



## PLANNING COMMITTEE

<b>DATE:</b>	<b>Tuesday, 27 September 2022</b>
<b>TIME:</b>	<b>6.00 pm</b>
<b>VENUE:</b>	<b>Committee Room - Town Hall, Station Road, Clacton-on-Sea, CO15 1SE</b>

### MEMBERSHIP:

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

**Councillor V Guglielmi**  
**Councillor Harris**  
**Councillor Placey**  
**Councillor Wiggins**

**Most Council meetings are open to the public and press. The space for the public and press will be made available on a first come first served basis. Agendas are available to view five working days prior to the meeting date and the Council aims to publish Minutes within five working days of the meeting. Meeting papers can be provided, on request, in large print, in Braille, or on disc, tape, or in other languages.**

**This meeting will be filmed by the Council for live and/or subsequent broadcast on the Council's website. The whole of the meeting will be filmed, except where there are confidential or exempt items, and the footage will be on the website for up to 24 months (the Council retains one full year of recordings and the relevant proportion of the current Municipal Year). The Council will seek to avoid/minimise footage of members of the public in attendance at, or participating in the meeting. In addition, the Council is obliged by law to allow members of the public to take photographs, film, audio-record, and report on the proceedings at public meetings. The Council will only seek to prevent this should it be undertaken in a disruptive or otherwise inappropriate manner.**

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DATE OF PUBLICATION: Friday, 16 September 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 - 8)**

To confirm and sign as a correct record, the minutes of the meeting of the Committee, held on Thursday 1<sup>st</sup> September 2022.

### **3 Declarations of Interest**

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

### **4 Questions on Notice pursuant to Council Procedure Rule 38**

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

### **5 A.1 PLANNING APPLICATION 21-02070-FUL LAND ADJACENT TO LAWFORD GRID SUBSTATION, ARDLEIGH ROAD, LITTLE BROMLEY CO11 2QB (Pages 9 - 44)**

Under Part 3 of the Council's Scheme of Delegated Powers, Planning Committee clause (vii) the Assistant Director has taken the decision to refer this application to Members due to the wider public interest and the proposal is the first of its kind in Tendring.

The application relates to a parcel of land abutting the existing Lawford Grid Substation located to the south of Ardleigh Road / Little Bromley Road, Little Bromley. The application seeks full planning permission for the construction and operation of a 50MW Battery Energy Storage System (BESS) and related infrastructure with associated access, landscaping and drainage.

### **6 A.2 PLANNING APPLICATION 22-00820-FUL TREESTACKS FARM, OAKLEY ROAD, WIX CO11 2SF (Pages 45 - 64)**

This application has been referred to Planning Committee at the request of Councillor Bush due to concerns relating to the significant increase to this existing industrial farming facility and the lack of economic benefits to the local economy.

The application is for an additional three buildings to raise broiler chickens. The site is fully operational (as approved under 20/00194/FUL) with an office building and two other buildings for a biomass boiler and straw storage along with a caravan for agricultural workers home (temporary permission given for a 3 year period). The highways access is completed and a significant amount of planting has been undertaken to screen the site from views in the surrounding countryside.

### **7 A.3 PLANNING APPLICATION 21/02176/FUL – LAND AT MOORLANDS FARM, GREAT BENTLEY CO7 8RS (Pages 65 - 92)**

The site is in a rural locality and within the sustainable settlement of Great Bentley and proposes 26 Dwellings similar in design and layout to adjacent development.

## **8 Exclusion of Press and Public**

The Committee is asked to consider passing the following resolution:

“That under Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting during consideration of Agenda Item 9 on the grounds that it involves the likely disclosure of exempt information as defined in paragraph 5 of Part 1 of Schedule 12A, as amended, of the Act.”

## **9 Exempt Minute of the Meeting held on Thursday 1 September 2022 (Pages 93 - 96)**

To confirm and sign as a correct record the exempt minute of the meeting of the Committee held on Thursday 1 September 2022.

# **INFORMATION FOR VISITORS**

## **PUBLIC ATTENDANCE AT PLANNING COMMITTEE MEETINGS**

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

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

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

### **Rights of members of the public to film and record meetings**

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

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

The Council will provide reasonable facilities to facilitate reporting.

### **Public Behaviour**

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

- (1) Moving outside the area designated for the public;
- (2) Making excessive noise;
- (3) Intrusive lighting/flash; or

(4) Asking a Councillor to repeat a statement.

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

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

# *Tendring* **District Council**



## **PLANNING COMMITTEE MEETINGS PUBLIC SPEAKING SCHEME March 2021**

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

### **TO WHICH MEETINGS DOES THIS SCHEME APPLY?**

Public meeting of the Council's Planning Committee are normally held every 4 weeks at 6.00 pm in the Committee Room at the Town Hall, Station Road, Clacton-on-Sea CO15 1SE.

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

1. The applicant, his agent or representative; or (where applicable) one person the subject of the potential enforcement action or directly affected by the potential confirmation of a tree preservation order, his agent or representative. A maximum of 3 minutes to speak is allowed;
2. One member of the public who wishes to comment on or to speak in favour of the application or someone who produces a signed, written authority to speak on their behalf. A maximum of 3 minutes to speak is allowed;
3. One member of the public who wishes to comment on or speak against the application or someone who produces a signed, written authority to speak on their behalf. A maximum of 3 minutes to speak is allowed;
4. Where the proposed development is in the area of a Parish or Town Council, one Parish or Town Council representative. A maximum of 3 minutes to speak is allowed;

5. All District Councillors for the ward where the development is situated (“ward member”) or (if the ward member is unable to attend the meeting) a District Councillor appointed in writing by the ward member. Member(s) of adjacent wards or wards impacted by the proposed development may also speak with the agreement of the Chairman. Permission for District Councillors to speak is subject to the Council’s Code of Conduct and the declarations of interest provisions will apply. A maximum of 5 minutes to speak is allowed;

In accordance, with Council Procedure Rule 36.1, this Public Speaking Scheme takes precedence and no other Member shall be entitled to address or speak to the Planning Committee under Rule 36.1; and

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

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

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

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

## **WHICH MATTERS ARE COVERED BY THIS SCHEME?**

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

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

In addition to the publication of agendas with written reports, the dates and times of the Planning Committee meetings are shown on the Council’s website. It should be noted that some applications may be withdrawn by the applicant at short notice and others may be deferred because of new information or for procedural reasons. This means that deferral

takes place shortly before or during the Planning Committee meeting and you will not be able to speak at that meeting, but will be able to do so at the meeting when the application is next considered by the Planning Committee.

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

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

### **HOW DO I ARRANGE TO SPEAK AT THE MEETING?**

You can:-

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

Email: [democraticservices@tendringdc.gov.uk](mailto:democraticservices@tendringdc.gov.uk)

### **OR**

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

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

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

### **WHAT WILL HAPPEN WHEN THE MATTER CONCERNED IS CONSIDERED?**

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

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

## **WHAT SHOULD I SAY AT THE MEETING?**

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

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

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

## **WHO DO I CONTACT FOR MORE INFORMATION?**

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

Tendring District Council, Planning Services,  
Town Hall, Station Road, CLACTON-ON-SEA, Essex CO15 1SE  
Tel: 01255 686161 Fax: 01255 686417  
Email: [planningservices@tendringdc.gov.uk](mailto:planningservices@tendringdc.gov.uk) Web: [www.tendringdc.gov.uk](http://www.tendringdc.gov.uk)

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

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



**MINUTES OF THE MEETING OF THE PLANNING COMMITTEE,  
HELD ON THURSDAY, 1ST SEPTEMBER, 2022 AT 6.00 PM  
IN THE COMMITTEE ROOM, TOWN HALL, STATION ROAD, CLACTON-ON-SEA,  
CO15 1SE**

<b>Present:</b>	Councillors White (Chairman), Alexander, Baker, Codling, V Guglielmi, Harris and Wiggins
<b>Also Present:</b>	Councillors Bray (Portfolio Holder for Planning) and P B Honeywood
<b>In Attendance:</b>	Lisa Hastings (Deputy Chief Executive & Monitoring Officer), Gary Guiver (Acting Director (Planning)), Graham Nourse (Assistant Director (Planning)), Joanne Fisher (Planning Solicitor), John Pateman-Gee (Planning Manager), Keith Durran (Committee Services Officer), Hattie Dawson-Dragisic (Performance and Business Support Officer) and Mark Wilson (Development Technician - Technical)

**30. DEFERRAL OF A.1 PLANNING APPLICATION 22/00688/FUL**

The Chairman informed the meeting that Planning Application 22/00688/FUL would not be considered at this meeting and would be deferred to the next Committee meeting as Members had not been able to access the site due to the fact that the agent for this application had not been made aware of this site visit.

**31. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

Apologies were received from Councillors Fowler (Vice-Chairman) and Placey with no substitutions.

**32. MINUTES OF THE LAST MEETING**

It was moved by Councillor Alexander, seconded by Councillor Harris and **RESOLVED** that the minutes of the last meeting of the Committee held on 2 August 2022 be approved as a correct record.

**33. DECLARATIONS OF INTEREST**

Though this application would not now be considered at this meeting Councillor Wiggins declared an Interest in **A.1 Planning Application 22/00688/FUL** due to being a Ward Member.

Councillor Harris declared Interest in **relation to item B of the Report of the Assistant Director (Planning)** due to his having not taken part in the Committee's previous discussions of application 21/02027/FUL. He considered that therefore he would not participate in the Committee's deliberations and decision making for this Item. The Monitoring Officer explained that although Councillor Harris could not be involved in the Committee's discussion or vote, he could stay for the "Part B" section, if he wished to do so as an elected member of the Council.

Councillor Baker declared an Interest in **Agenda Item 7 (Revised Planning Enforcement Policy)** due to his having been asked to chair the Resources and

Services Overview and Scrutiny Committee’s Task and Finish group on this policy. He confirmed that he was not pre-determined and that therefore he would participate in the Committee’s deliberations and decision making for this Item.

**34. QUESTIONS ON NOTICE PURSUANT TO COUNCIL PROCEDURE RULE 38**

There were none on this occasion.

**35. A.1 PLANNING APPLICATION 22/00688/FUL - FARM LAND NORTH OF GLENDENNING, TENPENNY HILL, THORRINGTON, CO7 8JB**

This item had been deferred by the Chairman for the reason set out in Minute 30 above.

**36. A.2 PLANNING APPLICATION 22/10052/FUL - LAND ADJACENT TO THE WILLOWS, LITTLE CLACTON ROAD, GREAT HOLLAND, CO13 0ET**

It was report that this application had been referred to Planning Committee as the proposed development would conflict with the requirements of the Development Plan, principally Policy SPL2 (Settlement Development Boundaries) of the Tendring District Local Plan 2013-2033 and Beyond Section 2 (adopted January 2022) as being located outside of any settlement development boundary.

Members were informed that the proposed dwelling was not considered by Officers to be so materially different in regards to siting, height, footprint to the development approved under prior approval 21/00460/COUNOT. In the absence of any material harm resulting from the development in regards to its individual appearance, its impact on the wider streetscene, its impact on the character of the rural landscape, its impact on neighbours in regards to amenity and the parking provision, the application had been recommended for approval by Officers.

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

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

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

Bill Marshall, a local resident, spoke in support of the application.

<b>Matters raised by Members of the Committee:-</b>	<b>Officer’s response thereto:-</b>
A Member of the Committee raised the question when granting permission with the initial application with the two trees at the access path, how can they gain access to that plot of land while they are there?	In terms of the trees we don’t know their status, we assume they are not protected in terms of tree preservation orders and they are not in a conservation area. Therefore unfortunately they potentially could be removed without having to gain consent. In terms of the access arrangements by prior approval it is not

	necessarily part of that approval, to consider the access arrangements in the context of the change of use which is the prior approval element that you are considering.
The Committee also asked if a tree survey been done?	No, there is not a tree survey with this application to consider.
Do you think as there are two very mature trees in the vicinity where the vehicle access point will take place a tree survey should be done?	The tree is sat behind the garage, essentially the way around it is to go across the field, around the garages and then to use the existing access to access the road.
In response to the answer above a Member of the Committee stated: "that is not what we saw today."	We can only see what the application says but ultimately this is all the information I have with the application and as a matter of debate if you feel that's insufficient that may be a part of your debate.
The Committee asked the Officer where did you see that access road? Was it coming in between the trees or the other side of it, presumably where the garages are? Will the garages be demolished?	You would go round the garage, round to the back and then out to the field. The trees are within that vicinity so, it is very likely that the driveway would either pass underneath or possibly need the removal of the tree to be achievable.
In Paragraph 6.7 can we explore this fallback position in terms of the three tests that are necessary to apply. Could we have clarity on the second test which is "whether there is a likelihood or real prospect of such occurring." Does "such" apply to the lawful ability or does that word apply to the fact that the conversion is going to go ahead?	If there is a realistic and realisable prospect that the "fallback" position could be implemented under existing development rights it should be given weight in respect of an alternative development proposal.
Could we have confirmation that the length of the site that we saw is the same of the length of the proposed building in the application?	By eye, the picture of the site in the presentation, looks as though it has a similar number of bays to what that original proposal shows. Although I would say that appears to have no windows and there are windows on the plans.
The prior approval they have provides the go ahead for that building, in that design, with that roof height at 3.1 Meters not at 5.9 which is what is on this application. So it's doubling in height.	Prior approval actually is quite flexible in the context of it does allow quite significant works to take place. It doesn't allow for increase in height of the building or extension of the building. But it does allow for rebuilding in part some walls and necessary for the purpose of conversion.
Just to confirm the trees are unprotected and could be cut down?	Unfortunately because I cannot see from the pictures exactly where the trees are I do not know if they are at risk of being removed, in the context of its route system, the way the driveway might pass by it. We will look to see if there is any further information we can provide on that

	issue.
Further clarification on the fall-back position by the Legal Officer.	What the Officer has explained about the fall-back position is correct, so effectively what the Court of Appeal decided was that if there is a position where there is a permission or right to develop, in this case Class Q, it can be a material planning consideration for the decision maker to take into consideration when determining whether or not to grant a full permission. The Judge in that case said that the basic principle is that for the prospect to be a real prospect you have to decide based on the facts in this particular case whether or not you feel there is a fall-back position i.e. is there a permission or ability for that land owner to develop this site and that has been explained by Officers and that there is a class Q in place so you can see what they are entitled to develop. So there is a fall-back position. As you know as decision makers you are required to have regard to material planning considerations, but you are required by law to make the decision in accordance with the Local Development Plan unless material considerations indicate otherwise.
That from what we have seen today in order to access the dwelling you would have to drive directly to where that tree is.	Recognising the issue in respect of lack of information available for Members to consider the impact on the tree, it might be desirable to defer to find out further information and get a clear and accurate access plan in respect of the impact on the tree.
Logically if we refuse this application, they can go back and convert what is there to a bungalow for instance?	We have given the possibility of conversion material weight however, Members may decide not to give it significant weight that there is a possibility of that conversion despite prior approval given you may consider that the condition of the building has deteriorated to such an extent that the permitted right by prior approval could not be implemented in accordance within the General Permitted Development Order.
Has the usage or the potential usage of that waste system been evaluated or have we just accepted that report? And if it is into a water course which one is it?	I don't have information on which water course it would be. In terms of the evaluation the only evaluation available is per the report.

Following discussion by the Committee, it was moved by Councillor Harris, seconded by Councillor V E Guglielmi and **RESOLVED** that, contrary to the Officer's recommendation

of approval, the Assistant Director (Planning) (or equivalent authorised officer) be authorised to refuse planning permission for the development due to the following reasons:-

- Policy SP3 of Section 1 of the 2013-2033 Local Plan sets out the spatial strategy for North Essex and directs growth towards existing settlements. The application site lies outside of any defined settlement boundary in the 2013-2033 Local Plan. The proposed development would therefore extend beyond the area planned to provide growth.  
In view of the housing land supply position, the Council does not need to look beyond identified settlements to meet its housing requirement. The proposal therefore gives rise to harm through failing to comply with a statutory plan-led approach to the location of future housing. In view of this, the proposal's conflict with policy gives rise to a significant degree of harm. The spatial strategy of Policy SP3 and place shaping principles of Policy SP7 reflect the National Planning Policy Framework (2021) sustainable development objectives and the proposal's conflict with both is given full weight. The principle of development is therefore not acceptable in this location.  
The availability of a building subject to an approved Prior Approval for Class Q is acknowledged and given weight, but given the poor condition of the building since the approval is no longer considered to be a possibility of compliance with the general permitted development order and not given such weight as to set aside the development plan.
- Policy PPL 3 - THE RURAL LANDSCAPE provides that the Council will protect the rural landscape and refuse planning permission for any proposed development which would cause overriding harm to its character or appearance. Further protection of landscape and good design requirements are required by Policy SPL 3
- The proposal failed to demonstrate that the development and associated layout to allow access and drive can be achieved without harm to trees considered to be either within the site or closely associated. The exact location of trees (identified through site visit and photos) and their associated root systems are not clear on plans to enable judgement of likely harm and the application fails to give protection of landscape asset due consideration. Furthermore, by reason of increased height, and size, the proposed development would have a detrimental visual impact on the rural landscape in this location. The material consideration of the prior approval Class Q on site is a material consideration, but the impact and harm of the proposed development is considered to be in excess of the prior approved development by reason of its design. On this basis, the proposal is considered contrary to policies PPL3 and SPL3 as well as NPPF section 12 Achieving well-designed places.

**37. A.3 REPORT OF THE ASSISTANT DIRECTOR PLANNING - REVISED (PLANNING) ENFORCEMENT POLICY**

The Committee was reminded that the National Planning Policy Framework 2021 required local planning authorities to consider publishing a local planning enforcement policy or plan which described how the Council would manage planning enforcement in

a way which was appropriate to their specific area. The NPPF also made clear that planning enforcement was discretionary and local authorities should act proportionately in responding to breaches of planning control.

Attached to the agenda was the Planning Enforcement Policy document which was a revision to the original version published in 2010 and which followed the adoption of the Tendring District Local Plan 2013 -2033 and Beyond in January 2022. The purpose of the Enforcement Policy was to provide elected Members and the wider public with a clear understanding of how planning enforcement would be delivered by this Council and the criteria used in making assessment of potential breaches of planning law.

Members were aware that the Council also had a Corporate Enforcement Plan (adopted in 2017) which identified on a corporate level how the local authority would implement its enforcement responsibilities.

The Committee had before it the published Officer report containing the Policy details for Planning Enforcement with the recommendation to adopt the revised version of the Planning Enforcement Policy document 2022 and note the content of the Harm Assessment Form.

At the meeting, an oral presentation was made by the Council’s Assistant Director (Planning) (Graham Nourse) in respect of the Policy.

<b>Matters raised by Members of the Committee:-</b>	<b>Officer’s response thereto:-</b>
<p>The Committee requested that the following items be considered for the Policy:</p> <ul style="list-style-type: none"> <li>- Traffic light system</li> <li>- Quarterly form to report on cases</li> <li>- Harm Assessment to be reviewed 6 monthly and relevant performance</li> <li>- Direction signs to sites to be added</li> <li>- Enforcement Officers to make themselves known to the landowner.</li> <li>- Resource to carry out obligations under the Policy to be considered by the Service in conjunction with the Portfolio Holder for Planning</li> <li>- Policy to reference working unsocial hours and weekends maybe required sometimes, otherwise breaches could be left unmonitored during those times</li> <li>- Danger to public safety considerations and to other groups, animals and horses</li> <li>- Officers must work with others across the Council</li> <li>- Overall policy review every four</li> </ul>	<p>The Officers agreed to consider these points and confirmed that some had already been agreed but had not yet been implemented.</p>

<p>years.</p> <ul style="list-style-type: none"> <li>- Wording around publishing of decision – decisions would be published (but remove reference to details)</li> <li>- Acknowledge next to include case reference number</li> <li>- The context of information published on the Council’s website.</li> </ul>	
<p>On page 50, priority 3 include directional signs to new developments. Page 51, add a new 8.9 Harm Assessment must be reviewed 6 monthly on its performance. On page 57 10.5 Enforcement Officers “will” make themselves known to landowners rather than “try to”.</p>	<p>No problem with either of those however we may have to give some thought on how we are going to review the Harm Assessment form on a 6 monthly basis. It is important that we review that as accurately as we can. In terms of directional signs, sometimes under permitted developments developers are permitted to put directional signs up. The signs are normally on their sites not in the middle of nowhere. So if they are in the middle of nowhere we can take action on that.</p>
<p>What is the policy in terms of recruitment? Looking at page 65 the Harm Assessment form item number 3 which is public safety. There are dangers to public safety which are indirect for example somebody who is riding a horse who then gets thrown from the horse because something is happening at a site next door – will you give reassurance that that will be included within that part or whether that requires a separate question as whether there are any possible effects relating to animals?</p>	<p><u>Answered by the Portfolio Holder for Planning.</u> My understanding is the resource is not about money, it is very difficult to recruit people we want. We are looking various different ways of what we can do when we are recruiting. You mention danger to public safety it is really difficult when you have a situation where something is happening that effects someone next door and the legal side of it. If there is third parties being affected by developments there will probably be other reasons aside from public safety to look at.</p> <p><u>Officer response</u> With regards to the point about other groups, it’s important for any enforcement policy on a specific area to reflect that something may have been reported to Planning Services that is not a planning issue but the Council Services would work together to find a solution if possible to a problem. That is the benefit of the Corporate Enforcement Group that the Council has set up.</p>
<p>Page 46, 4.4 second paragraph needs a tweak to the words to say “we will” rather than “we aim”. On 47 4.7 proportionality</p>	<p>Officer agreed that they were happy with these points.</p>

those who choose to deliberately go against laws and regulations these should go into priority one.	
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Following discussion by the Committee, it was moved by Councillor Alexander, seconded by Councillor Baker and **RESOLVED** that:-

1. the revised version of the Planning Enforcement Policy document 2022, be adopted, subject to the amendments being made as discussed within the meeting which will be agreed by the Assistant Director for Planning, in consultation with the Chairman of the Planning Committee, who will in turn have consulted with the members of the Committee;
2. the Policy be reviewed every 4 years at the latest and earlier if national policy or legislation changes or an internal review requires further consideration; and
3. performance against the Planning Enforcement Policy be reported to the Planning Committee regularly.

### **38. EXCLUSION OF PRESS AND PUBLIC**

It was moved by Councillor Alexander, seconded by Council Baker and **RESOLVED**:-

That under Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting during the consideration of Agenda Item 9 on the grounds that it involves the likely disclosure of exempt information as defined in paragraph 5 of Part 1 of Schedule 12A, as amended, of the Act.

