



PLANNING COMMITTEE

DATE:	Thursday, 16 February 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 Emma Haward on (01255) 686007 or email Democratic Services on democraticservices@tendringdc.gov.uk.

DATE OF PUBLICATION: Monday, 6 February 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 - 10)**

To confirm and sign as a correct record, the minutes of the meeting of the Committee, held on 17 January 2023.

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 THE DIRECTOR (PLANNING) - A.1 - PLANNING APPLICATION – 21/01831/FUL – LAND TO THE SOUTH OF THE ALLOTMENTS, BEAUMONT ROAD, GREAT OAKLEY, CO12 5BA (Pages 11 - 56)**

Proposed residential development of 86 dwellings, community building and play area, public car park, landscaping and ancillary works.

6 **REPORT OF THE DIRECTOR (PLANNING) - A.2 - PLANNING APPLICATION – 22/01286/FUL – THE LODGE HOUSE, CROW LANE, TENDRING, CO16 9AP (Pages 57 - 74)**

Replacement dwelling following approval (under planning permission 21/01957/FUL) for conversion of office/garage building into a dwelling.

7 **REPORT OF THE DIRECTOR (PLANNING) - A.3 - PLANNING APPLICATION – 20/00377/FUL – LAND NORTH OF CEMETERY LAND, BURRS ROAD, CLACTON-ON-SEA, CO15 4QX (Pages 75 - 90)**

Proposed extension to the current cemetery site.

8 **REPORT OF THE DIRECTOR (PLANNING) - A.4 - PLANNING APPLICATION – 22/01601/FUL – THE GRANGE, HECKFORDS ROAD, GREAT BENTLEY, CO7 8RR (Pages 91 - 102)**

Retrospective application for the erection of a building for storage of machinery, materials, and ancillary domestic/leisure use, all related to the existing property.

9 **REPORT OF THE DIRECTOR (PLANNING) - A.5 - PLANNING APPLICATION – 22/01423/FUL – LAND AT 72 HUNGERDOWN LANE, LAWFORD, CO11 2LX (Pages 103 - 118)**

Erection of two 3-bedroom cottages (in lieu of Prior Approval for two x 3- bedroom dwellings, subject to application 21/00057/COUNOT).

10 **REPORT OF DIRECTOR (PLANNING) - A.6 - PLANNING ENFORCEMENT UPDATE (Pages 119 - 126)**

In accordance with the provisions of the Council's Enforcement Policy, this report is provided to Planning Committee on a quarterly basis for information.

Date of the Next Scheduled Meeting

The next scheduled meeting of the Planning Committee is to be held in the Committee Room, Town Hall, Station Road, Clacton-on-Sea, CO15 1SE at 6.00 pm on Tuesday, 14 March 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 686007) 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, 17TH JANUARY, 2023 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, Codling, V Guglielmi, Harris and Wiggins
Also Present:	Councillor G V Guglielmi
In Attendance:	Gary Guiver (Director (Planning)), John Pateman-Gee (Planning Manager), Ian Ford (Committee Services Manager), Joanne Fisher (Planning Solicitor), Jacob Jaarsmar (Planning Team Leader)(except items 85 and 86), Charlotte Cooper (Development Technician), Emma Haward (Leadership Support Assistant) and Hattie Dawson-Dragsic (Performance and Business Support Officer)

79. 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

The Chairman informed the meeting that this application had been deferred as Essex County Council had made a late request to include an extra clause within the Section 106 Legal Agreement and consequently a further period of time was required to allow all parties to consider their position.

80. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

An apology for absence was submitted on behalf of Councillor Placey (who was not substituted).

81. MINUTES OF THE LAST MEETING

The minutes of the last meeting of the Committee, held on 20 December 2022, were approved as a correct record and signed by the Chairman.

82. DECLARATIONS OF INTEREST

Councillor Harris stated for the public record that he was a member of Tendring Parish Council and the Ward Member for Planning Application 22/00778/FUL (report item A.1). He confirmed, however, that he was not pre-determined on this application and that therefore he would take part in the Committee’s deliberations on this matter. He also confirmed that he had not participated in the Parish Council’s discussions on this application.

Councillor Alexander stated for the public record that he was a Ward Member for Planning Applications 22/01843/FUL (report item A.2) and 22/01829/ADV (report item A.3).

83. QUESTIONS ON NOTICE PURSUANT TO COUNCIL PROCEDURE RULE 38

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

84. REPORT OF DIRECTOR (PLANNING) - A.1 - PLANNING APPLICATION – 22/00778/FUL – HILL FARM, CROWN LANE, TENDRING

Earlier on in the meeting, as reported in more detail under Minute 82 above, Councillor Harris had stated for the public record that he was a member of Tendring Parish Council and the Ward Member for this application.

It was reported that this application had been referred to the 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.

In the opinion of the Planning Officers the proposed dwelling was not considered to be so materially different in regards to siting and footprint compared to the development previously approved under prior approval 17/01559/COUNOT and the new dwelling previously approved in lieu of this prior approval under application 19/00236/FUL. Moreover, in respect of proposed design and external appearance, the proposal was considered by Officers 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 exceeded that of the above-mentioned approvals however, given the siting of the building, coupled with the improvements outlined above, this minor increase in height was not considered to result in harm. The proposed dwelling would continue to utilise an existing private access off Crown Lane to include its widening to 4.8m (wide) for first 6m.

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

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

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

Eleanor Serghiou, an applicant, spoke in favour of her application.

Bill Marshall, a member of the public, spoke in favour of the application.

The Chairman of Tendring Parish Council (Parish Councillor Ted Edwards) spoke against the application.

Outline of matters raised by the Committee	Outline of the Officer response thereto
<i>Can you clarify that the original consent granted under Class Q in 2017 was superseded by the 2019 permission,</i>	<i>Yes, in essence. However, the demolition of the former pig farrowing building constitutes a lawful</i>

<i>which therefore negated Class Q and in turn is now superseded by this current application?</i>	<i>commencement of the previous permission and therefore there exists a strong fall-back position. Simply put, there will be a 3 bedroom dwelling built at this site – it is just a case of Members deciding which of the two alternatives has the better design.</i>
<i>Are the height sizes similar between the 2019 and current applications and are they comparable to the original pig farrowing building?</i>	<i>The Officer referred Members to the table in Section 6.14 of his written report.</i>
<i>Can you confirm that the proposed footprint has gone from 80sqm to 108sqm to now 130sqm. Do you consider this to be a reasonable increase in size from the original pig farrowing building?</i>	<i>This is difficult to answer as different points in time have different circumstances. Officers can only judge an application on its individual merits given the prevailing material circumstances at this time. The entirety of the original pig farrowing building, including its overhang, was 118sqm. Cannot deny there's a jump in size but there is no demonstrable planning harm. Essentially, this is just a matter of comparing the two designs whilst allowing for an increase of 13sqm.</i>
<i>What is the height of other buildings in the vicinity including the house currently under construction?</i>	<i>The house currently under construction is 20cm higher and the other existing dwellings in the vicinity are similar.</i>
<i>Have any objections been received from neighbours?</i>	<i>No.</i>
<i>Do you agree that this is a barn type design?</i>	<i>The design is simple in form and layout with modern features but there are strong nods to the historic barn in some features.</i>
<i>Do you feel that this design is in keeping with other dwellings and the general area in that vicinity?</i>	<i>Yes</i>
<i>Would this be classed as a "windfall" housing gain?</i>	<i>Overall, yes this would count towards the Council's housing provision figures.</i>
<i>Will there be a requirement for solar panels on the roof? Will there be a requirement for electric vehicle charging points?</i>	<i>There would not be a requirement for solar panels as this was not a condition that had been imposed on the 2019 approval. There is a proposed planning condition that would require EV charging points. Measures around the energy provision within the dwelling fall under the Building Regulations.</i>
<i>Will the onus of proposed planning condition 6 fall on the applicant?</i>	<i>Yes, this is an obligation placed upon them by the ECC Highways department.</i>
<i>Was that condition imposed on the other developments in the vicinity?</i>	<i>Can't be certain but probably not given that they were Prior Approvals under Class Q. In respect of this application site the plans approved under the 2019</i>

	<i>permission had included within them within the “red line” the proposed access.</i>
<i>Was the 2019 application approved under delegated powers?</i>	<i>Yes it was.</i>

Following discussion by the Committee:-

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

RESOLVED unanimously that the Planning Manager be authorised to grant planning permission, subject to the conditions, as set out below, or as need to be 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.

Conditions and Reasons

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

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

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

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

Earlier on in the meeting, as reported under Minute 82 above, Councillor Alexander had stated for the public record that he was a Ward Member for this application.

It was reported that this application was before Members as the land was owned by Tendring District Council.

The Committee was informed that this application sought a new shopfront and creation of an external seating area at the Atlanta Building, Kings Promenade, below Marine Parade West, Clacton-on-Sea. Those changes would enable the building to operate as a lounge café.

Members were made aware that the existing Atlanta building was occupied by various kiosks and cafes, and that planning permission was not required for the change of use as all uses were within Class E.

In the opinion of Planning Officers the proposal was considered to be of an acceptable design and appearance, in keeping with the locality.

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 Development Technician (Charlotte Cooper) in respect of the application.

Outline of matters raised by the Committee	Outline of the Officer response thereto
<p><i>Could the Officer clarify the ECC Heritage department's concerns?</i></p>	<p><i>ECC Heritage had concern about the new external railing to mark the new external seating area at ground floor. They felt that 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 were relevant here). However, TDC's Planning Officers had noted that the surrounding area was largely characterised by buildings of a similar use and design. Railings appeared prominently within the area, including on the existing host site and site directly opposite the application site. The railings therefore could not be said to be out of character with the existing Conservation Area in this regard, but did change the immediate character of the area. In this case the external seat area to ensure a flat surface for seating would, in part, be raised and a form of enclosure was required to avoid customers' falling. The</i></p>

	<p><i>enclosure provided a degree of enclosure and security as well as protection that improved the use of the building and was considered to contribute to a viable economic use and function that represented a public benefit. Therefore, while harm was slight, public benefit was considered to outweigh this harm. In the planning balance it was also considered that permitted development could allow a form of enclosure (be it a little lower in height) without planning permission being required.</i></p>
<p><i>Clarify where the disabled access to the ground floor will be.</i></p>	<p><i>It will be on the eastern end (i.e. the Pier side) of the building.</i></p>

Following discussion by the Committee:-

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

RESOLVED that the Planning Manager be authorised to grant planning permission, subject to the conditions, as set out below, or 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.

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.

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

Earlier on in the meeting, as reported under Minute 82 above, Councillor Alexander had stated for the public record that he was a Ward Member for this application.

It was reported that this application was for advertisement consent to display 3 no. illuminated fascia signs and 1 no. illuminated menu board. Fascia Sign No. 1 would display the name of the building 'Martello Lounge'. Fascia Signs Nos. 2 and 3 would display individual metal letters 'Café Bar'. All three signs would be to the front of the building and would be illuminated. The illuminated menu board would be inside the shopfront adjacent to the main entrance to the café/bar.

Due to the location of the building, in close proximity to Clacton Pier and 'The Pavilion', the design and appearance of the proposal was considered by Planning Officers to be in keeping with the locality 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 Development Technician (Charlotte Cooper) in respect of the application. An update sheet had been circulated to the Committee prior to the meeting comprising a correction to a typographical error in paragraph 1.2 of the Officer report.

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 Advertisement Consent, subject to the conditions, as set out below, 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.

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.

The meeting was declared closed at 7.10 pm

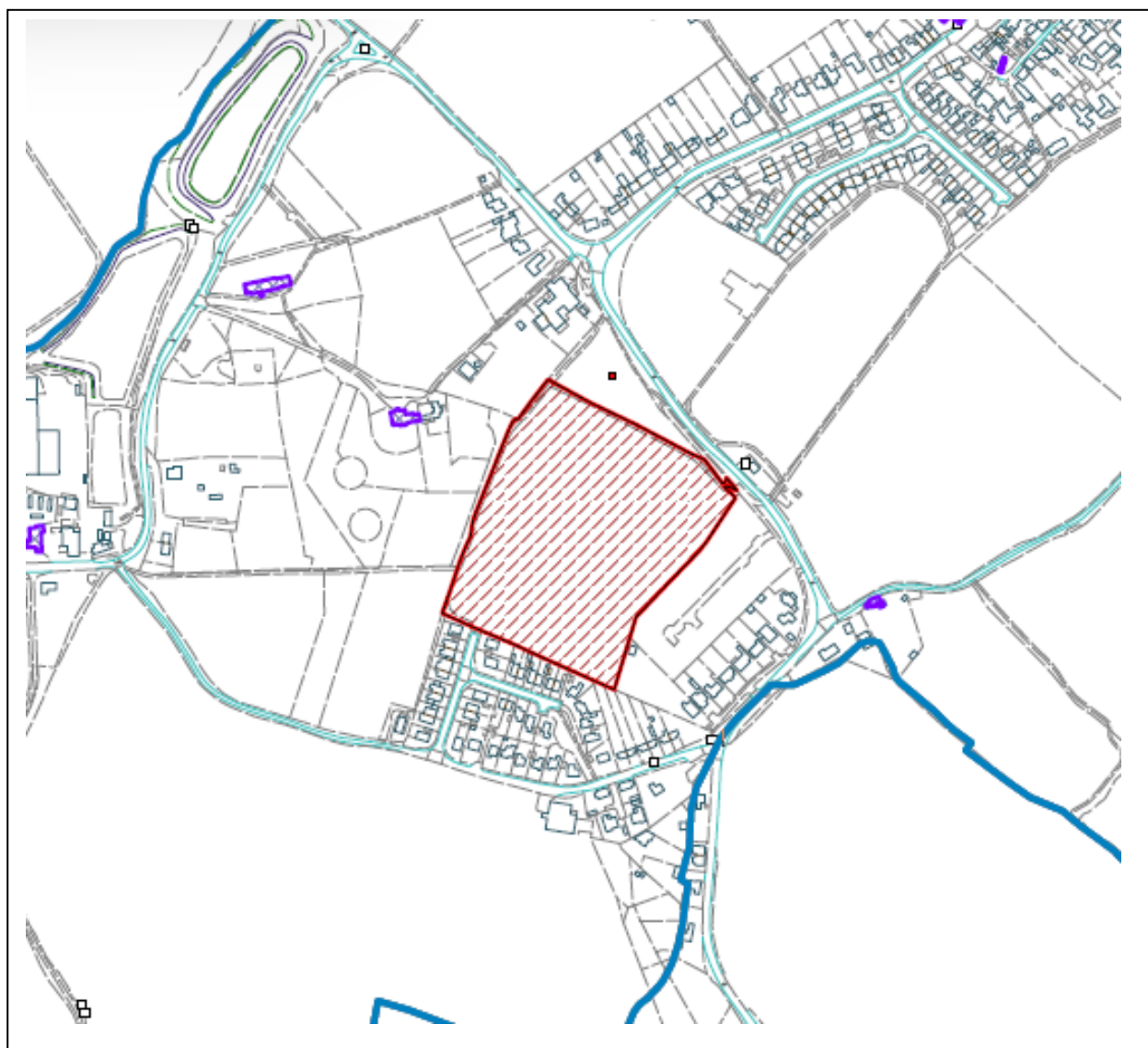
Chairman

PLANNING COMMITTEE

16 February 2023

REPORT OF THE DIRECTOR OF PLANNING

A.1 PLANNING APPLICATION – 21/01831/FUL – LAND TO THE SOUTH OF THE ALLOTMENTS BEAUMONT ROAD GREAT OAKLEY CO12 5BA



DO NOT SCALE

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

Application:	21/01831/FUL	Town / Parish:	Great Oakley Parish Council
Case Officer:	Amy Lang	Expiry Date:	20.01.2023
Applicant:	Great Oakley Developments (Ltd)		
Address:	Land to The South of The Allotments Beaumont Road Great Oakley CO12 5BA		
Development:	Proposed residential development of 86 dwellings, community building and play area, public car park, landscaping and ancillary works.		

1. Executive Summary

- 1.1 The application is before Members at the request of Councillor Bush on the basis that the development is of major significance to Great Oakley. Councillor Bush is in support of the application.
- 1.2 The application site is situated to the south-western end of the village of Great Oakley. The application site extends approximately 3.7 hectares and is located to the south of the existing allotments, off Beaumont Road.
- 1.3 The site lies within the Great Oakley Settlement Development Boundary as defined within the adopted Tendring District Local Plan 2013 – 2033 and Beyond, where the principle of residential development is accepted, subject to the relevant detailed considerations.
- 1.4 The application seeks full planning permission for residential development of 86 dwellings together with the provision of a community building, play area, public car park, and associated landscaping.
- 1.5 Following extensive discussions and negotiations with the applicant, and the submission of amended plans to improve the layout and address statutory consultee objections, officers are recommending approval of the application for the reasons set out in the 'Assessment' section below, and subject to a S106 legal agreement securing all planning obligations relevant to the development.

Recommendation: Approval, subject to S106 agreement

- 1) On appropriate terms as summarised below and those as may be deemed necessary to the satisfaction of the Planning Manager to secure the completion of a legal agreement under the provisions of section 106 of the Town and Country Planning Act 1990 dealing with the following matters:
 - Financial contribution of £11,843.06 (£137.71 per dwelling index linked) towards mitigation in accordance with RAMS;
 - Financial contribution to Essex County Council (ECC) of £73,674.40 toward secondary school transport;
 - Financial contribution to ECC of £6,690.80 (£77.80 per dwelling) toward improvements to Harwich Library;
 - Financial contribution to NHS North East Essex CCG of £52,500.00 toward healthcare;
 - On site open space and play provision (first option of transfer to Parish Council, then management company);
 - On site provision of a community building / play area (first option of transfer to Parish Council, then management company);

- Link to third party land (outside of red lined site area) to deliver protected species management/mitigation for Great Crested Newts (GCN);
 - On site affordable housing provision of 30% (26 units). This shall comprise:
 - 19 no. affordable rented.
 - 7 no. shared ownership.
 - Options for the Council and/or housing association/social landlord to be agreed.
 - Trigger point for delivery to be agreed.
- 2) That the Planning Manager be authorised to grant planning permission upon completion of the legal agreement subject to conditions as stated in Section 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.
- 3) The informative notes as may be deemed necessary.
- Or;**
- 4) That in the event of the Planning obligations or requirements referred to in Resolution (1) above not being secured and/or not secured within 6 months that the Director for Planning at their discretion be authorised to refuse the application on appropriate grounds, but maintaining the resolution to approve if not refused.

2. **Planning Policy**

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

National:

National Planning Policy Framework 2021
National Planning Practice Guidance

Local:

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

SP1	Presumption in Favour of Sustainable Development
SP2	Recreational disturbance Avoidance and Mitigation Strategy (RAMS)
SP3	Spatial Strategy for North Essex
SP4	Meeting Housing Needs
SP6	Infrastructure & Connectivity
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
HP1	Improving Health and Wellbeing
HP2	Community Facilities
HP5	Open Space, Sports and Recreation Facilities
LP1	Housing Supply
LP2	Housing Choice
LP3	Housing Density and Standards
LP4	Housing Layout
LP5	Affordable Housing
PPL1	Development and Flood Risk

PPL3	The Rural Landscape
PPL4	Biodiversity and Geodiversity
PPL5	Water Conservation, Drainage and Sewerage
PPL7	Archaeology
PPL9	Listed Buildings
PPL10	Renewable Energy Generation and Energy Efficiency Measures
PP12	Improving Education and Skills
CP1	Sustainable Transport and Accessibility
DI1	Infrastructure Delivery and Impact Mitigation

Essex Minerals Local Plan 2014 (MLP)

S8 Safeguarding Mineral Resources and Mineral Reserves

Supplementary Planning Guidance

Essex Design Guide

Tendring Climate Emergency Action Plan 2020 - 2023

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

Status of the Local Plan

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

In relation to housing supply:

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

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

3. Relevant Planning History

15/01080/OUT	Hybrid application consisting of:	Approved	31.03.2016
--------------	-----------------------------------	----------	------------

	Outline planning permission for the erection of 51. no 2/3/4 bed dwellings to PassivHaus standards. Full planning permission for public open space including a village green & childrens play area & the provision of a village hall, doctors surgery & village shop.		
17/00923/OUT	Variation of Condition 2 of planning permission 15/01080/OUT - to permit changes to the layout and design of the surgery/shop.	Approved	08.09.2017
18/00352/DETAIL	Reserved matters for Phase 1 (23 dwellings) following outline approval for 15/01080/OUT -Outline planning permission for the erection of 51. no 2/3/4 bed dwellings to PassivHaus standards.	Approved	19.12.2018
18/00997/DISCON	Discharge of Condition 13 (drainage) and Condition 12 (details of landscaping) following outline approval 17/00923/OUT.	Approved	11.03.2019
18/02077/DISCON	Discharge of Condition 15 (Wheel Cleaning facility) and Condition 17 (Construction Method Statement) of application 17/00923/OUT.	Approved	11.03.2019

4. **Consultations**

- 4.1 Below is a summary of the comments received from consultees relevant to this application proposal. Where amendments have been made to the application, or additional information has been submitted to address previous issues, only the latest comments are included below.
- 4.2 All consultation responses are available to view, in full (including all recommended conditions and informatives), 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/>.

Anglian Water Services

Section 1 - Assets Affected

Our records show that there are no assets owned by Anglian Water or those subject to an adoption agreement within the development site boundary.

Section 2 - Wastewater Treatment

The foul drainage from this development is in the catchment of Harwich and Dovercourt Water Recycling Centre that will have available capacity for these flows

Section 3 - Used Water Network

This response has been based on the following submitted documents: Flood Risk Assessment.

Section 4 - Surface Water Disposal

The preferred method of surface water disposal would be to a sustainable drainage system (SuDS) with connection to sewer seen as the last option. Building Regulations (part H) on Drainage and Waste Disposal for England includes a surface water drainage hierarchy, with infiltration on site as the preferred disposal option, followed by discharge to watercourse and then connection to a sewer.

From the details submitted to support the planning application the proposed method of surface water management does not relate to Anglian Water operated assets. As such, we are unable to provide comments on the suitability of the surface water management. The Local Planning Authority should seek the advice of the Lead Local Flood Authority or the Internal Drainage Board. The Environment Agency should be consulted if the drainage system directly or indirectly involves the discharge of water into a watercourse. Should the proposed method of surface water management change to include interaction with Anglian Water operated assets, we would wish to be reconsulted to ensure that an effective surface water drainage strategy is prepared and implemented. If the developer wishes Anglian Water to be the adopting body for all or part of the proposed SuDS scheme the Design and Construction Guidance must be followed. We would recommend the applicant contact us at the earliest opportunity to discuss their SuDS design via a Pre-Planning Strategic Enquiry. The Lead Local Flood Authority (LLFA) are a statutory consultee for all major development and should be consulted as early as possible to ensure the proposed drainage system meets with minimum operational standards and is beneficial for all concerned organisations and individuals. We promote the use of SuDS as a sustainable and natural way of controlling surface water run-off. We please find below our SuDS website link for further information. <https://www.anglianwater.co.uk/developers/drainage-services/sustainable-drainage-systems/>

Ecology - Essex County Council Place Services

No objection subject to securing:

- a) a proportionate financial contribution towards Essex Coast RAMS
- b) biodiversity mitigation and enhancement measures

Further to our comments made on 17th August 2022, we have reviewed the GCN Mitigation Strategy - Version 3 (Lockhart Garratt, October 2022) along with the Preliminary Ecological Appraisal (Pea) Report (Lockhart Garret, March 2022), Biodiversity Impact Assessment (Nicholsons Lockhart Garratt, April 2022), Reptile Survey Report (Lockhart Garratt, August 2021), and Great Crested Newt Survey Report (Lockhart Garratt, September 2021) relating to the likely impacts of development on designated sites, protected and Priority species & habitats and identification of appropriate mitigation measures.

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

The site falls within the evidenced recreational Zone of Influence (ZOI) of the adopted Essex Coast RAMS. Therefore, as the residential element 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 Habitat sites.

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

The mitigation measures identified in the Preliminary Ecological Appraisal (Pea) Report (Lockhart Garratt, March 2022) and Reptile Survey Report (Lockhart Garratt, August 2021), should be secured by a condition of any consent and implemented in full. This is necessary to

conserve and enhance protected and Priority species particularly bats, badger, nesting birds, and reptiles.

We also note that the GCN Mitigation Strategy - Version 3 (Lockhart Garratt, October 2022), provides appropriate mitigation and a receptor site for the translocation of Great Crested Newts. As a Natural England Mitigation Licence for GCN is to be applied for, submission of a copy of this mitigation licence should be secured by condition of consent.

We also support the proposed reasonable biodiversity enhancements of hedgerow infilling, wetland habitat creation, wildflower areas, bat boxes, bird boxes, reptile hibernacula and log pile which have been recommended by the Preliminary Ecological Appraisal (Pea) Report (Lockhart Garratt, March 2022) and Reptile Survey Report (Lockhart Garratt, August 2021) 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 Biodiversity Impact Assessment (Nicholsons Lockhart Garratt, April 2022) highlights that it is likely bats could be foraging/commuting within and around the site. Therefore, if any external lighting is to be proposed, it is recommended that a sensitive lighting scheme is developed to minimise any impacts. This should summarise the following measures will be implemented:

- Light levels should be as low as possible as required to fulfil the lighting need.
- Warm White lights should be used at <3000k. This is necessary as lighting which emit an ultraviolet component or that have a blue spectral content have a high attraction effect on insects. This may lead in a reduction in prey availability for some light sensitive bat species.
- The provision of motion sensors or timers to avoid the amount of 'lit-time' of the proposed lighting.
- Lights should be designed to prevent horizontal spill e.g. cowls, hoods, reflector skirts or shields.

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

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

Archaeology - Essex County Council Place Services

The proposed development lies to the south of the historic settlement at Great Oakley and to the east of the 12th century Church. Finds recorded as part of the Portable Antiquities scheme include evidence from the Late Iron Age to medieval period in the surrounding area and cropmark features in the wider area include ring ditches and evidence for agricultural activity predating the postmedieval period.

A DBA was submitted for the 2015 application which concluded that the early archaeological character of the site is poorly understood. Little archaeological investigation has taken place in the immediate vicinity of the proposed development site however in the wider area archaeological investigation in advance of development is revealing evidence for well preserved multi-period landscapes. There is potential that currently unidentified heritage assets will be impacted upon by the proposed development. Due to the scale of harm or loss, the applicant is required to carry out an evaluation to determine the nature and significance of any heritage assets that may be affected (Para 192, 2021) and to make this publicly available. In the first instance this could be through a programme of geophysical survey (should soils be suitable) which could then determine the requirement for further intrusive archaeological investigation.

No objection subject to conditions securing a Programme of Archaeological Evaluation-Geophysics and targeted trial trenching.

Essex County Council Highways

The information submitted with the application has been fully assessed by the Highway Authority and conclusions reached based on a desktop study in conjunction with a previous site visit. The site is situated on the Beaumont Road that is subject to a 40-mph speed limit. The proposal is utilising an existing field access from Beaumont Road that will be upgraded and form the only vehicular access into the site. It is noted that this application is similar to previous planning applications 15/01080/OUT that was approved in 2016 and 18/00352/DETAIL both of which the Highway Authority did not raise an objection to. It is noted that the submitted drawings have been amended to reflect changes to the play area/ community building/ car park; re-alignment of road and parking court for plots 54-65; changes to visitor parking spaces and minor changes to boundary treatments to allow for additional landscaping.

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

Essex County Council School Service

Thank you for providing details of the above detailed planning application proposing 86 residential units consisting of 12 x 1 bed houses (exempt), and 74 x 2+ bed houses. Based on this information, a development of this size can be expected to generate the need for up to 6.66 Early Years and Childcare (EY&C) places; 22.2 primary school, and 14.8 secondary school places.

Please note that any developer contribution figures referred to in this letter are calculations only, and that final payments will be based on the actual dwelling unit mix and the inclusion of indexation.

Early Years and Childcare

Essex County Council has a statutory duty under the Childcare Act 2006 to ensure that there is sufficient and accessible high-quality early years and childcare provision to meet local demand and parental choice. This includes provision of childcare places for children aged between 0-5 years as well as wrap around provision for school aged children (5-11 or up to 19 with additional needs).

The proposed development is located within Thorpe, Beaumont and Great Holland ward and according to latest available childcare sufficiency data, there are 8 early years and childcare providers within the ward/3-mile radius. These providers currently report sufficient vacant childcare places to meet the additional need created by this new development.

