



## PLANNING COMMITTEE

<b>DATE:</b>	<b>Thursday, 13 April 2023</b>
<b>TIME:</b>	<b>6.00 pm</b>
<b>VENUE:</b>	<b>Committee Room - Town Hall, Station Road, Clacton-on-Sea, CO15 1SE</b>

### 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: Friday, 31 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 - 32)**

To confirm and sign as a correct record, the minutes of the meeting of the Committee, held on Tuesday 14 March 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 22/01999/FUL - 16 Ellis Road, Clacton-on-Sea, CO15 1ER**

**PLEASE NOTE THAT THIS ITEM HAS BEEN WITHDRAWN FROM THE AGENDA AND THAT THIS PLANNING APPLICATION WILL NOW BE DETERMINED BY THE PLANNING OFFICERS IN ACCORDANCE WITH THEIR DELEGATED POWERS.**

Councillor Paul Honeywood has withdrawn his request that this application be considered by the Planning Committee, as his concerns with the alleged poor quality of accommodation and poor functionality of the development have now been alleviated by the contents of the published Officer report together with a further communication with the relevant Case Officer.

The application seeks a change of use from Use Class C3 - residential to Use Class C1 - Hotel (to operate in connection with the existing adjacent hotel).

### 6 **Report of Director (Planning) - A.2 - Planning Application 22/02038/FUL - White Barn Farm, Clacton Road, Elmstead, CO7 7DB (Pages 33 - 52)**

Erection of one dwelling (in lieu of Prior Approval for one dwelling, subject of application 22/01288/COUNOT).

### 7 **Report of Director (Planning) - A.3 - Planning Application 23/00254/FUL - Mill Lane Council Yard, Mill Lane, Walton-on-the-Naze, CO14 8PE (Pages 53 - 60)**

Proposed replacement of existing gates to entrance and installation of new steel railings to boundary wall.

The application is before the Planning Committee as the applicant is Tendring District Council.

**8 Report of Director (Planning) - A.4 - Planning Application 23/00232/FUL - Holland-on-Sea Bowls Club, Madeira Road, Holland-on-Sea, CO15 5HZ (Pages 61 - 68)**

Retention of erected fence.

The application is before the Planning Committee as Tendring District Council is the landowner.

This application seeks retrospective permission for the retention of an erected fence that requires planning permission as it is more than one metre in height adjacent to a highway.

### **Date of the Next Scheduled Meeting**

*The next scheduled meeting of the Planning Committee is due to be held in the Committee Room - Town Hall, Station Road, Clacton-on-Sea, CO15 1SE at 6.00 pm. on Tuesday, 6 June 2023.*

## **INFORMATION FOR VISITORS**

### **PUBLIC ATTENDANCE AT PLANNING COMMITTEE MEETINGS**

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

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

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

#### **Rights of members of the public to film and record meetings**

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

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

The Council will provide reasonable facilities to facilitate reporting.

#### **Public Behaviour**

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

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

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

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

# Tendring District Council



## PLANNING COMMITTEE MEETINGS PUBLIC SPEAKING SCHEME March 2021

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

### TO WHICH MEETINGS DOES THIS SCHEME APPLY?

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

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

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

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

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

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

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

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

## **WHICH MATTERS ARE COVERED BY THIS SCHEME?**

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

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

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

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

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

## **HOW DO I ARRANGE TO SPEAK AT THE MEETING?**

You can:-

Telephone the Committee Services Officer (“CSO”) (01255 686007) during normal working hours on any weekday after the reports and agenda have been published; or

Email: [democraticservices@tendringdc.gov.uk](mailto: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](mailto:planningservices@tendringdc.gov.uk) Web: [www.tendringdc.gov.uk](http://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 TUESDAY, 14TH MARCH, 2023 AT 6.00 PM  
IN THE COMMITTEE ROOM - TOWN HALL, STATION ROAD, CLACTON-ON-SEA,  
CO15 1SE**

<b>Present:</b>	Councillors White (Chairman), Fowler (Vice-Chairman), Alexander, V Guglielmi, Harris, Placey and Wiggins
<b>Also Present:</b>	Councillors Coley, McWilliams, Scott, and Turner
<b>In Attendance:</b>	John Pateman-Gee (Planning Manager), Joanne Fisher (Planning Solicitor), Jacob Jaarsmar (Planning Team Leader), Susanne Chapman-Ennos (Planning Team Leader), Matthew Lang (Senior Planning Officer), Emma Haward (Leadership Support Officer) and Hattie Dawson-Dragisic (Performance and Business Support Officer).

**97. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

Apologies were received from Councillors Baker and Codling, with no substitutes.

**98. MINUTES OF THE LAST MEETING**

It was moved by Councillor V Guglielmi, seconded by Councillor Wiggins and **RESOLVED** that the minutes of the last meeting of the Committee held on Thursday, 16<sup>th</sup> February 2022 be approved as a correct record.

**99. DECLARATIONS OF INTEREST**

Councillor Harris declared for the public record a personal interest in **A.6 Planning Application 23/00008/TPO, ACORN COTTAGE, STONES GREEN ROAD, TENDRING** due to his being the Ward Member. He stated that he was pre-determined and that therefore he would not participate in the Committee's deliberations and decision making for this application and will be speaking against the application.

Councillor Placey declared for the public record a personal interest in **A.6 Planning Application 23/00008/TPO, ACORN COTTAGE, STONES GREEN ROAD, TENDRING**. She also stated that she was pre-determined and that she would not participate in the Committee's deliberations and decision making for this application.

Councillor Wiggins declared for the public record a personal interest in **A.1 Planning Application 21/00186/FUL – CROSSWAYS CENTRE FRATING ROAD GREAT BROMLEY COLCHESTER** due to being a Ward Member. She advised that she was pre-determined, and that she would withdraw from participation in the Committee's deliberations and decision making for this application.

Councillor Fowler declared for the public record a personal interest in **A.1 Planning Application 21/00186/FUL – CROSSWAYS CENTRE FRATING ROAD GREAT BROMLEY COLCHESTER** due to her knowing the applicant. She advised that she was

not pre-determined and that, she would also withdraw from the Committee's deliberations and decision making for this application.

**100. QUESTIONS ON NOTICE PURSUANT TO COUNCIL PROCEDURE RULE 38**

There were none on this occasion.

The Chairman informed the Committee, and the persons present in the public gallery that items A.1 and A.6 on the Agenda would be taken first.

**101. REPORT OF DIRECTOR (PLANNING) - A.1 - PLANNING APPLICATION  
21/00186/FUL – CROSSWAYS CENTRE, FRATING ROAD, GREAT BROMLEY, CO7  
7JW**

Councillor Wiggins had earlier on in the meeting, as recorded above, declared for the public record a personal interest in **this application** due to her being a Ward Member. She thereupon withdrew from participation in the Committee's deliberations and decision making for this application.

Councillor Fowler had earlier on in the meeting, as recorded above, declared for the public record a personal interest in **this application** due to her knowing the applicant. She thereupon withdrew from the Committee's deliberations and decision making for this application.

Members of the Committee were reminded that the Crossways Centre was located within Frating, which was a 'Smaller Rural Village'. Access would not have been via the primary highway network but instead, from the B1029 Frating Road. The site was not a protected or allocated employment site and the proposal was for the expansion and extension of an existing B8 storage and distribution use. The expanded part of the site was located outside of the settlement development boundary.

The Committee recalled that this application had previously been presented to it at its meeting held on 7<sup>th</sup> December 2021. Following a detailed presentation, question/answer session and debate, the Committee had resolved on that occasion to defer the item for 4 reasons which were as follows:

*"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."*

It was noted that some time had gone by to explore those issues and a number of changes to the proposal had been made. The policy context since Members had considered this development had also altered with the adoption of the Local Plan.

In summary and in response to the 4 reasons for deferral above – in terms of reasons for deferral 2 and 3, it was considered by Officers that those elements had now been addressed through the provision of additional information and the inclusion of necessary, reasonable and enforceable planning conditions restricting nighttime activity and nighttime movement onto the site. It was also considered by Officers that the first part of reason for deferral 1 had also been addressed. In terms of the latter part of reason for deferral 1 (‘examining any potential improvements to the Frating crossroads junction’), it was considered by Officers that this existing junction served a very broad variety of traffic, mostly unrelated to this development proposal, and that any potential improvements to that junction were 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)’ had demonstrated that the allocated sites in the administrative area of this Council were 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 was a very high likelihood that a temporary consent would 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.

