group (NEECCG) comment that the proposed development is likely to have an impact on the services of 4 GP practices, including 2 branch surgeries operating within the vicinity of the application site. These GP practices and branch surgeries do not have capacity for the additional growth resulting from this development. The proposed development would be likely to have an impact on the NHS funding programme for the delivery of primary healthcare provision within this area, and specifically within the health catchment of the development. NEECCG expects these impacts to be fully mitigated.
- 6.70 While the planning application does not appear to include a HIA or propose any mitigation of the healthcare impacts arising from the development, NEECCG have prepared a HIA to provide the basis for a developer contribution towards capital funding to increase capacity within the GP Catchment Area. NEECCG's assessment of the development's impact on existing healthcare provision is that existing GP practices do not have the capacity to accommodate the additional growth resulting from the proposed development. The development would give rise to a need for improvements to capacity, by way of refurbishment, reconfiguration, extension, or potential relocation for the benefit of the patients of Ranworth Surgery and East Lynne Surgery, or through other solutions that address capacity and increased demand. For this a proportion of the cost would need to be met by the developer. NEECCG calculate that a contribution of £35,000 would be required, prior to the commencement of development, in the form of a planning obligation. Subject to such an obligation to meet the healthcare infrastructure needs of the development, NEECCG would not wish to raise an objection to the proposed development.
- 6.71 Subject to a financial contribution towards healthcare provision the proposal would accord with the requirements of Policies HP1 and DI1 in this regard. Such a contribution would be necessary to make the development acceptable in planning terms, it would be directly related to the development, and it would be fairly and reasonably related in scale and kind – it would therefore pass the CIL tests for obligations as set out at Framework Paragraph 56.

Renewable Energy/Energy Conservation

- 6.72 The Council has declared a climate emergency and in order to contribute towards addressing climate change, Section 2 Policies PPL10 and SPL3 require development proposals consider renewable energy generation and energy conservation measures. For residential development

proposals involving the creation of one or more dwellings, Policy PPL10 expects detailed planning applications to be accompanied by a 'Renewable Energy Generation Plan' (REGP) setting out the measures that will be incorporated into the design, layout, and construction, aimed at maximising energy efficiency and the use of renewable energy. Measures such as solar photovoltaics and electric car charging facilities should be considered.

- 6.73 Because it was submitted prior to the adoption of the Section 2 Local Plan, the application is not accompanied by a REGP. However, the proposal incorporates solar panels on the roof (on an internal roof slope) and the proposal incorporates low energy lighting that would be sensor operated. Subject to conditions to require precise details and implementation of the solar panel array, the proposal would comply with the above policies. It is understood that the Requirements of Approved Document S of the Building Regulations, which took effect on 15 June 2022, now require the provision of infrastructure for the charging of electric vehicles (Requirement S1) as part of the development, and so a condition in this regard unnecessary.

Open Space

- 6.74 Policy HP1 g) requires that for proposals of 50 or more dwellings the Council will work to improve health and wellbeing by ensuring increased contact with nature and access to the District's open spaces, and offering opportunities for physical activities through the Haven Gateway Green Infrastructure and Open Space Strategies. Accessible open spaces that reflect current and future needs of present and future generations is a strand of the overarching social objective of the Framework.
- 6.75 Policy HP5 requires that for proposals of more than 11 dwellings or on sites greater than 1.5ha 10% open space is provided on site. This policy also states that If new development would be better served by existing or proposed open spaces within an accessible distance (having regard to the standards set out in the Open Spaces Strategy or any future update), a financial contribution in lieu of on-site provision may be sought through a s106 legal agreement, or an appropriate alternative mechanism towards any necessary improvement or expansion of existing, or the delivery of new, open spaces and/or sports facilities.
- 6.76 The submitted Landscape Strategy Masterplan details a south-facing rear outdoor seating area and green space to the edge of the site along the surrounding street frontages, together with patio areas to serve ground floor units. These areas are likely to offer a reasonable degree of outdoor amenity space for future occupants to be able to enjoy fresh air, daylight and sunlight, albeit that they are somewhat limited in extent.
- 6.77 The Council's Open Space consultee has identified a deficit of 41.08 hectares of Play and Open Space in the Clacton/Holland area, which is significant. Although the proposal is not for family accommodation, it is considered likely that future occupants may wish to use the public gardens on Clacton seafront in view of their accessibility within walking/mobility scooter distance. While somewhat dated, the Council's Open Space and Play SPD provides a useful guide to the likely level of contributions. Contributions towards maintaining and improving the seafront gardens would be directly related to the development, fairly and reasonably related in scale and kind, and would be required to make the development acceptable in accordance with Policy HP5 and the infrastructure delivery requirements of Policy D11.
- 6.78 Policy HP5 also states that where residential developments have the potential to give rise to adverse impacts on internationally important habitat sites (Ramsar, SPA and SAC) through increased recreational disturbance, the Council may require, as part of any mitigation programme, the provision of larger areas of high quality natural and semi-natural open space to absorb day-to-day recreational activities such as routine dog walking to reduce the frequency of visits made to nearby designated sites. In order to serve this function, such an open space must be of a suitable size and include circular walks of sufficient length for daily dog walking, dogs-

off-lead areas and waste bins. However, in view of the urban location of the development it is not considered to be reasonable or necessary to require such provision.

