



## PLANNING COMMITTEE

<b>DATE:</b>	<b>Tuesday, 4 July 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 Fowler (Chairman)**  
**Councillor White (Vice-Chairman)**  
**Councillor Alexander**  
**Councillor Bray**  
**Councillor Everett**

**Councillor Harris**  
**Councillor Placey**  
**Councillor Sudra**  
**Councillor Wiggins**

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

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

**If you have any queries regarding webcasting or the recording of meetings by the public, please contact Democratic Services on [democraticservices@tendringdc.gov.uk](mailto:democraticservices@tendringdc.gov.uk).**

DATE OF PUBLICATION: Monday, 26 June 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 - 8)

To confirm and sign as a correct record, the minutes of the meeting of the Committee, held on 6 June 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 - 22/00556/FUL - Sacketts Grove Caravan Park, Jaywick Lane, Clacton-On-Sea, Essex, CO16 7JB (Pages 9 - 26)

Change of use of land for the siting of up to 8 no. residential park homes.

### 6 Report of Director (Planning) - A.2 - 23/00255/DETAIL Land to The rear of Mill House, High Street, Great Oakley, Harwich, Essex, CO12 5AQ (Pages 27 - 44)

**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.**

The application was to go before Members at the request of Councillor Mike Bush due to his concerns that the layout and scale of the development will be harmful to the area's character and be harmful to the nearby heritage assets.

However, having read the published Officer report and having noted that Essex County Council Heritage has now decided not to object to this application having considered the amended plans, Councillor Bush has contacted the relevant Planning Officer and has subsequently notified the Council that he has withdrawn his "call-in".

Reserved matters application for the erection of 5 no. four bedroom dwellings, considering details of access, appearance, landscaping, layout and scale, pursuant to outline planning permission 19/00004/OUT.

### 7 Report of Director (Planning) - A.3 - 22/01138/FUL - Stonehall Farm Buildings, Stonehall Lane, Great Oakley, Harwich, Essex, CO12 5DD (Pages 45 - 74)

Proposed erection of 3 no. dwellings (in lieu of Prior Approval for three dwellings, subject of application 21/00788/COUNOT).

**8 Report of Director (Planning) - A.4 - 22/01937/FUL - Land adjacent to The Willows, Little Clacton Road, Great Holland, Essex, CO13 0ET (Pages 75 - 96)**

Proposed demolition of former livestock building and replacement with a two bedroom bungalow (in lieu of Prior Approval for conversion of building into a dwelling subject of application 21/00460/COUNOT). Resubmission of application 22/01052/FUL.

**9 Report of Director (Planning) - A.5 Planning Enforcement Update Report (Pages 97 - 104)**

In accordance with the Council's approved planning enforcement policy the Committee will receive an update report on the following areas:-

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

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

*The next scheduled meeting of the Planning Committee is to be held in the Committee Room - Town Hall, Station Road, Clacton-on-Sea, CO15 1SE at 6.00 pm on Tuesday, 1 August 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, 6TH JUNE, 2023 AT 6.00 PM  
IN THE COMMITTEE ROOM - TOWN HALL, STATION ROAD, CLACTON-ON-SEA,  
CO15 1SE**

<b>Present:</b>	Councillors Fowler (Chairman), White (Vice-Chairman), Alexander, Bray, Everett, Harris, Placey and Sudra
<b>Also Present:</b>	Councillor Gary Scott (except items 6 and 7)
<b>In Attendance:</b>	John Pateman-Gee (Planning Manager), Joanne Fisher (Planning Solicitor), Ian Ford (Committee Services Manager), Amy Lang (Planning Officer), Michael Pingram (Planning Officer), Alison Pope (Planning Officer), Bethany Jones (Committee Services Officer), Emma Haward (Leadership Support Assistant) and Keith Durran (Committee Services Officer)

**1. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

An apology for absence was received from Councillor Wiggins, with no substitute.

**2. MINUTES OF THE LAST MEETING**

It was moved by Councillor White, seconded by Councillor Alexander and:

**RESOLVED** that the minutes of the last meeting of the Committee, held on Thursday, 13<sup>th</sup> April 2023 were approved as a correct record.

**3. DECLARATIONS OF INTEREST**

Councillor Scott, present in the public gallery, declared for the public record in relation to report **A.1 PLANNING APPLICATION 22/01010/FUL – LAND AT BADLEY HALL FARM, ROBINSON CLOSE, GREAT BROMLEY, CO7 7HU** that he was the Ward Councillor.

Later on in the meeting, as reported under Minute 7 below, Councillor Everett declared an interest in relation to report **A.3 – PLANNING APPLICATION 22/00107/FUL – FORMER PUBLIC CONVENIENCES, MILL LANE, WALTON-ON-THE-NAZE, CO14 8PF** insofar as he was also a member of Frinton and Walton Town Council. He confirmed that he was not pre-disposed/pre-determined.

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

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

**5. REPORT OF DIRECTOR (PLANNING) - A.1 - PLANNING APPLICATION 22/01010/FUL – LAND AT BADLEY HALL FARM, ROBINSON CLOSE, GREAT BROMLEY, CO7 7HU**

This application was before the Members at the request of Councillor Scott due to the concerns with parking provision, surface water flooding, loss of privacy to existing residents and highway safety issues.

The planning application had been submitted on behalf of Orwell Housing for the proposed development of 9 no. dwellings (comprising of 6 no. affordable housing and 3 no. market houses) on land at Badley Hall Farm, Great Bromley.

The proposal would be served by the existing access, through the existing Robinson Close development approved as an affordable rural exception sit under application references 16/00782/OUT & 18/00974/DETAIL, comprising of 24 units, including 16 affordable dwellings.

The site is outside, but directly adjacent to the Great Bromley Settlement Boundary, and the majority of the site benefits from a Permission in Principle (PiP) under planning reference 21/00150/PIP, for the erection of 9 dwellings. A full application is made as the red lined site area had increased by 0.1ha to that originally approved under the PiP application. The scheme is submitted as a 'rural exception housing' scheme.

The application had essentially sought permission to extend the existing Robinson Close housing development. Although the red lined site area had increased slightly, the principle of development for 9 dwellings on the majority of the application site had been established through the PiP approval. In the main body of the report below, the reasons were given, it was considered that the slight increase of the site area would not amount to any significant visual or landscape harm beyond the extent of development already assessed through the approved PiP.

The Parish Council had raised their concerns with the development due to the lack of local need for affordable homes. However, the Council's Housing Register showed that there were currently 251 households who would have liked to be offered a property in a village of Great Bromley. It was given that the rural exception nature of the development proposal the recommendation was subject to a legal agreement which included a clause for a sequential approach to finding occupants for the affordable housing units who met the definition of a "Local Person" (set out below).

This application was supported by the necessary technical reports to demonstrate that the development was acceptable in terms of ecology, trees and drainage. The Highway Authority raised no objection.

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

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

There had been no updates circulated to the Committee prior to the meeting.

Greg Dodds, the applicant's representative, spoke in support of the application.

Claire Hughes, on behalf of Chris Jay, a member of the public, spoke against the application.

Parish Councillor Fred Nicholls, on behalf of Great Bromley Parish Council, spoke against the application.

Councillor Gary Scott, the “Caller-in” and a Ward Member, spoke against the application.

<b>Matters raised by Members of the Committee:-</b>	<b>Officer’s response thereto:-</b>
<i>If the Officers can advise the Committee on our position, bearing in mind the policy LP6 says in relation to the support of the local parish council being a requirement.</i>	<i>The Officers do recognise there is a conflict on that part of the policy. However, the development meets the remaining criteria in the policy. The taken view of Officers is that the benefits outweigh this conflict. Also, this is a suitable site, as it is directly adjacent to the settlement boundary.</i>
<i>How much weight can the Committee attach to the lack of supporting infrastructure i.e. school spaces, GP availability, dentist availability?</i>	<i>There is potential growth of up to 10 dwellings demonstrated in the spatial strategies in the local plan. This is a problem that Officers cannot solve with this minor application.</i>
<i>Should we be looking at flooding as a material condition?</i>	<i>No enforcement investigation of that issue is, or previously has been, carried out. The Officers must concentrate on whether this application has the potential for flooding. Officers do not believe this to be the case, so there is no consideration for this application.</i>
<i>What are the dimensions of the footpath and road into the site?</i>	<i>Officers advised: Footpath – 2.5m Road – 5.5m. However this was later corrected by Officers. They are both being continued to match what is already there. Proposed condition no.14 also covers the provision of kerbs and footways – being 6m road and 2m footpaths.</i>
<i>What is the TPO distance?</i>	<i>Oak tree – over 15m. The root protection area of that tree allows for 15m.</i>
<i>The Permission in Principle, does the Committee have the power to overturn the decision?</i>	<i>The PiP has a 3-year time frame. So no, nothing can be done by the Committee in this meeting to stop the PiP.</i>
<i>Legal difference between outline permission and PiP?</i>	<i>PiP is restricted to purely location and required to be determined within 5 weeks. There is also no right for appeal and can only be applied in certain applications – can’t be applied to major developments. Cannot condition a PiP and a Section 106 cannot be agreed. Such matters are dealt with during the subsequent Technical Details stage. We still have a duty to apply matters of principle at the PiP stage, such as ecology under the Wildlife Act provisions.</i>
<i>Can Officers confirm that any</i>	<i>Applicants believe that they can</i>

<i>changes to the existing attenuation basin within Robinson Close would require planning permission?</i>	<i>accommodate the extra draining within the existing draining attenuation basin, if the can't then a further application will be needed. An informative is included.</i>
<i>What is the minimum distance between property no.17 and the proposed building?</i>	<i>Officers understand that the plan provided with the application is incorrect as no.17 Robinson Close has been recently extended. However, our planning records show this to be a single storey rear extension approximately 4m in depth retaining approximately 15m between the properties. Plot no.16 will have no side facing windows to overlook no.17, and so there will be no material harm to residential amenities.</i>
<i>Is 15m acceptable?</i>	<i>The Essex Design Guide recommends 25m for back-to-back. There is no guidance for side to side so it's down to looking at the specific application and the characteristics of the site itself to see if there is any material harm in terms of loss of light. However, Officers are happy with the spacing around the plot itself and distance to neighbouring dwellings. All factors considered, there is no material harm.</i>
<i>When the tree grows in 30 years' time, will the tree still not cause problems for the property?</i>	<i>Officers have spoken to a tree officer who gave advice in the application and confirmed that building regulations will assess the site and secure appropriate foundations so that in the future, the tree can still grow and not cause problems to surrounding properties.</i>
<i>Does the access and egress covered by this application have to be dealt with in this application?</i>	<i>This is a full application so therefore everything is covered. In the event the PiP is the full-back the Access and Egress would need to be covered by the Technical Details application.</i>

Following the discussion by the Committee, it was moved by Councillor Alexander, Seconded by Councillor Placey and:-

**RESOLVED** that:

- (a) Within six months of the date of the Committee's resolution to approve the completion of a legal agreement under the provisions of section 106 of the Town and Country Planning Act 1990 on appropriate terms as summarised below and those as may be deemed necessary to the satisfaction of the Planning Manager:

- **RAMS financial contribution** of £156.76 per dwelling x 9 = £1,410.84 (index linked) toward recreational disturbance at the Colne Estuary (Mid-Essex Coast Phase 2) Special Protection Area (SPA) and Ramsar sites;

