



PLANNING COMMITTEE

DATE:	Tuesday, 17 January 2023
TIME:	6.00 pm
VENUE:	Committee Room - Town Hall, Station Road, Clacton-on-Sea, CO15 1SE

MEMBERSHIP:

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

Councillor V Guglielmi
Councillor Harris
Councillor Placey
Councillor Wiggins

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

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

If you have any queries regarding webcasting or the recording of meetings by the public, please contact Democratic Services at democraticservices@tendringdc.gov.uk.

DATE OF PUBLICATION: Monday, 9 January 2023

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 - 24)**

To confirm and sign as a correct record, the minutes of the meeting of the Committee, held on Tuesday 20 December 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 OF DIRECTOR (PLANNING) - A.1 - PLANNING APPLICATION – 22/00778/FUL – HILL FARM, CROWN LANE, TENDRING (Pages 25 - 48)**

Proposed erection of 1 no. dwelling.

6 **REPORT OF DIRECTOR (PLANNING) - A.2 - PLANNING APPLICATION – 22/01843/FUL – ATLANTA BUILDING, KINGS PROMENADE, BELOW MARINE PARADE WEST, CLACTON-ON-SEA (Pages 49 - 56)**

Proposed new shop front and external seating area to be used in connection with a lounge cafe.

This application is before Members as the land is owned by Tendring District Council.

7 **REPORT OF DIRECTOR (PLANNING) - A.3 - PLANNING APPLICATION – 22/01829/ADV – ATLANTA BUILDING, KINGS PROMENADE, BELOW MARINE PARADE WEST, CLACTON-ON-SEA (Pages 57 - 64)**

This application is before Members as the land is owned by Tendring District Council.

This application seeks consent to display 3no. illuminated fascia signs and 1no. illuminated menu board.

8 **REPORT OF DIRECTOR (PLANNING) - A.4 - EXTENSION OF TIME IN RELATION TO PLANNING APPLICATION – 17/01229/OUT – LAND ADJACENT AND TO THE REAR OF 755 AND 757 ST JOHNS ROAD, CLACTON-ON-SEA (Pages 65 - 68)**

To seek authority from the Planning Committee for a further 7 week extension (i.e. up to, and including, the 24th January 2023) to allow Officers to issue the outlined planning permission previously resolved to be approved subject to conditions and the related Section 106 legal agreement that has been completed and signed by all parties as updated.

Date of the Next Scheduled Meeting

The next scheduled meeting of the Planning Committee is to be held in the Committee Room - Town Hall, Station Road, Clacton-on-Sea, CO15 1SE at 6.00 pm on Thursday, 16 February 2023.

INFORMATION FOR VISITORS

PUBLIC ATTENDANCE AT PLANNING COMMITTEE MEETINGS

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

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

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

Rights of members of the public to film and record meetings

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

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

The Council will provide reasonable facilities to facilitate reporting.

Public Behaviour

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

- (1) Moving outside the area designated for the public;
- (2) Making excessive noise;
- (3) Intrusive lighting/flash; or
- (4) Asking a Councillor to repeat a statement.

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

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

Tendring District Council



PLANNING COMMITTEE MEETINGS PUBLIC SPEAKING SCHEME March 2021

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

TO WHICH MEETINGS DOES THIS SCHEME APPLY?

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

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

1. The applicant, his agent or representative; or (where applicable) one person the subject of the potential enforcement action or directly affected by the potential confirmation of a tree preservation order, his agent or representative. A maximum of 3 minutes to speak is allowed;
2. One member of the public who wishes to comment on or to speak in favour of the application or someone who produces a signed, written authority to speak on their behalf. A maximum of 3 minutes to speak is allowed;
3. One member of the public who wishes to comment on or speak against the application or someone who produces a signed, written authority to speak on their behalf. A maximum of 3 minutes to speak is allowed;
4. Where the proposed development is in the area of a Parish or Town Council, one Parish or Town Council representative. A maximum of 3 minutes to speak is allowed;
5. All District Councillors for the ward where the development is situated ("ward member") or (if the ward member is unable to attend the meeting) a District Councillor appointed in writing by the ward member. Member(s) of adjacent wards or wards impacted by the proposed development may also speak with the agreement of the Chairman. Permission for District Councillors to speak is subject to the Council's Code of Conduct and the declarations of interest provisions will apply. A maximum of 5 minutes to speak is allowed;

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

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

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

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

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

WHICH MATTERS ARE COVERED BY THIS SCHEME?

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

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

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

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

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

HOW DO I ARRANGE TO SPEAK AT THE MEETING?

You can:-

Telephone the Committee Services Officer (“CSO”) (01255 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 Committee Room in the Town Hall at least 15 minutes before the beginning of the meeting (meetings normally begin at 6.00pm) and speak to the CSO.

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

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

WHAT WILL HAPPEN WHEN THE MATTER CONCERNED IS CONSIDERED?

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

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

WHAT SHOULD I SAY AT THE MEETING?

Please be straightforward and concise and try to keep your comments to planning matters which are directly relevant to the application or matter concerned. Planning matters may include things such as planning policy, previous decisions of the Council on the same site or in similar circumstances, design, appearance, layout, effects on amenity, overlooking,

loss of light, overshadowing, loss of privacy, noise or smell nuisance, impact on trees, listed buildings or highway safety.

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

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

WHO DO I CONTACT FOR MORE INFORMATION?

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

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

This page is intentionally left blank

**MINUTES OF THE MEETING OF THE PLANNING COMMITTEE,
HELD ON TUESDAY, 20TH DECEMBER, 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, V Guglielmi, Harris, Placey and Wiggins
In Attendance:	Lisa Hastings (Deputy Chief Executive & Monitoring Officer), Gary Guiver (Director (Planning)), Ian Ford (Committee Services Manager), Barbara Pole (Economic Growth & Enterprise Manager), Amy Lang (Planning Officer), Alison Pope (Planning Officer) and Mark Wilson (Development Technician - Technical)

70. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

There were no apologies for absence (notices of substitution) submitted but it was noted that Councillor Codling was absent on this occasion.

71. MINUTES OF THE LAST MEETING

The minutes of the last meeting of the Committee, held on 24 November 2002, were approved as a correct record and signed by the Chairman.

72. DECLARATIONS OF INTEREST

Members of the Committee declared that they had received “lobbying” material by email from Ardleigh Parish Council in relation to Planning Application 22/00467/DETAIL (report item A.2).

Councillor Wiggins stated for the public record that she was a Ward Member for Planning Application 22/00688/FUL (report item A.3). She confirmed, however, that she was not pre-determined on this application and that therefore she would take part in the Committee’s deliberations on this matter.

The Chairman stated for the public record that the Council regularly hired Tendring Travel, who were the applicants for Planning Application 22/00854/FUL (report item A.4), to transport the Members of the Planning Committee on their site visits.

73. QUESTIONS ON NOTICE PURSUANT TO COUNCIL PROCEDURE RULE 38

There were no such Questions on Notice submitted by Councillors on this occasion.

74. REPORT A.1 PLANNING APPLICATION - 21 01891 FUL - BROADFIELDS, PRIMROSE HILL, WRABNESS

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

It was reported that this application sought full planning permission for the change of use of the former forge building to a one bedroom dwelling with parking and private amenity space. Officers were content that, subject to the imposition of reasonable planning conditions and the completed unilateral undertaking, that the change of use on the site was acceptable. The proposal was considered to be in keeping with the site's rural location on the edge of Wrabness; provided 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 were no concerns raised in regards to parking and highway matters. Furthermore, Officers felt that the new dwelling would contribute to the generation of renewable energy for sustainable living through solar panels and an air source heat pump.

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

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

Bill Marshall, a member of the public, spoke on the application.

Outline of matters raised by the Committee	Outline of the Officer response thereto
<i>Is this application a departure from the Local Plan?</i>	<i>Yes, it is outside the Settlement Development Boundary but the Council can also take into account the NPPF for guidance e.g. its encouragement for the re-use of redundant rural buildings if such re-use would enhance the local setting.</i>
<i>Referencing the flooding in the road – is this site in the flood plain?</i>	<i>The site is not within Flood Zones 2 or 3 so there was no requirement for a Flood Risk Assessment to be submitted with the application.</i>
<i>Do neighbouring properties have any planning permissions?</i>	<i>Yes.</i>
<i>Will this dwelling be attached to the main sewerage system?</i>	<i>Yes.</i>
<i>Referencing the Members' Referral Scheme – if a Ward Member was in favour of the application could they "call it in" if the Planning Officers were not in favour?</i>	<i>Yes, a Member can "call-in" an application regardless of the Planning Officer's recommendation. Though if the Member and the Officer coincided in their opinion then the member would be asked whether they still wished to proceed with the "call-in".</i>
<i>Can we have an assurance that if this application is approved then there will not be any further applications for development on this site?</i>	<i>That assurance cannot be given. Though if any further applications came forward for this site then they would be considered on their planning merits.</i>
<i>Are there any proposed conditions to protect the Oak Tree on this site from harm whilst the parking spaces are</i>	<i>This is covered by proposed planning condition number 17.</i>

<i>constructed?</i>	
---------------------	--

Following discussion by the Committee:-

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

RESOLVED that the Planning Manager be authorised to grant planning permission, subject to the prior completion of a Unilateral Undertaking for a financial contribution towards RAMS, 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 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

dwelling 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.

75. REPORT A.2 - PLANNING APPLICATION - 22-00467 - DETAIL - LAND NORTH OF BROMLEY ROAD, ARDLEIGH

Earlier on in the meeting as reported under Minute 72 above, members of the Committee had declared that they had received "lobbying" material by email from Ardleigh Parish Council in relation to this planning application.

It was reported that this application had been brought to the Committee, at the request of the Planning Manager, as the site lay outside the Settlement Development Boundary of Ardleigh within close proximity to the area designated for the new Tendring and Colchester Garden Community. There was a high level of public interest in the site as had been shown by the number of objections submitted regarding the original outline application (including from Ardleigh Parish Council).

Members were informed that this application related to a parcel of land on the northern site of Bromley Road in the small rural settlement of Crockleford Heath. The site was closely connected to the settlement and the district boundary with Colchester to the west. Adjacent to the site to the east was a development for four dwellings currently under construction, which had been granted planning permission under planning application reference 17/02190/OUT, as had been allowed on appeal (reference APP/P1560/W/18/3200898). To the south of the site lay another development currently under construction for 145 dwellings, planning reference 17/00859/OUT, which had also been allowed on appeal (reference APP/P1560/W/17/3185776).

The Committee was made aware that outline planning permission for four detached dwellings considering access only, on this application site had been approved on 4th February 2022 under application reference 21/01481/OUT. The application now before the Committee sought permission for the reserved matters of the above outline application in respect to scale, layout, landscape and appearance. Revised drawings had been submitted during the course of the application along with an updated Ecology Assessment and a Flood Risk Assessment, and, on balance, the application was considered by Officers to be acceptable in terms of the design, scale, appearance and layout. The proposal was not considered by Officers to have a detrimental impact on neighbour amenity and there were no concerns raised by them in regards to parking and highway matters or flood risk.

Subject to the necessary planning conditions, the proposal was considered by Officers to protect and enhance the biodiversity of the site, along with acceptable tree retention and tree planting, a new hedgerow and a satisfactory soft landscaping scheme.