As there are sufficient places available in the area, a developers' contribution towards new childcare places will not be required for this application.

Primary Education

A contribution toward primary education will not be requested at this time as current forecasts suggest sufficient capacity in the area to accommodate demand for school places from a development of the size and type proposed.

Secondary Education

A contribution toward secondary education will not be requested at this time as current forecasts suggest sufficient capacity in the area to accommodate demand for school places from a development of the size and type proposed.

School Transport

Having reviewed the proximity of the site to the nearest primary school, Essex County Council will not be seeking a school transport contribution at this time. However, the developer should ensure that safe direct walking and cycling routes to local schools are available.

Having reviewed the proximity of the site to the nearest secondary school, Essex County Council will be seeking a secondary school transport contribution as the nearest school falls outside the statutory distance. The cost of providing this is £73,674.40 Index Linked to Q1-2020.

Libraries

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

The suggested population increase brought about by the proposed development is expected to create additional usage of Harwich library. A developer contribution of £6,690.80 is therefore considered necessary to improve, enhance and extend the facilities and services provided. This equates to £77.80 per unit.

Employment and Skills

Both Central and Local Government have a crucial role to play in identifying opportunities to maximise employment, apprenticeships, and to invest in skills to realise personal and economic aspirations.

ECC has a role to play in supporting Local Planning Authorities and helping to ensure that the development industry has the necessary skills to build the homes and communities the county needs. ECC supports Tendring District Council in securing obligations which will deliver against this crucial role in supporting employment and skills in the district.

In the current economic climate and national skills shortage, ECC supports Tendring District Council in requiring developers to prepare an 'Employment and Skills Plan' (ESP) seeking to drive forward an increase in construction employability levels and workforce numbers. These plans will help to address negative perceptions of the sector and develop a strong future pipeline. This is referred to as the 'development phase'. ECC also supports Tendring District Council in requiring landowners to produce an ESP for commercial developments, to enable wider employment opportunities for those requiring additional support to enter the job market. This is referred to as the 'end-use phase'. Additionally, ECC encourages Tendring District Council to consider the inclusion of other requirements, including financial contributions, to support appropriate employment and skills outcomes as a result of this development.

In view of the above, I request on behalf of Essex County Council that if planning permission for this development is granted it should be subject to a section 106 agreement to mitigate its impact on secondary school transport and libraries.

The contributions requested have been considered in connection with the CIL Regulations 2010 (as Amended) and are CIL compliant. Our standard formula s106 agreement clauses that ensure the contribution would be necessary and fairly and reasonably related in scale and kind to the development are available from Essex Legal Services.

If your council were minded to turn down the application, I would be grateful if the lack of surplus secondary school transport and libraries provision in the area to accommodate the proposed new homes can be noted as an additional reason for refusal, and that we are automatically consulted on any appeal or further application relating to the site.

NHS East Essex CCG

1.0 Introduction

1.1 Thank you for consulting North East Essex Clinical Commissioning Group on the above planning application.

1.2 I refer to the above planning application and advise that, further to a review of the applicants' submission the following comments are with regard to the health and social care system provision on behalf of Suffolk and North East Essex Integrated Care System.

2.0 Existing Healthcare Position Proximate to the Planning Application Site

2.1 The proposed development is likely to have an impact on the services of 2 GP practices including branch surgeries operating within the vicinity of the application site. These GP practices and branch surgeries do not have capacity for the additional growth resulting from this development.

2.2 The proposed development will be likely to have an impact on the NHS funding programme for the delivery of primary healthcare provision within this area and specifically within the health catchment of the development. As the commissioner of primary care services, North East Essex CCG would therefore expect these impacts to be fully assessed and mitigated.

3.0 Review of Planning Application

3.1 A Healthcare Impact Assessment (HIA) has been prepared by North East Essex CCG to provide the basis for a developer contribution towards capital funding to increase capacity within the GP Catchment Area.

4.0 Assessment of Development Impact on Existing Healthcare Provision

4.1 The existing GP practices do not have capacity to accommodate the additional growth resulting from the proposed development. The development could generate approximately 198 residents and subsequently increase demand upon existing constrained services.

4.2 The primary healthcare services directly impacted by the proposed development and the current capacity position are shown in Table 1.

4.3 The development would have an impact on primary healthcare provision in the area and its implications, if unmitigated, would be unsustainable. The proposed development must therefore, in order to be considered under the 'presumption in favour of sustainable development' advocated in the National Planning Policy Framework, provide appropriate levels of mitigation.

5.0 Healthcare Needs Arising from the Proposed Development

5.1 At the earliest stage in the planning process it is recommended that work is undertaken with NHS England and Public Health England to understand the current and future dental needs of the development and surrounding areas giving consideration to the current dental provision, current oral health status of the area and predicted population growth to ensure that there is sufficient and appropriate dental services that are accessible to meet the needs of the development but also address existing gaps and inequalities.

5.2 Encourage oral health preventative advice at every opportunity when planning a development, ensuring that oral health is everybody's business, integrating this into the

community and including this in the health hubs to encourage and enable residents to invest in their own oral healthcare at every stage of their life.

5.3 Health & Wellbeing Statement

As an Integrated Care System it is our ambition that every one of the one million people living in Suffolk and North East Essex is able to live as healthy a life as possible and has access to the help and treatment that they need in the right place, with good outcomes and experience of the care they receive.

Suffolk and North East Essex Integrated Care System, recognises and supports the role of planning to create healthy, inclusive communities and reduce health inequalities whilst supporting local strategies to improve health, social and cultural wellbeing for all aligned to the guidance in the NPPF section 91.

The way health and care is being delivered is evolving, partly due to advances in digital technology and workforce challenges. Infrastructure changes and funds received as a result of this development may incorporate not only extensions, refurbishments, reconfigurations or new buildings but will also look to address workforce issues, allow for future digital innovations and support initiatives that prevent poor health or improve health and wellbeing.

The NHS Long term plan requires a move to increase investment in the wider health and care system and support reducing health inequalities in the population. This includes investment in primary medical, community health services, the voluntary and community sector and services provided by local authorities so to boost out of hospital care and dissolve the historic divide between primary and community health services. As such, a move to health hubs incorporating health and wellbeing teams delivering a number of primary and secondary care services including mental health professionals, are being developed. The Acute hospitals will be focussing on providing specialist treatments and will need to expand these services to cope with additional growth. Any services which do not need to be delivered in an acute setting will look to be delivered in the community, closer to people's homes.

The health impact assessment (HIA) submitted with the planning application will be used to assess the application. This HIA will be cross-referenced with local health evidence/needs assessments and commissioners/providers own strategies so to ensure that the proposal impacts positively on health and wellbeing whilst any unintended consequences arising are suitably mitigated against.

5.4 The development would give rise to a need for improvements to capacity, in line with emerging STP Estates Strategy; by way of refurbishment, reconfiguration, extension, or potential relocation for the benefit of the patients of the area of Great Oakley or through other solutions that address capacity and increased demand as outlined in 5.3 - Health & Wellbeing Statement. For this a proportion of the cost would need to be met by the developer.

5.5 Table 2 provides the Capital Cost Calculation of additional primary healthcare services arising from the development proposal.

5.6 A developer contribution will be required to mitigate the impacts of this proposal. North East Essex CCG calculates the level of contribution required, in this instance to be £52,500.00 Payment should be made before the development commences.

5.7 North East Essex CCG therefore requests that this sum be secured through a planning obligation linked to any grant of planning permission, in the form of a Section 106 planning obligation.

6.0 Conclusions

6.1 In its capacity as the primary healthcare commissioner, North East Essex CCG has identified that the development will give rise to a need for additional primary healthcare provision to mitigate impacts arising from the development.

6.2 The capital required through developer contribution would form a proportion of the required funding for the provision of capacity to absorb the patient growth generated by this development.

6.3 Assuming the above is considered in conjunction with the current application process, North East Essex CCG would not wish to raise an objection to the proposed development. Otherwise the Local Planning Authority may wish to review the development's sustainability if such impacts are not satisfactorily mitigated.

6.4 The terms set out above are those that North East Essex CCG deem appropriate having regard to the formulated needs arising from the development.

6.5 North East Essex CCG is satisfied that the basis and value of the developer contribution sought is consistent with the policy and tests for imposing planning obligations set out in the NPPF.

6.6 North East Essex CCG look forward to working with the applicant and the Council to satisfactorily address the issues raised in this consultation response and would appreciate acknowledgement of the safe receipt of this letter.

SuDS – Lead Local Flood Authority (LLFA)

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

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

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

Lead Local Flood Authority position

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

Urban Design Advisor - Essex County Council Place Services

To summarise, the proposed development has been designed to respond to the constraints of the site. The increase in density from the approved layout has introduced a series of layout compromises which are creating negative impacts on the quality of place. To help address some of these issues raised, we would recommend a further meeting to discuss how some of the concerns included within this response could be addressed.

Heritage – Essex County Council Place Services

The proposal site is in close proximity to Grade II Listed Old Rectory. The setting of the Grade I Listed All Saints Church and the Old Rectory has historically always been undeveloped, rural and open in character. The proposed development, which would be set in close proximity to the

boundary of the Old Rectory, would affect the wider setting of the Old Rectory by introducing a built form in a mostly unchanged rural setting. This would also include the introduction of new infrastructures and an increase in vehicular traffic, noise and light pollution which would have an impact on the secluded and rural character of the setting.

It is however noted that the Old Rectory building is set at distance from the proposal site west boundary, with its main elevation facing south and away from the proposed development. The existing woodland and mature trees provide a mostly uninterrupted screening from the proposal site, with possible limited intervisibility between the proposed development and the designated heritage asset. This would contribute to retain the rural character and the sense of seclusion and isolation of the immediate setting.

The level of harm can be identified at the lowest end of less than substantial, making Paragraph 202 of the NPPF relevant here.

Essex Police – Designing out Crime

The applicant did not seek pre-application consultation as referenced in NPPF. Essex Police considers that it is important that, if approved, this specific development is designed incorporating the maximum achievable benefit of Crime Prevention Through Environmental Design (CPTED) for which Secured by Design (SBD) is the preferred enabler. This reflects sections 91 and 127 of the NPPF which support the need for safe and secure developments.

Good design should aim to achieve healthy, inclusive and safe places, which are accessible, so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion. This is also endorsed by Tendring Local Plan to 2033 - Policy LP4 - Housing Layout - 'minimise the opportunities for crime and anti-social behaviour by ensuring good surveillance, clear definition between public and private spaces'.

As such, it is strongly recommended that the developer seeks to achieve Secured by Design Homes 2019 accreditation for this residential development and SBD - Commercial accreditation for the community centre. SBD accreditation is only achieved by compliance with the requirements of the relevant Design Guide ensuring the security built into each property and a development as a whole is risk commensurate to that location.

Essex police would like the following points clarified:

- There appears to be limited surveillance of the rear parking court for the 9 terraced homes facing to the communal open space, this has the potential to become a crime generator due to poor surveillance and lack of capable guardianship, what is proposed to resolve this?
- The rear garden gate access from rear parking court - What locking mechanism will be fitted to these wooden gates to allow access to gardens but maintain security?
- Essex Police would like to view of the proposed lighting plan to ensure it complies with BS 5489:2020.

Building Control

No adverse comments at this time.

Regeneration

The Economic Growth Team do not have any comments to make on Planning Application 21/01831/FUL from economic point of view. We would however, if planning was granted, like to see a local labour force used for the construction of the site.

Environmental Protection

No objection subject to conditions.

Public Realm

Current Position

There is currently a deficit of -0.76 hectares of equipped play in Great Oakley.

Recommendation

As there will be on site open space and play facilities, we are not requesting an offsite contribution on this occasion.

Waste Management

All access roads to be constructed to suitable standard to allow full access to all properties to 26 tonne, 2.5 metre wide waste and recycling collection vehicles.

5. Representations

Parish Council Consultation

5.1 Great Oakley Parish Council support this application subject to direct input and agreement on construction timing and ownership of the proposed community centre, playing field and car park area. Points of note within their comments can be summarised as follows:

- Represents an unwelcome increase of over 30% in residential properties in the village. That said we accepted this development as planned in 2015 with 53 Houses as we understood that the development would be a 'given' from central government and any objection pointless. Consequently, we have concentrated on securing much needed facilities to benefit our community.
- We would like to see the large number of social houses now proposed being justified with demand figures required in our area.
- Community hall, car park and play area to be gifted to the PC - final design, timescale for completion, details of furnishings and fittings to be included in the hall to be agreed with PC
- Confirmation of S106 money required.
- Timings for works associated with this development are required.

Public Consultation

5.2 47 of local objections and representations have been received in response to the site notice, press advert and neighbour notification letters posted for the application. The objections and comments made can be summarised as follows:

- No infrastructure to support this development.
- Limited bus provision.
- No large-scale employment opportunities within the village.
- Harmful to the character and size of the village.
- Harmful to the landscape.
- Design and 2.5 storey builds are out of character.
- Too dense / too many houses / disproportionate to the size of the village - 50 homes on this site as previously approved is better. Cramped and overdevelopment of the site.
- No proven need for this development or this many homes.
- Highway safety concerns from poor visibility, poor access, poor crossing, increase in traffic.
- Loss of good agricultural land.
- Loss of pleasant walking route.
- Harm to wildlife and protected species.

- Harm to residential amenities from overlooking, loss of privacy, light pollution, air pollution, noise, traffic.
- Proposed community building and car park is too small – no disabled facilities.
- The large village hall and doctors surgery previously proposed were better.
- No need for a new village hall – existing hall just needs renovation.
- Rain, surface water flooding and drainage are already a problem.
- No consideration of climate change.
- EV charging points should be provided.
- Road and maintenance costs placed on new residents with no deductions in their council tax is unfair.
- Essex police state the builds potential as a crime generator.
- Increase in crime levels and anti-social behaviour.
- Affordable housing welcomed – but priority should be given to those with a strong connection to the Parish.
- The social housing element should be allocated and managed by the local community and not by a housing association.
- Restricted / poor access for emergency vehicles.
- Bin store and waste collection needs to be provided.
- If development does go ahead, consideration should be given to the improvement to our poorly maintained roads, better community facilities, bigger doctors surgery and retention of green areas.
- Water main crosses the site – who is responsible for maintenance.
- Insufficient parking for number of new houses.

Community Engagement by the Developer

5.3 The application is accompanied by a Statement of Community Consultation prepared by the agent, Smith Jenkins Ltd on behalf of Great Oakley Developments Ltd.

6. Assessment

6.1 The key and most important material planning considerations relevant to this development proposal are set out below followed by an assessment under each heading.

- Site Description and Context;
- Planning History;
- Development Proposal;
- Principle of Residential Development and New Community Facilities;
- Scale, Layout and Appearance;
- Renewable Energy Generation and Energy Efficiency Measures;
- Parking, Accessibility and Highway Safety;
- Trees and Landscaping;
- Residential Amenities;
- Bin Storage and Waste Collection;
- Biodiversity and Protected Species;
- Sustainable Drainage and Foul Sewage Disposal;
- Environmental Protection – Contaminated Land;
- Archaeology;
- Impact on Heritage Assets; and,
- Planning Obligations secured via S106 agreement.

Site Description and Context

6.2 The application site is situated to the south-western end of the village of Great Oakley. The application site extends approximately 3.7 hectares and is located to the south of the existing

allotments, off Beaumont Road. The existing site accommodates several ditches located predominantly along the eastern, southern and western boundaries.

- 6.3 The site is bordered to the north by the existing allotments, beyond which on the opposite side of Beaumont Road is the village sports field. All Saints Primary School is to the northwest.
- 6.4 An existing footpath runs along the western boundary of the site providing a pedestrian link between the school and the established Woodlands residential development to the south. Beyond the footpath to the west of the site is existing woodland and farmland. To the east of the site is The Oaks residential development and beyond are dwellings fronting Beaumont Road.
- 6.5 The site has a number of trees along its boundaries, with a collection of trees to the northeast of the site, adjacent to The Oaks, being subject to a Tree Protection Order (TPO no. 15/0008/TPO). The majority of these trees are Oak with the remainder being sycamore or pine.
- 6.6 The site is not located within the Great Oakley Conservation Area. The closest Listed Building is The Old Rectory (Grade II) located more than 60 metres to the west of the application site boundary. Furthermore, the site is in a safeguarded sand and gravel area, therefore policy S8 (Safeguarding mineral resources and mineral reserves) of the Essex Minerals Local Plan 2014 (MLP) is relevant.
- 6.7 The site lies within the Great Oakley Settlement Development Boundary as defined within the adopted Tendring District Local Plan 2013 – 2033 and Beyond.

Planning History

- 6.8 This application follows an approval of a hybrid application consisting of outline planning permission for the erection of 51 dwellings and full planning permission for public open space and the provision of a village hall, doctors' surgery, and village shop, under planning application reference 15/01080/OUT and 18/00352/DETAIL (Phase 1 of 23 dwellings).
- 6.9 Within the Design and Access Statement accompanying this application, the agent states that, *the hybrid consent was found to be unviable by the previous developer, who sold the site to the current applicant. It is understood that the Reserved Matters Phase 1 permission was implemented by way of beginning works relating to drainage, meaning the permission is extant.*
- 6.10 For the previous permission to remain extant, the full element (Public open space, Village Hall, Doctors Surgery and Shop) was required to commence by 31 March 2019. In terms of the outline element (51 dwellings) was subject to the standard time limit conditions requiring an application for the approval of the reserved matters to be submitted before 31 March 2019 and implemented within 2 years from approval of the last reserved matters. The reserved matters has only been approved in part (23 dwellings). Application 18/00352/DETAIL was approved on 19 December 2018, thus requiring commencement by 19 December 2020.
- 6.11 According to Council records, no building control inspections have taken place for the development. A site visit was carried out by officers on 12 April 2021 at which time only clearance works had taken place, which do not constitute commencement of development. Consequently, the view from the LPA is that the previous permission has expired. The site is located within the Great Oakley Settlement Development Boundary as defined within the adopted Local Plan and the principle of residential development will be covered in more detail below.
- 6.12 As explained within the accompanying Design and Access Statement, it was intended for the previously approved GP surgery and shop to be built to shell and then the occupiers would fit out the structures, with the GP surgery then leased on commercial terms. The shop was relatively small, and the previous applicant (a local farmer) intended to use it as a farm shop. However, they are no longer involved with the current application and as such do not intend to carry this forward.

The GP surgery did not have an identified end user and it is understood that the NHS do not wish to open new GP surgeries, as they are focusing on larger Health Centres. As such, neither of these elements are proposed within the current application.

Development Proposal

6.13 This current application seeks full planning permission for residential development of 86 dwellings together with the provision of a community building, play area, public car park, and associated landscaping. Accounting for the submission of amended plans and information, the proposed development can be summarised as follows:

Residential element:

- The residential element of the scheme will provide a mix of market housing and affordable housing, comprising:
 - 12 x one bed houses, all of which would be affordable housing (9no. social rented and 3no. shared ownership).
 - 14 x two bed houses, 5 of which will be affordable housing (5no. social rented).
 - 8 x two bed bungalows, 1 of which will be affordable housing (shared ownership).
 - 35x three bed houses, 7 of which will be affordable housing (4no. social rented and 3no. shared ownership).
 - 3 x three bed bungalow, 1 of which will be affordable housing (shared ownership).
 - 14 x four bed houses.
- The residential area includes open space in the southern portion of the site, consisting of both hard and soft landscaping and incorporating an attenuation basin, as well a landscaped/open space area at the entrance to the site either side of the road.
- The attenuation basin will be planted with wildflowers and grasses and have a boardwalk across. To the east is a paved area with seats, tables and benches set within ornamental planting.
- A further useable area is proposed along the western boundary of the site, incorporating the Public Right of Way, and improving the existing vegetation along this boundary to create an attractive 'woodland walk'. It is proposed to replace the existing concrete path with a resin bound gravel path with a more informal, winding alignment. The existing vegetation will be supplemented with native hedgerow species, woodland planting, and occasional trees.
- The residential element provides a total of 160 on-plot parking spaces and an additional 19 spaces allocated for visitor parking spread across the site.
- The main vehicular access is via Beaumont Road, at the northeast corner of the site.
- All of the overhead power lines within the site are proposed to be buried within the ground. A further 2 substations are proposed to be accommodated on site to facilitate providing sufficient power for the proposed new homes.

Community element:

- The northern element of the site will comprise of a 327 sqm community building which will provide facilities for the local community to use including a hall, a studio room, changing rooms for local sports clubs, a kitchen, and other ancillary spaces.

- The developer has explained that the community building will be fully fitted out and ready for occupation as part of the proposed development. This will be secured as part of the legal agreement.
- To the east of the community building will be a 34 space car park which is intended to serve the community building, as well as providing parking for members of the public who may utilise it for the allotments, the local primary school, and the local sports fields. 10 cycle parking spaces are also proposed for the community building, plus 2 motorbike parking spaces and buggy parking areas.
- To the east of the community building will be a children's play area which will provide various items of play equipment. The play area also incorporates landscaped areas which include sensory planting and seating areas to enhance the play experience.

Principle of Residential Development and New Community Facilities

Residential Development:

- 6.14 Adopted Local Plan Section 1 (TDLPS1) Policy SPL1 defines each settlement for the District. To encourage sustainable patterns of growth and carefully control urban sprawl, each settlement listed in SPL1 is defined within a 'Settlement Development Boundary' as shown on the relevant Policies Map and Local Map. Adopted Local Plan Section 2 (TDLPS2) Policy SPL2 states that, within the Settlement Development Boundaries, there will be a general presumption in favour of new development subject to detailed consideration against other relevant Local Plan policies.
- 6.15 Regardless of whether the previous permissions have expired, the site is located fully within the Great Oakley Settlement Development Boundary as defined within the adopted Local Plan and local policies map B.14.
- 6.16 The principle of residential development on the site is therefore accepted subject to all other relevant material planning considerations, policies and guidance (covered below).

Community Facilities:

- 6.17 The National Planning Policy Framework 2021 (NPPF) Paragraph 93 states, amongst other things, that planning policies and decisions should plan positively for the provision and use of shared spaces, community facilities and other local services to enhance the sustainability of communities and residential environments.
- 6.18 Paragraph 6.0.3 of the TDLP states that, the NPPF requires local planning authorities to adopt a positive approach toward development proposals that will contribute toward building a strong, responsive and competitive economy in their area. TDLPS2 Policy HP2 endorses the delivery of a range of new community facilities. New development should support and enhance community facilities where appropriate.
- 6.19 Furthermore, TDLPS2 Policy PP8 aims to attract visitors to the Tendring District and support economic growth in tourism, by generally supporting proposals for outdoor recreational activities. National and local plan policies are therefore supportive of new community and recreational facilities, subject to all other relevant policies and materials planning considerations in relation to its impact.
- 6.20 The proposed community building, publicly accessible car park and play area are intended to be accessible to the community of Great Oakley, not just the future residents of this development. These facilities will enhance and add to the existing facilities within the village.

6.21 The principle of new community facilities is therefore accepted subject to all other relevant policies and guidance.

Safeguarded Sand and Gravel (MSA) Area

6.22 Policy S8 of the Essex Minerals Local Plan 2014 states the Minerals Planning Authority (MPA) shall be consulted on all planning applications for development on a site located within an MSA that is 5ha or more for sand and gravel. The application site is 3.7ha in size as such consultation with the MPA is not required in this instance. In addition, given the size of the site and the surrounding context (residential development immediately to the east, south and further to the north east), it is considered that the proposal would not unnecessarily sterilise mineral resources and will therefore result in no conflict with policy S8.

Scale, Layout, Appearance and Housing Mix

6.23 Paragraph 130 of the NPPF (2021) requires that developments are visually attractive as a result of good architecture, are sympathetic to local character, and establish or maintain a strong sense of place.

6.24 TDLP1 Policy SP7 endorses high standards of urban and architectural design. All new development should follow key place shaping principles including; responding positively to local character and context; creating well-connected places; providing buildings that exhibit individual architectural quality; incorporation of biodiversity creation and enhancement measures; and incorporation of measures to promote environmental sustainability.

6.25 TDLP2 Policies SPL3 and LP4 also require, amongst other things, that developments deliver new dwellings that are designed to high standards and which, together with a well-considered site layout which create a unique sense of place.

6.26 The surrounding area is characterised by a mixture of single storey and two-storey dwellings in a range of styles.

6.27 The proposed development comprises a mix of sizes and types of dwellings, including bungalows, 1.5 storey, 2 storey and some 2.5 storey properties laid out in a combination of small terraces, semi-detached and detached dwellings. This mix of size and types of dwellings at set out in the tables below allows for a mixed community and suitable housing choice, in accordance with policy LP2 and the latest updated Strategic Housing Market Assessment.

No. of bedrooms:

1xbed	2xbed	3xbed	4xbed
12	22	38	14

Market and Affordable:

Market Housing	Affordable Rented	Shared Ownership
60	19	7

6.28 The site area is approximately 3.7 hectares in size and proposes 86 dwellings. This equates to 23.43 dwellings per hectare which is suitably comparable to The Oaks Estate (the small housing estate immediately to the southeast of the site) at 22.47dph and The Woodlands Estate (immediately to the south of the site) at 26.46dph.

6.29 The design, appearance and varied use of materials to be implemented are considered to be acceptable and will result in an appropriate expansion of the current build form of this part of the settlement. The development comprises a variety of house types of varying heights and appearances. This, together with the street patterns, interspersed soft landscaping, open spaces, woodland walk, and footpath connections will create an attractive place to live and establish a

unique and strong sense of place. Following discussions with the applicant, improvements have been made to the development including amendments to layout to the community element to the north of the site, enhancing its connectivity and usability. The revised scheme also addresses most of the concerns raised by Essex County Council Place Services Urban Design.

- 6.30 In terms of the location of the affordable housing, there are two small groups of affordable housing units located in the northeast (8 units) and southwest (9 units) parts of the site with a further 8 units pepper potted across the site. There will be no distinguishable difference between market and affordable housing in terms of architectural design and use of materials to ensure they are integrated well into the development.
- 6.31 Overall, the scale, layout and appearance of the development is considered to meet the aims and aspirations of the above-mentioned national and local plan policies.

Renewable Energy Generation and Energy Efficiency Measures

- 6.32 The NPPF requires local planning authorities to adopt proactive strategies to mitigate climate change and promote sustainable development.
- 6.33 TDLP1 Policy SP7 requires new development to include measures to promote environmental sustainability including addressing energy and water efficiency. Policy PPL10 requires proposals for new development to consider the potential for a range of renewable energy solutions and for proposals for residential development to be accompanied by a 'Renewable Energy Generation Plan' (REGP) setting out measures that will be incorporated into the design, layout and construction aimed at maximising energy efficiency and the use of renewable energy.
- 6.34 The application is supported by an Energy and Sustainability Statement dated 25 October 2021 which sets out including:
- Rainwater harvesting in the form of water butts;
 - Solar panels;
 - Air Source heat pumps;
 - Electric vehicle charging points;
 - Cycle storage;
 - Materials to be sustainably and locally sourced where possible;
 - Variety of landscaping and open space features; and,
 - Adherence to a Construction Waste Management plan.

- 6.35 Whilst the accompanying statement goes some way in demonstrating how the proposal will meet the aims of Policies SP7 and PPL2, the level of detail provided is not sufficient. Therefore, to ensure full compliance with the policy aims, a condition securing full details and a timetable for delivery is considered necessary.

Parking, Accessibility and Highway Safety

- 6.36 Paragraph 100 of the NPPF states that planning policies and decisions should protect and enhance public rights of way and access, including taking opportunities to provide better facilities for users. Paragraph 110 of the NPPF seeks to ensure that safe and suitable access to a development site can be achieved for all users.
- 6.37 TDLP2 Policy SPL3 Part B of the Local Plan seeks to ensure that access to a new development site is practicable and the highway network will be able to safely accommodate the additional traffic the proposal will generate and provision is made for adequate vehicle and cycle parking.
- 6.38 In addition, the EPOA Parking Standards 2009 set out the parking requirements for new development. The parking standards require a minimum of 1 vehicle parking space for 1 bedroom

dwelling, and 2 spaces per 2 bedroom (or greater) dwelling. One secure, covered parking space for bicycles is required per dwelling. If this is not provided within the curtilage, then one covered and secure space per dwelling is required in a communal area, plus a further one visitor cycle parking space for every eight. Visitor car parking is required at a rate of 0.25 spaces per dwelling, of which 3 bays or 6% (whichever is greater) should be provided as accessible spaces for blue badge holders. The parking spaces should measure 5.5 metres by 2.9 metres. Where a garage is being relied upon to provide parking, this should have internal dimensions of 7 metres by 3 metres.