It was reported that, following the above deferral, the proposal had been amended so it was now for:-

*“- A loading bay extension (approximately 464m<sup>2</sup>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 included 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 formed part of this application.”*

Weighing against the proposal, it was considered by Officers that the scheme would continue to harm the living conditions of the occupants of neighbouring dwellings. There would also be a harmful effect on the character and appearance of the area. The expansion of the site had resulted in the loss of agricultural land. Conditions would reduce but would not be fully effective in mitigating the identified elements of harm.

Against that harm, the planning balance considered the benefits of the scheme. There would be benefit to the local and wider economy, benefit to the storage and distribution sector and

all its respective customers. In particular, the scheme, if approved, would result in a local business continuing to operate on, and from, an extended site, and remain in the District of

Tendring, with resultant direct and indirect job retention/creation stemming from this, and substantial weight was attributed by Officers to those benefits.

Members were advised that the previous Officer concerns in respect of highway safety had 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, had been taken into account, and / or addressed/covered in the remainder of the Officer report. Where relevant, it was considered by Officers that where harm arose, these could be mitigated against by way of planning conditions or Section 106 obligations and all those relevant elements, as indicated elsewhere in the Officer report, were neutral in the planning balance.

Ultimately, the weight given to the benefits was considered by Officers to outweigh the weight given to the harm to amenity of neighbouring dwellings and on the character and appearance of the area. For those reasons, it was recommended by Officers that planning permission be granted, subject to the completed Section 106 legal agreement and the recommended conditions.

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 refusal.

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:

- (1) An additional letter of objection from a resident and the Officer's comments thereon;
- (2) The recommended inclusion of an additional condition – Revision to Paragraph 8.2 Conditions and Reasons as follows: -

***"FURTHER APPROVAL: LOADING BAY LIGHTING***

***CONDITION: Prior to the commencement of work on the loading bay extension hereby approved, precise details of all new and existing under canopy loading bay lighting, to include exact position, height, aiming points, lighting levels, screens/baffles and a polar luminance diagram shall be submitted to and approved, in writing, by the Local Planning Authority. The lighting shall be carried out and retained as may be approved prior to first use of the loading bay extension hereby approved. There shall be no other means of external lighting installed and/or operated on the under-canopy areas of the loading bay areas except that approved.***  
***REASON: In the interests of amenity and to reduce the impact of nighttime illumination on the character of the area."***

Gary Rowe, the applicant, spoke in support of the application.

John Bartington, Chair of Residents Against Crossways Expansion (RACE), spoke against the application.

Parish Councillor Fred Nicholls, representing Great Bromley Parish Council, spoke against the application.

Jennifer Spear, representing Frating Parish Council, spoke against the application.

Councillor Lynda McWilliams, the caller-in, spoke against the application.

Councillor Gary Scott, a Ward Member, spoke against the application.

<b>Matters raised by Members of the Committee:-</b>	<b>Officer's response thereto:-</b>
A member of the Committee asked why ECC Highways withdrew their objection.	The Planning Officer advised that the applicant had worked with ECC regarding the expansion of the site which required the demolition of the front of the site. Essex Highways had since removed their objection on these grounds.
A member asked if another site could be sought.	The Planning Officer advised that an alternative site was assessed, but that the sequential tests found that no alternative sites were suitable.
A Committee member asked what traffic measures were considered as part of this application.	A Traffic Management Plan was conditioned to monitor movements to and from the site, with the inclusion of ECC Highways and Section 106 contributions. Discussions had taken place with ECC Highways, officers had advised that there was a mixed use of traffic on the junction.
Would anything stop applicants from putting in an outline planning application for housing on the site in two years' time?	No preventative measures could be placed on the submission of applications. Further applications could be submitted as part of the implementation stage.
Were there plans for fencing to be placed behind the landscaping to prevent light pollution?	The Planning Officer advised that 50% of the northern boundary would be covered by the rear elevations for the proposed loading bay with plans to provide additional landscaping. The Planning Officer referred to page 67 of the report referencing acoustic fencing details.
Could a time restriction be placed as a condition on sanctioning the use of the land?	The Planning Manager advised that if a time restriction was imposed, the condition would be regarded as unreasonable. The applicants' future intentions were not material considerations for the site.
A member of the Committee referred to page 97, how many employees were employed there in the business?	The Planning Officer advised that the existing operation provided 96 jobs and would increase to 100. The applicant would be able to continue to operate with hour restrictions, landscaping conditions and other obligations within the report such as the Section 106 agreement.
How long did the applicants have to make the adjustments to the site?	The Planning Officer advised that the time in which work could be completed depended on the requirements/conditions recommended in

	the report. Feasibility studies and agreements must be submitted prior to any demolition works taking place.
Concerns were raised regarding the expansion of the site, what enforcement action could be taken?	The Planning Officer advised that enforcement action could be taken for the breach of planning control in respect of the expansion if permission was refused but the matter would be referred to the Council’s Planning Enforcement Team to consider and is not something that is before members. Enforcement action cannot be taken in respect of the lawful use of the site., The reasons for refusal would dictate the Council’s actions.

Following discussion by the Committee, it was moved by Councillor Harris and seconded by Councillor Guglielmi to defer the application to allow officers to consider whether a grant of planning permission in respect of the retrospective element of the application could be granted temporarily, and for officers to discuss this with the applicant given that the applicant indicated that they propose to move to another site in the future. On a vote by show of hands, three members voted against the motion and two voted in favour, and the proposal was lost.

Following discussion by the Committee, it was moved by Councillor White, seconded by Councillor Alexander and **RESOLVED** that the Planning Director (or equivalent authorised officer) be authorised to grant planning permission for the development, subject to:

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

*“• 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) the Planning Manager be authorised to grant planning permission upon completion of the legal agreement referred to in (1) above and subject to the conditions listed hereunder, or as need to be varied to account for any errors, legal and necessary updates together with any other conditions as may be deemed necessary by the Planning Manager and the informative notes as may be deemed necessary by the Planning Manager

### **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 shaded 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 part 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.

**FURTHER APPROVAL: LOADING BAY LIGHTING**

**CONDITION:**

Prior to the commencement of work on the loading bay extension hereby approved, precise details of all new and existing under canopy loading bay lighting, to include exact position, height, aiming points, lighting levels, screens/baffles and a polar luminance diagram shall be submitted to and approved, in writing, by the Local Planning Authority. The lighting shall be carried out and retained as may be approved prior to first use of the loading bay extension hereby approved. There shall be no other means of external lighting installed and/or operated on the under-canopy areas of the loading bay areas except that approved.

REASON: In the interests of amenity and to reduce the impact of nighttime illumination on the character of the area.

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

Councillor Harris had earlier on in the meeting, as detailed above, declared for the public record a personal interest in this application due to his being the Ward Member. He had also stated that he was pre-determined and would be speaking against the application. He thereupon withdrew and did not participate in the Committee's deliberations and decision making for this application.

Councillor Placey had earlier on in the meeting, as detailed above, declared for the public record a personal interest in **this application**. She had also stated that she was pre-determined and she thereupon and did participate in the Committee's deliberations and decision making for this application.

It was reported this application to fell the Oak tree, situated on land where the ownership was unknown, had been supported by evidence to show that the tree was the primary cause of subsidence related damage to the dwelling.

The Committee was made aware that the issues raised in the representations objecting to the proposal to fell the tree referred to its amenity value and ecological benefits as well as its cultural importance and contribution to carbon sequestration. The representations did not contain any firm evidence that the tree was not the cause of damage to the dwelling. The objections were addressed in detail within the Officer report.

Members were informed that if the application was approved, then the tree would be felled and repairs to the dwelling would be facilitated and funded by the Insurance Company.

Conversely, if the application was refused, then the Council was likely to receive a claim for compensation in the sum of £80,000.

It was recommended by Officers that consent be granted for the felling of the tree and that the replacement planting of a long living but smaller tree species, was secured by a planning condition. Field Maple (*Acer campestre*) would be an acceptable species.

The Committee was asked to consider the evidence submitted in support of the application to fell an Oak where it had been claimed by the applicant that the tree was 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.

Members were advised that the application to fell the tree had been received on 3<sup>rd</sup> January 2023 and had been 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.

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.

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

- (1) Addition to Section 7, detailing 22 additional representations received; and
- (2) Addition to Section 1, Executive Summary and Recommendation as follows: -

*Should consent be granted to fell the tree then the two conditions below should be attached to the decision:*

1. “COMPLIANCE: REPLACEMENT TREE

*A replacement tree shall be planted during the first planting season (1 November to 31 March) following the removal of the tree to which this consent relates. The replacement tree shall be a Field Maple (Acer campestre) or other species to be agreed in writing and in advance of the felling, with the local planning authority and have a girth of 10 to 12 cm at time of planting.*

*It shall be planted in the same or as close as possible to the same location as the felled tree. If within a period of 5 years from the date of planting the tree is removed, uprooted, is destroyed or otherwise dies another tree of the same size and species shall be planted at the same place or in accordance with any variation for which the local planning authority gives written approval.*

*REASON: To ensure that a new tree is planted for its amenity value.*

2. COMPLIANCE: TIME LIMIT

*The work authorised by this Decision Notice must be completed within two years of the date of this Notice. If the work is not completed within this period, for whatever reason, the authority to proceed expires.*

*REASON: To ensure that the permitted works are arboriculturally appropriate.”*

Notes (1) to (4) were also set out in the Update Sheet for the recommended Condition 2.

