



PLANNING COMMITTEE

DATE:	Tuesday, 20 December 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.

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DATE OF PUBLICATION: Monday, 12 December 2022

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

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 - 18)

To confirm and sign as a correct record, the minutes of the meeting of the Committee, held on Thursday 24 November 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 - 21 01891 FUL Broadfields Primrose Hill Wrabness Committee Report (Pages 19 - 44)

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.

6 Report A.2 - Planning Application - 22-00467 - DETAIL Bromley Road Committee Report (Pages 45 - 64)

The application is brought to Committee at the request of the Planning Manager. The site is outside the Settlement Development Boundary of Arleigh, within close proximity to the area designated for the new Tendring and Colchester Garden Community and therefore there is a high level of public interest in the site along with a number of objections made to the outline permission including the Parish Council, to warrant a Committee referral as the recommendation is of Approval.

7 Report A.3 - Planning Application - 22-00688-FUL Farm Land to North of Glendenning Tenpenny Hill Thorrington CO7 8JB (Pages 65 - 80)

The application is put before 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) being located outside of any settlement development boundary, and is recommended for approval.

8 **Report A.4 - Planning Application 22 00854 FUL Tendring Travel, Golden Lane, Thorpe (Pages 81 - 106)**

The application is before Members at the request of the Planning Manager. The application relates to one-half of a former agricultural building and areas of hardstanding to the rear of the site at Valley Farm, Golden Lane, Thorpe-le-Soken. The site under consideration benefits from planning permission under 17/00778/COUNOT for B8 use.

9 **Report A.5 - Planning Application - 22 01548 ADV - Land Adj to Lotus Way and Brooklands (Pages 107 - 114)**

This application is for the consent to display advertisement on a new commercial building within Jaywick and is brought to Planning Committee as the applicant is Tendring District Council.

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, 17 January 2023.

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 hall 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.

**MINUTES OF THE MEETING OF THE PLANNING COMMITTEE,
HELD ON THURSDAY, 24TH NOVEMBER, 2022 AT 6.00 PM
IN THE COMMITTEE ROOM, TOWN HALL, STATION ROAD, CLACTON-ON-SEA,
CO15 1SE**

Present:	Councillors White (Chairman), Fowler (Vice-Chairman), Alexander, Baker (except items 67 - 69 when he retired to the public gallery), Codling, V Guglielmi, Harris, Placey and Scott
Also Present:	Councillors Clifton, Davis and Turner
In Attendance:	Gary Guiver (Director (Planning)), John Pateman-Gee (Planning Manager), Ian Ford (Committee Services Manager), Joanne Fisher (Planning Solicitor), Andrew Nepean (Public Realm Operations Manager), Matt Lang (Senior Planning Officer)(except items 66 - 69) and Mark Wilson (Development Technician - Technical)

61. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

An apology for absence was submitted on behalf of Councillor Wiggins, with Councillor Scott substituting.

62. MINUTES OF THE LAST MEETING

The minutes of the last meeting of the Committee, held on 25 October 2022, were approved as a correct record and signed by the Chairman.

63. DECLARATIONS OF INTEREST

Members of the Committee declared that they had received “lobbying” material in writing and by email from the Applicant in relation to Planning Application 21/02181/FUL (report item A.4).

Councillor Baker made the following declarations of interest in relation to Planning Applications 22/01666/FUL (report item A.1), 22/01675/FUL (report item A.2) and 22/01676/FUL (report item A.3):-

“In relation to Planning Application 21/02181/FUL - Land adjacent to Halstead Road I have received several emails of a lobbying nature over the last few months, and within the last two weeks I have received lobbying literature to my home address. However, I am not predetermined.

In relation to Applications 22/01675, 22/01676 & 22/01666 the Changing Places toilets. When Government announced funding for these facilities I pushed for Officers to apply for funding and when notified it was successfully awarded, was vocal locally and in email exchanges that areas in my Ward (Eastcliff), and in Holland-on-Sea, would be suitable for such facilities. I had no involvement in the decision as to where they were to be sited, that was solely an Officer decision. Although I do not consider myself predetermined in any way, it could be seen that I am biased towards these applications and as such I will not take part in the debate or deliberations on all three. I will however speak on the applications relating to my Ward and Holland-on-Sea.”

Councillor Harris stated for the public record that he was the Ward Member for Planning Application 22/01232/FUL (report item A.5). He confirmed, however, that he was not pre-determined on this application and that therefore he would take part in the Committee's deliberations on this matter.

64. QUESTION ON NOTICE PURSUANT TO COUNCIL PROCEDURE RULE 38

Councillor Baker asked the Chairman of the Planning Committee (Councillor White):-

"As the Chairman of the Planning Committee has a standing invitation to attend meetings of the Planning Policy & Local Plan Committee and to express the Planning Committee's views and comments on any report items that are being considered by the Planning Policy & Local Plan Committee (under Council Procedure Rule 36.1), would the Chairman agree that this Planning Committee has not previously discussed, or made any comments about any upcoming items on the Agendas of the Planning Policy & Local Plan Committee, and that in future this should be included as an item on the Planning Committee's monthly Agenda, in order that any views from members of the Planning Committee, on upcoming items on the Agendas of the Planning Policy & Local Plan Committee, can be discussed, debated and a collective view, if any, be presented by the Planning Committee Chairman on behalf of this Committee?"

Councillor White replied as follows:-

"Thank you for your question Councillor Baker. Councillor Turner, the Chairman of the Planning Policy and Local Plan Committee kindly introduced the opportunity for myself, as Chairman of the Planning Committee to comment on behalf of our Committee on matters relating to planning policy on its agenda. Councillor Turner has been keen to ensure an opportunity for input from ourselves as the Committee charged with implementing such policies that they may have drawn up specifically when it comes to determining planning applications, and we welcome that.

I do acknowledge Councillor Baker's suggestion and completely understand the reason for it. However, I am reluctant to agree to the inclusion of a standing item on the monthly Planning Committee agenda to discuss forthcoming business for the Planning Policy and Local Plan Committee especially as it would be taken in public.

Firstly, we run the risk of duplicating the work of the Planning Policy and Local Plan Committee if we start having potentially lengthy discussions on matters over which Councillor Turner and his Committee has jurisdiction.

Secondly, I believe this Committee's time at these meetings is best served by firmly focussing on the determination of planning applications and other matters for which this Committee has the responsibility. As we know, the agendas for our meetings can on occasion be very long and the applications we consider often carry with them significant public interest and a huge investment in time and effort from the applicants, their agents and indeed our Officers.

I would not want to run the risk of curtailing the length or the quality of debate on planning applications to make time for discussion on matters that are the responsibility of another Committee.

However, instead, I would suggest that we ask our Director of Planning, Mr. Guiver, to advise us of the publication of reports of the Planning Policy and Local Plan Committee and invite comments by way of an email, which can be coordinated by Mr. Guiver and therefore reported to that Committee by way of an update sheet. I hope that goes part way to answering Councillor Baker's point."

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

Earlier on in the meeting Members of the Committee had declared that they had received "lobbying" material in writing and by email from the Applicant in relation to this Planning Application.

Members were aware that this application was before the Planning Committee following Member Referral Scheme requests from Councillor Paul Clifton (in support) and Councillor Anne Davis (in objection).

It was reported that the whole application site extended to approximately 23 hectares in size which was comprised of two agricultural land parcels. The larger parcel of land (circa 22 hectares) lay to the eastern side of Halstead Road and would contain the proposed solar farm. That parcel of land was situated wholly within a Strategic Green Gap as indicated in the Local Plan policies map. The smaller parcel of land (circa 1 hectare) lay to the western side of Halstead Road and would contain the proposed Eco Hub, which would include the electric vehicle charging station (including café area), battery storage, substation and grid connection point.

The Committee was informed that the supporting information outlined 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.

In this case, subject to conditions, it was considered by Officers that there were no adverse impacts upon ecology, residential amenity, highway safety or flood risk. There was also the opportunity to improve biodiversity. The landscape impact was considered by Officers to be relatively local, contained mainly to the Public Right of Way, which crossed, or passed alongside the sites, and limited views from Halstead Road. The same could be said of the Eco-Hub element of the proposals. The landscape impact was therefore considered by Officers to be of moderate harm. In addition, the heritage harm identified was considered to be at the lower end of 'less than substantial'. Therefore, the localised impact on the area in terms of landscape and heritage was not considered by Officers to be sufficient to recommend refusal especially given the lack of adverse harm in other respects. The development was 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 was decommissioned) by the planting mitigation to be retained were positive, and the proposal would also deliver net gains in biodiversity which added 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.

Members were reminded that Policy PPL10 advocated for new proposals for renewable energy developments in the District. In this respect the energy generated by the proposed development would 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 had been given to those considerable benefits. Consequently, the principle of the development was supported at a national level in policy and legal commitments to achieve a reduction in carbon emissions. Overall, the generation of renewable energy was a significant material consideration which weighed substantially in the applications favour and therefore, on balance, the application had been recommended by Officers for approval.

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

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

1) Additional Representations Received - Objections

"- TDC Local Plan has given up on the Green Gap protection to the west of Halstead Road, where an EV charging station is now proposed, to include a shop and other amenities. This will create a severe threat to the viability of the existing post office shop in Walton Road, Kirby le Soken, and if that village post office and shop becomes economically unviable, that will have a severe detrimental effect on village sustainability.

- The creation of swales is said to assist in dispersing the rainwater, at the northern lowest end of the solar farm site. It must be noted that the Finches Park development of 240+ dwellings will also be dispersing rainwater into swales on that Linden Homes (Vistry) site, thus creating a dual flow of surface water to the north of the site, directly adjacent to established housing in Dugmore Avenue.

- Loss of field for parking associated with the village fete. Concerns are the blind bend access dangers, losing the open space, traffic concerns in what was once our beautiful unspoilt quiet little village, the views across the land and looking down the hill to the backwaters, noise, fire risk, emissions from the equipment, business loss to local shops because of the hub, us becoming a town rather than a rural village now. Parking offer for school is ridiculous as don't walk from current parking on Linden Homes site. Loss of nature habitat too."

2) Additional Representations Received - Support

(i) 32 identical signed letters outlining the following:

"- The site is suitable for this type of development as it is located closer to a viable grid connection.

-
- *This scheme prevents the coalescence of Kirby Cross and Kirby-le-Soken and blocks new house building.*
 - *The temporary planning permission preserves the status of the site as Strategic Green Gap after the site is decommissioned.*
 - *It provides 47 parking spaces, reducing nuisance parking outside the local primary school.*
 - *It provides additional parking to support sport clubs that use Kirby Playing Fields.*
 - *It provides accessible EV Charging for those households without off-street parking.*
 - *It delivers EV Charging locally, ensuring that Kirby doesn't become a charging 'blackspot'.*
 - *It brings a net bio-diversity gain with new planting and the preservation of existing footpaths.*
 - *It contributes to a national goal of meeting net-zero climate targets by 2050.*
 - *It generates electricity that is stable and low-cost at a time of record high energy prices.*
 - *It helps secure Britain's energy supply, reducing energy imports, at a time of global crisis."*

(ii) Two further letters of support from Kirby Lawn Tennis Club and Thorpe Athletic Football Club stating the following:

"- During many evenings and weekends, the car park at the Kirby Playing Fields fills up with the "over-flow" parking along the land leading to the playing fields becoming congested and causing a problem.

- *We are aware that the application includes the provision of 47 parking spaces many of which would be available for use by members of the public, including our members.*
- *We have signed a Memorandum of Understanding (MOU) with the applicant which seeks to encourage our members to use this additional car parking, helping to reduce the parking problems while providing a convenient place for members with electric and plug-in hybrid cars to charge while they are using our facilities.*
- *The provision of a café within the development is an economic and social benefit for our organisation and the wider community, something that our members are likely to make use of.*
- *We support any initiative that generates clean, green renewable energy, such as this proposal to build a solar farm in Kirby.*
- *The applicant is going to deliver a Community Benefit Fund over its proposed 40-year operating life. Our organisation would be one of the recipients of the proposed funding, allowing us to invest in the long-term provision of sports and leisure facilities locally."*

Matt Partridge, representing the applicant Naturalis Energy Developments Limited, spoke in support of the application.

With the permission of the Chairman, Mr. Partridge read out a written statement from Yuli Power, a member of the public who had been unable to attend the meeting on medical grounds and who was in support of the application.

Roger Parker, a member of the public, spoke against the application.

Town Councillor Nick Turner, acting on behalf of Frinton and Walton Town Council spoke against the application.

Councillor Anne Davis, who had “called-in” this application under the Member Referral Scheme, spoke against the application.

Councillor Paul Clifton, who had also “called-in” this application under the Member Referral Scheme and who was the Ward Member for Kirby Cross, spoke in support of the application.

With the permission of the Chairman, Councillor Clifton read out a written statement on behalf of Councillor Fiona Knowles, the Ward Member for Kirby-le-Soken and Hamford.

Outline of matters raised by the Committee	Outline of the Officer response thereto
Was the development site going to be classed as a 'brownfield' site in 40 years' time?	Officer's belief is No – on the basis that the land would have to be returned to its previous use and condition i.e. as agricultural land.
What was the status of the arable land?	The parcel of land that would accommodate the solar farm had recently been used for a cereal crop and the parcel of land that would accommodate the Eco-Hub had recently been fallow.
Had the Civil Aviation Authority been consulted given the potential for glare from the solar farm that could impact on aviation activity?	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 had confirmed that no significant impacts upon aviation activity associated with either airfield were predicted, and no further detailed modelling had therefore been recommended. (Section 6.144 of the Officer report)
What was the distance from the Eco-Hub to the Primary School?	About 350 metres.
From how far away would the glint and glare be seen?	The Glint and Glare assessment carried out had confirmed that there were no issues.
Had there been previous planning applications related to this site?	Both parcels of land had been the subject of appeal decisions dating back to 2016. The western section of the eastern parcel of land (Solar Farm Site) had been the subject of a speculative housing application for 75 dwellings (Planning Reference – 15/00928/OUT). The application had been refused and the subsequent appeal had been dismissed, amongst other matters, on the ground that the development would represent a significant urbanising incursion into the Local Green Gap. The western parcel of land (Eco-Hub Site)

	had been the subject of an associated proposal for community sport pitches. The planning application (Planning Reference - 15/00929/FUL) had been appealed on the grounds of non-determination and the appeal had been allowed but the development had never been implemented. (Section 6.10 of the Officer report).
Would there be a range of bio-diversity improvements arising from this development?	Yes, there would be significant bio-diversity enhancements.
Who would have access to the CCTV and would there be signage to alert the public?	The CCTV would be operated by the Applicant namely Naturalis Energy Developments Limited and be inward-facing and triggered by movement. It was unknown if there would be any signage.
What was the speed limit in Halstead Road?	30mph.
Was there a specific 'brownfield use' policy in the Local Plan?	'Brownfield use' was defined at the national level. The Council's Local Plan had to have conformity with that national definition. There was no specific brownfield use policy in the Local Plan but all the Local Plan policies had to conform to the National Planning Policy Framework.
Would the CCTV cameras be active day and night?	Yes, they would always be operative but they would only record when they were activated by a motion.
What was the height of the deer fence?	Two metres with planting outside of that as well.
How would the CCTV cameras be managed?	Officer referred to proposed planning condition number 32, which required a Crime Prevention and Site Security Management Plan for the whole development to be approved in writing by the Council before the development could commence.
Explain the reference in the public speaking session to "30% minimum strategic green gap".	This was in relation to an appeal on a housing development. Members needed to make a judgement on what they considered to be a coalescence given that this application was not for a permanent residential development that would join the two Kirbys in a built-up mass. The Officer felt that this application did not constitute a coalescence but acknowledged that if a strategic green gap meant that no development of any kind was

	permissible then this could be seen as a coalescence given its 40 year permission. The Officer considered that this was <u>a development</u> but <u>not a permanent built development</u> .
Clarify the 30m and 10m “buffer zones”.	The north and south ends of the development would have a 30m buffer zone to neighbouring properties and the fencing and the landscaping would have a 10m buffer zone adjoining the public rights of way.
How many construction jobs would be created? How many would be local?	Just over 100 jobs. No detail was available on how many would be local.
Would local contractors be used?	It was believed that this would be the case.
Where did the figure of 380 electric vehicles in the District come from? What percentage of the total cars in the District does that equate to?	The figure of 380 vehicles came from the Highway Authority. The percentage figure was unknown by Officers.
Could the applicant apply for an increase in the 40 year permitted period?	Yes. The Applicant could apply for a variation of that condition which would have to be considered on its planning merits at that time.
Would the Officer agree that if this planning application went to appeal that this Council could as part of its defence demonstrate that through its Local Plan renewable energy policies and its previous decisions on renewable energy related planning applications that it is a “Green Council”?	TDC had declared a climate change emergency and its Local Plan policies did reflect national policy and the positivity around renewable energy and such installations. There was a strong recognition that this Authority and the seas adjacent to the District (i.e. off-shore windfarms) were contributing to the fight against climate change. However, the Planning Committee had a duty to consider the merits of the planning application now before it taking into account the Officer report with its balanced view and its recommendation.
How many houses in the Linden Homes development had been built complete with solar panels?	That information was not to hand though the Officer suspected not many, which was a frustration.
How many Strategic Green Gaps were included within the Local Plan?	Six. They had been robustly challenged at the Local Plan Inquiry and the Inspector had decided that they were worthy of inclusion.
How long had it taken this Council to get its Local Plan approved?	Eleven years.
If the Committee was minded to approve this application was there the possibility that the same argument could be made in relation to the other Strategic Green Gaps?	Yes, but only in relation to planning applications for solar panels that would not be installed on a permanent basis.
Where were the access points to the	There was one vehicular access off

site for the construction vehicles?	Halstead Road.
Could the Officer confirm that the Office for Nuclear Regulation did not need to be consulted in relation to this planning application?	Yes, that was confirmed.
Was the land the subject of the Linden Homes development part of the Green Gap?	Yes, that land had been part of the Local Green Gap in the previous Local Plan.
Could the Officer confirm that at that time this Council could not demonstrate that it had a five year supply of housing land as specified in the NPPF?	Yes, that was correct.

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

RESOLVED that, contrary to the Officer recommendation of approval, the Planning Manager be authorised to refuse planning permission on the following grounds:-

“The development of solar panels, if approved, would result in development of land within the Policy PPL 6 designation of Strategic Green Gap. By reason of the development’s form, scale, siting and location it would result in detrimental impact to the open and undeveloped character of the land, and reduce, interrupt and remove a visual break for a significant time between settlements. The proposal would result in the coalescence of settlements and fail to protect their separate identity. On this basis, the development is contrary to Local Plan Policies PPL6, PPL3, SPL3 and Paragraph 158 of the NPPF as the impacts of the proposal to the area are not considered to be, or able to be, made acceptable.”

66. REPORT A.5 - PLANNING APPLICATION 22/01232/FUL – LAND AT REEDLANDS, GUTTERIDGE HALL LANE, WEELEY

Earlier on in the meeting, Councillor Harris had stated for the public record that he was the Ward Member for this application. He had confirmed, however, that he was not pre-determined on this application and therefore he took part in the Committee’s deliberations on this matter.

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

The proposed dwelling was not considered by Officers 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 was the subject of this application was re-located to the east of the existing agricultural building and would utilise an existing secondary access to the site from Gutteridge Hall Lane.

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, Officers had recommended that the application be approved. Furthermore, the proposal would not result in any detrimental impact on neighbour amenity and there were no concerns raised with 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 Manager (John Pateman-Gee) in respect of the application. An update sheet had been circulated to the Committee prior to the meeting that had confirmed that Weeley Parish Council had decided not to object to, or comment on, this application.

Peter Le Grys, 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
Clarify that all of the barn building would be demolished?	Yes, all the barn building would be demolished.
Could we have a condition requiring the installation of solar panels on the roof?	That could be done via a condition requiring a renewable energy management plan. However, that condition had not been imposed upon the previous planning permission for this site and therefore it could be robustly challenged at a planning appeal if now imposed on this application.
Could we impose a condition requiring that construction vehicles did not cause disruption for the road users of Gutteridge Hall Lane?	Proposed condition number 7 dealt with this by way of a requirement for Construction Method Statement.
Is there anything in the NPPF that requires new development to have solar panels installed?	Not at present.
Confirm that if the applicant went ahead with this application then the prior approval could not be also implemented. Also confirm that the static caravan would be removed?	That is correct. The barn would be wholly demolished and the static caravan would be removed from the site following the completion of the development.

Following discussion by the Committee:-

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

RESOLVED that the Planning Manager 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 Planning Manager.

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 - 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; and

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: re-used in areas where test results indicate that it meets compliance targets so it can be re-used without treatment; or treatment of material on site to meet compliance targets so it can be re-used; or 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.