### **39. REPORT OF ASSISTANT DIRECTOR (PLANNING) - B.1 - APPEAL BY CHURCHILL RETIREMENT LIVING LTD. AGAINST TENDRING DISTRICT COUNCIL'S FAILURE TO DETERMINE A PLANNING APPLICATION (REF. 21/02027/FUL) FOR THE DEMOLITION OF EXISTING BUILDING AND REDEVELOPMENT OF THE SITE TO FORM 61 NO. RETIREMENT APARTMENTS FOR OLDER PERSONS WITH ASSOCIATED COMMUNAL FACILITIES, CAR PARKING AND LANDSCAPING - LAND AT CHURCH ROAD (FORMER COLCHESTER INSTITUTE), CLACTON-ON-SEA**

**RESOLVED** that:

1. The Planning Committee notes the summary legal advice received from external Counsel;
2. In light of the clear legal advice the Planning Committee confirms that it does not wish to continue defending ground 1
3. That Officers are instructed to work with Counsel to defend the planning appeal on the ground of reason 2; and
4. That Officers are instructed to enter into a Section 106 Agreement to secure financial contributions for RAMS, NHS and open space and if such deed is completed the ground of reason 4 will also not be defended.

The meeting was declared closed at 9.52 pm  
**Chairman**

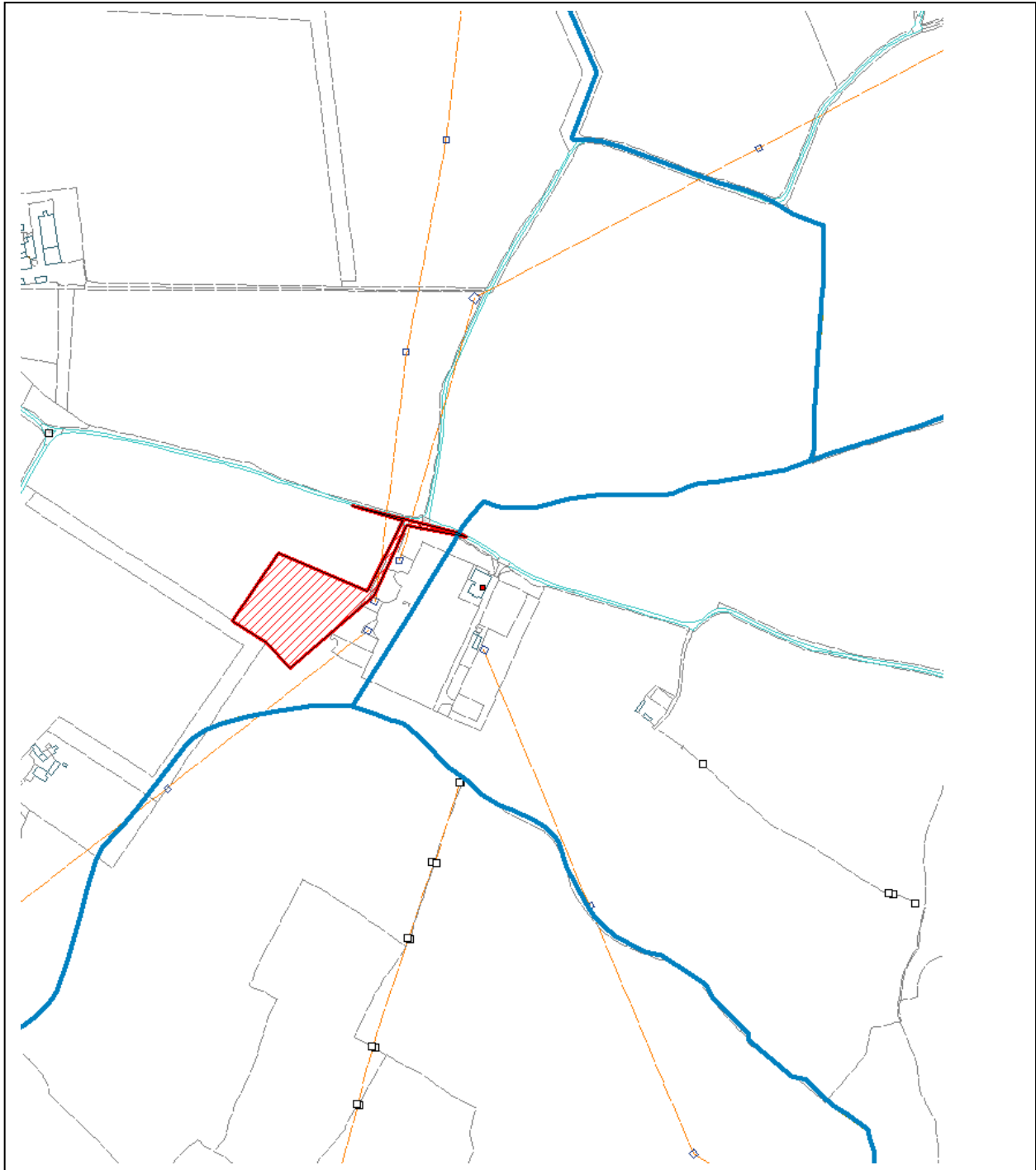


## PLANNING COMMITTEE

27 September 2022

### REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING

#### **A.1 PLANNING APPLICATION – 21/02070/FUL – LAND ADJACENT TO LAWFORD GRID SUBSTATION ARDLEIGH ROAD LITTLE BROMLEY CO11 2QB**



DO NOT SCALE

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<b>Application:</b>	21/02070/FUL	<b>Town / Parish:</b>	Ardleigh Parish Council
<b>Applicant:</b>	Lawford Power Ltd		
<b>Address:</b>	Land adjacent to Lawford Grid Substation Ardleigh Road Little Bromley Essex CO11 2QB		
<b>Development:</b>	Construction and operation of a 50MW Battery Energy Storage System, and related infrastructure with associated access, landscaping and drainage.		

## 1. Executive Summary

- 1.1 Under Part 3 of the Council's Scheme of Delegated Powers, Planning Committee clause (vii) the Assistant Director has taken the decision to refer this application to Members due to the wider public interest and the proposal is the first of its kind in Tendring.
- 1.2 Ardleigh Parish Council and a number of local residents raise concerns. The majority of the objections relate to the development being linked to the East Anglia Green Energy Enablement project (East Anglia GREEN), highway safety and harm to residential amenities from noise and disturbance, together with harm to biodiversity and landscape impact.
- 1.3 The application relates to a parcel of land abutting the existing Lawford Grid Substation located to the south of Ardleigh Road / Little Bromley Road, Little Bromley. The application seeks full planning permission for the construction and operation of a 50MW Battery Energy Storage System (BESS) and related infrastructure with associated access, landscaping and drainage.
- 1.4 A BESS is referred to by the National Grid as a 'balancing service' that will assist the operation of the grid in balancing electrical frequency at times of system stress. BESSs are able to provide flexible backup power to the grid at very short notice and respond rapidly to the short-term variations that are related to local and national energy demand and fluctuations in the output from renewable energy sources.
- 1.5 Concerns have been expressed with regard to the proposals relationship with the East Anglia GREEN project. This is a separate proposal by National Grid Electricity Transmission (National Grid) to reinforce the high voltage power network in East Anglia. The project will support the UK's net zero target through the connection in East Anglia of new low carbon energy generation, and by reinforcing the local transmission network. The reinforcement would comprise mostly overhead line (including pylons and conductors – the 'line' part) and underground cabling through the Dedham Vale Area of Outstanding Natural Beauty (AONB) and a new 400 kV connection substation in the Tendring district.
- 1.6 Confirmation has been received from National Grid that this development proposal is not associated with the East Anglian GREEN project and is an independent third party applying to build a battery storage facility. The application was submitted some time ago before EAG proposals that were consulted upon were finalised.
- 1.7 Chapter 14 of the National Planning Policy Framework 2021 (NPPF) directs the planning system to meet the challenge of climate change, flooding and coastal change. Adopted Tendring District Local Plan 2013-2033 and Beyond (TDLP) Section 2 Policy PPL10 deals with Renewable Energy Generation and Energy Efficiency Measures. Battery Storage Systems are identified within paragraph 7.9.3 of the supporting text of Policy PPL10 as one of the supported technologies aimed at maximising energy efficiency. The proposal is therefore acceptable in principle.

- 1.8 Essex County Council Highway Authority are satisfied that, through the imposition of appropriately worded planning conditions the development can be made acceptable in highway terms. These conditions are to secure; a revised Construction Management Plan; a Traffic Management Plan outlining a designated route to and from the development site for all HGV movements, and details of how any damage to the highway resulting from traffic movements generated by the application site will be repaired.
- 1.9 Furthermore, the application is accompanied by appropriate technical reports including a Landscape Visual Impact Assessment, Noise Risk Assessment, Phase 1 Contaminated Land Report, Arboricultural Impact Assessment, Flood Risk Assessment and an Ecological Assessment, satisfactorily addressing the related material considerations.
- 1.10 In relation to the impact on residential amenities, the nearest dwelling is approximately 240 metres away and the development will not result in any noise or disturbance from operational use, as confirmed by the accompanying Noise Impact Assessment. Any noise, disturbance or disruption during construction can be managed through conditions and will be for a limited time only. Temporary disruption during construction is not a justifiable reason for refusal.
- 1.11 Officers are satisfied that the proposal does not warrant refusal and an acceptable development can be secured using conditions in line with Paragraph 55 of the NPPF.

**Recommendation:** Full Approval

- 1) That the Assistant Director for Planning be authorised to Grant Planning Permission subject to conditions as stated at paragraph 8.2 (or as need to be varied\*) and those as may be deemed necessary by the Assistant Director for Planning; and,
- 2) Any informative notes as may be deemed necessary.

*\*To account for any errors, legal and necessary updates*

## **2. Planning Policy**

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

### **National:**

National Planning Policy Framework July 2021  
National Planning Practice Guidance

### **Local:**

Tendring District Local Plan 2013-2033 and Beyond North Essex Authorities' Shared Strategic Section 1 Plan (adopted January 2021)

SP1	Presumption in Favour of Sustainable Development
SP2	Recreational disturbance Avoidance and Mitigation Strategy (RAMS)
SP3	Spatial Strategy for North Essex
SP7	Place Shaping Principles

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

SPL1	Managing Growth
SPL3	Sustainable Design
PPL1	Development and Flood Risk
PPL3	The Rural Landscape
PPL4	Biodiversity and Geodiversity

PPL5	Water Conservation, Drainage and Sewerage
PPL7	Archaeology
PPL9	Listed Buildings
PPL10	Renewable Energy Generation and Energy Efficiency Measures
PP4	Biodiversity and Geodiversity
CP1	Sustainable Transport and Accessibility
DI1	Infrastructure Delivery and Impact Mitigation

#### Neighbourhood Plan

Draft Ardleigh Neighbourhood Plan (Regulation 14 consultation between 8 August and 23 September 2022)

#### Supplementary Planning Guidance

Essex Design Guide

#### Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

#### Other Relevant Documents

Energy White Paper Powering Our Net Zero Future (2020)

Draft Overarching National Policy Statement for Energy (EN-1) (2021)

#### **Status of the Local Plan**

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 on land to east of Application Site**

02/00876/FUL	Extension of the grid substation compound to accommodate the installation of 2 new electricity transformers and connecting structures	Approved	10.07.2002
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#### **4. Consultations**

**Anglian Water  
Services Ltd  
21.01.2022**

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

**Environment  
Agency  
12.04.2022**

We reviewed the application and did not find that it fell within our remit as per our DMPO checklist, attached for your reference.

If you believe it falls within the remit within our DMPO checklist, please confirm the reason it falls within the checklist and we will re-review the application.

Thank you for your email received on 18/01/2022 which provides this Council with the opportunity to assess and advise on the proposed surface water drainage strategy for the above mentioned planning application.

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

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

- Non-statutory technical standards for sustainable drainage systems
- Essex County Council's (ECC's) adopted Sustainable Drainage Systems Design Guide
- The CIRIA SuDS Manual (C753)
- BS8582 Code of practice for surface water management for development sites.

#### Lead Local Flood Authority position

Having reviewed the Flood Risk Assessment and the associated documents which accompanied the planning application, we do not object to the granting of planning permission for planning application 21/02070/FUL based on the following:

#### Condition 1

No works except demolition shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme should include but not be limited to:

- Provide the inclusion of 10% urban creep. In any storage calculations, we would also want to see 'urban creep' included in line with the Document 'BS 8582:2013 Code of practice for surface water management for development sites' which states: "To allow for future urban expansion within the development (urban creep), an increase in the paved surface area of 10% should be used, unless this would produce a percentage impermeability greater than 100%, or unless specified differently by the drainage approval body or planning authority' (page 32).
- Provide detailed engineering drawings of each component of the drainage scheme.
- Provide a drainage plan which details exceedance and conveyance routes, FFL and ground levels.
- Provide an updated written report summarising the final strategy and highlighting any minor changes to the approved strategy.

The scheme shall subsequently be implemented prior to occupation.

#### Condition 2

No works shall take place until a scheme to minimise the risk of offsite flooding caused by surface water run-off and groundwater during construction works and prevent pollution has been submitted to, and

approved in writing by, the local planning authority. The scheme shall subsequently be implemented as approved.

#### Reason

The National Planning Policy Framework paragraph 167 and paragraph 174 state that local planning authorities should ensure development does not increase flood risk elsewhere and does not contribute to water pollution.

Construction may lead to excess water being discharged from the site. If dewatering takes place to allow for construction to take place below groundwater level, this will cause additional water to be discharged. Furthermore the removal of topsoils during construction may limit the ability of the site to intercept rainfall and may lead to increased runoff rates. To mitigate increased flood risk to the surrounding area during construction there needs to be satisfactory storage of/disposal of surface water and groundwater which needs to be agreed before commencement of the development.

Construction may also lead to polluted water being allowed to leave the site. Methods for preventing or mitigating this should be proposed.

#### Condition 3

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

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

#### Reason

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.

Failure to provide the above required information prior to occupation may result in the installation of a system that is not properly maintained and may increase flood risk or pollution hazard from the site.

#### Condition 4

The applicant or any successor in title must maintain yearly logs of maintenance which should be carried out in accordance with any 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.

We also have the following advisory comments:

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

In the event that more information was supplied by the applicants then the County Council may be in a position to withdraw its objection to the proposal once it has considered the additional clarification/details that are required.

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

#### Summary of Flood Risk Responsibilities for your Council

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

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

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

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

#### INFORMATIVES:

- Essex County Council has a duty to maintain a register and record of assets which have a significant impact on the risk of flooding. In order to capture proposed SuDS which may form part of the future register, a copy of the SuDS assets in a GIS layer should be sent to [suds@essex.gov.uk](mailto:suds@essex.gov.uk).
- Any drainage features proposed for adoption by Essex County Council should be consulted on with the relevant Highways Development Management Office.

- Changes to existing water courses may require separate consent under the Land Drainage Act before works take place. More information about consenting can be found in the attached standing advice note.
- It is the applicant's responsibility to check that they are complying with common law if the drainage scheme proposes to discharge into an off-site ditch/pipe. The applicant should seek consent where appropriate from other downstream riparian landowners.
- The Ministerial Statement made on 18th December 2014 (ref. HCWS161) states that the final decision regarding the viability and reasonableness of maintenance requirements lies with the LPA. It is not within the scope of the LLFA to comment on the overall viability of a scheme as the decision is based on a range of issues which are outside of this authority's area of expertise.
- We will advise on the acceptability of surface water and the information submitted on all planning applications submitted after the 15th of April 2015 based on the key documents listed within this letter. This includes applications which have been previously submitted as part of an earlier stage of the planning process and granted planning permission based on historic requirements. The Local Planning Authority should use the information submitted within this response in conjunction with any other relevant information submitted as part of this application or as part of preceding applications to make a balanced decision based on the available information.

**Essex County  
Council  
Archaeology  
03.02.2022**

The site lies adjacent to a site recorded on the HER as linear cropmark features (HER 17472). Google imagery appears to show further cropmark features within the proposed site which may represent an enclosure of possible agricultural or settlement origin which indicates potential for archaeological remains to be preserved within the site. In the surrounding area aerial photography reveals a landscape of surviving multiperiod archaeological remains.

It is unclear from the application details the extent of groundworks that will be required for the development, in areas of topsoil removal there is likely to be an impact on surviving archaeological remains.

There is potential that currently unidentified heritage assets will be impacted upon by the proposed development. Due to the scale of harm or loss, the applicant is required to carry out an evaluation to determine the nature and significance of any heritage assets that may be affected (Para 194, 2021) and to make this publicly available.

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

**RECOMMENDATION: A Programme of Archaeological Evaluation 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 Tendring Historic Environment Characterisation project and Essex HER show 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. 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.

No objection subject to securing biodiversity mitigation and enhancement measures

#### Summary

We have reviewed the Ecological Assessment (Hopkins Ecology, November 2021) and Biodiversity Metric (November 2021) and Magic Maps (<https://magic.defra.gov.uk>) relating to the likely impacts of development on designated sites, protected species and Priority species & habitats and identification of appropriate mitigation measures.

We are 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 Ecological Assessment (Hopkins Ecology, November 2021) 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 nesting bird and Bats.

Furthermore, as recommended by the Ecological Assessment (Hopkins Ecology, November 2021) a Construction Environmental Management Plan for Biodiversity (CEMP: Biodiversity) should be implemented, to mitigate any impacts particularly to bats during the construction stage of the development. This should therefore be secured by a condition of any consent.

**Essex County  
Council  
Ecology  
11.04.2022**

In addition, the Ecological Assessment (Hopkins Ecology, November 2021) suggests that there is suitable habitat and therefore a risk of small mammals such as hedgehogs and potentially Brown Hare, using the site. Precautionary mitigation method statements should be considered and outlined within the CEMP: Biodiversity.

As highlighted in the Ecological Assessment (Hopkins Ecology, November 2021), 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 and secured by a condition of any consent. 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.

We also support the proposed reasonable biodiversity enhancements which include wildflower margins and a mixed scrub buffer, which have been recommended in the Ecological Assessment (Hopkins Ecology, November 2021) and Biodiversity Metric (November 2021) to secure measurable net gains for biodiversity, as outlined under Paragraph 174d of the National Planning Policy Framework (2021). The reasonable biodiversity enhancement measures should be outlined within a Biodiversity Enhancement Strategy and should be secured by a condition of any consent.

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

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 Ecological Assessment (Hopkins Ecology, November 2021) as already submitted with the planning application and agreed in principle with the local planning authority prior to determination.

This may include the appointment of an appropriately competent person e.g. an ecological clerk of works (ECoW) to provide on-site ecological

expertise during construction. The appointed person shall undertake all activities, and works shall be carried out, in accordance with the approved details."

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

## 2. PRIOR TO COMMENCEMENT: CONSTRUCTION ENVIRONMENTAL MANAGEMENT PLAN FOR BIODIVERSITY

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

The CEMP (Biodiversity) shall include the following.

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

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

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

## 3. PRIOR TO 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.

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).

#### 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)

**Essex County  
Council  
Heritage  
13.04.2022**

The proposed development is adjacent to the existing Lawford Grid substation/point of connection to the grid.

No designated heritage assets are located within the Site. A number of designated heritage assets are located within the environs of the Site which include (but not limited to) Grade II Listed Bounds Farmhouse, Rose Cottage, Jennings Farmhouse and a Pump to the rear. Grade II\* listed Church of St Mary is located approximately at 1.8km from the site. There are also a number of potentially non-designated heritage assets in close proximity to the site, particularly Cattsgreen Farm, Waterhouse Farm and Badley Hall.

Generally, the intervisibility between the proposed site and the designated and non-designated heritage assets is mostly limited to glances in the long distance due to the topography of the site, mature trees throughout the landscape and the presence of Lawford Grid Substation and associated infrastructure. However, there is the potential that the Proposed Development would constitute a degree of change to the wider agricultural setting of Waterhouse Farm and Badley Hall.

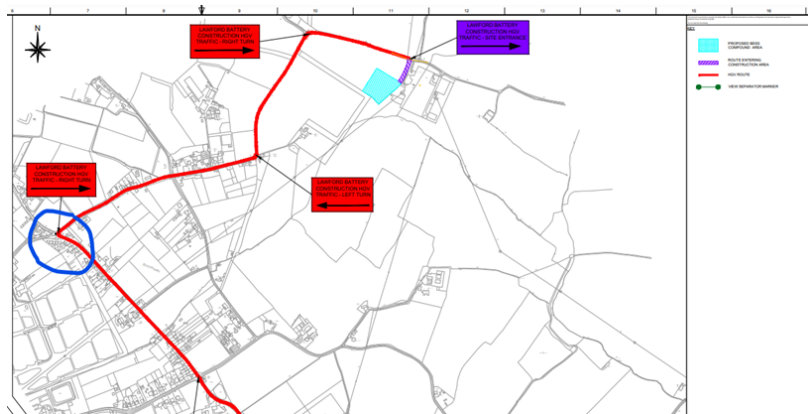
As a non-designated heritage asset, Paragraph 203 of the NPPF is relevant and the local planning authority should take a balanced judgement, having regard for the scale of harm identified and the significance of the heritage asset.

Were permission to be granted, I request the following conditions are imposed. Please note that inclusion of potential conditions does not imply compliance with national/local legislation policy.

- Prior to commencement, a schedule of drawings that shows details of the proposed soft and hard landscape at appropriate scales, including fencing treatment, shall be submitted to and approved in writing by the Local Planning Authority. Works shall be implemented in accordance with the approved details and shall be permanently maintained as such.
- All proposed compounds shall be black, dark grey or dark green painted or powder-coated metal and shall be permanently maintained as such.

**ECC Highways  
Dept  
11.04.2022  
INITIAL  
COMMENTS**

The main issue I have is with construction phase of the scheme and routing strategy for HGV's. Waterhouse Lane forms part of the route and is classed as a local road and is narrow to take two-way traffic, particularly HGV's.



This is particularly the case at the junction with Frating Road and Waterhouse Lane, potentially preventing vehicles to complete the turn into Waterhouse Lane from Frating Road; the visibility to the north-west for traffic exiting the lane onto Frating Road, is not good and these vehicle movements will intensify at this junction albeit over a short period while the site is being constructed.



I feel they need to review the HGV routing strategy for the construction phase, in particular the section from Frating Road to the site. It will be necessary to incorporate a pre-condition survey for those minor roads that will be used by construction traffic to and from the site, incorporating a joint

inspection of the route to be used by construction vehicles should be carried out by the applicant and the Highway Authority, to include photographic evidence. The route should then be inspected again, after completion of the development, and any damage to the highway resulting from traffic movements generated by the application site should be repaired to an acceptable standard and at no cost to the Highway Authority.

In relation to the site access for the development I couldn't see any Stage 1 Road Safety Audit for the junction.

