



PLANNING COMMITTEE

DATE: Thursday, 24 November 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

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

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

If you have any queries regarding webcasting or the recording of meetings by the public, please contact Ian Ford Email: democraticservices@tendringdc.gov.uk or Telephone on 01255 686584.

DATE OF PUBLICATION: Wednesday, 16 November 2022

AGENDA

1 Apologies for Absence and Substitutions

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

2 Minutes of the Last Meeting (Pages 1 - 14)

To confirm and sign as a correct record, the minutes of the meeting of the Committee, held on Tuesday 25 October 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 REPORT A.1 - PLANNING APPLICATION 22/01666/FUL – CAR PARK, PROMENADE WAY, BRIGHTLINGSEA, CO7 0HH (Pages 15 - 22)

Proposed additional building on side of existing toilet block to provide enhanced facilities to meet the needs of disabled children and adults with complex care needs and who require carer support, appropriate equipment and more space.

6 REPORT A.2 - PLANNING APPLICATION 22/01675/FUL – SEAFRONT SHELTER, THE ESPLANADE, HOLLAND-ON-SEA CO15 5TU (Pages 23 - 30)

Proposed conversion of former deck chair store and creation of access ramp to provide enhanced changing and toilet facilities to meet the needs of disabled children and adults with complex care needs who require care support, appropriate equipment and more space.

7 REPORT A.3 - PLANNING APPLICATION 22/01676/FUL – SEAFRONT BELOW MARINE PARADE EAST, CLACTON-ON-SEA CO15 5BY (Pages 31 - 38)

Proposed construction of changing places facility to provide enhanced toilet/changing facilities to meet the needs of disabled children and adults with complex care needs who require carer support, appropriate equipment and more space.

8 REPORT A.4 - PLANNING APPLICATION 21/02181/FUL – LAND ADJACENT TO HALSTEAD ROAD, KIRBY-LE-SOKEN CO13 0DY (Pages 39 - 104)

Construction of a solar project together with all associated works, equipment and necessary infrastructure to include batteries alongside an Electric Vehicle Charging Station, parking, means of access, landscaping and associated development.

9 **REPORT A.5 - PLANNING APPLICATION 22/01232/FUL – LAND AT REEDLANDS, GUTTERIDGE HALL LANE, WEELEY (Pages 105 - 122)**

Erection of one bungalow (in lieu of deemed Prior Approval for a dwelling, subject of application 21/02086/COUNOT). Revised siting to that approved under application 22/00464/FUL.

Date of the Next Scheduled Meeting

The next scheduled meeting of the Planning Committee is to be held in the Committee Room - Town Hall, Station Road, Clacton-on-Sea, CO15 1SE at 6.00 pm on Tuesday, 20 December 2022.

Information for Visitors

FIRE EVACUATION PROCEDURE

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

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

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

Your calmness and assistance is greatly appreciated.

PLANNING COMMITTEE MEETINGS PUBLIC SPEAKING SCHEME March 2021

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

TO WHICH MEETINGS DOES THIS SCHEME APPLY?

Public meeting of the Council's Planning Committee are normally held every 4 weeks at 6.00 pm in either the Committee Room at the Town Hall, Station Road, Clacton-on-Sea CO15 1SE and the public are encouraged to check the venue etc. on the Council's Website before attending.

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

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

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

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

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

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

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

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

WHICH MATTERS ARE COVERED BY THIS SCHEME?

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

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

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

able to speak at that meeting, but will be able to do so at the meeting when the application is next considered by the Planning Committee.

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

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

HOW DO I ARRANGE TO SPEAK AT THE MEETING?

You can:-

Telephone the Committee Services Officer ("CSO") (01255 686584) during normal working hours on any weekday after the reports and agenda have been published; or

Email: democraticservices@tendringdc.gov.uk

OR

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

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

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

WHAT WILL HAPPEN WHEN THE MATTER CONCERNED IS CONSIDERED?

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

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

WHAT SHOULD I SAY AT THE MEETING?

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

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

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

WHO DO I CONTACT FOR MORE INFORMATION?

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

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

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

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

**MINUTES OF THE MEETING OF THE PLANNING COMMITTEE,
HELD ON TUESDAY, 25TH OCTOBER, 2022 AT 6.01 PM
IN THE COMMITTEE ROOM, TOWN HALL, STATION ROAD, CLACTON-ON-SEA,
CO15 1SE**

Present:	Councillors White (Chairman), Alexander, Baker, Codling, V E Guglielmi, Harris, Placey and Wiggins
Also Present:	Councillors Griffiths and G V Guglielmi
In Attendance:	Gary Guiver (Acting Director (Planning)), Ian Ford (Committee Services Manager), Joanne Fisher (Planning Solicitor), Jacob Jaarsmar (Planning Team Leader), Michael Pingram (Planning Officer)(except item 60) and Mark Wilson (Development Technician - Technical)

53. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

An apology for absence was submitted on behalf of the Vice-Chairman of the Committee (Councillor Fowler). There was no substitute appointed.

At the request of the Chairman (Councillor White), and with the consent of the Committee, Councillor Baker occupied the Vice-Chairman's seat in order to assist the Chairman in the efficient conduct of the meeting.

54. MINUTES OF THE MEETINGS OF THE COMMITTEE HELD ON 22 AND 27 SEPTEMBER 2022

The minutes of the meetings of the Committee, held on 22 and 27 September 2022, were approved as correct records and signed by the Chairman.

55. DECLARATIONS OF INTEREST

Councillors Placey and V E Guglielmi both reminded Members that they had not been present at the meeting of the Committee held on 2 August 2022 when Planning Application 22/01083/FUL (618 Main Road, Upper Dovercourt) had initially been considered. They informed the meeting that they would therefore not take part in the determination of that application.

The Committee Services Manager (Ian Ford) declared a personal interest in agenda item 8 (petition in relation to an alleged planning enforcement matter at Nelson Road, Clacton-on-Sea) insofar as his mother was a resident of Nelson Road though she had not been a signatory to that petition.

56. QUESTIONS ON NOTICE PURSUANT TO COUNCIL PROCEDURE RULE 38

There were no such Questions on Notice on this occasion.

57. A.1 PLANNING APPLICATION - 22/01083/FUL - 618 MAIN ROAD, UPPER DOVERCOURT, CO12 4LS

Earlier on in the meeting Councillors Placey and V E Guglielmi had both reminded Members that they had not been present at the meeting of the Committee held on 2

August 2022 when Planning Application 22/01083/FUL (618 Main Road, Upper Dovercourt) had initially been considered. They therefore took no part in the determination of the application.

The Committee recalled that it had deferred the determination of this application at its meeting held on 2 August 2022 in order to allow the applicant time to undertake and submit a noise impact assessment and noise management plan for the premises.

It was reported that the submitted report DAA Group, ISSUE 01 dated 10th September 2022 had covered both the noise impact assessment and the noise management plan. There had been no objections received from the Council's Environmental Health team to the report or plan subject to conditions to ensure that the enforceable and planning related elements of the noise management plan was adhered to at all times and that the recommended mitigation for the plant was undertaken, in order to minimise the noise and disturbance to neighbouring occupiers.

Members were reminded that the proposal was 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 was located within the settlement development boundary of Harwich and Dovercourt

The Committee was aware that the application was part retrospective as the majority of the works, mostly internal had been completed. ECC Place Services had had 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 was also acceptable in regards to its Highways and Parking impacts.

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

At the meeting, an oral presentation was made by the Council's Planning Team Leader (Jacob Jaarsma) in respect of the application. An update sheet had been circulated to the Committee prior to the meeting comprising:-

- (1) a revised proposed condition 3 to take into account specific elements of the submitted noise management plan and to ensure that those elements were implemented in full before first use; and
- (2) the applicant's Operation Plan (dated 7 September 2022) for the premises.

No public speaking on the application was permitted at this time as this had taken place at the meeting held on 2 August 2022.

Outline of matters raised by the Committee	Outline of the Officer response thereto
Were Officers satisfied with the contents of the Noise Impact Assessment and the Noise Management Plan?	The Council's Environmental Health section had been consulted. They had raised no objections subject to the imposition of appropriate planning conditions.

<p>If the Committee was minded to approve the planning application what assurances could be given to the local residents should noise et cetera become an issue i.e. what action could be taken?</p>	<p>The potential for noise nuisance was the key aspect of this application. There were several avenues available for public complaints. If it was an alleged breach of the planning conditions then a complaint could be submitted to the Council's planning enforcement section. If there was alleged persistent noise emanating from the premises then a complaint could be submitted to the Council's Environmental Health section. If there was alleged inconsiderate or illegal parking at the site then a complaint could be submitted to the North Essex Parking Partnership. If there was alleged dangerous parking at the site then a complaint should be submitted to Essex Police. If there were alleged breaches of the conditions of the Premises Licence then a complaint could be submitted to the Council's Licensing section.</p>
<p>Clarification was sought between the difference in the permitted hours of operation between the Premises Licence and the proposed planning conditions.</p>	<p>The hours imposed as a result of any planning permission would take precedence over those on the Premises Licence.</p>
<p>Had there been any complaints made about noise emanating from the adjacent Trafalgar Public House?</p>	<p>There had been a small number of historic planning enforcement complaints. Environmental Health had received a complaint about noise in April 2022 and before that in 2010.</p>
<p>Could proposed Condition 6 be extended to cover Saturdays and Sundays as well?</p>	<p>The reasoning behind this proposed condition was to allow the Cemetery to operate (i.e. to conduct funerals) without undue disturbance. The Committee could extend the condition to include Saturdays and Sundays if it felt it to be reasonable having considered all material aspects of the application.</p>
<p>Did the opening hours of the Social Club and The Trafalgar Public House compare?</p>	<p>They were very similar.</p>
<p>Could both premises coincide in the discharge of their patrons onto the streets?</p>	<p>Yes, this was a possibility.</p>
<p>Could a maximum capacity limit (i.e. of patrons) be imposed on the Social Club?</p>	<p>This would be a Members Only Club. Capacity would be very difficult to enforce. The Committee also had to take into account its "reasonableness" and whether it was a material planning consideration.</p>

<p>The site had a very narrow access road. Parking was a material issue. What advice could Officers give?</p>	<p>Parking was a challenge in that vicinity. Members had to consider that it was an existing building within the Settlement Boundary with pre-existing road/parking environment. Due regard also had to be given to the fall-back position of its previous use as a Chapel & Hall (Class F1) with no parking restrictions. In addition, County Highways had not objected to the application.</p>
<p>Did the Committee need to take into account that fall-back position?</p>	<p>Yes, especially as Class F1 (which covered various descriptions) was a realistic fallback position. However it was firmly acknowledged that an F1 use could be very different to use as a Social Club (Sui Generis).</p>

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

RESOLVED that the Assistant Director (Planning) (or otherwise delegated Officer after 26 October 2022) be authorised to grant planning permission, subject to the conditions as set out below, or as need to be varied (to account for any errors or legal issues et cetera) or otherwise added or removed as may be deemed necessary by the Assistant Director (Planning) (or otherwise delegated Officer after 26 October 2022).

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. Prior to the first use of the Social Club hereby approved the following must be implemented:-
 - a) The main front door when closed, should achieve minimum 30 dB Rw, including perimeter acoustic seals to ensure noise breakout is controlled.
 - b) The installed plant (Multiplex heat pump advanced- Model 09-0204-01 and J and E Hall model J5LC20CV1 Condenser Unit) must be fully enclosed in an acoustic

enclosure with an insertion loss of 14dB or greater. The units must be isolated from the structure of the building using anti-vibration. The isolators shall incorporate rubber or neoprene high-frequency isolation pads

- c) The management must make available a contact number for local residents to contact the premises to discuss any specific incidents or concerns either during or after events. The contact number must be displayed in the window at the front of the premises at all times.
- d) Notices must be displayed to inform customers of the applicant's commitment to local concerns. Prominent, clear and legible notices must be displayed at the exits of the social club requesting the users of the social club to respect residents and to leave the premises and the area quietly at all times.

The Social Club hereby approved must operate fully in accordance with the points a-d above and as outlined in the relevant sections of the noise impact assessment - DAA Group report submitted, Issue 01, dated 10th September 2022.

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.

58. A.4 - PETITION: ALLEGED PLANNING ENFORCEMENT MATTER AT NELSON ROAD, CLACTON-ON-SEA

Earlier on in the meeting the Committee Services Manager (Ian Ford) had declared a personal interest in the subject matter of this item for the reasons outlined in Minute 55 above.

It was reported that a Petition, supported by 60 residents of Nelson Road, Clacton-on-Sea (plus 33 residents of other streets in Clacton), had been submitted in relation to an alleged planning enforcement matter in that street. The Petition called on this 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 for the construction of nine 'Town Houses' at 6 Nelson Road, namely the alleged failure to make good the unmade pavement and drop kerbs. The Petition 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."

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

The Committee was made aware that, in accordance with the Council's adopted Scheme for Dealing with Petitions, the receipt of this Petition would 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 had been felt appropriate by Officers to bring this petition to the first practicable meeting of this Committee for Members' consideration.

In accordance with the Council's adopted Scheme for Dealing with Petitions, the Lead Petitioner, Maria Monteith addressed the Committee, and outlined the reasons for the submission of the petition and what action the petitioners wanted the Council to take.

At the invitation of the Chairman, Councillor Griffiths, one of the Ward Members, similarly addressed the Committee.

The Acting Director (Planning) reported that, on 13 July 2022, Essex County Council had confirmed that the pavement issues and related highway matters subject to the Petition all fell under their jurisdiction and that they were liaising with the developer in that respect. Matters relating to dropped kerbs were outside of the curtilage, which formed the boundary of the site, and therefore not covered by planning conditions. In conclusion, the works were not subject to conditions that could be enforced as a breach of condition and were works in the highway that fell to Essex County Council to resolve and as necessary to enforce. Tendring District Council could not legally address the situation as presented and did not have any enforcement power it could exercise. Tendring District Council had respectfully asked Essex County Council to resolve this matter as soon as possible on previous occasions.

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

Outline of matters raised by Members of the Committee	Outline of Officer response thereto
Was this a condition of the planning permission? Why had it not been complied with?	Yes it was. The issue outstanding was the license for the construction of the drop kerbs, which was a County Council matter and not a matter for this Council. It had not been complied with as the developer had not yet been granted that licence by the County Council.
Who was at fault here? Was it the Developer or was it the County Council?	There was fault on both sides. The matter had taken much too long to resolve and it had now become a significant public issue.
If a member of the public had an accident traversing the land in question who would be liable? Would it be ECC Highways?	Yes, it would be ECC Highways as the land in question was highways land.

Having duly considered and discussed the matter:-

It was moved by Councillor Alexander, seconded by Councillor Harris and:-

RESOLVED that the Planning Committee instructs this Council’s Director of Planning to write, formally, to the Portfolio Holder responsible for Highways at Essex County Council to escalate this matter with a view to a speedy and satisfactory resolution – bearing in mind this is a matter that has been unresolved for in excess of a year and should have been concluded prior to occupation of the new homes.

The letter will explain that there has been a strong petition from a significant number of local residents that, with good reason, demonstrates that this is a matter of great public interest which is causing a great deal of local distress and which is undermining the public’s faith in both their District and County Councils in carrying out their duties. Furthermore, the state of the footway has given rise to genuine concerns about the safety of pedestrians and damage to residents’ vehicles – which could potentially give rise to claims against the Highway Authority as it falls within its duty to maintain the public highway.

With the full support and backing of the Members of this Planning Committee, the letter will demand that the completion of the footpath is given a higher priority and is resolved as a matter of urgency, utilising the available enforcement powers if necessary, and that this Council is provided with an explanation of the current position and a timetable for completing the works – which can be reported back to the Planning Committee and local residents.

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

It was reported that this application was before the Planning Committee following a joint Member referral request from Councillors Giancarlo Guglielmi and Alan Coley due to their concerns raised in respect of the impact of the proposal on local residential amenities.

Members were informed that the proposal was 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 would provide care for up to five children between the ages of 8 and 18, and would include between one and three members of staff who would rotate on a shift basis.

The Committee was reminded that Policy LP10 provided, in principle, support for such uses within settlement development boundaries, whilst the minor external alterations would not adversely impact upon the area’s character and appearance. In addition, there were not considered by Officers to be significant noise disturbances to warrant recommending a reason for refusal, and the development provided for adequate car parking provision.

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 (Michael Pingram) 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 from Lawford Parish Council on the following grounds:

- 1) *Concerns regarding the level of staffing and the impact of this on the safety of the children concerned;*
- 2) *The mixture of gender and age of the children and again the safety of the children concerned;*
- 3) *The impact on the neighbours with increased ‘comings and goings’; and*
- 4) *The pressure on local schools which are already at capacity.*

Lee Reed, the agent acting on behalf of the applicant, spoke in support of the application.

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

Councillor Guglielmi also read out a written statement on behalf of his fellow Ward Member, Councillor Alan Coley, who had been unable to attend the meeting due to illness.

Outline of matters raised by Members of the Committee	Outline of Officer response thereto
Clarification sought as to whether any of the children would be in mainstream schools.	There was no indication that any of the, potentially, five children would be educated in mainstream schools.
There were only four parking spaces at the site so was this an issue for the children’s transport?	Yes, there was a slight shortfall in parking spaces against the ECC Car Parking Standards but this was mitigated by the fact that the site was within 300 metres of a bus stop, was located within a Settlement Development Boundary and that Essex

	Highways Authority had offered no objections. Furthermore, it would be a rare occurrence that all the spaces would be needed at the same time.
What were the sleeping arrangements for the night staff on duty?	An upstairs bathroom had been divided into part bathroom/part bedroom where one member of staff will sleep whilst 'on call' and the other member of staff would be on duty.
What would be the gender makeup of the children?	This was not known.
Would Fire Regulations apply?	Yes. This would be part of the Building Regulations approval, which would be required as the property would be converted.
Was it known what sort of 'needs' the children had?	It was believed that they would be on the autism spectrum, but the end users were not known at this stage.
Would this development impact on the street scene and the amenity of neighbours for example noise nuisance and traffic movements?	This had been carefully considered and covered in the report. For the reasons given in the report the application was felt to be acceptable as no significant harm had been demonstrated.
The objections that Lawford Parish Council had put forward – were they legitimate planning considerations?	(1) Yes (2) No and Yes (3) Yes (4) Yes
What were the views of ECC Education and ECC Social Care on this application? Had they been involved?	ECC Education had been consulted but had not provided any comments. ECC Social Care would become involved later on if planning permission was granted and the project developed.
Could this become a HMO?	Permission for a C2 use was being sought. An HMO would require a separate planning permission and failing that it would be a breach of this planning permission (should it be granted).
Are there any restrictions on the use of the parking spaces?	No.
Would this development need gates to be installed as it opened straight onto a main road and therefore the children could be at risk?	There was no provision in the application or requirement under the proposed conditions for gates. The property was currently a domestic dwelling that could potentially have children living there. Any gates would be a consideration for the applicant going forward. Gates up to 1m high directly adjacent to a highway could be installed at any time under permitted development rights.
Proposed condition 3 does not specify	That would be a reasonable addition to

the ages of the children. Should it?	the proposed condition.
Was there any impact on the Conservation Area?	The property was adjacent to the Conservation Area. The proposed external alterations were minor and therefore were not considered to result in a negative impact on the Conservation Area.
Was it correct that the security of the children was a matter for ECC Social Care and OfSTED?	Yes, that was correct.

Following discussion by the Committee:-

It was moved by Councillor Harris, seconded by Councillor Baker and:-

RESOLVED that the Assistant Director (Planning) (or otherwise delegated Officer after 26 October 2022) be authorised to grant planning permission, subject to the conditions as set out below, or as need to be varied (to account for any errors or legal issues et cetera) or otherwise added or removed as may be deemed necessary by the Assistant Director (Planning) (or otherwise delegated Officer after 26 October 2022).

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 (between 8-18 years of age) to reside at the property at any time, unless otherwise agreed in writing by the Local Planning Authority.

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.

60. A.3 PLANNING APPLICATION - 22/01041/FUL - LAND TO REAR OF THREE ELMS, HARTS LANE, ARDLEIGH CO7 7QH

It was reported that this application had been referred to the Planning Committee as the proposed development would conflict with the requirements of the Development Plan,

principally Policy SPL2 (Settlement Development Boundaries) of the Tendring District Local Plan 2013-2033 and Beyond Section 2 (adopted January 2022) as the site was located outside of any defined settlement development boundary, and it had an Officer recommendation of approval.

The Committee was informed that the proposed dwelling was not considered to be so materially different in regards to siting, height, footprint to the development approved under prior approval 22/00517/COUNOT and was similar in size, scale and appearance to the new dwellings approved within the wider site.

In the absence of any material harm resulting from the development in regards to its individual appearance, impact on the wider street scene and the character and appearance of the rural landscape, the application had been recommended by Officers for approval. Furthermore, the proposal would not result in any detrimental impact on neighbour amenity and there no concerns had been raised in regard to parking and highway matters.

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

At the meeting, an oral presentation was made by the Council’s Planning Team Leader (Jacob Jaarsma) in respect of the application. He informed Members that the required Unilateral Undertaking agreement had now been completed.

Mollie Foley, the agent acting on behalf of the applicant, spoke in support of the application.

Outline of matters raised by members of the Committee	Outline of Officer response thereto
Why had a proposed planning condition that sought the removal of permitted development rights been included?	This was an Officer recommendation that aimed at preventing the uncontrolled outward extension/augmentation of this fifth dwelling. The Officer accepted that the Applicant’s Agent had made good points as to its necessity and particularly its reasonableness given the fact that this condition had not been applied to the other four properties. Members could remove the condition if they so desired.
Had Officers considered solar panels for this dwelling?	A renewable energy development plan could be considered.
Are the other four dwellings outside the settlement development boundary? If so, would not it be the case that any extensions into the garden would require planning permission?	The whole of the wider site was significantly outside of the SDB but in any case permitted development rights would allow for extensions.

