



PLANNING COMMITTEE

DATE:	Tuesday, 14 March 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.

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DATE OF PUBLICATION: Monday, 6 March 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 - 30)

To confirm and sign as a correct record, the minutes of the meeting of the Committee, held on Thursday 16 February 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 DIRECTOR (PLANNING) - A.1 - PLANNING APPLICATION 21/00186/FUL – CROSSWAYS CENTRE, FRATING ROAD, GREAT BROMLEY, CO7 7JW (Pages 31 - 100)

Extension to Crossways Centre to include demolition of buildings fronting the site, surfacing of extension to yard, erection of loading bay, landscape, drainage, infrastructure and ancillary works including additional lighting (part retrospective).

6 REPORT OF DIRECTOR (PLANNING) - A.2 - PLANNING APPLICATION 22/02037/FUL - GARFIELD NURSERIES, THORPE ROAD, KIRBY CROSS CO13 0LT (Pages 101 - 120)

Proposed erection of one dwelling (in lieu of Prior Approval for 1 one-bedroom dwelling, subject of application 22/00045/COUNOT). Resubmission of application 22/00890/FUL.

7 REPORT OF DIRECTOR (PLANNING) - A.3 - PLANNING APPLICATION 22/01603/FUL – MEADOWCROFT, STEAM MILL ROAD, BRADFIELD, CO11 2QY (Pages 121 - 134)

Proposed extension of existing Care Home to provide seven new en-suite bedrooms including lift and new stairs.

The application is before the Planning Committee following a call-in request from Councillor Fairley due to her concerns that the proposed extension would harm the amenities of neighbouring residents and represent continued overdevelopment of the previous domestic bungalow which is out of keeping with the surrounding dwellings.

8 REPORT OF DIRECTOR (PLANNING) - A.4 - PLANNING APPLICATION 20/01125/OUT – 45 THE STREET, KIRBY-LE-SOKEN, CO13 0EG (Pages 135 - 152)

Erection of 1 dwelling and provision of access. Parking for both the existing and proposed dwelling.

**9 REPORT OF DIRECTOR (PLANNING) - A.5 - PLANNING APPLICATION
23/00051/FULHH – 24 BAY VIEW CRESCENT, LITTLE OAKLEY, CO12 5EG (Pages
153 - 160)**

Proposed erection of front porch with pitched roof.

The application is before Members as an Ownership Certificate has been served on Tendring District Council as they own the freehold of the flats.

**10 REPORT OF DIRECTOR (PLANNING) - A.6 - PLANNING APPLICATION
23/00008/TPO - ACORN COTTAGE, STONES GREEN ROAD, TENDRING (Pages 161
- 168)**

Application to fell Oak.

The application to fell the Oak, situated on land where the ownership is unknown, is supported by evidence to show that the tree is the primary cause of subsidence related damage to the dwelling.

Date of the Next Scheduled Meeting

The next scheduled meeting of the Planning Committee is to be held in the Committee Room - Town Hall, Station Road, Clacton-on-Sea, CO15 1SE at 6.00 pm on Thursday, 13 April 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.



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

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**MINUTES OF THE MEETING OF THE PLANNING COMMITTEE,
HELD ON THURSDAY, 16TH FEBRUARY, 2023 AT 6.00 PM
IN THE COMMITTEE ROOM - TOWN HALL, STATION ROAD, CLACTON-ON-SEA,
CO15 1SE**

Present:	Councillors White (Chairman), Baker , Alexander, Codling, Davidson, V Guglielmi, Harris, Placey and Wiggins
Also Present:	Councillors Bush and McWilliams
In Attendance:	Gary Guiver (Director (Planning)), Ian Taylor (Head of Public Realm), John Pateman-Gee (Planning Manager), Joanne Fisher (Planning Solicitor), Jacob Jaarsmar (Planning Team Leader), Michael Pingram (Planning Officer), Emma Haward (Leadership Support Officer) and Hattie Dawson-Dragisic (Performance and Business Support Officer).

87. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

An apology for absence was submitted on behalf of Councillor Fowler, who was substituted by Councillor Davidson.

88. MINUTES OF THE LAST MEETING

The minutes of the last meeting of the Committee, held on 17 January 2023, were approved as a correct record, and signed by the Chairman.

89. DECLARATIONS OF INTEREST

Cllr Harris declared for the public record, a personal interest in **Item A.2 Planning Application 22/01286/FUL Lodge House, Crow Lane, Tendring CO16 9AP** due to both being a resident of Tendring and the local Ward Member. He stated that he was not pre-determined and that therefore he would participate in the Committee's deliberations on this application.

Cllr Guglielmi declared for the public record, a personal interest in **Item A.5 Planning Application 22/01423/FUL Land at 72 Hungerdown Lane, Lawford** due to both being the Chairman of Lawford Parish Council and a local Ward Member. She stated that she was not pre-determined and that therefore she would participate in the Committee's deliberations on this application.

90. QUESTIONS ON NOTICE PURSUANT TO COUNCIL PROCEDURE RULE 38

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

91. 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

Members were advised that this application was before the Committee at the request of Councillor Bush on the basis that the development was of major significance to Great Oakley. Councillor Bush was in support of the application.

It was reported that the application site was situated to the south-western end of the village of Great Oakley. The application site extended approximately 3.7 hectares and was located to the south of the existing allotments, off Beaumont Road.

The site lay 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 was accepted, subject to the relevant detailed considerations.

Members were informed that the application sought 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.

Following extensive discussions and negotiations with the applicant, and the submission of amended plans to improve the layout and address statutory consultee objections, Officers were recommending approval of the application for the reasons set out in the 'Assessment' section of the Officer written report and subject to a Section 106 legal agreement securing all planning obligations relevant to the development.

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

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

An update sheet had been circulated to the Committee prior to the meeting with details of amendments to the recommendation and an additional condition as follows:-

3. **FURTHER APPROVAL: AGREEMENT OF MATERIALS**

*No development shall be commenced above slab level **on any phase** 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.

6. **APPROVAL REQUIRED: LANDSCAPE MANAGEMENT PLAN**

*No development **above slab level** 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.

23. PRIOR TO OCCUPATION: WILDLIFE SENSITIVE LIGHTING DESIGN SCHEME

Prior to occupation, 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).

“Additional Condition required - having regard to the amendment made to condition 3:

29. APPROVAL REQUIRED: PHASING PLANS (MATERIALS)

Prior to any above ground works, a Phasing Plan for the development shall be submitted to and approved in writing by the local planning authority. The document shall identify the physical extent of each proposed phase of development to allow flexibility with the approval of materials and finishes required within Condition 3. The development shall be carried out in accordance with the approved Phasing Plan and corresponding materials discharge of condition approval, unless otherwise agreed in writing by the local planning authority.

Reason - To ensure that materials of an acceptable quality are used, in the interests of visual amenity and the quality of the development.”

Nick Jenkins, the agent acting on behalf of the applicant, spoke in support of the application.

Parish Councillor Nick Daniels, representing Great Oakley Parish Council, spoke in favour of the application.

Councillor Mike Bush, the local Ward Member, spoke in support of the application.

Matters raised by Members of the Committee:-	Officer's response thereto:-
A member of the Committee asked if there was sufficient infrastructure and school places to cope with demand.	The Planning Officer referred the Committee to pages 21-22 of the Officer report where the NHS had provided a comprehensive response. There was sufficient measures to mitigate against the impact on healthcare.
Could the Police support in mitigating crime?	The Planning Officer advised that some properties would be 2-storey, there was a condition seeking treatment of fencing, with views possible from properties to the open area. The Planning Officers provided advice on the scheme and updated members later in terms of the amended plans in regard to planning out crime. In summary there was potential for passive surveillance, but recognise that parking courts generally increased anti-social behaviour. However in this case, there was an open court to the western side of the site with some properties overlooking and amended plans meant the northern dwelling would overlook this space.
Great Oakley Parish Council had suggested the transfer of ownership of the community centre at 50% occupancy.	Planning Officers had negotiated a 44% occupancy with the developer for the community centre and a
A member of the Committee asked if the NHS contribution could be ring-fenced and used for GP practices local to the development.	The Planning Officer said that the financial contribution of £52,500 would go towards local GP healthcare provisions. The Solicitor said that this would be specified in the s106 agreement.
Is there a possibility that the Committee could propose a condition for contractors' parking off-site?	The Planning Officer advised that the scheme made provision for pedestrian links and safe walkways from the car park towards the school. Condition 6 referred to the management of parking and advised that the developer must make planning officers aware of contractors using the site/parking.
A member of the Committee asked if solar panels will be put on properties similarly to the Community Centre?	Solar panels would be placed on the Community Centre, however, renewable measures such as air source heat pumps were proposed for the residential properties as noted in the report.
In terms of affordable housing, are the developers complying with policy? What happens if social landlords do not take the properties on? Would the s106 agreement have to be amended?	The Solicitor advised that the affordable housing obligation would be settled in line with the requirements of the Housing Team. It is usual for the s106 obligation to require transfer to social landlords, if one were not to come forward the . a deed of variation would be required to amend the original agreement to provide for an alternative for example for the Council to take on the affordable dwellings instead, however it is unlikely to happen in officer experience.
Tendring Council's Economic	The Planning Officer confirmed that condition 27

Growth Team would like to see local labourers used to boost local economy.	of the recommendations secured the use of local businesses.
A member of the Committee asked who would be responsible for the maintenance of the open space.	The Planning Officer advised that the first option would be for the Parish Council to take forward or it would be management company.
A member of the committee asked, if in future, a member of the NHS could present their findings to the Committee for clarification as to where s106 contributions go.	Planning Services would take this into consideration, but this would also need the NHS to agree.

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

RESOLVED that the Planning Manager (or equivalent authorised officer) be authorised to grant planning permission for the development, subject to the following:

1) Within six months of the date of the Committee's resolution to approve the completion of a legal agreement under the provisions of section 106 of the Town and Country Planning Act 1990 (as amended) on appropriate terms as summarised below and those as may be deemed necessary to the satisfaction of the Planning Manager 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 for GP practices within the catchment area of the development;
- 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 and car park (first option of transfer to Parish Council, then management company) with completion at no more than 50% occupation of new dwellings;
- Link to third party land (outside of red lined site area) to deliver protected species management/mitigation for Great Crested Newts (GCN) and provision of biodiversity net gain;
- 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.
- Monitoring fee of ECC for obligations

2) the planning conditions stated in section 8.2 of the Officer Report as amended by the Update Sheet as set out below or varied as is necessary by the Planning Manager to ensure the wording is enforceable, precise and reasonable in all other respects, including appropriate updates, so long as the principle of the conditions is retained. :

3) the informative notes as may be deemed necessary by the Planning Manager; and

4) That the Planning Manager (or equivalent authorised officer) be authorised at their discretion to refuse planning permission in the event that the legal agreement has not been secured and/or not secured within the period of six months as stated in 1) of this resolution, on appropriate grounds.

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 on any phase 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 above slab level 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 portalos.

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 occupation, 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.

29. APPROVAL REQUIRED: PHASING PLANS (MATERIALS)

Prior to any above ground works, a Phasing Plan for the development shall be submitted to and approved in writing by the local planning authority. The document shall identify the physical extent of each proposed phase of development to allow flexibility with the approval of materials and finishes required within Condition 3. The development shall be carried out in accordance with the approved Phasing Plan and corresponding materials discharge of condition approval, unless otherwise agreed in writing by the local planning authority.

Reason - To ensure that materials of an acceptable quality are used, in the interests of visual amenity and the quality of the development.

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

The Committee was made aware that this application was referred to it 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.

It was reported that the proposed dwelling was not considered by Officers to be so materially different in regards to siting and footprint compared to the existing building on site which benefitted 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 was considered by Officers to be acceptable and would meet the design expectations of relevant local and national policies. The maximum ridge height of the proposal marginally exceeded the ridge height of the existing building by 50cm (currently the ridge height was 4.7m and the proposal would increase the height to 5.2m). The proposed dwelling would continue to utilise an existing private access off Crow Lane with good visibility splays in both directions.

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 was recommended by Officers for approval. Furthermore, the proposal would not have resulted in any detrimental impact on neighbour amenity and there were no concerns raised in regard to parking and highway safety 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 (JJ) in respect of the application.

Peter Le Grys, the agent acting on behalf of the applicant, spoke in support of the application. Mr Le Grys queried the need for Condition 5 proposed in paragraph 7.2 of

the Officer Report requiring a scheme for sustainable energy measures to be approved by the Council as this was not required on the previous grant of planning permission for the site. The Planning Officer responded and agreed with the removal of Condition 5.

Parish Chairman Ted Edwards, representing Tendring Parish Council, spoke against the application.

Matters raised by Members of the Committee:-	Officer's response thereto:-
What is the difference in size from the previous application?	The Planning Officer advised that the previous full application measured 155sqm – the new application measured 166 sqm. The Planning Officer advised the Committee to consider points in the report and the suitability of the site. (Condition 5 - Energy Efficiency)
In opinion of officers, what would be the likelihood of defending the case if the Committee were to refuse the application?	The Planning Officer advised that the Inspector would follow same thought process and findings, giving regard to the planning history.
A member of the Committee asked if a condition could be added to secure electric vehicle charging points.	The Planning Officer confirmed that the condition could be added as a replacement to Condition 5 which had been removed.

Following discussion by the Committee, it was moved by Councillor Alexander, seconded by Councillor V Guglielmi and unanimously:-

RESOLVED that the Planning Manager (or equivalent authorised officer) be authorised to grant planning permission for the development, subject to the conditions and reasons as stated in paragraph 7.2 of the Officer Report amended with the replacement of Condition 5 to instead secure electric vehicle charging points as set out below, or varied as 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): 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. Prior to occupation of the dwelling/s hereby approved, a minimum of one electric vehicle charging point shall be made functionally available to serve that dwelling and be available to vehicles in association with that dwelling. The charging point shall be retained thereafter.

Reason: Interests of compliance with provisions of good sustainable design principles as outlined in the NPPF and adopted Tendring Local Plan.

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.

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

Members were reminded that this application was for the extension of the Clacton-on-Sea Cemetery at Burrs Road. The application site was 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 was presented at Committee as it was a Tendring District Council application on Council owned land.

It was reported that the site was designated as a Local Wildlife Site (LoWS) and was bordered by Pickers Ditch to the north and west, with areas around the ditch falling into flood zones 2 and 3.

Matters concerning, flooding, SuDs and Ecology had taken significant time to determine particularly with regard to the Biodiversity Net Gain obligations and the identification of suitable compensation sites.

Those matters had now been satisfactorily resolved and subject to conditions there were no objections from the Environment Agency, Lead Local Flood Authority or ECC Ecology. There were no concerns raised with regards to highway safety or impact on residential amenity, therefore the application was recommended by Officers for approval.

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

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

Ian Taylor, representing Tendring District Council, spoke in support of the application.

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

RESOLVED that the Planning Manager (or equivalent authorised officer) be authorised to grant planning permission for the development, subject to the conditions and reasons stated in paragraph 8.2 of the Officer Report as set out below, or as need to varied to take account for any errors, legal and necessary updates:-

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).

The Chairman requested approval from Members of the Committee to continue the meeting past the allowed period of 3 hours, as required by Council Procedure Rule 35.1. It was moved by Councillor Harris, seconded by Councillor Placey and **RESOLVED** that the Committee continue its deliberations.

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

The Committee was reminded that this application was before it following a call-in request from Councillor McWilliams due to her concerns that the development did not relate well to its site and surroundings, and caused harm to the nearby listed buildings.

It was reported that the proposal related to a retrospective planning application for a building that had been initially approved under planning reference 19/01462/FUL in February 2020, but which had not been built in accordance with the previously approved plans. The main alterations saw an increase in the size and height of the building, which was to be utilised for ancillary storage and domestic leisure uses.

Members were informed that the increased size of the building would not be materially harmful to the character and appearance of the surrounding area, would not detrimentally impact the setting of the nearby listed buildings, and would result in a neutral impact to existing neighbouring amenities. In addition, Essex Highways Authority had raised no objections.

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

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

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

- (1) Additional comments received from Great Bentley Parish Council;
- (2) An amendment to Recommended Planning Condition 2;
- (3) An additional Recommended Planning Condition; and
- (4) An additional Letter of Objection Received.

Kevin Coleman, the agent acting on behalf of the applicant, spoke in support of the application.

Parish Clerk Jennifer Spear, representing Great Bentley Parish Council, spoke against the application.

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

Matters raised by Members of the Committee:-	Officer's response thereto:-
Are application sites inspected upon completion?	For building control purposes, the properties would be inspected however, this is not necessary for DM Planning

	Services.
Could the officer confirm that there is no new impact from increasing the premises from 6 meters to 9 metres?	The Planning Officer advised that the comparison is against two heritage assets (two listed buildings adjacent to the site).
Would the Committee be setting a precedent for developers to follow?	The Planning Officer advised that each application must be assessed on its own merits including all material considerations and that includes the planning history. The building was built larger than previously approved. It is acceptable despite its increase in size.
Would the larger size cause harm to the character and appearance of the heritage buildings?	ECC Heritage had assessed in line with PPL9 and had concluded that there would be not any more impact than that previously approved.

Following discussion by the Committee on the merits of the application before them, it was moved by Councillor Harris, seconded by Councillor Codling and:-

RESOLVED that, contrary to the Officer's recommendation of approval, the Planning Manager (or equivalent authorised officer) be authorised to refuse planning permission for the development due to the following reasons:-

"The building if approved, fails to make a positive contribution to the quality of the local environment and character, fails to relate to the site and surroundings, including other buildings, by reason of its excessive height, massing, scale and design, nor does it respect the local landscape views resulting in a visually intrusive form that is not demonstrated to be sufficiently mitigated by landscaping or other measures. For these reasons, the development is contrary to SPL3 and provisions of the NPPF on good design including paragraph 130 b) that provides decisions should ensure developments are visually attractive as a result of good architecture, layout and appropriate and effective landscaping."

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

It was reported that this application had been referred to the Planning Committee as the proposed development would have conflicted 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.

Members were advised that the proposed dwelling was not considered to be materially different in regard to siting or footprint to the development approved under prior approval 21/00057/COUNOT and was similar in scale and appearance to dwellings and other built form within the wider area. The overall height of the proposal exceeded that of the existing building, however this was not considered to result in significant harm.

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 had raised no objections.

Members of the Committee were reminded that the Council's Tree and Landscape Officer had also raised no concerns, whilst sufficient parking and private amenity space was provided, and there would not be significant harm to existing neighbouring amenities.

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

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

Peter Le Grys, the agent acting on behalf of the applicant, spoke in support of the application.

Prior to the debate the Planning Manager suggested a condition be added for consistency that a renewable and sustainable energy scheme should be secured in accordance with the Local Plan as the application is for the creation of new dwellings and it was realised this had been missed from the recommended conditions in the Officer Report.

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

RESOLVED that the Planning Manager (or equivalent authorised officer) be authorised to grant planning permission for the development subject to the conditions in paragraph 8.2 of the Officer Report with the additional of a condition securing a renewable and sustainable energy scheme for the development, as set out below, or as need to be varied and those as may be deemed necessary:

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.

In addition, condition 8 as follows:-

8 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 and policy PPL10.

96. REPORT OF DIRECTOR (PLANNING) - A.6 - PLANNING ENFORCEMENT UPDATE

Members were informed that, in accordance with the provisions of the Council's Enforcement Policy, this report was to be provided to the Planning Committee on a quarterly basis for information. No information in this report was considered to be confidential, but personal and site information that might allow identification of the site and/or persons had been not provided given the confidential nature of enforcement activities and consideration of data protection requirements. The report contained live Information that had been taken on 17th January 2023.

The enforcement policy sought 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.

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

RESOLVED that the contents of the report be noted.

The meeting was declared closed at 9.30 pm

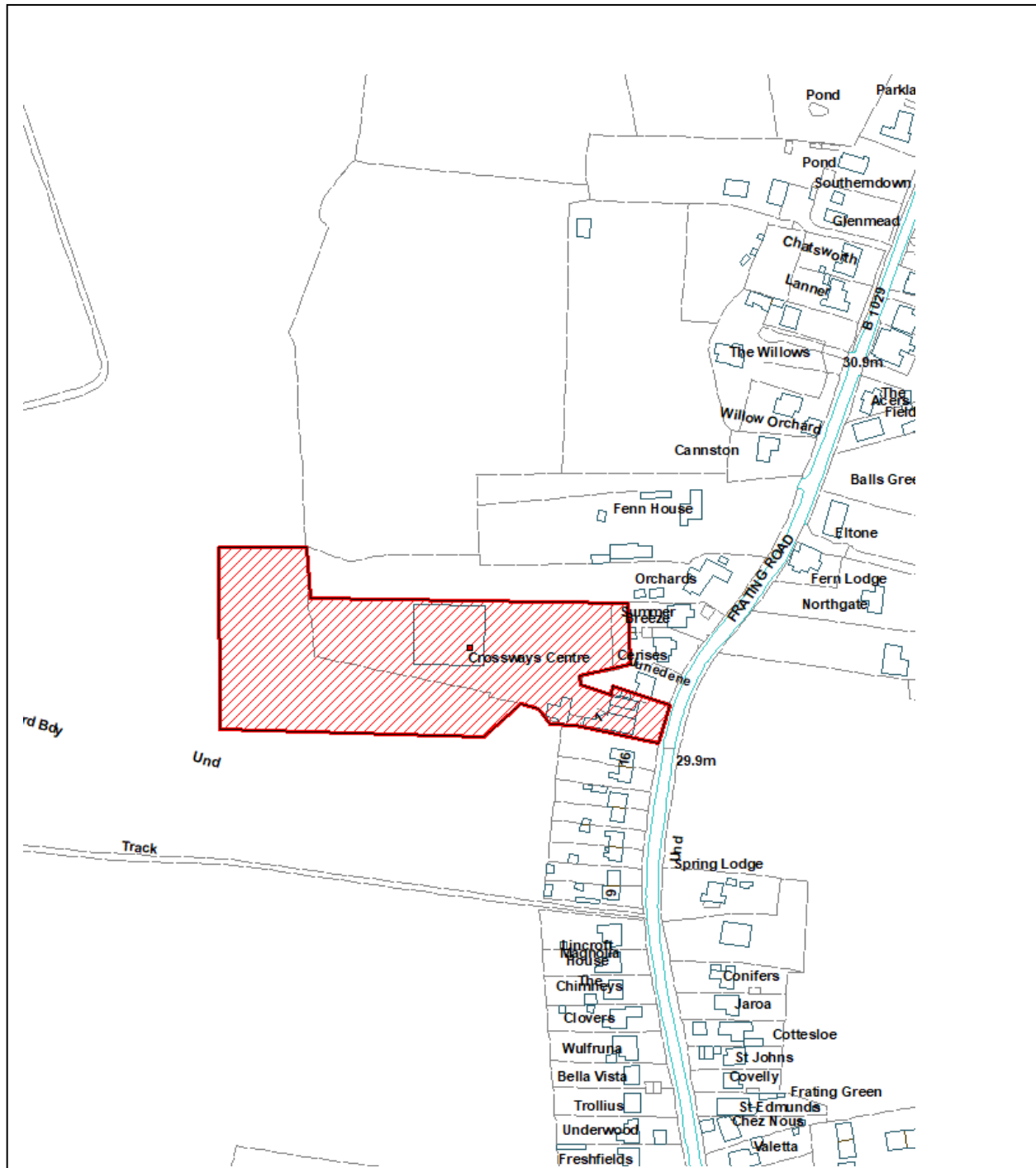
Chairman

PLANNING COMMITTEE

14 MARCH 2023

REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING

A.1 PLANNING APPLICATION – 21/00186/FUL – CROSSWAYS CENTRE FRATING ROAD GREAT BROMLEY COLCHESTER



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Application: 21/00186/FUL

Town / Parish: Great Bromley Parish Council

Applicant: Mr Gray Rowe - PalletPlus

Address: Crossways Centre Frating Road Great Bromley Colchester Essex CO7 7JW

Development: Extension to Crossways Centre to include demolition of buildings fronting the site, surfacing of extension to yard, erection of loading bay, landscape, drainage, infrastructure and ancillary works including additional lighting (part retrospective).

1. Executive Summary

- 1.1 The Crossways Centre is located within Frating which is a 'Smaller Rural Village'. Access would not be via the primary highway network. Instead, it would be from the B1029 Frating Road. The site is not a protected or allocated employment site and the proposal is for the expansion and extension of an existing B8 storage and distribution use, as set out above. The expanded part of the site is located outside of the settlement development boundary.
- 1.2 This item was previously presented to Members of Tendring District Council Planning Committee on 7th December 2021. Following a detailed presentation, question/answer session and debate, Members of the Planning Committee resolved to defer the item for 4 reason which include:
1. To allow further dialogue with the Applicant and ECC Highways to discuss a Traffic Management Plan, to include looking at HGV movements/routing plan with particular emphasis on examining/directing traffic to and from the south from the Frating crossroads & any potential improvements to that junction;
 2. Further explore the highways access arrangements and the potential to demolish the front buildings to facilitate two-way movements;
 3. Look at hours of operation and if this could be reduced at night time; and
 4. Explore a temporary planning permission for up to 2 or 3 years with the aim of helping to support the applicant in finding a more appropriate site within the District.
- 1.3 It should also be noted that some time has gone by to explore these issues and a number of changes to the proposal have been made. The policy context since Members considered this development has altered with the adoption of the Local Plan.
- 1.4 In summary and in response to the 4 reasons for deferral above - In terms of reasons for deferral 2 and 3, it is considered that these elements have now been addressed through the provision of additional information and the inclusion of necessary, reasonable and enforceable planning conditions restricting night time activity and night time movement onto the site. It is considered that the first part of reason for deferral 1 has also been addressed (see 'Highways safety/Parking' section below and relevant recommended planning conditions and s106 heads of terms). In terms the latter part of reason for deferral 1 ('examining any potential improvements to the Frating crossroads junction'), it is considered that this existing junction serves a very broad variety of traffic, mostly unrelated to this development proposal, and any potential improvements to that junction is considered to fall outside the scope of being reasonable and necessary to make this development proposal acceptable in highways safety terms. In terms of reason for deferral 4, the Applicant's 'Alternative Sites Assessment for PalletPlus (ASAPP) demonstrates that the allocated sites in the administrative area of TDC are either not suitable or available (or both) for the proposed development. To consider a

temporary consent in this context would therefore not be justified in this instance because there is a very high likelihood that a temporary consent will not remain temporary due to the significant uncertainty (and resultant unknown timescales) in respect of relocating to a current unknown site, and due to the lack of a suitable or available (or both) site for the proposed development.

1.5 Following the above deferral the proposal is now for:-

- A loading bay extension (approximately 464m² in footprint, measured externally).
- The retrospective extension and change of use of the site's service yard area onto adjacent agricultural land.
- The scheme also includes the proposed demolition of buildings fronting the site to facilitate alterations to the main and only site access and egress point.
- A significant landscaping scheme, drainage infrastructure and additional external lighting.

Note: The previous warehouse extension no longer forms part of this application.

1.6 This report can be read in conjunction with the previous superseded Planning Committee report dated 7 December 2021, which is attached to this item for convenience.

1.7 Weighing against the proposal, it is considered that the scheme will continue to harm the living conditions of the occupants of neighbouring dwellings. There will also be a harmful effect on the character and appearance of the area. The expansion results in the loss of agricultural land. Conditions will reduce, but considered not to be fully effective in mitigating the identified elements of harm as outlined by this report. .

1.8 Against this harm, the planning balance must consider benefits of the scheme. There will be benefits to the local and wider economy, the benefits to the storage and distribution sector and all its respective customers. In particular, the scheme, if approved, will result in a local business continuing to operate on and from an extended site, and staying in the district of Tendring, with resultant direct and indirect job retention/creation stemming from this, and substantial weight is attributed to these benefits.

1.9 Previous LPA officer concerns in respect of highway safety have now been fully addressed subject to conditions and further highways improvement works being secured in a timely manner as part of a section 106 agreement. All other material planning considerations, including the remainder of the points set out above, have been taken into account, and / or addressed/covered in the remainder of this report. Where relevant, it is considered that where harm arises, these can be mitigated against by way of planning conditions or s106 obligations as secured in this report, and all these relevant elements, as indicated elsewhere in this report, are neutral in the planning balance.

1.10 Ultimately, the weight given to the benefits as outlined in this report is considered to outweigh the weight given to the harm to amenity of neighbouring dwellings and on the character and appearance of the area. For these reasons, it is recommended that planning permission be granted, subject to the completed S106 legal agreement and the conditions as recommended in section 7.0 below.

Recommendation: Approval subject to S106

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

- To impose waiting and parking restrictions on Frating Road either side of the site access junction and on the opposite side of the road prior to the first use of the extended loading bay, the extent of the restrictions to be agreed in advance with the LPA with the Highway's Authority. Such a requirement will have to be secured as part of a section 106 legal agreement as the relevant highways authority, via the LPA, will legally require a financial contribution for this to realise. In terms of the successful introduction of waiting/parking restrictions, there is no guarantee that the parking restrictions can be successfully implemented because this element is subject to separate processes and public consultation(s). However the successful introduction of this element has been confirmed by the Highways Authority as entirely necessary for the development to be acceptable in highway safety terms, and the scheme (the introduction of waiting restrictions) shall be agreed in writing by relevant Highways authority prior to commencement of any works on the extended loading bay, and the agreed schemes shall then be implemented in full before the completion of the extended loading bay. The applicant has accepted this risk.
 - An approved workplace travel plan to be actively implemented for a minimum period of 5 years. It shall be accompanied by a one-off monitoring fee of £6,132 (plus the relevant sustainable travel indexation) to be paid before completion of remainder of the works to cover the 5-year period and incorporated within a S106 obligation.
 - Before the commencement of any works on the loading bay extension, a Traffic Management Plan (TMP) shall be provided and approved outlining a designated route to and from the premises for all HGV movements to be agreed in advance with the Local Planning Authority in consultation with the Highway Authority and incorporated within a S106 obligation.
- 2) That the Assistant Director for Planning be authorised to grant planning permission upon completion of the legal agreement subject to conditions as stated in section 8.2 or as need to be varied*) and those as may be deemed necessary by the Assistant Director for Planning: and,
- 3) The informative notes as may be deemed necessary.

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

2. Planning Policy

Status of the Local Plan

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

National Planning Policy Framework 2021 (the Framework)
Planning Practice Guidance

Adopted Tendring District Local Plan 2013-2033 and Beyond (the 2013-33 Local Plan)

Section 1:

SP1	Presumption in Favour of Sustainable Development
SP3	Spatial Strategy for North Essex
SP5	Employment
SP6	Infrastructure and Connectivity
SP7	Place Shaping Principles

Section 2:

SPL1	Managing Growth
SPL2	Settlement Development Boundaries
SPL3	Sustainable Design
HP1	Improving Health and Wellbeing
PP7	Employment Allocations
PPL1	Development and Flood Risk
PPL3	The Rural Landscape
PPL4	Biodiversity and Geodiversity
PPL5	Water Conservation, Drainage and Sewerage
PPL10	Renewable Energy Generation and Energy Efficiency Measures
CP1	Sustainable Transport and Accessibility
CP2	Improving the Transport Network
DI1	Infrastructure Delivery and Impact Mitigation

Supplementary Planning Guidance:

Essex County Council Development Management Policies 2011 (the Highways SPD)
Essex County Council Parking Standards Design/Good Practice Guide 2009 (the Parking SPD)
Tendring Landscape Character Assessment 2001 (TLCA)

3. **Relevant Planning History**

19/00216/FUL	Proposed construction of covered loading bay to existing warehouse building.	Approved	01.05.2019
13/00921/LUEX	Mixed or composite use for Class B8 storage, vehicle repair and maintenance (sui generis) and transport depot (sui generis).	Split decision (considered earlier)	07.07.2014
12/00430/FUL	Variation of condition 03 of planning permission TEN/1729/81 to include use as a distribution warehouse.	Approved	11.06.2012
12/01182/LUEX	Existing Lawful Use Certificate for use as a transport depot, warehouse and distribution centre, and commercial vehicle repair workshop (Breach of Condition 3 of TEN/1729/81) and breach of condition 07 of TEN/1729/81 (hours of operation).	Refused	20.05.2013
12/00430/FUL	Variation of condition 03 of planning	Approved	11.06.2012

permission TEN/1729/81 to include use as a distribution warehouse.