**ECC Highways  
Dept  
27.05.2022  
LATEST  
COMMENTS**

The amended / additional information submitted with the application has been fully assessed by the Highway Authority and conclusions reached based on a desktop study in conjunction with a site visit. It is noted that the development will be situated off Little Bromley Road classed as a local road. There is no evidence of any personal injury accidents in the vicinity of the proposed access for the most recent 3-year period. The applicant has demonstrated that the proposed access will have adequate visibility and will provide adequate off-street parking and turning, while the overall scheme is set back from the main public highway and does not directly affect any Public Rights of Way, taking these factors into consideration:

**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 site, the road junction / access at its centre line shall be provided with a minimum clear to ground visibility splay with dimensions of 2.4 metres by 70 metres in both directions, as measured from and along the nearside edge of the carriageway and in accordance with drawing no. 211271 C-700. 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. No unbound material shall be used in the surface treatment of the vehicular access within 15 metres of the highway boundary. **Reason:** To avoid displacement of loose material onto the highway in the interests of highway safety in accordance with policy DM1.
3. Prior to occupation of the site 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 construction vehicles can enter and leave the highway in a forward gear in the interest of highway safety in accordance with policy DM1.
4. Prior to the occupation of the site the access and internal layout shall be provided in principle with drawing number: 0126/006 Proposed site plan.

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

5. Prior to the commencement of any work on the site, including any ground works or demolition, a revised Construction Management Plan as detailed in the supporting documents is submitted to and approved in writing by the Local Planning Authority which shall be adhered to by all ground works, construction and decommissioning traffic throughout the pre-construction, construction, and decommissioning phases. The approved plan shall be adhered to throughout the construction period. The Plan shall provide for but not restricted to:
  - i. the parking of vehicles of site operatives and visitors,
  - ii. loading and unloading of plant and materials,
  - iii. storage of plant and materials used in constructing the development,
  - iv. wheel and underbody washing facilities.
  - v. temporary road works entrance and exit/ construction traffic signage,
  - vi. Provision of informal passing places,
  - vii. Swept path analysis drawings for the access and any restricted bends.

**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.

6. Prior to the commencement of any work on the site a joint inspection of the local roads to be used by construction vehicles should be carried out by the applicant and the Highway Authority, to include photographic evidence. The route should then be inspected again, after completion of the development, and any damage to the highway resulting from traffic movements generated by the application site should be repaired to an acceptable standard and at no cost to the Highway Authority. The Highway Authority may also wish to secure a commuted sum for special maintenance to cover the damage caused to the existing roads used as access by vehicles servicing the application site.

**Reason:** To preserve the integrity and fabric of the highway, in the interests of highway safety and in accordance with Policy DM1.

7. Prior to the commencement of any work on the site, an appropriate Traffic Management Plan shall be provided outlining a designated route to and from the development site for all HGV movements restricting deliveries between the hours of 9:30am – 3:30pm Mon – Fri and Saturdays 9:30am - midday to be agreed in advance with the Local Planning Authority in consultation with the Highway Authority.

**Reason:** To control the location and direction of HGV vehicle movements to and from the site in the interests of highway safety and Policy DM1.

8. The proposed development shall not be occupied until such time as the vehicle parking area for site operatives indicated on the approved

plans, has been hard surfaced. 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.

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:

- i. The grant of planning permission does not automatically allow development to commence. In the event of works affecting the highway, none shall be permitted to commence until such time as they have been fully agreed with this Authority.
- ii. A formal Stage 2 Road Safety Audit outlining the junction detail/ footway design/ improvements will be required.

**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](mailto:development.management@essexhighways.org)

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

**National Grid  
06.09.2022**

This is NOT associated with East Anglian GREEN projection (EAG) and my understanding is that it is an independent 3rd party applying to build a battery storage facility.

The application was submitted some time ago before EAG proposals that were consulted upon were finalised.

Our understanding of its location is that it does not materially affect EAG proposals, though becomes additional context for cumulative effects if consented.

**Network  
Planner - UK  
Power  
Networks**

No comments received.

5. Representations



## Parish Council Consultation

5.1 The application site lies within the Parish of Ardleigh but borders Little Bromley Parish. Therefore, consultation with both Ardleigh Parish Council and Little Bromley Parish Council has been undertaken.

5.2 **Little Bromley Parish Council** support the application.

5.3 **Ardleigh Parish Council** have submitted comments against the application on 4 separate occasions. Councillors noted recognition of the need for more sustainable and resilient energy supplies. However, a number of concerns have been raised. These can be summarised as follows. The issues raised are addressed in the main report below. However, where relevant, an officer note is included in italics:

- Should be referred to Planning Committee for a decision.
- Damage the ecosystem.
- Harm to countryside and landscape.
- Loss of prime agricultural land.
- Highway safety concerns from poor access and volume of traffic during construction.
- Cause disruption to residents.
- Fire risk and poor access for emergency vehicles and construction vehicles.
- Waterhouse Lane is narrow, unsuitable and unsafe for all road users including pedestrians, cyclists and horse riders.
- Damage to the narrow country lane(s) leading to the sites if used by construction vehicles.

***Officer Note - Access and highway safety have been considered in the main assessment section of the report below. ECC Highways raise no objection to the development subject to a number of conditions, including the submission and approval of a construction traffic management plan, the undertaking of road inspections and repair works, the submission and approval of a traffic management plan and a Road Safety Audit. Construction will be for a limited period only and carefully managed via the requirements of the conditions.***

- Concerned about the lack of strategic approach between service providers and future plans.
- Would set a harmful precedent. (i.e. that the facility would need other infrastructure close by to make it useful and operational.)
- Could culminate in physical connections (via cabling underground and over ground pylons) and at least 3 new substations all within close proximity to this site and very considerable industrialisation of the landscape.
- Consideration should include combined impact with off-shore wind farms.
- New National Grid (NG) substation and new off-shore wind farms could seek transmission stations in the vicinity of the site.
- The original concerns raised have now magnified - could be a proliferation of transmission stations.
- Would be premature for TDC to give permission given all the uncertainties of the NG pylon proposals.
- This battery storage facility will not be required if NG substation rejected.

***Officer Note - The agent has provided additional information in direct response to the objections raised by Ardleigh Parish Council (scanned to the planning file as 'Agent response to Ardleigh PC objections' and dated 7 July 2022). This report explains that this proposed BESS is completely unrelated to National Grid's East Anglian Green proposals that have recently been subject to public consultation. The proposed BESS would not connect to the proposed East Anglia Green 400kv Substation but would***

***connect directly to the existing 132kv Lawford sub-station operated by UK Power Network (UKPN) which the proposed BESS is located directly adjacent to. The proposed battery energy storage facility is subject to a Grid Connection Offer from UKPN (which has been accepted and secured) for the facility to connect to the existing Lawford substation. It is viable on its own terms and can proceed and is needed irrespective of how or whether the National Grid's East Anglia Green Proposals (or any specific off-shore wind proposals) proceed.***

***Confirmation has been received from National Grid that this development proposal is not associated with the East Anglian GREEN project and is an independent third party applying to build a battery storage facility. The application was submitted some time ago before EAG proposals that were consulted upon were finalised.***

- Cambridge Power should explore siting on other larger existing substations that may have the capacity or look for alternative brown-field sites.

***Officer Note - The LPA are required to consider the application and judge the individual planning merits of the scheme as submitted.***

- Contrary to Local Plan policies and draft Neighbourhood Plan policies.

***Officer Note - The site is not located within an area subject of any adopted Neighbourhood Plans. Ardleigh Parish has been confirmed as a Neighbourhood Planning area and Ardleigh Parish Council is, at the time of writing, consulting the public on its first draft Neighbourhood Plan. Policies considered to be contrary are not identified by the consultation response.***

#### Public Consultation

5.4 23 individual letters of objection from local residents have been received. The concerns raised can be summarised as follows. The issues raised are addressed in the main report below. However, where relevant, an officer note is included in italics:

- Harm to the landscape, rural character and character of the area.
- Harm to visual amenity.
- Loss of prime agricultural land.
- Destroy wildlife and habitats.
- Noise pollution.
- Inflict enhanced levels of radiation causing health concerns.
- Highway safety concerns from poor access, no footpaths, volume of construction traffic, noise and disturbance to residents and hazards to all road users including pedestrians, school children, cyclists and horse riders.
- Dust pollution.
- Damage to the narrow country lane(s) leading to the sites if used by construction vehicles.
- Harm to protected roadside trees from large vehicles using the proposed route.
- Concerned for the structure of my property close to highway used by construction vehicles.

***Officer Note - This would be a private matter between The Highway Authority and any affected third party.***

- No information has been provided as to how this site will be part of a much larger scheme in the future and the cumulative impact.

***Officer Note - This development proposal is not associated with the East Anglian GREEN project.***

- Lack of public consultation.

**Officer Note – Publication and notification of this application has been carried out in accordance with all legal requirements and as directed by the community statement. This includes any available neighbouring properties, an orange site notice erected at the entrance to the site and the application was advertised in the local press as a major development proposal.**

Non-planning issues raised:

- Negative impact on property values.

**Officer Note - The impact of development upon property values does not constitute a material planning consideration.**

## 6. Assessment

6.1 The main considerations in this instance are:

- Site Context;
- Development Proposal;
- Principle of Development;
- Access and Highway Safety;
- Landscape & Visual Impact;
- Heritage Impact;
- Biodiversity and Protected Species;
- Environmental Protection – Contamination and Noise;
- Residential Amenities;
- Sustainable Drainage; and,
- Archaeology.

Site Context

6.2 The application site comprises approximately 1.15 hectares of cultivated agricultural land, situated approximately 2km to the east of Ardleigh and 2km to the west of Little Bromley. It is located to the south of Little Bromley Road / Ardleigh Road. To the north-east of the site, and accessed from Bromley Road / Ardleigh Road, is the existing Lawford substation – a large electricity substation compound covering approximately 3.3 hectares.

East Anglia GREEN Project

6.3 Concerns have been expressed with regard to the proposals relationship with the East Anglia GREEN project. This is a separate proposal by National Grid Electricity Transmission (National Grid) to reinforce the high voltage power network in East Anglia. The project will support the UK's net zero target through the connection in East Anglia of new low carbon energy generation, and by reinforcing the local transmission network. The reinforcement would comprise mostly overhead line (including pylons and conductors – the 'line' part) and underground cabling through the Dedham Vale Area of Outstanding Natural Beauty (AONB) and a new 400 kV connection substation in the Tendring district.

6.4 Confirmation has been received from National Grid that this development proposal is not associated with the East Anglian GREEN project and is an independent third party applying to build a battery storage facility. The application was submitted some time ago before EAG proposals that were consulted upon were finalised.

6.5 National Grid confirm in their comments that, should this development go ahead, it will become context for cumulative effects for their consideration as part of the EAG proposals.

#### Development Proposal

6.6 The application seeks full planning permission for a new compound incorporating a Battery Energy Storage System (BESS) facility and associated ancillary infrastructure within fencing, landscaping around the northern, eastern and southern perimeters of the site (within the application boundary but outside the main compound) and a site access track through the field alongside the existing sub-station connecting the main compound to the public highway to the north (Little Bromley Road).

6.7 The underground cable connecting the BESS to the substation will be delivered by UKPN under their permitted development rights as a Statutory Undertaker.

6.8 Summary of proposed works:

- Laying out of containerised battery units along with associated inverters, transformers, switchgear units, cooling units and associated concrete plinths;
- Erection of a palisade security fence around the battery compound with access gates to the compound entrance;
- Installation of infrared CCTV cameras;
- Laying out of a crushed / compacted stone Site access track from Little Bromley Road up to the Site boundary into the battery compound; and,
- Laying out of a dressed stone compound surfacing.

#### Principle of Development

6.9 Chapter 14 of the National Planning Policy Framework 2021 (NPPF) directs the planning system to meet the challenge of climate change, flooding and coastal change. The opening Paragraph 152, directs that the planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure.

6.10 Paragraph 157 of the NPPF states that, in determining planning applications, local planning authorities should expect new development to:

- a) comply with any development plan policies on local requirements for decentralised energy supply unless it can be demonstrated by the applicant, having regard to the type of development involved and its design, that this is not feasible or viable; and
- b) take account of landform, layout, building orientation, massing and landscaping to minimise energy consumption.

6.11 Furthermore, Paragraph 158 of the NPPF directs that, when determining planning applications for renewable and low carbon development, local planning authorities should:

- a) not require applicants to demonstrate the overall need for renewable or low carbon energy, and recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions; and
- b) approve the application if its impacts are (or can be made) acceptable.

- 6.12 As outlined in the Government's Energy White Paper and the Draft National Policy Statement for Energy EN-1 they also support the achievement of Net Zero objectives by aiding the transition to renewable energy sources, which by their nature intermittently generate energy. In so doing, storage can also reduce energy costs and increase its reliability.
- 6.13 Adopted Tendring District Local Plan 2013-2033 and Beyond (TDLP) Section 1 Policy SP1 endorses a presumption in favour of sustainable development. When considering development proposals local planning authorities will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF. They will always work pro-actively with applicants to find solutions, which mean that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area. The application site is located beyond any defined settlement boundary and is located in open countryside for the purposes of planning policy.
- 6.14 TDLP Section 2 Policy PPL10 deals with Renewable Energy Generation and Energy Efficiency Measures. Proposals for renewable energy schemes will be considered having regard to their scale, impact and the amount of energy to be generated. Battery Storage Systems are identified within paragraph 7.9.3 of the supporting text of Policy PPL10 as one of the supported technologies aimed at maximising energy efficiency. TDLP Section 1 Policy SP7 states that all new development must meet high standards of design. Furthermore, all new development should reflect the place shaping principles set out within the Local Plan including measures to promote environmental sustainability including addressing energy efficiency whilst protecting assets of historical or natural value.
- 6.15 A BESS is referred to by the National Grid as a 'balancing service' that will assist the operation of the grid in balancing electrical frequency at times of system stress. BESSs are able to provide flexible backup power to the grid at very short notice and respond rapidly to the short-term variations that are related to local and national energy demand and fluctuations in the output from renewable energy sources. The principal role of a BESS is thus to contribute towards ensuring that there is a reliable and constant supply of electricity across the transmission network. The proposal is a method of supporting the transition to a new greener energy supply in order to meet the UK's target of net zero carbon by 2050 whilst ensuring supply meets demand until green energy systems are self-sustaining in line with Chapter 16 of the NPPF. The applicant has sought to secure land as close as possible to the existing substation to minimise electrical losses, ensure viability and limit landscape and visual impact.
- 6.16 Having regard to the aims of the national and local plan policies identified above and the purpose of the development to contribute toward energy supply and efficiency, the development is considered acceptable in principle. This is subject to consideration of all other relevant national and local plan policies in terms of the impact of the development upon the character of the countryside, residential amenity, highway safety and other relevant material considerations, all of which are covered below.

#### Access and Highway Safety

- 6.17 Paragraph 108 of the NPPF seeks to ensure that safe and suitable access to a development site can be achieved for all users. TDLP Section 2 Policy SPL3 Part B 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 parking and manoeuvring.
- 6.18 Operational traffic associated with the proposal is negligible with only occasional maintenance visits expected. Initial consultation undertaken with Essex County Council Highway Authority (ECCHW) raised concerns with the construction phase of the scheme and routing strategy for

HGV's, specifically in relation to the use of Waterhouse Lane and the junction with Frating Road. The visibility and manoeuvrability here for vehicles exiting the junction is poor and the increase in vehicle movements, albeit over a short period while during construction, raised concerns in terms of highway safety.

- 6.19 The applicant has engaged directly with ECCHW to resolve the issues originally raised (see email exchange scanned to the planning file dated 07 Jun 2022). There is no evidence of any personal injury accidents near the proposed site access for the most recent 3-year period. The applicant has demonstrated that the proposed access will have adequate visibility and will provide adequate off-street parking and turning, while the overall scheme is set back from the main public highway and does not directly affect any Public Rights of Way.
- 6.20 Considering these factors, Essex County Council Highway Authority confirm that the impact of the proposal is acceptable subject to the following mitigation and conditions.
- 6.21 Officers are satisfied that the proposal does not warrant refusal on highway safety grounds and an acceptable development can be secured using conditions in line with Paragraphs 55 and 158 of the NPPF.

#### Landscape & Visual Impact

- 6.22 Paragraph 8 of the National Planning Policy Framework 2021 (NPPF) sets out the overarching objectives for achieving sustainable development, one being the environmental objective which requires the planning system to contribute to protecting and enhancing our natural, built and historic environment.
- 6.23 TDLP Policy PPL3 relates to the rural landscape. It states that the Council will protect the rural landscaping and refuse planning permission for any proposed development which would cause overriding harm to its character or appearance. Furthermore, new development within the rural landscape should minimise the impact of light pollution on the site and its surroundings, in order to protect rural amenity and biodiversity. In terms of the impact of the development proposal on the local landscape character, it is important to recognise the existing qualities and value of the landscape and to quantify the potential impact of the proposed development on the local landscape.
- 6.24 The application site is currently in agricultural use and benefits from good screening to the east provided by the vegetation contained within the land forming part of the existing adjacent electricity substation. The site also benefits from a reasonable level of existing screening on the southern boundary. There are no trees or other significant vegetation in the main body of the land.
- 6.25 In terms of trees and other vegetation on the adjacent land forming part of the grounds of the existing substation the applicant has provided a detailed Arboricultural Impact Assessment (AIA). The document accurately describes the health and condition of existing trees and the extent to which they are a constraint on the development potential of the land. The information contained in the report is in accordance with BS5837: 2012 Trees in relation to design, demolition and construction Recommendations. The AIA adequately demonstrates that the development of the land could take place without causing harm to the important trees on the land adjacent to the application site.
- 6.26 In order to assess the impact and effects of the development proposal on local landscape character the applicant has submitted a Landscape and Visual Assessment (LVIA). The LVIA has been carried out in accordance with Landscape Institute and Institute of Environmental Management and Assessment Guidance contained in the Guidelines for Landscape and Visual Impact Assessment Third Edition 2013. The document identifies several locations (visual receptor viewpoints) from which the application site can be viewed.

- 6.27 The document accurately describes existing baseline landscape character and qualities of the landscape. It identifies and records the potential impact of the development on the character of the landscape and the way that it is seen and enjoyed by the public. It goes on to quantify the degree of harm to both the physical character of the landscape and its visual qualities. It contains information to show how soft landscaping will be used to mitigate the harm that will result from the change of use of the land.
- 6.28 It is accepted that the summary contained in 'Section 7 ' Conclusions' of the LVIA genuinely reflects the extent to which the proposed development will affect the inherent and visual qualities of the local landscape. It is agreed that change of an appropriate nature could be absorbed into the landscape without the loss of key characteristics and without causing harm to the overall character of the landscape.
- 6.29 The Landscape Strategy Plan shows the broad scope and extent of new soft landscaping associated with the development proposal and in principle the proposals are acceptable. The application includes Illustrative Site Elevations at 5 years and when fully established. It is clear that any new planting will take many years to become fully established however, the existing electricity substation is currently well screened, and this screening will benefit the current development proposal. In the long term a good level of screening will be achieved that is similar to that around the existing substation.
- 6.30 A landscaping condition is considered necessary to secure the details and implementation of the indicative soft landscaping shown on the accompanying Landscape Strategy Plan.

#### Heritage Impact

- 6.31 Paragraph 197 of the NPPF states, amongst other things, that in determining applications, local planning authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets, the positive contribution that the conservation of heritage assets can make to sustainable communities and the desirability of new development making a positive contribution to local character. Paragraph 199 goes on to say that, when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Furthermore, Paragraph 203 that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.
- 6.32 TDLP 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 NPPF should be applied dependent on the level of harm caused. Proposals will be treated favourably where they:
- a. are explained and justified through an informed assessment and understanding of the significance of the heritage asset (including any contribution made to that significance by its setting); and
  - b. are of a scale, design and use materials and finishes that respect the significance of the listed building (including any contribution made to that significance by its setting).
- 6.33 Consultation with Place Services Heritage has been undertaken identifying designated heritage assets within the locality of the site, including Grade II Listed Bounds Farmhouse, Rose Cottage,

Jennings Farmhouse and Pump to the rear. Grade II\* listed Church of St Mary is located approximately at 1.8km from the site. There are also a number of potentially non-designated heritage assets in close proximity to the site, particularly Cattsgreen Farm, Waterhouse Farm and Badley Hall.

- 6.34 The topography of the site, distance to designated and non-designated heritage assets, mature trees throughout the landscape and the presence of Lawford Grid Substation and associated infrastructure means that the intervisibility between the proposed site and the heritage assets is mostly limited to glances in the long distance. The development has the potential to create a degree of change to the wider agricultural setting of Waterhouse Farm and Badley Hall. However, as required by national and local policy, a balanced judgement is required having regard to the scale of any harm to the heritage asset.
- 6.35 Due to the relationship of the site with heritage and non-designated heritage assets, and the characteristics of the landscape and locality, officers are satisfied that the level of harm from long distances glances does not justify a refusal based upon the impact on the setting of heritage assets. In line with the comments provided by Place Services, through the imposition of planning conditions securing landscaping, boundary treatments and the colour finishes of the compounds, appropriate mitigation can be secured to further minimise any impacts in compliance with TDLP Policy PPL9.

#### Biodiversity and Protected Species

- 6.36 Paragraph 174 of the NPPF requires Councils, when determining planning applications, to minimise impacts on and providing net gains for biodiversity. Where significant harm to biodiversity cannot be avoided, mitigated or, as a last resort, compensated for, Councils should refuse planning permission.
- 6.37 Local Plan policy PPL4 of the adopted Local Plan gives special protection to designated sites of international, national or local importance to nature conservation but for non-designated sites still require impacts on biodiversity to be considered and thereafter minimised, mitigated or compensated for.
- 6.38 Consultation with Place Services Ecology has been undertaken. A review of the Ecological Assessment (Hopkins Ecology, November 2021) and Biodiversity Metric (November 2021) and Magic Maps (<https://magic.defra.gov.uk>) relating to the likely impacts of development on designated sites, protected species and Priority species & habitats and identification of appropriate mitigation measures has been carried out.
- 6.39 Place Services have confirmed 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 by conditions the development can be made acceptable and would result in a biodiversity net gain of over 10%.

#### Environmental Protection – Contamination and Noise

- 6.40 A Noise Risk Assessment (NRA) and Phase 1 Contaminated Land Report (CLR) accompany the application. These have both been reviewed by the Council's Environmental Protection Team who confirm the following:
- The NRA confirms that there is 'No Observed Adverse Impact' in relation to this proposal.



- The CLR concludes that the site appears to be free from any contaminants but recommends that a discovery strategy/watching brief is put in place during the groundworks and construction.

6.41 Based on the findings of the reports, Environmental Protection raise no objection subject to conditions relating to a contaminated land watching brief and construction working hours.

#### Residential Amenities

6.42 Paragraph 130 (f) of the National Planning Policy Framework (2021) states that planning should always seek to secure a good standard of amenity for all existing and future occupants.

6.43 Section 1 Policy SP7 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.

6.44 The closest existing residential dwelling lies approximately 240m to the south west. As stated above, the submitted noise impact assessment concludes that the predicted noise levels will be sufficiently low that they will comply with the 'No Observed Effect Level' set out in within the Noise Policy Statement for England (NPSE).