- 6.39 The EPOA Parking Standards 2009 also set out the requirements for non-residential development.
- 6.40 As set out within the Development Proposal section above, the development provides 160 on-plot parking spaces and an additional 19 spaces allocated for visitor parking spread across the site. The Schedule of Accommodation accompanying the application demonstrates that each dwelling will be served by an appropriate number of spaces for the number of bedrooms, in accordance with the EPOA Parking Standards. All 1 bed properties include 1 parking space and all 2+ bedroom properties are provided with 2 parking spaces.
- 6.41 Directly to the west of the community building will be a 34 space car park which is intended to serve the Community Building, as well as providing parking for members of the public who may utilise it for the allotments, the local primary school, and the local sports fields. A total of 10 cycle parking spaces are also proposed for the community building, as well as 2 motorbike parking spaces and buggy parking areas. Visitor parking is generally parallel to the road and dispersed throughout the development. Resident parking is generally within the curtilage of each property and in two parking courtyards for the affordable housing. The parking provision for the community building exceeds the 12 bays calculated via the parking standards, allowing for the multiple uses envisaged.
- 6.42 Amended plans include revisions to the parking layout, improving the resident on plot parking and the positioning of visitor parking spaces to allow for improved manoeuvrability and landscaping
- 6.43 The application is accompanied by Transport Statement Project No: 13573/R-01 providing an assessment of the accessibility of the site and the impact of the development on the local highway network.
- 6.44 A public footpath runs adjacent to the school, north to south along the western boundary of the site. A second public footpath is located to the east of the site, on the opposite side of the Beaumont Road and links to Farm Road.
- 6.45 The nearest bus stops to the site are located approximately 180m walking distance from the site entrance, following the footways on Beaumont Road to the south east. There are additional stops on Beaumont Road further north of the site (475m walking distance).
- 6.46 Crashmap data (www.crashmap.co.uk) has been utilised to review personal injury accident data for the five year period 2016- 2020 inclusively. No accidents were recorded in the vicinity of the site.
- 6.47 Consultation with the Highway Authority has been undertaken who observe that the proposal is utilising an existing field access from Beaumont Road that will be upgraded and form the only vehicular access into the site. It has been agreed with the developer that the majority of the internal road layout, footway layout, surface water drainage or any form of street lighting will not be adopted by the Highway Authority.
- 6.48 The site access is proposed as a simple priority junction. The developer has provided speed survey data for Beaumont Road in order to establish the required visibility splays in accordance

with Manual for Streets volume 2. An independent Stage 1 Road Safety audit has been instructed in respect of the proposed site access and crossing point on Beaumont Road.

- 6.49 The Highway Authority raise no objection subject to conditions and highway improvements. The LPA have considered the recommended conditions and have, where relevant, made amendments to ensure they meet the NPPF tests for planning conditions, thus ensuring these tests are complied with. The recommendations and requirements of the Highway Authority can be secured via conditions, together with a Section 278 legal agreement (obtained from the Highway Authority) as follows:

Conditions

- Submission and approval of a Construction Method Statement.
- Clear to ground visibility splay with dimensions of 2.4 metres by 90 metres in both directions (in accordance with the findings of the accompanying Speed Survey findings).
- Internal road, footway layout and parking shall be provided prior to occupation.
- All plots which are not served by a garage shall provide Cycle / Powered two-wheeler parking shall be provided in accordance with the EPOA Parking Standards.
- Residential Travel Pack.

Conditions / Section 278 Agreement for the following works (works within the highway):

- A priority junction off Beaumont Road to provide access to the proposal site constructed at right angles to the highway boundary and to the existing carriageway.
- A straight section of carriageway to be provided from the entrance junction for 15 metres.
- The upgrading of the existing bus stops north-east of the primary school, the stops shall be provided or upgraded to current Essex County Council specification.
- Where possible widening to a maximum width of 2 metres of the existing footway along the south side of Beaumont Road where the public right of emerges to the west and to the boundary with the primary school southwards beyond the site access to the service road located north-east of Red Barn Lane.
- Improvements to the Public Right of Way no.5 which runs along the proposal site's western boundary between Beaumont Road and Woodlands.
- Provision of pedestrian crossing points on Beaumont Road.

Not necessary or reasonable

- The Highway Authority also request a condition for the submission, approval and implementation of a Residential Travel Plan, including annual monitoring fees secured by a S106 legal agreement. However, this requirement fails to provide suitable justification, therefore failing to comply with the NPPF. Officers consider a Residential Travel Pack is an appropriate alternative. This can be secured by condition and does not require any financial contributions within the S106.

- 6.50 Having regard to the above, and in the absence of any objections from the Highway Authority, officers are satisfied that the proposed development will not result in any material impact on the existing road network in terms of highway capacity or highway safety.

Trees and Landscaping

- 6.51 Paragraph 131 of the NPPF sets out the importance of trees and the contribution they make to the character and quality of urban environments. It states that planning policies and decisions should ensure that opportunities are taken to incorporate trees in developments and that existing trees are retained wherever possible.

- 6.52 TDLPS2 Policy LP4 relates to housing layout and states; to ensure a positive contribution towards the District's 'sense of place', the design and layout of new residential developments will be expected to incorporate and maximise the use of green infrastructure, verges, trees and other vegetation.
- 6.53 There are no trees or other significant vegetation in the main body of the land. On the boundaries of the application site there are several large trees that are prominent features in their setting. Several of the trees make a positive and significant contribution to the character and appearance of the area.
- 6.54 The trees on the eastern boundary are afforded formal legal protection by Tendring District Council Tree Preservation Order ref TPO/15/08 entitled 'Land North of Break of day and Newlands, Beaumont Road, Gt Oakley'.
- 6.55 To show the extent of the constraint that the above trees are on the development of the land the applicant has provided a Tree Survey and Report that includes an Arboricultural Impact Assessment (AIA) and a Tree Protection Plan. The report and associated documents are in accordance with BS5837: 2012 Trees in relation to design, demolition and construction - Recommendations. The tree report shows that the development proposal could be implemented without causing harm to retained trees and shows how all trees will be physically protected for the duration of the construction phase of any development for which planning permission may be granted.
- 6.56 No trees will need to be felled in order to implement the proposed development.
- 6.57 In terms of the layout of the development and the soft landscaping likely to be required to soften, screen and enhance its appearance the applicant has submitted a Landscape Statement. This document sets out the broad scope and extent of proposed soft landscaping for the whole site. The new planting appears comprehensive and would satisfactorily soften, screen and enhance the appearance of the development. In principle the soft landscaping proposals are acceptable in both scale and nature. However, the information provided with the application does not include a detailed planting plan.
- 6.58 The additional documents relating to soft landscaping entitled Planting Strategy Ref: Tm 483-skp03 and the Tree Strategy Ref: Tm 483-skp04 are acceptable in principle but still fail to contain sufficient detail relating to tree, shrub and hedgerow species, specification and quantities. As such it is considered reasonable and necessary for a full soft landscaping scheme to be secured via condition and in the event that planning permission is approved.

Residential Amenities

- 6.59 Amongst other things, NPPF at Paragraph 119 states that planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Paragraph 130 f) of the NPPF states that planning decisions should ensure that developments create places that are safe with a high standard of amenity for existing and future users.
- 6.60 TDLPS1 Policy SP7 requires that all new development protects the amenity of existing and future residents and users with regard to noise, vibration, smell, loss of light, overbearing and overlooking. TDLPS2 Policy SPL 3 Part C seeks to ensure that development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties.
- 6.61 Paragraph 130 f) includes that planning decisions should ensure that developments create places that are safe, inclusive and accessible, and which promote health and well-being with a high standard of amenity for existing and future users.

- 6.62 TDLPS2 Policy LP4 j. states that the design and layout of new residential will be expected to provide for private amenity space of a size and configuration that meets the needs and expectations of residents and which is commensurate to the size of dwelling and the character of the area.
- 6.63 The Essex Design Guide sets out guidance for residential developments, including separation distances between properties. Where habitable rooms are located at the rears of neighbouring properties and the rear facades face each other, a minimum spacing of 25m between the rears of the properties is required. Where new development backs on to the rear of existing housing, existing residents are entitled to a greater degree of privacy to their rear garden boundary. Where the rear faces of the new houses are approximately parallel to those of the existing homes, the rear of the new houses may not encroach any closer than 15m to an existing rear boundary – even though with a closer encroachment, 25m between the rears of the houses could still be achieved. The rears of houses may be positioned more closely together than stipulated above if one or both of the houses concerned is designed so as not to overlook the other. This would require an intervening fence or other visual barrier set above eye-level between facing ground-floor windows. It would also prohibit rear-facing, upper-storey bedroom or living room windows.
- 6.64 The proposed development provides an internal layout and separation distances in accordance with the above-mentioned policies and guidance. The garden sizes vary but are commensurate to the size of the respective dwelling and plot. The development is therefore considered to achieve a good standard of amenity that would meet the needs and expectations for future occupants of the development having regard to the prevailing character of the built up area of Great Oakley.
- 6.65 Turning to the impact of the development on the amenities of existing residents, existing dwellings are present to the east and south of the application site, within The Oaks and Woodlands developments.
- 6.66 To the south of the site are Plots 72 to 81. These plots share a boundary with numbers 19, 21, 25 to 37 Woodlands and 1 and 2 Red Barn Lane. The dwellings on these plots are all single storey in height and retain separation distances to existing properties in excess of those set out within the Essex Design Guide.
- 6.67 Along the eastern boundary of the site are Plots 53 to 71. These plots share a boundary with numbers 2 to 20 The Oaks and Willow End, Beaumont Road. Plots 53 to 71 comprise a mix of single storey, 1.5 storey, 2 storey and 2.5 storey homes. The proposed dwellings and properties within The Oaks Estate are angled away from one another and do not have a strict back-to-back alignment. All proposed plots retain sufficient spacing to their respective rear boundaries and again, retain separation distances to existing properties in excess of those set out within the Essex Design Guide, including the 2.5 storey dwellings proposed at Plots 53, 54, 66 and 71. Furthermore, upper floor rear facing windows serve bedrooms only. For these reasons, the proposal is considered acceptable in terms of outlook, light and privacy.
- 6.68 The development of the site is inward facing and the community facilities are located to the north of the site, away from existing neighbouring properties. This minimises noise nuisance resulting from the development and does not constitute a reason for refusal.
- 6.69 The application is therefore considered acceptable in terms of the impact upon residential amenities.

Bin Storage and Waste Collection

- 6.70 TDLP Policy SPL3 Part states that all new development must meet practical requirements, including provision for adequate waste storage and recycling facilities.

- 6.71 Accompanying drawing A-200-011 revision P0 provides details of the proposed housing bin stores to be located to the front or side elevation (as appropriate) for all 86 dwellings. Each bin store will provide space for a wheelie bin, 2 recycling bins and food waste bin. All bins will feature a painted/oiled timber boarding finish.
- 6.72 The community building has an external refuse/recycling store on its eastern side, which is capable of accommodating 4x1,000litre bins. A waste management plan for the community centre has not been produced at this stage on the basis that this will be dealt with by the Parish Council.
- 6.73 For the avoidance of doubt and in the interests of meeting practical requirements in line with TDLP Policy SPL3, officers recommend including a condition securing a waste collection management plan for the entire site including details of refuse collection vehicle routes and collection points.

Protected Species and Biodiversity

- 6.74 Paragraph 180 of the NPPF states that, when making planning decisions local planning authorities need to assess whether significant harm to biodiversity could result from the development. The NPPF goes on to state the hierarchy that should be applied to mitigate any harm to ecology that is identified. Paragraph 174 of the NPPF requires that Local Planning Authorities contribute to and enhance sites of biodiversity or geological value whilst Paragraph 179 requires local planning authorities to safeguard components of local wildlife-rich habitats.
- 6.75 TDLPS2 Policy PPL4 states that proposals for new development should be supported by appropriate ecological assessments and, where relevant, provide appropriate mitigation and biodiversity enhancements to ensure a net gain.
- 6.76 The application is supported by a suite of reports and proposals relating to the likely impacts of the development on designated sites, protected and Priority species & habitats and identification of appropriate mitigation measures. These include, a Preliminary Ecological Appraisal Report (Lockhart Garratt, December 2020), Reptile Survey Report (Lockhart Garratt, August 2021), Great Crested Newt Survey Report (Lockhart Garratt, September 2021), Biodiversity Impact Assessment (Nicholsons Lockhart Garratt, April 2022), Amended proposed coloured masterplan (Dexter Moren Associates, April 2022), Amended proposed site layout plan (Dexter Moren Associates, April 2022), Amended Landscape Statement (Turkington Martin, March 2022).
- 6.77 Consultation has been undertaken with Essex County Council Place Services Ecology who have reviewed all supporting information. Following receipt of holding objections from Place Services Ecology, a Great Crested Newt method statement (GCN Strategy) and further information on the appropriate retention of hedgerow H1 has been provided.
- 6.78 The GCN Mitigation Strategy - Version 3 (Lockhart Garratt, October 2022) provides appropriate mitigation and a receptor site for the translocation of Great Crested Newts. The receptor site is located to the southwest of the application site along Red Barn Lane, part of a commercial farm owned by the local farmer. The owner of the receptor site has agreed to the site being used for off-site compensation and will be party to the S106 legal agreement.
- 6.79 The development will deliver biodiversity enhancements through hedgerow infilling, wetland habitat creation, wildflower areas, bat boxes, bird boxes, reptile hibernacula and log pile, in line with the recommendations set out within the Preliminary Ecological Appraisal (Pea) Report (Lockhart Garratt, March 2022) and Reptile Survey Report (Lockhart Garratt, August 2021), thus securing net gains for biodiversity, as outlined under Paragraph 174d of the National Planning Policy Framework (2021).
- 6.80 Sufficient ecological information is now available for determination of this application and the development is considered acceptable subject to necessary conditions and a S106 legal agreement securing a proportionate financial contribution towards RAMS (covered in further detail

under the Planning Obligations section of this report), biodiversity mitigation and enhancement measures (including third party agreement for the off-site GCN mitigation), and a sensitive lighting scheme.

Sustainable Drainage and Foul Sewage Disposal

- 6.81 Paragraph 174 of the Framework states that planning policies and decisions should contribute to and enhance the natural and local environment by preventing new development from contributing to unacceptable levels of water pollution. Furthermore, Paragraph 185 of the Framework states that planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects of pollution on the natural environment.
- 6.82 Paragraph 167 of the NPPF states that, when determining planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Paragraph 169 goes on to say that developments should incorporate sustainable drainage systems. The systems used should, amongst other things, take account of advice from the lead local flood authority and have maintenance arrangements in place to ensure an acceptable standard of operation for the lifetime of the development.
- 6.83 TDLP2 Policy PPL5 requires that all new development must make adequate provision for drainage and sewage treatment and should include sustainable drainage systems (SuDS).
- 6.84 The application is supported by a Flood Risk Assessment and Drainage Strategy (included in Appendix H). The Flood Risk Assessment aims to identify any potential flood risk sources or surface water management issues related to the proposed development site that may warrant further consideration. Further to identification of flood risks, the FRA outlines mitigation measures, where appropriate, in order for the proposed development to be made safe in terms of flood risk and in accordance with the NPPF and its supporting Technical Guidance.
- 6.85 Consultation has been undertaken with the Local Lead Flood Authority SuDS (LLFA) who have reviewed all supporting information.
- 6.86 The site is located within Flood Zone 1 as shown on the Environment Agency mapping. The proposed surface water strategy will incorporate an adequately sized network to effectively manage flows generated from the proposed development up to the 1 in 100 year +40% climate change event. In addition, overland flood routes have been considered to guide excess water away from the buildings, and towards the existing drainage ditches within close proximity of the site.
- 6.87 The proposed surface water drainage strategy is to discharge all flows generated from the proposed development off site for rainfall events up to and including the 1 in 100 year +40% climate change. Surface water flows from the site will discharge into the existing ditch located near the southwest of the site.
- 6.88 Sustainable Drainage Systems (SuDS) will be introduced for the proposed development to attenuate surface water flows to the required rainfall events. In addition, the SuDS will also improve water quality in line with the recommendations within the NPPF. There will be adequate space on the site to store storm water flows generated by the 1 in 100 year +40% climate change event. By adequately sizing the SuDS storage facilities on site, adequate measures will be provided to minimise flood risk on the site.
- 6.89 The proposed foul water drainage network will discharge by gravity to the existing adopted network in Woodlands to the south of the site.
- 6.90 All drainage components, including SuDS, will be owned and maintained by a private management company appointed by the applicant.

6.91 The LLFA are now satisfied with the amended FRA and drainage strategy and raise no objection, subject to conditions.

Environmental Protection – Contaminated Land

6.92 Paragraph 183 of the NPPF seeks to ensure that a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination. Adequate site investigation information, prepared by a competent person, should be available to inform the development proposals and assessments. Paragraph 184 states that where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.

6.93 The application is accompanied by a Land Quality Statement (Campbell Reith, October 2021). The site is considered to lie in area of Moderate sensitivity with respect to both hydrogeology and hydrology. The proposed residential development is considered to be of High end user sensitivity. The ground investigation undertaken incorporated contamination testing of soil and ground gas media from across the site. Based upon the intrusive investigations together with the Desk Study information, the site is considered to present a very low risk in relation to contamination issues.

6.94 Consultation has been undertaken with the Council's Environmental Protection Team who have reviewed the contaminated land report and concur with the Environmental Conclusions and Recommendations set out within Section 12.0 of the report.

6.95 The Council's Environmental Protection Team raise no objections subject to conditions securing a watching brief throughout future phases of intrusive ground works, to ensure that in the event of any unexpected ground conditions or materials of potential concern being found, appropriate steps are taken to ensure the health and safety of all site users. Conditions in relation to noise and construction management are also recommended.

6.96 Environmental protection matters can be suitably managed by conditions.

Archaeology

6.97 TDLPS2 Policy PPL 7 states that any new development which would affect, or might affect, designated or non-designated archaeological remains will only be considered where accompanied by an appropriate desk-based assessment. Where identified as necessary within that desk-based assessment, a written scheme of investigation including excavation, recording or protection and deposition of archaeological records in a public archive will be required to be submitted to, and approved by, the Local Planning Authority.

6.98 The Tendring Historic Environment Characterisation project and Essex HER show that the proposed development is located within an area with potential for below ground archaeological deposits. The development would result in harm to non-designated heritage assets with archaeological interest.

6.99 Archaeology matters can be suitably addressed by conditions should planning permission be forthcoming.

Impact on Heritage Assets

6.100 Section 16 (paragraphs 189 - 208) of the NPPF (Conserving and enhancing the historic environment) outlines policies relating to the historic environment and the key role it plays in the Government's definition of sustainable development, the principle which underpins the document. It requires that local planning authorities 'should set out in their Local Plan a positive strategy for

the conservation and enjoyment of the historic environment', recognising that 'heritage assets are an irreplaceable resource' and should be conserved 'in a manner appropriate to their significance'.

- 6.101 TDLPS2 Policy PPL 9 states that proposals for new development affecting a listed building or its setting will only be permitted where they will protect its special architectural or historic interest, its character, appearance and fabric. Where a proposal will cause harm to a listed building, the relevant paragraphs of the NPPF should be applied dependent on the level of harm caused.
- 6.102 In this instance, the development site lies adjacent to the Grade II Listed Old Rectory, located approximately 60 metres from the western boundary of the application site.
- 6.103 Consultation with Essex County Council Place Services Heritage has been. Officers acknowledge that the proposed development would affect the wider setting of the Old Rectory. The main elevation of the Old Rectory building faces south away from the proposed development; the building is located over 60 metres from the western boundary of the application site and the existing woodland and mature trees provide a mostly uninterrupted screening from the proposal site. These characteristics contribute toward the preservation of the immediate setting of the listed Old Rectory. On this basis, the level of harm can be identified at the lowest end of less than substantial, making Paragraph 202 of the NPPF relevant here.
- 6.104 Paragraph 202 of the NPPF states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.
- 6.105 The proposed development will deliver a new community hall, a car park, cycle park and buggy parking area to serve the community building, the allotments, the local primary school, and the local sports fields together with a children's play area, sensory planting and seating areas. The development will also provide a mix of 26 affordable homes within the defined Great Oakley Settlement Development Boundary.
- 6.106 The public benefits of the scheme are considered to outweigh the lowest end of less than substantial harm caused to the setting of the Grade II listed Old Rectory building, thus meeting the aims of the above-mentioned national and local plan policies.

Planning Obligations to be secured via S106 Agreement

- 6.107 Paragraph 55 of the National Planning Policy Framework states that Local Planning Authorities should consider whether otherwise unacceptable development can be made acceptable through the use of conditions or planning obligations. Paragraph 55 of the NPPF states that planning obligations must only be sought where they are necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably relate in scale and kind to the development.
- 6.108 Planning obligations and financial contributions relevant to the proposed development comprise:
- Secondary school transport contribution
 - Library improvements contribution.
 - Healthcare contribution.

RAMS – Recreational Disturbance Mitigation

- 6.109 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.

6.110 The application scheme proposes new dwellings on a site that lies within the Zone of Influence (Zol) for , Hamford Water Special Protection Area (SPA) and Special Area of Conservations (SAC) and Ramsar sites. New housing development within the Zol would be likely to increase the number of recreational visitors to these designated sites; and, in combination with other developments it is likely that the proposal would have significant effects on the designated sites. Mitigation measures must therefore be secured prior to occupation. A financial contribution of £11,843.06 (£137.71 per dwelling) is required. This will provide certainty that the development would not adversely affect the integrity of Habitats Sites.

Affordable Housing

6.111 TDLPS1 Policy SP4 underpins the requirement for local planning authorities to meet projected housing needs for their respective plan period. To promote a mix of housing tenure in the District and address the housing needs of people and families with lower incomes who cannot afford to buy or rent housing on the open market, the Council will work with the development industry to provide new affordable housing. TDLPS2 Policy LP5 states that for development proposals involving the creation of 11 or more (net) homes, the Council will expect 30% of new dwellings to be made available as affordable housing.

6.112 Having regard to Policy LP5, the scheme must provide 30% affordable housing to be policy compliant. Consultation with the Council’s Housing Team has been undertaken and consideration given to the Rural Community Council of Essex (RCCE) Housing Needs Survey March 2022.

6.113 The development includes the provision of 26 affordable homes in compliance with the 30% requirement set out within Policy LP5. The affordable units will comprise 19 no. affordable rented and 7 no. shared ownership as follows:

Plot no.	Number of bedrooms	Market or Affordable Housing	Number of Storeys	Number of Parking Spaces
2	3	Shared Ownership	2	2
11	2	Affordable Rented	2	2
12	1	Affordable Rented	1.5	1
13	1	Affordable Rented	1.5	1
14	1	Affordable Rented	1.5	1
15	1	Affordable Rented	1.5	1
16	1	Affordable Rented	1.5	1
17	3	Affordable Rented	2	2
18	2	Affordable Rented	2	2
19	2	Affordable Rented	2	2
20	3	Affordable Rented	2	2
27	1	Shared Ownership	1.5	1
42	1	Shared Ownership	1.5	1
46	3	Shared Ownership	2	2
47	3	Shared Ownership	2	2
55	1	Affordable Rented	1.5	1
56	1	Affordable Rented	1.5	1
57	3	Affordable Rented	2	2
58	2	Affordable Rented	2	2
59	2	Affordable Rented	2	2
60	3	Affordable Rented	2	2
61	1	Affordable Rented	1.5	1
62	1	Affordable Rented	1.5	1
65	1	Affordable Rented	1 (bungalow)	1
75	2	Shared Ownership	1 (bungalow)	2

80	3	Shared Ownership	1 (bungalow)	2
----	---	------------------	--------------	---

- 6.114 The Council's Housing Team have reviewed the information provided and have no objections to the quantum and tenure of the affordable housing units.
- 6.115 The S106 will secure the affordable units, including a clause requiring the rented homes to be allocated from the Council's Housing Register firstly to those with a local connection.

Public Open Space and Play Facilities

- 6.116 TDLP Section 2 Policy HP5 states that the Council will work with partners and sports providers across the district to maintain, expand and improve the quality and accessibility of public open space, sports and recreational facilities of different types and will aim to achieve and exceed standards set out in the Council's 2017 Open Spaces Strategy or any future update. TDLP Section 2 Policy DI1 states that all new development should be supported by, and have good access to, all necessary infrastructure.
- 6.117 All new residential developments of 11 or more dwellings on sites of 1.5 hectares and above will be expected to provide a minimum 10% of the gross site area as open space laid out to meet the Council's specifications having regard to the Council's Open Spaces Strategy and the requirements of any SPD. No single area of useable open space will be less than 0.15 hectares in size. Financial contributions will also be sought through s106 legal agreements (or an appropriate alternative mechanism) towards ongoing maintenance.
- 6.118 The proposed development includes two areas of open space, with an additional useable landscaped areas (Woodland Walk) along the western boundary and at the entrance to the site. An equipped play area is proposed to the north of the site. In addition, an area designated for public open space to the south of the site is proposed which will provide both hard and soft landscaping, with a boardwalk across the detention basin. Both these areas in combination exceed the 10% policy requirement.
- 6.119 Consultation with the Public Realm Team has been undertaken who confirm that the on-site provision is sufficient. The S106 agreement will secure the transfer of the play area to the northern part of the site to the Parish Council with a commuted sum of £78,161.97 with the remaining areas of the open space within the site to be transferred to a management company.

Healthcare

- 6.120 Policy HP1 of the Local Plan states that 'the Council will work to improve the health and wellbeing of residents in Tendring by seeking mitigation towards new or enhanced health facilities from developers where new housing development would result in a shortfall or worsening of health provision'.
- 6.121 The development would give rise to a need for improvements to capacity, in line with emerging STP Estates Strategy; by way of refurbishment, reconfiguration, extension, or potential relocation for the benefit of the patients of the area of Great Oakley or through other solutions that address capacity and increased demand as outlined in 5.3 - Health & Wellbeing Statement.
- 6.122 A developer contribution will be required to mitigate the impacts of this proposal. North East Essex CCG calculates the level of contribution required, in this instance to be £52,500.00. This reflects the comments of NHS provided as part of the application consultation.

Education

- 6.123 Policy PP12 of the Local Plan states that 'planning permission will not be granted for new residential development unless the individual or cumulative impacts of development on education

provision can be addressed, at the developer's cost, either on-site or through financial contributions (potentially through the Community Infrastructure Levy) towards off-site improvements. Essex County Council as the local education authority will be a key consultee in this regard. Where appropriate, the Council will also consider the use of legal agreements to secure any necessary improvements in education provision arising as a result of development.'

- 6.124 In this instance ECC are not seeking a contribution toward primary and secondary schools. However, ECC are requesting that the S106 agreement secure a developer contribution toward secondary school transport of £73,674.40 (index linked) and a developer contribution of £6,690.80 to improve, enhance and extend the facilities at Harwich Library.

GCN Receptor Site

- 6.125 As addressed in the Biodiversity and Protected Species section of the report above, the S106 legal agreement will include third party agreement relating to use of land outside the redlined site area to be used as a receptor site for the translocation of Great Crested Newts.

Community Facilities

- 6.126 Both the community building and car park are to be built to turnkey standard and then transferred to Great Oakley Parish Council. At this stage, officers have been advised that the applicant will build the community building to turnkey standard in lieu of a commuted sum for maintenance. Should the application be approved, the S106 will secure the appropriate agreement between the developer and Parish Council.

7. Overall Planning Balance and Conclusion

- 7.1 The site lies within the Great Oakley Settlement Development Boundary as defined within the adopted Tendring District Local Plan 2013 – 2033 and Beyond, where the principle of residential development is accepted.
- 7.2 The application is accompanied by all appropriate statements and technical reports to demonstrate that no significant adverse impacts will result from the development. Subject to compliance with the recommended conditions and S106 planning obligations, the development is considered policy compliant.
- 7.3 The proposal would provide clear economic, social and environmental benefits and would constitute sustainable development. There would be no adverse impacts that would significantly or demonstrably outweigh these benefits, as per the NPPF test. Accordingly, the application is recommended for approval.