- **On-site affordable housing provision** of 6 units (2 x rented, 4 x Shared ownership) to be managed by Orwell Housing. No requirement for an option in the s106 for the Council to purchase the units; and,
- **Affordable housing occupation** – No affordable housing unit shall be occupied other than by a “**Local Person**”. In the event that, following a marketing period of two months, a Local Person cannot be found to occupy an affordable housing unit, the Landowner (only if they are an approved body) may offer the affordable housing unit to residents or workers in the “**Surrounding Parishes**” who would qualify as a “Local Person”. In the event that, following a further marketing period of one month (beyond the initial two months) a Local Person in the Surrounding Parishes cannot be found, the unit may be offered to residents or workers in any other location within the **Tendring District**. In the event that, following a further marketing period of one month (beyond the initial two months and subsequent one month) a qualifying person from within the Tendring District cannot be found, the affordable unit may be offered to any person considered by the landowner to be **in need of such accommodation**; and,

**Local Person** means:

- *A resident of Great Bromley who has lived there for a continuous period of three years or more, or a former resident of Great Bromley who had lived in the Parish for a continuous period of three years or more within the preceding five years; or*
- *A direct relative, partner or dependant(s) of a resident of Great Bromley who has lived there for a continuous period of three years or more (for the purposes of this qualification a direct relative means parent(s) or child(ren)); or*
- *Any person who is and has been working in the Great Bromley Parish for a continuous period of three years or more.*

**Surrounding Parishes** means:

- *the parishes of Little Bromley, Ardleigh, Little Bentley, Frating, Elmstead and Great Bentley.*

- (b) The Planning Manager be authorised to grant planning permission upon completion of the legal agreement subject to conditions as stated in Section 8.2 of the Officer report 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.
- (c) The informative notes as may be deemed necessary.
- (d) That the Director of Planning be authorised to refuse planning permission in the event that such legal agreement has not been secured within the period of 6 months on appropriate grounds at their discretion.

**6. REPORT OF DIRECTOR (PLANNING) - A.2 - PLANNING APPLICATION 23/00318/FUL – 8 LAKE AVENUE, CLACTON-ON-SEA, CO15 2AD**

This application was before the Planning Committee as Tendring District Council are the landowners of the application site.

This proposal resulted in the replacement of the fencing and gates along the perimeter of the lake, with the existing fencing and gates in a poor state of repair.

The work resulted in a minor enhancement to the character and appearance of the area and had also resulted in a neutral impact to existing neighbouring amenities.

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

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

<b>Matters raised by Members of the Committee:-</b>	<b>Officer's response thereto:-</b>
<i>What is the Duty of Care implications for this site? I.e. Life rings.</i>	<i>This is not a material planning consideration for the Committee to consider.</i>
<i>What are the timescales for construction to take place?</i>	<i>No current condition in place. If approved, a condition can be put into place.</i>
<i>Can a condition be no working on Sundays or Bank Holidays?</i>	<i>Yes, and normal working hours on weekdays.</i>

Following discussion by the Committee, it was moved by Councillor Bray, seconded by Councillor Harris and unanimously **RESOLVED** that the Planning Manager be authorised to grant permission for the development, subject to:-

- (a) The conditions stated at paragraph 8.2 of the Officer report, 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, including the addition of a condition to restrict the hours of construction.
- (b) The informative notes as may be deemed necessary.

*CONDITION: No vehicle connected with the works to arrive on site before 07:30 or leave after 19:00 (except in case of emergency). Working hours to be restricted between 08:00 and 17:00 Mondays to Saturdays with no working of any kind permitted on Sundays or any Public/Bank Holiday whilst construction works and alterations are being carried out.*

*REASON: In order to minimise potential nuisance caused by demolition/construction works to neighbouring occupants.*

**7. REPORT OF DIRECTOR (PLANNING) - A.3 - PLANNING APPLICATION  
23/00107/FUL – FORMER PUBLIC CONVENIENCES, MILL LANE, WALTON-ON-  
THE-NAZE, CO14 8PF**



Councillor Everett made it known at this time of the meeting that he had an interest in this application insofar as he was also a member of Frinton and Walton Town Council, but he confirmed that he was not pre-disposed/pre-determined.

It was reported that the planning application has been referred to the Planning Committee as Tendring District Council (TDC) was the landowner of the application site.

The Committee was informed that the application sought permission to change the use of the building, formerly a public convenience, to a workshop for upholstery, furniture repair and bespoke headboards.

Members were told that the proposal would involve internal alterations only to create a space within which to work.

Officers reported to the Committee that the proposal was not considered to be harmful to the character and appearance of the conservation area, it would not result in any significant impact to neighbouring amenities, and it was acceptable in terms of the high impacts and flood risk.

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

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

Following discussion by the Committee, it was moved by Councillor Bray, seconded by Councillor Harris and unanimously **RESOLVED** that the Planning Manager be authorised to grant planning permission for the development, subject to:-

- (a) The planning conditions as stated at paragraph 8.2 of the Officer report, 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,
- (b) The informative notes as may be deemed necessary.

The meeting was declared closed at 7.54pm.

**Chairman**

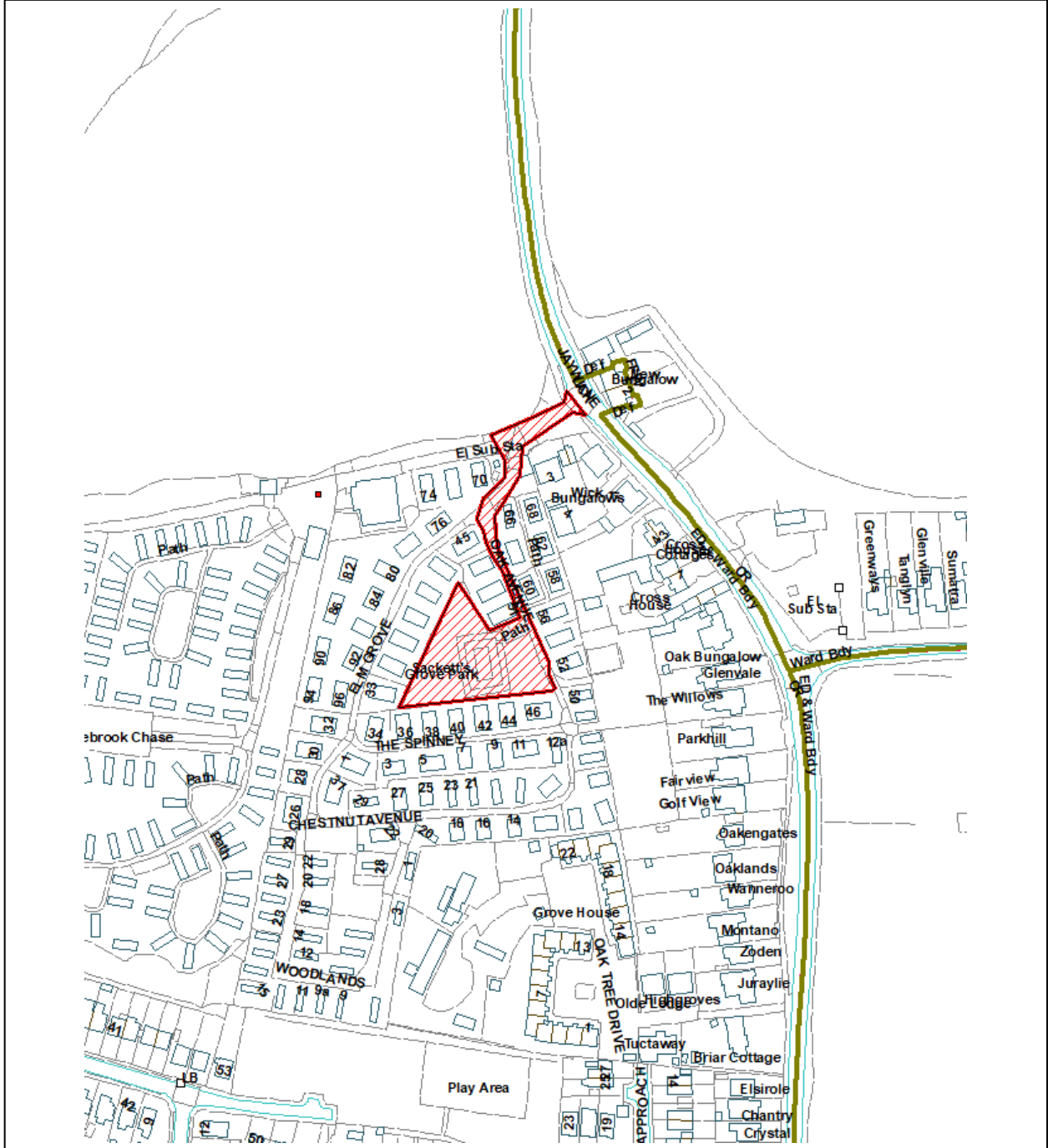
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## PLANNING COMMITTEE

4<sup>th</sup> July 2023

### REPORT OF THE DIRECTOR OF PLANNING

#### **A.1 PLANNING APPLICATION – 22/00556/FUL – SACKETTS GROVE CARAVAN PARK JAYWICK LANE CLACTON ON SEA CO16 7JB**



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<b>Application:</b>	22/00556/FUL	<b>Original Expiry Date:</b>	23 May 2022
<b>Case Officer:</b>	Amy Lang	<b>EOT Date:</b>	28 July 2023
<b>Town/ Parish:</b>	Clacton Non Parished		
<b>Applicant:</b>	Mrs Bernadette Owens - Tingdene Parks Ltd		
<b>Address:</b>	Sacketts Grove Caravan Park Jaywick Lane Clacton On Sea Essex CO16 7JB		
<b>Development:</b>	Change of use of land for the siting of up to 8 no. residential park homes.		

## 1. Executive Summary

- 1.1 The application is before Members due to the development representing a departure from the development plan, proposing new residential park homes outside of the defined settlement development boundary for the area.
- 1.2 The application relates to land centrally located within the Sacketts Grove Caravan Park site, on the western side of Jaywick Lane, Clacton. The site is largely laid to grass but contains the filled in remains of an outdoor swimming pool and an outbuilding which contained the pump house for the pool.
- 1.3 Vehicular access from the public highway will utilise the existing Caravan Park entrance on Jaywick Lane. The site is bordered on all sides by existing park homes with wooden close boarded fences denoting existing plot boundaries.
- 1.4 The planning application proposes the change of use of the land for the siting of up to 8 no. residential park homes with associated development to facilitate the use including new access roads and hardstanding to form car parking. The development is represents a small-scale addition to the existing and established park.
- 1.5 Whilst the site is located outside the Settlement Development Boundary and within a Safeguarded Holiday Park, Sacketts Grove is situated within a sustainable location close to amenities.
- 1.6 The development would cause no harm in terms of wider landscape, character, and appearance. It would deliver a windfall of up to eight additional dwellings contributing to the continued demand for high quality and affordable retirement and semi-retirement housing whilst also providing a small wind fall contribution to the Council's five-year housing land supply.
- 1.7 The application is recommended for approval subject to a Unilateral Undertaking securing a financial contribution of £156.76 per dwelling towards recreational disturbance mitigation in accordance with RAMS.

### **Recommendation:** Approval subject to S106

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

- Financial contribution of £156.76 per dwelling being £1,254.08 (index linked) towards recreational disturbance mitigation in accordance with RAMS.
- 2) That the Planning Manager be authorised to grant planning permission subject to the agreed section 106 agreement and 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,
  - 3) The informative notes as may be deemed necessary.
- Or;**
- 4) That in the event of the Planning obligations or requirements referred to in Resolution (1) above not being secured and/or not secured within 12 months that the Planning Manager be authorised to refuse the application on appropriate grounds at their discretion.