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 Director (Planning)(Gary Guiver) in respect of the application. An update sheet had been circulated to the Committee prior to the meeting with details of a further letter of objection as follows:-

- "1. It is in conflict to the Adopted Section 2 Local Plan 2013-2033;*
- 2. The development site is 2.7Km from the Ardleigh Settlement Development Boundary, thus classed as Countryside.*
- 3. It should be combined to make a major application with application 17/02190/OUT, approval granted under appeal 18/00086/REFUSE, and thus as a minimum, attract affordable home contributions. The applicants of both sites are associated.*
- 4. The proposed site's natural environment and ecology has been extensively destroyed. The appeal statement 5.11 clearly shows this fact (contains an aerial photo of the site). The 1923 ordnance survey map show the established pond that has been destroyed. The site is adjacent to Salary Brook.*
- 5. The application 22/01690/OHL site plan shows the (now destroyed) pond. Where is the replacement for the overhead power lines to be installed?*
- 6. Nearby applications 21/02164/FUL and 21/01785/OUT have recently been refused by officers. 21/01785/OUT is now at appeal, as 22/00061/REFUSE. The statement of case 6.4 makes the presumption that 22/00467/DETAIL is approved and under construction. (Officer Note, the Appellant's appeal statement is a little ambiguous, whilst the application 22/00467/DETAIL is not mentioned by number specifically, the land is shown generally along with the adjacent site and the larger site opposite and the appeal statement does state that these are 'under construction'.)"*

Bill Marshall, a member of the public, spoke on the application.

Outline of matters raised by the Committee	Outline of the Officer response thereto
<i>Can we have the details of the width of the internal road and how it will link to the adjoining development?</i>	<i>The full details of this will be the subject of a Highways Authority condition. The application indicates that the private roads will be 4m wide with turning head and passing points. The access road into the site would be 5.5m in width.</i>
<i>The rainwater collected from the roof – where will it go?</i>	<i>The application proposes a number of facilities including soakaways from the roof pipes which will go into a ‘creek’ system which will slow the water flow in to the water courses and aid filtration.</i>
<i>Will excess water get into Salary Brook?</i>	<i>The above-mentioned facilities will minimise this and the Lead Local Flood Authority are satisfied with what is proposed though it is accepted that if there is a “monsoon” level event that this may cause run-off into Salary Brook.</i>
<i>Will there be a separate bio-mass facility on this site for processing sewerage and effluent water?</i>	Yes
<i>Will this cope with all sources of foul water?</i>	<i>This cannot be answered for certain as this is a matter that falls to be dealt with under the Building Regulations.</i>
<i>Referencing the proposed Ardleigh Neighbourhood Plan – at what stage is it? How much weight can be given to it?</i>	<i>The Plan has only very recently been submitted to TDC. It will need to be approved by the Cabinet before it can then go out to public consultation. So very little weight can be given to the Plan at this stage. In addition, this site already has an outline planning permission so the principle of the development has already been established.</i>
<i>How far is it from the back of the proposed properties to Salary Brook?</i>	<i>Varies from property to property at between 8.5 to 13 metres.</i>
<i>Who is responsible for the maintenance of the bio-mass system for reducing down the effluent? Need to avoid raw sewerage going into Salary Brook.</i>	<i>Cannot give a definitive answer. Usually a management arrangement would be reached amongst the householders but this is outside of the planning process.</i>
<i>Can the above be conditioned as part of this approval?</i>	<i>Reiterate that this is outside the scope of development control, but this could be covered under the Building Regulations or a private householder arrangement.</i>
<i>Referencing the construction and design of the proposed dwellings – will this be covered under Building Regulations or can this Committee consider this?</i>	<i>Matters relating to structural safety, electric and insulation are covered under the Building Regulations. The dwellings will be inspected at key stages of the construction process</i>

	<i>before the final Completion Certificate is issued. Those checks can be done by either TDC Building Control or by a private building control company.</i>
<i>Referencing the steep road within the site – how will refuse vehicles manage that road to collect from the four dwellings?</i>	<i>If it is a problem – then alternative arrangements are usually made such as a having a designated area where all bins etc. would be taken by the householders to be collected and emptied.</i>
<i>Can we confirm that all the trees currently on the site will remain?</i>	<i>Yes, all the notable trees will remain. A tree survey has been carried out and the trees graded by TDC’s Trees Officer. The proposed landscaping scheme will also lead to an increase in the number of trees and shrubs.</i>
<i>Does the proposed amenity space for these four dwellings meet the minimum requirements?</i>	<i>Yes, comfortably.</i>
<i>What does the proposed condition 5 cover as far as lighting within the site?</i>	<i>It relates to the highways lighting for the internal roads only.</i>
<i>Can the access arrangements to the site be changed as it feels as if the proposed access is dangerous?</i>	<i>No – the access was decided under the prior outline planning permission. In addition, the Highways Authority has not objected.</i>
<i>Referencing paragraph 6.40 of the Officer report – how does TDC measure the net gain for biodiversity?</i>	<i>There is no proactive monitoring. TDC relies on the advice of ecologists at Essex County Council plus any submission made by the Applicant’s ecologist.</i>

Following discussion by the Committee:-

It was moved by Councillor Alexander, seconded by Councillor Harris 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 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.

12. Prior to the commencement of any above ground works a statement detailing the drainage works for wastewater and foul drainage in relation to the proposed package treatment plant 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.

- 13 Prior to the first occupation of the dwellings hereby approved, full details of the refuse collection and storage facilities to be provided for the dwellings must be submitted to and approved in writing by the Local Planning Authority. The refuse collection and storage must be implemented as per the approved details.

Reason: To ensure adequate provision of refuse storage facilities.

76. REPORT A.3 - PLANNING APPLICATION - 22-00688-FUL - FARMLAND TO NORTH OF GLENDENNING, TENPENNY HILL, THORRINGTON

Earlier on in the meeting as reported under Minute 72 above, Councillor Wiggins had stated for the public record that she was a Ward Member for Planning Application 22/00688/FUL (report item A.3). She had confirmed, however, that she was not pre-determined on this application and that therefore she would take part in the Committee's deliberations on this matter.

Members were made aware that this application had been brought 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) as the site was located outside of any settlement development boundary.

It was reported that the proposed dwelling was broadly similar in height, overall scale and footprint compared to the development approved under application 21/02133/COUNOT.

In the absence of any material harm resulting from the development in regards to its individual appearance, its impact on the wider streetscene, its impact on the character of the rural landscape, its impact on neighbours in regards to amenity and the parking provision, the application was 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 Planning Officer (Amy Lang) in respect of the application.

Peter Le Grys, the applicant's agent, spoke in favour of the application.

Bill Marshall, a member of the public, spoke on the application.

Outline of matters raised by the Committee	Outline of the Officer response thereto
<i>Clarify the change in floorspace.</i>	<i>Under the prior approval the floorspace was 93m squared. Under this proposal the floorspace was 104m squared.</i>
<i>Is the proposed condition regarding cycle parking necessary given the size of the application site?</i>	<i>This is a standard highways condition for all new dwellings but it could be foregone on this occasion.</i>
<i>Concern raised with the condition of the</i>	<i>A planning condition relating to the</i>

<i>access road – state of the grass and mud.</i>	<i>surfacing of the access road could be added.</i>
<i>How will the open land beside the access road be protected?</i>	<i>The “red line” on the application site plan does not include that land so any changes to that land would need to be the subject of a further planning application.</i>

Following discussion by the Committee:-

It was moved by Councillor Harris, seconded by Councillor Fowler 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: 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 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.

- 5 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.

- 6 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.

- 7 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.

- 8 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.

9. The access hereby approved shall have a bound material surface and shall be laid out for a minimum distance of 5 metres from the edge of the carriageway prior to first use. The bound material as implemented shall then be retained thereafter.

Reason - In the interests of highway safety to prevent hazards caused by loose materials on the highway.

77. REPORT A.4 - PLANNING APPLICATION 22 00854 FUL - VALLEY FARM, GOLDEN LANE, THORPE-LE-SOKEN

Earlier on in the meeting, as reported under Minute 72 above, the Chairman had stated for the public record that the Council regularly hired Tendring Travel, who were the applicants for Planning Application 22/00854/FUL (report item A.4), to transport the Members of the Planning Committee on their site visits.

The Committee was informed that this application was before it at the request of the Planning Manager. The application related 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 benefited from planning permission under 17/00778/COUNOT for B8 use.

It was reported that this application sought retrospective planning permission for the change of use to a bus depot (sui generis) with associated workshop and hardstanding. The site had been occupied and operating as Tendring Travel since August 2017. The application also proposed 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.

Members were advised that access was achieved via a 7m wide private entry and exit off Golden Lane to the south of the site. The site was predominantly used for the storage of vehicles when they were not in use but also provided a workshop for maintenance and repairs to be carried out on site. Vehicles were parked on an area of hardstanding to the rear (north) of the building, whilst the workshop was housed within the building itself.

The Committee was made aware that this application followed a previous refusal in 2017 under planning application reference 17/02146/FUL. That application had been refused due to the detrimental impact upon the rural character of the area and highway safety. The applicant had not appealed the Council's decision.

Officers reported that this current application sought to address the previous reasons for refusal by the inclusion of a Landscape and Visual Appraisal which had informed a proposed landscaping scheme for the site and the preparation of a Transport Statement which had addressed and responded to all the requirements outlined by the Highways Officer. That additional information and proposed mitigation scheme was considered by Officers to address the previous reasons for refusal and Officers had also considered the up to date development plan position. No objections had been received from consultees in regards to landscape impact or highway safety. The application was recommended for approval by Officers, subject to conditions securing the necessary mitigation and enhancement measures.

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

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

"Point of Clarification:

For clarity, the applicant is Tendring Travel. As set out at paragraph 9.12 of the officer's report, Tendring Travel provide services 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.

Section 4. Consultations - correction to order of LLFA:

<i>First comments received</i>	<i>15.06.2022</i>	<i>Holding objection</i>
<i>Second comments received</i>	<i>30.09.2022</i>	<i>Holding objection maintained</i>
<i>Latest comments received</i>	<i>17.11.2022</i>	<i>No objection subject to conditions</i>

8.2 Conditions and Reasons – amendments to recommended conditions

Condition 2 – amendments to allow flexibility for airport runs and private hire

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~~ 06:00 to 18:00*
- Sunday / Bank Holiday: ~~06:00 to 14:00~~ 10:00 to 16:00*

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

Outside of these hours, no more than 1 member of staff shall be working on site for any reason.

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

Condition 8 – amendments to allow flexibility for the submission and approval of S278 Minor Works application with ECC Highways.

- 8. Within 3 6 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.

Condition 9 – amendments to allow flexibility for the submission and approval of S278 Minor Works application with ECC Highways and correction to numbering:

- 9. Within 3 6 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.

40. 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.

Correction to condition numbering:

Conditions 11 to 15 should be Conditions 10 to 14”

Seth Williams, the applicant’s agent spoke in support of the application.