12/00482/FUL	Erection of warehouse.	Approved	08.08.2012
07/00893/FUL	Erection of canopy to create covered loading area.	Approved	20.07.2007
98/01525/FUL	(Crossways Centre, 17 Frating Road, Great Bromley) Erection of poles for lighting and CCTV	Approved	02.02.1999
93/00912/FUL	Continuation of display and sale of vehicles	Refusal	12.10.1993
95/01011/FUL	Variation of condition No. 7 of consent TEN/1729/81 to permit the use of bays 1, 2, 3 up to 6pm on Saturdays for the repair and maintenance of commercial vehicles.	Withdrawn	06.10.2004
95/01010/FUL	Variation of condition No. 3 of consent TEN/1729/81 to include the use of bays 5, 6, 7 and 8 by Systematic Logistics Ltd for all purposes falling within Class B8 of the Use Classes Order	Approved	18.10.1995
TEN/1211/84	Additional Office Accommodation	Approved	
TEN/1729/81	Proposed commercial vehicle repair workshop	Approved	
TEN/496/62	Installation of two pumps and tanks for petrol filling station	Approved	

4. Consultations

TDC Tree & Landscape Officer	<p>Please note previous comments as outlined in the 7th December 2021 Planning committee report.</p> <p>In respect of the latest consultation response, TDC Landscape officer stated that the Amended Detailed Planting Proposals for the application site shows the extent of the soft landscaping to be carried out on the site boundary.</p> <p>The species selection comprises indigenous species and specimen trees that will be in keeping with the character of the area. The plant species mix includes Ilex aquifolium (Holly) that will provide an evergreen element to the planting that will improve all year round screening.</p> <p>In the long term the proposed soft landscaping will provide a high level of</p>
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	screening for the application site.
ECC Highways Dept 17/01/2023	<p>The additional information that was submitted in association with this application has now been fully considered by the Highway Authority. At the previous Planning Committee, the item was deferred for 4 reasons, and to allow for discussions and a report back with advice on the possibility of a temporary permission to allow the business to operate on an expanded temporary basis, pending a relocation. Two of these reasons were for traffic/highways related reasons and the additional information provided has been reviewed and provides a beneficial improvement within the space available to the working arrangement of the site and all highway users, considering these factors:</p> <p>From a highway and transportation perspective the impact of the proposal is acceptable to Highway Authority subject to the following mitigation and conditions:</p> <ol style="list-style-type: none"> 1. Prior to commencement of works, including any ground works or demolition, a Construction Management Plan shall be submitted to, and approved in writing by, the local planning authority. The approved plan shall be adhered to throughout the construction period. The Plan shall provide for: <ol style="list-style-type: none"> i. vehicle routing, ii. the parking of vehicles of site operatives and visitors, iii. loading and unloading of plant and materials, iv. storage of plant and materials used in constructing the development, v. wheel and underbody washing facilities. Reason: To ensure that on-street parking of these vehicles in the adjoining streets does not occur and to ensure that loose materials and spoil are not brought out onto the highway in the interests of highway safety and Policy DM1. 2. The road junction / access at its centre line shall be provided with a clear to ground visibility splay with dimensions of 2.4 metres by 43 metres in both directions, as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided 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. 3. A 1.5 metre x 1.5 metre pedestrian visibility splay, as measured from and along the highway boundary, shall be provided on both sides of the vehicular access. Such visibility splays shall be retained free of any obstruction in perpetuity. These visibility splays must not form part of the vehicular surface of the access. Reason: To provide adequate inter-visibility between the users of the access and pedestrians in the adjoining public highway in the interest of highway safety in accordance with policy DM 1. 4. The provision of the following improvements shall be implemented: <ol style="list-style-type: none"> a) A priority junction off B1029 Bromley Road to provide access to the proposed site as shown in principle on planning application, amended proposed site access and junction arrangement, drawing number: SK16. b) Carriageway measuring no less than 6.75m in width for the first 22

	<p>metres.</p> <p>c) A straight section of carriageway to be provided from the entrance junction for 22 metres.</p> <p>d) 1.8-metre-wide footway on the north side of the junction and continued around both kerb radii and to tie-in with the existing footway.</p> <p>e) Appropriate pedestrian crossing facilities (drop kerbs/ tactile paving) on either side of the access.</p> <p>f) Waiting restrictions shall be provided on either side of the site access junction and opposite the junction the extent of the restrictions to be agreed in advance with the Highway Authority in conjunction with the Planning Authority.</p> <p>g) Associated signing and lining as indicated on drawing no. SK16.</p> <p>h) Prior to first use of the junction the existing vegetation on southern corner of the access shall be cut back and retained free of any obstruction at all times.</p> <p>i) No unbound material shall be used in the surface treatment of the vehicular access within 30 metres of the highway boundary.</p> <p>j) Any other reasonable items to ensure the access is in accordance with current policy standards.</p> <p>Officer comment: <i>Point j is considered to be unreasonable because it does not specify precisely which other items would be required.</i></p> <p>Reason: To ensure that vehicles can enter and leave the highway in a controlled manner and to avoid displacement of loose material onto the highway in the interest of highway safety in accordance with policy DM1.</p> <p>5. There shall be no discharge of surface water onto the Highway.</p> <p>Officer comment: <i>The above requirement is considered to fail to meet the NPPF tests of preciseness and necessity, in addition, the LLFA were consulted and raised no objection subject to details requiring further details of foul water drainage and surface water drainage to be completed in accordance with details already submitted, these elements are covered in the relevant section of the report below.</i></p> <p>6. Any new boundary planting shall be planted a minimum of 1 metre back from the highway boundary and any visibility splay.</p> <p>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</p> <p>7. The implementation of the vehicle parking area indicated on the approved plans, including any parking spaces for the mobility impaired, has been hard surfaced, sealed and marked out in parking bays. The vehicle parking area and associated turning area shall be retained in this form at all times. The vehicle parking shall not be used for any purpose other than the parking of vehicles that are related to the use of the development unless otherwise agreed with the Local Planning Authority.</p> <p>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.</p> <p>8. The approved workplace travel plan shall be actively implemented for a minimum period of 5 years. It shall be accompanied by a one-off</p>
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	<p>monitoring fee of £6,132 (plus the relevant sustainable travel indexation) to be paid before completion of works to cover the 5-year period and incorporated within a S106 obligation.</p> <p>Reason: In the interests of reducing the need to travel by car and promoting sustainable development and transport in accordance with policies DM9 and DM10.</p> <p>9. The submitted Traffic Management Plan shall be provided and approved outlining a designated route to and from the premises for all HGV movements to be agreed in advance with the Local Planning Authority in consultation with the Highway Authority and incorporated within a S106 obligation.</p> <p>Reason: To control the location and direction of HGV vehicle movements to and from the site in the interests of highway safety and Policy DM1.</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>Notes:</p> <p>(i) 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.</p> <p>(ii) 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.</p> <p>(iii) A formal Stage 2 Road Safety Audit outlining the junction detail/ footway design/ improvements will be required.</p> <p>Informative:</p> <p>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.</p> <p>The applicants should be advised to contact the Development Management Team by email at development.management@essexhighways.org</p> <p>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.</p> <p>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</p>
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	<p>applicants are invited to sign up to the Essex Developers' Group Climate Charter [2022] and to view the advice contained in the Essex Design Guide. Climate Action Advice guides for residents, businesses and schools are also available.</p>
TDC Waste Management	No further comments
TDC Environmental Protection (EP) (previous comments dated 26/11/2021)	<p>Noise:</p> <p>The submitted Noise Impact Assessment dated November 2020 confirms the undertaking of a relevant noise assessment in relation to the proposal, including that of the Wheel Washing Facility. The report shows that existing noise levels determined at appropriate locations, would not be adversely increased by the introduction of a wheel washing facility. However, it has come to our attention that the wheel washing facility is no longer within the proposal and as such the predicted measurements and impact can be disregarded. However the report still addresses the noise from the HGV's and site activity and stated that ambient levels of the current operations were measured to be 64dB(A)(LAeq 15mins), however there are no predictions for the impact of the increase in HGV movement and site activities may have on this level. In light of this there is some uncertainty as to whether the proposal would result in a significant increase in ambient noise, which may result in an adverse impact to nearby residential dwellings. And as such, with specific reference to the recommendations, shown in section 2, pages 4 – 5; it is noted that these provisions are being implemented under the recommendation of the applicant, rather than any requirement for mitigation highlighted in the report; these measures should assist in the reduction of perceived noise, and we would not be adverse to their implementation, and as such would request this is attached to any approval. These recommendations are outlined in section 2 of the aforementioned report and relate to the provision and installation of acoustic screening. This will assist in dampening any further sound emitted as a result of site activity</p> <p>I can confirm that the EP Team are satisfied with the contents of the above report and would suggest the above proposed attenuation screening are conditioned on any subsequent approval, so as to ensure any disturbance from these activities is minimised.</p> <p>REASON: to protect the amenity of nearby residential dwellings and minimise any potential adverse impact associated with increased noise</p> <p>Officer comment: <i>Considerations in respect of noise and mitigation (for example acoustic screening) are covered in the 'Effect on the Living Conditions of Neighbours' section below.</i></p> <p>*NB: As you are aware the EP Team have been and are currently in receipt of complaints concerning an alleged noise nuisance emanating from the site; the details of the complaints relate to noise associated with site activity and noise associated with vehicular movement off site (movement of HGV entering and leaving the site). I can advise that we have not, at this time, identified a statutory nuisance emanating from the current operations. However our most recent investigation is still ongoing, and as such we will continue to monitor the situation. The</p>

	<p>submission of a noise complaint, does not, at this time, negate the above comments</p> <p>Lighting:</p> <p>Any lighting of the development shall be located, designed and directed [or screened] so that it does not [cause avoidable intrusion to adjacent residential properties/ constitute a traffic hazard/cause unnecessary light pollution outside the site boundary]. "Avoidable intrusion" means contrary to the Code of Practice for the Reduction of Light Pollution issued by the Institute of Lighting Engineers.</p> <p>REASON – to protect the amenity of nearby residential dwellings</p> <p>Officer comment: <i>Since the above EP comment the Applicant submitted an Outdoor Lighting Report with details of external lighting and LUX contours – see updated comments dated 27/09/2022 from EP below. In addition, the matter of External Lighting has been covered in the ‘Effect on the Living Conditions of Neighbours’ section below.</i></p> <p>Air Quality:</p> <p>With reference to the potential impact increased HGV movement may have on the current air quality of the vicinity, the EP Team are requesting confirmation on the predicted increase in movement from the site. Available information suggests that increasing the site will therefore reduce the movement of vehicles as there will be space for the fleet on site, where as currently vehicles are arriving on site to drop off, and then having to leave for the evening, and then return for the morning. The proposal would indicate this would in fact reduce the number of vehicle movements to and from the site? However, we have also received information indicating that this proposal would actually increase the vehicle movement? As a result of this confusion we would like confirmation on the expected vehicular movements. We would look to request an Air Quality assessment if there is an increase of:</p> <ul style="list-style-type: none"> • 500 LGVs (outside of an Air Quality Management Area) and/or • Increase by 100 HGVs (outside of an Air Quality Management Area) <p>This would be identified as daily, on local roads with a nearby receptor. Further information on this and information on assessment criteria in relation to Land Use Planning and Development Control: Planning for Air Quality (Institute of Air Quality Management), can be found at: air-quality-planning-guidance.pdf (iaqm.co.uk)</p> <p>REASON: to protect public health</p> <p>Officer comment: <i>The applicant confirmed that Pallet Plus Ltd operate the following vehicles:</i></p> <p><i>Heavy Goods Vehicles (HGV's)/Large Goods Vehicle (LGV's): 15 x articulated 44t tractor units, 5 x 26t rigid vehicles, 13 x 18t rigid vehicles, 5 x 12t rigid vehicles, and 1 x 7.5t rigid vehicle. They also have 8 x 3.5t vans.</i></p>
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Latest TDC EP comments dated 27/09/2022	<p><i>So in total they operate 47 vehicles either as HGV's or LGV's which is significantly below the above threshold (500 LGVs (outside of an Air Quality Management Area) and/or Increase by 100 HGVs (outside of an Air Quality Management Area) for the submission of an air quality assessment (AQA). As such it is considered unreasonable to insist upon the submission of an AQA however officers will consider to imposition of NPPF tests complaint conditions to ensure the overall number of vehicles operating from the site remain below this threshold.</i></p> <p>Acoustic Fencing: We are satisfied with the proposed installation, and have no adverse comments to make.</p> <p>Lighting: With reference to the submitted Lighting Report, dated September 2022, I can advise we are satisfied with the report. The report confirms some action is required in relation to the adjustment of angles for specific lights (as shown in section 3); but I can confirm we are satisfied with the proposals laid out in the document; therefore providing all recommendations contained within the report are performed, and maintained, we have no further comments to make in relation to this.</p>
TDC Building Control and Access Officer	No further comments
Anglian Water Services Ltd Most up to date comments received 27/09/2022	<p>ASSETS</p> <p>Section 1 - Assets Affected</p> <p>Our records show that there are no assets owned by Anglian Water or those subject to an adoption agreement within the development site boundary.</p> <p>WASTEWATER SERVICES</p> <p>Section 2 - Wastewater Treatment</p> <p>The foul drainage from this development is in the catchment of Great Bromley Water Recycling Centre that will have available capacity for these flows</p> <p>Section 3 - Used Water Network</p> <p>Development may lead to an unacceptable risk of flooding downstream. Anglian Water will need to plan effectively for the proposed development, if permission is granted. We will need to work with the applicant to ensure any infrastructure improvements are delivered in line with the development. In order to make an accurate capacity assessment, we require the submission of a foul drainage strategy showing the proposed discharge location and conveyance method. We therefore request a condition requiring phasing plan and drainage strategy.</p> <p>1. INFORMATIVE - Notification of intention to connect to the public sewer under S106 of the Water Industry Act Approval and consent will be required by Anglian Water, under the Water Industry Act 1991. Contact Development Services Team 0345</p>

	<p>606 6087.</p> <ol style="list-style-type: none"> 2. INFORMATIVE - Notification of intention to connect to the public sewer under S106 of the Water Industry Act Approval and consent will be required by Anglian Water, under the Water Industry Act 1991. Contact Development Services Team 0345 606 6087. 3. INFORMATIVE - Protection of existing assets - A public sewer is shown on record plans within the land identified for the proposed development. It appears that development proposals will affect existing public sewers. It is recommended that the applicant contacts Anglian Water Development Services Team for further advice on this matter. Building over existing public sewers will not be permitted (without agreement) from Anglian Water. 4. INFORMATIVE - Building near to a public sewer - No building will be permitted within the statutory easement width of 3 metres from the pipeline without agreement from Anglian Water. Please contact Development Services Team on 0345 606 6087. 5. INFORMATIVE: The developer should note that the site drainage details submitted have not been approved for the purposes of adoption. If the developer wishes to have the sewers included in a sewer adoption agreement with Anglian Water (under Sections 104 of the Water Industry Act 1991), they should contact our Development Services Team on 0345 606 6087 at the earliest opportunity. Sewers intended for adoption should be designed and constructed in accordance with Sewers for Adoption guide for developers, as supplemented by Anglian Water's requirements. <p>Section 4 - Surface Water Disposal</p> <p>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</p> <p>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 re-consulted to ensure that an effective surface water drainage strategy is prepared and implemented. The applicant has indicated on their application form that their method of surface water drainage is via SuDS. 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</p>
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	<p>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/</p> <p>Section 5 - Suggested Planning Conditions</p> <p>Anglian Water would therefore recommend the following planning condition if the Local Planning Authority is mindful to grant planning approval.</p> <p>Used Water Sewerage Network (Section 3)</p> <p>Condition Prior to the construction above damp proof course, a scheme for on-site foul water drainage works, including connection point and discharge rate, shall be submitted to and approved in writing by the Local Planning Authority. Prior to the occupation of any phase, the foul water drainage works relating to that phase must have been carried out in complete accordance with the approved scheme. Reason To prevent environmental and amenity problems arising from flooding</p>
Environment Agency	No response received.
ECC SuDS Consultee (latest comments received 20/12/2022)	<p>Thank you for your e-mail re-consultation of 21st November 2022. We apologise for the delayed response.</p> <p>No changes to the proposals which would have a material impact on the surface water drainage appear to have been made since our last correspondence on 18/10/22. Therefore our "no objection" response of 26th October 2021 remains our formal position.</p>

5. Representations

5.1 Following the deferral at the 7th December 2021 Planning Committee and upon receipt of all the new and updated information and plans provided by the Applicant, a new round of public consultation was carried out which included neighbours of the site and third parties previously consulted. In response to the latest round of public consultations a further 60 objections were received which raise similar issues as outlined in the November 2021 Planning Committee report. Over the course of the application a total of in the region of 130 objections were received, and 132 letters in support. One new issue was raised not previously raised and this includes:

- Potential site contamination

5.2 Frating Parish Council (FPC) send in correspondence in January 2023 objecting to the application stating that they have objected to every stage of the different applications. FPC have requested information about all permissions given to Palletplus but there is still no clarification of the opening hours. TDC gave permission in 2012 which was for 41 vehicle movements a week, they were then granted a certificate of lawfulness which again the parameters of this have never been given to FPC. Essex Highways have objected to the increase in vehicles using the B1029 at any time, this new / extended application does not stop this issue. FPC have been

requesting a change to the traffic lights since 2017 (Palletplus are trying to take credit for it in this application). It is not good enough that this has taken over 12 months and there still is not a decision. Cllr McWilliams advised that the planning committee are waiting for it - but it hasn't been passed to committee, so she thinks there is a lot of work going on behind the scenes. The move to the field opposite TBS as a potential move has now not been mentioned.

5.3 For the avoidance of doubt, Great Bromley Parish Council objects to the application for the following reasons:

- Impact on local residents in terms of noise, particularly outside of permitted hours and overnight disturbing sleep
- Light pollution and impact on local residents
- Increased HGV usage on a B road in a residential area
- Change of use of land not in the application
- Permitted hours not being adhered to in accordance with previous conditions
- Flooding issues along Frating Road

5.4 The application is the subject of a call-in request from the Ward Councillor for Frating, Lynda McWilliams, in the event that approval were recommended. The grounds for the call-in request are:

- Highways impact/highway infrastructure
- Increased flood risk
- Impact on neighbours (noise and disturbance/light pollution)
- Effect on the character and appearance of the area

6. Assessment

The Site

6.1 Crossways Centre is operated by Pallet Plus as a B8 storage and distribution centre, comprising warehouse building, loading bay and concrete service yard. Broadly speaking the site as a whole is rectangular in shape with a narrow road frontage with Frating Road from which access is taken, through an archway formed in a flat-roofed building at the front of the site, which is set back from the road behind a small forecourt. At the time of the original application submission, the site included other uses, including a car workshop to the front of the site and a commercial business within the warehouse – it is unclear what the current position is in this regard. To the north and south are dwellings fronting Frating Road. The remainder of the site to the west and south is surrounded by cultivated agricultural land.

The Proposal

6.2 Permission is sought for an extension to the loading bay (approximately 464m² in footprint measured externally) as well as the demolition of buildings fronting the site to alter the vehicular and pedestrian access and egress arrangements, new landscaping, drainage, infrastructure and ancillary works including additional lighting. In terms of the retrospective elements to the proposal, this include the extension of the site's service yard area onto adjacent agricultural land and associated hard surfacing areas and bunds being created along site perimeters.

Materials for the loading bay extension described in the application are insulated steel composite sheeting with plastisol coating, to match the existing. Ridge heights would follow those of the existing loading bay. Two x 3m high noise reduction barriers are proposed along the northern and southern boundaries of the access into the site. The site measures 0.94 hectares and would approximately double the land take of the overall site area.

6.3 Amongst other things, the application is supported by the following main information:

- Full plans, including visualisations
- Transport Note (and subsequent revisions)
- Travel Plan
- Amended Vehicle tracking plans
- Amended site access junction tracking
- Landscape Visual Technical Note
- Noise Assessment
- Preliminary Ecology Appraisal
- SuDS drainage details (and subsequent calculations/revision).
- Detailed Planting Proposals
- Details of boundary fencing
- Justification for planning application

6.4 A warehouse extension initially proposed as part of the application have now been omitted, in order to create move space for HGVs to access the western part of the site and to accommodate an attenuation basin within the site to enable a Sustainable urban Drainage System (SuDS). During the course of considering the application an unauthorised expansion of the site has been undertaken at the applicants own risk, described by them as an '*emergency expansion area*'. As a matter of procedure, the description has therefore been amended with the agreement of the applicant to reflect this, in order to refer to the part-retrospective nature of the proposal, and to more accurately describe the development proposed (deletion of warehouse extension element, car wash and inclusion of attenuation basin).

6.5 Because some works have already taken place, the proposal ought to be considered, in part, under Section 73A of the Town and Country Planning Act 1990 for development already carried out in part. The Planning Practice Guidance (PPG) makes clear it cannot be assumed that planning permission will be granted, and the Local Planning Authority should take care not to fetter its discretion prior to the determination of any application for planning permission - such an application must be considered in the normal way (Paragraph: 012 Reference ID: 17b-012-20140306).

Principle of Development

6.6 The spatial strategy for Tendring is set out in Policy SP3, under which existing settlements will be the principal focus for additional growth. Policy SPL1 sets out a settlement hierarchy, within which Frating is identified as a 'Smaller Rural Settlement'. The proposal is located outside of the proposed settlement development boundary (SDB) under Policy SPL2 (Local Map B.9 Frating). The second paragraph of policy SPL2 states outside of Settlement Development Boundaries, 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.

6.7 In terms of specifically tailored local policies for the assessment of a development proposal of this nature, the local plan is silent on development proposals for the expansion of existing B2 and B8 uses onto adjacent land. The above aside, some 32ha of land in the district of Tendring is allocated for new development in use classes B2 (General Industry) and B8 (storage and Distribution) to support a diversity of employment opportunities, the majority of which has already obtained planning permission. These allocated sites are listed in Table 6.1 of local plan policy PP7. The policy states 'on these sites proposals for development in use classes B2 and B8 will be supported'. The application site does not feature in table 6.1 and the Applicant undertook a site based sequential assessment (titled 'Alternative Sites Assessment

for PalletPlus) to review the suitability of all the allocated sites in the district of Tendring as outlined in table 6.1. The findings of which are assessed in the section directly below. The latter part of policy PP7 is not, strictly speaking, relevant because the proposal is not for new employment related development (on land outside of these allocations) but for the expansion of an existing B2/B8 business.

- 6.8 Turning to the provisions of the NPPF, the first part of paragraph 85 is relevant and states Planning policies and decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. In these circumstances it will be important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable (for example by improving the scope for access on foot, by cycling or by public transport). The last sentence of paragraph 85 of the NPPF is not relevant because before the expansion of the business took place, the application site was not previously developed land, but in agricultural use.
- 6.9 Whilst the principle of expansion of an existing employment generating business on land outside SDB such as this location would not be positively supported by Policy PP7, the policy (PP7) clearly envisages that proposals for employment related development may be acceptable on land outside of the allocations included (in policy PP7), having regard to their potential to support economic growth in the district and the requirements of other policies in this Local Plan – the relevant paragraph of the NPPF (as outlined above) has a similar slant. The remainder of this report will cover matters such as the potential for the proposals to support economic growth and it will also assess the proposal against the other policies in the Local Plan in the sections below, including the site's overall sustainability credentials (or lack thereof). The overall balance of the planning considerations is further considered in the section on planning balance below.

Availability of other sites including allocated sites

- 6.10 As stated above, some 32ha of land in the district of Tendring is allocated for new development in use classes B2 (General Industry) and B8 (storage and Distribution) to support a diversity of employment opportunities. Due to the allocated status of these sites they are considered to be better suited for a B2/B8 development proposal. It should again be acknowledged that the proposal is not for a new B8 storage and distribution facility, but for the expansion of an existing one. Given the reason for deferral from the 7th December 2021 Planning Committee, the LPA asked the Applicant undertake a site based sequential assessment (titled 'Alternative Sites Assessment for PalletPlus (ASAPP) to review the suitability of all six of the allocated sites in the district of Tendring as outlined in table 6.1 of policy PP7. The findings of the ASAPP is set out below:
- 6.11 The LPA's position is that it was reasonable for the ASAPP to focus on allocated sites in the administrative area of TDC only, as the primary purpose of, and intent behind the proposal is to enable the expansion of the business in the Tendring area, due regard is given to the fact that the business is already a Tendring based business
- 6.12 Below is a list the allocated sites in TDC that has been assessed in the ASAPP and a summary of the findings, as well as an overall conclusion.
- (i) Extension to Gorse Lane Industrial Estate, Telford Road, Clacton – 6.8ha;
 - (ii) Land at Stanton Europark, Parkeston, Harwich – 3.3ha;
 - (iii) Land at Harwich Valley, East of Pond Hall Farm, Dovercourt – 6.3 ha;
 - (iv) Land off Clacton Road//Dead Lane, Mistley – 2 ha;
 - (v) Crown Business Centre, Old Ipswich Road, Ardleigh – 2.3 ha;
 - (vi) Land south west of Horsley Cross – 11.2 ha.

- 6.13 The Applicant explained that insofar as Sites (i), (ii), and (iii) as outlined above, these are located at the eastern end of the A120 so outside the PalletPlus required location. Site (iv) lies around 5kms north of the A120 at Mistley and is reached via the B1035 so is logistically unsuitable. The Crown Business Centre (Site (v)) is currently under construction for 91 small business units and therefore not available or suitable for PalletPlus requirements.
- 6.14 The Applicant explained that the site at Horsley Cross could potentially accommodate PalletPlus and in fact was a site pursued by PalletPlus historically. However, the site is presently unviable requiring significant upfront investment to provide services and utilities. The Council evidence to the Local Plan prepared by Aspinall Verdi (May 2016) confirmed the major obstacle to the development was viability around services and utilities and suggested public sector intervention might be required to “kick start” the site. The LPA does not dispute this position.
- 6.15 In conclusion, the Applicant has satisfactorily demonstrated that the allocated sites in the administrative area of TDC, are either not suitable or available (or both) for the proposed development, and therefore the existing site and potential expansion onto adjacent unallocated land (such as this) need to be considered on its individual planning merits.

Economic considerations and potential for proposals to support economic growth in the district

- 6.16 PalletPlus Ltd is a part of the pallet network, specialising in the palletised freight of goods to the UK, Ireland and Europe. The submitted justification states that the application follows a fire in Europa Way, Parkeston in 2007. The Applicant explained that having sought to promote a site at Horsley Cross which was dismissed on appeal, the opportunity to occupy part of the Crossways Centre arose. The applicant has subsequently acquired the site for his business. Following the Planning Committee's decision to defer the item from the December 2021 Planning Committee for the reasons outlined at the beginning of this report, the Applicant undertook an alternative site assessment which concluded that the allocated sites in the administrative area of TDC, are either not suitable or available (or both) for the proposed development. The Applicant also makes a case in favour of expanding their operations, and that suitable employment land within Tendring for such uses is in short supply – the LPA does not dispute this position. Furthermore it was explained that recent agreements with a competitor in Ardleigh are stated as having saved 27 local jobs, and the existing workforce staff ‘headcount’ at PalletPlus (at the time of writing this report) is in the region of 91 people across various roles. Furthermore, the lease of a site in Ardleigh has expired so relocation to The Crossways Centre was required.
- 6.17 The submission states that an average of 700 deliveries are undertaken every day. The changes in shopping and travel habits brought about by the Covid 19 pandemic has led to Government recognition of the role local transport and logistics play in maintaining the essential supply of goods. The Application also explained that instead of 4 of 5 HGVs delivering to Clacton each day, these are now consolidated onto one vehicle heading that direction. The local market share is cited as being approximately 65-70% which reduces HGV traffic on local roads. Furthermore, other networks have expressed an interest that would further reduce the carbon footprint of local distribution. Earlier objection to unsustainable locations in terms of access to the local employment market have been addressed by the proposed development and expansion of an existing employment site, with good access to existing and proposed housing developments in the immediate and wider vicinity.
- 6.18 Officers recognise that the effects of the fire in 2007 and unsuccessful earlier attempts to secure permission for an alternative site, and the expiry of leases on other sites operated by the Applicant will all have impacted on the business. It is also recognised that the Applicant is an important local employer providing storage and distribution services, the demand for which has grown significantly during and after the pandemic. The Applicant has satisfactorily

demonstrated through the alternative site assessment that the allocated sites in the administrative area of TDC are either not suitable or available (or both) for the proposed development. Moreover, the proposal would assist in employment retention and generation, and support the Council's aims and objectives in this regard. It has been satisfactorily demonstrated that the proposal will support economic growth in the district. There is also general NPPF and local policy support for such proposals, and the benefits to the local economy is considered to be significant. Significant weight should be attached to these benefits. Specifically Paragraph 81 of the Framework makes clear that planning decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.

Highway Safety/Parking

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

6.20 Paragraph 104 of the Framework states that transport issues should be considered from the earliest stages of development proposals, amongst other things, so that:

- a) the potential impacts of development on transport networks can be addressed;*
- b) opportunities from existing or proposed transport infrastructure, and changing transport technology and usage, are realised – for example in relation to the scale, location or density of development that can be accommodated;*
- c) opportunities to promote walking, cycling and public transport use are identified and pursued;*
- d) the environmental impacts of traffic and transport infrastructure can be identified, assessed and taken into account – including appropriate opportunities for avoiding and mitigating any adverse effects, and for net environmental gains; and*
- e) patterns of movement, streets, parking and other transport considerations are integral to the design of schemes, and contribute to making high quality places.*

6.21 Paragraph 105 states that the planning system should actively manage patterns of growth in support of these objectives. Significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. This can help to reduce congestion and emissions, and improve air quality and public health. However, opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making.

6.22 Paragraph 111 of the Framework makes clear that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or if the residual cumulative impacts on the road network would be severe.

Within this context, Paragraph 112 states that applications for development should:

- a) *give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas; and second – so far as possible – to facilitating access to high quality public transport, with layouts that maximise the catchment area for bus or other public transport services, and appropriate facilities that encourage public transport use;*
- b) *address the needs of people with disabilities and reduced mobility in relation to all modes of transport;*
- c) *create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles, avoid unnecessary street clutter, and respond to local character and design standards;*
- d) *allow for the efficient delivery of goods, and access by service and emergency vehicles; and*
- e) *be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations.*

6.23 Paragraph 113 states that all developments that will generate significant amounts of movement should be required to provide a travel plan, and the application should be supported by a transport statement or transport assessment so that the likely impacts of the proposal can be assessed.

6.24 At the 7th December 2021 Planning Committee and for the reasons set out in the 'Highways Safety and Parking' section of the December 2021 Planning Committee report, the LPA's position at that time was that the proposal, as submitted and presented to the Committee in December 2021, would result in an unacceptable impact on highway safety.

6.25 Previously (i.e. before the demolition of the frontage building and other access improvements were included in the development proposal) ECC Highways observed that the width of the site frontage is relatively narrow, and would not appear to be capable of accommodating the radii curves, dropped footway crossing, and pedestrian refuge, that one might expect for development of this nature. Also previously there were no access improvement proposals before the Council.

6.26 Following the December 2021 deferral, and as per the revised 'Proposed Site Plan' (drawing no 06) the scheme now includes the complete demolition of the frontage building as well as the removal of 4 car parking spaces along the southern boundary of the access point into the site, and the partial demolition of the existing office building to the west of the 4 car parking space, to facilitate a two way vehicular and HGV access and egress point off and onto Frating Road. The submission is now also accompanied by site access junction tracking drawings indicating how large, 44 ton tractor HGV units (with trailers) will be able to enter and exit the site in two way movements.

6.27 The Highway Authority has now considered all the revised information and plans and confirmed that insofar as the first 2 reasons for deferral from the December 2021 planning committee (which were for traffic/highways related reasons), the additional information provided has been reviewed, and provides a beneficial improvement within the space available to the working arrangement of the site and all highway users. ECC Highway confirmed that considering these factors, from a highway and transportation perspective the impact of the proposal is acceptable to Highway Authority subject to mitigation and conditions. In particular ECC Highways are seeking the following on-site and off-site highways improvements:

On site:

- Carriageway measuring no less than 6.75m in width for the first 22 metres.
- A straight section of carriageway to be provided from the entrance junction for 22 metres
- 1.8-metre-wide footway on the north side of the junction and continued around both kerb radii and to tie-in with the existing footway.
- the existing vegetation on southern corner of the access shall be cut back and retained free of any obstruction at all times.
- No unbound material shall be used in the surface treatment of the vehicular access within 30 metres of the highway boundary.

On and Off-site works:

- Appropriate pedestrian crossing facilities (drop kerbs/ tactile paving) on either side of the access.

6.28 All the above requirements are considered to be reasonable and necessary to make the development acceptable in highway safety terms, and the implementation of these are possible given that the land required to implement appear to be sufficient in size and either fully within the control of the applicant, or within the control of the applicant and on ECC highway owned land, as such it is considered appropriate to seek further details of these requirements as part of a planning condition to be submitted before any works on the loading bay extension can commence, and the full implementation of all the above work before the practical completion of the loading bay extension and the attenuation basin, to ensure the revised site access arrangements are implemented in full before the elements that will enable the controlled on site intensification of the operation becoming operational, and to ensure a safe and suitable access point for all road users.

Off-site:

- A priority junction off B1029 to provide access to the proposed site as shown in principle on planning application, amended proposed site access and junction arrangement, drawing number: SK16.

6.29 The above requirement for a priority junction off the B1029 Frating Road (as the site is approached from the south) is considered to be reasonable and necessary to make the development acceptable in highway safety terms, and the implementation of this element is possible given that the highway land required to implement appear to be sufficient in size and on ECC highway owned land, as such it is considered appropriate to seek further details of this requirements as part of a planning condition to be submitted before any works on the loading bay extension can commence, and the full implementation of the priority junction before the practical completion of the loading bay extension and the attenuation basin, to ensure the revised site access arrangements are implemented in full before the elements that will enable a property controlled on site intensification of the operation becoming operational, and to ensure a safe and suitable access point for all road users.

Further off-site works:

- Waiting restrictions shall be provided on either side of the site access junction and opposite the junction, the extent of the restrictions to be agreed in advance with the Highway Authority in conjunction with the Planning Authority.