Jennifer Spear, a local resident, spoke against the application.

Parish Councillor Nick Rippon, representing Tendring Parish Council, spoke against the application.

Councillor Peter Harris, the local Ward Member, spoke against the application.

<b>Matters raised by Members of the Committee:-</b>	<b>Officer’s response thereto:-</b>
A member of the Committee asked if the circumstances had been independently	The Planning Manager advised that Tendring District Council’s Tree Officer

assessed.	had assessed the application as submitted and had provided comments within the Officer report. The circumstances had not been independently assessed.
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Following discussion by the Committee, it was moved by Councillor Fowler, seconded by Councillor Alexander and unanimously **RESOLVED** that consideration of this application be deferred for the following reason:

- An independent assessment to be secured to consider the evidence presented for the felling of the tree.

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 Alexander and **RESOLVED** that the Committee continue its deliberations.

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

Members were informed that this application had been referred to 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 and had a recommendation of approval.

In the opinion of Officers, the proposed dwelling was, 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 exceeded that of the existing building, however this was not considered to result in significant harm.

The Committee was reminded that the application had 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 remained as existing and there were no objections from the Highways Authority.

The Council’s Tree and Landscape Officer had noted that the application site was set back a considerable distance from the highway and consequently did not feature in the public realm. A row of ‘coppiced’ Willows might need to be removed, however, those trees were not considered to merit retention or formal legal protection by means of a tree preservation order. Soft landscaping was recommended in order to screen the dwelling from views on the northern boundary.

It was felt by Officers that sufficient parking and private amenity space had been provided, and that there would not be significant harm to existing neighbouring amenities, subject to conditions and the adherence to the submitted construction management plan.

Members were informed that conditions had been included within the Officer 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.

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 an amendment to recommended Condition 9 as follows: -

*“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:*

- o Agreement of provisions to ensure no more than 105 litres per person per day is used*
- o Agreement of carbon level*
- o Agreement of provisions to ensure the development is zero carbon ready*
- o An electric car charging points per dwelling*
- o A Water-butt per dwelling*
- o Compost bin per dwelling*
- o Agreement of heating of each dwelling/building*
- o 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.”*

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

Town Councillor Nick Turner, representing Frinton and Walton Town Council, spoke against the application.

<b>Matters raised by Members of the Committee:-</b>	<b>Officer’s response thereto:-</b>
A member of the Committee asked if there	The Planning Officer advised that there

were inaccuracies in the presentation and report.	was an ongoing dialogue with the applicant in respect of condition 9, a section of the condition referring to water had been removed due to its being included in the building regulations section of the report.
A Councillor asked if the application fell within Class Q of the NPPF.	The Planning Manager advised that Class Q permissions had been secured and a full planning application had been submitted for the demolition of the agricultural building.
Concerns were raised regarding the long, narrow driveway proposed.	The Planning Manager advised that criteria was required for prior approval where all material considerations were sought. Class Q took into consideration Highway safety matters. However, it did not consider driveways and access points.
A member of the Committee asked how much the footprint had increased as part of plans.	The Planning Manager advised that the footprint of the site had increased by 25%.

Councillor Harris moved that this motion be refused, but having considered advice given by the Planning Manager, he decided to withdraw his motion.

Following discussion by the Committee, it was moved by Councillor Alexander seconded by Councillor Fowler and **RESOLVED** that the Director of Planning (or equivalent authorised officer) be authorised to grant planning permission for the development, subject to the following conditions or as may be varied to account for any errors, legal and necessary updates together with those conditions as may be deemed necessary by the Director of Planning and the informative notes as may be deemed necessary:

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 Klargestor 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 BGN02 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.

- (3) 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.

- (4) 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:

- o Agreement of provisions to ensure the development is zero carbon ready
- o An electric car charging points per dwelling
- o A Water-butt per dwelling
- o Compost bin per dwelling
- o Agreement of heating of each dwelling/building
- o 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 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.

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

The Committee was reminded that this application was before it 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 was out of keeping with the surrounding dwellings.

It was reported that the proposal related 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 had, since 2000, been people with learning difficulties. It was now the intention of the owners to change the client group to elderly persons, with specialisation in palliative care.

Amended plans had 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 impact on neighbours.

Members were made aware that the increased size of the building would not be, in the opinion of Officers, materially harmful to the character and appearance of the surrounding area and would result in a neutral impact to existing neighbouring amenities. Whilst no changes had been proposed to the site access or parking arrangements, Essex Highways Authority had raised no objections in terms of the increased use of the site and the parking provision was considered by them to be acceptable.

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

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

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

- (1) Addition to Section 5, representations received from Bradfield Parish Council and comments; and
- (2) Revised Paragraph 6.26 to read: -

6.26 *"The 3 metre offset of the first-floor element from the northern boundary with 'Sundown' combined with the 12 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.”*

Mr Tim Snow, the agent acting on behalf of the applicant, spoke in support of the application.

Councillor Alan Coley, on behalf of Councillor Zoe Fairley, the local Ward Member and caller-in, spoke against the application.

<b>Matters raised by Members of the Committee:-</b>	<b>Officer’s response thereto:-</b>
A member of the Committee asked what the distance from the rear of the site to the fence would be.	The Planning Officer confirmed that the distance between the fence and the rear of the site was 1 Metre.
If there was a fire to the north-east of the plan, could access be an issue for those with disabilities?	The Planning Officer advised that the access would be detailed in the fire and building regulations.
A member of the Committee asked if comments had been submitted from Bradfield Parish Council.	The Parish Council’s comments were combined with the Ward Members comments as part of the update sheet.

Following discussion by the Committee, it was moved by Councillor Harris, seconded by Councillor V Guglielmi and unanimously **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 proposed extension and associated increase in the intensification of the site would, if approved, be out of keeping with the area by reason of the increased use, massing, height, size and overbearing design and therefore result in the adverse harm of neighbouring amenity.
- Contrary to SPL3, SP7 and design principle of the NPPF.

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

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 subject to Section 106 agreement.

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

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

- (1) a receipt of confirmation that the Section 106 legal agreement had been completed and;
- (2) Amendment to condition 6 to read:

**“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.”*

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

Town Councillor Nick Turner, representing Frinton and Walton Town Council, spoke against the application.

<b>Matters raised by Members of the Committee:-</b>	<b>Officer’s response thereto:-</b>
A member of the Committee asked if the parking arrangements had considered one accessway for both properties.	The Planning Officer confirmed that one access was proposed for both properties with suitable parking arrangements.
Could the indicative plan be refused	The Planning Officer advised that the

preventing permission to build even though there was a detailed application?	application could be refused and as a result, parking arrangements would resort to the original application detail.
------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------

Following discussion by the Committee, it was moved by Councillor Alexander, seconded by Councillor Fowler and **RESOLVED** that the Planning Manager (or equivalent authorised officer) be authorised to grant planning permission for the development, subject to the conditions and reasons or as need to be varied and those as may be deemed necessary by the Director of Planning as follows:-

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 imetable 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 portals.
- 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 in 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 CONDITON:

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 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 referred 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.

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

It was reported that this application was before Members as an Ownership Certificate had been served on Tendring District Council as it owned the freehold of the flats.

The Committee was informed that the proposed porch would be located to the front of the property and therefore publicly visible. Officers believed that the single storey nature of the proposal as well as its significant set back from the main highway would reduce its prominence and the presence of other similar additions to nearby houses allowing it to be consistent with the character of the locale. The proposed addition was, in the opinion of Officers, of a suitable size and design in relation to the host dwelling and the use of grey boarding would act as a suitable contrast between the host dwelling and enlargement as well as being in keeping with the range of materials within the area.

Officers therefore felt that the proposed porch would not result in any significant loss of light or undue loss of privacy to the adjacent (and above) neighbouring properties and was considered to be acceptable in terms of residential 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 Team Leader (SC-E) in respect of the application.



Councillor Bush, the local Ward Member, had previously advised Officers that he would not attend the site visit or speak on this application as he had not referred this application to the Committee and that he had no objection to this application being granted approval.

Following discussion by the Committee, it was moved by Councillor Harris, seconded by Councillor Placey and unanimously **RESOLVED** that the Director of Planning r (or equivalent authorised officer) be authorised to grant planning permission for the development, subject to the following conditions and reasons and those as may be need necessary by the Director of Planning and the informative notes as may be deemed necessary:

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.