8. Recommendation

- 8.1 The Planning Committee is recommended to grant planning permission subject to the following conditions and informatives and the prior completion of a section106 legal agreement with the agreed Heads of Terms.

8.2 Conditions and Reasons

1. COMPLIANCE: TIME LIMIT

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

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

2. COMPLIANCE: APPROVED PLANS AND DOCUMENTS

The development hereby permitted shall be carried out in accordance with the drawings/documents listed below and/or such other drawings/documents as may be approved by the Local planning authority in writing pursuant to other conditions of this permission or such drawings/documents as may subsequently be approved in writing by the Local planning authority as a non-material amendment following an application in that regard. Such development hereby permitted shall be carried out in accordance with any Phasing Plan approved, or as necessary in accordance with any successive Phasing Plan as may subsequently be approved in writing by the local planning authority prior to the commencement of development pursuant to this condition.

Plans Schedule

A 025 001 P1 - Existing Site Plan
A 025 100 P0 - Existing Site Location Plan
A 025 120 P0 - Existing Site Section
A 100 001 P4 - Proposed Site Plan
A 100 003 - Proposed Parameter Plan
A 100 004 P4 - Proposed Site Plan with Plot Numbers
A 100 005 P4 - Proposed Uses Site Plan
A 100 006 P5 - Proposed Site Levels Plan
A 110 001 P1 - Proposed North & West Elevations
110 002 P1 - Proposed East & South Elevations
A 200 001 P1 - Proposed House Layouts- 1 Bed
A 200 002 P1 - Proposed House Layouts- 2 Bed, 1 Storey
A 200 003 P2 - Proposed House Layouts- 2 Bed, 2 Storey
A 200 004 P1 - Proposed House Layouts- 3 Bed, 1 Storey
A 200 005 P1 - Proposed House Layouts- 3 Bed, 2 Storey
A 200 006 P1 - Proposed House Layouts- 3 Bed, 2.5 Storey
A 200 007 P1 - Proposed House Layouts- 4 Bed, 2.5 Storey
A 200 008 P1 - Proposed House Layouts- 4 Bed, Side Entrance
A 200 009 P1 - Proposed Garage/Carport Layouts
A 200 010 P3 - Proposed Community Building
A 200 011 P0 - Proposed Housing Bin Stores
A 200 012 P0 - Proposed House Layouts- 1 Bed
A 200 021 P2 - Proposed Plots 83 - 86
TM483 LA01 Rev C - Public Right of Way
TM483 SKP03 Rev B - Planting Strategy
TM483 SKP04 Rev B - Tree Strategy
TM483 SKP05 Rev B - Ecology Strategy
TM483 SKP06 Boundary Strategy

Statements Schedule

Arboricultural Impact Assessment, prepared by Lockhart Garratt
Design and Access Statement, prepared by Dexter Moran Architects
Energy and Sustainability Assessment, prepared by Integration
Flood Risk Assessment and Drainage Strategy
Great Crested Newt Mitigation Strategy, prepared by Lockhart Garratt
Great Crested Newt Survey Report, prepared by Lockhart Garratt
Land Quality Statement, prepared by Campbell Reith
Landscape Statement, prepared by Turkington Martin
Planning Statement, prepared by Smith Jenkins
Preliminary Ecological Assessment Report, prepared by Lockhart Garratt
Reptile Survey Report, prepared by Lockhart Garratt

Social Infrastructure Assessment, prepared by RPS
Statement of Community Consultation, prepared by Smith Jenkins
Transport Statement, prepared by Campbell Reith

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

Materials

3. FURTHER APPROVAL: AGREEMENT OF MATERIALS

No development shall be commenced above slab level until precise details of the manufacturer and types and colours of the external facing and roofing materials to be used in construction have been submitted to and approved, in writing, by the Local planning authority. Such materials as may be agreed shall be those used in the development and fully applied prior to the first use/occupation.

Reason - To secure an orderly and well-designed finish in the interests of visual amenity and the character and appearance of the development.

Landscaping

4. APPROVAL REQUIRED: LANDSCAPING SCHEME

No development above slab level shall take place until there has been submitted to and approved, in writing, by the Local planning authority a precise scheme of hard, soft and boundary treatment landscaping works for the site in accordance with drawing TM483 SKP03 Rev B, which shall include any proposed changes in ground levels.

Reason - In the interests of visual amenity and the character and appearance of the area.

5. COMPLIANCE WITH DETAILS AND TIMESCALE REQUIRED - LANDSCAPING SCHEME

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

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

6. APPROVAL REQUIRED: LANDSCAPE MANAGEMENT PLAN

No development shall take place until there has been submitted to and approved, in writing, by the Local planning authority a landscape management plan for a minimum of 5 years. Both new and existing planting (including SUDs features as applicable) will be required to be included in a long-term management plan. The landscape management plan shall also include long term design objectives, management responsibilities and maintenance schedules for all landscape areas, other than small, privately owned, domestic gardens. The landscape management plan

shall be carried out as approved in accordance with the details and timescales in the plan and thereafter retained.

Reason - To support plant establishment and ensure the proper management and maintenance of the approved landscaping in the interests of amenity, functionality and the character and appearance of the area.

7. APPROVAL REQUIRED: DETAILS OF SCREEN WALLS AND FENCES

Prior to the first occupation of the development precise details of the provision, siting, design and materials of all screen walls and fences shall be submitted to and approved, in writing, by the Local planning authority. The screen walls and fences as may be approved shall be erected prior to the dwelling/s/building/s to which they relate being first occupied/used and thereafter be retained in the approved form.

Reason - In the interests of visual amenity and the character and appearance of the area.

Removal of Permitted Development Rights (PD)

8. SPECIFIC RESTRICTION ON DEVELOPMENT: REMOVAL OF PD FOR ENCLOSURES

Notwithstanding Section 55 (2)(a)(ii) of the Town and Country Planning Act 1990 as amended and the provisions of the Town and Country Planning (General Permitted Development) Order 2015, Schedule 2, Part 2 Minor operations, Class A (or any Order revoking and re-enacting that Order with or without modification):- no fence, gate, wall or any other means of enclosure, shall be erected forward of any elevation of the dwelling house(s) or community building fronting a highway, except pursuant to the grant of planning permission on an application made in that regard.

Reason - To enable the local planning authority to retain control over the development in the interests of the visual amenity and the quality of the development.

9. SPECIFIC RESTRICTION ON DEVELOPMENT: REMOVAL OF PD FOR ROOF ADDITIONS AND OPENINGS

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

Reason - To enable the local planning authority to retain control over the development in the interests of the visual amenity, the quality of the development and residential amenities.

10. SPECIFIC RESTRICTION ON DEVELOPMENT: REMOVAL OF PD FOR EXTENSIONS AND OUTBUILDINGS

Notwithstanding Section 55 (2)(a)(ii) of the Town and Country Planning Act 1990 as amended and the provisions of the Town and Country Planning (General Permitted Development) Order 2015, Schedule 2, Part 2 Development within the curtilage of a dwellinghouse, Class A and Class E (or any Order revoking and re-enacting that Order with or without modification):- no building or enclosure, swimming or other pool shall be erected within the curtilage of dwelling house(s) on Plots 27, 13, 14 and 15 as shown on approved drawing number A 100 004 revision P4, except pursuant to the grant of planning permission on an application made in that regard.

Reason - To enable the local planning authority to retain control over the development in the interests of and residential amenities as the identified plots have a private amenity area of 55m² or below.

Highways

11. ACTION REQUIRED: HIGHWAYS PROVISION OF VISIBILITY SPLAYS

Prior to the first use of the main point of access to the site and development from Beaumont Road, clear visibility shall be provided and thereafter permanently maintained with dimensions of 2.4 metres by 90 metres in both directions along the edge of the metalled carriageway from the centre of the access in accordance with the findings of the accompanying Speed Survey results. Notwithstanding the provisions of Part 2 Class A of the Town & Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification) no obstruction over 0.6 metres high shall be erected, constructed, planted or permitted to grow within the areas of the visibility splays.

Reason - To ensure vehicles exiting the drive would have sufficient visibility to enter the public highway safely, and vehicles on the public highway would have sufficient warning of a vehicle emerging to take avoiding action.

NOTE/S FOR CONDITION:

Carriageway is the part of a road intended for vehicles rather than pedestrians normally define by kerb if available or edge of a bound surface. It is an OFFENCE to carry out works within the public highway, which includes a Public Right of Way, without the permission of the ECC Highway Authority. Any conditions which involve work within the limits of the public highway do not give the applicant permission to carry them out. Unless otherwise agreed in writing all works within the public highway shall be carried out by Essex County Council or its agents at the applicant's expense.

12. ACTION REQUIRED: HIGHWAY WORKS PRIOR TO OCCUPATION

Prior to the commencement of development above slab level, a scheme of highway improvements shall be submitted in writing to the local planning authority for written approval that shall comprise of the following and include a timetable for implementation.:

- a) A priority junction off Beaumont Road to provide access to the proposal site, constructed at right angles to the highway boundary and to the existing carriageway.
- b) A straight section of carriageway to be provided from the entrance junction for 15 metres.
- c) Details of upgrading of the existing bus stops north-east of the primary school.
- d) Details of widening of the existing footway along the south side of Beaumont Road where the public right of way (mentioned below) emerges to the west and to the boundary with the primary school southwards beyond the site access to the service road located north-east of Red Barn Lane.
- e) Details of Improvements to the Public Right of Way no.5 which runs along the proposal site's western boundary between Beaumont Road and Woodlands.
- f) Provision of pedestrian crossing points on Beaumont Road, north-west of the site access.

The improvements as may be agreed shall be implemented as approved in the timetable provided and completed in their entirety.

Reason - To protect highway efficiency of movement and safety and to ensure the proposal site is accessible by more sustainable modes of transport such as public transport, and walking.

13. COMPLIANCE: INTERNAL ROAD AND FOOTWAYS PRIOR TO OCCUPATION

Prior to the occupation of the development, the associated internal road, footway layout and parking shall be provided in accordance with approved drawing numbers:

- A 100 001 P4: Proposed site plan
- A 100 003 P4: Proposed parameter plan
- A 100 004 P4: Proposed Site Plan with Plot Numbers
- A 100 006 P5: Proposed Site Levels Plan

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

Note: It has been agreed with the developer that the majority of the internal road layout, footway layout, surface water drainage or any form of street lighting will not be adopted by the Highway Authority.

14. FURTHER APPROVAL - CONSTRUCTION MANAGEMENT TO BE AGREED (PRE COMMENCEMENT)

Prior to the commencement of development, details of the construction methodology, layout plan and timetable shall be submitted to and approved, in writing, by the Local planning authority. This shall incorporate the following information:-

- a) Details of the hours of work/construction of the development within which such operations shall take place and the hours within which delivery/collection of materials for the said construction shall take place at the site.
- b) Details of the loading/unloading/storage of construction materials on site, including details of their siting and maximum storage height.
- c) Details of how construction and worker traffic and parking shall be managed. This shall include routing of all traffic and any directional signs to be installed and where.
- d) Details of any protection measures for footpaths and trees surrounding the site.
- e) Details of any means of access to the site during construction.
- f) Details of the scheduled timing/phasing of development for the overall construction period.
- g) Details of measures to control the emission of dust and dirt during construction and including details of any wheel washing to be undertaken, management and location it is intended to take place.
- h) Details of the siting of any on site compounds and portaloo's.
- i) Details of the method of any demolition to take place, including the recycling and disposal of said materials resulting from demolition.
- j) Site waste management plan (that shall include reuse and recycling of materials).
- k) Scheme for sustainable construction management to ensure effective water and energy use.
- l) Scheme of review of complaints from neighbours.
- m) Registration and details of a Considerate Constructors Scheme.
- n) Details on the provision, location and management of any show home/s or reception, including opening times, parking and advertisements (including flags and directional signs for the development and details of times for removal when not required).

The said methodology as may be approved shall be implemented in its entirety and shall operate as may be approved at all times during construction.

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.

15. ONGOING REQUIREMENT: HIGHWAYS RETENTION OF GARAGE/PARKING SPACES

Notwithstanding the provisions of Article 3, Schedule 2 of the Town & Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification) no development shall be carried out in such a position as to prevent vehicular access and use of land shown on the approved plans as garage and parking spaces for vehicle use only.

Reason - In the interests of highway safety and to ensure adequate vehicular access to and use of parking and turning provision within the site is provided and maintained.

16. FURTHER APPROVAL: RESIDENTIAL TRAVEL PACK PRIOR TO OCCUPATION

Prior to first occupation of each dwelling, a Residential Travel Information Pack (travel pack) shall be provided to each dwelling for use of its first occupiers. The travel pack shall be agreed, in writing, by the local planning authority prior to provision and shall include a minimum of six one day travel vouchers for use with a local transport operator.

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

Note: Please contact the Travel Plan Team at ECC Highways via email to Travel.PlanTeam@essex.gov.uk to obtain a Residential Travel Information Pack template and the associated day travel vouchers required.

Archaeology

17. FURTHER APPROVAL: ARCHAEOLOGICAL WORKS 1

No development or preliminary groundworks of any kind shall take place until a scheme of archaeological evaluation of the site, including timetable, has been submitted to and approved in writing by the Local planning authority (including any demolition needing to be carried out as necessary in order to carry out the evaluation). The evaluation shall be carried out in its entirety as may be agreed.

Reason - To safeguard archaeological assets within the approved development boundary from impacts relating to any groundworks associated with the development scheme and to ensure the proper and timely investigation, recording, reporting and presentation of archaeological assets affected by this development. This condition is required to be agreed prior to the commencement of any development to ensure matters of archaeological importance are preserved and secured early to ensure avoidance of damage or loss due to the development and/or its construction. If agreement was sought at any later stage as there is an unacceptable risk of loss and damage to archaeological and historic assets.

18. FURTHER APPROVAL: ARCHAEOLOGICAL WORKS 2

No development or preliminary groundworks of any kind shall take place until a written report on the results of the archaeology evaluation of the site has been submitted to the Local planning authority and that confirmation by the Local planning authority has been provided that no further investigation work is required in writing.

Should the local planning authority require further investigation and works, no development shall take place on site until the implementation of a full programme of archaeological work has been

secured, in accordance with a Written Scheme of Investigation which has been submitted to and approved in writing by the Local planning authority.

The scheme of investigation shall include an assessment of significance and research questions; and:

- a) The programme and methodology of site investigation and recording.
- b) The programme for post investigation assessment.
- c) Details of the provision to be made for analysis of the site investigation and recording.
- d) Details of the provision to be made for publication and dissemination of the analysis and records of the site investigation.
- e) Details of the provision to be made for archive deposition of the analysis and records of the site investigation; and
- f) Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.
- g) The written scheme of investigation shall be carried out in its entirety prior to any other development taking place, or in such other phased arrangement including a phasing plan as may be previously approved in writing by the Local planning authority.

Reason - To safeguard archaeological assets within the approved development boundary from impacts relating to any groundworks associated with the development scheme and to ensure the proper and timely investigation, recording, reporting and presentation of archaeological assets affected by this development. This condition is required to be agreed prior to the commencement of any development to ensure features of archaeological importance are identified, preserved and secured to avoid damage or loss resulting from the development and/or its construction. If agreement was sought at any later stage, there is an unacceptable risk of loss and damage to archaeological and historic assets.

19. FURTHER APPROVAL: ARCHAEOLOGICAL WORKS 3

No building shall be occupied until the archaeology evaluation, and if required the Written Scheme of Investigation, have been completed, submitted to and approved, in writing, by the Local planning authority. Furthermore, no building shall be occupied until analysis, publication and dissemination of results and archive deposition from the archaeology investigations as agreed under the Written Scheme of Investigation has taken place, unless an alternative agreed timetable or phasing for the provision of results is agreed in writing by the Local planning authority.

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

Reason - To safeguard archaeological assets within the approved development boundary from impacts relating to any groundworks associated with the development scheme and to ensure the proper and timely investigation, recording, reporting and presentation of archaeological assets affected by this development.

Biodiversity and Protected Species

20. COMPLIANCE: IN ACCORDANCE WITH ECOLOGICAL APPRAISAL

All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Preliminary Ecological Appraisal (Pea) Report (Lockhart Garratt, March 2022) and Reptile Survey Report (Lockhart Garratt, August 2021). This may include the appointment of an appropriately competent person e.g. an ecological clerk of works (ECoW) to

provide on-site ecological expertise during construction. The appointed person shall undertake all activities, and works shall be carried out, in accordance with the approved details.

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

21. ACTION REQUIRED: NATURAL ENGLAND MITIGATION LICENCE PRIOR TO COMMENCEMENT

Any works which will impact the breeding / resting place of Great Crested Newt, shall not in in any circumstances commence unless the local planning authority has been provided with either:

- a) a licence issued by Natural England pursuant to Regulation 55 of The Conservation of Habitats and Species Regulations 2017 (as amended) authorising the specified activity/development to go ahead; or
- b) a statement in writing from the Natural England to the effect that it does not consider that the specified activity/development will require a licence.

Reason - To conserve protected 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 s17 Crime & Disorder Act 1998.

22. FURTHER APPROVAL: BIODIVERSITY ENHANCEMENT STRATEGY

Prior to commencement, a Biodiversity Enhancement Strategy for protected and Priority species shall be submitted to and approved in writing by the local planning authority. The content of the Biodiversity Enhancement Strategy shall include the following:

- a) Purpose and conservation objectives for the proposed enhancement measures;
- b) detailed designs or product descriptions to achieve stated objectives;
- c) locations, orientations, and heights of proposed enhancement measures by appropriate maps and plans;
- d) 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 NPPF 2021 and s40 of the NERC Act 2006 (Priority habitats & species).

23. PRIOR TO OCCUPATION: WILDLIFE SENSITIVE LIGHTING DESIGN SCHEME

Prior to commencement, 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. The scheme shall include position, height, aiming points, lighting levels and a polar luminance diagram.

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).

Sustainable Drainage (SuDS)

24. FURTHER APPROVAL - SUDS WATER DRAINAGE DETAILS (FOR CONSTRUCTION)

No development shall commence until details of a construction surface water management plan, including timetable, detailing how surface water and storm water will be managed on the site during construction, are submitted to and agreed in writing by the local planning authority. No part of the development shall be commenced and/or developed except as may be agreed and in accord with the approved timetable. The drainage scheme shall thereafter be maintained as approved or as be agreed to be retained by the local planning authority in writing.

Reason - To safeguard the ground water environment and minimise the risk of flooding. 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 by reason of flood risk.

NOTE/S FOR CONDITION:

This condition shall engage and requires details to be agreed prior to the commencement of development. This condition is imposed to ensure the potential impact on a sensitive area is considered and harm avoided that may be detrimental to amenity and the environment. Construction may lead to excess water being discharged from the site. If dewatering takes place to allow for construction to take place below groundwater level, this will cause additional water to be discharged. Furthermore, the removal of topsoils during construction may limit the ability of the site to intercept rainfall and may lead to increased runoff rates. To mitigate increased flood risk to the surrounding area during construction there needs to be satisfactory storage of/disposal of surface water and groundwater which needs to be agreed before commencement of the development.

25. FURTHER APPROVAL - SUDS WATER DRAINAGE DETAILS

No development shall commence (except demolition) until details of a surface water management scheme/plan, detailing how surface water and storm water will be managed on the site during construction and during the lifetime of the development, is submitted to and agreed in writing by the local planning authority. The scheme shall include but not be limited to:

- Details and verification of the suitability of infiltration of surface water for the development.
- Details of all discharge rates for all flood and storm events up to and including the 1 in 100 year rate plus 40% allowance for climate change
- Provide details of sufficient on site storage to be installed and demonstrate if 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 is likely to occur.
- Provide details to demonstrate if all storage features can half empty within 24 hours for the 1 in 30 plus 40% climate change critical storm event.
- Provide details that demonstrate if features proposed are able to accommodate a 1 in 10 year storm events within 24 hours of a 1 in 30 year event plus climate change.
- Provide final modelling and calculations for all areas of the drainage system.

- Provide 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.

Unless a timetable is agreed as part of the surface water management scheme submitted, no part of the development shall be first occupied or brought into use until the scheme is fully installed and is functionally available for use, unless alternative timing for installation is otherwise agreed in writing by the Local planning authority. The drainage scheme shall thereafter be maintained as approved.

Reason - To safeguard the ground water environment and minimise the risk of flooding. 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 by reason of flood risk.

NOTE/S FOR CONDITION:

This condition shall engage and requires details to be agreed prior to the commencement of development. This condition is imposed to ensure the potential impact on a sensitive area is considered and harm avoided that may be detrimental to amenity and the environment.

Bins / Collection

26. ACTION AND DISCHARGE REQUIRED: REFUSE BINS AND COLLECTION AREAS

Prior to the first use/occupation of the development, or in accordance with an alternative timetable for provision as may be agreed in writing by the Local planning authority, details of the storage for refuse/recycling bins and any collection areas shall be submitted to and approved, in writing, by the local planning authority. The approved areas shall be provided prior to first occupation/ use and thereafter retained as approved.

Reason - In the interest of highway safety to ensure that refuse/recycling bins do not cause any obstruction or danger on the highway and in the interests of an attractive well designed development that is not detrimental to visual amenity.

NOTE/S FOR CONDITION:

It is an OFFENCE to carry out works within the public highway, which includes a Public Right of Way, without the permission of the ECC Highway Authority. Any conditions which involve work within the limits of the public highway do not give the applicant permission to carry them out. Unless otherwise agreed in writing all works within the public highway shall be carried out by Essex County Council or its agents at the applicant's expense.

Local Recruitment Strategy

27. ACTION AND DISCHARGE REQUIRED

Prior to commencement of development the applicants shall submit to the Local planning authority, in writing, a Local Recruitment Strategy to include details of how the applicant/developer shall use their reasonable endeavours to promote and encourage the recruitment of employees and other staff in the locality of the application site, for the construction of the development and for the uses of the development thereafter. The approved Local Recruitment Strategy shall thereafter be adhered to.

Reason - To promote and encourage the recruitment of employees and other staff in the locality of the application site.

Renewable Energy and Energy Efficiencies

28. COMPLIANCE: IN ACCORDANCE WITH ENERGY STATEMENT

No development shall commence above slab level until a scheme for the provision and implementation of water, energy and resource efficiency measures for the lifetime of the development in full accordance with the accompanying Energy and Sustainability Statement (Integration dated 25 October 2021) shall be submitted to and approved, in writing, by the Local Planning Authority. The scheme such include as a minimum to achieve:-

- Agreement of provisions to ensure no more than 105 litres per person per day is used
- Agreement of carbon level
- Agreement of provisions to ensure the development is zero carbon ready
- Details of, including the location of an electric car charging points per dwelling
- Details of, including the location of a Water-butt per dwelling
- Details of, including the location of solar panels for each dwelling
- Agreement of heating of each dwelling/building
- Agreement of scheme for waste reduction

The scheme shall be fully implemented prior to the first occupancy of the development unless otherwise agreed in writing by the local planning authority. The scheme shall be constructed and the measures provided and made available for use as may be agreed and thereafter shall be maintained.

Reason - To enhance the sustainability of the development through better use of water, energy and resources reduce harm to the environment and result in wider public benefit in accordance with the NPPF.

8.3 Informatives

Positive and Proactive Statement

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

Legal Agreement Informative

This application is the subject of a S106 legal agreement, and this decision should only be read in conjunction with this agreement. Please note that any subsequent variation / removal of condition applications (s73 applications) are likely to require a new legal agreement to secure the necessary planning obligations.

Highways Informatives

1. The proposed junction layout and footway proposals will require an initial Stage 1 Road Safety Audit, ideally to be carried out by Essex Highways (to avoid the issue of additional items being identified at RSA2 stage which can then delay technical approval) roadsafety.audit@essexhighways.org

2. All or some of the above requirements may attract the need for a commuted sum towards their future maintenance (details should be agreed with the Highway Authority as soon as possible).
3. Prior to any works taking place in the highway the developer should enter into an S278 agreement with the Highway Authority under the Highways Act 1980 or Minor Works Authorisation to regulate the construction of the highway works
4. All highway related details should be agreed with the Highway Authority.
5. Priority for pedestrians and cyclists across internal junctions. (Internal layout subject to a 20mph Zone).
6. Speed tables: A plateau may be created by ramps rising 75mm at a rise of 1-in-12. Unless there is a junction, such a plateau should be no longer than 7m.
7. 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

8. The Public Right of Way network is protected by the Highways Act 1980. Any unauthorised interference with any route noted on the Definitive Map of PROW is considered to be a breach of this legislation. The public's rights and ease of passage over public footpath no.5 (Great Oakley_168) shall be maintained free and unobstructed at all times to ensure the continued safe passage of the public on the definitive right of way.
9. The grant of planning permission does not automatically allow development to commence. In the event of works affecting the highway, none shall be permitted to commence until such time as they have been fully agreed with this Authority. In the interests of highway user safety this may involve the applicant requesting a temporary closure of the definitive route using powers included in the aforementioned Act. All costs associated with this shall be borne by the applicant and any damage caused to the route shall be rectified by the applicant within the timescale of the closure.
10. 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.
11. Mitigating and adapting to a changing climate is a national and Essex County Council priority. The Climate Change Act 2008 (amended in 2019) commits the UK to achieving net-zero by 2050. In Essex, the [Essex Climate Action Commission](#) proposed 160+ recommendations for climate action. Essex County Council is working with partners to achieve specific goals by 2030, including net zero carbon development. All those active in the development sector should have regard to these goals and applicants are invited to sign up to the [Essex Developers' Group Climate Charter \[2022\]](#) and to view the advice contained in the [Essex Design Guide](#). Climate Action [Advice guides](#) for residents, businesses, schools are also available.

Environmental Protection Informatives

In order to minimise potential nuisance caused by construction works, the applicant (or their contractors) the construction method statement required by Condition 15 above shall include the following:

- No vehicle connected with the works to arrive on site before 07:30 or leave after 19:00 (except in the case of emergency). Working hours to be restricted between 08:00 and 18:00 Mondays to Saturdays (finishing at 13:00 on Saturdays) with no working of any kind permitted on Sundays or any Public/Bank Holidays
- The use of barriers to mitigate the impact of noisy operations will be used where possible.
- No materials produced as a result of the site development or clearance shall be burned on site.
- All reasonable steps, including damping down site roads, shall be taken to minimise dust and litter emissions from the site whilst works of construction and demolition are in progress.
- The selection and use of machinery to operate on site, and working practices to be adopted will as a minimum requirement, be compliant with the standards laid out in British Standard 5228:2014.
- Mobile plant to be resident on site during extended works shall be fitted with non-audible reversing alarms (subject to HSE agreement).
- Prior to the commencement of any piling works which may be necessary, a full method statement shall be agreed in writing with the Planning Authority (in consultation with Pollution and Environmental Control). This will contain a rationale for the piling method chosen and details of the techniques to be employed which minimise noise and vibration to nearby residents.
- If there is a requirement to work outside of the recommended hours the applicant or contractor must submit a request in writing for approval by Pollution and Environmental Control prior to the commencement of works.
- Adequate and suitable measures should be carried out for the minimisation of asbestos fibres during demolition, so as to prevent airborne fibres from affecting workers carrying out the work, and nearby properties. Only contractors licensed by the Health and Safety Executive should be employed. Any redundant materials removed from the site should be transported by a registered waste carrier and disposed of at an appropriate legal tipping site.
- All waste arising from the ground clearance and construction processes to be recycled or removed from the site subject to agreement with the Local Planning Authority and other relevant agencies.
- No materials produced as a result of the site development or clearance shall be burned on site. All reasonable steps, including damping down site roads, shall be taken to minimise dust and litter emissions from the site whilst works of construction and demolition are in progress.
- All bulk carrying vehicles accessing the site shall be suitably sheeted to prevent nuisance from dust in transit.

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/>.