6.45 The application provides sufficient evidence that the development will not result in any material harm to residential amenities from operational use.

6.46 Objections have been raised in relation to pedestrian safety and noise and disturbance from traffic movements. Any noise, disturbance or disruption during construction can be managed through conditions and will be for a limited time only. Temporary disruption during construction is not a justifiable reason for refusal.

#### Sustainable Drainage

6.47 Paragraph 170 of the NPPF states that planning policies and decisions should contribute to and enhance the natural and local environment by preventing new development from contributing to unacceptable levels of water pollution. Furthermore, Paragraph 180 of the Framework states that planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects of pollution on the natural environment.

6.48 Adopted Policy PPL5 of Section 2 of the Adopted Local Plan states that all new development must make adequate provision for drainage and sewerage and should include Sustainable Drainage Systems (SuDS) as a means of reducing flood risk, improving water quality, enhancing the Green Infrastructure network and providing amenity and biodiversity benefits.

6.49 The Lead Local Flood Authority (LLFA) have reviewed the accompanying Flood Risk Assessment and the associated documents and raise no objection to the granting of planning permission subject to conditions securing a detailed surface water drainage scheme for the site, a scheme to minimise the risk of offsite flooding caused by surface water run-off and groundwater during construction work and an associated maintenance plan (including yearly logs of maintenance). There are no foul sewage disposal requirements associated with the development.

#### Archaeology

6.50 Policy PPL 7 of the adopted Local Plan stipulates that any new development which would affect, or might affect, designated or non-designated archaeological remains will only be considered

where a written scheme of investigation including excavation, recording or protection and deposition of archaeological records in a public archive are secured.

- 6.51 Consultation with Place Services Archaeology has identified that the site lies adjacent to a site recorded on the HER as linear cropmark features (HER 17472). There is potential that currently unidentified heritage assets will be impacted upon by the proposed development. Due to the scale of harm or loss, the applicant is required to carry out an evaluation to determine the nature and significance of any heritage assets that may be affected (Para 194, 2021) prior to the commencement of development and to make this publicly available. These requirements can be secured by suitably worded planning conditions.

## **7. Overall Planning Balance and Conclusions**

- 7.1 The proposed BESS will provide flexible backup power to the grid related to both local and national energy demand, aiding in the transition to a low carbon energy network and therefore being in accordance with TDLP Section 2 Policy PPL10 and the NPPF. This benefit weighs heavily in favour of the application.
- 7.2 The accompanying Landscape Visual Impact Assessment demonstrates that the development could be absorbed into the landscape without causing overriding harm to the overall character of the landscape.
- 7.3 Due to the relationship of the site with heritage and non-designated heritage assets, officers are satisfied that the level of harm from long distances glances does not justify a refusal based upon the impact on the setting of heritage assets.
- 7.4 Through the submission of supporting reports, and in the absence of any objections from statutory consultees, the application satisfactorily demonstrates that all related material planning considerations such as highway safety, ecology, SuDS, archaeology and landscaping can be managed and controlled by planning conditions to ensure compliance with relevant Local Plan policies.
- 7.5 Taking all of the above into consideration, officers consider that the benefits of the proposal outweigh any harm and the development is in compliance with the Development Plan taken as a whole.

## **8. Conditions**

- 8.1 Recommendation as Para 1.11:
- 8.2 Conditions and Informatives recommended:

### **1 COMPLIANCE - TIME LIMIT FOR COMMENCEMENT:**

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 COMPLIANCE - APPROVED PLANS AND REPORTS:**

The development hereby permitted shall be carried out in accordance with the following approved drawings / documents, and / or such other drawings / documents as may be approved by the Local Planning Authority in writing pursuant to other conditions of this

permission or such drawings / documents as may be subsequently approved in writing by the Local Planning Authority as a non material amendment following an application in that regard:

**Plans and drawings;**

0126/006	Proposed Site Plan
EPC-451-PL-E-LA-SS 04	Proposed Site Layout
EPC-0451-P-E-LA-EQ- 01 0	Proposed Plan and Elevations of 132KV 50MVA Power Transformer
EPC-0451-P-E-LA-EQ- 02 0	Proposed Plan and Elevations of 132kV Switchyard Plan – Customer Compound
EPC-0451-P-E-LA-EQ- 03 0	Proposed Plan and Elevations of Batteries, PCS and MV Twin Skid Units
EPC-0451-P-E-LA-EQ- 04 0	Proposed Plan and Elevations of Batteries, PCS and MV Single Skid Units
EPC-0451-P-E-LA-EQ- 05 0	Proposed Plan and Elevations of Customer Control/Switchgear Building
EPC-0451-P-E-LA-EQ- 06 0	Proposed Plans and Elevations of Customer Storage Building
EPC-451-PL-E-LA-ELV 03	Proposed Site Elevations
EPC-0451-C-E-LA-EQ- 01 0	Proposed Plan and Elevations of 132kV Switchyard Plant DNO Compound
EPC-0451-C-E-LA-EQ- 02 0	Proposed Plan and Elevations of 132kV Switchyard Plant DNO Compound
EPC-0451-C-E-LA-EQ- 03 0	Proposed Plan and Elevations of DNO Control Building
2497 001 P01	Fencing and Gating Details
DNO Storage Container	

**Trees and Landscaping;**

2497	Landscape and Visual Impact Assessment
Appendix A Figures 1-7	Landscape and Visual Impact Assessment
Appendix A Figure 8	Landscape and Visual Impact Assessment
Appendix B	Landscape and Visual Impact Assessment
8858-D-AIA Rev A	Preliminary Arboricultural Implication Assessment Plan
8858-AIA	Tree Survey and Arboricultural Method Statement
2497 001 P01	Landscape Strategy Plan

**Highways;**

211271 01	Transport Statement November 2021
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**Environmental Protection;**

21.053.1.R2 2	Noise Impact Assessment
Phase 1	Desk Study and Preliminary Risk Assessment 28 June 2021
Phase 1	Risk Assessment APPENDICES 1 -7
Battery Safety Note	

**Ecology;**

Ecological Assessment and Biodiversity Metric 5 November 2021	
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**SuDS;**

211271 01

Flood Risk Assessment / Surface Water Drainage  
Strategy November 2021

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

**3 NO ABOVE GROUND WORKS - COMPOUND FINISHES:**

No above ground works shall take place until details of all colour finishes of the compound structures and enclosures have been submitted to and approved, in writing, by the Local Planning Authority. The development shall be carried in accordance with the approved details and permanently maintained as such.

Reason – In the interests of visual amenity, landscape impact, heritage asset impact and the overall quality of the development.

**4 REMOVAL OF FENCE/ENCLOSURES PERMITTED DEVELOPMENT RIGHTS:**

Notwithstanding the provisions of Article 3, Schedule 2 Part 2 Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), other than the fencing and enclosures shown on the approved plans, no other fences, walls or means of enclosures shall be erected on site, except in accordance with details that shall previously be approved in writing by the local planning authority.

Reason - It is necessary for the local planning authority to be able to consider and control further development in order to ensure that landscape harm does not result.

**5 NO ABOVE GROUND WORKS - LANDSCAPING SCHEME:**

No above ground works shall take place until there has been submitted to and approved, in writing, by the Local Planning Authority a scheme of hard and soft landscaping works for the site (in accordance with Drawing NO: 001 Revision P01 Landscape Strategy Plan), which shall include all boundary treatments and any changes in ground levels and also accurately identify spread, girth and species of all existing trees, shrubs and hedgerows both on the site and any protected roadside trees located the length of the access route, indicate any to be retained, together with measures for their protection which shall comply with the recommendations set out in the British Standards Institute publication "BS 5837:2012 Trees in relation to design, demolition and construction.

Reason - In order to screen, enhance and soften the appearance of the development in the interests of visual amenity, landscape impact, heritage asset impact and the overall quality of the development.

**6 COMPLIANCE - IMPLEMENTATION OF LANDSCAPING:**

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

season with others of similar size and species, unless the Local Planning Authority agrees in writing to a variation of the previously approved details.

Reason - To ensure the appropriate implementation of the approved landscaping scheme in the interests of visual amenity, landscape impact, heritage asset impact and the overall quality of the development.

7 COMPLIANCE - CONTAMINATED LAND WATCHING BRIEF:

In accordance with the recommendations within the accompanying Phase 1 contaminated land report, a discovery strategy/watching brief shall be in place throughout groundworks and construction. If unexpected, suspected contamination is encountered, works must cease and the advice of an appropriately qualified environmental consultant be obtained to assess the risk and provide advice of any necessary remedial works. In the event of unexpected contamination being found, a full report detailing findings, actions and remedial works shall be submitted to for review by the Local Planning Authority in consultation with the Council's Environmental Protection Team. Once agreed in writing, works would then be permitted to continue.

Reason - To protect the health of site workers and end users of the site.

8 PRIOR TO COMMENCEMENT – REVISED CTMP:

Notwithstanding the details contained within the accompanying Construction Traffic Management Plan (CTMP) REF: EPC/CTMP/451, prior to the commencement of any work on the site, including any ground works or demolition, a revised CTMP shall be submitted to and approved in writing by the Local Planning Authority. The approved CTMP shall be adhered to by all ground works, construction and decommissioning traffic throughout the pre-construction, construction, and decommissioning phases. The approved plan shall be adhered to throughout the construction period. The Plan shall provide for but not be restricted to:

- i. safe access to/from the site;
- ii. the parking of vehicles of site operatives and visitors;
- iii. the loading and unloading of plant and materials;
- iv. the storage of plant and materials used in constructing the development;
- v. wheel and underbody washing facilities.
- vi. measures to control the emission of dust and dirt during demolition and construction;
- vii. a scheme for recycling/disposing of waste resulting from construction works (no burning permitted);
- viii. details of hours of deliveries relating to construction of the development;
- ix. details of hours of all construction / workers traffic movements;
- x. details of hours of site clearance or construction;
- xi. Traffic Management Plan outlining a designated route to and from the development site for all HGV movement together with a management plan for local road maintenance and repair resulting from the development;
- xii. a scheme to control noise and vibration during construction, including details of any piling operations.
- xiii. temporary road works entrance and exit/ construction traffic signage,
- xiv. Provision of informal passing places,
- xv. Swept path analysis drawings for the access and any restricted bends.

The approved CTMP shall be adhered to throughout the construction period for the development.

Reason - To ensure safe and controlled access, to ensure that on-street parking of these vehicles in the adjoining streets does not occur, to ensure that loose materials and spoil are not brought out onto the highway, to preserve the integrity and fabric of the highway, in the interests of highway safety and resident's amenities.

9 PRIOR TO OCCUPATION - VISIBILITY SPLAYS:

Prior to operational use of the development, the road junction / access at its centre line shall be provided with a minimum clear to ground visibility splay with dimensions of 2.4 metres by 70 metres in both directions, as measured from and along the nearside edge of the carriageway and in accordance with drawing no. 211271 C-700 P03 (Appendix C of Transport Statement). 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.

10 COMPLIANCE - NO UNBOUND MATERIALS:

No unbound material shall be used in the surface treatment of the vehicular access within 15 metres of the metalled highway boundary.

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

11 PRIOR TO COMMENCEMENT USE – VEHICULAR TURNING FACILITY:

Prior to commencement use of the development, a vehicular turning facility for construction vehicles, 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 construction vehicles can enter and leave the highway in a forward gear in the interest of highway safety.

12 PRIOR TO OPERATIONAL USE – PROVISION OF ACCESS AND INTERNAL LAYOUT:

Prior to operational use of the development, the access and internal layout shall be provided in accordance with approved Drawing No. 0126/006 Proposed site plan.

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

13 PRIOR TO OCCUPATION – VEHICLE PARKING MADE AVAILABLE:

The proposed development shall not be brought into operational use until such time as the vehicle parking area for site operatives indicated on the approved plans, has been hard surfaced. 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.

14 PRIOR TO COMMENCEMENT – ARCHAEOLOGICAL INVESTIGATION:

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 written scheme of investigation defined in 1 above except as necessary to fulfil the requirements of this condition.

Reason - The Tendring Historic Environment Characterisation project and Essex HER show that the proposed development is located within an area with potential for below ground archaeological deposits. The development could result in harm to non-designated heritage assets with archaeological interest. A professional team of archaeologists should undertake the archaeological work. A brief outlining the level of archaeological investigation will be issued from Place Services on request.

15 WITHIN 6 MONTHS OF FIELDWORK– POST EXCAVATION ASSESSMENT:

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

Reason – To ensure the development does not result in harm to non-designated heritage assets with archaeological interest.

16 NO WORKS EXCEPT DEMOLITION - DETAILED SURFACE WATER DRAINAGE SCHEME

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

- Provide detailed engineering drawings of each component of the drainage scheme.
- Provide a drainage plan which details exceedance and conveyance routes, FFL and ground levels.
- Provide an updated written report summarising the final strategy and highlighting any minor changes to the approved strategy.

The scheme shall subsequently be implemented prior to first use.

Reason - The National Planning Policy Framework paragraph 167 and paragraph 174 state that local planning authorities should ensure development does not increase flood risk elsewhere and does not contribute to water pollution.

17 PRIOR TO COMMENCEMENT - SCHEME TO MINIMISE THE RISK OF OFFSITE FLOODING DURING CONSTRUCTION

No works shall take place until a scheme to minimise the risk of offsite flooding caused by surface water run-off and groundwater during construction works and prevent pollution has been submitted to, and approved in writing by, the local planning authority. The scheme shall subsequently be implemented as approved.

Reason - The National Planning Policy Framework paragraph 167 and paragraph 174 state that local planning authorities should ensure development does not increase flood risk elsewhere and does not contribute to water pollution.

Construction may lead to excess water being discharged from the site. If dewatering takes place to allow for construction to take place below groundwater level, this will cause additional water to be discharged. Furthermore the removal of topsoils during construction may limit the ability of the site to intercept rainfall and may lead to increased runoff rates. To mitigate increased flood risk to the surrounding area during construction there needs to be satisfactory storage of/disposal of surface water and groundwater which needs to be agreed before commencement of the development.

Construction may also lead to polluted water being allowed to leave the site. Methods for preventing or mitigating this should be proposed.

18 PRIOR TO OCCUPATION – SUDS MAINTENANCE PLAN

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

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

Reason - 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. Failure to provide the above required information prior to occupation may result in the installation of a system that is not properly maintained and may increase flood risk or pollution hazard from the site.

19 COMPLIANCE - IN ACCORDANCE WITH ECOLOGICAL APPRAISAL RECOMMENDATIONS

All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Ecological Assessment (Hopkins Ecology, November 2021). 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).

20 PRIOR TO COMMENCEMENT - ENVIRONMENTAL MANAGEMENT PLAN:



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

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

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

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

## 21 PRIOR TO ANY ABOVE SLAB LEVEL WORKS - BIODIVERSITY ENHANCEMENT STRATEGY:

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

- a) Purpose and conservation objectives for the proposed enhancement measures;
- b) detailed designs to achieve stated objectives;
- c) locations of proposed enhancement measures by appropriate maps and plans;
- d) 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).

## 22 COMPLIANCE – NO LIGHTING UNLESS APPLICATION SUBMITTED

Details of any outdoor / external lighting shall be submitted to and approved in writing by the local planning authority prior to their installation. Development shall be carried out in accordance with the approved details.

Reason - To ensure lighting is sensitively designed and minimises light spillage in the interests of ecology and the character and appearance of the landscape.

## 23 PRIOR TO OPERATIONAL USE - FIRE PREVENTION PLAN

Prior to operational use of the development hereby approved, in accordance with the CPL Battery Safety Note accompanying the application, a Fire Prevention Plan (FPP) incorporating full details of fire suppression mechanisms shall be submitted to and approved in writing by the local planning authority. The approved details shall be adhered to at all times.

Reason – In the interests of health and safety.

### **Informatives**

#### Positive and Proactive Statement

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

#### Colour Finishes – Condition 3

As per the comments received from Place Services Heritage and in relation to Condition 3 above, unless otherwise agreed in writing, all proposed compounds should be black, dark grey or dark green painted or powder-coated metal and shall be permanently maintained as such.

#### Highways Informatives

The grant of planning permission does not automatically allow development to commence. In the event of works affecting the highway, none shall be permitted to commence until such time as they have been fully agreed with the Highway Authority and Local Planning Authority.

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](mailto:development.management@essexhighways.org)

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

3: In relation to Condition 14 above, the Highway Authority may wish to secure a commuted sum for special maintenance to cover the damage caused to the existing roads used as access by vehicles servicing the application site.

#### Lead Flood Authority Informatives

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

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

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

## **9. Additional Considerations**

### Public Sector Equality Duty (PSED)

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

### Human Rights

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

considered to be a proportionate response to the submitted application based on the considerations set out in this report.

#### Finance Implications

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

### **10. Background Papers**

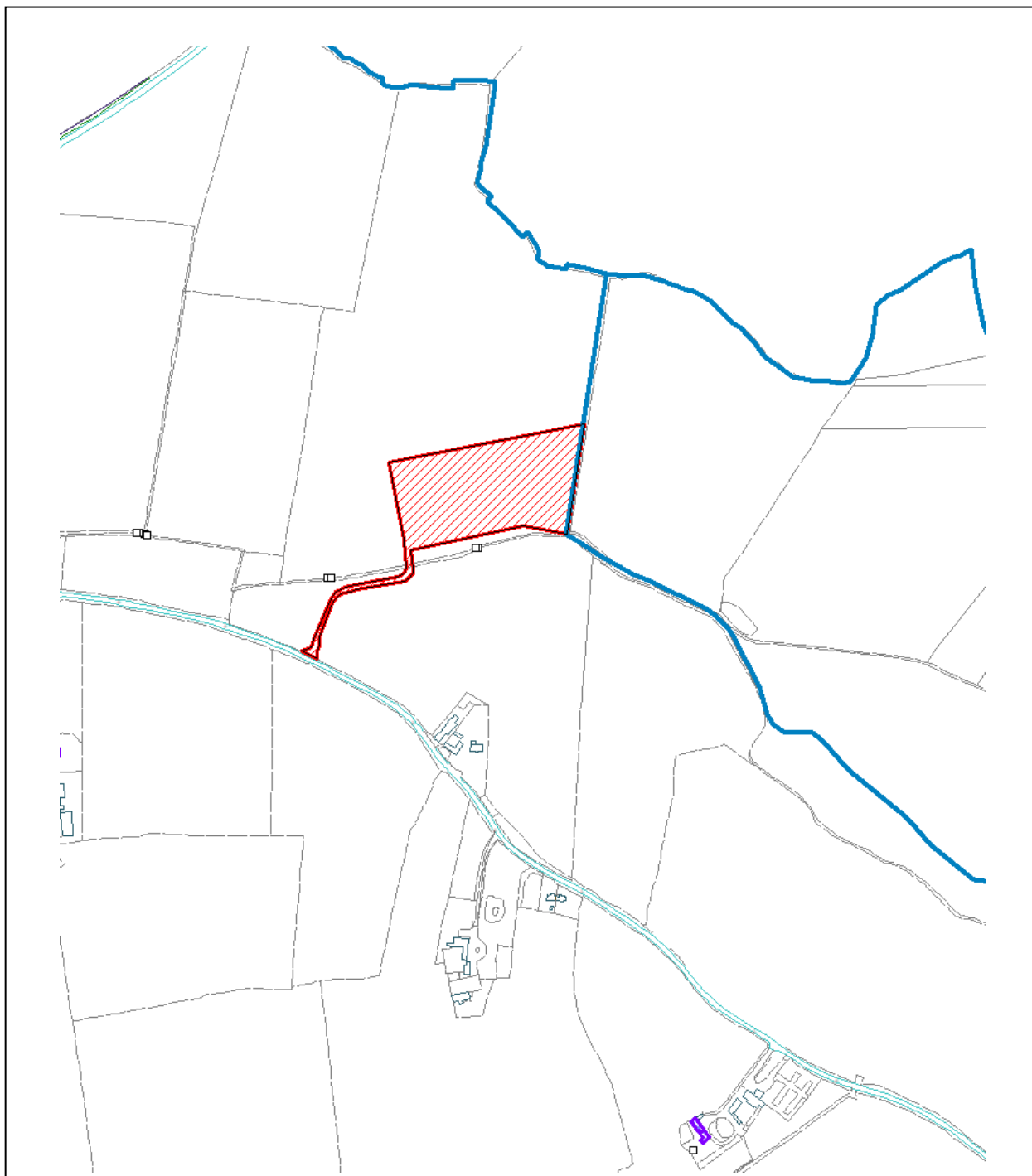
- 10.1 In making this recommendation, officers have considered all plans, documents, reports and supporting information submitted with the application together with any amended documentation. Additional information considered relevant to the assessment of the application (as referenced within the report)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

## PLANNING COMMITTEE

TUESDAY 27<sup>TH</sup> SEPTEMBER 2022

### REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING

#### **A.2 PLANNING APPLICATION – 22/00820/FUL – TREESTACKS FARM OAKLEY ROAD WIX CO11 2SF**



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**Application:** 22/00820/FUL

**Town / Parish:** Wix Parish Council

**Applicant:** Mr A Brown - HAB Poultry Ltd

**Address:** Treestacks Farm Oakley Road Wix CO11 2SF

**Development:** Proposed erection of 3 No. additional poultry houses and associated infrastructure on established poultry farm.

## 1. **Executive Summary**

- 1.1 This application has been referred to Planning Committee at the request of Councillor Bush due to concerns relating to the significant increase to this existing industrial farming facility and the lack of economic benefits to the local economy.
- 1.2 The application is for an additional three buildings to raise broiler chickens. The site is fully operational (as approved under 20/00194/FUL) with an office building and two other buildings for a biomass boiler and straw storage along with a caravan for agricultural workers home (temporary permission given for a 3 year period). The highways access is completed and a significant amount of planting has been undertaken to screen the site from views in the surrounding countryside.
- 1.3 The proposed buildings would be of an identical design to the two currently in situ and have a typical agricultural building appearance, being of a steel portal construction covered by olive green coloured polyester coated profiled sheeting except for the plinth to the walls, of pre-formed concrete.
- 1.4 The site is in a rural locality, between the settlements of Wix and Great Oakley, within the parish of Wix. Although set within open countryside, the site is at a position which is not prominent in the landscape and the proposals include landscaping mitigation works as well as biodiversity enhancements. The proposal is in planning terms considered to be an agricultural use within an agricultural area.