6.30 The implementation of waiting restrictions as stipulated above is considered to be necessary, reasonable and directly relevant to the development proposal because without them, parked cars (or other vehicles) in close proximity to the site access and egress point, having regard to the nature of the proposal and the inevitable intensification of the

operation and increase in vehicular movements, will result in obstruction of visibility splays, and as a result, cause highways safety issues in the context of this application and specifically the altered access proposed (required because of the intensification of the use and the current substandard access in operation). It is therefore necessary to impose waiting and parking restrictions on Frating Road either side of the site access junction and on the opposite side of the road prior to the completion of the extended loading bay, the extent of the restrictions to be agreed in advance with the Highway Authority. Such a requirement will have to be secured as part of a section 106 legal agreement as the LPA will legally require a financial contribution for this to realise. In terms of the successful introduction of waiting/parking restrictions, there is no guarantee that the parking restrictions can be successfully implemented because this element is subject to separate processes and public consultation(s). However the successful introduction of this element has been confirmed by the Highways Authority as entirely necessary for the development to be acceptable in highway safety terms, and the scheme (the introduction of waiting restrictions) shall be agreed in writing by relevant Highways authority prior to commencement of any works on the extended loading bay, and the agreed schemes shall then be implemented in full before the completion of the extended loading bay. The applicant has accepted this risk.

Further off-site works:

- Associated signing and lining as indicated on drawing no. SK16.

6.31 The above requirement for associated road signage along the B1029 Frating Road is considered to be reasonable and necessary to make the development acceptable in highway safety terms, and the implementation of this element is possible given that the highway land required to accommodate the signage will be located on ECC highway owned land, as such it is considered appropriate to seek further details of the signage as part of a planning condition to be submitted before any works on the loading bay extension can commence, and the full implementation of the agreed signage before the practical completion of the loading bay extension and the attenuation basin, to ensure the revised site access arrangements and signage are implemented in full, before the elements that will assist to enable the controlled on site intensification of the operation, becoming operational, and to ensure a safe and suitable access point for all road users.

6.32 Other conditions and obligations:

In the interests of highways safety other conditions as set out below are also considered necessary to include:

- A Construction Management Plan condition to include precise details of wheel and road washing facilities and all other measures covering the construction phase of the development;
- An approved workplace travel plan to be actively implemented for a minimum period of 5 years. It shall be accompanied by a one-off monitoring fee of £6,132 (plus the relevant sustainable travel indexation) to be paid before completion of remainder of the works to cover the 5-year period and incorporated within a S106 obligation.
- Before the commencement of any works on the loading bay extension, a Traffic Management Plan (TMP) shall be provided and approved outlining a designated route to and from the premises for all HGV movements to be agreed in advance with the Local Planning Authority in consultation with the Highway Authority and incorporated within a S106 obligation.
- Other highways compliance conditions as set out in section 7.0 below

- 6.33 The above requirements (to be secured in a section 106 legal agreement) are considered to meet the tests set out in Regulation 122(2) of the Community Infrastructure Levy Regulations 2010, and they are consistent with Paragraph 57 of the Framework.
- 6.34 Having regard to the highways implications of the development and subject to the above conditions and obligations, the implementation of which will make an otherwise unacceptable development, acceptable in highway safety terms, the proposal would accord with the requirements of Policies CP1, DI1 and SPL 3, and the Highways and Parking SPDs, and the relevant sections of the NPPF 2021.

Landscape Character and Appearance

- 6.35 The first bullet of relevant Policy SP7 states that new development should respond positively to local character and context to preserve and enhance the quality of existing places and their environs. Policy SPL3 Part B criterion c) states that development must respect or enhance local landscape character, views, skylines, landmarks, existing street patterns, open spaces and other locally important features. Amongst other things, criterion d) of Part B requires that the design and layout of development maintains or enhances important existing site features of landscape value.
- 6.36 Paragraph 7.3.3 of the Section 2 Local Plan states that as a largely rural area, Tendring District's countryside is one of its main assets and maintaining an attractive rural environment is important to the quality of life experienced by both residents and visitors. It can also be an important consideration for the location of some businesses and help to expand the tourist economy and related services.
- 6.37 Policy PPL3 is criteria based, and states that the Council will protect the rural landscape and refuse planning permission for any proposed development which would cause overriding harm to its character or appearance, including to:
- a) *estuaries, rivers and undeveloped coast;*
 - b) *skylines and prominent views including ridge-tops and plateau edges;*
 - c) *traditional buildings and settlement settings;*
 - d) *native hedgerows, trees and woodlands;*
 - e) *protected lanes, other rural lanes, bridleways and footpaths; and*
 - f) *designated and non-designated heritage assets and historic landscapes including registered parks and gardens.*
- 6.38 In addition, the last paragraph of policy PPL3 states new development within the rural landscape should minimise the impact of light pollution on the site and its surroundings, in order to protect rural amenity and biodiversity.
- 6.39 The Framework at Paragraph 174 b) states that planning decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside. Under the Tendring Landscape Character Assessment 2001 (TLCA) the site is located within the 7A 'Bromley Heaths' Landscape Character Area. The TLCA describes the Bromley Heaths as an elevated plateaux that extends from Colchester to Wix in the east, Thorington in the south, and corresponds to the highest part of the district. In terms of change the TLCA, amongst other things, recognises pressure for large scale built development at major road junctions with potential for a very high visual impact.
- 6.40 Against this background, initially the Council's Landscape Officer has commented that the proposed change of use of land and the incorporation of agricultural land into the adjacent operational facility have resulted in the removal of the existing boundary hedgerow and trees, and have the potential to adversely affect the character and appearance of the area. The Council's Landscape Officer explained that the extent of the site, prior to this

application, was separated from adjacent agricultural land by an established hedgerow comprising several specimen Oaks. The hedgerow and the trees [now removed] comprised of primarily Hawthorn (*Crataegus monogyna*) and Blackthorn (*Prunus spinosa*) with specimen Oaks (*Quercus robur*) at irregular intervals. The hedgerow was noted as being in reasonable condition, although the Oaks showed weak extension growth and die-back within their crowns, possibly as a result of previous concreting and hard surfacing within the existing Crossways Centre.

- 6.41 Notably, the Council's Landscape Officer further comments that as the hedgerow is on the boundary of land being used for commercial purposes it does not fall within the scope of The Hedgerow Regulations 1997, and does not fall within the scope of any other legislation under which it could be afforded formal legal protection. It was also confirmed by the Landscape Officer that trees which have been removed along the existing boundary were considered to be of low amenity value, would not have met the criteria for legal protection, and wider landscape character would not be significantly altered. The Council's Landscape Officers view is that in the long term the proposed soft landscaping would replicate the previous level of screening. In 2021 and before this application was first reported to the Planning Committee in November 2021, advice was given by LPA officers that further landscape information would be required.
- 6.42 In response to these comments and officer concern that the proposal has the potential to harm landscape character and the character and appearance of the area, the applicant submitted a Landscape and Visual Technical Note (LVTN), and plans detailing soft landscaping proposals relating to replacement trees and a hedgerow along various boundaries of the site. Further detailed planting proposals including details of landscaped bunds along the southern, western and north-eastern boundaries of the site were submitted in 2022. In its own right, in isolation, the landscaping scheme was previously found to be both simple and comprehensive, and over the longer term would be sufficient to secure a satisfactory level of screening which would result in a net increase in the length of the hedge and the number of specimen Oaks – this officer position remains unchanged and in the event that planning permission is granted, a landscaping condition requiring the timely implementation of the planting proposals in full (as shown on the detailed planting proposals plan) during the next planting season (running between 15th Oct – 31st of March)
- 6.43 The Council's Landscape Officer also provided an assessment of the scope and efficacy of the LVTN, to quantify the impact of the development on the local landscape character. It was acknowledged that Public Footpath GB166-14 runs south from Harwich Road, Gt Bromley to Morehams Farm, and then becomes a Permissive Path southwards towards the A133. The application site can be viewed from both these routes. The LVTN has been completed in accordance with national advice set out in 'Guidance for Landscape and Visual Impact Assessment third edition (published by the Landscape Institute and the Institute of Environmental Management and Assessment 2013), and 'An Approach to Landscape Character Assessment' (published by Natural England, 2014).
- 6.44 The LVTN recognises in Section 5.1.2 that harm to the landscape character will result from the change of use of land from agriculture to commercial use, but that the scale of the change is 'minor' and that it will have only a limited impact on the plateau landscape character. The conclusion section of the LVTN states that 'In visual terms the extended development will only be visible from a very limited number of locations' and that 'in any event these locations already experience a view of built development and that any changes will be seen in that context'
- 6.45 In terms of its efficacy, the LVTN accurately describes the existing baseline qualities of local landscape character, in accordance with the published National, County and District level Landscape Character Assessments. The LVTN provides a realistic reflection of the degree to which the development proposal will affect the landscape character. Concluding on the

effect of the proposal on landscape character and the level of screening that would be achieved by the proposed landscaping, the Council's Landscape Officer concludes that neither significant change nor harm would result.

- 6.46 Nevertheless, together with the long rear gardens of dwellings to the north and tree lined field boundaries, there is a very regular linear edge to this part of the village. This strong spatial character is apparent in views from the permissive path to the south/southwest and the public right of way to the west/northwest. In these views, the edge of the well-established linear edge of the village is clearly defined by existing planted boundaries. The expansion of the site projects abruptly to the west beyond the established settlement fringe, and appears as a somewhat arbitrary extension of the village. HGVs parked on the extended site is currently highly visible from the permissive path to the south/southwest, the public right of way to the west/northwest as well as from Main Road (the A133) much further to the south, especially during winter months when the hedgerow on the north side of the A133 is devoid of any leaves to provide screening. As a result, the expansion of the site in a western direction appears as an incongruous projection into the countryside setting of the village.
- 6.47 It remains officer's position that to some extent, the proposed landscaping would in time provide the same visual screening as was previously afforded. However, in the short, medium and indeed the longer term the development would be conspicuous in terms of its siting and layout, and even effective landscaped screening would not overcome the awkward and incongruous appearance of the development. Notwithstanding the lack of any identified harm to wider landscape character, for the above reasons, officers consider that the proposal would be harmful to the localised character and appearance of the area, and significant weight should be given to this harm. As such, the proposal would result in moderate conflict with Policy SP7, and Policy PPL3 Part A (b). It would also conflict with Paragraphs 174 and 185 (c) of the Framework.

Effect on the Living Conditions of Neighbours

- 6.48 The final bullet of Policy SP7 requires that all new development protects the amenity of existing and future residents and users with regard to noise, vibration, smell, loss of light, overbearing and overlooking.
- 6.49 Policy SPL3, Part B criterion e), requires that buildings and structures are designed and orientated to ensure adequate daylight, outlook and privacy for future and existing residents. Part B, criterion f and), necessitates provision is made for adequate private amenity space, waste storage and recycling facilities, vehicle and cycle parking, and that development reduces flood risk and integrates sustainable drainage within the development, creating amenity and enhancing biodiversity. Part C, criterion a), requires that development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties.
- 6.50 Amongst other things, Framework Paragraph 119 states that planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions.
- 6.51 Paragraph 174 provide that planning decisions should contribute to and enhance the natural and local environment by preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality.

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.

- 6.54 Previously and as per the Planning Committee report dated December 2021, the officer's position was that the proposal is likely to result in an intensification of the use of the site, and that access to Crossways is sandwiched between residential properties, this continues to be the case. The dwelling to the north is also immediately adjacent to the access, and at a slightly lower level, again this position remains. It is still officer's position that increased HGV movements would have an unacceptable adverse effect on the amenity of the occupants, having regard to noise and disturbance. It is also highlighted that HGV headlights would shine into the main habitable rooms at the front of this dwelling and cause disturbance at night, and during the late afternoon and early morning in autumn and winter months. In mitigation the applicant is proposing a 3.0m high noise reduction barrier along the northern and southern boundaries of the accessway into Crossways and up and including the a point where the site tapers out, however the precise extent of the noise reduction barrier continues to be unclear. It is agreed that such noise barriers have the potential to mitigate against this impact but could also result in an overbearing effect on outlook for the neighbours to the north and south – again it is unclear how such noise barriers will impact upon outlook for these neighbours, because the precise extent of the required noise barriers is unclear. More information on this is therefore required to ensure that such barriers strike an appropriate balance between functionality and not having an overbearing effect on outlook, or indeed a harmful impact on the key frontage part of the site. In the event that planning permission is granted, a condition is considered reasonable and necessary seeking precises details of the noise reduction barriers as well as prompt implementation of these before the completion of the loading bay extension.
- 6.55 The north-western edge of the extension of the service yard wraps around the foot of the garden of a dwelling to the north. While this dwelling has an exceptionally long garden, and there is no right to a view across third party land, the appearance of parked HGVs and boundary fencing at the foot of the garden to this property creates an oppressive outlook. Although the property has ample outdoor amenity space adjacent to the dwelling itself, following numerous site visits by planning officers in the summer and winter months, it is apparent that the end of this garden has been well used in the evenings as it faces west. The proposal, without any mitigation, would also result in a loss of privacy for the occupants. In mitigation, a landscaped bund is proposed along the north-western yard area (and elsewhere along the new perimeter of the current unauthorised extended site). This landscaping would, in time, soften this impact however as stated, the landscaping will take time to grow and be effective as a visual screen. The harm to the western section of the rear garden would be limited in view of the existing high boundary treatment to the south of the garden, and while a significant amount of useable outdoor amenity space would remain available to the occupants that would not be impacted upon, this harm counts against the proposal.
- 6.56 In conclusion and for the reasons stipulated, the proposal would have an unacceptable harmful effect on the living conditions of the occupants of neighbouring dwellings. Significant weight should be attached to this harm, which renders the proposal contrary to Policy SP7 and Policy SPL3. The proposal would also conflict with Paragraph 130 (f) of the Framework.

Effect on the Living Conditions of Neighbours – external lighting

- 6.57 Following the December 2021 deferral an Outdoor Lighting Report (dated September 2022) was submitted. This report indicates that the existing lighting on site consists of 16 no. LED luminaires mounted on a combination of buildings and lighting columns at nominal heights of between 4 & 6m around the site. The proposal, insofar as external lighting is concerned,

is for slightly rearranged external lighting to be strategically placed in key areas on site taking into account the expansion (of the site), and the need to focus external lighting away from sensitive neighbours and towards high use areas such as loading bays & doorways. Figure 4 in the submitted Outdoor Lighting Report illustrates the proposed external lighting scheme. The Council's Environmental Protection team have been consulted and advised that they are satisfied with the report providing all recommendations contained within the report are carried out before the completion of the extended loading bay area, which will be a condition should planning permission be granted. The proposal, insofar as the proposed additional external lighting is concerned, is considered to be acceptable and in accordance with relevant policies subject to the imposition of said condition.

Loss of Agricultural Land

- 6.58 Former saved Policy EN4 of 2007 Local Plan sought to prevent the unavoidable loss of agricultural land, and loss of the best and most versatile agricultural land unless special justification could be shown. This policy was superseded with the adoption of the Section 2 Local Plan and there is no direct replacement policy.
- 6.59 Nevertheless, Paragraph 7.3.1 of the Section 2 Local Plan states that in order to promote sustainable development, in considering where to select sites for new development in this Local Plan, the Council has taken particular care to assess the value of the landscape and, where practical, allocate sites with the lowest sensitivity, thereby helping to protect valued landscapes and the best and most versatile agricultural land.
- 6.60 The Glossary to the Framework defines best and most versatile agricultural land as land in grades 1, 2 and 3a of the Agricultural Land Classification (ALC). Paragraph 174 a) of the Framework states that planning policies and decisions should contribute to, and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland.
- 6.61 Paragraph: 001 Reference ID: 8-001-20190721 of the NPPG states, amongst other things, that planning decisions should take account of the economic and other benefits of the best and most versatile agricultural land. Paragraph: 002 Reference ID: 8-002-20190721 states that soil is an essential natural capital asset that provides important ecosystem services – for instance, as a growing medium for food, timber and other crops, as a store for carbon and water, as a reservoir of biodiversity and as a buffer against pollution.
- 6.62 According to the Agricultural Land Classification (ALC) Strategic Map, the site is located on land that is predicted to be grade 1 'Excellent', which is land with no or very minor limitations, where yields are high and less variable than on land of lower quality. However, the ALC Strategic Map is a large scale prediction, and it is not suitable for the definitive classification of any local area or site. Post 1998 ALC Magic Map data is inconclusive, and no detailed site survey report has been submitted. Nevertheless, the proposal would lead to a loss of agricultural land with a site area stated as being just under a hectare, and third party objection is made on this basis.
- 6.63 In the absence of a field survey, the Council cannot be certain there would not be a loss of BMV land and/or conflict with the development plan in this regard. The proposal, if approved, will clearly result in the loss of agricultural land and there is therefore conflict with Paragraphs 174 a) and b) of the Framework which weighs against the proposal. This loss will be weighed against other benefits (if any) of the scheme as part of the ultimate planning balance.

- 6.64 In the absence of a field survey the Council cannot be 100% certain that the site is classed as Grade 2 agricultural land. The Applicant explained in supporting statements that the site is 'uncultivated' agricultural land. However officer site visits confirmed there is currently a summer crop growing on the land as such this characteristic put forward by the Applicant has no bearing on the assessment. The proposal, if approved, will clearly result in the loss of agricultural land and there is therefore conflict with Paragraphs 174 a) and b) of the Framework which weighs against the proposal. This loss will be weighed against other benefits (if any) of the scheme as part of the ultimate planning balance.

The Fall-back Position

- 6.65 The site has a complex planning history, as set out above. The applicant asserts earlier planning permissions and lawful use certificates granted create a 'fall-back' position; use of the existing site and buildings for a B8 storage and distribution use is lawful on an unrestricted basis. However, upon reviewing the history of the site in conjunction with Legal Services, officers do not draw the same conclusions; some parts of the existing warehouse building are not covered by a lawful use certificate for B8 use, and conditions of some earlier permissions may continue to apply.
- 6.66 While some weight could potentially be given to the site's history and the certificate of lawful use issued by the Council's identified fall-back position, this is substantially reduced by limitations and conditions. In any case, the proposal is for a significantly greater amount of development, both within and outside the existing buildings, and, for the reasons set out below, it remains officers position that the fall-back position would be less harmful. The fall-back position should therefore be afforded reduced weight but there is nevertheless a fall-back position that should be taken into account as part of the consideration of this application.

Renewable and Energy Conservation Measures

- 6.67 Policies PPL10 and SPL3, together, require consideration be given to renewable energy generation and conservation measures. Proposals for new development of any type should consider the potential for a range of renewable energy generation solutions, appropriate to the building(s), site and its location, and be designed to facilitate the retro-fitting of renewable energy installations.
- 6.68 Paragraph 112 of the Framework states that applications for development should be designed to enable charging of plug-in and other ultra-low emission vehicles (ULEV) in safe, accessible and convenient locations. However, recent UK Government announcements that ULEV charging points will become mandatory for new development have yet to be published.
- 6.69 The proposal includes a significant amount of new roof space (in addition to that already 'in situ') which have the potential to incorporate solar photovoltaic installation. Car parking areas have the potential for the provision of ULEV charging points for both electric cars and electric HGVs. In the event that planning permission is granted it is considered reasonable and necessary to include a planning condition requiring a scheme, together with a timetable to be submitted for the consideration and installation of these measures as such a condition is capable of addressing these policy requirements.

Flood Risk and Drainage

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

Infrastructure to help mitigate potential flood risk and include such Green Infrastructure, where appropriate.

- 6.71 Policy PPL5 requires that all new development must make adequate provision for drainage and sewage treatment and should include sustainable drainage systems (SuDS). Applicants should explain and justify the reasons for not using SuDS if not included in their proposals. Furthermore, proposals for development must demonstrate that adequate provision exists for sewage disposal.
- 6.72 Policy SPL3, Part B criterion g), requires that development reduces flood risk and integrates sustainable drainage within development, creating amenity and enhancing biodiversity.
- 6.73 Paragraph 167 of the Framework provides that when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere.
- 6.74 There have been a number of recent surface water flooding events in the locality and understandably a number of local residents and Ward Councillor McWilliams are concerned about the effect of the increase in hard surfacing, and potential for surface water run-off to increase the risk of flooding elsewhere. The Parish Council have been liaising with a number of agencies to seek solutions to local drainage problems.
- 6.75 The site area is below 1 hectare in size and therefore the Environment Agency are not a statutory consultee. However, they were consulted but have not commented in this instance. Nevertheless, in view of the well-founded concerns in relation to the risk of flooding and the above policy requirements, officers have worked with the applicant to secure a SuDS solution. Following the introduction of an attenuation basin with micro calculations and multiple revised drainage engineering details, Essex County Council as Lead Local Flood Authority (LLFA) have withdrawn earlier objections. Subject to conditions to require implementation of the submitted measures, the LLFA are satisfied that the development would not increase the risk of flooding.

Protected Species and Biodiversity

- 6.76 Local Plan Policy PPL4 requires that sites designated for their international, European and national importance to nature conservation will be protected from development likely to have an adverse effect on their integrity. The policy states that as a minimum there should be no significant impacts upon any protected species. The preamble to Policy PPL4 states that where a development might harm biodiversity, an ecological appraisal will be required to be undertaken, and the potential for harm should be considered and addressed in any application.
- 6.77 Policy SPL3, Part A criterion d), requires that the design and layout of development maintains or enhances site features, including ecological value.
- 6.78 Paragraph 174 d) 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.
- 6.79 Paragraph 180 states that when determining applications, local planning authorities should apply the following principles:
 - a) *if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;*

- b) development on land within or outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted. The only exception is where the benefits of the development in the location proposed clearly outweigh both its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of Sites of Special Scientific Interest;*
- c) development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons⁶³ and a suitable compensation strategy exists; and*
- d) development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate.*

- 6.80 The submitted Preliminary Ecological Appraisal (PEA) finds that the proposal falls outside of identified protected sites (statutory and non-statutory) and any SSSI Impact Risk Zones, and would not be expected to have any effect upon protected sites. The hedgerow removed was found to be species poor, but its removal would result in a low level loss of habitat for tree nesting birds, and a low level loss of potential foraging features for bats. Trees to be felled were found to have a low bat roost potential, and no further survey work was recommended. However, as precautionary measures, mitigation in the form of soft landscaping is recommended to avoid any such impacts, together with a 'soft-fell' approach to tree felling and the installation of bird and bat roost features.
- 6.81 As the Council's Landscape Officer has commented, the hedgerow that has been removed would not have been protected under the Hedgerow Regulations, and specimen Oaks that have been removed showed weak extension growth and die-back within their crowns, and would not therefore have warranted protection. The application is supported by a detailed planting scheme that would result in a net increase in the length of hedgerow and the number of specimen oaks. This would deliver net gains in biodiversity and address the findings of the PEA.
- 6.82 Notwithstanding the concerns of objectors, there is no evidence that protected species have been harmed. Subject to the use of conditions to require the implementation of the proposed plantings scheme, the mitigation measures set out in the PEA would be sufficient to ensure no loss of habitat would arise. The proposal would not therefore conflict with the development plan or the Framework in these regards.

Other Matters

- 6.83 An objector refers to a dismissed appeal following refusal of application reference 19/01872/FUL, which was for 5 dwellings. However, the proposal was for a different form of development in a different location, and the merits and site circumstances were not the same. Each case must be considered on its own merits, and this decision should not therefore attract weight.
- 6.84 Some objectors refer to concern over the effect of the development on local air quality. However, while traffic movements are likely to increase, there is little evidence to suggest that air quality would be unduly impacted, and the proposal does not lie within an air quality management area. Although traffic volumes would be likely to increase, it is not anticipated that this would be to the level where an Air Quality Assessment would be required as

confirmed by the Council's Environmental Protection team (see their comments in the 'Consultations' section above).

- 6.85 An objector raised concerns in respect of possible land contamination resulting from a blue pipe appearing above ground on or close to the boundary fence between a property to the north of the site which shares a boundary with the extended loading area of the site in question. The property in question has a rear garden of significant depth projecting up to the trailer parking/yard area in the far north western corner of the extended commercial site. TDC Environmental Protection (EP) visited the site to inspect the pipe, and it was noted to contain some liquid, which appeared to be clear water at the outlet. The pipe has since been capped by the operators of the commercial site. EP colleagues explained that the pipe was blue (which would "normally" indicate water), and there was no apparent odour or grease like substance on or around the outlet, ground or the pipe itself. EP colleagues explained that they did not witness any discharging from the pipe during their visit, only some pooling of liquid droplets on the top of the outlet. EP also noted what appeared to be an old and decommissioned oil tank on the neighbouring land, and some oily residue on the surface of a dead tree branch, of which was leaning towards the top of what appears to be a plant unit, adjacent to the oil tank. EP colleagues discussed the objector's employment of a geo-environmental specialist, of whom was coming to take some soil samples of the area surrounding the pipe. EP colleagues explained to the objector that it would expect some land contamination in a context such as this given proximity to industrial uses, and in addition, proximity to historical agricultural land. EP colleagues explained that any report's findings would need to confirm the likelihood that any contamination has originated from the pipe in question, in order to confirm whether there is an issue that requires remediation – in line with contaminated land legislation. EP colleagues also stressed that they would be interested to see the results of the soil analysis when the report has been completed, and invited the objector to send a copy should this become available. The LPA is unaware of any soil analysis result being provided to EP, or if it has been, the LPA has not seen any copies of this. Regardless of the outcome of the soil analysis, this particular issue surrounding the implementation, location and discharging from the pipe, would be a civil dispute of which the LPA has no jurisdiction. There are nuances to most investigations and location, impact and significance of such are just some of the factors the LPA, in consultation with EP colleagues, can consider. Given the location of the pipe, and the no obvious signs of significant contamination or risk of harm, given how far away it is located from the third party objector's home, and that the land is not being disturbed at this time; there is little more the LPA or EP can assist with in respect of this matter. Should the results of the soil report indicate there is potential for significant harm and evidence is provided to establish a current and persistent source, EP colleagues may look to take action however such an eventuality will take place outside of the planning system and is not considered to have a bearing on this planning decision. In most instances of land contamination, EH colleagues would look to facilitate and take action where required to under the Environmental Health legislation, and provided the land is legally considered as "contaminated land".
- 6.86 In terms of the latter part of the first reason for deferral (from the Dec 2021 planning committee), Members requested the applicant look into the Frating crossroads & any potential improvements to that junction. It is considered that this existing junction serves a very broad variety of traffic, mostly unrelated to this development proposal, and any potential improvements to that junction is considered to fall outside the scope of being reasonable and necessary to make this development proposal acceptable in highways safety terms.
- 6.87 In terms of the 4th reason for deferral (to explore a temporary planning permission for up to 2 or 3 years with the aim of helping to support the applicant in finding a more appropriate site within the District) – the Applicant's 'Alternative Sites Assessment for PalletPlus (ASAPP) demonstrates that the allocated sites in the administrative area of TDC are either

not suitable or available (or both) for the proposed development. To consider a temporary consent in this context would therefore not be justified in this instance because there is a very high likelihood that a temporary consent will not remain temporary due to the significant uncertainty (and resultant unknown timescales) in respect of relocating to a current unknown site, and due to the lack of a suitable or available (or both) site for the proposed development, as demonstrated by the Applicant.

7 Planning Balance and Conclusion

- 7.1 The proposal is for the extension and expansion of an existing storage and distribution onto adjacent agricultural land (retrospective), together with associated loading bay extension and other works as outlined elsewhere in this report. The extended part of the site (which is, in the main, the retrospective element of the proposal) is an unallocated site however it has been adequately demonstrated that the proposal will support economic growth in the district.
- 7.2 Clear policy conflict has been identified in terms of character and appearance harm, as well as the impact of the extended site on residential amenity by way of having a harmful effect on the living conditions of the occupants of neighbouring dwellings, having regard to noise and disturbance, privacy and outlook, especially those residents immediately to the north and south of the access into and out of the site, as well as residential properties further to the north of the site with rear/side amenity areas adjoining the site. These harmful elements attracts significant weight in the overall planning balance. The proposal will also result in the loss of agricultural land and there is therefore conflict with Paragraph 174 a) of the Framework, again this weighs against the proposal.
- 7.3 Against this harm the benefits to the local and wider economy, the benefits to the storage and distribution sector in particular, and direct and indirect job retention/creation would be substantial, and very significant weight is given to these benefits.
- 7.4 All other third party representations, including those from technical consultees and members of the public have been carefully considered, and where necessary, considered as part of the LPA's assessment of this scheme. It is considered that the revised proposals, subject to the imposition of conditions other obligations, have addressed all other technical and fundamental policy matters.
- 7.5 Ultimately and on balance, the weight given to the substantial benefits as outlined above is considered to very marginally outweigh the significant weight given to the character and appearance harm, as well as the identified harm to residential amenity. In reaching this balanced recommendation due regard is given to the requirement to implement the holistic landscape planting scheme during the first planting season post decision (should planning permission be granted) and the effective screening mitigation that the additional planting and landscaped bund will offer over the longer term.
- 7.6 For all these reasons, it is recommended that planning permission be granted, subject to the completed S106 legal agreement and the conditions recommended below.

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, as set out in the table below:

CATEGORY	TERMS
Highways Improvements and	<ul style="list-style-type: none"> To impose waiting and parking restrictions on Frating Road either side of the site access junction and on the opposite side

mitigation	<p>of the road prior to the first use of the extended loading bay, the extent of the restrictions to be agreed in advance with the LPA with the Highway's Authority. Such a requirement will have to be secured as part of a section 106 legal agreement as the relevant highways authority, via the LPA, will legally require a financial contribution for this to realise. In terms of the successful introduction of waiting/parking restrictions, there is no guarantee that the parking restrictions can be successfully implemented because this element is subject to separate processes and public consultation(s). However the successful introduction of this element has been confirmed by the Highways Authority as entirely necessary for the development to be acceptable in highway safety terms, and the scheme (the introduction of waiting restrictions) shall be agreed in writing by relevant Highways authority prior to commencement of any works on the extended loading bay, and the agreed schemes shall then be implemented in full before the completion of the extended loading bay. The applicant has accepted this risk.</p> <ul style="list-style-type: none"> • An approved workplace travel plan to be actively implemented for a minimum period of 5 years. It shall be accompanied by a one-off monitoring fee of £6,132 (plus the relevant sustainable travel indexation) to be paid before completion of remainder of the works to cover the 5-year period and incorporated within a S106 obligation. • Before the commencement of any works on the loading bay extension, a Traffic Management Plan (TMP) shall be provided and approved outlining a designated route to and from the premises for all HGV movements to be agreed in advance with the Local Planning Authority in consultation with the Highway Authority and incorporated within a S106 obligation.
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8.2 Conditions and Reasons

Time Limit

The works yet to be carried out to which this consent relate must be begun not later than the expiration of three years beginning with the date of this consent.

Reason: To comply with the requirements of Section 18(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004

Notes for condition:

The development needs to commence within the timeframe provided. Failure to comply with this condition will result in the consent becoming lapsed and unable to be carried out. If commencement takes place after the time lapses this may result in unlawful works at risk of both Enforcement Action and Criminal proceedings. You should only commence works when all other conditions requiring agreement prior to commencement have been complied with.

Approved Plans & 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 (except for Listed Building Consents). 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.

- Drawing No: 06 Rev A – Proposed Site Plan
- Drawing No: 07 Rev A – Proposed Loading Bay
- Drawing No: 1433/ENG/001 Rev E – Engineering Layout
- Drawing No: SK13 Rev B – Vehicle Tracking
- Drawing No: SK14 Rev C – Site Access Junction Tracking
- Drawing No: SK16 – New proposed site access junction arrangements
- Drawing No: 2487-LLA-ZZ-00-DR-L-0201 Rev P03 – Detailed Planting Proposals
- ‘Proposed Site Plan’ included on page 5 of the Operational Management Plan dated April 2022,
- Operational Management Plan dated April 2022
- Outdoor Lighting Report dated 16 September 2022
- Drainage Strategy plus appendixes dated September 2021 and micro drainage calculation dated
- May 2021 by ASD Consultants
- Preliminary Ecological Appraisal dated 10 September 2020

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

Notes for the condition:

The primary role of this condition is to confirm the approved plans and documents that form the planning decision. Any document or plan not listed in this condition is not approved, unless otherwise separately referenced in other conditions that also form this decision. The second role of this condition is to allow the potential process of Non Material Amendment if found necessary and such future applications shall be considered on their merits. Lastly, this condition also allows for a phasing plan to be submitted for consideration as a discharge of condition application should phasing be needed by the developer/s if not otherwise already approved as part of this permission. A phasing plan submission via this condition is optional and not a requirement.

Please note in the latest revision of the National Planning Policy Framework (NPPF) it provides that Local Planning Authorities should seek to ensure that the quality of approved development is not materially diminished between permission and completion, as a result of changes being made to the permitted scheme (for example through changes to approved details such as the materials used). Accordingly, any future amendment of any kind will be considered in line with this paragraph, alongside the Development Plan and all other material considerations.

Any indication found on the approved plans and documents to describe the plans as approximate and/or not to be scaled and/or measurements to be checked on site or similar, will not be considered applicable and the scale and measurements shown shall be the approved details and used as necessary for compliance purposes and/or enforcement action.

Frontage Building etc to be demolished

Prior to commencement of any work on the loading bay extension hereby approved, the frontage

buildings and part of the office building all indicated in shaded red on drawing number 06 (Proposed Site Plan) shall be first demolished in their entirety, and the 4 car parking spaces along the southern boundary, also indicated in shared red on drawing number 06 (Proposed Site Plan) shall be removed. All building rubble and material associated with the demolished buildings and areas shall be removed from the site prior to commencement of any work on the loading bay extension hereby approved.

Reason: The existing vehicular access and egress point is unsuitable and unsafe, the demolition of the frontage building is necessary to enable a safe and suitable access into and out of the extended site, and the removal of the frontage building is necessary to discharge other planning conditions relating to access and highways alterations and mitigation as set out below.

Highways Conditions

Condition:

Prior to commencement of any demolition works or works on the loading bay extension hereby approved, including any ground works, a Construction Management Plan shall be submitted to, and approved in writing by, the local planning authority. The approved plan shall be adhered to throughout the construction period and shall provide for:

- i. construction vehicle routing,
- ii. the parking of vehicles of site operatives and visitors,
- iii. loading and unloading of plant and materials,
- iv. storage of plant and materials used in constructing the development,
- v. wheel and underbody washing facilities.