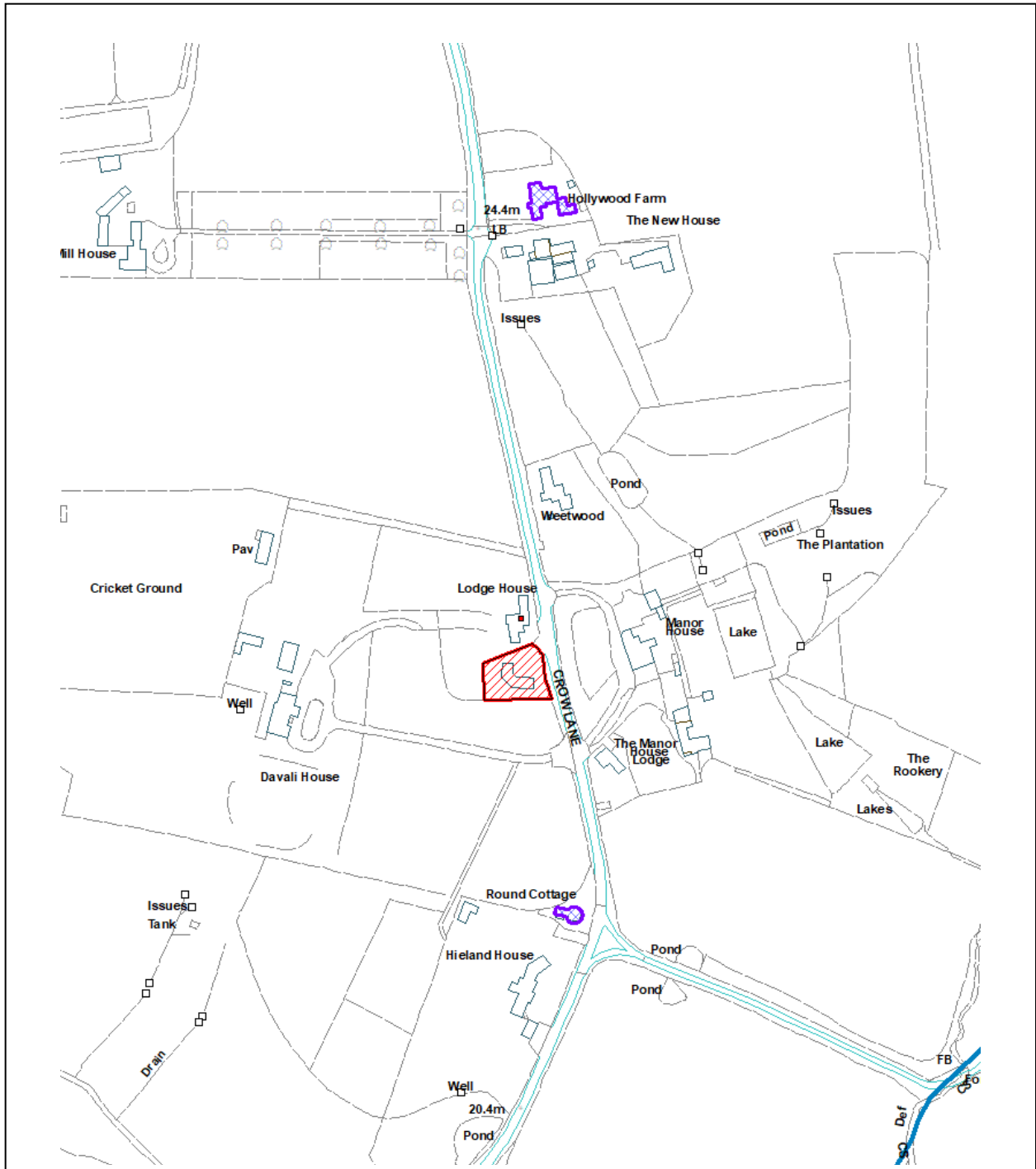
This page is intentionally left blank

PLANNING COMMITTEE

16th February 2023

REPORT OF THE DIRECTOR (PLANNING)

A.2 PLANNING APPLICATION – 22/01286/FUL – THE LODGE HOUSE CROW LANE TENDRING CLACTON ON SEA CO16 9AP



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: 22/01286/FUL

Town / Parish: Tendring Parish Council

Applicant: Group Captain (Rtd) J.E. Warner OBE and Mrs N. Warner

Address: The Lodge House Crow Lane Tendring Clacton On Sea Essex CO16 9AP

Development: Replacement dwelling following approval (under planning permission 21/01957/FUL) for conversion of office/garage building into a 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 existing building on site which benefits from planning approval for a conversion (from office/garage) into a dwelling (under TDC planning ref 21/01957/FUL). Moreover, in respect of proposed design and external appearance, the proposal is considered to be acceptable and will meet the design expectations of relevant local and national policies. The maximum ridge height of the proposal marginally exceeds the ridge height of the existing building by 50cm (currently the ridge height is 4.7m and the proposal will increase the height to 5.2m). The proposed dwelling will continue to utilise an existing private access off Crow Lane with good visibility splays in both directions.
- 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 safety 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

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

In relation to housing supply:

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

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

3. Relevant Planning History

91/00497/FUL	Extensions and minor alterations to dwelling house	Approved	26.06.1991
03/01223/FUL	Extension to kitchen/breakfast room	Approved	06.08.2003
20/00661/FUL	Conversion of office/garage into a dwelling.	Refused	31.07.2020
21/00151/COUNOT	Proposed conversion of offices into a dwelling.	Determination	22.03.2021
21/01957/FUL	Proposed conversion of office/garage into a dwelling (revised submission following prior approval of application 21/00151/COUNOT for use of building as a dwelling)	Approved	23.02.2022

4. Consultations

Parish Council	<p>Tendring Parish Council resolved to object on a number of grounds as outlined below:</p> <p>Overdevelopment. TDC will be aware of the history of this site, in particular these three previous planning applications:</p> <ol style="list-style-type: none"> (1) 20/00661/FUL, an application to convert from office use to residential, which was refused primarily because the site is outside the settlement boundary in the local plan (both the old one in force at that time and the then-emerging plan, since adopted) (2) 21/00151/COUNOT, the granting of permission as permitted development (Class O) to convert just that part of the current building that was used as offices to residential, despite the fact that the amount converted would have been impractical as an independent residence. (3) 21/01957/FUL, an application to replace the Class O permitted development above, seeking to convert the whole
----------------	---

building to residential use. Essentially this was the same application as 20/00661/FUL but this time it was approved by TDC.

Having got to the point where approval has now been granted for what the applicants originally asked for, we now have the current application to further increase the size of the property – at the front, back and corner – through a complete demolition and rebuild. The planning statement suggests that the new property would only come slightly forward of the current building line however this is misleading. The current property effectively stops almost 6 metres behind where the new proposal comes to, with the structure in front of that being little more than a lean-to structure, as this picture shows:



The new proposal would bring the full roof height almost 6 metres closer to the road than the existing structure, with the effect of visually doubling the length of that wing as seen from the road. There is also an increase in size to the back, which will affect the roof view on the right-hand side of this picture, and an infill of the angled section in the middle.

The overall effect will be to significantly increase the scale and visual presence of this outbuilding, completely changing its character – and making the residential space massively greater than that which was allowed under the Class O conversion, which was effectively only one downstairs room and the roof space room.

The use of Class O appears to have been a means to an end. Whilst the approval of 21/01957/FUL to use the whole current building would have resulted in no external change and so did not result in an objection from Tendring Parish Council, this latest change pushes the scale of what we believe to be acceptable development on this site too far and starts to have an impact on the character of the area.

Related to this increase in accommodation size, we also have concerns over drainage, as the amount of land indicated on the plan attached to the application does not show sufficient room to install the waste treatment system and associated drainage field at a sufficient distance from the building that would meet current regulations.

Further to that, an increase in accommodation likely means an increase in traffic use – both in terms of vehicle movements in and out of the site and also parking. The current entrance to Lodge House would in effect be a shared entrance for both properties and,

	<p>at its current size and position, looks unsuitable for increased traffic volumes, given the National Speed Limit that applies on Crow Lane.</p> <p>The need to provide parking for Lodge House would also restrict the ability of vehicles to manoeuvre on site in a way that would allow safe access and exit always in a forward direction – and we have concerns over visibility splays.</p> <p>In summary, Tendring Parish Council believes that the new proposal is of a scale that would not be acceptable to TDC as a new build on this site (as evidenced by the refusal of the original smaller proposal 20/00661/FUL) and which massively exceeds the amount of residential conversion that was legally possible under Class O without formal permission.</p> <p>As such, Tendring Parish Council believe that any previous permission granted for the building as it currently stands should not be used as the baseline point for assessing this enlargement, but that it should be seen and assessed as a new build application in its own right.</p> <p>As an additional comment, Tendring Parish Council would ask that, if TDC decide to grant permission, that it remove all permitted development rights for further extension of any kind – including in the roof space – so that a full assessment can be made of any further enlargement application.</p> <p>Officer response: <i>All the above concerns and comments will be addressed in the main body of the report under the 'Assessment' section below.</i></p>
ECC Highways Dept	<p>Having reviewed the submitted information, I note vehicular access for the proposed 3-bedroom dwelling would be gained via an existing access and therefore it would intensify its use and so I need to be comfortable sufficient visibility would be provided within highway and/or land under the control of the applicant.</p> <p>With this in mind, ECC Highways requested the following:</p> <ol style="list-style-type: none"> 1. A scale drawing showing the full extent of the visibility splays proposed. The splays should be based on the posted speed limit or the 85th percentile vehicle speed ascertained from a speed survey. Extent of highway should be coloured (see item 3 below) 2. The results of a speed survey if one is conducted to establish the required visibility. 3. The results of a formal extent of highway search (including the covering letter and/or email) 4. In relation to the parking provision and shared turning area there appears to be limited space for any visitor parking for either property and the impact that potentially will have on the shared turning area that will need to serve the host and proposed dwelling. <p>Officer response: <i>A previous planning application for the conversion (from office/garage) into a 3 bedroom dwelling was approved in February 2022 under TDC planning ref 21/01957/FUL. This extant permission, if implemented, will utilise exactly the same access as proposed under the latest proposal the subject of this report. As part</i></p>

	<p><i>of ECC Highways comments on application 21/01957/FUL they raised no objection and explained that no new or altered means of access is proposed. ECC Highways also confirmed that the previous proposal retains adequate parking and turning for the host and proposed dwelling, they then concluded stating 'considering these factors, from a highway and transportation perspective the impact of the proposal is acceptable to the Highway Authority subject to mitigation and conditions'. The current proposal will retain the same amount of hardstanding areas to the north of the proposed dwelling and to the south of the existing house (compared to the previous conversion scheme), as such in all respects it would be unreasonable to request the above information from the Applicant in this instance. More justification on highways safety is available in the 'Highway Safety/Parking' section below.</i></p>
<p>Tree & Landscape Officer 19.08.2022</p>	<p>The application site currently forms part of the residential curtilage of the host property. The boundary of the application site with Crow Lane is demarcated by established vegetation containing two established trees and two small trees. This vegetation currently provides a good level of screening.</p> <p>The retention of the trees is not threatened by the development proposal.</p> <p>No important trees or other significant vegetation will be adversely affected by the development proposal</p> <p>If the existing trees are retained there will be little need to secure additional soft landscaping associated with the development proposal.</p>
<p>UU Open Spaces 07.09.2022</p>	<p>There is currently a deficit of '1.33 hectares of equipped play/formal open space in the village of Tendring.</p> <p>There is only one play area in Tendring located on Heath Road. Recommendation: No contribution is being requested on this occasion.</p>
<p>Environmental Protection</p>	<p>Confirmed that they have no comments to make</p>

5. **Representations**

No third party 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 or nearby properties.

6. **Assessment**

Site Context

- 6.1 Lodge House is the main property on site and consists of a large, early twentieth century detached dwelling located on the western side of Crow Lane. The property is positioned in the centre of a large plot, with a vehicular entrance to the south east of the house. The site

is verdant and benefits from established planting along the front boundary and within the rear garden, visible as a backdrop behind the wall which separates the front/rear gardens.

- 6.2 To the left hand side of the front garden (as one is facing the site) is a large double-range garage with an office suite and associated store at first floor level, this building has a semi-octagonal footprint. The building benefits from a Prior Approval application to convert the office part of it to a dwelling, as well as planning permission for the conversion of office and garage (i.e. the entire building) into a 3 bedroom dwelling (latter granted in February 2022).
- 6.3 The site is located amongst a small cluster of detached houses along this stretch of Crow Lane. The immediate and wider surrounding area is sparsely developed and the character of Crown Lane and the surrounding area consist of medium to large single dwellings, set in large to very large plots, some are set back and others are directly fronting Crow Lane. The area is rural in nature and Crow Lane as well as the wider hinterland has a high level of visual amenity. The site is located in flood zone 1 (low risk of flooding).

Proposal

- 6.4 Planning permission is sought for a replacement dwelling (following approval under planning permission 21/01957/FUL) for conversion of office/garage building into a 3 bedroom dwelling). In other words, the proposal is to demolish the existing building and construct a new 3 bedroom bungalow in its place.
- 6.5 The proposed dwelling will be located in a similar position to the existing office/garage building to be demolished, and will consist of broadly an L-shaped footprint (again similar to the existing office/garage building). The new dwelling will be slightly larger compared to the existing building (see comparison table below) and will be finished in a mixture of red facing brick, render, timber cladding/boarding and plain tiles.
- 6.6 In terms of access, the site is served by an existing access road off Crow Lane and it is proposed to utilise this existing access for the new dwelling, as per the previous approval ref 21/01957/FUL.
- 6.7 The applicant has explained that the conversion of the existing building can provide for a good level of construction and finish, but will not necessarily meet the standards they were hoping to achieve. In this respect, the applicants consider that a purpose designed structure will be of a similar cost to the conversion but will enable far improved sustainable energy levels and higher specification.

Principle of Development

- 6.8 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.
- 6.9 Policy SP3 of Section 1 of the 2013-2033 Local Plan sets out the spatial strategy for North Essex and directs growth towards existing settlements. The application site lies outside of the defined settlement boundary of nearby 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.
- 6.10 Policy SPL2 supports new development within defined SDBs which would encourage sustainable patterns of growth and carefully control urban sprawl. Within a defined SDB, there

will be a general presumption in favour of new development subject to detailed consideration against other relevant Local Plan policies and any approved Neighbourhood Plans. Under Policy SPL1 the village of Tendring is classified as a Smaller Rural Settlement (the bottom of the settlement hierarchy), and is therefore 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.

- 6.11 With regard to development outside of the defined SDB, the Council will consider any planning application in relation to the pattern and scales of growth promoted through the Settlement Hierarchy in Policy SPL1 and any other relevant policies in this plan.
- 6.12 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 the office part of the building into residential, as well as full planning permission for the conversion of the entire building into a 3 bedroom dwelling. Being a new build, this proposal represents an alternative design compared to the existing building on site. 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:

- 6.13 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.
- 6.14 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."

- 6.15 The table below provides a comparison between the previous conversion scheme and the new dwelling proposed under this application:

	21/01957/FUL (Conversion from office/garage to 3-bed dwelling)	22/01286/FUL (New dwelling)
Siting	See 'Site Context' section above	Similar albeit slightly larger footprint and location compared to existing building
Access	The site is served by an existing access road off Crow Lane. Proposed 3-bed conversion scheme will utilise existing access	The site is served by an existing access road off Crow Lane. The new 3-bedroom dwelling will utilise existing access
Appearance	Single storey, cream render, white window frames, tiled roof (dual	Single storey, red facing brick, render, timber cladding/boarding and plain tiles (dual pitched with hipped ends) –

	pitched with hipped ends)	subordinate gable end at rear
Ridge Height	4.7m	5.2m
Eaves Height	2.3m	2.3m
Floor area	155sqm	166sqm
Bedrooms	3	3

6.16 The 21/01957/FUL permission remains extant (permission granted in Feb 2022 with a three year time limit) and there is therefore a lawful ability to implement this permission. Clearly with an extant planning permission on site the only rational conclusion can be that there is a likelihood or real prospect of this permission being implemented and the table above contains a comparison between the two schemes.

6.17 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.

6.18 However, this alternative design is still subject to the detailed consideration against other relevant Local Plan policies and any approved Neighbourhood Plans (covered below).

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 will be single storey with a dual pitched roof with hipped ends at both the eastern (Crow Lane) and south western corner. There will be a well-defined front entrance facing the parking area immediately to the north-east. The new dwelling, being single storey with hipped end roofs is considered to result in an appropriate form of development in this context. The Parish Council have raised concerns in respect of the design, in particular the eastern projection of the proposed dwelling (facing Crow Lane). There is an existing Conifer hedge along Crow Lane which will can retained as this part of the new dwelling is set a sufficient distance away from the eastern boundary. There is also a well-established hedge along the southern boundary of the site. Both landscape features provide effective screening and the hipped end roof design of the new dwelling will future minimise bulk as seen from Crow Lane and the approach to the site from the south. It is accepted that there will be additional roof volume slightly closer to Crow Lane, as such it is considered necessary and reasonable to impose a planning condition ensuring the Conifer hedge along Crow Lane is retained in perpetuity (should planning permission be granted).

6.22 Having regard to the above policy considerations and the fallback position as outlined above, subject to conditions the proposal is considered to be policy compliant in terms of its scale, layout, appearance and design. The proposal will be 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.
- 6.25 The submitted plans show that the new dwelling would utilise the existing access off Crow Lane (same arrangement as the previous approval for a 3 bedroom conversion scheme) and there will be sufficient turning space in the form of a hardstanding, as well as space further to the south and north (of the turning area) to provide the required two parking spaces each for the new dwelling and the existing dwelling (Lodge House), resulting in no conflict with the above mentioned policy requirements. ECC Highways were consulted and although they have asked for more information (as outlined in the consultation section above), these requests are considered to be unreasonable because a previous planning application for the conversion (from office/garage) into a 3 bedroom dwelling was approved in February 2022 under TDC planning ref 21/01957/FUL. This extant approval will utilise exactly the same access as proposed under the latest proposal the subject of this report, and there will be a similar amount of hardstanding available for the required parking and turning areas. As part of ECC Highways comments on application 21/01957/FUL they raised no objection and explained that no new or altered means of access is proposed. ECC Highways also confirmed that the previous proposal retains adequate parking and turning for the host and proposed dwelling.
- 6.26 In conclusion, subject to the use of necessary and reasonable conditions previously imposed (on the conversion scheme), 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

- 6.27 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.
- 6.28 The Councils Trees and Landscape officer's view is that the retention of the trees on site is not threatened by the development proposal and no important trees or other significant vegetation will be adversely affected by the development proposal. The proposal is therefore considered to be acceptable from a trees and landscape perspective subject to a condition securing the retention of the Conifer hedge along Crow Lane for the reasons outlined in the 'Layout, Scale and Appearance' section above.

Living Conditions of future Occupiers

- 6.29 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.

- 6.30 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.
- 6.31 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.
- 6.32 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

- 6.33 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.
- 6.34 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.
- 6.35 The application site is located within a fairly rural location, neighboured by large dwellings to the north (Lodge House), east and south-west (however the two dwelling to the east and south west are a considerable distance away from the application site).
- 6.36 The proposed development has been designed to minimise any overlooking or loss of privacy issues, being single storey only with main habitable room windows angled away from the area to the north, or set a sufficient distance away from nearby dwellings (specifically the nearest dwelling at Lodge House).
- 6.37 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, it is not considered that this development would impact on the residential amenities of these neighbouring occupiers in any regard.

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, planning statement and domestic sewerage treatment plant information accompanying the application has stated that the development would be connected to a package water treatment plant. The Parish Council is concerned about a lack of space to accommodate the waste treatment system, however the submitted drawings, and specifically the site plan indicate a sizeable area to the rear (west) of the dwelling, within the red line, that is considered to be large enough to accommodate the waste treatment system. Technical matters in respect of private sewage treatment facilities are covered in separate legislation however it is nevertheless considered necessary and reasonable to impose a planning condition seeking to ensure the foul drainage from the development shall be to its own private sewage treatment plant/s which shall be installed and be functionally available for use prior to occupation of the development (should planning permission be granted). This is to ensure that adequate and satisfactory means of foul drainage is provided to avoid pollution and or harm to the environment.

Ecology and Biodiversity Implications

- 6.41 Policy PPL4 seeks to protect and enhance the local biodiversity and geodiversity. The site is not of any specific designation, there is an existing building on site (proposed to be demolished and with a fall-back position to be used as residential). Given the residential land use immediately to the north and the circumstances on site (existing building in use with a residential use fallback position), it is considered that the proposal will not result in a loss of biodiversity or that there will be a harmful impact on ecological features on or nearby the site.

Renewable Energy

- 6.42 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.
- 6.43 The applicant has explained that the main reason for opting to go with a new build proposal (as oppose to the conversion scheme) is because the former will enable them to implement a dwelling with far improved sustainable energy levels and higher specification. As such a condition seeking a scheme for the provision and implementation of water, energy and resource efficiency measures for the lifetime of the development is considered reasonable and necessary and will be recommended for inclusion in the event that planning permission is granted.

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.

Conclusion

- 6.50 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.

7. Recommendation

- 7.1 The Planning Committee is recommended to grant planning permission subject to the following conditions and informatives as set out in the table below:

7.2 Conditions and Reasons

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

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

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

Site Plan
Drawing no. WLH-01 Revision B

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

3. The existing Conifer Hedge located along the eastern boundary of the site facing Crow Lane shall be retained in perpetuity at a minimum height 1.8m for the entire length of the eastern boundary of the site up to the southernmost pillar of the curved brick wall at the site access, except as may be necessary to be altered to comply with the requirements of any other conditions of this permission. Should the Conifer hedge die, seriously damaged or seriously diseased it shall be replaced in the next planting season with others of similar size and same species and retained in perpetuity.

REASON: To enable existing landscaping to be protected and retained in the interests of visual amenity.

4. 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 its roof 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

5. No development shall commence above slab level until a scheme for the provision and implementation of water, energy and resource efficiency measures for the lifetime of the development shall be submitted to and approved, in writing, by the Local Planning Authority. The scheme such include as a minimum to achieve:-
 - Agreement of provisions to ensure no more than 105 litres per person per day is used
 - Agreement of carbon level
 - Agreement of provisions to ensure the development is zero carbon ready
 - An electric car charging points per dwelling
 - A Water-butt per dwelling
 - Compost bin per dwelling
 - Agreement of heating of each dwelling/building
 - Agreement of scheme for waste reduction

The scheme shall be fully implemented prior to the first occupancy of the development unless otherwise agreed in writing by the Local Planning Authority. The scheme shall be constructed and the measures provided and made available for use as may be agreed and thereafter shall be maintained.

REASON: To enhance the sustainability of the development through better use of water, energy and resources reduce harm to the environment and result in wider public benefit in accordance with the NPPF.

6. All foul drainage from the development hereby approved shall be to its own private sewage treatment plant/s which shall be installed and be functionally available for use prior to the development to which it relates being first occupied/used.

REASON: To ensure that an adequate and satisfactory means of foul drainage is provided to avoid pollution, in the absence of a foul sewer.

7. There shall be no obstruction above ground level within a 2.4 m wide parallel band visibility splay as measured from and along the nearside edge of the carriageway across the entire site frontage. Such vehicular visibility splays shall be provided before the first occupation of the dwellinghouse hereby approved and shall be retained free of obstruction above 800mm at all times.

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

8. Prior to the occupation of the dwelling hereby approved, the shared private drive shall be constructed to a minimum width of 5.5 metres for at least the first 6 metres from the back of Carriageway / Highway Boundary and no unbound material shall be used in the construction of the surface treatment.

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.

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

REASON: Due to the nature of the access off Crow Lane and the limited space for waiting in front of potential obstructions at the access, and to give vehicles using the access free and unhindered access to and from the highway in the interest of highway safety.

10. As indicated on drawing no. WLH-01 Revision B, 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.

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.

Legal Agreement Informative - Recreational Impact Mitigation

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

Highways:-

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

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

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

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

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.

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

11. Background Papers

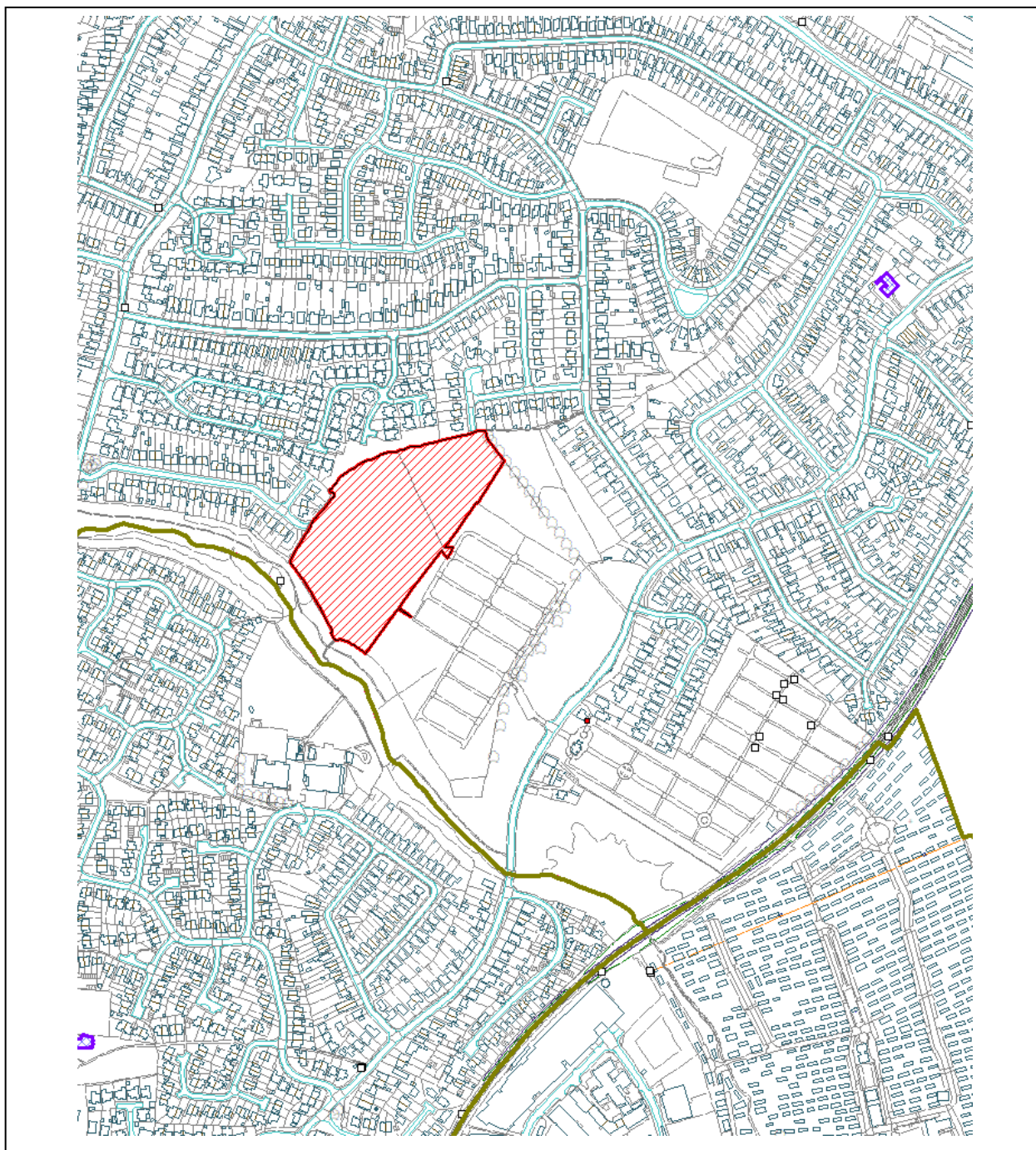
- a. In making this recommendation, officers have considered all plans, documents, reports and supporting information submitted with the application together with any amended documentation. Additional information considered relevant to the assessment of the application (as referenced within the report)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

PLANNING COMMITTEE

16th February 2023

REPORT OF THE DIRECTOR OF PLANNING

A.3 PLANNING APPLICATION – 20/00377/FUL – LAND NORTH OF CEMETERY LAND BURRS ROAD CLACTON ON SEA CO15 4QX



DO NOT SCALE

© Crown Copyright and database right 2023. Ordnance Survey Licence No.100018684.

Application:	20/00377/FUL	Expiry Date:	11th June 2020
Case Officer:	Julie Ramsey	EOT Date:	17 th February 2023
Town/ Parish:	Clacton Non Parished		
Applicant:	Mr Ian Taylor		
Address:	Land North of Cemetery Land Burrs Road Clacton-on-Sea, CO15 4QX		
Development:	Proposed extension to the current cemetery site.		