67. REPORT A.1 - PLANNING APPLICATION 22/01666/FUL - CAR PARK, PROMENADE WAY, BRIGHTLINGSEA, CO7 0HH

Earlier on in the meeting Councillor Baker had declared an Interest in this matter for the reasons set out in Minute 63 above. He withdrew to the public gallery and took no part in the Committee's deliberations and determination of this Planning Application.

Members were aware that this application was before the Planning Committee as the applicant was Tendring District Council. The proposal sought the erection of an extension to the existing toilet block that would be used to provide a 'Changing Places' facility, which included enhanced facilities to meet the needs of disabled children and adults with complex care needs, who required care support, appropriate equipment and additional space.

The works were considered by Planning Officers to comply with the requirements of Policy HP1 and therefore were supported in principle. In addition, whilst located within a prominent location Planning Officers did not consider that the scale or appearance of the building was harmful to the character of the area, whilst there would be no impact to any neighbouring amenities.

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

At the meeting, an oral presentation was made by the Council’s Planning Manager (John Pateman-Gee) in respect of the application. An update sheet had been circulated to the Committee prior to the meeting confirming that Brightlingsea Town Council supported the proposed development.

Andrew Nepean, Public Realm Operations Manager, representing the applicant (Tendring District Council), spoke in support of the application. His statement also related to Planning Applications 22/01675/FUL and 22/01676/FUL, as considered below.

Outline of matters raised by Members of the Committee	Outline of Officer response thereto
When will those Changing Places facilities be provided?	Hopefully by Summer 2023.
Where had the funding come from for those facilities?	From the Government (Department for Levelling Up, Housing and Communities).

Following discussion by the Committee:-

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

RESOLVED that the Planning Manager 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 Planning Manager.

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.

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

Earlier on in the meeting Councillor Baker had declared an Interest in this matter for the reasons set out in Minute 63 above. He withdrew to the public gallery and took no part in the Committee’s deliberations and determination of this Planning Application.

Members were aware that this application was before the Planning Committee as the applicant was Tendring District Council. The proposal sought approval for the demolition of the existing single storey building that had been 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 included enhanced facilities to meet the needs of disabled children and adults with complex care needs, who required care support, appropriate equipment and additional space.

The works were considered by Planning Officers to comply with the requirements of Policy HP1 and therefore were supported in principle. In addition, whilst located within a prominent location Planning Officers did not consider that the scale or appearance of the building was harmful to the character of the area, and would see an uplift compared to the existing building, which was in a poor state of repair, whilst there would be no impact to any neighbouring amenities.

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

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

Councillor Baker, in his capacity as a local resident and as an authorised representative of the Holland-on-Sea Residents' Association, spoke in support of the application.

Following discussion by the Committee:-

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

RESOLVED that the Planning Manager be authorised to grant planning permission, subject to no new issues being raised during the public consultation period which had yet to expire and 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 Planning Manager.

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.

69. REPORT A.3 - PLANNING APPLICATION 22/01676/FUL – SEAFRONT BELOW MARINE PARADE EAST, CLACTON-ON-SEA CO15 5BY

Earlier on in the meeting Councillor Baker had declared an Interest in this matter for the reasons set out in Minute 63 above. He withdrew to the public gallery and took no part in the Committee’s deliberations and determination of this Planning Application.

Members were aware that this application was before the Planning Committee as the applicant was Tendring District Council. The proposal sought approval for the erection of a new building that would be used to provide a ‘Changing Places’ facility, which included enhanced facilities to meet the needs of disabled children and adults with complex care needs, who required care support, appropriate equipment and additional space.

The works were considered by Planning Officers to comply with the requirements of Policy HP1 and therefore were supported in principle. In addition, whilst located within a prominent location within the Clacton-on-Sea Conservation Area, Planning Officers did not consider that the scale or appearance of the building was harmful to the character of the area, whilst there would be strong public benefits as a result of the proposal. In addition, there would be no impact to any neighbouring amenities.

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

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

An update sheet had been circulated to the Committee prior to the meeting with details of a textual amendment to Section 1.2 of the Officer report.

Councillor Andy Baker, the local Ward Member, spoke in favour of the application.

Outline of matters raised by Members of the Committee	Outline of Officer response thereto
How would the emergency cords work? Would an emergency signal get through given that the building was at a lower ground level?	The Officer could not give a definitive answer as this was not a planning matter.

Following discussion by the Committee:-

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

RESOLVED that the Planning Manager 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 Planning Manager.

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.

The meeting was declared closed at 9.20 pm

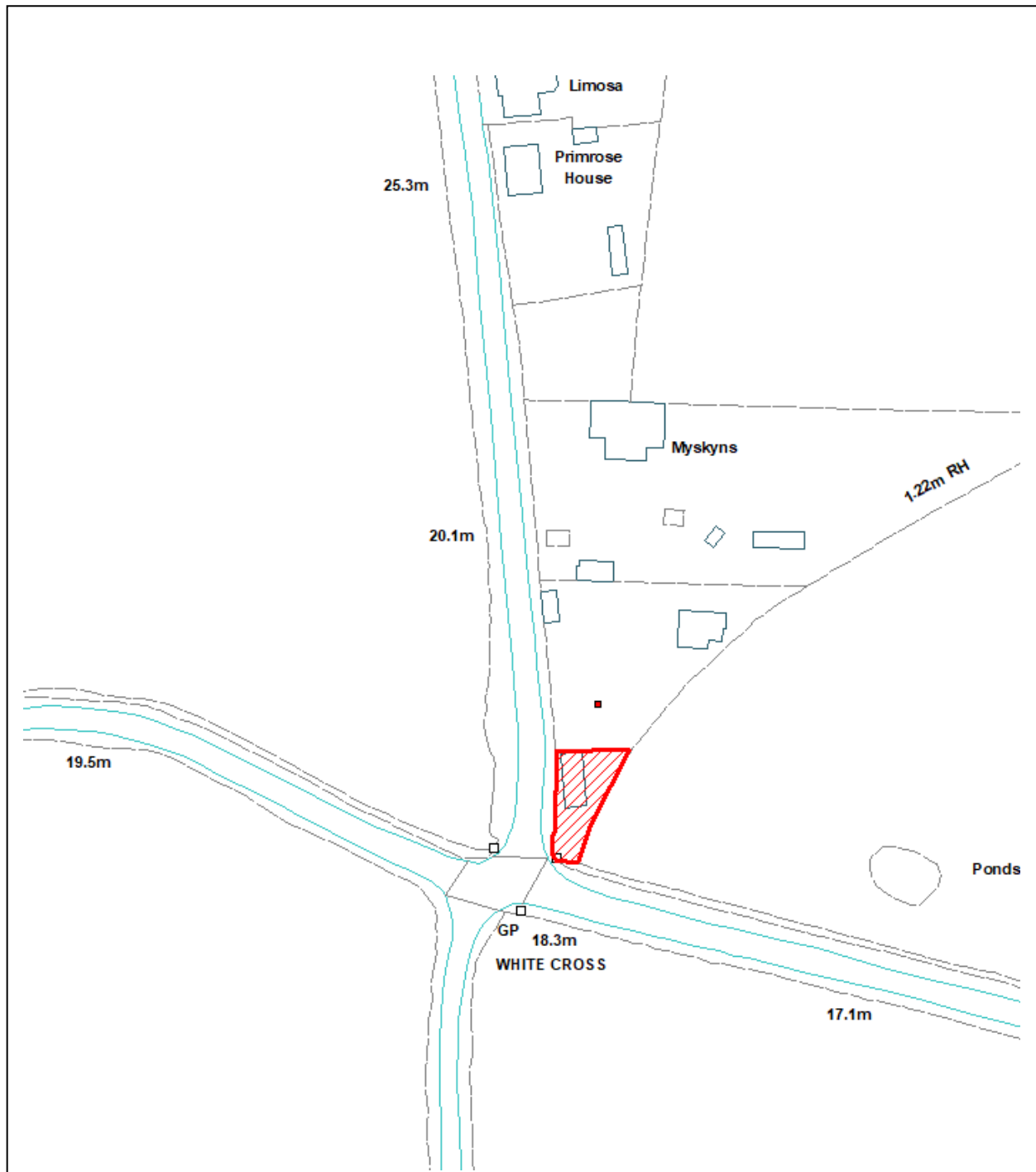
Chairman

PLANNING COMMITTEE

20 December 2022

REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING

A.1 PLANNING APPLICATION - 21/01891/FUL - BROADFIELDS PRIMROSE HILL WRABNESS CO11 2TZ



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Application: 21/01891/FUL

Town / Parish: Wrabness Parish Council

Applicant: Mr John Acton

Address: Broadfields Primrose Hill Wrabness Essex CO11 2TZ

Development: Proposed change of use of former forge building to dwelling.

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 This application seeks full planning permission for the change of use of the former forge building to a one bedroom dwelling with parking and private amenity space.
- 1.3 Officers are content that subject to the imposition of reasonable planning conditions and the completed unilateral undertaking, that the change of use on the site is acceptable. The proposal is in keeping with the site's rural location on the edge of Wrabness, provides ecological mitigation measures and enhancements, would not result in any material harm to designated landscapes or have any detrimental impact on neighbour amenity and there are no concerns raised in regard to parking and highway matters. Furthermore, the new dwelling will contribute to the generation of renewable energy for sustainable living through solar panels and an air source heat pump.

Recommendation: Full Approval

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

**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:

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

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
PPL2	Coastal Protection Belt
PPL3	The Rural Landscape
PPL4	Biodiversity and Geodiversity
PPL5	Water Conservation, Drainage and Sewerage
PL10	Renewable Energy Generation
CP1	Sustainable Transport and Accessibility

Supplementary Planning Documents

Statutory guidance - Technical housing standards: nationally described space standard
Published 27 March 2015

Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy SPD 2020 (RAMS)

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

Status of the Local Plan

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

In relation to housing supply:

- 2.3 The Framework requires Councils boost significantly the supply of housing to meet objectively assessed future housing needs in full. In any one year, Councils must be able to identify five years of deliverable housing land against their projected housing requirements (plus an appropriate buffer to ensure choice and competition in the market for land, to account for any fluctuations in the market or to improve the prospect of achieving the planned supply). If this is not possible or if housing delivery over the previous three years has been substantially below (less than 75%) the housing requirement, Paragraph 11 d) of the Framework requires granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole (what is often termed the 'tilted balance').
- 2.4 The Local Plan fixes the Council's housing requirement at 550 dwellings per annum. On 19 October 2021 the Council's Strategic Housing Land Availability Assessment (SHLAA) updated the housing land supply position. The SHLAA demonstrates in excess of a six-and-a-half-year supply of deliverable housing land. On 14 January 2022 the Government published the

Housing Delivery Test (HDT) 2021 measurement. Against a requirement for 1420 homes for 2018-2021, the total number of homes delivered was 2345. The Council's HDT 2021 measurement was therefore 165%. As a result, the 'tilted balance' at paragraph 11 d) of the Framework does not apply to applications for housing.

3. Relevant Planning History

21/01060/FUL	Erection of dwelling to replace former blacksmiths forge.	Withdrawn	29.10.2021
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4. Consultations

ECC Highways Dept 05.01.2022	<p>The information that was submitted in association with the application has been fully considered by the Highway Authority. No site visit was undertaken in conjunction with this planning application. The information submitted with the application has been thoroughly assessed and conclusions have been drawn from a desktop study with the observations below based on submitted material, google earth image dated September 2021. It is noted that the proposal is for a one-bedroom dwelling and is similar to previous applications, 18/01294/FUL and 21/01060/FUL. The new proposal this will utilise an existing established vehicular access that will be reduced in width. When compared with the buildings previous use, the level of activity will be on a par or possibly reduced, therefore:</p>
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From a highway and transportation perspective the impact of the proposal is acceptable to Highway Authority subject to the following mitigation and conditions:

1. There should be no obstruction above ground level within a 2.4 m wide parallel band visibility splay as measured from and along the nearside edge of the carriageway across the entire site frontage. Such vehicular visibility splays shall be provided before first occupation of the property and retained free of obstruction above 600mm at all times.

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

2. Prior to the occupation of the proposed dwelling, the existing private drive shall be constructed to a maximum width of 5.5 metres for at least the first 6 metres from the back of Carriageway / Footway / Highway Boundary and shall be provided with an appropriate vehicular crossing.

Reason: To ensure that vehicles can enter and leave the highway in a controlled manner and to ensure that opposing vehicles can pass clear of the limits of the highway, in the interests of highway safety in accordance with policy DM1.

3. No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary.

Reason: To ensure that loose materials are not brought out onto the highway, in the interests of highway safety and in accordance with Policy DM1.

4. The existing access or any part of an access rendered redundant or unnecessary by this development shall be suitably and permanently closed to the satisfaction of the Local Planning Authority,

incorporating the re-instatement to full height of the highway verge/footway/kerbing to the specifications of the Highway Authority, immediately the proposed new accesses are brought into use.

Reason: To ensure the removal of and to preclude the creation of unnecessary points of traffic conflict in the highway and to prevent indiscriminate access and parking on the highway, in the interests of highway safety and in accordance with Policy DM1.

5. At no point shall gates be provided at the vehicular access. The access shall remain open and free for use thereafter.

Reason: To give vehicles using the access free and unhindered access to and from the highway in the interest of highway safety and in accordance with policy DM1

6. The development shall not be occupied until such time as the car parking and turning area, indicated on the approved plans, has been hard surfaced and sealed. The car parking area shall be retained in this form at all times and shall not be used for any purpose other than the parking of vehicles related to the use of the development thereafter.

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

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

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

8. No development shall take place, including any ground works or works of demolition, until a Construction Method Statement (CMS) has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement 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 under body washing facilities

Reason: To ensure that on-street parking of these vehicles in the adjoining streets does not occur, in the interests of highway safety and Policy DM1.

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

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

NOTE ** the proposed planting at the front shown on the layout drawing numbered 74-2019-13 P is located on the highway verge and is not permitted and should be omitted from the scheme. Highway boundary information can be obtained from highwayrecords@essexhighways.org

10. Prior to occupation of the proposed development, the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack per dwelling, for sustainable transport, approved by Essex County Council, (to include six one day travel vouchers for use with the relevant local public transport operator) Reason: In the interests of reducing the need to travel by car and promoting sustainable development and transport in accordance with policies DM9 and DM10.

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

Informative:

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

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

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

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

Environmental
Protection
10.12.2021

With reference to the above, please see below for comments from the EP Team:

Contaminated Land: the submitted report, dated 2011, is acceptable, given the guidelines values have not changed; in addition we are satisfied with the findings of the report, and would like a Watching Brief attached as a condition on any subsequent approval. We request that the LPA are contacted in the event of unexpected ground conditions being encountered during construction and that the below minimum precautions are undertaken until such time as the LPA responds to the notification. I would also advise that the developer is made aware that the responsibility for the safe development of the site lies with them.

Minimum requirements for dealing with unexpected ground conditions being encountered during construction.

1. 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.

2. 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.

3. 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.

4. 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.

5. The testing suite will be determined by the independent geo-environmental specialist based on visual and olfactory observations.

6. Test results will be compared against current assessment criteria suitable for the future use of the area of the site affected.

7. Where the material is left in situ awaiting results, it will either be reburied or covered with plastic sheeting.

8. 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.

9. Any areas where unexpected visual or olfactory ground contamination is identified will be surveyed and testing results incorporated into a Verification Report.

10. A photographic record will be made of relevant observations.

11. 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.

12. A Verification Report will be produced for the work.

REASON: to protect the health of site workers and end users

Construction Activities: In order to minimise potential nuisance caused by demolition/construction works, 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.

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

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

REASON: to protect the amenity of nearby residential premises

Should you have any queries concerning this, please do not hesitate to contact me.

UU Open Spaces
23.12.2021

Response from Public Realm
Open Space & Play

Therefore no contribution is required on this occasion.

Tree & Landscape
Officer
29.11.2021

There is an established and early mature Oak situated on the eastern boundary of the application site.

The position of the proposed dwelling will not have an adverse impact on the tree as there is sufficient separation between the tree and the proposed position of the dwelling.

The site layout shows that a turning/parking bay will be set out close to the tree. This has the potential to have an adverse impact on the health and viability of the tree.

Therefore in order to minimise the impact of the construction of the turning/car parking bay on the tree it should be constructed using 'No Dig' construction techniques. Details of the method of construction for this space should be provided prior to the determination of the application or secured by a condition attached to any planning permission that may be granted.

To the north of the application site there is an established woodland, Stour Wood, which has high amenity and wildlife value. Stour Wood is registered as ancient woodland and a Site of Special Scientific Interest (SSSI).

Therefore any development should be in accordance with Natural England and the Forestry Commissions standing advice; the main issue being the need to provide a buffer zone of at least 15m between the ancient woodland and the proposed development. This does not appear to be possible in this case.

In terms of the potential impact of the development proposal on the Stour Wood SSSI there is a legal requirement for Natural England to be consulted.

Natural England
09.03.2022

Thank you for your consultation on the above dated 22 February 2022 which was received by Natural England on 22 February 2022

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

SUMMARY OF NATURAL ENGLAND'S ADVICE - European designated sites¹

It has been identified that this development falls within the 'Zone of Influence' (Zoi) for one or more of the European designated sites scoped into the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS); see our recent advice to your authority on this issue (our ref: 244199, dated 16th August 2018) for further information.

In the context of your duty as competent authority under the provisions of the Habitats Regulations², it is anticipated that, without mitigation, new residential development in this area and of this scale is likely to have a significant effect on the sensitive interest features of these coastal European designated sites, through increased recreational pressure when considered 'in combination' with other plans and projects. The Essex Coast RAMS is a large-scale strategic project which involves a number of Essex authorities, including Tendring District Council, working together to mitigate the effects arising from new residential development. Once adopted, the RAMS will comprise a package of strategic measures to address such effects, which will be costed and funded through developer contributions.

We therefore advise that you consider, in line with our recent advice, whether this proposal falls within scope of the RAMS as 'relevant development'. Where it does, this scale of development would fall below that at which Natural England would offer bespoke advice on this issue. However, in such cases we advise that you must undertake a Habitats Regulations Assessment (HRA) to secure any necessary mitigation and record this decision within the planning documentation; you should not grant permission until such time as the HRA has been undertaken and the conclusions confirmed.

Sites of Special Scientific Interest Impact Risk Zones

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

Further general advice on the consideration of protected species and other natural environment issues is provided at Annex A.

ECC Highways Dept
17.11.2022

The Highway Authority does not object to the revised proposals as submitted, subject to the previous highway conditions that were

imposed for 21/01891/FUL, dated 5 January 2022 are adhered to.

Informative:

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

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

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

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

Essex County
Council Ecology
19.08.2022

We have reviewed the Preliminary Ecological Assessment (Liz Lord Ecology, July 2022) and Bat Survey (Essex Mammal Surveys, April 2022) relating to the likely impacts of development on designated sites, protected species and Priority species & habitats and identification of appropriate mitigation measures.

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

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

We note the site falls within evidence 13km Zone of Influence of the Stour and Orwell SPA, Ramsar and SSSI. Therefore, given the residential nature of this development is relevant to the Essex Coast RAMS, we note that the LPA has prepared a project level HRA Appropriate Assessment to secure a per dwelling tariff by a legal agreement for delivery of visitor management measures at the designated sites. This will mitigate for predicted recreational impacts in combination with other plans and projects and avoid Adverse Effect on Integrity of the relevant Habitats sites.

The mitigation measures identified in the Preliminary Ecological Assessment (Liz Lord Ecology, July 2022) which include, but not limited to, a Great Crested Newt Method Statement and the installation of a permanent 2m high fence, which aims to provide a permanent physical barrier between the site and Stour and Copperas Woods SSSI, which is also an Ancient woodland (irreplaceable habitat). These mitigation

measures 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 Great Crested Newts, Hazel Dormice, bats and nesting birds.

To further mitigate any potential impacts to the adjacent Stour and Copperas Woods SSSI and Ancient woodland, especially through dust and pollution events, a Construction Environmental Management Plan for Biodiversity (CEMP: Biodiversity) should be produced and secured by condition of any consent.

We also support the proposed reasonable biodiversity enhancements of one Sparrow Terrace and one bat box, which have been recommended by Preliminary Ecological Assessment (Liz Lord Ecology, July 2022) to secure net gains for biodiversity, as outlined under Paragraph 174d of the National Planning Policy Framework (2021). The reasonable biodiversity enhancement measures should be outlined within a Biodiversity Enhancement Strategy and should be secured by a condition of any consent.