### **Recommendation:**

(a) That the Assistant Director for Planning be authorised to Grant Planning Permission subject to conditions as stated in Section 8.2 (or as need to be varied\*) and those as may be deemed necessary by the Assistant Director for Planning

## 2. **Planning Policy**

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

National Planning Policy Framework July 2021  
National Planning Practice Guidance

Tendring District Local Plan 2013-2033 and Beyond North Essex Authorities' Shared Strategic Section 1 Plan (adopted January 2021)

SP1 Presumption in Favour of Sustainable Development  
SP5 Employment

SP7 Place Shaping Principles

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

SPL1 Managing Growth  
SPL2 Settlement Development Boundaries  
SPL3 Sustainable Design  
PP13 The Rural Economy  
PPL1 Development and Flood Risk  
PPL3 The Rural Landscape  
PPL4 Biodiversity and Geodiversity  
PPL5 Water Conservation, Drainage and Sewerage  
PPL9 Listed Buildings  
CP1 Sustainable Transport and Accessibility

Supplementary Planning Guidance:

Essex County Council Car Parking Standards - Design and Good Practice  
Tendring Landscape Character Assessment (Volume 2) (2001)  
Essex Farm Buildings (1994)

**Status of the Local Plan**

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**

20/00194/FUL	Proposed erection of 2 No. agricultural buildings for poultry production together with associated infrastructure and a new highway access to Oakley Road.	Approved	27.10.2020
20/01498/FUL	Erection of an agricultural building to house a straw burning biomass boiler to provide a renewable heating system for the approved poultry farm.	Approved	19.02.2021
20/01551/DISCON	Discharge of condition 11 (Traffic Management Plan) of previously approved planning application 20/00194/FUL.	Approved	19.02.2021
21/00252/DISCON	Discharge of Conditions	Approved	31.03.2021
21/00539/DISCON	Discharge of Conditions	Approved	11.05.2021

21/01208/FUL	Proposed siting of an agricultural workers mobile home for a period of 3 years.	Approved	21.01.2022
21/01886/FUL	Proposed erection of agricultural building for the storage of straw.	Approved	06.01.2022

#### 4. Consultation Responses (Summarised)

Wix Parish Council	<p>Concerns raised regarding the additional vehicular movements on Harwich Road and Oakley Road.</p> <p>Should the application be granted, can the following to be considered:</p> <p>There should be a speed limit imposed on Oakley Road of 40 miles per hour due to the significant increase in the number of HGVs using this facility. The new housing development at the allotments by the school in Great Oakley will also mean more traffic on Oakley Road as this is the shortest route to the A120.</p> <p>This is a bus route for both regular services as well as schools and given the damage being inflicted on the verges it is clear that buses and HGVs cannot pass each other only using the carriageway.</p> <p>The three new sheds should have a roof line that does not extend above the existing roof line of the current two sheds. This will mitigate the visual impact of the new facility from Oakley Road.</p> <p>Section 106, or similar could be utilised as compensation for the loss of amenity etc.</p>
Environmental Protection 01.06.2022	<p>The Environmental Protection team have reviewed the relevant submitted documents and satisfied with the findings of the reports.</p> <p>The site should operate using Best Available Techniques in order to minimise potential nuisance to nearby existing residents from odour and flies.</p>
Waste Management 30.05.2022	No comments.
Tree & Landscape Officer 07.06.2022	<p>The application site forms part of the open countryside and is in agricultural use. It is immediately adjacent and to the east of two existing poultry houses and associated infrastructure. The application site is set back from the highway and separated from it by another field and field boundary hedgerow that currently provides partial screening the development site.</p> <p>Additional planting has recently been carried out as part of the planning approval for the existing poultry houses and this will help to screen the proposed additional structures.</p> <p>The application site is situated in the Ramsey Valley System Landscape Character Area (LCA) effectively 'wrapped' to the north and south by the Tendring and Wix Clay Plateau LCA in the</p>



Tendring District Council Landscape Character Assessment.

The applicant has submitted a Landscape and Visual Impact Assessment (LVIA). The application site has the potential to be overlooked from the surrounding higher land however views are limited by the extent of the Public Right of Way network in the area. The separation distance between the footpaths and the application site indicates that the development is unlikely cause significant harm to the enjoyment of the countryside by footpath users.

The LVIA recognises that there will be a minor degree of harm caused by the changes to both the character and appearance of the area but that, the buildings are of a scale and design that would be expected to be seen in the countryside and with suitable measures to mitigate the harm the overall impact of the development will not be incongruous or unduly harmful.

With regard to new planting the applicant has provided sufficient details to secure an adequate level of soft landscaping to soften and screen the proposed development primarily in relation to views from the north and north-east.

ECC Highways Dept  
27.07.2022

Having reviewed the submitted information, provided the development is carried out in accordance with the Traffic Management Plan approved by planning permission reference 20/00194/FUL, the Highway Authority has no comments to make on the proposal.

Essex County Council  
Heritage  
20.06.2022

The proposal site lies within the land historically associated with Redhouse Farm, however this has been replaced by modern construction. The area is in proximity with a number of designated assets, the closest being Grade II listed White House to the West.

The size of the development would considerably increase the area of the existing poultry farm, however, the proposal site is collocated a sufficient distance from the designated heritage assets and the topography of the site, together with the existing and proposed vegetation contribute to minimise the visual impact of the development, as also illustrated in the heritage statement and LVIA. The proposed development is also considered to be in keeping with the rural nature of the site and surrounding farmhouses.

There is no objection to this application.

Environment Agency  
24.06.2022

No objections to the proposal. Informative considerations regarding pollution prevention are provided for the LPA to take into account.

ECC SuDS Consultee  
16.06.2022

Lead Local Flood Authority position

Having reviewed the Flood Risk Assessment and the associated documents which accompanied the planning application, and supplementary information supplied by the applicant we do not object to the granting of planning permission based on the following conditions regarding compliance with the submitted FRA

and Surface Water Management Plan, scheme to minimise risk of off site flooding has been submitted and approved, submission and approval of a surface water management plan and yearly maintenance logs undertaken

Essex County Council  
Ecology  
23.08.2022

No objection subject to securing biodiversity mitigation and enhancement measures.

A review of the submitted Preliminary Ecological Appraisal (Emms and Barnett, March 2022), the Ammonia Report (AS Modelling & Data, August 2021), In Combination Ammonia Assessment (Ian Pick Associates Ltd., May 2022), MAGIC maps 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.

ECC Ecology are 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 Ammonia Report (AS Modelling & Data, August 2021) and the In Combination Ammonia Assessment (Ian Pick Associates Ltd., May 2022), outlines the prediction of mean ammonia concentrations and nitrogen deposition rates, which falls below the Environment Agency's lower threshold of Critical Levels at all wildlife sites including the Stour and Copperas Woods, Ramsey SSSI and the Stour and Orwell Estuaries SPA and Ramsar. Therefore no likely significant impacts to designated sites will result from this proposed development.

The mitigation measures identified in the Preliminary Ecological Appraisal (Emms and Barnett, March 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 reptiles and nesting birds.

To further mitigate any potential impacts to retained habitat and the adjacent stream to the south of the site, especially through dust and pollution events, a Construction Environmental Management Plan for Biodiversity (CEMP: Biodiversity) should be produced and secured by condition of any consent.

The proposed reasonable biodiversity enhancements of woodland planting, pond creation, hedgehog nesting boxes, bird nesting boxes and bat boxes are supported, which have been recommended by the Preliminary Ecological Appraisal (Emms and Barnett, March 2022) to secure net gains for biodiversity, as outlined under Paragraph 174d of the National Planning Policy Framework (2021). The reasonable biodiversity enhancement measures should be outlined within a Biodiversity Enhancement Strategy and should be secured by a condition of any consent.

The Preliminary Ecological Appraisal (Emms and Barnett, March 2022) highlights that it is likely bats could be foraging/commuting within and around the site. Any external lighting proposed, it is recommended that a sensitive lighting scheme is developed to minimise any impacts.

These elements can be secured by condition and recommended conditions have been provided.

## **5. Representations**

5.1 One representation has been received following a public consultation which included a site notice posted at the site and neighbour consultation letters sent out to the nearest adjacent properties.

Summary of matters raised:

- Proposal will result in an increase the chicken raising process by 150% with three more units.
- Buildings will cause significant harm to the rural landscape
- HGV traffic will be increased, further impacting on the safety on Oakley Road.
- Proposal has no economic benefit to the local community as it only employs two people.
- The supply chain predominately is from Norfolk and Suffolk further increasing the carbon footprint of this site.
- This cannot be classified as an agricultural operation, it has become an industrial facility.
- The health & safety of the local community is at risk from potential contamination from bird flu

5.2 All applicable material considerations will be dealt with in the assessment of the proposal as follows

## **6. Assessment**

### Site Context

6.1 The application site is located to the north of Oakley Road, between the settlements of Wix and Great Oakley. The site is within the countryside and comprises of an area of agricultural land to the east of the existing poultry buildings. Dovercourt Dock River runs along the southern boundary of the site and an area surrounding this waterway falls within Flood Zones 2 and 3. The majority of the area is protected by flood defences. The site is also some 400m from the Grade II Listed Building 'The White House'.

### Proposal

6.2 The proposal seeks planning permission for the construction of:

- Three poultry sheds measuring 110m x 20.5m, with an eaves height of some 3m and a ridge height of some 5.75m.
- Three attached control rooms and catching canopies to the west elevation of the main building measuring 12.2m x 4m with an eaves height of some 3m and a ridge height of some 5.75m
- 2 feeding rooms measuring 3m x 4m
- 6 feed bins measuring 3.5m in diameter and 8.6m in height
- An extension to the existing concrete apron of some 820sqm

- 6.3 The proposed poultry houses are all identical and are set one behind the other, running east to west in relation to Oakley Road and are opposite the existing two poultry houses within the wider site. The buildings are of a steel portal construction clad in olive green coloured polyester coated profiled sheeting except for the plinth to the walls which are some 0.5m in height and made of pre-formed concrete.
- 6.4 The site would utilise the existing vehicular access which is to the northern side of Oakley Road.

#### Relevant Legislation

- 6.5 With regard to the proposed use, the proposal is for the intensive rearing of poultry. The Town and Country Planning (Environmental Impact Assessment) Regulations 2017 state that installations for the intensive rearing of poultry with more than 85, places for broilers or 60,000 places for hens comes under "Schedule 1 Development". The design, access and planning statement forming part of the application submission states, that the three poultry buildings would each have a capacity of 44,134 birds, with the total capacity of the site extending to 132,402 birds across the 3 new buildings and 220,670 in total across the 5 buildings including the two within the wider site. An Environmental Impact Assessment is therefore required as part of the planning application submission.
- 6.6 A screening opinion was not required in this instance since an Environmental Impact Assessment is mandatory. The Environmental Impact Assessment implications are addressed in an Environmental Statement forming part of the application documentation.
- 6.7 Treestacks Farm already holds an Environmental Permit issued by the Environment Agency to operate on the site with up to 200,000 birds. The two existing sheds have been operation since September 2021. The applicants have applied to vary the permit for the additional development proposed on the site, which is classed as a minor variation. Unfortunately due to delays at the EA this has not yet been granted.
- 6.8 The Environmental Permit controls the whole environmental performance of the installation, including odour, noise and dust, ammonia emissions, foul and surface water drainage and the disposal of waste. The Environmental Permit requires the installation to operate to best available techniques (BAT). The design of the site includes high speed roof mounted ventilation fans which are best for the dispersal of odour and ammonia. The permit also requires the site to include a Silage Slurry and Agricultural Fuel Oil (SSAFO) certified dirty water containment system to prevent any contaminated washout water escaping from the site, in line with the Water Resources (Control of Pollution) (Silage, Slurry and Agricultural Fuel Oil) (England) Regulations 2010.
- 6.9 Paragraph 188 of the National Planning Policy Framework states that the focus of planning policies and decisions should be on whether the proposed development is an acceptable use of land, rather than the control of processes or emissions (where these are subject to separate pollution control regimes). Planning decisions should assume that these regimes will operate effectively. In this instance, the EA permit controls the operation matters with regard to the poultry farm business on the site and therefore there is no objection from the LPA in this regard.

#### Principle of Development

- 6.10 The Town and Country Planning Act 1990 (as amended) defines agriculture to include 'horticulture, fruit growing, seed growing, dairy farming, the breeding and keeping of livestock (including any creature kept for the production of food, wool, skins or fur, or for the purpose of its use in the farming of land), the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds, and the use of land for woodlands where that use is ancillary to the farming of land for other agricultural purposes, and "agricultural" shall be construed accordingly'.

- 6.11 As such the proposal falls under the definition of an agricultural use in an agricultural area and accordingly the principle of the proposed development is acceptable. This is further supported as a poultry farm has been established within the wider site under application 20/00194/FUL with the construction and operation of the existing two poultry sheds.
- 6.12 The National Planning Policy Framework (NPPF) states at paragraph 83 that planning decisions should enable the development of agricultural and other land-based rural businesses.
- 6.13 The adopted Local Plan identifies that within the District, agricultural activity, which generally requires a countryside location, remains a source of local employment and continues to play an important role in the local economy. The Council seeks to therefore support proposals for agricultural-related development, provided adverse impacts on the environment are kept to a minimum. Furthermore Policy PP13 seeks to support growth in the rural economy and development in the countryside outside of defined Settlement Development Boundaries, subject to detailed consideration, including against other policy requirements in this Local Plan is supported for buildings that are essential to support agricultural, aquaculture, horticulture and forestry.
- 6.14 The proposal is to expand an existing agricultural use within an established agricultural area for which there is both Local and National policy support to support the rural economy and to enable the growth and expansion of businesses in rural areas. As such the principle of the development is acceptable subject to the detailed considerations relevant to this proposal which are set out below.

#### Design, Appearance and Scale

- 6.15 Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. (Para 126 NPPF).
- 6.16 Policy SP7 states that all new development should respond positively to local character and context to preserve and enhance the quality of existing places and their environs. In addition to the overarching Policy SP7, new development should be assessed in line with Policies PPL3 and SPL3 Part A (Design). These policies are concerned with the design, character and appearance of new development and its impact on local landscape character and the protection of the rural landscape.
- 6.17 The proposed buildings would have an unassuming, somewhat utilitarian appearance, characteristic of this type of agricultural building, identical to those already in place on the wider site and in keeping with other agricultural buildings in the area. Whilst the buildings are considered to be larger additions to the site and wider area, the design approach is to ensure as far as practically possible that they blend into the wider countryside landscape.
- 6.18 The proposed ancillary structures to the main poultry housing buildings are generally smaller in scale, albeit the silo type feed bins, however the development as a whole is considered to be of a design befitting an agricultural enterprise of this nature and is well related to the existing poultry sheds. The buildings would be significant in length but the one to the south would act as a screen to the other two to the north and given the isolation distance from the road, the relatively low heights and the existing landscape planting and other measures implemented from the previous approved application, the design and scale of the proposed built form is considered acceptable in these regards. Further landscape considerations are considered below.

#### Landscaping Impacts

- 6.19 Policy PPL3 seeks to protect the rural landscape from proposed development which would cause overriding harm to its character or appearance.

- 6.20 The site currently forms part of a field in agricultural use that is defined by hedgerows with trees as field boundaries, in a gently undulating landform on a slight south facing slope. The site sits immediately within a landscape of similar existing buildings in agricultural use and adjacent to existing poultry houses.
- 6.21 In terms of the local landscape character the application site is situated in the Ramsey Valley System Landscape Character Area (LCA) effectively 'wrapped' to the north and south by the Tendring and Wix Clay Plateau LCA.
- 6.22 The Ramsey Valley System is described in the Tendring District Council Landscape Character Assessment as follows: 'the wooded pastoral landscape with valley sides that supports small pastoral fields divided by thick hedgerows with hedgerow Oaks'. In essence this sums up the description of the application site, which is currently an agricultural field growing wheat.
- 6.23 The submitted Landscape Visibility Impact Assessment (LVIA) in order to determine the magnitude of impact on any critical viewpoints of the site, whether in the immediate locality or further afield, considered the following;
- Sensitivity of the views and viewers (visual receptor) affected
  - Extent of the proposed development that will be visible
  - Degree of visual intrusion or obstruction that will occur
  - Distance of the view
  - Change in character or quality of the view compared to the existing.
- 6.24 Four viewpoints were assessed from Oakley Road and adjacent PROW vantage points and none were considered to be impacted by materially harmful visual impacts. The implementation of a mitigation strategy would reduce the overall impact on the landscape to a minor/negligible overall effect on the surrounding landscape character and a minor effect on the visual baseline and the proposed type of development was not considered to be out of character within the receiving landscape.
- 6.25 The application site has the potential to be overlooked from the surrounding higher land to the north, however public views would be limited to views from the limited Public Rights of Way network in the surrounding area. The separation distance between the footpaths and the application site is such that the development is unlikely cause significant harm to the enjoyment of the countryside by footpath users and furthermore constitutes an agricultural use within an agricultural area and thus is the type of development that is expected to be seen in this countryside location.
- 6.26 Mitigation measures have been suggested within the LVIA to aid the schemes visual blending with the existing environs and the implementation of these can be secured by condition.
- 6.27 Furthermore following a case officer site visit, the visual impact of the existing structures in such an agricultural setting were not considered to be overly incongruous or unduly harmful. Approaching the site from the either direction, the site is well screened from Oakley Road. The three new poultry sheds are located to the east of the existing sheds, in an open field, which is sited some significant distance from the highway and a good degree of screening currently exists. The wider site is currently operational, with the new access open from Oakley Road. It is considered that additional landscaping is required to further screen the new sheds, particularly from views to the north.
- 6.28 With regard to new planting the applicant has provided sufficient details to secure an adequate level of soft landscaping to soften and screen the proposed development primarily in relation to views from the north and north-east. The other parts of the site are considered to be well

screened by the landscaping implemented under the previously approved application for the existing two poultry sheds.

- 6.29 Subject to appropriate conditions regarding implementation of landscaping in accordance with submitted details, the proposal is considered to be acceptable and policy compliant in these regards.

#### Ecology and Biodiversity

- 6.30 Policy PPL4 states that all new development should be supported by an appropriate ecological assessment. Where new development would harm biodiversity or geodiversity, planning permission will only be granted in exceptional circumstances, where the benefits of the development demonstrably outweigh the harm caused and where adequate mitigation is provided to ensure a net gain in biodiversity.
- 6.31 A Preliminary Ecological Appraisal (Emms and Barnett, March 2022), along with an Ammonia Report (AS Modelling & Data, August 2021) and an In Combination Ammonia Assessment (Ian Pick Associates Ltd, May 2022) have been submitted with the application. Essex County Council Ecology have been consulted and have provided comments as summarised earlier in the report.
- 6.32 ECC Ecology have confirmed that they are satisfied that there is sufficient ecological information provided to allow determination of this application and provides certainty for the LPA of the likely impacts on designated sites, protected and Priority species and habitats. It information also outlines how, with appropriate mitigation measures secured, the development can be made acceptable.
- 6.33 The prediction of mean ammonia concentrations and nitrogen deposition rates, would fall below the Environment Agency's lower threshold of Critical Levels at all wildlife sites including the Stour and Copperas Woods, Ramsey SSSI and the Stour and Orwell Estuaries SPA and Ramsar. Therefore no significant impacts to designated sites will result from this proposed development.
- 6.34 The mitigation measures identified in the Preliminary Ecological Appraisal (Emms and Barnett, March 2022) are to be secured by way of conditions to any grant of planning permission and implemented in full, in order to conserve and enhance protected and Priority species particularly reptiles and nesting birds within the surrounding area.
- 6.35 In order to further mitigate any potential impacts to the surrounding habitat as well as the adjacent stream running along the south of the site, particularly with regard to dust and pollution events, a Construction Environmental Management Plan for Biodiversity (CEMP: Biodiversity) should be produced and secured by condition to any grant of planning permission prior to the commencement of works on the site.
- 6.36 The proposed reasonable biodiversity enhancements of woodland planting, pond creation, hedgehog nesting boxes, bird nesting boxes and bat boxes are supported, which have been recommended by the Preliminary Ecological Appraisal (Emms and Barnett, March 2022) to secure net gains for biodiversity, as outlined under Paragraph 174d of the National Planning Policy Framework (2021). The reasonable biodiversity enhancement measures should be outlined within a Biodiversity Enhancement Strategy and should be secured by a condition of any consent.
- 6.37 The Preliminary Ecological Appraisal also highlights that it is likely bats could be foraging/commuting within and around the site, therefore a sensitive lighting scheme should be produced in order to minimise any impacts, if external lighting is required within the site. Details of which can be secured by condition.

6.38 ECC Ecology have provided their recommended conditions. Subject to such conditions, the proposal is considered acceptable and policy compliant in these regards.

#### Highway Safety/Parking

6.39 Paragraph 110 of the NPPF seeks to ensure that safe and suitable access to a development site can be achieved for all users. Policy SPL3 seeks to ensure 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.

6.40 The site would utilise the existing access, approved under application 20/00194/FUL, with access to the A120 from the site along Oakley Road to the junction with Harwich Road and then onto the A120. A traffic statement has been submitted with the application and outline the increase in vehicle movements to and from the site with the addition 3 poultry sheds.

6.41 The site operates on a 45-48 day flock cycle and with the largest increase in vehicle movements would occur on days 33, 40 and 41 with 20 HGV movements (10 in and 10 out) per day. The site would operate 7.2 flock cycles per year. The proposed increase in vehicle movements is shown in Table 4, pages 7 and 8 of the submitted Transport Statement. Whilst there is an increase in vehicle movements, there remains 14 days out of the maximum of 48 days, where there are no HGV movements.

6.42 ECC Highways have been consulted on the application and have no objection to the proposal as long as the development is carried out in accordance with the Traffic Management Plan approved under the previous application 20/00194/FUL. This can be secured by way of a condition to any grant of planning permission. The concerns raised by the Parish Council in regard to the speed limit of the road and the damage caused to the verges, whilst these are highway matters, they are outside of the remit of this application as they concern all users of the Highway. Therefore any concerns should be made directly to ECC Highways.

6.43 The proposal is therefore considered to be acceptable and policy compliant in these regards.

#### Economic Benefits of the Development

6.44 The overarching principles of the planning system outlined within the NPPF is to contribute towards the achievement of sustainable development. Paragraph 8 looks at the three overarching objectives of sustainable development, being economic, social and environmental. From an economic perspective, new development should seek to help to build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity.

6.45 It is considered that the development would have both direct and indirect employment opportunities, with two full time staff members on site and would support employment and businesses within the local area in the provision of services and goods to the operation.

6.46 The investment in the site is stated to be in the region of £2m and this includes groundworks works, erection of buildings and internal equipment fitting. Therefore the proposal would support the rural economy through the construction phase. Once operation the proposal is considered to provide a significant contribution to the local economy in regards to the service industries within the poultry sector such as haulage contractors, chick suppliers, poultry feed suppliers, veterinary and medicine, fuel suppliers, bedding, suppliers, catching contractors, cleaning contractors, electricians, plumbers, pest control contractors etc.