Outline of matters raised by Members of the Committee	Outline of Officer response thereto
<i>When was the original planning application refused?</i>	<i>June 2018</i>
<i>Can you confirm that therefore the applicant has been operating without the benefit of planning permission since then?</i>	<i>Yes</i>
<i>Can you confirm that the requirements of condition 13 will remove the risk of flooding?</i>	<i>Yes. The Lead Local Flood Authority has accepted this.</i>
<i>What are the details of the pond and its covering and discharge?</i>	<i>1.5m in depth with grass and matting on top. Discharge will be to a culvert ditch. Existing drainage on the site will also be enhanced.</i>
<i>The agreement with ECC Highways as to the passing points – how soon will they be built after permission has been granted? Is the Council aware of any accidents involving buses from this site?</i>	<i>The “swept road” survey has demonstrated that the road can accommodate the larger buses. The provision of passing points will be the subject of a legal agreement between ECC and the applicant. The permission would allow six months for this to happen. The Council is aware of one accident but this did not involve any of the buses as far as is known. The results of the speed, visibility and routing surveys all met the Highways Authority’s requirements.</i>
<i>How many employees does Tendring Travel have?</i>	<i>30 full time.</i>
<i>Will the granting of permission for this planning application regularise matters and end the need for any enforcement?</i>	<i>Yes. It would also allow the Council to ensure that the mitigation measures are implemented and maintained.</i>

Following discussion by the Committee:-

It was moved by Councillor Harris, seconded by Councillor Baker 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 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 18:00
 - Sunday / Bank Holiday: 10:00 to 16:00

Outside of these hours, no more than one member of staff shall be working on 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 - 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 6 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 6 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.

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.

10. 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.

11. 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).

12. 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.

13. 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.

14. 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.

78. REPORT A.5 - PLANNING APPLICATION - 22 01548 ADV - LAND ADJACENT TO LOTUS WAY AND BROOKLANDS, JAYWICK SANDS

The Committee was informed that this application was before it as the applicant was Tendring District Council. The application sought consent to display advertisement on a new commercial building within Jaywick Sands.

Members were informed that the new signage would display the name of the new building and would not be illuminated.

It was reported that the amount, design and siting of the signage was considered by Officers to be appropriate to the existing building and area and would not result in a loss of amenities to neighbouring properties.

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

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

Barbara Pole, Economic Growth & Enterprise Manager, representing the applicant (Tendring District Council), spoke in support of the application.

Following discussion by the Committee:-

It was moved by Councillor Alexander, seconded by Councillor Harris 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. 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.

The meeting was declared closed at 8.43 pm

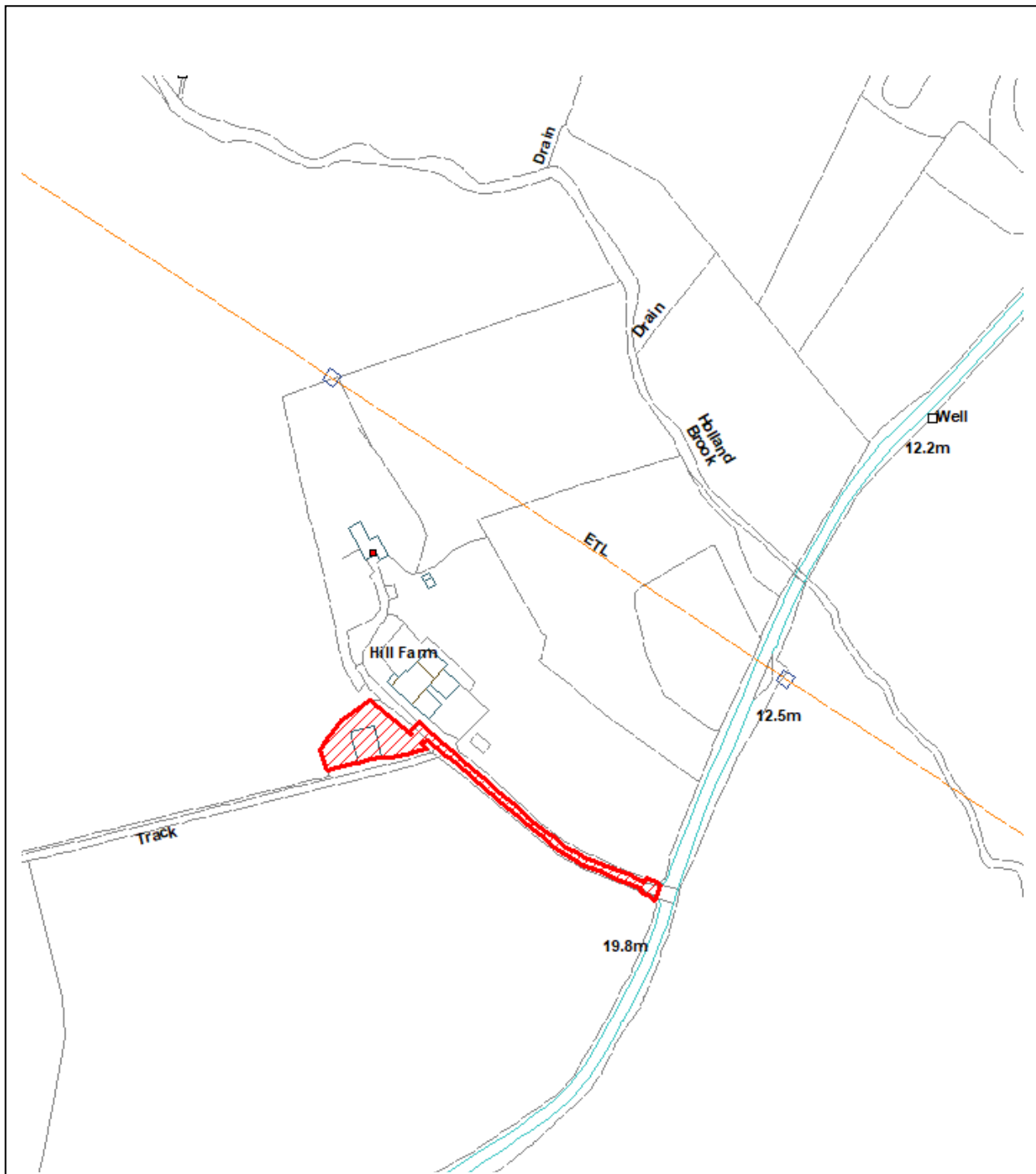
Chairman

PLANNING COMMITTEE

17 January 2023

REPORT OF THE DIRECTOR FOR PLANNING

A.1 PLANNING APPLICATION – 22/00778/FUL – HILL FARM CROWN LANE TENDRING CLACTON ON SEA



DO NOT SCALE

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

Application: 22/00778/FUL

Town / Parish: Tendring Parish Council

Applicant: Mr Yod Serghiou

Address: Hill Farm Crown Lane Tendring Clacton On Sea CO16 0BJ

Development: Proposed erection of 1 no. 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 The proposed dwelling is not considered to be so materially different in regards to siting and footprint compared to the development approved under prior approval 17/01559/COUNOT and the new dwelling approved in lieu of this prior approval under application 19/00236/FUL. Moreover, in respect of proposed design and external appearance, the proposal is considered to result in a significant improvement compared to the design and external appearance of the dwelling approved under application 19/00236/FUL. The overall height of the proposal exceeds that of the above mentioned approvals however given the citing of the building, coupled with the improvements outlined above, this minor increase in height is not considered to result in harm. The proposed dwelling will continue to utilise an existing private access off Crown Lane to include its widening to 4.8m (wide) for first 6m.
- 1.3 In the absence of any material harm resulting from the development in regards to its individual appearance, impact on the wider streetscene and the character and appearance of the rural landscape, the application is recommended for approval. Furthermore, the proposal would not result in any detrimental impact on neighbour amenity and there are no concerns raised in regard to parking and highway matters.

Recommendation:

That the Planning Manager be authorised to grant planning permission subject to the conditions as stated at paragraph 8.2, or varied as is necessary to ensure the wording is enforceable, precise and reasonable in all other respects, including appropriate updates, so long as the principle of the conditions as referenced is retained.

2. Planning Policy

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

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

2.3 Local:

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

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

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

SPL1	Managing Growth
SPL2	Settlement Development Boundaries
SPL3	Sustainable Design
HP5	Open Space, Sports & Recreation Facilities
DI1	Infrastructure Delivery and Impact Mitigation
LP1	Housing Supply
LP4	Housing Layout
PPL3	The Rural Landscape
PPL4	Biodiversity and Geodiversity
PPL5	Water Conservation, Drainage and Sewerage
PPL9	Listed Buildings
PPL10	Renewable Energy Generation
CP1	Sustainable Transport and Accessibility

2.4 Supplementary Planning Guidance:

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

Status of the Local Plan

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

2.6 In relation to housing supply:

2.7 The Framework requires Councils boost significantly the supply of housing to meet objectively assessed future housing needs in full. In any one year, Councils must be able to identify five years of deliverable housing land against their projected housing requirements (plus an appropriate buffer to ensure choice and competition in the market for land, to account for any fluctuations in the market or to improve the prospect of achieving the planned supply). If this is not possible or if housing delivery over the previous three years has been substantially below (less than 75%) the housing requirement, Paragraph 11 d) of the Framework requires granting permission unless any adverse impacts of doing so would significantly and demonstrably

outweigh the benefits when assessed against the policies in the Framework taken as a whole (what is often termed the 'tilted balance').

- 2.8 The Local Plan fixes the Council's housing requirement at 550 dwellings per annum. On 19 October 2021 the Council's Strategic Housing Land Availability Assessment (SHLAA) updated the housing land supply position. The SHLAA demonstrates in excess of a six-and-a-half-year supply of deliverable housing land. On 14 January 2022 the Government published the Housing Delivery Test (HDT) 2021 measurement. Against a requirement for 1420 homes for 2018-2021, the total number of homes delivered was 2345. The Council's HDT 2021 measurement was therefore 165%. As a result, the 'tilted balance' at paragraph 11 d) of the Framework does not apply to applications for housing.