In addition, the Preliminary Ecological Assessment (Liz Lord Ecology, July 2022) and Bat Survey (Essex Mammal Surveys, April 2022) highlights that it is likely bats could be foraging/commuting within and around the site. Therefore, if any external lighting is to be proposed, it is 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 Preliminary Ecological Assessment (Liz Lord Ecology, July 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).
- 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

3. PRIOR TO OCCUPATION: 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) persons responsible for implementing the enhancement measures;

e) 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). And if any external lighting is to be proposed

4. PRIOR TO OCCUPATION: WILDLIFE SENSITIVE LIGHTING DESIGN SCHEME

"A lighting design scheme for biodiversity shall be submitted to and approved in writing by the local planning authority. The scheme shall identify those features on site that are particularly sensitive for bats and that are likely to cause disturbance along important routes used for foraging; and show how and where external lighting will be installed (through the provision of appropriate lighting contour plans, 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).

ECC Highways Dept
30.11.2022

The Highway Authority does not object to the revised proposals as submitted, subject to the previous highway conditions that were imposed for 21/01891/FUL, dated 5 January 2022 with the following amendment to condition 2 being adhered to also: 2. Prior to the occupation of the proposed dwelling, the existing private drive shall be constructed to a maximum width of 5.5 metres for at least the first 4.3 metres from the back of Carriageway / Footway / Highway Boundary and shall be provided with an appropriate vehicular crossing. Reason: To ensure that vehicles can enter and leave the highway in a controlled manner and to ensure that opposing vehicles can pass clear of the limits of the highway, in the interests of highway safety in accordance with policy DM1. Informative: 1: All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.

The applicants should be advised to contact the Development Management Team by email at development.management@essexhighways.org 2: On the completion of the Development, all roads, footways/paths, cycle ways, covers, gratings, fences, barriers, grass verges, trees, and any other street furniture within the Site and in the area, it covers, and any neighbouring

areas affected by it, must be left in a fully functional repaired/renovated state to a standard accepted by the appropriate statutory authority.

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

5. Representations

Wrabness Parish Council

- 5.1 Wrabness Parish Council have no objection to the planning application, however they note that good drainage is required as there is excessive surface water in this locality.

Representations / Objections

- 5.2 No letters of objection or representation have been received.

6. Assessment

Site Context

- 6.1 The application site and fairly run down forge building forms a key gateway into the village of Wrabness due to its prominent location at the southern end of Primrose Hill. The character of the surrounding area is semi-rural and the site lies outside any defined settlement development boundary. To the north are scatterings of built form arranged in a linear form, whilst the wider character becomes far more rural, with large areas of agricultural land to the south and west with dense woodland to the east. This pattern of built form viewed in conjunction with roadside hedges and intervening vegetation promotes a semi-rural character and appearance.
- 6.2 The densely wooded area to the east and adjacent to the application site is the Stour Wood ancient woodland benefitting from the landscape designation of Site of Special Scientific Interest. The landscape east of the application site also lies within the Suffolk Coasts and Heaths Area of Outstanding Natural Beauty, with the application site itself lying within the Coastal Protection Belt of Jacques Bay and Copperas Bay.

Planning History

- 6.3 There is no relevant planning history in relation to the forge building.

Proposal

- 6.4 The application proposes the change of use of the existing forge building to a one bedroom dwelling with parking and private amenity space.
- 6.5 The change of use will convert the existing building which will also upgrade the external materials and refurbish it for habitation.
- 6.6 The proposed dwelling comprises an entrance hall, W.C., kitchen and lounge/diner at ground floor, with one bedroom and a bathroom at first floor.

Principle of Development

- 6.7 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.
- 6.8 Section 39 of the Planning and Compulsory Purchase Act 2004 requires decision makers to exercise their functions with the objective of contributing to the achievement of sustainable development.
- 6.9 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 development boundary (SDB) of Wrabness 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.
- 6.10 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 Wrabness is classified as a Smaller Rural Settlement and these smaller villages are considered to be the least sustainable locations for growth. However, these villages are still under pressure to grow and some small-scale development which is sympathetic to the rural settlement might help younger people to continue to live in the area, keep local shops and services viable.
- 6.11 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, any other relevant policies in this plan and overarching national planning policy.
- 6.12 There is limited policy support in the Local Plan for new dwellings outside of the defined SDB. The National Planning Policy Framework (NPPF) however confirms that “in rural areas...decisions should be responsive to local circumstances and support housing developments that reflect local needs”. Paragraph 80 c) of the NPPF supports the re-use of redundant or disused buildings where it will enhance its immediate setting, as in this case.
- 6.13 For the above reasons the principle of development on this site is considered to be acceptable.

Layout, Scale and Appearance

- 6.14 Paragraph 126 of the National Planning Policy Framework states that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.
- 6.15 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.
- 6.16 The forge building will retain its current form in terms of its siting, height, scale and massing as part of the proposed change of use. The external finish of the building will resemble its existing

appearance and will use natural slate coloured pressed metal profiled sheeting to the main roof and natural slate finish to the porch canopy. Five solar panels will be fitted to the southern roof slope. The walls will be finished in a smooth render plinth and black stained featheredged cladding to provide a renewed and improved appearance. The site layout shows planting on the boundary with Primrose Hill, precise details of which should be secured under condition on the grant of planning permission.

- 6.17 Officers consider that the proposed change of use which maintains the scale of the existing building at this prominent gateway position on Primrose Hill harmonises with the character and appearance of the surrounding area.

Highway Safety/Parking

- 6.18 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.
- 6.19 The Essex County Council Parking Standards 2009 require that dwellings with 1 bedroom are provided with a minimum of 1 off road parking space. Parking spaces should measure 5.5 metres by 2.9 metres and garages, if being relied upon to provide a parking space, should measure 7 metres by 3 metres internally. The submitted plans show that the new dwelling would utilise the existing access and will be provided with one parking space that meets the standard. A turning space is also provided within the site to ensure that vehicles entering and leaving the site can do so in a forward gear in the interests of highway safety.
- 6.20 Subject to the use of conditions pertaining to: the requirement of a construction method statement, visibility splays, no unbound materials, closing part of the existing access, restricting the use of gates at the vehicular access, no occupation of the dwelling until the parking and turning provision is in place, the width of the private drive, planting a minimum distance of 1 metre from the highway and provision of a travel pack for any new occupiers, there are no objections raised from the Highways Authority. Restricting the use of gates at the vehicular access is not considered reasonable and this condition will not be imposed. It is not considered reasonable or necessary to impose a suggested condition for the provision of two wheeler (bicycle, scooter, motorcycle) parking as there is space in the garage to store such items. The garage, for the purposes of off road car parking does not meet the parking standards for the size of a single garage and can therefore be used for other storage. The proposal is not therefore considered to result in any unacceptable harm to highway safety.
- 6.21 Policy CP1 of the Local Plan 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'.
- 6.22 Although the application site lies outside of the Wrabness settlement development boundary, its location means that sustainable travel within and further afield is possible. The site is approximately 700 metres from Wrabness railway station and the local community shop, while the nearest bus stop is less than 25 metres away. Consequently, there are opportunities for sustainable travel from the site.

Landscape, Trees and Biodiversity

- 6.23 Paragraph 174 of the NPPF requires planning decisions to contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes.

- 6.24 Policy PPL2 of the Tendring District Local Plan 2013-2033 and Beyond Section 2 state that new development which does not have a compelling functional need to be located in the Coastal Protection Belt will not be permitted, and even when a compelling functional need is demonstrated, the development should not significantly harm the landscape character and quality of the undeveloped coastline. Furthermore, Policy PPL3 of the adopted Local Plan states that development proposals affecting protected landscapes must pay particular regard to the conservation and enhancement of the special character and appearance of the Dedham Vale and Suffolk Coast and Heaths AONBs, and their settings.
- 6.25 The proposal lies within the Coastal Protection Belt and adjacent to the Suffolk Coasts and Heaths AONB. Officers consider that due to the existing building on the application site, which will retain its existing footprint and the location near to the existing linear form of residential dwellings there would not be a significant impact upon the existing special landscape character of the area. In order to manage any future development on the site in this rural and sensitive location, a condition removing permitted development rights will be secured on the grant of planning permission.
- 6.26 Paragraph 180 of the NPPF states that when determining applications where significant harm to biodiversity cannot be avoided, mitigated or, as a last resort, compensated for, Councils should refuse planning permission. Policy PPL4 of the adopted Local Plan gives special protection to designated sites of international, European and national importance to nature conservation from development likely to have an adverse effect on their integrity.
- 6.27 The application site is not designated, however Stour Wood to the east is designated as a Site of Special Scientific Interest. A site does not have to be designated, however, to have importance to nature conservation.
- 6.28 The applicant prepared and submitted a Bat Survey and Preliminary Ecological Appraisal as the Stour Wood is known to support a number of protected species. The appraisal revealed that the site itself, due to its lack of vegetation does not support any woodland habitat however bats could use the site for commuting and foraging, yet the Bat Survey confirmed there was no evidence of any bats roosting within the site.
- 6.29 Ancient woodland is defined as an irreplaceable habitat. The site is separated from the woodland by a raised earth bank and ditch and although the appraisal confirms it is unlikely there will be any adverse impact to the woodland trees do to the nature of works proposed, measures should be taken during construction to avoid damage to the trees and shrubs. Taking into account Natural England standing advice that a buffer zone may be used, in this case the appraisal confirms that a buffer zone is not feasible given the size of the application site and is likely to be disproportionate to the predicted impacts.
- 6.30 The appraisal concluded that with the mitigation and enhancement measures recommended, the proposals are very unlikely to result in the loss of, or damage/disturbance of, any habitats of value to protected or notable species
- 6.31 Natural England has offered no objection, in principle, to the proposed development however draws attention to their standing advice.
- 6.32 Ecological advice provided by Essex County Council Place Services confirms they have no objection subject to securing of the biodiversity mitigation and enhancement measures.
- 6.33 The Council's Tree and Landscape Officer highlights an early mature Oak tree on the southern boundary of the application site. The parking and turning areas are situated close to the tree and there is the potential for this to have an adverse impact on the tree. The Officer confirms that to minimise the impact of construction of the parking and turning areas they should be developed using no-dig methods.

- 6.34 In conclusion, the impact on biodiversity is expected to be low and through the recommended mitigation measures, the ecological value of the site could be enhanced. Officers consider that these measures are acceptable. Planning conditions that are necessary and relevant to the proposal will be imposed to secure the mitigation measures and enhancements on the grant of planning permission.

Housing Standards

- 6.35 The governments Technical housing standards – nationally described space standard - sets out minimum gross internal floor space, bedroom sizes and storage requirements for new dwellings.
- 6.36 All new dwellings must therefore accord with the Technical housing standards. A one bedroom, two person, two storey dwelling requires a minimum of 50 square metres of gross internal floor space which includes built in storage of 1.5 square metres. From the plans submitted the proposal 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.

Residential Amenity

- 6.37 Paragraph 130 of the National Planning Policy Framework 2021 states that planning should always seek to secure a good standard of amenity for all existing and future occupants. Policy SPL3 states that buildings and structures are designed and orientated to ensure adequate daylight, outlook and privacy for future and existing residents; and the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties.
- 6.38 The application site is located within a rural location. The vacant land to the north of the application site has planning permission for two detached houses. The land is on higher ground than the application site and therefore there will be no overlooking or loss of privacy concerns. The orientation of the application site, the siting of the forge building and separation distance that will be present when the two detached dwellings are constructed to the north ensure there would be no loss of light of overshadowing.
- 6.39 140 square metres of private amenity space to the rear of the site will serve the proposed dwelling and is considered to meet the needs and expectations of residents and is commensurate to the size of dwelling and the character of the area.

Environmental Protection

- 6.40 The applicant submitted a Contaminated Land Site Investigation Report dated 16 September 2011. The Council's Environmental Protection Officer reviewed the contents of the report, confirmed it is acceptable and are satisfied with the findings of the report. The Officer requested a Watching Brief during construction is secured by condition on the grant of planning permission to ensure the local planning authority is advised of any unexpected ground conditions. The unexpected ground conditions however are not defined and are subject to opinion, therefore this condition will not be imposed as it is not enforceable or precise. Furthermore they request conditions are secured on the grant of planning permission to manage the hours of construction and ensure no materials produced as a result of the development is burned on site. The conditions to be imposed will offer protection to existing neighbouring residents, construction workers on the application site and future occupiers of the dwelling.

Drainage and Sewerage

- 6.41 Policy PPL5 states that all new development must make adequate provision for drainage and sewerage.
- 6.42 The sewerage from the proposed dwelling will be connected to the mains sewer located in Primrose Hill which is considered the preferred approach and acceptable.
- 6.43 The proposal is considered a minor development where there is no requirement to consult Essex County Council for sustainable drainage planning advice. Sustainable Drainage Systems (SuDS) are designed to replicate natural drainage systems, to drain surface water run-off, and in this case where the footprint of the building has not increased, infiltration within the site, which will need to meet building regulation standards will be installed and is considered acceptable.

Renewable Energy

- 6.44 Chapter 14 of the National Planning Policy Framework supports the transition to a low carbon future in a changing climate while Policy PPL10 of the Local Plan supports renewable energy generation and energy efficiency measures for residential development involving the creation of one or more dwellings.
- 6.45 Five solar panels fitted to the southern roof slope of the building and an air source heat pump will provide energy for the occupiers own use reducing the demand for fossil fuels which are a finite resource and release carbon into the atmosphere and accelerate global warming contributing to climate change.
- 6.46 Electric vehicle charging points are also shown on the submitted drawings. The specification of these and provision in working order prior to occupation of the dwelling will be secured by condition on the grant of planning permission.

Recreational Disturbance Avoidance and Mitigation Strategy (RAMS)

- 6.47 Under the Habitats Regulations, a development which is likely to have a significant effect or an adverse effect (alone or in combination) on a European designated site must provide mitigation or otherwise must satisfy the tests of demonstrating 'no alternatives' and 'reasons of overriding public interest'. There is no precedent for a residential development meeting those tests, which means that all residential development must provide mitigation.
- 6.48 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.
- 6.49 The application scheme proposes a new dwelling on a site that lies within the Zone of Influence (Zol) being approximately 1km from Stour and Orwell Estauries SPA and RAMSAR. However, new housing development within the Zol would be likely to increase the number of recreational visitors to Stour and Orwell Estuaries; and, in combination with other developments it is likely that the proposal would have significant effects on the designated site.
- 6.50 Mitigation measures must therefore be secured prior to occupation. A unilateral undertaking has been prepared to secure this legal obligation. This will ensure that the development would not adversely affect the integrity of European Designated Sites in accordance with Section 1 Policy SP2 and Section 2 Policy PPL4 of the Tendring District Local Plan 2013-2033 and Regulation 63 of the Conservation of Habitat and Species Regulations 2017.

7. Conclusion

- 7.1 Whilst the location of the development is not supported by Local Plan policy, the National Planning Policy Framework supports the re-use of redundant or disused buildings where it will enhance its immediate setting.
- 7.2 The change of use of the forge building to a dwelling will offer an enhancement to the immediate setting by way of refurbishment of the building itself in this prominent location with the tidying and clean-up of the site presenting a welcoming picture to the village of Wrabness, preventing the continued disuse and tired forge building and surrounding site from deteriorating further.
- 7.3 The form of the forge building will be retained and no other buildings or extensions to the forge are proposed ensuring with the security of planning conditions which make the proposal acceptable there will be no significant harm generated by the proposal.
- 7.4 Accordingly the application is recommended for approval.

8. Recommendation

- 8.1 The Planning Committee is recommended to grant planning permission subject to the following conditions and informatives and the prior completion of a Unilateral Undertaking for a financial contribution towards RAMS.

8.2 Conditions and Reasons

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

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

- 2 The development hereby permitted shall be carried out in accordance with the following approved drawings / documents, and / or such other drawings / documents as may be approved by the Local Planning Authority in writing pursuant to other conditions of this permission or such drawings / documents as may be subsequently approved in writing by the Local Planning Authority as a non-material amendment following an application in that regard:

- Site Plan 1:2500
- Design and Access Statement
- Drawing No. 74-2019-13PA
- Drawing No. 74-2019-11PB

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

- 3 No vehicle/s connected with the construction works to arrive on site before 07:30 or leave after 19:00. Working hours for construction are restricted to between 08:00 and 18:00 Mondays to Saturdays (finishing at 13:00 on Saturdays) with no construction working of any kind permitted on Sundays or any Public/Bank Holiday.

Reason - To protect the amenity of nearby residential properties.

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

Reason - To protect the amenity of nearby residential properties.

- 5 There should be no obstruction higher than 600mm above ground level within a 2.4 m wide parallel band visibility splay as measured from and along the nearside edge of the carriageway across the entire site frontage. Such vehicular visibility splays shall be provided before first occupation of the property and retained free of obstruction above 600mm at all times.

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

- 6 No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary.

Reason - To ensure that loose materials are not brought out onto the highway, in the interests of highway safety.

- 7 Prior to occupation of the hereby approved use the vehicular access shall be suitably and permanently altered as shown on Drawing No. 74-2019-13PA, incorporating the re-instatement to full height of the highway verge/footway/kerbing to the specifications of the Highway Authority.

Reason - To ensure the satisfactory alteration of the vehicular access, in the interests of highway safety.

- 8 The development shall not be occupied until such time as the car parking and turning area, indicated on the approved plans, has been hard surfaced. The car parking area shall be retained in this form at all times and shall not be used for any purpose other than the parking of vehicles related to the use of the development thereafter.

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

- 9 Prior to the occupation of the proposed dwelling, the existing private drive shall be constructed to a maximum width of 5.5 metres for at least the first 4.3 metres from the back of Carriageway / Footway / Highway Boundary.

Reason - To ensure that vehicles can enter and leave the highway in a controlled manner and to ensure that opposing vehicles can pass clear of the limits of the highway, in the interests of highway safety.

- 10 No development shall take place, including any ground works or works of demolition, until a Construction Method Statement (CMS) has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement 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 under body washing facilities

Reason - To minimise detriment to nearby residential and general amenity by controlling the construction process to achieve the approved development. This condition is required to be agreed prior to the commencement of any development as any construction process, including site preparation, by reason of the location and scale of development may result adverse harm on amenity.

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

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

- 12 Prior to occupation of the proposed development, the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack per dwelling, for sustainable transport, to have been previously approved in writing by the local planning authority (to include six one day travel vouchers for use with the relevant local public transport operator).

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

- 13 All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Preliminary Ecological Assessment (Liz Lord Ecology, July 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 local planning authority 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).

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

The CEMP (Biodiversity) shall include the following.

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

Reason - To avoid, minimise or mitigate any construction effects on the environment.

- 15 Prior to occupation of the development hereby approved 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) persons responsible for implementing the enhancement measures;
- e) 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).

- 16 Prior to occupation of the development hereby approved a lighting design scheme for biodiversity shall be submitted to and approved in writing by the local planning authority. The scheme shall identify those features on site that are particularly sensitive for bats and that are likely to cause disturbance along important routes used for foraging; and show how and where external lighting will be installed (through the provision of appropriate lighting contour plans, 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 local planning authority 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).

- 17 Notwithstanding any details submitted in the submitted application, prior to the commencement of development hereby approved, details shall be submitted of a scheme to protect the existing established and early mature Oak Tree located on the southern boundary of the site. The details shall include a scaled plan of the Root Protection Area and shall clearly illustrate the location and width of the proposed driveway, turning area and parking space together with a method of no dig construction and appropriate protective fencing. Upon receipt of acceptable details the Local Planning Authority shall provide written confirmation and the development may progress in accordance with the approved details.

Reason - To ensure that a maximum level of protection in order to safeguard the well being of the Oak Tree at the southern corner of the application site.

- 18 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

- 19 Prior to the commencement of above ground works, a scheme of landscaping, which shall include details of both hard and soft landscape works and earthworks, has been submitted to, and approved in writing by, the Local Planning Authority. The scheme as approved shall be carried out in the first planting season following the completion of the development. Any trees, shrubs or plants that die within a period of five years from the completion of each development phase, or are removed and/or become seriously damaged or diseased in that period, shall be replaced (and if necessary continue to be replaced) in the first available planting season with

others of similar size and species, unless the Local Planning Authority gives prior written permission for any variation.

Reason - To ensure satisfactory landscape treatment of the site which will enhance the character and appearance of the site and the area.

- 20 Prior to any above ground works, a scheme for the provision of electric vehicle charging facilities 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.

8.3 Informatives

Highways Informatives

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

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

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

Legal Agreement Informative - Recreational Impact Mitigation

This application is the subject of a legal agreement and this decision should only be read in conjunction with this agreement. The agreement addresses the following issues: mitigation against any recreational impact from residential developments in accordance with Regulation 63 of the Conservation of Habitat and Species Regulations 2017. Please note that any subsequent variation / removal of condition applications (s73 applications) will require a new legal agreement to secure this obligation unless the development has commenced (subject to all necessary condition discharges) and the contribution has already been paid.