- 6.47 Furthermore the proposed development would provide a modern and efficient, livestock production unit that is designed to fulfil increasing demand for affordable and environmentally efficiently produced food and would contribute to food production and national food security in a sustainable way, supporting Government aims to promote home food production and the overall pressure to produce more food at a price the consumer can afford to pay.
- 6.48 There is strong support within the NPPF at Paragraph 84 which seeks to support economic growth in rural areas, promoting both farm diversification and sustainable growth and expansion of an existing business in a rural area.
- 6.49 Therefore it is concluded that the development would have significant economic benefits to both the local and national economy and is supported at both local and national levels.

#### Drainage, Flooding and SuDS

- 6.50 Policy PPL5 states that all new development must make adequate provision for drainage and sewerage and should include Sustainable Drainage Systems (SuDS) as a means of reducing flood risk, improving water quality, enhancing the Green Infrastructure network and providing amenity and biodiversity benefits.
- 6.51 Although the site is in Flood Zone 1, with a low risk of flooding, a Flood Risk Assessment is required to be submitted as Policy PPL1 requires all new development proposals should include appropriate measures to respond to the risk of flooding on and/or off site in any Flood Zone involving sites of 1ha or more and such proposals must be accompanied by a Flood Risk Assessment.
- 6.52 A site specific Flood Risk Assessment (FRA) has been submitted and both the Environment Agency (EA) and Essex County Council SuDS were consulted, neither of which, subject to conditions, have any objection to the proposed development.

#### Impact on Residential Amenity

- 6.53 Paragraph 130 of The Framework maintains that policies and decisions should result in new development that creates places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users. Policy SPL3 seeks new development:
- that does not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties,
  - the development, including any additional road traffic arising, will not have unacceptable levels of pollution on: air, land, water (including ground water), amenity, health or safety through noise, smell, dust, light, heat, vibration, fumes or other forms of pollution or nuisance,
  - the health, safety or amenity of any occupants or users of the proposed development will not be materially harmed by any pollution from an existing or committed use.
- 6.54 There remains a significant separation distance to the nearest residential properties and it is considered that any impact upon residential amenity would be extremely minimal, particularly considering the site is operation.
- 6.55 The Council's Environmental Protection team have assessed the application and based on the submitted Environmental Impact Statement, with regard to noise, odour and ammonia are satisfied the development is not considered to cause a nuisance to nearby existing residents. Furthermore the operation of the site in this regard is also regulated by the terms of the EA permit.

- 6.56 Conditions have been recommended by the Environmental Protection team relating to measures, to be undertaken during the construction process, to control working hours, noise, prevent burning on site and suppress dust and litter emissions.
- 6.57 A condition regarding any unexpected ground contamination indications encountered during construction and a condition for details of any external lighting scheme are also considered reasonable in this instance.

#### Heritage Assets

- 6.58 The site is some distance from the Grade II listed building known as The White House, however given the substantial size of the development proposed, it is necessary to consider any impacts that may arise on the historic setting of this Listed Property. A heritage statement has been submitted with the application.
- 6.59 ECC Heritage has confirmed that they do not in principle oppose the proposed development, subject to conditions relating to implementation of the submitted landscaping plan and permanent maintenance and to the ventilation features of the buildings being painted matt black.
- 6.60 The separation distance between the proposed development and the Listed Building known as 'The White House' is approximately 400m. Due to this significant distance and the lack of inter-visibility between the two sites any impact upon its historic setting is minimal.
- 6.61 Subject to conditions as recommended, the proposal is considered to be acceptable and policy compliant in these regards.

### **7. Conclusion**

- 7.1 In planning terms the proposal is for additional agricultural buildings in the countryside as part of an existing poultry farm. The buildings are considered to be characteristic of agricultural buildings, are of a limited height and are well set back from the main highway. Furthermore additional landscaping and biodiversity mitigation measures are proposed which would largely screen the development and enhance the biodiversity of the surrounding area. The submission of an Environmental Impact Assessment (EIA) is mandatory given the nature of the proposed use and no objections have been raised by the statutory bodies consulted.

### **8. Recommendation**

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

#### 8.2 Conditions and Reasons

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

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

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

Site location plan - IP/AHB/01

Block plan - IP/AHB/02

Proposed elevations and floor plans - IP/AHB/03

Existing and proposed landscaping details - IP/AHB/04  
Design, Access and Planning statement - Ian Pick Associates Ltd May 2022  
Environmental statement and Appendices 1-8 – Ian Pick Associates May 2022  
In combination ammonia assessment – Ian Pick Associates May 2022

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

3. Prior to the commencement of development, including any ground works or demolition, until a Construction Management Plan has been submitted to, and approved in writing by, the local planning authority. The approved plan shall be adhered to throughout the construction period. The Plan shall provide for:
  - i. the parking of vehicles of site operatives and visitors
  - ii. loading and unloading of plant and materials
  - iii. storage of plant and materials used in constructing the development
  - iv. wheel and underbody washing facilities
  - v. prior to the commencement of any work on the site, a joint inspection of the route to be used by construction vehicles should be carried out by the Applicant and the Highway Authority, including photographic evidence.
  - vi. noise control
  - vii. emission control
  - viii. dust control
  - ix. working hours

Reason - To ensure that parking on the highway 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 to ensure that construction does not lead to excess water being discharged from the site.

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

Reason: In the interests of residential amenity

5. The development hereby permitted shall be carried out in full accordance with the approved Flood Risk Assessment and Surface Water Management Plan (FRA and SWMP), Report LL122, April 2022 by Lidar-Logic. It shall incorporate the discharge rates, mitigation, attenuation and maintenance measures detailed within the FRA and SWMP. The mitigation and attenuation 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.

6. Prior to the commencement of development, a scheme to minimise the risk of offsite flooding caused by surface water run-off and groundwater during construction works and prevent pollution must be submitted to, and approved in writing by, the local planning authority. The scheme shall subsequently be implemented as approved.

Reason: The National Planning Policy Framework paragraph 163 and paragraph 170 state that local planning authorities should ensure development does not increase flood risk elsewhere and does not contribute to water pollution. Construction may lead to excess water being discharged from the site. If dewatering takes place to allow for construction to take place below groundwater level, this will cause additional water to be discharged. Furthermore the removal of topsoils during construction may limit the ability of the site to intercept rainfall and may lead to increased runoff rates. To mitigate increased flood risk to the surrounding

area during construction there needs to be satisfactory storage of/disposal of surface water and groundwater which needs to be agreed before commencement of the development. Construction may also lead to polluted water being allowed to leave the site. Methods for preventing or mitigating this should be proposed.

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

Reason: 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. Failure to provide the above required information prior to occupation may result in the installation of a system that is not properly maintained and may increase flood risk or pollution hazard from the site.

8. The applicant or any successor in title must maintain yearly logs of maintenance which should be carried out in accordance with any 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

9. Prior to first occupation of the poultry sheds, the ventilation towers to these buildings are to be painted matt black and retained as such in perpetuity.

Reason – In the interest of visual amenity and to protect the setting of the nearby Listed Buildings

10. All biodiversity mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Preliminary Ecological Appraisal (Emms and Barnett, March 2022). 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)

11. Prior to the commencement of development, a construction environmental management plan (CEMP: Biodiversity) shall be submitted to and approved in writing by the local planning authority.

The CEMP (Biodiversity) shall include the following:

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

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

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

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

12. Prior to the commencement of 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 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).

13. Prior to the first occupation of the development hereby approved, an external 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 plans, 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)

## **9. Additional Considerations**

### Public Sector Equality Duty (PSED)

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

### Human Rights

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

### Finance Implications

- 9.11 Local finance considerations are a matter to which local planning authorities are to have regard in determining planning applications, as far as they are material to the application.
- 9.12 The New Homes Bonus (NHB) is one local finance consideration capable of being a material consideration to which the weight given shall be determined by the decision maker. The NHB

is a payment to local authorities to match the Council Tax of net new dwellings built, paid by Central Government over six consecutive years. In this instance, it is not considered to have any significant weight attached to it that would outweigh the other considerations.

**10. Background Papers**

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

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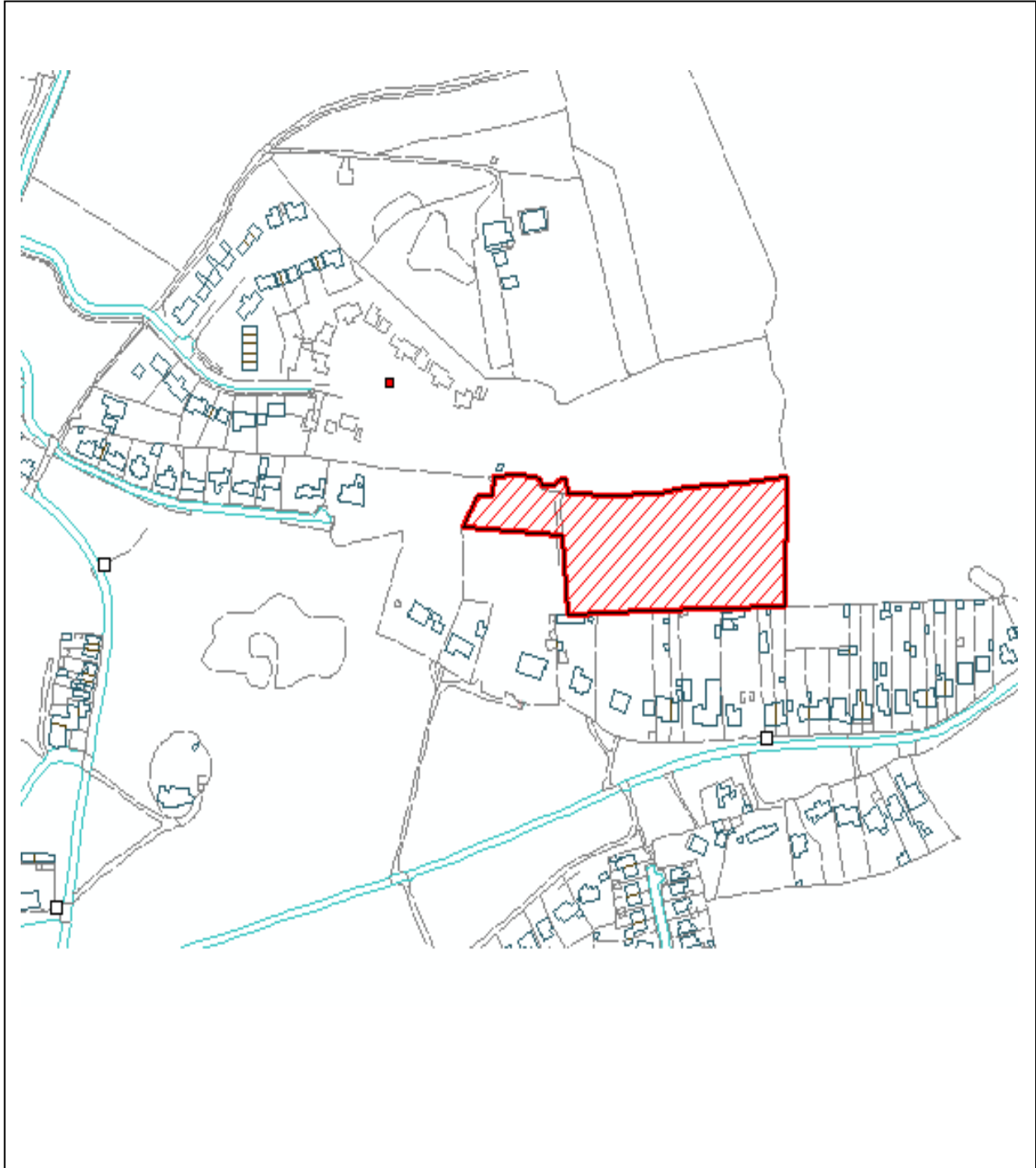


## PLANNING COMMITTEE

27<sup>th</sup> September 2022

### REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING

#### **A.3 PLANNING APPLICATION – 21/02176/FUL – LAND AT MOORLANDS FARM, GREAT BENTLEY CO7 8RS**



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**Application:** 21/02176/FUL

**Town / Parish:** Great Bentley Parish Council

**Applicant:** Mr and Mrs Frank Strutt

**Address:** Land at Moorlands Farm, Great Bentley CO7 8RS

**Development:** Construction of 26 dwellings with associate access, parking, public open space, landscaping and other works

## 1. **Executive Summary**

- 1.1 The site is in a rural locality and within the sustainable settlement of Great Bentley and proposes 26 Dwellings similar in design and layout to adjacent development.

### **Recommendation:**

(1) On appropriate terms as summarised below and those as may be deemed necessary to the satisfaction of the Assistant Director for Planning to secure 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:

- A financial contribution for Open Space, Schools and RAMS as set out by consultees adjusted to 26 dwellings and indexed linked.
- Affordable House 30%

(2) That the Assistant Director for Planning be authorised to Grant Planning Permission upon completion of the legal agreement subject to conditions as stated in Section 8.2 (or as need to be varied\*) and those as may be deemed necessary by the Assistant Director for Planning

(3) And the informative notes as may be deemed necessary:

(4) That in the event of the Planning obligations or requirements referred to in Resolution (1) above not being secured and/or not secured within 6 months that the Assistant Director for Planning be authorised to refuse the application on appropriate ground at their discretion.

\*To account for any errors, legal and necessary updates

## 2. **Planning Policy**

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

### **National:**

National Planning Policy Framework July 2021 (NPPF)

National Planning Practice Guidance (NPPG)

### **Local Plan:**

Tendring District Local Plan 2013-2033 and Beyond North Essex Authorities' Shared Strategic Section 1 Plan (adopted January 2021)

SP1 Presumption in Favour of Sustainable Development

SP2 Recreational disturbance Avoidance and Mitigation Strategy (RAMS)

SP3 Spatial Strategy for North Essex

SP4 Meeting Housing Needs

SP7 Place Shaping Principles

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

SPL1 Managing Growth

SPL2 Settlement Development Boundaries

SPL3 Sustainable Design

HP5 Open Space, Sports & Recreation Facilities

DI1 Infrastructure Delivery and Impact Mitigation

LP1 Housing Supply

LP2 Housing Choice

LP3 Housing Density and Standards

LP4 Housing Layout

LP5 Affordable and Council Housing

PPL1 Development and Flood Risk

PPL3 The Rural Landscape

PPL5 Water Conservation, Drainage and Sewerage

PPL10 Renewable Energy Generation

CP1 Sustainable Transport and Accessibility

CP2 Improving the Transport Network

### **Local Planning Guidance**

Essex County Council Car Parking Standards - Design and Good Practice

Essex Design Guide

### **Status of the Local Plan**

Planning law requires that decisions on 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:

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’).

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 for site and adjacent area**

01/01918/OUT	Detached apartment building (comprising two apartments)	Approved	01.02.2002
02/01002/OUT	Detached apartment building comprising three apartments.	Refused	18.09.2002
04/00927/FUL	Erection of detached building to create three apartments	Approved	09.11.2004
05/00898/FUL	Erection of detached garage to flats (approved under 04/00927/FUL)	Approved	13.07.2005
05/01036/FUL	Erection of a detached 4 bedroomed house with garage	Refused	05.08.2005
05/01726/FUL	Re-alignment of site boundary from that approved under 04/00927/FUL		07.10.2005
05/02217/FUL	Erection of additional detached garage to flats approved under 04/00927/FUL	Approved	01.03.2006
06/00511/OUT	Proposed detached dwelling	Refused	15.05.2006
09/00864/FUL	Proposed erection of detached building to create 3 apartments as previously approved under 04/00927/FUL.	Approved	13.10.2009
10/00742/FUL	Erection of detached garages to flats (approved under 04/00927/FUL). (Extension of time on previously approved application 05/00898/FUL).	Approved	25.08.2010
13/00648/FUL	Proposed detached building to create 3 apartments, including 3 garages.	Approved	06.08.2013

15/00682/OUT	Proposed erection of 75 dwellings, garages, roads and associated works.	Refused	08.01.2016
16/00133/OUT	Proposed erection of 50 dwellings, garages, roads and associated works.	Approved	28.09.2016
16/00907/DISCON	Discharge of conditions 2 (materials), 3 (brick courses), 4 (windows), 7 (landscaping), 10 (screen walls/fencing), 11 (onsite parking/loading/turning) and 12 (wheel cleaning) of planning permission 13/00648/FUL.	Approved	06.07.2016
16/01912/DETAIL	Proposed erection of 50 dwellings, garages and associated works.	Approved	12.05.2017
16/01999/OUT	A doctors surgery and twenty five dwellings, associated infrastructure and landscaping.	Refused	04.04.2017
18/01543/TELLIC	Proposal to install electronic communications apparatus/development ancillary to radio equipment housing.	Determination	28.09.2018
18/01796/DISCON	Discharge of Conditions 7 (tree protection measures), 9 (phasing plan), 10 (landscape & public open space management plan), 14 (ecological mitigation & management plan), 15 (construction method statement), and 17 (local recruitment strategy) of 16/00133/OUT.	Approved	09.01.2019
19/00307/DISCON	Discharge of Condition 11 (Surface Water Drainage) of 16/00133/OUT.	Approved	12.03.2019
19/00448/FUL	Proposed detached building to create 3 apartments with associated garages, cartlodge, parking and cycle and bin stores.	Approved	12.07.2019
19/00801/NMA	Non-material amendment for approved application 16/01912/DETAIL.	Withdrawn	18.09.2019
19/01021/OUT	Variation of condition 12 of approved application 16/00133/OUT to amend clause (ii).	Approved	17.10.2019
19/01204/DETAIL	Seeking approval for material changes further to application 16/01912/DETAIL (Plots 1 to 41).	Approved	14.11.2019
20/00489/DETAIL	Reserved matters application for 25 dwellings, open space, associated parking and infrastructure for application 16/01999/OUT allowed at appeal APP/P1560/W/17/3174843.	Approved	01.09.2020
20/00748/FUL	Re-design of the eastern parcel of the original application site to provide 18 new build dwelling houses comprising of 2, 3 and 4 beds.	Approved	06.11.2020

20/00864/DETAIL	Amendments to Layout relating to plots 7, 8, 12, 31, 32, 35, 37, 38 and 39; Boundary conditions and realignments, Site entrance wall added; and Appearance and Scale relating to Plot 8 (approved under 16/01912/DETAIL).	Approved	07.10.2020
20/01054/DETAIL	Reserved matters application for a doctor's surgery for application 16/01999/OUT allowed at appeal APP/P1560/W/17/3174843.	Approved	23.10.2020
21/00104/FUL	Proposal to re-design the Eastern Parcel of a previously approved development, ref: 20/00748/FUL. 18 new build 2,3 and 4 bed homes will be provided within 1.23 hectares.	Approved	08.06.2021
21/00220/DISCON	Discharge of conditions 4 (Foul Drainage), 5 (Ground Risk Assessment), 6 (Construction Method Statement), 7 (Landscape and Public Open Space Management Plan), 9 (Tree Protection Measures), 11 (Surface Water Drainage), 12 (Ecological Mitigation Scheme and Management Plan), 13 (Fibre Optic) and 15 (Driveway Details) of approved planning application 20/00748/FUL.	Approved	09.04.2021
21/00739/FUL	Relocation of proposed locally equipped play area (LEAP).	Approved	06.07.2021
21/00909/DISCON	Discharge of condition 10, (Off Street Parking) 12, (Construction Method Statement) 13, (Landscape Management Plan) 15, (Tree Protection Measures) 16, (Surface Water Drainage) 19, (Archaeology) 20, (Ecological Mitigation Scheme) 21, (Hard surfacing, Lighting, Refuse Storage and Collection Points) and 22 (Fibre Optic Broadband) of approved planning application 16/01999/OUT, approved at appeal via APP/P1560/W/17/3174843		13.07.2021
21/00910/DISCON	Discharge of condition 3 (Materials Plan and Schedule) of approved application 20/00489/DETAIL.	Approved	13.07.2021
22/00695/FUL	Proposed revised application for the construction of a new mixed use building consisting of medical wellness and polyfunctional facilities E (e) and retail (Use Class E(a)) alongside associated vehicle access, parking, landscaping and other associated works.	Refused	22.07.2022
22/00835/DISCON	Seeking confirmation of compliance with condition 1 (Time Limit) of application 19/00448/FUL.	Approved	19.05.2022

#### 4. Consultations

4.1 During the course of the application Consultations and Parish/Town representations have been received. These are summarised below

Great Bentley Parish Council	Objects
UU Open Spaces	Contribution Sought
ECC Highways	No objection subject to conditions recommended
TDC Environmental Protection	Approval subject to conditions recommended
Essex County Council Heritage	Outlines level of harm and need to consider public benefit.
NHS East Essex CCG	No comment
Tree & Landscape Officer	No objections
Anglian Water Services Ltd	Notes need to carry out its duty to provide waste infrastructure for development. Recommendations is conditions.
ECC Schools Service	No objections, outlines contributions sought (These would be adjusted to the development proposed as needed)
TDC Housing Services	Outlines Affordable Housing requirements.
Essex County Council Archaeology	Recommends conditions.
Historic England	Do not wish to offer comments
Essex County Council Ecology	Recommends conditions

#### Great Bentley Parish Council

4.2 Great Bentley Parish Council wish to OBJECT as follows:

4.3 The Parish Council acknowledge that this application is within the Village Boundary as depicted in Part II of the recently adopted Local Plan, nevertheless the Council object to this Planning Application. A further 31 dwellings is not sustainable in the village that has already experienced a 56% increase in housing stock, despite hundreds of thousands of pounds being paid by developers for health, education, and highways infrastructure there has been no material benefit.

4.4 The Local Plan's Overall Assessed Housing need has been established as 550 per annum. For planning purposes (a 5-year period) Tendring Council can demonstrate a 6.66-years supply of deliverable housing; a surplus of approximately 1000 dwellings.

4.5 The application form describes the site as Moorlands Farm and the current use of the land as former agricultural. This site has not been a farm for some 30 years plus, furthermore a planning application in 1995 changed the use of a significant area of land from agricultural to domestic garden.

4.6 Perusal of the Proposed Site and Location Plans reveal that the Northern edge of the site abuts Michael Wright Way which is in the Admirals Green development. This area of land overlaps the Admirals Green site which is already allocated as Open Space. Plots 1,2,3 and possibly 4 are in the established Conservation Area of the Village – established trees and hedging cannot be removed. These same plots would also obscure the view from the Village Green to the Countryside, maintaining this view was a condition for the Admirals Green development as can be seen in the location plan for the application. If the Application is considered for approval, then the same condition should be also applied to this proposed development.

4.7 The proposed development will add to the pressures on the local sewage infrastructure the capabilities for which are already beyond capacity and literally overflowing on a regular basis. Anglia Water have clearly stated the system does not have the capacity.

