



## PLANNING COMMITTEE

**DATE:** Tuesday, 25 October 2022

**TIME:** 6.00 pm

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

**MEMBERSHIP:**

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

Councillor V Guglielmi  
Councillor Harris  
Councillor Placey  
Councillor Wiggins

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DATE OF PUBLICATION: Monday, 17 October 2022

## AGENDA

### **1 Apologies for Absence and Substitutions**

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

### **2 Minutes of the Meetings of the Committee held on 22 and 27 September 2022** **(Pages 1 - 36)**

To confirm and sign as correct records, the minutes of the meetings of the Committee, held on 22 and 27 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 - 22/01083/FUL - 618 MAIN ROAD UPPER DOVERCOURT CO12 4LS** (Pages 37 - 52)

The application has returned to Committee after being deferred from the 2<sup>nd</sup> August Committee to allow the applicant time to undertake and submit a noise impact assessment and noise management plan for the premises.

### **6 A.2 PLANNING APPLICATION - 22/01088/FUL - 71 LONG ROAD LAWFORD MANNINGTREE ESSEX CO11 2HR** (Pages 53 - 62)

The application is before the Planning Committee following a joint call-in request from Councillor Giancarlo Guglielmi and Councillor Alan Coley due to concerns raised in respect of the impact of the proposal on residential amenities.

### **7 A.3 PLANNING APPLICATION - 22/01041/FUL - LAND TO REAR OF THREE ELMS HARTS LANE ARDLEIGH CO7 7QH** (Pages 63 - 78)

The application is 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) being located outside of any defined settlement development boundary, and has a recommendation of approval.

### **8 A.4 - Petition: Alleged Planning Enforcement matter at Nelson Road, Clacton-on-Sea** (Pages 79 - 84)

To formally report the receipt of a petition submitted in relation to an alleged Planning Enforcement Matter in Nelson Road, Clacton-on-Sea.

### **Date of the Next Scheduled Meeting**

*The next scheduled meeting of the Planning Committee is to be held in the Committee Room - Town Hall, Station Road, Clacton-on-Sea, CO15 1SE at 6.00 pm on Thursday, 24 November 2022.*

## **Information for Visitors**

### **FIRE EVACUATION PROCEDURE**

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Your calmness and assistance is greatly appreciated.

**MINUTES OF THE MEETING OF THE PLANNING COMMITTEE,  
HELD ON THURSDAY, 22ND 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), Fowler (Vice-Chairman), Alexander, Baker, Codling, V Guglielmi, Harris and Placey
<b>Also Present:</b>	Councillor Newton
<b>In Attendance:</b>	Gary Guiver (Acting Director, Planning), Graham Nourse (Assistant Director, Planning), Joanne Fisher (Planning Solicitor), John Pateman-Gee (Planning Manager), Jacob Jaarsma (Planning Team Leader), Emma Haward (Leadership Support Officer), Keith Durran (Democratic Services Officer), Mark Wilson (Development Technician), and Chris Stoneham (ECC Highways).

**40. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

Apologies were received from Councillor Wiggins, with no substitution.

**41. DECLARATIONS OF INTEREST**

Councillor V Guglielmi declared a personal interest in **Planning Application A.1 20/00594/FUL – LAND ADJOINING IPSWICH ROAD AND WICK LANE ARDLEIGH CO7 7QL** due to knowing the tenant farmer of site of the application. She stated that she was not pre-determined and that she would therefore participate in the Committee’s deliberations and decision making for this application.

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

There were none on this occasion.

**43. REPORT OF ASSISTANT DIRECTOR (PLANNING) - A.1 - PLANNING APPLICATION – 20/00594/FUL – LAND ADJOINING IPSWICH ROAD AND WICK LANE, ARDLEIGH, CO7 7QL**

Councillor V Guglielmi had earlier declared a personal interest in respect of this planning application for the reasons set out in Minute 41 above.

It was reported that this application proposed a large warehouse to be used as a food storage and distribution facility, with a height of between 16-20m, and a depth of up to 170m set in an extensive area of proposed hard standing. New access arrangements were proposed from Old Ipswich Road, Ardleigh including car parking as well as a large vehicle yard to the rear (south-east of the

proposed warehouse building) with facilities for vehicle washing and re-fuelling. The proposal also included provision for a large attenuation pond for managing surface water flows.

The Committee was informed that a clear policy conflict had been identified in terms of the landscape harm, and the harmful impact of the 'in depth' part of the warehouse and HGV hardstanding area on the character and appearance of Wick Lane, Ardleigh and the immediate hinterland to the east of the site, as well as the impact of the large warehouse on residential amenity by way of light pollution and being overbearing in nature to nearby residents, especially those residents to the north west and east of the site. Those harmful elements weighed significantly against the development proposal. The proposal would also result in the loss of agricultural land and as a result there was a conflict with Paragraph 174 a) of the National Planning Policy Framework 2021 ('the Framework').

Against this harm the benefits to the local and wider economy, the benefits to the food distribution sector in particular, and direct and indirect job retention/creation would be substantial, and very significant weight had been attributed to those benefits by Officers.

Members were advised that all other material planning considerations had been taken into account and where relevant, where harm arose, those could be mitigated against by way of planning conditions or Section 106 obligations, so therefore all those elements were neutral in terms of 'planning balance'.

The Committee was made aware that, ultimately, the weight given to the substantial benefits, as outlined in the written report, was considered by Officers to very marginally outweigh the significant weight given to the landscape and character harm, as well as the identified harm to residential amenity. For those reasons, it was recommended by Officers that planning permission be granted, subject to the completed Section 106 legal agreement and the conditions as recommended in the Officer report.

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

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

An update sheet had been circulated to the Committee prior to the meeting with details of Ardleigh Parish Council's submission of their Regulation 14 Pre-Submission draft Neighbourhood Plan, a further letter of objection and the detailed responses of Officers thereto.

Ben Norton, the agent acting on behalf of the applicant, spoke in support of the application.

Jonathan Waters, a local resident, spoke against the application.

Nikki O'Hagan, representing Ardleigh Parish Council, spoke against the application.

<b>Matters raised by Members of the Committee:-</b>	<b>Officer's response thereto:-</b>
<p>A member of the Committee raised the lack of information in the report regarding the refuelling area, and asked why had ECFRS not been consulted.</p>	<p>The Planning Officer referred members of the Committee to pages 64-65 pages of the report referring to refuelling – it was proposed to be covered under a canopy to minimise the risk of pollution on the eastern section of hard-standing. Consultation had been undertaken with Environment Agency, and they had confirmed that they had no objections.</p>
<p>No response was received from Anglian Water or Ardleigh Reservoir, were these chased up?</p>	<p>Planning Officers had followed up consultations with Ardleigh reservoir operators. They were aware of the application and had engaged with the proposal, although no formal response was received. Officers understand that Anglian Water assets is in a location underneath the site, Anglian Water was consulted on the application on at least two occasions. The applicant would have to consult/engage with Anglian Water to obtain the necessary consent from them as the owners (of those assets) to build on or over those assets.</p>
<p>A comment was made that a local farmer's water pipe was fitted 3 years ago across the site, also if the Committee were to approve the application, could they enforce the condition that a formal response is required from Anglian Water.</p>	<p>If the Committee were to approve, the applicant would be required to obtain consent from Anglian Water. In terms of whether that is material to this Planning application, members were advised that it would not be reasonable to withhold a decision on this application on this basis.</p>
<p>A member of the Committee asked for clarification relating to the number of jobs.</p>	<p>The Planning Officer confirmed that the information provided stated 348 new jobs as part of the application and explained that the officers' position on job creation and weight applied is set out in the relevant section of the committee report</p>
<p>Were there plans for electric vehicle charging points?</p>	<p>The proposal included provision for Electric Vehicle charging points. In terms of HGV charging points, these were not included in the application but details of that could be</p>

	included as part of a slighted amended condition if members so wish and depending on the debate to follow.
A member of the Committee raised concerns regarding the height of the proposed warehouse. Was there anything that could be done to reduce the size of the building? A question was also raised in respect the heritage impact.	The original proposals as first submitted were larger and the site area, scale and nature of the proposals had been significantly reduced compared to the original submission. The Planning Officer referred to paragraph 6.5-6.9 of the report where a clear policy conflict in terms of landscape harm was identified. Planning Services had consulted with ECC Heritage, and identified low levels of heritage harm as set out in the report, this harm is weighed against the public benefits as set out in the relevant section of the report.
It was raised by a member of the Committee concerns relating to sustainable transport to and from the site.	There were clear locational infrastructure shortfalls in terms of public transport to and from the site. The proposal included mitigation to include a minibus service to and from Colchester. The proposal did not specifically include or extend a cycle-path to the site but Section 6.53 of the report was referred to whereby the proposal included a £15,000 financial contribution for cycle improvement measures between the development site and Colchester Business Park.
What did ECC Highways say about the safety and access of the site considering the increase of HGV's. Will the roads be resurfaced and improved?	ECC Highways had recommended a number of conditions, in particular, a Stage 1 Road Safety Audit to be undertaken, incorporated in the recommended conditions. A further safety audit was to be undertaken before construction. ECC Highways had confirmed that there were no recorded accidents in the previous 3 years on the roads immediately to the west of the site. Subject to approval, the road safety audit would decide on whether the road needed to be resurfaced.
Could Planning Officers confirm that they had examined alternative sites within the District? Were they satisfied that this sequential test had been examined?	Members were referred to the relevant section and paragraphs in the committee report and update sheet, but in summary it was explained that the applicant had considered alternative allocated sites in the district of Tendring for employment uses, the reasons for taking this position is



	<p>substantially covered in the report. Planning Services were satisfied that the requirement within the policy to look at alternative sites had been met. No alternatives were deemed adequate for the reasons outlined in the report.</p>
<p>What mitigation measures were in place to shroud the building in terms of landscaping and trees?</p>	<p>The report highlighted policy conflict in terms of landscape harm and significant addition tree planting is proposed, the report also made clear that due to the height, additional screening and planting will be placed. Planning Services had consulted with the Council's Tree Officer at length.</p>
<p>What were the potential economic benefits to the District?</p>	<p>Economic benefits were set out in section 6.45-6.50 of the report. It was the Committee's decision as to how much weight was given in terms of the economic benefits.</p>
<p>Was there the facility for wheel washing and where was it located?</p>	<p>A condition had been noted in the recommendations for a wheel-washing facility. Part 6.172 of the report covered surface-water drainage proposals to mitigate against the considerable increases in permeable materials. The Environment Agency had raised no objections.</p>
<p>Part 6.381 of the report refers to the reduction in speed limit and parking restrictions – if those cannot be implemented subject to separate regimes of approval/refusal, does planning permission fail?</p>	<p>If those two schemes cannot be implemented, the proposal would not be suitable in highways safety terms and the permission will be un-implementable.</p>
<p>The Local Plan was submitted in 2017 and approved in 2021-2022, the applicant would have had to build the proposal before 2020. Were other sites put forward by the application to be included in the Local Plan before adoption/determination.</p>	<p>Representations were made between 2016-2017, no specific representations were made by the Applicant.</p>
<p>Old Ipswich Road – would red lines be added to avoid parking on the road?</p>	<p>It was a condition recommended by Highways that waiting restrictions were added.</p>
<p>Would the road be a part of the construction site?</p>	<p>(Highways Officer) The road was classed as a priority route, the design of the access has had modifications to curbs to the exit of the site to facilitate turning vehicles.</p>

<p>Concerns were raised regarding the end of extraction on the adjacent quarry site and the impact of this proposal on the proposed Open Space. What weight could be given to permissions on the adjacent land?</p>	<p>Weight could be given to the potential impact on the adjacent site where open space is proposed, referenced in section 6.95 of the report.</p>
<p>The hedge was thin to the east of the site, what arrangements were being mitigated around lighting?</p>	<p>A 24hr operation was proposed, the report stated that there was harm to the residential amenity. Additional tree planting is proposed around the proposed attenuation basin.</p>

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

the following conditions (and reasons) and the prior completion of a Section 106 legal agreement with the agreed Heads of Terms as set out in section 1 of the Officer Report, as well as the following amendments to recommended conditions:

- Electric car and truck points to condition
- Need Condition 18 to refer to wheel washing for both construction and for any ongoing operational requirement.
- Condition colour and cladding of building

Note to detail expectations and ensure sufficiently robust trees will form the landscape scheme.

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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 drawings/documents listed 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 subsequently be approved in writing by the Local Planning Authority as a non-material amendment following an application in that regard. 2748\_150A – Site Layout

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Red Line Drawing 2748\_050 – Location Block Plan 2748\_100C – Site Layout 2748\_002J – Layout Plan 2748\_100E – Roof Plan 2748\_200 – Elevations of Building 2748\_300 – Sketch Sections and Axonometric TPSarb1140120 TPP Rev C – Tree Protection Plan IT2114\_TA\_102 – Visibility Splays

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

3. The development shall be carried out in full accordance with enhancement measures and details contained in Amended Preliminary Ecological Appraisal (Iceni Ecology, April 2022). This includes 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).

4. Prior to the commencement of works of the development hereby approved, a Construction Environmental Management Plan (CEMP for Biodiversity) shall have first been submitted to and approved in writing by the local planning authority. The CEMP for 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 CEMP for Biodiversity shall be adhered to and implemented throughout the construction period in accordance with the details as may have been approved.

Reason: A pre-commencement condition is necessary to ensure risk assessments and other practical measures are implemented prior to demolition and construction works and in order to conserve protected and Priority species.

5. Prior to above ground works of the development hereby approved, a Biodiversity Enhancement Strategy (BES) for Protected and Priority species

shall first been submitted to and approved in writing by the local planning authority. The BES 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).
- Thereafter the development shall proceed in accordance with the details as may have been approved. The approved biodiversity enhancement measures shall be retained for the lifetime of the development.

Reason: In order to conserve protected and Priority species and secure a net gain in biodiversity.

6. The development hereby approved shall not be brought into first use until a lighting design scheme shall be submitted to and approved in writing by the local planning authority. The lighting design scheme shall include the following:

- identify those features on site that are particularly sensitive for bats and that are likely to cause disturbance along important routes used for foraging;
- 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 as well as to minimise the impact of light spillage and luminance on nearby residents. 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. No other lighting except as may be approved by this condition shall be installed on the site.

Reason: In the interest of residential amenity and 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).

7. The development hereby approved shall not be brought into first use until the following have been provided or completed in full: a) A priority junction off Old Ipswich Road to provide access to the proposed site as shown in principle on the amended viability and access plan drawing number: IT2114\_TA\_03. a) Carriageway measuring no less than 9m in width for the first 30 metres. b) Kerb radii measuring a maximum or no more than 15 metres. c) A straight section of carriageway to be provided from the entrance junction for 30 metres. d) 2-metre-wide footway on both sides of the junction and continued around the kerb radii and appropriate pedestrian crossing facilities (drop kerbs/ tactile paving).

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

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

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

9. The development hereby approved shall not be brought into use until the road junction / access at its centre line shall be provided with minimum clear to ground visibility splay with dimensions of 2.4m x 160m to the north of the access junction 2.4m x 110m to the south of the access junction, 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 be retained thereafter free of obstruction above 600mm and below 2 metres at all times. In addition, the development site boundary fence/wall/vegetation should be located outside of the visibility splays.

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.

10. The development hereby approved shall not be brought into use until the Wick Lane junction at its centre line shall be provided with a clear to ground visibility splay with dimensions of 2.4m x 98m in both directions, in accordance with drawing no. IT2114\_TA\_05, as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the development becomes operational 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.

11. The existing access at Total Roofing Supplies north of Wick Lane which is located adjacent to the car park shall hereby approved shall be suitably and permanently closed incorporating the reinstatement to full height of the highway verge / kerbing prior to the new access into the site is brought into first beneficial use.

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

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

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

13. The Cycle / Powered Two-wheeler parking shall be provided in accordance with the EPOA Parking Standards. The approved facility shall be secure, convenient, covered and provided prior to occupation and retained at all times.