9. Additional Considerations

Public Sector Equality Duty (PSED)

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

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

Human Rights

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

Finance Implications

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

10. Background Papers

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

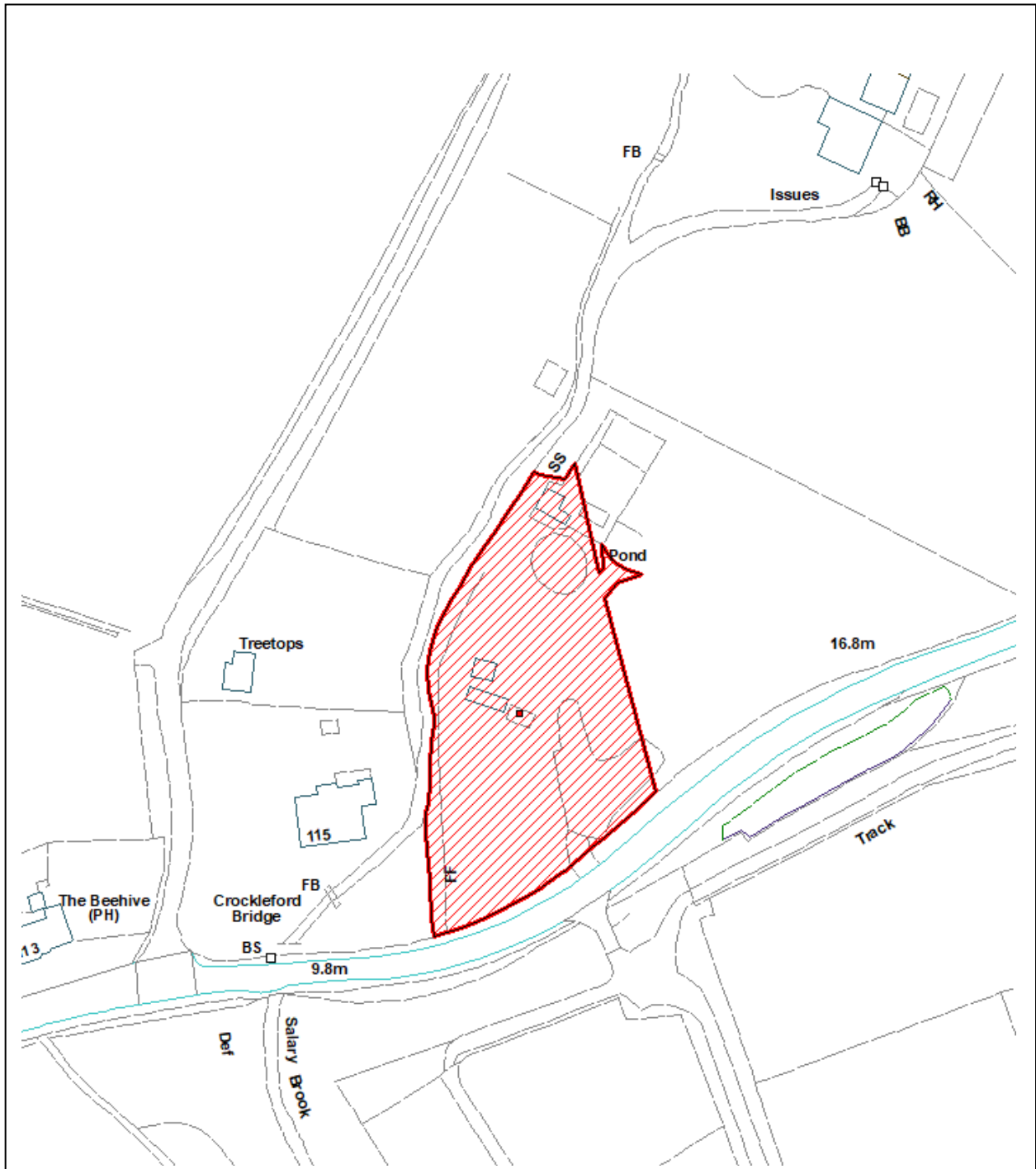
Council's Public Access system by following this link <https://idox.tendringdc.gov.uk/online-applications/>.

PLANNING COMMITTEE

Tuesday 20th December 2022

REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING

A.2 PLANNING APPLICATION – 22/00467/DETAIL – LAND NORTH OF BROMLEY ROAD ARDLEIGH COLCHESTER ESSEX CO4 3JG



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Application: 22/00467/DETAIL

Town / Parish: Ardleigh Parish Council

Applicant: Mr John Beton - Seven Developments Limited

Address: Land North of Bromley Road Ardleigh Colchester Essex CO4 3JG

Development: Reserved matters application for erection of 4 dwellings considering scale, layout, landscape and appearance pursuant to outline planning consent 21/01481/OUT.

1. Executive Summary

- 1.1 The application is brought to Committee at the request of the Planning Manager. The site is outside the Settlement Development Boundary of Ardleigh, within close proximity to the area designated for the new Tendring and Colchester Garden Community and therefore there is a high level of public interest in the site along with a number of objections made to the outline permission including the Parish Council, to warrant a Committee referral as the recommendation is of Approval.
- 1.2 The application relates to a parcel of land on the northern site of Bromley Road in the small rural settlement of Crockleford Heath. The site is closely connected to the settlement and district boundary of Colchester to the west. Adjacent to the site to the east is a development for 4 dwellings currently under construction which was granted under planning application reference 17/02190/OUT allowed on appeal (reference APP/P1560/W/18/3200898). To the south of the site lies another development currently under construction for 145 dwellings, planning reference 17/00859/OUT allowed on appeal (reference APP/P1560/W/17/3185776).
- 1.4 Outline planning permission for 4 detached dwellings considering access only, on the application site was approved on 4th February 2022 under application reference 21/01481/OUT.
- 1.5 This application seeks permission for the reserved matters of the above outline application in respect to scale, layout, landscape and appearance. Revised drawings were submitted during the course of the application along with an updated Ecology Assessment and a Flood Risk Assessment, and on balance the application is considered to be acceptable in terms of the design, scale, appearance and layout. The proposal is not considered to have a detrimental impact on neighbour amenity and there are no concerns raised in regard to parking and highway matters or flood risk.
- 1.6 Subject to conditions the proposal is consider to protect and enhance the biodiversity of the site, along with acceptable tree retention and tree planting, new hedgerow and a satisfactory soft landscaping scheme.

Recommendation: Approval

- 1) 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) The informative notes as may be deemed necessary.

**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.

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
SP8 Development & Delivery of a New Garden Community in North Essex

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

SPL1 Managing Growth
SPL2 Settlement Development Boundaries
SPL3 Sustainable Design
LP1 Housing Supply
LP3 Housing Density and Standards
LP4 Housing Layout
PPL1 Development and Flood Risk
PPL4 Biodiversity and Geodiversity
PPL5 Water Conservation, Drainage and Sewerage
PPL10 Renewable Energy Generation
CP1 Sustainable Transport and Accessibility
CP2 Improving the Transport Network

Supplementary Planning Guidance

- 2.4 Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy SPD 2020 (RAMS)
Essex County Council Development Management Policies 2011 (Highways SPD)
Essex County Council Parking Standards Design and Good Practice Guide 2009 (Parking SPD)

Neighbourhood Plan:

- 2.5 Draft Ardleigh Neighbourhood Plan – Ardleigh Parish Council is working on a Neighbourhood Plan (NP), it would appear that this NP is in its very early stages and only in draft form and is therefore only of very limited weight in the assessment of this application

Status of the Local Plan

- 2.6 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.
- 2.7 In relation to housing supply:
- 2.8 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’).
- 2.9 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

Adjacent site under construction

17/00056/OUT	Outline application for the erection of two detached dwellings and associated garaging and parking	Approved	08.03.2017
17/02190/OUT	Erection of four detached dwellings.	Refused (Allowed at Appeal)	07.03.2018
19/01101/DETAIL	Reserved matters application for erection of four detached dwellings.	Approved	10.12.2019
21/00498/DETAIL	Reserved matters application for erection of four detached dwellings, to amend the layout and landscaping from approved application 19/01101/DETAIL.	Approved	24.06.2021
21/00771/DISCON	Discharge of Conditions 4 (Details of Estate Roads) and 7 (Construction Method Statement) of approved Planning Permission ref: 21/00498/DETAIL.	Withdrawn	04.05.2022
21/01191/DISCON	Discharge of conditions 4 (Details of the Estate Roads and Footways) and 7 (Construction Method Statement) of approved application 21/00498/DETAIL.		08.04.2022

Application Site

21/01481/OUT	Proposed outline application with all matters reserved except access for 4 no. detached dwellings.	Approved	04.02.2022
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4. Consultations (Summarised)

Ardleigh Parish Council
03.05.2022

Ardleigh Parish Council objected to the original application and followed up with a complaint when it was approved. Concerned with the close proximity to Salary Brook which is an essential wildlife corridor. Dwellings should have as little impact as possible.

The proposed dwellings replicate the four dwellings already under construction, large detached properties. It would be preferred if the new

dwelling are redesigned to be smaller in scale and maximise green space along the edge of Salary Brook.

Tree & Landscape Officer
14.04.2022 1st Consultation

The main body of the application site is set to grass and contains several trees of a mixed age range. Some of these have a moderately positive impact on the character and appearance of the area.

In terms of the overall layout and impact of the development one of the key issues will be the retention of the vegetation on the boundary with the highway or its replacement with new planting if it were necessary for it to be removed in order to facilitate the implementation of the development.

In this regard the applicant does not appear to have submitted soft landscaping details to show what vegetation is to be retained, what is likely to need to be removed and where new planting will be carried out.

In order to secure a satisfactory amount of soft landscaping details of new planting and details of the retention and removal of existing trees and other vegetation should also be provided prior to the determination of the application.

Tree & Landscape Officer
01.06.2022
2nd consultation following
additional information

Additional information has been provided by the applicant in relation to the retention of existing trees and boundary hedgerow as well as proposed tree, shrub and hedge planting.

The soft landscaping information shows the retention and strengthening of the hedgerow on the boundary with the highway and new tree and shrub planting in the main body of the land.

The information and level of detail provided is sufficient to secure a satisfactory level of new planting associated with the development of the land

ECC Highways Dept
14.10.2022 following amended
plans

It is noted that the proposal has been amended to incorporate a passing place and turning head within the scheme, considering these factors, from a highway and transportation perspective the impact of the proposal is acceptable to Highway Authority subject to mitigation and conditions in regards to off street parking, visibility splays, vehicle turning area and passing place and boundary treatment.

Environment Agency
28.06.2022 1st Consultation

A holding objection is made on flood risk grounds as a Flood Risk Assessment (FRA) has not been submitted.

Maps show the application site lies within fluvial Flood Zone 3, defined by the 'Planning Practice Guidance: Flood Risk and Coastal Change' as having a high probability of flooding. Paragraph 163, footnote 50 of the NPPF requires applicants for planning permission to submit a site-specific FRA when development is proposed in such locations.

An FRA is vital if you are to make an informed planning decision. In the absence of an FRA, the flood risk resulting from the proposed development is unknown. The absence of an FRA is therefore sufficient reason in itself for a refusal of planning permission.

Environment Agency
03.10.2022 2nd Consultation

The new information shows the site boundary is within Flood Zone 3, but the development is located within Flood Zone 1. Which is covered by Local Flood Risk Standing advice. Therefore the holding objection is removed.

ECC SuDS Consultee
28.09.2022

It is considered that the development does not pose a significant flood risk and there is little opportunity to deliver new SuDS features.

Essex County Council Ecology
13.10.2022

No objection subject to securing biodiversity mitigation and enhancement measures

It is recommended that conditions requiring the submission for approval and implementation of details in regards to the ecological appraisal recommendations, construction environmental management plan for biodiversity, biodiversity enhancement strategy and a wildlife sensitive lighting design scheme are added to any consent.

Colchester Borough Council

No comments received

5. **Representations**

- 5.1 One letter of objection has 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.

Summary of Matters raised:

- Concerns raised regarding the number of households using the point of access/egress on Crockleford Hill close to the new 140+ houses of Hollytree Walk (currently under construction) and the possible impact on Highway safety with this increase in cars on this hill.

5.2 All relevant material planning considerations have been taken into account in the assessment section of this report above and with the addition of relevant conditions, the amended proposal is considered to be acceptable.

6. Assessment

The application has been submitted with the following supporting information:

- Topographical Survey - Drawing No: 6798 1103 Rev P1
- Phase 1 Desk Top Study of Soil Conditions and Flood Risk Assessment – NF Moore, Job No: 4685, dated July 2022
- Preliminary Ecological Appraisal – Skilled Ecology Consultancy Ltd, Dated January 2016 and updated September 2022.
- Surface Water Drainage Layout – Drawing No: 4665/D1 dated March 2022
- Surface Water Drainage Calculations – NF Moore, Job No: 4685, dated March 2022

Site Context

- 6.1 The application relates to a parcel of land on the northern site of Bromley Road in the small rural settlement of Crockleford Heath which is within the Parish of Ardleigh but outside of any defined settlement development boundary as outlined in the Tendring Local Plan. The site is within Flood Zone 1 but is bordered by Salary Brook to the west (Flood Zone 3), open farmland and countryside to the north.
- 6.2 The site is closely connected to the settlement and district boundary of Colchester to the west. Adjacent to the site to the east is a development for 4 dwellings currently under construction which was granted under planning application reference 17/02190/OUT allowed on appeal (reference APP/P1560/W/18/3200898). To the south of the site lies another development currently under construction for 145 dwellings, planning reference 17/00859/OUT allowed on appeal (reference APP/P1560/W/17/3185776).
- 6.3 Outline planning permission for 4 detached dwellings considering access only, on the application site was approved on 4th February 2022 under application reference 21/01481/OUT.

Proposal

- 6.4 This application follows a previously approved outline application (all matters reserved except for access) allowed under planning reference 21/01481/OUT for the development of the site for four detached dwellings. This application is for the agreement of the remaining reserved matters as requested by the approval of the outline application, which are specifically appearance, landscaping, layout and scale.

- 6.5 Following officer and statutory consultee concerns with the layout of the development as originally submitted, a revised scheme has now been received. The application is therefore considered on the basis of the amended plans and a full 21 days re-consultation was undertaken.
- 6.6 The development proposes four x 4 bed detached dwellings of the same design with parking and decking area along with associated amenity space.

Principle of Development

- 6.7 The application site is located outside of any defined settlement development boundary as set out within the Local Plan. However, the site is within close proximity to Colchester and a wide range of facilities and outline permission for four detached dwellings was granted in February 2022 (with this reserved matters application having been submitted within the requisite three year time limit). Therefore the principle of residential development on the site has already been established by the approval of outline planning application 21/01481/OUT for the construction of 4 detached dwellings, which remains extant.
- 6.8 The main considerations in this instance relate only to the outstanding reserved matters, namely appearance, layout, landscaping, scale, as well as any impacts to neighbouring amenities, flood risk and ecology enhancement measures.

Scale, Layout and Appearance

- 6.9 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). Paragraph 130 of the 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 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.
- 6.11 The submitted plans show the four dwellings are each to be detached, two storeys and served by four bedrooms. The properties each have an attached garage/car port with terrace area above. The proposed layout shows the continuation of the access road from Bromley Road, serving the adjacent four dwellings under construction. The road forms a mini cul-de-sac arrangement with turning head and the dwellings are located around the cul de sac. The dwellings are of the same design, which reflects the dwellings on the adjacent site and are of a more contemporary approach that includes a number of details, including balconies, chimneys and a good use of materials.

- 6.12 With regard to layout, the dwellings are of a similar density, size and scale to the dwelling on the adjacent site, however this site is narrower and longer and therefore does not afford so much open frontage space to Bromley Road. The amended plans have re-orientated the dwellings so that the maximum space is given to Bromley Road and to Salary Brook and this is now mainly bordered by the rear gardens of the dwellings.
- 6.13 In regards to Plots 3 and 4 which are the closest to the boundary with Bromley Road, it is considered that as the access to the site is further along Bromley Road, this boundary will be well screened with trees and hedging, somewhat mitigating the dominance of the dwellings in the streetscene when viewed from Bromley Road and that on balance this layout, scale and appearance is in the main considered to be acceptable.

Living Conditions of future Occupiers

- 6.14 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.
- 6.15 All new dwellings must therefore accord with the Technical housing standards. A four bedroom two storey dwelling requires a Gross Internal Floorspace (GIA) of between 97 and 124sqm. From the plans submitted the proposed dwellings exceed these requirements of the space standards. It is also considered that the internal layout is appropriate, with all habitable rooms having adequate natural light.
- 6.16 The amended layout submitted has the dwellings oriented around the new access road and provides the main amenity spaces to the side and rear of the new dwellings, therefore it is considered that the amenity space proposed to each dwelling would meet the needs and expectations of residents and is commensurate to the size of dwelling and the character of the area.
- 6.17 Overall the proposal is considered to secure a good standard of amenity and accommodation for future occupants of the proposed dwelling.

Impacts to Residential Amenity

- 6.18 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.
- 6.19 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.

- 6.20 The application site is located within a fairly rural location, with Salary Brook to the west, forming a natural border to the nearest property 115 Bromley Road. To the east are the four previously approved dwellings which are under construction.
- 6.21 There is adequate separation between Plot 4 and the nearest dwelling on the adjacent site, with rear gardens abutting each other. The main parking and terrace areas are located mainly to the front of the new dwellings, therefore minimising any loss of privacy and overlooking concerns. There is a minor concern raised regarding the relationship between plots 3 and 4 as the terrace area for Plot 4 is adjacent to the boundary with Plot 3 and could afford views into the rear amenity space of this dwelling. However on balance, the degree of separation between the dwellings provided by the turning head and the overall orientation of the dwellings and screening provided to the terrace areas, this is considered to be acceptable. As these are new dwellings it would be for any future occupiers to assess any impacts. There are no harmful impacts to any existing dwellings.
- 6.22 Therefore, it is not considered that this development would have any detrimental impacts on the residential amenities of the neighbouring occupiers in any regard.

Trees and Landscape Impacts

- 6.23 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 maintains or enhance important existing site features of landscape, ecological, heritage or amenity value. Outside defined settlement development boundaries, the Local Plan seeks to conserve and enhance the countryside for its own sake.
- 6.24 The application site boundary bordering Bromley Road is demarcated by an established hedgerow comprising of primarily Hawthorn and it is considered to provide a good level of screening. The Council's Tree and Landscaping Officer has advised that this should be retained or replaced with similar if it were deemed necessary for it to be removed as part of the development process.
- 6.25 The main body of the site contains a small group of early mature Alder, a Willow and one or two conifers. The western boundary of the site, adjacent to Salary Brook, is well populated with trees including Oak, Willow, Alder and Ash.
- 6.26 Additional landscaping details were submitted during the course of the application, but before the amend plans for the revised layout, therefore whilst the landscaping plans and specification submitted, are considered to be acceptable in regards to the retention of existing trees and boundary hedgerow as well as proposed tree, shrub and hedge planting and indicate the retention and strengthening of the hedgerow on the boundary with the highway and new tree and shrub planting in the main body of the land, they do not show the revised layout of the dwellings. The revised layout is not considered to materially alter the landscape proposal significantly with regard to the tree and hedgerow retention and additional planting. Therefore both hard and soft landscaping details for the amended layout can be secured by condition.

Highway and Parking Considerations

- 6.27 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.
- 6.28 Following concerns raised initially by the Highways Authority with regard to the length of the cul-de-sac, the orientation of the vehicular accesses and the depth of the space in front of the car ports, amended plans were received which provided the required minimum size 5 turning head (8m x 8m) and passing bay. The vehicle accesses were re-oriented to be at right angles to the carriageway and the space in front of each parking space was amended to at least 5m to ensure that parked vehicles do not overhang the carriageway.
- 6.29 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 dwellings are provided with a minimum of 2 parking spaces, which are policy compliant.
- 6.30 Subject to the use of conditions, the proposal would accord with Policies SPL3 and CP1 and the Highways and Parking SPDs. Furthermore following the amended plans the Highway Authority have no objections to the proposal. The proposal is not therefore considered to result in any unacceptable harm to highway safety.

Flood Risk and SuDS and Drainage

- 6.31 Paragraph 167 of the Framework is clear that when determining any planning applications Local Planning Authorities should ensure that flood risk is not increased elsewhere. Policy LP4 states that the design and layout of new residential development will be expected to consider surface water management from the outset of the site layout and master planning and that all surface water should be managed by means of SuDS. Criterion g) of Part B of Policy SPL3 states that opportunities should be taken to incorporate sustainable drainage within development, creating amenity and biodiversity.
- 6.32 The site is located within Flood Zone 1, however the Environment Agency Flood Map for Planning indicates that the area around Salary Brook, which is adjacent to the site, is within Flood Zone 2 and 3 and also has a medium to high risk of surface water flooding. Following the submission of a Flood Risk Assessment the Environment Agency have removed their holding objection and have raised no further issues as the built form of the dwellings is sited within Flood Zone 1.
- 6.33 The surface water calculations and details have been submitted and the Lead Local Flood Authority (ECC SuDs) have no objections to the development based on the information submitted, stating that the development does not pose a significant flood risk and there is little opportunity to deliver new SuDS features.