Informatives

Positive and Proactive Statement

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.

The meeting was declared closed at 10.34 pm

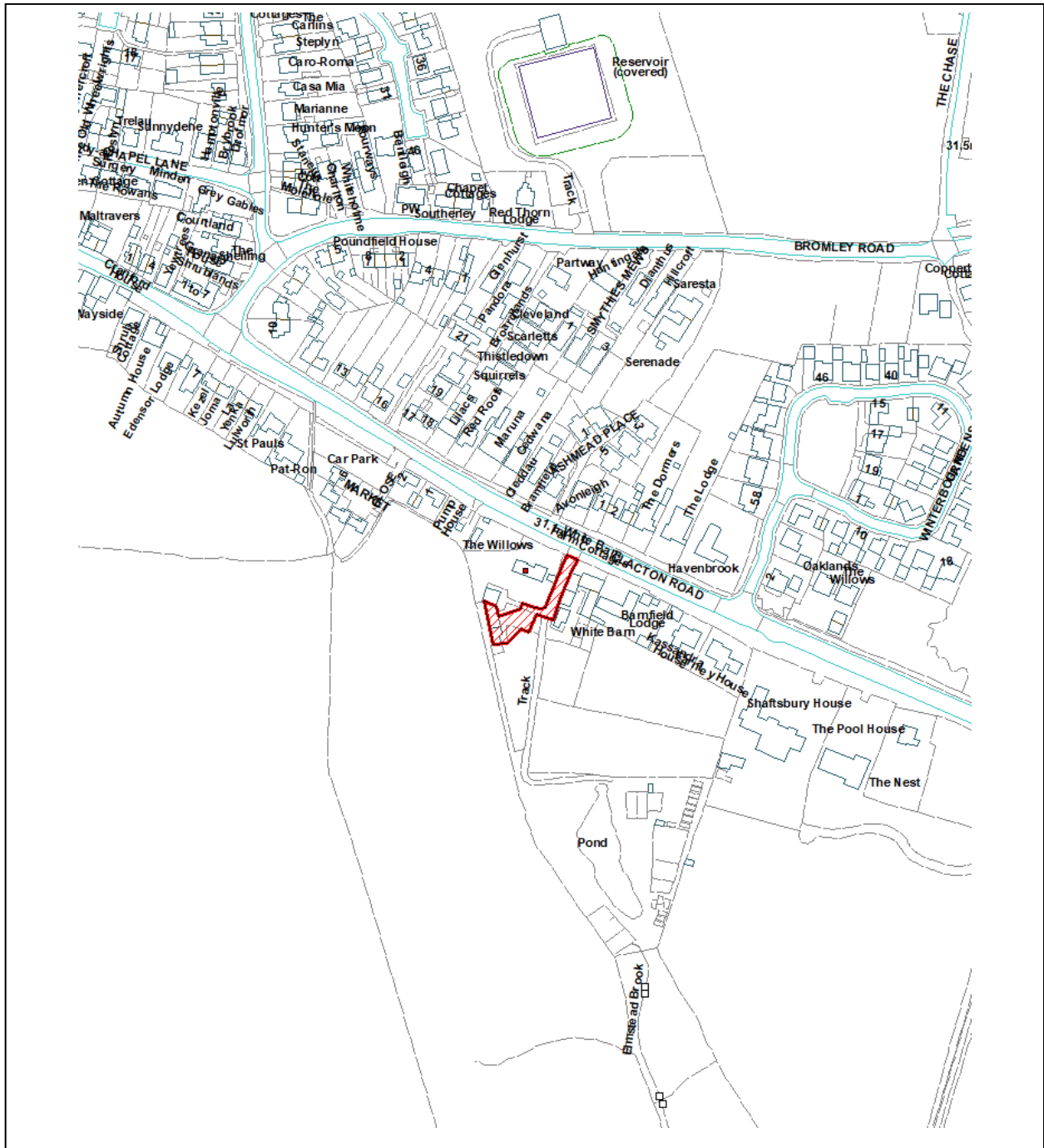
**Chairman**

## PLANNING COMMITTEE

13<sup>th</sup> APRIL 2023

### REPORT OF THE DIRECTOR OF PLANNING

#### **A.2 PLANNING APPLICATION – 22/02038/FUL – WHITE BARN FARM CLACTON ROAD ELMSTED CO7 7DB**



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<b>Application:</b>	22/02038/FUL	<b>Expiry Date:</b>	31st January 2023
<b>Case Officer:</b>	Michael Pingram	<b>EOT Date:</b>	19th April 2023
<b>Town/ Parish:</b>	Elmstead Market Parish Council		
<b>Applicant:</b>	Mr and Mrs Jennings		
<b>Address:</b>	White Barn Farm Clacton Road Elmstead, Colchester CO7 7DB		
<b>Development:</b>	Erection of one dwelling (in lieu of Prior Approval for one dwelling, subject of application 22/01288/COUNOT).		

## 1. Executive Summary

- 1.1 The application is referred to Planning Committee as the proposed development would conflict with the requirements of the Development Plan, principally Policy SPL2 (Settlement Development Boundaries) of the Tendring District Local Plan 2013-2033 and Beyond Section 2 (adopted January 2022) being located outside of any defined settlement development boundary and has a recommendation of approval.
- 1.2 The proposed dwelling is not considered to be materially different in regard to siting or footprint to the development approved under prior approval 21/01288/COUNOT and is similar in scale and appearance to dwellings and other built form within the wider area. The overall height of the proposal exceeds that of the existing building, however this is not considered to result in significant harm.
- 1.3 The Council's Tree and Landscape Officer has raised no concerns, while sufficient parking and private amenity space is provided, and there will not be significant harm to existing neighbouring amenities. Essex Highways Authority have also raised no objections.

### **Recommendation:** Approval

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

## 2. Planning Policy

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

National:

National Planning Policy Framework July 2021 (NPPF)

National Planning Practice Guidance (NPPG)

Local:

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

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

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

- SPL1 Managing Growth
- SPL3 Sustainable Design
- LP1 Housing Supply
- LP2 Housing Choice
- LP3 Housing Density and Standards
- LP4 Housing Layout
- PPL3 The Rural Landscape
- PPL4 Biodiversity and Geodiversity
- PPL10 Renewable Energy Generation and Energy Efficiency Measures
- HP5 Open Space, Sports & Recreation Facilities
- DI1 Infrastructure Delivery and Impact Mitigation

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

Essex Design Guide

**Status of the Local Plan**

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

In relation to housing supply:

The Framework requires Councils boost significantly the supply of housing to meet objectively assessed future housing needs in full. In any one year, Councils must be able to identify five years of deliverable housing land against their projected housing requirements (plus an appropriate

buffer to ensure choice and competition in the market for land, to account for any fluctuations in the market or to improve the prospect of achieving the planned supply). If this is not possible or if housing delivery over the previous three years has been substantially below (less than 75%) the housing requirement, Paragraph 11 d) of the Framework requires granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole (what is often termed the ‘tilted balance’).

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

**3. Relevant Planning History**

22/01288/COUNOT	Application for prior approval for the conversion of an agricultural building into one dwelling.	Prior Approval not required	08.09.2022
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**4. Consultations**

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

All consultation responses are available to view, in full (including all recommended conditions and informatives), on the planning file using the application reference number via the Council’s Public Access system by following this link <https://idox.tendingdc.gov.uk/online-applications/>.

<b><u>UU Open Spaces</u></b>	<b>17.01.2023</b>
No contribution is requested on this occasion.	
<b><u>ECC Highways Dept</u></b>	<b>06.01.2023</b>
<p>The information that was submitted in association with the application has been fully considered by the Highway Authority. No site visit was undertaken in conjunction with this planning application. The information submitted with the application has been assessed and conclusions have been drawn from a desktop study with the observations below based on submitted material. It is noted that the site is situated on the A133 Clacton Road that is subject to a 30-mph speed limit. The site consists of the host property, an agricultural building, and associated land. The agricultural building was used to store agricultural equipment and machinery in relation to the agricultural use at the site. The proposal will share the established vehicular access with the host dwelling, when compared with the former agricultural use, the level of activity will be on a par or possibly reduced. The proposal will provide adequate parking and turning, considering these factors:</p> <p>From a highway and transportation perspective the impact of the proposal is acceptable to Highway Authority subject to the following mitigation and conditions:</p> <ol style="list-style-type: none"> <li>1. Prior to occupation of the dwelling, the access at its centre line shall be provided with a minimum clear to ground visibility splay with dimensions of 2.4 metres by 90 metres in both</li> </ol>	

directions, as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the road junction / access is first used by the dwelling and retained free of any obstruction at all times.