Following discussion by the Committee:-

It was moved by Councillor Harris, seconded by Councillor Alexander and:-

RESOLVED that the Assistant Director (Planning) (or otherwise delegated Officer after 26 October 2022) be authorised to grant planning permission, subject to a financial contribution towards RAMS, the conditions as set out below, or as need to be varied (to account for any errors or legal issues et cetera) or otherwise added or removed as may be deemed necessary by the Assistant Director (Planning) (or otherwise delegated Officer after 26 October 2022).

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. The Silver Birch Tree in the northeast corner of the site will be retained in situ.

Reason: In the interests of local amenity.

The meeting was declared closed at 9.08 pm

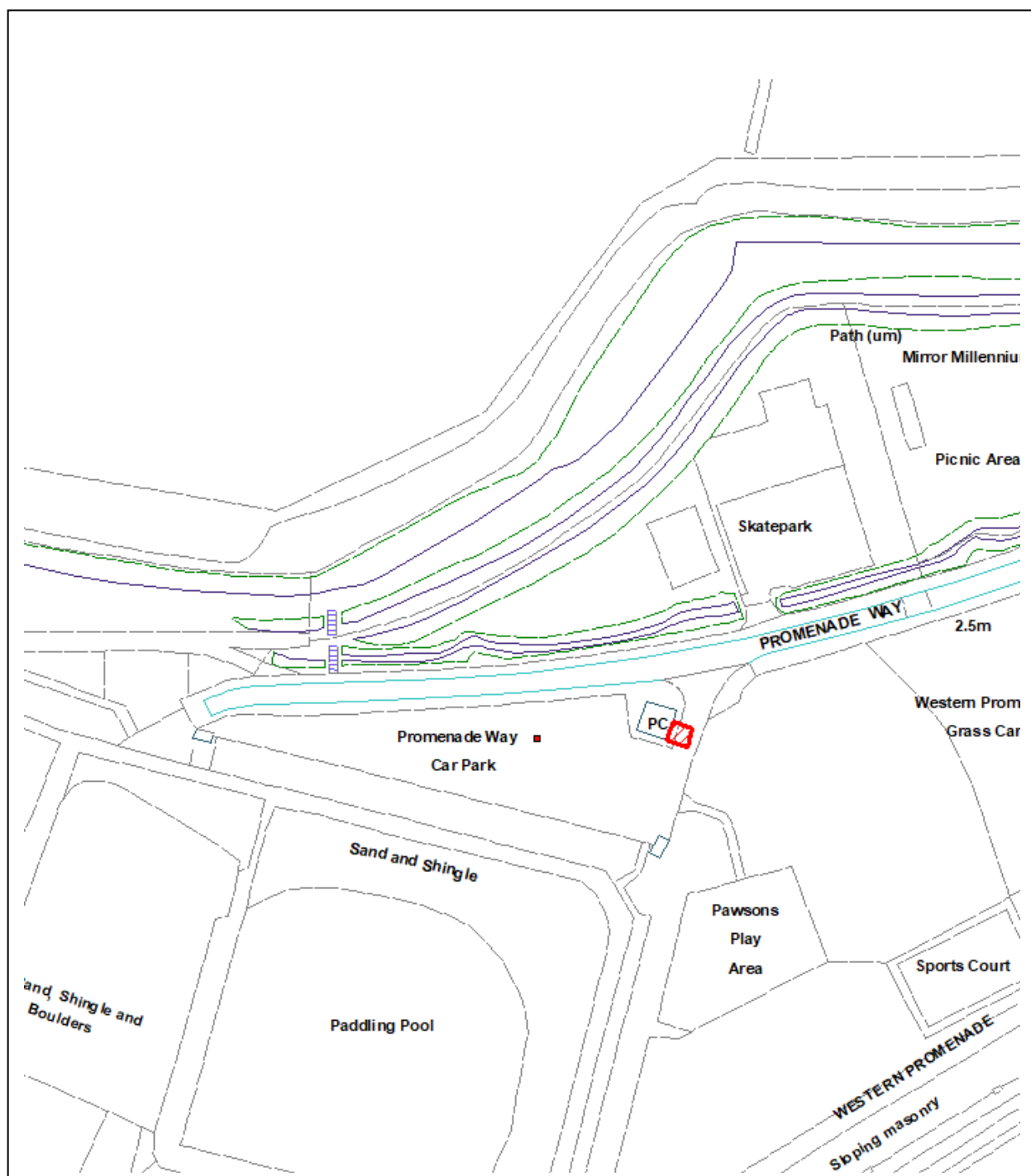
Chairman

PLANNING COMMITTEE

24th November 2022

REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING

A.1 PLANNING APPLICATION – 22/01666/FUL – CAR PARK PROMENADE WAY BRIGHTLINGSEA CO7 0HH



DO NOT SCALE

Reproduced from the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationery Office © Crown Copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings.

Application: 22/01666/FUL

Town / Parish: Brightlingsea Town Council

Applicant: Mr Andrew Nepean - Tendring District Council

Address: Car Park Promenade Way Brightlingsea CO7 0HH

Development: Proposed additional building on side of existing toilet block to provide enhanced facilities to meet the needs of disabled children and adults with complex care needs and who require carer support, appropriate equipment and more space.

1. Executive Summary

- 1.1 The application is before the Planning Committee as the applicant is Tendring District Council.
- 1.2 The proposal seeks the erection of an extension to the existing toilet block that would be used to provide a 'Changing Places' facility, which includes enhanced facilities to meet the needs of disabled children and adults with complex care needs, who require care support, appropriate equipment and additional space.
- 1.3 The works are considered to comply with the requirements of Policy HP1 and therefore are supported in principle. In addition, while located within a prominent location Officers do not consider that the scale or appearance of the building is harmful to the character of the area, while there will be no impact to any neighbouring amenities.

Recommendation:

That the Planning Manager 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 Planning Manager

*To account for any errors, legal and necessary updates

2. Planning Policy

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

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

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

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

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

- SPL1 Managing Growth
- SPL3 Sustainable Design
- HP1 Improving Health and Wellbeing
- HP4 Safeguarded Open Space
- PPL2 Coastal Protection Belt

Supplementary Planning Guidance:
Essex Design Guide

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

Status of the Local Plan

- 2.2 Planning law requires that decisions on applications must be taken in accordance with the development plan unless there are material considerations that indicate otherwise (Section 70(2) of the 1990 Town and Country Planning Act and Section 38(6) of the Planning and Compulsory Purchase Act 2004). This is set out in Paragraph 2 of the National Planning Policy Framework (the Framework). The 'development plan' for Tendring comprises, in part, Sections 1 and 2 of the Tendring District Council 2013-33 and Beyond Local Plan (adopted January 2021 and January 2022, respectively), together with any neighbourhood plans that have been brought into force.

3. Relevant Planning History

N/A

4. Consultations

N/A

5. Representations

- 5.1 Brightlingsea Town Council have not commented on the application.
- 5.2 There have been no other letters of representation received.

6. Assessment

Site Description

- 6.1 The application site is land sited adjacent to the east of the car park sited along Promenade Way, within the parish of Brightlingsea. The site will be an extension to the existing public toilets, which is a single storey building with a pitched roof.

- 6.2 The character of the area is relatively urbanised, with the car park and toilet facilities, as well as a skate park adjacent to the north, a playground to the south-east, Bateman's Café further out to the west, and the Brightlingsea Lido approximately 300 metres to the east.
- 6.3 The site falls outside of the Settlement Development Boundary for Brightlingsea within the adopted Local Plan 2013-2033, which is located approximately 550 metres to the east. The land adjacent to the east of the site is an area of Safeguarded Open Space, but the designation does not include the application site. Similarly, to the north of the site, but not inclusive of the site itself, is a Coastal Protection Belt.

Description of Proposal

- 6.4 This application seeks full planning permission for the erection of an extension to the existing toilet block that would be used to provide a 'Changing Places' facility, which includes enhanced facilities to meet the needs of disabled children and adults with complex care needs, who require care support, appropriate equipment and additional space.
- 6.5 The extension will be a single storey structure that will be constructed with painted horizontal timber cladding. The specific external colour scheme of the building reflects those as used on other Changing Places toilets (subject of planning applications 22/01675/FUL at The Esplanade, Holland-on-Sea and 22/01676/FUL at Marine Parade East, Clacton-on-Sea), and is therefore easily recognisable by those who will benefit from its presence.
- 6.6 The supporting information provided highlights that this site has been chosen as it is located in a suitable location adjacent to the Brightlingsea Beach and other amenable areas, an existing car park and also directly adjacent to two disabled person's parking spaces. In addition, the supporting information states the building will be available 24/7 all year round, and will be accessible via a key entry system with access strictly limited to those who have need for the specialist equipment the building provides.

Principle of Development

- 6.7 Adopted Policy HP1 states the Council will work to improve the health and wellbeing of residents in Tendring by working with stakeholders on projects that provide better service integration, locating services where access can be improved, particularly for vulnerable groups and communities.
- 6.8 The application proposes enhanced facilities for disabled children and adults with complex care needs, such as profound and multiple learning disabilities or with physical disabilities such as spinal injuries, muscular dystrophy and multiple sclerosis. The development will allow 24/7 access to a building which provides the necessary extra equipment and space that people with such needs require, which in turn will allow them to take part in activities that may otherwise prove to be restrictive if such facilities were not available. Accordingly the proposal accords with the above policy, and Officers strongly support the principle of such a development.

Visual Impacts

- 6.9 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.
- 6.10 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.
- 6.11 The application site is situated within a prominent location, adjacent to the existing public toilets and car park, and also highly visible from the street scene along Promenade Way. Against this context, Officers acknowledge that the scale of the building, single storey, will be in accordance with the existing public toilets and therefore have no concerns relating to the scale of the extension.
- 6.12 In respect of the design of the building, whilst it is noted that the external colour scheme does not necessarily accord with the existing public toilets, it is of a unique design that will stand out in a positive sense. Further, as discussed above, the unique colour pattern is a deliberate choice in order to ensure the building is easily and immediately recognisable to those who would require it. Taking all of the above into consideration, Officers do not consider the design would appear harmful to the character and appearance of the area, and therefore offer no objections in this regard.

Impact to Neighbouring Amenities

- 6.13 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.
- 6.14 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.
- 6.15 The site is located far away from any neighbouring properties, and the development will therefore result in a neutral impact to all existing amenities in the surrounding area.

Conclusion

- 6.16 The application proposes enhanced facilities for disabled children and adults with complex care needs, and is therefore in accordance with Policy HP1 and supported in principle. In addition, while located within a prominent location Officers do not consider that the scale or appearance of the building is harmful to the character of the area, while there will be no impact to any neighbouring amenities. Accordingly the 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:

The documents titled 'Site Location Plan', 'Block Plan', 'Statement in Support of Planning (Design and Access Statement)' and Drawing Number TDC01/05/22/SKB2 (Proposed General Arrangement).

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

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.

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

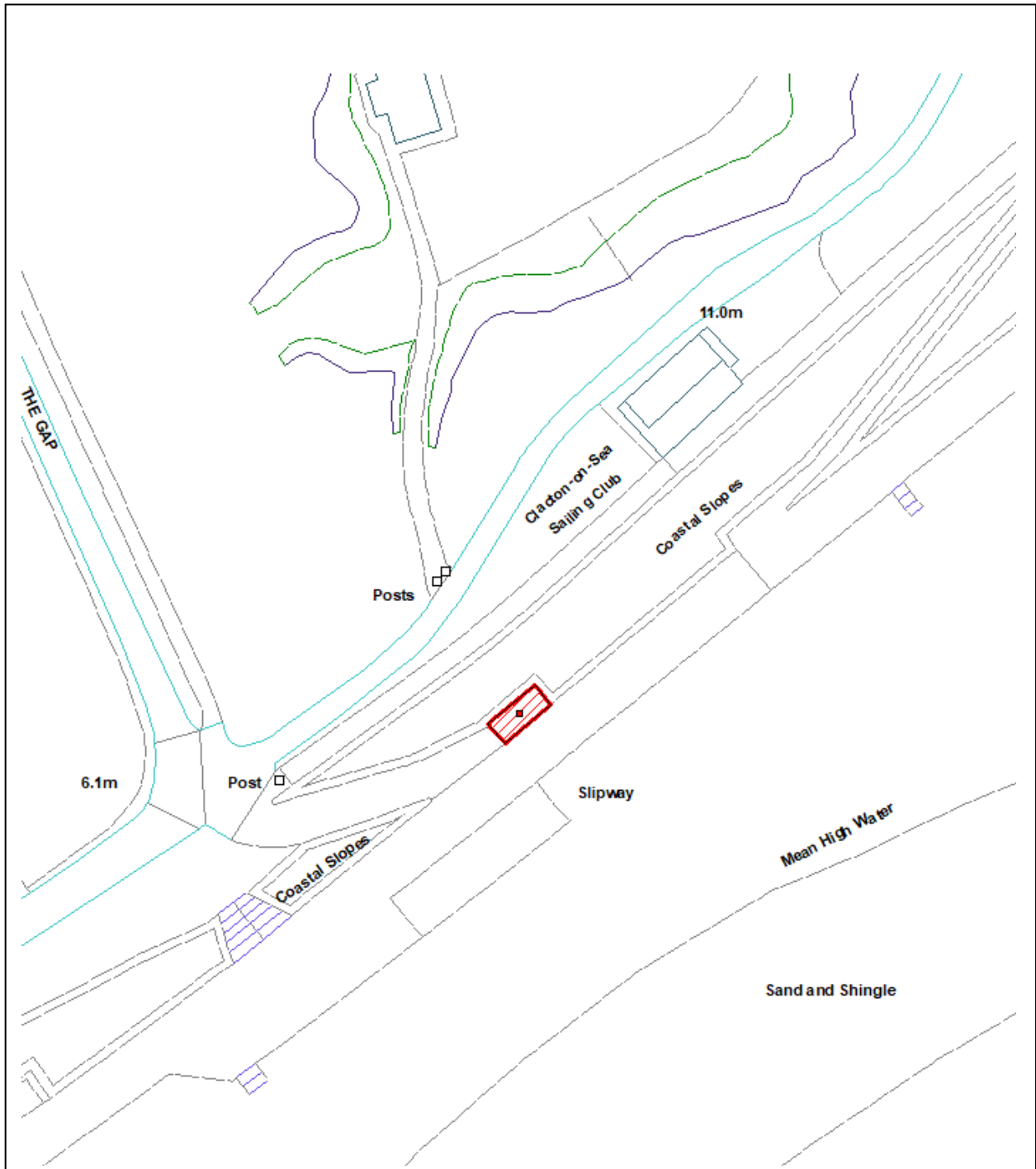
information is available to view on the planning file using the application reference number via the Council's Public Access system by following this link <https://idox.tendringdc.gov.uk/online-applications/>.

PLANNING COMMITTEE

24th November 2022

REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING

A.2 PLANNING APPLICATION – 22/01675/FUL – SEAFRONT SHELTER, THE ESPLANADE HOLLAND ON SEA CO15 5TU



DO NOT SCALE

Reproduced from the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationery Office © Crown Copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings.

Application: 22/01675/FUL

Town / Parish: Clacton Non Parished

Applicant: Mr Andrew Nepean - Tendring District Council

Address: Seafront Shelter The Esplanade Holland On Sea CO15 5TU

Development: Proposed demolition of former deck chair store, and construction of access ramp and changing places facility to provide enhanced changing and toilet facilities to meet the needs of disabled children and adults with complex care needs who require care support, appropriate equipment and more space.

1. Executive Summary

- 1.1 The application is before the Planning Committee as the applicant is Tendring District Council.
- 1.2 The proposal seeks for the demolition of the existing single storey building that was previously utilised as a deck chair store, and to be replaced by a similar sized building to be used to provide a 'Changing Places' facility, which includes enhanced facilities to meet the needs of disabled children and adults with complex care needs, who require care support, appropriate equipment and additional space.
- 1.3 The works are considered to comply with the requirements of Policy HP1 and therefore are supported in principle. In addition, while located within a prominent location Officers do not consider that the scale or appearance of the building is harmful to the character of the area, and will see an uplift compared to the existing building in a poor state of repair, while there will be no impact to any neighbouring amenities.

Recommendation:

That the Planning Manager be authorised to Grant Planning Permission subject to no new issues being raised during the consultation period (yet to expire), and the conditions as stated in section 7.2 (or as need to be varied*) and those as may be deemed necessary by the Planning Manager.

*To account for any errors, legal and necessary updates

2. Planning Policy

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

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

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

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

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

SPL1 Managing Growth
SPL3 Sustainable Design
HP1 Improving Health and Wellbeing
HP4 Safeguarded Open Space
Supplementary Planning Guidance:
Essex Design Guide

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

Status of the Local Plan

- 2.2 Planning law requires that decisions on applications must be taken in accordance with the development plan unless there are material considerations that indicate otherwise (Section 70(2) of the 1990 Town and Country Planning Act and Section 38(6) of the Planning and Compulsory Purchase Act 2004). This is set out in Paragraph 2 of the National Planning Policy Framework (the Framework). The 'development plan' for Tendring comprises, in part, Sections 1 and 2 of the Tendring District Council 2013-33 and Beyond Local Plan (adopted January 2021 and January 2022, respectively), together with any neighbourhood plans that have been brought into force.

3. Relevant Planning History

N/A

4. Consultations

N/A

5. Representations

- 5.1 There have been no other letters of representation received.

6. Assessment

Site Description

- 6.1 The application site is land sited to the south of The Esplanade, Holland-on-Sea. The site is directly adjacent to the Holland-on-Sea Beach, located at the bottom of a slope connecting to The Esplanade.
- 6.2 The character of the area is relatively open, with the beach directly adjacent and the only built form in the immediate proximity being the single storey building subject of this application. There is significant residential development to the north-west and beyond, however this is separated from the site from the existing slope so is largely not visible.
- 6.3 The site falls adjacent to, but outside of the Settlement Development Boundary for Holland-on-Sea, while the land adjacent to the north is designated as Safeguarded Open Space, although the site itself falls outside of this designation.

Description of Proposal

- 6.4 This application seeks full planning permission for the demolition of the existing single storey building that was previously utilised as a deck chair store, to be replaced by a building to provide a 'Changing Places' facility, which includes enhanced facilities to meet the needs of disabled children and adults with complex care needs, who require care support, appropriate equipment and additional space.
- 6.5 The proposed replacement building will measure 5.6 metres x 3.6 metres, and be 3.5 metres in height, which is of a similar size to the existing building which has measurements of 7 metres x 2.7 metres, with a height of 3.1 metres. The building will be single storey and constructed with painted horizontal timber cladding. The specific external colour scheme of the building reflects those as used on other Changing Places toilets (subject of planning applications 22/01676/FUL at Seafront below Marine Parade East, Clacton-on-Sea and 22/01666/FUL at Car Park, Promenade Way, Brightlingsea), and is therefore easily recognisable by those who will benefit from its presence.
- 6.6 The proposal would also see the removal of the existing steps, which would be replaced with a pedestrian ramp with rails.
- 6.6 The supporting information provided highlights that this site has been chosen as it is accessible from the public highway via a ramp from The Esplanade, and also connects to the beach itself. Furthermore, the supporting information states the building will be available 24/7 all year round, and will be accessible via a key entry system with access strictly limited to those who have need for the specialist equipment the building provides.

Principle of Development

- 6.7 Adopted Policy HP1 states the Council will work to improve the health and wellbeing of residents in Tendring by working with stakeholders on projects that provide better service integration, locating services where access can be improved, particularly for vulnerable groups and communities.
- 6.8 The application proposes enhanced facilities for disabled children and adults with complex care needs, such as profound and multiple learning disabilities or with

physical disabilities such as spinal injuries, muscular dystrophy and multiple sclerosis. The development will allow 24/7 access to a building which provides the necessary extra equipment and space that people with such needs require, which in turn will allow them to take part in activities that may otherwise prove to be restrictive if such facilities were not available. Accordingly the proposal accords with the above policy, and Officers strongly support the principle of such a development.

Visual Impacts

- 6.9 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.
- 6.10 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.
- 6.11 The application site is situated within a prominent location, adjacent to the Holland-on-Sea Beach. However, due to it being sited at the bottom of the ramp the proposal will largely not be visible via the street scene along The Esplanade. Given this, Officers are content that while the replacement building would be visible, it is of a similar size to the existing building and will not appear significantly harmful to the character and appearance of the area.
- 6.12 In respect of the design of the building, whilst it is noted that the external colour scheme does not necessarily accord with the areas existing character, it is of a unique design that will stand out in a positive sense. Further, as discussed above, the unique colour pattern is a deliberate choice in order to ensure the building is easily and immediately recognisable to those who would require it. In addition, the current building is in a poor state of repair, and the proposal therefore represents a visual uplift to the existing position. Taking all of the above into consideration, Officers do not consider the design would appear harmful to the character and appearance of the area, and therefore offer no objections in this regard.

Impact to Neighbouring Amenities

- 6.16 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.
- 6.17 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.
- 6.18 The site is located far away from any neighbouring properties, and the development will therefore result in a neutral impact to all existing amenities in the surrounding area.

Conclusion

6.19 The application proposes enhanced facilities for disabled children and adults with complex care needs, and is therefore in accordance with Policy HP1 and supported in principle. In addition, while located within a reasonably prominent location Officers do not consider that the scale or appearance of the building is harmful to the character of the area, while the design will be an improvement to the existing position given the current building is in a poor state of repair. In addition there will be no impact to any neighbouring amenities. Accordingly the 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:

The documents titled 'Statement in Support of Planning (Design and Access Statement)', and Drawing Numbers TDC01/05/22SKL3 Rev A (Site Location Plan), TDC01/05/22/SKB4 (Existing Site Block Plan), TDC01/05/22/SKB5 (Proposed Site Block Plan) and TDC01/05/22/ALT1 (Proposed Plans and Elevations).

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

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.

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/>.