3. Relevant Planning History

17/01559/COUNOT	Conversion of a former pig farrowing building into a two bed dwelling.	Determination	30.10.2017
19/00236/FUL	Replacement of former pig farrowing building with a three bed dwelling and widening of entrance (in lieu of prior approval for a dwelling subject of application 17/01559/COUNOT).	Approved	13.08.2019
19/00476/COUNOT (different site located adjacent to the north of application site)	Conversion and alterations to the Tyler barn and block built barn to create 1 dwelling.	Determination	10.06.2019
19/01132/COUNOT (different site located adjacent to the north of application site)	Creation of a single residential unit from existing agricultural buildings.	Determination	30.09.2019
21/00743/COUNOT (different site located adjacent to the north of application site)	Application for prior approval for the conversion of an agricultural building into a dwelling.	Determination	18.08.2021

4. Consultations

Parish Council	<p>Tendring Parish Council object to this application, primarily because the proposed development will have an adverse impact on the rural nature and outlook of this part of the village.</p> <p>We note that approval already exists for development on this site under 19/00236/FUL and that, whether or not demolition of the old pig barn counts as starting development on a new build, that there are still around 3 months remaining on the 3 year timeline, so that permission is still valid.</p> <p>We further note that pre-application advice has been sought</p>
----------------	--

	<p>21/30022/PREAPP, where guidance was given that it would be likely an amended proposal would be approved.</p> <p>However, as part of our objection it is important to consider the planning history of this site and the immediately-neighbouring site, which until recently was part of the same agricultural holding.</p> <p>The farm as a whole has had two approved Class Q conversions of agricultural buildings. Application 17/01559/COUNOT related to the site of this current application, where a building to replace the 80 sq.m pig barn was approved. A further Class Q application 19/01332/COUNOT on a second agricultural building on the wider farm site was refused as it took the developed area over that which is allowed on one farm (i.e. taken cumulatively with the approved 2017 case).</p> <p>That 2019 refusal was followed by a further, smaller application 21/00743/COUNOT, which was approved. That application also made reference to other “prior approval” applications.</p> <p>Following the Class Q approval on the current application site, a full application (19/00256/FUL) was made to amend some details, move the construction slightly away from a public footpath and increase the size from 80 sq.m to 108 sq.m. That application was for a single-story, low-roof “barn-like” building and conditions were set by TDC Planning to retain the open, rural outlook in this setting – for example, by not allowing boundary fencing to be erected.</p> <p>We now have the amended application, which the Parish Council notes is under a different applicant’s name, this parcel of land having recently been re-registered to a new owner. This new application is for a modern, two storey building covering a much larger ground area of 145 sq.m and including proposals for boundary fencing.</p> <p>Tendring Parish Council considers this new proposal to be unsuitable for its rural location and flies counter to the protective stipulations that TDC applied to the current valid consent. The story here seems to be one of pushing the scale of development step by step to get something that would not be allowed if it were a new application. Compare what is now proposed to what was allowable under the original Class Q consent, and the total allowed as Class Q on the whole farm site.</p> <p>Notwithstanding that approval exists for a built form on this site – one that is in keeping with the rural, open outlook of the area, this new building would jar in the countryside and is of a scale – particularly of now being two storeys but also of the very angular design, large dormer/flat upper section and tall gable end (all glazed) – that is inappropriate for its location and would interrupt the rural view too much</p>
<p>Essex County Council Ecology 04.07.2022</p>	<p>Thank you for consulting Place Services on the above application.</p> <p>No objection subject to securing: a) a proportionate financial contribution towards Essex Coast RAMS b) biodiversity mitigation and enhancement measures</p> <p>Summary We have reviewed the Preliminary Ecological Appraisal (Liz Lord Ecology,</p>

March 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.

As highlighted in the Preliminary Ecological Appraisal (Liz Lord Ecology, March 2022), the site falls within the evidenced Zone of Influence for the Essex Coast RAMS. 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 designated Habitats sites.

The mitigation measures identified in the Preliminary Ecological Appraisal (Liz Lord Ecology, March 2022) should be secured by a condition of any consent and implemented in full. This is necessary to conserve and enhance protected and Priority species particularly bats, nesting birds, and reptiles.

Given that there is a pond within 280 metres from the site and onsite terrestrial habitats is referenced as being moderate for Great Crested Newts (GCN). GCN should be considered as part of this planning application, however, due to the type of development and area impacted, it may be possible to manage potential impacts using a precautionary method statement for GCN for the construction stage, including storage of materials. This precautionary method statement should be secured by a condition of any consent.

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

In addition, the Preliminary Ecological Appraisal (Liz Lord Ecology, March 2022) highlights that it is possible that 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 Appraisal (Liz Lord Ecology, March 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: NON-LICENSED GREAT CRESTED NEWT METHOD STATEMENT

"A Non-Licensed Great Crested Newt Method Statement shall be submitted to and approved in writing by the local planning authority. This will contain precautionary mitigation measures and/or works to reduce potential impacts to Great Crested Newt during the construction phase.

The measures and/works shall be carried out strictly in accordance with the approved details and shall be retained in that manner thereafter."

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

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

"A Biodiversity Enhancement Strategy for protected and Priority species shall be submitted to and approved in writing by the local planning authority following the details contained within Preliminary Ecological Appraisal (Liz Lord Ecology, March 2022).

	<p>The content of the Biodiversity Enhancement Strategy shall include the following:</p> <ul style="list-style-type: none"> 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). <p>The works shall be implemented in accordance with the approved details prior to occupation and shall be retained in that manner thereafter."</p> <p>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</p> <p>4. PRIOR TO OCCUPATION: WILDLIFE SENSITIVE LIGHTING DESIGN SCHEME</p> <p>"A lighting design scheme for biodiversity shall be submitted to and approved in writing by the local planning authority. The scheme shall identify those features on site that are particularly sensitive for bats and that are likely to cause disturbance along important routes used for foraging; and show how and where external lighting will be installed (through the provision of appropriate lighting plans, drawings and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory.</p> <p>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."</p> <p>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)</p>
<p>Environmental Protection 31.05.2022</p>	<p>With reference to the above application, please see below for comments from the EP Team:</p> <p>Contaminated Land: Given the sites proximity to a registered, historic piece of contaminated land, and the historical agricultural use of the surrounding land, we are requesting a Watching Brief be conditioned and adhered to throughout the demolition and construction phase - 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.</p> <p>Minimum requirements for dealing with unexpected ground conditions being encountered during construction.</p> <ol style="list-style-type: none"> 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.

Asbestos: Should any asbestos containing materials be present on the development site, or used within the original construction of the building in question, it must be safely removed by a qualified contractor, with relevant transfer notes being obtained to confirm safe and responsible removal and disposal.

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.

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

	<p>Saturdays) with no working of any kind permitted on Sundays or any Public/Bank Holiday whilst construction works and alterations are being carried out.</p> <p>No materials produced as a result of the site development or clearance shall be burned on site.</p> <p>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).</p> <p>REASON: to protect the amenity of nearby residential premises</p> <p>*INFORMATIVE</p> <p>Foul Drainage: The submitted application form advises a Sewerage Treatment Plant will be utilised as a way of disposing of foul waste; we would request, should the application be approved, that the Applicant / Agent, ensure the installation is fully compliant with the Environment Agency's Binding Rules and any other relevant Government guidance and British standards, in respect of these systems. Information on this can be found at: Septic tanks and treatment plants: permits and general binding rules: The general binding rules - GOV.UK (www.gov.uk). It is strongly recommended these rules are complied with, as they will minimise any potential nuisance to nearby residential dwellings, assist in preventing a potential Public Health nuisance, and minimise the potential for adverse incidents, of which may result in formal enforcement action.</p> <p>REASON: to protect the health of residents and nearby residential premises</p>
<p>ECC Highways Dept 27.06.2022</p>	<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 however a previous site visit was undertaken. The information submitted with the application has been assessed and conclusions have been drawn from a desktop study with the observations below based on submitted material. It is noted that this application is similar to previous applications 17/01559/COUNOT and 19/00236/FUL that were approved previously. As per the previous applications access to the dwelling will be from an established private access road that serves Hill Farm, the proposal offers adequate off-street parking and turning, considering these factors:</p> <p>From a highway and transportation perspective the impact of the proposal is acceptable to Highway Authority subject to the following mitigation and conditions:</p> <ol style="list-style-type: none"> 1. As per application 19/00236/FUL the existing access road leading to Hill Farm will become a shared private drive. The applicant has adequate room to provide vehicle passing place adjacent to the proposed access drive shown on the block plan, prior to first occupation a suitable vehicle passing place shall be provided within the curtilage with minimum dimensions of 5 metres wide x 6 metres in length. Details to be agreed with the Local Planning Authority

	<p>Reason: To ensure that vehicles can pass clear of the limits of the highway in the interests of highway safety in accordance with policy DM1.</p> <p>2. As per application 19/00236/FUL and prior to the occupation of the proposed dwelling the proposed private drive shall be constructed to a minimum width of 4.8 metres for at least the first 6 metres from the back of Highway Boundary (at its junction with Crown Lane).</p> <p>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.</p> <p>3. Each vehicular parking space shall have minimum dimensions of 2.9 metres x 5.5 metres.</p> <p>Reason: To ensure adequate space for parking off the highway is provided in the interest of highway safety in accordance with Policy DM8</p> <p>4. 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 in accordance with Policy DM8.</p> <p>5. Prior to occupation of the proposed dwelling, the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack for sustainable transport, approved by Essex County Council, to include six one day travel vouchers for use with the relevant local public transport operator free of charge.</p> <p>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.</p> <p>6. 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.</p> <p>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 in accordance with policy DM1.</p> <p>7. The public's rights and ease of passage over public footpath no.11 (Tendring_179) shall be maintained free and unobstructed at all times.</p> <p>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</p> <p>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.</p>
Tree &	There are no trees or other significant vegetation on the application site.

<p>Landscape Officer 24.05.2022</p>	<p>As the application site is in a rural location a dwelling in this location, close to a Public Right of Way has the potential to have an adverse impact on both the character and appearance of the area.</p> <p>If planning permission is likely to be granted then a condition should be attached to secure a comprehensive and detailed soft landscaping plan to soften and screen the development as well as to help with its assimilation into its setting.</p>
<p>UU Open Spaces 16.06.2022</p>	<p>There is currently a deficit of '1.33 hectares of equipped play/formal open space in the village of Tendring.</p> <p>Recommendation</p> <p>No contribution is being requested from open spaces on this occasion. However should the development increase in size a contribution maybe required.</p>

5. Representations

- 5.1 No objections have been received following a public consultation which included a site notice posted at the site and neighbouring consultation letters sent out to the adjacent properties. Two letters of support have been received from members of the public.

6. Assessment

Site Context

- 6.1 The application site relates to Hill Farm which is located on the western side of Crown Lane within the Parish of Tendring.
- 6.2 The application site previously consisted of a single storey outbuilding formerly used to house pigs, this building has now been demolished. The site is surrounded by an area of grassland with margins of nettle, red dead nettle and encroaching bramble. A native hedge adjoins the site to the east, and a track accessing both the barn and Hill Farm lies to the west. Arable fields adjoin the site to the north and south. Beyond is Hill Farmhouse, a Grade II Listed building. The above mentioned listed building is located some 60m to the north of the northern-most section of the application site.
- 6.3 The site lies outside of the settlement development boundary for the area as defined within the adopted Tendring District Local Plan 2013-2033.

Proposal

- 6.4 Planning permission is sought for the erection of 1 no. dwelling (3 bedrooms). The dwelling will be set over two floors, with the first floor restrained in terms of its design and bulk, and with predominantly living accommodation on ground floor (one bedroom will be located on the ground floor adjacent to a WC shower and the hallway). There will be two larger bedrooms (one with en-suite) located on first floor.

- 6.5 In terms of access, the site is served by an existing access road off Crown Lane. Under planning approval 19/00236/FUL the existing access was proposed to be widened. This element is still included as part of the new application.

Assessment

Principle of Development

- 6.6 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.
- 6.7 Policy SP3 of Section 1 of the 2013-2033 Local Plan sets out the spatial strategy for North Essex and directs growth towards existing settlements. The application site lies outside of the defined settlement boundary of Tendring 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.
- 6.8 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 the village of Tendring is classified as a Smaller Rural Settlement (the bottom of the settlement hierarchy), and are considered to be the least sustainable locations for growth because there is a concern that encouraging too much development in these areas will only serve to increase the number of people having to rely on cars to go about their everyday lives. However, these villages are still under pressure to grow and some small-scale development which is sympathetic to the rural and often historic character of the settlement might help younger people to continue to live in the area, keep local shops and services viable and help bring balance to an ageing population.
- 6.9 With regard to development outside of the defined SDB, the Council will consider any planning application in relation to the pattern and scales of growth promoted through the Settlement Hierarchy in Policy SPL1 and any other relevant policies in this plan.
- 6.10 The proposal therefore results in conflict with policies SP3 and SPL2. In this case however both a Prior Approval has been granted for the conversion of a former agricultural building (now demolished) and replacement new dwelling has been approved. This proposal represents an alternative design to that implemented and could be completed. This is considered to form a material consideration in respect of the application and denotes what is considered to be a viable fall-back position as outlined below.