## 2. Planning Policy

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

### **National:**

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

### **Local:**

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

SP1	Presumption in Favour of Sustainable Development
SP2	Recreational disturbance Avoidance and Mitigation Strategy (RAMS)
SP7	Place Shaping Principles

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

SPL1	Managing Growth
SPL2	Settlement Development Boundaries
SPL3	Sustainable Design
HP5	Open Space, Sports and Recreation Facilities
LP1	Housing Supply
LP2	Housing Choice
LP3	Housing Density and Standards
LP4	Housing Layout
PP11	Holiday Parks
PPL4	Biodiversity and Geodiversity
PPL5	Water Conservation, Drainage, and Sewerage
PPL10	Renewable Energy Efficiency and Energy Efficiency Measures
CP1	Sustainable Transport and Accessibility
DI1	Infrastructure Delivery and Impact Mitigation

### Supplementary Planning Guidance:

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

### Local Planning Guidance:

Essex County Council Parking Standards Design and Good Practice Guide 2009

## 2.2 Status of the Local Plan

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

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

3.1 There is an extensive planning history for the overall site. This can be viewed in full on Public Access or on the application file. The site comprises:

- Sacketts Grove  
The eastern part of the site, which includes the application site, and currently has 102 residential park homes/plots.
- Saddlebrook Chase Caravan Park  
The central part of the site containing 130 static holiday caravans/plots.
- Sandpiper Garden  
The western part of the site containing 104 residential park homes/plots.

3.2 The planning history most relevant to this current application site can be summarised as follows:

08/00572/FUL	Relocation of outside swimming pool (from Sacketts Grove to Saddlebrook Chase site)	Approved	18.06.2008
11/00256/OUT	Proposed indoor swimming pool as part of the upgrade and	Approved	16.05.2011

redevelopment at Sacketts Grove Caravan Park.

14/00577/DETAIL	Approval of reserved matters of outline approval 11/00256/OUT, in relation to the appearance of the proposed indoor swimming pool.	Approved	02.07.2014
14/01815/FUL	Proposed siting of 135 static holiday caravan on the western element of Sacketts Grove Holiday Park in lieu of an approved development of 40 static holiday caravans and 40 touring caravans, together with landscape planting.	Approved	04.11.2015

#### 4. **Consultations**

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

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

##### **Tree & Landscape Officer**

**05.05.2022**

The application site is set to grass and contains a single tree in the northern part of the land. The tree is a Hornbeam (*Carpinus betulus*) and is a mature healthy specimen. From a visual inspection from the ground the tree has no obvious defects and makes a positive contribution to the appearance of the locality.

Nevertheless, as a result of the position of the tree, it does not feature in the public realm and consequently has commensurately low amenity value. Therefore the tree does not merit formal legal protection by means of a Tendring district Council Tree Preservation order.

There will be no public benefit to be gained by soft landscaping associated with the development proposal.

##### **ECC Highways Dept**

**07.06.2022**

The information that was submitted in association with the application has been fully considered by the Highway Authority. The proposal is on a private site and is a well-established park home estate. No new or altered means of access is proposed as part of this application. The proposal provides adequate room and provision for off-street parking and turning, for the proposed homes. It is noted that this application is similar to previous application, 19/01712/FUL that was approved in 2019 and was for 19 additional static holiday caravans.

Considering these factors, from a highway and transportation perspective the impact of the proposal is acceptable to Highway Authority subject to conditions.

##### **UU Open Spaces**

**18.05.2022**

No contribution is being requested from open spaces on this occasion, however should there for further development at this site a contribution may be requested.

<b><u>Environmental Protection</u></b>	<b>04.05.2022</b>
No objection subject to conditions.	
<b><u>Private Sector Housing</u></b>	<b>10.05.2022</b>
I am aware of the area where the new homes will be situated should the planning approval be granted. I do not foresee any major issue having studied the application and associated documents.	
It is essential that the park construct any new homes in accordance with the Model Standards that apply to Residential Parks. The model standards are attached to the existing licence and need to be adhered to in all circumstances, especially with regard to spacing and density and fire safety. The park owners are well aware of their responsibility so I would imagine there will not be an issue with the siting should approval be granted. If approval is granted, the park owner will need to apply for an amendment to the existing licence to include the additional 8 units. This application should be made before any works start.	
<b><u>Licensing Section</u></b>	
No comments received.	
<b><u>The Ramblers Association</u></b>	
No comments received.	
<b><u>Essex Bridleways Association</u></b>	
No comments received.	

## 5. **Representations**

### Parish/Town Council Consultation

5.1 The site is located within Clacton on Sea (no town council).

### Public Consultation

5.2 Written representations from seven neighbouring properties objecting to the application have been received. One further letter from the Sacketts Grove Park Residents Association has been received, also objecting to the application. This letter was signed by 69 residents of the park. The main issues raised in the objections are (these are planning and non planning matters):

- There is no shop on or near site, contrary to what the application documents state;
- Application is not large enough for this number of homes and parking;
- Site is prone to flooding following rain;
- Parking does not conform with Model Standards, which requires cars to be parked at least 3 metres from the neighbouring property;
- The Council does not allow car parking next to mobile homes on other parts of the site so should not be allowed on the new plots;
- A mature oak tree was removed from the site in 2019, from the location where the access to the new units will be located;
- Roadways within the site are in places poorly designed, inadequate in width, poorly maintained and deteriorating;



- Estate roads are inadequate for emergency service and large delivery vehicles. Single track, one-way system means vehicles stopping to unload shopping or deliveries block all traffic – which has caused frustrations and confrontation & assault of one driver;
- Utilities could be damaged by heavy vehicles;
- Junction with estate road inadequate and which result in damage to neighbours' property;
- No need for more mobile homes in the area – Sandpiper Gardens has 140 unoccupied plots following planning appeal. Part of Sackets Grove Park are also vacant having had homes removed from the area;
- The site entrance is inadequate for approximately 240 homes;
- No provision for surface water drainage shown in plans;
- Problems with existing utilities – electricity supply; LPG, & foul system. Increased number of properties will exacerbate problems. Existing sewage pumping station will be inadequate for increased loads;
- Have drainage plans from previous consents been implemented?
- The applicant has failed to notify the Recognised Residents Association of the Park as required by The Mobile Homes Act 1983 (Chapters 25 & 28 of Part 1);
- The development will result in a loss of the amenity area provided for the benefit of existing residents. There is a legal requirement for a site of this size to have a green area for recreation;
- Adverse impact on neighbour amenity – disturbance from vehicles parking on plots or in parking area, loss of privacy, new development encroaching on what should be the neighbours garden area;
- Complaints about site management by Tingdene;
- One of the new units will be too close to 51 The Spinney to comply with the law;
- Existing residents are not provided with recycling facilities so new residents unlikely to get recycling collections either, contrary to application.

## **6. Assessment**

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

- Site Description and Context
- Development Proposal
- Principle of Development and Loss of Amenity
- Trees and Landscaping
- Layout, Design & Appearance
- Impact on Residential Amenities
- Highways Access and Parking
- Public Right of Way
- Drainage
- Recreational disturbance Avoidance and Mitigation Strategy (RAMS)
- Section 106 Planning Obligations

### Site Description and Context

6.2 The application relates to land within the Sacketts Grove Caravan Park, which is located on the western side of Jaywick Lane, to the north of Jaywick.

6.3 The application site area is advised to be 0.2 hectares and is broadly triangular in shape, in a central area within the Caravan Park. The site is largely laid to grass but contains the filled in remains of an outdoor swimming pool and an outbuilding which contained the pump house for the pool. Vehicular access from the public highway will utilise the existing Caravan Park entrance on Jaywick Lane, to the north east of the application site. The site is bordered on all sides by existing park homes with wooden close boarded fences denoting existing plot boundaries.

- 6.4 Sacketts Grove forms part of a larger mixed site containing residential (park homes) and static holiday caravans. As partially set out above, the site has a long planning history and parts of it have been used for the stationing of caravans since the 1960's. More recently the wider site has been subject to several planning applications for new development and variations to existing permissions. The wider site currently consists of the three elements:
- Sacketts Grove  
The eastern part of the site, which includes the application site, and currently has 102 residential park homes/plots;
  - Saddlebrook Chase Caravan Park  
The central part of the site containing 130 static holiday caravans/plots;
  - Sandpiper Garden  
The western part of the site containing 104 residential park homes/plots.
- 6.5 A public right of way (public footpath no. 30 (Great Clacton\_167) runs west from Jaywick Lane across the northern boundary of the wider Park Home / Caravan Site before crossing open countryside turning north-west towards Botany Lane.

#### Development Proposal

- 6.6 The planning application seeks planning permission for the change of use to provide up to 8no. park home pitches for permanent residential occupation, along with associated development to facilitate the use including new access roads and hardstanding to form car parking for twenty vehicles.
- 6.7 The site will operate as part of the Sacketts Grove site and have the same age restrictions limiting occupiers to those over the age of 45 years old.
- 6.8 The application was advertised as affecting a Public Right of Way, and not being in accordance with the Development Plan (outside of the defined settlement development boundary).

#### Principle of Development and Loss of Amenity

- 6.9 The application site is located outside of any designated settlement development boundary as defined within the proposal maps in the Adopted Tendring Local Plan 2013-2033 and Beyond. Outside Development Boundaries, the Local Plan seeks to conserve and enhance the countryside for its own sake by not allowing new buildings unless it is consistent with countryside policies.
- 6.10 The proposals map identifies that the site is located within a Safeguarded Holiday Park. Local Plan Section 2 Policy PP11 (Holiday Parks) states that 'safeguarded sites' will be protected against redevelopment for alternative uses either in part or in whole. This protection was in recognition of the importance of Holiday Parks in supporting the District's tourism economy, but also the fact holiday accommodation can often be unsuitable for permanent occupation or be in locations that lack the infrastructure and services for permanent occupation.
- 6.11 The Council has previously assessed the Sacketts Grove Caravan Park to be situated in a sustainable location regarding proximity to local shops, services and facilities including safe and convenient access to local public transport links. There is a bus stop on Jaywick Lane, within reasonable walking distance of the site, providing regular services to nearby Clacton on Sea. This view was endorsed by the Planning Inspector who dealt with the planning appeal in November 2019 (appeal decision scanned to this current planning file as Background Papers).

- 6.12 When considering the weight that can be given to the Safeguarded Holiday Park status it must be recognised that 206 of the units / plots on the wider site can already be occupied permanently as residential dwellings, with 130 units / plots restricted to use as holiday accommodation. With so many units / plots available for permanent residential use, having a relatively low number of additional residential units within one of the existing residential areas would not undermine the existing holiday use or the wider strategy of the development plan.
- 6.13 Whilst the site is located outside the Settlement Development Boundary and within a Safeguarded Holiday Park the site is located close to the development boundary, within an established Park Home site with good access to services, facilities, and public transport. The development would cause no harm in terms of wider landscape, character, and appearance. It would deliver a windfall of eight additional dwellings which will increase the District's housing land supply by making efficient use of land and provide additional park homes for which the applicant considers there is a demand.
- 6.14 Furthermore, the application site does not constitute amenity space. The outdoor swimming pool was a residual feature dating from when the Sacketts Grove park was a holiday site.
- 6.15 Weighing all these factors there is no objection in principle to the proposed development.