Application: 22/01676/FUL

Town / Parish: Clacton Non Parished

Applicant: Mr Andrew Nepean - Tendring District Council

Address: Seafront Below Marine Parade East Clacton On Sea CO15 5BY

Development: Proposed construction of changing places facility to provide enhanced toilet/changing facilities to meet the needs of disabled children and adults with complex care needs who require carer support, appropriate equipment and more space.

1. **Executive Summary**

- 1.1 The application is before the Planning Committee as the applicant is Tendring District Council.
- 1.2 The proposal seeks the erection of an extension to the existing toilet block that would be used to provide a 'Changing Places' facility, which includes enhanced facilities to meet the needs of disabled children and adults with complex care needs, who require care support, appropriate equipment and additional space.
- 1.3 The works are considered to comply with the requirements of Policy HP1 and therefore are supported in principle. In addition, while located within a prominent location within the Clacton-on-Sea Conservation Area Officers do not consider that the scale or appearance of the building is harmful to the character of the area, while there will be strong public benefits as a result of the proposal. In addition there will be no impact to any neighbouring amenities.

Recommendation:

That the Planning Manager 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 Planning Manager

*To account for any errors, legal and necessary updates

2. **Planning Policy**

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

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

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

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

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

SPL1 Managing Growth
SPL3 Sustainable Design
HP1 Improving Health and Wellbeing

HP4 Safeguarded Open Space
PPL8 Conservation Areas

Supplementary Planning Guidance:
Essex Design Guide

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

Status of the Local Plan

- 2.2 Planning law requires that decisions on applications must be taken in accordance with the development plan unless there are material considerations that indicate otherwise (Section 70(2) of the 1990 Town and Country Planning Act and Section 38(6) of the Planning and Compulsory Purchase Act 2004). This is set out in Paragraph 2 of the National Planning Policy Framework (the Framework). The 'development plan' for Tendring comprises, in part, Sections 1 and 2 of the Tendring District Council 2013-33 and Beyond Local Plan (adopted January 2021 and January 2022, respectively), together with any neighbourhood plans that have been brought into force.

3. Relevant Planning History

N/A

4. Consultations

N/A

5. Representations

- 5.1 There have been no other letters of representation received.

6. Assessment

Site Description

- 6.1 The application site is land sited to the south of Marine Parade East, Clacton-on-Sea. The site is directly adjacent to the Clacton Beach, located at the bottom of a slope connecting to the promenade. Adjacent to the east is the Paddle Bay Diner.
- 6.2 The character of the area is relatively open, with the beach directly adjacent and the only built form in the proximity being the diner adjacent to the east. There is significant residential development to the north, however this is separated from the site from the existing slope so is largely not visible.
- 6.3 The site falls on the edge of the Settlement Development Boundary for Clacton-on-Sea, and also on the edge of the Clacton-on-Sea Conservation Area. The land to the north of the site, the promenade, falls within an area of Safeguarded Open Space, although the site itself falls outside of this designation.

Description of Proposal

- 6.4 This application seeks full planning permission for the erection of a building that would be used to provide a 'Changing Places' facility, which includes enhanced facilities to meet the needs of disabled children and adults with complex care needs, who require care support, appropriate equipment and additional space.

- 6.5 The building will be a single storey structure that will be constructed with painted horizontal timber cladding. The specific external colour scheme of the building reflects those as used on other Changing Places toilets (subject of planning applications 22/01675/FUL at The Esplanade, Holland-on-Sea and 22/01666/FUL at Car Park, Promenade Way, Brightlingsea), and is therefore easily recognisable by those who will benefit from its presence.
- 6.6 The supporting information provided highlights that this site has been chosen as it is accessible from the public highway via a ramp, and also connects to the beach itself. In addition, at the same location are beach huts owned by Tendring District Council which are available for use by those who would benefit from the proposed facility. Furthermore, the supporting information states the building will be available 24/7 all year round, and will be accessible via a key entry system with access strictly limited to those who have need for the specialist equipment the building provides.

Principle of Development

- 6.7 Adopted Policy HP1 states the Council will work to improve the health and wellbeing of residents in Tendring by working with stakeholders on projects that provide better service integration, locating services where access can be improved, particularly for vulnerable groups and communities.
- 6.8 The application proposes enhanced facilities for disabled children and adults with complex care needs, such as profound and multiple learning disabilities or with physical disabilities such as spinal injuries, muscular dystrophy and multiple sclerosis. The development will allow 24/7 access to a building which provides the necessary extra equipment and space that people with such needs require, which in turn will allow them to take part in activities that may otherwise prove to be restrictive if such facilities were not available. Accordingly the proposal accords with the above policy, and Officers strongly support the principle of such a development.

Visual Impacts

- 6.9 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.
- 6.10 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.
- 6.11 The application site is situated within a prominent location, adjacent to the Clacton Beach and the Paddle Bay Diner. However, due to it being sited at the bottom of the ramp the proposal will not be visible via the street scene along Marine Parade East. With this in mind, Officers are content that while the building will be visible its single storey nature as well as its siting will not appear significantly harmful to the character and appearance of the area.
- 6.12 In respect of the design of the building, whilst it is noted that the external colour scheme does not necessarily accord with the existing public toilets, it is of a unique design that will stand out in a positive sense. Further, as discussed above, the unique colour pattern is a deliberate choice in order to ensure the building is easily and immediately recognisable to those who would require it. Taking all of the above into consideration, Officers do not consider the design would appear harmful to the character and appearance of the area, and therefore offer no objections in this regard.

Heritage Impacts

- 6.13 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.
- 6.14 The site falls within the south-eastern corner of the Clacton-on-Sea Conservation Area. However Officers are content that this location, which is set far away from the main existing built form, does not form a key part of the Conservation Area designation. Furthermore, the building itself is of a minor scale that would result in a neutral impact to the character and appearance of the area. In any case, the proposal provides clear public benefits that would outweigh any very minor harm, and accordingly Officers do not object on heritage impact grounds.

Impact to Neighbouring Amenities

- 6.16 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.
- 6.17 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.
- 6.18 The site is located far away from any neighbouring properties, and the development will therefore result in a neutral impact to all existing amenities in the surrounding area.

Conclusion

- 6.19 The application proposes enhanced facilities for disabled children and adults with complex care needs, and is therefore in accordance with Policy HP1 and supported in principle. In addition, while located within a prominent location on the edge of the Clacton-on-Sea Conservation Area Officers do not consider that the scale or appearance of the building is harmful to the character of the area, while there are strong public benefits as a result of the proposal. In addition there will be no impact to any neighbouring amenities. Accordingly the 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:

The documents titled 'Statement in Support of Planning (Design and Access Statement)', and Drawing Numbers TDC01/05/22SKL2 Rev A (Site Location Plan), TDC01/05/22SKB2 (Site Block Plan), and TDC01/05/22/SKBC Rev A (Proposed G.A. Plan & Cross Sections).

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

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.

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/>.

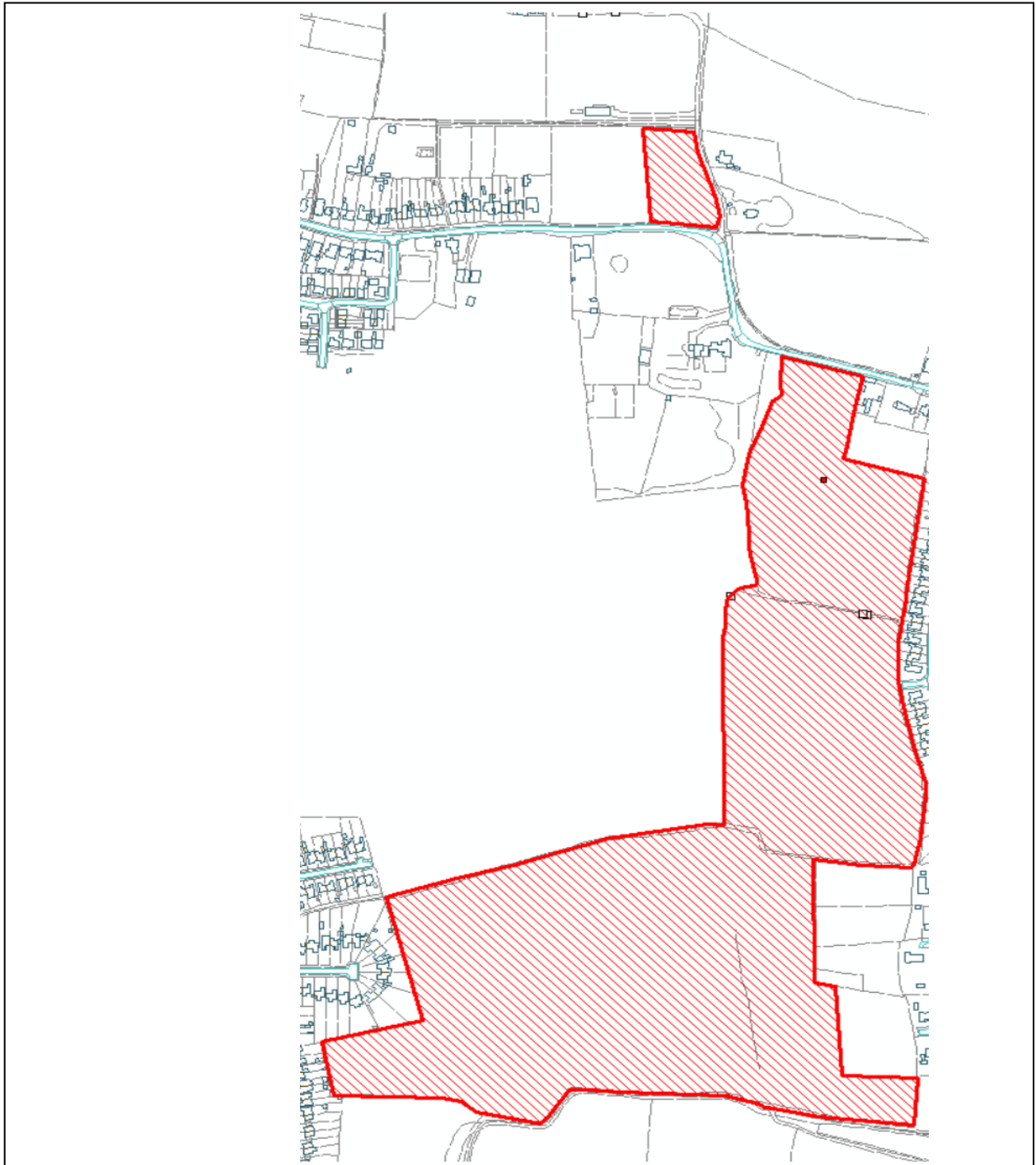
This page is intentionally left blank

PLANNING COMMITTEE

24th November 2022

REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING

A.4 PLANNING APPLICATION – 21/02181/FUL – LAND ADJACENT TO HALSTEAD ROAD KIRBY LE SOKEN CO13 0DY



DO NOT SCALE

Reproduced from the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationery Office © Crown Copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings.

Application: 21/02181/FUL

Town / Parish: Frinton & Walton Town Council

Applicant: Matt Partridge - Naturalis Energy Developments Limited

Address: Land adjacent to Halstead Road Kirby Le Soken CO13 0DY

Development: Construction of a solar project together with all associated works, equipment and necessary infrastructure to include batteries alongside an Electric Vehicle Charging Station, parking, means of access, landscaping and associated development.

1. Executive Summary

- 1.1 This application is before the Planning Committee following a call-in request from Cllr P. Clifton (in support) and Cllr A. Davis (in objection).
- 1.2 The whole application site extends to approximately 23 hectares in size which is comprised of two agricultural land parcels. The larger parcel of land (circa 22 hectares) lies to the eastern side of Halstead Road and will contain the proposed solar farm. This parcel is situated wholly within a Strategic Green Gap as indicated in the Local Plan to 2036 policies map. The smaller parcel of land (circa 1 hectare) lies to the western side of Halstead Road and will contain the proposed Eco Hub which will include the electric vehicle charging station (including café area), battery storage, substation and grid connection point.
- 1.3 The supporting information outlines that the delivered capacity of the Solar Farm and the associated storage batteries would be up to 29MW, producing electricity equivalent to the annual electricity consumption of about 6,370 homes. Whereas, the Eco-Hub would include a covered forecourt and canopy with sufficient capacity to simultaneously charge up to 12 rapid and ultra-rapid EVs with a capacity of 43-350kW.
- 1.4 In this case, subject to conditions, it is considered that there are no adverse impacts upon ecology, residential amenity, highway safety or flood risk. There is also the opportunity to improve biodiversity. The landscape impact is considered to be relatively local, contained mainly to the Public Right of Way which crosses, or passes alongside the sites, and limited views from Halstead Road. The same can be said of the Eco-Hub element of the proposals. The landscape impact is therefore considered to be of moderate harm. In addition, the heritage harm identified is considered to be at the lower end of 'less than substantial'.
- 1.5 Therefore, the localised impact on the area in terms of landscape and heritage is not considered to be sufficient to recommend refusal especially given the lack of adverse

harm in other respects. The development is considered to comply with the Strategic Green Gap policy in respect of not causing the overriding coalescence of Kirby-le-Soken and Kirby Cross. The benefits in respect of biodiversity and the long term benefits to the landscape (when the site is decommissioned) by the planting mitigation to be retained are positive, and the proposal would also deliver net gains in biodiversity which adds moderate weight in favour of approval. There would be economic benefits during construction and during the installation's operation, including those associated with the use of the Eco-Hub, namely; the provision of jobs, the creation a community benefits fund and additional parking provision for users of the nearby school and adjacent recreation land to alleviate congestion concerns along Halstead Road.

- 1.6 Policy PPL10 advocates for new proposals for renewable energy developments in the District. In this respect the energy generated by the proposed development will contribute to supporting growth in the region, and the carbon emissions saved as a result of generating electricity from a renewable source, would help to tackle climate change and minimise resource use. Significant weight is given to these considerable benefits.
- 1.7 Consequently, the principle of the development is supported at a national level in policy and legal commitments to achieve a reduction in carbon emissions. Overall, the generation of renewable energy is a significant material consideration which weighs substantially in the applications favour and therefore, on balance, the application is recommended for approval.

Recommendation: - Approval

(1) On appropriate terms as summarised below and those as may be deemed necessary to the satisfaction of the Assistant Director for Planning to secure the completion of a legal agreement under the provisions of section 106 of the Town and Country Planning Act 1990 dealing with the following matters:

- Prior to the commencement of any works a financial contribution of £5,000 (index linked) towards the future introduction of waiting restrictions within Halstead Road and/or in the vicinity of the site.

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

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

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

*To account for any errors, legal and necessary updates

2. Planning Policy

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
SP6 Infrastructure & Connectivity
SP7 Place Shaping Principles

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

SPL1 Managing Growth
SPL3 Sustainable Design
HP2 Community Facilities
HP3 Green Infrastructure
PP1 New Retail Development
PP4 Local Impact Threshold
PP13 The Rural Economy
PPL1 Development and Flood Risk
PPL3 The Rural Landscape
PPL4 Biodiversity and Geodiversity
PPL5 Water Conservation, Drainage and Sewerage
PPL6 Strategic Green Gap
PPL7 Archaeology
PPL9 Listed Buildings
PPL10 Renewable Energy Generation
CP1 Sustainable Transport and Accessibility
CP2 Improving the Transport Network
DI1 Infrastructure Delivery and Impact Mitigation

Local Planning Guidance

Tendring Landscape Character Assessment
Essex County Council Car Parking Standards - Design and Good Practice
Essex County Council Development Management Policies 2011 (the Highways SPD)

Other Relevant Documents

Energy White Paper Powering Our Net Zero Future (2020)
Draft Overarching National Policy Statement for Energy (EN-1) (2021)

Status of the Local Plan

2.2 Planning law requires that decisions on applications must be taken in accordance with the development plan unless there are material considerations that indicate otherwise (Section 70(2) of the 1990 Town and Country Planning Act and Section 38(6) of the Planning and Compulsory Purchase Act 2004). This is set out in Paragraph 2 of the National Planning Policy Framework (the Framework). The 'development plan' for Tendring comprises, in part, Sections 1 and 2 of the Tendring District Council 2013-33 and Beyond Local Plan (adopted January 2021 and January 2022, respectively), together with any neighbourhood plans that have been brought into force.

3. Relevant Planning History

15/00928/OUT	Outline application with all matters reserved for residential development of up to 75 dwellings.	Refused (Appeal Dismissed)	24.09.2015
21/02181/FUL	Construction of a solar project together with all associated works, equipment and necessary infrastructure to include batteries alongside an Electric Vehicle Charging Station parking, means of access, landscaping and associated development.	Current	

4. Consultations

Network Planner - UK Power Networks 17.05.2022	There are 33,000 and 11,000 volt underground electricity cables on some areas of this site. Any excavation work should be carried out in accordance with Health and Safety Executive Guidance Note HSG47 'Avoiding Danger from Underground Services' incorporating site specific risk assessments and method statements. The underground cables should not be located under buildings or structures. UK Power Networks require access to the cables to excavate round them to repair or replace them.
	There are also 33,000 and 11,000 volt electricity distribution overhead lines crossing the site. Any work on the site should be carried out in compliance with the Health and Safety Guidance Note GS6 'Avoidance of danger from overhead electric lines'.
Essex County Council Heritage 14.02.2022	The application is for the construction of a solar project together with all associated works, equipment and necessary infrastructure to include batteries alongside an Electric Vehicle Charging

Station parking, means of access, landscaping and associated development.

The proposed site falls within the designed Green Gap of the existing and the emerging local plan. It is in close proximity to Grade II Listed Hill Farmhouse and 17th Century Willow Farm which is a non-designated heritage asset. The submitted Heritage Assessment also analyse the impact of the new development on the setting of Grade II* Listed Church of St Michael which lies approximately 430m North of the site. Other designated assets, including the Kirby-le-Soken Conservation Area and Grade II* Listed Naze Tower, were considered to not be affected by the development.

- Hill Farmhouse: The Heritage Assessment concludes that the installation of the solar farm and the construction of the Electric Vehicle Charging Station will cause less than substantial harm (at the lowest level of harm) to the significance of Hill Farmhouse due to the change to the character of its setting from rural and shrubland to infrastructure. Similar consideration of harm can be applied to non-designated heritage asset Willow Farm, which owned part of the proposed site in the 19th Century;

- Church of St Michael: The Heritage Assessment takes into account the intervisibility between the proposed site and the designated asset and states that the solar farm and the charging station would not be visible from the Churchyard due to the presence of mature vegetation and agricultural land. The Tower would be visible from within the East and West parcel and from the PRoV along and crossing the site. However, the applicant concludes that these views of the Church within the wider surrounding landscape do not particularly contribute to the overall heritage significance of the designated asset, which is better appreciated from within its Churchyard and in the context of Kirby-Le-Soken settlement. I agree with the consultant conclusions;

As the applicant correctly states in the Heritage Assessment, with regards to the National Planning Policy Framework (2021), the level of harm to Hill Farmhouse as a designated heritage asset is considered to be 'less than substantial'. As such the local planning authority should weigh this harm against any public benefits of the proposal including, where appropriate, securing its optimum viable use

as per Paragraph 202. Whilst the scale of harm may be at the lower end of 'less than substantial', great weight should be given to the heritage asset's conservation as per Paragraph 199 and clear and convincing justification provided for any level of harm (Paragraph 200). Same consideration applies to Willow Farm as a non-designated heritage asset, Paragraph 203 of the NPPF is relevant here, and the local planning authority should take a balanced judgement, having regard for the scale of harm identified and the significance of the heritage asset.

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

- Prior to commencement of above ground works/installation, a schedule of all external finish materials shall be submitted to and approved in writing by the Local Planning Authority and samples shall be made available on site for inspection. Works shall be implemented in accordance with the approved materials and details specified and shall be permanently maintained as such;

- Prior to commencement, a schedule of drawings that shows details of the proposed landscape at appropriate scales, shall be submitted to and approved in writing by the Local Planning Authority. Works shall be implemented in accordance with the approved details and shall be permanently maintained as such.

The Ramblers Association

No comments received

Environmental Protection
07.02.2022

The Environmental Protection Team's comments are given below:

Noise

I have reviewed the noise assessment completed by LF Acoustics dated December 2021 and have no comments or further observations to make. The report concludes 'low potential for adverse impact'.

Construction working times

I was unable to find a construction method statement but was able to find details of the construction phase in part 3 of the Environmental

Statement. This outlines the steps to be taken to minimise disturbance relating to the construction of the development. This report stated that it would construction time with the local authority and as such we recommend the following:

In order to minimise potential nuisance caused by ground works and construction, Environmental Protection recommend that the following below is conditioned;

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

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

ECC Highways Dept
04.11.2022

The information submitted with the application has been fully assessed by the Highway Authority and conclusions reached based on a desktop study in conjunction with a site visit. It is noted that the development will be providing a new vehicular access onto Halstead Road which is classed as a local road under the County Council's Route Hierarchy. There is no evidence of any personal injury accidents in the vicinity of the existing or proposed access for the most recent 3-year period for Halstead Road. The applicant has demonstrated that the proposed accesses will have adequate visibility and will provide adequate off-street parking and turning, while the overall scheme is set back from the main public highway and public footpath nos. 23, 24, 25 and 26 (Frinton and Walton_164) that runs in the vicinity of the sites will be catered for during and after construction. In relation to the Electric Vehicle Charging Station, it is noted that at the end of 2021 there were 380 electric vehicles registered in the whole of Tendring. Taking this into

account, along with the theoretical projected trips generated by the site being a maximum, the impact on the local network by this proposal is not considered to be severe, taking these factors into consideration:

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

Solar Project:

1. Prior to the commencement of any work on the site, including any ground works or demolition, a Construction Management Plan as detailed in the supporting documents is submitted to and approved in writing by the Local Planning Authority which shall be adhered to by all ground works, construction and decommissioning traffic throughout the pre-construction, construction, and decommissioning phases. The approved plan shall be adhered to throughout the construction period. The Plan shall provide for:

- i. the parking of vehicles of site operatives and visitors,
- ii. loading and unloading of plant and materials,
- iii. storage of plant and materials used in constructing the development,
- iv. wheel and underbody washing facilities.
- v. temporary road works entrance and exit/ construction traffic signage.
- vi. telegraph poles to be relocated behind the line of the visibility splays as per the Stage 1 Road Safety Audit.