4.8 In summary a further 31 houses are neither needed nor sustainable and should be refused

4.9 *(Officer Note: This is the last response from the Parish Council, the application has been reduced to 26 Dwellings and all units removed from the Conservation Area and the view secured by the Admirals Green development is now maintained. No comment on the amended scheme has been received at the time of writing. If implemented, any application to change to garden would mean in planning terms that area could be considered previously developed land under the definition of the NPPF, but at this time the land is considered not to be previously developed.)*

<p><b>TDC Environmental Protection 27.01.2022</b></p>	<p>With reference to the above application, please see below for comments from the EP Team:</p> <p>Contaminated Land: Due to the sites historical use and proximity to historical registered contaminated land, the EP Team are requesting that should this application be approved, the following is condition -</p> <p>(Conditions are copied to the recommendation)</p>
<p><b>NHS East Essex CCG 28.03.2022</b></p>	<p>Thank you very much for the email.</p> <p>As a CCG we currently don't respond to planning applications below 50 dwellings so based on this we won't be making any comments on this planning application.</p> <p>We try to record all residential dwelling applications for more than 10 dwellings so we can keep a record of accumulative impact in an area.</p>
<p><b>Tree &amp; Landscape Officer 08.02.2022</b></p>	<p>The application is supported by an Arboricultural Impact Assessment (AIA) which shows the extent of the impact of the development proposal on existing trees on the land. The information provided is in accordance with BS5837: 2012 Trees in relation to design, demolition and construction ' Recommendations.</p> <p>The AIA identifies the removal of 4 trees and a hedge that will be required in order to implement the development proposal. Using the numbering system on the above AIA these are; T11 - Norway Maple, T12 - Rowan, T12 Hornbeam, T13 Beech and H2 comprising Holly, Cotoneaster and Beech. Both the Norway Maple and the Rowan are small trees with a category 'C' grading meaning they are not considered a significant constraint on the development potential of the land. The Hornbeam and the Beech have a category 'B' grading and are larger specimens however the location of the trees is such that they do not feature prominently in the public realm and consequently it is not considered expedient or necessary to make them the subjects of a new tree preservation order (TPO).</p> <p>The hedge H2 is a reasonably attractive feature in the garden within which it is situated but does not feature in the public realm and does not merit retention.</p> <p>If consent were likely to be granted then the amenity value of the trees identified for removal could be relatively easily replicated and improved upon by new tree planting and associated soft landscaping.</p> <p>In this regard the applicant has provided a comprehensive planting scheme, including tree planting that will soften and enhance the appearance of the development. With regard to retained trees the information contained in the AIA</p>



	<p>adequately demonstrates that the development proposal could be implemented without causing harm to them. The measures set out in the AIA should be fully implemented to ensure that retained trees are physically protected for the duration of the construction phase of any development for which planning permission is granted</p>
<p><b>Tree &amp; Landscape Officer</b> <b>29.06.2022</b></p>	<p>The amended layout does not alter the impact of the development proposal on existing trees on the site. The details that have been provided relating to the removal, retention and protection of retained trees is acceptable and shows the retention of important boundary trees.</p> <p>Details of soft landscaping are comprehensive and will lead to an increase in the number of trees on the land.</p>
<p><b>Anglian Water Services Ltd</b> <b>24.01.2022</b></p>	<p>Our records show that there are no assets owned by Anglian Water or those subject to an adoption agreement within the development site boundary.</p> <p>Wastewater Treatment</p> <p>The foul drainage from this development is in the catchment of Thorrington 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.</p> <p>Used Water Network</p> <p>This response has been based on a lack of documentation outlining the intended foul drainage strategy. A full assessment cannot be made without identified points of connection or discharge rates. Development will lead to an unacceptable risk of flooding downstream. Anglian Water will need to plan effectively for the proposed development, if permission is granted. We will need to work with the applicant to ensure any infrastructure improvements are delivered in line with the development.</p> <p>We therefore request a condition requiring an on-site drainage strategy</p> <p>Surface Water Disposal</p> <p>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.</p> <p>From the details submitted to support the planning application the proposed method of surface water management does not relate to Anglian Water operated assets. As such, we are unable to provide comments on the suitability of the surface water management.</p> <p>The Local Planning Authority should seek the advice of the Lead Local Flood Authority or the Internal Drainage Board. The Environment Agency should be consulted if the drainage system directly or indirectly involves the discharge of water into a watercourse. Should the proposed method of surface water management change to include interaction with Anglian Water operated assets,</p>

	<p>we would wish to be reconsulted to ensure that an effective surface water drainage strategy is prepared and implemented. If the developer wishes Anglian Water to be the adopting body for all or part of the proposed SuDS scheme the Design and Construction Guidance must be followed. We would recommend the applicant contact us at the earliest opportunity to discuss their SuDS design via a Pre-Planning Strategic Enquiry. The Lead Local Flood Authority (LLFA) are a statutory consultee for all major development and should be consulted as early as possible to ensure the proposed drainage system meets with minimum operational standards and is beneficial for all concerned organisations and individuals. We promote the use of SuDS as a sustainable and natural way of controlling surface water run-off. We please find below our SuDS website link for further information.</p> <p><a href="https://www.anglianwater.co.uk/developers/drainage-services/sustainable-drainage-systems/">https://www.anglianwater.co.uk/developers/drainage-services/sustainable-drainage-systems/</a></p> <p>Conditions recommended are placed in Section 8.2</p>
<p><b>ECC Schools Service</b> <b>07.03.2022</b></p>	<p>Thank you for providing details of the above planning application proposing 31 residential units consisting of 22 x 2+ bed houses and 9 x 1bed flats. A development of this size can be expected to generate the need for up to 1.98 Early Years and Childcare (EY&amp;C) places; 6.6 primary school, and 4.4 secondary school places.</p> <p>Please note that any developer contribution figures referred to in this letter are calculations only, and that final payments will be based on the actual dwelling unit mix and the inclusion of indexation.</p> <p>Early Years and Childcare Essex County Council has a statutory duty under the Childcare Act 2006 to ensure that there is sufficient and accessible high-quality early years and childcare provision to meet local demand and parental choice. This includes provision of childcare places for children aged between 0-5 years as well as wrap around provision for school aged children (5-11 or up to 19 with additional needs).</p> <p>The proposed development is located within the Bentleys and Frating ward and according to latest available childcare sufficiency data, there are 7 early years and childcare providers within the ward. Overall a total of 1 unfilled place was recorded.</p> <p>Although there is some EY&amp;C capacity in the area, the data shows insufficient provision to meet the additional demand created by this development. A developer contribution of £34,191 index linked to Q1- 2020, is sought to mitigate its impact on local early years &amp; childcare provision. This equates to £17,268 per place.</p> <p>Primary education</p> <p>This development would sit within the priority admissions area of Great Bentley Primary School, which has a published admission number of 30 pupils per year. As at the last school census in October 2021 they had slightly over this number in some year groups, with a total of 213 pupils on roll. Early data for admission into Reception in September suggests that the school will again be full. As set out in the Essex School Organisation Service's 10 Year Plan, to meet growing demand across the area (Tendring Group 3), plans are being drawn up to expand Great Bentley Primary School for the 2024/25 academic year.</p>

The demand generated by this development would be in addition to this demand. A developer contribution of £113,969 index linked to Q1- 2020, is sought to mitigate its impact on local primary school provision. This equates to £17,268 per place.

#### Secondary Education

Due to the recently completed project to expand Colne Community School a contribution towards secondary education places will not be requested at this time.

#### School Transport

Having reviewed the proximity of the site to the nearest primary school, the distance is in excess of the statutory walking distance, therefore, Essex County Council will be seeking a school transport contribution toward primary school transport. Based on 6.6 pupils, the transport contribution would be £145,978.14, index linked to Q1 2020. Having reviewed the proximity of the site to the nearest secondary school, the distance is in excess of the statutory walking distance, therefore, Essex County Council will be seeking a school transport contribution toward secondary school transport. Based on 4.4 pupils, the transport contribution would be £21,903.20, index linked to Q1 2020

#### Libraries

ECC may seek contributions to support the expansion of the library service to meet customer needs generated by residential developments of 20+ homes. The provision of a Library Service is a statutory duty under the 1964 Public Libraries and Museums Act and it's increasingly become a shared gateway for other services such as for accessing digital information and communications.

The suggested population increase brought about by the proposed development is expected to create additional usage of the nearest library. A developer contribution of £2,411.80 is therefore considered necessary to improve, enhance and extend the facilities and services provided. This equates to £77.80 per unit.

#### Employment and Skills

Both Central and Local Government have a crucial role to play in identifying opportunities to maximise employment, apprenticeships, and to invest in skills to realise personal and economic aspirations. ECC has a role to play in supporting Local Planning Authorities and helping to ensure that the development industry has the necessary skills to build the homes and communities the county needs. ECC supports Tendring District Council (TDC) in securing obligations which will deliver against this crucial role in supporting employment and skills in the district.

In the current economic climate and national skills shortage, ECC supports TDC Council in requiring developers to prepare an 'Employment and Skills Plan' (ESP) seeking to drive forward an increase in construction employability levels and workforce numbers. These plans will help to address negative perceptions of the sector and develop a strong future pipeline. This is referred to as the 'development phase'. ECC also supports TDC Council in requiring landowners to produce an ESP for commercial developments, to enable wider employment opportunities for those requiring additional support to enter the job market.

This is referred to as the 'end-use phase'. Additionally, ECC encourages TDC Council to consider the inclusion of other requirements, including financial contributions, to support appropriate employment and skills outcomes as a result of this development.

	<p>In view of the above, I request on behalf of Essex County Council that if planning permission for this development is granted it should be subject to a section 106 agreement to mitigate its impact on EY&amp;C, primary education, primary and secondary school transport and libraries. The contributions requested have been considered in connection with the CIL Regulations 2010 (as Amended) and are CIL compliant. Our standard formula s106 agreement clauses that ensure the contribution would be necessary and fairly and reasonably related in scale and kind to the development are available from Essex Legal Services.</p> <p>If your council were minded to turn down the application, I would be grateful if the lack of surplus EY&amp;C, primary education, primary and secondary school transport and libraries provision in the area to accommodate the proposed new homes can be noted as an additional reason for refusal, and that we are automatically consulted on any appeal or further application relating to the site.</p>
<p><b>Housing Services</b> <b>29.03.2022</b></p>	<p>There is a high demand for housing in Great Bentley and from the applications on the council's Housing Register the following have expressed an interest in being housed in the village:</p> <ul style="list-style-type: none"> <li>1 Bedroom- 139</li> <li>2 Bedroom- 70</li> <li>3 Bedroom- 65</li> <li>4 Bedroom- 34</li> <li>5 Bedroom- 9</li> <li>6 bedroom- 1</li> </ul> <p>As such the 30% on site affordable housing provision in accordance with LP5 is what the Housing Service will expect to see on the site. The mix of dwellings as currently proposed is acceptable, however, a preference is for a three bedroom house to be provided in lieu of one of the two bedroom houses or maisonettes. These dwellings should be offered to the Council to purchase initially or another registered provider if the Council decides not to purchase them.</p>
<p><b>Essex County Council</b> <b>Archaeology</b> <b>15.07.2022</b></p>	<p>The above application is for the construction of 31 dwellings with associate access, parking, public open space, landscaping and other works.</p> <p>The Essex Historic Environment (HER) Record shows that the proposed development will affect a site of archaeological interest. A number of cropmark complexes in the surrounding area attest to the archaeological potential of the area of the proposed development. These include ring-ditches of probable Bronze Age date, settlement enclosures and trackways of later prehistoric or Roman date and probable medieval field boundaries.</p> <p>Archaeological investigation adjacent to the northern boundary has demonstrated the survival of medieval archaeological remains and residual prehistoric archaeological remains. Recent excavation further north has revealed significant Late Iron Age/Roman activity, including weaving and metalworking, indicating a nearby settlement. There is potential for further remains associated with the Late Iron Age/Roman activity and medieval evidence in the adjacent fields to continue within the proposed development area. Any surviving below ground heritage assets within the proposed development site would be damaged or destroyed by the proposed development.</p> <p>In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential</p>

	<p>impact of the proposal on their significance (NPPF Para.194). Where a site on which development is proposed includes, or has the potential to include, heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation.</p> <p>Conditions are recommended and included as part of Section 8.2</p>
<p><b>Essex County Council Heritage 20.05.2022</b></p>	<p>The application is for the construction of 31 dwellings with associate access, parking, public open space, landscaping and other works. This follows my previous letter dated 9th February 2022 and site meeting with the agent, where we discussed potential alternative solutions and mitigation strategies to reduce the impact of the proposed development on the character and appearance of Great Bentley Conservation Area and on the setting of Moorlands Farm as non-designated assets.</p> <p>The applicant subsequently submitted updated site plans showing a revised layout addressing the main concern as follows:</p> <ul style="list-style-type: none"> <li>- The amount of proposed construction on the area within the Conservation Area has been reduced to two new dwellings only and allocated on the western side of the plot, in order to retain this area of The Green as an open space. I note, however, that the proposed buildings at the back of the dwellings facing Weeley Road are still very close to the boundary of the Conservation Area. A larger buffer along this boundary in order would allow for more planting to mitigate the visual impact of the new development on the character and appearance of the Conservation Area;</li> <li>- Additional open space has been retained within the Conservation Area in connection to the existing one along the northern boundary of the site (now also excluded from the revised site plan). This additional POS helps to maintain the sense of openness and the views through The Green which are representative of the distinctiveness of the Conservation Area;</li> <li>- similar design and materials have been extended to both affordable housing and houses for private sale in order to maintain the high-quality design standard required to positively contribute and enhance the character and appearance of the Conservation Area, a requirement set by Paragraph 197 of the NPPF;</li> <li>- additional artificial lights have been reduced by avoiding new street lights.</li> </ul> <p>While the proposed scheme will still result in less than substantial harm to the significance of Great Bentley Conservation Area, the revised layout introduces mitigation measures to lessen the visual impact of the development on the Conservation Area and on the setting of Moorland Farm.</p> <p>The level of less than substantial harm to the Conservation Area is considered to be very low. The local planning authority should weigh this harm against any public benefits of the proposal including, where appropriate, securing its optimum viable use, as per Paragraph 202 of the NPPF. Local planning authorities should look for opportunities for new development within the Conservation Area and within the setting of heritage assets, to enhance or better reveal their significance (paragraph 206 of the NPPF) and, in determining applications, they should take into account of the desirability of making a positive contribution to local character and distinctiveness (paragraph 197c).</p>

<p><b>Essex County Council Heritage</b> 07.07.2022</p>	<p>The application is for the construction of 26 dwellings with associate access, parking, public open space, landscaping and other works.</p> <p>Comments for a previous revision of the proposed development were issued on 20th May 2022. The current revised proposal, which removes any new dwelling within the boundary of the Conservation Area, is not considered to provide an additional impact on the character and appearance of this designated heritage asset, therefore my previous comments are still relevant.</p>
<p><b>ECC Highways Dept</b> 15.07.2022</p>	<p>The information that was submitted in association with the application has been fully considered by the Highway Authority. A previous site visit was undertaken in conjunction with an earlier planning application. The information submitted with the application has been assessed and conclusions have been drawn from a desktop study with the observations below based on submitted material. It is noted that the number of dwellings proposed has been reduced from 31 to 26 dwellings, access to the proposed site will still be taken from Michael Wright Way via the Admirals Green residential development. The changes will see an increase in the amount of public open space provided for the development. The dwellings will be located within a cul-de-sac, and retains adequate parking and turning within the site together with footway connectivity with the existing development, taking these factors into consideration:</p> <p>Conditions recommended are found in the recommendation section 8.2</p>
<p><b>Historic England</b> 22.06.2022</p>	<p>Thank you for your letter of 3 May 2022 regarding further information on the above application for planning permission. On the basis of this information, we do not wish to offer any comments. We suggest that you seek the views of your specialist conservation and archaeological advisers, as relevant.</p> <p>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.</p>
<p><b>UU Open Spaces</b> 20.07.2022</p>	<p>Current Position</p> <p>There is currently a deficit of 1.73 hectares of equipped play in Great Bentley. However, there is more than adequate provision in terms of formal open space.</p> <p>Recommendation</p> <p>Due to the significant deficit of play facilities in the area it felt that a contribution towards play is justified and relevant to the planning application. The play area in Great Bentley has recently been up dated, however there is still improvements that are needed in this play area the contribution received will be used to make these improvements at Heckford Road, Great Bentley</p>
<p><b>Essex County Council Ecology</b> 14.09/2022</p>	<p>We note the applicant's intention to commit to the Essex Coast RAMS contribution and that this is being formalised between the respective legal representatives. This will need to be referenced in the LPA's project level HRA to support delivery of mitigation measures for predicted recreational impacts on Habitats sites.</p> <p>We are now satisfied that there is sufficient ecological information available for determination. This provides certainty for the LPA of the likely impacts on designated sites, protected and Priority species &amp; habitats and, with appropriate mitigation measures secured, the development can be made acceptable.</p>

Conditions are recommended.
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## 5. Representations

5.1 At the time of writing, there have been 48 letters of objection received, with the concerns summarised below:

1. Harm to existing habitat;
2. Impacts to traffic;
3. Loss of designated Public Open Space;
4. Harm to neighbouring amenities;
5. Harm to drainage system;
6. Impacts to local infrastructure;
7. Harm to the Great Bentley Conservation Area;
8. Highway safety concerns;
9. Harm to the character of Great Bentley;
10. Harm to trees;

5.2 In answer to all of the points raised above, these have been addressed within the main body of the report.

## 6. Assessment

### **Site Description**

6.1 The application site is a parcel of land measuring 1.55 hectares, which is located to the south of south of Michael Wright Way and north of Weeley Road, within the parish of Great Bentley.

6.2 The Application Site is former farmland, which then formed part of the larger garden for 'The Moors', located to the south. It is currently a large open mown amenity lawn with a mature mixed hedgerow on the southern site boundary and a similar hedge section is present within the northern boundary of the site that has associated mature trees.

6.3 The character of the surrounding area is relatively urbanised, particularly following approval and construction of residential properties adjacent to the north. To the south are existing residential dwellings. The character becomes more rural further to the north and east, with large parcels or grassed and agricultural land.

6.4 The site falls within the Settlement Development Boundary for Great Bentley within the Adopted Tendring District Local Plan, and also falls partially within the Great Bentley Conservation Area which is sited to the south of the site.

### **Description of Proposal**

6.5 This application seeks planning permission for the construction of 26 dwellings, of which eight will be affordable housing and 18 will be market housing. The dwellings are to all to be two storeys, with seven served by two bedrooms, eight served by three bedrooms, nine served by four bedrooms, and two by five bedrooms. All dwellings will be provided with off-street parking and private amenity space, and the site will be accessed via Michael Wright Way to the north. During the determination of the application, the applicant has provided for an amended scheme that has seen the number of dwellings reduce from 31 to 26 .

### **Site History**

6.6 The Admirals Farm development, predominantly to the east but including the current application site , originally obtained permission for the erection of 50 dwellings, garages, roads and associated works approved via Outline application 16/00133/OUT and Reserved Matters application

16/01912/DETAIL. An additional 9 dwellings were then added to the total build number in 2020 via application reference 20/00748/FUL. Michael Wright Way also provides access to a not yet constructed Doctors surgery that was approved via application 20/01054/DETAIL on the land immediate to the north of the application site.

6.7 In March 2022, under planning reference 21/01560/FUL, planning permission was refused by the Planning Committee for a scheme for six dwellings on land to the west, on the grounds that the loss of landscaping and Public Open Space would result in a significant reduction in the experience and quality for those using the site, and would represent an unnecessary form of urban sprawl that would lead to the considerable deterioration in the character and openness of the area. Additional refusal reasons related to the lack of financial contributions towards affordable housing, education, public open space and RAMS. This application is currently the subject of an appeal (reference APP/P1560/W/22/3297669) and a revised planning application for the same number of dwellings (reference 22/00621/FUL) at the time of writing.

6.8 To the west of the site at Heckford Road, a new housing development for 49 dwellings was approved via application reference 15/01820/OUT and Reserved Matters application 17/01759/DETAIL.

6.9 In July 2022 under planning reference 22/00695/FUL, planning permission was refused for the construction of a new mixed use building consisting of medical wellness and polyfunctional facilities E (e) and retail (Use Class E(a)). This was proposed to be located to the north-west of the application site. This was refused on two grounds; firstly due to its design, layout, massing and form it would cause unacceptable harm to the character and appearance of the area and the setting of the village, and secondly due to the absence of a Sequential Test or Retail Impact Assessment.

### **Principle of Development**

6.10 The site is located within the Settlement Development Boundary (SDB) for Great Bentley, as established in the adopted local plan. Adopted Policy SPL2 states that within the Settlement Development Boundaries, there will be a general presumption in favour of new development subject to detailed consideration against other relevant Local plan policies. As such, at an overarching high level, the principle of residential development on the site is acceptable, subject to the detailed considerations below. While noting the current housing supply for Tendring, the calculation relies on both designated sites for development coming forward as well as windfall development (Sites not specifically identified in the development plan.) through such proposals as a conversions and development within settlement boundaries. There is no cap on the level of development as such restriction would be in conflict with national policy.

### **Design, Layout and Appearance**

6.11 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.

6.12 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.

6.13 The proposal would see the erection of a total of 26 residential dwellings, all of which are located to the south of Michael Wright Way. In respect of the site layout, initially the scheme was larger (31 dwellings) and created for a more dense development that would not respect the character of the area. During the course of the determination of this application, the applicant has provided an amended layout that has reduced the number of proposed dwellings, and accordingly Officers now consider that the development provides for a lower, more in-keeping, density and does not appear overdeveloped in this location. The plots are typically of a generous size with good spacing in-



between. Furthermore, the dwellings are served by a private amenity space of a size and configuration that will appropriately meet the needs and expectations of the future occupants and which is commensurate to the size of dwelling and the character of the area, in accordance with Policy LP4 of the 2013-2033 Local Plan

6.14 The proposal offers a total of seven different house types, all of which will be two storeys and thereby in-keeping with the surrounding areas typical character. This level of different house type will add a good mix of variety and help to add interest and break up the overall bulk of the development, which is further aided by a mix of materials and key features including front gables, dormers, chimneys and canopy's. Officers therefore do not offer any objections on these grounds. Therefore, having regard to the above policy considerations, the proposal is considered to be policy compliant in terms of its scale, layout, appearance and design.

### **Impact to Character of Area/Public Open Space**

6.15 Paragraph 92 of the framework states that planning policies and decisions should aim to achieve healthy, inclusive and safe place which enable and support healthy lifestyles through the provision of safe and accessible green infrastructure, sports facilities. Paragraph 93 of the framework states that to provide the social, recreational and cultural facilities and services the community needs, planning policies and decisions should plan positively for the provision and use of shared spaces, community facilities (such as open space) to enhance the sustainability of communities and residential environments. Paragraph 98 of the framework states access to a network of high quality open spaces and opportunities for sport and physical activity is important for the health and well-being of communities, and can deliver wider benefits for nature and support efforts to address climate change.