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

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

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

4. Prior to occupation of the proposed dwelling, the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack for sustainable transport, approved by Essex County Council, to include six one day travel vouchers for use with the relevant local public transport operator.

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.

5. Areas within the curtilage of the site for the purpose of the reception and storage of building materials shall be identified clear of the highway.

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

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.

And recommends informatives.

**Environmental Protection**

**11.01.2023**

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

Construction Method Statement: we are satisfied with the submitted CMS, and have no adverse comments to make.

Contaminated Land: Section 5.1 of the submitted planning statement indicates that the LPA had no previous concerns in relation to a previous application (22/01228/COUNOT) with respect to land contamination; we would like to highlight that the EP team indicated concerns due to the historical use of the land, and as a result of discussion with the relevant planning officer, a Watching Brief in relation to contaminated land was requested. As such, and in the pursuit of reasonableness and consistency, should this application be approved, the EP Team

request a Watching Brief be conditioned (on any subsequent approval) and adhered to throughout the demolition and construction phase. We request that the LPA are contacted in the event of unexpected ground conditions being encountered during construction and that the below minimum precautions are undertaken until such time as the LPA responds to the notification. I would also advise that the developer is made aware that the responsibility for the safe development of the site lies with them.

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

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

REASON: It is the responsibility of the developer to ensure the safe development of the site and to carry out any appropriate land contamination investigation and remediation works. The condition is to ensure the risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors

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.



\*INFORMATIVE 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.

**Tree & Landscape Officer**

**03.01.2023**

The main body of the application site does not contain any trees or other significant vegetation.

To the west of the existing stables there is a small Oak tree which is a reasonable specimen however the tree does not feature prominently in the public realm.

Also to the west of the existing stable there is a drainage ditch between the existing structure and the Oak that will be acting as a barrier to root activity. Consequently the renovation of the existing building or its demolition and replacement with a new dwelling will not have an adverse impact on the long term viability of the tree.

Taking the location and position of the proposed dwelling into account there is little public benefit to be gained by new soft landscaping associated with the development proposal.

## **5. Representations**

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

## **6. Assessment**

### Site Description

- 6.1 The application relates to a building located to the south-west of White Barn Farm, which itself is a part single part two storey detached residential property located along the southern section of Clacton Road within the parish of Elmstead Market.
- 6.2 The building subject of this application is a single storey building formerly used to store agricultural equipment and machinery in relation to poultry kept at site, and is accessed via Clacton Road to the north-eastern corner of the site.
- 6.3 The surrounding area includes a series of residential properties to the northern side of Clacton Road, with more sporadic built form along the southern site. Approximately 100 metres to the north-west is a car park, with the main hub of Elmstead Market located approximately 400 metres to the north-west. To the south and south-west of the site are large areas of grassed land, although the land further to the south-west has planning permission for the erection of 62 dwellings.
- 6.4 The site lies adjacent to, but outside of, the defined Settlement Development Boundary for Elmstead Market within the adopted Local Plan 2013-2033.

### Description of Proposal

- 6.5 This application seeks full planning permission for the replacement of a former agricultural building with one detached dwelling, which will be single storey and served by two bedrooms.
- 6.6 The proposed property would have a gross floor area of 115sqm, and would represent an alternative development to the Prior Approval for one dwelling subject of application 21/01288/COUNOT, which had a gross floor area of approximately 124sqm. The site will be accessed by the existing access located to the north-western corner of the site.

### Site History

- 6.7 Under planning reference 21/01288/COUNOT, prior approval permission was granted in September 2022 for the conversion of the agricultural building subject of this planning application, into one dwelling. This was allowed as assessed against Class Q of the Town & Country Planning (General Permitted Development) (England) Order (2015). Within the determination of this application the Council did not express any concern on the grounds for consideration of the notification application, namely access, flooding, design, noise or contamination.

### 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 Elmstead Market 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.
- 6.10 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.
- 6.11 The proposal therefore results in conflict with policies SP3 and SPL2. In this case, however, the principle of residential development on this site has been established through the prior approval consent granted under planning permission 21/01288/COUNOT in September 2022. The current proposal represents an alternative design to the previously granted permission, which is considered to form a material consideration in respect of the application and denotes what is considered to be a viable fall-back position as outlined below.

### Fallback Position – Material Consideration

- 6.12 It is established in case law that permitted development rights can legitimately represent a fall-back position when considering alternative proposals for development of the same site and this was the case for the previous planning approval.
- 6.13 In summary, the relevant legal principles relating to the fall-back position were set out in R v Secretary of State for the Environment and Havering BC (1998) EnvLR189. In that case Mr

Lockhart-Mummery QC, sitting as a Deputy High Court Judge, accepted submissions that there were three elements to the fall-back test:

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

6.14 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.

6.15 The table below provides a comparison between the original prior approval and the new dwelling proposed under this application:

	21/01288/COUNOT (Prior Approval)	22/02038/FUL (Current Application)
Siting	To the south-west of the site, to the rear of White Barn Farm.	Similar location, however footprint is of an 'L-Shape' so extends slightly further east.
Access	Via the existing access point to the north-east corner of the site from Clacton Road.	Via the existing access point to the north-east corner of the site from Clacton Road.
Appearance	Black boarding.	Black boarding, red brick plinth, pan tiles and black powder coated aluminium windows.
Ridge Height	2.8 metres	3.9 metres
Eaves Height	2.2 metres	2.3 metres
Footprint	124sqm	115sqm
Bedrooms	3 bedrooms	2 bedrooms

6.16 In conclusion, having regard to the above, the application is considered to meet all three tests set out for a viable fall-back position in terms of the legal position set out earlier. There is a fall-back use in the form of the prior approval and it is considered that the proposed development, is, in the main, comparable to that approved under the prior approval, in terms of its siting, size, scale and external appearance. As outlined above in the comparison table, there is a noticeable increase in the ridge height of the new dwelling (although the eaves height remains of a similar size). However, the dwelling is set back in the site and the increased height will not appear significantly out of keeping, so this increase will appear acceptable in this location. Lastly there is a realistic prospect of the prior approval scheme being implemented. Therefore, the fall-back position is given significant weight in the assessment of this application.

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

Visual Impacts

6.18 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.

- 6.19 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.
- 6.20 The site is located in a semi-rural area, and there are examples of residential development within the immediate vicinity, particularly to the north-east and north of the site, as well as other built form further out along both sides of Clacton Road.
- 6.21 The proposed dwelling would replace an existing structure in broadly the same location. The dwelling would result in a net decrease of approximately 9sqm gross external floor area, with no net increase in the number of dwellings.
- 6.22 The distance of the proposed dwelling from the highway and front boundary hedgerow, approximately 50 metres, will help to obscure the view of the development from Clacton Road, and the new dwelling will also be viewed within the context of the immediate surrounding residential development to the north and north-east. Therefore, in this particular instance it is considered that the location of the dwelling will have no greater impact than the existing agricultural building.
- 6.23 The design of the dwelling will see a detached property of a rural nature that is not dissimilar to the existing structure, albeit with the alteration to an 'L-Shape' design. In addition, the use of a mix of materials including black boarding, red brick plinth, and pan tiles add to the overall acceptable design within this location.
- 6.24 In terms of the proposed scale, while it is noted the dwelling is 1.1 metres higher than the existing building, the dwelling remains single storey and is well set back in the site, and is also set amongst existing built form. Therefore, Officers consider the development would not appear overly incongruous when considered in this context, and equally would not result in an overly harmful impact on the character and appearance of the area or landscape.
- 6.25 Policy LP4 requires that new residential developments will be expected to provide for private amenity space of a size and configuration that meets the needs and expectations of residents and which is commensurate to the size of dwelling and the character of the area. The plans show that this is comfortably adhered to.

#### Impact to Neighbouring Amenities

- 6.26 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.
- 6.27 The site and proposed dwelling is sited a sufficient and significant distance from the nearby neighbouring properties to the north and north-east, and will not result in any loss of sunlight or daylight, particularly given its single storey nature. The separation distances of the proposed dwelling from neighbouring dwellings, along with its single storey nature, means that no loss of privacy or overlooking will occur to neighbouring properties. Therefore, it is considered that the proposed development would not result in any material harm to the living conditions of the occupants of neighbouring dwellings.

- 6.28 Overall the proposal is considered to secure a good standard of amenity for future occupants of the proposed dwelling and would not demonstrably harm the amenities of residents living in the vicinity.