Affordable Housing Viability Matters

- 6.79 Framework Paragraph 34 (Development Contributions) states that plans should set out the contributions expected from development, including setting out the levels and types of affordable housing provision required. The Section 2 Local Plan has recently been found sound and was adopted with a 30% affordable housing policy requirement under Policy LP5 for proposals involving the creation of 11 or more homes.
- 6.80 Framework Paragraph 58 states, amongst other things, that where up-to-date policies have set out the contributions expected from development, planning applications that comply with them should be assumed to be viable. It is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage.
- 6.81 The application is accompanied by a viability report, which attests that the profit level as a percentage of gross development value cannot stand to deliver affordable housing policy requirements. As Framework Paragraph 58 goes on to state, the weight to be given to a viability assessment is a matter for the decision maker, having regard to all the circumstances in the case including whether the plan and the viability evidence underpinning it is up to date, and any change in site circumstances since the plan was brought into force.
- 6.82 Notwithstanding the failure to provide an undertaking to pay the Council's reasonable costs in commissioning an appraisal of the viability report, it is to be the subject of an independent appraisal in order to present the Council's case at the inquiry. The recommendation is therefore subject to this provision in order to comply with the above policies.

Other Matters

- 6.83 There would be economic benefits during construction. However, these would be temporary and therefore attract little weight. Because the proposal is for independent living accommodation, employment benefits arising directly from the proposal would similarly be limited and therefore also attract little weight. Concern over retention of any historic walling raised by a third-party is a matter that would be capable of being address by way of a planning condition, to require precise details prior to the commencement of development.

Conditions

- 6.84 Recommended conditions should be provided for the appeal. A time limit for commencement and plans list conditions are necessary. Over and above those already referred to in the above report, conditions are recommended in accordance with consultee comments. In addition, it would be reasonable and necessary to require submission of a demolition and construction management plan, in the interests of highway safety and local amenity and having considered representations. Working and delivery hours should be restricted. A condition to require prior approval of an external lighting scheme is necessary and finished levels should be agreed. Because the benefits of the proposal have been considered on the basis of age restricted accommodation, a condition should restrict occupancy to the age-restricted accommodation applied for. In order to ensure that the site is free from contamination and suitable for the proposed use conditions should require the assessment of potential contamination, remediation and verification. They should also require the reporting and remediation of any unexpected contamination found. Details of all railings and boundary treatment should be required, together with rainwater goods, in order to protect the character and appearance of the conservation area.

Heritage Balance

- 6.85 Less than substantial harm to the conservation area has been identified by ECC Heritage. In accordance with the duty under Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, special attention must be paid to the desirability of “preserving or enhancing the character or appearance” of the Conservation Area. Under Framework Paragraph 199, great weight must be given to the identified harm. The Council must therefore consider whether the harm is outweighed by the public benefits of the scheme in accordance with Framework Paragraph 202.
- 6.86 In terms of public benefits, officers have identified significant benefits in terms of reusing a brownfield windfall site in the delivery of housing for older people, together with significant benefits in terms of regeneration. These public benefits of the scheme are considered to clearly outweigh the less than substantial harm identified to the conservation area.

Planning Balance

- 6.87 As set out within Framework Paragraph 47, Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission be determined in accordance with the development plan unless material planning considerations indicate otherwise. The starting point for considering the application is therefore the development plan.
- 6.88 For the foregoing reasons, it is recommended that great weight must be given to the conservation of the conservation area, the less-than substantial harm identified and the consequent conflict with the development plan. Harm set out above is given limited weight, in terms of the effect of the proposal on the living conditions of neighbours, consequent conflict with the development plan, and the technical conflict with the Parking SPD.
- 6.89 Subject to conditions and an obligation in accordance with Policies SP2, PPL4 and the RAMS SPD, the proposal would not harm sites of international importance for biodiversity conservation or protected species. Subject to an obligation in accordance with Policies HP1, HP5 and DI1, it would also deliver the required open space and healthcare infrastructure requirements. Subject to viability appraisal, the proposal would not conflict with affordable housing policy requirements. The development would not be at risk from or result in problems of flooding, and energy conservation and renewable energy generation policy requirements would be met. These are all ordinary development plan policy requirements and are therefore neutral factors in the planning balance. Because the economic benefits during construction would be temporary and employment benefits would be limited, limited weight should be given to these considerations.
- 6.90 Against the identified harms, great weight should be given to the provision of housing for older people on a medium sized windfall site, substantial weight should be given to the value of reusing a suitable brownfield site for the provision of homes, and very considerable weight should be given to the regeneration benefits. There is strong support for these considerations in the development plan and the Framework. Taken as a whole, in principle, the proposal would comply with the development plan and national policy.
- 6.91 Nevertheless, the identified harms would bring the proposal into conflict with policies aimed at protecting heritage assets and the living conditions of neighbours. It would also result in a technical conflict with the parking SPD. However, officers conclude that the combined weight that should be given to the public benefits of the scheme outweighs the harm and that the planning balance falls in favour of the proposal.