1. Executive Summary

- 1.1 The application is for the extension of the Clacton-on-Sea Cemetery at Burrs Road. The application site is on land allocated for the cemetery extension within the Tendring Adopted Local Plan. This extension would accommodate the identified local need for additional burial plots in the future. The application is presented at Committee as it is a Tendring District Council application on Council owned land.
- 1.2 The site is designated as a Local Wildlife Site (LoWS) and is bordered by Pickers Ditch to the north and west, with areas around the ditch falling into flood zones 2 and 3.
- 1.3 Matters concerning, flooding, SuDs and Ecology have taken significant time to determine particularly with regard to the Biodiversity Net Gain obligations and the identification of suitable compensation sites.
- 1.4 These matters are now satisfactorily resolved and subject to conditions there are no objections from the Environment Agency, Lead Local Flood Authority or ECC Ecology. There are no concerns raised with regards to highway safety or impact on residential amenity, therefore the application is recommended for approval.

Recommendation: Approval

- 1) That the Director of Planning be authorised to grant planning permission subject to conditions as stated at Paragraph 8.2 (or as need to be varied*) and those as may be deemed necessary by the Director of Planning; and,
- 2) The informative notes as may be deemed necessary.

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

2. Planning Policy

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

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)

SPL3 Sustainable Design
PPL1 Development and Flood Risk
PPL4 Biodiversity and Geodiversity
HP4 Safeguarded Local Greenspace
CP1 Sustainable Transport and Accessibility

2.2 **Status of the Local Plan**

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

3. **Relevant Planning History**

96/01128/FUL	(Burrs Road Cemetery, Burrs Road, Clacton on Sea) Erection of new cemetery store building to replace existing store. Store to be used for machinery used in the cemetery	Approved	08.10.1996
15/01219/FUL	Extension of existing cemetery for further burials.	Approved	03.12.2015
16/00565/DISCON	Discharge of condition 3 (Drainage details), 5 (Submission of a Biodiversity Mitigation, Enhancement and Management Plan), and 6 (Landscaping) of approved planning application 15/01219/FUL.	Approved	25.05.2016

4. **Consultations**

Below is a summary of the comments received from consultees relevant to this application proposal. Where amendments have been made to the application, or additional information has been submitted to address previous issues, only the latest comments are included below.

All consultation responses are available to view, in full (including all recommended conditions and informatives), 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/>.

Essex County Council Ecology

14.04.2020

Holding objection due to insufficient ecological information (designated sites, protected and Priority species)

No ecological report has been submitted as part of this application. The Design and Access Statement (CDS, February 2020) states that the site is designated as a 'Local Wildlife Reserve' and Local Nature Reserve.

Recommend that a Preliminary Ecological Appraisal (PEA) is undertaken to assess the likelihood of protected and Priority species and habitats being present on the site or affected by the proposal. The PEA should assess the impacts of the development and propose reasonable mitigation and enhancement measures.

Essex County Council Ecology

02.07.2020

Preliminary Ecological Appraisal Report (Syntegra Consulting Ltd, May 2020) submitted which states the application site forms part of Te100 Bursville Park Local Wildlife Site (LoWS). There is a presumption against development on Local Wildlife Sites in the NPPF and this proposal would result in the permanent loss of LoWS and Lowland Meadows Priority habitat should this development be consented.

The applicant would need to provide sufficient and appropriate compensation will be necessary to make it acceptable compensation for permanent loss of an area of designated site of importance for biodiversity and Priority Habitat.

A botanical survey of the LoWS site and Lowland Meadows Priority habitat using appropriate methodologies, as well as the provision of the Metrics calculations by a suitably qualified ecologist will be needed prior to determination.

Essex County Council Ecology

02.12.2022

The Habitat Survey and Biodiversity Net Gain Assessment report provided will allow us to remove our holding objection and conditions are required to make the proposal acceptable. This will include compliance with both the BNG report (as submitted) and the Reptile report, as well as the need to submit a final Biodiversity Compensation and Enhancement Strategy.

Essex County Council Ecology **01.02.2023**

I would now refer to the Jan 2023 version of the Geosphere report "Rapid Assessment of Potential Biodiversity Compensation Sites".

As further survey and assessment will be required to finalise management objectives and actions once sites to be take forward are agreed, a condition to secure submission of the final Biodiversity Compensation and Enhancement Strategy will be needed.

I'll let you judge when would be reasonable as a trigger, but the compensation and BNG is deliverable. Final calculations of biodiversity units for both onsite and offsite baseline and proposed habitats will be required once detailed proposals are available as part of this final report.

Lead Local Flood Authority (SuDS)

25.03.2020.

As the Lead Local Flood Authority (LLFA) this Council provides advice on SuDS schemes for major developments.

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

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

Lead Local Flood Authority position.

Having reviewed the Flood Risk Assessment and the associated documents which accompanied the planning application, we do not object to the granting of planning permission subject to relevant conditions in regards to the submission of a detailed surface water drainage scheme and scheme to minimise off site flooding, a maintenance plan and appropriate yearly logs undertaken.

ECC Highways Dept

03.04.2020

The information that was submitted in association with the application has been fully considered by the Highway Authority. It is noted that the proposed extension will use the existing cemetery entrance and parking, except for some additional parking spaces provided in the area to be extended therefore:

The Highway Authority does not object to the proposals as submitted.

Environment Agency

29.04.2020

Thank you for your consultation we have reviewed the plans as proposed and are raising a holding objection with regards to land contamination. This is a large extension with an estimated 200 burials per year and the risk from this extension still remains high.

Environment Agency

22.03.2021

Thank you for submitting additional information we have reviewed the information and consider this application could be granted if the condition below is appended to any permission given.

Ground Water

The concerns were addressed previously following additional consultation with technical specialists it was decided at that time that if the cemetery extension was constructed as designed, the proposed extension should not cause an unacceptable impact to the local environment and we had no additional concerns.

We also felt that owing to the theoretical nature of some of the calculations, and the bespoke nature of the cemetery drainage design, we would like the following planning condition to be imposed.

Condition

Inform us when the work is completed and when the first year of burials has taken place so that we can undertake an inspection.

Reason: To ensure that we are satisfied that it is functioning as expected and there is no discharge of pollutants from the site.

5. **Representations**

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

6. **Assessment**

Site Context

- 6.1 The application site comprises of a parcel of land north-west of Burrs Road, Clacton-on-Sea and is adjacent to the existing cemetery on this side of Burrs Road. The site is within the settlement development boundary of Clacton-on-Sea and is a designated LoWS. The site is mainly made up of mixed grassland, with trees and vegetation to the boundaries. The site is currently used for recreational purposes.
- 6.2 The existing Cemetery extends out on both sides of Burrs Road with access from the highway on both sides of Burrs Road. The northern side of the Cemetery is set back from the main highway with a large grass verge extending along the frontage of the Cemetery. The site is adjacent to Pickers Ditch which runs along the south western boundary while a tributary ditch runs to the northwest with residential properties sited beyond this ditch.
- 6.3 The cemetery is open for vehicular access Monday to Fridays from 7.30am to 4.30pm and on Saturdays and Sundays from 10.00am to 4.30pm, 365 days a year. The site is open for pedestrian access 24hrs a day all year round.

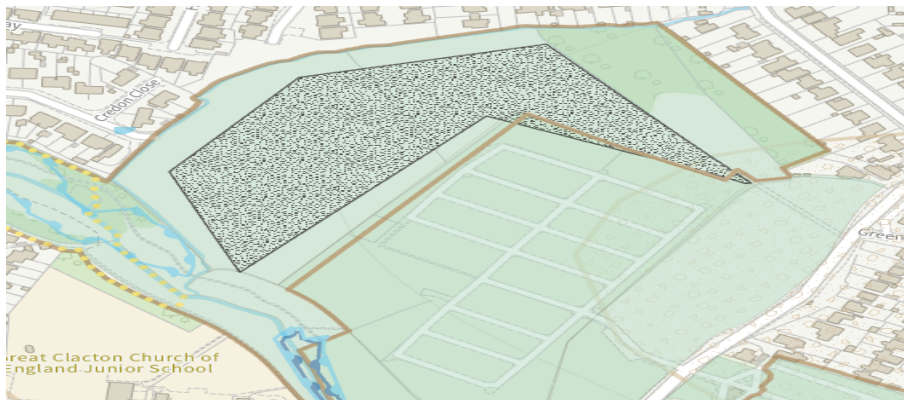
Proposal

- 6.4 The application seeks planning permission for the extension of the existing cemetery. The site covers an area of approximately 3.5ha. The proposal seeks to development the western side of the site, with the eastern side, safeguarded for future expansion of the cemetery.
- 6.5 Access to the cemetery will remain from Burrs Road, with a new central extension road formed from the main site. This will lead into a roundabout with a spur road off to the left, leading to a parking area, comprising of 20 parking spaces (including 2 disabled spaces). The access road also continues straight from the roundabout through the centre of the site.
- 6.6 Associated landscaping and drainage works are also proposed.
- 6.7 The application is submitted with the following supporting information:
- CDS_TEN_CLA_04 Rev 06 – Drainage Layout Plan
 - CDS_TEN_CLA_09 Rev 00 – Drainage Details
 - CDS_TEN_CLA_07 Rev 00 – Proposed Planting Scheme
 - CDS_TEN_CLA_08 Rev 00 – Planting Schedules
 - Design and Access Statement, 20th February 2020, Ref: 618072, 217058
 - Flood Risk Assessment
 - Landscape Management Plan

- Landscape Management and Maintenance Plan, 26th February 2020, Ref: 618072, 217058
- Planning and Needs Assessment Report, February 2020
- Reed Bed Design, March 2020
- Design of Attenuation Capacity for a Restricted Outfall, March 2020
- Tier 2 Ground Water Risk Assessment, February 2020
- Preliminary Ecological Appraisal Report – Syntegra Consulting, May 2020, Ref: 20-6861
- Reptile Presence and Absence Report – Syntegra Consulting, June 2021, Ref: 20-6861
- Botanical Survey – Syntegra Consulting, September 2021, Ref: 20-6861
- Habitat Survey and Biodiversity Net Gain Assessment – GEO, 28th November 2022 Ref: 7106,EC,BotBNG,AC,TA,PD,28-11-22,V1
- 7016 EC onsite metric, GEO 28th November 2022
- Rapid Assessment of Potential Biodiversity Compensation Sites – GEO, 05th January 2023, Ref: 7106, EC, Comp,AS,AC,05-01-23,V1.

Principle of Development

- 6.8 Local Plan Policy HP4 seeks to protect safeguarded open spaces from development. Cemeteries and Church yards are considered to provide a degree of open amenity space for community use. Parcels of land have been specifically designated in the Tendring Adopted Local Plan for the future expansion of the Weeley Crematorium, the Burrs Road Cemetery (Clacton), Dovercourt Cemetery and the Kirby Cross Cemetery. These areas are shown on the various Policies Maps and Local Maps for these areas. The black dotted area on the map below shows the land that has been designated for the extension of Clacton, Burrs Road Cemetery.



- 6.9 The current burial rate is around 140-160 per year and is expected to slightly increase from this rate over the coming years due to an ageing and increasing population. At current burial rates the existing space could be full within 5 years. Though the Council operate three additional cemeteries this is the only one within the town and is a valuable amenity for the community.
- 6.10 The application site comprises of this parcel of land and therefore the principle of development, namely the extension of the cemetery in this location is accepted subject to detailed considerations against other relevant Local Plan policies and any approved Neighbourhood Plans.

Character and Appearance

- 6.11 The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve.
- 6.12 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.
- 6.13 The proposed site is to be developed into a burial cemetery which closely matches the current design and layout of the existing cemetery area to the south. The extension would provide additional capacity for traditional burials and the burial of cremated remains. Buffer strips and a detailed landscaping scheme along both the northern and western ditches is considered to further maintain the existing character and habitat value. The access roads would also be planted with a range of native trees and shrubs to complement the young trees in the buffer strips and additional trees are to be planted in key positions within the new burial area.
- 6.14 The main objectives of the development are as follows:
- To mitigate any impact resulting from the development of this site, specifically relating to the construction of the access roads.
 - To protect the two ditches by intercepting all drainage water from both the deep drain and surface water drains, attenuating flows and treating via a reed bed ahead of discharge into the ditch.
 - To enhance the biodiversity within the site by protecting and managing the hedges and creating new wetland areas within the detention basin.
- 6.15 Other design concepts which are included in the proposal are the use of colour to improve the character and appearance of the cemetery site. This is to be achieved through the use of low maintenance tree and shrub species using a blend of evergreen and deciduous trees to provide seasonal colour variation that is complementary to the existing boundary features, back drops and would also provide new screening where required in a range of harmonious colours and textures. The use of reinforced grass pathways further minimises the visual impact of the development.
- 6.16 Roadways and pathways are to be durable, of low maintenance and be soft on foot and eye and it is considered that where possible permeable surfaces are used (porous grass pavers and crushed stone car parking spaces).
- 6.17 The proposed areas allocated for the memorial gardens and ashes interment are sited along a central strip of the new cemetery area, which would utilise an area which has a deep drain installed to remove water from a localised perched water table ahead of any burials in this area and in order to comply with Environment Agency requirements, no burials can take place within 10m of this drain. This strip would also include the access road and parking area and is considered to create a central line of symmetry for the new site acting as a visual focus for the whole development. Considered planting has been proposed for this area, which links to the boundary hedges on the other borders and would together result in an informal tree-line path that links the lower hedge line to the top of the site.
- 6.18 Therefore, the overall concept of the design of the proposed cemetery extension is considered to create a sustainable and aesthetically pleasing open space which complements the existing landscape, maintains its semi-rural setting and can provide a range of burial options sensitive to modern, formal and multicultural burial practice.

Flood Risk and Surface Water Drainage

- 6.19 Paragraph 167 of the Framework is clear that when determining any planning applications Local Planning Authorities should ensure that flood risk is not increased elsewhere. Criterion g) of Part B of Policy SPL3 states that opportunities should be taken to incorporate sustainable drainage within development, creating amenity and biodiversity.
- 6.20 The site is located within Flood Zone 1, however the Environment Agency Flood Map for Planning indicates that the area around Pickers Ditch, adjacent to the site, is within Flood Zone 2 and 3. Also the application constitutes a major application and due to the nature of the development, due consideration of the surface water is paramount, therefore a flood risk assessment has been submitted with the application along with detailed drainage plans and assessment.
- 6.21 The Environment Agency (EA) stipulate that no burials can take place into standing water. Therefore, the central section of the cemetery cannot be used for burials unless they are 10m away from this section. A plan has been submitted to the EA showing the intention to place one deep drain through this central area to drain it. The EA have agreed that this approach is acceptable subject to the 10m limit and all water from the drain is treated via a reed bed. This approach has been adopted and is part of the combined SuDS scheme for the site which has been submitted in a separate report.
- 6.22 The proposed development of the cemetery site would include some impermeable and semi permeable surfaces associated with the proposed access roads and car parking area. It is considered that the runoff from these surfaces could pose a surface water flood risk to neighbouring sites if uncontrolled. The submitted reports show a SuDS scheme for the site which would restrict flow to the modelled greenfield flow rate for this site to minimise this risk. The SUDS scheme would utilise a detention basin for the majority of the flow and a swale for a smaller area. The detention basin would take water from the central deep drain as well as from the access road outfalls and funnel them into a reed bed designed to attenuate any pollutants that might have been transported through the soil to the deep drain.
- 6.23 The constraints imposed on the site through the need to protect the ditches and reduce the risk of water pollution and flooding have been integrated into the site design to minimise visual impact through the retention of important hedges, to retain the mosaic value of grassland, isolated trees and hedges and to maintain formal and informal public access around and through the site.
- 6.24 The EA have removed their initial holding objection to the scheme following additional consultation with technical specialists and concluded that if the cemetery extension was constructed as designed, the proposed extension should not cause an unacceptable impact to the local environment. Due to the unavoidable theoretical nature of some of the calculations, within the submitted information and the bespoke nature of the cemetery drainage design, the EA have requested a condition requiring an inspection to take place when installed and again after the first year of burials to ensure that the drainage provision is operating as it should. This can be added to any grant of planning permission and is adjusted to ensure it complies with the required tests of conditions.
- 6.25 It is also noted that the Lead Local Flood Authority have no objections to the scheme subject to conditions regards to the submission of a detailed surface water drainage scheme and scheme to minimise off site flooding, a maintenance plan and appropriate yearly logs undertaken. Necessary conditions can be added to any grant of planning permission.

Ecology and Net Biodiversity Gains

- 6.26 Paragraph 174 of the Framework requires that planning decision should contribute to and enhance the natural and local environment, by minimising impacts on and providing net gains for biodiversity. Paragraph 180 d) states that opportunities to improve biodiversity in and around developments should be integrated as part of their design.
- 6.27 Local Plan Policy PPL4 requires that sites designated for their international, European, and national importance to nature conservation will be protected from development likely to have an adverse effect on their integrity. The policy states that as a minimum there should be no significant impacts upon any protected species. Where a development might harm biodiversity, an ecological appraisal will be required to be undertaken, and the potential for harm should be considered and addressed in any application. Policy SPL3, Part A criterion d), requires that the design and layout of development maintains or enhances site features, including ecological value.
- 6.28 As noted earlier in the report a number of extensive reports and surveys have been submitted in regards to the ecology on site, with regards to protected species and the botanical value of the site. Works have also been undertaken to identify sites within the district to offset the loss of this Local Wildlife Site and also to increase the biodiversity within the site in order to achieve the objectives of a net gain in biodiversity.
- 6.29 The main enhancements on site are by way of the formation of a detention basin would create a seasonal wetland and by the formation of some micro-ponds within this area, sites suitable for amphibians will be created, maintaining some of the wetland value of the site throughout the year. The detention basin will discharge into the ditch via a small reed bed designed to treat any pollutants arising from the deep drain and the reed bed would add a further layer of interest to the site by providing additional texture and structure to the site in the form of reeds.
- 6.30 Various buffer strips around the site are required to minimise risk of water pollution, including 10m strips alongside Pickers Ditch and the adjoining ditch and a 10m buffer protecting the central deep drain. The buffer strips would increase habitat value and maintain a natural feel to the development without compromising grave space as access routes including a road are necessary. The design and layout has sought to minimise the impact of the development on the site by retaining valuable habitat features of the site, introducing new potential habitats within the detention basin in the form of micro-ponds and reed bed, and improving the habitat value of the parkland created by encouraging seeding from the setting soil material and sowing with grass species that are already in the sward rather than using a perennial ryegrass dominated mix. By working with the constraints and using these requirements to protect and enhance current features of habitat value it is felt that a good balance between the works necessary to develop an accessible and useful cemetery space with recreational value and those to protect the current habitats can be achieved.
- 6.31 In summary Essex County Council Ecology have withdrawn their holding objection and consider the findings within the submitted Habitat Survey and Biodiversity Net Gain Assessment (BNG) report, along with conditions, including compliance with both the BNG report (as submitted) and the Reptile report, as well as the need to submit a final Biodiversity Compensation and Enhancement Strategy to finalise management objectives and actions once sites to be take forward are agreed. They conclude that the compensation and BNG is deliverable and final calculations of biodiversity units for both onsite and offsite baseline and proposed habitats will be required once detailed proposals are available as part of this final report. This can be secured via conditions added to any grant of planning permission.

Highway Safety/Parking

- 6.32 Paragraph 110 of the Framework seeks to ensure that safe and suitable access to a development site can be achieved for all users. Policy SP7 seeks new development to include parking facilities that are well integrated as part of the overall design. The sentiments of this policy are carried forward within Policies SPL3 and CP1.
- 6.33 The development would utilise the existing access from Burrs Road and an additional 20 car parking spaces are to be provided within the extended cemetery area along with two turning areas.
- 6.34 ECC Highways have been consulted on the application and raise no objections to the proposal. Therefore the proposed development is considered to be acceptable in regards to highway safety and parking.

Trees and Landscaping

- 6.35 Policy SPL3 seeks new development that respects or enhances local landscape character, views, skylines, landmarks, existing street patterns, open spaces and other locally important features. The design and layout of the proposed development should maintain or enhance important existing site features of landscape, ecological, heritage or amenity value.
- 6.36 The main body of the application site is set to rough grass and is designated a local wildlife site (Lows). The site boundaries are demarcated by established hedgerows some of which contain large, mature trees. The site is enclosed by the natural vegetation.
- 6.37 The north western corner of the application site has been planted with a number of trees and these have become relatively well established.
- 6.38 In terms of the impact of the development proposal on the existing vegetation and the character and appearance of the area the applicant has provided information relating to the impact of the change of use of the land and details of new soft landscaping including tree planting.
- 6.39 It appears that, apart from the removal of a section of hedgerow to facilitate the new vehicular access to the proposed cemetery extension the remainder of the boundary vegetation will be retained. Some of the younger trees in the North West corner appear to be identified for removal although this is not considered to have a significant adverse impact on the appearance of the area.
- 6.40 Taking into account the current use and amenity value of the land as well as the measures that will be put in place to mitigate harm caused by the removal of existing trees and hedgerow it is considered that the information provided adequately demonstrates that the development proposal can be implemented without causing permanent harm to the character or appearance of the area. The submitted landscaping and planting details therefore can be secured by condition to any grant of planning permission to ensure that they are implemented in full.

Impact on Residential Amenity

- 6.41 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.
- 6.42 Policy SPL3 seeks new development that would not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties.

6.43 The cemetery extension is located to the north west of the existing cemetery and is therefore closer to the residential dwellings, albeit still some distance away which border the site to the north, east and west. The site, however is considered to be well screened and both the retained and proposed planting to the boundaries of the site would provide additional screening, mitigating the limited visual impact to the neighbouring properties.

7. Conclusion

7.1 The proposed cemetery extension would ensure that the existing Burrs Road cemetery would have sufficient capacity to serve the needs of the local community in future years. In addition it is noted that the applicant has gone to great lengths to ensure that local biodiversity features are retained and a biodiversity net gain is achieved. Therefore subject to conditions the proposal is considered to mitigate the harm to the LoWS brought about by the development.

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 and 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:

- CDS_TEN_CLA_04 Rev 06 – Drainage Layout Plan
- CDS_TEN_CLA_09 Rev 00 – Drainage Details
- CDS_TEN_CLA_07 Rev 00 – Proposed Planting Scheme
- CDS_TEN_CLA_08 Rev 00 – Planting Schedules
- Design and Access Statement, 20th February 2020, Ref: 618072, 217058
- Flood Risk Assessment
- Landscape Management Plan
- Landscape Management and Maintenance Plan, 26th February 2020, Ref: 618072, 217058
- Planning and Needs Assessment Report, February 2020
- Reed Bed Design, March 2020
- Design of Attenuation Capacity for a Restricted Outfall, March 2020
- Tier 2 Ground Water Risk Assessment, February 2020
- Preliminary Ecological Appraisal Report – Syntegra Consulting, May 2020, Ref: 20-6861
- Reptile Presence and Absence Report – Syntegra Consulting, June 2021, Ref: 20-6861
- Botanical Survey – Syntegra Consulting, September 2021, Ref: 20-6861
- Habitat Survey and Biodiversity Net Gain Assessment – GEO, 28th November 2022 Ref: 7106,EC,BotBNG,AC,TA,PD,28-11-22,V1
- 7016 EC onsite metric, GEO 28th November 2022

- Rapid Assessment of Potential Biodiversity Compensation Sites – GEO, 05th January 2023, Ref: 7106, EC, Comp,AS,AC,05-01-23,V1.

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

3. Prior to the commencement of the development hereby approved, a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, must 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 2.4l/s for all storm events up to an including the 1 in 100 year rate plus 40% allowance for climate change. All relevant permissions to discharge from the site into any outfall should be demonstrated.
 - Demonstrate that all storage features can half empty within 24 hours for the 1:30 plus 40% climate change critical storm event.
 - Final modelling and calculations for all areas of the drainage system.
 - 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.
 - A timetable for implementation

The scheme shall be carried out as may be agreed in its entirety.

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 and to provide mitigation of any environmental harm which may be caused to the local water environment.

Note: 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.

4. 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).

5. Prior to the first use of the cemetery extension hereby approved, a maintenance plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, must 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. The plan shall be carried out in full as may be approved.

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.

Note: 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.

6. Prior to the first burial, the LPA and Environment Agency are to be notified in writing to allow the opportunity for an inspection of the site when the drainage works are completed, and again after the first year of burials has taken place.

Reason: To ensure that the Environment Agency and LPA are satisfied that the drainage system is installed correctly and is functioning as expected and there is no discharge of pollutants from the site.

7. Prior to the first burial a Biodiversity Compensation and Enhancement Strategy must be submitted and approved by the Local Planning Authority. The works are to be implemented as approved and maintained as such at all times.

Reason: To secure the necessary biodiversity compensation required to mitigate the loss of the LoWs.

8. All biodiversity mitigation and enhancement measures and/or works shall be carried out in accordance with the details and timings contained in the:

- Reptile Presence and Absence Report – Syntegra Consulting, June 2021, Ref: 20-6861
- Botanical Survey – Syntegra Consulting, September 2021, Ref: 20-6861

This will 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)

8.3 Informatives

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

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

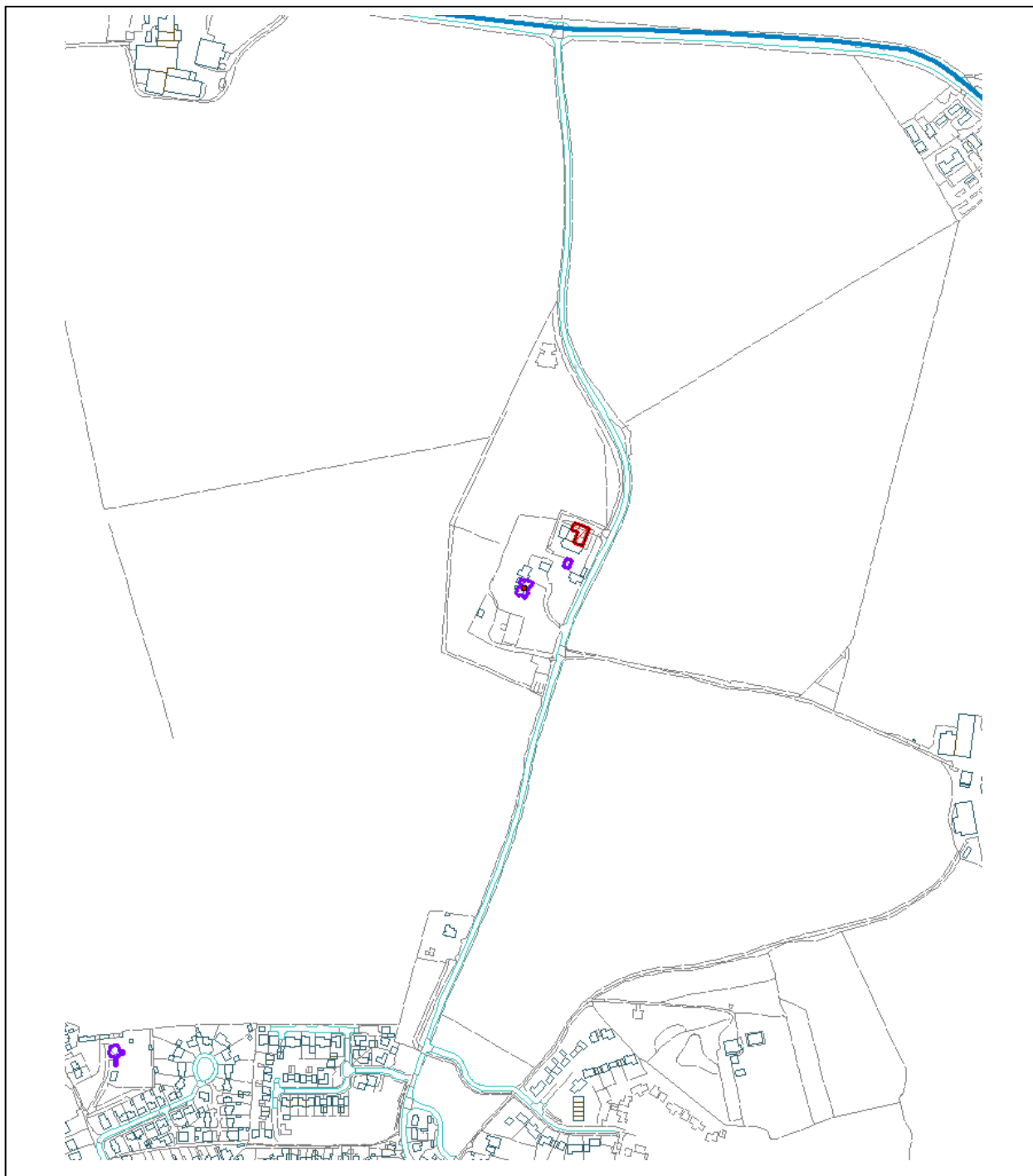
- 10.1 In making this recommendation, officers have considered all plans, documents, reports and supporting information submitted with the application together with any amended documentation. Additional information considered relevant to the assessment of the application (as referenced within the report)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

16 FEBRUARY 2023

REPORT OF THE DIRECTOR OF PLANNING

A.4 PLANNING APPLICATION – 22/01601/FUL – THE GRANGE HECKFORDS ROAD GREAT BENTLEY COLCHESTER CO7 8RR



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: 22/01601/FUL

Town / Parish: Great Bentley Parish Council

Case Officer: Michael Pingram

Expiry Date: 22nd February 2023

Applicant: Mr J Hills

Address: The Grange Heckfords Road Great Bentley Colchester CO7 8RR

Development: Retrospective application for the erection of a building for storage of machinery, materials, and ancillary domestic/leisure use, all related to the existing property.