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

14. The development hereby approved shall not be brought into first use until a Workplace Travel Plan shall first have been submitted to and approved in writing by the local planning authority. The Workplace Travel Plan shall as a minimum include:

- The identification of targets for trip reduction and modal Shift
- The methods employed to meet these targets
- The mechanisms for monitoring and review • The mechanisms and review
- The penalties to be applied in the event that targets are not met
- The mechanisms for mitigation
- Implementation of the travel plan to an agreed timescale or timetable and its operation thereafter
- Mechanisms to secure variations to the Travel plan following monitoring and reviews The Workplace Travel Plan as may have been approved shall be actively implemented for a minimum period of 5 years following first use.

Reason: In order to promote sustainable transport.

15. Prior to commencement of work of the development hereby approved, full design details relating to the required improvements to the A12 Junction 29, to include a scheme for traffic signals shown in outline on Intermodal Transportation drawing no IT2214/TA/04 titled Proposed Roundabout improvement, Ardleigh Depot for the Flying Trade Group PLC dated Jan 2021, shall have first been submitted to and approved by the local planning authority. Scheme details shall include drawings and Documents showing:

- i. How the improvement interfaces with the existing highway alignment and carriageway markings including lane destinations

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- ii. Full construction details relating to the highway improvement. This should include any modifications to existing structures or proposed structures with supporting analysis.
  - iii. Full Signing and Lighting details
  - iv. Confirmation of compliance with Departmental standards (DMRB) and policies (or approved relaxations/departures from standards)
  - v. Evidence that the scheme is fully deliverable within land in the control of either the applicant or the Highway Authority.
  - vi. An independent Stage 2 Road Safety Audit (taking account of and stage 1 Road Safety Audit recommendations carried out in accordance with Departmental Standards (DMRB) and Advice Notes.
  - vii. A construction Management plan detailing how construction traffic will be managed. The approved scheme shall thereafter be implemented and completed in full to the satisfaction of the Local Planning Authority in consultation with the Highways Authorities and the development approved by this planning permission shall not be brought into use until all the approved junction improvements have been delivered and are fully operational.

Reason: The design details is required prior to commencement of development so as to ensure the relevant authorities that the A12 and A120 trunk roads continue to serve their purpose as a part of a national system for through traffic in accordance with Section 10 of the Highways Act 1980, and to mitigate against the development and to satisfy the reasonable requirements of road safety.

16. The development hereby approved shall not be brought into use until a Highways Act 1980 agreement for the delivery of the works specified conditions 7 and 15 above has been completed in full.

Reason: To ensure suitable and safe access to the development in the interests of highway safety

17. The total floor areas of the development hereby approved shall not exceed at any time: Use Class E(g) i (Office) - Office space: 1,300 SQM Use Class B8 (Storage and Distribution) - Warehouse for storage and distribution 16,188 SQM

Reason: To ensure the approved development is controlled, for the avoidance of doubt and in the interests of proper planning.

18. Prior to the commencement of works of the development hereby approved, precise details of the locations and type of wheel washing facilities to be provided and road cleansing measures shall have first been submitted to and approved in writing by the local planning authority. Thereafter, wheel washing and road cleansing shall take place in accordance with the details as may have been approved for the duration of construction.

Reason: In the interests of highway safety.

19. No development above slab level shall commence until a scheme for the installation of solar photovoltaic panels and electric vehicle charging points shall have first been submitted to and approved in writing by the local planning authority. Thereafter the scheme shall have been implemented prior to first use and retained for the lifetime of the development.

Reason: In order to secure renewable energy generation and promote sustainable transport, and contribute towards addressing the climate change implications of the development.

20. Prior to the commencement of works of the development hereby approved a Construction Method Statement and Construction Environmental Management Plan, covering all the construction phases of development shall be submitted to and approved in writing by the Local Planning Authority. The approved statement and plan as may be approved shall be adhered to throughout the construction period within each part or phase of development. The statement and plan shall provide for:

- i. Measures to avoid impacts upon relevant ecological receptors, including breeding
- ii. birds and retained hedgerows;
- iii. A soil handling and storage method statement informed by the Defra Construction
- iv. Code of Practice for the Sustainable Use of Soils on Construction Sites;
- v. Signage (types and location) for directing construction traffic;
- vi. The enclosure of the site;
- vii. The parking of site operatives and visitors vehicles;
- viii. Loading and unloading of plant and materials;
- ix. Management of construction traffic and access/haul routes;
- x. Storage of plant and materials used in constructing the development;
- xi. Method of cleaning wheels and chassis of all HGV's, plant and delivery vehicles
- xii. leaving the site and the means of keeping the site access road and adjacent public
- xiii. highway clear of mud and debris during site preparation and construction;
- xiv. Construction site lighting; A scheme, detailing temporary surface water drainage generated during construction; A scheme for the control of construction site noise;
- XIII. Details for construction and excavation waste management/ removal;
- xv. A dust management plan (developed in accordance with EPUK IAQM guidance and including site-specific dust mitigation measures including provision for the suppression of dust generated by vehicles on roads, haul routes and circulation areas within the site in dry weather conditions);
- xvi. Incident logging and reporting procedures.

Reason: A pre-commencement condition is required in the interests of highway safety, amenity and to contribute towards a reduction in emissions in accordance with air quality objectives.



21. No piling work shall take place within any area of the site until a scheme detailing the piling methodology has been submitted to and approved in writing by the Local Planning Authority. In addition to the method of piling proposed the scheme shall include the proposed hours of work and prediction of the impact of noise and likely levels of ground borne vibration at the nearest noise sensitive occupiers. The approved scheme shall be implemented throughout the duration of any piling work.

Reason: In the interest of residential amenity

22. Construction work shall not take place on Sundays or Bank Holidays nor at any other time except between the hours of 0730 and 1800 Monday to Friday and 0800 and 1300 on Saturdays. No vehicle associated with the construction phase(s) of the development shall be permitted to arrive, depart, be loaded or unloaded outside 07.00 and 18.30 hours on Monday to Friday, 07.30 and 13.30 on Saturdays nor at any time on Sundays or Bank Holidays.

Reason: In the interest of highway safety and residential amenity

23. The development shall only be carried out in full accordance with the tree protection measures set out in the Arboricultural Impact Assessment and Preliminary Method Statements (tree protection section) by Tree Planning Solutions. Development shall not commence until the tree protection fencing shown in the above report by Tree Planning Solutions has been fully erected and the Local Planning Authority has been notified in writing of the erection of the Tree Protection Fencing and its full implementation/installation in accordance with the approved plans. The tree protection fencing shall be retained for the duration of the construction period and no works shall take place and nothing shall be stored within the area enclosed by the Tree Protection Fencing until construction works have ceased.

Reason: A pre-commencement condition is required to ensure trees are protected during the construction period, in the interests of visual amenity, and to safeguard the ecological value provided by the trees on the site.

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

b). No development or preliminary groundworks of any kind shall take place until the completion of the programme of archaeological evaluation identified in the WSI defined in Part a, and confirmed by the Local Authority archaeological advisors.

c) A mitigation strategy detailing the excavation / preservation strategy shall be submitted to the local planning authority for written approval following the completion of the archaeological evaluation. d) No development or preliminary groundworks can commence on those areas containing archaeological deposits

until the satisfactory completion of fieldwork, as detailed in the mitigation strategy, and which has been approved in writing by the local planning authority.

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

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

25. No development shall commence 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:

- A Demonstration that all storage features can half empty within 24 hours for the 1 in 30 plus 40% climate change critical storm event. In case the half drain down time is more than 24 hours then a demonstration that features are able to accommodate a 1 in 10 year storm events within 24 hours of a 1 in 30 year event plus climate change.
- Provision of a drainage plan which details exceedance and conveyance routes, Finished Floor Levels and proposed ground levels as well as an updated written report summarising the final strategy and highlighting any minor changes to the approved strategy.

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.

26. The development hereby approved shall not be brought into use until an Operational Noise Management Plan has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include protocols for minimising noise from operational activities in all external areas, including the car park areas and the HGV servicing yard. The approved scheme shall be implemented, operated and retained throughout the life of the development.

Reason: In the interests of the amenity of neighbouring occupiers.

27. Prior to above ground works of the development hereby approved, a hard and soft landscaping scheme shall have first been submitted to and agreed in writing by the local planning authority. Thereafter, the hard landscaping shall be implemented in accordance with the details which may have been agreed prior to first occupation. Soft landscaping shall be implemented in accordance with the details which may have been approved in the first planting season following substantial completion of the development. Any species planted becoming diseased or dying within 3 years of planting shall be replaced to the satisfaction of the local planning authority.

Reason: In the interests of visual amenity, biodiversity enhancement and landscape protection.

28. The development hereby approved shall not be brought into use until full details of all boundary treatments, acoustic attenuation features and those landscaping works not covered by conditions 5 and 27 have been submitted to and approved in writing by the Local Planning Authority. The submitted scheme shall include the specification, materials of construction and location of all acoustic measures to be implemented. Notwithstanding the details shown on the approved plans listed under condition 2, no barbed wire topping shall be added to any site fencing. The storage and distribution warehouse hereby approved shall not be brought into use until the approved boundary treatments, acoustic attenuation features and landscaping works have been implemented in full. The approved boundary treatments and acoustic attenuation features shall be maintained whilst ever the development subsists. All site landscaping shall, from its completion, be maintained for a period of at least five years. If, within this period, any tree, shrub or hedge shall die, become diseased or be removed, it shall be replaced with others of similar size and species unless the Local Planning Authority gives written consent to any variation.

Reason: In the interests of visual amenity, landscape character, security and acoustic attenuation.

29. Prior to the commencement of works of the development hereby approved in proximity to any tree to be retained, a tree care plan for retained trees shall have first been submitted to and approved in writing by the local planning authority. Thereafter, trees to be retained shall be protected during construction in accordance with the tree care plan as may have been approved.

Reason: In order to protect retained trees during consideration, in the interests of visual amenity and biodiversity conservation.

30. Prior to cladding of the exterior of buildings hereby approved, precise details of the external cladding and the colour scheme shall have first been submitted to and approved in writing by the local planning authority. Thereafter external cladding and the colour scheme shall be in accordance with the details as may have been approved.

Reason: In the interests of protecting visual amenity and the landscape.

31. Prior to above ground works of the development hereby approved, details of a revised Sustainable urban Drainage System (SuDS) scheme shall have first been submitted to and approved in writing by the local planning authority. The scheme shall include long term maintenance proposals. Thereafter, the revised SuDS scheme as may be have been approved shall be implemented in full and retained in working order for the lifetime of the development.

Reason: In order to prevent the risk of flooding being increased elsewhere.

32. No development shall commence until full details of the package treatment plant and all associated works for the disposal of sewage and foul water have been submitted to and approved in writing by the local Planning Authority. The details shall thereafter be provided on the site to serve the development hereby permitted, in accordance with details that have first been submitted to and approved in writing by the local planning authority.

Reason: To protect the natural environment from groundwater pollution.

33. If during groundworks evidence of potential contamination is encountered, works shall cease, and the site fully assessed to enable an appropriate remediation plan to be developed. Works shall not re-commence until an appropriate remediation scheme has been submitted to, and approved in writing by, the Local Planning Authority and the remediation has been completed. If evidence of potential contamination is encountered and upon completion of the building works, this condition shall not be discharged until a closure report has been submitted to and approved in writing by the Local Planning Authority. The closure report shall include details of;

- a) Details of any sampling and remediation works conducted and quality assurance certificates to show that the works have been carried out in full in accordance with the approved methodology.
- b) Details of any post-remedial sampling and analysis to show the site has reached the required clean-up criteria shall be included in the closure report together with the necessary documentation detailing what waste materials have been removed from the site.
- c) If no contamination has been discovered during the build, then evidence (e.g. photos or letters from site manager) to show that no contamination was discovered should be included.

Reason - To ensure that any risks from land contamination to the future users of the land and neighbouring land are minimised.

34. Prior to the commencement of development, a Renewable Energy Generation Plan (REGP) shall have first been submitted to and approved in writing by the local planning authority. The REGP shall set out the measures that will be incorporated into the design, layout and construction aimed at maximising energy efficiency and the use of renewable energy.

Reason – To ensure the development meets the requirements of policy PPL10.

In addition,

- Electric car and truck points to condition.
- Need Condition 18 to refer to wheel washing for both construction and for any ongoing operational requirement.
- Condition colour and cladding of building.

- Note to detail expectations and ensure sufficiently robust trees will form the landscape scheme.

The meeting was declared closed at Time Not  
Specified

**Chairman**

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# Public Document Pack

Planning Committee

27 September 2022

**MINUTES OF THE MEETING OF THE PLANNING COMMITTEE,  
HELD ON TUESDAY, 27TH 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), Fowler (Vice-Chairman), Alexander, Baker, Codling, V Guglielmi, Harris, Placey and Wiggins
<b>Also Present:</b>	Councillor Lynda McWilliams (Portfolio Holder for Partnerships) and Councillor Michael Bush
<b>In Attendance:</b>	Gary Guiver (Acting Director (Planning)), Graham Nourse (Assistant Director (Planning)), Joanne Fisher (Planning Solicitor), John Pateman-Gee (Planning Manager), Amy Lang (Planning Officer), Hattie Dawson-Dragisic (Performance and Business Support Officer) and Mark Wilson (Development Technician - Technical)

**44. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

There were no apologies for absence or substitutions submitted on this occasion.

**45. MINUTES OF THE LAST MEETING**

It was moved by Councillor Baker, seconded by Councillor Alexander and **RESOLVED** that the minutes of the meeting of the Committee held on 1 September 2022 be approved as a correct record, subject to an amendment to Minute 39 so that item 4 in that minute shall read as follows:

“4. 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 Section 106 Agreement to also include a viability review clause in respect of the affordable housing contribution.”

**46. DECLARATIONS OF INTEREST**

Councillor White declared an interest in **Planning Application A.1 21/02070/FUL** due to his previous connection with the National Grid.

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

There were none on this occasion.

**48. A.1 PLANNING APPLICATION 21-02070-FUL LAND ADJACENT TO LAWFORD GRID SUBSTATION, ARDLEIGH ROAD, LITTLE BROMLEY CO11 2QB**

Councillor White had earlier on in the meeting declared an interest in this application due to his previous connection with the National Grid.

It was reported that, under Part 3 of the Council's Scheme of Delegated Powers, Planning Committee clause (vii) the Assistant Director (Planning) had taken the decision to refer this application to Members due to the wider public interest and given that the proposal was the first of its kind in the Tendring District.

Members were informed that Ardleigh Parish Council and a number of local residents had raised concerns. The majority of those objections related 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. The Committee was made aware that the application related 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 sought 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.

Members were advised that a BESS was 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 were able to provide flexible backup power to the grid at very short notice and respond rapidly to the short-term variations that were related to local and national energy demand and fluctuations in the output from renewable energy sources.

Concerns had been expressed with regard to the proposal's relationship with the East Anglia GREEN project. This was a separate proposal by National Grid Electricity Transmission (National Grid) to reinforce the high voltage power network in East Anglia. That project would 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 lines (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. It was reported that confirmation had been received from National Grid that this development proposal was not associated with the East Anglian GREEN project and was an independent third party applying to build a battery storage facility. This application had been submitted some time ago before the EAG proposals that had been consulted upon had been finalised.

Chapter 14 of the National Planning Policy Framework 2021 (NPPF) directed 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 dealt with Renewable Energy Generation and Energy Efficiency Measures. Battery Storage Systems were identified within paragraph 7.9.3 of the supporting text of Policy PPL10 as one of the supported technologies aimed at maximising energy efficiency. Officers felt that the proposal was therefore acceptable in principle.

Members were advised that Essex County Council Highways Authority were satisfied that, through the imposition of appropriately worded planning conditions the development could be made acceptable in highway terms. Those conditions were 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 would be repaired.

Furthermore, the application had been accompanied by appropriate technical reports including a Landscape Visual Impact Assessment, Noise Risk Assessment, Phase 1 Contaminated Land Report, Arboriculture Impact Assessment, Flood Risk Assessment and an Ecological Assessment, which had satisfactorily addressed the related material considerations.

In relation to the impact on residential amenities, the nearest dwelling is approximately 240 metres away and the development would 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 could be managed through conditions and would be for a limited time only. Temporary disruption during construction was not a justifiable reason for refusal.

Officers were therefore satisfied that the proposal did not warrant refusal and that an acceptable development could be secured using conditions in line with Paragraph 55 of the NPPF.