Reason: To ensure that on-street parking of these vehicles in the adjoining streets does not occur and to ensure that loose materials and spoil are not brought out onto the highway in the interests of highway safety and Policy DM1.

2. Prior to the commencement of any work on the site a joint inspection of Halstead Road to be used by construction vehicles should be carried out by the applicant and the Highway Authority, to include photographic evidence. The route should then be inspected again, after completion of the development, and any damage to the highway resulting from traffic movements generated by the application site should be repaired to an acceptable standard and at no cost to the Highway Authority. The Highway Authority may also wish to secure a

commuted sum for special maintenance to cover the damage caused to the existing roads used as access by vehicles servicing the application site.

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

3. As indicated in the supporting information and prior to the commencement of any work on the site, an appropriate Traffic Management Plan shall be provided outlining a designated route to and from the development site, swept path analysis drawings, where possible all construction traffic movements/HGV movements shall be restricted between the hours of 8am – 9am and 2:30pm – 3:30pm Mon – Fri; to be agreed in advance with the Local Planning Authority in consultation with the Highway Authority.

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

4. Prior to occupation of the development, the road junction / access at its centre line shall be provided with a clear to ground visibility splay with dimensions of 2.4 metres by 90 metres in both directions, as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the road junction / access is first used by vehicular traffic and retained free of any obstruction at all times.

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

5. 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.

6. Prior to occupation of the development the vehicular access shall be constructed at right angles to the highway boundary and to the existing carriageway, and in principle with drawing no. P21-1814 (fig. 3.3).

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

7. No unbound material shall be used in the surface treatment of the vehicular access within 15 metres of the highway boundary at Thorpe Park Lane access point.

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

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

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

9. Prior to the first use of any external solar panel within the development site, shall be so positioned and shielded, in perpetuity, to ensure that users of the highway are not affected by dazzle and/or glare, in accordance with details to be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that users of the highway are not subjected to glare and dazzle from within the development in the interest of highway safety and in accordance with Policy DM1.

10. The public's rights and ease of passage over public footpath nos. 24, 25, 26 (Frinton & Walton_164) shall be maintained free and unobstructed at all times.

Reason: To ensure the continued safe passage of the public on the definitive right of way and accessibility in accordance with Policies DM1 and DM11.

11. For a Public Right of Way (PROW) passing between a field of panels an enhanced width of 5m or more is required to avoid walkers feeling enclosed. Any new/augmented planting will need to be a minimum 2m plus from the extent of any PROW.

Reason: To ensure the continued safe passage of the public on the definitive right of way and accessibility in accordance with Policies DM1 and DM11.

Electric Vehicle Charging Station:

12. Prior to occupation of the development, the road junction / access at its centre line shall be provided with a clear to ground visibility splay with dimensions of 2.4 metres by 90 metres to the south and 2.4m by 58.5 metres to the north, 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.

13. Prior to occupation of the development a 1.5 metre x 1.5 metre pedestrian visibility splay, as measured from and along the highway boundary, shall be provided on both sides of the vehicular access. Such visibility splays shall be retained free of any obstruction in perpetuity. These visibility splays must not form part of the vehicular surface of the access.

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

14. Prior to occupation of the development the proposed access, internal layout shall be provided in principle with drawing number:

- Drawing: P21-1814 03 F Figure 3.2 indicative eco-hub layout.

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.

15. Where feasibly possible the existing footway shall be widened measuring no less than 2m in width across the entire site frontage of the proposed EV charging station (subject to the existing trees with TPO's) within the site and providing associated tactile paving for the crossing points on either side of the proposed access into the site.

Reason: To make adequate provision within the highway for the movement and safety of the additional pedestrian traffic generated as a result of

the proposed development in accordance with policy DM1, DM7, and DM9.

16. No unbound material shall be used in the surface treatment of the vehicular access throughout.

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

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

18. The powered two-wheeler/cycle parking facilities as shown on the approved plan are to be provided prior to the first occupation of the development and retained at all times.

Reason: To ensure appropriate powered two-wheeler and bicycle parking is provided in accordance with Policy DM8.

19. The public's rights and ease of passage over public footpath nos. 22 and 23 (Frinton & Walton_164) shall be maintained free and unobstructed at all times.

Reason: To ensure the continued safe passage of the public on the definitive right of way and accessibility in accordance with Policies DM1 and DM11.

20. The proposed permissive paths connected with this development should be signed accordingly as permissive paths.

Reason: To distinguish between the definitive right of way network and accessibility in accordance with Policies DM1 and DM11.

21. A financial contribution of £5,000 (index linked)

towards the future introduction of waiting restrictions within Halstead Road and/or in the vicinity of the site. Such contribution to be paid on commencement of development. (Payback 5 years from the completion of the development).

Reason: To control the location of service vehicle movements to the site to minimize inconsiderate parking in the interests of highway safety and Policy DM1.

Note: the financial contribution will form part of a Section 106 contribution which will be for the North Essex Parking Partnership.

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

Essex County Council Ecology
13.09.2022

No objection subject to securing biodiversity mitigation and enhancement measures

Summary

We have reviewed the Applicant's Response to EEC Ecology (Avian Ecology, June 2022) along with the Superseded Ecological Assessment Report (Avian Ecology, December 2021) and Updated Ecology Assessment Report (Avian Ecology, May 2022), Biodiversity Net Gain Calculations (Avian Ecology, May 2022), and MAGIC maps (<https://magic.defra.gov.uk/>) relating to the likely impacts of development on designated sites, protected species and Priority species & habitats and identification of appropriate mitigation measures.

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

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

The mitigation measures identified in the Superseded Ecological Assessment Report (Avian

Ecology, December 2021) and Updated Ecology Assessment Report (Avian Ecology, May 2022), should be secured by a condition of any consent and implemented in full. This is necessary to conserve and enhance protected and Priority species particularly bats, Reptiles, Badger, nesting birds, Hedgehog and Brown Hare.

The Applicant's Response to EEC Ecology (Avain Ecology, June 2022) document provides reasonable justification that although the habitat is likely suitable for Hazel Dormouse, and it is agreed that the removal of small sections of the hedgerow will cause minimal fragmentation impact to Hazel Dormice.

Furthermore, the proposed habitat creation measures outline within the submitted information may off-set this small impact. It should be noted however, that reducing the hedgerow to 600mm will likely make the hedgerow unsuitable for the species. Overall, it is considered that sufficient justification has been provided, and that the favourable conservation status of Hazel Dormouse will be maintained, if they are indeed present within the site. Therefore, it is considered reasonable that to mitigate for any further impacts to this European Protected Species, a Precautionary Method Statement should be produced.

This Precautionary Method Statement should be included with a Construction Environmental Management Plan for Biodiversity (CEMP: Biodiversity) and secured by a condition of consent.

Furthermore, we note that the eDNA results for Great Crested Newt was due to be undertaken in July 2022 have not yet been submitted. Therefore, as the site lies within an Amber Risk Zone for the Great Crested Newt (GCN) District Level Licensing (GCN Risk Zones (Essex) | Natural England Open Data Geoportal (arcgis.com)) and suitable habitats are present in close proximity to the site, it must be assumed that GCN are present. GCN should therefore be considered as part of this planning application, however, due to the type of development and area impacted, we recommend that potential impacts upon GCN are also managed under a precautionary method statement for the construction stage, including storage of materials.

This precautionary method statement should also be included in the CEMP: Biodiversity.

We also support the proposed reasonable biodiversity enhancements of bird boxes, bat roost boxes, reptile/amphibian hibernacula, insect hotels, Dormice boxes, which have been recommended by Updated Ecology Assessment Report (Avian Ecology, May 2022) and Superseded Ecological Assessment Report (Avian Ecology, December 2021).

We also support the onsite habitat creation and enhancements of the neutral grassland and species rich native hedgerows to secure measurable net gains for biodiversity as recommend by the Biodiversity Net Gain Calculations (Avian Ecology, May 2022), outlined under Paragraph 174d of the National Planning Policy Framework (2021). The reasonable biodiversity enhancement measures should be outlined within a Biodiversity Enhancement Strategy and should be secured by a condition of any consent.

To ensure that these habitat enhancements, along with any retained habitat is managed for the benefit of biodiversity in the long-term, a Landscape and Ecological Management Plan (LEMP) should be produced and secured by condition of consent.

In addition, the Superseded Ecological Assessment Report (Avian Ecology, December 2021) and Updated Ecology Assessment Report (Avian Ecology, May 2022) highlights that it is likely bats could be foraging/commuting within and around the site, as suitable habitat is present. Therefore, if any external lighting is to be proposed, it is recommended that a sensitive lighting scheme is developed to minimise any impacts. This should summarise the following measures will be implemented:

- Light levels should be as low as possible as required to fulfil the lighting need.
- Warm White lights should be used at <3000k. This is necessary as lighting which emit an ultraviolet component or that have a blue spectral content have a high attraction effect on insects. This may lead in a reduction in prey availability for some light sensitive bat species.
- The provision of motion sensors or timers to avoid

the amount of 'lit-time' of the proposed lighting.

- Lights should be designed to prevent horizontal spill e.g. cowls, hoods, reflector skirts or shields.

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

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

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

Recommended conditions

1. ACTION REQUIRED IN ACCORDANCE WITH ECOLOGICAL APPRAISAL RECOMMENDATIONS

"All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Superseded Ecological Assessment Report (Avian Ecology, December 2021) and Updated Ecology Assessment Report (Avian Ecology, May 2022), as already submitted with the planning application and agreed in principle with the local planning authority prior to determination.

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

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

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

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

The CEMP (Biodiversity) shall include the following.

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

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

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

3. PRIOR TO COMMENCEMENT: BIODIVERSITY ENHANCEMENT STRATEGY

“A Biodiversity Enhancement Strategy for protected and Priority species shall be submitted to and approved in writing by the local planning authority.

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

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

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

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

4. PRIOR TO COMMENCEMENT: LANDSCAPE AND ECOLOGICAL MANAGEMENT PLAN

“A Landscape and Ecological Management Plan (LEMP) shall be submitted to, and be approved in writing by, the local planning authority prior to the commencement of the development [or specified phase of development.

The content of the LEMP shall include the following:

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

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies)

responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details.”

Reason: To allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 (as amended) and s40 of the NERC Act 2006 (Priority habitats & species) and if any external lighting is to be proposed.

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

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

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

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

Essex County Council
Archaeology
07.02.2022

The Essex Historic Environment (HER) Record shows that the proposed development will affect a site of archaeological interest. The site of the proposed solar farm stretches from Halstead Road in the west to Turpins Lane in the east, both historic

routeways. A Desk Based Assessment has been submitted with the application which concludes the potential for prehistoric to modern periods is low based on the evidence in the surrounding area.

However, the HER records a single cropmark feature within the site with further cropmarks in the surrounding area, including a circular cropmark of possible Bronze Age origin and a trackway depicted on historic maps. Archaeological investigation to the south uncovered a single Bronze Age cremation and a focus of medieval activity likely associated with nearby settlement.

There is potential for further discrete areas of archaeological activity within the proposed development area. A geophysical survey has been completed across the site which has detected possible archaeological activity within the site, the nature of these may be associated with the cropmarks in the surrounding area which include a trackway that may continue into the development site. Although the impact of the solar panels themselves may be considered minimal, the cumulative effects of the lengths of underground cabling, concrete bases, access roads, connection to the grid and landscaping may have a significant impact on potential below ground archaeological remains. In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance (NPPF Para.194).

Where a site on which development is proposed includes, or has the potential to include, heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation. The DBA and geophysics survey submitted have not identified any areas of significant archaeological remains that would warrant preservation in situ however an archaeological investigation will be required as a condition to fully establish the potential for currently unknown heritage assets to be present within the development area and to establish the nature and significance of those possible archaeological

features identified in the geophysical survey. In view of this, the following recommendation is made in line with the National Planning Policy Framework:

Recommendation:

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.

Essex Wildlife Trust

No comments received

Environment Agency
05.07.2022

We have reviewed the documents as submitted and can confirm that we have no objection to the proposed development.

Health and Safety Executive
11.05.2022

Solar Farms are usually not a relevant development in relation to land-use planning in the vicinity of major hazard sites and major accident hazard pipelines.

This is because they do not, in themselves, involve the introduction of people into the area. HSE's land use planning advice is mainly concerned with the potential risks posed by major hazard sites and major accident hazard pipelines to the population at a new development.

However, if the proposed development is located within a safeguarding zone for a HSE licensed explosives site then please contact HSE's Explosives Inspectorate. Their contact email is Explosives.planning@hse.gov.uk.

If the development is over a major accident hazard pipeline or in the easement around a major accident hazard pipeline, please consult the pipeline operator.

If the development involves a new substation or the storage of electrical energy such as in a large battery storage unit and the development is proposed adjacent to a COMAH (Control of Major Accident Hazards) establishment then please consult the operator of the COMAH establishment.

If the development involves a substation or the storage of electrical energy such as in a large battery storage unit and is proposed in the vicinity of a nuclear site the Office for Nuclear Regulation (ONR) does wish to be consulted over such proposals. They can be contacted on ONR-Land.Use-Planning@onr.gov.uk

Natural England
13.05.2022

SUMMARY OF NATURAL ENGLAND'S ADVICE

NO OBJECTION

Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on statutorily protected nature conservation sites or landscapes.

Natural England's generic advice on other natural environment issues is set out at Annex A.

Other advice

Natural England notes that no birds associated with Hamford Water SPA have been identified in the Wintering bird surveys (Ecological assessment report (Avian ecology, Dec 2021). Your Authority, as Competent Authority under the Habitat and Species Regulations 2017 (as amended), should include this evidence in your Habitat Regulations Assessment.

European sites

Based on the plans submitted, Natural England considers that the proposed development will not have likely significant effects on statutorily protected sites and has no objection to the proposed development. To meet the requirements of the Habitats Regulations, we advise you to record your

decision that a likely significant effect can be ruled out.

Sites of Special Scientific Interest

Based on the plans submitted, Natural England considers that the proposed development will not have likely significant effects on statutorily protected sites and has no objection to the proposed development.

Arch. Liaison Off, Essex Police
19.05.2022

Essex Police have the following security recommendations;

It should be noted that there has been an exponential rise in crime in relation to solar farms since 2020. Nationally in 2021 there were 30 incidences of theft from solar farms reported, however in the first 4 months of 2022 there has been 21 reported incidences of solar farm crime with a further offences expected in the summer months due to dryer weather conditions. Whilst Essex thus far has not experienced a rise in this specific crime, Essex Police are aware that there has been a substantial increase in the numbers of metal thefts from other locations. There is real potential for thefts from solar farms to occur within the County of Essex.

Current Home Office research suggests that the thefts are fuelled by the rising metal prices especially that of copper being at a 10-year high; with everything from solar panels to cabling, batteries and ancillary equipment being targeted.

Essex Police are appreciative of the desire to preserve open site lines across the countryside wherever possible and on balance, accept the proposed 'deer fencing' boundary however, due to the potential increased crime risk, it is strongly recommended that consideration is given to installing welded mesh or high security palisade fencing that complies with LPS 1175: B3 (SR2) security rating. The introduction of a black or green powder coated weld-mesh fence has been shown to be less obtrusive, sustainable and robust.

Where stronger boundary treatments are not compatible, combining 'deer fencing' with a suitable monitored CCTV, Perimeter Intrusion Detection System (PIDS), that provides a 24hour response

with movement reactive /audio interactivity connected to an Alarm Receiving Centre (ARC) compliant with BS 8584:2015. Supported by judicious defensive planting, this combination may provide a compromise solution to mitigate crime.

Essex Police are mindful that there are three large residential developments immediately adjacent to the proposed site, combined with the Public Rights of Way and Permissible Pathways around and through the proposed solar farm site. Essex Police considers that it is important that the boundary of this site is appropriate to protect the high-value assets and sensitive locations within it, as well as deterring unauthorised incursion whether for theft or anti-social behaviour.

Essex Police request that crime is deemed a material consideration throughout all aspects of the design and during the planning process. It is therefore requested that a planning condition be considered to promote further dialog and engagement to assist the developers to mitigate crime and manage the security risks for the development both during and after construction.

The Ramblers Association

No comments received

ECC SuDS Consultee
06.05.2022

Having reviewed the Flood Risk Assessment and the associated documents which accompanied the planning application, we do not object to the planning application 21/02181/FUL based on the following:

Condition 1

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

Reason

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

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

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

UU Open Spaces

No comments to application.

5. Representations (Summarised)

Frinton & Walton Town Council

- 5.1 Recommend refusal on the grounds that this is not the right location for this development.
- 5.2 A number of representations have been received following a public consultation which included various site notices posted within the vicinity of the site and neighbour consultation letters sent out to the adjacent properties. These are summarised below:

Objection letters (100 letters) & Petition containing 241 signatures in objection to the development proposals.

Material Planning Considerations

- Poor location for development. There are many other suitable sites.
- Development would cause significant traffic congestion in Halstead Road.
- There would be detrimental noise and disturbance from the proposed business use and this would cause litter problems.
- Solar Farm would erode the protected Green Gap.
- The site suffers from significant flooding problems and run-off into adjacent residential properties.
- Land will become brownfield following the decommissioning period.
- No benefits for local residents and no demand for the charging points.
- Adverse impacts in respect of protected wildlife and nearby designated sites.
- Development is too close to houses, the local school and playing fields.
- Halstead Road is too narrow and extra traffic would cause congestion.
- Loss of important agricultural land.
- Solar panels would represent a blot on the landscape.

- Poor location for the Eco-Hub on an 's' bend on Halstead Road, causing highway safety concerns.
- Loss of amenity on existing Public Rights of Way. The development would enclose the route harming the user's experience of the countryside.
- Northern part of the district being in danger of becoming over-populated with solar farms to the detriment of surrounding landscapes.
- Electro-magnetic dangers and fire risk in respect of the closeness of the batteries to housing.
- Construction traffic would cause noise/disturbance to local residents.
- Not an efficient location for solar panels due to lack of sunshine.
- Proposed shop/commercial use diverts trade from existing shops in Kirby-le-Soken and Kirby Cross.
- Loss of outlook for existing residents viewing the panels of panels.
- Light pollution from Eco-Hub lighting and moonlight reflection from the solar farm.
- Adverse impacts upon the setting of Grade II Listed Building (Hillhouse Farm).

Other matters which are not planning considerations

- Loss of property values.
- Attracts crime/anti-social behaviour into a residential location and potential for solar farm theft.

Support of the application (28 letters)

- Development would produce solar power which provides the lowest and most stable electricity prices.
- The development supports the provision of EVs which are the future.
- Tendring District Council have declared a Climate Change Emergency. This development is consistent with its objectives.
- Solar Farms help to achieve the goal of net zero carbon output.
- The development would reduce pollution, bring fuel savings and improve air quality.
- Significant biodiversity enhancements.
- This represents a chance for the area to be at the forefront of change.
- The number of EVs has increased dramatically and will continue to do so.
- Aids long-term transportation issues and immediate energy benefits.
- Provides parking for school at pick up/drop off times. This is extremely valuable for the area and reduces congestion along Halstead Road.
- Minimal impact on flora/fauna. No ploughing of land and sheep grazing will increase carbon capture in soil.
- Development will not make Halstead Road a motorway with about 36 cars per hour at its peak.
- Whilst home charging is an option for a number of people, not every home has the benefit of off-street parking.
- Supports local economy, by avoiding a charging 'black spot'.
- Community benefit fund will support local projects.

6. Assessment

Site Context

- 6.1 The whole application site extends to approximately 23 hectares in size which is comprised of two land parcels of agricultural land irregular in shape with multiple, interconnecting fields. The larger parcel of land (circa 22 hectares) lies to the eastern side of Halstead Road and will contain the proposed solar farm. The smaller parcel of land (circa 1 hectare) lies to the western side of Halstead Road and will contain the proposed Eco Hub which will include the electric vehicle charging station (including café area), battery storage, substation and grid connection point.
- 6.2 The northern boundary of the larger parcel of land is adjacent to the urban edge of Kirby-le-Soken. The southern boundary is adjacent to the urban edge of Kirby Cross.
- 6.3 The larger site has a fairly flat topography and the boundaries of the arable land are defined by existing vegetation of hedgerow and mature trees, tracks, and highways. The northern boundary of the larger parcel of land abuts rear gardens of residential properties within Kirby-le-Soken. Public Right of Way (PRoW) Essex footpath 26 164 defines part of the northern boundary and then bisects in a north-west to south-east direction across the site. The eastern boundary is defined by an agricultural track connecting to Turpins Lane. The southern boundary is defined in part by rear gardens of residential properties within Kirby Cross. PRoW Essex footpath 24 164 defines the south-western boundary, with agricultural fields immediately adjacent. The western boundary is adjacent to Halstead Road.
- 6.4 The smaller, western parcel of land is approximately 150m west of the larger parcel of land. The northern boundary is defined by an unnamed lane that leads to playing fields (designated as protected open space) to the west, with two residential properties on the northern side of the land. The eastern boundary is defined by mature vegetation that fronts Halstead Road, with isolated residential properties and agricultural fields immediately east. The southern boundary is adjacent to arable land and residential properties. The western boundary is defined by a PRoW/track with Kirby Playing Fields located immediately adjacent to the west.
- 6.5 There are no statutory or non-statutory landscape designations covering the application site. Moreover, the sites are located wholly outside any Settlement Development Boundary. The larger eastern parcel is wholly located within a 'Strategic Green Gap' (Policy PPL6 – Strategic Green Gaps), whereas the western parcel is located outside this designation.
- 6.6 The Site is entirely located within Flood Zone 1 and therefore is of low risk of flooding.
- 6.7 There are no Scheduled Monuments or Listed Buildings within the application site, nor does the application site lie within a Conservation Area. The closest Listed Building is Hill Farmhouse (reference: 1165663) approximately 40m south of the larger site.
- 6.8 There are no International or European designated sites (Ramsar, Special Protection Area or Special Areas of Conservation) within or adjacent to the site. Within a 5km radius are the following designated sites:
- Hamford Water Ramsar, NNR, SSSI and SAC, c.795m north
 - The Naze SSSI, c.3.6km north-east
 - Holland Haven Marshes SSSI, c.2.4km south

The site is located within an SSSI Impact Risk Zone for Hamford Water SSSI; as such the development does fall under the criteria whereby the Local Authority are required to consult with Natural England regarding potential risks to the SSSI.