#### Trees and Landscaping

- 6.16 The planning application contains limited information concerning trees that are on the site, or which could be affected by the proposed development. The Council's Tree and Landscape Officer has assessed the site. The site is largely laid to grass and contains a single tree Hornbeam in the northern part of the site. The tree is advised to be healthy but is scheduled to be removed to facilitate the development.
- 6.17 The Council's Tree and Landscape Officer has considered whether the Hornbeam tree should be protected by a Tree Preservation Order. Whilst it makes a positive contribution to the appearance of the area it does not significantly feature in the public realm and consequently has commensurately low amenity value and would not qualify for a TPO.
- 6.18 Objectors refer to the removal of a mature oak tree which had stood on the application site, near the proposed vehicular entrance, until 2019, when it was felled. The tree was not subject to a tree preservation order, or any other form of protection from the planning system so the landowner was entitled to do this. Its removal has no bearing on the determination of the current application and is not a material planning matter.
- 6.19 The proposed layout affords limited opportunities for landscaping and the Council's Tree and Landscape Officer has commented that there will be no public benefit to be gained by soft landscaping associated with the development proposal.

#### Layout, Design & Appearance

- 6.20 Paragraph 130 of the NPPF requires that developments are visually attractive and are sympathetic to local character and establish or maintain a strong sense of place.
- 6.21 Local Plan Section 2 Policy SPL 3 (Sustainable Design) requires, amongst other things, that all new development should be well designed and make a positive contribution to the quality of the local environment and protect or enhance local character. New developments are required to make adequate provision for private amenity space, waste and recycling storage, vehicle, and cycle parking. Policy LP4 (Housing Layout) requires private amenity space provision that meets the needs and expectations of residents and is commensurate with the size of the dwelling and character of the area.

- 6.22 With regards to the character and appearance of the area, the site is located within an established holiday / residential park which surrounds it on all sides so it is not considered that the additional units would have any material impact on the surrounding area. The park homes themselves would be acceptable in terms of their appearance, fitting in the immediately surrounding development.
- 6.23 The Council's Environmental Health Team, who issue caravan site licences, have confirmed that the new homes will need to comply with the Model Standards 2008 for Caravan Sites in England. The current Standards cover a range of issues including spacing, density, and fire safety. Having reviewed the application and associated documents the Council's Environmental Health Officer advises that they do not foresee any major issues with the proposals.
- 6.24 In terms of layout, officers have raised concerns with the applicant, specifically regarding the loss of the Hornbeam to the northern part of the site and tight access and parking arrangements.
- 6.25 Ultimately, this application is for the change of use of the land, the siting and spacing of units (if the use is acceptable in planning terms) is a matter for site licensing. However, in the interests of good design and residential amenities, officers must be satisfied that 8 units can be accommodated on the site.
- 6.26 Objectors claim that one of the new units will be too close to 51 The Spinney to comply with the Model Standards. The adequacy of the junction shown to access the new units has also been questioned by objectors who are concerned that this will result in problems with drivers cutting across adjoining plots.
- 6.27 Whilst officers recognise that the tree would not qualify for a TPO, again in the interests of good design and amenity value for existing and future residents, officers are keen to retain the tree.
- 6.28 Following further investigation, the applicant has advised that some of the distances and the layout of parking spaces shown on the accompanying layout drawing do not strictly conform with national Model Standards.
- 6.29 It is accepted that this is for change of use and layout is not normally controlled given the Caravan Act provisions and required Licencing. However, the applicant has agreed to amend the application to 'up to 8'. This allows more flexibility should eight unit not be found to be achievable and Officers are recommending condition to ensure adequate control over layout to ensure an acceptable layout, improved access and opportunity for the tree to be retained.

#### Impact on Residential Amenities

- 6.30 Paragraph 130 of the NPPF state that planning decisions should create places that are safe, inclusive, and accessible and which promote health and well-being, with a high standard of amenity for existing and future residents. Policy SP 7 of the Section 1 Local Plan also specifies that the amenity of existing and future residents is protected. Policy SPL 3 of the Section 2 Local Plan states development should not have a materially damaging impact on privacy, daylight and other amenities of occupiers of nearby properties.
- 6.31 The Model Standards establish minimum conditions in respect of site layout, both for safety reasons and to protect resident's amenity. The Model Standards require a minimum of 6 metres separation between caravans, in most circumstances. A condition is also recommended to secure suitable means of enclosure between plots to further protect existing and future residents' privacy. Representations also raise concerns about additional noise and disturbance arising from the proximity of new dwellings to existing. Again, it is noted that the layout will need to be compliant with the Model Standards, in which case it would be difficult to sustain an argument that the new dwellings would result in an unacceptable loss of amenity for existing residents.

6.32 Objectors refer to the fact that the applicant has not consulted the Residents Association concerning the proposed development. The Mobile Homes Act 1983 (22.f) states that the owner shall 'consult a qualifying resident's association, if there is one, about all matters which relate to the operation and management of, or improvements to, the protected site and may affect occupiers either directly or indirectly'. The fact that the consultation apparently required by this legislation would not be a reason to refuse this planning application. The planning application has been publicised in accordance with the relevant planning regulations and interested parties have had an opportunity to comment on the proposals.

#### Highways Access & Parking

6.33 Paragraph 110 of the NPPF states that when assessing applications for development the local planning authority must ensure, amongst other things, that a safe and suitable access to the site can be achieved for all users. Paragraph 104 of the NPPF also requires that patterns of movement, streets, parking, and other transport considerations are integral to the design of schemes and contribute to making high quality places.

6.34 Policy CP2 (Improving the Transport Network) of the Section 2 Local Plan states that new development which contributes to the provision of a safe and efficient transport network will be supported. Planning permission will not be granted if there would be an unacceptable impact on highway safety, or the residual cumulative impact on the road network would be severe.

6.35 The Highway Authority have been consulted on the application. They note the proposal is within a well-established park home / holiday park and that the established vehicular access is being retained unaltered. They are satisfied that the proposal provides adequate room and provision for off-street parking and turning, for the proposed homes. The Highway Authority recommend conditions concerning the provision of car and cycle parking and these recommendations are accepted. Further conditions are recommended about the storage of construction materials and that there should be no obstruction of the PROW. Neither condition is considered necessary – the application site is a considerable distance from the highway and there is very little chance or reason that the public highway would be obstructed by construction related vehicles. PROW's are protected by other legislation so a condition would duplicate that and is therefore unnecessary.

6.36 Each plot is shown to be provided with two parking spaces, either on plot, or close to the park home. In addition, a row of four visitor car parking spaces is also proposed. It is noted that representations refer to the arrangement of parking spaces on plots being different to the existing units in this part of the site. The Model Standards state that on new sites, or those undergoing redevelopment or extension parking provision should be consistent with local planning policies. The proposals meet the minimum standards required by the Council's adopted parking standards. Unlike this layout, the layout of homes on other parts of the site may not have been designed with sufficient space to allow parking adjacent to homes, explaining why different parking arrangements are required in other parts of the site.

6.37 There have been a number of objections raised in respect of the estate roads and access arrangements within the site. The Highway Authority raise no objection on these matters.

6.38 The issues raised by objectors include the reliance on a one-way system with a single-track roadway to access all dwellings. Objectors highlight that when delivery vehicles or residents park near their properties on the existing park their vehicles can block the road. The adjoining developments, including Sandpiper Gardens, have a similar arrangement. The Council did not object to this arrangement and no concern was raised by the Planning Inspector who granted permission for that development to be occupied as market housing. The Model Standards allow for one-way roads providing these are clearly sign posted and a minimum of 3 metres wide.

6.39 Other objections refer to the condition of the estate roads. Maintenance of these private roads are the responsibility of the park operator and are not a determining factor in assessing this proposal.

The current Model Standards include provisions that roads are maintained in good condition and repair. If there are issues with management of the estate, these would not constitute a reason to refuse this planning application.

#### Public Right of Way

- 6.40 Paragraph 100 of the NPPF states that planning decisions should protect and enhance public rights of way and access. Section 2 Local Plan 2013-2033 And Beyond Policy CP2 states that proposals that would have an unacceptable impact on highway safety will be refused.
- 6.41 The proposed development would result in a marginal increase in vehicle movements into and out of the site and this will marginally increase vehicle movements on part of the Public Right of Way. The Highway Authority were consulted on the application and raised no objections.

#### Drainage

- 6.42 Section 2 Local Plan Policy PPL 5 (Water Conservation, Drainage and Sewerage) states all new development must make adequate provision for drainage and sewerage and should include Sustainable Drainage System (SuDS) to reduce flood risk and improve water quality amongst other things.
- 6.43 The application form states that foul water will be disposed of by mains sewer.
- 6.44 Representations received by the Council objecting to the application refer to existing problems with surface water drainage, resulting in the application site flooding at times, and that the sewerage system is already struggling to cope with existing flows from the site.
- 6.45 The application form states that surface water drainage will be disposed of by means of soakaways, but no further details accompany the application. As the site area is under 1 hectare, there is no requirement to consult the Lead Flood Authority SuDS Team. This issue can be suitably controlled and managed by way of appropriately worded conditions.

#### Recreational disturbance Avoidance and Mitigation Strategy (RAMS)

- 6.46 Under the Habitat 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 these tests, which means that all residential development close to the protected sites must provide suitable mitigation.
- 6.47 The application scheme proposes the creation of eight new dwellings. The application site lies within 3km and within the designated Zone of Influence (Zoi) of the Colne Estuary RAMSAR site and Essex Estuaries SAC and SPA. New housing within the Zoi would be likely to increase the number of recreational visitors to these sites and in combination with other developments it is likely that the proposal would have significant effects on the designated sites. Mitigation measures must therefore be secured prior to occupation.
- 6.48 A Unilateral Undertaking is being prepared to secure the payment of the required financial contribution through a legal obligation. This will ensure that the development would not adversely affect the integrity of the European Designated Sites in accordance with Local Plan Section One Policy SP2 (Recreational disturbance Avoidance Mitigation Strategy) and Local Plan Section 2 Policy PPL4 (Biodiversity and Geodiversity) and Regulation 63 of the Conservation of Habitats and Species Regulations (2017).

#### Other Planning Obligations / Section 106 Agreement

- 6.49 Officers have considered whether there should be an aggregation of S106 obligations / contributions between the eight units from this planning application and the adjoining Sandpiper Gardens development.
- 6.50 There is case law that has determined the factors that need to be considered to determine whether an applicant has sought to bypass the Council's planning policies concerning Affordable Housing and the need for other social infrastructure necessary to mitigate the impact of the development. In the case of *New Dawn Homes Ltd v SSCLG and Tewkesbury BC* [2016] EWHC 3314 (Admin) Mr Justice Holgate sitting in the High Court endorsed the approach taken in *R (Westminster City Council) v First Secretary of State and Brandford Limited* [2002] J.P.L. 1066 to determine the factual question of whether two developments could be aggregated or considered to form part of a larger whole. Those criteria were ownership; whether areas of land could be considered a single site for planning purposes, and whether the development should be treated as a single development. The Council's legal adviser has reviewed the information presented by the applicant with regards to ownership of the respective sites, as well as whether there are any other factors that would lead the site to be considered as part of a larger whole. It is accepted that the site has not been sub divided to avoid planning obligations.
- 6.51 On this basis there is no need to consider aggregation and it falls to assess the need for planning obligations against the eight new dwellings proposed by this application. Local Plan Section 2 Policy LP5 (Affordable Housing) states that the Council will seek to secure Affordable Housing on-site provision in developments involving the creation of 11 or more new homes. Essex County Council will only consider the need to secure financial contributions for Education on developments of 20 or more dwellings. Similarly, the NHS was not consulted on the application because the scale of development is below the threshold at which they want to be consulted / would seek a financial contribution. The Council's Open Spaces Officer has stated that they would not be seeking a financial contribution towards the provision or improvement of Public Open Space in the area.
- 6.52 On this basis the only obligations to be secured through a legal agreement is the RAMs payment.