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

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

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

(1) *One additional objection received and summarised below:*

- *No efforts made to enhance the existing infrastructure or amenities here.*
- *Harm to area character of the area from pylons.*

(2) *Condition 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 movements **and any associated temporary traffic management measures** 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.*

**(3) Additional information**

*Cambridge Power had issued a Members' Briefing Note, circulated via email on 25 September 2022. Copy forwarded to the planning officers from Councillor Ann Wiggins and uploaded to the planning file today (27 September 2022).*

Neil Waterson, acting on behalf of the applicant, spoke in support of the application.

<b>Matters raised by Members of the Committee:-</b>	<b>Officer's response thereto:-</b>
<p>In the Highways latest comments from May 2022 on page 23 it mentions to restrict deliveries between the hours of 9.30am – 3.30pm Mon-Fri and Saturdays 9.30am - Midday will that be amended subject to condition 8 on the update sheet?</p>	<p>Yes the approach with the conditions here is the fact that the HGV movements and strategy submitted with the application was considered unacceptable by the Highway Authority. So we have imposed a full revised condition for the traffic management plan which incorporates</p>

	<p>everything we need, all as one document including delivery and HGV movements. The reason that condition hasn't been imposed directly into the conditions is to maintain that flexibility because if the revised HGV Strategy and routine plan alters the needs of those hours, we can address that as part of the discharge condition. However, as part of that discharge condition Officers would go back and consider all of the original comments of the Highway Authority and make that the timings are incorporated into that new report. We would consult with Highway Authority again to double check that everything is within compliance of their recommendations from the original application.</p>
<p>There will be landscaping around these but how long will it take before we can't see them?</p>	<p>So included in the application is 5 year illustrative plan and then also the fully established planting. *An image of the Illustrative elevations was shown* That would be in excess of the 5 years illustrative plan that has also been included. As mentioned the existing substation, now it is fully established with the planting around that it doesn't have much of an impact. The google street view images allows you to see the landscape better, from the ground it would be very difficult for you to see what is behind that existing planting. So in the future once this is established that will have a very similar impact.</p>
<p>Can you confirm that this project is vital to the energy infrastructure for the residents of Tendring?</p>	<p>It forms part of our adopted local plan and that's in line with NPPF. It is one of the first of its kind in this area so this is definitely something that complies with both national and local plan policy and something that we want to support. It will feed directly into the existing substation and will provide that back up in terms of stress and pressure. As it feed directly in to the existing substation it will have a direct benefit on the local energy supplies.</p>
<p>Is this a part of what will happen when</p>	<p>Yes.</p>

electricity has superseded all fossil fuels?	
Do we know what the batteries are made of?	Unfortunately we cannot answer that.
Are they recyclable?	In terms of recyclable we do not have this information available.
When they reach the end of their lifespan, they will automatically be replaced with other systems is it correct that they are a renewable thing?	Included in the application supporting documents it is clear there will be maintenance vehicles and personnel attending the site as and when to make sure that the batteries are operating as they should. There is a plan in place to ensure that it is maintained and continues to do as it's aimed to do.
Can it be confirmed that this will be in place for 40 years and then the site will be returned to its original state?	Within the design and access statement submitted by the applicant there is a point that mentions that it is intended that the proposed development be temporary and would be in operation for a period of 40 years. Following this the proposed structure would be removed and the application site restored to its currently agricultural use. While we have no problem with that intention from the applicant's point of view, 40 years is a long period of time so from a planning position we are treating this as a permanent application.
Could we ask the applicant the following question: The construction of the battery and its use?	The applicant on this occasion was allowed to answer this question: The batteries are made from Lithium Iron Phosphate. The lifespan is usually 10-15 years, they can run a bit longer but that depends on how they are used.
Is this new technology or has this been established over time?	Batteries are not a new technology, it is integrated components and it has been evolving. I think the use of batteries on a commercial scale with the efficiency needed to act in the way that they are now being proposed (to store electricity) in order to help the stabilisation of network should there be a power cut you have a backup store rather than a generator you have electricity stored in a battery instead. We are satisfied that they help efficiency of current technology and in

	terms of energy efficiency we are looking to support that on that basis.
What plans are in place if one or more of these batteries set fire?	There is a safety note and procedure submitted with the application which talks through all of the training requirements for staff and attendance and what is needed should a fire break out. Firstly there is things in place to avoid that happening and that is all contained within that safety note and report which forms part of the approved documents.

Following discussion by the Committee, it was moved by Councillor Harris, seconded by Councillor Alexander and **RESOLVED** that the Assistant Director (Planning) (or equivalent authorised officer) be authorised to grant planning permission for the development subject to the conditions as set out in Paragraph 8.2 of the related Officer (or as need to be varied in order to account for any errors, legal requirements or the update sheet) and those in addition that may be deemed necessary by the Assistant Director (Planning).

**49. A.2 PLANNING APPLICATION 22-00820-FUL TREESTACKS FARM, OAKLEY ROAD, WIX CO11 2SF**

It was reported that this application had been referred to Planning Committee at the request of Councillor Bush due to his concerns relating to the significant increase to this existing industrial farming facility and the perceived lack of economic benefits to the local economy.

Members were made aware that this application was for an additional three buildings to raise broiler chickens. The site was 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 an agricultural workers' home (temporary permission given for a 3 year period). The highways access had been completed and a significant amount of planting had been undertaken to screen the site from views in the surrounding countryside.

The proposed buildings would be of an identical design to the two currently in situ and would 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.

The Committee was informed that the site was in a rural locality, between the settlements of Wix and Great Oakley, and within the Parish of Wix. Although set within open countryside, the site was at a position which was not prominent in the landscape and the proposals included landscaping mitigation works as well as biodiversity enhancements. The proposal was in planning terms considered by Officers to be an agricultural use within an agricultural area.

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

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

An update sheet had been circulated to the Committee prior to the meeting with details of one additional objection letter received via email from Mr Bob.

Ian Pick, the agent acting on behalf of the applicant, spoke in support of the application.

Councillor Mike Bush, the local Ward Member, spoke against the application.

<b>Matters raised by Members of the Committee:-</b>	<b>Officer’s response thereto:-</b>
Confirm that the economic benefit in terms of employment is just 1 person?	1 extra employee is correct.
Confirm the number of objectors, is it 1 member of the public and an objection from Wix Parish Council?	That would be correct.
Confirm whether in 12 months that this has been operational, that there have been any complaints from Wix Parish Council or members of the public with regards to issues with traffic or HGV?	I can only confirm that we in the Planning Department haven’t received any complaints. That is not confirm there hasn’t been any that may have gone to Environmental Health or Essex County Highways.
Do Highways have any issues with route for straw tractors?	In terms of the Highways comments they have not objected to any part of the additional operation and that would’ve taken into account the flock cycle over the 48 day period. Within that you have the straw and the maintenance upkeep throughout that period. The way these operations work is actually quite well orchestrated in order that we do have sound understanding of the management of HGVs and other vehicles. A normal agricultural operation can be sporadic needs based on crops.
Confirm there have been no environmental agency concerns with this development over last 12 months whilst it has been operational?	We have consulted the environment agency and they have felt no cause to raise concerns in respect of the existing operation and the proposal before us.
Wix Parish Council have mentioned	We are not saying there is a loss

<p>that S106 money or compensation could be used for loss of amenities, is that realistic?</p>	<p>amenity that would warrant that mitigation requirement or a refusal. It is not our advice to you to pursue any requirement of a S106 agreement.</p>
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Following discussion by the Committee, it was moved by Councillor Fowler, seconded by Councillor Alexander and **RESOLVED** that the Assistant Director (Planning) (or equivalent authorised officer) be authorised to grant planning permission for the development, subject to the conditions as set out in Paragraph 8.2 of the related Officer (or as need to be varied in order to account for any errors, legal requirements or the update sheet) and those in addition that may be deemed necessary by the Assistant Director (Planning).

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

It was reported that this site was in a rural locality and within the sustainable settlement of Great Bentley and proposed 26 Dwellings similar in design and layout to adjacent development.

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.

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

Karen Squires, a local resident, spoke against the application.

Parish Councillor Peter Harry, representing Great Bentley Parish Council, spoke against the application.

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

<p><b>Matters raised by Members of the Committee:-</b></p>	<p><b>Officer’s response thereto:-</b></p>
<p>If that change regarding the open space is refused because we think it should stay as open space this application cannot go ahead?</p>	<p>That would be the risk the applicant would take at this time.</p>
<p>Was that from an application that was granted by this Council or was S106 laid down by a Planning Inspector?</p>	<p>To confirm that was Council approval.</p>

<p>Confirmation that, due to apartment block to the south of the site, will those on admiral green estate have site of the village green?</p>	<p>Views are possible but could be restricted to a certain degree.</p>
<p>Is it correct that there is a general presumption in favour of new development, if this committee is mindful to refuse this application what would be the impact on a possible appeal?</p>	<p>That would depend on what reasons you put forward to refuse the item. My advice to you would be that principle of development would be a difficult matter to defend but ultimately you would be looking at actual planning harm as a consequence of the development and what would that be in accordance with your other policies within the Local Plan that do draw out Planning considerations for consideration.</p>
<p>So policy SPL1 managing growth, Great Bentley is described here as a rural service centre. Rural service centres in our plan says some of these villages will accommodate a modest increase in housing where appropriate developments will be of the scale that is proportionate, achievable and sustainable for each of the settlements concerned having regard to the existing size and character of each settlement. Does that meet the test of that statement in our new policy?</p>	<p>Yes, in context of the specific location of this site and the context of the development to the north of it. There are other parts that have been examined not that far away from this site that are more prominent and I would say would fail that particular test because of the impact specifically of the characteristics of the existing village that are more obvious and intrusive. This in my opinion would not be intrusive in that context. In terms of the village itself, if I was at an appeal you would have to weigh up the various infrastructural services that are available within this village including connections in terms of transportation and it would be difficult to say that it could not sustain the growth itself. You would be looking at planning harm if you were to go down the road of a refusal reason.</p>
<p>Are these houses included in the 550 or are they windfall properties?</p>	<p>This is not a site that is specifically allocated for residential development to contribute towards the 550 a year requirement, this would be classed as a windfall development. By virtue of its location within the settlement boundaries there is general presumption in favour of development, subject to meeting other planning considerations.</p>
<p>There was mention of two specific</p>	<p>So part of our assessment in respect of</p>



<p>properties that impact on neighbouring properties. In what way does that impact on the other properties and is that detrimental there enjoyment of their own properties?</p>	<p>impact on existing amenity was to consider how does this development affect existing occupiers and their enjoyment. It was felt that there is a degree of harm in respect of the windows at first floor level you have a bathroom, bedroom, bathroom, bedroom window arrangement for the semi-detached group and in terms of overlooking you have the ability to look out of those windows and look to the side and on that basis you would be able to overlook parts of the gardens of the existing properties to the north so there is a degree of harm there. There is some landscaping in existence and the in the control of those existing residents but it would not entirely remove that potential intrusion in respect of their amenity. However, you are weighting the balance of the development benefits and the degree of harm. Overall we have fallen on the side that it's not as harmful as a single issue to be a warrant defending appeal and warrant refusal.</p>
<p>If they were single storey would that eliminated harm caused?</p>	<p>It would remove the potential for overlooking as long as they are true single storey.</p>
<p>Are there any cycle paths?</p>	<p>There are no cycle paths with regards to the proposed development.</p>
<p>Given recent developments are there any plans for solar panels on these proposals?</p>	<p>Not as a specific proposal before us.</p>
<p>It's a given that all new housing will have electrical charging points for cars?</p>	<p>It was in the design and access statement that they would all have charging points.</p>
<p>Are we confirming that two small trees, that were originally envisaged to be removed, will not be removed? Or is this something we would have to condition if we were mindful to approve?</p>	<p>While the TPO sees no value in them given their size, there is no reason why we can't keep those trees. I suggest we do add a condition to that for avoidance of doubt if you were to approve it.</p>
<p>Is there no possibility that we could get a footpath at least through onto the green so those can get to the train station?</p>	<p>Ultimately there isn't a public right of way existing or that is proposed with this application and essentially in order to create a reasonable route that your considering you would be dealing with</p>

	<p>other land beyond the control of the applicant. It would be subject to other consent required as well. So ultimately that would not be reasonable to require and is not the proposal before you. If we were to resist this proposal on that issue we would be in difficulty as officers to defend that point. Not least that the development close by has the same issue of commuting to the station.</p>
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The Planning Solicitor gave the following advice to the Committee: “We have to rely on reasons for refusal which stand up to scrutiny on Planning merits and we must act reasonably. A part of that includes ensuring that we refuse on grounds that stand up to the Planning merits of the case and that are also supported by evidence. Just to remind Members that unreasonable behaviour can attract cost rewards for the Council.”

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

(1) On appropriate terms as summarised below and those as may be deemed necessary to the satisfaction of the Assistant Director (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%
- Public open space to be secured and managed

(2) That the Assistant Director (Planning) be authorised to grant Planning Permission upon completion of the legal agreement subject to the conditions as stated in Section 8.2 of the related Officer report and stated below (or as need to be varied to account for any errors, legal and necessary updates) and those as may be deemed necessary by the Assistant Director (Planning) and further subject to a condition requiring the two northern dwellings to be of single storey height. If following consultation with the applicants this condition is not accepted then this application will be put before the Committee once more.

(3) 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 or not secured within 6 months that the Assistant Director (Planning) be authorised to refuse the application on appropriate ground at their discretion.

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.

#### 17. Retention of Trees

Notwithstanding the landscape details submitted, all trees shall be retained within the public open space areas except to allow the access drive unless otherwise agreed in writing by the LPA

Reason - In the interests of the environment.

#### 18. Car charging points

All dwellings shall provide a functional car charging point prior to first occupation to serve the interests of the occupier of that dwelling.

Reason – For the avoidance of doubt.

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

It was **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.

### 52. **EXEMPT MINUTE OF THE MEETING HELD ON THURSDAY 1 SEPTEMBER 2022**

It was moved by Councillor Baker, seconded by Councillor Alexander and **RESOLVED** that the exempt minute of the meeting of the Committee held on 1 September 2022 be approved as a correct record subject to an amendment to Minute 39 so that item 4 in that minute shall read as follows:

“4. 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 s106 Agreement to also include a viability review clause in respect of the affordable housing contribution.”