1. Executive Summary

- 1.1 The application is before the Planning Committee following a call-in request from Councillor McWilliams due to concerns that the development does not relate well to its site and surroundings, and harm to the nearby listed buildings.
- 1.2 The proposal relates to a retrospective planning application for a building that was initially approved under planning reference 19/01462/FUL in February 2020, but which has not been built in accordance with the previously approved plans. The main alterations see an increase in the size and height of the building, which is to be utilised for ancillary storage and domestic leisure uses.
- 1.3 The increased size of the building will not be materially harmful to the character and appearance of the surrounding area, will not detrimentally impact the setting of the nearby listed buildings, and will result in a neutral impact to existing neighbouring amenities. In addition, Essex Highways Authority have raised no objections.

Recommendation:

That the Planning Manager be authorised to Grant Planning Permission subject to conditions as stated in Section 8.2 (or as need to be varied) and those as may be deemed necessary by the Planning Manager.

2. Planning Policy

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

National:

National Planning Policy Framework July 2021 (NPPF)

National Planning Practice Guidance (NPPG)

Local:

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

SP1 Presumption in Favour of Sustainable Development

SP3 Spatial Strategy for North Essex

SP7 Place Shaping Principles

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

SPL1 Managing Growth

SPL3 Sustainable Design

PPL3 The Rural Landscape

PPL9 Listed Buildings

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

Essex Design Guide

Status of the Local Plan

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

3. Relevant Planning History

01/01552/FUL	Proposed farmhouse extension	Withdrawn	29.10.2001
01/01557/LBC	Proposed farmhouse extension and re-establishment of landscape setting	Withdrawn	29.10.2001
03/00556/FUL	Proposed single and two storey extensions.	Refused	20.05.2003
03/00557/LBC	Single and two storey extensions.	Withdrawn	26.03.2003
03/00753/LBC	Single and two storey extension	Approved	25.06.2003
03/00754/FUL	Single and two storey extension	Approved	25.06.2003
04/00096/FUL	Proposed agricultural machinery barn	Refused	11.03.2004
07/00125/FUL	Two storey rear extension.	Approved	20.04.2007

12/00770/FUL	Proposed extension to pool house to form summer house.	Approved	10.09.2012
16/00957/FUL	Proposed extension to pool house to form summer house.	Approved	23.08.2016
19/01462/FUL	Proposed extension to existing machinery store.	Approved	07.02.2020

4. Consultations

<p>Essex County Council Heritage 25.11.2022</p>	<p>The two heritage assets relevant to this application are:</p> <ul style="list-style-type: none"> - Grade II listed Grange Farmhouse (List Entry ID: 1111409); and - Grade II listed Barn (List Entry ID: 1306639). <p>The proposed development site is within the setting of the two designated heritage assets.</p> <p>The development was approved in 2020 under planning reference 19/01462/FUL for the extension to the existing machinery store.</p> <p>The new development, as built, is considerably larger in footprint and height than the extension approved in 2020. A site inspection has been therefore carried out in order to assess the impact of the proposal on the setting of the above-mentioned designated heritage assets.</p> <p>While the scale of the development is considerably larger than the approved, due to its distance from Grange Farmhouse and the Barn and the presence of the existing intervening buildings, there is very limited intervisibility between the designated heritage assets and the new extension. As such this makes no impact on the ability to appreciate and experience the significance of the heritage assets.</p> <p>In this specific case, the proposal is not considered to have any more impact than the scheme previously approved. There is therefore no objection to this application.</p>
<p>ECC Highways Dept 24.10.2022</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. 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 is a retrospective application with no new or altered means of access to the site, while the building is set back from the highway and will be for domestic use, considering these factors:</p> <p>The Highway Authority does not object to the proposals as submitted.</p>

5. Representations

- 5.1 Great Bentley Parish Council object to the proposed development as the development is contrary to Local Plan Policy SPL3 Part A, which requires development to relate well to its site

and surroundings, particularly in relation to siting, height, scale, massing, form, design and materials.

- 5.2 Following receipt of additional information during the course of the applications determination, additional comments were received from Great Bentley Parish Council, raising concerns that the key issue relates to the buildings design and suitability in this location, with heritage matters being a secondary issue. Additional concerns were raised that this could set a precedent for other properties to build larger than that initially allowed and then submit a retrospective planning application.
- 5.3 There have been three additional letters of objection received, that raise concern with the planning process, but do not raise specific planning matters on the merits of the application before members.

6. Assessment

Site Description

- 6.1 The application relates to Grange Farm, which lies to the west of Heckfords Road within the Parish of Great Bentley. Grange Farm consists of a large, detached dwelling with associated outbuildings. To the front of the site is 'The Grange' which is a separate Grade II Listed Building that Officers understand functions as an annexe occupied by the owner's parents. The main dwelling is also a Grade II Listed Building known as Grange Farmhouse.
- 6.2 Grange Farmhouse is accessed from the south and The Grange is accessed from the north. To the northern section of the site is an existing machinery shed and store containing the equipment used for the upkeep of the entire site being approximately 5 hectares in size.
- 6.3 The application relates to a small pocket of the site to the north, alongside the existing store buildings accessed via the existing northern access. There is an existing hedgerow screening the buildings and the adjacent annexe building.
- 6.4 The site falls outside of a recognised Settlement Development Boundary within the adopted Local Plan 2013-2033.

Site History

- 6.5 Under planning reference 19/01462/FUL, planning permission was granted in February 2020 for the erection of a store building to be used in association with the dwelling and its grounds, which measured 18.3 metres x 9.4 metres with an overall height of 6.2 metres. The approved building was to be finished in dark green metal cladding and grey profiled metal roof sheeting.
- 6.6 This planning permission has been implemented/constructed and remains extant, however has not been built in accordance with the approved plans.

Description of Proposal

- 6.7 This application therefore seeks retrospective planning permission for the erection of a building for the storage of machinery, materials and ancillary domestic/leisure use, all of which will be related to the existing properties.
- 6.8 The building measures 21.4 metres in length, 11.9 metres in width for approximately 2/3 of the building, with the remaining area having an extended width of 20.7 metres to accommodate a kitchen area. In addition, the ridge height measures 9.1 metres. The building continues to be finished in dark green metal cladding and grey profiled metal roof sheeting.

- 6.9 Within the supporting information, it is explained that the building will be partly used for domestic storage purposes, and partly used for ancillary leisure purposes. The ancillary leisure use is likely to be greater in the winter months but there is no fixed timeframe for how long in a typical year this would be, as it would be dependent upon factors such as the extent of storage at any time, the weather and personal preferences. The uses, however, are all entirely ancillary to the existing properties Grange Farm and Grange Farmhouse, and therefore will be strictly for private use only. A planning condition is recommended to restrict the use to private domestic use.

Alterations to the Previously Approved Scheme

- 6.10 Officers acknowledge that under planning reference 19/01462/FUL, permission has previously been granted for a similar, albeit smaller, building on the application site. This building has now been constructed and accordingly the previous permission will indefinitely remain extant and forms a material consideration in the determination of the application. It is therefore important to highlight the differences between that approved and the retrospective application currently being applied for.
- 6.11 The most notable difference is that the building is taller than that previously approved. Under reference 19/01462/FUL the ridge height was 6.2 metres, and now measures 9.1 metres. In addition, the size of the building's footprint has extended; previously it measured 18.3 metres length x 9.4 metres width, but now the length has slightly increased to 21.4 metres, with the width now ranging between 11.9 metres and 20.7 metres. The increased width is largely accounted for to accommodate a kitchen and WC area to the north-west of the building.

Visual Impacts

- 6.12 Paragraph 126 of the NPPF states that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.
- 6.13 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.
- 6.14 The building itself appears as an extension to the existing cluster of outbuildings in the immediate surrounding area. Following the alterations subject of this planning application it is noted that the building is taller than the adjacent buildings, however still relates satisfactorily to the site and setting.
- 6.15 The building is sited approximately 15 metres back from Heckfords Road, within an area that is almost fully enclosed by existing high dense hedging, and which is to be supplemented with additional trees to the northern boundary. From the north the building will be viewed against a backdrop of the other existing buildings and from the south those existing buildings will screen the new addition. The proportions and finish of the proposed extension together with its siting behind existing screen hedging results in a development that will not appear significantly prominent or have an adverse visual impact on the local countryside or landscape character.

Heritage Impacts

- 6.16 Paragraph 202 of the NPPF states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
- 6.17 Adopted Policy PPL9 (Listed Buildings) states that proposals for new development affecting a listed building or its setting will only be permitted where they will protect its special architectural or historic interest, its character, appearance and fabric' although the Plan recognises that the scope for a listed building to adapt to modern life and requirements will itself depend upon a number of considerations and it will not always be possible to incorporate modern design solutions without also causing harm to its special character fabric, or appearance.
- 6.18 The application site is located in close proximity to two Grade II Listed Buildings, the barn sited approximately 40 metres to the south, and the farmhouse located approximately 70 metres to the south-west. Accordingly, Essex County Council Place Services (Heritage) have been consulted on the application, and they have provided the following comments:

“The two heritage assets relevant to this application are:

- Grade II listed Grange Farmhouse (List Entry ID: 1111409); and*
- Grade II listed Barn (List Entry ID: 1306639).*

The proposed development site is within the setting of the two designated heritage assets.

The development was approved in 2020 under planning reference 19/01462/FUL for the extension to the existing machinery store.

The new development, as built, is considerably larger in footprint and height than the extension approved in 2020. A site inspection has been therefore carried out in order to assess the impact of the proposal on the setting of the above-mentioned designated heritage assets.

While the scale of the development is considerably larger than the approved, due to its distance from Grange Farmhouse and the Barn and the presence of the existing intervening buildings, there is very limited intervisibility between the designated heritage assets and the new extension. As such this makes no impact on the ability to appreciate and experience the significance of the heritage assets.

In this specific case, the proposal is not considered to have any more impact than the scheme previously approved. There is therefore no objection to this application.”

- 6.19 Given the comments above, it has been identified that despite an increase in scale and height, the building will not impact upon the ability to appreciate and experience the significance of the two designated heritage assets. Accordingly, Officers do not raise any objections in this regard.
- 6.20 The above notwithstanding, within the comments ECC Place Services (Heritage) provided for the previously approved scheme, Officers acknowledge that they raised no objections but did suggest that that was the maximum built footprint that could be accommodated without harm to the heritage asset. While this is noted, it is also important to recognise that each case must be assessed on its own merits, and at that time the comments were made without sight of the plans submitted as part of this current application. Accordingly, the previous comments do not alter the view that the proposal is acceptable on heritage grounds.

Impact to Neighbouring Amenities

- 6.21 The NPPF, at paragraph 130 states that development should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users. Policy SP7 of the Tendring District Local Plan 2013-2033 requires that all new development protects the amenity of existing and future residents and users with regard to noise, vibration, smell, loss of light, overbearing and overlooking.
- 6.22 While the building is of a relatively large size, it is sited amongst other buildings and is located a significant distance apart from the nearest residential properties, which are within the applicant's ownership. There are no other residential properties in proximity of the site that would be impacted by the proposal.

Highway Safety Impacts

- 6.23 Paragraph 108 of the National Planning Policy Framework 2021 seeks to ensure that safe and suitable access to a development site can be achieved for all users. Paragraph 111 of the Framework states that Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 6.24 Policy SPL3 (Part B) of the Adopted Local Plan seeks to ensure that access to a new development site is practicable and the highway network will be able to safely accommodate the additional traffic the proposal will generate and provision is made for adequate vehicle and cycle parking. Adopted Local Plan Policy CP2 states proposals will not be granted planning permission if there would be an unacceptable impact on highway safety, or the residual cumulative impact on the road network would be severe.
- 6.25 Essex Highways Authority have been consulted on the application and have confirmed they raise no objections to the proposal. Furthermore, the building is solely for private use and is ancillary to the enjoyment of the existing properties, and therefore does not generate a need for any additional car parking.

7. Conclusion

- 7.1 Retrospective planning applications are allowed in law and noting the Parish Council comments, do not create a precedent. Instead, such applications are required to be considered on their individual merits as per any planning application. While the previous permission was not carried out in accordance with the approved plans, the previous approval remains a significant material consideration in terms of planning history and is given weight in the determination process.
- 7.2 This retrospective planning application is for a building that is both taller and of a larger footprint to that previously granted planning permission in February 2020 under reference 19/01462/FUL. Officers consider that the increased size of the building is material but does not result in harm to the character and appearance of the surrounding area and will not detrimentally impact upon the existing amenities of any neighbouring properties. No harm has been identified in respect of the designated heritage assets and as such an assessment of harm and public benefit is not necessary, and Essex Highways Authority have also raised no objections on highway safety grounds. Accordingly, the application is considered to be policy compliant and is therefore recommended for approval.

8. Recommendation

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

8.2 Conditions and Reasons

- 1 The development hereby permitted shall be 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 Numbers 22.5294.01, 102752/03/B, 102752/30, and the documents titled 'Location Plan', 'Explanatory Planning Statement - December 2022 Update' and 'Heritage Impact Assessment'.

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

- 2 This permission shall only authorise the use and occupation of the building hereby approved for purposes incidental and ancillary to the principal dwelling known as Grange Farm (or as may be renamed in the future), and shall not be used for any other purpose(s) at any time.

Reason: For the avoidance of doubt, to ensure that the building is not utilised for any purposes other than those incidental and ancillary to the principal dwelling that would be inappropriate development in the countryside.

8.3 Informatives

Positive and Proactive Statement:

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

Highways Informatives:

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

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

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/>.

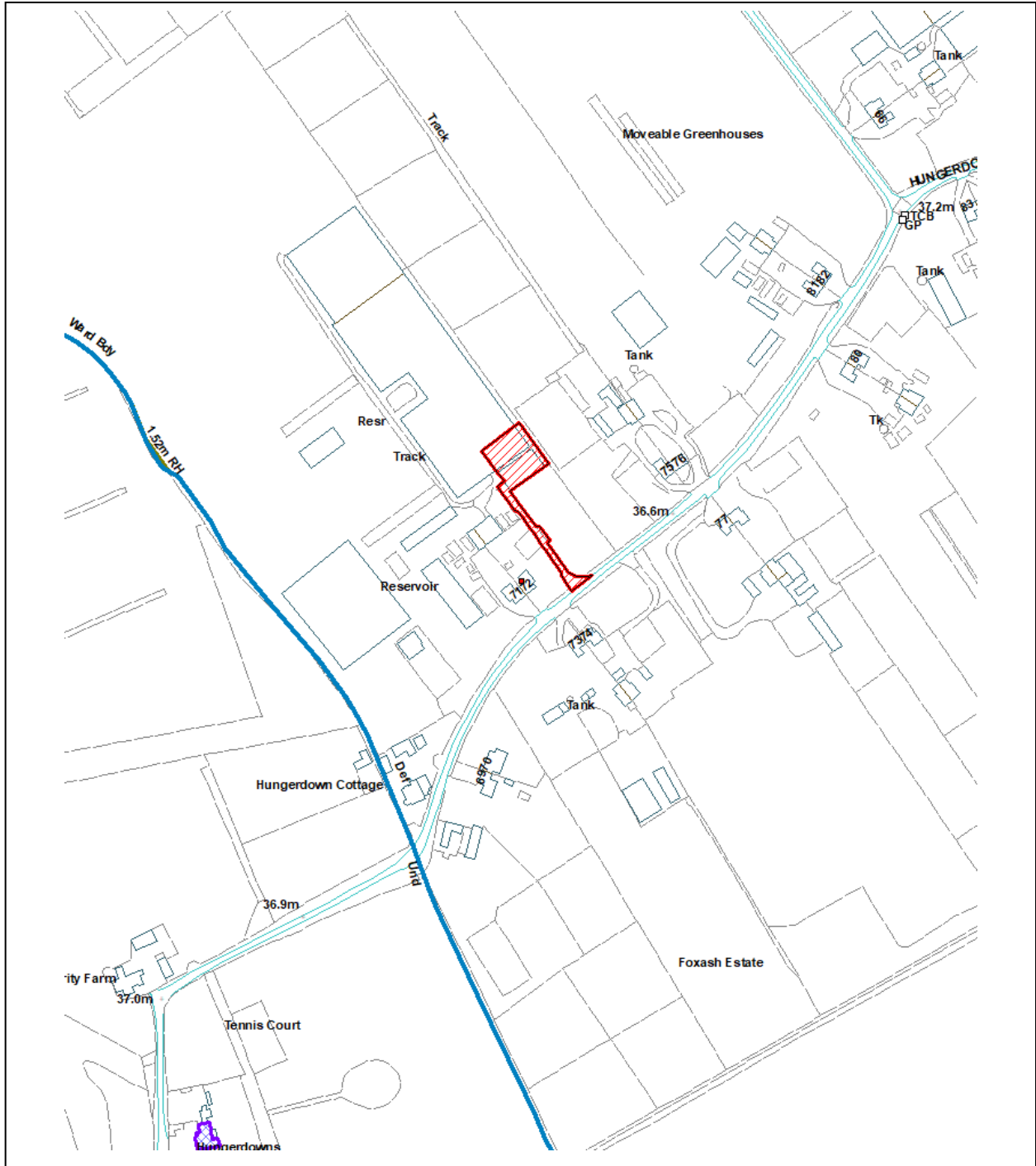
This page is intentionally left blank

PLANNING COMMITTEE

16 FEBRUARY 2023

REPORT OF THE DIRECTOR OF PLANNING

A.5 PLANNING APPLICATION – 22/01423/FUL – LAND AT 72 HUNGERDOWN LANE LAWFORD MANNINGTREE CO11 2LX



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: 22/01423/FUL

Town / Parish: Lawford Parish Council

Case Officer: Michael Pingram

Expiry Date: 21st February 2023

Applicant: K Wazny

Address: Land at 72 Hungerdown Lane Lawford Manningtree CO11 2LX

Development: Erection of two 3-bedroom cottages (in lieu of Prior Approval for two x 3-bedroom dwellings, subject to application 21/00057/COUNOT).

1. Executive Summary

- 1.1 The application is referred to Planning Committee as the proposed development would conflict with the requirements of the Development Plan, principally Policy SPL2 (Settlement Development Boundaries) of the Tendring District Local Plan 2013-2033 and Beyond Section 2 (adopted January 2022) being located outside of any defined settlement development boundary, and has a recommendation of approval.
- 1.2 The proposed dwelling is not considered to be materially different in regard to siting or footprint to the development approved under prior approval 21/00057/COUNOT and is similar in scale and appearance to dwellings and other built form within the wider area. The overall height of the proposal exceeds that of the existing building, however this is not considered to result in significant harm.
- 1.3 Following revisions to a previously refused scheme of a similar nature, namely to utilise the existing vehicular access point to the south-western corner of the site as opposed to forming a new access, Essex Highways Authority raise no objections.
- 1.4 The Council's Tree and Landscape Officer has also raised no concerns, while sufficient parking and private amenity space is provided, and there will not be significant harm to existing neighbouring amenities.

Recommendation:

That the Planning Manager be authorised to Grant Planning Permission subject to conditions as stated in Section 8.2 (or as need to be varied) and those as may be deemed necessary by the Planning Manager.

2. Planning Policy

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

National:

National Planning Policy Framework July 2021 (NPPF)

National Planning Practice Guidance (NPPG)

Local:

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

SP1 Presumption in Favour of Sustainable Development

SP2 Recreational disturbance Avoidance and Mitigation Strategy (RAMS)

SP3 Spatial Strategy for North Essex

SP7 Place Shaping Principles

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

SPL1 Managing Growth

SPL3 Sustainable Design

LP1 Housing Supply

LP2 Housing Choice

LP3 Housing Density and Standards

LP4 Housing Layout

PPL3 The Rural Landscape

PPL4 Biodiversity and Geodiversity

HP5 Open Space, Sports & Recreation Facilities

DI1 Infrastructure Delivery and Impact Mitigation

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

Essex Design Guide

Status of the Local Plan

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

In relation to housing supply:

The Framework requires Councils boost significantly the supply of housing to meet objectively assessed future housing needs in full. In any one year, Councils must be able to identify five years of deliverable housing land against their projected housing requirements (plus an appropriate buffer to ensure choice and competition in the market for land, to account for any fluctuations in the market or to improve the prospect of achieving the planned supply). If this is not possible or if

housing delivery over the previous three years has been substantially below (less than 75%) the housing requirement, Paragraph 11 d) of the Framework requires granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole (what is often termed the ‘tilted balance’).

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

3. Relevant Planning History

01/01067/FUL	Proposed first floor side extension. Two storey side extension:- 1 1/2 storey rear extension together with associated alterations (demolition of existing single storey rear extension) to provide additional accommodation to existing house	Approved	22.08.2001
99/01824/FUL	Proposed extension to existing glasshouse to form agricultural storage shed	Approved	09.02.2000
21/00057/COUNOT	Application for prior approval for the conversion of an agricultural building into 2 dwellings.	Determination Prior Approval not required	17.03.2021
21/01728/FUL	Proposed erection of two 3-bedroom cottages, in lieu of Prior Approval for two x 3-bedroom dwellings	Refused	03.08.2022

4. Consultations

UU Open Spaces 06.10.2022	Recommendation No contribution is being requested from Open Spaces on this occasion. Should there be further development at this site a contribution may be required in the future.
ECC Highways Dept 06.10.2022	The information submitted with the application has been fully assessed by the Highway Authority and conclusions reached based on a desktop study in conjunction with a previous site visit. Based on the submitted site plan it is noted that access onto Hungerdown Lane will remain unaltered for the host and proposed dwellings and has reverted back to previous proposal submitted under planning application: 21/00057/COUNOT. When compared with the former agricultural use, the level of activity will be no greater. The proposal provides adequate parking and turning for the proposed dwellings and proposes an informal passing place along the private drive, considering these factors:

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

1. As indicated on the visibility splay plan and prior to occupation of the development, the private access at its centre line shall be provided with a clear to ground visibility splay with dimensions of 2.4 metres by 97 metres to the north-east and 2.4 metres by 95 metres to the south-west, as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the private access is first used by vehicular traffic from the development and retained free of any obstruction at all times.

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

2. Prior to occupation of the development a minimum size 5 vehicular turning facility, (8m x 8m) 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 in accordance with policy DM1.

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

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

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

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

5. 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 in accordance with Policy DM8.

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

	<p>Reason: To ensure appropriate cycle / powered two-wheeler parking is provided in the interest of highway safety and amenity in accordance with Policy DM8.</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> <p>And recommends informatives.</p>
<p>Tree & Landscape Officer 24.01.2023</p>	<p>Following a further site visit and consideration of my previous analysis of the impact of the proposed development on the local landscape character, made in respect of planning application 21/01728/FUL, it is considered that the position of the proposed dwellings and the degree to which they feature in the public realm is such that the proposed change will not affect the public's perception, use or enjoyment of the local environs.</p> <p>As previously stated there are no trees or other significant vegetation on the application site and as the application site is set back some distance from the highway the proposed dwellings will not be visible from the highway or from any adjacent Public Rights of Way.</p> <p>Consequently, although the proposed development will result in a minor change to the character of the area the degree of change will not significantly affect the wider landscape character.</p>

5. **Representations**

- 5.1 Lawford Parish Council have not provided any comments on the application.
- 5.2 There have been no other letters of representation received.

6. **Assessment**

Site Description

- 6.1 The application relates to a building located to the north-east of the dwelling at Number 72 Hungerdown Lane, which falls within the Parish of Lawford. The application site constitutes an existing access from Hungerdown Lane and a driveway leading to an area of land which contains the building referred to above, a single storey agricultural building and a section of land to the rear of that building.
- 6.2 The wider site, shown as being in the same ownership of the proposal site contains a single semi-detached dwellinghouse (Number 72) and other associated outbuildings. Open paddock land extends to the north-west of the application site.
- 6.3 There is dense belt of vegetation on the north-eastern boundary and a boundary hedgerow adjacent to the highway. The character of the area is typically rural by nature, although it is noted there is sporadic built form throughout Hungerdown Lane that provides a more urban feel.

- 6.4 The site lies outside of the defined Settlement Development Boundary for Lawford within the adopted Local Plan 2013-2033.

Description of Proposal

- 6.5 This application seeks full planning permission for the replacement of a former agricultural building with two detached dwellings, each of which will be two storeys and served by three bedrooms.
- 6.6 Each of the proposed properties would have a gross floor area of 146sqm, resulting in a total floor area of 292sqm, and would represent an alternative development to the Prior Approval for two dwellings subject of application 21/00057/COUNOT, which had a gross floor area of approximately 316sqm. The site will be accessed by the existing access located to the south-western corner of the site.

Site History

- 6.7 Under planning reference 21/00057/COUNOT, prior approval permission was granted in March 2021 for the conversion of the agricultural building subject of this planning application, into two dwellings. This was allowed as assessed against Class Q of the Town & Country Planning (General Permitted Development) (England) Order (2015). Within the determination of this application the Council did not express any concern on the grounds for consideration of the notification application, namely access, flooding, design, noise or contamination.
- 6.8 In July 2022, under reference 21/01728/FUL, planning permission was refused for a near identical version of the scheme subject of this current planning application, with the only difference being that the previous application included the addition of a new access to the north-east of the existing access, whereas the current application demonstrates that the site will be accessed via the existing access to the south-western corner of the site.
- 6.9 Application 21/01728/FUL was refused for one reason; the proposed vehicular access and drive to the dwellings was situated adjacent to the north-east boundary where there is an established hedgerow that runs north-east and is in excess of 2 metres in height and set back less than 1 metre from the edge of carriageway. This hedgerow is outside of the control of the applicant, and accordingly the proposal led to the creation of a substandard access where the lack of suitable visibility from the proposed access for both emerging and approaching vehicles would result in an unacceptable degree of hazard to all road users to the detriment of general highway safety.

Principle of Development

- 6.10 Planning law requires that decisions on planning applications must be taken in accordance with the development plan unless there are material considerations that indicate otherwise (section 70(2) of the 1990 Town and Country Planning Act and section 38(6) of the Planning and Compulsory Purchase Act 2004). The development plan for Tendring Council comprises of the adopted Tendring District Local Plan 2013-2033 and Beyond Sections 1 and 2.
- 6.11 Policy SP3 of Section 1 of the 2013-2033 Local Plan sets out the spatial strategy for North Essex and directs growth towards existing settlements. The application site lies outside of the defined settlement boundary of Lawford within the adopted 2013-2033 Local Plan. The proposed development would therefore extend outside the area planned to provide growth for this settlement. In view of the housing land supply position, the Council does not need to look beyond identified settlements to meet its housing requirement.
- 6.12 Policy SPL2 supports new development within defined Settlement Development Boundary's (SDB) 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.

- 6.13 The proposal therefore results in conflict with policies SP3 and SPL2. In this case, however, the principle of residential development on this site has been established through the prior approval consent granted under planning permission 21/00057/COUNOT in March 2021. The current proposal represents an alternative design to the previously granted permission, which 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

- 6.14 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.
- 6.15 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."