#### Highway Safety Impacts

- 6.29 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.
- 6.30 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.
- 6.31 Essex Highways Authority have been consulted and have stated that as the proposal will share the established vehicular access with the host dwelling, and when compared with the former agricultural use the level of activity will be on a par or possibly reduced, they raise no objections subject to conditions relating to visibility splays, 6 metres being behind each parking space, cycle parking provision, the submission of a Residential Travel Information Pack, and storage of building materials being clear of the highway.
- 6.32 Furthermore, the Council's Adopted Parking Standards require that for a dwelling with two or more bedrooms that a minimum of two parking spaces are required. Parking spaces should measure 5.5m x 2.9 metres. The submitted plans show that there is sufficient space within the site to provide the necessary parking for the dwelling.

#### Impact to Trees and Landscape

- 6.33 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.
- 6.34 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.
- 6.35 The Council's Tree and Landscapes Officer has been consulted, and has stated the following:

*"The main body of the application site does not contain any trees or other significant vegetation.*

*To the west of the existing stables there is a small Oak tree which is a reasonable specimen however the tree does not feature prominently in the public realm.*

*Also to the west of the existing stable there is a drainage ditch between the existing structure and the Oak that will be acting as a barrier to root activity. Consequently the renovation of the existing building or its demolition and replacement with a new dwelling will not have an adverse impact on the long term viability of the tree.*

*Taking the location and position of the proposed dwelling into account there is little public benefit to be gained by new soft landscaping associated with the development proposal.."*

- 6.36 Given these comments, Officers are content that the impact to trees and the areas landscape character will not be significantly harmful.

#### Drainage

- 6.37 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.
- 6.38 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.
- 6.39 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.
- 6.40 In relation to non-mains drainage from non-major development the Environment Agency's advice is that to comply with the Framework and PPG on foul drainage matters, an LPA needs to be satisfied that foul drainage can be provided without adverse impact on the environment. This requires ensuring that both those environmental risks outside of the control of the permit and the relevant considerations in the PPG are addressed. The LPA should also be mindful that the developer will need to address foul drainage matters to get their environmental permit and meet building control regulations. Therefore, they should be confident that it is likely that any necessary permits and approvals can be successfully obtained.
- 6.41 Question 11 of the application form states that it is not intended to connect to a mains sewer. Instead, foul sewage will be disposed of by way of a package treatment plant; the declaration implies that a mains connection is not possible.
- 6.42 In considering the acceptability of the proposed non-mains drainage, the site is not located in close proximity to any dwelling, the site is not close to any designated site of importance to biodiversity, nor is it located within close proximity to any watercourse. The site is not located within a Drinking Water Safeguard Zone or a Source Protection Zone, and the site is sufficiently large enough to accommodate a soakaway. Furthermore, flows from a treatment plant serving one dwelling served by two bedrooms would be very low. Taking all these factors into account, and the absence of a mains connection in close proximity to the site, the proposed foul drainage arrangements are considered to be acceptable.

### Financial Contributions – Recreational Disturbance

- 6.43 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.
- 6.44 The application scheme proposes a residential use on a site that lies within the Zone of Influence (Zol) being approximately 3.6km away from the Colne Estuary SAC and SPA. New housing development within the Zol 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.
- 6.45 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

- 6.46 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.
- 6.47 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 4.51 hectares of equipped play/formal open space in Elmstead Market, however no contribution is requested on this occasion.

### Renewable and Energy Conservation Measures

- 6.48 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.
- 6.49 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.
- 6.50 The proposal includes a new roof space which has the potential to incorporate solar photovoltaic installation, and car parking areas have the potential for the provision of ULEV charging points for electric cars. While the submission confirms an electric vehicle charging point will be provided to an external wall, this is not sufficient to address the full requirements of PPL10. Therefore, 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.

## **7. Conclusion**

- 7.1 The proposed demolition of an existing agricultural building and its replacement with a two bedroom dwelling is acceptable in principle following the previous prior approval granted on the site for two dwellings under planning reference 21/01288/COUNOT.
- 7.2 The positioning of the dwelling is very similar to the existing agricultural building, while the level of floorspace will see a slight decrease. The dwelling will result in an increase in height in comparison to the existing building, however Officers do not consider this is significantly harmful to the character and appearance of the area.
- 7.3 There are no significant issues in respect to neighbouring amenities or harm to trees. Essex Highways Authority have raised no objections and there is sufficient space for parking. Accordingly, the application is considered to be policy compliant and is recommended for approval.

## **8. Recommendation**

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

### **8.2 Conditions and Reasons**

#### **1 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.



Drawing Number JCR-02 Revision B, the documents titled 'Planning Statement', 'Electric Vehicle Charging', 'Construction Method Statement', 'Klargester BioDisc Domestic Sewage Treatment Plant', and the untitled Site Location 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 HIGHWAYS VISIBILITY SPLAYS

CONDITION: Prior to first use of the access, visibility splays shall be provided with a minimum clear to ground visibility splay with dimensions of 2.4 metres by 90 metres in both directions, as measured from and along the nearside edge of the carriageway, and shall then be retained in its approved form. 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 access would have sufficient visibility to enter the public highway safely and vehicles on the public highway would have sufficient warning of a vehicle emerging in order to take avoiding action.

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.

4 RESIDENTIAL TRAVEL INFORMATION PACK

CONDITION: 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.

## 5 HIGHWAYS RESTRICTION

CONDITION: Prior to the first occupation of the development the areas within the site identified for the purpose of loading/unloading/reception and storage of materials and manoeuvring shall be retained thereafter and remain free of obstruction except for the purpose of loading/unloading/reception and storage of materials and manoeuvring and used for no other purpose. Any other area within the site outlined in red not identified shall not be used as loading/unloading/reception and storage of materials and manoeuvring areas.

REASON: To ensure that appropriate loading / unloading facilities are available in the interest of highway safety.

## 6 CONDITION: If during construction/demolition works evidence of potential contamination is encountered, works shall cease, and the site fully assessed to enable an appropriate remediation plan to be developed. Works shall not re-commence until an appropriate remediation scheme has been submitted to, and approved in writing by, the Local Planning Authority and the remediation has been completed.

Upon completion of the building works, this condition shall not be discharged until a closure report has been submitted to and approved in writing by the Local Planning Authority. The closure report shall include details of;

a) Details of any sampling and remediation works conducted and quality assurance certificates to show that the works have been carried out in full in accordance with the approved methodology.

b) Details of any post-remedial sampling and analysis to show the site has reached the required clean-up criteria shall be included in the closure report together with the necessary documentation detailing what waste materials have been removed from the site.

c) If no contamination has been discovered during the build, then evidence (e.g. photos or letters from site manager) to show that no contamination was discovered should be included.

REASON - To ensure that any risks from land contamination to the future users of the land and neighbouring land are minimised.

## 7 CONDITION: 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-butts 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 assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

Highways Informatives:

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

The applicants should be advised to contact the Development Management Team by email at [development.management@essexhighways.org](mailto:development.management@essexhighways.org)

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

3: The Highway Authority cannot accept any liability for costs associated with a developer's improvement. This includes design check safety audits, site supervision, commuted sums for

maintenance and any potential claims under Part 1 and Part 2 of the Land Compensation Act 1973. To protect the Highway Authority against such compensation claims a cash deposit or bond may be required.

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

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](http://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.