- 6.9 The Agricultural Land Classification of the soil across the site consists mostly of Grade 3b (92%) agricultural land with a small percentage of Grade 3a (8%) land and is therefore not best and most versatile agricultural land (BMV).

Planning History

- 6.10 Both parcels of land have been the subject of appeal decisions dating back to 2016. The western section of the eastern parcel of land (Solar Farm Site) was the subject of a speculative housing application for 75 dwellings (Planning Reference – 15/00928/OUT). The application was refused and the subsequent appeal was dismissed, amongst other matters, on the grounds that the development would represent a significant urbanising incursion into the Local Green Gap.
- 6.11 The western parcel of land (Eco-Hub Site) was the subject of an associated proposal for community sport pitches. The planning application (Planning Reference - 15/00929/FUL) was appealed against non-determination and the appeal was allowed but the development was never implemented.

Proposal

- 6.12 The Proposed Development comprises three main parts, namely; an Electric Vehicle (EV) Charging Station, a ground mounted Solar Farm together with all associated equipment and infrastructure; and battery storage. The specifics of each element are outlined below;

Electric Vehicle Charging Station (Eco-Hub)

- 6.13 The EV Charging Station, battery storage and grid connection element of the scheme would be located in the smaller part of the site situated on the western side of Halstead Road and would comprise of the following:
- A covered forecourt and canopy with sufficient capacity to simultaneously charge up to 12 rapid and ultra-rapid chargers with a capacity of 43-350kW (under the translucent, solar canopies);
 - A seating/rest area to reflect that EV charging does not require the driver to remain with the car and that even ultra-rapid EV charging results in a “dwell time” of some 15/20 minutes.
 - Approximately 180m² of development floorspace is provided for a mix of Use Classes (2020 Use Classes 'E' and 'Sui Generis') for a hub / cafe;
 - 19 car parking spaces plus 3 disabled spaces to include 13 fast chargers (c.22kW);
 - Additional 25 car parking spaces (intended to ease school drop off / pick up pressure in vicinity, including the recreation ground to the west);
 - A Distribution Network Operator (DNO) Switching Station building would be located near to the proposed point of connection. The building would be single storey in height and 4m (Width) x 10m (Length);

- A Client Switching Station building would be located near to the DNO Switching Station building and would also be single storey in height and 4m (Width) x 10m (Length);
- Hardstanding and vehicle manoeuvring space together with pavements for pedestrian use;
- A small outdoor seating / picnic area;
- A small play area; and
- Footpath to connect to adjacent playing fields.
- A new vehicular access is proposed to be created off Halstead Road to provide access to the smaller, western part of the site which would comprise the EV charging station, battery storage facility and grid connection infrastructure. It is proposed to construct a new priority T-Junction from the western side of Halstead Road to serve the EV charging station. The proposed access will be 6.5 metres wide and will include eight metre corner radii in order to accommodate the largest vehicles associated with the proposed solar farm and battery storage facility which are low loaders and 15.4 metre articulated HGVs.
- The Eco Hub would be operational during the daytime and early evening periods only, potentially operating between 08:00 – 20:00 hours. The chargers may remain in use after this time, but would not be operational overnight (i.e. between 23:00 – 07:00 hours).
- Acoustic fencing measuring 3 metres in height would be located along the northern section of the Eco-Hub site.

Solar Farm

- 6.14 The Solar Farm element of the scheme would be located in the larger part of the site on the eastern side of Halstead Road.
- 6.15 The supporting information confirms that the delivered capacity of the Solar Farm and the associated storage batteries would be up to 29MW, producing electricity equivalent to the annual electricity consumption of about 6,370 homes.
- 6.16 The Solar Farm would comprise of the following elements:
- Photovoltaic (PV) modules based on a simple metal framework ('table') which is pile driven into the ground, avoiding the need for substantive foundations. Each table would have an overall height of up to 2.5m at the highest point of the solar panel slope and depending on existing ground level which would be unaltered having an up to 40-year operational life;
 - A number of (5) inverter/transformers, of single storey height, would be located across the site with there likely being at least one in each field/parcel;
 - A motion activated CCTV system, using cameras mounted on narrow, freestanding columns up to 3m in height, within the site boundary (looking inwards) would be installed around the site's perimeter;
 - A storage container(s) for spare parts;
 - Boundary fencing (e.g. deer fencing or stock fencing) around the edge of each development parcel, up to 2m in height. Deer fencing will provide the same level of protection as traditional security fencing, but it is considered more visually appealing. There will be a gap of 10cm at ground level to allow for ecology to freely enter and exit;

- Associated access tracks, a minimum width of 3.5m across the site (connecting inverter/transformer units);
- Relevant communications and weather monitoring equipment;
- Widening existing site access;
- Up to 30m set back / buffer area from the northern and southern site boundary to the panel area;
- New permissive footpaths to link up and connect to the public rights of way network both within and outside of the site.
- Set back distance from the solar panels for existing and proposed permissive paths (10m width where the footpath has solar modules on both sides and 5m width where the path is on the edge of the solar array;
- Access to the solar farm would be by way of an existing field access onto Halstead Road (modified as appropriate).

Battery Storage Area and Grid Connection

6.17 The Battery Station area would comprise:

- 3 battery storage containers (1,000V DC) located to the north of the EV charging station within a fenced compound (for safety and security), each of 12.19m (Length), 2.44m (Width) and 2.59m (Height) within which electricity generated by the Solar Farm would be stored in a series of batteries and energy released as/when required to the local electricity grid for an operational phase not less than 40 years. Within the proposed containers large battery cells convert electricity into electrochemical energy that is then stored before being converted back to electricity for export. The batteries proposed will be charged during periods of lower demand and increase the operational flexibility of the proposed Solar Farm, this area will comprise of the following;
- Erection of perimeter palisade fencing up to 2.5m in height for reasons of public health and safety;
- Associated access and hard standing within the perimeter fencing;
- Creation of a site access via the EV Charging Station.

6.18 A grid connection will be made to allow the project to be connected to the local electricity grid. The point of connection is within the site boundary in the smaller parcel of land to the west.

6.19 The grid connection infrastructure would comprise:

- A Distribution Network Operator (DNO) Switching Station building would be located near to the proposed point of connection. The building would be single storey in height and 4m (Width) x 10m (Length);
- A Client Switching Station building would be located near to the DNO Switching Station building and would also be single storey in height and 4m (Width) x 10m (Length).

Principle of Development

6.20 Policy PPL 10 (Renewable Energy Generation and Energy Efficiency Measures) states that proposals for renewable energy schemes will be considered having regard to their

scale, impact (including cumulative impact) and the amount of energy which is to be generated.

- 6.21 The pre-amble to this policy outlines that the National Planning Policy Framework requires local planning authorities to adopt proactive strategies to mitigate climate change and promote sustainable development. By effectively exploiting the free resources of wind and sun, in particular, renewable energy can reduce the demand for fossil fuels, which are a finite resource, release harmful carbon into the atmosphere and accelerate global warming.
- 6.22 Furthermore, the pre-amble states that Tendring District supports renewable energy generation in terms of wind energy, solar energy and biomass installations and confirms that in 2019, the Council declared a climate emergency, committing it to the preparation of an action plan with the aim of making its own activities carbon neutral by 2030 and acting as a community leader to encourage communities and developers to reduce carbon emissions and tackling climate change.
- 6.23 This approach is supported in the National Planning Policy Framework (NPPF) which states that planning plays a key role in helping shape places to secure radical reductions in greenhouse gas emissions, minimising vulnerability and providing resilience to the impacts of climate change, and supporting the delivery of renewable and low carbon energy and associated infrastructure. This is central to the economic, social and environmental dimensions of sustainable development. It is therefore clear that the planning system should facilitate the transition to a low carbon economy by, amongst other things, maximising renewable energy development. The NPPF does however state that the adverse impacts of renewable energy generation need to be addressed satisfactorily. It is the impacts of proposals for renewable energy generation that need to be considered rather than the principle of such development in the countryside.
- 6.24 The above approach in the NPPF also states that applicants do not need to demonstrate a need for a renewable energy proposal, that planning professionals should look favourably upon such proposals and that even if a proposal provides no local benefits, the energy produced should be considered a national benefit that can be shared by all communities and therefore this national benefit is a material consideration which should be given significant weight. It is within this context that a renewable energy proposal needs to be considered.
- 6.25 In addition to the NPPF, the Government has published a suite of National Planning Practice Guidance documents. Included within this suite of national guidance, is 'Renewable and Low Carbon Energy'. This guidance assists local councils in developing policies for renewable energy in their local plans, and identifies the planning considerations for a range of renewable sources such as hydropower, active solar technology, solar farms and wind turbines.
- 6.26 This guidance document forms a material consideration. This guidance document provides a list of criteria which need to be considered in the determination of planning applications for large scale solar farms. Where a planning application is required, factors to bear in mind include:

- The importance of siting systems in situations where they can collect the most energy from the sun;
- Need for sufficient area of solar modules to produce the required energy output from the system;
- The effect on a protected area such as an Area of Outstanding Natural Beauty or other designated areas;
- The colour and appearance of the modules, particularly if not a standard design.

6.27 Furthermore, this document states the particular factors a local planning authority will need to consider include:

- encouraging the effective use of land by focussing large scale solar farms on previously developed and non-agricultural land, provided that it is not of high environmental value;
- where a proposal involves greenfield land, whether (i) the proposed use of any agricultural land has been shown to be necessary and poorer quality land has been used in preference to higher quality land; and (ii) the proposal allows for continued agricultural use where applicable and/or encourages biodiversity improvements around arrays.
- that solar farms are normally temporary structures and planning conditions can be used to ensure that the installations are removed when no longer in use and the land is restored to its previous use;
- the proposal's visual impact, the effect on landscape of glint and glare and on neighbouring uses and aircraft safety;
- the extent to which there may be additional impacts if solar arrays follow the daily movement of the sun;
- the need for, and impact of, security measures such as lights and fencing;
- great care should be taken to ensure heritage assets are conserved in a manner appropriate to their significance, including the impact of proposals on views important to their setting;
- the potential to mitigate landscape and visual impacts through, for example, screening with native hedges; and
- the energy generating potential, which can vary for a number of reasons including, latitude and aspect.

6.28 These matters are covered in the main body of the report below.

Principle - Wider Renewable Energy/Sustainability Aspects

6.29 The UK is committed to meeting a target of “net-zero” by or before 2050. This broadly means that across the UK, emissions of Green House Gases from all sources will have to reduce from the current figure of 4352 million tonnes. The UK Government industrial and green growth strategies has made further pledges to invest in green jobs, low carbon infrastructure and investment in energy efficiency. These will create substantial, and significant, opportunities in Tendring to build new industries and create new, highly skilled and well-paid jobs.

6.30 After declaring a climate emergency in 2019, Tendring District Council have since approved the Climate Change Action Plan 2020-2023. The action plan sets out a vision to combat climate change and help Tendring to become a net carbon neutral authority by 2030. To meet this ambition, the action plan includes a number of goals:

- Move to the purchase of 100% renewable electricity.
- Focus on the switch away from oil, natural gas use by 2030.
- Maximise onsite renewable energy generation opportunities.
- Promote, support and facilitate energy efficiency improvements to homes.

- 6.31 Moreover, since the proposal was submitted, the Government has published the British Energy Security Strategy in April 2022. This identified an urgent need for the deployment of low-cost renewable energy generation in order to tackle climate change and improve the UK's security of energy supply, and shield consumers from high energy costs. It recognises a national need for increased solar generation capacity as a critical element of the plan to decarbonise. In addition, recent Government figures show a significant shortfall in expected carbon reductions against the legally binding targets.
- 6.32 It is therefore important to consider the wider policy context before considering the impacts of the proposal as a balancing exercise will need to be undertaken where the inherent benefits of renewable energy are balanced against the impacts of the proposal.
- 6.33 Based on the initial studies undertaken by the applicant and taking into account general solar irradiation levels in the region, the site would generate approximately 24.5GWh of renewable electricity during a typical year. This is equivalent to the energy needs of approximately 6,500 average UK homes or equivalent to the electricity used in journeys totalling approximately 73.9 million miles in a typical electric vehicle. Accordingly, the proposal would deliver significant CO2 savings compared with non-renewable energy sources over the 40 year life of the solar farm development. The proposed batteries would provide an additional approximate 3MW of electricity and could be called upon depending on demand on the local electricity network thereby increasing electricity network flexibility and stability.
- 6.34 Further, the design of the proposal shows how 'renewable energy solutions' have been integrated into the new eco-hub building and the site more generally, noting that this is appropriate given the primary function of the proposal is to supply electricity to both electric vehicle drivers and the wider community, via electricity export to the local distribution network.
- 6.35 Officers accept that customers visiting the EV charging station will typically expect to be able to use public conveniences and purchase refreshments. Such offers are a commercial reality of any EV charging station in order for them to prove viable and attractive to those that pass them by. The function of an EV Charging Station also differs from a traditional petrol/diesel fuelling station, insofar as there is a longer period of time for EVs to be refuelled, even with rapid-charging facilities. The average 'dwell times' are stated to be approximately 15/20 minutes and, whilst some drivers may opt to stay in their cars for this period of charging time, it is not unreasonable for there to be a rest and refreshment provision on site. These provisions would also have a commercial benefit to the facility.
- 6.36 Consequently, the provision of a relatively small ancillary commercial offer is reasonable in what can be described as a sustainable location. In addition, the floor area of the café/retail unit would equate to 180 sqm which falls comfortably below the

Local Impact Threshold figure of 929 sqm for Frinton-on-Sea, as outlined in Policy PP4 of the local plan. The café/retail unit would therefore not require an impact assessment to establish its impact upon the vitality of the nearest town centre and is considered acceptable in principle.

- 6.37 The above are material considerations which weigh in favour of a renewable energy proposal. In summary, the principle of the proposed development is compatible with Policy PPL10 and there is an 'in principle' support for renewable energy proposals in light of the national and local policy context. This in principle support needs to be considered against the impacts of the proposal and the two are 'weighed'. The weighing process is a matter of planning judgement. Consequently the assessment moves on to consider the impacts of what is proposed, the impacts will then be balanced against the in principle support and the inherent national benefits of the development.

Alternative Sites/Need

- 6.38 Schedule 4 (Part 2), of the Environmental Impact Assessment Regulations requires that the Environmental Statement contains "A description of the reasonable alternatives (for example in terms of development design, technology, location, size and scale) studied by the developer, which are relevant to the proposed project and its specific characteristics, and an indication of the main reasons for selecting the chosen option, including a comparison of the environmental effects".
- 6.39 In this regard, geographical siting flexibility is restricted as a result of the relative lack of such grid connection options and viable alternatives in Tendring District are relatively scarce. Other factors that determine the suitability of a site for developments such as the application proposals are;
- Solar irradiation;
 - Availability of land (landowner complicity);
 - Topography;
 - Potential for screening by existing vegetation;
 - Location in relation to environmental designations;
 - Located on lower grade agricultural land;
 - Located on land with a low probability of flooding; and
 - Site or adjacent features provide opportunities to improve the ecological value of the site.
- 6.40 The applicant advises that the location of the grid connection (a robust 33kV over-head circuit runs through part of the Eco-Hub site) was the key determinant in the general location of the site. The exact site location was determined by the availability of land, i.e. a landowner willing to enter in to the necessary land agreements. The applicant has also outlined within the supporting documentation that whilst searching for other available sites within the area, they were unable to secure land elsewhere in the vicinity of the application site. The application site was therefore taken forward to development given it had access to a viable grid connection and satisfied all of the selection criteria listed above.
- 6.41 Specifically and as already mentioned, the NPPF states that there is no requirement for an applicant to demonstrate overall need for renewable and low carbon energy and

Local Planning Authorities are directed to approve such applications if impacts are (or can be made) acceptable.

- 6.42 In respect of the other aspects of the development, the inclusion of battery storage within the development is proposed as it would increase the resilience and efficiency of the proposed development, balancing the export of electricity produced from a renewable source (via the solar farm) on to the electricity grid and/or into the EV charging station.
- 6.43 The EV charging station will comprise up to 12 rapid and ultra-rapid charging points. In addition, 13 fast charging points would be provided for users of the parking bays on the site. In total, this would provide the ability to charge up to 25 EVs at any one time. In terms of need, in November 2020 the Government announced a ban on the sale of new petrol and diesel cars from 2030. As EVs replace combustion engine vehicles as the main transportation solution for mass transit, a significant barrier to be addressed is the provision of a viable EV charging network including new EV charging infrastructure at appropriate sustainable locations along the national and regional highway network. This is consistent with Policy SP6 (Infrastructure & Connectivity) which outlines that all new development must be supported by the provision of infrastructure, services and facilities, including innovative strategies for the management of private car use incorporating, amongst other criteria, the provision of electric car charging points.
- 6.44 This proposed development will therefore assist in filling a local and regional gap in charging facilities and help re-balance the current bias of EV charging infrastructure towards more populated areas. It is acknowledged that all newly constructed dwellings are to be supplied with EV charging facilities, however that leaves a significant number of existing properties with no provision and it cannot be expected that all will be able to install the necessary home charging points. There is also a significant number of residents with no off-street parking facilities (i.e. flatted development) where such provision is likely to be difficult to retrofit. The rapid charging provision will also appeal to visitors to the area, particularly tourists in the summer months, as the facilities will allow for visitors to re-charge their EVs prior to their return journey.
- 6.45 In light of the above, the electric charge point network with its associated charging infrastructure will be required to meet future demand, encouraging uptake of EVs as well as addressing concerns regarding local charge point availability, reliability and ease of use.

Green Gap/Landscape and Visual Impacts

- 6.46 Local Plan Policy PPL6 states that the Strategic Green Gaps as shown on the Policies Maps and Local Maps will be protected in order to retain the separate identity and prevent coalescence of settlements. The policy then stipulates that any development permitted must be consistent with other policies in the plan and must not (individually or cumulatively) lead to the coalescence of settlements.
- 6.47 Strategic Green Gaps have been identified in the local plan in specific locations between settlements. The Strategic Green Gaps are valued predominantly for the role they will play in preventing the coalescence of settlements and retaining the distinct identity of settlements.

- 6.48 The solar farm element of the proposal is situated wholly within a designated Strategic Green Gap. The Council's Strategic Green Gaps Review (December 2020) outlines the character and importance of the green gap and provided the evidence base for its inclusion within the adopted local plan.
- 6.49 In addition, Local Plan Policy PPL3 states that the Council will protect the rural landscape and refuse planning permission for any proposed development which would cause overriding harm to its character or appearance; including
- a. estuaries, rivers and undeveloped coast;
 - b. skylines and prominent views including ridge-tops and plateau edges;
 - c. traditional buildings and settlement settings;
 - d. native hedgerows, trees and woodlands;
 - e. protected lanes, other rural lanes, bridleways and footpaths; and
 - f. designated and non-designated heritage assets and historic landscapes including registered parks and gardens.
- 6.50 In this instance, the application site identified for the installation of solar panels comprises agricultural land with strong boundary hedgerows containing several hedgerow trees on both the perimeter and within the main body of the land. The solar farm land is located entirely within the Strategic Green Gap.
- 6.51 A smaller parcel of land to the west of Halstead Road is proposed to be used as an Electric Vehicle Charging Point is also in agricultural use. This land appears to be fallow and is not located within the Strategic Green Gap. The main body of this part of the application site does not contain any trees or other significant vegetation but some site boundaries are demarcated by established hedgerows.
- 6.52 In order to show the extent of the constraint that existing trees and hedgerows are on the development potential of the land and to show how retained vegetation will be protected for the duration of the construction phase of any planning permission that may be granted the applicant has provided a tree and hedgerow survey and report.
- 6.53 The report contains an accurate description of the health and condition of the trees and hedgerows on the land and is in accordance with BS5837 2012 Trees in relation to designs, demolition and construction: Recommendations.
- 6.54 In terms of the land to the east of Halstead Road the proposed installation of the solar array will not result in the loss of any significant vegetation other than a short section of low quality hedgerow, and two small Oaks, adjacent to Halstead Road to facilitate access to the land (replacement planting is identified). A small section of internal hedgerow (H5) and some dead Elms contained in G5 are also identified for removal. Special construction techniques have been identified as necessary in the area close to T33 (English Oak) details of which can be secured by way of an Arboricultural Method Statement (AMS) under a planning condition.
- 6.55 With regards to the land to the west of Halstead Road the Arboricultural Impact Assessment identifies the potential removal of the hedgerow adjacent to the highway and its replacement with a new hedgerow. Either the retention of the hedgerow or its removal and replacement will not adversely affect the appearance of the locality.

Additional soft landscaping will help to soften and screen the development and help to mitigate harm to landscape character.