Fallback Position – Material Consideration.

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

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

- 6.13 The notion of Class Q providing a lawful fall-back position was subsequently and comprehensively dealt with at the landmark Court of Appeal case, *Mansell vs Tonbridge and Malling Borough Council* [2017], which concluded that a realistic fall-back position in regard to Class Q would amount to a material consideration in the determining of an application.
- 6.14 The table below provides a comparison between the original prior approval, the dwelling previously approved in 2019 and the new dwelling proposed under this application:

	17/01559/COUNOT (Prior Approval)	19/00236/FUL (New dwelling previously approved)	22/00778/FUL (New dwelling instead of 19/00236)
Siting	Former single storey agricultural building (now demolished) set centrally on site, directly to the north of the southern boundary	Similar footprint and location of previous agricultural building	Similar location however footprint of building extends slightly further northwards
Access	The site is served by an existing access road off Crown Lane.	To be served by an existing access road off Crown Lane. Under planning approval 19/00236/FUL the existing access was proposed to be widened.	Still the same access and existing access is proposed to be widened as per the 19/00236/FUL approval.
Appearance	Horizontal black weatherboarding and profiled sheeting (roof)	Horizontal black weatherboarding and slate roof coverings	Recycled composite (timber effect) slatted cladding, profiled metal roofing and grey window frames
Ridge Height	4.5m	4.4m	5.5m
Eaves Height	2.6m	2.6m	2.6m
Footprint	80sqm	108sqm	130sqm (approx.)
Bedrooms	2	3	3

- 6.15 The 19/00236/FUL remains extant (permission granted in August 2019 with a three year time limit). It appears from Google aerial imagery that the former agricultural building was demolished between June 2020 and March 2022, therefore within the three year time limit set out above. Clearly the former agricultural building would have to be demolished first for the

replacement dwelling to progress. In order to lawfully commence development it is necessary to satisfy the legal requirements in section 56(4) of the Town and Country Planning Act 1990. This says that “development is taken to be begun on the earliest date on which a material operation is carried out”. A material operation is defined in the Act and can include any works of construction, **demolition** (emphasis added), digging foundations, laying out etc.

- 6.16 In conclusion, having regard to the above, the application is considered to meet all 3 tests set out for a viable fall-back position in terms of the legal position set out earlier.
- 6.17 It is also considered that the previously approved new dwelling in lieu of the Prior Approval offers a strengthening of the fall-back position therefore should this application fail, it is highly likely that the site would be developed in line with the full planning permission for a new dwelling in lieu of the Prior Approval.
- 6.18 Therefore given the circumstances of this case, the principle of development for a new dwelling on this site is considered to be acceptable and unlike other similar cases is implemented. However, this alternative design is still subject to the detailed consideration against other relevant Local Plan policies and any approved Neighbourhood Plans.

Layout, Scale and Appearance

- 6.19 The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. (Para 126 NPPF).
- 6.20 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.
- 6.21 The proposed dwelling would have a restrained ‘barn’ like appearance in terms of its overall design and scale, albeit with various subtle modern elements to assist with the successful functioning of the building as a dwelling. For example elements of glazing are introduced in various gables and roof lights feature in the pitched roof of the building. The materials are also different compared to the previous approval however these will continue to be high quality facing materials and final details can be conditioned. Given the proposed location of the site, well set back from Crown Lane, the restrained height of the overall building (maximum ridge height of 5.5m with a sloping roof), coupled with the high quality overall design, with its strong barn like features, the proposal is considered to be in keeping with the surrounding area.
- 6.22 Therefore, having regard to the above policy considerations, the proposal is considered to be policy compliant in terms of its scale, layout, appearance and design. The proposal would make more efficient use of the site, consistent with Paragraph 124 of the Framework, and, because it would not be at odds with the character and appearance of the area it would accord with the overall thrust of Policies SP7 and SPL3.

Highway Safety/Parking

- 6.23 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.

- 6.24 The Essex County Council (ECC) Parking Standards 2009 require that dwellings with 2 or more bedrooms be served by a minimum of 2 parking spaces. Parking spaces should measure 5.5 metres by 2.9 metres and garages, if being relied upon to provide a parking space, should measure 7 metres by 3 metres internally. The submitted plans show that the new dwelling would utilise the existing (albeit widened) access off Crown Lane and there will be sufficient space in the form of a gravelled hardstanding to provide the required two parking spaces to ensure compliance with the above mentioned policy requirements. ECC Highways were consulted and raised no objection to the proposal subject to conditions which will be included should the ultimate recommendation be to approve and where the recommended conditions meet all the relevant NPPF tests for planning conditions.
- 6.25 In conclusion, subject to the use of conditions, the proposal would accord with Policies SPL3 and CP1 and the Highways and Parking SPDs. The proposal is not therefore considered to result in any unacceptable harm to highway safety.

Trees and Landscaping

- 6.26 Policy SPL3 seeks new development that respects or enhances local landscape character, views, skylines, landmarks, existing street patterns, open spaces and other locally important features. The design and layout of the proposed development should maintain or enhance important existing site features of landscape, ecological, heritage or amenity value.
- 6.27 The application site is in a rural location, and a dwelling in this location, close to a Public Right of Way has the potential to have an adverse impact on both the character and appearance of the area. However as outlined elsewhere in this report, the site benefits from a prior approval consent as well as planning permission for a single storey 3 bedroom dwelling. In addition, the existing hedge along the southern boundary of the site is to be retained and extended to increase privacy from the PROW to the south. There are no other trees or features of significant landscape quality on site that will be affected by the proposed development. In the absence of any objection from the Councils' Landscape officer it is considered that the proposal is acceptable and can be implemented without causing harm to existing landscape features on or around the site, subject to relevant and necessary landscaping conditions.

Living Conditions of future Occupiers

- 6.28 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.
- 6.29 All new dwellings must therefore accord with the Technical housing standards. A three bedroom, one storey dwelling requires a minimum of 74-95sqm of Gross Internal Floorspace (GIA). From the plans submitted the proposed building meets the requirements of the space standards. It is also considered that the internal layout is appropriate, with all habitable rooms having adequate natural light.
- 6.30 Amenity spaces in the locale vary in both size and configuration and it is considered that the amenity area proposed is considered to meet the needs and expectations of residents and is commensurate to the size of dwelling and the character of the area.
- 6.31 Overall the proposal is considered to secure a good standard of amenity and accommodation for future occupants of the proposed dwelling.

Impact on Residential Amenity

- 6.32 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.
- 6.33 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.
- 6.34 The application site is located within a fairly rural location, neighboured by farm buildings some distance to the north that benefit from prior approvals to be converted to residential use.
- 6.35 The proposed development has been designed to minimise any overlooking or loss of privacy issues, with all main habitable room windows angled away from the area to the north east (the location of the existing farm buildings). Hill Farmhouse, a Grade II Listed building, is located a considerable distance (some 60m) to the north of the northern-most section of the application site and this will ensure the proposal will have no impact on the living conditions of the occupiers of Hill Farmhouse.
- 6.36 Therefore, given the proposed orientation of the new dwelling, in relation to the existing buildings, the restrained scale, bulk and height of the proposed dwelling and the high likelihood of a residential use occurring on the site in any event (by way of the 'in lieu of' planning permission), it is not considered that this development would impact on the residential amenities of these neighbouring occupiers in any regard.

Heritage

- 6.37 Hill Farmhouse is located some 60m to the north of the northern-most section of the application site. There are intervening developments to the north east (the farm buildings), and the existence of planning permission for a 3 bedroom dwelling where development (demolition works necessary to carry out the development) has commenced is sufficient to conclude that the proposal will have a neutral impact on the setting of Hill Farmhouse as a grade II listed building and not result in harm. The proposal therefore results in no conflict with relevant heritage policies.

Water Conservation, Drainage and Sewerage

- 6.38 Paragraph 170 of the Framework states that planning policies and decisions should contribute to and enhance the natural and local environment by preventing new development from contributing to unacceptable levels of water pollution. Furthermore, Paragraph 180 of the Framework states that planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects of pollution on the natural environment.
- 6.39 Policy PPL5 states that all new development must make adequate provision for drainage and sewerage. Private sewage treatment facilities will not be permitted if there is an accessible public foul sewer, which in this case there is not. Where private sewage treatment facilities are the only practical option for sewage disposal, they will only be permitted where there would be no harm to the environment, having regard to preventing pollution of groundwater and any watercourses and odour.
- 6.40 The application form accompanying the application has stated that the development would be connected to a package water treatment plant.

- 6.41 No specific details of the type of system have been submitted and no FDA1 Foul drainage assessment form has been received, but this is not a validation requirement at this time.

Ecology and Biodiversity Implications

- 6.42 Policy PPL4 seeks to protect and enhance the local biodiversity and geodiversity. Whilst the site is not of any specific designation, it is considered to be within a fairly rural setting. The development has scope to include wildlife friendly, native planting and habitat boxes for roosting bats and nesting birds as well as other biodiversity enhancement strategies. These measures will contribute to biodiversity net-gain in accordance with Paragraph 174(d) of the NPPF (2021) subject to conditions to ensure all mitigation and enhancement measures and/or works to include details of sensitive lighting shall be carried out in accordance with the details contained in the Preliminary Ecological Appraisal (Liz Lord Ecology, March 2022).

Renewable Energy

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

Recreational Disturbance Avoidance and Mitigation Strategy (RAMS):

- 6.44 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.
- 6.45 This new residential development lies within the Zone of Influence. The site is not within or directly adjacent to one of the European designated sites, 3500 metres from Hamford Water SPA and RAMSAR and 2200 metres from Colne Estuary RAMSAR and SPA and Essex Estuaries SAC.
- 6.46 The Council's Habitats Regulation Assessment has concluded that, with the proposed mitigation, the project would not have an Adverse Effect on the Integrity of the sites included within the Essex Coast RAMS and therefore the proposal is in accordance with the Essex Coast RAMS SPD.
- 6.47 However, new housing development within the Zol would be likely to increase the number of recreational visitors to Colne Estuary; and, in combination with other developments it is likely that the proposal would have significant effects on the designated site. Mitigation measures must therefore be secured prior to occupation.
- 6.48 In accordance with Natural England's advice there is no requirement to consult them due to the specified mitigation.
- 6.49 A unilateral undertaking has been prepared and completed to secure this obligation which ensures that the development would not adversely affect the integrity of European Designated Sites in accordance with Section 1 Policy SP2 and Section 2 Policy PPL4 of the Tendring District Local Plan 2013-2033 and Regulation 63 of the Conservation of Habitat and Species Regulations 2017.

7. Conclusion

- 7.1 Insofar as settlement development hierarchy policies is concerned, it is considered that the proposed development is not consistent with the National and Local Plan Policies identified above, but approval is recommended given the material consideration of the planning history and fall back. The proposal, subject to conditions, is in accordance with all other relevant planning policies and guidance notes. In the absence of material harm resulting from the proposal the application is recommended for approval.