## **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/>.

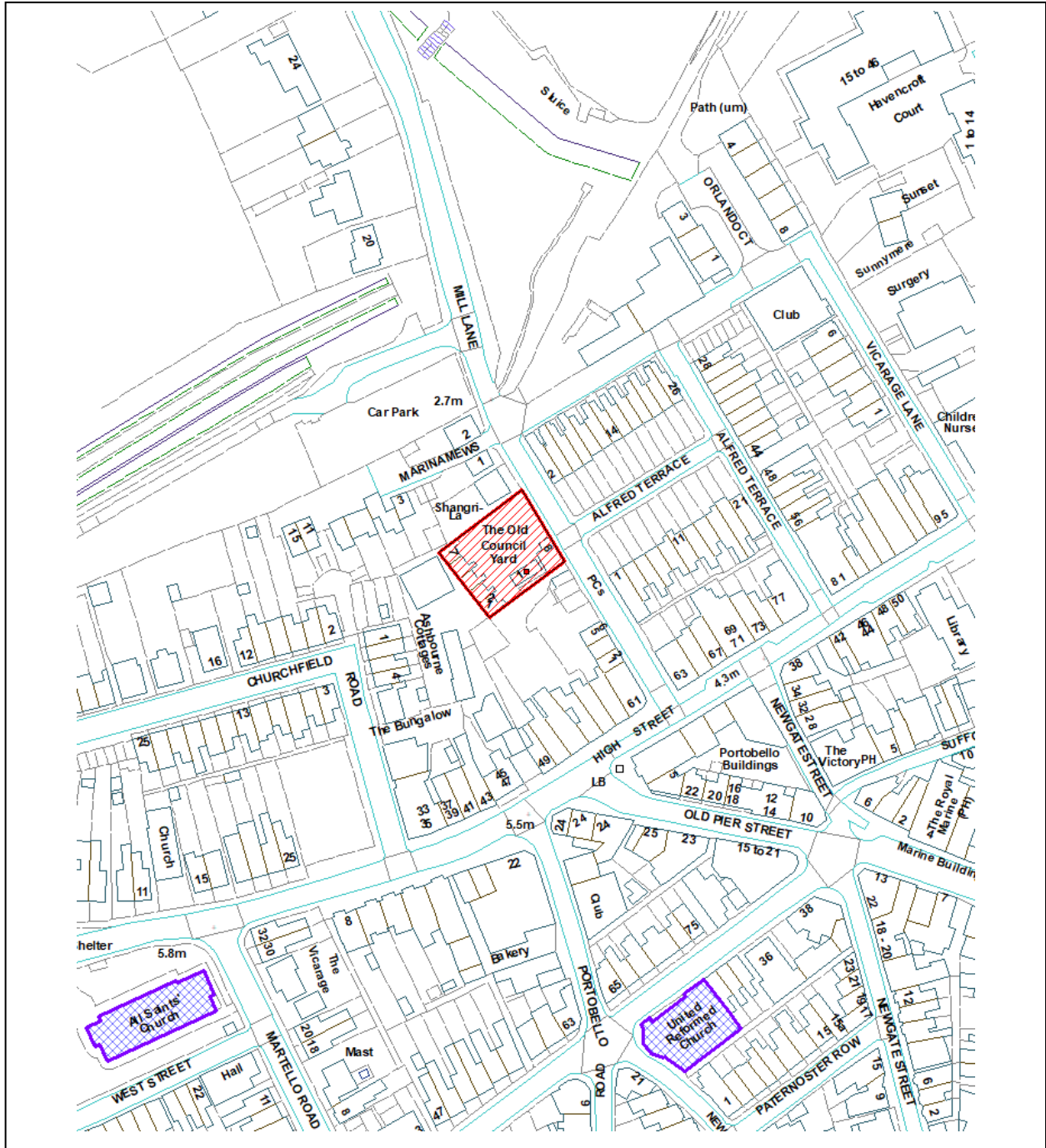
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## PLANNING COMMITTEE

13<sup>th</sup> APRIL 2023

### REPORT OF THE DIRECTOR OF PLANNING

#### **A.3 PLANNING APPLICATION – 23/00254/FUL – MILL LANE COUNCIL YARD MILL LANE WALTON ON THE NAZE CO14 8PE**



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<b>Application:</b>	23/00254/FUL	<b>Expiry Date:</b>	13th April 2023
<b>Case Officer:</b>	Michael Pingram	<b>EOT Date:</b>	20 <sup>th</sup> April 2023
<b>Town/ Parish:</b>	Frinton & Walton Town Council		
<b>Applicant:</b>	Tendring District Council		
<b>Address:</b>	Mill Lane Council Yard Mill Lane Walton On The Naze, Essex CO14 8PE		
<b>Development:</b>	Proposed replacement of existing gates to entrance and installation of new steel railings to boundary wall.		

## 1. Executive Summary

- 1.1 The application is before the Planning Committee as the applicant is Tendring District Council.
- 1.2 The proposal results in replacement gates and additional railings on top of the existing front (eastern) boundary wall, as part of wider renovation works to the site in order for it to be used as a storage depot for wheelie bins and recycling boxes, following the close of the Weeley Offices/Depot site where they are currently stored.
- 1.3 The works will result in a minor enhancement to the character and appearance of the area, and will also result in a neutral impact to existing neighbouring amenities.

### **Recommendation:** Approval

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

## 2. Planning Policy

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

National:

National Planning Policy Framework July 2021 (NPPF)

National Planning Practice Guidance (NPPG)

Local:

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

SP1 Presumption in Favour of Sustainable Development

SP3 Spatial Strategy for North Essex



SP7 Place Shaping Principles

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

SPL1 Managing Growth

SPL3 Sustainable Design

PPL1 Development and Flood Risk

Local Planning Guidance

Essex Design Guide

### **Status of the Local Plan**

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

### **3. Relevant Planning History**

N/A

### **4. Consultations**

No consultees were consulted within the determination of this planning application.

### **5. Representations**

5.1 Frinton and Walton Town Council have recommended approval.

5.2 There have been no other letters of representation received.

### **6. Assessment**

#### **Site Description**

6.1 The application relates to Mill Lane Council Yard, which is sited to the western side of Mill Lane within the Parish of Walton-on-the-Naze. The site is currently an open area of land for storage or the parking of vehicles, with single storey buildings located to the rear and side (south) of the site. The wider character is urban in nature, with residential and commercial built form to all sides. Approximately 35 metres to the north is the Mill Lane Car Park, with the main hub of the town centre sited approximately 80 metres to the south.

6.2 The site falls within the Settlement Development Boundary for Walton-on-the-Naze, and is also in an area allocated as a Priority Area for Regeneration. The site is also located within Flood Zones 2 and 3, and is an area allocated for mixed uses within the adopted Local Plan 2013-2033.

### Description of Proposal

- 6.3 This application seeks planning permission for the replacement of the existing gates sited to the front (eastern) boundary, which will measure 2.4 metres in height and be constructed with green powder coated steel.
- 6.4 In addition, the application seeks consent for the installation of green powder coated steel palisade railings on top of the existing brick wall along the front (eastern) boundary, which will again see the overall height be 2.4 metres (currently 2 metres).
- 6.5 The works form part of a wider renovation of the yard in order for it to be used as a storage depot for wheelie bins and recycling boxes, following the close of the Weeley Offices/Depot site where they are currently stored.

### Principle of Development

- 6.6 Adopted Local Plan Policy PP14 states that in areas allocated as a Priority Area for Regeneration, such areas will be a focus for investment in social, economic and physical infrastructure and initiatives to improve vitality, environmental quality, social inclusion, economic prospects, education, health, community safety, accessibility and green infrastructure.
- 6.7 The application site is located within the Priority Area for Regeneration for Walton-on-the-Naze. The works predominantly seek to replace existing gates and are aimed at enhancing and renovating the existing yard area to facilitate its use for the storage of wheelie bins and recycling boxes. The proposal therefore represents a minor improvement to the area and is supported in principle.

### Visual Impacts

- 6.8 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.
- 6.9 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.
- 6.10 The works are sited along the front (eastern) boundary, adjacent to Mill Lane, and will therefore be highly visible from views along Mill Lane. However, despite this prominence Officers consider that given the minor increase in height (from 2 metres to 2.4 metres) and that the design is a slight enhancement to the existing design, there will overall be a small visual enhancement to the character and appearance of the area.

### Impact to Neighbouring Amenities

- 6.11 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.

- 6.12 The works proposed are minor in nature, and predominantly seek to replace existing gates, albeit at a slightly larger height. Therefore, while there are neighbouring properties located within close proximity, notably 'Shangri-La' adjacent to the north, the works proposed will bear no harmful impacts to any existing amenities that would warrant Officers recommending a reason for refusal.

### Flooding Risks

- 6.13 Paragraph 159 of the NPPF (2021) states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, and where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere.
- 6.14 On this occasion, whilst the site is located within Flood Zones 2 and 3, an area at highest risk of flooding, the proposed development will simply see replacement gates and additional railings to a site utilised within a less vulnerable use, and therefore will result in a neutral impact in flooding terms.

## **7. Conclusion**

- 7.1 The application proposes replacement gates and additional railings on top of the existing front (eastern) boundary wall as part of wider renovation works to the site. Officers consider that these works will result in a small visual enhancement, which in turn results in a minor boost to an area prioritised for regeneration. In addition, while the overall height will increase from 2 metres to 2.4 metres, there will be a neutral impact to neighbouring amenities. Accordingly, the application is considered to be policy compliant and is recommended for approval.

## **8. Recommendation**

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

### 8.2 Conditions and Reasons

1 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.

Drawing Number A2023/06/01.

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.