- 6.56 Drawing No BHA_4525_01 entitled Tree Survey and Constraints Plan shows the retention of all important existing trees and hedgerows of good quality and drawing No P21-1814-10 Rev B entitled Landscape Strategy shows new planting to soften and screen the development.
- 6.57 In terms of the impact of the development proposal on the local landscape character it is important to recognise the existing qualities and value of the landscape and to quantify the potential impact of the proposed development on the local landscape character.
- 6.58 The scale of the development is such that it has the potential to have an adverse impact on the character and appearance of the Landscape Character Areas (LCA's) within which the application site sits.
- 6.59 In order to establish the baseline qualities and characteristics of the landscape, to quantify likely harm to the character and appearance of the countryside and to inform the level of mitigation that may be required the applicant has provided a Landscape and Visual Impact Assessment (LVIA).
- 6.60 It is clear that the proposed installation of the solar array will change the character and appearance of the land encompassed in the application site especially affecting owners of adjacent properties and users of the Public Rights of Way (PROW) that cross the site.
- 6.61 In this regard the LVIA is comprehensive and achieves its objective of quantifying the impacts and effects, and consequently, degree of harm that would result from the construction and operation of the solar farm. The document acknowledges that the greatest impact of the development will be on local residents overlooking the site and users of the PROW network but that the wider impact will be negligible as a result of the type and scale of the development and the enclosed nature of the main body of the application site
- 6.62 The conclusion set out in paragraphs 5.7.25 to 5.7.30 of the LVIA states that, 'on balance it is considered that proposed development could be successfully accommodated within the application site and surrounding landscape without unacceptable temporary but long-term residual effects on landscape character or visual amenity as a whole'.
- 6.63 In concurrence with the findings of the LVIA it is accepted that the low level nature of the development and the screening provided by existing vegetation, and new soft landscaping, means that the extent of the harm to the landscape is restricted to close views and experiences of the site.
- 6.64 Notwithstanding the localised impact on adjacent residential properties and users of the PROW network within the application site, it is considered that the development will not significantly alter or cause harm to the wider character or visual qualities of the local landscape.

- 6.65 The Eco-Hub would be visible in views along Halstead Road and from the access track serving the playing fields to the rear. The vast majority of the screening vegetation along Halstead Road would be retained but a section of the frontage hedgerow will be removed to facilitate the new access and the required visibility splays. Furthermore, the 3 metre high acoustic fencing proposed to run along the northern boundary of the Eco-hub site, which provides for noise attenuation for residents to the north, would be highly visible in the first few years following completion of construction work. However, the submitted landscaping strategy outlines the provision of a planting buffer along the northern boundary which, when it becomes established, would assist in softening the appearance of the acoustic fencing and wider views of the Eco-hub from Halstead Road and the access track.
- 6.66 As noted above the solar farm element of the proposals (i.e. the development on the eastern side of Halstead Road) is located wholly within a Strategic Green Gap (SGG). In this respect Policy PPL6 is relevant to the consideration of the planning application.
- 6.67 As stated above, Policy PPL6 outlines that any development permitted must be consistent with other policies in the plan and must not (individually or cumulatively) lead to the coalescence of settlements.
- 6.68 Consequently, it is clear that the policy does not restrict development completely in these designated areas, but stipulates that development that would be acceptable, in policy PPL6 terms, must demonstrate that it protects the separate identity, and prevents the coalescence, of settlements.
- 6.69 In this respect it is also acknowledged that during the course of the application the overall solar panel coverage has been reduced by increasing the buffer between the panels and the residential development in Kirby-le-Soken to the north and Kirby Cross to the south from 15 metres to 30 metres. This assists in providing a greater visual gap between the panels and the existing built form to the north and south of the solar farm.
- 6.70 In this instance, officers consider that the deployment of the proposed solar panels in the SGG between Kirby Cross and Kirby-le-Soken would ensure that the two settlements maintain their separate identities and would not coalesce. The ground-mounted solar panels proposed in the SGG, potentially co-located with sheep grazing, represent an increasingly common rural land use. The installation of the solar panels would physically prevent any reduction in the current distances between properties comprising both settlements and represent a low scale and relatively non-intrusive feature.
- 6.71 It is acknowledged that the site has been the subject of speculative housing development in recent years, the majority of which have been refused partially on the grounds of their contribution towards the coalescence of Kirby-le-Soken and Kirby Cross and the urbanising the impact the housing would have upon the SGG and the permanent change to the landscape character. However a housing proposal is different in nature compared to a proposal for ground mounted solar panels, officers consider that the permanent nature of housing development, in conjunction with the level of activity and domestic paraphernalia such a development would bring about, would be materially different to the solar farm proposal now under consideration.

- 6.72 The solar farm would be lower in terms of its scale and impact and, once operational, there would be very limited activity taking place within the development. Moreover, the solar farm would be a temporary development with an operating life of 40 years so the land would revert back to its current use following decommissioning, i.e. agriculture, which is secured by a suitably worded planning condition. This condition also secures the retention, following the decommission period, of the significant areas of planting/landscaping that are proposed as part of the overall development.
- 6.73 The SGG would therefore be maintained throughout the lifetime of the development and remain in place after the site has been decommissioned, when any new development proposals would have to comply with any SGG policy at the time, without the benefit of the site having a diminished level of protection, e.g. a brownfield classification.
- 6.74 By preventing coalescence of Kirby Cross and Kirby-le-Soken and enabling each settlement to maintain its separate identity, the proposed development would accord with the aims and objectives of Policy PPL6 of the adopted TDLP2.

Design/Layout

- 6.75 The proposed solar farm would consist primarily of a steel framework to support the panels and the panels themselves.
- 6.76 The EV charging station is located on a parcel of land to the western side of Halstead Road. The submitted EV charging site layout drawing details the location of the EV charging bays with covered canopy connecting to the hub/café building with public rest facilities to the southern-western corner of the site. The battery storage system and grid connection infrastructure is situated in the north-eastern corner of the site and would be partially surrounded by a close-boarded, acoustic, wooden fence; reducing noise levels and visual effects at nearby properties. Additional parking bays are provided between the EV charging site and battery storage area. These spaces provide additional parking for nearby facilities including the primary school and playing fields to the west and including for EV drivers wishing to fast charge and those drivers requiring accessible spaces (e.g. disabled drivers). Bicycle parking and E-Bike charging is provided within a covered shelter on one end of the Hub/café building.
- 6.77 Within the western part of the EV charging area, provision has been made for air and water facilities for vehicle maintenance. Recycling and refuge facilities will be incorporated within the design of the Hub/café building.
- 6.78 Within the fields of the solar farm the panels will be arranged in long rows running from east to west, orientated to the south to maximise solar efficiency. Relatively small ancillary control buildings are required around the site. The submitted site layout drawing outlines the position of these structures within the site and accompanying drawings set out their dimensions. In the event that planning permission is granted a condition can be recommended to obtain details of the finished colour of the ancillary buildings to ensure they assimilate acceptably into the landscape.
- 6.79 The appearance of the EV charging station has been considered in regard to its location and landscape impact. In terms of design, features have been sought to reflect the urban edge setting and integrate the development into the landscape

through the use of wooden cladding and a green roof for the building comprising a shop/cafe and public rest facilities.

- 6.80 The EV charging station area will incorporate LED lights which face into the site, directed downwards to minimise any light spillage outside of this area.
- 6.81 Overall, the design and layout of the whole development is considered to be acceptable and represents an appropriate response to the character and appearance of the locality in conjunction with suitably addressing the specific physical constraints of the sites.

Heritage Impacts

- 6.82 In accordance with section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the LBCA Act), special regard must be paid to the desirability of preserving listed buildings potentially affected by the proposal, or their settings or any features of special architectural or historic interest which they may possess. Following Paragraph 193 of the NPPF, great weight should be given to the conservation of these heritage assets.
- 6.83 The Planning Policy Guidance (PPG) makes it clear that great care should be taken to ensure heritage assets are conserved in a manner appropriate to their significance, including the impact of proposals on views important to their setting. The PPG advises that great care should be taken to ensure heritage assets are conserved in a manner appropriate to their significance, including the impact of proposals on views important to their setting. As the significance of a heritage asset derives not only from its physical presence, but also from its setting, careful consideration should be given to the impact of large scale solar farms on such assets. Depending on their scale, design and prominence, a large scale solar farm within the setting of a heritage asset may cause substantial harm to the significance of the asset. The PPG also states that the need for and impact of security measures such as lights and fencing should be considered.
- 6.84 Policy PPL9 states that proposals for new development affecting a listed building or its setting will only be permitted where they will protect its special architectural or historic interest, its character, appearance and fabric. Where a proposal will cause harm to a listed building, the relevant paragraphs of the Framework should be applied dependent on the level of harm caused.
- 6.85 The NPPF at Paragraph 199 states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be - irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.
- 6.86 Paragraph 202 states that's where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
- 6.87 Paragraph 203 states that the effect of an application on the significance of a non-designated heritage asset should be taken into account - in weighing applications that

directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

- 6.88 The site is located in close proximity to the Grade II Listed Hill Farmhouse and 17th Century Willow Farm which is a non-designated heritage asset. The submitted Heritage Assessment also analyse the impact of the new development on the setting of Grade II* Listed Church of St Michael which lies approximately 430m North of the site. Other designated assets, including the Kirby-le-Soken Conservation Area and Grade II* Listed Naze Tower, were considered to not be affected by the development.
- 6.89 Firstly, the Heritage Assessment concludes that the views of the Church of St Michael within the wider surrounding landscape do not particularly contribute to the overall heritage significance of the designated asset, which is better appreciated from within its Churchyard and in the context of Kirby Le-Soken settlement. As such ECC-Heritage agree that there would not be any impact upon this particular heritage asset.
- 6.90 The submitted Heritage Assessment does conclude that the installation of the solar farm and the construction of the Electric Vehicle Charging Station would cause less than substantial harm (at the lowest level of harm) to the significance of Hill Farmhouse due to the change to the character of its setting from rural and shrubland to infrastructure. Similar consideration of harm can be applied to non-designated heritage asset Willow Farm, which owned part of the proposed site in the 19th Century.
- 6.91 ECC-Heritage concur with this conclusion and therefore advise that the local planning authority should weigh this harm against any public benefits. Consequently, whilst the scale of harm may be at the lower end of 'less than substantial', great weight should be given to the heritage asset's conservation as per Paragraph 199 and clear and convincing justification provided for any level of harm (Paragraph 200).
- 6.92 Taking into consideration the requirements of paragraph 202 (NPPF), officers are of the view that the development would result in overriding public and national benefits that outweigh the lower level of harm identified within the Heritage Assessment and by ECC-Heritage. The harm identified, for the reasons outlined above, is evidently at the lower end of the 'less than substantial' spectrum. Consequently, it is considered that the lower level of harm identified to the heritage assets does not outweigh the national benefits derived from the development of a renewable energy scheme. The development is therefore considered to meet the requirements of the NPPF.

Highway Safety/Parking

- 6.93 The ninth bullet of Policy SP7 requires all new development includes parking facilities that are well integrated as part of the overall design. Policy CP1 states that proposals for new development must be sustainable in terms of transport and accessibility, and therefore should include and encourage opportunities for access to sustainable modes of transport, including walking, cycling and public transport. Part B of Policy SPL3, criterion a), requires that access to the site is practicable and the highway network will, following any required mitigation, be able to safely accommodate the additional traffic the proposal will generate and not lead to a severe traffic impact. Amongst other things, criterion f) requires adequate vehicle and cycle parking.

- 6.94 Paragraph 104 of the NPPF states that transport issues should be considered from the earliest stages of development proposals, amongst other things, so that:
- a) the potential impacts of development on transport networks can be addressed;
 - b) opportunities from existing or proposed transport infrastructure, and changing transport technology and usage, are realised – for example in relation to the scale, location or density of development that can be accommodated;
 - c) opportunities to promote walking, cycling and public transport use are identified and pursued;
 - d) the environmental impacts of traffic and transport infrastructure can be identified, assessed and taken into account – including appropriate opportunities for avoiding and mitigating any adverse effects, and for net environmental gains; and
 - e) patterns of movement, streets, parking and other transport considerations are integral to the design of schemes, and contribute to making high quality places.
- 6.95 Paragraph 105 states that the planning system should actively manage patterns of growth in support of these objectives. Significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. This can help to reduce congestion and emissions, and improve air quality and public health. However, opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making.
- 6.96 Paragraph 111 of the NPPF makes clear that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or if the residual cumulative impacts on the road network would be severe.
- 6.97 Within this context, Paragraph 112 states that applications for development should:
- a) give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas; and second – so far as possible – to facilitating access to high quality public transport, with layouts that maximise the catchment area for bus or other public transport services, and appropriate facilities that encourage public transport use;
 - b) address the needs of people with disabilities and reduced mobility in relation to all modes of transport;
 - c) create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles, avoid unnecessary street clutter, and respond to local character and design standards;
 - d) allow for the efficient delivery of goods, and access by service and emergency vehicles; and

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

- 6.98 Paragraph 113 states that all developments that will generate significant amounts of movement should be required to provide a travel plan, and the application should be supported by a transport statement or transport assessment so that the likely impacts of the proposal can be assessed.
- 6.99 Access to the proposed solar farm will be via an existing field gate on the eastern side of Halstead Road improved where necessary to accommodate the largest vehicles associated with the proposed solar farm. The new access will be used by construction and maintenance vehicles associated with the solar farm.
- 6.100 A new priority T-Junction will be constructed on the western side of Halstead Road to serve the EV charging station. The new access will be used by construction vehicles associated with the EV Charging Station and periodic visits by maintenance vehicles as well as providing public access to the EV charging station.
- 6.101 The supporting documentation outlines that it is expected that there will be around 874 movements by large vehicles for the construction of the solar farm (i.e. 437 arrivals and 437 departures) over a six month period (approximately 6 deliveries per day on average). For the Eco-Hub construction period there will be up to 30 HGV deliveries (60 two-way movements) per week. Assuming a three-month construction phase, this could equate up to approximately 360 deliveries in total and five deliveries per day on average.
- 6.102 After commissioning, it is anticipated that there will be around one visit to the solar farm per month for equipment maintenance. These visits would typically be made by light van or 4x4 type vehicles.
- 6.103 In terms of the Eco-Hub, the submitted Transport Statement outlines that given the nature of the proposals as an EV charging station, it is considered that the majority of forecast vehicle trips would be classified as 'pass-by' or 'diverted trips' and therefore not new to the local highway network. It is noted that the proposed café / shop could attract new trips. However, the rest of the facilities are intended to be of ancillary use for customers of the EV charging station, or those already passing the site or using adjacent facilities including the adjacent playing fields, tennis courts and the nearby primary school. Therefore in terms of anticipated trips to the Eco-Hub the submitted Transport Note outlines that it has been agreed with the Highway Authority to provide a 'first principles' approach to assessing the future forecast demand of the site, assuming that all EV charging facilities at the site are fully occupied.
- 6.104 Using this approach the applicant's transport consultant anticipates that the maximum EV charging capacity of the Eco Hub is 27 EVs in one hour. This equates to a maximum of 54 two-way vehicular movements associated with the EV charging points within an hour period (i.e. 27 arrivals and 27 departures). This equates to an additional vehicle every two minutes on average on Halstead Road and at local junctions. Important to note is that the transport note concludes that the calculations provided have been based on a worst-case scenario of traffic associated with the site, assuming that all trips are new on the local highway network with no pass-by trips. It also

assumes that the proposed EV charging points are all occupied 100% of the time. The Highway Authority have agreed that this is considered to represent a robust approach.

- 6.105 The Highway Authority have fully assessed the information provided and have confirmed that from a highway and transportation perspective the impacts of the development is acceptable. The Highway Authority note that the proposed accesses will have adequate visibility and will provide for adequate off-street parking and turning, while the overall scheme is set back from the main public highway and public footpaths that run in the vicinity of the development. The Highway Authority add that in relation to the Electric Vehicle Charging Station, it is noted that at the end of 2021 there were 380 electric vehicles registered in the whole of Tendring. Taking this into account, along with the theoretical projected trips generated by the site being a maximum, the impact on the local network by this proposal is not considered to be severe.
- 6.106 In formulating their recommendation the Highway Authority have requested a number of conditions, including; the submission of a Construction Management Plan, details of a Traffic Management Plan (incorporating a designated construction route to and from the development sites), the new/improved accesses being afforded appropriate vehicular and pedestrian visibility splays, no unbound materials being used in the first 15 metres of the Halstead Road (Solar Farm) access, the public's ease of passage across the relevant public footpaths being maintained and unobstructed at all times, the existing footway along the Halstead Road (Eco-Hub) frontage being increased to 2 metres in width, the Eco-Hub parking (vehicular and cycle/two-wheeler) being laid out and made available for use prior to operational use of the hub and appropriate signage being applied to the proposed permissive paths.
- 6.107 A further requirement is included requesting the provision of a £5000 contribution towards the future introduction of waiting restrictions along Halstead Road near the vicinity of the site. This contribution would be secured prior to the commencement of any work. Waiting restrictions along Halstead Road may be required in the future to alleviate parking congestion in the vicinity of the site and to avoid the displacement of parking from the development onto the highway in close proximity to the 's' bend in the road. The contribution is therefore considered to be reasonable and necessary to make the development acceptable from a highway safety viewpoint and is included within the officer recommendation to be secured via a legal agreement. The applicants have agreed that this contribution is reasonable and are satisfied for it to be secured.

Impact on Residential Amenity

- 6.108 The final bullet of Policy SP7 requires that all new development protects the amenity of existing and future residents and users with regard to noise, vibration, smell, loss of light, overbearing and overlooking.
- 6.109 Policy SPL3, Part B criterion e), requires that buildings and structures are designed and orientated to ensure adequate daylight, outlook and privacy for future and existing residents. Part B, criterion f), necessitates provision is made for adequate private amenity space. Part C, criterion a), requires that development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties.

- 6.110 Amongst other things, NPPF at Paragraph 119 states that planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions.
- 6.111 Paragraph 174 provide that planning decisions should contribute to and enhance the natural and local environment by preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality.
- 6.112 Paragraph 130 f) includes that planning decisions should ensure that developments create places that are safe, inclusive and accessible, and which promote health and well-being with a high standard of amenity for existing and future users.
- 6.113 The proposal would affect the outlook across the landscape from some properties bordering the solar farm. However, revised plans were received during the course of the application to secure a 30 metres buffer zone between the panels and rear boundaries of the affected properties. Therefore, in view of the degree of separation simply having sight of the development would not of itself result in any unacceptable harm. The same is true of the Eco-Hub element, which would alter the outlook for adjacent residents across this parcel of land. However, the provision of a robust landscaping scheme would assist in softening views and the provision of an acoustic fence assists in enclosing the development.
- 6.114 There would also be a degree of noise and disturbance due to construction works and construction traffic, but this would not be of such magnitude or unacceptability that it would conflict with the above policies.
- 6.115 Overall taking all the above points into consideration, and bearing in mind the relative short-term duration of the construction phase, it may be concluded that if the best practice measures are implemented as much as is practically possible, especially the suggested limitation on working hours, noise generated by the construction phase of the proposed development is unlikely to have a significant adverse impact on the closest receptor properties to the site.
- 6.116 Long-term the site operations would be expected to have no adverse impact. In this respect a noise assessment has been provided which assess the impact of the Eco-Hub/Battery storage elements of the proposal upon nearby residents. The assessment carries out baseline noise monitoring to establish the typical background noise levels and has presented calculations and an assessment of the noise levels generated by the operation of the Eco Hub at the surrounding noise sensitive receptors. The assessment concludes that the operation of the Eco Hub would generate acceptable noise levels at surrounding properties throughout the day and night-time periods. Moreover, assessing the noise levels against relevant British Standards and guidance, including from World Health Organisation, the assessment concludes that the operation of the plant would result in noise levels:
- Generating a low potential for adverse impact; and

- Below a level which would represent the lowest observed adverse effects level when considered against absolute noise standards.

6.117 As such the noise assessment relating to the operation of the proposed Halstead Road Eco Hub demonstrates that the project would not result in unacceptable levels of noise. It is also acknowledged that the development proposes a 3 metre high acoustic fence to enclose the Eco-Hub, partially for security reasons, but to also further reduce any perceived noise impacts upon local residents over and above the findings of the noise assessment.

Health and Safety

6.118 The battery storage system is to use Lithium Ion (Li-Ion) batteries and the location and design of this part of the development meets the applicable safety recommendations relating to fire risk offset. Specifically, the battery storage system design is external and provides for safe distances between each battery container while the system is located at, or greater than, 20 metres from the café/shop and EV charging areas and at, or greater than, 3 metres from publicly accessible areas. In addition, it is proposed that the batteries would be compliant with the globally recognised UL9540A fire safety standard and the systems would be fitted with automatic fire suppression technology.

6.119 In addition, the applicant has confirmed that they would be open to accepting an appropriately worded and reasonable planning condition relating to the safety procedures to be operated for the battery storage system – i.e. a fire risk management plan. Such a condition is included as part of the officer's recommendation.

Glint and Glare Study

6.120 A Glint and Glare Assessment has been prepared to consider the potential effects of glint and glare caused by the proposed development on ground-based receptors in the surrounding area. The assessment finds that in terms of residential receptors no mitigation is required because of;

- the large separation distance;
- existing localised screening; and
- the effects coinciding with direct sunlight thereby reducing the visibility of the reflecting solar panel area.

6.121 Furthermore, the results of the assessment show that reflections from the proposed development are geometrically possible towards sections of Halstead Road, the B1032, the B1033, Elm Tree Avenue, and the B1304; however, the existing screening will remove solar reflections where a reflection is geometrically possible. Therefore, in this respect mitigation is not required.

Loss of Agricultural Land

6.122 The former saved Policy EN4 of 2007 Local Plan sought to prevent the unavoidable loss of agricultural land, and loss of the best and most versatile agricultural land unless special justification could be shown. This policy was superseded with the adoption of the Section 2 Local Plan and there is no direct replacement policy.