The Meeting was declared closed at 8.58 pm

**Chairman**

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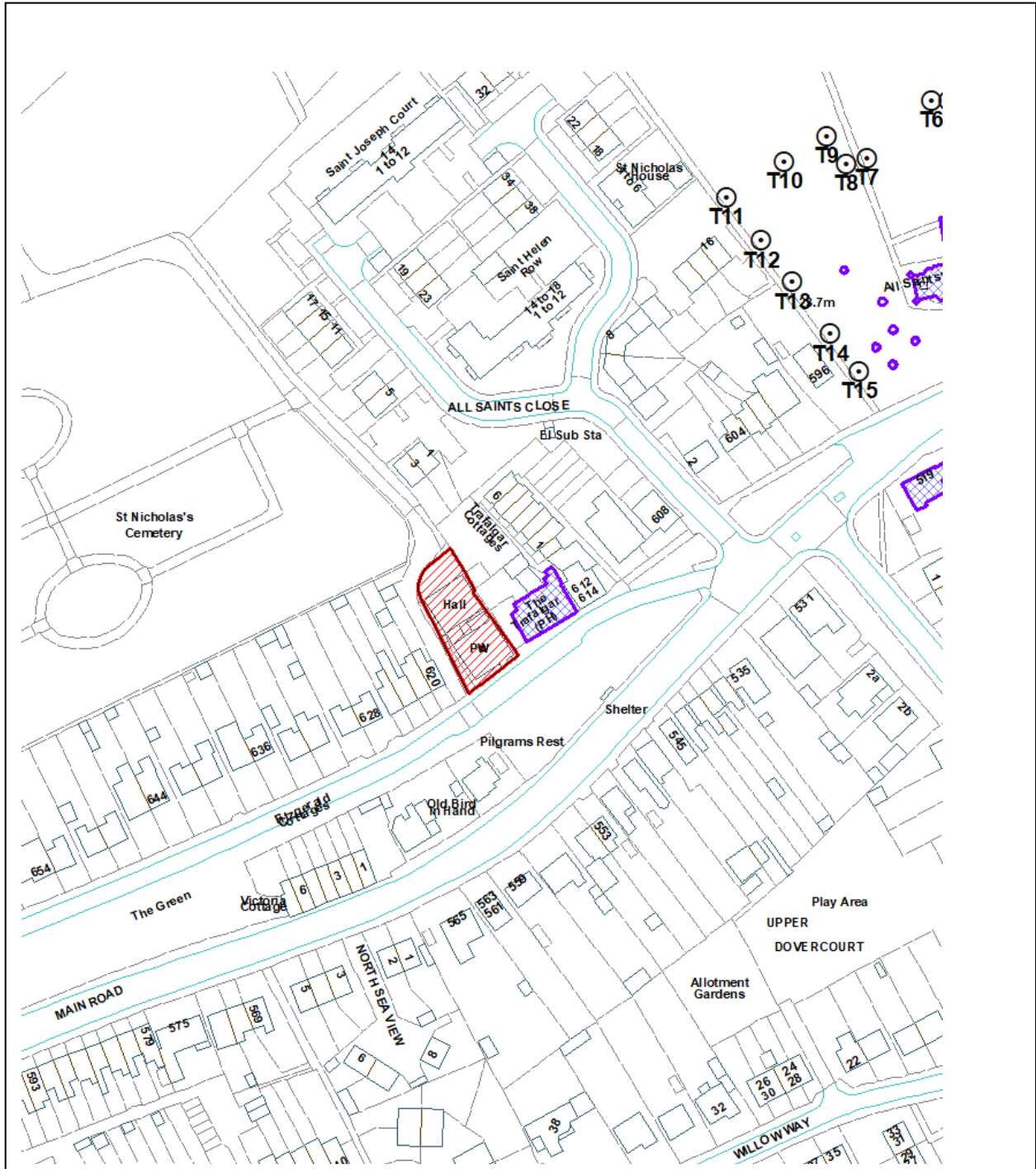


## PLANNING COMMITTEE

Tuesday 25<sup>th</sup> October 2022

### REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING

#### A.1 PLANNING APPLICATION – 22/01083/FUL – 618 MAIN ROAD UPPER DOVERCOURT CO12 4LS



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**Application:** 22/01083/FUL

**Town / Parish:** Harwich Town Council

**Applicant:** Mr Bradleigh Wosko - Harwich Hall Ltd

**Address:** 618 Main Road Upper Dovercourt CO12 4LS

**Development:** Proposed change of use from a disused Methodist chapel to a social club (Sui Generis use) and associated internal and external alterations

## 1. **Executive Summary**

- 1.1 The application has returned to Committee after being deferred from the 2<sup>nd</sup> August Committee to allow the applicant time to undertake and submit a noise impact assessment and noise management plan for the premises.
- 1.2 The submitted report DAA Group, ISSUE 01 dated 10<sup>th</sup> September covers both the noise impact assessment and the noise mismanagement plan. There are no objections to the report or plan subject to conditions to ensure that the noise management plan is adhered to at all times and the recommended mitigation for the plant is undertaken, to minimise the noise and disturbance to neighbouring occupiers. The officer recommendation continues to be approval with the addition of this information and is conditioned.
- 1.3 The proposal is for the change of use of the redundant Methodist Church and Hall (Class F1) to a Members only community social club, comprising of a bar area for darts and pool within the main church building and a community/function events use of the rear hall. The site is located within the settlement development boundary of Harwich and Dovercourt
- 1.4 The application is part retrospective as the majority of the works, mostly internal have been completed. ECC Place Services have no concerns regarding the conversion or its impact on the neighbouring Grade II Listed Public House, The Trafalgar. Given its current use as a Church and function hall, its sustainable location, along with its local community membership use, the proposal is acceptable in regards to Highways and Parking impacts.

### **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\*

\*Or to whom is otherwise delegated after 26<sup>th</sup> October 2022

## 2. **Planning Policy**

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

NPPF 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  
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
- CP1 Sustainable Transport and Accessibility
- HP2 Community Facilities
- PPL9 Listed Buildings

Essex County Council Car Parking Standards - Design and Good Practice

## 2.2 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

3.1 None

## 4. Consultations (Summarised)

ECC Highways Dept 21.07.2022	<p>No new or altered means of access is proposed for the building. Access to the proposal will be from The Green an established local road that runs parallel with Main Road. The North Essex Parking Partnership have intervened previously, installing restrictions to aid travel in/out of the district-controlled crematorium but no recent requests for additional parking restrictions within The Green have been made. <i>Officer note: This is a yellow line no parking zone across the front of the access on both sides of the road.</i></p> <p>It is noted that the site is in close proximity to an existing Pub and two Take-away restaurants none of which appear to have any off-street parking provision. Realistically, there are very few control methods available to deter the practices which may occur, with enforcement at these types of sites which in turn are likely to be restricted to the local road, considering the previous use of the building, the trips generated would be on a par with the proposal and due to its urban location, local residents should be encouraged to walk to the site, therefore there is no objection to the proposal.</p>
Environmental Protection 13.07.2022	<p><u>Noise</u></p> <p>The applicant must need to demonstrate the ability to control noise at/from the premises. This is important during the use of the function hall or during the provision of any amplified sounds/music. The applicant will be required to submit a noise management plan and this is to be agreed with the local planning authority. Noise from such events should not be audible from the façade of any noise sensitive residential premises.</p>

	<p>It is also recommended that the premises is suitably insulated to ensure that there is minimal noise escape during events or during provision of amplified sound/music. This should include that all windows and doors shall remain closed except for access and egress whilst any amplified sound/music takes place.</p> <p><u>Plant</u></p> <p>Any external plant (such as extraction systems and air conditioning units) must be subject to a noise assessment to be carried out by relevantly qualified person in line with BS4142.</p>
<p>Essex County Council Heritage</p>	<p>The application is for a change of building use of the building to a proposed social club.</p> <p>The site is the former Upper Dovercourt Primitive Methodist chapel which was opened in 1866. The original two 19th century chapels were extended in the 1960s with the construction of a Function Hall to the rear and generally most of the original features, particularly the external windows, are now lost. The Chapel has the potential to be considered a non-designated heritage asset for its architectural interest and its social and communal historic interest. The site is also in close proximity to Grade II listed The Trafalgar Public House.</p> <p>There is no objection to a sympathetic conversion of the chapel into commercial use. A change of use of a heritage asset will undoubtedly cause some degree of harm, as such great weight should be given to the heritage asset's conservation.</p> <p>The current proposal is mostly for a general internal refurbishment of the chapel, retaining the two Chapels and the Function Hall as full height open spaces. The proposed openings between the two chapels to allow for the insertion of a central bar, are not considered to affect the legibility and the experience of the original tall open worshipping space.</p> <p>No external alterations have been proposed at this stage which could affect the setting of Grade II Listed The Trafalgar.</p> <p>The proposal is not considered to have a detrimental impact upon the significance of a non-designated heritage asset.</p>
<p>Licensing Section 06.07.2022</p>	<p>The premises holds a valid Club Premises Certificate under the Licensing Act 2003 for the following licensable activities.</p> <p>Supply Alcohol on and off the premises Sunday to Thursday 10:00 23:00 Fridays and Saturdays 10:00 00:00</p> <p>Performance of Dance Monday to Saturday 10:00 23:00 Sunday 10:00 22:00</p> <p>Exhibition of a Film Every Day 10:00 23:00</p> <p>Indoor Sporting Event Sunday to Thursday 10:00 00:30 Fridays and Saturdays 10:00 00:00</p>

	<p>Performance of Live Music Sunday to Thursday 10:00 23:00 Fridays and Saturdays 10:00 00:00</p> <p>Performance of Recorded Music Sunday to Thursday 10:00 23:00 Fridays and Saturdays 10:00 00:00</p> <p>Performance of a Play Every Day 10:00 23:00</p> <p>Provision of Similar Regulated Entertainment Monday to Saturday 10:00 23:00 Sunday 10:00 22:00</p> <p>This was determined by the Licensing Premises / Personal Sub Committee on 8 April 2022.</p>
Weeley Cemetery	<p>The exit from Dovercourt cemetery passes by this building. This isn't ideal for mourners at funerals or for visitors to the cemetery to be passing, although this would be on their way home.</p> <p>If parking becomes more in demand this will also likely impact negatively on the use of the Cemetery.</p> <p>Fences and screens could be in a better condition and restrictions put in place regarding outdoor activities then the impact may not be so great. It is also considered that most activities would be evenings and weekends.</p>
Environmental Protection After submission of noise impact assessment and noise management plan	Noise mitigation measures shall be installed in accordance with the recommendations made in the noise impact assessment submitted with this application

## 5. **Representations (Summarised)**

### Harwich Town Council

- 5.1 Harwich Town Council objects to this application on the grounds of concerns regarding highways issues both involving access on the road, access in and out of the local cemetery and parking, both as business users and residents, in this already congested area.
- 5.2 Concerns also raised regarding the environmental noise nuisance this proposed change of use may bring including public safety and antisocial behaviour fears and the impact on members of the Local Community.
- 5.3 A number of representations have been received following a public consultation which included a site notice posted at the site and neighbour consultation letters sent out to the adjacent properties. These are summarised below:

### Support of the application (26 letters)

- Asset to the Community

- Safe environment to socialise
- Adults only
- Community hub
- Improvement to the appearance of the building
- Accessible facilities
- Opportunity to make new friends
- Community uses to be accommodated in rear hall
- Membership scheme to control number of users
- Good facility at this end of town
- Within walking distance of town
- Facility to play darts and pool competitively for both older and younger generations
- Would not impact on traffic in the area as most people would walk or taxi to the venue
- Alternative safe and peaceful venue to the Trafalgar Pub which has seen a rise in complaints and police visits
- Owners ran the pub next door with no issues
- Owners are great people
- Make up for the loss of venues in the area, White Horse, The Devon, The Royal Oak and The Hannover
- Parking issues no different from its operation as a Church
- Benefit neighbouring business due to passing trade
- High standard of facilities
- Installation of CCTV allays security concerns for neighbouring residents
- Reduce levels of underage drinking, drug use, drink driving and violence due to being an over 18 members only club
- Owners have pre-empted concerns re noise, providing a smoking area and staff are monitoring parking outside

Objections received (6 letters):

Material Planning Considerations

- Location close to residential properties
- Parking issues – narrow area, poor visibility, road barely passable due to inconsiderate parking, driveways blocked
- Busy area with Pub, and a number of takeaways impacting on parking and traffic
- Social club has been operating and already flouting the rules
- Impact on safety of pedestrians in this area
- Noise issues,
- Large groups of people congregating on path outside venue
- Potential for damage to property and cars from users
- Trafalgar Pub has been refurbished and provides a community facility and is registered as a Community Asset
- Difficult for emergency vehicles to access the premises and houses further along Main Road
- Inappropriate use close to the Cemetery, adjacent to road which provides exit from the site
- No information submitted regarding noise mitigation measures
- Use of space for events could see large groups of people arriving and departing at the same time causing disruption to the area

Other matters which are not planning considerations

- Title deeds preventing properties on this side of the road being used for offensive noisy or dangerous trade business pursuit or occupation or no intoxicating liquors shall be sold on the said land or in any building
- Owners of the pub could be blamed for noise and disturbance

- What controls will be in place to prevent any anti-social behaviour

### **Representations received since 2<sup>nd</sup> August 2022 Committee meeting**

5.4 **Officer note:** *All representations are summarised below indicating the main planning considerations raised and other matters. All representations are available to view online should Members wish to read any representations in full. Any representations received after 14<sup>th</sup> October will be summarised on the Committee update sheet which is circulated to members on the day of Committee. All additional representations will be available to view online before the Committee date of 25<sup>th</sup> October 2022.*

#### Support of the application (7 Letters)

- Support the change of use from Methodist Church into a Social Club
- Beneficial for the community to be in a safe environment being members only
- Community benefit
- Need something social up this end of town to go with friends and family
- Good to see an unused building being actively used and supported
- be a membership club so will feel safer than going alone into a pub
- Support local business

#### Objections received (2 letters)

- Concerns raised that despite the noise management survey the measures are not sufficient to prevent noise nuisance arising from persons undertaking activities on the premises, either outside of the buildings or within the function hall.
- The closest residential receptor is not 10 metres as stated in the report but 3 metres.
- There are no controls to prevent people from being noisy and disruptive during permitted opening hours
- Parking concerns in this busy area
- Noise generation in the evening in this residential area.
- Details of continued use have been provided to officers

## **6. Assessment**

### Site Context

- 6.1 The application site is located on the northern side of Main Road/The Green, in Upper Dovercourt and comprises of a redundant Methodist Church building with a more modern detached hall to the rear. There is a grass area to the side and rear of the building, which is enclosed by black railings and timber fencing. The site is neighboured by The Trafalgar Pub, which is operational and is a Grade II Listed Building, takeaway restaurants further east, with residential dwellings to the north, west and south and Weeley Cemetery to the north-west. The access road, providing the exit from the Cemetery runs adjacent to the site and joins Main Road/The Green.
- 6.2 The site is located within the defined settlement development boundary of Harwich and Dovercourt and is within Flood Zone 1 which has a low risk of flooding.

### Proposal

- 6.3 The application seeks planning permission (part retrospective) for the Change of Use from Methodist Church (Class F1) to a Social Club (Sui Generis). The development is considered to be fairly complete and includes internal alterations, external decoration, erection of fencing and formation of external smoking areas, internal sound system, bar area with pool tables and dart boards and installation of air cooler units for the cellar.

#### Principle of Development

- 6.4 The site falls within the defined Settlement Development Boundary for Harwich and Dovercourt within the Local Plan. Policy SPL2 states that within the Settlement Development Boundaries, there will be a general presumption in favour of new development subject to detailed consideration against other relevant Local Plan policies (including heritage matters) and any approved Neighbourhood Plans. Policy HP2 seeks to protect existing local services and facilities and to provide either when a loss or change of use is proposed, replacement facilities on site or within the vicinity, which meet the need of the local population.
- 6.5 It is accepted that a number of Methodist Churches have become redundant across the District and have been sold at auction within the last 12-24 months. A number of alternative uses have been proposed, including both commercial and residential uses. The change of use from a Church to a Social Club is considered to be acceptable in principle because the site and building is located in a sustainable location within the defined Settlement Development Boundary for Harwich and Dovercourt. In addition, in accordance with Policy HP2, the proposal seeks to provide a facility that would continue to offer an element of community use, with the hall at the rear available for hire for both community and charity events. The main hall accommodates the bar and entertainment area. The Social club is to be operated on a member's only basis for over 18s, which allows the owners to limit and control the number of members. The Dovercourt All Saints Church is a short 2 minute walk away.
- 6.6 Therefore the requirements of Policy HP2 are considered to have been met in justifying the change of use and the principle of development with regard to the change of use is considered to be acceptable in this location, subject to the detailed material considerations relevant to this proposal which are set out below.

#### Character and Appearance, including Heritage Impacts

- 6.7 The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. (Para 126 NPPF).
- 6.8 Policy SP7 states that all new development should respond positively to local character and context to preserve and enhance the quality of existing places and their environs. Policy SPL3 seeks to provide new development which is well designed and maintains or enhances local character and distinctiveness. The development should relate well to its site and surroundings particularly in relation to its siting, height, scale, massing, form, design and materials and should respect or enhance local landscape character, views, skylines, landmarks, existing street patterns, open spaces and other locally important features.
- 6.9 The external appearance of the building is largely unaltered except for the repainting the main hall building and other cosmetic improvements. The erection of fencing has been undertaken between the main building and the rear hall to provide an enclosed and screened smoking area, which also houses the chillers for the cellar. Overall the external appearance of the building, streetscene and surrounding area are preserved.
- 6.10 From a heritage perspective, the church building is deemed to be a non-designated heritage asset by ECC Place Services, due to its architectural interest and its social and communal



historic interest. The site is also adjacent to the Grade II listed The Trafalgar Public House. Due to the limited external alterations the proposal is not considered to result in material harm to the setting of the adjacent Listed Building. Internally the full height ceilings and overall layout of the church building is preserved and there is no objection to the proposal from ECC Place Services.

6.11 The proposal is therefore acceptable and policy compliant in these regards.

#### Impact on Residential Amenity

6.12 The NPPF, Paragraph 130 maintains that policies and decisions should result in new development that creates places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.

6.13 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.