Reason: A pre-commencement condition is necessary to ensure further construction phase(s) are properly controlled, that on-street parking of these vehicles in the adjoining streets does not occur and to ensure that loose materials and spoil are not brought out onto the highway in the interests of highway safety.

Condition:

Prior to completion of the loading bay extension hereby approved, the road junction / access at its centre line shall be provided with a clear to ground visibility splay with dimensions of 2.4 metres by 43 metres in both directions, as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided 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

Condition:

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

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

Condition:

Prior to commencement of work on the loading bay extension hereby approved, full design details relating to the required improvements to the main and only vehicular access and exit point off/onto Frating Road and immediate surrounds, shall have first been submitted to and approved by the local planning authority.

Scheme details shall include drawings and documents showing:

- A carriageway measuring no less than 6.75m in width for the first 22 metres.
- A straight section of carriageway to be provided from the entrance junction for 22 metres
- A 1.8-metre-wide footway on the north side of the junction and continued around the kerb radii and to tie-in with the existing footway.
- pedestrian crossing facilities (to incorporate dropped kerbs and tactile paving) on either side of the access.
- A priority junction off the B1029 to provide access to the proposed site as shown in principle on planning application, amended proposed site access and junction arrangement, drawing number: SK16.
- Full details of associated road signage and lining as indicated in principle on drawing SK16.

The approved scheme shall thereafter be implemented, completed in full and made fully operational in accordance with the approved design details before the first use of the loading bay extension hereby approved.

Reason: The design details is required prior to commencement of any works on the loading bay extension so as to ensure a safe and suitable access and egress can be achieved and delivered in the interest of highways safety.

Condition:

No unbound material shall be used in the surface treatment of the vehicular access within 30 metres of the highway boundary of the B1029 (Frating Road).

Reason: Unbound road surface material create hazards and the condition is required to ensure a safe and suitable highways environment for all road users.

Condition:

The vehicle parking area including any parking spaces for the mobility impaired, shall be provided, hard surfaced, sealed and marked out in parking bays in accordance with the approved plans prior to the completion of the loading bay extension hereby approved. 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.

Compliance with details – Landscaping

All changes in ground levels, soft/hard landscaping shown on the approved landscaping drawing number Drawing No: 2487-LLA-ZZ-00-DR-L-0201 Rev P03 – ‘Detailed Planting Proposals’ shall be carried out in full during the first planting and seeding season (October - March inclusive) following the date of the issuing of this planning permission, or in such other phased arrangement as may be approved, in writing, by the Local Planning Authority up to the first use of the loading bay extension hereby approved. 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.

Environmental Protection Conditions

Acoustic fencing details

Prior to commencement of work on the loading bay extension hereby approved, precise details of the provision, siting, design, height and materials of the acoustic fences to be located along the northern and southern boundaries of the site access area, and elsewhere as may be required, shall be submitted to and approved, in writing, by the Local Planning Authority. The acoustic fences as may be approved shall be erected prior to the first use of the loading bay extension and thereafter be retained in the approved form.

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

Lighting to be installed in accordance with plan

All new outdoor lighting shall be installed strictly in accordance with the details shown on Figure 4, and all recommendations and specifications outlined in paragraph 2.6, Section 3 and Section 4 in the Outdoor Lighting Report. All outdoor lighting shall be carried out and retained as per the details shown in Figure 4, and all recommendations and specifications outlined in paragraph 2.6, Section 3 and Section 4 in the Outdoor Lighting Report. There shall be no other means of external lighting installed and/or operated on/at the site except that approved.

Reason: In the interests of amenity to reduce the impact of night time illumination on the character of the area and in the interests of biodiversity, and to mitigate against lighting impact of the cumulative operation on the site in its entirety.

Access restriction (hours)

There shall be no HGV access or vehicles used for operational purposes to the site between the hours of 9:00pm – 4:00am the following day.

Reason: To ensure the access times as set out in the Operational Management Plan are adhered to in light of the expansion of the site, and to enable the Local Planning Authority to retain control over the development in the interests of residential amenity within close proximity.

Night time restrictions (hours)

Night time loading and unloading and associated operations between the hours of 9:00pm – 4am the following day shall be restricted to the areas shaded green and yellow on the 'Proposed Site Plan' included on page 5 of the Operational Management Plan dated April 2022, and the areas shaded green and yellow shall be strictly used for the loading and unloading of goods inside the loading bay and warehouse areas only between the hours of 9:00pm – 4:00am the following day

Reason: To ensure the night time areas of operation as set out in the Operational Management Plan are adhered to in light of the expansion of the site, and to enable the Local Planning Authority to retain control over the development in the interests of residential amenity within close proximity of the site.

Restriction – overall number of commercial vehicles on site/in connection with commercial Business

The overall number of combustible engine commercial vehicles (i.e. not including trailers) operating on and from the site at any one time shall not exceed 47 in total (15 x articulated 44t tractor units, 5

x 26t rigid vehicles, 13 x 18t rigid vehicles, 5 x 12t rigid vehicles, 1 x 7.5t rigid vehicle and 8 x 3.5t vans).

Reason: To ensure the operational requirements as set out in the Operational Management Plan are adhered to in light of the expansion of the site, in the interest of air quality and to enable the Local Planning Authority to retain control over the development in the interests of residential amenity within close proximity of the site.

Foul and Surface water drainage conditions

Condition:

Full details of foul water drainage shall have been submitted to and approved, in writing, by the Local Planning Authority prior to commencement of works on the loading bay extension and the attenuation basin and drainage ditch along the southern boundary of the site. No part of the loading bay extension hereby approved shall be brought into use until the agreed method of foul water drainage has been fully installed and is functionally available for use of the site in its entirety. The foul water drainage scheme shall thereafter be maintained as approved.

Reason: To safeguard the ground water environment from harm.

Notes for this condition:

This condition shall engage and requires details to be agreed prior to the commencement of works to the building/s approved. 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. This condition as detailed will apply to the development at all times once agreement is obtained unless varied or removed legally.

Condition:

The hereby permitted development shall be carried out in accordance with all proposals and recommendations (measures) contained within the approved Drainage Strategy and Appendixes dated September 2021, as well as the Design Calculations as set out in ASD Consultants document dated 19/05/2021 and shall and associated micro drainage calculations as set out in the Anglia Survey & Design documents dated 17/05/2021.

The measures shall be carried out in their entirety in accordance with any timetable approved as apart of the above approved documents, or if not available shall be carried out in their entirety prior to the first use of the loading bay extension hereby approved. All measures shall be maintained thereafter as approved.

Reason: To safeguard the ground water environment and minimise the risk of flooding by ensuring satisfactory storage and disposal of surface water from the site.

Renewables

No works on the loading bay extension shall commence until a scheme for the provision and implementation of 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 carbon level
- Details of electric car and lorry charging points
- Agreement of scheme for waste reduction

The scheme shall be fully implemented prior to the first use of the loading bay extension hereby approved 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.

NOTE/S FOR CONDITION:

Slab level is normally refers to the concrete slab supported on foundations or directly on the subsoil and is used to construct the ground floor of the development. In any other case, please assume slab level to be the point before any walls and/or development can be visually above ground level or seek confirmation from the Local Planning Authority for your development.

The greatest threat to our planet is the belief that someone else will save it and also forgetting that small acts, when multiplied by millions of people, can transform the world. Developments will provide buildings/homes to thousands/millions of people over their lifetime. A well designed sustainable development in the beginning will restrict the contribution each person makes to that threat and help enable them to transform the world.

Informatives

INFORMATIVE - 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 seeking additional information from the Applicant 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.

INFORMATIVE - You are strongly advised that failure to comply with any of the pre-commencement or any of the operational and / or compliance conditions as outlined above may result in the Council taking Enforcement Action and may invalidate this planning permission and in turn result in an unauthorised development.

INFORMATIVE - Notification of intention to connect to the public sewer under S106 of the Water Industry Act Approval and consent will be required by Anglian Water, under the Water Industry Act 1991. Contact Development Services Team 0345 606 6087.

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INFORMATIVE - Protection of existing assets - A public sewer is shown on record plans within the land identified for the proposed development. It appears that development proposals will affect existing public sewers. It is recommended that the applicant contacts Anglian Water Development Services Team for further advice on this matter. Building over existing public sewers will not be permitted (without agreement) from Anglian Water.

INFORMATIVE - Building near to a public sewer - No building will be permitted within the statutory easement width of 3 metres from the pipeline without agreement from Anglian Water. Please contact Development Services Team on 0345 606 6087.

INFORMATIVE: The developer should note that the site drainage details submitted have not been approved for the purposes of adoption. If the developer wishes to have the sewers included in a sewer adoption agreement with Anglian Water (under Sections 104 of the Water Industry Act

1991), they should contact our Development Services Team on 0345 606 6087 at the earliest opportunity. Sewers intended for adoption should be designed and constructed in accordance with Sewers for Adoption guide for developers, as supplemented by Anglian Water's requirements.

9

Additional Considerations

Public Sector Equality Duty (PSED)

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

Human Rights

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

Finance Implications

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

10 **Background Papers**

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

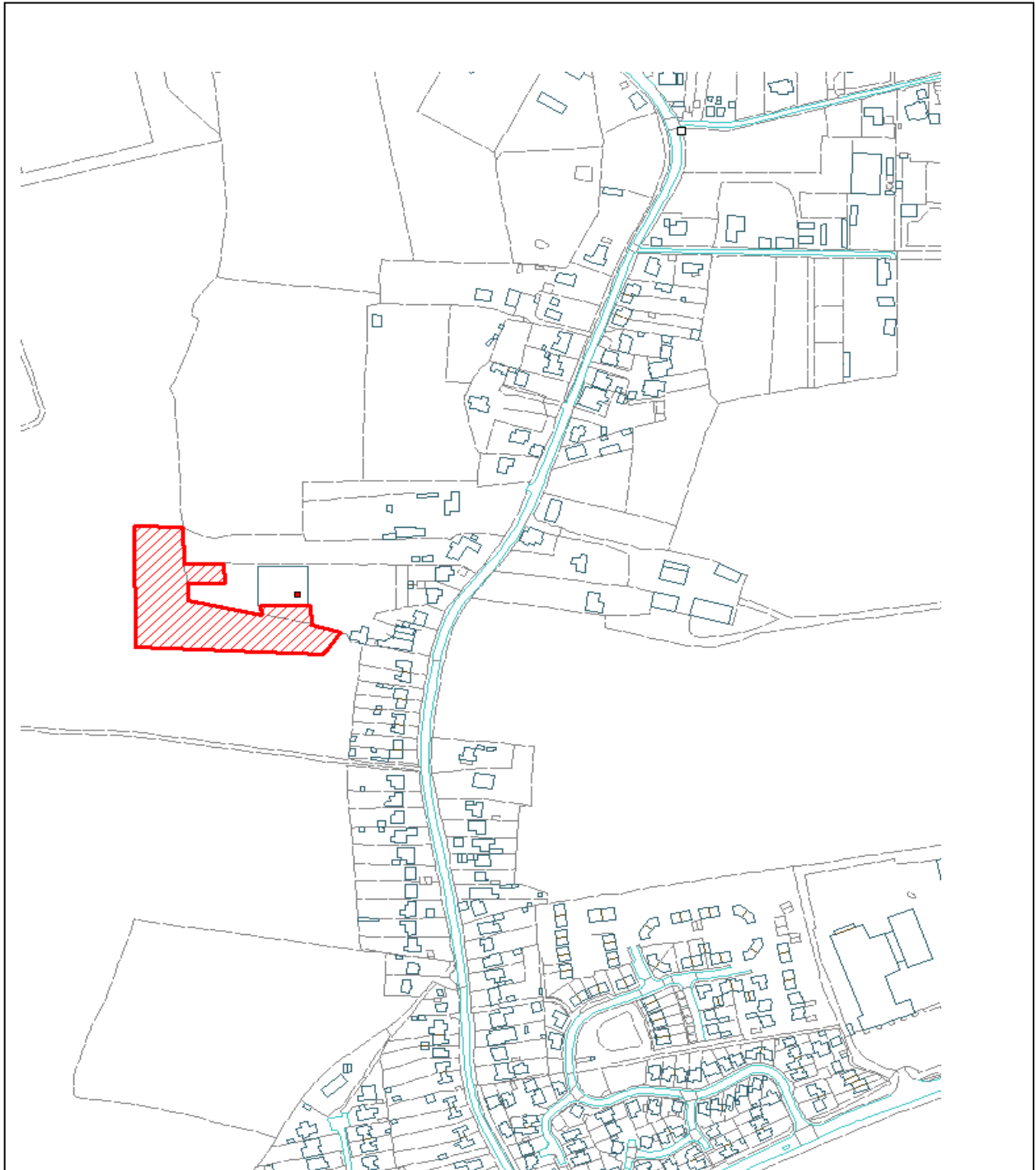
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PLANNING COMMITTEE

07th DECEMBER 2021

REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING

A.2 PLANNING APPLICATION – 21/00186/FUL – CROSSWAYS CENTRE FRATING ROAD GREAT BROMLEY COLCHESTER ESSEX



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Application: 21/00186/FUL

Town / Parish: Great Bromley Parish Council

Applicant: Mr Gray Rowe - PalletPlus

Address: Crossways Centre Frating Road Great Bromley Colchester CO7 7JW

Development: Erection of warehouse extension, loading bay extension, service yard extension and formation of SuDS attenuation pond (part retrospective).

1. **Executive Summary**

- 1.1 Crossways Centre is located within Frating which is a 'Smaller Rural Village'. Access would not be via the primary highway network. Instead, it would be from the B1029 Frating Road. The site is not a protected or allocated employment site and the proposal is for a B8 storage and distribution use. The site is located outside of the settlement development boundary.
- 1.2 The proposal is for a warehouse extension (approximately 762m² in footprint, measured externally), and loading bay extension (approximately 464m² in footprint, measured externally), and extension of the site's service yard area onto adjacent agricultural land.
- 1.3 The proposal does not meet the criteria for being an acceptable location for an expanded B8 storage and distribution use, and the proposal is considered to result in unacceptable highway safety impacts. Although it would not harm the landscape character, it is considered the proposal would have a harmful effect on the character and appearance of the area. The proposal would also harm the living conditions of the occupants of neighbouring dwellings.
- 1.4 Whilst the economic benefits of approving the scheme are acknowledged, they are not considered to outweigh the identified harms. The proposal is considered to be contrary to the development plan, and refusal of planning permission is therefore recommended.

Recommendation:

That the Head of Planning be authorised to refuse planning permission for the development, for the reasons set out within Section 8.1 of the report below.

2. **Planning Policy**

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

National Planning Policy Framework 2021 (the Framework)
Planning Practice Guidance

Local:

Saved Tendring District Local Plan 2007 Policies (the 2007 Local Plan)

QL2	Promoting Transport Choice
QL11	Environmental Impacts and Compatibility of Uses (part superseded)
COM1	Access for All
COM2	Community Safety

COM21	Light Pollution
COM31a	Sewerage and Sewage Disposal
EN1	Landscape Character
ER2	Principal Business and Industrial Areas
EN4	Protection of the Best and Most Versatile Agricultural Land
EN6	Biodiversity
EN6b	Habitat Creation
EN11a	Protection of International Sites: European Sites and Ramsar Sites
EN12	Design and Access Statements
EN13	Sustainable Drainage Systems
EN17	Conservation Areas
EN23	Development with the Proximity of a Listed Building
ER1	Employment Sites
ER7	Business, Industrial and Warehouse Proposals
TR1	Transport Assessment
TR1a	Development Affecting Highways
TR2	Travel Plans
TR3a	Provision for Walking
TR7	Vehicle Parking at New Development

Tendring District Local Plan 2013-2033 and Beyond (the 2013-33 Local Plan)

Section 1 (adopted):

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

Section 2 (emerging):

SPL1	Managing Growth
SPL2	Settlement Development Boundaries
SPL3	Sustainable Design
PPL1	Development and Flood Risk
PPL3	The Rural Landscape
PPL4	Biodiversity and Geodiversity
PPL5	Water Conservation, Drainage and Sewerage
PPL8	Conservation Areas
PPL9	Listed Buildings
CP1	Sustainable Transport and Accessibility
DI1	Infrastructure Delivery and Impact Mitigation

Supplementary Planning Guidance:

Essex County Council Development Management Policies 2011 (the Highways SPD)
Essex County Council Parking Standards Design/Good Practice Guide 2009 (the Parking SPD)
Tendring Landscape Character Assessment 2001 (TLCA)

Status of the Local Plan

2.2 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). This is set out in Paragraph 2 of the National Planning Policy Framework 2021 (the Framework).

- 2.3 The 'development plan' for Tendring comprises, in part, the 'saved' policies of the 2007 Local Plan. Paragraph 219 of the Framework allows local planning authorities to give due weight to policies adopted prior to its publication according to their degree of consistency with the policies in the Framework. On the 26th January 2021 Section 1 of the 2013-2033 Local Plan was adopted and now also forms part of the 'development plan' for Tendring, superseding some of the more strategic policies in the 2007 Local Plan. Notably, the housing and employment targets were found sound and have been fixed, including the housing requirement of 550 dwellings per annum.
- 2.4 Paragraph 48 of the Framework allows weight to be given to policies in emerging plans, according to their stage of preparation, the extent to which there are unresolved objections to relevant policies, and the degree of consistency with the policies of the Framework. In this regard 'Proposed Modifications' to the emerging Section 2 of the 2013-33 Local Plan, which contains more specific policies and proposals for Tendring, has been examined and hearing sessions have now closed. The main modifications recommended to make the plan legally compliant and sound were considered at the Council's Planning Policy and Local Plan Committee on 29th June 2021.
- 2.5 The Council held a six-week public consultation on the Main Modifications and associated documents which began on 16th July 2021. The consultation closed at 5pm on 31st August 2021. On 24th November 2021, the Council received the Inspectors' final report and schedule of main modifications. Subject to a number of modifications, the plan is legally compliant and meets the Government's soundness requirements. Adoption is anticipated early next year. Section 2 will then join Section 1 as part of the development plan, superseding in full the 2007 Local Plan. Section 2 of the 2013-33 Local Plan is therefore at a very advanced stage of preparation and should be afforded considerable weight.

3. **Relevant Planning History**

19/00216/FUL	Proposed construction of covered loading bay to existing warehouse building.	Approved	01.05.2019
13/00921/LUEX	Mixed or composite use for Class B8 storage, vehicle repair and maintenance (sui generis) and transport depot (sui generis).	Split decision (considered earlier)	07.07.2014
12/00430/FUL	Variation of condition 03 of planning permission TEN/1729/81 to include use as a distribution warehouse.	Approved	11.06.2012
12/01182/LUEX	Existing Lawful Use Certificate for use as a transport depot, warehouse and distribution centre, and commercial vehicle repair workshop (Breach of Condition 3 of TEN/1729/81) and breach of condition 07 of TEN/1729/81 (hours of operation).	Refused	20.05.2013
12/00430/FUL	Variation of condition 03 of planning permission TEN/1729/81 to include use as a distribution warehouse.	Approved	11.06.2012

12/00482/FUL	Erection of warehouse.	Approved	08.08.2012
07/00893/FUL	Erection of canopy to create covered loading area.	Approved	20.07.2007
98/01525/FUL	(Crossways Centre, 17 Frating Road, Great Bromley) Erection of poles for lighting and CCTV	Approved	02.02.1999
93/00912/FUL	Continuation of display and sale of vehicles	Refusal	12.10.1993
95/01011/FUL	Variation of condition No. 7 of consent TEN/1729/81 to permit the use of bays 1, 2, 3 up to 6pm on Saturdays for the repair and maintenance of commercial vehicles.	Withdrawn	06.10.2004
95/01010/FUL	Variation of condition No. 3 of consent TEN/1729/81 to include the use of bays 5, 6, 7 and 8 by Systematic Logistics Ltd for all purposes falling within Class B8 of the Use Classes Order	Approved	18.10.1995
TEN/1211/84	Additional Office Accommodation	Approved	
TEN/1729/81	Proposed commercial vehicle repair workshop	Approved	
TEN/496/62	Installation of two pumps and tanks for petrol filling station	Approved	

4. **Consultations**

TDC Tree & Landscape Officer
05.05.2021

The application site consists of land that currently forms part of the existing operational land and adjacent land that is in agricultural use. The current extent of The Crossways Centre is separated from the adjacent agricultural land by an established hedgerow comprising several specimen Oaks.

It is apparent that the proposed change of use of land and the incorporation of agricultural land into the adjacent operational facility would result in the removal of the existing boundary hedgerow and trees and have the potential to adversely affect the character and appearance of the area.

In terms of the amenity value of the hedgerow and the trees contained therein it was noted that the hedgerow species comprise of primarily Hawthorn (Crataegus

monogyna) and Blackthorn (*Prunus spinosa*) with specimen Oaks (*Quercus robur*) at irregular intervals.

The hedgerow is in reasonable condition although the Oaks are showing weak extension growth and die-back within their crowns possibly as a result of the relatively recent concreting and hard surfacing within the existing Crossways Centre,

As the hedgerow is on the boundary of land being used for commercial purposes it does not fall within the scope of The Hedgerow Regulations 1997 and does not fall within the scope of any other legislation under which it could be afforded formal legal protection.

The trees, along with the hedgerow, help to screen the site although the degree to which overlooking occurs is limited to those points within the rear gardens of properties close to the application site. The site cannot be seen from the public highway to the east and there are no Public Rights of Way to the west from which views of the application site are available [corrected in further comment of 29.09.21 below]. Consequently the trees have low amenity value and the local landscape character will not be significantly altered or otherwise affected by the development proposal.

On balance it is considered that the condition of the trees and their low amenity value means that they do not meet the criteria under which they merit formal legal protection by means of a Tendring District Council Tree Preservation Order.

In terms of soft landscaping the applicant has submitted a plan showing the position of a noise reduction barrier and new planting on the whole length of the southern and western boundaries of the application site. If the proposed 3m wide boundary planting comprised of indigenous species and contained specimen trees then in the long term the development proposal would result in an increase in the total length of the hedgerow on the boundary of the application site.

In the long term the proposed soft landscaping would replicated the current level of screening.

Further information will be required in relation to plant species and specification for the proposed new planting which should incorporate new specimen Oak trees at approximately 10 -12m centres. This information could be provided prior to the determination of the application or secured by a condition attached to any planning permission that may be granted.

TDC Tree & Landscape Officer
20.05.2021

The applicant has submitted detailed soft landscaping proposals relating the replacement trees and hedgerow

on the boundary with the adjacent agricultural land.

The scheme is both simple and comprehensive. It is sufficient to secure a satisfactory level of screening and would result in a net increase in the length of the hedge and the number of specimen oaks contained in the hedge.

TDC Tree & Landscape Officer
29.09.2021

Notwithstanding, and in addition to, previous consultation responses these comments are submitted to correct an inaccuracy in a previous consultation response and to provide an assessment of the scope and efficacy of the Landscape and Visual Technical Note submitted by the applicant to quantify the impact of the development proposal on the local landscape character.

Firstly, in order to address the inaccuracy, included in a previous consultation response, it is not correct to say that there are no Public Rights of (PROW) to the west of the application site from which views of the application site are available.

Footpath GB166-14 runs south from Harwich Road, Gt Bromley to Morehams Farm and then becomes a Permissive Path southwards towards the A133. The application site can be viewed from part of the PROW and from the Permissive Path,

In order to assess the impact of the development on the local landscape character the applicant has provided a Landscape and Visual Technical Note that has been completed in accordance with national advice set out in 'Guidance for Landscape and Visual Impact Assessment (GLVIA) third edition (published by the Landscape Institute and the Institute of Environmental Management and Assessment 2013), and 'An Approach to Landscape Character Assessment' (published by Natural England, 2014).

The Technical Note recognises in Section 5.1.2 that harm to the landscape character will result from the change of use of land from agriculture to commercial use, but that the scale of the change is 'minor' and that it will have only a limited impact on the plateau landscape character.

The conclusion section of the Technical Note states that *'In visual terms the extended development will only be visible from a very limited number of locations' and that 'in any event these locations already experience a view of built development and that any changes will be seen in that context'*

In terms of its efficacy the Landscape and Visual Technical Note it is considered that the document accurately describes the existing baseline qualities of the

local landscape character, in accordance with the published National, County and District level Landscape Character Assessments.

It is also considered that the Landscape and Visual Note provides a realistic reflection of the degree to which the development proposal will affect the local landscape character.

Therefore, taking into account the level of screening that will be achieved by the soft landscaping associated with the development proposal, it is clear that neither significant change nor harm would result from the implementation of the development as proposed.

ECC Highways Dept
24.09.2021

The information that was submitted in association with the application has been fully considered by the Highway Authority. A site visit was undertaken in conjunction with this planning application. The original and additional information submitted with the application has been thoroughly assessed and conclusions have been drawn from a desktop study with the observations below based on submitted material, google earth image dated March 2021.

The site is situated on a stretch of Frating Road that is subject to a 30MPH speed limit that is predominately residential. The current vehicular access serving the site is situated in between two private dwellings and has a continuous drop kerb serving a forecourt. Access to the rear of the premises is between two existing buildings with a height restriction and only wide enough for a single vehicle.

There is evidence of parking on the front forecourt and issues with heavy goods vehicles stacking up on Frating Road waiting to enter the site. In addition, there appears to be evidence of two road traffic collisions involving vehicles from the company in the vicinity of the site access, the most recent incident occurred around 5.30am on Tuesday 14th September and was attended by Essex Police.

From a highway and transportation perspective the impact of the proposal is NOT acceptable to the Highway Authority for the following reasons:

1. The proposal would intensify the use of an existing access onto B1029 Frating Road (secondary distributor) where the existing access has deficiencies in geometric layout which is not in accordance with current safety standards. The main function of this highway is that of carrying traffic freely and safely between centres of population. The existence of an access in this location is a matter of fact and therefore some degree of conflict and

interference to the passage of through vehicles already occurs but the intensification of that conflict and interference which this proposal would engender would lead to a deterioration in the efficiency of the through road as a traffic carrier to the detriment of highway safety.

2. Although the proposal is within a semi-urban location there is limited public transport facilities, currently the site has to rely on off-site parking and particularly in light of the revised SUDs proposal required for the site this practice is likely to continue, as such the overall parking provision is considered to be inadequate for the density and size of the application. The proposal if permitted would set a precedent for future similar developments which would likely lead to inappropriate parking detrimental to the general safety of all highway users and undermine the principle of seeking to discourage on-street parking in the locality.

The proposal is therefore contrary policies DM1, DM3 and DM8 contained within the County Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

Informative:

1: As far as can be determined from the submitted information the existing entrance to the rear of the site will be unchanged and only wide enough for a single vehicle to enter and leave the site at any one time. There is evidence of heavy goods vehicles having to wait to enter the site now; the expansion of the site will have a detrimental impact on additional vehicle movements that will be using the site; leading a deterioration in the efficiency of the through road as a traffic carrier to the detriment of highway safety.

2: Due to the existing width of the site access there is a concern that articulated lorries will cause an unacceptable degree of hazard to highway users and have no alternative but to wait on the forecourt to allow a vehicle(s) to exit the site potentially blocking the footway and/or straddle the carriageway to the detriment of highway safety particularly as there is no segregation between pedestrian and vehicle movements at the existing entrance forcing pedestrians into the carriageway.

3: As far as can be determined from the submitted information the current business employs 54 full-time employees and with the proposed expansion this will increase by 27 full-time employees. The revised car parking provision indicates 47 spaces plus 2 blue badge

parking spaces. The overall parking for heavy goods vehicles highlights a total of 40 spaces. For light industry B8 use (storage and distribution) you would be looking at 1 space per 150sqm, there is evidence that off-site parking already occurs. During a site visit approximately 27 vehicles were recorded using this off-site parking area adjacent to Frating Road.

4: No details or information on whether the Developer shall be responsible for the provision and implementation of a Workplace Travel Plan, for employment sites with 50 or more employees, approved by Essex County Council.

TDC Waste Management
22.02.2021

No comments.

TDC Environmental Protection
26.11.2021

Noise:

The submitted Noise Impact Assessment dated November 2020 confirms the undertaking of a relevant noise assessment in relation to the proposal, including that of the Wheel Washing Facility. The report shows that existing noise levels determined at appropriate locations, would not be adversely increased by the introduction of a wheel washing facility. However, it has come to our attention that the wheel washing facility is no longer within the proposal and as such the predicted measurements and impact can be disregarded. However the report still addresses the noise from the HGV's and site activity and stated that ambient levels of the current operations were measured to be 64dB(A)(LAeq 15mins), however there are no predictions for the impact of the increase in HGV movement and site activities may have on this level. In light of this there is some uncertainty as to whether the proposal would result in a significant increase in ambient noise, which may result in an adverse impact to nearby residential dwellings. And as such, with specific reference to the recommendations, shown in section 2, pages 4 – 5; it is noted that these provisions are being implemented under the recommendation of the applicant, rather than any requirement for mitigation highlighted in the report; these measures should assist in the reduction of perceived noise, and we would not be adverse to their implementation, and as such would request this is attached to any approval. These recommendations are outlined in section 2 of the aforementioned report and relate to the provision and installation of acoustic screening. This will assist in dampening any further sound emitted as a result of site activity

I can confirm that the EP Team are satisfied with the contents of the above report and would suggest the above proposed attenuation screening are conditioned on any subsequent approval, so as to ensure any

disturbance from these activities is minimised.

REASON: to protect the amenity of nearby residential dwellings and minimise any potential adverse impact associated with increased noise

*NB: As you are aware the EP Team have been and are currently in receipt of complaints concerning an alleged noise nuisance emanating from the site; the details of the complaints relate to noise associated with site activity and noise associated with vehicular movement off site (movement of HGV entering and leaving the site). I can advise that we have not, at this time, identified a statutory nuisance emanating from the current operations. However our most recent investigation is still ongoing, and as such we will continue to monitor the situation. The submission of a noise complaint, does not, at this time, negate the above comments

Lighting:

Any lighting of the development shall be located, designed and directed [or screened] so that it does not [cause avoidable intrusion to adjacent residential properties/ constitute a traffic hazard/cause unnecessary light pollution outside the site boundary]. "Avoidable intrusion" means contrary to the Code of Practice for the Reduction of Light Pollution issued by the Institute of Lighting Engineers.

REASON – to protect the amenity of nearby residential dwellings

Air Quality:

With reference to the potential impact increased HGV movement may have on the current air quality of the vicinity, the EP Team are requesting confirmation on the predicted increase in movement from the site. Available information suggests that increasing the site will therefore reduce the movement of vehicles as there will be space for the fleet on site, where as currently vehicles are arriving on site to drop off, and then having to leave for the evening, and then return for the morning. The proposal would indicate this would in fact reduce the number of vehicle movements to and from the site? However, we have also received information indicating that this proposal would actually increase the vehicle movement? As a result of this confusion we would like confirmation on the expected vehicular movements. We would look to request an Air Quality assessment if there is an increase of:

- 500 LGVs (outside of an Air Quality Management Area) and/or
- Increase by 100 HGVs (outside of an Air Quality

Management Area)

This would be identified as daily, on local roads with a nearby receptor. Further information on this and information on assessment criteria in relation to Land Use Planning and Development Control: Planning for Air Quality (Institute of Air Quality Management), can be found at: [air-quality-planning-guidance.pdf](https://www.iaqm.co.uk/air-quality-planning-guidance.pdf) (iaqm.co.uk)

REASON: to protect public health

TDC Building Control and Access
Officer
14.04.2021

No comments.

Anglian Water Services Ltd
26.02.2021

ASSETS

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.

WASTEWATER SERVICES

Section 2 - Wastewater Treatment

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

Section 3 - Used Water Network

Development may lead to an unacceptable risk of flooding downstream. Anglian Water will need to plan effectively for the proposed development, if permission is granted. We will need to work with the applicant to ensure any infrastructure improvements are delivered in line with the development. In order to make an accurate capacity assessment, we require the submission of a foul drainage strategy showing the proposed discharge location and conveyance method.

We therefore request a condition requiring phasing plan and drainage strategy.

(1) INFORMATIVE - Notification of intention to connect to the public sewer under S106 of the Water Industry Act Approval and consent will be required by Anglian Water, under the Water Industry Act 1991. Contact Development Services Team 0345 606 6087.

(2) INFORMATIVE - Notification of intention to connect to the public sewer under S106 of the Water Industry Act Approval and consent will be required by Anglian Water, under the Water Industry Act 1991. Contact

Development Services Team 0345 606 6087.

(3) INFORMATIVE - Protection of existing assets - A public sewer is shown on record plans within the land identified for the proposed development. It appears that development proposals will affect existing public sewers. It is recommended that the applicant contacts Anglian Water Development Services Team for further advice on this matter. Building over existing public sewers will not be permitted (without agreement) from Anglian Water.

(4) INFORMATIVE - Building near to a public sewer - No building will be permitted within the statutory easement width of 3 metres from the pipeline without agreement from Anglian Water. Please contact Development Services Team on 0345 606 6087.

(5) INFORMATIVE: The developer should note that the site drainage details submitted have not been approved for the purposes of adoption. If the developer wishes to have the sewers included in a sewer adoption agreement with Anglian Water (under Sections 104 of the Water Industry Act 1991), they should contact our Development Services Team on 0345 606 6087 at the earliest opportunity. Sewers intended for adoption should be designed and constructed in accordance with Sewers for Adoption guide for developers, as supplemented by Anglian Water's requirements.