Ecology and Biodiversity Implications

- 6.34 Paragraph 174 of the Framework requires that planning decision should contribute to and enhance the natural and local environment, by minimising impacts on and providing net gains for biodiversity. Paragraph 180 d) states that opportunities to improve biodiversity in and around developments should be integrated as part of their design.
- 6.35 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. 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. Policy SPL3, Part A criterion d), requires that the design and layout of development maintains or enhances site features, including ecological value.
- 6.36 An updated Preliminary Ecological Appraisal (PEA) (Skilled Ecology, September 2022) has been submitted with the application in regards to the likely impacts of development on designated sites, protected species and Priority species & habitats and the identification of appropriate mitigation measures.
- 6.37 ECC Ecology have been consulted on the application are they are satisfied that there is sufficient ecological information available for determination of this application, which 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.
- 6.38 The mitigation measures identified in the submitted PEA can be secured by a condition to any consent and must be implemented in full. This will ensure that the necessary measures are implemented in order to conserve and enhance protected and Priority species in particular Great Crested Newts, bats, eels, reptiles, nesting birds, and hedgehogs.
- 6.39 To further mitigate any potential impacts to the adjacent Salary Brook and other retained habitat on and adjacent to the site, especially through dust and pollution events, a Construction Environmental Management Plan for Biodiversity (CEMP: Biodiversity) is required and can be secured by condition of any consent.
- 6.40 The PEA recommends the following biodiversity enhancements of 4 bat boxes, 2 sparrow terraces, 2 swift bricks, 4 bee brick and native species hedgerow planting and this would secure net gains for biodiversity, as outlined under Paragraph 174d of the National Planning Policy Framework (2021). The full details of the biodiversity enhancement measures should be submitted within a Biodiversity Enhancement Strategy and this can also be secured by a condition.
- 6.41 The PEA states that it is likely bats could be foraging/commuting within and around the site. Therefore, if any external lighting is to be proposed, it is recommended that a sensitive lighting scheme is developed to minimise any impacts and can also be secured by condition.
- 6.42 Therefore with appropriate mitigation measures secured, by way of conditions added to any consent, the development can be made acceptable.

Requirements of Outline Consent Conditions

- 6.43 As set out within the decision notice of the Outline permission (21/01481/OUT) the development was approved subject to the following conditions (officer comments in italics).
- 6.44 Conditions 1 to 3 are Standard reserved matters time limit and submission conditions which are considered to be complied with.
Condition 4 gives details of the amended plans in regards to the Outline permission.
Condition 5 and 6 have regard to the access and private drive.
Condition 7 requires the submission of a Construction Management Plan to be submitted before the development commences. This is still to be discharged.

7. Conclusion

- 7.1 In the absence of any material harm or policy conflict resulting from the reserved matters submission under consideration, the application is on balance recommended for approval subject to conditions.

8. Recommendation

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

8.2 Conditions and Reasons

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

6798/1101 Rev P1 – Site Location Plan

6798/1201 Rev P1 – Proposed Floor Plans

6798/1301 Rev P1 – Proposed Elevation Plans

6798/1104 Rev P4 – Proposed Block Plan

Phase 1 Desk Top Study of Soil Conditions and Flood Risk Assessment – NF

Moore, Job No: 4685, dated July 2022

Preliminary Ecological Appraisal – Skilled Ecology Consultancy Ltd, Dated January 2016 and updated September 2022.

Surface Water Drainage Layout – Drawing No: 4665/D1 dated March 2022

Surface Water Drainage Calculations – NF Moore, Job No: 4685, dated March 2022

Reason: In the interests of proper planning and for the avoidance of doubt.

2. 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 statements of nesting bird and small mammals.
- 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 the commencement of any works above slab level, a Biodiversity Enhancement Strategy for protected and Priority species shall be submitted to and approved in writing by the Local Planning Authority.

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

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

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

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

4. All biodiversity mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Update Preliminary Ecological Appraisal (Skilled Ecology, September 2022). This may include the appointment of an appropriately competent person e.g. an ecological clerk of works (ECoW) to provide on-site ecological expertise during construction. The appointed person shall undertake all activities, and works shall be carried out, in accordance with the approved details.

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

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

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

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

6. Prior to the first occupation of the development hereby approved, the internal layout and off-street parking shall be provided in principle and accord with drawing number:
 - 6798/1104 P4 Proposed block plan

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

7. Prior to the first occupation of the development hereby approved a 1.5 metre x 1.5 metre pedestrian visibility splay, shall be provided on both sides of each vehicular access. Such visibility splays shall be retained free of any obstruction in perpetuity. These visibility splays must not form part of the vehicular surface of the access.

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

8. As indicated on drawing no. 6798/1104 P4 and prior to the first occupation of the development hereby permitted, the size 5 vehicular turning facility, shall be constructed, surfaced, and maintained free from obstruction within the site at all times for that sole purpose.

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

9. Prior to the first occupation of the development hereby approved, the vehicle parking, passing place and turning area indicated on the approved plans, has been hard surfaced and sealed. The vehicle parking area, passing place, 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 dwelling.

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.

10. 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 and biodiversity of the area.

11. 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.

8.3 Informatives

Application Approved Following Revisions

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

Highways

All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works. The applicants should be advised to contact the Development Management Team by email at development.management@essexhighways.org

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

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

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/>.

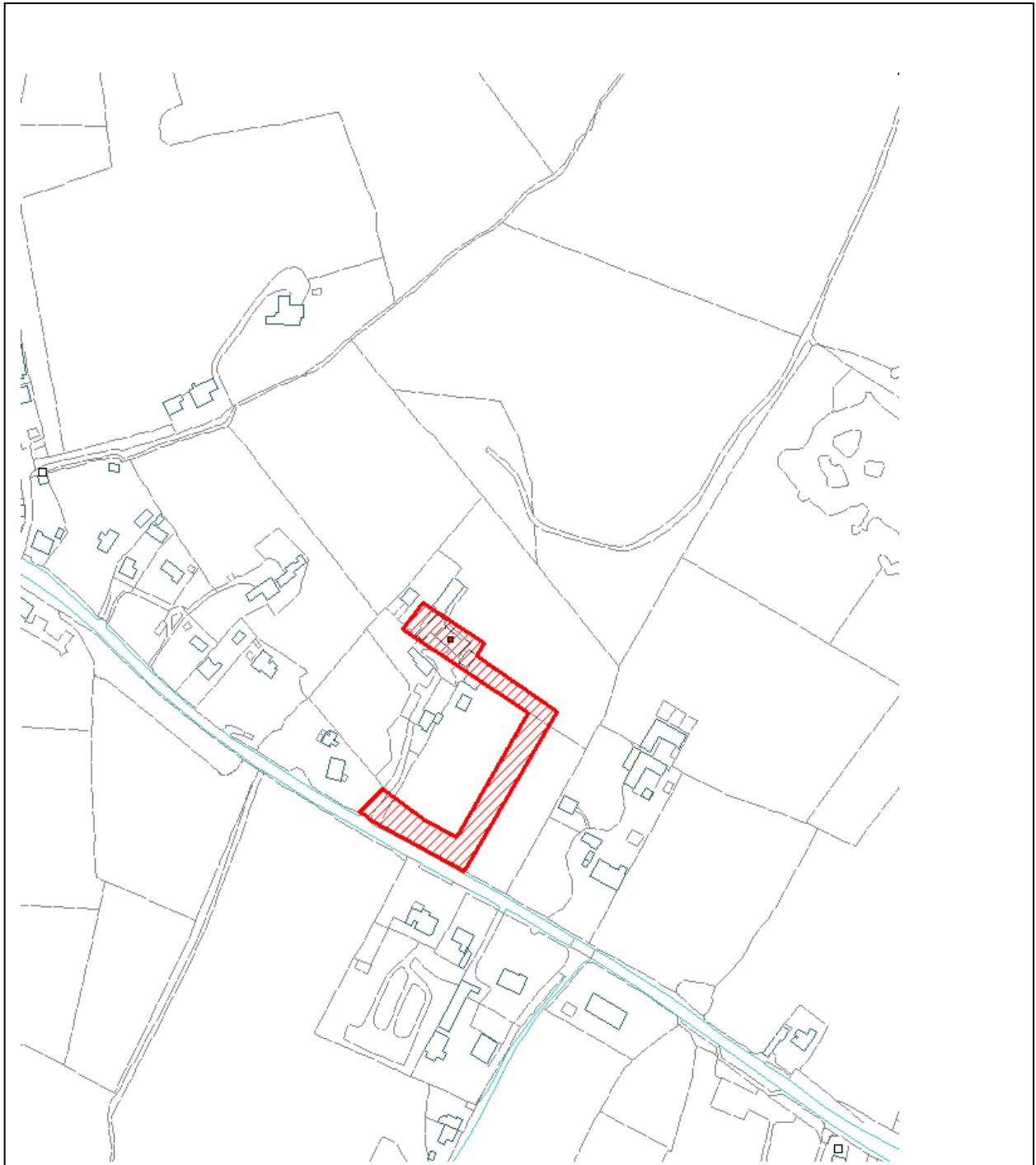
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PLANNING COMMITTEE

20TH DECEMBER 2022

REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING

A.3 PLANNING APPLICATION – 22/00688/FUL – FARM LAND TO NORTH OF GLENDENNING TENPENNY HILL THORRINGTON COLCHESTER



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Application: 22/00688/FUL

Town / Parish: Thorrington Parish Council

Applicant: Mr and Mrs Millard

Address: Farm Land to North of Glendenning Tenpenny Hill Thorrington Colchester
CO7 8JB

Development: Demolition of barn and extensive stables and replacement with a three bed bungalow (in lieu of deemed Prior Approval for conversion of a barn in to a dwelling subject of application 21/02133/COUNOT).

1. Executive Summary

- 1.1 The application is put before 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) being located outside of any settlement development boundary, and is recommended for approval.
- 1.2 The proposed dwelling is broadly similar in height, overall scale and footprint compared to the development approved under prior approval application 21/02133/COUNOT.
- 1.3 In the absence of any material harm resulting from the development in regards to its individual appearance, its impact on the wider streetscene, its impact on the character of the rural landscape, its impact on neighbours in regards to amenity and the parking provision, the application is recommend for approval.

Recommendation: Full Approval

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

**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

*Statutory guidance -Technical housing standards: nationally described space standard
Published 27 March 2015*

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
- LP1 Housing Supply
- LP4 Housing Layout
- PPL4 Biodiversity and Geodiversity
- PPL5 Water Conservation, Drainage and Sewerage
- CP1 Sustainable Transport and Accessibility
- DI1 Infrastructure Delivery and Impact Mitigation

Supplementary Planning Documents

Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy SPD 2020 (RAMS)

Local Planning Guidance

Essex Design Guide

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.

2.3 In relation to housing supply:

- 2.4 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’).
- 2.5 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

21/02133/COUNOT	Proposed conversion of an agricultural storage building into a dwelling.	Determination Approved	07.02.2022
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4. Consultations

ECC Highways Dept 13.07.2022	Refer to consultation response for 21/02133/COUNOT but please add the following conditions:-
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- Each vehicular parking space shall have minimum dimensions of 2.9 metres x 5.5 metres.

Reason: To ensure adequate space for parking off the highway is provided in the interest of highway safety.
- The Cycle parking shall be provided in accordance with the EPOA Parking Standards. The approved facility shall be secure, convenient, covered and provided prior to first occupation and retained at all times.

Reason: To ensure appropriate cycle parking is provided in the interest of highway safety and amenity.
- Areas within the curtilage of the site for the purpose of the reception and storage of building materials shall be identified clear of the highway.

Reason: To ensure that appropriate loading / unloading facilities are available to ensure that the

highway is not obstructed during the construction period in the interest of highway safety.

Environmental Protection
18.05.2022

There are no indications of contamination from our potential contaminated land database register but due to previous use (agricultural activities) of the site there might be some contamination.

Prior to the commencement of the proposed conversion, the applicant is advised to undertake a suitable and sufficient site investigation and any necessary risk assessment to ensure the land is free from significant levels of contamination. Therefore standard contaminated land condition is to be applied.

UU Open Spaces
15.06.2022

Response from Public Realm Open Space & Play

Current Position:-

There is currently a deficit of 0.4 hectares of formal open space in Thorrington.

Recommendation:-

It is felt that there will be no significant impact on the current open space and play facilities, just by this single dwelling, should any further development occur a contribution will become necessary.

5. **Representations**

5.1 No comments have been received in response to the publicity of the application.

6. **Assessment**

6.1 The main considerations in this instance are:

- Site Context;
- Material Considerations;
- Principle of Development;
- Development Proposal;
- Scale, Layout and Appearance;
- Highway Safety, Access and Parking;
- Landscaping;
- Water Conservation, Drainage and Sewerage;
- Residential Amenities;
- Financial Contribution - Recreational Disturbance;
- Financial Contribution - Open Space and Play Space; and,

Site Context

6.2 The locale is verdant with sporadic housing on both the north and south sides of Tenpenny Hill; the focus for dwellings is however on the northern side of the road and tends to typically comprise single and chalet bungalows.

- 6.3 The first 18m or so of the driveway access/crossover from Tenpenny Hill is within the control of the applicant but used by the owners of Glendenning. Access to the farm buildings is obtained through a gated entrance around 9m back from Tenpenny Hill, via a track which leads around the south-east perimeter of land now owned in connection with the original farm house.
- 6.4 The site comprises a vast array of farm buildings which were associated historically with the main farmstead of Glendenning. They are located at the end of the driveway serving the existing dwelling, some 120m north from the main road. When the site was sold, the collection of buildings which remained on the site from the previous farming-activity were disassociated from the dwelling. The majority of the stables have now collapsed or are unsafe for use, although the principal barn still remains and is used for the storage of farm equipment and feed stuffs.

Material Considerations

- 6.5 Planning law requires that decisions on applications must be taken in accordance with the development plan unless there are material considerations that indicate otherwise. Material considerations are matters or issues which may be relevant to the decision. Principles of Case Law held through the Courts hold significant weight as a material consideration.
- 6.6 In this particular regard the Mansell v Tonbridge and Malling Borough Council 2017 judgement requires the Council to consider the 'fallback position' i.e. what development alternatives we are bound to consider relevant. It is for the decision-maker to make a comparison between the development already approved versus the development proposed. How to interpret the weight attributed to the fallback position is established in caselaw in the R v Secretary of State for the Environment and Havering BC (1998) EnvLR189 judgement.

Fallback Position

In paragraph 22 of the Mansell v Tonbridge judgement, it is stated that "It was not a precondition to the council's consideration of the fallback option that the interested party had made an application indicating an intention to take advantage of Class Q. There was no requirement that there be a formulated proposal to that effect." In direct comparison to the application under consideration, there *is* a formulated Class Q application. For this reason Officers are considered to have properly identified that there is a real prospect of a fallback development being carried out if planning permission were refused.

Attributing Weight to the Fallback Position

The three tests which are necessary to apply are as follows:-

- 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

The lawful ability to carry out the conversion of the existing building to a dwelling exists through the approval of prior approval application 21/02133/COUNOT (this approval is dated 7th February 2022). The Council have no evidence before them to refute that there is a likelihood or real prospect of such occurring. The siting of the proposed dwelling is not materially different, the heights are comparable (4.5m versus 6.5m) and the proposed footprint is a nominal 10sqm greater than the existing approval. With the current application also proposing the demolition of all 600m² of the remaining buildings, these circumstances amount to a sufficient case of there being a fallback position.

Principle of Development

- 6.7 The current application seeks to demolish the agricultural building subject of 21/02133/COUNOT in addition to the vast array of dilapidated stabling. This scheme is the 'fall back' scheme and for this reason the principle of the development for one dwelling has been established and remains extant.

Development Proposal

- 6.8 The application seeks full planning permission for a dwelling in lieu of the prior approval issued for conversion of an agricultural building into a dwelling. Appropriate measures would be put in place which would prevent both schemes from being implemented (see Condition 7).
- 6.9 The existing building comprises the main barn and an extension. Both are single storey and constructed with a timber frame and clad in timber weatherboarding with a corrugated cement fibre sheet roof; they have a floor area in the region of 93m².
- 6.10 The dwelling's footprint would be of a simple rectangular form measuring 13m x 9m. The roof would be gabled-ended with eaves in the region of 2.6m and it would have a ridge of approximately 6.6m. The amenity area is proposed to the west and two off-street parking spaces to the east are provided. Access to the dwelling would be from Tenpenny Hill, following around the right-hand perimeter of the paddock area.
- 6.11 Whilst the footprint of the proposed dwelling would be around 11sqm greater than the extant permission, the application includes a commitment to demolish all of the existing buildings on the site. These buildings extend to approximately 600m² in addition to the existing barn and their removal will result in a minor betterment and will be controlled by way of a planning condition (Condition 8).

Scale, Layout and Appearance

- 6.12 Section 1 Policy SP7 of the 2013-33 Local Plan seeks high standards of urban and architectural design which responds positively to local character and context. Section 2 Policy SPL3 of the 2013-33 Local Plan also requires, amongst other things, that the development respects or enhances local landscape character, views, skylines, landmarks, existing street patterns, open spaces and other locally important features. Section 2 Policy LP4 requires that the design and layout of new residential and mixed-use developments in the Tendring District will be expected to deliver new dwellings that are designed to high standards of architecture, which respect local character and which together with a well-considered site layout, create a unique sense of place. Paragraph 130 of the Framework 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.
- 6.13 The proposed dwelling has parameters which closely match those of The Oaks which is around 140m away and would therefore correlate well with the broad range of scale of built form in the locale.
- 6.14 There is no locally-established palette of materials and dwellings/buildings are constructed in a range of finishes which include horizontal timber cladding, self-coloured render and render/brick combinations.
- 6.15 The dwelling would be of simple rectangular form with a semi-rustic external appearance. The external appearance of the replacement building will have a simple profile, clad in horizontal black weatherboarding, a brick plinth and with a red plain tiled roof. The walls would reflect the same material as agreed through the prior approval; the only change to external materials would

be the roof having a red plain tile rather than profile sheeting, which is considered a visual enhancement.

Highway Safety/Parking

- 6.16 Paragraph 111 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety. Paragraph 112 states that applications for development should (a) give priority first to pedestrian and cycle movements and (c) create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles, avoid unnecessary street clutter. Paragraph 130 of the NPPF seeks to ensure that safe and suitable access to a development site can be achieved for all users. These objectives are supported adopted Policy SP7 of the Tendring District Local Plan 2013-2033.
- 6.17 In terms of access, the scheme follows the same arrangement as shown on the approved scheme although now provided with a consolidated surface. This access is taken from the existing entrance onto Tenpenny Hill which is provided with a bound surface treatment.
- 6.18 The Highway Authority comments that the site is located in the countryside; they do not consider that the use of the building as a dwelling would give rise to a significant increase in vehicle movements to and from the site or result in a material change in the character of the traffic in the vicinity of the site.
- 6.19 The Highway Authority have requested a condition pertaining to the reception and storage of building materials being identified clear of the highway; however this information is included in the Construction Management Plan and a separate condition to control this is not therefore deemed necessary.

Landscaping/Biodiversity

- 6.20 Section 2 Policy PPL3 of the Tendring District Local Plan 2013-2033 states that, in order to promote sustainable development, in considering where to select sites for new development in this Local Plan, the Council has taken particular care to assess the value of the landscape and, where practical, allocate sites with the lowest sensitivity, thereby helping to protect valued landscapes and the best and most versatile agricultural land. The Landscape Character Assessment (2001) identified 30 areas with different landscape characteristics and highlighted key sensitivities which need to be considered when assessing development proposals in the rural area. Proposals within the rural landscape should have regard to the Landscape Character Assessment (and any subsequent updates) and protect and re-inforce historic landscape features and important characteristics identified within it.
- 6.21 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 to estuaries, rivers and undeveloped coast.
- 6.22 The site is within one of the thirty such areas defined in The Landscape Character Assessment, being Alresford Valley System. The Alresford Valley System forms part of the Colne catchment. It is a series of distinct river valleys and is steep sided in places. The south-facing slopes below Thorrington are much less steep and unusual in that they support an area of large scale arable land. The Alresford valleys are sensitive to changes that would affect their rural character. However, their 'hidden' position and high tree cover provides some shelter and reduces visual sensitivity. The location of the development does not encroach any further in to the countryside than the existing expanse of built form; the commitment to demolish this widespread cluster of buildings is also considered to amount to a minor improvement to the rural character of the area.