- 6.123 The Glossary to the NPPF defines best and most versatile agricultural land as land in grades 1, 2 and 3a of the Agricultural Land Classification (ALC). Paragraph 174 a) of the NPPF states that planning policies and decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land (BMV), and of trees and woodland.
- 6.124 Paragraph: 001 Reference ID: 8-001-20190721 of the PPG states, amongst other things, that planning decisions should take account of the economic and other benefits of the best and most versatile agricultural land. Paragraph: 002 Reference ID: 8-002-20190721 states that soil is an essential natural capital asset that provides important ecosystem services – for instance, as a growing medium for food, timber and other crops, as a store for carbon and water, as a reservoir of biodiversity and as a buffer against pollution.
- 6.125 As the submitted Agricultural Classification Assessment confirms, the site comprises land which the ALC Map indicates is likely to be predominantly Subgrade 3b falling outside of the definition of BMV. However, a small part of the site is stated as being subgrade 3a land. Natural England comment that they have no objection, but that the proposal may impact on BMV, and that there would be a general reduction in agricultural activity - the Council should consider whether this is an effective use of land in line with the PPG, which encourages the siting of large scale solar farms on previously developed and non-agricultural land.
- 6.126 The application site is, in the main (92%), not BMV land due to wetness. Furthermore, the proposal would not result in the site's permanent loss from agriculture and it would deliver biodiversity improvements around the array (see section below). The benefits of the scheme would outweigh any limited conflict with the NPPF in this regard, and it is not therefore considered that this consideration ought to be a reason for refusal.

Ecology and Biodiversity

- 6.127 Local Plan Policy PPL4 requires that sites designated for their international, European and national importance to nature conservation will be protected from development likely to have an adverse effect on their integrity. The policy states that as a minimum there should be no significant impacts upon any protected species. The preamble to Policy PPL4 states that where a development might harm biodiversity an ecological appraisal will be required to be undertaken, and the potential for harm should be considered and addressed in any application.
- 6.128 Policy SPL3, Part A criterion d), requires that the design and layout of development maintains or enhances site features, including ecological value.
- 6.129 Paragraph 174 d) of the NPPF requires that planning decision should contribute to and enhance the natural and local environment by minimising impacts on and providing net gains for biodiversity. Paragraph 180 d) states that opportunities to improve biodiversity in and around developments should be integrated as part of their design.
- 6.130 Paragraph 180 states that when determining applications, local planning authorities should apply the following principles:

a) if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;

b) development on land within or outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted. The only exception is where the benefits of the development in the location proposed clearly outweigh both its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of Sites of Special Scientific Interest;

c) development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists; and

d) development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate.

6.131 ECC Ecology have reviewed the submitted Ecological Impact Assessment Documents and Biodiversity Net Gain Calculations, in relation to the likely impacts of development on designated sites, protected species and Priority species & habitats and identification of appropriate mitigation measures. Following initial objection and the submission of further information relating to the potential presence of Dormice and Great Crested Newts, they are now satisfied that there is sufficient information to determine the application and that it provides sufficient ecological information to determine the application. No objections are raised.

6.132 In terms of bats the Ecological Impact Assessment confirms that a number of trees support features of potential value to roosting bats and the network of hedges are considered to be of high value for foraging. However, the document goes on to confirm that the main ecological features for bats will remain largely unaffected by the proposed development (with only some limited hedgerow clearance around existing gates to widen access). Moreover, in terms of lighting the proposed solar farm development will not have permanent lighting when operational. Further mitigation in the form of hedgerow planting and re-seeding to create wild flower strips will benefit foraging and commuting bats. The deployment of a minimum of ten bat boxes fixed to mature trees onsite will provide further potential roosting sites for bats.

6.133 Conditions recommended by ECC-Ecology include a requirement for a wildlife/bat friendly lighting scheme, adherence to the biodiversity protection and enhancement measures set out in the submitted assessments and plans. Conditions are also recommended to require a Landscape and Ecological Management Plan, a Biodiversity Enhancement Strategy, and a Construction Environmental Management Plan for Biodiversity. Subject to conditions, the above policy requirements would be capable of being met.

6.134 Overall, the supporting documentation outlines that the proposal would provide significant biodiversity net gains - 106.29% in habitat units and 97.35% in hedgerow units.

In this respect the total hedgerow in application site (2,310 metres) comprises:

- Retained hedgerow (1,510 metres)
- Retained and enhanced (590 metres)
- Removed hedgerow (86 metres)
- Trimmed hedgerow (124 metres)

- New, species-rich hedgerow (2,750 metres, i.e. 2,664 metres net new hedgerow)

6.135 If planning permission is granted the elements required to boost biodiversity as outlined above will be conditioned. It is therefore a significant positive aspect of the proposal which weighs in its favour and attracts moderate weight in the overall planning balance.

Drainage

6.136 Policy PPL1 states that all development proposals should include appropriate measures to respond to the risk of flooding on and/or off site and that on sites of 1ha or more, development proposals must be accompanied by a Flood Risk Assessment. Furthermore, all major development proposals should consider the potential for new Blue and Green Infrastructure to help mitigate potential flood risk and include such Green Infrastructure, where appropriate.

6.137 Policy PPL5 requires that all new development must make adequate provision for drainage and sewage treatment and should include sustainable drainage systems (SuDS). Applicants should explain and justify the reasons for not using SuDS if not included in their proposals. Furthermore, proposals for development must demonstrate that adequate provision exists for sewage disposal.

6.138 Policy SPL3, Part B criterion g), requires that development reduces flood risk and integrates sustainable drainage within development, creating amenity and enhancing biodiversity.

6.139 Paragraph 167 of the NPPF provides that when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere.

6.140 As the proposal is classified as a major development a Flood Risk Assessment has been provided. The assessment concludes the following;

- The pre-development potential flood risk to the site from all sources of flooding is considered to be generally 'low' for the Solar Farm, and 'low' for the Eco Hub but with small areas of elevated surface water flood risk.
- All sensitive control equipment (inverters) in the Solar Farm are restricted to areas of very low surface water flood risk.
- Only solar arrays, security fencing and access tracks extend into areas of elevated surface water flood risk which due to the nature of these elements would be compatible with any flood risk in these areas.

- The proposed solar panels are raised above ground level and therefore would not be susceptible to the shallow surface water flows or accumulations and would not have a material effect on flood flows.
- With respect to the Eco Hub the 'low' risk surface water flood risk area affects the proposed building and edge of the forecourt associated with the EV charging stations.
- Finished floor levels for the proposed building will be set at least 150mm above surrounding ground level to prevent the ingress of surface water.
- With respect to the Solar Farm, rainfall falling onto the photovoltaic panels will runoff directly to the ground beneath the panels and infiltrate into the ground at the same rate as it does in the site's existing greenfield state.
- As 'betterment' a sustainable drainage strategy (SuDS) in the form of swales, is proposed for managing surface water runoff on the Solar Farm site. Swales are proposed at the low points of the application site to intercept extreme flows which may already run offsite.
- It is considered that the provision of swales would lead to an overall reduction in surface water flow rates from the Solar Farm site and mitigate any increase in runoff due to the minor reduction in the overall permeable area of the Solar Farm site.
- In respect to the Eco Hub element of the development proposals it is proposed that runoff will be drained to ground via shallow infiltration features.

6.141 This proposed drainage strategy ensures that surface water arising from the developed site will be managed in a sustainable manner to mimic the surface water flows arising from the site prior to the proposed development, while reducing the flood risk to the site itself and elsewhere, taking climate change into account.

6.142 The Lead Local Flood Authority (LLFA – ECC) have reviewed the submitted assessment/drainage strategy and have no objections subject to conditions outlined in section 8.2 below securing precise details of the scheme, its implementation and on-going maintenance along with a soil management plan.

6.143 With respect to foul drainage, a connection to the public foul sewer in Halstead Road is proposed to serve the Eco-Hub element. The details provided have demonstrated that a suitable means of drainage can be provided to serve the proposed development.

Other Matters

Aviation

6.144 Due to the size of the development, its location relative to, and distance from, Great Oakley Airfield and Clacton Airport, the Glint and Glare assessment confirms that no significant impacts upon aviation activity associated with either airfield are predicted, and no further detailed modelling is therefore recommended.

Archaeology

6.145 The final paragraph of Policy PPL7 states that proposals for new development which are not able to demonstrate that known or possible archaeological remains will be suitably protected from loss or harm, or have an appropriate level of recording, will not be permitted. NPPF Paragraph 205 states: "Local planning authorities should require developers to record and advance understanding of the significance of any heritage

assets to be lost (wholly or in part) in a manner proportionate to their importance and the impact, and to make this evidence (and any archive generated) publicly accessible. However, the ability to record evidence of our past should not be a factor in deciding whether such loss should be permitted.”

6.146 ECC-Archaeology state that a Desk Based Assessment (DBA) has been submitted with the application which concludes the potential for prehistoric to modern periods is low based on the evidence in the surrounding area. However, the HER records a single cropmark feature within the site with further cropmarks in the surrounding area. As such they conclude that there is potential for further discrete areas of archaeological activity within the proposed development area.

6.147 Therefore whilst the DBA and geophysics survey submitted have not identified any areas of significant archaeological remains that would warrant preservation in situ, an archaeological investigation will be required as a condition to fully establish the potential for currently unknown heritage assets to be present within the development area and to establish the nature and significance of those possible archaeological features identified in the geophysical survey. Conditions are therefore recommended to secure an investigation and post excavation report if required.

EIA Conclusions

6.148 The findings within the Environmental Statement (ES) for the development proposals demonstrate that there are no overriding environmental constraints or planning policies which would preclude the development of the application site for an EV charging station, battery storage and solar farm. The Planning Statement which forms a separate part of the planning application demonstrates significant weight for both Planning Policy and Energy Policy which demonstrates the need for and benefits of the scheme. It has been demonstrated within this ES there will be no significant impacts as a result of the proposal.

6.149 All aspects of the design have taken full account of the environmental opportunities and constraints present. Retention of agricultural land and, where necessary, mitigation measures and enhancements form an integral part of the proposals to ensure that the environment is suitably protected.

6.150 The ES demonstrates how the proposed scheme would bring about significant benefits to the local environment, whilst providing renewable energy generation in a sustainable location.

7. Conclusion/Planning Balance

7.1 Paragraph 8 of the NPPF explains that achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways so that opportunities can be taken to secure net gains across each of the different objectives, economic, social and environmental. Having regard to the proposed development, it is considered that the proposals meet the objectives outlined above and such can be considered as sustainable development.

- 7.2 There is a recognised need and support for renewable energy technology through National and Local planning policy and this development would contribute towards the targets set for the UK's greenhouse gas emission reduction and increasing the country's energy supply from renewable sources.
- 7.3 The assessment of a renewable energy proposal requires the impacts to be considered in the context of the strong in principle policy support given the Government's conclusion that there is a pressing need to deliver renewable energy generation. In this case, there are no adverse impacts upon ecology, residential amenity, highway safety or flood risk. There is also the opportunity to improve biodiversity.
- 7.4 The landscape impact is considered to be relatively local, contained mainly to the Public Right of Way which crosses the site and limited views from Halstead Road. The same can be said of the Eco-Hub element of the proposals. The landscape impact is therefore considered to be of moderate harm. The landscape mitigation would soften the impact but would not completely eliminate it. In addition, the heritage harm identified is considered to be at the lower end of 'less than substantial'.
- 7.5 Therefore, the localised impact on the area is not considered to be sufficient to recommend refusal especially given the lack of adverse harm in other respects. The development is considered to comply with the SGG policy in respect of not causing the overriding coalescence of Kirby-le-Soken and Kirby Cross and the benefits in respect of biodiversity and the long term benefits to the landscape when the site is decommissioned by the planting mitigation retained are positive. Therefore, although officers have found a low level of harm to the countryside and nearby heritage assets, the localised extent of harm is considered to not outweigh the national benefits derived from providing renewable energy.
- 7.6 In its favour the proposal would make a meaningful contribution towards energy supply security, reducing carbon emissions and addressing climate change. Significant weight is given to these considerable benefits. The proposal would also deliver net gains in biodiversity which adds moderate weight in favour of approval, and there would be economic benefits during construction and during the installation's operation, including those associated with the use of the Eco-Hub, namely; the provision of jobs, the creation a community benefits fund and additional parking provision for the nearby school and recreation land to alleviate congestion concerns along Halstead Road. These benefits which would attract moderate weight.
- 7.7 Consequently, the principle of the development is supported at a national level in policy and legal commitments to achieve a reduction in carbon emissions. The national policy states, subject to sensitive siting of proposals, applications should be approved. In this respect the energy generated by the proposed development will contribute to supporting growth in the region, and the carbon emissions saved as a result of generating electricity from a renewable source, would help to tackle climate change and minimise resource use.
- 7.8 Overall, the generation of renewable energy is a significant material consideration which weighs substantially in the applications favour and therefore, on balance, 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:

8.2 Conditions and Reasons

1. The development hereby permitted shall begin no later than three years from the date of this decision. Written notification of the date of commencement of the development hereby permitted shall be given to the Local Planning Authority no later than 14 days after the event.

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 being drawing nos. titled;

- P21-1814_01 B (Site Location Plan)
- P21-1814_08M (Site Layout)
- P21-1814_10E (Landscape Strategy)
- P21-1814_14D (Site Sections)
- P21-1814_17 6/13 (Invertor Container)
- P21-1814_03 F (Eco-Hub Layout)
- P21-1814_11 C (Eco-Hub Floor Plans/Elevations)
- P21-1814_17 1/13 (Kiosk Control Enclosure)
- P21-1814_17 10/13 (Cable Route Section)
- P21-1814_17 11/13 (PV Panel Plans)
- P21-1814_17 12/13 (Electric Kiosk)
- P21-1814_17 13/13 (Acoustic Fencing Plan)
- P21-1814_17 2/13 (Security Fencing Plan)
- P21-1814_17 3/13 (Wooden Fencing Plan)
- P21-1814_17 4/13 (Fencing /CCTV Plan)
- P21-1814_17 5/13 (Energy Storage Container)
- P21-1814_17 7/13 (Ancillary Equipment Plan)
- P21-1814_17 8/13 (Ancillary Equipment Plan)
- P21-1814_17 9/13 (Switchgear Building Plan)
- P21-1814_23 (Acoustic Fencing Location Plan)
- P21-1814 (fig. 3.3) (Solar Farm Access)

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

3. Development, aside from enabling works, shall not begin until a Decommissioning Method Statement has been submitted to and approved in writing by the Local Planning Authority. The Statement shall include the timing for decommissioning of all, or part of the solar farm and the eco-hub if it ceases to be operational, along with the measures, and a timetable for their completion, to secure the removal of panels, plant, fencing, equipment and landscaping initially required to mitigate the landscape and visual impacts of the development. Decommissioning shall be carried out in accordance with the approved Decommissioning Method Statement.

Reason - In the interests of the amenity of the area.

4. No development, aside from enabling works, shall take place until a scheme for landscaping, including a timetable for implementation, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of additional and supplemental planting, including an on-going management plan to ensure maintenance of any approved landscaping. The landscaping scheme shall be implemented in accordance with the approved details within the first planting season following the completion of the development hereby permitted, and shall be maintained during the first 5-years of the development, with the replacement of any trees or plants which die, are removed or become seriously damaged or diseased, in the first available planting season with others of similar size and species.

Reason - To ensure the provision of amenity afforded by appropriate landscape design.

5. All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Superseded Ecological Assessment Report (Avian Ecology, December 2021) and Updated Ecology Assessment Report (Avian Ecology, May 2022), as already submitted with the planning application and agreed in principle with the local planning authority prior to determination.

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

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

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

The CEMP (Biodiversity) shall include the following.

- a) Risk assessment of potentially damaging construction activities.
- b) Identification of "biodiversity protection zones".
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements) including Precautionary Method Statement for Great Crested Newts and Hazel Dormouse.
- d) The location and timing of sensitive works to avoid harm to biodiversity features.
- e) The times during construction when specialist ecologists need to be present on site to oversee works.
- f) Responsible persons and lines of communication.
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.

- h) Use of protective fences, exclusion barriers and warning signs.
- i) Containment, control and removal of any Invasive non-native species present on site

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

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

7. Prior to the commencement of development a Biodiversity Enhancement Strategy for protected and Priority species shall be submitted to and approved, in writing, by the local planning authority.

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

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

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

Reason - A pre-commencement condition is required to enhance protected and Priority species & habitats and allow the LPA to discharge its duties under the s40 of the NERC Act 2006 (Priority habitats & species).

8. Prior to the commencement of development a Landscape and Ecological Management Plan (LEMP) shall be submitted to and be approved, in writing by, the local planning authority The content of the LEMP shall include the following:

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

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out

(where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details.

Reason - A pre-commencement condition is required to allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 (as amended) and s40 of the NERC Act 2006 (Priority habitats & species).

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

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

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

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

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

11. The planning permission hereby granted is for a period from the date of this decision until the date occurring 40 years after the date the development is first operational commences, when the use shall cease and the solar panels and eco-hub and all ancillary equipment and landscaping initially required to mitigate the landscape and visual impacts of the development shall be removed from the site in accordance with the Decommissioning Method Statement approved pursuant to Condition 3.

Reason - To ensure that the landscape impact of the development exists only for the lifetime of the development.

12. All ancillary equipment, including substations and inverter/transformer stations, shall be painted a non-obtrusive colour in accordance with details to be agreed in writing

with the Local Planning Authority before implementation of the ancillary equipment. The development shall be carried out in accordance with the approved details.

Reason - In the interests of the amenity of the area.

13. 12 months prior to the expiry of the planning permission, a site restoration scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include a programme of works to remove the solar panels and related equipment, and shall be fully implemented within 12 months of the expiry of this permission.

Reason - In the interests of the amenity of the area.

14. If the solar farm ceases to export electricity to the grid for a continuous period of 12 months then a scheme shall be submitted to the Local Planning Authority for its written approval within 3 months from the end of the 12 month period for the removal of the solar farm and associated equipment and the restoration of (that part of) the site to agricultural use. The approved scheme of restoration shall then be fully implemented within 6 months of that written approval being given.

Reason - In order to ensure that the solar park fulfils its required purpose or is removed from the land in the interests of rural visual amenity.

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

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

The applicant will submit to the local planning authority a post excavation assessment (to be submitted within six months of the completion of the fieldwork, 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 - A pre-commencement condition is required as there is potential for further discrete areas of archaeological activity within the proposed development area. This condition is therefore being applied in line with the National Planning Policy Framework to ensure the appropriate protection of the potential heritage assets impacted by the development.

16. Prior to the commencement of any work on the site, including any ground works or demolition, a Construction Traffic Management Plan (CTMP) shall be submitted to and approved in writing by the Local Planning Authority. The approved CTMP shall be adhered to by all ground works, construction and decommissioning traffic throughout the pre-construction, construction, and decommissioning phases. The

approved plan shall be adhered to throughout the construction period. The Plan shall provide for but not be restricted to:

- i. safe access to/from the site;
- ii. the parking of vehicles of site operatives and visitors;
- iii. the loading and unloading of plant and materials;
- iv. the storage of plant and materials used in constructing the development;
- v. wheel and underbody washing facilities.
- vi. measures to control the emission of dust and dirt during demolition and construction;
- vii. a scheme for recycling/disposing of waste resulting from construction works (no burning permitted);
- viii. details of hours of deliveries relating to construction of the development;
- ix. details of hours of all construction / workers traffic movements;
- x. details of hours of site clearance or construction;
- xi. Traffic Management Plan outlining a designated route to and from the development site for all HGV movement together with a management plan for local road maintenance and repair resulting from the development;
- xii. a scheme to control noise and vibration during construction, including details of any piling operations.
- xiii. temporary road works entrance and exit/ construction traffic signage and details of telegraph poles to be relocated behind the line of the visibility splays as per the Stage 1 Road Safety Audit,
- xiv. Provision of informal passing places,
- xv. Swept path analysis drawings for the access and any restricted bends.
- xvi. Registration and details of a Considerate Constructors Scheme.

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

Reason - A pre-commencement condition is required 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.

17. Prior to the first use of the new access to serve the solar farm development, the access at its centre line shall be provided with a clear to ground visibility splay with dimensions of 2.4 metres by 90 metres in both directions, as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the road junction / access is first used by vehicular traffic and retained free of any obstruction at all times.

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

18. No unbound material shall be used in the surface treatment of the solar farm vehicular access within 15 metres of the highway boundary at the Halstead Road access point.

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

19. There shall be no discharge of surface water onto the Highway in respect of both proposed accesses.

Reason - To prevent hazards caused by water flowing onto the highway and to avoid the formation of ice on the highway in the interest of highway safety.

20. The public's rights and ease of passage over public footpath nos. 22, 23, 24, 25, 26 (Frinton & Walton_164) shall be maintained free and unobstructed at all times.

Reason - To ensure the continued safe passage of the public on the definitive right of way and accessibility.

21. Prior to the first use of the proposed access to serve the Eco-Hub development, the access at its centre line shall be provided with a clear to ground visibility splay with dimensions of 2.4 metres by 90 metres to the south and 2.4m by 58.5 metres to the north, 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.

22. Prior to the first use of the proposed access to serve the Eco-Hub development, a 1.5 metre x 1.5 metre pedestrian visibility splay, as measured from and along the highway boundary, shall be provided on both sides of the vehicular access. Such visibility splays shall be retained free of any obstruction in perpetuity. These visibility splays must not form part of the vehicular surface of the access.

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

23. Prior to the first operational use of the Eco-Hub development proposed access, internal layout shall be provided in principle with drawing number:

- Drawing: P21-1814 03 F / Figure 3.2 indicative eco-hub layout.

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

24. Prior to the first operational use of the Eco-Hub development the existing footway on Halstead Road shall be widened measuring no less than 2m in width across the entire site frontage of the proposed EV charging station within the site and providing associated tactile paving for the crossing points on either side of the proposed access into the site.

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

25. No unbound material shall be used in the surface treatment of the vehicular access serving the Eco-Hub development throughout its entirety.

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

26. Prior to the first operational use of the Eco-Hub development the vehicle parking areas and the two-wheeler/cycle parking facilities, as indicated on the approved plans, including any parking spaces for the mobility impaired, shall have been hard surfaced, sealed and marked out in parking bays. The vehicle parking area and associated turning areas 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.