6.14 The building and hall are bordered by residential dwellings on all sides and the Cemetery to the rear, however this is an existing situation. Whilst the church has not been operating for some time, this remains the authorised use of the site, and could re-commence at any time and this forms a material consideration in regards to this application. It is not proposed to extend the building or hall in anyway, therefore no overlooking or loss of privacy issues are identified.

6.15 The main concerns raised are in regard to the noise and disturbance that could be experienced by the neighbouring occupiers from the operation of the Social Club in close proximity to residential dwellings. It is also considered that any operation of the proposed Social Club should be sensitive to visitors to the Cemetery, either attending services or visiting graves.

6.16 The proposed opening hours are:

Monday to Thursdays - 12.00 until 23.00  
Friday and Saturdays – 12.00 until 0.00  
Sundays 11.00 until 23.00

6.17 These hours are considered reasonable and in line with the operating hours of the neighbouring public house and takeaway restaurants. It is also considered reasonable to allow the owners and staff to occupy the Social Club outside of these hours for the purposes of administration, cleaning and any preparation requirements etc. However due to the residential nature of the area any deliveries, collections or refuse services should be not take place before 08:00 and after 21:00 to prevent disturbance to the neighbouring occupiers and this can be secured by condition.

6.18 The noise impact assessment survey was undertaken on 5<sup>th</sup> and 6<sup>th</sup> September 2022, and the findings are documented in the DAA Group report submitted, Issue 01, dated 10<sup>th</sup> September 2022. The measured noise levels are used to investigate and assess the noise impact from the operation of the proposed Community Centre to the nearest residential units the report and outlines any necessary mitigation measures.

6.19 The survey and assessment has been carried out with due consideration to the following National and Local Policies and legislation:

- National Planning Policy Framework 2021 (NPPF)
- National Planning Practice Guidance (NPPG)
- Tendring District Council Local Plan
- British Standard 8233:2014 - Sound insulation and noise reduction for buildings

- British Standard 4142: 2014 - Methods for rating and assessing industrial and commercial sound - describes methods for assessing the likely effects of sound on premises used for residential purposes
- Noise Policy Statement for England (NPSE) as published by DEFRA in March 2021
- The World Health Organisation – Guidelines For Community Noise (1999)

6.20 It is understood that the proposed plant is comprised of the following units:

- Multiplex heat dump advanced- Model 09-0204-01
- J and E Hall model J5LC20CV1 Condenser Unit.

6.21 The noise survey determined that the proposed external units are not considered to contain tones. In addition, the proposed operation of the equipment is also unlikely to be sufficiently intermittent to attract attention at the nearest noise sensitive property. The calculated rating level is +4dB above the lowest background noise level at 1m from the nearest noise sensitive window. To meet the noise criteria under BS 4142:2014, the report recommends fully enclosing the condenser units in an acoustic enclosure with an insertion loss of 14dB or greater. Suitable suppliers are listed within the report.

6.22 In addition to the control of airborne noise transfer, it is important to consider the transfer of noise as vibration to adjacent properties as well as any sensitive areas of the same building. The units should be isolated from the structure of the building using anti-vibration. The isolators shall incorporate rubber or neoprene high-frequency isolation pads. Anti-vibration mounts are widely available from suppliers/installers often in pedestal rubber mountings.

6.23 A Noise Management Plan has also been submitted and covers measures to minimise the risk of any noise disturbance caused by attendees on site, including agreed policies to be put in place to control noise during the operation of the Social Club.

6.24 The applicants state that they are committed to developing and maintaining good relations with local residents, neighbours and the local authority. The objective of the management plan is to minimise disturbance to local residents and to ensure that any licensing objectives or other controls at the venue are being upheld. These include:

- Adhering to the approved opening hours, including no re-admission to the premises 15 minutes before closing.
- Management shall make available and regularly promote a contact number for local residents to contact the premises to discuss any specific incidents or concerns either during or after events.
- The provision of background music shall be permitted at any time the premises is open to the public. By definition this is music or other audio played whose main function is to create an atmosphere suitable to a specific occasion rather than to be listened to and is incidental to speech and conversation.
- Staff will actively encourage the gradual dispersal of customers to minimise nuisance.
- A member of staff will be positioned in an area close to the main exit to oversee the end of night departure period. Customers will be encouraged to be considerate upon leaving the premises.
- Routine monitoring will be regularly conducted around the perimeter of the premises during opening hours. Details of checks, observations and any actions taken as a result of such shall be recorded. A noise log book kept on the premises and maintained by management and be available for inspection by the Local Authority upon request.
- All staff will be fully trained to be aware of the requirements to reduce external impact from noise.
- All staff will be made fully aware and conversant with the noise management policy and procedures.
- Notices will inform customers of our commitment to local concerns.

- Prominent, clear and legible notices will be displayed at the exits requesting the public to respect residents and to leave the premises and the area quietly.
- The movement of bins and rubbish outside the premises will be kept to a minimum after 21.00hrs and refuse collections will only be permitted by external companies between the hours of 08.00 and 21.00hrs.
- Deliveries of goods necessary for the operation of the business will be carried out at such a time or in such a manner as to avoid causing disturbance to nearby residents and deliveries shall not be permitted outside the hours of 08.00 and 21.00hrs
- The premise has been designed appropriately and detailed consideration has been given to its ability to operate in a manner which does not give rise to disturbance. The controls and limitations of the venue are reflected in this noise management plan.
- No significant structural alterations shall be made to the premises without due consideration of its potential impact on noise management.
- The noise management plan will be reviewed at least annually or as agreed appropriate to ensure that it is streamlined and effective. New and innovative approaches to problem solving or incidents and any lessons learnt will be incorporated accordingly.

6.25 In order to overcome the concerns raised by neighbouring residents it is proposed to add conditions to any grant of planning permission to ensure that the management plan is adhered to at all times. Other conditions to be added are:

- To prevent any persons from congregating outside to the front, rear and side of the buildings at any time and to use the designated area for smoking at all times.
- No live music or other noise generating entertainment is to be allowed between the hours of 10am – 4pm Monday to Friday, to prevent disturbance to visitors to the neighbouring cemetery
- To enforce the proposed opening hours and restrict the hours for deliveries etc.

6.26 It is considered with these measures are necessary, and with these additional safeguards it is considered that the proposed Social Club would not result in material harm to the residential amenity of the neighbouring occupiers.

6.27 It is noted that the granting of an alcohol license is not a planning matter and is controlled and managed by the Council's Licensing department. A licence for selling alcohol and for live music/ events at the Social Club has been granted.

6.28 Therefore subject to conditions the proposal is acceptable and policy compliant in these regards.

#### Highways and Parking

6.29 Paragraph 110 of the Framework seeks to ensure that safe and suitable access to a development site can be achieved for all users. Policy SP7 seeks new development to include parking facilities that are well integrated as part of the overall design. The sentiments of this policy are carried forward within Policies SPL3 and CP1. Furthermore, the Essex County Council Parking Standards 2009 set out the parking requirements for new development.

6.30 The proposed Social Club does not have any parking provision within the site, however this is an existing situation and no parking is provided with its current use as a Church and ancillary community hall. Then exit road from the Cemetery runs along the side of the buildings an exits onto The Green. Yellow 'no waiting' lines are provided across the access on both sides of the highway as per the plan below, preventing parking from 9am – 5pm Monday to Friday, these lines however are extremely faded/non-existent, however the parking restrictions remain and there is signage in place.



- 6.31 It is recognised that this area around The Green and Main Road experiences parking stress and there are a number of businesses in the vicinity that also do not have any off street parking provision. This is an existing situation and the yellow lines are provided to maintain free access from the Cemetery. Given the current authorised use of the site, which could re-commence, a reason for refusal based on highway safety as a result of the possibility of additional on street parking would be difficult to sustain at appeal. The Highways Authority also acknowledges this and that realistically, there are very few control methods available to deter the additional parking stress which may occur in any event given the current or previous use of the building, and indeed other uses that can take place in the building under use class F.1 (such as a public hall or exhibition hall). In conclusion it is considered that the trips generated from the proposed use would be on a par with the existing use and due to its urban location, local residents could walk to the site or use public transport.
- 6.32 Furthermore the site is considered to be within a sustainable location with good public transport links to the site and given its membership only status the majority of users would belong to the local community and live within close proximity of the site. Therefore there is no objection to the proposal.
- 6.33 Therefore the proposal is considered to be acceptable and policy compliant in these regards.

## 7. **Conclusion**

- 7.1 It is considered that the proposed development is consistent with the National and Local Plan Policies identified above. In the absence of material harm resulting from the proposal the application is subject to conditions recommended for approval.

## 8. **Recommendation**

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

### 8.2 **Conditions and Reasons**

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

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

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

Location Plan title number EX853863

Proposed Ground Floor Plan

DAA Group report submitted, Issue 01, dated 10th September 2022.

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

3. The change of use to a Social Club hereby approved must operate fully in accordance with the mitigation measures outlined in the submitted noise impact assessment and noise management plan - DAA Group report submitted, Issue 01, dated 10th September 2022 at all times.

Reason: In the interests of residential amenity

4. The development hereby approved shall open to the public only within the following opening times:

Monday to Thursdays - 12.00 until 23.00

Friday and Saturdays – 12.00 until 0.00

Sundays 11.00 until 23.00

Permanent Staff employed to work at the site may be on-site outside of these hours. .

Reason - To ensure the use of the site is appropriate to the locality and to safeguard the amenities of local residents.

5. There shall be no deliveries or collections or related services before 08:00 and after 21:00 each day.

Reason: In the interests of residential amenity

6. There shall be no live or other form of music and/or other noise generating entertainment outside the the opening hours available to the public as detailed by condition 4 and in addition no live or other form of music and/or other noise generating entertainment between the hours of 10am – 4pm Monday to Friday.

Reason: To prevent disturbance to visitors to the neighbouring cemetery and residential amenity.

### 8.3 Informatives

Positive and Proactive Statement

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

## 9. **Additional Considerations**

### Public Sector Equality Duty (PSED)

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

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

#### Human Rights

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

#### Finance Implications

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

### **10. Background Papers**

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

to view on the planning file using the application reference number via the Council's Public Access system by following this link <https://idox.tendringdc.gov.uk/online-applications/>.

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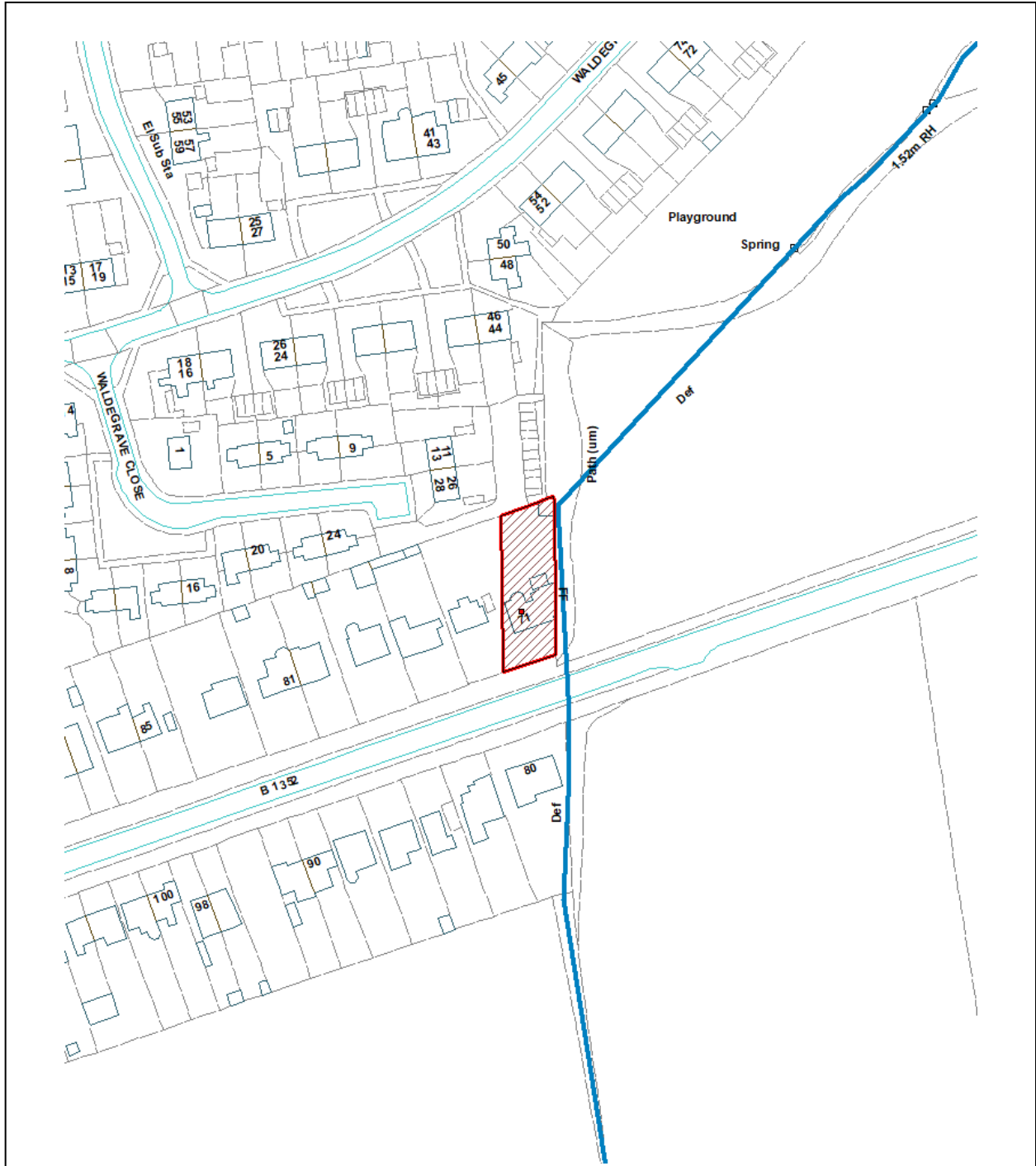


## PLANNING COMMITTEE

25th October 2022

### REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING

#### A.2 PLANNING APPLICATION - 22/01088/FUL - 71 LONG ROAD LAWFORD MANNINGTREE ESSEX CO11 2HR



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**Application:** 22/01088/FUL

**Town / Parish:** Lawford Parish Council

**Applicant:** Kedleston Group Limited

**Address:** 71 Long Road Lawford Manningtree Essex CO11 2HR

**Development:** Proposed change of use from a dwellinghouse (C3) to a children's care home (C2).

## 1. **Executive Summary**

- 1.1 The application is before the Planning Committee following a joint call-in request from Councillor Giancarlo Guglielmi and Councillor Alan Coley due to concerns raised in respect of the impact of the proposal on residential amenities.
- 1.2 The proposal is for the change of use of the existing residential dwelling into Use Class C2 (Residential Institutions) to operate as a children's care home that will provide care for up to five children between the ages of 8 and 18, and will include between one and three members of staff who will rotate on a shift basis.
- 1.3 Policy LP10 provides in principle support for such uses within settlement development boundaries, while the minor external alterations will not adversely impact upon the area's character and appearance. In addition, there are not considered to be significant noise disturbances to warrant recommending a reason for refusal, and the development provides for adequate car parking provision.

### **Recommendation:**

That the Assistant Director for Planning be authorised to Grant Planning Permission subject to conditions as stated in section 7.2 (or as need to be varied\*) and those as may be deemed necessary by the Assistant Director for Planning

\*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 Planning Policy Framework July 2021 (The Framework)

National Planning Practice Guidance

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

SP1 Presumption in Favour of Sustainable Development

SP3 Spatial Strategy for North Essex

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

LP10 Care, Independent Assisted Living  
PPL5 Water Conservation, Drainage and Sewerage  
PPL8 Conservation Areas  
PPL10 Renewable Energy Generation  
CP1 Sustainable Transport and Accessibility

Supplementary Planning Guidance:  
Essex Design Guide

Local Planning Guidance:  
Essex County Council Car Parking Standards - Design and Good Practice

### **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**

07/00411/FUL	Extension	Approved	22.05.2007
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### **4. Consultations**

ECC Highways Dept 13.09.2022	The information that was submitted in association with the application has been fully considered by the Highway Authority. No site visit was undertaken in conjunction with this planning application. The information submitted with the application has been thoroughly assessed and conclusions have been drawn from a desktop study with the observations below based on submitted material, google earth image dated July 2021.
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From a highway and transportation perspective the impact of the proposal is acceptable to Highway Authority

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) or by post to:

2: On the completion of the Development, all roads, footways/paths, cycle ways, covers, gratings, fences, barriers, grass verges, trees, and any other street

furniture within the Site and in the area, it covers, and any neighbouring areas affected by it, must be left in a fully functional repaired/renovated state to a standard accepted by the appropriate statutory authority.