6.23 The access crosses agricultural land that is currently set to pasture. Consideration has to be given to the fact that 21/02133/COUNOT has been approved for the vehicular access in the same location, similarly agricultural permitted development rights would permit the laying of such a hardstanding also and, finally, the south-west boundary of the pasture (fronting Tenpenny Hill) comprises a dense and established tree-line. For these reasons, on balance, the visual impact of the access drive is not considered sufficient grounds for objection.

Water Conservation, Drainage and Sewerage

6.24 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. 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. Paragraph: 020 of the National Planning Policy Guidance states that where a connection to a public sewage treatment plant is not feasible a package sewage treatment plant can be considered. The package sewage treatment plant must comply with the Small sewage discharges in England: general binding rules 2015 (GBR), or a permit will be required. Package sewage treatment plants may only be considered if it can be clearly demonstrated by the applicant that discharging into a public sewer is not feasible (taking into account cost and/or practicability and whether the package treatment plant poses a risk to a designated site) in accordance with Approved Document H of the Building Regulations 2010. A completed Foul Drainage Assessment Form 1 (FDA1) form, or equivalent information, should accompany all planning applications where use of a non-mains system is proposed for foul drainage. The operation of small sewage discharges such as those from septic tanks or package treatment plants is regulated under the Environmental Permitting Regulations 2016 (EPR).

6.25 Policy PPL5 (Water Conservation, Drainage and Sewerage) of the Adopted Local Plan states private sewage treatment facilities will not be permitted if there is an accessible public foul sewer. Where private sewage treatment facilities are the only practical option for sewage disposal, they will only be permitted where there would be no harm to the environment, having regard to preventing pollution of groundwater and any watercourses and odour.

6.26 In relation to non-mains drainage from non-major development the Environment Agency's advice is that to comply with the Framework and PPG on foul drainage matters, an LPA needs to be satisfied that foul drainage can be provided without adverse impact on the environment. This requires ensuring that both those environmental risks outside of the control of the permit and the relevant considerations in the PPG are addressed. The LPA should also be mindful that the developer will need to address foul drainage matters to get their environmental permit and meet building control regulations. Therefore, they should be confident that it is likely that any necessary permits and approvals can be successfully obtained.

6.27 Question 11 of the application form states that it is not intended to connect to a mains sewer. Instead, foul sewage will be disposed of by way of a package treatment plant. Details of the proposed treatment plant have subsequently been received which shows that the system to be installed is a Kingspan Klargester, BioDisc Commercial sewage treatment plant.

6.28 Having regard to non-mains drainage, the site is not close to any dwelling and in an area where it is unlikely that mains drainage exists for any of the properties, the site is not close to any designated site of importance to biodiversity, is not located within a Drinking Water Safeguard Zone or a Source Protection Zone, and the site is sufficiently large enough to accommodate a soakaway. Furthermore, there is no evidence ground conditions would preclude such a solution. Access for maintenance would be achievable from the existing car park. Taking all these factors into account, the use of the package treatment plant is considered to be the only feasible option available.

Residential Amenities

- 6.29 The NPPF, at paragraph 130 states that development 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. Section 1 Policy SP7 of the Tendring District Local Plan 2013-2033 requires that all new development protects the amenity of existing and future residents and users with regard to noise, vibration, smell, loss of light, overbearing and overlooking. Section 2 Policy LP4 requires that new residential developments will be expected to provide for private amenity space of a size and configuration that meets the needs and expectations of residents and which is commensurate to the size of dwelling and the character of the area.

Space Standards:-

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 standard.

No. of Bedrooms	No. of Bed Spaces	Storeys	Min Requirement	Actual Floorspace	Compliance
3	4	1	74sqm	93sqm	yes

- 6.30 Separation distances in excess of 50m would result from the development therefore no material harm to the amenity of the occupiers of the closest dwelling would ensue. The proposed dwelling exceeds the minimum internal space standards for a three-bedroom, four person single storey occupancy by some quite considerable amount. It is observed that whilst the amenity space is much smaller than those of properties in the immediate locale, at around 137sqm it is comparative to one dwelling (at 171sqm) within 180 linear metres and represents a usable area.
- 6.31 Overall the proposal is considered to secure a good standard of amenity for future occupants of the proposed dwelling.

Recreational Disturbance Avoidance and Mitigation Strategy (RAMS)

- 6.32 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.
- 6.33 The application scheme proposes a new dwelling on a site that lies within the Zone of Influence (Zol) being approximately 1,520 metres from Colne Estuary (Mid-Essex Coast Phase 2), SAC, SPA and Ramsar. However, new housing development within the Zol would be likely to increase the number of recreational visitors to the 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.
- 6.34 A unilateral undertaking has been prepared to secure this legal obligation. This will ensure that the development would not adversely affect the integrity of European Designated Sites in accordance with Section 1 Policy SP2 and Section 2 Policy PPL4 of the Tendring District Local Plan 2013-2033 and Regulation 63 of the Conservation of Habitat and Species Regulations 2017.

Public Open Space

- 6.35 Paragraph 56 of the National Planning Policy Framework (2021) states Local Planning Authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Paragraph 57 of the NPPF states planning obligations must only be sought where they are necessary to make the development acceptable in planning terms, directly relate to the development and fairly and reasonably relate in scale and kind to the development.
- 6.36 Policy DI1 states that all new development should be supported by, and have good access to, all necessary infrastructure. Permission will only be granted if it can be demonstrated that there is sufficient appropriate infrastructure capacity to support the development or that such capacity will be delivered by the proposal. It must further be demonstrated that such capacity, as is required, will prove sustainable over time both in physical and financial terms. Where a development proposal requires additional infrastructure capacity to be deemed acceptable, mitigation measures must be agreed with the Local Planning Authority and the appropriate infrastructure provider. Such measures may include financial contributions towards Open Space.
- 6.37 The Council's Open Space Team have been consulted on the application to determine if the proposal would generate the requirement for a financial contribution toward public open or play space. The outcome of the consultation is that no contribution is being requested from Open Spaces on this occasion.

7. Conclusion

- 7.1 Whilst the location of the development is not supported by Local Plan policy - with regard to the scale, siting and form of development proposed, the similarities to the prior approval application 21/02133/COUNOT are deemed to hold significant weight as the fallback position. The proposal will have a neutral impact on the character of the landscape in comparison to the fallback scheme, and does not amount to sufficient visual harm, harm to residential amenities nor harm to highway safety that would warrant refusal of planning permission. The application is therefore recommended for approval.

8. Recommendation

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

8.2 Conditions and Reasons

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

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

- 2 The development hereby permitted shall be carried out in accordance with the following approved plan:- GDTP-02 A (received 11 May 2022)

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

- 3 Each vehicular parking space shall have minimum dimensions of 2.9 metres x 5.5 metres.

Reason - To ensure adequate space for parking off the highway is provided in the interest of highway safety.

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

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

- 5 Prior to occupation of the hereby approved development, the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack per dwelling, for sustainable transport.

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

- 6 In the event that contamination is found which was not previously identified, all works shall cease on site and it shall be reported in writing immediately to the Local Planning Authority. No further works of development shall be carried out until an investigation and risk assessment shall have been undertaken and, where remediation is necessary, a new Remediation Scheme shall be prepared and submitted to and approved in writing by the Local Planning Authority. Following completion of all necessary measures identified in such Remediation Scheme as may be approved, a verification report shall be submitted to and approved in writing by the Local Planning Authority. In such circumstances, no further works of development shall be carried out to that part of the site until such time as the requirements of this condition have been satisfied.

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

- 7 No building and/or engineering operations authorised by this permission shall be commenced until the agricultural buildings (subject of 21/02133/COUNOT and shown as being demolished on drawing GDTP-02 A received 11 May 2022) on the site have been 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 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.

- 8 Prior to the occupation of the dwelling hereby approved, the remainder of all buildings shown hatched on unnumbered plan, received 19th July 2022 shall be 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.

- 9 Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order amending, revoking and re-enacting that Order) no enlargement of the dwelling-house or provision of any building within the curtilage of the dwelling-house / alteration of the dwelling-house, as permitted by Class A or Class E of Part 1 of Schedule 2 of that Order shall be carried out without first obtaining planning permission from the local planning authority.

Reason - To ensure the development does not prejudice the appearance of the locality and to protect the appearance of the rural area. The dwelling given permission is due to the material consideration of a Prior Approval Class Q being available that would otherwise be unsustainable and not supported development if larger than that prior approval provision being available.

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.

Environmental Protection:-

In order to minimise potential nuisance to nearby existing residents caused by demolition/construction works, Environmental Protection ask that the following be adhered to:-

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.

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

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

All reasonable steps, including damping down site roads, shall be taken to minimise dust and litter emissions from the site whilst works of construction and demolition are in progress.

Adequate and suitable measures should be carried out for the minimisation of asbestos fibres during demolition, so as to prevent airborne fibres from affecting workers carrying out the work, and nearby properties. Only contractors licensed by the Health and Safety Executive should be employed. Any redundant materials removed from the site should be transported by a registered waste carrier and disposed of at an appropriate legal tipping site.

Legal Agreement Informative - Recreational Impact Mitigation:-

This application is the subject of a legal agreement and this decision should only be read in conjunction with this agreement. The agreement addresses the following issues: mitigation against any recreational impact from residential developments in accordance with Regulation 63 of the Conservation of Habitat and Species Regulations 2017. Please note that any subsequent variation / removal of condition applications (s73 applications) will require a new legal agreement to secure this obligation unless the development has commenced (subject to all necessary condition discharges) and the contribution has already been paid.

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:
- A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
 - 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
 - C. Foster good relations between people who share a protected characteristic and those who do not, including tackling prejudice and promoting understanding.
- 9.2 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.
- 9.3 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.
- 9.4 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

- 9.5 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.
- 9.6 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).
- 9.7 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.

10. Finance Implications

- 10.1 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.
- 10.2 The New Homes Bonus (NHB) is one local finance consideration capable of being a material consideration to which the weight given shall be determined by the decision maker. The NHB is a payment to local authorities to match the Council Tax of net new dwellings built, paid by Central Government over six consecutive years. In this instance, it is not considered to have any significant weight attached to it that would outweigh the other considerations.

11. Background Papers

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

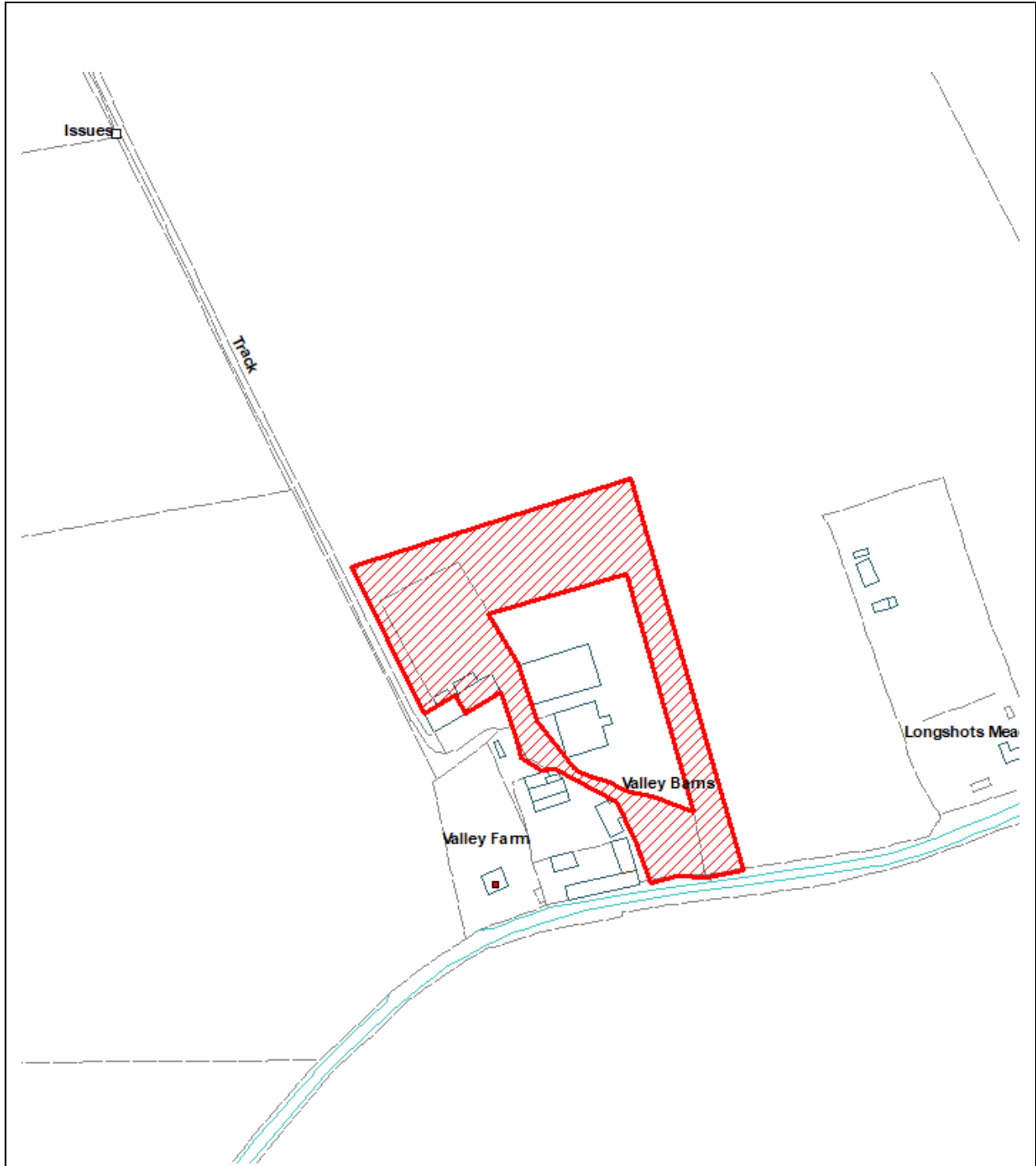
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PLANNING COMMITTEE

20 December 2022

REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING

A.4 PLANNING APPLICATION – 22/00854/FUL – VALLEY FARM GOLDEN LANE THORPE LE SOKEN CLACTON ON SEA ESSEX



DO NOT SCALE

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Application: 22/00854/FUL

Town / Parish: Thorpe Le Soken Parish Council

Applicant: Mr Alistair Emery - Strutt and Parker (Farms) Ltd

Address: Valley Farm Golden Lane Thorpe Le Soken Clacton On Sea Essex CO16 0LE

Development: Proposed retrospective change of use of former agricultural building and associated hardstanding to commercial bus depot (Sui Generis).

1. **Executive Summary**

- 1.1 The application is before Members at the request of the Planning Manager.
- 1.2 The application relates to one-half of a former agricultural building and areas of hardstanding to the rear of the site at Valley Farm, Golden Lane, Thorpe-le-Soken. The site under consideration benefits from planning permission under 17/00778/COUNOT for B8 use.
- 1.3 The application seeks retrospective planning permission for the change of use to a bus depot (sui generis) with associated workshop and hardstanding. The site has been occupied and operating as Tendring Travel since August 2017. The application also proposes new hedgerow and tree planting on top of the existing bunding along the north and east boundaries, in combination with the existing hedgerow along the western boundary.
- 1.4 Access is achieved via a 7m wide private entry and exit off Golden Lane to the south of the site. The site is predominantly used for the storage of vehicles when they are not in use but also provides a workshop for maintenance and repairs to be carried out on site. Vehicles are parked on an area of hardstanding to the rear (north) of the building, whilst the workshop is housed within the building itself.
- 1.5 This application follows a previous refusal in 2017 under planning application reference 17/02146/FUL. The application was refused due to the detrimental impact upon the rural character of the area and highway safety. The applicant did not appeal the Council's decision.
- 1.6 This current application seeks to address the previous reasons for refusal by the inclusion of a Landscape and Visual Appraisal which has informed a proposed landscaping scheme for the site and the preparation of a Transport Statement which addresses and responds to all the requirements outlined by the Highways Officer.
- 1.7 The additional information and proposed mitigation scheme is considered to address the previous reasons for refusal and officers have considered the up to date development plan position. No objections have been received from consultees in regard to landscape impact or highway safety. The application is recommended for approval subject to conditions securing the necessary mitigation and enhancement measures.

Recommendation: Full Approval

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

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

2. Planning Policy

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

National:

National Planning Policy Framework July 2021
National Planning Practice Guidance

Local:

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

SP1 Presumption in Favour of Sustainable Development
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
PP13 The Rural Economy
PPL1 Development and Flood Risk
PPL3 The Rural Landscape
PPL4 Biodiversity and Geodiversity
PPL5 Water Conservation, Drainage and Sewerage
PPL10 Renewable Energy Generation and Energy Efficiency Measures
CP1 Sustainable Transport and Accessibility
CP2 Improving the Transport Network
DI1 Infrastructure Delivery and Impact Mitigation

Supplementary Planning Documents

Tendring District Council Landscape Character Assessment

Status of the Local Plan

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

3. Relevant Site-specific Planning History

17/00778/COUNOT	Change of use of the straw barn from agricultural to B8 (storage and distribution).	Determination	23.06.2017
17/02146/FUL	Change of use of former straw barn and surrounding land to a bus depot. Retention of concrete/hardcore surfaced areas utilised for parking purposes.	Refused	08.06.2018
18/00370/FUL	Change of use of former straw barn and surrounding land to a bus depot for use by Tendring Travel.	Withdrawn	14.05.2018

4. **Consultations**

Lead Local Flood Authority (LLFA) – SuDS

FIRST COMMENTS
30.09.2022

Holding objection:

Thank you for your email received on 9 September 2022 which provides this Council with the opportunity to assess and advise on the proposed surface water drainage strategy for the above mentioned planning application.

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

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

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

Lead Local Flood Authority position

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

- The attenuation pond is not within the development area and therefore, details of how the long term security and maintenance of the pond should be provided.
- An area to the west of the site is discharging into the system, has this been included in the calculations.
- Exceedance routes should be shown on a plan.
- The entrance of the access road doesn't not have any drainage.
- Where will run off from the roof go.
- Engineering drawings should be provided detailing the SuDS components used within the drainage system.

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

- Please note that the Environment Agency updated the peak rainfall climate change allowances on the 10 May 2022. planning application with outline approval are not required to adjust an already approved climate change allowance, however, wherever possible, in cases that do not have a finalised drainage strategy please endeavour to use the updated climate change figures Flood risk assessments: climate change allowances - GOV.UK (www.gov.uk)

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

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

Summary of Flood Risk Responsibilities for your Council

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

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

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

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

INFORMATIVES:

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

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

Lead Local Flood Authority (LLFA) – SuDS

SECOND COMMENTS
15.06.2022

Holding objection maintained:

Thank you for your email which provides Essex County Council (ECC) with the opportunity to assess and advise on the proposed surface water drainage strategy for the aforementioned planning application.

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

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

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

Lead Local Flood Authority position

Having reviewed the documents which accompanied the planning application, we would recommend the issuing of a holding objection on the basis of the following:

The information provided does not allow us to assess the flood risk development. Please provide information as required within the new ECC SuDS design guide:
<https://www.essexdesignguide.co.uk/suds/what-we-expect/>

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

Summary of Flood Risk Responsibilities for your Council

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

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

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

Should further correspondence be required, please contact the SuDS team directly using the below details.

Lead Local Flood
Authority (LLFA) –
SuDS

**LATEST
COMMENTS**
17.11.2022

No objection subject to conditions:

Thank you for your email received on 11 November 2022 which provides this Council with the opportunity to assess and advise on the proposed surface water drainage strategy for the above mentioned planning application.

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

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

- Non-statutory technical standards for sustainable drainage systems
- Essex County Council's (ECC's) adopted Sustainable Drainage Systems Design Guide
- The CIRIA SuDS Manual (C753)

- BS8582 Code of practice for surface water management for development sites.

Lead Local Flood Authority position

Having reviewed the Flood Risk Assessment and the associated documents which accompanied the planning application, we do not object to the granting of planning permission subject to conditions.

The recommended conditions are included in the recommendation below.