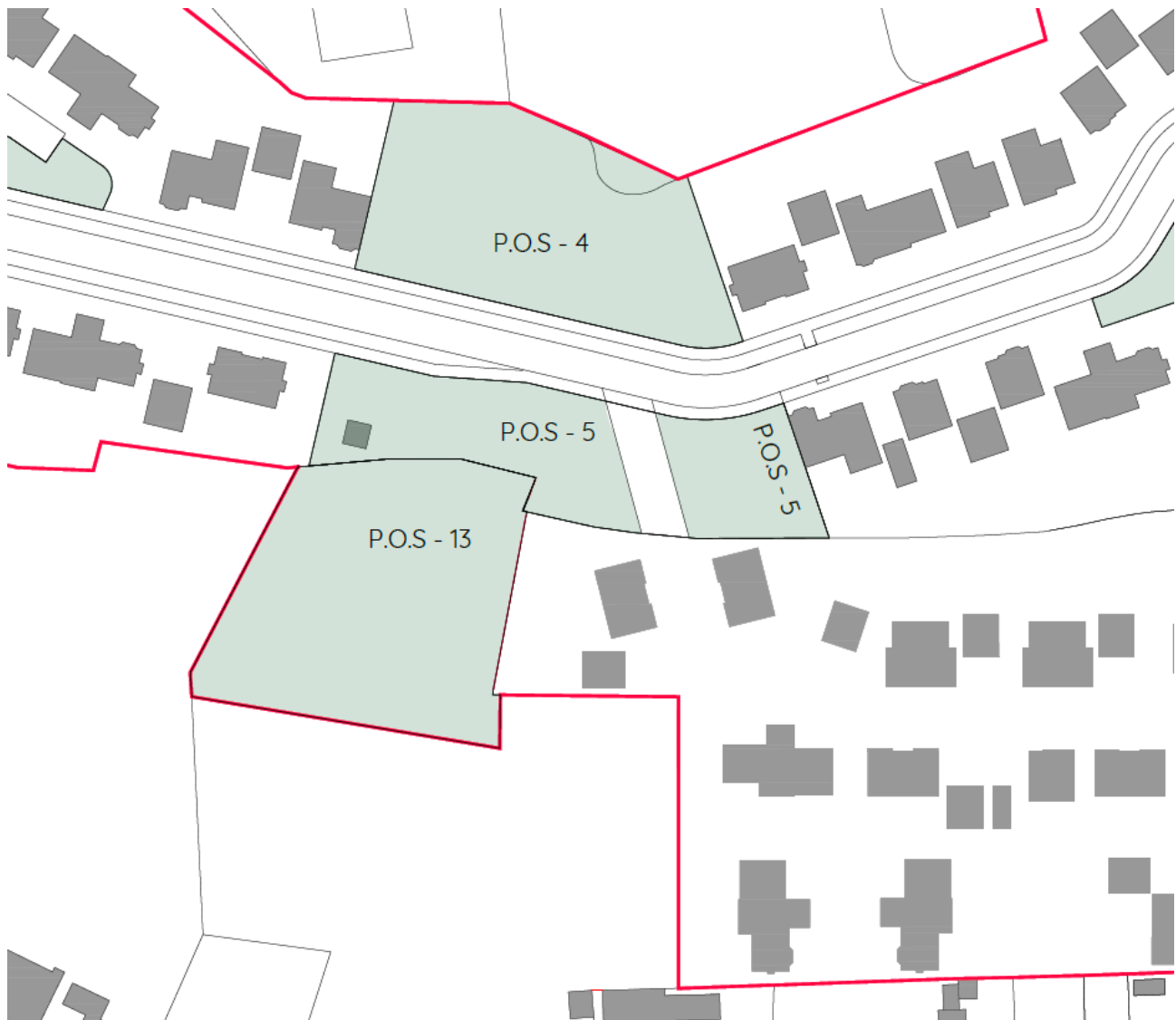
6.16 Paragraph 130 of the National Planning Policy Framework (NPPF) (2021) requires that developments are visually attractive as a result of good architecture, are sympathetic to local character, and establish or maintain a strong sense of place. Paragraph 134 of the NPPF adds that development that is not well designed should be refused.

6.17 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 (Sustainable Design) of the Tendring District Local Plan 2013-2033 states that all new development (including changes of use) should make a positive contribution to the quality of the local environment and protect or enhance local character.

6.18 It is important to establish what the application site was used for within the approved Admirals Farm development for the erection of 50 dwellings, garages, roads and associated works approved via Outline application (Ref: 16/00133/OUT) and Reserved Matters application (Ref: 16/01912/DETAIL). Within the Reserved Matters application, it is clear that the land to the northern section of the site was designated as Public Open Space, with it being highlighted that this is to promote key views south towards the village green.

6.19 The previous proposed development for the larger proposal was in conflict with the views sought to be retained and provision of open space given plots proposed on that north and western area. This is a point the Parish Council had highlighted in their response. However, amended plans received have removed the proposed units from this area. There remains a proposed access point within the previous allocated Public Open Space, but given its nature this would retain the openness in terms of character and views. The removal of public space is proposed to be replaced with significantly more public open space to account for both loss and future need. The advantage of this proposal is the new public space alongside part of an original and retained open space will broaden the available public space to become a more functional space. This is instead of the retained space appearing as a narrower landscape buffer alongside the road. Given the significant size and location of the additional land for expressed public access this is considered to outweigh the access point impact to one side.

6.20 Plan showing Public Open Space. P.O.S 13 would be the additional land to P.O.S 5 secured under the larger adjacent development.



### Impact to Conservation Area

6.21 Paragraph 202 of the NPPF states 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 including, where appropriate, securing its optimum viable use. Adopted Policy PPL8 (Conservation Areas) states 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.

6.22 The application site is located adjacent and partly within the Great Bentley Conservation Area, but all dwellings are proposed outside of this area. Essex County Council Place Services (Heritage on the behalf of Tendring District Council) have been consulted. Initially, when the scheme was for a total of 31 dwellings, objections were raised as the proposed development would affect the views of The Green with a significant impact on the character and appearance of the Conservation Area and its setting. Furthermore, indirect impacts were noted to the Conservation Area and its setting, due to a dense residential development within the setting of The Green, in addition to the already approved Admiral Green, with this resulting in urbanisation of the area, and also harm to the non-designated heritage asset 'Moorlands Farm'.

6.23 However, following receipt of an amended scheme to reduce the number of dwellings to 26 and revise the layout, ECC Place Services (Heritage) have provided the following comments:

“This follows my previous letter dated 9th February 2022 and site meeting with the agent, where we discussed potential alternative solutions and mitigation strategies to reduce the impact of the proposed development on the character and appearance of Great Bentley Conservation Area and on the setting of Moorlands Farm as non-designated assets.”

6.24 The applicant subsequently submitted updated site plans showing a revised layout addressing the main concern as follows:

- The amount of proposed construction on the area within the Conservation Area has been reduced to two new dwellings only and allocated on the western side of the plot, in order to retain this area of The Green as an open space. I note, however, that the proposed buildings at the back of the dwellings facing Weeley Road are still very close to the boundary of the Conservation Area. A larger buffer along this boundary in order would allow for more planting to mitigate the visual impact of the new development on the character and appearance of the Conservation Area ;
- Additional open space has been retained within the Conservation Area in connection to the existing one along the northern boundary of the site (now also excluded from the revised site plan). This additional POS helps to maintain the sense of openness and the views through The Green which are representative of the distinctiveness of the Conservation Area;
- similar design and materials have been extended to both affordable housing and houses for private sale in order to maintain the high-quality design standard required to positively contribute and enhance the character and appearance of the Conservation Area, a requirement set by Paragraph 197 of the NPPF;
- additional artificial lights have been reduced by avoiding new street lights.

While the proposed scheme will still result in less than substantial harm to the significance of Great Bentley Conservation Area, the revised layout introduces mitigation measures to lessen the visual impact of the development on the Conservation Area and on the setting of Moorland Farm.

6.25 The level of less than substantial harm to the Conservation Area is considered to be very low. The local planning authority should weigh this harm against any public benefits of the proposal including, where appropriate, securing its optimum viable use, as per Paragraph 202 of the NPPF. Local planning authorities should look for opportunities for new development within the Conservation Area and within the setting of heritage assets, to enhance or better reveal their significance (paragraph 206 of the NPPF) and, in determining applications, they should take into account of the desirability of making a positive contribution to local character and distinctiveness (paragraph 197c)." Accordingly, the development is considered to result in a very low level of less than substantial harm. Therefore in accordance with Paragraph 202 of the NPPF, Officers must weigh up this very low level of harm against the public benefits. On this occasion, the economic benefits that will be brought during the construction works and on going service employment, affordable housing, outweighs this identified level of harm and accordingly Officers do not object on these grounds.

### **Impact to Neighbouring Amenities**

6.26 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. 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.

- 6.27 There are a series of existing residential properties bounding the application site, in particular adjacent to the northern and southern boundaries along Michael Wright Way and Weeley Road respectively. In terms of the impacts to the neighbouring properties to the south along Weeley Road, it is acknowledged that each of these properties have large rear garden areas, and as such there is significant separation between the buildings themselves and the proposed built form. Given this, and the proposed landscaping to the southern boundary, there will be no significant loss of daylight/sunlight or any issues in regards to overlooking and amenity that would be intrusive to warrant refusal. While part of the development will be visible, this would not be to the extent that it would be oppressive enough to warrant recommending a reason for refusal.
- 6.28 In relation to the properties to the north of the site along Michael Wright Way, the majority of the properties along the western section retain good separation distances which significantly reduce the impacts in terms of the development appearing oppressive or resulting in overlooking and loss of daylight/sunlight. However, the properties sited to the north-eastern corner of the application site, namely Plots 10 and 12 Michael Wright Way, are far more closely aligned to the proposed development, with a separation distance of approximately 3.5 metres to the boundary and 16 metres between the properties themselves. Therefore it is concluded that the proposed plots given their location and design shall have an impact on amenity for the occupiers and enjoyment of their gardens, despite the landscaping in the control of the existing neighbours. While it is recognised that there will be impact, the extent of harm to demonstrate and defend at appeal (if needed) is considered to be difficult. It is a subjective judgment, but ultimately concluded against the benefits of the scheme and presumption in favour of development that the development is not so intrusive to warrant refusal on existing amenity grounds.

### **Highway Safety**

- 6.29 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.
- 6.30 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.
- 6.31 Essex Highways Authority have been consulted and have stated that they raise no objections to the proposed development, subject to a series of planning conditions relating to visibility splays, the use of no unbound materials, boundary planting, the vehicular parking area, the submission of a Residential Travel Information Pack, and the submission of a Construction Management Plan. Furthermore, Essex Car Parking Standards (2009) state that for residential dwellings with two or more bedrooms, there should be provision for two parking spaces measuring 5.5m x 2.9m or, if being used as one of the parking spaces, garages should have minimum internal measurements of 7m x 3m. The submitted plans demonstrate that this achieved for all proposed dwellings.

### **Tree Impacts**

- 6.32 The Council's Tree and Landscape Officer has been consulted, and for the initial scheme provided the following comments:

*“The application is supported by an Arboricultural Impact Assessment (AIA) which shows the extent of the impact of the development proposal on existing trees on the land. The information provided is*

*in accordance with BS5837: 2012 Trees in relation to design, demolition and construction ' Recommendations.*

*The AIA identifies the removal of 4 trees and a hedge that will be required in order to implement the development proposal. Using the numbering system on the above AIA these are; T11 - Norway Maple, T12 - Rowan, T12 Hornbeam, T13 Beech and H2 comprising Holly, Cotoneaster and Beech.*

*Both the Norway Maple and the Rowan are small trees with a category 'C' grading meaning they are not considered a significant constraint on the development potential of the land. The Hornbeam and the Beech have a category 'B' grading and are larger specimens however the location of the trees is such that they do not feature prominently in the public realm and consequently it is not considered expedient or necessary to make them the subjects of a new tree preservation order (TPO).*

*The hedge H2 is a reasonably attractive feature in the garden within which it is situated but does not feature in the public realm and does not merit retention.*

*If consent were likely to be granted then the amenity value of the trees identified for removal could be relatively easily replicated and improved upon by new tree planting and associated soft landscaping.*

*In this regard the applicant has provided a comprehensive planting scheme, including tree planting that will soften and enhance the appearance of the development.*

*With regard to retained trees the information contained in the AIA adequately demonstrates that the development proposal could be implemented without causing harm to them. The measures set out in the AIA should be fully implemented to ensure that retained trees are physically protected for the duration of the construction phase of any development for which planning permission is granted."*

Following the submission of the amended scheme to reduce the development to 26 dwellings, the following additional comments were provided:

*"The amended layout does not alter the impact of the development proposal on existing trees on the site. The details that have been provided relating to the removal, retention and protection of retained trees is acceptable and shows the retention of important boundary trees.*

*Details of soft landscaping are comprehensive and will lead to an increase in the number of trees on the land."*

Accordingly there are no objections with regards to the impacts to trees.

### **Impact to Biodiversity**

6.33 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. 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. 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.

6.34 Following the most recent consultation, ECC Place Services (Ecology) after having issued a holding objection due to there being insufficient ecological information, sufficient information has been provided and there follows no further objection subject to conditions and RAMS contribution.

### **Financial Contributions - Open Space and RAMS**

## Open Space

- 6.35 Paragraph 55 of the National Planning Policy Framework (2021) states Local Planning Authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Paragraph 57 of the NPPF states planning obligations must only be sought where they are necessary to make the development acceptable in planning terms, directly relate to the development and fairly and reasonably relate in scale and kind to the development.
- 6.36 Section 2 Policy HP5 states that the Council will work with partners and sports providers across the district to maintain, expand and improve the quality and accessibility of public open space, sports and recreational facilities of different types and will aim to achieve and exceed standards set out in the Council's 2017 Open Spaces Strategy or any future update. Financial contributions will also be sought through s106 legal agreements (or an appropriate alternative mechanism) towards ongoing maintenance.
- 6.37 In line with the requirements of Section 2 Policy HP5 the Council's Open Space Team have been consulted on the application to determine if the proposal would generate the requirement for a financial contribution toward public open or play space. The outcome of the consultation is that there is currently a deficit of 1.73 hectares of equipped play in Great Bentley, and a contribution towards play facilities is justified and relevant to this planning application, which would be used towards improvements to the play area at Heckford Road, Great Bentley. A contribution towards improving these facilities in accordance with the Council's Open Space and Play SPD has therefore been recommended alongside the provision on site.
- 6.38 Given the identified deficit in equipped play in Great Bentley, the nature of the housing proposed and its proximity to the site, it is considered that a contribution towards improvements of the play area at Heckford Road, Great Bentley would be necessary to make the development acceptable in planning terms. The contribution would relate fairly and reasonably in scale and kind to the development proposed, and the statutory tests under Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended) would therefore be met. A completed unilateral undertaking to secure the above-mentioned planning obligation has not been provided and the application is therefore contrary to the above-mentioned policies .

## Habitat Regulations Assessment

- 6.39 Under the Habitats Regulations, a development which is likely to have a significant effect or an adverse effect (alone or in combination) on a European designated site must provide mitigation or otherwise must satisfy the tests of demonstrating 'no alternatives' and 'reasons of overriding public interest'. There is no precedent for a residential development meeting those tests, which means that all residential development must provide mitigation.
- 6.40 The application scheme proposes a residential on a site that lies within the Zone of Influence (Zoi) being approximately 4.3km away from Colne Estuary Ramsar site and Special Protection Area. New housing development within the Zoi would be likely to increase the number of recreational visitors to these sites and in combination with other developments it is likely that the proposal would have significant effects on the designated site. Mitigation measures must therefore be secured prior to occupation and are recommended.

## **Other Legal Requirements**

- 6.41 With regards to Affordable Housing, it is acknowledged that Adopted Policy LP5 states that developments involving the creation of 11 or more (net) homes will be required to make a contribution towards Affordable Housing. There is therefore a requirement to deliver affordable housing on site or to make an off-site financial contribution in lieu of affordable housing.
- 6.42 The application submission confirms that a total of eight dwellings are to be provided as affordable housing, seven of which are two bedrooms and one being three bedrooms. This represents 30.76%

of the total 26 dwellings and therefore accords with the requirements of Policy LP5. The Council's Housing Team have confirmed the mix of dwellings proposed is acceptable and raised no objections.

6.43 The NHS have not requested any contributions. Essex County Council (Education) have been consulted and have requested £318,453.14 towards Education, the breakdown of which is as follows:

Early Years & Child Care, primary and secondary education and libraries:

- EY&C: Contribution of £34,191 @ £17,268 / place - Index Linked to Q1 2020
- Primary Education: Contribution of £113,969 @ £17,268 / place - Index Linked to Q1 2020
- School Transport: Contribution of £167,881.34 - Index Linked to Q1 2020
- Libraries: 31 units x £77.80 / unit - Contribution of £2,411.80

\*\*\*Figures based on 31 dwellings, ECC were re-consulted 12th July and will need to be adjusted to 26 units\*\*\*

## **Drainage**

6.44 Paragraph 174 of the Framework states that planning policies and decisions should contribute to and enhance the natural and local environment by preventing new development from contributing to unacceptable levels of water pollution. Furthermore, Paragraph 185 of the Framework states that planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects of pollution on the natural environment.

6.45 Policy PPL5 of Section 2 of the adopted Local Plan states that all new development must make adequate provision for drainage and sewerage. Private sewage treatment facilities will not be permitted if there is an accessible public foul sewer. Where private sewage treatment facilities are the only practical option for sewage disposal, they will only be permitted where there would be no harm to the environment, having regard to preventing pollution of groundwater and any watercourses and odour.

6.46 The agent for the application has confirmed on the application form that the development would be connected to the existing public foul sewer. This is in accordance with the above policy requirements and is therefore considered to be acceptable in the event of an approval.

## **7. Conclusion**

7.1 The application site is located within the Settlement Development Boundary for Great Bentley, and as such the principle of development in this location is acceptable. There are no objections to the site layout or the design of the proposed dwellings, and Essex Highways Authority offer no objections.

7.2 However, concerns are raised with regards to the impacts of the development to the existing amenities of plots to the north-east of the site, given the close proximity, but not considered sufficient to warrant refusal.

7.3 The scheme provides public benefits that are considered to outweigh the harm to the Conservation Area and in the planning balance with consideration of that heritage harm alongside all other material considerations the proposal is considered to be supportable.

## **8. Recommendation**

8.1 As section 1.1

8.2 Conditions and Reasons

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

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

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

Drawings to be agreed on release of decision

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

3. Prior to the commencement of development, 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 include:

- i. the parking of vehicles of site operatives and visitors
- ii. loading and unloading of plant and materials
- iii. storage of plant and materials used in constructing the development
- iv. wheel and underbody washing facilities
- v. prior to the commencement of any work on the site, a joint inspection of the route to be used by construction vehicles should be carried out by the Applicant and the Highway Authority, including photographic evidence.
- vi. noise control
- vii. emission control
- viii. dust control
- ix. working hours

Reason - To ensure that parking on the highway 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 to ensure that construction does not lead to excess water being discharged from the site or the environment is adversely affected.

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

Reason: In the interests of residential amenity

5. Prior to occupation of the development, the road junction / access at its centre line with Michael Wright Way shall be provided with a minimum clear to ground visibility splay with dimensions of 2.4 metres by 33 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.

6. No unbound material shall be used in the surface treatment of the private drives throughout.

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



7. Prior to the occupation of any of the proposed dwellings the internal road layout shall be provided in principle and accord with Drawing Number (Drawing No to be agreed on release of decision), Proposed site layout plan.

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

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

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

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

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

10. Any vehicular hardstanding shall have minimum dimensions of 2.9 metres x 5.5 metres for each individual parking space, while each tandem vehicular parking space shall have minimum dimensions of 2.9 metres x 11 metres to accommodate two vehicles, retained in perpetuity.

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

11. Prior to occupation of the proposed dwelling, the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack for sustainable transport, approved by the Local Planning Authority in writing, to include six one day travel vouchers for use with the relevant local public transport operator free of charge.

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

12. Notwithstanding the details submitted with this application, no development shall commence other than that required to carry out additional necessary investigation which in this case includes demolition, site clearance, removal of underground tanks and old structures until an investigation and risk assessment has been submitted to and approved in writing by the local planning authority. The risk assessment shall assess the nature and extent of any contamination on the site, whether or not it originates on the site. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced.

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

13. Prior to the construction above damp proof course, a scheme for on-site foul water drainage works, including connection point and discharge rate, shall be submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of ensuring suitable drainage.

14. 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: To secure archaeological works required.

15. Notwithstanding Section 55 (2)(a)(ii) of the Town and Country Planning Act 1990 as amended and the provisions of the Town and Country Planning (General Permitted Development) Order 2015, (or any Order revoking and re-enacting that Order with or without modification):- - no enlargement, improvement, insertion of new openings or other alteration of the dwelling house(s) shall be carried out, except pursuant to the grant of planning permission on an application made in that regard.

Reason: To enable the Local Planning Authority to retain control over the development in the interests of the amenity of the locality and to safeguard local distinctiveness.

16. All changes in ground levels, soft/hard landscaping shown on the approved landscaping details shall be carried out in full during the first planting and seeding season (October - March inclusive) following the commencement of the development, or in such other phased arrangement as may be approved, in writing, by the Local Planning Authority up to the first use/first occupation of the development. Any trees, hedges, shrubs or turf identified within the approved landscaping details (both proposed planting and existing) which die, are removed, seriously damaged or seriously diseased, within a period of 10 years of being planted, or in the case of existing planting within a period of 5 years from the commencement of development, shall be replaced in the next planting season with others of similar size and same species unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the approved landscaping scheme has sufficient time to establish, in the interests of visual amenity and the character and appearance of the area.

### 8.3 Informatives

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

2: 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](mailto:development.management@essexhighways.org)

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

4: The internal road layout of the existing development is subject to a 20mph Zone and is designed with appropriate traffic calming features accordingly at regular intervals to ensure drivers adhere to the speed limit, these measures may need to be incorporated within this development.

5: The area(s) directly adjacent to the carriageway(s) in which the trees are to be planted should not be less than 3 metres wide, exclusive of the footway and the trunks of the trees should be no nearer than 2 metres to the channel line of the road. The same dimensions should be used in situations where the footway is located adjacent to the carriageway. In paved areas, whether or not the planted areas are to be adopted highway, trees should be sited no closer than 2 metres to the defined (or undefined) edge of the carriageway. Where the adopted highway is to be an independent path, trees should be planted no closer than 1 metre from the edge of the highway. In all cases, trees should be provided with root barriers to prevent damage to underground services.

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

#### Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and discussing those with the Applicant. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm which has been clearly identified within the reason(s) for the refusal, approval has not been possible.

## 9. **Additional Considerations**

### Public Sector Equality Duty (PSED)

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

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

### Human Rights

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

### Finance Implications

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

## **10. Background Papers**

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

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