#### Other Matters - Refuse Collection

- 6.53 Objectors complain that the refuse is currently collected from plots by the site managers but there is no ability for the collection of separated recycling. This is a Council / District wide approach wherein flats and park homes do not have such services. This cannot be dealt with through this application for additional homes and will need to be addressed by the site managers and relevant Model Standards.

### **7. Conclusion**

- 7.1 The planning application proposes a small-scale addition to the existing and established Sacketts Grove residential park by way of a change of use of a currently un-utilised and redundant area of land within the existing site.
- 7.2 Sacketts Grove is situated within a sustainable and desirable location close to the Jaywick Sands area of Clacton on Sea, which is easily accessible and close to amenities.
- 7.3 The development will meet the continued demand for high quality and affordable retirement and semi-retirement housing whilst also providing a small wind fall contribution to the Council's five-year housing land supply.

### **8. Recommendation**

- 8.1 The Planning Committee is recommended to grant planning permission subject to the following conditions and informatives and the prior completion of a section 106 legal agreement with the agreed Heads of Terms, as set out in the table below:

CATEGORY	TERMS
Financial contribution towards RAMS	£156.76 (per dwelling)

8.2 Conditions and Reasons

1. COMPLIANCE: TIME LIMIT

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

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

2. COMPLIANCE: SITE AREA & NUMBER OF UNITS

CONDITION: No more than 8no park homes as defined in the Caravan Sites and Control of Development Act 1968 (as amended) shall be stationed on the site at any time (as shown with the red lined application site area on the Location Plan).

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

3. FURTHER APPROVAL: DETAILED LAYOUT

CONDITION: Notwithstanding the details shown on the accompanying Proposed Park Layout plan drawing number 180353-P-001, no unit shall be brought onto the site until a revised layout plan (including any fencing or means of enclosure) is submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved revised layout plan in its entirety and retained in this approved form thereafter, unless otherwise agreed, in writing, by the Local Planning Authority.

REASON: To allow for the consideration of the Hornbeam tree, protection of existing amenity and to allow for improved access and parking arrangements. Furthermore, it is essential that the park construct any new homes in accordance with the Model Standards that apply to Residential Parks. This may require a reduction in number of units currently shown on the accompanying drawing number 180353-P-001.

4. AGREEMENT OF MEASURES TO IMPROVE SUSTAINABILITY OF DEVELOPMENT

CONDITION: No unit shall be brought onto the site 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 shall achieve:-

- An electric car charging point per unit
- Agreement of heating measures of each unit
- Agreement of scheme for waste reduction
- Water-butts per unit

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



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

5. FURTHER APPROVAL & COMPLIANCE: TREE PROTECTION MEASURES

CONDITION: No development shall commence until details of tree protection measures for the Hornbeam tree to the north-western boundary of the site (in accordance with BS5837 or equivalent or replacement standard), have been submitted to and approved in writing by the Local Planning Authority. The approved details shall be erected prior to any demolition, site clearance or construction works and retained throughout the construction phase of the development hereby approved.

REASON: In order to ensure the protection of the specified tree, in the interests of visual amenity and the quality of the development.

6. FURTHER APPROVAL: HARD AND SOFT LANDSCAPING SCHEME

CONDITION: Prior to the commencement of any above ground works, a scheme of hard and soft landscaping shall be submitted to and approved, in writing, by the Local Planning Authority. The scheme shall include any proposed changes in ground levels, accurately identify spread, girth and species of all existing trees, shrubs and hedgerows on the site and indicate any to be retained, together with measures for their protection which shall comply with the recommendations set out in the British Standards Institute publication "BS 5837: 2012 Trees in relation to design, demolition and construction".

Reason – In order to enhance the appearance of the development, in the interests of visual amenity and the quality of the development.

7. COMPLIANCE: IMPLEMENTATION OF APPROVED LANDSCAPING SCHEME

CONDITION: All changes in ground levels, hard landscaping, planting, seeding or turfing shown on the approved landscaping details shall be carried out during the first planting and seeding season (October - March inclusive) following the commencement of the development or in such other phased arrangement as may be agreed in writing by the Local Planning Authority. Any trees or shrubs which, within a period of 5 years of being planted die, are removed or seriously damaged or seriously diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority agrees in writing to a variation of the previously approved details.

Reason - To ensure the implementation and adequate maintenance of the approved landscaping for a period of five years , in the interests of visual amenity and the quality of the development.

8. COMPLIANCE: PERMEABLE SURFACING

CONDITION: All new parking areas and areas of hardstanding shall be made of porous materials, or provision shall be made to direct run-off water from the hard surface to a permeable or porous area within the site area.

REASON: In the interests of sustainable development and to minimise the risk of surface water flooding.

9. COMPLIANCE: CONSTRUCTION TIMES

CONDITION: No vehicle connected with the works shall arrive on site before 07:30 or leave after 19:00 (except in the case of emergency). Working hours shall be restricted between 08:00 and 18:00 Mondays to Saturdays (finishing at 13:00 on Saturdays) with no working of any kind permitted on Sundays or any Public/Bank Holiday whilst construction works, and alterations are being carried out.

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

REASON: To minimise disturbance to nearby residents and to protect amenity.

10. FURTHER APPROVAL: FENCES / ENCLOSURES

CONDITION: Notwithstanding the provisions of Article 3, Schedule 2 Part 2 Class A of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), no fencing, wall or other means of enclosure shall be erected, except in accordance with drawings showing the design and siting of such enclosures(s) which shall previously have been submitted to and approved, in writing, by the Local Planning Authority. The development shall be carried out in accordance with the approved revised layout plan in its entirety and retained in this approved form thereafter, unless otherwise agreed, in writing, by the Local Planning Authority.

REASON: In order to secure the satisfactory development of the site and to protect the privacy of the occupiers of adjoining dwellings.

11. COMPLIANCE: PARKING PROVISION

CONDITION: Prior to their occupation, each park home shall be provided with the vehicle parking spaces indicated on the approved plans, having been hard surfaced, sealed and marked out in parking bays. The vehicle parking area and associated turning area shall be retained in this form at all times; and shall not be used for any purpose other than the parking of vehicles that are related to the use of the development.

REASON: To ensure that on street parking of vehicles in the adjoining streets does not occur in the interests of highway safety and to ensure adequate parking space is provided in accordance with the EPOA Parking Standards 2009.

12. COMPLIANCE: PARKING BAY DIMENSION

CONDITION: Each vehicular parking space agreed to be provided shall have minimum dimensions of 2.9 metres x 5.5 metres and those which are bounded by walls or other constructions shall have minimum dimensions of 3.4 metres x 5.5 metres. The parking shall be provided and retained in this approved form.

REASON: To ensure adequate parking space is provided in accordance with the EPOA Parking Standards 2009.

13. FURTHER APPROVAL: CYCLE PARKING

CONDITION: Prior to occupation of the development the details of the number, location, and design of a covered parking facility for bicycles per unit or combined shall be submitted to and approved in writing by the local planning authority. The approved facility shall be provided prior to occupation and retained at all times.

REASON: To ensure appropriate bicycle parking is provided in accordance with the EPOA Parking Standards 2009.

### 8.3 **Informatives**

#### Site Licensing Informative

The park owner will need to apply for an amendment to the existing licence to include the additional units. This application should be made before any works start.

#### Legal Agreement Informative - Recreational Impact Mitigation

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

### 9. **Additional Considerations**

#### Public Sector Equality Duty (PSED)

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

#### Human Rights

- 9.8 In making your decision, you should be aware of and take into account any implications that may arise from the Human Rights Act 1998 (as amended). Under the Act, it is unlawful for a public authority such as the Tendring District Council to act in a manner that is incompatible with the European Convention on Human Rights.
- 9.9 You are referred specifically to Article 8 (right to respect for private and family life), Article 1 of the First Protocol (protection of property) and Article 14 (right to freedom from discrimination).

9.10 It is not considered that the recommendation to grant permission in this case interferes with local residents' right to respect for their private and family life, home and correspondence or freedom from discrimination except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation to grant permission is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

#### Finance Implications

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

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

### **10. Background Papers**

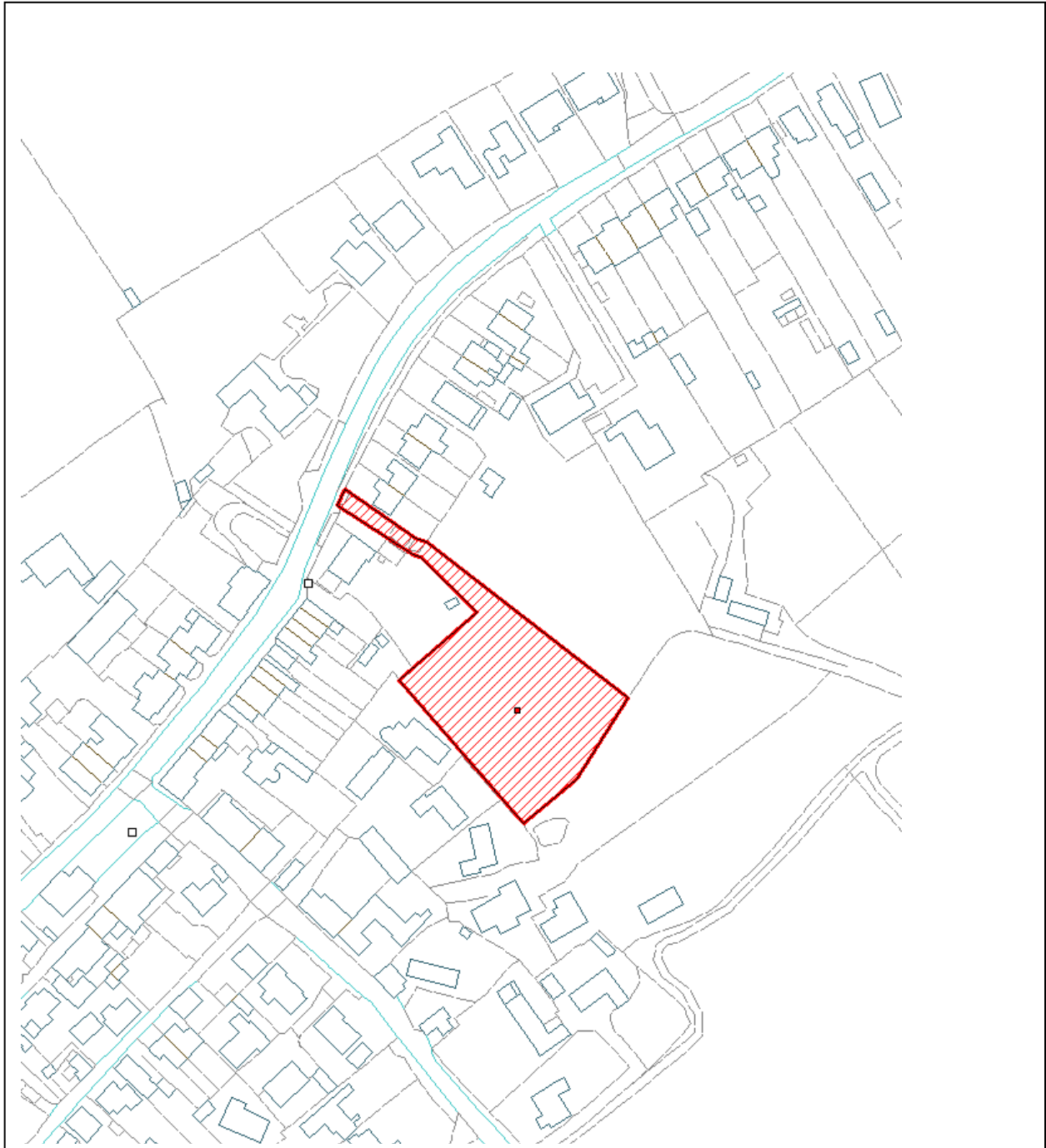
10.1 In making this recommendation, officers have considered all plans, documents, reports and supporting information submitted with the application together with any amended documentation. Additional information considered relevant to the assessment of the application (as referenced within the report)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