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

Please note that the Environment Agency updated the peak rainfall climate change allowances on the 10 May 2022. planning application with outline approval are not required to adjust an already approved climate change allowance, however, wherever possible, in cases that do not have a finalised drainage strategy please endeavour to use the updated climate change figures. Flood risk assessments: climate change allowances - GOV.UK (www.gov.uk)

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

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

Summary of Flood Risk Responsibilities for your Council

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

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

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

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

ECC Highways Dept
15.11.2022

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. The additional information submitted with this application has also been assessed. It is noted that this application seeks retrospective planning permission for the change of use of a former agricultural building and associated land to a bus depot with associated workshop and that the site has been occupied and used as a bus depot by Tendring Travel since August 2017. It is also noted that this is an established local business with employees, (25-30 staff), supply chain and customers all based in the local area. The application is supported by a detailed Transport Assessment and Highways technical note, a vehicle tracking assessment plan demonstrates that the junction of Landermere Road and Golden Lane can accommodate a left in and left out bus manoeuvre without over running verges. However, there is evidence within Golden Lane that verge damage/ overrunning is evident. The junction is of an historic nature and currently accommodates a range of movements including agricultural and HGVs without any safety issue. For the most recent 3-year period there has been one recorded slight injury accident that occurred west of Valley Farm in August 2020. As such the low level of movements associated with the proposal will not be significantly detrimental to its continued safe operation. The operator of the site is committed to ensuring by way of rigid enforcement that all buses and coaches adhere to a routing agreement. Accordingly, as the application is retrospective and the change of use is considered to be an acceptable form of development subject to certain conditions, therefore:

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

1. As per the information contained in the Transport Statement, 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 129 metres to the west and 2.4 metres by 127 metres to the east, as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be retained free of any obstruction at all times.

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

2. The areas within the site identified for the purpose of turning and manoeuvring shall be provided clear of the highway and retained thereafter for that sole purpose.

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

3. Within 6 months of planning permission being granted, four formal passing bays (size: 2.5m x 15m) are to be provided within

Golden Lane east of the bus depot as indicated on drawing no. DR2 Rev. A.

Reason: To make adequate provision within the highway for the additional traffic generated within the highway as a result of the proposed development in accordance with policy DM1.

4. Within 6 months of planning permission being granted, a vehicle turning warning sign on the west bound approach to the access to Valley Farm shall be provided, as indicated on drawing no. DR2 Rev. A.

Reason: To notify drivers in advance of the potential of slow turning vehicles, ensuring the continued safe passage of the public, in the interests of highway safety and in accordance with Policy DM1.

5. Within 2 months of planning permission being granted, an appropriate Traffic Management Routing Plan shall be provided, including a route card for drivers, outlining the designated route to and from the depot for all bus and coach movements including a flag sign with the wording 'All routes' located opposite the junction to ensure that all buses and coaches adhere to the routing agreement, to enter and exit the site from the east along Golden Lane, to be agreed with the Local Planning Authority in consultation with the Highway Authority.

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

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

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

7. The public's rights and ease of passage over public footpath no. 4 (Thorpe Le Soken_180) 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.

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

Notes:

(i) The above requirements should be imposed by way of negative planning conditions or planning obligation agreements as appropriate.

(ii) Prior to any works taking place in the highway the developer should enter into an S278 agreement under the Highways Act 1980 or Minor Works Authorisation with the Highway Authority to regulate the construction of the highway works.

(iii) The granting of planning permission does not automatically allow development to commence. In the event of works affecting the

highway, none shall be permitted to commence until such time as they have been fully agreed with this Authority.

Informative:

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

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

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

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

4: 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.

Place Services
Ecology
05.12.2022

Thank you for consulting Place Services on the above retrospective application.

No objection subject to securing biodiversity mitigation and enhancement measures.

Summary

We have reviewed the submitted information relating to the likely impacts of development on designated sites, protected and Priority species & habitats and identification of appropriate mitigation measures.

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

This provides certainty for the LPA of the likely impacts on designated sites, protected and Priority species & habitats and, with appropriate mitigation measures secured, the development can be made acceptable. We note and support proposed reasonable biodiversity enhancements which can include the planting of native trees and native species double-staggered hedgerows, as recommended by the Landscape and Visual Appraisal (Andy Roberts CMLI, April 2022) to secure net gains for biodiversity, as outlined under Paragraph 174d of the National Planning Policy Framework (2021). The reasonable biodiversity enhancement measures should be outlined within a Biodiversity Enhancement Strategy and should be secured by a condition of any consent.

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. PRIOR TO BENEFICIAL USE: 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 or product descriptions to achieve stated objectives;
- c. locations, orientations, and heights of proposed enhancement measures by appropriate maps and plans;
- d. persons responsible for implementing the enhancement measures;
- e. 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 NPPF 2021 and s40 of the NERC Act 2006 (Priority habitats & species).

5. Representations

Thorpe-le-Soken Parish Council

5.1 Thorpe-le-Soken Parish Council raise concerns with the suitability of the location for such an operation due to highway safety:

- Narrow width and poor surfacing of Golden Lane.
- Increase in the volume of large-scale vehicles.
- Safety concerns and damage to the already poor conditions of the highways surface.
- No change since previous refusal that would warrant approval of this current application.

Representations / Objections

5.2 No individual letters of representation or objection have been received.

6. Assessment

6.1 The main considerations relevant to the assessment to the application are:

- Site Context;
- Description of Development;
- Planning History/Background;
- Principle of Development;
- Landscape and Visual Impact;
- Highway Safety;
- Impact on Residential Amenities;
- Ecology and Biodiversity; and,
- Sustainable Drainage.

Site Context

- 6.2 The application relates to one-half of a former agricultural building and areas of hardstanding to the rear of the site at Valley Farm, Golden Lane, Thorpe-le-Soken. Valley Farm comprises a small cluster of former agricultural buildings located to the north side of Golden Lane and approximately 1km north of the centre of the village of Thorpe-le-Soken. This application concerns the former straw barn (and surrounding hardstanding), which is the northern-most building within the cluster.
- 6.3 To the south of the application site is a single detached dwelling and the other former agricultural buildings now in commercial use (Valley Farm Barns). The next closest residential properties are located some 200m to the east and 300m to the southwest on Golden Lane.
- 6.4 The area of hardstanding is surfaced part in concrete and part in planings. It is enclosed to the north and west by earth bunds and there is also an established hedgerow along the western boundary. The building is a typical portal framed structure with metal cladding under a fibre cement roof.
- 6.5 The site is otherwise surrounded in all directions by agricultural land.
- 6.6 Access to the site is achieved from Golden Lane via a 7m wide private entry and exit to the south of the site. Golden Lane is a variable width 4m to 5m wide rural lane without the benefit of footways or street lighting. The limited width of Golden Lane is evidenced by a number of formal and informal passing bays which allow larger vehicles and cars to pass one another.

Description of Development

- 6.7 The application seeks retrospective planning permission for the change of use to a bus depot (sui generis) with associated workshop and hardstanding. It is understood that the site has been occupied and operating as Tendring Travel since August 2017.
- 6.8 The site is predominantly used for the storage of vehicles when they are not in use but also provides a workshop for maintenance and repairs to be carried out on site. Vehicles are parked on an area of hardstanding to the rear (north) of the building, whilst the workshop is housed within the building itself. The totality of the use includes an ancillary office and restroom already in place to the rear of the building.

- 6.9 As set out within Section 4.0 of the accompanying Planning Statement, the bus depot operates on the following basis:
- The site generally operates between 06:00 and 20:00 on Monday – Friday with an approximate daily routine outlined as follows:
 - 6am to 7am - buses leave yard for school runs
 - 8.30am to 09.30am - buses return to yard; some go onto private work (some are left parked up at schools or on bus stands)
 - 2.30pm to 3.30pm first group leave yard for return school run back home
 - 5.00 pm to 5.15pm last group leave yard for school runs
 - 5.00pm to 5.30pm first group get back from school runs
 - 7.00pm to 8.00pm last group get back to yard
 - A few buses also leave the yard between these times to do private hire.
 - On Saturdays, operations are more limited and predominantly morning, as follows:
 - 6am to 7am and 8.30am to 9am - buses leave the yard for school runs (working for the Royal Hospital School who require a bus service on a Saturday morning).
 - Also on Saturdays, several buses can go out doing private hires and rail replacement services.
 - Sundays tend to be quietest day of the week with circa two buses leaving the yard at varied times dependent on work.
 - Occasional times vehicles may leave/return to the site outside of these times for particular irregular jobs (e.g. airport runs) or in otherwise exceptional circumstances.
- 6.10 Following submission, the application has been the subject of an amended description and red lined site area to include the hardstandings and pond required for drainage purposes, together with additional information in order to satisfy queries raised by officers and statutory consultees.

Planning History/Background

- 6.11 The bus depot operator Tendring Travel operated from its previous site at 80 Landermere Rd, Thorpe le Soken for in excess of 10 years before moving to the site subject to this application.
- 6.12 For the application site, a Prior Notification Application under reference 17/00778/COUNOT was subsequently approved. The consent related to the use of the former agricultural building for storage and distribution purposes falling within Use Class B8. However, despite the storage and distribution purpose secured, the bus depot falls under a 'sui generis' use and the prior approval application did not provide the necessary approval.
- 6.13 Application 17/02146/FUL followed, seeking change of use of former straw barn and surrounding land to a bus depot together with the retention of concrete/hardcore surfaced areas utilised for parking purposes. The application was refused on the following grounds (summarised):
1. The presence of the hard surfacing along with the parking of large vehicles in this rural location represents an encroachment into open countryside and the urbanisation of a rural area to the significant detriment of its character. Long distance views of the development from the east on the B1414 (Landermere Road/Thorpe Road) are present which appear at odds with the undulating rural appearance of the landscape in this location. Furthermore, the absence of a landscape visual impact appraisal reinforces the view that the development and its impact upon the rural character of the area has not been fully justified.

2. The introduction of the dramatic increase in potentially heavy vehicular traffic along the lane will increase the level of conflict with local residents and existing highway users. The large vehicles will also increase the risk of damage to the highway, and collisions between vehicles in the highway. The development has a detrimental impact upon highway safety on the grounds of safety and efficiency.

6.14 This current application seeks to address the previous reasons for refusal by the inclusion of a Landscape and Visual Appraisal which has informed a proposed landscaping scheme for the site and the preparation of a Transport Statement which addresses the requirements outlined by the Highways Officer.

Principle of Development

6.15 Paragraph 84 of the National Planning Policy Framework 2021 (NPPF) states that decisions should enable the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings. Paragraph 85 goes on to say that planning policies and decisions should recognise that sites to meet local business needs in rural areas may have to be found beyond existing settlements, and in locations that are not well served by public transport. In these circumstances it will be important to ensure that development is sensitive to its surroundings.

6.16 Adopted Tendring District Local Plan 2013-2033 and Beyond Section 2 Policy PP13 supports growth in the rural economy. It states that proposals for re-use or redevelopment of rural buildings for employment purposes will be considered against a number of criteria including the soundness of the building for conversion and the proposed use not being harmful to the rural area or creating significant levels of traffic or road safety problems.

6.17 The above local and national planning policies therefore support the principle of rural businesses providing that they do not adversely impact upon local amenity and highway safety. These matters are assessed further below.

Landscape and Visual Impact

6.18 Paragraph 130 of the NPPF states that planning policies and decisions should ensure that developments are visually attractive as a result of good architecture, layout and appropriate and effective landscaping and are sympathetic to local character and landscape setting.

6.19 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.

6.20 Furthermore, Local Plan Policy SPL3 requires that all new development (including changes of use) make a positive contribution to the quality of the local environment and protect or enhance local character, and that development respects or enhances local landscape character, and maintains or enhances important existing site features of landscape or amenity value.

6.21 The application site is situated in the open countryside and has the overall appearance of a small farm and associated buildings. The barn is the type of feature that is expected to be seen in the countryside. However, the parked and predominantly white buses and mini-buses are incongruous in this rural setting.

6.22 There are no trees or other significant vegetation in the main body of the land and no existing trees will be removed or otherwise adversely affected by the development proposal.

6.23 In terms of the local landscape character the application site is situated in the Hamford Coastal Slopes Landscape Character Area (LCA) as defined and described in the Tendring District

Council Landscape Character Assessment. The Hamford Coastal Slopes LCA is described in the Tendring District Council Landscape Character Assessment as: 'Gently sloping land encircling, and providing a setting for the open marshes of Hamford Water'. The character of the LCA is considered to be strong and its condition good. The overall landscape strategy for this sensitive landscape should be to conserve the existing rural character and the panoramic views over Hamford Water.

- 6.24 In order to address the impact of the development proposal on the local landscape character, in a consistent and measured way, the applicant has submitted a Landscape and Visual Impact Assessment (LVIA). It appears that the LVIA inadvertently describes the application site as being with the Clacton and the Sokens Clay Plateau. Although the application site is close to the boundary of the two LCA's it is just within The Hamford Coastal Slopes LCA. Notwithstanding this apparent error; in terms of its position in the countryside the application site has the potential to be overlooked from nearby Public Rights of Way, from surrounding higher land and from lower land to the north-east.
- 6.25 The LVIA concludes:
1. The landscape and visual effects arising from the change of use are minor to neutral and very localised due to local screening, particularly from field boundary hedgerows.
 2. There are no notable or large-scale (significant) detrimental landscape or visual effects on the local or wider visual amenity, character, and function of the surrounding area.
 3. In the longer term when the associated landscape mitigation planting has matured within the setting the level of key landscape and visual effects will be neutral or minor beneficial.
 4. The change of use is compliant with Tendring District Local Plan 2013-2033 Policy relevant to landscape, and visual issues identified above.
 5. This LVA has concluded that the level of key landscape and visual effects arising from the presence of the buses and other vehicles at the Site is minor or negligible and does not cause overriding harm to the character or appearance of the local rural landscape.
 6. The Development is therefore considered to be sustainable in a landscape and visual context.
- 6.26 The LVIA recognises that there will be a minor degree of harm caused by the changes to both the character and appearance of the area but that with new soft landscaping a high degree of screening can be achieved which will enclose the site to such an extent that parked vehicles will be barely visible in the landscape.
- 6.27 With regard to soft landscaping the applicant has provided information showing planting locations along with detail of plant species and specification. If implemented the soft landscaping proposals will, in the fullness of time, adequately screen the proposed development.
- 6.28 On balance, it is considered that the harm to the local landscape character can be satisfactorily mitigated by new soft landscaping.

Highway Considerations

- 6.29 Paragraph 110 of the NPPF seeks to ensure that safe and suitable access to a development site can be achieved for all users.
- 6.30 Paragraph 111 states development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 6.31 Policy SPL3 Part B of the Local Plan seeks to ensure that access to a new development site is practicable and the highway network will be able to safely accommodate the additional traffic the proposal will generate.

6.32 The application is accompanied by Transport Statement Ref. JTP255 April 2022 and Technical Note Ref. JTP255 October 2022, including a speed survey and swept path junction assessment of Golden Lane / Landermere Road. The site under consideration benefits from planning permission under 17/00778/COUNOT for B8 use, and as such has an existing level of potential trip generation. The report provides an assessment of the traffic impact of regularising the on-going bus depot use in place of the permitted B8 use.

Permitted Use and Trip Generation

6.33 Paragraph 3.21 of the Transport Statement indicates that the permitted use is likely to generate around 3 movements in AM peak hour and 3 in the PM peak and over a typical day would generate 6 trips. All of these trips would take place in the peak hour periods. Paragraph 1.8 of the Technical Note explains that, the junction is of an historic nature and currently accommodates a range of movements including agricultural and HGVs without any safety issue.

On-going Bus Depot Trip Generation

6.34 The Transport Statement sets out the on-going bus depot operation and trip generation based on 14 employees and 10 services operating out of the site:

Table 3.2 Bus Depot Use Trip Generation

	AM Peak (07:00-10:00)		PM Peak (14:30-17:30)		Daily Trips 07:00-19:00	
	Arrivals	Departures	Arrivals	Departures		
Employee Trips	14	0	0	14	14	14
Bus trips	10	10	10	10	20	20
Total Trips	24	10	10	24	34	34

6.35 Table 3.2 indicates that the on-going bus depot use generates 34 movements in AM three-hour peak period and 34 in the PM three-hour peak period and over a typical day would generate 68 trips (equating to approximately 5 movements per hour over the 12 hour day of 7am to 7pm).

6.36 The associated arrivals and departures will not all take place in the traditional one-hour peak but are likely to be spread out over a longer period representing the need for drivers to arrive earlier and leave later to accommodate early service run-outs and later service returns that would be associated with the provision of school bus services. Most of the bus services would need to leave prior to 08:00 to achieve pupil pick up in time for the start of the school day and would therefore arrive back at the depot after 09:00 similarly the afternoon peak would result in a service run out at around 14:00 and back to the depot for around 16:00-17:00.

6.37 On this basis, the applicant reasons that it is very likely that most trips associated with bus depot use take place outside the highway peak traffic periods. Consequently, the on-going bus depot operation does not have a significant impact on peak hour movements along Golden Lane. In the absence of significant background traffic levels prior to and following the peak hours, the impact of the on-going bus depot use is minimal and is unlikely to have a detrimental impact on the function of Golden Lane as a traffic carrier.

Access, Visibility and Highway Safety

6.38 A speed survey and junction assessment confirms the suitability of the existing access and its location in terms of its achievable visibility in accordance with the surveyed speed of traffic along the lane as required by highway standards. The submitted vehicle tracking assessment plan

demonstrates that the junction of Landermere Road and Golden Lane can accommodate a left in and left out bus manoeuvre without over running verges.

- 6.39 To the east, Golden Lane has the benefit of a number of pre-existing passing bays and localised widening. The assessment concludes the route east of the access is sufficient to accommodate the additional out of peak movements the depot generates.
- 6.40 However, to the west of the site access, Golden Lane does not have the benefit of passing bays and is significantly more constrained. In recognition of this, the applicant is willing to agree to highway improvements and mitigation measures.
- 6.41 Consultation with the Highway Authority has been undertaken. The Highway Authority acknowledges that this is an established local business with employees, supply chain and customers all based in the local area. For the most recent 3-year period there has been one recorded slight injury accident that occurred west of Valley Farm in August 2020. There is evidence within Golden Lane that verge damage/ overrunning is evident. However, subject to a routing agreement and conditions, including the provision of additional passing bays, the Highway Authority are satisfied that the use can continue without significant harm to highway safety and raise no objection to the application.

Proposed Mitigation and Highways Conditions

- 6.42 As stated above, the applicant is willing to agree to highway improvements and mitigation measures summarised as follows:
- All buses and coaches adhere to a routing agreement;
 - Provision of 4 passing bays along Golden Lane; and,
 - Provision of a 'vehicles turning' warning sign on the west bound approach to the access.
- 6.43 As stated above, Paragraph 111 of the NPPF states development should only be refused on highways grounds if the impact on highway safety would be severe. The accompanying assessments and proposed mitigation demonstrate that the development can achieve safe access and that the local highway network can suitably accommodate associated traffic movement without resulting in any significant harm to highway safety. The continued use of the bus depot is therefore acceptable in highway terms.

Impact on Residential Amenities

- 6.44 Paragraph 130 f) of the NPPF states that planning decisions should ensure that developments create places that are safe with a high standard of amenity for existing and future users.
- 6.45 Adopted Local Plan Section 1 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. 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.
- 6.46 The nearest residential property is located approximately 70m to the south of the existing building. On the shared boundary to the north is mature vegetation in the form of large trees and bushes. As such, the dwelling is well screened from the operations that take place on site. Furthermore, it is acknowledged that the bus movements take place predominantly during two intervals rather than being staggered throughout the day, thus reducing any potential noise and disturbance.
- 6.47 As mentioned above, noise and disturbance to the amenity of the lane and its residents is somewhat reduced by the concentration of timings of the bus movements. Officers recognise

that the associated movements will result in some harm to residential amenities due size of vehicles, frequency of movements and the rural character of Golden Lane. However, due to the distance to residential dwellings together with the proposed mitigation, the impact will not amount to a significant level of harm that would warrant refusal of planning permission.

Ecology and Biodiversity

- 6.48 Paragraph 174 of the National Planning Policy Framework 2021 require that Local Planning Authorities contribute to and enhance sites of biodiversity or geological value whilst paragraph 179 requires Local Planning Authorities to safeguard components of local wildlife-rich habitats.
- 6.49 Adopted Local Plan Policy PPL4 states that proposals for new development should be supported by an appropriate ecological assessments and, where relevant, provide appropriate mitigation and biodiversity enhancements to ensure a net gain.
- 6.50 Essex County Council Place Services Ecology (ECC Ecology) have been consulted on the application. ECC Ecology support the proposed biodiversity enhancements as recommended by the LVIA to secure net gains for biodiversity, as outlined under Paragraph 174d of the NPPF. ECC Ecology raise no objection subject to a condition securing a Biodiversity Enhancement Strategy. 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.