27. Prior to the first use of the proposed permissive paths connected with this development they shall be signed accordingly as permissive paths.

Reason - To distinguish between the definitive right of way network and accessibility.

28. Prior to first use of the Eco-Hub car parking area details of a proposed barrier/height restriction system and car park operating hours shall be submitted to and approved, in writing, by the Local Planning Authority. The approved barrier/height restriction system shall be installed prior to the first use of the car park and retained in perpetuity.

Reason – In the interests of residential amenity.

29. Prior to the commencement of any above ground works, a schedule of all external finish materials shall be submitted to and approved in writing by the Local Planning Authority. Works shall be implemented in accordance with the approved materials and details specified.

Reason – In the interests of amenity.

30. Prior to the first operational use of the Eco-Hub development the 3 metre high acoustic fencing shall be fully erected in accordance with the approved details and retained in its approved form in perpetuity thereafter.

Reason – In the interests of residential and visual amenity.

31. Prior to the first operational use of the development hereby approved a Fire Prevention Plan (FPP) incorporating full details of fire suppression mechanisms, in

respect of the approved batteries, shall be submitted to and approved in writing by the local planning authority. The approved details shall be adhered to at all times.

Reason – In the interests of health and safety.

32. No development shall commence until a Crime Prevention and Site Security Management Plan for the whole development has been submitted to and approved, in writing, by the Local Planning Authority. The approved details shall then be adhered to throughout the life span of the development.

Reason – A pre-commencement condition is required in the interests of crime prevention given that it is important that the boundary of this site is appropriate to protect the high-value assets and sensitive locations within it.

33. Prior to the first operational use of the EV Charging Station details of the proposed public opening hours for both the EV Charging points and the café/retail outlet shall be submitted to and approved, in writing, by the local planning authority.

Reason – In the interests of visual and residential amenity.

34. Construction hours shall be restricted to between 08:00 and 18:00 Mondays to Saturdays (finishing at 13:00 on Saturdays) with no working of any kind permitted on Sundays or any Public/Bank Holiday.

Reason – In the interests of 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.

Highways Informatives

1: Under Section 23 of the Land Drainage Act 1991, prior written consent from the Lead Local Flood Authority (Essex County Council) is required to construct any culvert (pipe) or structure (such as a dam or weir) to control or alter the flow of water within an ordinary watercourse. Ordinary watercourses include ditches, drains and any other networks of water which are not classed as Main River.

If you believe you need to apply for consent, further information and the required application forms can be found at www.essex.gov.uk/flooding. Alternatively, you can email any queries to Essex County Council via watercourse.regulation@essex.gov.uk

Planning permission does not negate the requirement for consent, and full details of the work you propose will be required at least two months before you intend to start.

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

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

3: The Public Right of Way network is protected by the Highways Act 1980. Any unauthorised interference with any route noted on the Definitive Map of PROW is considered to be a breach of this legislation. The public's rights and ease of passage over public footpath nos. 22, 23, 24, 25, 26 (Frinton & Walton_164) shall be maintained free and unobstructed at all times to ensure the continued safe passage of the public on the definitive right of way. Any construction traffic crossing the PROW network will require a banksman present and temporary signage, with any surface damage made good at the end of the works.

In the interests of highway user safety this may involve the applicant requesting a temporary closure of the definitive route using powers included in the aforementioned Act. All costs associated with this shall be borne by the applicant and any damage caused to the route shall be rectified by the applicant within the timescale of the closure.

4: 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.

5: Mitigating and adapting to a changing climate is a national and Essex County Council priority. The Climate Change Act 2008 (amended in 2019) commits the UK to achieving net-zero by 2050. In Essex, the Essex Climate Action Commission proposed 160+ recommendations for climate action. Essex County Council is working with partners to achieve specific goals by 2030, including net zero carbon development. All those active in the development sector should have regard to these goals and applicants are invited to sign up to the Essex Developers' Group Climate Charter [2022] and to view the advice contained in the Essex Design Guide. Climate Action Advice guides for residents, businesses and schools are also available.

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/>.

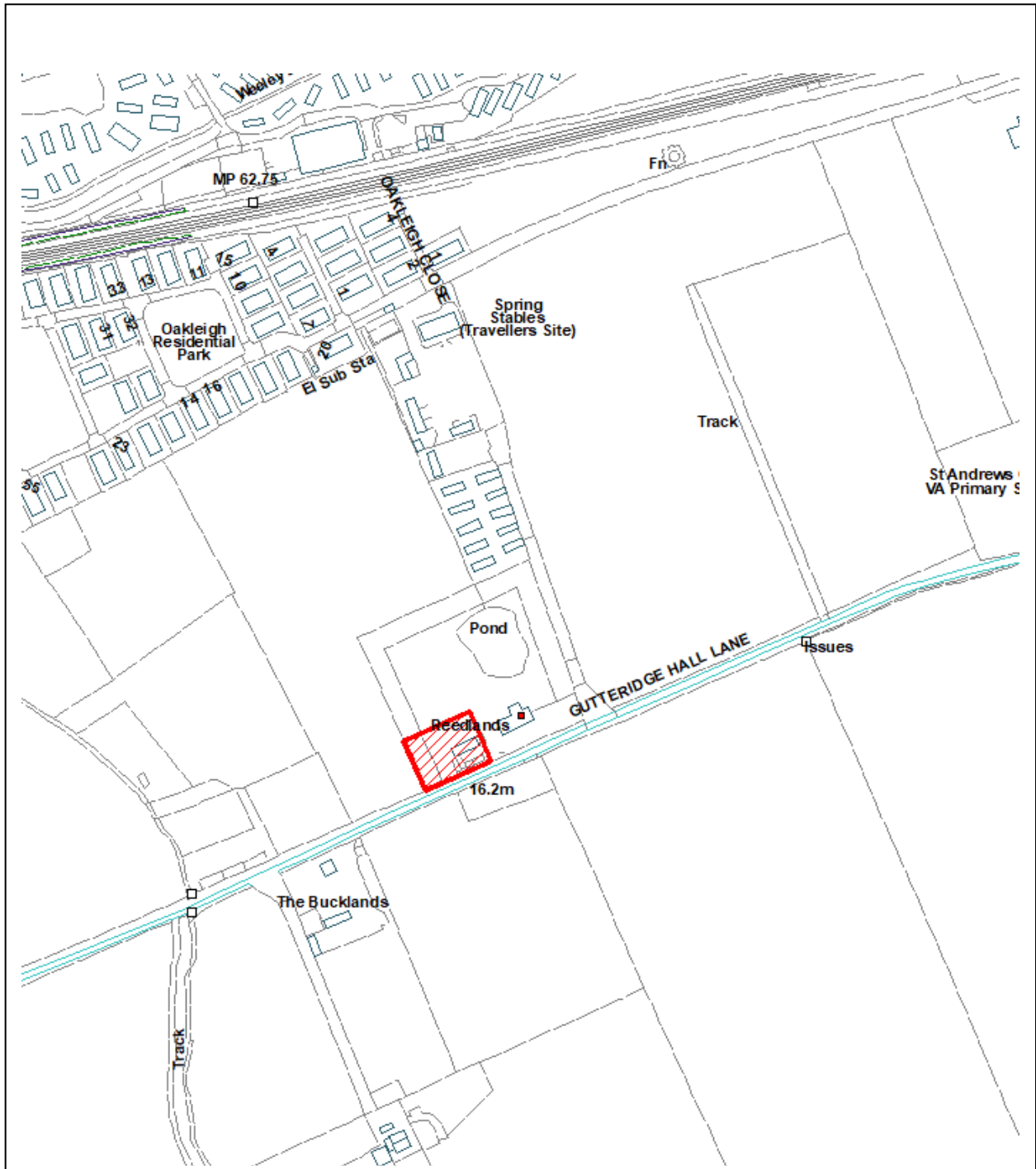
This page is intentionally left blank

PLANNING COMMITTEE

24th November 2022

REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING

A.5 PLANNING APPLICATION – 22/01232/FUL – LAND AT REEDLANDS GUTTERIDGE HALL LANE WEELEY CLACTON ON SEA



DO NOT SCALE

Reproduced from the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationery Office © Crown Copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings.

Application: 22/01232/FUL

Town / Parish: Weeley Parish Council

Applicant: R Godsell and M Putter

Land at Reedlands, Gutteridge Hall Lane, Weeley, Clacton On Sea, CO16 9AS

Erection of one bungalow (in lieu of deemed Prior Approval for a dwelling, subject of application 21/02086/COUNOT). Revised siting to that approved under application 22/00464/FUL.

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 and appearance to the development approved under prior approval 21/02086/COUNOT and the new dwelling approved in lieu of this prior approval under application 22/00464/FUL. The proposed dwelling which is the subject of this application is re-located to the east of the existing agricultural building and would utilise an existing secondary access to the site from Gutteridge Hall Lane.
- 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 Planning Manager 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 Planning Manager

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

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

20/01537/OUT	Demolition of existing barn and erection of one dwelling.	Refused	02.03.2021
21/01692/COUNOT	Proposed conversion of an agricultural building into one dwelling.	Prior Approval Refused	24.11.2021
21/02086/COUNOT	Proposed conversion of an agricultural building into one dwelling.	Prior Approval not required	10.02.2022
22/00464/FUL	Proposed erection of one bungalow (in lieu of deemed Prior Approval for a dwelling, subject of application 21/02086/COUNOT).	Approved	16.06.2022
22/01526/TPO	1 No. Oak - remove and replace with new tree.	Approved	01.11.2022

4. Consultations (Summarised)

Parish Council 01.10.2022	No objection
UU Open Spaces 07.09.2022	There is currently a deficit of -2.18 hectares of equipped play and formal open space in Weeley. Due to the size of this development it is not thought that there will be an impact on the current deficit. Therefore no contribution is being requested on this occasion.
Tree & Landscape Officer 05.08.2022	There are 6 mature Oaks on the boundary of the application site immediately adjacent to Gutteridge Hall Lane. These trees are afforded formal legal protection by Tendring District Council Tree Preservation Order: Ref TPO/10/00053 In order to show the extent of the constraint that the Oaks on the boundary of the site are on the development potential of the land and to show they will be physically protected for the duration of the construction phase of the proposed development the applicant has provided an Arboricultural Impact Assessment (AIA) The AIA shows the extent of the Root Protection Areas (RPA's) of the trees and how they will be physically protected for the duration of the construction phase of any development for which planning permission may be granted.

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

If the requirements of the AIA are adhered to then the development proposal can be implemented without causing harm to the preserved trees.

ECC Highways Dept
09.09.2022

The proposal site is accessed from and along a local road which is a no through road. The site is approximately 465 metres distance from the main road, Clacton Road. It is noted that this application is similar to previous application 22/00464/FUL and alters the previously approved layout, considering these factors:

The Highway Authority does not object to the proposals as submitted, subject to the previous highway conditions that were imposed for 22/00464/FUL are adhered to.

Environmental Protection
09.08.2022

The submitted Construction Method Statement has been reviewed and there are no adverse comments to make Conditions have been suggested in relation to contaminated land and safe asbestos removal.

5. **Representations**

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 Gutteridge Hall Lane, accessed from Clacton Road (B1441) and sited between the settlements of Weeley and Clacton-on-Sea and therefore outside of any defined settlement development boundary. In terms of the wider 'blue line' site location plan as submitted by the applicant, other buildings in the applicants ownership include a residential dwelling set within the fairly large blue line plot, bordered by mature hedging.
- 6.2 The application site comprises of a timber barn and a paved parking area, accessed from the existing main gate of the dwelling Reedlands and located to the west of the existing residential dwelling. There is also a secondary access to the west of the timber barn.
- 6.3 Further away there is very sporadic housing along Gutteridge Hall Lane, some stand-alone stabling and open paddocks for grazing. There are also a number of static caravan parks to the North.
- 6.4 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 0.5 miles from Weeley railway station and 0.7 miles from Weeley Post Office and stores and is considered to be within reasonable proximity to a number of other services and potential employment opportunities. The site is a

short distance from the A133 which connects the area to Clacton-on-Sea as well as to Colchester and further via the A12 and Harwich via the A120.

Relevant History

- 6.6 In February 2022 it was deemed that Prior Approval, 21/02086/COUNOT (namely in regard to access, flooding, design, noise, natural light, space standards and contamination) for the conversion of one agricultural building into one two bed dwelling was not required. This scheme is referred to as the 'fall back' scheme. Planning permission ref no: 22/00464/FUL was granted in June 2022 for a new dwelling in lieu of the aforementioned Prior Approval. The previously approved dwelling was sited mainly within the footprint of the existing agricultural building.

Proposal

- 6.7 The application seeks planning permission for one new dwelling in lieu of the prior approval granted for the barn building on site, which is to be fully demolished. The new dwelling is to be sited in a revised location to the dwelling approved under 22/00464/FUL, further to the west, but overlapping both the footprint of the barn and the previously approved dwelling. The new dwelling is provided with two parking spaces and a rear amenity area. This dwelling due to its revised location would utilise the second existing highway access located to the west of the main access to the property Reedlands.
- 6.8 The proposed new dwelling is unaltered from that previously approved and remains a modest bungalow, with an eaves height of some 2.6m and a ridge height in the region of 4.8m. The new dwelling has a gross internal area of around 98sqm 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 and lounge. The external materials proposed are cladding and slate tiles.

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 Weeley 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 Weeley is classified as a Rural Service Centre and are considered to be able to support some smaller-scale growth, within the SDB in order to support the village economy.

- 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 and subsequently a new dwelling in lieu of this Prior Approval. 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:
- 6.17 *"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."*
- 6.18 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.

	21/02086/COUNOT (Prior Approval)	22/00464/FUL (New dwelling previously approved)	22/01232/FUL (New dwelling)
Siting	To the west of the main dwelling, Reedlands	Similar within footprint of existing agricultural building	Further west within the site but adjacent to the existing agricultural building
Access	Shared access with Reedlands from Gutteridge Hall Lane	Shared access with Reedlands from Gutteridge Hall Lane	Would utilise the second access to the site located further west of the main entrance and parking area is moved to the other side of the proposed dwelling away from the main dwelling, Reedlands and its parking area
Appearance	Wooden cladded structure	Cladding and slate tiles	Cladding and slate tiles
Ridge Height	4.5m	4.8m	4.8m
Eaves Height	2.4m	2.6m	2.6m
Gross Internal Area	97sqm	98sqm	98sqm
Bedrooms	2	3	3

- 6.19 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. 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.

- 6.20 It is considered that the location, siting and size of the agricultural building represents a realistic fall-back position, furthermore a new dwelling in lieu of this Prior Approval has been approved, strengthening the fall-back position therefore should this application fail, it is highly likely that the site would be developed in line with either the Prior Approval consent or the full planning permission for a new dwelling in lieu of the Prior Approval.
- 6.21 Therefore given the circumstances of this case, 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

- 6.22 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).
- 6.23 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.
- 6.24 The proposed development comprises of a detached modest bungalow, which is considered to be of a size, scale and design in keeping with the character and appearance of the existing building, 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.
- 6.25 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

- 6.26 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.
- 6.27 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.

- 6.28 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.
- 6.29 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

- 6.30 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.
- 6.31 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.
- 6.32 The application site is located within a fairly rural location, neighboured by the dwelling Reedlands, a caravan park further to the north and a residential property The Bucklands, further west.
- 6.33 The proposed development has been designed to minimise any overlooking or loss of privacy issues, with all main habitable rooms located to the front and rear elevations, with no windows proposed, in the eastern flank elevation facing the dwelling Reedlands. Furthermore the new proposed siting of the dwelling would move the dwelling further away from the property Reedlands and by utilising the second access would improve the setting of the two properties and have a positive impact on the residential amenity of the occupiers.
- 6.34 Therefore, given the proposed orientation of the bungalow, in relation to the existing building, the single storey nature of the proposed dwelling 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

- 6.35 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.
- 6.36 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 currently serving Reedlands and will be provided with two parking spaces that meet policy requirements. An 8m x 8m turning area is provided to ensure that vehicles entering and leaving the site for both the new dwelling and the existing dwelling at Reedlands can do so in a forward gear in the interests of highway safety.
- 6.37 Subject to the use of conditions, the proposal would accord with Policies SPL3 and CP1 and the Highways and Parking SPDs. The proposal is not therefore considered to result in any unacceptable harm to highway safety.

Trees and Landscaping

- 6.38 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.
- 6.39 The application site forms part of the residential curtilage of existing property Reedlands. To the rear of the building it is set out and used as residential amenity space/garden. To the frontage of the site are 6 oak trees which are afforded formal legal protection by Tendring District Council Tree Preservation Order: Ref TPO/10/00053
- 6.40 A full Arboricultural Impact Assessment (AIA) has been submitted in support of the application and assesses the protected trees within the development site. The AIA indicates the extent of the constraint that the protected trees on the boundary of the site have on the development potential of the land and shows the extent of the Root Protection Areas (RPA's) and how these will be physically protected for the duration of the construction phase of any development for which planning permission may be granted.
- 6.41 This information is in accordance with BS5837: 2012 Trees in relation to design, demolition and construction ' Recommendations.
- 6.42 Therefore the requirements of the AIA must be adhered to, to ensure that the development proposal can be implemented without causing harm to the preserved trees. These requirements can be secured by way of a condition to any grant of planning permission.

Water Conservation, Drainage and Sewerage

- 6.43 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.
- 6.44 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.
- 6.45 The application form accompanying the application has stated that the development would be connected to a package water treatment plant.
- 6.46 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

- 6.47 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).

- 6.48 These measures can be adequately secured by suitable conditions to any grant of planning permission.

Environmental Protection

- 6.49 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 has been found to be acceptable by the Council's Environmental Protection Officer. Due to the location of the site conditions are recommended in relation to land contamination and safe removal of asbestos.

Renewable Energy

- 6.50 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):

- 6.51 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.
- 6.52 This new residential development lies within the Zone of Influence. The site is not within or directly adjacent to one of the European designated sites, 5900 metres from Hamford Water SPA and RAMSAR and 4217 metres from Colne Estuary RAMSAR and SPA and Essex Estuaries SAC.
- 6.53 The Council's Habitats Regulation Assessment has concluded that, with the proposed mitigation, the project would not have an Adverse Effect on the Integrity of the sites included within the Essex Coast RAMS and therefore the proposal is in accordance with the Essex Coast RAMS SPD.
- 6.54 However, new housing development within the Zol would be likely to increase the number of recreational visitors to Colne Estuary; and, in combination with other developments it is likely that the proposal would have significant effects on the designated site. Mitigation measures must therefore be secured prior to occupation.
- 6.55 In accordance with Natural England's advice there is no requirement to consult them due to the specified mitigation.
- 6.56 A unilateral undertaking was prepared to secure this legal obligation for application. 22/00464/FUL and has been paid in full. Therefore the obligations are completed and a unilateral agreement is not required for this application. The payment made ensures 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.

Conclusion

6.57 It is considered that the proposed development is not consistent with the National and Local Plan Policies identified above, but approval is recommended given the material consideration of the planning history and fall back. . In the absence of material harm resulting from the proposal the application is recommended for approval.

7. Recommendation

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

8. Conditions

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 - Rec'd 26/09/2022

GGHL-02 - Rev B Proposed block, elevations and floor plans

TPS Arboricultural Impact Assessment, Preliminary Method Statements and Appendices for Land at Reedlands, dated 1st February 2021 Ref: TPSarb3530121

Construction Method Statement - Rec'd 19/07/022

Planning Statement – Rec'd 19/07/2022

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

3. The development hereby approved is not permitted to be constructed alongside the construction of the development approved under planning permission 22/00464/FUL.

Reason – The application submitted is granted permission only by virtue of the fallback position with regard to Prior Approval granted under application 21/02086/COUNOT and as an amended siting of the new dwelling approved under 22/00464/FUL, which is clearly stated in the submitted planning statement.

4. No building or engineering operations authorised by this permission shall be commenced until the existing agricultural building (subject of 21/02086/COUNOT) and shown as being demolished on drawing GGHL-02) on the site have been 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 buildings 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.

5. Prior to the commencement of development the tree protection measures outlined in the submitted Arboricultural Impact assessment (AIA) must be in place. All other requirements

of the (AIA) must be complied with fully, prior to, during and after construction of the development hereby approved.

Reason - To ensure that the roots of the protected trees are not harmed by the development.

6. 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

7. The submitted Construction Method Statement submitted with the application shall be 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.

8. 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.

9. 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.

10. 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.

11. Prior to occupation of the dwelling a 1.5 metre x 1.5 metre pedestrian visibility splay, as measured from and along the highway boundary, shall be provided on both sides of the vehicular access. Such visibility splays shall be retained free of any obstruction in perpetuity. These visibility splays must not form part of the vehicular surface of the access.

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

12. Any gates provided at the vehicular access shall be inward opening only and shall be set back a maximum of 0.5 metres from the back edge of the footway/cycleway or where no provision is present, the carriageway.

Reason: In the interest of highway safety

13. 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

14. Prior to the first occupation of the dwelling hereby approved, the vehicle parking area shown on the approved plans, must be 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.

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

15. 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 respective plot.

Reason: In order to promote sustainable transport.

16. 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 as planning permission been granted in lieu of a prior approval for a conversion to a new dwelling and such conversions do not have permitted development rights.

9. **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:

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.

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

The applicant must ensure that no mud or detritus is taken onto the highway, such measures include provision of wheel cleaning facilities and sweeping/cleaning of the highway Under Section 148 of the Highways Act 1980 it is an offence to deposit mud, detritus etc. on the highway. In addition, under Section 161 any person, depositing anything on a highway which results in a user of the highway being injured or endangered is guilty of an offence.

10. **Additional Considerations**

Public Sector Equality Duty (PSED)

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

Human Rights

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

Finance Implications

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

11. **Background Papers**

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

This page is intentionally left blank