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

Environmental Protection  
22.08.2022

I have reviewed the application and have no adverse comment to make.

ECC Schools Service  
14.09.2022

ECC have no comments to make on this consultation as it is below the current threshold.

## 5. **Representations**

- 5.1 Within their original comments dated 1<sup>st</sup> September 2022, Mistley Parish Council recommended approval subject to there being no parking issues with the proposal. However, additional comments were received from Mistley Parish Council dated 7<sup>th</sup> September 2022 that requested to rescind its previous resolution and to now defer the matter to Lawford Parish Council.
- 5.2 Lawford Parish Council have provided no comments.
- 5.3 Councillor Giancarlo Guglielmi and Councillor Alan Coley object to the proposed development and called for it to be determined by the Planning Committee due to concerns to neighbouring amenities.
- 5.3 There have been two additional letters of objection received, with the following concerns raised:
- Already insufficient school spaces in both local primary schools;
  - Harm to local infrastructure;
  - Harm to neighbouring amenities; and
  - Impacts to highway safety.

## 6. **Assessment**

### Site Description

- 6.1 The application site is Number 71 Long Road, which is located on the eastern edge of Long Road within the parish of Lawford. The building itself is a two storey residential dwelling served by five bedrooms.
- 6.2 The character of the surrounding area is predominantly urban, with residential properties located immediately to the west and south. However to the immediate east is a large parcel of open grassed land. The site falls within the Settlement Development Boundary for Lawford within the adopted Local Plan, and lies adjacent to, but outside of, the Lawford Conservation Area.

### Description of Proposal

- 6.3 This application seeks full planning permission for the change of use from its existing Class C3 (dwelling-houses) use to Class C2 (Residential Institutions). The site is proposed specifically to be operated as a children's care home that will provide care for up to five children between the ages of 8 and 18.
- 6.4 The use will also include for between one and three staff members, with up to three members of staff during the day, reducing to up to two members of staff during the night. No staff will live permanently at the property, and instead will rotate on a shift basis.
- 6.5 The change of use results in only minor external alterations, with the ground floor garage being converted into an office which will see the inclusion of a door and window. Beyond the garage conversion the layout of the building remains nearly identical, with the only change being the first floor bathroom being sub-divided to account for the inclusion of a staff bedroom.

#### Principle of Development

- 6.6 Paragraph 62 of the National Planning Policy Framework (July, 2021) seeks to ensure that the type and tenure of housing needed for different groups in the community is assessed and reflected in planning policies. This includes, but is not limited to, those who require affordable housing, families with children, older people, students, people with disabilities, service families and travellers.
- 6.7 Adopted Local Plan Policy LP10 (Care, Independent Assisted Living) confirms that the Council will support the provision of care homes and extra care housing within settlement development boundaries and, in particular, within the mix of accommodation for the residential and mixed-use developments across the District. In addition, the Policy states proposals shall have no significant material adverse impact on the landscape, residential amenity, highway safety, or the form and character of nearby settlements and shall be otherwise appropriate in scale and design for their location, having regard to other policies in this Local Plan.
- 6.8 The application site is located within the Settlement Development Boundary for Lawford, which itself is designated as a 'smaller urban settlement' within Policy SPL1 of the adopted Local Plan. Smaller urban settlements are defined as having large populations relative to rural settlements and benefit from a range of existing infrastructure and facilities. These settlements provide a range of opportunities for the use of public transport, walking and cycling.
- 6.9 Given the sites location within a settlement development boundary, set amongst existing residential development, the proposal aligns with the requirements of Policy LP10. The principle of development is therefore accepted, subject to the more detailed considerations below.

#### Impact to Neighbouring Amenities

- 6.10 Paragraph 130 of the National Planning Policy Framework (2021) confirms planning policies and decisions should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.
- 6.11 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.
- 6.12 To the immediate west of the application site is Number 73 Long Road, which is also a residential property. In addition there are a series of residential properties located to the rear (north) of the application site along Waldegrave Close. Accordingly, a key consideration of this application is the impacts of the proposed development to their existing amenities.

- 6.13 It must initially be acknowledged that the proposed development will result in use of the property by no more than five children, as well as between one and three staff members – so up to eight people in total. Given that the property is currently a five bedroom dwelling, it is perfectly reasonable to expect that a similar number of people could occupy the property, although it is acknowledged this would likely be less than the maximum eight potential persons that could use the site as part of this planning application.
- 6.14 In respect of potential noise disturbances, there is a large rear garden area where it is acknowledged a degree of noise may be generated. However, there is no evidence to suggest that this noise would be a significant increase to that which could be generated from the existing residential use of the property, and given that there will always be specialist on-site carers to aid in the event of any noise-related incident, Officers do not consider the potential harm to be significant enough that it would warrant recommending a reason for refusal on this basis.
- 6.15 Furthermore, the noise disturbances associated with the vehicular movements will predominantly be dictated by the shift patterns of staff members, but will also include any visitors. Given the low number of staff members and children being cared for, Officers do not consider that the comings and goings associated with the proposal would significantly increase from what would be reasonably expected from the existing large family house, and therefore raise no objections in this regard.
- 6.16 In addition, there are only minor internal and external alteration works being proposed, and these would result in no impacts to existing amenities of any neighbouring properties. A planning condition is however recommended to restrict the level of use to a maximum of five children.

#### Highway Safety

- 6.17 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.
- 6.18 Policy SPL3 (Part B) of the Adopted Local Plan seeks to ensure that access to a new development site is practicable and the highway network will be able to safely accommodate the additional traffic the proposal will generate and provision is made for adequate vehicle and cycle parking.
- 6.19 Essex Highways Authority have been consulted on the proposed development and have stated that they have no objections.
- 6.20 Furthermore, Essex Car Parking Standards (2009) state that for such a use there should be provision for one parking space per full time equivalent member of staff, as well as one visitor space per three beds. Given that there are to be a maximum of three full time equivalent members of staff and a total of five children, this means there is a maximum requirement for a total of five parking spaces. The site has a parking area to the front of the property which is currently able to accommodate four parking spaces, and this arrangement will remain unaltered. While this provision falls slightly below standards, it is also acknowledged that the site is within a highly sustainable location within 300 metres of a bus stop, and Essex Highways Authority have offered no objections, and therefore on balance Officers do not consider the minor shortfall in parking provision to be harmful enough to recommend a reason for refusal.

#### Visual Impacts

- 6.21 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.
- 6.22 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.
- 6.23 The proposed development is predominantly a change of use, but to facilitate this change it is acknowledged that the existing garage is to be converted into an ancillary office. This will result in the addition of a door and window to the front elevation. While these changes will be publicly visible from the street scene along Long Road, Officers do not consider the changes to be harmful to the area's character and appearance, and accordingly do not offer any objections on these grounds.

#### Heritage Impacts

- 6.24 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.
- 6.25 While the application site falls outside of the Lawford Conservation Area, it is acknowledged that it does lay adjacent to the west, and as such the impacts of the development to the setting of Conservation Area need to be considered.
- 6.26 However, as discussed above, the proposal results in only minimal external alterations to the property. Given the minor nature of these changes and that the site itself does not fall within the Lawford Conservation Area, Officers are content that there will not be any harm to the areas character and appearance, and do not object on heritage impact grounds.

#### Other Considerations

- 6.27 Within the call-in request and neighbour objection letters, it is acknowledged that reference has been made that currently existing residents sited closer to local schools have had to lodge appeals to get their own children into these schools, and concerns are raised that the proposed development would exacerbate the situation. However, in response to this, the agent for the application has confirmed that the children who will occupy the property will require a specialist school environment and will not attend mainstream schools. Therefore this will not impact upon the existing provisions. In addition, Essex County Council (Schools) have been consulted and have offered no comments.

#### Conclusion

- 6.28 Local Plan Policy LP10 supports the provision of care homes and extra care housing within settlement development boundaries, and accordingly the principle of development in this location is accepted. Given the low number of users as a result of the proposal there is not considered to be significant harm to neighbouring amenities, both through potential noise disturbances or through the external alterations. The site is adjacent to the Lawford Conservation Area but the minimal alterations to the building will not harm its setting, while Essex Highways Authority also offer no objections. The site falls slightly below the car parking provision, however given the highly sustainable location it is not considered, on balance, that this minor shortfall warrants recommending a reason for refusal. Accordingly, the planning application is recommended for approval.

### **7. Recommendation**

7.1 The following conditions are recommended.

7.2 Conditions and Reasons

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

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

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

Drawing Numbers 443-01 Rev A (Site Location and Block Plan), 443-11 Rev A (Proposed Ground/First Floor Plans, Proposed Elevation & Site Plan', the document titled 'Planning Statement', and the letter received from the agent for the application dated 29th September 2022 with a reference of 36088.

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

- 3 The use hereby permitted shall operate with a maximum of five children to reside at the property at any time.

Reason – The proposal has been assessed on this basis, to ensure that the use is appropriate within this residential location, and to protect neighbouring amenities.

7.3 Informatives

Positive and Proactive Statement:

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

Highways Informatives:

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

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

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

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



## **8. Additional Considerations**

### Public Sector Equality Duty (PSED)

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

### Human Rights

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

### Finance Implications

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

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

**9. Background Papers**

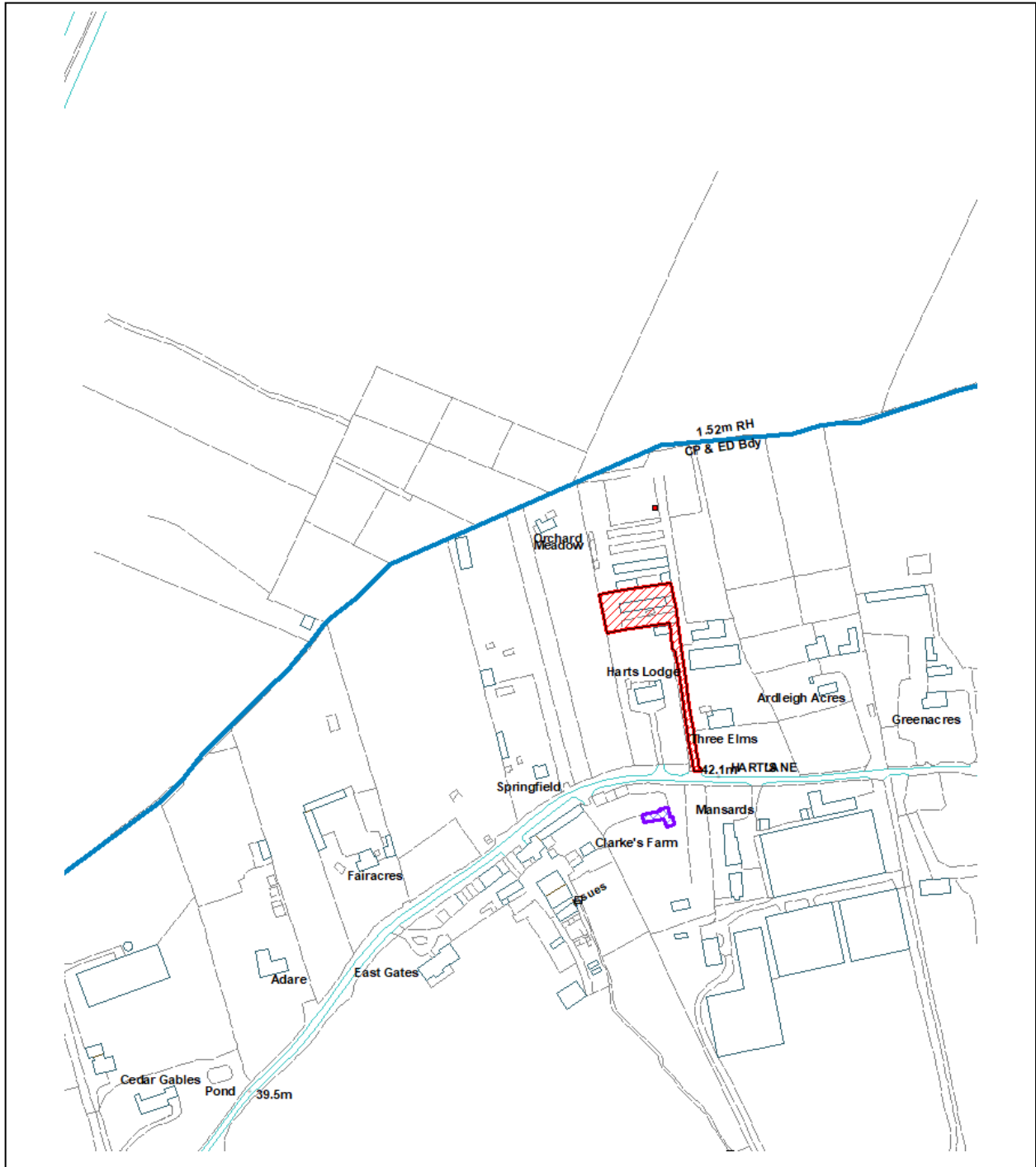
- 9.1 In making this recommendation, officers have considered all plans, documents, reports and supporting information submitted with the application together with any amended documentation. Additional information considered relevant to the assessment of the application (as referenced within the report)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

## PLANNING COMMITTEE

25th October 2022

### REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING

#### **A.3 PLANNING APPLICATION – 22/01041/FUL – LAND TO REAR OF THREE ELMS HARTS LANE ARDLEIGH CO7 7QH**



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**Application:** 22/01041/FUL

**Town / Parish:** Ardleigh Parish Council

**Applicant:** J Webster

**Address:** Land to rear of Three Elms Harts Lane Ardleigh CO7 7QH

**Development:** Proposed erection of a 3-bedroom bungalow (in lieu of Prior Approval for one 3-bedroom dwelling, subject of application 22/00517/COUNOT).

## 1. Executive Summary

- 1.1 The application is 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) being located outside of any defined settlement development boundary, and has a recommendation of approval.
- 1.2 The proposed dwelling is not considered to be so materially different in regards to siting, height, footprint to the development approved under prior approval 22/00517/COUNOT and is similar in size, scale and appearance to the new dwellings approved within the wider site.
- 1.3 In the absence of any material harm resulting from the development in regards to its individual appearance, impact on the wider streetscene and the character and appearance of the rural landscape, the application is recommend for approval. Furthermore the proposal would not result in any detrimental impact on neighbour amenity and there are no concerns raised in regard to parking and highway matters.

### **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\*

\*Or to whom is otherwise delegated after 26<sup>th</sup> October 2022

## 2. Planning Policy

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

### 2.2 National:

National Planning Policy Framework July 2021 (NPPF)  
National Planning Practice Guidance (NPPG)

### 2.3 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
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
LP4	Housing Layout
PPL3	The Rural Landscape
PPL4	Biodiversity and Geodiversity
PPL5	Water Conservation, Drainage and Sewerage
PPL10	Renewable Energy Generation
CP1	Sustainable Transport and Accessibility

Draft Neighbourhood Plan for Ardleigh - Regulation 14 Pre-Submission Consultation between 8 August 2022 and 23 September 2022.