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 re-consulted to ensure that an effective surface water drainage strategy is prepared and implemented.

Section 5 - Suggested Planning Conditions

Anglian Water would therefore recommend the following planning condition if the Local Planning Authority is mindful to grant planning approval.

Used Water Sewerage Network (Section 3)

We have no objection subject to the following condition: Condition Prior to the construction above damp proof course, a scheme for on-site foul water drainage works, including connection point and discharge rate, shall be submitted to and approved in writing by the Local Planning Authority. Prior to the occupation of any phase, the foul water drainage works relating to that phase must have been carried out in complete accordance with the approved scheme. Reason To prevent environmental and amenity problems arising from flooding.

ECC SuDS Consultee
26.10.2021

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 based on the following:

The proposed development will only meet the requirements of the National Planning Policy Framework if the measures as detailed in the FRA and the documents submitted with this application are implemented as agreed.

We also have the following advisory comments:

We strongly recommend looking at the Essex Green Infrastructure Strategy to ensure that the proposals are implementing multifunctional green/blue features effectively. The link can be found below.

<https://www.essex.gov.uk/protecting-environment>

Environment Agency

Not received.

5. **Representations**

5.1 The application was publicised by press and site notices and neighbours of the site were notified in writing. In response there were 195 contributors: 132 in support and 63 in objection.

5.2 Objections raised therein may be summarised as follows:

- Inappropriate village location in a 'Smaller Rural Settlement', the least sustainable settlement within the settlement hierarchy, with poor links to the A120 for the type of development proposed.
- The proposal is contrary to saved Policies E3 and ER7, adopted Policy SP3 and the Framework.

- The proposal is located beyond the Settlement Development Boundary.
- Better alternative locations exist, such as the business park in Ardleigh.
- Harm to highway and pedestrian safety due to increased volume of HGV traffic.
- Insufficient parking
- Loss of agricultural land
- Harm to the character and appearance of the area – landscaping would take time to establish
- Harm to landscape character
- Appeals for smaller developments have been dismissed due to harm to character and appearance (19/01872/FUL)
- Harm to the living conditions of neighbours (noise and disturbance, and privacy).
- Harm to Ecology, including protected species
- Increased surface water discharge and therefore risk of flooding.
- Loss of trees/hedgerows
- Light pollution

5.3 Support raised therein may be summarised as follows:

- Benefits to the local economy
- Employment creation
- Provides logistics links for Harwich Freeport
- Support for other local businesses and a network pallet service
- Current arrangements are restrictive and create unnecessary vehicle movements
- The proposal relocates on-site operations away from the adjacent housing

5.4 Great Bromley Parish Council objects to the application for the following reasons:

- Impact on local residents in terms of noise, particularly outside of permitted hours and overnight disturbing sleep
- Light pollution and impact on local residents
- Increased HGV usage on a B road in a residential area
- Change of use of land not in the application
- Permitted hours not being adhered to in accordance with previous conditions
- Flooding issues along Frating Road

5.5 The application is the subject of a call-in request from the Ward Councillor for Frating, Lynda McWilliams, in the event that approval were recommended. The grounds for the call-in request are:

- Highways impact/highway infrastructure
- Increased flood risk
- Impact on neighbours (noise and disturbance/light pollution)
- Effect on the character and appearance of the area

5.6 While refusal of the application is recommended, the application is referred to the Planning Committee at the discretion of the Assistant Director (Planning), due to the employment aspects of the proposal raising more than significant local issues.

6 **Assessment**

The Site

6.1 Crossways Centre is operated by Pallet Plus as a B8 storage and distribution centre, comprising warehouse building, loading bay and concrete service yard. Broadly speaking the

site is rectangular in shape with a narrow road frontage with Frating Road from which access is taken, through an archway formed in a flat-roofed building at the front of the site, which is set back from the road behind a small forecourt. At the time of application the site included other uses, including a car workshop to the front of the site and a commercial business within the warehouse. To the north and south are dwellings fronting Frating Road. The remainder of the site to the west and south is surrounded by cultivated agricultural land.

The Proposal

- 6.2 Permission is sought for extensions to both the warehouse (approximately 762m² in footprint measured externally), and loading bay (approximately 464m² in footprint measured externally), and extension of the site's service yard area onto adjacent agricultural land. Materials for the extensions described in the application are insulated steel composite sheeting with plastisol coating, to match the existing. Ridge heights would follow those of the existing buildings. Acoustic fencing behind landscaping is proposed to the southern and western boundaries. The fence would measure approximately 3m in height and would be timber boarded. The site measures 0.94 hectares and would approximately double the land take of the overall site area.
- 6.3 Amongst other things, the application is supported by the following main information:
- Full plans, including visualisations
 - Transport Note (and subsequent revisions)
 - Travel Plan
 - Vehicle tracking plans
 - Landscape Visual Technical Note
 - Noise Assessment
 - Preliminary Ecology Appraisal
 - SuDS drainage details (and subsequent calculations/revision).
 - Landscaping Plan
 - Details of boundary fencing
 - Justification for planning application
- 6.4 An HGV washing facility initially proposed as part of the application has now been omitted, in order to accommodate an attenuation basin within the site to enable a Sustainable urban Drainage System (SuDS). During the course of considering the application an unauthorised expansion of the site has been undertaken at the applicants own risk, described by them as an '*emergency expansion area*'. As a matter of procedure, the description has therefore been amended with the agreement of the applicant to reflect this, in order to refer to the part-retrospective nature of the proposal, and to more accurately describe the development proposed (deletion of car wash and inclusion of attenuation basin).
- 6.5 Because some works have already taken place, the proposal ought to be considered, in part, under Section 73A of the Town and Country Planning Act 1990 for development already carried out in part. The Planning Practice Guidance (PPG) makes clear it cannot be assumed that planning permission will be granted, and the Local Planning Authority should take care not to fetter its discretion prior to the determination of any application for planning permission - such an application must be considered in the normal way (Paragraph: 012 Reference ID: 17b-012-20140306).

The Principle of Development

- 6.6 When Section 1 of the 2013-33 Local Plan was adopted in January this year saved Policy QL1 and the spatial strategy of the 2007 Local Plan were superseded. The spatial strategy for Tendring is now set out in Policy SP3, under which existing settlements will be the principal focus for additional growth. Emerging Policy SPL1 sets out a settlement hierarchy, within

which Frating is identified as a 'Smaller Rural Settlement'. The proposal is located outside of the proposed settlement development boundary (SDB) under emerging Policy SPL2 (Local Map B.9 Frating). Development will be accommodated within or adjoining settlements according to their scale, sustainability and existing role.

- 6.7 The Council wishes to support the growth of existing firms and will grant permission for extensions to established businesses, providing they have an acceptable impact on visual and residential amenity, rural amenity, and transportation considerations.
- 6.8 Saved Policy ER2 directs proposals for employment development towards the principal business and industrial areas and allocated sites set out in Policies QL5 (b) and ER1. In turn, saved Policy QL5 (b) refers to Land East of Pond Hall Farm (27 hectares gross), whereas saved Policy ER1 lists a number of allocated employment sites, none of which include the application site.
- 6.9 The proposal is for the expansion of a storage and distribution operation which falls within the B8 Use Class. Saved Policy ER7 is therefore relevant. Amongst other things, this policy states that in considering proposals for the expansion of warehousing sites the Council will need to be satisfied that the following criteria are met:
- a. the scale and nature of the proposal is appropriate to the locality, including its relationship with adjacent uses;*
- 6.10 Frating is a relatively small village, identified as a "Smaller Rural Settlement" in the settlement hierarchy. The proposed expansion of B8 storage and distribution use in this location would not be a good fit with adjoining residential land uses.
- b. there is no unacceptable impact on amenity in terms of appearance, noise, smell, dirt or other pollution;*
- 6.11 As is considered below, it is considered that the expansion of the use would be likely to have a harmful effect on the character and appearance of the area and result in unacceptable harm to the living conditions of neighbouring residents by virtue of noise and disturbance, harm to outlook and privacy.
- c. satisfactory vehicular access and adequate car parking is provided. Major new industrial or warehousing sites including transport storage operations must have direct access onto the primary route network;*
- 6.12 As is considered below, the existing vehicular access is unsatisfactory and the site does not have direct access to the primary route network; access to the site is via the B1029 which runs through a village.
- d. mains water together with mains sewerage and/or adequate waste water and trade effluent treatment facilities can be made available;*
- 6.13 There is no conflict with this criterion; Anglian Water comment that Great Bromley Water Recycling Centre that will have available capacity for these waste water flows.
- e. the site has acceptable storage facilities. The open storage of goods, containers, waste materials or finished products will not be allowed where such activity is considered to be visually intrusive;*
- 6.14 While the proposal would provide additional warehousing to reduce the amount of open storage, the proposal as a whole is considered to be harmful to visual amenity.

f. in relation to a change of use, that the existing premises are suitable for the purpose;

6.15 There is no conflict with this criterion.

g. in relation to new sites, the need for a comprehensive Design Brief, including a landscaping scheme has been considered and where necessary prepared; and

6.16 The proposal is not for an entirely new site, and landscaping proposals have been submitted. Therefore, there is no conflict with this criterion.

h. opportunities for promoting the movement of freight by rail or through the district's ports are in no way compromised by the development proposed.

6.17 There is no conflict with this criterion.

In rural locations permission may exceptionally be granted for extensions to existing businesses where new employment opportunities would be generated providing the criteria above can be met and the proposals can be accommodated without an adverse impact on the landscape character of the countryside.

6.18 The proposal is in a village location and would create employment opportunities, and it would not harm landscape character. Nevertheless, it would be harmful to the character and appearance of the area and fail to meet a number of the above criteria.

6.19 Emerging Policy PP6 seeks to protect existing employment sites falling within the B8 use class, whereas emerging Policy PP7 provides site allocations for the provision of new B8 storage and distribution uses. The latter states that Proposals for new employment-related development on land outside of allocations will be considered having regard to their potential to support economic growth in the district and the requirements of other policies in the emerging Local Plan.

6.20 For the above reasons, and as is considered in detail below, there is conflict with the criteria of saved Policy ER7. Because the proposal would conflict with other policies in the emerging Local Plan, it would also not meet the requirements of emerging Policy PP7 for being an acceptable location for new employment-related development outside of the site allocations. For these reasons, the proposal is unacceptable in principle.

Highway Safety/Parking

6.21 Saved Policies TR1a, TR3a and TR7, together and amongst other things, require: transport assessments for proposals which are likely to have transportation implications; provision for walking, and; compliance with adopted parking standards. For B8 uses, saved Policy ER7 (c) requires satisfactory vehicular access and adequate car parking is provided, and that major new industrial or warehousing sites including transport storage operations must have direct access onto the primary route network. Emerging Policy SPL3 Part B (a) requires that access is practicable and be able to safely accommodate additional traffic generated.

6.22 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. Paragraph 113 states that all developments that will generate significant amounts of movement should be required to provide a travel plan, and the application should be supported by a transport statement or transport assessment so that the likely impacts of the proposal can be assessed.

6.23 Essex County Council as Local Highway Authority (ECC Highways) have conducted a detailed site visit and have considered the submitted Transport Note and subsequent revisions. They

observe that the area is predominantly residential and located within a 30 mph restriction. Further, that access to the site is located between residential properties, with a continuous dropped kerb frontage, access to the site being the subject of a width restriction which does not allow for two vehicle passing. The Highway Authority notes that this leads to vehicles stacking on the highway as they wait to enter the site. For a significant B8 storage and distribution use, the width of the site frontage is relatively narrow, and would not appear to be capable of accommodating the radii curves, dropped footway crossing, and pedestrian refuge, that one might expect for development of this nature. In any case, there are no such access improvement proposals before the Council.

- 6.24 Having considered the submitted traffic data and following subsequent clarification, ECC Highways do not find that the proposal would result in residual cumulative impacts on the highway network that would be severe. Nevertheless, they conclude that from a highway and transportation perspective the impact of the proposal is unacceptable; access is via a substandard access onto a secondary distributor road. The access is deficient in terms of its geometry and there is existing conflict and interference with the free-flow of traffic, and intensification of the use would be harmful to highway safety. Furthermore, there are limited public transport facilities, and there is evidence that as a consequence of the introduction of a drainage attenuation pond parking has been displaced from the site. The proposal would fail to meet the required level of parking provision.
- 6.25 During the course of the application a number of revised access proposals were submitted, involving either partial or total demolition of the building at the front of the site. However, discussions with Highways concluded with the informal advice that none of the alternatives would assuage their highway safety objections. In some respects, revised access arrangements would be worse in highway safety terms; for instance, revised vehicle tracking associated with partial demolition would require HGVs to cross onto the opposite side of the carriageway when existing the site. Furthermore, removal of the building at the front of the site would have wider implications for the effect of the proposal on the street scene. In any case, a revised re-submission would be the appropriate way to consider such a fundamental change, in order to ensure that third parties are not prejudiced.
- 6.26 The agent has supplied a copy of the goods vehicles operator's licence dated 18 November 2021 (for 45 motor vehicles and 25 trailers (including semi-trailers)), and states that no objections were made following consultation with the Council. Further, that there would be no increase in HGVs at the site over those currently permitted, and that a planning condition could limit the number of HGVs to those permitted under the licence. However, it is not clear how a limitation on the number of vehicles would translate into traffic movements, or be reasonable and enforceable in view of the nature of the proposal applied for. Because of this, such a condition would be inappropriate - it would fail to meet the tests set out at Paragraph 56 of the Framework.
- 6.27 The agent states that there would be no increase in HGV traffic as a result of the development; the proposal is to secure more efficient operation, and because of this fewer traffic movements would arise as a result. Nevertheless, given the substantial increase in warehouse and loading space, and the overall site area expansion applied for, it is considered highly likely that the proposal would result in increased HGV movements using a substandard access. Having regard to the comments of ECC Highways, it is considered that the proposal would result in an unacceptable impact on highway safety. As a result, the proposal would conflict with saved Policies TR1a, ER7 (c) and emerging Policy SPL3 Part B (a).

Landscape and Character and Appearance

- 6.28 Saved Policy EN1 seeks to protect the quality of the district's landscape and its distinctive local character, and where possible secure its enhancement, whereas saved Policy E7 (b) requires that there is no unacceptable impact on amenity, in terms of appearance. Adopted Policy SP7

states that development should respond positively to local character and context to preserve and enhance the quality of existing places and their environs.

- 6.29 Emerging Policy PPL3 states that the Council will protect the rural landscape and refuse planning permission for any proposed development which would cause overriding harm to its character or appearance. Policy PPL3 Part A (b) requires that development relates well to its site and surroundings, particularly in relation to its siting, height, scale, massing, form, design and materials. Policy PPL3 Part A (c) requires that development respects or enhances local landscape character, views, skylines, landmarks, existing street patterns, open spaces and other locally important features.
- 6.30 The Framework at Paragraph 174 b) states that planning decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside. Under the Tendring Landscape Character Assessment 2001 (TLCA) the site is located within the 7A 'Bromley Heaths' Landscape Character Area. The TLCA describes the Bromley Heaths as an elevated plateau that extends from Colchester to Wix in the east, Thorington in the south, and corresponds to the highest part of the district. In terms of change the TLCA, amongst other things, recognises pressure for large scale built development at major road junctions with potential for a very high visual impact.
- 6.31 Against this background, the Council's Tree and Landscape Officer has commented that the proposed change of use of land and the incorporation of agricultural land into the adjacent operational facility would result in the removal of the existing boundary hedgerow and trees, and have the potential to adversely affect the character and appearance of the area. The extent of the site, prior to this application, was separated from adjacent agricultural land by an established hedgerow comprising several specimen Oaks. The hedgerow and the trees [now removed] comprised of primarily Hawthorn (*Crataegus monogyna*) and Blackthorn (*Prunus spinosa*) with specimen Oaks (*Quercus robur*) at irregular intervals. The hedgerow was noted as being in reasonable condition, although the Oaks showed weak extension growth and die-back within their crowns, possibly as a result of previous concreting and hard surfacing within the existing Crossways Centre.
- 6.32 Notably, the Council's Landscape Officer further comments that as the hedgerow is on the boundary of land being used for commercial purposes it does not fall within the scope of The Hedgerow Regulations 1997, and does not fall within the scope of any other legislation under which it could be afforded formal legal protection. Trees which have been removed along the existing boundary were considered to be of low amenity value, would not have met the criteria for legal protection, and wider landscape character would not be significantly altered. In the long term the proposed soft landscaping would replicate the previous level of screening. Advice was given that further information would be required.
- 6.33 In response to these comments and officer concern that the proposal has the potential to harm landscape character and the character and appearance of the area, the applicant submitted a Landscape and Visual Technical Note (LVTN), and plans detailing soft landscaping proposals relating to replacement trees and a hedgerow on the boundary of the site. In its own right, in isolation, the landscaping scheme was found to be both simple and comprehensive, and sufficient to secure a satisfactory level of screening which would result in a net increase in the length of the hedge and the number of specimen Oaks.
- 6.34 In a final comment, the Council's Landscape Officer corrected an inaccuracy in previous comments [public visibility from footpaths], and provide an assessment of the scope and efficacy of the LVTN, to quantify the impact of the development on the local landscape character. It was acknowledged that Public Footpath GB166-14 runs south from Harwich Road, Gt Bromley to Morehams Farm, and then becomes a Permissive Path southwards towards the A133. The application site can be viewed from both these routes. The LVTN has been completed in accordance with national advice set out in 'Guidance for Landscape and

Visual Impact Assessment third edition (published by the Landscape Institute and the Institute of Environmental Management and Assessment 2013), and 'An Approach to Landscape Character Assessment' (published by Natural England, 2014).

- 6.35 The LVTN recognises in Section 5.1.2 that harm to the landscape character will result from the change of use of land from agriculture to commercial use, but that the scale of the change is 'minor' and that it will have only a limited impact on the plateau landscape character. The conclusion section of the LVTN states that 'In visual terms the extended development will only be visible from a very limited number of locations' and that 'in any event these locations already experience a view of built development and that any changes will be seen in that context'
- 6.36 In terms of its efficacy, the LVTN accurately describes the existing baseline qualities of local landscape character, in accordance with the published National, County and District level Landscape Character Assessments. The LVTN provides a realistic reflection of the degree to which the development proposal will affect the landscape character. Concluding on the effect of the proposal on landscape character and the level of screening that would be achieved by the proposed landscaping, the Council's Landscape Officer concludes that neither significant change nor harm would result.
- 6.37 Nevertheless, together with the long rear gardens of dwellings to the north and tree lined field boundaries, there is a very regular linear edge to the village. This strong spatial character is apparent in views from the permissive path to the south/southwest and the public right of way to the west/northwest. In these views, the edge of the well-established linear edge of the village is clearly defined by existing planted boundaries. The development would project abruptly to the west beyond the established settlement fringe, and would appear as a somewhat arbitrary extension of the village. HGVs parked on the extended site would be highly visibly. As a result, it would appear as an incongruous projection into the countryside setting of the village.
- 6.38 Furthermore, in the absence of any detailed lighting report or assessment it is likely that external lighting required to facilitate the operation of the development would accentuate the incongruity of its siting and projection into the countryside setting of the village, and the Council cannot be certain that it would not result in unacceptable light pollution of the nocturnal sky. Saved Policy COM21 states that planning permission will not be granted for external lighting for any development if it would cause an unacceptable visual intrusion. Emerging Policy PPL3 states that new development within the rural landscape should minimise the impact of light pollution on the site and its surroundings. Paragraph 185 (c) of the Framework states that planning decisions should limit the impact of light pollution from artificial light on local amenity.
- 6.39 To some extent, proposed landscaping would in time provide the same visual screening as was previously afforded. However, in the short to medium term the development would be conspicuous in terms of its siting and layout, and it would not overcome the awkward and incongruous appearance of the development. Notwithstanding the lack of any identified harm to wider landscape character, for the above reasons, officers consider that the proposal would be harmful to the character and appearance of the area, and significant weight should be given to this harm. As such, the proposal would be contrary to saved Policy E7, adopted Policy SP7, and emerging Policy PPL3 Part A (b). It would also conflict with Paragraphs 174 and 185 (c) of the Framework.

Effect on the Living Conditions of Neighbours

- 6.40 Part-Saved Policy QL11, adopted Policy SP7, and emerging Policy SPL3 together seek to avoid land use conflict and protect the amenity of neighbours. Saved Policy ER7, amongst other things, requires that the scale and nature of a proposal is appropriate to the locality,

including its relationship with adjacent uses, and that there is no unacceptable impact on amenity in terms of appearance, noise, smell, dirt or other pollution. Framework Paragraph 130 (f) states that planning decisions should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.

- 6.41 There are some benefits associated with the proposal. Acoustic barriers would assist in preventing the transmission of noise emanating from the site. However, they are not dependant on the proposal; they could be installed independently. The proposed warehouse building would act as an acoustic buffer to sound emanating from the site eastwards, and the expanded site area would allow for better circulation of vehicles and allow for the parking away from dwellings at the east of the site. Moreover, the Council's Environmental Protection Team concur with the findings of the submitted noise report, and no statutory noise nuisance would be created.
- 6.42 Nevertheless, the proposal is likely to result in an intensification of the use of the site, and access to Crossways is sandwiched between residential properties. The dwelling to the north is immediately adjacent to the access, and at a slightly lower level. Increased HGV movements would have an unacceptable adverse effect on the amenity of the occupants, having regard to noise and disturbance. It is also highlighted that HGV headlights would shine into the main habitable rooms at the front of this dwelling and cause disturbance at night, and during the late afternoon and early morning in autumn and winter months. Whilst it is accepted that at present this already occurs, intensification of the use would exacerbate this to an unacceptable degree. The use of planning conditions to secure an acoustic and visual barrier would not be capable of overcoming this harm; due to the change in levels and required height, such a requirement would have an overbearing effect on outlook.
- 6.43 Furthermore, at the north western edge the extension of the service yard wraps around the foot of the garden of a dwelling to the north. While this dwelling has an exceptionally long garden, and there is no right to a view across third party land, the appearance of parked HGVs and boundary fencing at the foot of the garden to this property creates an oppressive outlook. Although the property has ample outdoor amenity space adjacent to the dwelling itself, it is apparent that the end of this garden has been well used in the evenings as it faces west. The proposal would also result in a loss of privacy for the occupants. Although proposed landscaping would, in time, soften this impact, the installation of an acoustic barrier would effectively close off the outlook from the end of the garden. Although the harm would be limited in view of the existing high boundary treatment to the south of the garden, and while a significant amount of useable outdoor amenity space would remain available to the occupants that would not be impacted upon, this harm counts against the proposal.
- 6.44 For the above reasons, the proposal would have an unacceptable harmful effect on the living conditions of the occupants of neighbouring dwellings. Significant weight should be attached to this harm, which renders the proposal contrary to saved Policies QL11, ER7, adopted Policy SP7, and emerging Policy SPL3. It would also conflict with Paragraph 130 (f) of the Framework.

Loss of Agricultural Land

- 6.45 Saved 2007 local plan policy EN4 seeks to protect the best and most versatile agricultural land (BMV). BMV land is that which falls within grades 1, 2 and 3a of the Agricultural Land Classification. This policy states that areas of poorer quality agricultural land should be used in preference to that of higher quality land, except where other sustainability considerations suggest otherwise. Also, that development will not be permitted on BMV land unless special justification can be shown.

- 6.46 Paragraph 174 (a) of the Framework states that planning policies and decisions should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan) [emphasis added]. Paragraph 174 (b) states that decisions should recognise the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the BMV land, and of trees and woodland [emphasis added].
- 6.47 The planning practice guidance recognises that soil is an essential natural capital asset that provides important ecosystem services – for instance, as a growing medium for food, timber and other crops, as a store for carbon and water, as a reservoir of biodiversity and as a buffer against pollution (Paragraph: 002 Reference ID: 8-002-20190721).
- 6.48 According to the Agricultural Land Classification (ALC) Strategic Map, the site is located on land that is predicted to be grade 1 'Excellent', which is land with no or very minor limitations, where yields are high and less variable than on land of lower quality. However, the ALC Strategic Map is a large scale prediction, and it is not suitable for the definitive classification of any local area or site. Post 1998 ALC Magic Map data is inconclusive, and no detailed site survey report has been submitted. Nevertheless, the proposal would lead to a loss of agricultural land with a site area stated as being just under a hectare, and third party objection is made on this basis.
- 6.49 In the absence of a field survey, the Council cannot be certain there would not be a loss of BMV land and/or conflict with the development plan in this regard. Were this the sole concern, the economic benefits of the proposal might provide special justification. Nevertheless, there is a degree of conflict with saved Policy EN4 which weighs against the proposal.
- 6.50 Following Schedule 4 paragraph (y) of the Development Management Procedure Order 2015, before granting planning permission for large-scale non-agricultural development planning authorities must consult Natural England on all non-agricultural applications that result in the loss of more than 20 hectares (ha) of BMV land if the land is not in accordance with the provision of the development plan. Because the site area is below the threshold and the recommendation is to refuse, no consultation has therefore been necessary.

The Fall-back Position

- 6.51 The site has a complex planning history, as set out above. The applicant asserts earlier planning permissions and lawful use certificates granted create a 'fall-back' position; use of the existing site and buildings for a B8 storage and distribution use is lawful on an unrestricted basis. However, upon reviewing the history of the site in conjunction with Legal Services, officers do not draw the same conclusions; some parts of the existing warehouse building are not covered by a lawful use certificate for B8 use, and conditions of some earlier permissions may continue to apply.
- 6.52 While some weight could potentially be given to the site's history and the certificate of lawful use issued by the Council's identified fall-back position, this is substantially reduced by limitations and conditions. In any case, the proposal is for a significantly greater amount of development, both within and outside the existing buildings, and, for the reasons set out below, the fall-back position would be less harmful. The fall-back position should therefore be afforded limited weight.

Renewable and Energy Conservation Measures

- 6.53 Emerging Policies PPL10 and SPL3, together, require consideration be given to renewable energy generation and conservation measures. Proposals for new development of any type

should consider the potential for a range of renewable energy generation solutions, appropriate to the building(s), site and its location, and be designed to facilitate the retro-fitting of renewable energy installations.

- 6.54 Paragraph 112 of the Framework states that applications for development should be designed to enable charging of plug-in and other ultra-low emission vehicles (ULEV) in safe, accessible and convenient locations. However, recent UK Government announcements that ULEV charging points will become mandatory for new development have yet to be published.
- 6.55 The proposal includes a significant amount of new roof space (in addition to that already 'in situ') which have the potential to incorporate solar photovoltaic installation. Car parking areas have the potential for the provision of ULEV charging points. The use of planning conditions to require schemes for the consideration and installation of these measures would be capable of addressing these policy requirements.

Flood Risk and Drainage

- 6.56 Saved Policy EN13 requires that development proposals should normally include Sustainable Urban Drainage Systems (SuDS). Adopted Policy SP7, amongst other things, states that all new development should include measures to promote environmental sustainability, including provision of appropriate water/wastewater and flood mitigation measures. Criterion g) of Part B to Emerging Policy SPL3 requires development reduces flood risk and integrates sustainable drainage within the development. Emerging Policy PPL5 also requires that new development makes adequate provision for drainage and should include SuDS.
- 6.57 Paragraph 159 of the Framework states that inappropriate development in areas at risk of flooding should be avoided. Paragraph 167 of the Framework states that when determining applications local planning authorities should ensure that flood risk is not increased elsewhere, and, where appropriate, applications should be supported by a site specific flood risk assessment (FRA).
- 6.58 There have been a number of recent surface water flooding events in the locality and understandably a number of local residents and Ward Councillor McWilliams are concerned about the effect of the increase in hard surfacing, and potential for surface water run-off to increase the risk of flooding elsewhere. The Parish Council have been liaising with a number of agencies to seek solutions to local drainage problems.
- 6.59 The site area is below 1 hectare in size and therefore the Environment Agency are not a statutory consultee. However, they were consulted but have not commented in this instance. Nevertheless, in view of the well-founded concerns in relation to the risk of flooding and the above policy requirements, officers have worked with the applicant to secure a SuDS solution. Following the introduction of an attenuation basin with micro calculations and multiple revised drainage engineering details, Essex County Council as Lead Local Flood Authority (LLFA) have withdrawn earlier objections. Subject to conditions to require implementation of the submitted measures, the LLFA are satisfied that the development would not increase the risk of flooding.

Protected Species and Biodiversity

- 6.60 Saved Policy EN6 states that development proposals will not be granted planning permission unless the existing local biodiversity is protected and enhanced. Policy EN6 (a) considers protected species, whereas EN6 (b) refers to habitat creation. The fourth bullet of adopted Policy SP7 requires that all new development should incorporate biodiversity creation and enhancement measures. Emerging Policy SPL3 Part A (d) includes that the design and layout of development should maintain or enhance ecological value.

- 6.61 In accordance with Paragraph 174 of the Framework planning decisions should contribute to and enhance the natural and local environment, by minimising impacts and providing net gains for biodiversity. Section 40 of The Natural Environment and Rural Communities Act 2006 extended the biodiversity duty set out in the Countryside and Rights of Way Act to public bodies and statutory undertakers, to ensure due regard is had to the conservation of biodiversity; “Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity”.
- 6.62 The submitted Preliminary Ecological Appraisal (PEA) finds that the proposal falls outside of identified protected sites (statutory and non-statutory) and any SSSI Impact Risk Zones, and would not be expected to have any effect upon protected sites. The hedgerow removed was found to be species poor, but its removal would result in a low level loss of habitat for tree nesting birds, and a low level loss of potential foraging features for bats. Trees to be felled were found to have a low bat roost potential, and no further survey work was recommended. However, as precautionary measures, mitigation in the form of soft landscaping is recommended to avoid any such impacts, together with a ‘soft-fell’ approach to tree felling and the installation of bird and bat roost features.
- 6.63 As the Council’s Landscape Officer has commented, the hedgerow that has been removed would not have been protected under the Hedgerow Regulations, and specimen Oaks that have been removed showed weak extension growth and die-back within their crowns, and would not therefore have warranted protection. The application is supported by a detailed planting scheme that would result in a net increase in the length of hedgerow and the number of specimen oaks. This would deliver net gains in biodiversity and address the findings of the PEA.
- 6.64 Notwithstanding the concerns of objectors, there is no evidence that protected species have been harmed. Subject to the use of conditions to require the implementation of the proposed plantings scheme, the mitigation measures set out in the PEA would be sufficient to ensure no loss of habitat would arise. The proposal would not therefore conflict with the development plan or the Framework in these regards.

Economic and Other Benefits

- 6.65 Pallet Plus is a part of the pallet network, specialising in the palletised freight of goods to the UK, Ireland and Europe. The submitted justification states that the application follows a fire in Europa Way, Parkeston in 2007. Having sought to promote a site at Horsley Cross which was dismissed on appeal, the opportunity to occupy part of the Crossways Centre arose. The applicant has subsequently acquired the site and say it is a suitable location to provide logistics services within Essex. The applicant states that they need to expand their operations, and that suitable employment land within Tendring for such uses is in short supply. Recent agreements with a competitor in Ardleigh are stated as having saved 27 local jobs, and the existing workforce at the time of application was stated as being 81 across various roles. Furthermore, the lease of a site in Ardleigh has expired so relocation to The Crossways Centre is required.
- 6.66 The submission states that an average of 700 deliveries are undertaken every day. The pandemic has led to Government recognition of the role local transport and logistics play in maintaining the essential supply of goods. The application also states that instead of 4 of 5 HGVs delivering to Clacton each day, these are now consolidated onto one vehicle. The local market share is cited as being approximately 65-70% which reduces HGV traffic on local roads. Furthermore, other networks have expressed an interest that would further reduce the carbon footprint of local distribution. Earlier objection to unsustainable locations in terms of access to the local employment market have been addressed by the proposed development of

an existing employment site, with easy access the existing and proposed housing development.

- 6.67 Officers recognise that the effects of the fire in 2007 and unsuccessful earlier attempts to secure permission for an alternative site, and the expiry of leases on other sites operated by the applicant will all have impacted on the business. It is also recognised that the applicant is an important local employer providing storage and distribution services, the demand for which has grown significantly during the pandemic. However, officers cannot agree that there is a lack of suitable employment land within the Tendring District; the emerging Section 2 Local Plan only a matter of days ago has been found legally compliant and sound. Nevertheless, the proposal would assist in employment retention and generation, and support the Council's aims and objectives in this regard. There is general support for such proposals, and the benefits to the local economy are likely to be significant. Significant weight should be attached to these benefits. Furthermore, Paragraph 81 of the Framework makes clear that planning decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.

Other Matters

- 6.68 An objector refers to a dismissed appeal following refusal of application reference 19/01872/FUL, which was for 5 dwellings. However, the proposal was for a different form of development in a different location, and the merits and site circumstances were not the same. Each case must be considered on its own merits, and this decision should not therefore attract weight.
- 6.69 Some objectors refer to concern over the effect of the development on local air quality. However, while traffic movements are likely to increase, there is little evidence to suggest that air quality would be unduly impacted, and the proposal does not lie within an air quality management area. Although traffic volumes would be likely to increase, it is not anticipated that this would be to the level where an Air Quality Assessment would be required.