8. Recommendation

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

8.2 Conditions

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

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

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

5695 PA_01 Revision C
5695 PA_02 Revision A
5695 PA_03 Revision A
5695 PA_04 Revision A
5695 PA_05 Revision A
5695 PA_06 Revision A
5695 PA_07 Revision A

Preliminary Ecological Appraisal (by Liz Lord Ecology, March 2022).

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

3. There shall be no development above slab level until a scheme for all 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.

4. 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.

5. No development above slab level shall commence under details of a suitable vehicle passing place along the access way leading to Hill Farm have been submitted to the LPA for written approval, indicating minimum dimensions of 5 metres wide x 6 metres in length. The details shall thereafter be implemented in accordance with the approved details prior to first occupation of the development hereby approved.

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

6. Prior to the occupation of the development hereby approved the private drive shall be constructed to a minimum width of 4.8 metres for at least the first 6 metres from the back of Highway Boundary (at its junction with Crown Lane).

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.

7. Prior to occupation of the dwelling hereby approved, an electrical charging point, including all necessary switching and cabling to make it operational, shall be made readily available for future occupants of the dwelling.

Reason: In order to promote sustainable transport.

8. 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 that would otherwise be classed as 'permitted development' in this rural location, and due to the unique planning history on the site since planning permission been granted in lieu of a prior approval for a conversion to a new dwelling and such conversions do not have permitted development rights.

9. The development shall be carried out in full accordance with enhancement measures and details contained in Preliminary Ecological Appraisal (by Liz Lord Ecology, March 2022). This includes the appointment of an appropriately competent person e.g. an ecological clerk of works (ECoW) to provide on-site ecological expertise during construction. The appointed person shall undertake all activities, and works shall be carried out, in accordance with the approved details.

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

10. Prior to above ground works of the development hereby approved, a Biodiversity Enhancement Strategy (BES) for Protected and Priority species shall first been submitted to and approved in writing by the local planning authority. The BES shall include the following:

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

Thereafter the development shall proceed in accordance with the details as may have been approved. The approved biodiversity enhancement measures shall be retained for the lifetime of the development.

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

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

- identify those features on site that are particularly sensitive for bats and that are likely to cause disturbance along important routes used for foraging;
- show how and where external lighting will be installed (through the provision of appropriate lighting contour plans, Isolux drawings and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory as well as to minimise the impact of light spillage and luminance on nearby residents.

All external lighting shall be installed in accordance with the specifications and locations set out in the scheme and maintained thereafter in accordance with the scheme. No other lighting except as may be approved by this condition shall be installed on the site.

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

Informatives

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

Highways Informatives:

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

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

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

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

Additional Considerations

Public Sector Equality Duty (PSED)

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

- h. 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.
- i. 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).
- j. 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

- k. 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.
- l. 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.

14. Background Papers

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

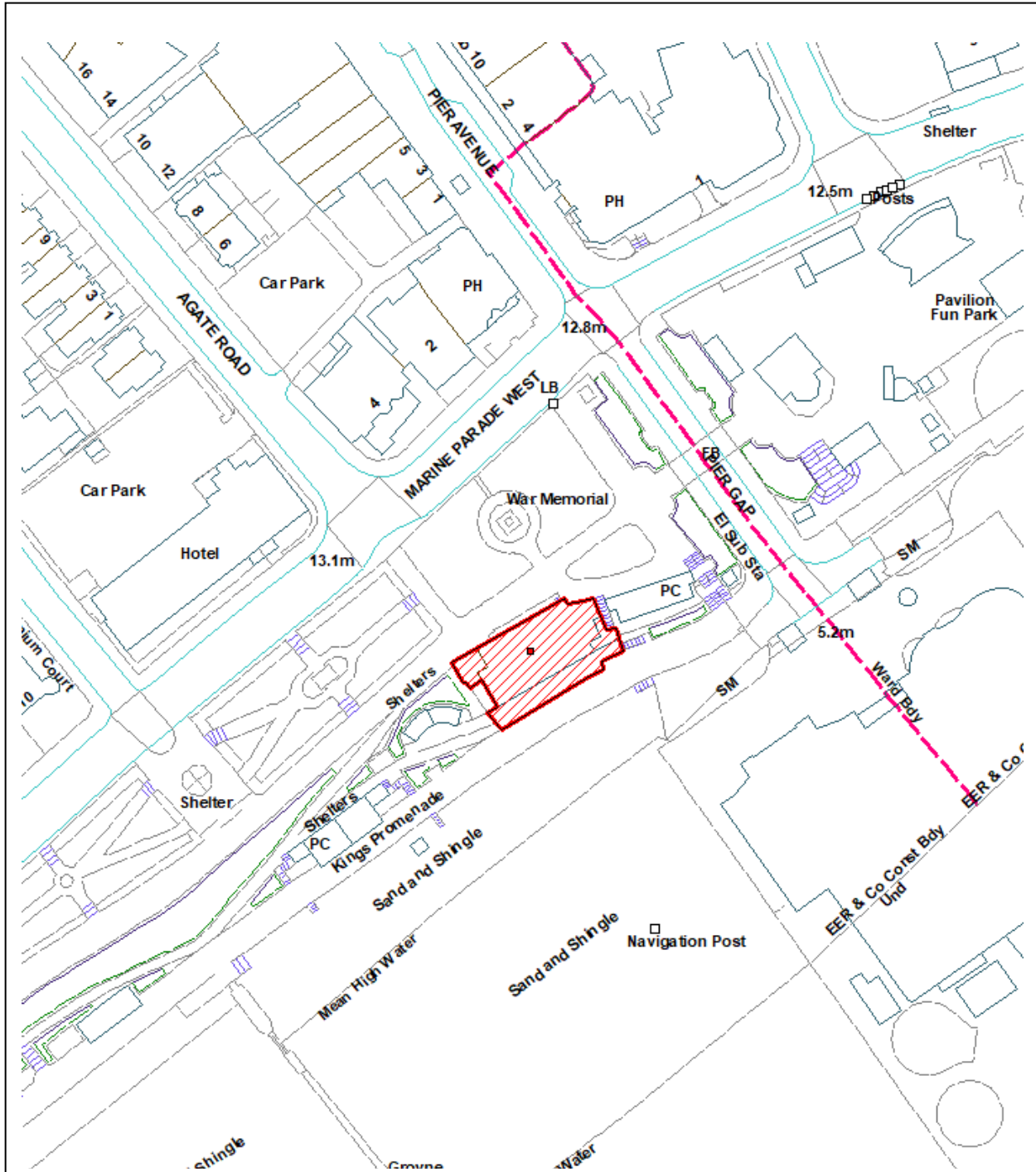
This page is intentionally left blank

PLANNING COMMITTEE

17TH JANUARY 2023

REPORT OF THE DIRECTOR FOR PLANNING

A.2 PLANNING APPLICATION – 22/01843/FUL – ATLANTA BUILDING KINGS PROMENADE CLACTON ON SEA CO15 1FS



DO NOT SCALE

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

Application: 22/01843/FUL

Town / Parish: Clacton Non Parished

Case Officer: Charlotte Cooper

Applicant: Mr Jon Birtles - Loungers UK Limited

Address: Atlanta Building Kings Promenade Clacton On Sea Essex CO15 1FS

Development: Proposed new shop front and external seating area to be used in connection with a lounge cafe.

1. Executive Summary

- 1.1 This application is before members as the land is owned by Tendring District Council.
- 1.2 This application seeks a new shopfront and creation of an external seating area at the Atlanta Building, Kings Promenade, Clacton on Sea. These changes will enable the building to operate as a lounge cafe
- 1.3 The existing Atlanta building is occupied by various kiosks and cafes, planning permission is not required for the change of use as all uses are within Class E.
- 1.4 The proposal is considered to be of an acceptable design and appearance, in keeping with the locality.

Recommendation: Approval

That the Planning Manager be authorised to grant planning permission subject to the conditions as stated at paragraph 8.2, or varied as is necessary to ensure the wording is enforceable, precise and reasonable in all other respects, including appropriate updates, so long as the principle of the conditions as referenced is retained.

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

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

SPL3 Sustainable Design

PPL8 Conservation Areas

Local Planning Guidance

Essex Design Guide

Status of the Local Plan

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

3. Relevant Planning History

14/30098/PREAPP	Use of part of the Atlanta building as an exhibition space.		03.03.2014
22/00856/FUL	Proposed installation of extraction system.	Approved	04.08.2022
22/01829/ADV	Consent to display 3no. illuminated fascia signs and 1no. illuminated menu board.	Current	
22/01843/FUL	Proposed new shop front and external seating area to be used in connection with a lounge cafe.	Current	

4. Consultations

ECC Highways Dept
05.12.2022

Having considered the information submitted with the planning application the Highway Authority has no comments to make on this proposal.

Informative

Arrangement shall be made for surface water drainage to be intercepted and disposed of separately so that it does not discharge from or onto the highway carriageway.

All work within or affecting the highway is to be laid out and constructed by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority, details to 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

Essex County
Council
Heritage
14.12.2022

The application is for proposed new shop front and external seating area to be used in connection with a lounge cafe.

The proposal site is a 1950s building within the Clacton Seafront Conservation Area and adjoining Grade II Listed Clacton-on-Sea War Memorial and Clacton Seafront Park and Garden, a Grade II Listed registered park. The building is also in a prominent position within the Pier Gap, facing Clacton Pier and the seafront. The Pier is the central focus for this area, with the Pier Gap connecting the beach with the settlement behind. It is a prominent feature within the Conservation Area, clearly visible from the Clacton Seafront Park and Garden, and it makes a positive contribution to the understanding of the development of Clacton-on-Sea.

The west of the Pier Gap, where Atlanta building is located, comprises a series of formal gardens connected by a walkway and unified by high quality street furniture, planting, and pavilions. This public realm is also a key contributor to the character of the Conservation Area and enhances our understanding of its historic development and the significance of the seafront.

The proposed works to the main elevation of Atlanta Building are generally considered to preserve or enhance the character or appearance of the Conservation Area, as per Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and Paragraphs 206 and 197c of the NPPF.

There are some concerns about the installation of a new railing to mark the new external seating area. A railing would represent a permanent feature which would not be considered in keeping with the open and public character of the West Promenade (Paragraphs 197c and 206 of the NPPF are relevant here). I advise that only planters are retained as a boundary to the proposed external seating area.

If alterations are made to the proposals and the ground floor railing removed, then there would be no objection to this application.

5. Representations

5.1 None Received.

6. Assessment

Site Context

- 6.1 The application site is 'Atlanta Building', a two storey building located along the southern edge of Kings Promenade, within Clacton-on-Sea. The site is located within the Town Centre Boundary and is identified as a priority area of regeneration.
- 6.2 The site is also located within the Clacton Seafront Conservation Area.
- 6.3 The character of the surrounding area is urbanised to the north, with significant levels of residential and commercial development. Clacton seafront is located immediately to the south with Clacton Pier towards the east.