- 6.16 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.
- 6.17 The table below provides a comparison between the original prior approval and the new dwelling proposed under this application:

	21/00057/COUNOT (Prior Approval)	22/01423/FUL (Current Application)
Siting	To the rear of the site, to the north-east of Number 72 Hungerdown Lane	Similar location, however footprint extends slightly further towards the north
Access	Via the existing access point to the south of the site from Hungerdown Lane	Via the existing access point to the south of the site from Hungerdown Lane
Appearance	Profile metal sheeting with steel framework	Eternit boarding, red brickwork, concrete tiles and UPVC windows
Ridge Height	5.4 metres	7.3 metres
Eaves Height	4.5 metres	4.55 metres
Footprint	316sqm	292sqm
Bedrooms	Both 3 bedrooms	Both 3 bedrooms

- 6.18 In conclusion, having regard to the above, the application is considered to meet all three tests set out for a viable fall-back position in terms of the legal position set out earlier. There is a fall-back use in the form of the prior approval and it is considered that the proposed development, is, in the main, comparable to that approved under the prior approval, in terms of its siting, size, scale and external appearance. As outlined above in the comparison table, there is a

noticeable increase in the ridge height of the new dwelling (although the eaves height remains of a similar size). However, the dwellings are set back in the site and the increased height will not appear significantly out of keeping, so this increase will appear acceptable in this rural location. Lastly there is a realistic prospect of the prior approval scheme being implemented. Therefore, the fall-back position is given significant weight in the assessment of this application.

- 6.19 Therefore given the circumstances of this case, along with the legal position and the prior approval fall-back position, the principle of development for a new dwelling on this site is considered to be acceptable subject to the detailed consideration against other relevant Local Plan policies.

Visual Impacts

- 6.20 Paragraph 126 of the NPPF states that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.
- 6.21 Policy SP7 states that all new development should respond positively to local character and context to preserve and enhance the quality of existing places and their environs. Policy SPL3 seeks to provide new development which is well designed and maintains or enhances local character and distinctiveness. The development should relate well to its site and surroundings particularly in relation to its siting, height, scale, massing, form, design and materials and should respect or enhance local landscape character, views, skylines, landmarks, existing street patterns, open spaces and other locally important features.
- 6.22 Environmentally, it is necessary to consider the impact on the character and appearance of the countryside. The site is located in a largely rural area, however there are examples of residential development within the immediate vicinity, particularly to the east and west of the site, as well as other built form.
- 6.23 The proposed dwellings would replace an existing structure in the same location. The two detached dwellings would result in a net decrease of approximately 24sqm gross external floor area of buildings with no net increase in the number of dwellings.
- 6.24 The distance of the proposed dwellings from the highway and the front boundary hedgerows, approximately 45 metres, will help to obscure the view of the development from Hungerdown Lane, and the new dwellings will be seen in the context of the small group of buildings, namely the semi-detached pair of 71 and 72 Hungerdown Lane, and other buildings on the site. Therefore, in this particular instance it is considered that the location of the dwellings will have no greater impact than the existing agricultural building and it could be argued that the appearance of the dwellings would provide a better design solution.
- 6.25 The design of the two dwellings will see detached properties which incorporate key features to break up the overall bulk of the built form. These include front gables, dormer windows and soldier courses above windows. In addition, the use of a mix of materials including red brickwork and eternit boarding add to the overall acceptable design. Given this, and that the design is not necessarily out of keeping with the neighbouring properties, while the design may not necessarily provide for a distinctive rural feel, Officers do not consider this to be harmful enough to warrant recommending a reason for refusal.
- 6.26 In terms of the proposed scale, while it is noted the dwellings are 1.9 metres higher than the existing building, they are well set back in the site, and set amongst existing built form. Therefore, Officers consider the development would not appear overly incongruous when

considered in this context, and equally would not result in an overly harmful impact on the character and appearance of the area or landscape.

- 6.27 Policy LP4 requires that new residential developments will be expected to provide for private amenity space of a size and configuration that meets the needs and expectations of residents and which is commensurate to the size of dwelling and the character of the area. The plans show that this comfortably adhered to for both dwellings.

Impact to Neighbouring Amenities

- 6.28 The NPPF, at paragraph 130 states that development should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users. Policy SP7 of the Tendring District Local Plan 2013-2033 requires that all new development protects the amenity of existing and future residents and users with regard to noise, vibration, smell, loss of light, overbearing and overlooking.
- 6.29 The site and proposed dwellings are sited a sufficient and significant distance from the few nearby neighbouring properties and will not result in any loss of sunlight or daylight. The separation distances of the proposed dwellings from neighbouring dwellings means that no loss of privacy or overlooking will occur to neighbouring properties. Therefore, it is considered that the proposed development would not result in any material harm to the living conditions of the occupants of neighbouring dwellings.
- 6.30 In addition to the above, a condition removing permitted development rights is considered necessary due to the potential impact and harm from extensions and outbuildings to the character and appearance of the landscape and rural character, and is suggested in the event the application is recommended for approval. This would be considered reasonable given the fact that the proposal effectively represents an alternative permission to that approved under the prior notification application which does not benefit from permitted development rights.
- 6.31 Overall the proposal is considered to secure a good standard of amenity for future occupants of the proposed dwelling and would not demonstrably harm the amenities of residents living in the vicinity.

Highway Safety Impacts

- 6.32 Paragraph 108 of the National Planning Policy Framework 2021 seeks to ensure that safe and suitable access to a development site can be achieved for all users. Paragraph 111 of the Framework states that Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 6.33 Policy SPL3 (Part B) of the Adopted Local Plan seeks to ensure that access to a new development site is practicable and the highway network will be able to safely accommodate the additional traffic the proposal will generate and provision is made for adequate vehicle and cycle parking. Adopted Local Plan Policy CP2 states proposals will not be granted planning permission if there would be an unacceptable impact on highway safety, or the residual cumulative impact on the road network would be severe.
- 6.34 Within the determination of the previous planning application (reference 21/01728/FUL), Essex Highways Authority objected to the proposal as it would lead to the creation of a new substandard access onto Hungerdown Lane, where the lack of suitable visibility from the proposed access for both emerging and approaching vehicles would result in an unacceptable degree of hazard to all road users to the detriment of general highway safety.

- 6.35 Following this decision, the proposed application has been revised to ensure that the site will be accessed via the existing access point to the south-western corner of the site off Hungerdown Lane, which aligns with the access agreed within planning permission 21/00057/COUNOT. Accordingly, Essex Highways Authority have confirmed that they have no objections subject to conditions relating to visibility splays, a vehicular turning facility, boundary planting, the vehicle parking area, and cycle parking provision.
- 6.36 Furthermore, the Council's Adopted Parking Standards require that for a dwelling with two or more bedrooms that a minimum of two parking spaces are required. Parking spaces should measure 5.5m x 2.9 metres. The submitted plans show that there is sufficient space within the site to provide the necessary parking for both dwellings.

Impact to Trees and Landscape

- 6.37 Paragraph 174 of the National Planning Policy Framework (2021) states that planning decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside, and should protect and enhance valued landscapes.
- 6.38 Policy PPL3 of the local plan requires that the quality of the district's landscape and its distinctive local character will be protected and, where possible, enhanced. Any development which would significantly harm landscape character or quality will not be permitted.
- 6.39 The Council's Tree and Landscapes Officer has been consulted, and has stated the following:

"Following a further site visit and consideration of my previous analysis of the impact of the proposed development on the local landscape character, made in respect of planning application 21/01728/FUL, it is considered that the position of the proposed dwellings and the degree to which they feature in the public realm is such that the proposed change will not affect the public's perception, use or enjoyment of the local environs.

As previously stated there are no trees or other significant vegetation on the application site and as the application site is set back some distance from the highway the proposed dwellings will not be visible from the highway or from any adjacent Public Rights of Way.

Consequently, although the proposed development will result in a minor change to the character of the area the degree of change will not significantly affect the wider landscape character."

- 6.40 Given these comments, Officers are content that the impact to trees and the areas landscape character will not be significantly harmful, although recommend conditions be included in relation to full details of soft landscaping.

Drainage

- 6.41 Paragraph 174 of the Framework states that planning policies and decisions should contribute to and enhance the natural and local environment by preventing new development from contributing to unacceptable levels of water pollution. Furthermore, Paragraph 185 of the Framework states that planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects of pollution on the natural environment.
- 6.42 Paragraph: 020 of the National Planning Policy Guidance states that where a connection to a public sewage treatment plant is not feasible a package sewage treatment plant can be considered. The package sewage treatment plant must comply with the Small sewage discharges in England: general binding rules 2015 (GBR), or a permit will be required.

Package sewage treatment plants may only be considered if it can be clearly demonstrated by the applicant that discharging into a public sewer is not feasible (taking into account cost and/or practicability and whether the package treatment plant poses a risk to a designated site) in accordance with Approved Document H of the Building Regulations 2010.

- 6.43 Adopted Policy PPL5 of Section 2 of the Adopted Local Plan states that all new development must make adequate provision for drainage and sewerage. Private sewage treatment facilities will not be permitted if there is an accessible public foul sewer. Where private sewage treatment facilities are the only practical option for sewage disposal, they will only be permitted where there would be no harm to the environment, having regard to preventing pollution of groundwater and any watercourses and odour.
- 6.44 In relation to non-mains drainage from non-major development the Environment Agency's advice is that to comply with the Framework and PPG on foul drainage matters, an LPA needs to be satisfied that foul drainage can be provided without adverse impact on the environment. This requires ensuring that both those environmental risks outside of the control of the permit and the relevant considerations in the PPG are addressed. The LPA should also be mindful that the developer will need to address foul drainage matters to get their environmental permit and meet building control regulations. Therefore, they should be confident that it is likely that any necessary permits and approvals can be successfully obtained.
- 6.45 Question 11 of the application form states that it is not intended to connect to a mains sewer. Instead, foul sewage will be disposed of by way of a package treatment plant; the declaration implies that a mains connection is not possible.
- 6.46 In considering the acceptability of the proposed non-mains drainage, the site is not located in close proximity to any dwelling, the site is not close to any designated site of importance to biodiversity, nor is it located within close proximity to any watercourse. The site is not located within a Drinking Water Safeguard Zone or a Source Protection Zone, and the site is sufficiently large enough to accommodate a soakaway. Furthermore, flows from a treatment plant serving two dwellings served by three bedrooms would be very low. Taking all these factors into account, and the absence of a mains connection in close proximity to the site, the proposed foul drainage arrangements are considered to be acceptable.

Financial Contributions – Recreational Disturbance

- 6.47 Under the Habitats Regulations, a development which is likely to have a significant effect or an adverse effect (alone or in combination) on a European designated site must provide mitigation or otherwise must satisfy the tests of demonstrating 'no alternatives' and 'reasons of overriding public interest'. There is no precedent for a residential development meeting those tests, which means that all residential development must provide mitigation.
- 6.48 The application scheme proposes a residential use on a site that lies within the Zone of Influence (Zoi) being approximately 2.7km away from Stour and Orwell Estuaries RAMSAR and SPA. New housing development within the Zoi would be likely to increase the number of recreational visitors to these sites and in combination with other developments it is likely that the proposal would have significant effects on the designated site. Mitigation measures must therefore be secured prior to occupation.
- 6.49 A unilateral undertaking has been prepared to secure this legal obligation. This will ensure that the development would not adversely affect the integrity of European Designated Sites in accordance with Section 1 Policy SP2 and Section 2 Policy PPL4 of the Tendring District Local Plan 2013-2033 and Regulation 63 of the Conservation of Habitat and Species Regulations 2017.

Financial Contributions – Open Space and Play Space

- 6.50 Paragraph 54 of the National Planning Policy Framework (2021) states Local Planning Authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Paragraph 56 of the NPPF states planning obligations must only be sought where they are necessary to make the development acceptable in planning terms, directly relate to the development and fairly and reasonably relate in scale and kind to the development.
- 6.51 In line with the requirements of Section 2 Policy HP5 the Council's Open Space Team have been consulted on the application to determine if the proposal would generate the requirement for a financial contribution toward public open or play space. The outcome of the consultation is that there is currently a deficit of 3.44 hectares of equipped play/formal open space in Lawford, however no contribution is requested on this occasion.

7. Conclusion

- 7.1 The proposed demolition of an existing agricultural building and its replacement with two x 3-bedroom dwellings is acceptable in principle following the previous prior approval granted on the site for two dwellings under planning reference 21/00057/COUNOT.
- 7.2 The positioning of the dwellings is very similar to the existing agricultural building, while the level of floorspace will see a slight decrease. The dwellings will result in an increase in height in comparison to the existing building, however Officers do not consider this is significantly harmful to the character and appearance of the area.
- 7.3 There are no significant issues in respect to neighbouring amenities or harm to trees. Following a revision to the previous application to utilise only the existing access to the south-west of the site, Essex Highways Authority have removed their previous objections. Accordingly, the application is considered to be policy compliant and 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 Number WHL-02 Revision D and documents titled 'Visibility Splays Plan' and 'Site Plan', 'Klargester BioDisc Domestic Sewage Treatment Plant', 'Construction Method Statement' and 'Planning Statement'.

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

- 3 Prior to occupation of the development, the private access at its centre line shall be provided with a clear to ground visibility splay with dimensions of 2.4 metres by 97 metres to the north-east and 2.4 metres by 95 metres to the south-west, as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the private access is first used by vehicular traffic from the development and retained free of any obstruction at all times.

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

- 4 The proposed development shall not be occupied until such time as the vehicle parking area on the approved plans, has been hard surfaced and sealed. The vehicle parking area and associated turning area shall be retained in this form at all times. The vehicle parking shall not be used for any purpose other than the parking of vehicles unless otherwise agreed with the Local Planning Authority.

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

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

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

- 6 The approved landscaping scheme 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 order to soften and mitigate the visual impact of the development on the remaining open fields beyond having regard to the semi-rural setting of the site.

- 7 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 other alterations to the dwellings shall be carried out 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 and to maintain sustainable development principles.

8.3 Informatives

Positive and Proactive Statement:

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

Highways Informatives:

1: 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

16 FEBRUARY 2023

REPORT OF THE DIRECTOR OF PLANNING

A.6 Planning Enforcement Report

In accordance with the provisions of the Council’s Enforcement Policy, the following report is to be provided to Planning Committee on a quarterly basis for information. No information in this report is considered to be confidential, but personal and site information that may allow identification of the site and/or persons is not provided given the confidential nature of enforcement activities and consideration of data protection requirements.

Live Information was taken on 17th January 2023.

The enforcement policy seeks to report the following areas.

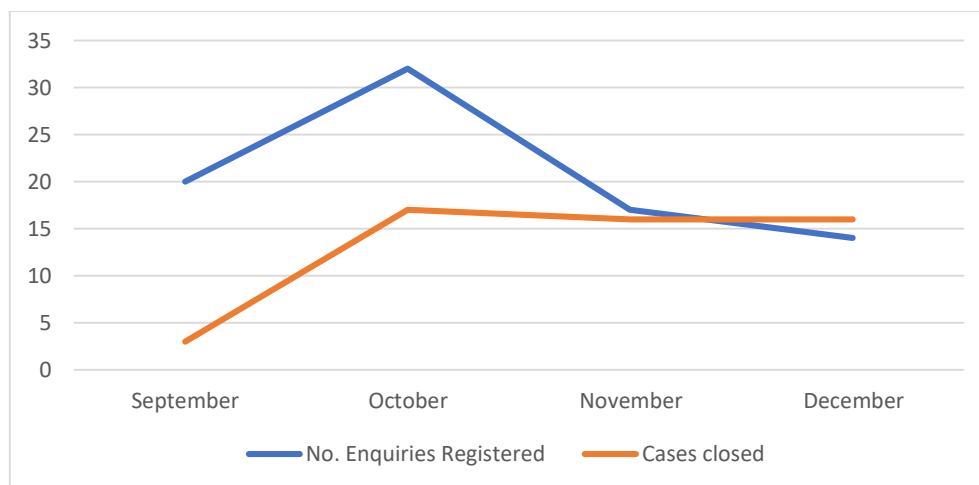
- number of complaints received/registered in the quarter;
- number of cases closed in the quarter;
- number of acknowledgements within 3 working days
- number of harm assessment completions within 20 days of complaint receipt.
- number of site visits within the 20 day complaint receipt period.
- number of update letters provided on/by day 21
- number of live cases presented by category, electoral ward and time period since receipt;
- enforcement-related appeal decisions.

Please note that some areas are not complete given the recent adoption of the policy and revisions and need to adopt new procedures to enable measurement of the areas required. Changes to current systems are being implemented to enable full reporting for future quarters.

Number of complaints received/registered in the quarter, number of cases closed in the quarter and number of acknowledgements within 3 working days.

Month	Year	No. Enquiries Registered	No. Enquiries Registered in 3 Working Days	Cases closed
September	2022	20	20	3
October	2022	32	32	17
November	2022	17	17	16
December	2022	14	14	16

Enquiries and Cases Closed



In conclusion all enquiries were acknowledged in 3 days resulting in 100% success. Within this quarter, it is noted that more total cases at 83 were opened than closed with 52 overall. However, this trend is more balanced later in the quarter and improves.

Number of harm assessment completions within 20 days of complaint receipt.

At this time harm assessments are used for new cases and all are understood to be within 20 days. However, the use of harm assessments started during the last quarter and so is not reported this time. Harm assessments are stored in Idox and need to be manually counted, but we are looking to automate this to provide up to date information per month.

Number of site visits within the 20 day complaint receipt period.

While site visits are recorded, there is not yet a report designed to pull out this information and would require a manual count. This will be reviewed in full for the next report and shall be backdated to cover this quarter.

Number of update letters provided on/by day 21

Some of the data showing when update letter were issued is on the system, but not always consistently inputted as separate officer mail accounts were previously also used. Furthermore, there is currently no report designed to pull this information from the system at this time and this needs expert help to create and has been commissioned. It is hoped we will have this resolved in terms of process to provide up to date information for the next quarter.

Number of live cases presented by category, electoral ward and time period since receipt.

There are 258 Live Cases (17th January 2023).

Time Period since receipt.

Years	No of Days	No of Enforcement Cases
Year 1	1-365	128
Year 2	366-730	36
Year 3	731-1095	8
Year 4	1096-1460	3
Year 5	1461-1825	1
Year 6	1826-2190	4

Year 7	2191-2555	49
Year 8	2556-2920	4
Year 9	3286-3650	1
Year 10	3651-4015	1
Year 11	4016-4380	2
Year 12	4381-4745	20
Year 13	5111-5475	1

Please note cases older than year 9 are urgently being reviewed to action.

Category

Type	No of Enforcement Cases
Breach of Planning Consent	80
Change of use of Land	17
Failure to build in accordance with Approved Plans	1
Other types of Breaches	144
Unauthorised Advert	1
Unauthorised Building Works	14
Work to TPO Tree	1

This is the current standard category list. However, this shall be altered in future reports to provide a more informative account of enforcement matters and also include a necessary data cleanse of this information. It is considered the standard list should include Untidy sites and is clear on occupation conditions.

This type of enforcement list can be produced another way as provided below, but as you can see this approach provides an extensive list of enforcement matters, fails to be defined and demonstrates the current data inconsistency at this time. This is improving slowly as historic cases are also addressed and is hoped to be resolved further by the next report.

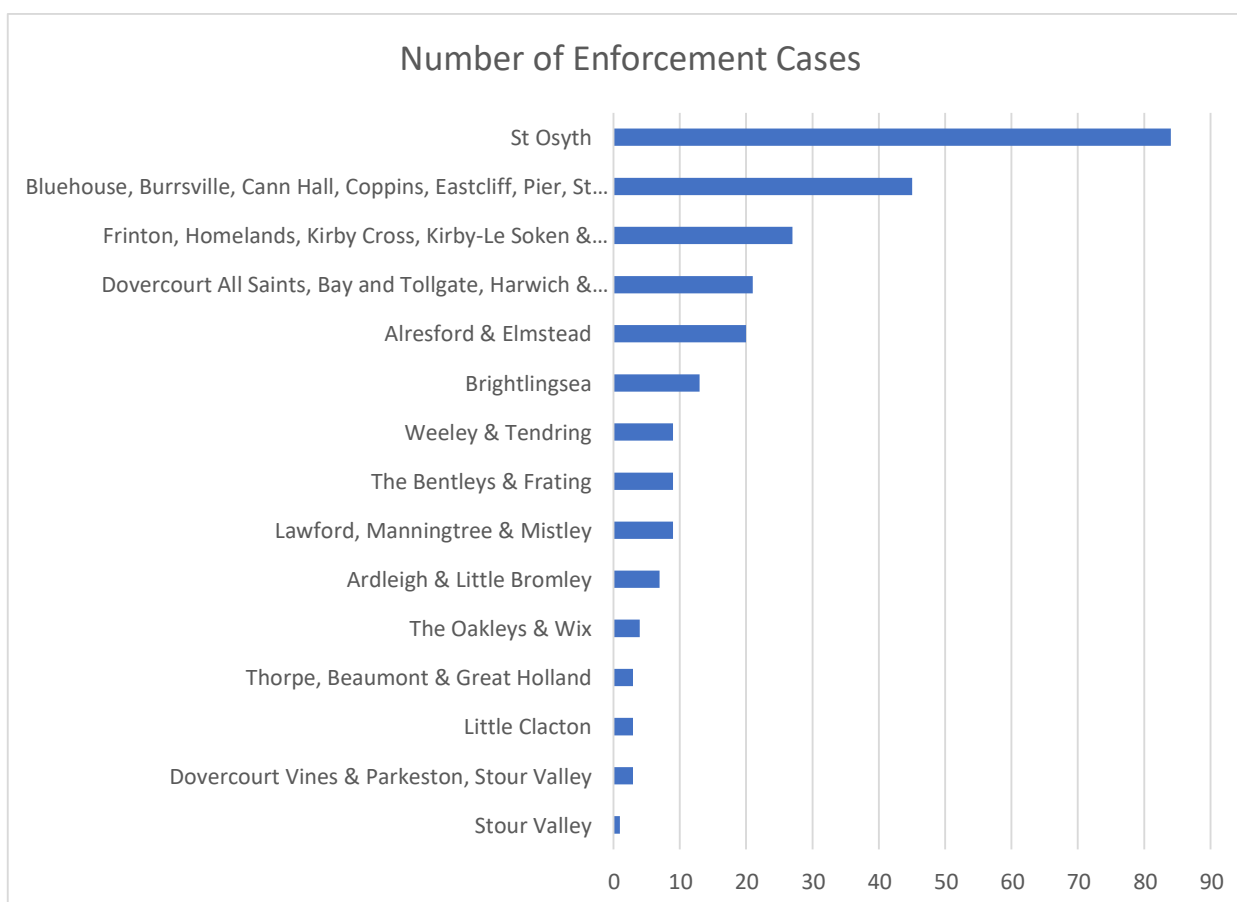
Advertisements	1
Beach of Occupancy Condition	1
Breach of Condition	49
Breach of Conditions	3
Breach of Conditions	1
Breach of Discharge Condition	1
Breach of Occupancy Condition	50
Building Not to Approved Drawings	1
Building of A Mooring Without PP	1
Building Operation	33
Building Operation - Loft Conversion	1
Building Operation and Change of Use of Land	1
Building Operations	6
Building Without Planning Permission	2
Building Works	3
Building Works Being Carried Out May Need PP	1
Building Works Carried Out	2
Change of Use	28

Change of Use of Land	5
Change of Use/Untidy Site	1
Complaint Re Conditions	1
Dangerous Location of Advertising Boards	1
Erection of Flag Poles	1
Fence adjoining Highway	1
Fence Surrounding Site	1
Illegal Advert and ANPR	1
Illuminated Shop Sign	1
Non Compliance of Agreed Plans	1
Non Compliance of Approved PP	1
Non Compliance to Plans	1
Non Compliance to Softlandscaping	1
Non Compliance With Approved Plans	4
Non Compliance With Approved PP	3
Non Compliance With Refusal of PP	1
Non-compliance With The Plans	1
Not Being Built In Accordance With Approved Plans	1
Not Being Built In Accordance With Approved PP	1
Not Built In Accordance With Approved PP	1
Operational Development	1
Outbuilding Construction	1
Possible Breach of Condition	1
Proposed Organic Production	1
Septic Tanks	1
Unauthorised Advert	4
Unauthorised Building	3
Unauthorised Building Operation	2
Unauthorised Building Works	1
Unauthorised Change of Use	5
Unauthorised Development	1
Unauthorised Flood Lighting	1
Unauthorised Use of Land	1
Unauthorised Works to Listed Building	1
Untidy Site	12
Use of Land	1
Use of Mobile Home Not In Accordance With Approved PP	1
Works to A Listed Building	2
Works to Building In Conservation Area	1
Works to Listed Building In Conservation Area	1
Works to TPO Tree	1
(blank)	1

Electoral ward

The following is the number of enforcement cases divided by Ward. This is translated into a graph further down and order changed to represent highest to lowest number of cases.

WARD	Number of Enforcement Cases
Alresford & Elmstead	20
Ardleigh & Little Bromley	7
Bluehouse, Burrsville, Cann Hall, Coppins, Eastcliff, Pier, St Batholomews, St James, St Johns, St Pauls, West Clacton & Jaywick Sands	45
Brightlingsea	13
Dovercourt All Saints, Bay and Tollgate, Harwich & Kingsway	21
Dovercourt Vines & Parkeston, Stour Valley	3
Frinton, Homelands, Kirby Cross, Kirby-Le Soken & Hamford, Thorpe, Beaumont & Gt Holland, Walton	27
Lawford, Manningtree & Mistley	9
Little Clacton	3
St Osyth	84
Stour Valley	1
The Bentleys & Frating	9
The Oakleys & Wix	4
Thorpe, Beaumont & Great Holland	3
Weeley & Tendring	9



While noting that enforcement type catalogues will be improved for the next report, it was considered that it may still be useful to see the number of enforcement matters by both Ward and then type. Comments on if this is useful for the next report are welcome.

Alresford & Elmstead	20
Breach of Planning Consent	1
Change of use of Land	1
Other types of Breaches	18
Ardleigh & Little Bromley	7
Change of use of Land	1
Other types of Breaches	5
Unauthorised Building Works	1
Bluehouse, Burrsville, Cann Hall, Coppins, Eastcliff, Pier, St Batholomews, St James, St Johns, St Pauls, West Clacton & Jaywick Sands	45
Change of use of Land	8
Other types of Breaches	33
Unauthorised Building Works	3
Work to TPO Tree	1
Brightlingsea	13
Change of use of Land	1
Failure to build in accordance with Approved Plans	1
Other types of Breaches	11
Dovercourt All Saints, Bay and Tollgate, Harwich & Kingsway	21
Breach of Planning Consent	6
Other types of Breaches	12
Unauthorised Advert	1
Unauthorised Building Works	2
Dovercourt Vines & Parkeston, Stour Valley	3
Other types of Breaches	1
Unauthorised Building Works	2
Frinton, Homelands, Kirby Cross, Kirby-Le Soken & Hamford, Thorpe, Beaumont & Gt Holland, Walton	27
Change of use of Land	1
Other types of Breaches	24
Unauthorised Building Works	2
Lawford, Manningtree & Mistle	9
Other types of Breaches	7
Unauthorised Building Works	2
Little Clacton	3
Other types of Breaches	3
St Osyth	84
Breach of Planning Consent	72
Change of use of Land	4
Other types of Breaches	7
Unauthorised Building Works	1
Stour Valley	1
Other types of Breaches	1
The Bentleys & Frating	9
Breach of Planning Consent	1
Change of use of Land	1
Other types of Breaches	7
The Oakleys & Wix	4

Other types of Breaches	4
Thorpe, Beaumont & Great Holland	3
Other types of Breaches	3
Weeley & Tendring	9
Other types of Breaches	8
Unauthorised Building Works	1

Enforcement-related appeal decisions.

We have 7 live enforcement appeals at the time writing this report and partly this is due to significant national delays with the Planning Inspectorate to progress all types of appeal. However, in terms of appeal decisions only one decision was provided in the last quarter September to December 2022.

Appeal A Ref: APP/P1560/C/21/3281604 and Appeal B Ref: APP/P1560/C/21/3281605 at 45 Easton Way, Frinton-on-Sea, Essex CO13 9NU.

The breach of planning control as alleged in the notice is without planning permission the construction of a garden building apparently for use an annex.

- The requirements of the notice are to: 1. Demolish the building; 2. Remove all resulting debris and building materials resulting from Step 1 from the land.
- The period for compliance with the requirements is: Six months.
- Appeal A is proceeding on the grounds set out in section 174(2)(a) and (f) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
- Appeal B is proceeding on the ground set out in section 174(2)(f) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have not been paid within the specified period, the appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act has lapsed.

The appeal was dismissed on 11 October 2022 and the Enforcement Notice upheld.

This item is submitted for **INFORMATION ONLY**.

This page is intentionally left blank