7 Conclusions and Planning Balance

- 7.1 The site does not meet the criteria for being an acceptable location for a significant expansion of a B8 storage and distribution use. The development would be likely to have unacceptable effects on pedestrian and highway safety, and harm the living conditions of neighbours. While it would not erode wider landscape character, the scheme would also be harmful to the character and appearance of the area. Significant weight should be given to these harms. Approval would lead to the loss of agricultural land which is likely to be of a high grade, which counts against the development.
- 7.2 There is no evidence the proposal would harm protected species and the proposed landscaping scheme would deliver a net gain in biodiversity. Subject to conditions, the development would not be at risk of flooding, or unduly increase the risk of flooding elsewhere. Energy efficiency, ULEV charging, and renewable energy generation development plan requirements could be addressed via the use of planning conditions. Furthermore, parking provision would meet the required standards. These are all neutral factors in the planning balance.
- 7.3 In its favour the proposal would support job retention and creation, and deliver economic benefits to which significant weight should be given. Due to the terms of earlier planning approvals and the limitations of lawful use certificates granted, the fall-back position is not entirely clear. The proposal would be significantly more harmful, and the fall-back position should therefore be afforded only limited weight.

- 7.4 The combination of the significant weight that should be given to the economic benefits of the development and the limited weight that could be given to the fall-back position do not outweigh the cumulative substantial weight given to the identified harms to pedestrian and highway safety, the character and appearance of the area, and the living conditions of neighbours. While the proposal would contribute towards achieving the Framework's economic objective of sustainable development, it would conflict with the environmental and social objectives. The scheme is severally contrary to the development plan, and planning permission should therefore be refused.
- 7.5 Having regard to the policies of the emerging Local Plan and allocations contained therein, the Council has a sufficient supply of employment land. However, even if it were the case that the Council's policies for the supply of employment land were considered to be out of date and the titled balance set out at paragraph 11 (d) ii of the Framework were therefore engaged, for the above reasons, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.

8 Recommendation

The Planning Committee is recommended to refuse planning permission for the following reasons:

Reasons

1. The proposal does not meet the criteria for being a suitable location for a B8 storage and distribution development and it would be harmful to highway and pedestrian safety. As a result, the proposal is contrary to saved Policies TR1a, ER7, and emerging Policy SPL3. It would also be at odds with Paragraph 111 of the Framework.
2. The proposal would have an unacceptable harmful effect on the living conditions of the occupants of neighbouring dwellings, having regard to noise and disturbance, privacy and outlook. Accordingly, the proposal conflicts saved Policies QL11, ER7, adopted Policy SP7, and emerging Policy SPL3. It would also conflict with Paragraph 130 (f) of the Framework.
3. The proposal would be harmful to the character and appearance of the area. Consequently, the development fails to meet the requirements of saved Policy E7, adopted Policy SP7, and emerging Policy PPL3 Part A (b). It would also conflict with Paragraphs 174 and 185 (c) of the Framework.

9 Additional Considerations

Public Sector Equality Duty (PSED)

- 9.3 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:
- 9.4 A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
- 9.5 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

- 9.6 C. Foster good relations between people who share a protected characteristic and those who do not, including tackling prejudice and promoting understanding.
- 9.7 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.
- 9.8 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.
- 9.9 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

- 9.10 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.
- 9.11 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).
- 9.12 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

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

10 Background Papers

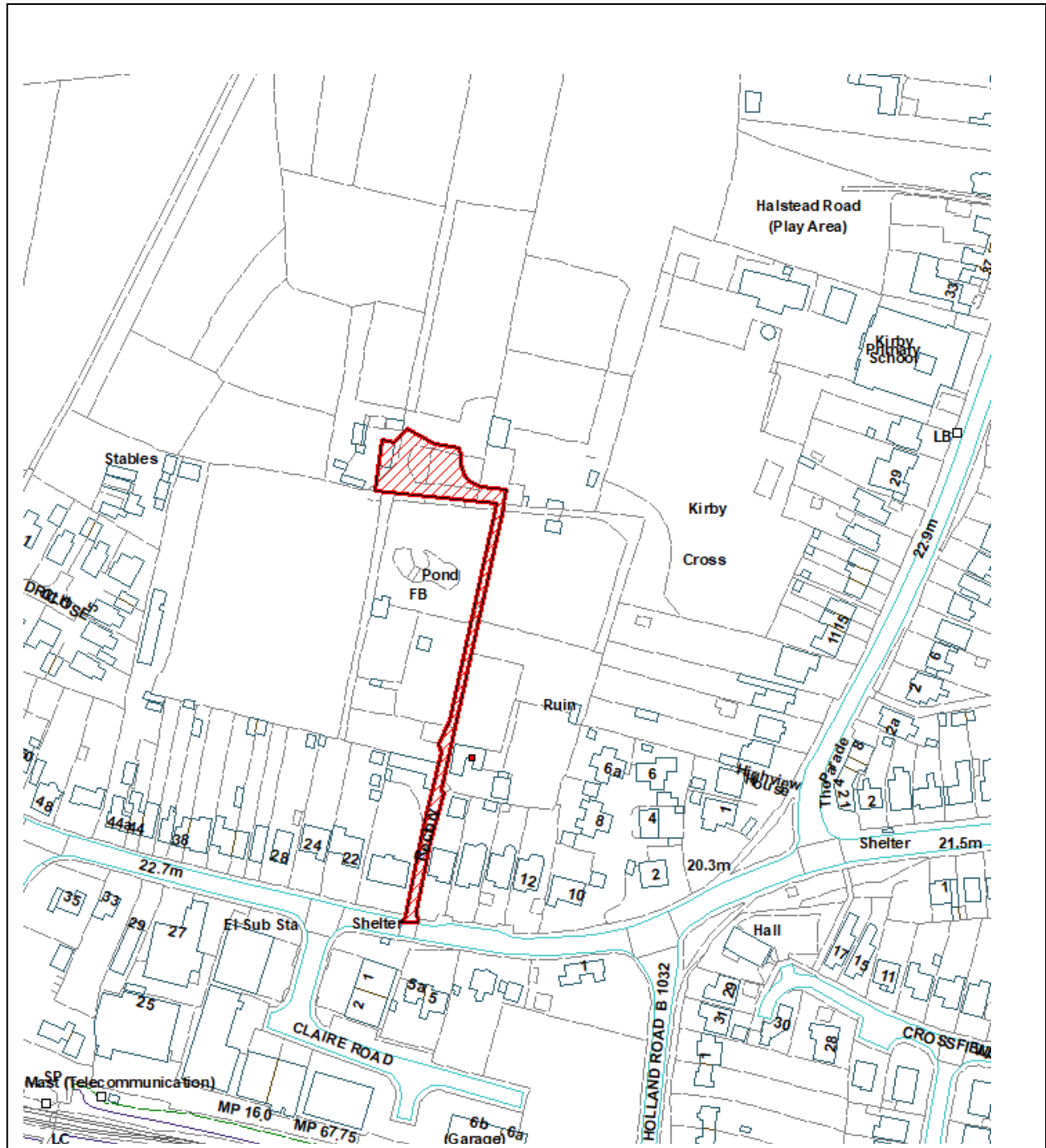
In making this recommendation, officers have considered all plans, documents, reports and supporting information submitted with the application together with any amended documentation. Additional information considered relevant to the assessment of the application (as referenced within the report) also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

PLANNING COMMITTEE

TUESDAY 14th MARCH

REPORT OF THE DIRECTOR OF PLANNING

A.2 PLANNING APPLICATION – 22/02037/FUL – GARFIELD NURSERIES THORPE ROAD KIRBY CROSS FRINTON ON SEA ESSEX



DO NOT SCALE

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Application:	22/02037/FUL	Expiry Date:	31st January 2023
Case Officer:	Julie Ramsey	EOT Date:	
Town/ Parish:	Frinton & Walton Town Council		
Applicant:	Mr and Mrs Boot		
Address:	Garfield Nurseries, Thorpe Road Kirby Cross Frinton on Sea CO13 0LT		
Development:	Proposed erection of one dwelling (in lieu of Prior Approval for 1 one-bedroom dwelling, subject of application 22/00045/COUNOT). Resubmission of application 22/00890/FUL.		

1. **Executive Summary**

- 1.1 The application is referred to Planning Committee as the proposed development would conflict with the requirements of the Development Plan, principally Policy SPL2 (Settlement Development Boundaries) of the Tendring District Local Plan 2013-2033 and Beyond Section 2 (adopted January 2022) being located outside of any defined settlement development boundary and has a recommendation of approval.
- 1.2 The proposed dwelling is on balance, not considered to be materially different in regard to siting or footprint to the development approved under prior approval 22/00045/COUNOT. The overall height of the proposal exceeds that of the existing building, however this is not considered to result in significant harm.
- 1.3 The application has been revised following the previously refused scheme 22/00890/FUL, with the dwelling sited significantly closer to the footprint of the existing agricultural building. The access remains as existing and there are no objections from the Highways Authority.
- 1.4 The Council's Tree and Landscape Officer notes that the application site is set back a considerable distance from the highway and consequently does not feature in the public realm. A row of 'coppiced' Willows may need to be removed, however these trees are not considered to merit retention or formal legal protection by means of a tree preservation order. Soft landscaping is recommended in order to screen the dwelling from views on the northern boundary.
- 1.5 Sufficient parking and private amenity space is provided, and there will not be significant harm to existing neighbouring amenities, subject to conditions and the adherence to the submitted construction management plan.
- 1.6 Conditions are included within the recommendation to ensure the provision of biodiversity enhancements and a scheme for the provision and implementation of water, energy and resource efficiency measures for the lifetime of the development.

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.

2.2 National:

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

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

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
LP1 Housing Supply
LP4 Housing Layout
PPL3 The Rural Landscape
PPL4 Biodiversity and Geodiversity
PPL5 Water Conservation, Drainage and Sewerage
PPL10 Renewable Energy Generation
CP1 Sustainable Transport and Accessibility

2.4 Supplementary Planning Guidance:

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

Status of the Local Plan

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

Sections 1 and 2 of the Tendring District Council 2013-33 and Beyond Local Plan (adopted January 2021 and January 2022, respectively), together with any neighbourhood plans that have been brought into force.

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**

17/00396/FUL	Proposed detached dwelling, garage and bin/bike store.	Refused	12.06.2017
22/00045/COUNOT	Proposed conversion of an agricultural building into one dwellinghouse.	Prior Approval	02.03.2022
22/00890/FUL	Proposed erection of one dwelling (in lieu of Prior Approval for 1 one-bedroom dwelling, subject of application 22/00045/COUNOT).	Refused	30.09.2022

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/>.

ECC Highways Dept

06.01.2023

The revised proposal is still for a one-bedroom dwelling and is similar to previous application 22/00890/FUL that the Highway Authority did not object to. It is noted that the revised proposal would have an external floor area of 57 square metres an increase of approximately 12 square

metres in residential floor space. Access to the development will remain the same from an established private access road, and it is not considered that the one-bedroom dwelling would give rise to a significant increase in vehicle movements to and from the site or result in a material change in the character of the traffic in the vicinity of the site. The proposal offers adequate off-street parking in line with the parking standards.

From a highway and transportation perspective the impact of the proposal is acceptable to Highway Authority subject to the mitigation and conditions in regards to Cycle Parking provision, provision of a Travel Pack and provision of vehicle parking area,

Environmental Protection

11.01.2023

Should the above application be approved, the EP Team are requesting a condition be applied in relation to Contaminated Land and an informative in relation to Foul Drainage provision.

Construction Activities: There are no objections to the submitted CMS and have no comments to make in relation to this aspect of the proposal.

UU Open Spaces

17.01.2023

Current Position

There is currently a deficit of -14.12 hectares of equipped play in Frinton, Walton & Kirby.

Recommendation

No contribution is being requested on this occasion.

Tree & Landscape Officer

22.12.2022

The application site is set back a considerable distance from the highway and consequently does not feature in the public realm. The position of the proposed new dwelling is such that it may necessitate the removal of part of a row of 'coppiced' Willows. These trees do not merit retention or formal legal protection by means of a tree preservation order.

No other important trees or other significant vegetation will be affected by the development proposal.

In terms of the visibility of the site in its setting it may be possible for there to be distant views of the application site from the Public Right of Way to the north of the application site. In this regard it would be desirable to secure new soft landscaping, on the northern boundary of the application site in order to soften and screen the proposed new dwelling and to ensure that it is satisfactorily assimilated into its setting.

Frinton and Walton Town Council

13.01.2023

Objection – Recommend Refusal - has not demonstrated the need against LP6 and there is a 25% increase in size

5. Representations

- 5.1 Two representations have been received following a public consultation which included a site notice posted at the site and neighbouring consultation letters sent out to the adjacent properties.

Summary of Matters Raised

- Development could be used to set a longer-term precedence for residential development on this site
- September 2022 reasons for refusal are still valid
- Location outside Settlement Development Boundary
- Land is for agricultural use, keeping animals etc, and not suitable for residential purposes.
- Area suffers from surface water flooding during the winter and periods of rain, new dwelling will exacerbate this.
- The access track is not suitable for residential vehicles,
- Increase in traffic to an already congested road and opposite bus stop
- Similar proposals declined in 2017 and more recently in Sep 2022

(Officer note, 2017 application was for a large, detached dwelling with no Prior Approval fallback position established and 2022 application was sited in a completely new and undeveloped area of the site – for these different merits, both refused).

All applicable material considerations are dealt with in the assessment section of the report below.

6. Assessment

Site Context

- 6.1 The application site is located on the northern side of Thorpe Road (B1033), accessed via a long driveway between Nos 18 and 20 (The Willows farmhouse - a Grade II Listed Building) Thorpe Road. The site, is located outside of the defined settlement development boundary of Kirby Cross and is considered to be a countryside location. In terms of the 'blue line' site location plan as submitted with the application, the applicant owns a large area of land around the proposed site, (some 4 acres), comprising of a number of stables, a manège and open land to the rear which is used for the keeping of poultry and cropping of hay following the cessation of the nursery business which operated on the site. Further north is open agricultural land.
- 6.2 To the south is a small wildlife sanctuary, attached to The Willows, grazing and stabling are present to the rear of No. 18 Thorpe Road, with a mix of residential properties to the south and east of the site.
- 6.3 The site is not located within a Conservation Area and is sited within Flood Zone 1 which has a low risk of flooding.

Relevant History

- 6.4 In March 2022 it was deemed that Prior Approval (namely in regard to access, flooding, design, noise, natural light, space standards and contamination) for the conversion of an agricultural building (the subject of application ref: 22/00045/COUNOT), into one, 1. No. bed dwelling was not required. This scheme is referred to in the submitted Planning Statement as the 'fall back' scheme and is discussed in more detail in the appraisal of the application below.

Proposal

- 6.5 The application proposes one new 1 No. bed dwelling in lieu of the prior approval granted for the agricultural building which was the subject of application 22/00045/COUNOT. It is proposed to demolish this agricultural building and construct a new dwelling adjacent to the site of the existing building, along with associated amenity space and a new parking/turning area.
- 6.6 The proposed new dwelling is a bungalow with a uniform rectangular footprint and a dual pitched roof, with an eaves height of some 2.6m and a ridge height in the region of 4.8m. The proposed dwelling has a gross internal area of around 57sqm which is approximately 12sqm more than the existing agricultural building, around a 25% increase in floor space.
- 6.7 The proposed dwelling comprises of one bedroom, bathroom, and an open plan kitchen and lounge area. The external materials proposed are black weatherboard and slate tiles.

Assessment

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 Kirby Cross 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 Kirby Cross (including Walton and Frinton) is classified as a Smaller Urban Settlement, which benefits from a range of existing infrastructure and facilities and are considered to be able to support larger -scale growth, within the SDB.
- 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 (covered below).

'Fallback Position' Assessment

- 6.12 In this case, Prior Approval has been granted for the conversion of the existing agricultural dwelling to a new dwelling. The existing building is sited adjacent to the proposed dwelling and inside the red edge application site. This is considered by the applicant to provide a 'fall-back' position.
- 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. This is taken to be the area of land edged in red which denotes the application site.

- 6.14 The relevant legal principles relating to the fall-back position were set out in R v Secretary of State for the Environment and Havering BC (1998) EnvLR189. In that case Mr Lockhart-Mummery QC, sitting as a Deputy High Court Judge, accepted submissions that there were three elements to the fall-back test:
- 6.15 *"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 existing location of the agricultural building which was the subject of the Prior Approval application is within a built up group of existing buildings/stables. The proposed new dwelling, is adjacent to the agricultural building on the eastern side, with the front elevation turned to face south west.
- 6.18 The existing building is somewhat smaller than the new dwelling proposed as per the comparison table below:

	22/00045/COUNOT (Prior Approval)	22/00890/FUL (New dwelling)
Siting	Building to the front of the existing stables, west of the site.	Building re-orientated with front facing SW, adjacent to the exiting agricultural building
Access	As existing	As existing with new parking and turning area proposed
Appearance	Concrete prefab, steel framework and profile metal sheet roof	Black weatherboarding
Ridge Height	3.4m	4.6m
Eaves Height	2.6m	2.6m
Gross Internal Area	44sqm	57sqm
Bedrooms	1	1

- 6.19 It is therefore considered that the Prior Approval granted for the conversion of the existing agricultural building would amount to viable 'fall back' position in the circumstances of this application and is to be demolished to construct a new larger dwelling in a similar location, within the existing built-up area of the wider site.
- 6.20 In conclusion, having regard to the above, the application, on balance, is considered to meet all 3 tests set out for a viable fall-back position in terms of the legal position set out earlier. There is a fall-back use in the form of the Prior Approval and it is considered that the proposed development, is, in the main, comparable to that approved under the Prior Approval, in terms of its siting, size, scale and external appearance.
- 6.21 As outlined above in the comparison table, there is an increase in the height and floor space of the new dwelling, however this is considered to be reasonable in this rural location, for a one bed dwelling and is not so out of character with the other buildings in the vicinity in terms of external appearance, with the use of black weatherboarding. Given the location of the proposed dwelling, adjacent to the agricultural building it is considered that there is a realistic prospect of the prior approval scheme being implemented, as the siting is similar. Therefore, the fall-back position is given significant weight in the assessment of this application.

- 6.22 Therefore given the circumstances of this case, along with the legal position and the Prior Approval fall-back position, the principle of development for a new dwelling on this site is considered to be acceptable subject to the detailed consideration against other relevant Local Plan policies and any approved Neighbourhood Plans.

Design, Scale and Impact on Character and Appearance

- 6.23 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).
- 6.24 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.
- 6.25 The existing agricultural building within the wider site is of a modest concrete pre fab and steel framework construction with a profile metal sheet roof and has an agricultural appearance. The building is in close proximity to the other buildings within the wider holding, forming a cluster of buildings in that particular part of the holding. The proposed dwelling, albeit larger and higher than that existing, is sited adjacent to the existing agricultural building and within close proximity to the other buildings within the wider holding and is therefore not considered to be out of place in this rural location.
- 6.26 The design of the new bungalow, is simple and unassuming and the use of black weatherboarding is considered to reflect the simple barn like structures on the wider holding. This would somewhat mitigate the prominence of the new dwelling in this rural setting and the dwelling would be viewed in context with the other built form on site, maintaining the open and agricultural character of the area.

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 application site is within the built up area of the wider site, owned by the applicant and it is possible that as a consequence of the development a number of willow trees to the northern boundary would need to be removed. The Council's tree and landscaping officer does not consider that these are worthy of formal protection via a TPO. The trees and vegetation to the north, provide a degree of screening from the wider open land to the north, and it is therefore considered reasonable to secure a full detailed hard and soft landscaping scheme for the site, in particular to secure new soft landscaping, on this northern boundary of the application site in order to soften and screen the proposed new dwelling from the open views from the north into the site. to the north. These details can be secured by condition.

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 one bedroom, one storey dwelling requires a minimum of 39-50sqm of Gross Internal Floorspace (GIA). From the plans submitted the proposed bungalow exceeds the requirements of the space standards. It is also considered that the internal layout is appropriate, with all habitable rooms having adequate natural light. The amenity area proposed is considered to meet the needs and expectations of future residents and is commensurate to the size of dwelling.
- 6.31 Overall the proposal is considered to secure a good standard of amenity and accommodation for future occupants of the proposed dwelling.

Impact on Residential Amenity

- 6.32 The NPPF, Paragraph 130 maintains that policies and decisions should result in new development that creates places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.
- 6.33 Policy SPL3 seeks new development that is designed and orientated to ensure adequate daylight, outlook and privacy for future and existing residents, provision is made for adequate private amenity space, waste storage and recycling facilities and the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties.
- 6.34 The application site is located within a fairly rural location, with residential dwellings some distance away fronting Thorpe Road.
- 6.35 A Construction Management Plan has been submitted with the application which outlines measures to minimise potential nuisance to nearby existing residents caused by the construction works. This CMP has regard to vehicle movements, working hours, storage of materials, on-site parking, site security, wheel washing facilities, noise control, use of machinery and mobile plant, piling works and both emission and dust control and has been found to be acceptable by the Council's Environmental Protection Officer. Due to the location of the site conditions are recommended in relation to land contamination in the form of a Watching Brief and the requirement for the safe removal of asbestos if present on site.
- 6.36 It is considered that the submitted CMP would mitigate the concerns raised by residents with regard to the construction aspect of the new dwelling. Therefore, it is not considered that this development would impact on the residential amenities of any neighbouring occupiers in any regard.

Highway and Parking Considerations

- 6.37 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.
- 6.38 The Essex County Council Parking Standards 2009 require that dwellings with 1 bedroom be served by a minimum of 1 parking space. Parking spaces should measure 5.5 metres by 2.9 metres and garages, if being relied upon to provide a parking space, should measure 7 metres by 3 metres internally. The submitted plans show that the new dwelling would utilise the existing access from Thorpe Road and will be provided with one parking space that meets policy requirements. It is also considered that there is ample space within the wider site for the

parking of other vehicles in relation to the stables operation and for emergency vehicles to access and turn within the wider site.

- 6.39 Subject to the use of conditions, the proposal would accord with Policies SPL3 and CP1 and the Highways and Parking SPDs. The proposal is not therefore considered to result in any unacceptable harm to highway safety.

Water Conservation, Drainage and Sewerage

- 6.40 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.
- 6.41 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. The dwelling would be connected to a Klargester BioDisc Domestic Sewage Treatment Plant.
- 6.42 Although details of the type of system have been submitted no FDA1 Foul drainage assessment form has been received. This makes it more difficult for the Council to be certain any application for an environmental permit would not be refused, or if any concerns of pollution or nuisance may arise. Nevertheless, the required details in this regard can be secured by way of a condition to any grant of planning permission.

Ecology and Biodiversity Implications

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

Renewable Energy

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

Heritage Matters

- 6.47 Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act imposes a statutory duty on the Local Planning Authority to have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest.
- 6.48 Paragraph 194 of the National Planning Policy Framework ("the Framework") requires applicants to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary.
- 6.49 Paragraph 202 of the Framework adds 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 securing its optimum viable use.
- 6.50 No Heritage statement has been submitted with the application in accordance with the above requirements and therefore no assessment has been made by the applicant on the impact of the proposal on the setting of the nearby Listed Building, The Willows Farmhouse which is adjacent to the access from Thorpe Road.
- 6.51 However given the existing access is unchanged along with the considerable separation distance from the proposed new dwelling and the Listed Building along with the existing buildings both within the wider site and within neighbouring properties adjacent to the accessway, it is not considered that the proposed new dwelling, would have a harmful impact on the setting of the Listed Building.

Recreational Disturbance Avoidance and Mitigation Strategy (RAMS):

- 6.52 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.
- 6.53 This new residential development lies within the Zone of Influence. The site is not within or directly adjacent to one of the European designated sites, 5900 metres from Hamford Water SPA and RAMSAR and 4217 metres from Colne Estuary RAMSAR and SPA and Essex Estuaries SAC.
- 6.54 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.
- 6.55 However, new housing development within the ZOI 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.
- 6.56 In accordance with Natural England's advice there is no requirement to consult them due to the specified mitigation.
- 6.57 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

- 6.58 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.
- 6.59 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 -14.12 hectares of equipped play in Frinton, Walton & Kirby, however no contribution is requested on this occasion due to the small scale of the development proposed.

Environmental Protection

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

7. Conclusion

The proposed demolition of an existing agricultural building and its replacement with a one bed bungalow is acceptable in principle following the previous prior approval granted on the site for one dwelling under planning reference 22/00045/COUNOT.

On balance, due to the siting of the dwellings close to the existing agricultural building and built form within the wider site, the increase in floorspace and height in comparison to the existing building, is not considered to be significantly harmful to the character and appearance of the area. There are no significant issues in respect to neighbouring amenities or harm to trees. 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 and the prior completion of a Unilateral Agreement for a financial contribution towards RAMS.

8.2 Conditions and Reasons

1. The works to which this consent relate must be begun not later than the expiration of three years beginning with the date of this consent.

REASON: To comply with the requirements of Section 18(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004

NOTE/S FOR CONDITION:

The development needs to commence within the timeframe provided. Failure to comply with this condition will result in the consent becoming lapsed and unable to be carried out. If commencement takes place after the time lapses this may result in unlawful works at risk of both Enforcement Action and Criminal proceedings. You should only commence works when all other conditions requiring agreement prior to commencement have been complied with.

2. 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 (except for Listed Building Consents). 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.

Location Plan

Site Plan, Existing and Proposed Floors Plans and Elevations – Drawing – BGN-02 Rev C

Planning Statement – Mollie Folley Stanfords December 2022

Construction Method Statement

Klargester BioDisc Domestic Sewage Treatment Plant details

Electric Vehicle Charging details

REASON: For the avoidance of doubt and in the interests of proper phased planning of the development.

NOTE/S FOR CONDITION:

The primary role of this condition is to confirm the approved plans and documents that form the planning decision. Any document or plan not listed in this condition is not approved, unless otherwise separately referenced in other conditions that also form this decision. The second role of this condition is to allow the potential process of Non Material Amendment if found necessary and such future applications shall be considered on their merits. Lastly, this condition also allows for a phasing plan to be submitted for consideration as a discharge of condition application should phasing be needed by the developer/s if not otherwise already approved as part of this permission. A phasing plan submission via this condition is optional and not a requirement.

Please note in the latest revision of the National Planning Policy Framework (NPPF) it provides that Local Planning Authorities should seek to ensure that the quality of approved development is not materially diminished between permission and completion, as a result of changes being made to the permitted scheme (for example through changes to approved details such as the materials used). Accordingly, any future amendment of any kind will be considered in line with this paragraph, alongside the Development Plan and all other material considerations.

Any indication found on the approved plans and documents to describe the plans as approximate and/or not to be scaled and/or measurements to be checked on site or similar, will not be considered applicable and the scale and measurements shown shall be the approved details and used as necessary for compliance purposes and/or enforcement action.

3. Prior to the first occupation of the dwellinghouse, hereby approved, the existing agricultural building (subject of 22/00045/COUNOT) and shown as being demolished on drawing BGN-02 Rev C) on the site must be completely demolished and all materials resulting therefrom shall be cleared from the site.

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

4. Prior to and during construction, if any unexpected ground conditions are encountered during the following processes must be followed:
 - a. All site works at the position of the suspected contamination will stop and the Local Planning Authority and Environmental Health Department will be notified as a matter of urgency.
 - b. A suitably trained geo-environmental engineer should assess the visual and olfactory observations of the ground and the extent of contamination and the Client and the Local Authority should be informed of the discovery.
 - c. The suspected contaminated material will be investigated and tested appropriately in accordance with assessed risks. The investigation works will be carried out in the presence of a suitably qualified geo-environmental engineer. The investigation works will involve the collection of solid samples for testing and, using visual and olfactory observations of the ground, delineate the area over which contaminated materials are present.
 - d. The unexpected, contaminated material will either be left in situ or be stockpiled (except if suspected to be asbestos) whilst testing is carried out and suitable assessments completed to determine whether the material can be re-used on site or requires disposal as appropriate.
 - e. The testing suite will be determined by the independent geo-environmental specialist based on visual and olfactory observations.
 - f. Test results will be compared against current assessment criteria suitable for the future use of the area of the site affected.
 - g. Where the material is left in situ awaiting results, it will either be reburied or covered with plastic sheeting.
 - h. Where the potentially contaminated material is to be temporarily stockpiled, it will be placed either on a prepared surface of clay, or on 2000-gauge Visqueen sheeting (or other impermeable surface) and covered to prevent dust and odour emissions.
 - i. Any areas where unexpected visual or olfactory ground contamination is identified will be surveyed and testing results incorporated into a Verification Report.
 - j. A photographic record will be made of relevant observations.
 - k. The results of the investigation and testing of any suspect unexpected contamination will be used to determine the relevant actions. After consultation with the Local Authority, materials should either be: o re-used in areas where test results indicate that it meets compliance targets so it can be re-used without treatment; or o treatment of material on site to meet compliance targets so it can be re-used; or o removal from site to a suitably licensed landfill or permitted treatment facility.
 - l. A Verification Report will be produced for the work.

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

5. The Construction Method Statement submitted 06/01/2022 shall be strictly adhered to throughout the construction period for the development. The construction shall be undertaken with registration and adherence to a Considerate Constructors Scheme

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.

6. Prior to the first occupation of the development hereby approved, the vehicle parking area as indicated on the approved plan BGH-02 Rev C 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 that are related to the use of the development unless otherwise agreed with the Local Planning Authority.

REASON: To ensure that the development is provided with appropriate parking and turning area to facilitate safe access to the Highway, in the interests of highway safety

7. No development above slab level shall take place until there has been submitted to and approved, in writing, by the Local Planning Authority a scheme of hard, soft and boundary treatment landscaping works for the site, which shall include any proposed changes in ground levels. The landscaping works must 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.

REASON: In the interests of visual amenity and the character and appearance of the area.

NOTE/S FOR CONDITION:

Slab level is normally referring to the concrete slab supported on foundations or directly on the subsoil and is used to construct the ground floor of the development. In any other case, please assume slab level to be the point before any walls and/or development can be visually above ground level or seek confirmation from the Local Planning Authority for your development.

Should the landscape works include any new hedgerow, please consider the following planting for a native hedge. Native hedge: 50% hawthorn, 25% blackthorn (but beware - this can spread into adjacent fields), 15% field maple, 2% holly, 2% wild privet, 2% guelder rose, 2% dog rose, 2% buckthorn.

8. All changes in ground levels, soft/hard landscaping shown on the approved landscaping details as submitted and agreed with the Local Planning Authority, 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.

9. 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 a 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.

NOTE/S FOR CONDITION:

Slab level is normally referring to the concrete slab supported on foundations or directly on the subsoil and is used to construct the ground floor of the development. In any other case, please assume slab level to be the point before any walls and/or development can be visually above ground level or seek confirmation from the Local Planning Authority for your development.

10. No development shall commence above slab level until full details of surface and foul water drainage have been submitted to and approved, in writing, by the Local Planning Authority. No part of the building/s shall be first occupied or brought into use until the agreed method of surface and foul water drainage has been fully installed and is functionally available for use for that building/s. The surface and foul water drainage scheme shall thereafter be maintained as approved.

REASON: To safeguard the ground water environment from harm and minimise the risk of flooding.

NOTE/S FOR CONDITION:

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.

Slab level is normally referring to the concrete slab supported on foundations or directly on the subsoil and is used to construct the ground floor of the development. In any other case, please assume slab level to be the point before any walls and/or development can be visually above ground level or seek confirmation from the Local Planning Authority for your development.

11. Notwithstanding Section 55 (2)(a)(ii) of the Town and Country Planning Act 1990 as amended and 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, outbuildings, porches or other alterations to the

dwelling 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

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.

Foul Drainage:

The application proposes a Sewerage Treatment Plant will be utilised as a way of disposing of foul waste; we would request, should the application be approved, that the Applicant / Agent, ensure the installation is fully compliant with the Environment Agency's Binding Rules and any other relevant Government guidance and British standards, in respect of these systems. Information on this can be found at: Septic tanks and treatment plants: permits and general binding rules: The general binding rules - GOV.UK (www.gov.uk). It is strongly recommended these rules are complied with, as they will minimise any potential nuisance to nearby residential dwellings, assist in preventing a potential Public Health nuisance, and minimise the potential for adverse incidents, of which may result in formal enforcement action.

Asbestos:

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.