7 Conclusion

- 7.1 For the above reasons, had members had the opportunity to determine the application, officers would therefore have recommended approval subject to the necessary obligations and conditions set out below.

8 Recommendation

- 8.1 That the Committee resolve that they would have approved the application, and agree the following as part of the Council's case (subject to independent viability appraisal):

Completion of a section 106 legal agreement to address the following:

CATEGORY	TERMS
Affordable Housing Contribution	Subject to viability appraisal.
NHS contribution	£35,000 – prior to commencement.
Education contribution	NA
Financial contribution towards RAMS.	In accordance with the RAMS SPD
Open Space	In accordance with the guidance provided by the Open Space SPD

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. Unless otherwise required by condition below, the development hereby permitted shall be carried out in strict accordance with the following approved plans and documents:

Drawing No: 40039CL-PA01 Location Plan
Drawing No: 40039CL-PA02 Site Plan
Drawing No: 40039CL-PA03 Ground Floor Plan
Drawing No: 40039CL-PA04 First Floor Plan
Drawing No: 40039CL-PA05 Second Floor Plan
Drawing No: 40039CL-PA06 Third Floor Plan
Drawing No: 40039CL-PA07 Roof Plan
Drawing No: 40039CL-PA08 Elevation Sheet 1
Drawing No: 40039CL-PA09 Elevation Sheet 2
Drawing No: 21140-4 Tree Protection Plan
Drawing No: JBA 21-277 SK02 Landscape Strategy
Flood Risk and Drainage Technical Note

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

3. No development shall commence until a demolition and construction management plan has been submitted to, and approved in writing by, the Local Planning Authority. The Plan shall include details of:

1. A programme of demolition and construction works;
2. Methods and phasing for demolition and construction works;
3. Locations of temporary site buildings, compounds, construction material and plant storage areas;
4. Parking of vehicles of site operatives and visitors;
5. Loading and unloading of plant and materials;
6. Demolition and construction traffic management;
7. Wheel washing facilities;
8. Measures to control the emission of dust and dirt during construction; and

9. A scheme for recycling/disposing of waste resulting from demolition and construction works.

The development shall take place in accordance with the approved demolition and construction management plan.

Reason: In the interests of highway safety and to protect the general amenity of the locality.

4. No development shall commence until an assessment of the risks posed by any contamination shall have been submitted to and approved in writing by the local planning authority. This assessment must be undertaken by a suitably qualified contaminated land practitioner, 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), and shall assess any contamination on the site, whether or not it originates on the site. The assessment shall include a survey of the extent, scale and nature of contamination and the potential risks to human health.

Reason: In order to ensure that the site is free from contamination and suitable for the proposed use.

5. No development shall take place where (following the risk assessment) land affected by contamination is found which poses risks identified as unacceptable in the risk assessment, until a detailed remediation scheme shall have been submitted to and approved in writing by the local planning authority. The scheme shall include an appraisal of remediation options, identification of the preferred option(s), the proposed remediation objectives and remediation criteria, and a description and programme of the works to be undertaken including the verification plan. The remediation scheme shall be sufficiently detailed and thorough to ensure that upon completion the site will not qualify as contaminated land under Part IIA of the Environmental Protection Act 1990 in relation to its intended use. The approved remediation scheme shall be carried out and upon completion a verification report by a suitably qualified contaminated land practitioner shall be submitted to and approved in writing by the local planning authority before the development is occupied.

Reason: In order to ensure that the site is free from contamination and suitable for the proposed use.

6. Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development is resumed or continued.

Reason: In order to ensure that the site is free from contamination and suitable for the proposed use.

7. No development shall take place until surface water drainage works shall have been implemented, in accordance with details that shall first have been submitted to and approved in writing by the local planning authority. The details shall include the following:

1. Sufficient storage should be provided to ensure no internal flooding as a result of the development during all storm events up to and including the 1 in 30 year storm event and no off site flooding as a result of the development during all storm events up to and

including the 1 in 100 year plus 40% climate change event. Modelling should be provided for all events up to 1 in 100 plus 40% climate change to evidence this.