Description of Proposal

6.4 The proposals are to;

- i. Provide a new shop front
- ii. Creation of external seating area

- 6.5 The shopfront would be powder coated aluminium fully glazed with bifold doors along part of the shopfront provided access to the external timber decked area at ground floor level. The external seating area would be defined by low level planters and black metal railings.
- 6.6 The proposal is considered to be of an acceptable design and appearance, in keeping with the locality. It is not thought to have any significant harmful impacts on the visual amenities of the area.

Heritage Impact

- 6.7 As the proposal is located within the Clacton Seafront Conservation Area, Essex county Council's heritage department, Place Services and raise a concern on one issue. This being the new external railing to mark the new external seating area at ground floor. A railing would represent a permanent feature which would not be considered in keeping with the open and public character of the West Promenade (Paragraphs 197c and 206 of the NPPF are relevant here).
- 6.8 The surrounding area is largely characterised by buildings of a similar use and design. Railings appear prominently within the area, including on the existing host site and site directly opposite the application site. The railings therefore cannot be said to be out of character with the existing Conservation Area in this regard, but do change the immediate character of the area. In this case the external seat area to ensure a flat surface for seating will in part be raised and a form of enclosure is required to avoid customers falling. The enclosure provides a degree of enclosure and security as well as protection that improves the use of the building and is considered to contribute to a viable economic use and function that represents a public benefit. Therefore while harm is slight, public benefit is considered to outweigh this harm. In the planning balance it is also considered that permitted development could allow a form of enclosure (be it a little lower in height) with permission.
- 6.9 The proposed development is considered to have minimal effects in comparison to the existing building in terms of its impacts on the Conservation Area and is therefore considered acceptable.

6.10 Impact on Residential Amenities

- 6.11 The proposal is not located immediately adjacent to residential properties and is therefore not considered to have any significant harmful impacts on residential / neighbouring amenities.

6.12 Other Considerations

- 6.13 The proposal has no impact on the parking provisions / requirements at the site. It is acceptable in terms of highway safety. Essex County council Highways have submitted no objections to the application.
- 6.14 No letters of representation have been received.

7. Conclusion

- 7.1 It is considered that the proposed development is consistent with the National and Local Plan Policies identified above and the application is recommended for approval.

8. Recommendation

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

8.2 Conditions and Reasons

- 1 The development hereby permitted shall 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:

Drawing No. LNG4605.03 A
Drawing No. LNG4605.04 A
Drawing No. LNG4605.07 C
Design and Access Statement

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

8.3 Informatives

Positive and Proactive Statement

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

9. Additional Considerations

Public Sector Equality Duty (PSED)

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

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

Human Rights

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

Finance Implications

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

10. Background Papers

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

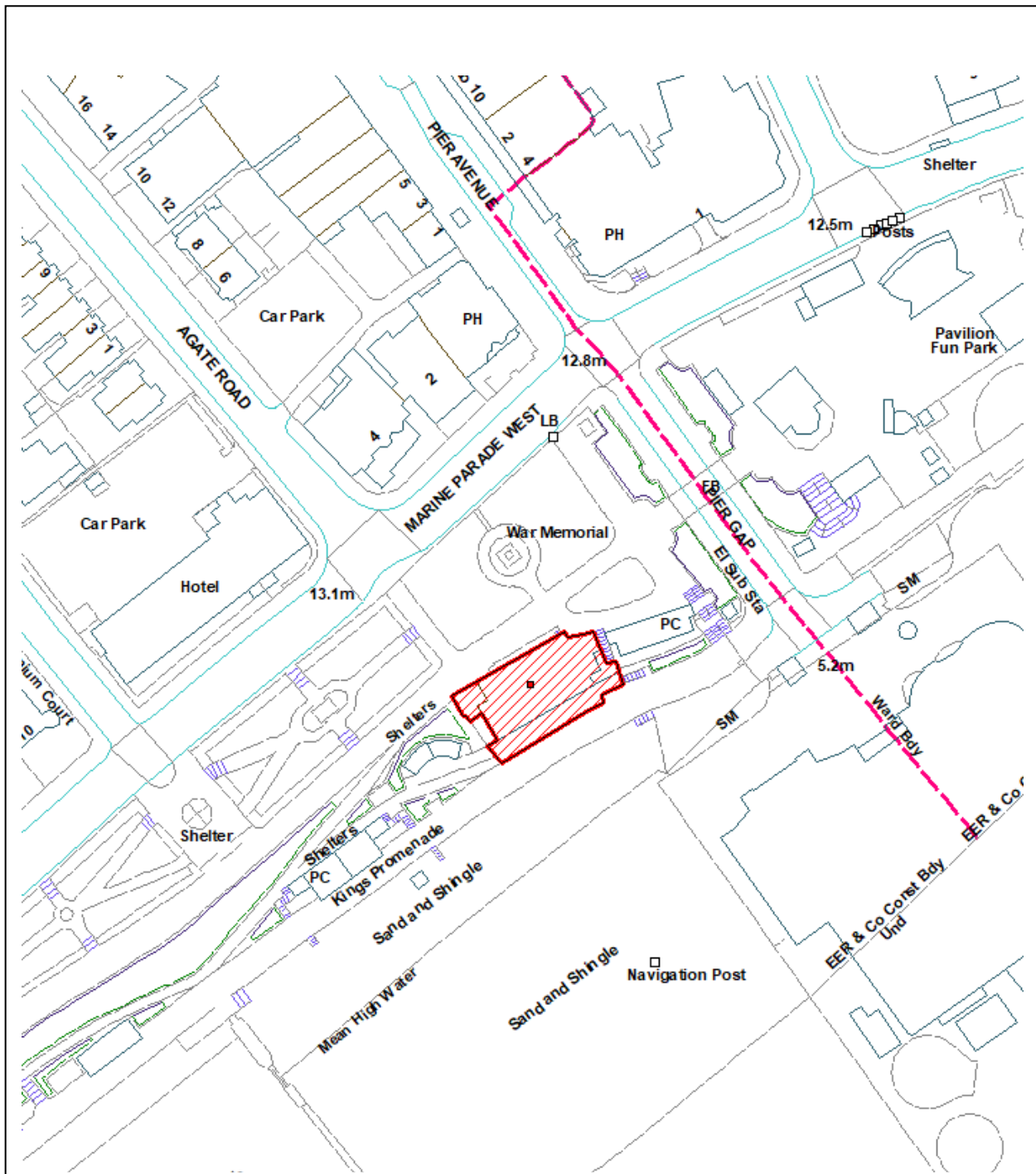
This page is intentionally left blank

PLANNING COMMITTEE

17TH JANUARY 2023

REPORT OF THE DIRECTOR FOR PLANNING

A.3 PLANNING APPLICATION – 22/01829/ADV – ATLANTA BUILDING KINGS PROMENADE CLACTON ON SEA CO15 1FS



DO NOT SCALE

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

Application: 22/01829/ADV

Town / Parish: Clacton Non Parished

Case Officer: Charlotte Cooper

Applicant: Mr Alex Kalebic - Loungers UK Limited

Address: Atlanta Building Kings Promenade Clacton On Sea Essex CO15 1FS

Development: Consent to display 3no. illuminated fascia signs and 1no. illuminated menu board.

1. **Executive Summary**

1.1 This application is for consent to display 3 no. illuminated fascia signs and 1 no. illuminated menu board.

1.2 Fascia Sign No. 1 will display the name of the building 'Martello Lounge'. Fascia Signs No. 2 and No. 3 will display individual mental letters 'Café Bar'. All three signs will be to the front of the building and will be illuminated.

1.3 The illuminated menu board will be inside the shopfront adjacent to the main entrance to the café/bar.

1.4 Due to the location of the building, in close proximity to 'Clacton Pier' and 'The Pavilion', the design and appearance of the proposal is considered to be in keeping with the locality and will not result in a loss of amenities to neighbouring properties.

Recommendation:

That the Planning Manager be authorised to grant planning permission subject to the conditions as stated at paragraph 8.2, or varied as is necessary to ensure the wording is enforceable, precise and reasonable in all other respects, including appropriate updates, so long as the principle of the conditions as referenced is retained.

2. **Planning Policy**

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

National Planning Policy Framework July 2021 (NPPF)

National Planning Practice Guidance (NPPG)

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

SP7 Place Shaping Principles

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

SPL3 Sustainable Design

PPL8 Conservation Areas

Local Planning Guidance

Essex Design Guide

Status of the Local Plan

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

3. Relevant Planning History

22/00856/FUL	Proposed installation of extraction system.	Approved	04.08.2022
22/01843/FUL	Proposed new shop front and external seating area to be used in connection with a lounge cafe.	Current	

4. Consultations

Essex County
Council Heritage
21.12.2022

The application is for consent to display 3no. illuminated fascia signs and 1no. illuminated menu board.

The proposal site is a 1950s building within the Clacton Seafront Conservation Area and adjoining Grade II Listed Clacton-on-Sea War Memorial and Clacton Seafront Park and Garden, a Grade II Listed registered park. The building is also in a prominent position within the Pier Gap, facing Clacton Pier and the seafront. The Pier is the central focus for this area, with the Pier Gap connecting the beach with the settlement behind. It is a prominent feature within the Conservation Area, clearly visible from the Clacton Seafront Park and Garden, and it makes a positive contribution to the understanding of the development of Clacton-on-Sea.

The west of the Pier Gap, where Atlanta building is located, comprises a series of formal gardens connected by a walkway and unified by high quality street furniture, planting, and pavilions. This public realm is also a key contributor to the character of the Conservation Area and enhances our understanding of its historic development and the significance of the seafront.

A predominant concern throughout the Conservation Area is the use of inappropriate signage. Signs are often dominant in views and therefore negatively impacting our ability to read the historic character of the town. There are therefore concerns about the use of light pink neon to the centre of each letter.

The proposed colour scheme also does not complement the minimalist architecture of the original building and it is not considered in keeping with the local character of Clacton Conservation Area, where the predominant colour for buildings along the seafront is white or off white.

In their current form the proposal do not preserve or enhance the character or appearance of the Conservation Area, contrary to Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and Paragraph 202 of the NPPF is relevant.

Furthermore, the proposed fail to make a positive contribution to local character and distinctiveness, as set out in Paragraph 197c of the NPPF.

I advise the proposal is revised and we are re-consulted.

ECC Highways
Dept
28.11.2022

The information that was submitted in association with the application has been fully considered by the Highway Authority. No site visit was undertaken in conjunction with this planning application. The information submitted with the application has been thoroughly assessed and conclusions have been drawn from a desktop study with the observations below based on submitted material.

From a highway and transportation perspective the Highway Authority has no comments to make on this proposal; given the luminance levels do not exceed the recommended level of 600 cd/m for a medium district area (small town centre), as contained within the Technical Report No.9 - Brightness of Illuminated Advertisements Third Addition.

5. Representations

5.1 None received.

6. Assessment

Site Context

6.1 The application site is 'Atlanta Building', a two storey building located along the southern edge of Kings Promenade, within Clacton-on-Sea. The site is located within the Town Centre Boundary and is identified as a priority area of regeneration.

6.2 The site is also located within the Clacton Seafront Conservation Area.

6.3 The character of the surrounding area is urbanised to the north, with significant levels of residential and commercial development. Clacton seafront is located immediately to the south with Clacton Pier towards the east.

Proposal

6.4 This application seeks advert consent to display 3 No. illuminated fascia signs and 1 no. illuminated menu board. Being an advertisement consent application, the material considerations are visual amenity that includes appearance, heritage, and highway safety.