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

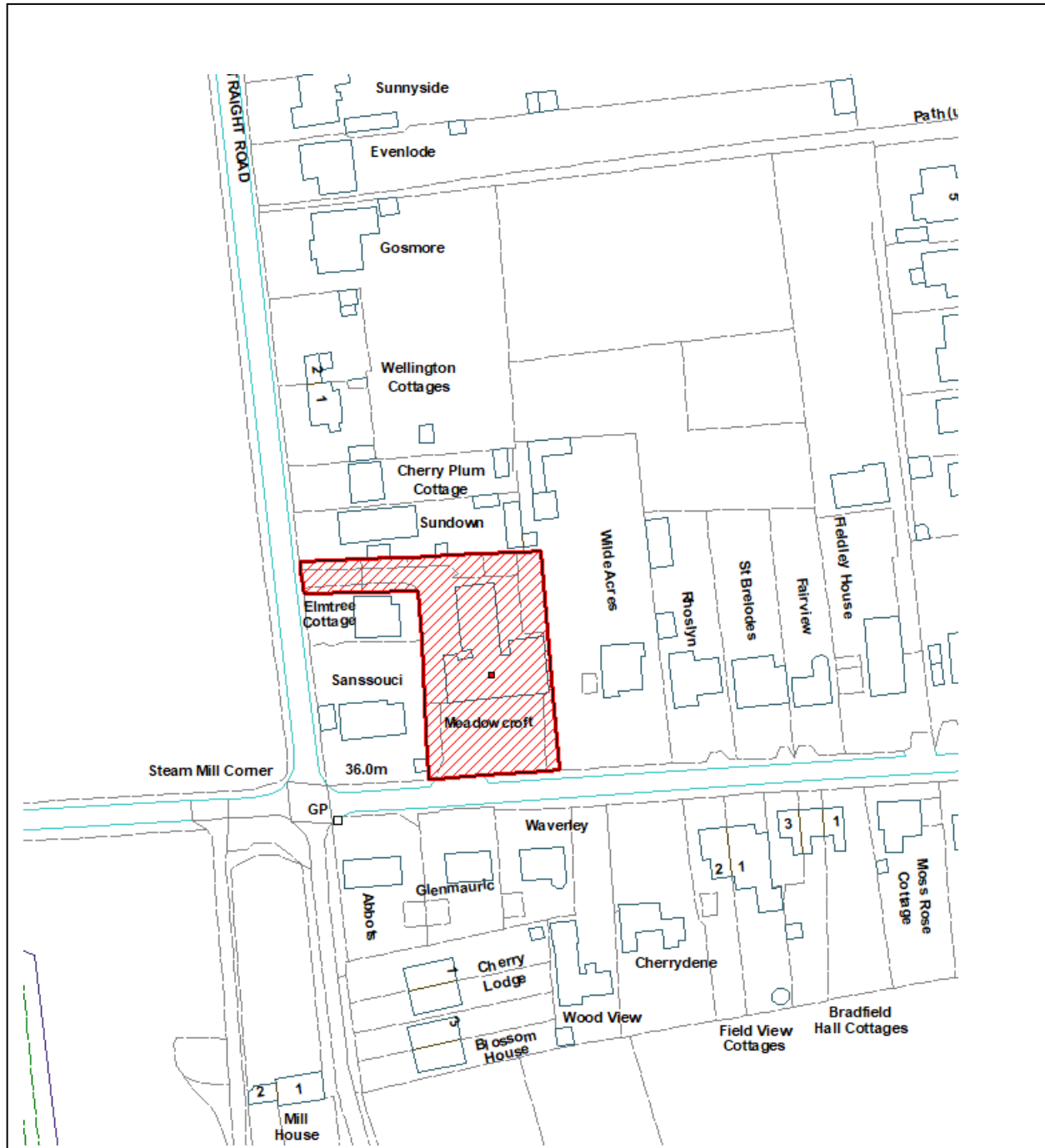
- 10.1 In making this recommendation, officers have considered all plans, documents, reports and supporting information submitted with the application together with any amended documentation. Additional information considered relevant to the assessment of the application (as referenced within the report)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

14TH MARCH 2023

REPORT OF THE DIRECTOR OF PLANNING

A.3 PLANNING APPLICATION – 22/01603/FUL – MEADOWCROFT STEAM MILL ROAD BRADFELD MANNINGTREE



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Application:	22/01603/FUL	Expiry Date:	8th December 2022
Case Officer:	Matthew Lang	EOT Date:	17th March 2023
Town/ Parish:	Bradfield Parish Council		
Applicant:	Mr Volf - Stour Valley Care Group		
Address:	Meadowcroft Steam Mill Road Bradfield Manningtree CO11 2QY		
Development:	Proposed extension of existing Care Home to provide seven new en-suite bedrooms including lift and new stairs.		

1. Executive Summary

- 1.1 The application is before the Planning Committee following a call-in request from Councillor Fairley due to concerns that the proposed extension would harm the amenities of neighbouring residents and represent continued overdevelopment of the previous domestic bungalow which is out of keeping with the surrounding dwellings.
- 1.2 The proposal relates to a part single storey and part first floor extension to the existing care home to provide seven new en-suite bedrooms including lift and new stairs. The residents of Meadowcroft have, since 2000, been people with learning difficulties. It is now the intention of the owners to change the client group to elderly, with specialisation in palliative care.
- 1.3 Amended plans have been secured during the processing of the application to reduce the size of the extension and to remove several first floor west facing windows due to concerns over the neighbour impact.
- 1.4 The increased size of the building will not be materially harmful to the character and appearance of the surrounding area and will result in a neutral impact to existing neighbouring amenities. Whilst no changes are proposed to the site access or parking arrangements, Essex Highways Authority have raised no objections in terms of the increased use of the site and parking provision is considered to be acceptable.

Recommendation: Approval

- 1) That the Director of Planning be authorised to grant planning permission subject to conditions as stated at Paragraph 9.2 (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)

SP1 Presumption in Favour of Sustainable Development

SP7 Place Shaping Principles

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

SPL1 Managing Growth

SPL2 Settlement Development Boundaries

SPL3 Sustainable Design

LP10 Care, Independent Assisted Living

CP1 Sustainable Transport and Accessibility

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

Status of the Local Plan

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

3. Relevant Planning History

12/00866/FUL	Change of use to residential care home and extension of existing building to create four additional bedrooms.	Approved	25.09.2012
21/01782/FUL	Proposed extension of existing care home to provide additional bedrooms and new kitchen.	Approved	13.12.2021
22/01603/FUL	Proposed extension of existing Care Home to provide seven new en-suite	Current	

bedrooms including lift and new stairs.

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/>.

Environmental Protection

11.11.2022

Noise:

In order to minimise potential nuisance caused by demolition and construction works, the applicant (or their contractors) shall submit a full construction method statement. The statement 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 Holiday whilst construction works and alterations are being carried out.
- The use of barriers to mitigate the impact of noisy operations will be used where possible.
- 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 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.

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

ECC Highways Dept

26.10.2022

The information that was submitted in association with the application has been fully considered by the Highway Authority. No site visit was undertaken in conjunction with this planning application. The information submitted with the application has been assessed and conclusions have been drawn from a desktop study with the observations below based on submitted material. The proposal is for the introduction of seven additional ensuite bedrooms

that will also see one additional full-time and two part-time members of staff employed. When completed the extended care home, will have a total of nineteen bedrooms. Vehicular access to the site and the building is unchanged by this application. It is noted that the existing car parking has proven to be more than adequate and the proposed increase in bedrooms will only marginally increase the demand for parking, plus there is additional parking available to the rear of the site which is accessed from Straight Road; the Highway Authority would not deem the introduction of the proposal at this location to have a severe traffic impact particularly at peak periods and during weekdays, 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. Prior to commencement of the development, the areas within the curtilage of the site for the purpose of loading / unloading / reception and storage of building materials and manoeuvring of all vehicles, including construction traffic shall be provided clear of the highway.

Reason: To ensure that appropriate loading / unloading facilities are available to ensure that the highway is not obstructed during the construction period in the interest of highway safety in accordance with policy DM1.

2. As indicated on drawing no. 667/20 B, and as per the Essex Parking Standards (Parking Standards: Design and Good Practice, Sept 2009) 6 metres should be provided behind each parking space to allow for manoeuvring.

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

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

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.

5. Representations

5.1 No comments have been received from Bradfield Parish Council.

5.2 Cllr Fairly has provided the following comments, as part of the formal member 'call-in' process (comments were received prior to the receipt of amended plans);

- The care home, known as Meadowcroft is a converted domestic bungalow, bordered on both sides by other domestic dwellings. There are currently ten self-contained rooms for residents in Meadowcroft, which is now a commercial establishment.
- This application seeks approval to build a second storey above both the existing ground floor building and another area already under construction. The application therefore proposes to increase the number of self-contained rooms to twenty. (***Officer Comment – Since the submission of amended plans the total number of rooms upon approval has decreased to 19).***

- If approved, the creation of the additional floor would result in overlooking the neighbouring home, resulting in a total loss of privacy and a reduction in light.
- The applicant states that, "...this forms part of the overall strategy of the Stour Valley Care Group". Whilst that may be the commercial aspiration of the applicant, there is no identified local need in Bradfield to increase the number of rooms in this establishment by 100%.
- Bradfield Parish Council considers this application to be continued overdevelopment of the existing domestic bungalow which is out of keeping with the surrounding dwellings.
- Meadowcroft is already a House of Multiple Occupancy (HMO) doubling the number of self-contained dwelling rooms, with all the resulting support services and other disruption to neighbours, is unacceptable in this residential and predominantly rural area in which it is located. **(Officer Comment – The property is not a House of Multiple Occupancy - HMO. Its lawful use is one of a care home (Class C2), as approved under planning reference 12/00866/FUL).**

5.3 3 letters of objection were received prior to the submission of the amended plans, these objections raised the following matters;

- Elmtree Cottage is not noted on the drawings as a house and could be interpreted as outbuildings belonging to Sanssouci.
- Loss of light to the rear of Elmtree Cottage, which contains the main living accommodation, due to proximity of Meadowcroft and the addition of a second storey.
- Significant loss of privacy to Elmtree Cottage as the windows of the proposed second storey will allow residents/staff/visitors to look directly into the living area. Residents will have no privacy in their home or back garden potentially causing anxiety and stress to the residents.
- Existing noise from residents, staff, bin lids and opening/closing of gates within Meadowcroft is having an adverse impact upon residential amenity. By increasing the size of Meadowcroft to accommodate a minimum of 8 extra residents noise levels will inevitably increase.
- Access is being used by large vehicles to collect refuse and causing noise/disturbance and damage.
- Meadowcroft has historically been a small care facility within a village environment it is our opinion that by significantly increasing its size it will become a commercial enterprise.
- Overlooking to the rear garden and rear elevation of Sundown due to siting of proposed west facing first floor windows.
- Loss of light to the kitchen/lounge serving Sundown and loss of outlook due to increase in size of building.
- The noise issue was not related to the one incident. The noise issue has been ongoing for a good number of years.
- To change to the dormer bedroom windows to velux roof lights might be an improvement but experience over the years has shown that the Meadowcroft velux rooflight in an existing part of the roof does not stop anyone from looking directly into Elmtree Cottage.
- In response to the applicant, Elmtree Cottage was purchased new in 2011 by the current owners and there was no leylandii hedging at the bottom on the garden to provide screening. This was not removed by the owners.

5.4 1 letter of objection has been received since the submission of the amended plans, this representation outlined the following matters;

- Having looked at the new proposal. We believe that although improved slightly, there is still good reason for concern.
- The extra roof height would impact on our sky light to kitchen and lounge windows. The extra volume of roof to look at each day is a dismal prospect.
- The roof windows, although better than the dormer, will NOT insure our privacy at all.
- The noise issue in the warmer months has not and cannot be addressed.
- Understandably windows are opened, patience, staff, and visitors use the grounds.

- Development will cause extra traffic, causing even more unacceptable noise. A big issue if you live next door.
- This large build and extra occupancy is not suitable placed in the middle of a residential area.

6. Assessment

Site Context

- 6.1 The application site is set within the settlement development boundary of Bradfield and contains a former dwellinghouse, converted to a care home by way of 12/00866/FUL.
- 6.2 The care home has a substantial footprint with the majority set at single storey level. There is a large parking area to the front (south) of the site along with parking to the rear. The care home has two vehicle access points, one to the south on Steam Mill Road and one to the west on Straight Road.
- 6.3 The site has no special designations and there are no protected trees on the site. The character of the area is predominantly residential.

Planning History

- 6.4 Meadowcroft is an established Care Home with 10 en-suite bedrooms that has been used as a Care Home since 2000 for people with Learning/Physical disabilities. Originally having 6 bedrooms the building was extended in 2013 to its current 10 bedrooms under planning reference 12/00866/FUL. As stated above, the residents of Meadowcroft have, since 2000, been people with learning difficulties. It is now the intention of the owners to change the client group to elderly, with specialisation in palliative care.
- 6.5 Planning permission was granted in 2022 for extensions to the side and rear of the building (ref - 21/01782/FUL). The side extension is currently under construction providing one additional bedroom to the care home. The rear extension provided for two additional bedrooms, but this is incorporated into this latest scheme which when added to the bedrooms now proposed will provide 7 new bedrooms. When completed the extended care home, as now proposed, will have a total of 19 bedrooms.

Proposal

- 6.6 This application proposes an extension to the existing care home to provide seven new en-suite bedrooms including lift and new stairs.
- 6.7 It is proposed to extend the existing building to the north side providing two new bedrooms, at ground floor, as approved under 21/01782/FUL, and five new bedrooms at first floor, each with en-suite bathrooms.
- 6.8 The proposed extension is at first floor level over the existing accommodation and is set in at its northern end to respect the relationship with the neighbouring site to the north. A small ground floor extension on the eastern side of the building is proposed to accommodate toilets.
- 6.9 The existing shared facilities like lounges and dining rooms will be kept and used by the residents of the new rooms. The development would create 1 no. additional full-time job and 2 no. part time roles.

Principle of Development

- 6.10 The site is located within the Development Boundary of Bradfield and set within a built-up area, where the principle of extending and altering buildings is accepted subject to compliance with national and local planning policies.
- 6.11 Policy LP10 supports the provision of care homes and extra care housing within settlement development boundaries. Furthermore, to meet care needs and generate growth in the care sector, accommodation provision should be geared towards particular groups in the population, including the elderly. Residential institutions have the potential to accommodate a significant number of residents, employ substantial numbers of staff and receive visits from friends and family. Therefore, they are best located in sustainable locations, ideally within the settlement development boundaries of the district.
- 6.12 Applications for extensions to existing residential institutions will be considered on their own merits subject to meeting other relevant Local Plan policies.
- 6.13 The site is located within the settlement development boundary of Bradfield, the proposed development would not cause any material harm by way of conflict with other local policies and would provide additional social care accommodation.
- 6.14 The proposal therefore complies with the requirements of Policy LP10. As such, there is no principle objection to the proposal, subject to the detailed considerations discussed below.

Design and Appearance

- 6.15 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.
- 6.16 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.
- 6.17 The proposed development ensures that adequate separation distances are maintained between the built-form on the site and shared boundaries with adjacent properties. Whilst the extension would extend the building up to first floor level along the majority of the rear projection, given that the site is enclosed on all sides by existing built form, it would not appear prominent in views from nearby public vantage points.
- 6.18 Moreover, the proposed extension would follow the line and pitch of the existing roof which represents a 2 metre increase to the ridge line over the height of the existing single storey element. This relatively minor increase in height combined with the fact that the extension is hipped means that the bulk and massing of the development is not excessive.
- 6.19 The proposed development would be finished with brickwork, render and clay tiles all of which would continue, and match, the appearance of the existing building. The fenestration would be of white PVC to match existing. The proposed development is considered to be of a design that is in keeping with the existing building and it would be congruent with the character of the surrounding area.
- 6.20 After the construction of the extension the site will still retain sufficient amenity space on its eastern side and the car parking areas are not affected by the development.

- 6.21 Therefore, the design of the proposed development is considered to be acceptable; it would not cause harm to the character and appearance of the existing building or its surrounds and complies with the requirements of policy SPL3.

Impact on Residential Amenity

- 6.22 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.
- 6.23 When the application was originally submitted the first-floor addition contained several first floor windows looking west over the neighbouring property (Elmtree Cottage) and the extension was higher to ridge height. The development also extended up to the neighbour's boundary to the north (Sundown) at first floor level.
- 6.24 Following concerns raised with the applicant in respect of the loss of privacy and outlook to neighbouring residents, officers have secured amended plans which; remove the first-floor windows facing west, set the first floor element in 3 metres from the northern boundary and reduce the overall height of the extension by 0.3 metres and the eaves by 0.15 metres. The windows have been replaced by high level rooflights within two of the bedrooms facing west where the cill height is to be set above normal eyeline level of 1.7 metres. This has been demonstrated on the submitted section drawing. The rooflight to the northern elevation will also be set at this height to avoid any loss of privacy to the neighbouring residents.
- 6.25 Furthermore, a sunlight/shadowing plan has been provided which demonstrates that due to the decrease in the mass and bulk of the extension and the degree of separation to the rear gardens serving nearby properties, there would be very little impact in terms of shadowing or loss of natural light to these areas. The shadow lines for 8.00am and 9.00am both show minimum intrusion into the gardens of 'Sundown' to the north and 'Elmtree Cottage' to the west and no reduction in sunlight in to the habitable rooms serving those properties. After this time and as the sun comes round to the south the shadow line is even further reduced
- 6.26 The 3 metre offset of the first-floor element from the northern boundary with 'Sundown' combined with the 20 metre distance from the corner of the first floor element to the rear elevation of that property ensures that any impacts in terms of outlook would be minimal. The hipped nature also assists in reducing the bulk of the extension when viewed from the neighbour's rear garden.
- 6.27 Overall and in view of the above the proposal would not demonstrably harm the amenities of residents living in the vicinity thereby according within the requirements of the above-mentioned national and local planning policies.

Highway Safety/Parking

- 6.28 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.
- 6.29 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.

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.

- 6.30 In this instance, the proposal does not propose any new access points from the highway and any increase in traffic would be relatively insignificant. The existing parking provision of 16 spaces to the front of the building would be unchanged by the development and additional overspill parking is also available to the rear for staff. The supporting information states that the number of staff on site at one time is usually 5 or 6 and there is a change over for a short period but at these times there are generally no visitors, so the parking has capacity to cope with it. Maximum parking standards apply, and it is therefore considered that the proposed development would maintain adequate parking provision for staff and visitors.
- 6.31 ECC-Highways have reviewed the application and confirm that they have no objections subject to conditions relating to a construction method statement (CMS) being provided, the parking area being laid out in accordance with the parking standards and cycle/powered two-wheeler parking being provided. A CMS will be secured via condition to ensure that sufficient space is made available within the site for unloading/loading of materials and construction staff vehicles. The parking areas remain unchanged by this proposal so the condition relating to the parking dimensions is not considered to be reasonable in this instance. Due to an increase in staff numbers and visitors to the site, as a result of the development, a condition will be applied to secure details of a new cycle and powered two-wheeler parking facility.

7. Conclusion

- 7.1 The proposed development is in accordance with the aforementioned national and local policies. The absence of any identified material harm that would be caused by the proposed development, and because of the benefits that would be provided by way of additional care accommodation, the application is recommended for approval.

8. Recommendation

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

8.2 Conditions and Reasons

1). COMMENCEMENT TIME LIMIT

The works to which this consent relate must be begun not later than the expiration of three years beginning with the date of this consent.

REASON: To comply with the requirements of Section 18(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

NOTE/S FOR CONDITION:

The development needs to commence within the timeframe provided. Failure to comply with this condition will result in the consent becoming lapsed and unable to be carried out. If commencement takes place after the time lapses this may result in unlawful works at risk of both Enforcement Action and Criminal proceedings. You should only commence works when all other conditions requiring agreement prior to commencement have been complied with.

2). APPROVED PLANS & DOCUMENTS

CONDITION: 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 (except for Listed Building Consents). 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.

- 667/21 B (Existing Elevations and Floor Plans)
- 667/20 C (Site and Block Plan)
- 667/26 A (Amended Sunlight/Shadowing Plan)
- 667/25 B (Amended Proposed Floor and Elevations Plan)

REASON: For the avoidance of doubt and in the interests of proper phased planning of the development.

NOTE/S FOR CONDITION:

The primary role of this condition is to confirm the approved plans and documents that form the planning decision. Any document or plan not listed in this condition is not approved, unless otherwise separately referenced in other conditions that also form this decision. The second role of this condition is to allow the potential process of Non Material Amendment if found necessary and such future applications shall be considered on their merits. Lastly, this condition also allows for a phasing plan to be submitted for consideration as a discharge of condition application should phasing be needed by the developer/s if not otherwise already approved as part of this permission. A phasing plan submission via this condition is optional and not a requirement.

Please note in the latest revision of the National Planning Policy Framework (NPPF) it provides that Local Planning Authorities should seek to ensure that the quality of approved development is not materially diminished between permission and completion, as a result of changes being made to the permitted scheme (for example through changes to approved details such as the materials used). Accordingly, any future amendment of any kind will be considered in line with this paragraph, alongside the Development Plan and all other material considerations.

Any indication found on the approved plans and documents to describe the plans as approximate and/or not to be scaled and/or measurements to be checked on site or similar, will not be considered applicable and the scale and measurements shown shall be the approved details and used as necessary for compliance purposes and/or enforcement action.

3). CONSTRUCTION MANAGEMENT TO BE AGREED (PRE COMMENCEMENT)

CONDITION: Prior to the commencement of development details of the construction methodology 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 portalooos.
- 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). 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.

NOTE/S FOR CONDITION:

You are strongly advised to discuss this condition with the Local Planning Authority and if possible/available local residents likely to be affected by this development prior to submission of details.

4). CYCLE / POWERED TWO-WHEELER PARKING FACILITIES TO BE AGREED

Prior to the first occupation of the approved development details of a cycle / powered two-wheeler parking facility to be provided within the site shall be submitted to and approved, in writing, by the local planning authority. The approved facility shall then be constructed, as approved, prior to occupation and retained in perpetuity.

REASON: To ensure appropriate cycle / powered-two-wheeler parking is provided in the interest of highway safety and sustainability.

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.

9. Additional Considerations

Public Sector Equality Duty (PSED)

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

Human Rights

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

Finance Implications

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

10. Background Papers

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

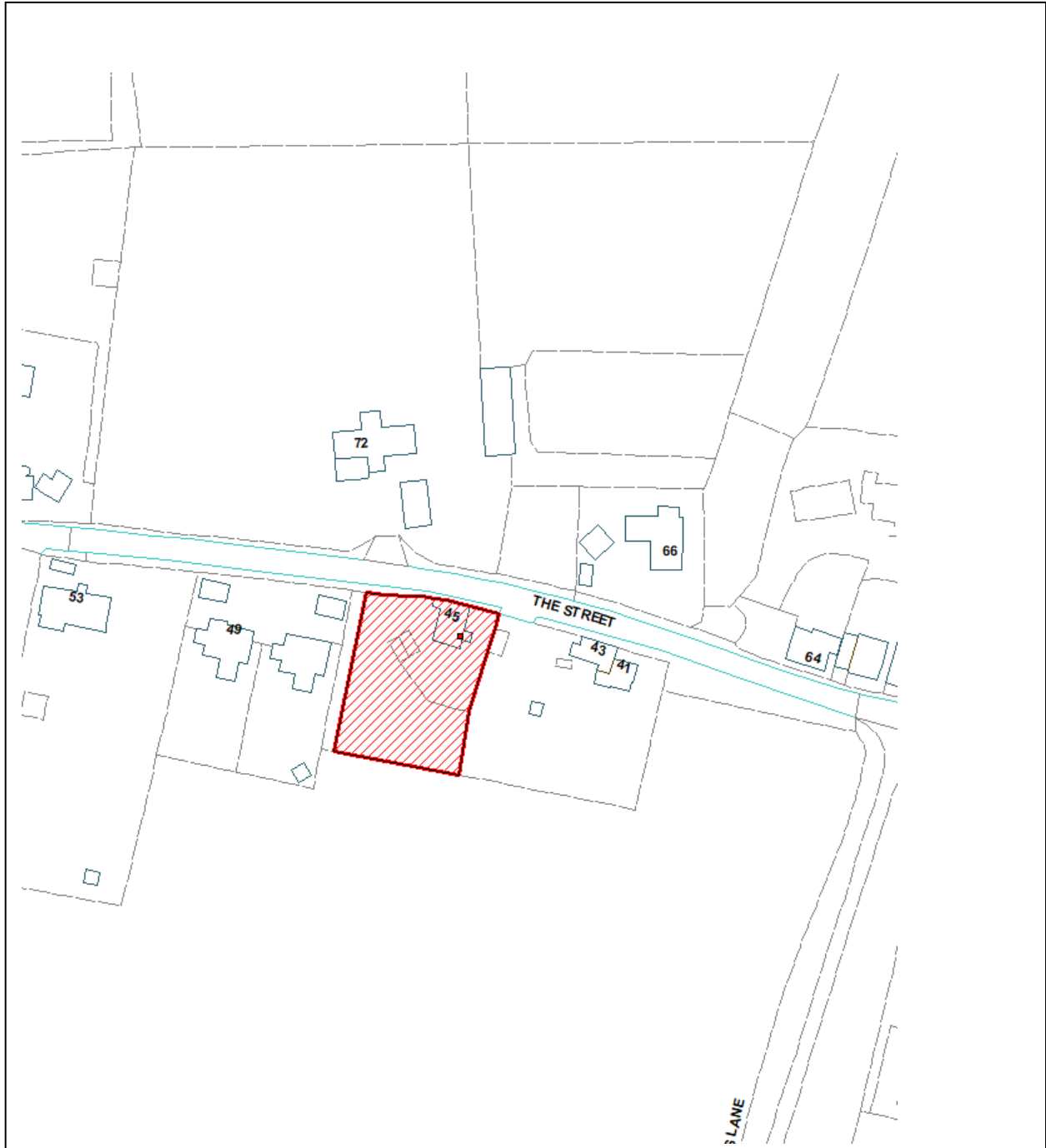
is available to view on the planning file using the application reference number via the Council's Public Access system by following this link <https://idox.tendringdc.gov.uk/online-applications/>.

PLANNING COMMITTEE

14th March 2023

REPORT OF THE DIRECTOR OF PLANNING

A.4 PLANNING APPLICATION – 20/01125/OUT – 45 THE STREET KIRBY LE SOKEN FRINTON ON SEA CO13 0EG



DO NOT SCALE

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Application:	20/01125/OUT	Expiry Date:	16th October 2020
Case Officer:	Susanne Chapman-Ennos	EOT Date:	17th March 2023
Town/ Parish:	Frinton & Walton Town Council		
Applicant:	Mrs Brenda Derbyshire		
Address:	45 The Street Kirby Le Soken Frinton On Sea CO13 0EG		
Development:	Erection of 1 dwelling and provision of access. Parking for both the existing and proposed dwelling		

1. Executive Summary

Recommendation: Approval subject to S106

- 1) On appropriate terms as summarised below and those as may be deemed necessary to the satisfaction of the Director of Planning to secure the completion of a legal agreement under the provisions of section 106 of the Town and Country Planning Act 1990 dealing with the following matters:
 - A financial contribution of £137.71 (to be index linked) towards RAMS.
- 2) That the Director of Planning be authorised to grant outline consent upon completion of the legal agreement subject to conditions as stated in Section 8.2 (or as need to be varied) and those as may be deemed necessary by the Director of Planning.

2. Planning Policy

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

National:

National Planning Policy Framework July 2021 (NPPF)

National Planning Practice Guidance (NPPG)

Local:

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

SP1 Presumption in Favour of Sustainable Development

SP2 Recreational disturbance Avoidance and Mitigation Strategy (RAMS)

SP3 Spatial Strategy for North Essex

SP4 Meeting Housing Needs

SP7 Place Shaping Principles

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

SPL1 Managing Growth

SPL2 Settlement Development Boundaries

SPL3 Sustainable Design

LP1 Housing Supply

LP4 Housing Layout

PPL3 The Rural Landscape

PPL4 Biodiversity and Geodiversity

PPL5 Water Conservation, Drainage and Sewerage

PPL8 Conservation Areas

CP1 Sustainable Transport and Accessibility

Supplementary Planning Documents

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

Kirby-Le-Soken Conservation Area Appraisal

Local Planning Guidance

Essex Design Guide

Essex County Council Car Parking Standards - Design and Good Practice

Supplementary Planning Documents

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**

05/00397/FUL	Change of use of land to rear of garden from paddock to garden land.	Approved	27.05.2005
20/01125/OUT	Erection of 1 dwelling and provision of access. Parking for both the existing and proposed dwelling	Current	

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/>.

Tree & Landscape Officer

06.12.2022

Collectively the small trees and other vegetation on the application site make a pleasant contribution to the character and appearance of the locality however none of the trees on the land have such amenity value that they merit retention or formal legal protection by means of a Tendring District Council Tree Preservation Order

In terms of soft landscaping there appears to be limited scope for new planting however if planning permission were to be granted it would be desirable to secure some new planting in order to soften, screen and enhance the appearance of the completed development.

Essex County Council Heritage

06.01.2023

The current proposal positively moves forward from the original application by retaining the existing cottage at Number 45 The Street, which positively contributes to the character and appearance of the Conservation Area. The proposal also reduces the proposed built form to only 1 new dwelling to be set back from the main road and built on the site of the existing garages.

There are however still concerns about the use of an outline application to determine the

principle of development for this very tight site within the Conservation Area. Outline applications do not provide sufficient level of detail in order to assess the impact of the proposal on the character and appearance of the Conservation Area and on the important view along The Street towards the rural setting of Kirby Le Soken. As per Paragraph 206 of the NPPF, local planning authorities should look for opportunities for new development within Conservation Areas to enhance or better reveal their significance. An outline application does not provide sufficient information to assess whether the proposal offers a bespoke response to the historic context in terms of scale, design and materials.

Also, there is the potential that the proposed dwelling would block the view of the rural landscape which forms the mostly unchanged setting of Kirby Le-Soken and which can be seen from within the Conservation Area, contributing to an understanding of the village as an isolated rural settlement.

Should there be any permission for this site, I recommend this is via a detailed application.

UU Open Spaces

20.12.2022

There is currently a deficit of 14.12 hectares of equipped play in Frinton, Walton & Kirby. No contribution is being requested from Open Spaces on this occasion.

Essex County Council Archaeology

08.12.2022

The above application is for the erection of 1 dwelling and provision of access. Parking for both the existing and proposed dwelling.

The Essex Historic Environment Record (HER) and Tendring Historic Environment Characterisation Project, demonstrate that the proposed development lies within the historic settlement of Kirby le Soken, which is protected as a Conservation Area. The existing building at 45 The Street is depicted on the 1st edition OS maps and so predates c.1870 and lies within a small, enclosed area along with house numbers 41 and 43. Recent excavations to the east have found evidence for medieval activity associated with the origins of the settlement at Kirby le Soken, along with sparse evidence for prehistoric and Roman activity.

The revised proposal is located back from the street frontage in an area currently used as garaging. The new dwelling will be in an area which has been previously disturbed in part and there will be limited impact to any archaeological deposits that may survive. On our present knowledge, therefore, it is unlikely that there will be a significant impact and no recommendations are being made on this application.

ECC Highways Dept

23.12.2022

The information submitted with the application has been fully assessed by the Highway Authority and conclusions reached based on a desktop study in conjunction with a site visit. The site is situated on the B1034 The Street that is subject to a 30-mph speed limit. This proposal will see the cottage retained plus the introduction of one new dwelling sharing an existing access, parking, and turning area onto the B1034 The Street with the host dwelling, however:

From a highway and transportation perspective the impact of the proposal is NOT acceptable to the Highway Authority for the following reasons:

The proposal would intensify the use of an existing access onto B1034 The Street (secondary

distributor) where visibility, from the proposed site access and forward visibility along B1034 The Street, is not in accordance with current safety standards. The main function of this highway is that of carrying traffic freely and safely between centres of population. The existence of an access in this location is a matter of fact and therefore some degree of conflict and interference to the passage of through vehicles already occurs but the intensification of that conflict and interference which this proposal would engender would lead to a deterioration in the efficiency of the through road as a traffic carrier to the detriment of highway safety.

The proposal is therefore contrary policies DM1, and DM3 contained within the County Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011 and National Planning Policy Framework 2021.

Informative

The existing access serves one dwelling and has available visibility of approximately 2.4 metres by 18 metres to the east (approach side) and no highway verge with only 0.5 metres at its narrowest point between the edge of the carriageway and the existing cottage on the inside of a bend (which further reduces visibility). To the west the verge is only 1.2 metres wide, and the visibility splay is restricted by existing street furniture located within the verge. The minimum visibility splay requirement for the vehicular access is 2.4 metres by 43 metres in both directions along The Street and these must be clear to ground and pass over land in the applicants control and or highway land. The existing vehicular access as submitted is unsuitable for intensification of use (to serve two dwellings).

5. Representations

- 5.1 Frinton and Walton Town Council recommend refusal of the application in line with comments made by the Historic Environment Team.

6. Assessment

Site Context

- 6.1 The application site is situated on the southern side of The Street, Kirby-Le-Soken and measures approximately 0.12 hectares in size. The site comprises of the existing dwelling (No. 45 The Street), which is a detached, rendered dwelling situated to the front of the site, close to the road. To the south-west of the existing dwelling is a detached, flat roofed, double garage.
- 6.2 The surrounding area comprises of a variety of dwellings of different sizes, scales, ages and architectural styles, although a cottage style rural vernacular dominates. To the east of the site is a semi-detached cottage style dwelling and to the west of the site lies two recently constructed detached dwellings with garages to the front. To the north on the opposite side of the road lies a large, detached dwelling listed building which was formally an agricultural barn.
- 6.3 The site lies outside of the defined Settlement Development Boundary for Kirby-Le-Soken within the adopted Local Plan 2013-2033 and falls with the Kirby-Le-Soken Conservation Area.

Proposal

- 6.4 This application seeks outline consent for the erection of one dwelling and the provision of access, plus the provision of parking for both the existing and proposed dwelling at 45 The Street, Kirby Le Soken.
- 6.5 The application is in outline form with all matters reserved, therefore matters such as layout, scale, appearance and access are reserved for a future application. However, an indicative

block plan has been submitted which shows a location for the proposed dwelling, the existing garage being demolished, a shared access for both dwellings and a parking and turning area.

Principle of Development

- 6.6 Planning law requires that decisions on planning applications must be taken in accordance with the development plan unless there are material considerations that indicate otherwise (section 70(2) of the 1990 Town and Country Planning Act and section 38(6) of the Planning and Compulsory Purchase Act 2004). The development plan for Tendring Council comprises of the adopted Tendring District Local Plan 2013-2033 and Beyond Sections 1 and 2.
- 6.7 Policy SP3 of Section 1 of the 2013-2033 Local Plan sets out the spatial strategy for North Essex and directs growth towards existing settlements. The application site lies outside of the defined settlement boundary of Kirby-Le-Soken 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.
- 6.8 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.
- 6.9 The proposal therefore results in conflict with policies SP3 and SPL2. However, recent appeal decisions have concluded that the above policies do not specifically prevent the development of land outside of settlement boundaries, but clearly guide housing development to land within settlement boundaries.
- 6.10 Kirby-le-Soken is identified by Policy SPL1 as a Smaller Rural Settlement, it contains a range of services and can therefore sustain small scale growth. The site is located approximately 85 metres from the nearest settlement development boundary. The site is therefore considered to be in a sustainable location for residential development.