Sustainable Drainage

- 6.51 Paragraph 167 of the NPPF states that, when determining planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Paragraph 169 goes on to say that, developments should incorporate sustainable drainage systems. The systems used should, amongst other things, take account of advice from the lead local flood authority and have maintenance arrangements in place to ensure an acceptable standard of operation for the lifetime of the development.
- 6.52 Adopted Local Plan Policy PPL5 requires that all new development must make adequate provision for drainage and sewage treatment and should include sustainable drainage systems (SuDS). Policy SPL3, Part B criterion g), requires that development reduces flood risk and integrates sustainable drainage within development.
- 6.53 The application is accompanied by a Surface Water Drainage Strategy Report. The application site boundary covers 8330m² (0.83ha), of which the existing/converted agricultural building covers 225m², hardstanding concrete areas covers 2260m² and compacted gravel hardstanding cover 825m². The applicant has obtained sewer records from Anglian Water showing that there are no adopted sewers in the vicinity of the site. Surface water run-off from the existing concrete forecourt and agricultural building is collected within a private surface water drainage system which comprises gully manholes, manholes and pipes. This drainage system looks to outfall into the culverted watercourse to the north-west of the site, unrestricted and untreated.
- 6.54 The proposed drainage strategy allows for improving the existing private surface water drainage network, as well as the new impermeable area to be captured. New areas of runoff will be collected by a filter drain along the northern edge of the hardstanding. A second filter drain is proposed along the northern edge of the access road. Once captured, runoff will be directed to a pond, positioned in the north-east corner of the site. The pond is sized at 1.5m deep with a top pond area of 256.0m² and pond base area of 53.3m². From the pond, waters will discharge into the culvert ditch via an orifice plate to control the flow rate.

- 6.55 This proposed drainage strategy ensures that surface water arising from the developed site will be managed in a sustainable manner, while reducing the flood risk to the site itself.
- 6.56 The Lead Local Flood Authority (LLFA) 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.

7. Conclusion

- 7.1 Paragraph 84 of the National Planning Policy Framework 2021 (NPPF) states that decisions should enable the sustainable growth and expansion of all types of business in rural areas. Adopted Tendring District Local Plan 2013-2033 and Beyond Section 2 Policy PP13 supports growth in the rural economy where the development would not be harmful to the rural area or create significant levels of traffic or road safety problems.
- 7.2 The bus depot contributes positively to the local economy and local amenities by providing employment as well as vital services for local schools and residents.
- 7.3 The accompanying LVIA recognises that there will be a minor degree of harm caused by the changes to both the character and appearance of the area but that with new soft landscaping a high degree of screening can be achieved which will enclose the site to such an extent that parked vehicles will be barely visible in the landscape. The soft landscaping proposals can be secured by condition and will, in the fullness of time, adequately screen the proposed development. On balance, it is considered that the harm to the local landscape character can be satisfactorily mitigated by new soft landscaping, thus overcoming the previous reason for refusal relating to grounds of harm to the rural character of the area.
- 7.4 The accompanying Transport Assessment, Technical Note, speed survey and junction assessment together with the proposed mitigation measures demonstrate that the development can achieve safe access and that the local highway network can suitably accommodate associated traffic movement without resulting in any significant harm to highway safety. The additional assessments, evidence and proposed mitigation are considered to satisfactorily address the previous reason for refusal relating grounds of highway safety and efficiency
- 7.5 The movements and repair works associated with the use will result in some harm to residential amenities due size of vehicles, frequency of movements and the rural character of Golden Lane. However, due to the distance to residential dwellings together with the proposed mitigation, the impact will not amount to a significant level of harm that would warrant refusal of planning permission.
- 7.6 Matters of drainage, biodiversity, soft landscaping and highway mitigation measures can be secured by conditions.

8. Recommendation

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

8.2 Conditions and Reasons

1. The development hereby permitted shall be carried out in accordance with the following approved drawings / documents, and / or such other drawings / documents as may be approved by the Local Planning Authority in writing pursuant to other conditions of this permission or such drawings / documents as may be subsequently approved in writing by the Local Planning Authority as a non-material amendment following an application in that regard:

- Site Plan 1:1250 Valley Farm Site Plan dated 20 October 2022
- Location Plan 1:3500 Valley Farm Location Plan dated 2 November 2022
- DR2 Visibility Splay and Highway Land Plan
- SuDS Surface Water Drainage Report Rev C
- SK01A Drainage Strategy Plan
- SK02 Drainage Construction Detail
- Ref. JTP255 Transport Statement April 2022
- Ref. JTP255 Technical Note October 2022
- Landscape and Visual Appraisal May 2022 ARCMLI/Issue Version Rev A
- Planting Proposals drawing number LVA 5
- Planning Statement January 2022

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

2. The working hours hereby permitted shall only operate between the following hours, unless otherwise agreed, in writing, with the Local Planning Authority:

- Monday to Friday 06:00 to 20:00
- Saturday 06:00 to 14:00
- Sunday / Bank Holiday: 06:00 to 14:00

Outside of these hours, no staff shall be working on site nor any vehicle shall enter or exit the site for any reason.

Reason - For the avoidance of doubt, protection of local residential amenity and in the interests of proper planning.

3. All changes in ground levels, hard landscaping, planting, seeding or turfing shown on the approved Planting Proposals drawing number LVA 5 accompanying the Landscape and Visual Appraisal May 2022 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 - In the interest of visual amenity and the character of the area.

4. Notwithstanding the provisions of Article 3, Schedule 2 Part 2 Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), no fences, walls or other means of enclosures shall be erected within or around the perimeter of the site.

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

5. There shall be no outside storage with the exception of the ancillary office and restroom already in place, and the parking of vehicles associated with the use.

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

6. In accordance with the accompanying Transport Statement Ref. JTP255 April 2022 and Technical Note Ref. JTP255 October 2022, 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 129 metres to the west and 2.4 metres by 127 metres to the east, as measured from and along the

nearside edge of the carriageway. Such vehicular visibility splays shall be retained free of any obstruction at all times thereafter.

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.

7. The areas within the site identified for the purpose of turning and manoeuvring shall be retained and maintained in the approved form in perpetuity for that sole purpose.

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

8. Within 3 months from the date of this decision, four formal passing bays (size: 2.5m x 15m) shall be provided, completed and made available for use within Golden Lane to the east of the site access as indicated on drawing no. DR2 Rev. A accompanying the Technical Note Ref. JTP255 October 2022 and retained in this approved form in perpetuity.

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

9. Within 3 months from the date of this decision, a vehicle turning warning sign on the west bound approach to the access to Valley Farm shall be provided, as indicated on drawing no. DR2 Rev. A accompanying the Technical Note Ref. JTP255 October 2022.

10. Reason - To notify drivers in advance of the potential of slow turning vehicles, ensuring the continued safe passage of the public, in the interests of highway safety.

11. Within 3 months from the date of this decision, an appropriate Traffic Management Routing Plan shall be provided, including a route card for drivers, outlining the designated route to and from the depot for all bus and coach movements including a flag sign with the wording 'All routes' located opposite the junction to ensure that all buses and coaches adhere to the routing agreement, to enter and exit the site from the east along Golden Lane, to be agreed with the Local Planning Authority in consultation with the Highway Authority.

Reason - To control the direction of vehicle movements to and from the site in the interests of highway safety.

12. Within 3 months from the date of this decision, a Biodiversity Enhancement Strategy for protected and Priority species, including a timetable for implementation, shall be submitted to and approved in writing by the local planning authority. The content of the Biodiversity Enhancement Strategy shall include the following:

- Purpose and conservation objectives for the proposed enhancement measures;
- Detailed designs or product descriptions to achieve stated objectives;
- Locations, orientations, and heights of proposed enhancement measures by appropriate maps and plans;
- Persons responsible for implementing the enhancement measures; and,
- Details of initial aftercare and long-term maintenance (where relevant).

The works shall be implemented in accordance with the approved details and timetable 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 NPPF 2021 and s40 of the NERC Act 2006 (Priority habitats & species).

13. Within 3 months from the date of this decision, a detailed surface water drainage scheme for the site, including a timetable for implementation, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, shall be submitted to and approved in writing by the local planning authority. The scheme should include but not be limited to:

- Limiting discharge rates to 3.7l/s for all storm events up to and including the 1 in 100 year rate plus 40% allowance for climate change.
- Provide sufficient storage to ensure no off site flooding as a result of the development during all storm events up to and including the 1 in 100 year plus 40% climate change event.
- Demonstrate that all storage features can half empty within 24 hours for the 1 in 30 plus 40% climate change critical storm event.
- Final modelling and calculations for all areas of the drainage system.
- The appropriate level of treatment for all runoff leaving the site, including bus washing and washing of mechanical residue following repairs, in line with the Simple Index Approach in chapter 26 of the CIRIA SuDS Manual C753.
- Detailed engineering drawings of each component of the drainage scheme.
- A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features.
- A written report summarising the final strategy and highlighting any minor changes to the approved strategy.

The works shall be implemented in accordance with the approved strategy and timetable and shall be retained in the approved form thereafter.

Reason - To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site. To ensure the effective operation of SuDS features over the lifetime of the development. To provide mitigation of any environmental harm which may be caused to the local water environment. Failure to provide the above required information before commencement of works may result in a system being installed that is not sufficient to deal with surface water occurring during rainfall events and may lead to increased flood risk and pollution hazard from the site.

14. Within 3 months from the date of this decision, a maintenance plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, shall be submitted to and agreed, in writing, by the Local Planning Authority. Should any part be maintainable by a maintenance company, details of long term funding arrangements should be provided.

Reason - To ensure appropriate maintenance arrangements are put in place to enable the surface water drainage system to function as intended to ensure mitigation against flood risk. Failure to provide the above required information prior to occupation may result in the installation of a system that is not properly maintained and may increase flood risk or pollution hazard from the site.

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

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

8.3 Informatives

Positive and Proactive Statement

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

Highways Informatives

1. Prior to any works taking place in the highway the developer should enter into an S278 agreement under the Highways Act 1980 or Minor Works Authorisation with the Highway Authority to regulate the construction of the highway works.
2. The granting of planning permission does not automatically allow development to commence. In the event of works affecting the highway, none shall be permitted to commence until such time as they have been fully agreed with this Authority.
3. All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.

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

4. On the completion of the Development, all roads, footways/paths, cycle ways, covers, gratings, fences, barriers, grass verges, trees, and any other street furniture within the Site and in the area, it covers, and any neighbouring areas affected by it, must be left in a fully functional repaired/renovated state to a standard accepted by the appropriate statutory authority.
5. The Highway Authority cannot accept any liability for costs associated with a developer's improvement. This includes design check safety audits, site supervision, commuted sums for maintenance and any potential claims under Part 1 and Part 2 of the Land Compensation Act 1973. To protect the Highway Authority against such compensation claims a cash deposit or bond may be required.
6. The public's rights and ease of passage over public footpath no. 4 (Thorpe Le Soken_180) shall be maintained free and unobstructed at all times, to ensure the continued safe passage of the public on the definitive right of way and accessibility.
7. 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.

LLFA Informatives

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

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

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. None are identified in this application.

Additional Note

- 9.12 Services provided by Tendring Travel have been used by Tendring District Council and for this reason, and for the reason of transparent decision making, this application is presented to planning committee and has been reviewed by the Council's monitoring officer.

10. Background Papers

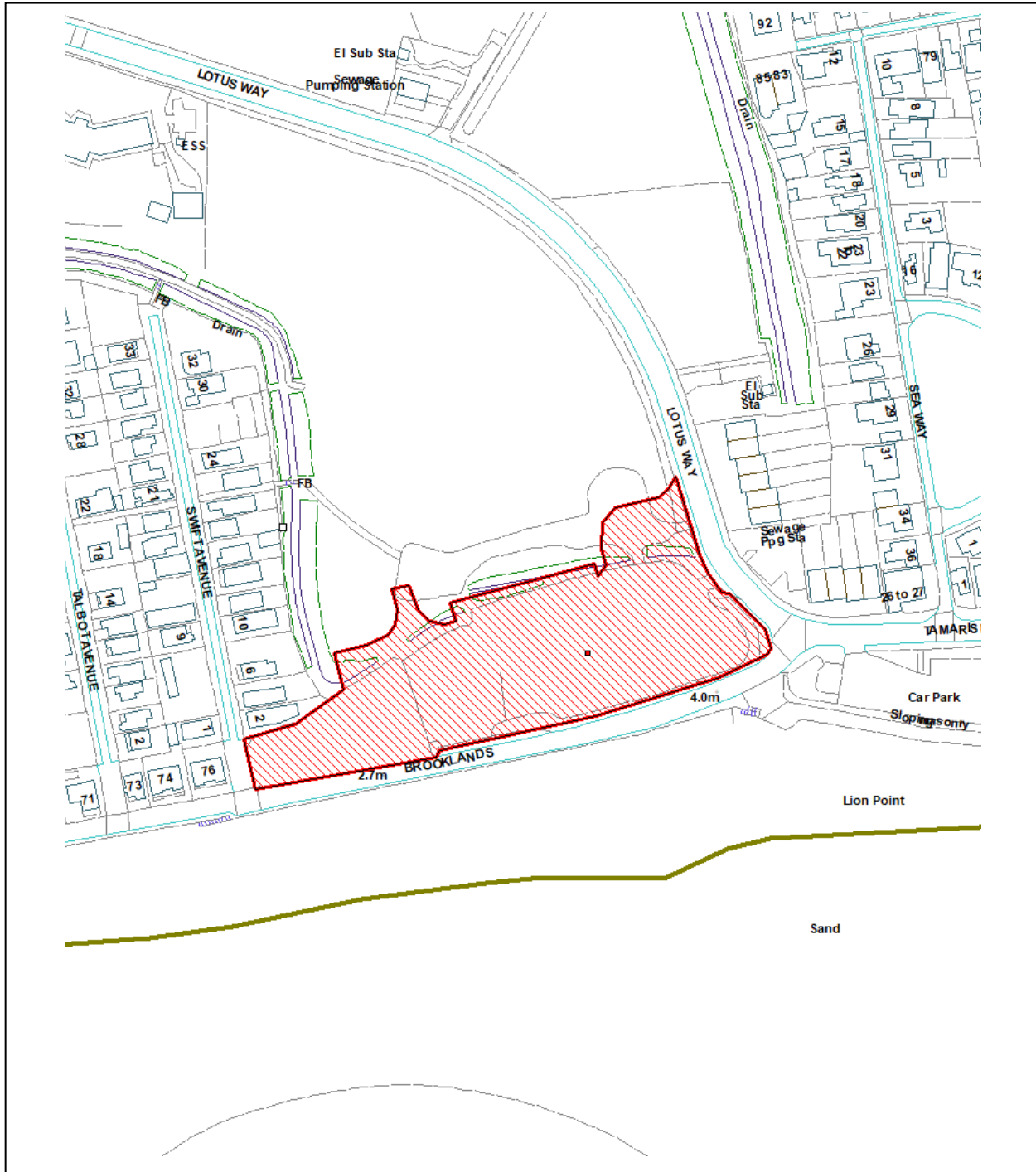
- 10.1 In making this recommendation, officers have considered all plans, documents, reports and supporting information submitted with the application together with any amended documentation. Additional information considered relevant to the assessment of the application (as referenced within the report)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

20th December 2022

REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING

A.5 PLANNING APPLICATION – 22/01548/ADV – LAND ADJACENT TO LOTUS WAY AND BROOKLANDS JAYWICK CO15 2JE



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Application: 22/01548/ADV

Town / Parish: Clacton Non Parished

Applicant: Barbara Pole - Tendring District Council

Address: Land adjacent to Lotus Way and Brooklands Jaywick CO15 2JE

Development: Proposed building name signage at high level on the west facade of building.

1. **Executive Summary**

- 1.1 This application is for the consent to display advertisement on a new commercial building within Jaywick and is brought to Planning Committee as the applicant is Tendring District Council.
- 1.2 The new signage will display the name of the new building and will not be illuminated.
- 1.3 The amount, design and siting of the signage is considered appropriate to the existing building and area and will not result in a loss of amenities to neighbouring properties.

Recommendation:

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

**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:

National Planning Policy Framework July 2021 (NPPF)

National Planning Practice Guidance (NPPG)

Local:

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

SP7 Place Shaping Principles

Status of the Local Plan

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

January 2021 and January 2022, respectively), together with any neighbourhood plans that have been brought into force.

3. Relevant Planning History

91/00112/FUL	Continued use of Sunday market and car park 1 March to 31 December each year	Approved	03.09.1992
91/00866/FUL	Use of site for Saturday car boot sale and Sunday market 1 March to 31 December each year with ancillary car park.	Approved	03.09.1992
21/00871/FUL	Proposed business units, covered market, community garden, public WCs and associated public realm.	Approved	09.07.2021
21/01707/NMA	Non-material amendments to permission 21/00871/FUL sought for access road and carpark landscaping shifted marginally to accommodate larger vehicle loading, with relocation of cycle storage and air source heat pump within landscape. Omission of large planters to south elevation and other minor changes to landscape and external fixtures and furnishings. Omission of 4No rooflights, repositioning of rooflights and ventilation terminals, access hatch and personal fall protection equipment shown. Roof level increased by +100mm at highest point and minor changes to canopy, with changes to position of 3No windows on first floor, and unit door arrangement on ground floor level South elevation. Changes to cafe door arrangement on east elevation with omission of 2No vents on West elevation. Changes to window arrangement to F.13 on first floor, and door arrangement to Unit G.09 on north elevation and minor changes to openings and facade detail on all elevations.	Approved	25.11.2021
21/01743/DISCON	Discharge of conditions 3, (Hard and soft landscaping) 7, (CEMP) 10, (Details of new bus stop) 15 (Details of works to estate roads) and 24 (Details of external lighting) of application 21/00871/FUL.	Approved	25.01.2022

21/02098/DISCON	Discharge of Conditions 16 (archaeological and geoarchaeological investigation) and 19 (detailed surface water drainage scheme) of planning permission 21/00871/FUL	Approved	15.02.2022
22/00570/DISCON	Discharge of condition 9 (Construction management plan) of application 21/00871/FUL.	Approved	11.04.2022
22/00595/DISCON	Discharge of condition 23 (Proposed gas protection measures and groundworks) of application 21/00871/FUL.	Approved	28.04.2022
22/01449/DISCON	Discharge of condition 5 (Hard and Soft Landscaping) and 8 (Biodiversity Enhancement Strategy) of application 21/00871/FUL.	Approved	27.09.2022

4. Consultations

4.1 None required.

5. Representations

5.1 None received.

6. Assessment

Site Context

6.1 The site comprises of an area of land located within the development boundary of Jaywick which has already received planning permission under reference 21/00871/FUL for the erection of business units, covered market, community garden, public WCs and associated public realm.

6.2 This new building is currently under construction with metal framing already in situ.

6.3 The site is located on a corner plot setting which is close to the seafront with elevations serving Brooklands and Lotus Way. The site is also within the vicinity of residential dwellings sited to the east and west.

Proposal

6.4 This application seeks advert consent for the proposed building name signage at high level on the west facade of building. Broadly there are only two criteria for planning judgement in respect of advertisements, highway safety and amenity. The site by reason of its design and location is not considered to cause any highway safety issues. Amenity is addressed further below.

Public Amenity

- 6.5 The site comprises of a new commercial building approved under planning permission 21/00871/FUL with the proposed signage intended to advertise the name of the premises. The signage will not be illuminated.
- 6.6 The proposal will be publicly visible however will be set back from the site boundaries and clear of the highway reducing its prominence.
- 6.7 The amount and sizing of the signage is considered appropriate to the site and will not adversely impact to the character and appearance of the local area.

Impact on Neighbours

- 6.8 The proposed new signage will be visible to residents of houses across the road and adjacent to the site however as a result of the small scale nature along with the new buildings distance away from shared boundaries it is considered the proposal would not result in an adverse impact to these properties.

7. Conclusion

- 7.1 The signage is considered to be suitable to the site and surroundings conforming to local and national policies. In the absence of material harm as a result of the proposed development, this application is recommended for approval.

8. Recommendation

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

8.2 Conditions and Reasons

1. All advertisement consents are subject to five standard conditions specified in Schedule 2 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 which are as follows: -
 - No advertisement is to be displayed without the permission of the owner of the site or any other person with an interest in the site entitled to grant permission.
 - No advertisement shall be sited or displayed so as to
 - (a) endanger persons using any highway, railway, waterway, dock, harbour or aerodrome (civil or military);
 - (b) obscure, or hinder the ready interpretation of, any traffic sign, railway signal or aid to navigation by water or air; or
 - (c) hinder the operation of any device used for the purpose of security or surveillance or for measuring the speed of any vehicle.
 - Any advertisement displayed, and any site used for the display of advertisements, shall be maintained in a condition that does not impair the visual amenity of the site.
 - Any structure or hoarding erected or used principally for the purpose of displaying advertisements shall be maintained in a condition that does not endanger the public.
 - Where an advertisement is required under these Regulations to be removed, the site shall be left in a condition that does not endanger the public or impair visual amenity.
 - Additionally, all advertisement consents are for a fixed term of 5 years unless this period is varied on the formal decision notice.

2. The development hereby permitted shall be carried out in accordance with the following approved plan: 182_HAT_PL_500 P1, received 13th September 2022.

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

8.3 Informatives

None required.

9. Additional Considerations

Public Sector Equality Duty (PSED)

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

Human Rights

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

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

Finance Implications

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

10. Background Papers

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

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