## PLANNING COMMITTEE

4 JULY 2023

### REPORT OF THE DIRECTOR OF PLANNING

#### **A.2 PLANNING APPLICATION – 23/00255/DETAIL – LAND TO THE REAR OF MILL HOUSE HIGH STREET GREAT OAKLEY HARWICH CO12 5AQ**



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<b>Application:</b>	23/00255/DETAIL	<b>Expiry Date:</b>	20th April 2023
<b>Case Officer:</b>	Michael Pingram	<b>EOT Date:</b>	11th July 2023
<b>Town/ Parish:</b>	Great Oakley Parish Council		
<b>Applicant:</b>	Mr Oliver Burfoot - Burfoot Homes Ltd		
<b>Address:</b>	Land to The rear of Mill House High Street Great Oakley, Harwich CO12 5AQ		
<b>Development:</b>	Reserved matters application for the erection of 5 no. four bedroom dwellings, considering details of access, appearance, landscaping, layout and scale, pursuant to outline planning permission 19/00004/OUT.		

## 1. Executive Summary

- 1.1 The application is before the Planning Committee following a call-in request from Councillor Bush, on the grounds that the layout and scale of the development will be harmful to the areas character, and will be harmful to the nearby heritage assets.
- 1.2 The principle of development for five dwellings was previously approved under planning permission 19/00004/OUT, and therefore the principle of 5no four bedroomed dwellings on this site is accepted.
- 1.3 While a low level of less than substantial harm has been identified in relation to the impacts to the nearby heritage assets, Officers consider that the public benefits of the proposal outweigh this low level of harm.
- 1.4 On balance Officers conclude that there is not significant harm to neighbouring amenities, and it is noted that no objections are raised by the Council's Tree and Landscape Officer, ECC Highways or ECC Place Services.

### **Recommendation:** Approval

- 1) That the Planning Manager be authorised to grant reserved matters approval 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
- SP3 Spatial Strategy for North Essex
- SP4 Meeting Housing Needs
- SP7 Place Shaping Principles

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

- SPL1 Managing Growth
- SPL2 Settlement Development Boundaries
- SPL3 Sustainable Design
- HP5 Open Space, Sports & Recreation Facilities
- DI1 Infrastructure Delivery and Impact Mitigation
- LP1 Housing Supply
- LP2 Housing Choice
- LP3 Housing Density and Standards
- LP4 Housing Layout
- PPL2 Coastal Protection Belts
- PPL5 Water Conservation, Drainage and Sewerage
- PPL8 Conservation Areas
- PPL9 Listed Buildings
- PPL10 Renewable Energy Generation
- CP1 Sustainable Transport and Accessibility

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.

In relation to housing supply:

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

The Local Plan fixes the Council's housing requirement at 550 dwellings per annum. On 19 October 2021 the Council's Strategic Housing Land Availability Assessment (SHLAA) updated the housing land supply position. The SHLAA demonstrates in excess of a six-and-a-half-year supply of deliverable housing land. On 14 January 2022 the Government published the Housing Delivery Test

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

**3. Relevant Planning History**

17/01109/OUT	Erection of 5 no. four bedroom dwellings.	Refused	31.08.2017
19/00004/OUT	Erection of 5 no. four bedroom dwellings.	Approved	10.03.2020

**4. Consultations**

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

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

**Essex County Council Heritage**

**25.03.2023 (initial comments)**

The proposal site is within the setting of Great Oakley Conservation Area and of Grade II Listed Mill House. The rural, agrarian landscape is a defining feature of the Conservation Area's setting, enabling Great Oakley to be understood and appreciated as an isolated agricultural settlement which remained largely unchanged until the mid-twentieth century. Therefore, the open and undeveloped nature of the landscape makes an important contribution to the historic significance of the Great Oakley Conservation Area. Post war developments to the East of the High Street and towards the South of the Conservation Area have already eroded the historic agricultural setting of Great Oakley, therefore the proposed development would be considered to have a further additional impact on the significance of the Conservation Area. With regards to the National Planning Policy Framework (2021), the level of harm is considered to be 'less than substantial' and Paragraph 202 is relevant.

The principle of development for this site has however already been established with planning permission 19/00004/OUT for the construction of the erection of 5 four bedroom dwellings, therefore the following advise will only pertain scale, design and materials of the proposed development.

The proposed dwellings are considerably larger in footprint than the ones approved within planning application 19/00004/OUT. This enlarged scheme results in a more cramped and dense site with limited gardens which is not in keeping with the open character of the setting of the Conservation Area and Mill House.

Moreover, the proposed bungalows are a non-traditional building type for the Conservation Area and do not offer a bespoke response, in terms of design, to their historic context. While there are similar modern infills within the Conservation Area, these are considered unsympathetic to their surroundings and do not respond to the traditional palette of materials or design, detailing and fenestration, eroding the historic character and appearance of Great Oakley.

In their current form the proposal does not preserve those elements of the setting that make a positive contribution to the Conservation Area and to Grade II Listed Mill House as



designated heritage assets and which better reveal their significance (Paragraph 206 of the NPPF is relevant here). With regards to the National Planning Policy Framework (2021), the level of harm is considered to be 'less than substantial'. As such the local planning authority should weigh this harm against any public benefits of the proposal including, where appropriate, securing its optimum viable use as per Paragraph 202. Furthermore the proposed fail to make a positive contribution to local character and distinctiveness, as set out in Paragraph 197c of the NPPF.

I believe a more sympathetic development can be achieved here by designing the proposed dwellings in accordance with Essex Design Guideline principles and employing traditional vernacular materials such as clay pantiles, red brick, painted render and weatherboarding in order to preserve the character of the Conservation Area.

**Essex County Council Heritage**

**16.05.2023 (following amended plans)**

The application is for reserved matters for the erection of 5 no. four bedroom dwellings, considering details of access, appearance, landscaping, layout and scale, pursuant to outline planning permission 19/00004/OUT. This follows my previous advise dated 24th March 2023 and submission of revised drawings and specifications.

The proposal site is within the setting of Great Oakley Conservation Area and of Grade II Listed Mill House.

The revised proposal does not address the main concern regarding the scale of the proposed dwellings which are larger in footprint than the ones approved within planning application 19/00004/OUT. However, the layout of the proposed dwellings have now been simplified in a more holistic and subtle scheme and using traditional external materials which are more in keeping with the local character. This is considered to minimise the visual impact of the proposed development on the setting of the Conservation Area and of Grade II Listed Mill House.

There is no objection to this application.

**ECC Highways Dept**

**13.03.2023**

The information submitted with the application has been assessed by the Highway Authority and conclusions have been drawn from a desktop study with the observations below based on submitted material. A previous site visit was undertaken in conjunction with this planning application. The proposal is within an existing 30-mph speed limit with a generous footway/verge on the High Street, while the site provides adequate room and provision for off street parking and turning, for the development, considering these factors:

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

Officer Note: These conditions have been agreed in full and translated into appropriate condition wording to ensure they are reasonable, necessary, precise relevant and enforceable.

**Essex County Council Ecology**

**23.03.2023**

Thank you for consulting Place Services on the above reserved matters application.

No objection subject to securing:

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

#### Summary

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

The site falls within the evidenced recreational Zone of Influence (ZOI) of Hamford Water Ramsar and SPA. Therefore, given the residential element of this development is relevant to the Essex Coast RAMS, we note that the LPA has prepared a project level HRA Appropriate Assessment to secure a per dwelling tariff by a legal agreement for delivery of visitor management measures at the designated sites. This will mitigate for predicted recreational impacts in combination with other plans and projects and avoid Adverse Effect on Integrity of the designated Habitat sites.

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

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

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

#### **Tree & Landscape Officer**

**08.03.2023**

There are no trees or other significant vegetation in the main body of the application site however the implementation of the proposed development may result in the removal of established coarse hedging on the southern side of the proposed new access.

The removal of this vegetation will not adversely affect the character of the area.

The location of the application site is such that it is 'tucked away' behind existing dwellings. Consequently, the development will not feature prominently in the public realm, nevertheless the applicant has provided details of soft landscaping, including tree planting, that will help to soften and enhance its appearance.

## **5. Representations**

5.1 Great Oakley Parish Council object on the same basis they objected to the previous outline planning application. A summary of those previous concerns are as follows:

- The proposed development site is outside of any past, current or proposed housing development boundary for the village;
- At no time during the extensive consultation on the Emerging Local Plan has this site been put forward;
- The site sits within the Coastal Protection Belt;
- The development would require the demolition of at least one existing building within the curtilage of a Grade II Listed Building which would have a significant impact on the listed building's setting and the wider street scene; and

- The proposed access is narrow and would have a detrimental impact on vehicle movements in the already busy centre of the village.

5.2 There have been a further four letters of objection received, with the following concerns raised:

- Site is located in an area with risk of traffic congestion and potential accidents;
- Outside of a recognised Settlement Development Boundary;
- Site is within a Coastal Protection Belt and adjacent to a conservation area;
- Impacts to Grade II Listed Building;
- Harmful impacts to wildlife;
- Flooding risks due to drainage issues;
- Impact to neighbouring amenities; and
- Not enough soft landscaping;

## 6. **Assessment**

### Site Description

- 6.1 The application site, which measures approximately 0.28 hectares, is roughly square in shape (bar the access into the site) and is located to the rear of Mill House, a Grade II Listed Building, and is currently a grassed area of land that has become slightly overgrown. The site is accessed via High Street, to the west of the site.
- 6.2 The character of the immediate surrounding area is urban in nature, with predominantly residential development along High Street to the west and Farm Road to the south. The wider character, however, is more rural with large areas of grassed and agricultural land to all sides.
- 6.3 The site predominantly falls adjacent to, but outside of, the Settlement Development Boundary for Great Oakley within the adopted Local Plan 2013-2033, with only the access being within. It also falls within a Coastal Protection Belt, and is adjacent to the Great Oakley Conservation Area.