Design and Appearance

- 6.5 Fascia sign No. 1, as shown on drawing no. LNG4605.06C, will display raised and individually cut metal lettering in light pink, with light pink neon to the centre of each letter and to run as one piece through the cursive front. This sign will display the name of the building 'Martello Lounge'.
- 6.6 Fascia Sign No. 2 and 3 will display individual letters with powder coated front faces and returns in off white. The letters will have concealed halo illumination in soft warm white. These signs will display the words 'Café' and 'Bar'.
- 6.7 The proposed illuminated menu board will be located inside the shopfront. An LED light strip will be fixed to the upper internal edge of the menu board. The board will have gold finish with laminated glass.
- 6.8 The proposal is publicly visible, however illuminated signs of this nature and prominent in the locality. The proposal is considered to blend with its location and has no significant harmful impact on the visual amenities of the area (heritage matters are considered separately below).

Impact on Clacton Seafront Conservation Area

- 6.9 Due to the proposals location within the Clacton Seafront Conservation Area, Essex County Councils Heritage Department, Place Services, have been consulted and have submitted the comments detailed earlier in the report. In summary the heritage team raise two points of concern.

- The use of light pink neon to the centre of each letter (but no expressed objection to the signage as a whole)
- The colour scheme of the building

In respect of the second point, the colour scheme of the building is not part of this application for consideration, and as this is not a Listed Building can be changed without permission. Therefore, the use of pink neon remains and the concern that the Local Planning Authority must consider is significantly less than that referenced by the heritage team.

- 6.10 Heritage finds that signs are often dominant in views and therefore negatively impacting our ability to read the historic character of the town and, while this is a sweeping statement, in this specific case find the colour pink and neon effect through illumination to be dominant failing to enhance or conserve the Conservation Area. The Conservation Area is a heritage asset and so if harm (even less than substantial harm is established) it must be considered carefully in accord with the NPPF and can only be acceptable if public benefit outweighs that harm. While accepting the aim of heritage to seek enhancement of the Conservation Area, the minimum bar for consideration is to conserve. The current requirement as heritage also state is to preserve or enhance, it does not have to be both.
- 6.11 In terms of *conserving* the Conservation Area, the proposal is considered to be of an in keeping appearance to the signs serving the adjacent site (Clacton Pavilion, namely the 'Pavilion Bowl') and the judgement on the Conservation Area can only be at the present time and present considerations. Furthermore, the signs are located to the front of the building and will not be visible from the aforementioned War memorial or Clacton Seafront Park, they will not have any significant impacts on the visual amenities or special character of these areas to warrant refusal. However, in this regard given illumination and experience of the area as a whole there may be slight harm in the context of the Conservation Area and other designated assets. Therefore the test for public benefit is considered to engage and it is considered that the proposal is part of the economic development of this site that does provide public benefit in terms of securing a viable economic growth for the area and well maintained appearance. It is further material to consider all other works to this site as a whole in this regard.

Highway Safety/Parking

- 6.12 Essex County Council Highways have been consulted on the application and have raised no objection on highway safety grounds. Your officer have reviewed this position and agree that the proposal is considered to be acceptable in terms of highway safety.

Impact on neighbouring / residential amenities

- 6.13 While not a consideration for advert consent, the proposed signage does not face onto any residential properties and has no significant harmful effects on neighbouring amenities.

7. Conclusion

- 7.1 The signage is considered to be suitable to the site and surroundings conforming to local and national policies. 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 and informatives

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: -

1. 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.
2. 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.
3. 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.
4. 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.
5. 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 drawings / documents.

Drawing No. LNG4605.BP - Block Plan
Drawing No. LNG4605.06C - Proposed Signage Detail
Heritage Statement

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

8.3 Informatives

Positive and Proactive Statement

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

Highways 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.

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

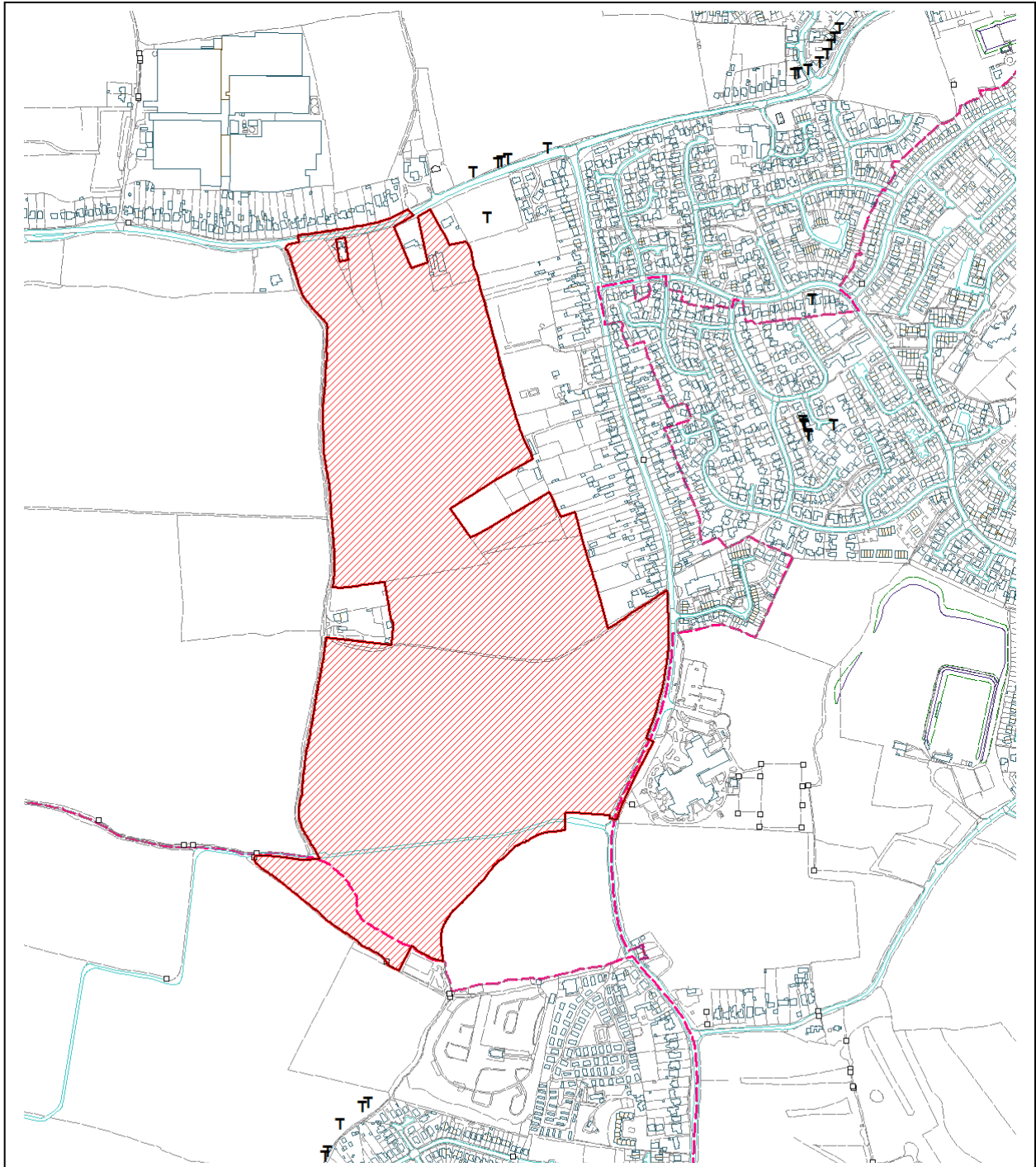
- 10.1 In making this recommendation, officers have considered all plans, documents, reports and supporting information submitted with the application together with any amended documentation. Additional information considered relevant to the assessment of the application (as referenced within the report)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

17th January 2023

SUMMARY REPORT FROM THE DIRECTOR FOR PLANNING – TO SEEK A FURTHER 7 WEEK EXTENSION FROM COMMITTEE TO ALLOW THE NOW COMPLETED S106 TO BE ENGROSSED AND THE OUTLINE PLANNING PERMISSION TO BE ISSUED

A.4 PLANNING APPLICATION – 17/01229/OUT – LAND ADJACENT AND TO THE REAR OF 755 AND 757 ST JOHNS ROAD CLACTON ON SEA CO16 8BJ



DO NOT SCALE

Application: 17/01229/OUT

Town / Parish: Clacton Non Parished

Applicant: Persimmon Homes Essex and Messers M & I Low, K Francis and

Address: Land adjacent and to The rear of 755 and 757 St Johns Road Clacton On Sea CO16 8BJ

Development: Outline application (all matters reserved except means of access) for the redevelopment (including demolition) of the site for up to 950 residential units (including affordable housing) with a new Neighbourhood Centre comprising a local healthcare facility of up to 1500sqm NIA and up to 700sqm GFA for use classes A1 (shops), A3 (food and drink) and/or D1 (community centre); a 2.1ha site for a new primary school; and associated roads, open space, drainage, landscaping and other associated infrastructure.

1. Summary Report

- 1.1 The above planning application was reported to Members of the Planning Committee on the 7th June 2022 where the Committee resolved to grant outline planning permission subject to the conditions and a section 106 legal agreement to cover the heads of terms as outlined in the planning committee report for this item, dated 7th June 2022.
- 1.2 This Committee resolution was subject to a stipulation that the Assistant Director for Planning be authorised to refuse planning permission in the event that such legal agreement has not been completed within a period of 6 months from the date of the resolution (i.e. 7th June 2022). The 6 month period expired on 6th December 2022. The requirement does not mean that the application must be refused only provides authorisation to do so if needed, but at the same time no longer maintained the right of approval as a matter of delegation beyond the 6th December in this case given the wording of the resolution.
- 1.3 Unfortunate circumstances beyond the control of the LPA and applicant resulted in a delay in the resolution of one matter in respect of the section 106. This matter, relating to a travel plan monitoring plan and fee, has now been resolved.
- 1.4 This resulted in the 6 month timeframe for completion of s106 being exceeded by a short time and having to account for the Christmas period. The section 106 has now been completed, signed and engrossed and the outline planning permission is ready to be issued.

REQUEST

The Director for Planning is hereby formally seeking the authority from Members of the Planning Committee to agree to a further 7 week extension (to take us up to and including the 24th January 2023) to allow officers to issue the outlined planning permission previously resolved to be approved subject to conditions and the section 106 legal agreement has been completed and signed by all parties as updated.

For the avoidance of doubt, the following heads of terms have now been agreed in the completed section 106 legal agreement:

- 20% On-site Affordable Housing

- Provision of land on-site for a new healthcare facility together with a 554,900 financial contribution towards its provision. [In the event that the land is not required, the financial contribution will be spent on health facilities elsewhere (to be determined by the NHS);
- Transfer of new open space, including proposed equipped play areas to the Council or a management company;
- Land for a new primary school and early years and childcare facility on site with financial contributions towards the provision of those facilities;
- Financial contributions to create additional secondary school places;
- New neighbourhood centre;
- Financial contributions towards RAMS and off-site ecological mitigation.
- A £500,000 financial contribution towards public transport provision; and
- Travel plan and travel plan monitoring fee.

The report agreed by members on 7th June 2022 and extract of minutes to follow via email.

This page is intentionally left blank