### 2.4 Supplementary Planning Guidance:

Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy SPD 2020 (RAMS)  
Essex County Council Development Management Policies 2011  
Essex County Council Parking Standards Design and Good Practice Guide 2009  
Tendring Provision of Open Recreational Open Space for New Development SPD 2008 (Open Space and Play SPD)

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

- 2.5 Planning law requires that decisions on applications must be taken in accordance with the development plan unless there are material considerations that indicate otherwise (Section 70(2) of the 1990 Town and Country Planning Act and Section 38(6) of the Planning and Compulsory Purchase Act 2004). This is set out in Paragraph 2 of the National Planning Policy Framework (the Framework). The 'development plan' for Tendring comprises, in part, Sections 1 and 2 of the Tendring District Council 2013-33 and Beyond Local Plan (adopted January 2021 and January 2022, respectively), together with any neighbourhood plans that have been brought into force.
- 2.6 In relation to housing supply:
- 2.7 The Framework requires Councils boost significantly the supply of housing to meet objectively assessed future housing needs in full. In any one year, Councils must be able to identify five years of deliverable housing land against their projected housing requirements (plus an appropriate buffer to ensure choice and competition in the market for land, to account for any fluctuations in the market or to improve the prospect of achieving the planned supply). If this is not possible or if housing delivery over the previous three years has been substantially below (less than 75%) the housing requirement, Paragraph 11 d) of the Framework requires granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole (what is often termed the 'tilted balance').
- 2.8 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

#### Wider Site

17/01710/COUNOT	Change of use from agricultural building to residential dwellinghouse.	Prior Approval not required	27.11.2017
19/01735/OUT	Redevelopment of site for 4 no single storey residential dwellings (considering access only).	Refused	08.01.2020
20/00551/COUNOT	Change of use from agricultural building to two dwelling units.	Prior Approval not required	25.06.2020
20/00887/FUL	Replacement of a former agricultural building with two x 3 bed bungalows (in lieu of Prior Approval for two x 3 bed dwellings subject of application 17/01710/COUNOT).	Approved	14.10.2020
21/00002/FUL	Erection of 2 detached bungalows and garage.	Approved	04.06.2021
21/01119/DISCON	Discharge of conditions 4 (Screen and Wall Fences) and 7 (External Materials) of approved application 21/00002/FUL.	Approved	06.07.2021
21/01232/DISCON	Discharge of condition 9 (Foul Water Strategy) of approved application 21/00002/FUL.	Approved	19.01.2022
21/01690/FUL	Proposed erection of two 2-bedroom bungalows (in lieu of Prior Approval for two x 2-bedroom dwellings, subject of application 20/00551/COUNOT (allowed at appeal).	Approved	22.12.2021
22/00365/FUL	Proposed erection of two 3-bedroom bungalows (in lieu of Prior Approval for two x 2-bedroom dwellings, subject of application 20/00551/COUNOT allowed at appeal). Variation to scheme as approved under planning permission 21/01690/FUL change of use of the land to the rear from agricultural to amenity land	Approved	03.05.2022
22/01624/DISCON	Discharge of conditions 14 (Ground Conditions Risk Assessment), 15 (EP	Current	

Method Statement) and 16 (Drainage Works) of 22/00365/FUL.

**Application Site**

22/00517/COUNOT Proposed conversion of part of Prior Approval 20.05.2022 former agricultural building into one not required dwelling

**4. Consultations (Summary)**

Ardleigh Parish Council  
15.07.2022

The Parish Council strongly opposes this application as it considers that the site is already overdeveloped and is unsuitable for further housing (on a single track lane in countryside which should be protected and preserved). This should be treated as a new application and the current Local Plan and emerging Ardleigh Neighbourhood Plan should be given full weight. The site is outside the Settlement Development Boundary and is not sustainable.

Wish to call in to Planning Committee so that the full implications of the existing over-development of the site can be seen. No public benefit from the development

ECC Highways Dept  
18.07.2022

The application is similar to previous applications: 20/00551/COUNOT and 21/01690/FUL. The proposed development is set well back from the highway and access will be gained from an established vehicular access. The new dwelling will have a lesser impact on traffic generation, when compared with the previous agricultural use. It is noted that application: 20/00551/COUNOT was subject to an appeal decision granted in July 2021; considering these factors and the comments made by the inspector in relation to application 20/00551/COUNOT:

The Highway Authority does not object to the proposals as submitted, subject to the previous highway conditions for 22/00517/COUNOT are replicated.

Tree & Landscape Officer  
13.07.2022

The proposed footprint of the new dwelling would cover the area where several early mature trees are situated. Immediately adjacent and to the north of the existing barn there is a single oak, a group of Silver Birch and a Goat Willow.

Whilst the trees are in reasonable condition their position, set back from the highway, is such that they make only a moderate contribution to the character and appearance of the area and have low amenity value. Consequently they do not merit retention or formal legal protection by means of a tree preservation order.

UU Open Spaces  
28.07.2022

There is currently a deficit of -1.70 hectares of equipped play/open space in Ardleigh.

No contribution is being requested from Open Spaces on this occasion. However should there be further development a contribution may become necessary.

## **5. Representations**

- 5.1 No representations have been received following a public consultation which included a site notice posted at the site and neighbouring consultation letters sent out to the adjacent properties.

## **6. Assessment**

### Site Context

- 6.1 The application site is located on the northern side of Harts Lane, to the rear of Harts Lodge and accessed by a driveway which runs between Harts Lodge and Three Elms and comprises of a vacant barn previously used in conjunction with the poultry rearing business which operated on the site.
- 6.2 To the rear of the site, two dwellings approved under 22/00365/FUL are under construction and to the east are two newly built bungalows. Around the wider site are a number of existing buildings, a grassy area and a large area of hardstanding, which was formerly used when the wider site operated as a poultry farm.
- 6.3 The area is semi-rural in character and lies outside any defined settlement development boundary. Application TEN/184/69 was the original permission for the bungalow (Three Elms) with an agricultural occupancy condition attached that was later removed under approved planning application 10/00291/FUL.
- 6.4 The site has an extensive planning history which is outlined above with a total of 4 dwellings approved on the site. The site is not located within a Conservation Area and is sited within Flood Zone 1 which has a low risk of flooding.
- 6.5 The proposed development site is located approximately 1.8 miles from Ardleigh village where there are some facilities, such as a shop and post office. The site is a short distance from the A12 to Colchester and beyond.

### Relevant History

- 6.6 In May 2022 it was deemed that Prior Approval (namely in regard to access, flooding, design, noise, natural light, space standards and contamination) 22/00517/COUNOT for the conversion of one agricultural building into one three bed dwelling was not required. This scheme is referred to as the 'fall back' scheme.

### Proposal

- 6.7 The application proposes one new dwelling in lieu of the prior approval granted for the poultry barn building on site, which is to be fully demolished, including parking spaces and an amenity area.
- 6.8 The proposed new dwelling is a modest bungalow with a uniform rectangular footprint and a dual pitched roof, with an eaves height of some 2.5m and a ridge height in the region of 5.9m. The proposed dwelling is sited, mostly within the footprint of the existing building, with a gross internal area of around 128sqm which is comparable to that of the dwelling approved under the prior approval scheme.



- 6.9 The proposed dwelling comprises of three bedrooms, bathroom, en-suite, utility room, kitchen/dining area and lounge. The external materials proposed are cladding above a brick plinth and tiled roof.

#### Assessment

#### Principle of Development

- 6.10 Planning law requires that decisions on planning applications must be taken in accordance with the development plan unless there are material considerations that indicate otherwise (section 70(2) of the 1990 Town and Country Planning Act and section 38(6) of the Planning and Compulsory Purchase Act 2004). The development plan for Tendring Council comprises of the adopted Tendring District Local Plan 2013-2033 and Beyond Sections 1 and 2.
- 6.11 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 the defined settlement boundary of Ardleigh in the adopted 2013-2033 Local Plan. The proposed development would therefore extend outside the area planned to provide growth for this settlement. In view of the housing land supply position, the Council does not need to look beyond identified settlements to meet its housing requirement.
- 6.12 Policy SPL2 supports new development within defined SDBs which would encourage sustainable patterns of growth and carefully control urban sprawl. Within a defined SDB, there will be a general presumption in favour of new development subject to detailed consideration against other relevant Local Plan policies and any approved Neighbourhood Plans. Under Policy SPL1 Ardleigh is classified as a Smaller Rural Settlement and these smaller villages are considered to be the least sustainable locations for growth. However, these villages are still under pressure to grow and some small-scale development which is sympathetic to the rural settlement might help younger people to continue to live in the area, keep local shops and services viable and help bring balance to an ageing population.
- 6.13 With regard to development outside of the defined SDB, the Council will consider any planning application in relation to the pattern and scales of growth promoted through the Settlement Hierarchy in Policy SPL1 and any other relevant policies in this plan.
- 6.14 Therefore there is limited policy support for new dwellings outside of the defined SDB. In this case however Prior Approval has been granted for the conversion of the existing agricultural dwelling to a new dwelling. This is considered to form a material consideration in respect of the application and denotes what is considered to be a viable fall-back position as outlined below.

#### Fallback Position – Material Consideration.

- 6.15 It is established in case law that permitted development rights can legitimately represent a fall-back position when considering alternative proposals for development of the same site.
- 6.16 The relevant legal principles relating to the fall-back position were set out in R v Secretary of State for the Environment and Havering BC (1998) EnvLR189. In that case Mr Lockhart-Mummery QC, sitting as a Deputy High Court Judge, accepted submissions that there were three elements to the fall-back test:

*"First whether there is a fall-back use, that is to say whether there is a lawful ability to undertake such a use; secondly, whether there is a likelihood or real prospect of such occurring. Thirdly if the answer to the second question is "yes" a comparison must be made between the proposed development and the fall-back use."*

- 6.17 The notion of Class Q providing a lawful fall-back position was subsequently and comprehensively dealt with at the landmark Court of Appeal case, Mansell vs Tonbridge and

Malling Borough Council [2017], which concluded that a realistic fall-back position in regard to Class Q would amount to a material consideration in the determining of an application.

	22/00517/COUNOT (Prior Approval)	22/01041/FUL (New dwelling)
Siting	To the west of the wider site and access road.	Similar within footprint of existing building
Access	Same	Same
Appearance	Wooden cladded structure	Brick plinth, cladding and tiles
Ridge Height	3.2m	5.9m
Eaves Height	2.1m	2.5m
Gross Internal Area	135sqm	128sqm
Bedrooms	3	3

- 6.18 In conclusion, having regard to the above, the application is considered to meet all 3 tests set out for a viable fall-back position in terms of the legal position set out earlier. There is a fall-back use in the form of the Prior Approval and it is considered that the proposed development, is, in the main, comparable to that approved under the Prior Approval, in terms of its sitting, size, scale and external appearance. As outlined above in the comparison table, there is a noticeable increase in the height of the new dwelling, however this is considered to be acceptable in this rural location and reflects the height of the other dwellings approved on the wider site. Lastly there is a realistic prospect of the prior approval scheme being implemented. Therefore the fall-back position is given significant weight in the assessment of this application.
- 6.19 Therefore given the circumstances of this case, along with the legal position and the Prior Approval fall-back position, the principle of development for a new dwelling on this site is considered to be acceptable subject to the detailed consideration against other relevant Local Plan policies and any approved Neighbourhood Plans.

#### Layout, Scale and Appearance

- 6.20 The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. (Para 126 NPPF).
- 6.21 Policy SP7 states that all new development should respond positively to local character and context to preserve and enhance the quality of existing places and their environs. Policy SPL3 seeks to provide new development which is well designed and maintains or enhances local character and distinctiveness. The development should relate well to its site and surroundings particularly in relation to its siting, height, scale, massing, form, design and materials and should respect or enhance local landscape character, views, skylines, landmarks, existing street patterns, open spaces and other locally important features.
- 6.22 The proposed development comprises of a detached bungalow, which is considered to be of a size, scale and design in keeping with the character and appearance of the existing dwellings approved within the wider site, having a simple dual pitched roof and external cladding. The form and massing of the proposed dwelling is similar, comprising of unassuming glazed elevations and an uncluttered façade and is proportionate to the plot. For these reasons it is considered that the development would respect the local landscape character, skylines and existing street patterns and is sympathetic to the wider area.
- 6.23 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. The proposal would make more efficient use of the site, consistent with Paragraph 124 of the Framework, and, because it

would not be at odds with the character and appearance of the area it would accord with the overall thrust of Policies SP7 and SPL3.

#### Living Conditions of future Occupiers

- 6.24 In March 2015, the government launched a new approach to housing standards and published a new set of streamlined national technical standards. This included publication of Technical housing standards – nationally described space standards (2015) which sets out minimum gross internal floor space, bedroom sizes and storage requirements for new dwellings.
- 6.25 All new dwellings must therefore accord with the Technical housing standards. A three bedroom, one storey dwelling requires a minimum of 74-95sqm of Gross Internal Floorspace (GIA). From the plans submitted the proposed bungalow meets the requirements of the space standards. It is also considered that the internal layout is appropriate, with all habitable rooms having adequate natural light.
- 6.26 Amenity spaces in the locale vary in both size and configuration and it is considered that the amenity area proposed is considered to meet the needs and expectations of residents and is commensurate to the size of dwelling and the character of the area.
- 6.27 Overall the proposal is considered to secure a good standard of amenity and accommodation for future occupants of the proposed dwelling.

#### Impact on Residential Amenity

- 6.28 The NPPF, Paragraph 130 maintains that policies and decisions should result in new development that creates places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.
- 6.29 Policy SPL3 seeks new development that is designed and orientated to ensure adequate daylight, outlook and privacy for future and existing residents, provision is made for adequate private amenity space, waste storage and recycling facilities and the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties.
- 6.30 The application site is located within a fairly rural location, neighboured by the dwellings Harts Lodge and Three Elms to the south and two newly constructed bungalows to the east and two bungalows which are under construction to the north. The site is accessed via the existing private lane which runs along the front of the proposed dwelling up to the two bungalows under construction.
- 6.31 The proposed development has been designed to minimise any overlooking or loss of privacy issues and given the orientation of the bungalow and the separation distances from the neighbouring properties and the existing residential use of the building by way of the Prior Approval consent, it is not considered that this development would impact on the residential amenities of these neighbouring occupiers in any regard.

#### Highway and Parking Considerations

- 6.32 Paragraph 110 of the Framework seeks to ensure that safe and suitable access to a development site can be achieved for all users. Policy SP7 seeks new development to include parking facilities that are well integrated as part of the overall design. The sentiments of this policy are carried forward within Policies SPL3 and CP1. Furthermore, the Essex County Council Parking Standards 2009 set out the parking requirements for new development.

- 6.33 The Essex County Council Parking Standards 2009 require that dwellings with 2 or more bedrooms be served by a minimum of 2 parking spaces. Parking spaces should measure 5.5 metres by 2.9 metres and garages, if being relied upon to provide a parking space, should measure 7 metres by 3 metres internally. The submitted plans show that the new dwelling would utilise the existing access and will be provided with two parking spaces that meet policy requirements. A turning area is provided within the main access to the site, which would serve the five dwellings along this private lane and this would ensure that vehicles entering and leaving the site can do so in a forward gear in the interests of highway safety.
- 6.34 Subject to the use of conditions, the proposal would accord with Policies SPL3 and CP1 and the Highways and Parking SPDs and there is no objections raised from the Highways Authority. The proposal is not therefore considered to result in any unacceptable harm to highway safety.

#### Trees and Landscaping

- 6.35 Policy SPL3 seeks new development that respects or enhances local landscape character, views, skylines, landmarks, existing street patterns, open spaces and other locally important features. The design and layout of the proposed development should maintain or enhance important existing site features of landscape, ecological, heritage or amenity value.
- 6.36 The new dwelling would involve the removal of a number of mature trees immediately adjacent and to the north of the existing barn, a single oak, a group of Silver Birch and a Goat Willow. The trees are in a reasonable condition, however in this instance they do not merit retention or formal legal protection by means of a tree preservation order.
- 6.37 Therefore it is considered reasonable to require a full detailed hard and soft landscaping scheme to be submitted and approved which would need to show the trees which are to be retained and those which are to be removed, along with new soft landscaping to the application site in order to soften and screen the proposed new dwelling from views to the west. This can be secured by condition.

#### Water Conservation, Drainage and Sewerage

- 6.38 Paragraph 170 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 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.
- 6.39 Policy PPL5 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, which in this case there is not. 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.
- 6.40 The application form accompanying the application has stated that the development would be connected to a package water treatment plant.
- 6.41 Although details of the type of system have been submitted no FDA1 Foul drainage assessment form has been received. This makes it more difficult for the Council to be certain any application for an environmental permit would not be refused, or if any concerns of pollution or nuisance may arise. Nevertheless, the required details in this regard can be secured by condition.

#### Ecology and Biodiversity Implications

- 6.42 Policy PPL4 seeks to protect and enhance the local biodiversity and geodiversity. Whilst the site is not of any specific designation, it is considered to be within a fairly rural setting. The development has scope to include wildlife friendly, native planting and habitat boxes for roosting bats and nesting birds. These measures will contribute to biodiversity net-gain in accordance with Paragraph 174(d) of the NPPF (2021).
- 6.43 These measures can be adequately secured by suitable conditions to any grant of planning permission.