### Description of Proposal and Site History

- 6.4 Under planning reference 17/01109/OUT, in June 2017 an application was refused for five dwellings due to the site being outside of a recognised settlement development boundary, being in open countryside and harming the Coastal Protection Belt, and also due to a lack of an ecological survey. However, under appeal reference APP/P1560/W/18/3196781, the application was dismissed but only on the grounds of a lack of an ecological assessment. This remains a significant material consideration and further upheld by the following permission 19//00004/OUT
- 6.5 Following this, under planning reference 19/00004/OUT, outline planning consent was granted by Tendring District Council for five dwellings with all matters reserved. This current application is for the agreement of the remaining reserved matters as requested by the approval of the outline application, which are specifically access, appearance, landscaping, layout and scale.
- 6.6 Being reserved matters, principal issues allowing development on this site are no longer for consideration having been concluded under 19/00004/OUT. It is noted that representatives including the Parish Council have raised concerns on principle including settlement boundary and coastal belt, but principle decisions on these matters are not the proposal before Members.

### Impact to Coastal Protection Belt

6.7 Adopted Policy PPL2 of the Tendring District Local Plan 2013-2033 seeks to protect the open character of the undeveloped coastline and refuse planning permission for development which does not have a compelling functional or operational requirement to be located there. Where development does have a compelling functional or operational requirement to be there, its design should respond appropriately to the landscape and historic character of its context and applicants will be required to demonstrate that any development proposals will be safe over their planned lifetime.

6.8 Within the previous appeal decision on this application site (reference APP/P1560/W/18/3196781) the Inspector clarified the following

*“The majority of the site is very overgrown and surrounded by dense boundary vegetation. This restricts views to neighbouring properties and gardens to the north, east and south/south-west. As such, the site is very secluded and screened from the surrounding area. Moreover, it cannot be described as open countryside not only due to the density of vegetation but also due to surrounding residential plots. The nearest field to the south-east is separated from the site by a garden and paddock for Acorn Cottage and Oak House, with hedging adjacent to the field preventing views to and from the site. As a consequence, the site’s contribution to the countryside and rural character of the area surrounding Great Oakley, including the Coastal Protection Belt, is very limited. It does not provide an important transition from village to countryside.”*

6.9 Taking the above comments from the Appeal Inspector into consideration based on the outline permission, Officers do not raise any objections to the development in relation to impacts to the Coastal Protection Belt and the position is considered unchanged given the merits of the reserved matters before Members.

#### Scale, Layout, Design and Appearance

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

6.11 Policy SP7 of the 2013-33 Local Plan seeks high standards of urban and architectural design which responds positively to local character and context, and to protect the district's landscape and the quality of existing places and their environs. Policy SPL3 and LP4 of the 2013-33 Local Plan also require, amongst other things, that developments deliver new dwellings that are designed to high standards and which, together with a well-considered site layout which create a unique sense of place. These policies apply and are given full weight in terms of the reserved matters.

6.12 Following the submission of amended plans, there are a total of five detached properties, all of which are single storey and served by three bedrooms, accessed via a new access point to the northern corner of the site off High Street. While no details were provided within the previous outline planning consent, Officers acknowledge that an indicative layout was provided that showed two dwellings on the northern side of the application site and three dwellings to the southern section. This has broadly been followed within the current submission. Given this, that there are reasonable separation distances between the proposed plots, and that the development adjacent to the south-west and south does not follow a set pattern, Officers do not raise any objections to the proposed layout.

6.13 In respect of the scale of the dwellings, it is noted that the development to the south/south-west consist of 1.5 and two storey properties, while the dwellings along High Street are predominantly two storey. The proposed development consists of single storey properties, and given the above is not necessarily in accordance with the existing scale of development. However, given that the site is located to the rear of all existing development, with only partial views via High Street

possible, the five proposed dwellings would not be seen in the same context as the surrounding development. Therefore, on balance, Officers do not consider that this small level of identified harm is sufficient to justify recommending a reason for refusal.

- 6.14 As above, during the course of the determination of the application, amended plans have been provided to show a revised design. The plans show two design types overall, although both are single storey, and each includes features that help break up the overall bulk of the development, notably front gables, window and brick features and a good use of traditional materials. Given this, there are no objections raised in terms of the design proposed.
- 6.15 In addition, there is considered to be sufficient levels of private amenity space for all five new dwellings, thereby according with Policy LP4 which states amenity space should be of a size and configuration that meets the needs and expectations of residents, and which is commensurate to the size of the dwelling and the character of the area.
- 6.16 Furthermore, Officers note that the application site is located to the rear of the established built form along High Street and represents a form of backland development. Adopted Policy LP8 outlines a series of criterion that should be met within such proposals, including sufficient private amenity space for existing dwellings, the need for a safe and convenient means of vehicular/pedestrian access, the avoidance of long and narrow driveways, the avoidance of tandem development, and avoiding development on awkwardly shaped plots and such developments that would be out of character or provide a hard urban edge to a settlement. On this occasion, whilst Officers acknowledge this policy and the criterion contained within, it is noted that the principle of five dwellings on this application site has previously been granted outline planning consent, and it was previously addressed that given the proximity of other nearby recent developments the development would not look out of keeping or set a harmful precedent.

#### Heritage Impacts

- 6.17 Adopted Policy PPL8 states that new development within a designated Conservation Area, or which affects its setting, will only be permitted where it has regard to the desirability of preserving or enhancing the special character and appearance of the area. This repeats in part the provisions of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended. Given the “or” the minimum requirement is normal to preserve the character of the conservation area. Tending has accepted this is possible in principle for five dwellings as indicated under the Outline this reserved matters relates.
- 6.18 Adopted Policy PPL9 (Listed Buildings) states that proposals for new development affecting a listed building or its setting will only be permitted where they will protect its special architectural or historic interest, its character, appearance and fabric' although the Plan recognises that the scope for a listed building to adapt to modern life and requirements will itself depend upon a number of considerations and it will not always be possible to incorporate modern design solutions without also causing harm to its special character fabric, or appearance.
- 6.19 The application site falls adjacent to the Great Oakley Conservation Area, and is adjacent to a series of Listed Buildings, notably Mill House, a Grade II Listed Building to the north-west of the site. Accordingly, ECC Place Services (Heritage) have been consulted on this application, and initially raised an objection on the grounds that the scheme would result in a more cramped and dense site with limited gardens which is not in keeping with the open character of the setting of the Conservation Area and Mill House. In addition, the proposed bungalows were a non-traditional building type for the Conservation Area and do not offer a bespoke response, in terms of design, to their historic context.
- 6.20 In order to address these comments, the agent for the application provided revised plans which have amended the external appearance of the dwellings, incorporating more traditional

materials. Following this ECC Place Services (Heritage) were re-consulted and provided the following comments:

*“The revised proposal does not address the main concern regarding the scale of the proposed dwellings which are larger in footprint than the ones approved within planning application 19/00004/OUT. However, the layout of the proposed dwellings have now been simplified in a more holistic and subtle scheme and using traditional external materials which are more in keeping with the local character. This is considered to minimise the visual impact of the proposed development on the setting of the Conservation Area and of Grade II Listed Mill House.*

*There is no objection to this application.”*

- 6.21 Taking all of the above comments into consideration, while the revised plans have reduced the level of harm that was initially identified, it is not removed entirely. Officers therefore consider that there will be a low level of less than substantial harm to the setting of the adjacent heritage assets, and accordingly it is important to assess this level harm against the public benefits of the scheme. On this occasion, Officers note that five dwellings have been previously approved on this site, amendments have been sought during the lifetime of the application to provide for a more suitable appearance, and there will be additional benefits via the occupants of the proposed dwellings utilising local services. As such, the harm identified is to a minor level of less than substantial, and there are some public benefits that the proposal will provide which, on balance, outweigh the low level of harm. Accordingly, Officers do not raise an objection on these grounds.

#### Impact to Neighbours

- 6.22 Paragraph 130 of the National Planning Policy Framework (2021) confirms planning policies and decisions should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.
- 6.23 Policy SP7 of Section 1 of the 2013-33 Local Plan requires that the amenity of existing and future residents is protected. Section 2 Policy SPL 3 (Part C) seeks to ensure that development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties.
- 6.24 The application site is surrounding by existing residential properties to the north, south and west in particular, and a key consideration of this application is the impact of the proposal to existing amenities.
- 6.25 On this occasion, while the five dwellings will be visible to some neighbouring properties, particularly the occupants of ‘The Conifers’, ‘Maple House’ and ‘Holly Cottage’ to the south, it is noted that all of the properties are single storey. Within the previous outline permission, while not a material consideration at that time, the dwellings were described as ‘four bedroom dwellings’, which suggests they were likely to be two storey properties. In this context, the single storey nature of the dwellings now represents an improvement to the previous indicative layout. Officers acknowledge that due to approximate separation distances ranging between 6 and 13 metres to the south facing properties, there will be a degree of harm in terms of the dwellings appearing oppressive, however the weight afforded to this is significantly reduced due to them being single storey and thereby resulting in no overlooking and no significant loss of daylight/sunlight.
- 6.26 In addition, a garage measuring 5 metres in height is sited close to the southern boundary (set forward from it by approximately 1 metre). However, given the garage has a pitched roof, is approximately 2.7 metres from the property itself, and that any impact would not be to an area that would likely be used as private amenity space, while it will be visible the harm outlined is not considered to be to a significantly harmful level.

- 6.27 With respect to other nearby residential properties, particularly those along the High Street to the north and west, there is significant separation distances to ensure there will not be any significant harm to existing amenities.

#### Tree and Landscape Impacts

- 6.28 The Council's Tree and Landscapes Officer has been consulted, and initially stated the following:

*“There are no trees or other significant vegetation in the main body of the application site however the implementation of the proposed development may result in the removal of established coarse hedging on the southern side of the proposed new access.*

*The removal of this vegetation will not adversely affect the character of the area.*

*The location of the application site is such that it is 'tucked away' behind existing dwellings. Consequently, the development will not feature prominently in the public realm, nevertheless the applicant has provided details of soft landscaping, including tree planting, that will help to soften and enhance its appearance.”*

- 6.29 Accordingly, no objections are raised in this regard.

#### Highway Safety

- 6.30 Paragraph 110 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, whilst Paragraph 104 requires that streets, parking and other transport considerations are integral to the design of schemes, and contribute to making high quality places.
- 6.31 Adopted Policy CP1 (Sustainable Transport and Accessibility) of the Tendring District Local Plan 2013-2033 states that planning permission will only be granted if amongst other things; access to the site is practicable and the highway network will be able to safely accommodate the additional traffic the proposal will generate and the design and layout of the development provides safe and convenient access for people.
- 6.32 Essex Highways Authority, upon consultation, have stated they raise no objections subject to conditions relating to visibility splays, the use of no unbound materials, no discharge of surface water onto the highway, and vehicle parking and turning areas.
- 6.33 Furthermore, the Essex County Council Parking Standards (2009) set out the parking requirements for new development, and confirm that for residential properties of three bedrooms there should be two parking space measuring a minimum of 5.5 metres x 2.9 metres or, if being used as one of the parking spaces, a garage should measure a minimum of 7 metres x 3 metres. The site layout demonstrates this is achievable for all of the new dwellings.

#### Impact on Protected Species

- 6.34 Paragraph 174 of the Framework states planning decisions should contribute to and enhance the natural and local environment, by minimising impacts and providing net gains for biodiversity.
- 6.35 Paragraph 180(a) of the NPPF confirms that in assessing planning applications where significant harm to biodiversity as a result of a development cannot be avoided, adequately mitigated or, as a last resort, compensated for, then planning permission should be refused.