### **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/>.

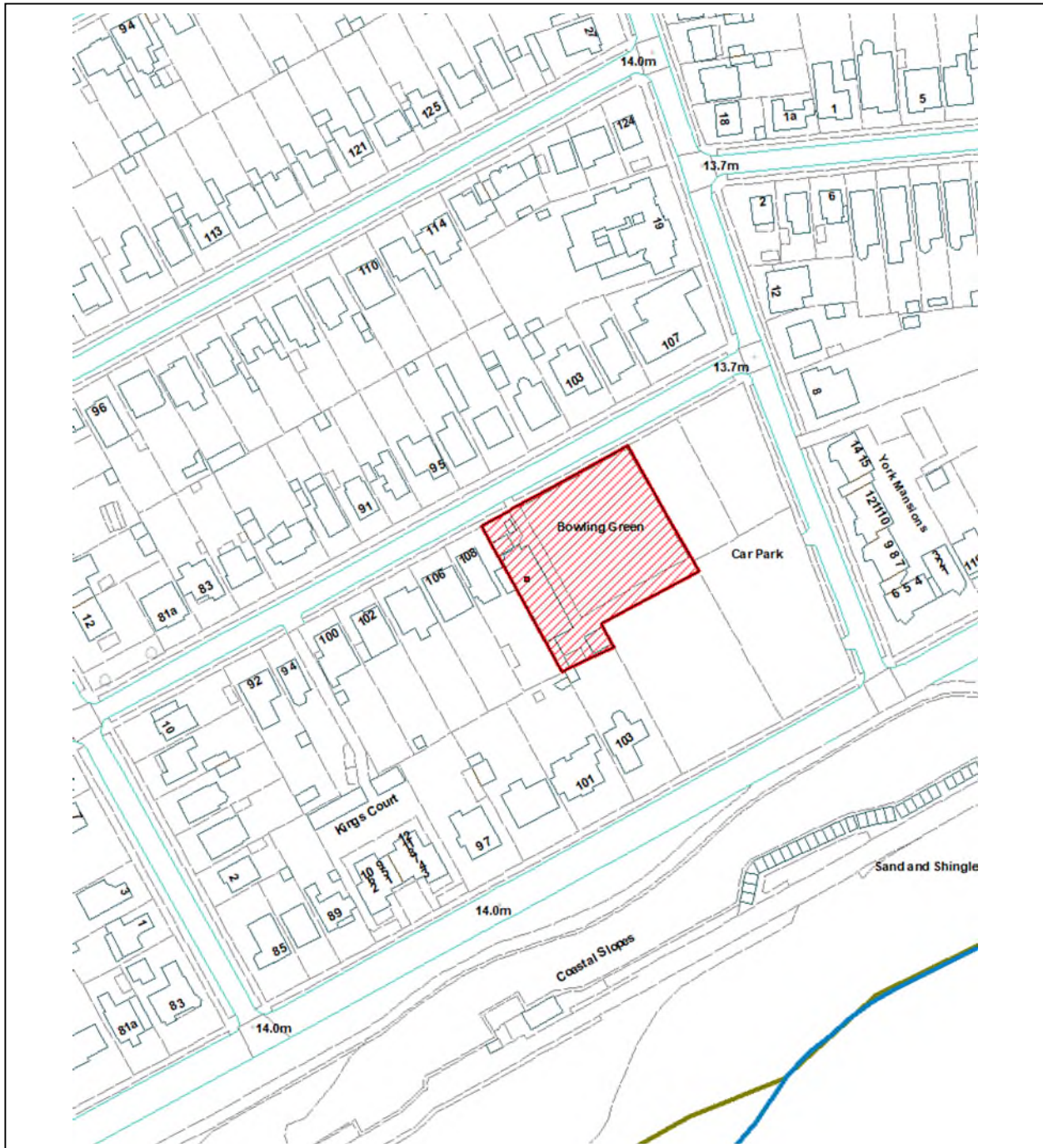
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## PLANNING COMMITTEE

13<sup>th</sup> April 2023

### REPORT OF THE DIRECTOR OF PLANNING

#### **A.4 PLANNING APPLICATION – 23/00232/FUL – HOLLAND ON SEA BOWLS CLUB, MADEIRA ROAD, HOLLAND-ON-SEA CO15 5HZ**



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<b>Application:</b>	23/00232/FUL	<b>Expiry Date:</b>	1st May 2023
<b>Case Officer:</b>	Charlotte Cooper		
<b>Town/ Parish:</b>	Clacton Non Parished		
<b>Applicant:</b>	Holland On Sea Bowls Club		
<b>Address:</b>	Holland On Sea Bowls Club, Madeira Road, Holland On Sea, CO15 5HZ		
<b>Development:</b>	Retention of erected fence.		

## 1. Executive Summary

- 1.1 The application is before the Planning Committee as Tendring District Council is the landowner.
- 1.2 This application seeks retrospective permission for the retention of an erected fence that requires planning permission as it is more than one metre in height adjacent to a highway,
- 1.3 The works are considered to result in minor changes to the visual characteristics of the area and have no significant harmful impact on visual amenities.

### **Recommendation:** Approval

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

SP7 Place Shaping Principles

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



**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**

93/00451/FUL	(Plot 13 adjoining Bowling Green, Madeira Road, Holland on Sea) Mens changing room for bowling club for summer use only (1 May to 30 September)	Approved	25.05.1993
96/01609/FUL	(York Road Bowls Club, Madeira Road, Holland on Sea) Change of use of part of car park to provide extension of bowls club with temporary siting of portakabin for use as changing room	Approved	11.03.1997
98/01317/FUL	(Holland on Sea (York Road) Bowls Club, Madeira Road,) Extension to existing building and construction of additional gents changing room and bar store. Construct two 'All Weather' Bowling Rinks on section of car park	Approved	24.11.1998
23/00232/FUL	Retention of erected fence.	Current	

**4. Consultations**

None

**5. Representations**

- Clacton - no comments have been received.
- Three letters of support have been received from neighbouring residents.

**6. Assessment**

**Site Description**

- 6.1 The application relates to Holland on Sea Bowls Club, located to the South of Madeira Road within the settlement development boundary of Clacton on Sea. The site is currently used as an outdoor bowls club, between the hours of 10am and 11pm. The surrounding area is largely comprised of residential dwellings with a car park located towards the south-east and the beach is located further south.
- 6.2 Officers note that before the fence the subject of this application, there was a conifer hedge that had some limited fencing (post and wire) set within the hedge. The removal of the hedge did not need any form of consent and its actual removal not a material consideration and is lawful. A fence of any design up to one metre high would be permitted development without the need of planning permission and this fall back position is a material consideration. This proposal for a fencing up to 2.3 metres is considered on its merits needing permission by reason of its height.

### **Description of Proposal**

- 6.3 One of the core planning principles of The National Planning Policy Framework (NPPF) as stated at paragraph 130 is to always seek to secure high quality design. Policies SP7 and SPL 3 of the Tendring District Local Plan 2013-2033 aim to ensure that all new development makes a positive contribution to the quality of the local environment, relates well to its site and surroundings particularly in relation to its form and design and does not have a materially damaging impact on the amenities of occupiers of nearby properties.
- 6.4 This application seeks retrospective permission for the retention of an erected fence. The fence measures 53.34 metres long with a maximum height of 2.3 metres along the boundary. The fence comprises of timber panels with a trellis section on top over a concrete gravel board and concrete slotted posts between panels.
- 6.5 The fence is sited along the northern boundary, facing Madeira Road, and is therefore visible to the public views of the streetscene. The fence is taller than the neighbouring front facing fences in the immediate proximity, however fences of a similar height can be seen in nearby streetscenes such as Cliff Road and Dulwich Road. The fence is not deemed to appear overly dominant or out of character in this location given the variation of the design that includes both solid and trellis elements. The fence is a good quality design and will weather and soften in appearance. It is therefore considered to be of an acceptable design and appearance.

### **Impact on Neighbouring Amenities**

- 6.6 The NPPF, Paragraph 17, states that planning should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings. In addition, Policy SPL 3 of the Tendring District Local Plan 2013-2033 states that all new development must meet practical requirements, it must be designed and orientated to ensure adequate daylight, outlook and privacy for future and existing residents. The development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties.
- 6.7 The proposed fence is located an adequate enough distance from the surrounding dwellings as to have no harmful impacts on the loss of light or on the loss of privacy. The proposal is therefore acceptable in terms of neighbouring / residential amenities.

## **7. Conclusion**

- 7.1 This application seeks retrospective permission for the erection of a fence. Officers consider that this fence is of an acceptable scale and design in relation to its locality and has no significant harmful impact on visual amenities to warrant refusal. Additionally, the fence has no

harmful impact on residential / neighbouring amenities. The application is therefore considered to comply with the aforementioned policies and is recommended for approval.

## **8. Recommendation**

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

### 8.2 Conditions and Reasons

#### 1. 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.

Concrete Post / Gravel Board Details - Received 13.02.2023

Position of Fence - Received 13.02.2023

Proposed Fencing Elevations - Received 17.02.2023

Block Plan - Received 01.02.2023

Site Plan - Received 01.02.2023

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. While noting the ownership of the land, there are no known finance considerations for the Council in approving or refusal of this planning application.

### **10. Background Papers**

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

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