#### Environmental Protection

- 6.44 The applicant has submitted a Construction Method Statement, outlining measures to minimise potential nuisance to nearby existing residents caused by the construction works. This CMS has regard to noise control, vehicle movements and working hours, use of machinery and mobile plant, piling works and both emission and dust control and is considered to be acceptable. Due to the location of the site and its previous agricultural use, conditions are recommended in relation to land contamination and safe removal of asbestos.

#### Renewable Energy

- 6.45 Policy PPL10 addresses renewable energy generation and energy efficiency measures for residential development involving the creation of one or more dwellings. Measures including electric car charging points should be considered. Paragraph 112 e) of the Framework states that applications for development should be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations. This can reasonably be dealt with by the use of a planning condition.

#### Recreational Disturbance Avoidance and Mitigation Strategy (RAMS):

- 6.46 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.
- 6.47 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.
- 6.48 The application scheme proposes a new dwelling on a site that lies within the Zone of Influence (Zol) being approximately 7,572 metres from Stour and Orwell Estuaries Ramsar. However, new housing development within the Zol would be likely to increase the number of recreational visitors to Stour and Orwell Estuaries; and, in combination with other developments it is likely that the proposal would have significant effects on the designated site.
- 6.49 Mitigation measures must therefore be secured prior to occupation. A unilateral undertaking has been prepared to secure this legal obligation. This will ensure that the development would not adversely affect the integrity of European Designated Sites in accordance with Section 1 Policy SP2 and Section 2 Policy PPL4 of the Tendring District Local Plan 2013-2033 and Regulation 63 of the Conservation of Habitat and Species Regulations 2017

## **7. Conclusion**

7.1 It is considered that the proposed development is consistent with the National and Local Plan Policies identified above – in reaching this conclusion due regard is given to other material planning considerations as per section 70 of the Town and Country Planning Act 1990. In the absence of material harm resulting from the proposal the application is recommended for approval.

## **8. Recommendation**

8.1 The Planning Committee is recommended to grant planning permission subject to the following conditions and informatives and the prior completion of a Unilateral Agreement, Financial contribution towards RAMS.

### **8.2 Conditions and Reasons**

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

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

2. The development hereby permitted shall be carried out in accordance with the following approved plan(s):

Site Plan submitted 17/06/2022

WHL-302 Rev A - Proposed block, elevations and floor plans – dated 06/2022

Construction Method Statement submitted 17/06/2022

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

3. Prior to the first occupation of the dwellinghouse, hereby approved, the existing agricultural building (subject of 22/00517/COUNOT) and shown as being demolished on drawing WHL-302 Rev A) on the site must be completely demolished and all materials resulting therefrom shall be cleared from the site.

Reason - The development hereby permitted has only been supported on the basis that the existing agricultural building be removed from the site to justify their replacement with a single dwelling which ordinarily would be contrary to the development plan which directs new development to sites within settlement development boundaries.

4. Prior to and during construction, if any unexpected ground conditions are encountered during the following processes must be followed:
  - a. All site works at the position of the suspected contamination will stop and the Local Planning Authority and Environmental Health Department will be notified as a matter of urgency.
  - b. A suitably trained geo-environmental engineer should assess the visual and olfactory observations of the ground and the extent of contamination and the Client and the Local Authority should be informed of the discovery.
  - c. The suspected contaminated material will be investigated and tested appropriately in accordance with assessed risks. The investigation works will be carried out in the presence of a suitably qualified geo-environmental engineer. The investigation works will involve the collection of solid samples for testing and, using visual and olfactory observations of the ground, delineate the area over which contaminated materials are present.
  - d. The unexpected contaminated material will either be left in situ or be stockpiled (except if suspected to be asbestos) whilst testing is carried out and suitable assessments completed to determine whether the material can be re-used on site or requires disposal as appropriate.

- e. The testing suite will be determined by the independent geo-environmental specialist based on visual and olfactory observations.
- f. Test results will be compared against current assessment criteria suitable for the future use of the area of the site affected.
- g. Where the material is left in situ awaiting results, it will either be reburied or covered with plastic sheeting.
- h. Where the potentially contaminated material is to be temporarily stockpiled, it will be placed either on a prepared surface of clay, or on 2000-gauge Visqueen sheeting (or other impermeable surface) and covered to prevent dust and odour emissions.
- i. Any areas where unexpected visual or olfactory ground contamination is identified will be surveyed and testing results incorporated into a Verification Report.
- j. A photographic record will be made of relevant observations.
- k. The results of the investigation and testing of any suspect unexpected contamination will be used to determine the relevant actions. After consultation with the Local Authority, materials should either be: o re-used in areas where test results indicate that it meets compliance targets so it can be re-used without treatment; or o treatment of material on site to meet compliance targets so it can be re-used; or o removal from site to a suitably licensed landfill or permitted treatment facility.
- l. A Verification Report will be produced for the work.

Reason - to protect the health of site workers and end users

- 5. The Construction Method Statement submitted 17/06/2022 shall be strictly adhered to throughout the construction period for the development.

Reason - In the interests of residential amenity and highway safety and to reduce the likelihood of complaints of statutory nuisance.

- 6. Prior to the commencement of any above ground works, details of the drainage works for wastewater and foul drainage must be submitted to and approved in writing by the Local Planning Authority. These works shall subsequently be carried out in accordance with the approved details.

Reason - To ensure satisfactory drainage/surface water disposal/sewerage disposal is provided.

- 7. Prior to the commencement of any above ground works, a full scheme of hard and soft landscaping works including a detailed plan, showing species to be used, planting positions, numbers of trees and shrubs and the sizes of the plants at time of planting and include wildlife friendly, native planting and locations for habitat boxes for roosting bats and nesting birds shall be submitted to and approved, in writing, by the Local Planning Authority.

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

- 8. 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 adequate retention and maintenance of the approved landscaping scheme for a period of five years in the interests of visual amenity, the quality of the development and the character of the area.

9. Prior to first occupation of the dwelling hereby approved, the entirety of the hedgerow, fronting Harts Lane to the east of the approved access shall be removed. Thereafter, there shall be no obstruction to visibility east of the access, greater than 600mm above the adjoining road level, in advance of a line drawn 2.4 metres back from the carriageway edge on the centre line of the access and extending across the frontage of the site.

Reason: To provide adequate inter-visibility between users of the access and the public highway in the interests of highway safety

10. No gates be provided at the vehicular access with Harts Lane. The access shall remain open and free for use at all times.

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

11. Prior to above ground works, a scheme for the provision of electric vehicle charging facilities for the dwelling shall have first been submitted to and approved in writing by the local planning authority. Thereafter the charging facilities shall be installed in a working order, prior to first occupation of the dwelling.

Reason: In order to promote sustainable transport.

12. Notwithstanding the provisions of Schedule 2 Part 1 Classes A, B, C, D and E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any Order revoking and re-enacting that Order with or without modification), no extensions, additions, porches or alterations to the dwellings or their roofs shall be carried out and no outbuildings, enclosures, swimming or other pools shall be erected except in complete accordance with details which shall previously have been approved, in writing, by the Local Planning Authority following the submission of a planning application for such development.

Reason - To minimise and retain control over the amount of development in this rural location

### 8.3 Informatives

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

#### Asbestos

Prior to the commencement of any demolition works, an asbestos survey should be carried out. Any asbestos containing materials must be safely removed by a qualified contractor to protect the health of site workers and end users

#### Highways

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)

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

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

## **9. Additional Considerations**

### Public Sector Equality Duty (PSED)

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

### Human Rights

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

from discrimination except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation to grant permission is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

#### Finance Implications

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

#### **10. Background Papers**

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

## PLANNING COMMITTEE

25 OCTOBER 2022

### JOINT REPORT OF ACTING DIRECTOR (PLANNING) AND DEPUTY CHIEF EXECUTIVE & MONITORING OFFICER

#### A.1 PETITION: ALLEGED PLANNING ENFORCEMENT MATTER AT NELSON ROAD, CLACTON-ON-SEA

##### PART 1 – KEY INFORMATION

###### **PURPOSE OF THE REPORT**

To formally report the receipt of a petition submitted in relation to an alleged planning enforcement matter in Nelson Road, Clacton-on-Sea.

###### **EXECUTIVE SUMMARY**

A Petition supported by 60 residents of Nelson Road, Clacton-on-Sea (plus residents of other streets in Clacton) has been submitted in relation to an alleged planning enforcement matter in that street. The Petition calls on the Council to urgently exercise its planning enforcement powers and to serve a Breach of Condition Notice on Lane Homes Construction Group for the alleged non-compliance with planning permission, namely the alleged failure to make good the unmade pavement and drop kerbs.

Planning Enforcement is a non-executive function and therefore the Planning Committee is the appropriate body to consider this matter.

In accordance with the Council's adopted Scheme for Dealing with Petitions the receipt of this Petition will be reported, for Members' information, to the meeting of the Full Council due to be held on 22 November 2022. However, in view of the urgency of this matter, it was felt appropriate by your Officers to bring this petition to the first practicable meeting of this Committee for Members' consideration.

###### **RECOMMENDATION(S)**

**That, having duly considered the Petition together with the information provided in this report, the Committee decides what action, if any, it wishes to take.**

###### **REASON(S) FOR THE RECOMMENDATION(S)**

To comply with the adopted scheme for dealing with petitions, as set out in the Council's Constitution.

## ALTERNATIVE OPTIONS CONSIDERED

None applicable see Part 3.

## PART 2 – IMPLICATIONS OF THE DECISION

### DELIVERING PRIORITIES

In respect of the Corporate Plan 2020/24 Priority Themes the Committee's decision will contribute to:

- Delivering high quality services (and specifically effective regulation and enforcement).

### LEGAL REQUIREMENTS (including legislation & constitutional powers)

Planning enforcement is a non-executive function that is delegated to the Planning Committee in schedule 2 of part 3 of the Council's Constitution. The Planning Committee's overall function is the discharge of the Town and Country Planning and Conservation functions as specified in Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) and as detailed in Appendix 1 to Part 3 of the Constitution.

### FINANCE AND OTHER RESOURCE IMPLICATIONS

Not applicable, see Part 3.

### USE OF RESOURCES AND VALUE FOR MONEY

*External Audit expect the following matters to be demonstrated in the Council's decision making:*

- A) Financial sustainability: how the body plans and manages its resources to ensure it can continue to deliver its services;*  
*B) Governance: how the body ensures that it makes informed decisions and properly manages its risks, including; and*  
*C) Improving economy, efficiency and effectiveness: how the body uses information about its costs and performance to improve the way it manages and delivers its services.*

*As such, set out in this section the relevant facts for the proposal set out in this report.*

The following are submitted in respect of the indicated use of resources and value for money indicators:

A) Financial sustainability: how the body plans and manages its resources to ensure it can continue to deliver its services;	Not Applicable in this instance.
B) Governance: how the body ensures that it makes informed decisions and properly manages its risks, including; and	Nothing in addition to those matters already set out in the report.

C) Improving economy, efficiency and effectiveness: how the body uses information about its costs and performance to improve the way it manages and delivers its services.	Not Applicable in this instance.
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**MILESTONES AND DELIVERY**

Not Applicable in this instance.

**ASSOCIATED RISKS AND MITIGATION**

Not Applicable in this instance, see part 3.

**OUTCOME OF CONSULTATION AND ENGAGEMENT**

The Council's adopted Scheme for Dealing with Petitions states, inter alia:-

- Receipt of a petition will be formally acknowledged to the lead petitioner in writing or by email as appropriate, within five working days of its receipt.
- The appropriate Ward Member(s) will be informed of receipt of a petition and when and how the petition will be considered.
- When a petition is being considered by Cabinet or Council/Committee...the lead petitioner will be invited to address the Cabinet or Council/Committee, outlining the reasons for the submission of the petition and what action they would like the Council to take. The lead petitioner (or his or her representative) will have a time limit of three minutes for their speech and the petition will then be discussed by Councillors. A Ward Councillor can, at the request of the lead petitioner, present the petition to Cabinet or Council/Committee on behalf of the relevant petitioners.
- The lead petitioner will be informed, in writing, of the Cabinet or Council's decision and this information will also be published on the Council's website via the Minutes of the relevant meeting at which the petition was dealt with. If a further meeting is to be held to consider the issues raised in the petition, the lead petitioner will be supplied with the relevant details and will also be given the opportunity to attend and address that meeting and if appropriate, answer any questions posed at the meeting.

**EQUALITIES**

*In line with the Public Sector Equality Duty, public bodies such as the Council must, in the exercise of their functions, give due regard to the need to eliminate discrimination, harassment, victimisation, to advance equality of opportunity and foster good relations between those who share a protected characteristic and those who do not.*

*The protected characteristics are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race religion or belief, sex, sexual orientation.*

It is noted that the Petition refers to matters in relation to access and surface availability that may affect parties' mobility depending on any public or private rights of access available.

However, given that the pavement issues and related highway matters the subject of the petition all fall within the jurisdiction of the County Council an Equality Impact Assessment has not been carried out in this instance.

**SOCIAL VALUE CONSIDERATIONS**

There are no social value considerations relevant to this report having regard to the Public Services (Social Value) Act 2012.

**IMPLICATIONS FOR THE COUNCIL’S AIM TO BE NET ZERO BY 2030**

There is no impact on the Council’s aim for its activities to be carbon neutral by 2030 including the actions, policies and milestones in its Climate Change Action Plan.

**OTHER RELEVANT CONSIDERATIONS OR IMPLICATIONS**

*Set out what consideration has been given to the implications of the proposed decision in respect of the following and any significant issues are then set out below.*

**Consideration has been given to the implications of the proposed decision in respect of the following and any significant issues are set out below.**

<b>Crime and Disorder</b>	None
<b>Health Inequalities</b>	None
<b>Area or Ward affected</b>	ST JAMES Ward

**PART 3 – SUPPORTING INFORMATION**

**ACTING DIRECTOR (PLANNING)’S ASSESSMENT AND ADVICE**

On 13<sup>th</sup> July 2022 Essex County Council confirmed that the pavement issues and related highway matters subject to the Petition all fall under their jurisdiction and that they are liaising with the developer in that respect. Matters relating to dropped kerbs are outside of the curtilage which forms the boundary of the site, and were not covered by planning conditions. In conclusion, the works are not subject to conditions that can be enforced as breach of condition or are otherwise works in the highway that falls to Essex County Council to resolve and as necessary enforce. Tendring District Council can not legally address the situation as presented and does not have enforcement power to exercise. Tendring District Council has respectfully asked Essex County Council to resolve this matter as soon as possible on previous occasions.

On this basis, no action in planning terms can be recommended as a result of this petition and so it is reported without an Officer recommendation.

**BACKGROUND**

On Friday 30 September 2022, the Ward Members for St. James’ Ward (Councillors Maurice

Alexander and Chris Griffiths), acting on behalf of the Lead Petitioner (Ms. Maria Monteith), presented a petition to the Council's Head of Democratic Services & Elections (Keith Simmons). The Petition was in relation to an alleged planning enforcement matter in Nelson Road, Clacton-on-Sea and was worded as follows:-

*"We, the under-signed, being concerned residents of Nelson Road, Clacton-on-Sea who are directly affected by the issue of the unmade pavement and drop kerbs, call on Tendring District Council, to urgently exercise its planning enforcement powers and to serve a Breach of Condition Notice on Lane Homes Construction Group in order to ensure that the contractor responsible for the nine new build houses makes good the unmade pavement and drop kerbs in Nelson Road that are required by the planning permission for this site."*

The Petition was supported by 60 residents of Nelson Road, Clacton-on-Sea plus 33 residents of other local streets in Clacton.

#### **PREVIOUS RELEVANT DECISIONS TAKEN BY COUNCIL/CABINET/COMMITTEE ETC.**

None in relation to this matter.

#### **BACKGROUND PAPERS AND PUBLISHED REFERENCE MATERIAL**

Petition to the Council submitted by the Ward Members for St. James' Ward (Councillors Maurice Alexander and Chris Griffiths), acting on behalf of the Lead Petitioner (Ms. Maria Monteith).

#### **APPENDICES**

None

#### **REPORT CONTACT OFFICER(S)**

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