Impact on Conservation Area

- 6.11 The proposal site is within the Kirby Le Soken Conservation Area. The Street represents the Village Core of Kirby Le Soken, characterised by traditional vernacular buildings dating from the sixteenth to the nineteenth century, with long views towards the unchanged agrarian landscape to the North and South of the settlement.
- 6.12 The Local Planning Authority has a statutory duty to preserve or enhance the character and appearance of Kirby-Le-Soken Conservation Area under Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
- 6.13 Policy PPL8 of the Tendring District Local Plan seeks to ensure that any new development within a designated Conservation Area, or which affects its setting, will only be permitted where it has regard to the desirability of preserving or enhancing the special character and appearance of the area, especially in terms of any important views into, out of, or within the Conservation Area.
- 6.14 Essex County Council Heritage consider that as this application is in outline form that the application does not provide sufficient level of detail in order to assess the impact of the proposal on the character and appearance of the Conservation and on the important view along The Street towards the rural setting of Kirby Le Soken. They also comment that the existing dwelling positively contributes to the character and appearance of the Conservation

Area and raise concern that there is the potential that the proposed dwelling would block the view of the rural landscape which forms the mostly unchanged setting of Kirby Le-Soken and which can be seen from within the Conservation Area, contributing to an understanding of the village as an isolated rural settlement.

- 6.15 It is considered given that the existing building is being retained and there is a large, detached garage on the site, that some form of dwelling would be acceptable on the site the details of which need to be agreed as part of a future reserved matters application.
- 6.16 While the frustration of not knowing what the design itself may be and accordingly judgement on this point can not be made, being within a Conservation Area does not in law prevent the application made for Outline Permission. In terms of principle it is considered that a dwelling of some form can be developed on this site and this is not denied as a possibility in principle by the Heritage advice received. This may mean the dwelling may be limited in size and scale or needs to be carefully designed, but these elements and impact on the Conservation Area can be considered at that appropriate time. It is therefore considered at this stage that it is not necessary or reasonable to refuse the application on the basis of the impact on the character and appearance of the Conservation Area.

Layout, Scale and Appearance

- 6.17 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.
- 6.18 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.
- 6.19 No elevational drawings are provided; however, it is considered that a dwelling of an appropriate design, scale and layout for the site could be agreed as part of the reserved matters application.
- 6.20 Furthermore, the existing dwelling and the proposed dwelling could be served by a private amenity space of a size and configuration that will appropriately meet the needs and expectations of the occupants and which is commensurate to the size of the dwelling and the character of the area, in accordance with Policy LP4 of the 2013-2033 Local Plan.

Highway Safety/Parking

- 6.21 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.
- 6.22 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.

- 6.23 ECC Highways have been consulted on the application and recommend refusal as it is considered that the proposal would intensify the use of an existing access onto the B1034 (The Street), a secondary distributor road, where visibility is not in accordance with the current safety standards and therefore of detriment to highway safety.
- 6.24 The current access has visibility of approximately 2.4 metres by 18 metres to the east (approach side) and no highway verge with only 0.5 metres at its narrowest point between the edge of the carriageway and the existing cottage on the inside of a bend (which further reduces visibility). To the west the verge is only 1.2 metres wide, and the visibility splay is restricted by existing street furniture located within the verge. The minimum visibility splay requirement for the vehicular access is 2.4 metres by 43 metres in both directions along The Street and these must be clear to ground and pass over land in the applicants control and or highway land.
- 6.25 The comments from ECC Highways are noted, however, the site is currently served by two access points, both which have poor visibility and there is currently no turning facility within the site. This application seeks to remove the access located closer to the existing dwelling and provide a formal parking and turning area for existing and proposed dwelling. Therefore reducing the number of access points onto The Street, with poor visibility and enabling all cars to enter and exit the site in a forward gear. It is therefore considered that the proposal would have some benefit to highway safety and when balanced against the objection from ECC Highways would not be sufficient to warrant a reason for refusal.
- 6.26 The precise details of the access will be a matter for any future reserved matters application.

Residential Amenity

- 6.27 Paragraph 130 of the National Planning Policy Framework (2021) confirms planning policies and decisions should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users. Policy SP7 of Section 1 of the 2013-33 Local Plan requires that the amenity of existing and future residents is protected. Section 2 Policy SPL 3 (Part C) seeks to ensure that development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties.
- 6.28 While the application is in outline form and no elevational or floor layout plans have been provided. However, it is considered that within any future detailed planning application a dwelling could be constructed in such a way as to avoid significant harm to existing amenities of neighbouring properties.

Landscaping

- 6.29 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.
- 6.30 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.
- 6.31 The application site currently forms part of the residential curtilage of the host property and is set to grass with small trees and established shrubs. The boundary with the highway is

demarcated by a short section of hedging comprising of Shrubby Honeysuckle. The garden contains a small Walnut tree along with Maple, Eucalyptus and a range of decorative garden shrubs.

- 6.32 Collectively the small trees and other vegetation on the application site make a pleasant contribution to the character and appearance of the locality however none of the trees on the land have such amenity value that they merit retention or formal legal protection by means of a Tending District Council Tree Preservation Order
- 6.33 In terms of soft landscaping there appears to be limited scope for new planting however details of planting will be submitted as part of any future reserved matters application.

Drainage

- 6.34 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.
- 6.35 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.
- 6.36 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.
- 6.37 As the application is in outline form, it is not necessary for this information to be provided at this stage. However, a condition is recommended to ensure that details are provided prior to the first occupation of the dwelling hereby permitted.

Financial Contributions – Recreational Disturbance

- 6.38 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.
- 6.39 The application scheme proposes a residential use on a site that lies within the Zone of Influence (Zoi) being approximately 8.6km from Hamford Water 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.

6.40 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

6.41 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.

6.42 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 14.12 hectares of equipped play in Frinton, Walton & Kirby, however no contribution is requested on this occasion.

7. Conclusion

7.1 The site lies outside of the Settlement Development Boundary and therefore the development results in conflict with Policies SP3 and SPL2 of the Local Plan. However, recent appeal decisions have concluded that these policies do not specifically prevent the development of land outside of settlement boundaries but clearly guide housing development to land within settlement boundaries.

7.2 Notwithstanding the above, given the sustainable location of the site, the lack of any harm to the character and appearance of the surrounding area, highway safety and residential amenity, the application is on balance 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 Section 106 legal agreement with the agreed Heads of Terms, as set out in the table below:

CATEGORY	TERMS
Financial contribution towards RAMS	£137.71 (index linked) to be paid prior to first occupation.

8.2 Conditions and Reasons

1. COMPLIANCE REQUIRED: TIME LIMIT FOR RESERVED MATTERS APPLICATION

CONDITION: Application for approval of all outstanding and the final reserved matters for any phase of the development must be made to the Local Planning Authority not later than the expiration of three years beginning with the date of this permission, and the development must be begun not later than the expiration of two years from the final approval of the reserved matters for the relevant phase or, in the case of approval on different dates, the final approval of the last such matter to be approved.

REASON: To comply with the requirements of Section 92 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

NOTE/S FOR CONDITION:

The reserved matters need to be received by the Local Planning Authority within the timeframe provided. Failure to comply with this condition will result in the permission becoming lapsed and unable to be carried out. If there is no phasing plan, this condition is considered to apply to the whole site as a single phase. If commencement takes place after the time lapses this may result in unlawful works at risk Enforcement Action proceedings. You should only commence works when all other conditions requiring agreement prior to commencement have been complied with.

2. APPROVAL OF RESERVED MATTERS

CONDITION: No development in any phase shall commence until approval of the details of:-

- the Appearance of the building(s) and place,
- Scale of the building(s),
- Layout of the building(s) and site,
- the means of Access,
- Landscaping

(hereinafter called "the reserved matters") for that particular phase have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and agreed order of phasing.

REASON: To enable the Local Planning Authority to secure an orderly and well designed development in accordance with the character and appearance of the neighbourhood and in accordance with the Development Plan. This condition is required to be agreed prior to the commencement of any development in accordance with proper planning principles to allow public engagement on the outstanding reserved matters and ensure no significant adverse harm results.

NOTE/S FOR CONDITION:

This condition requires approval of all reserved matters as may be listed to agreed in writing prior to any commencement of the approved development. Failure to comply with this condition may result in the permission becoming lapsed and unable to be carried out. If there is no phasing plan, this condition is considered to apply to the whole site as a single phase.

The reserved matters that may be listed above are further defined under government guidance as follows:-

ACCESS: The accessibility to and within the site, for vehicles, cycles and pedestrians in terms of the positioning and treatment of access and circulation routes and how these fit into the surrounding access network

APPEARANCE: The aspects of a building or place within the development which determine the visual impression the building or place makes, including the external built form of the development, its architecture, materials, decoration, lighting, colour and texture.

LANDSCAPING: The treatment of land (other than buildings) for the purpose of enhancing or protecting the amenities of the site and the area in which it is situated and includes: (a) screening by fences, walls or other means; (b) the planting of trees, hedges, shrubs or grass; (c) the formation of banks, terraces or other earthworks; (d) the laying out or

provision of gardens, courts, squares, water features, sculpture or public art; and (e) the provision of other amenity features

LAYOUT: The way in which buildings, routes and open spaces within the development are provided, situated and orientated in relation to each other and to buildings and spaces outside the development.

SCALE: The height, width and length of each building proposed within the development in relation to its surroundings.

3. APPROVED PLANS & DOCUMENTS

CONDITION: 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 (except for Listed Building Consents). 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.

Site Plan received 19th August 2020

REASON: For the avoidance of doubt and in the interests of proper phased planning of the development.

NOTE/S FOR CONDITION:

The primary role of this condition is to confirm the approved plans and documents that form the planning decision. Any document or plan not listed in this condition is not approved, unless otherwise separately referenced in other conditions that also form this decision. The second role of this condition is to allow the potential process of Non Material Amendment if found necessary and such future applications shall be considered on their merits. Lastly, this condition also allows for a phasing plan to be submitted for consideration as a discharge of condition application should phasing be needed by the developer/s if not otherwise already approved as part of this permission. A phasing plan submission via this condition is optional and not a requirement.

Please note in the latest revision of the National Planning Policy Framework (NPPF) it provides that Local Planning Authorities should seek to ensure that the quality of approved development is not materially diminished between permission and completion, as a result of changes being made to the permitted scheme (for example through changes to approved details such as the materials used). Accordingly, any future amendment of any kind will be considered in line with this paragraph, alongside the Development Plan and all other material considerations.

Any indication found on the approved plans and documents to describe the plans as approximate and/or not to be scaled and/or measurements to be checked on site or similar, will not be considered applicable and the scale and measurements shown shall be the approved details and used as necessary for compliance purposes and/or enforcement action.

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

CONDITION: Prior to the commencement of development details of the construction methodology 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 portalos.
- 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).

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.

NOTE/S FOR CONDITION:

You are strongly advised to discuss this condition with the Local Planning Authority and if possible/available local residents likely to be affected by this development prior to submission of details.

5. FURTHER APPROVAL - SURFACE AND FOUL WATER DRAINAGE DETAILS

CONDITION: Full details of surface and foul water drainage shall have been submitted to and approved, in writing, by the Local Planning Authority prior to the commencement of any works to the building/s it would serve. No part of the building/s shall be first occupied or brought into use until the agreed method of surface and foul water drainage has been fully installed and is functionally available for use for that building/s. The surface and foul water drainage scheme shall thereafter be maintained as approved.

REASON: To safeguard the ground water environment from harm and minimise the risk of flooding.

NOTE/S FOR CONDITION:

This condition shall engage and requires details to be agreed prior to the commencement of works to the building/s approved. 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.

6. AGREEMENT OF MEASURES TO IMPROVE SUSTAINABILITY OF DEVELOPMENT

CONDITION: Concurrent with the first reserved matter 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.

NOTE/S FOR CONDITION:

Slab level is normally refers to the concrete slab supported on foundations or directly on the subsoil and is used to construct the ground floor of the development. In any other case, please assume slab level to be the point before any walls and/or development can be visually above ground level or seek confirmation from the Local Planning Authority for your development.

The greatest threat to our planet is the belief that someone else will save it and also forgetting that small acts, when multiplied by millions of people, can transform the world. Developments will provide buildings/homes to thousands/millions of people over their lifetime. A well designed sustainable development in the beginning will restrict the contribution each person makes to that threat and help enable them to transform the world.

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.

RECREATIONAL IMPACT MITIGATION

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

9. Additional Considerations

Public Sector Equality Duty (PSED)

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

Human Rights

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

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

Finance Implications

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

10. Background Papers

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

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PLANNING COMMITTEE

14TH MARCH 2023

REPORT OF THE DIRECTOR OF PLANNING

A.5 PLANNING APPLICATION – 23/00051/FULHH – 24 BAY VIEW CRESCENT LITTLE OAKLEY HARWICH CO12 5EG



DO NOT SCALE

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Application:	23/00051/FULHH	Expiry Date:	30th March 2023
Case Officer:	Eve Ramsden		
Town/ Parish:	Little Oakley Parish Council		
Applicant:	Mr Connor Smith		
Address:	24 Bay View Crescent, Little Oakley, Harwich, Essex CO12 5EG		
Development:	Proposed erection of front porch with pitched roof.		

1. Executive Summary

- 1.1 The application is before Members as an Ownership Certificate has been served on Tendring District Council as they own the freehold of the flats.
- 1.2 The proposed porch will be located to the front of the property and therefore publicly visible. The single storey nature of the proposal as well as its significant set back from the main highway will reduce its prominence and the presence of other similar additions to nearby houses will allow it to be consistent with the character of the locale. The proposed addition is of a suitable size and design in relation to the host dwelling and the use of grey boarding will act as a suitable contrast between the host dwelling and enlargement as well as be in keeping with the range of materials within the area.
- 1.3 The proposed porch does not result in any significant loss of light or undue loss of privacy to the adjacent (and above) neighbouring properties and is considered to be acceptable in terms of residential amenities.

Recommendation: Approval

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

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)

Status of the Local Plan

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

3. Relevant Planning History

21/01028/FUL	Erection of single storey rear extension to ground floor flat.	Approved	12.08.2021
23/00051/FULHH	Proposed erection of front porch with pitched roof.	Current	

4. Consultations

None required for this application.

5. Representations

None received for this application.

6. Assessment

Site Context

- 6.1 The application site comprises of a ground floor flat located within a two storey semi-detached building in Bayview Crescent. The building is finished in red brick with a tile hung roof. The buildings themselves are set back from the road with an area of open space to the front obscuring views of the dwellings from the highway.
- 6.2 There is an area of private amenity to the rear which has been split into two sections for the ground floor and first floor flat. The occupants also have shared access of an existing outbuilding.
- 6.3 Sited to the west is a two storey building which joins the host dwelling. This neighbouring site also comprises of a ground floor and first floor flat with walling and fencing positioned along the shared boundaries.
- 6.4 Sited to the east of the site there is an existing garage block with associated parking. This boundary comprises of fencing.
- 6.5 The site is located within the development boundary.

Planning History

- 6.6 A previous application for planning permission has since been approved under reference 21/01028/FUL for a single storey rear extension which was also discussed at Planning Committee.
- 6.7 The Planning Committee felt the development could be recommended for approval under delegated powers subject to the amendment of the plans omitting the rooflights. These amendments were provided and the application was approved in line with the Planning Committee recommendations.

Proposal

- 6.8 This application seeks planning permission for the erection of a single storey pitched roof porch 2.8m in height 2.4m in width and 1.4m in depth. The proposed porch will be finished in grey cement boarding, tile hung roof to match existing dwelling and new pvcu door.

Principle of Development

- 6.9 The principal of the development is considered acceptable as the proposal simply seeks to extend and improve the host dwelling. The main considerations are the design and impact of the proposal to neighbouring dwellings.

Appearance

- 6.10 The porch will be sited to the front of the building and will therefore be a publicly noticeable addition. Whilst visible the building itself is significantly set back from the highway with a large area of open space in front reducing the impact of the proposal onto the streetscene.
- 6.11 The new porch itself will be set back from the sites front boundary and will be of a suitable size and design in comparison to the main house and will be consistent with other similar front additions within the vicinity.
- 6.12 The new addition will be finished in grey boarding which will differ from the brick of the existing house however given the minor nature of the proposal and its minimal impact on the streetscene the use of such a material is considered to be a suitable contrast to the main dwelling breaking up the expanse of brickwork. It is also noted that other properties in the area do range in terms of materials and colours allowing the proposal to be in keeping with such.
- 6.13 The proposed porch is therefore considered a suitable addition to the existing building which would not result in an adverse impact to the appearance and character of the host building and locale.
- 6.14 The plans show a front elevation "Option 2" the applicant has been advised that only one design approach can be considered, and this drawing does not form part of the application.

Impact on Residential Amenity

- 6.15 The proposal is of a minor nature and suitable distance away from shared boundaries preventing it from resulting in a loss of amenities to occupants of nearby dwellings.

7. Conclusion

- 7.1 It is therefore considered that the proposal complies with the national and local policies listed above and in the absence from material harm resulting from the development 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. COMPLIANCE REQUIRED: COMMENCEMENT TIME LIMIT

CONDITION: The works to which this consent relate must be begun not later than the expiration of three years beginning with the date of this consent.

REASON: To comply with the requirements of Section 18(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004

NOTE/S FOR CONDITION:

The development needs to commence within the timeframe provided. Failure to comply with this condition will result in the consent becoming lapsed and unable to be carried out. If commencement takes place after the time lapses this may result in unlawful works at risk of both Enforcement Action and Criminal proceedings. You should only commence works when all other conditions requiring agreement prior to commencement have been complied with.

2. APPROVED PLANS & DOCUMENTS

CONDITION: 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 (except for Listed Building Consents). 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.

2101.3 - Site Plan

Amended Proposed Elevations and Floor Plans (not including drawing title "Option 2") - Received 10.02.2023

Email dated 10th February providing details of materials proposed.

REASON: For the avoidance of doubt and in the interests of proper phased planning of the development.

NOTE/S FOR CONDITION:

The primary role of this condition is to confirm the approved plans and documents that form the planning decision. Any document or plan not listed in this condition is not approved, unless otherwise separately referenced in other conditions that also form this decision. The second role of this condition is to allow the potential process of Non Material Amendment if found necessary and such future applications shall be considered on their merits. Lastly, this condition also allows for a phasing plan to be submitted for consideration as a discharge of condition application should phasing be needed by the developer/s if not otherwise already approved as part of this permission. A phasing plan submission via this condition is optional and not a requirement.

Please note in the latest revision of the National Planning Policy Framework (NPPF) it provides that Local Planning Authorities should seek to ensure that the quality of approved development is not materially diminished between permission and completion, as a result of changes being made to the permitted scheme (for example through changes to approved details such as the materials used). Accordingly, any future amendment of any kind will be considered in line with this paragraph, alongside the Development Plan and all other material considerations.

Any indication found on the approved plans and documents to describe the plans as approximate and/or not to be scaled and/or measurements to be checked on site or similar, will not be considered applicable and the scale and measurements shown shall be the approved details and used as necessary for compliance purposes and/or enforcement action.

8.3 Informatives

Positive and Proactive Statement

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

9. Additional Considerations

Public Sector Equality Duty (PSED)

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

Human Rights

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

Finance Implications

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

10. Background Papers

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

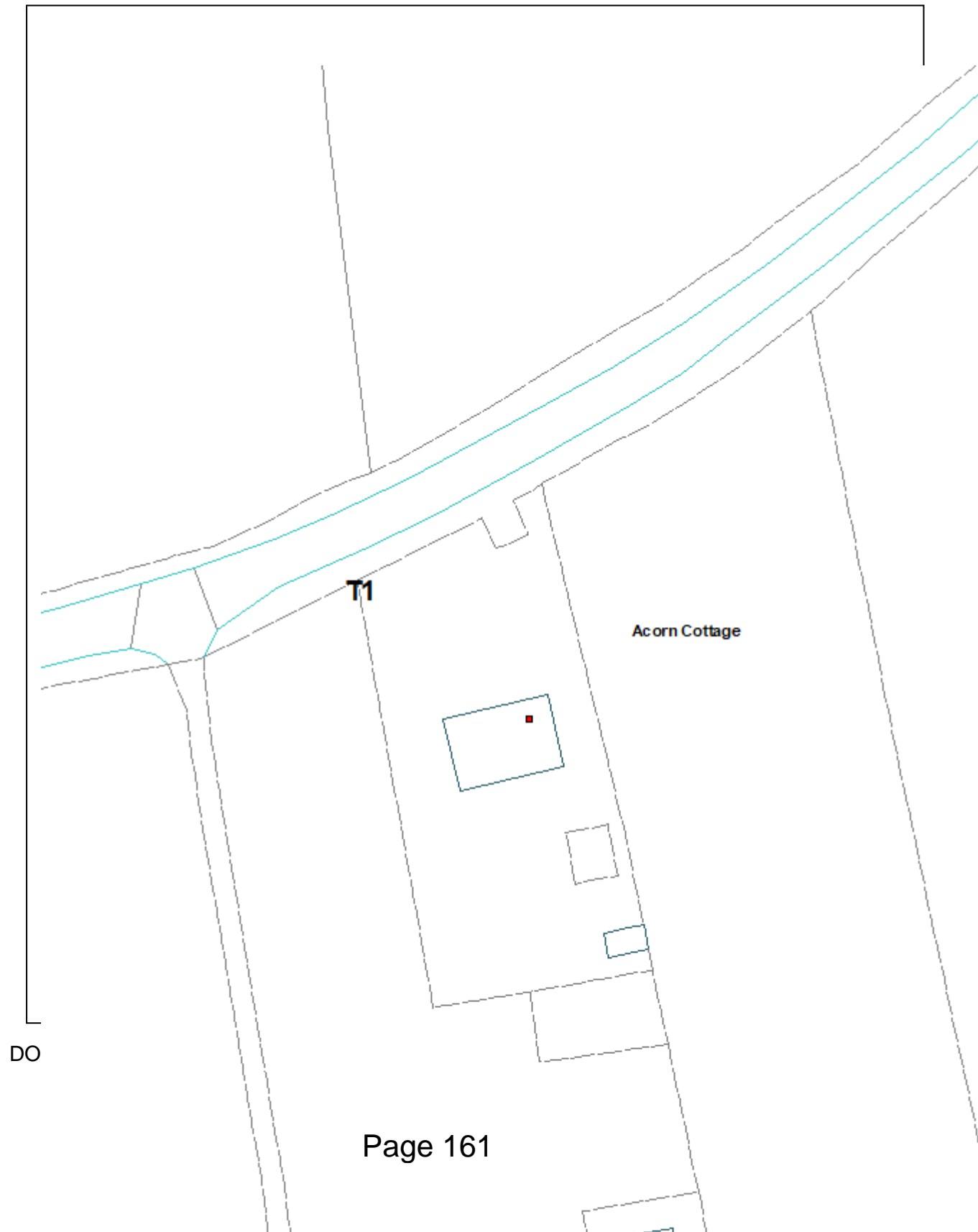
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PLANNING COMMITTEE

14 March 2023

REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING

A.6 23/00008/TPO, ACORN COTTAGE, STONES GREEN ROAD, TENDRING



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Application: 23/00008/TPO

Town / Parish: Tendring

Applicant: Property Risk Inspection Limited (Insurance Services)

Address: 2 The Courtyards, Phoenix Square, Severalls Park, Colchester

Development: Application to fell Oak

1. EXECUTIVE SUMMARY AND RECOMMENDATION

- 1.1 The application to fell the Oak, situated on land where the ownership is unknown, is supported by evidence to show that the tree is the primary cause of subsidence related damage to the dwelling.
- 1.2 The issues raised in the representations objecting to the proposal to fell the tree refer to its amenity value and ecological benefits as well as its cultural importance and contribution to carbon sequestration. The representations do not contain any firm evidence that the tree is not the cause of damage to the dwelling. The objections are addressed in detail in this report.
- 1.3 If the application is approved, then the tree will be felled and repairs to the dwelling will be facilitated and funded by the Insurance Company.
- 1.4 If the application is refused, then the Council is likely to receive a claim for compensation in the sum of £80,000.
- 1.5 It is recommended that consent be granted for the felling of the tree and that replacement planting of a long living but smaller tree species, is secured by a planning condition. Field Maple (*Acer campestre*) would be an acceptable species.

2. PURPOSE OF THE REPORT

- 2.1 To consider the evidence submitted in support of the application to fell an Oak where it is claimed by the applicant that the tree is causing damage to property and to balance the case for the retention of the tree against a potential claim, made to the Council, for compensation.

3. DETAILS OF THE APPLICATION

- 3.1 The application to fell the tree was received on 3rd January 2023 and is supported by technical reports relating to the moisture content and load bearing capacity of the soil, the damage to the property and the protected tree.

4. LEGISLATION RELATING TO TREE PRESERVATION ORDERS (TPO)

- 4.1 Section 203 of the Town and Country Planning Act 1990 provides that a tree preservation order may make provision for the payment of compensation in respect of loss and damage resulting from the refusal of consent under the order or the grant of consent subject to condition. Section 24 of the Town and Country Planning (Tree Preservation) (England) Regulations 2012 provides formal guidance on the compensation process.
- 4.2 In the decision-making process a balance clearly needs to be struck between the Council's duties in relation to the protection the districts trees and the potential exposure to future claims for compensation. Additionally due consideration must be given to the rights of the landowners to the peaceful enjoyment of their property.
- 4.3 In essence the retention of a protected tree that is the subject of a subsidence related application will leave the Council vulnerable to a claim for compensation which is likely to place a considerable financial pressure on the Council.
- 4.4 A disputed claim for compensation is dealt with by the Land Tribunal. Whilst the direct cost of the process may be relatively low the engagement of representation in the court as well as engaging appropriate expert witnesses along with the provision and collation of evidence to repudiate the claim is likely to be significant.

5. EVIDENCE

- 5.1 In support of the application the applicant has submitted an Arboricultural Assessment Report, an Engineering Appraisal Report and a Site Investigation Report containing an analysis of the soil and its moisture content as well as root identification. They have also provided a Level Monitoring Report
- 5.2 As part of the application the applicant has submitted projections of the cost of repairs to show the difference between the cost of repairing the structure if the tree is removed compared with the cost of the repairs if the tree is retained. This shows that the cost of repairing the dwelling if the tree is removed is approximately £10,000 whereas the cost of structural repairs if the tree is retained will be something in the region of £90,000.
- 5.3 Refusal of the application will leave the council exposed to a claim for compensation for a sum in the region of £80,000.

6. ANALYSIS OF EVIDENCE.

- 6.1 In the first instance the evidence submitted by the applicant in support of their application to fell the Oak demonstrates that damage has occurred to the dwelling and that the dwelling is situated on a highly shrinkable clay soil
- 6.2 The evidence also shows that tree roots are present in the soil beneath the foundation and the Level Monitoring Report demonstrates that the damage to the dwelling is cyclical, meaning that the cracks open in the summer as the soil dries about and close in the winter when re-hydration occurs. This is a clear indication that the tree is implicated in the damage to the dwelling.
- 6.3 During a site visit the internal cracking to walls was viewed as well as the external damage to brickwork (where cladding has not been carried out).

- 6.4 The damage to the external walls exhibits signs of tapering cracks which is typical of tree related damage to buildings.
- 6.5 The evidence provided is sufficient to show the key elements of tree related subsidence and identify the Oak closest to the dwelling as the primary cause of the damage.

7. REPRESENTATIONS

- 7.1 Following receipt of the application 35 letters of representation objecting to the proposed felling of the tree have been received. In essence the reasons set out in the representations are:
- The tree is a fine specimen of considerable age.
 - The tree is older than the dwelling.
 - The tree has high ecological value
 - The damage to the property predates the change in ownership of the property.
 - Risk of heave if the tree is removed.
 - That the foundations are not sufficient to support the dwelling.
 - Have Building Regulations been complied with.
 - That the granting of consent to fell the tree would undermine the integrity of the TPO system.
 - Alternative forms of maintenance/cropping and overall reduction in the size of the tree should be considered.
 - That the information provided in relation to CO2 emissions relating to underpinning are provided solely in relation to a cost benefit to the insurance company.
- 7.2 It is acknowledged and accepted that the tree is over 200 years old and a very good specimen that fully merits protection by means of a TPO, however the age of the tree in relation to the property and the change of ownership does not alter the fact that tree roots are present beneath the building and consequently implicated in the damage to its structure.
- 7.3 It is also acknowledged and accepted that the tree has a very high ecological value and is a host to many hundreds of species including birds, mammals and invertebrates, however whilst some weight is accorded to the ecological benefits of the tree they must be balanced against the rights of the homeowner to the peaceful enjoyment of their property. In this regard the ecological benefits will broadly accord with those of other mature Oaks in the district and no specific or special benefits have been identified to merit the retention of the tree on ecological grounds.
- 7.4 In terms of the risk of 'Heave' this matter is addressed by the insurance company in the evidence submitted in support of the application and is not considered to be a real risk by them.
- 7.5 With regard to the depth and adequacy of the foundations it should be noted that they are likely to have been constructed in accordance with Building Regulations that were applicable at the time of the construction of the dwelling. This has been confirmed by the National House Building Council (NHBC) who dealt with the building regulations and signed off the construction under reference no

11875264. The NHBC document retention policy is 15 years, so the records associated with Acorn Cottage are no longer held by them.

- 7.6 Additionally, the current owner would not have been aware of the adequacy of the foundations (or otherwise) at the time of purchase of the dwelling. A similar situation was dealt with by the Courts (Land Tribunal) in *Burge and another v Gloucestershire Council (2016) UKUT 300 (LC)*. In this case the court held that compensation was payable by the Council despite the inadequate foundations of a conservatory.
- 7.7 Although this award for compensation has been the subject of a successful appeal the judge's conclusion in the Appeal case was that for reasons set out in the appeal, he would allow the appeal, however he acknowledged that, on reconsideration, the decision may still be the same. It was his view that the errors he has discerned in the Tribunal's approach make it necessary, for the claim to be determined afresh. It will, of course, be for the Tribunal to decide whether any further evidence ought now to be admitted.
- 7.8 The above case has effectively been referred back to the Land Tribunal for reconsideration. In this regard the court cases described above provide an indication of the process of disputing a claim for compensation.
- 7.9 The claim that the application to fell a tree implicated in structural damage to a dwelling may undermine the integrity of the TPO system is acknowledged however the Town and Country Planning (Tree Preservation) (England) Regulations 2012 includes provisions for the payment of compensation in cases such as this so this issue is fully integrated into the TPO system.
- 7.10 With regard to the proposal that the size of the tree should be reduced to control or restrict root activity and moisture abstraction; results of the then Office of the Deputy Prime Minister (ODPM) sponsored research undertaken by the Horticultural LINK Project 212 (HortLINK) in May 2004 at East Malling Research (Hipps, 2004) shows that pruning within arboricultural industry guidelines is ineffective in controlling water use.
- 7.11 The research clearly and unequivocally demonstrates that thinning has no effect at all. Only a crown reduction of over 70 per cent by volume, which equates to a 35 per cent crown reduction, has any effect and then it is for one season only (if that) and the reduced trees use more water in the following season (Hipps, 2004).
- 7.12 In essence the HortLINK study concludes: – Total tree water use (transpiration) was reduced by crown reduction in the year of pruning. – Total tree water use (transpiration) was unaffected by crown thinning in the year of pruning. – Crown reduction reduced soil drying by trees in the year of pruning, but the effects were generally small and disappeared within the following season, unless reduction was severe, in which case the effects were larger and persisted for up to two years. – Crown thinning did not reduce soil drying. – Crown reduction increased subsequent shoot extension and epicormic growth. – The new shoots grew more rapidly and produced larger leaves.

- 7.13 In terms of the information provided in relation to CO2 emissions this is really a peripheral matter in the consideration of the application which hinges on the basic elements of: actual damage to the building, the type of soil in the area, the presence of tree roots beneath the dwelling and the seasonal and cyclical nature of the damage which have all be addressed by the applicant.

8. CONCLUSION.

- 8.1 The high amenity value of the Oak and the benefits that it provides by way of its visual amenity and ecological values are fully recognised. It is accepted that; in the normal course of event the tree would have a long safe useful life expectancy.
- 8.2 However, the value of the tree must be balanced against the right of the resident to the peaceful enjoyment of their property and the potential claim for compensation against the Council for the cost of the resultant works to repair the dwelling should be tree be retained.
- 8.3 The evidence submitted in support of the application is sufficient to implicate the protected Oak as the primary cause of damage to the dwelling.
- 8.4 On balance it is considered that the amenity and other values of the tree do not outweigh the rights of the homeowner and the potential claim for compensation against the Council for cost of the repairs to the dwelling and consequently consent will be granted for its removal.

9. Additional Considerations

9.1 Public Sector Equality Duty (PSED)

In making your decision you must have regard to the PSED under section 149 of the Equality Act 2010 (as amended). This means that the Council must have due regard to the need in discharging its functions to:

- A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
- B. Advance equality of opportunity between people who share a protected characteristic and those who do not. This may include removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; taking steps to meet the special needs of those with a protected characteristic; encouraging participation in public life (or other areas where they are underrepresented) of people with a protected characteristic(s); and
- C. Foster good relations between people who share a protected characteristic and those who do not, including tackling prejudice and promoting understanding.

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.

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.

It is considered that the recommendation to grant permission in this case would not have a disproportionately adverse impact on a protected characteristic.

9.2 Human Rights

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.

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).

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.

9.3 Finance Implications

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.

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