2. The appropriate level of treatment should be provided for all runoff leaving the site, in line with the Simple Index Approach in chapter 26 of the CIRIA SuDS Manual C753.

Reason: In order to ensure that the site is satisfactorily drained.

8. No development including demolition shall take place until details of all boundary treatment (to be either removed or erected) has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

Reason: In the interests of visual amenity and in order to protect the character and appearance of the conservation area.

9. No development of external walls shall take place until sample panels of all new facing brickwork and feature bands showing the proposed bricks/stone, face-bond and pointing mortar, and heads and cills samples have been provided on site and approved in writing by the local planning authority. The approved sample panels/samples shall be retained on site until the work is completed and the development shall be carried out in accordance with the approved sample panels/samples.

Reason: In the interests of visual amenity and in order to protect the character and appearance of the conservation area.

10. No roofing works shall commence until details of the materials to be used in the construction of the external surfaces of the roof have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

Reason: In the interests of visual amenity and in order to protect the character and appearance of the conservation area.

11. No external windows or doors shall be inserted within the development until details of their materials, design and appearance, including cross-sectional, glazing bar and profile details, have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

Reason: In the interests of visual amenity and in order to protect the character and appearance of the conservation area.

12. No rainwater good (gutters, downpipes and brackets) shall be affixed to the development until details of their design and materials have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

Reason: In the interests of visual amenity and in order to protect the character and appearance of the conservation area.

13. No above ground works shall take place until details of the precise number and locations of bird and bat roost features on the building and/or within the grounds of the development has been submitted to, and approved in writing by, the Local Planning Authority. The development shall take place in accordance with the approved details which shall be retained thereafter.

Reason: In the interest of nature conservation and biodiversity.

14. No above ground works shall take place until full details of the proposed photovoltaic array to the roof have been submitted to, and approved in writing, by the Local Planning Authority. The development shall take place in accordance with the approved details which shall be retained thereafter.

Reason: In the interests of addressing climate change and in order to comply with Policy PPL10.

15. No above ground works shall take place until full details of refuse storage and management have been submitted to, and approved in writing, by the Local Planning Authority. The development shall take place in accordance with the approved refuse storage and management details thereafter.

Reason: In the interests of the proper waste management and residential amenity.

16. No above ground works shall take place until full details of the finished levels, above ordnance datum, of the ground floors of the proposed building, in relation to existing ground levels have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved levels.

Reason: In the interests of visual amenity and in order to protect the character and appearance of the conservation area, and to protect neighbouring residential amenity.

17. Details of any external lighting shall be submitted to and approved in writing by the local planning authority prior to first use. Development shall be carried out in accordance with the approved details.

Reason: In the interests of preventing unnecessary light pollution and in order to protect neighbouring residential amenity from glare.

18. The age restricted dwellings hereby permitted shall be occupied only by:

1. Persons of 60 years or over.
2. Persons of 55 years or over living as part of a single household who is a spouse or partner of a persons of 60 years or over.

Reason: For the avoidance of doubt and because the proposal has been considered against the development plan, and national planning policy and guidance on this basis.

19. No development, working on the site or delivery of materials shall take place at the site except between 0730 hours to 1800 hours weekdays or 0800 to 1300 hours Saturdays. No development, working on the site or delivery of materials shall take place on Sundays, Bank Holidays or Public Holidays.

Reason: In order to protect neighbouring residential amenity.

20. Notwithstanding the details shown Drawing No: 40039CL-PA02, Site Plan, hereby approved, prior to first use a revised layout for parking of vehicles, mobility scooters and cycles, turning and access shall have been implemented in accordance with details which shall have been submitted to and approved in writing by the local planning authority. Thereafter the parking, turning and access layout shall be retained and kept free of obstruction for its intended use at all times.

Reason: In the interests of highway safety.

21. Soft landscaping shall take place in accordance with Drawing No: JBA 21-277 SK02 Landscape Strategy. Any such vegetation removed without the Local Planning Authority's consent, or which die or become, in the Authority's opinion, seriously damaged or otherwise defective during a period of five years following occupation shall be replaced and/or shall receive remedial action as required by the authority. Such works shall be implemented as soon as is reasonably practicable and, in any case, replacement planting shall be implemented by not later than the end of the following planting season, with planting of such size and species and in such number and positions as may be agreed with the Authority in writing.

Reason: In order to ensure satisfactory landscaping, in the interests of biodiversity, visual amenity and the character and appearance of the conservation area.

22. Retained trees shall be protected in accordance with Drawing No: 21140-4 Tree Protection Plan.

Reason: In order to ensure that retained trees are protected, in the interests of biodiversity, visual amenity and the character and appearance of the conservation area.

8.3 Informatives

Informatives are not attached by Inspector's to their appeal decision letters and it is not therefore necessary set these out here for the purposes of this report.

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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