- 6.36 Adopted Policy SP7 requires that all new development should incorporate biodiversity creation and enhancement measures. Adopted Policy SPL3 Part A(d) includes that the design and layout of development should maintain or enhance ecological value.
- 6.37 ECC Place Services (Ecology) have been consulted and have stated they are satisfied that there is sufficient ecological information available for determination of this application, and raise no objections subject to securing mitigation and enhancement measures. In addition, Officers note that within the outline planning consent, an Ecological Impact Assessment Report was submitted, and Condition 7 of that consent requires the suggested mitigation/enhancement measures to be adhered to and Condition 8 requires the submission of a Biodiversity Enhancement Layout.

#### Other Considerations

- 6.38 A legal agreement has previously been agreed within the outline planning permission to secure financial contributions towards RAMS and Open Space.

### **7. Conclusion**

- 7.1 The principle of development for five dwellings was previously allowed under planning permission 19/00004/OUT, and therefore the principle of five dwellings on this site is accepted. A previous appeal decision on the application site has confirmed such a development provides no harmful impact to the Coastal Protection Belt, and ECC Highways and ECC Place Services (Ecology) have raised no objections.
- 7.2 While a low level of less than substantial harm has been identified in relation to the impacts to the nearby heritage assets, on this occasion Officers consider that the public benefits of the proposal outweigh this low level of harm, but this is still harm in the planning balance.
- 7.3 Officers acknowledge the five proposed dwellings will be visible to the nearby residential properties, notably those along the southern boundary. However, the single storey nature of the dwelling significantly reduces this identified harm to amenity, and on balance Officers do not raise an objection on these grounds.
- 7.4 Taking all of the above into consideration, the proposed development is considered to be compliant with both local and national planning policies taken as a whole, and is therefore recommended for approval.

### **8. Recommendation**

- 8.1 The Planning Committee is recommended to grant planning permission subject to the following conditions and informatives and the prior completion of a section106 legal agreement with the agreed Heads of Terms, as set out in the table below:

#### 8.2 Conditions and Reasons

1 COMPLIANCE REQUIRED: COMMENCEMENT TIME LIMIT

CONDITION: The development hereby permitted shall be begun not later the expiration of three years from the date of this permission.

REASON: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by 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 permission becoming lapsed and unable to be carried out. 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 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 Numbers 001, 002 (received 27th April 2023), 003 (received 27th April 2023), 004 (received 27th April 2023), 005 (received 27th April 2023), 006 (received 27th April 2023), 007 (received 27th April 2023) and 008 (received 27th April 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.

- 3 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 43 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 CONDITION: Prior to first occupation of the development, 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 hereby permitted 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.

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

REASON: In the interests of highway safety to prevent hazards caused by loose materials on the highway.

NOTE/S FOR CONDITION:

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

- 6 CONDITION: Prior to the commencement of any works to the access, details of the means to prevent the discharge of surface water from the development onto the public highway shall be submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority. The approved scheme shall be carried out in its entirety prior to the first use of the access and shall then be retained in the approved form.

REASON: To prevent hazards caused by flowing water or ice on the highway.

- 7 CONDITION: Prior to the first occupation of the development, details of a vehicular turning facility shall be approved, in writing, by the Local Planning Authority. The turning facility shall be constructed, surfaced and thereafter maintained free from obstruction within the site at all times for vehicular use only.

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

### 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: Near to the proposed vehicular access there is an existing gully and manhole cover; these will need to be relocated/ lowered as part of these works.

Any relocation of the gully/ manhole cover would need to be discussed with the Development Management Team prior to works starting on site and all costs will need to be met by the applicant.

3: 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.

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

5: 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 collaborating with partners to achieve specific goals by 2030, including net zero carbon development. All those active in the development sector should have regard to these goals and applicants are invited to sign up to the Essex Developers' Group Climate Charter [2022] and to view the advice contained in the Essex Design Guide. Climate Action Advice guides for residents, businesses and schools are also available.

## 9. Additional Considerations

Public Sector Equality Duty (PSED)

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

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

#### Human Rights

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

#### Finance Implications

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

### **10. Background Papers**

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

(as referenced within the report) also form background papers. All such information is available to view on the planning file using the application reference number via the Council's Public Access system by following this link <https://idox.tendringdc.gov.uk/online-applications/>.

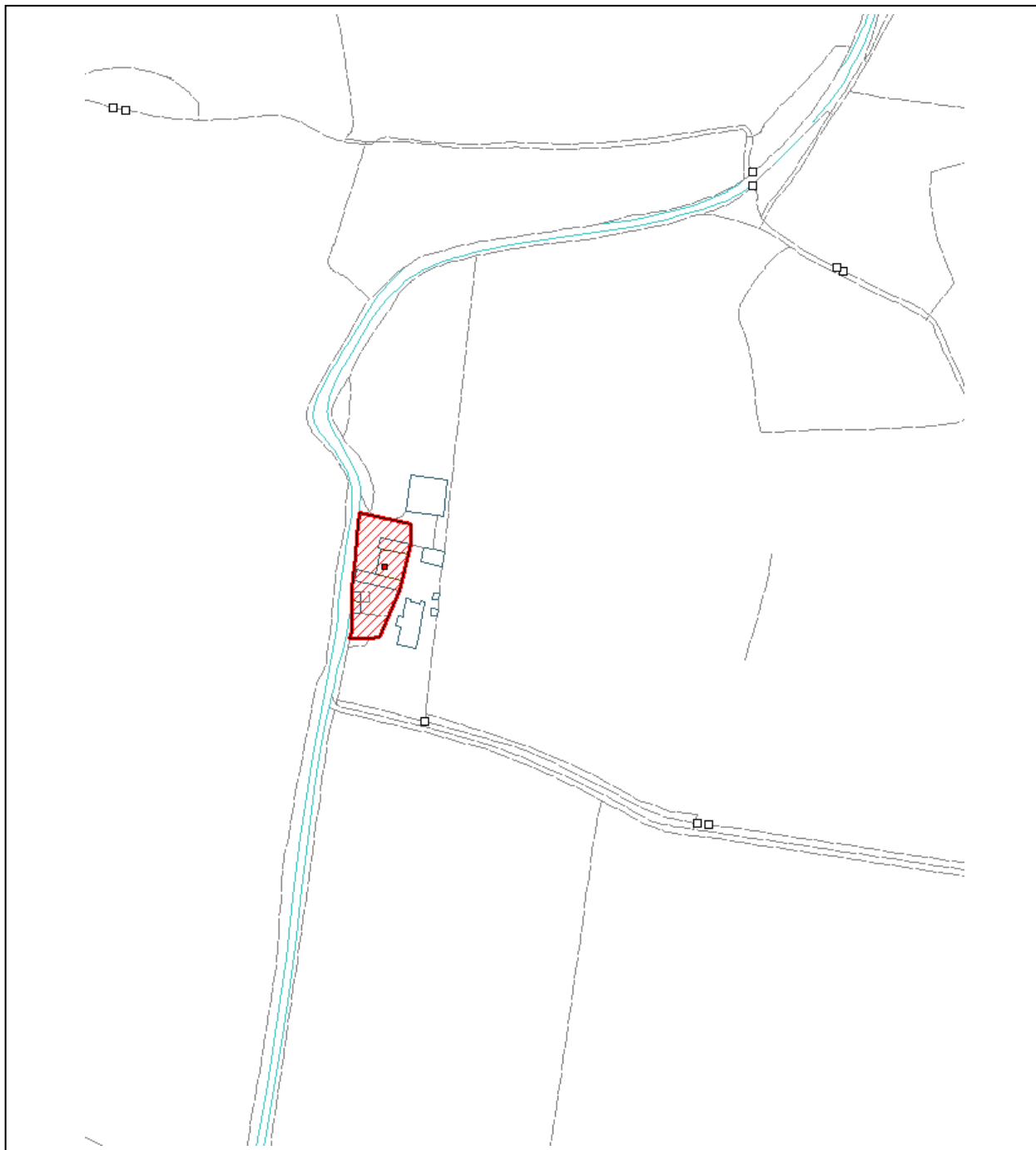
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## PLANNING COMMITTEE

4<sup>th</sup> JULY 2023

### REPORT OF THE DIRECTOR OF PLANNING

#### A.3 PLANNING APPLICATION – 22/01138/FUL – STONEHALL FARM BUILDINGS STONEHALL LANE GREAT OAKLEY HARWICH CO12 5DD



DO NOT SCALE

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<b>Application:</b>	22/01138/FUL	<b>Expiry Date:</b>	20th September 2022
<b>Case Officer:</b>	Michael Pingram	<b>EOT Date:</b>	11 <sup>th</sup> July 2023
<b>Town/ Parish:</b>	Great Oakley Parish Council		
<b>Applicant:</b>	Mr and Mrs Brown		
<b>Address:</b>	Stonehall Farm Buildings Stonehall Lane Great Oakley Harwich CO12 5DD		
<b>Development:</b>	Proposed erection of 3no. dwellings (in lieu of Prior Approval for three dwellings, subject of application 21/00788/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 dwellings are sited in slightly different locations and result in a combined total of 65.5sqm additional footprint, however this is not considered to be materially different to the development approved under prior approval 21/00788/COUNOT. The overall height of Plots 1 and 2 are broadly the same as the existing building, with Plot increased but not to a significant extent.
- 1.3 There are no significant issues in respect to neighbouring amenities or harm to trees, and there is sufficient parking provision. In addition, no objections are raised by ECC Ecology subject to conditions. Whilst ECC Highways have objected on the grounds there is a lack of visibility splays information, due to the nature of the site and potential level of activity the existing use provides, as well as the fallback position, it is not considered the impact on the local highway network would be significantly harmful.

### **Recommendation:** Approval

- 1) That the Planning Manager be authorised to grant planning permission subject to the agreed section 106 agreement and 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

PPL5 Water Conservation, Drainage and Sewerage

PPL10 Renewable Energy Generation

HP5 Open Space, Sports & Recreation Facilities

DI1 Infrastructure Delivery and Impact Mitigation

CP1 Sustainable Transport and Accessibility

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

21/00788/COUNOT	Proposed change of use from agricultural buildings into three dwellings.	Prior Approval not required	15.06.2021
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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.tendringdc.gov.uk/online-applications/>.

#### Environmental Protection

12.08.2022

Contaminated Land: Given the site and surrounding areas historical use for agriculture, we are requesting a Watching Brief be conditioned and adhered to throughout the demolition and construction phase - We request that the LPA are contacted in the event of unexpected ground conditions being encountered during construction and that the below minimum precautions are undertaken until such time as the LPA responds to the notification. I would also advise that the developer is made aware that the responsibility for the safe development of the site lies with them.

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.

Construction Activities: In order to minimise potential nuisance caused by demolition/construction works, Environmental Protection recommend that the following below is conditioned;

- No vehicle connected with the works to arrive on site before 07:30 or leave after 19:00 (except in the case of emergency). Working hours to be restricted between 08:00 and 18:00 Mondays to Saturdays (finishing at 13:00 on Saturdays) with no working of any kind permitted on Sundays or any Public/Bank Holiday whilst construction works and alterations are being carried out.
- No materials produced as a result of the site development or clearance shall be burned on site.
- No dust emissions should leave the boundary of the site

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

REASON: to protect the amenity of nearby residential premises

INFORMATIVE

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

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

#### INFORMATIVE

Foul Drainage: The submitted Planning Statement advises a Sewerage Treatment Plant will be utilised as a way of disposing of foul waste; we would request, should the application be approved, that the Applicant / Agent, ensure the installation is fully compliant with the Environment Agency's Binding Rules and any other relevant Government guidance and British standards, in respect of these systems. Information on this can be found at: Septic tanks and treatment plants: permits and general binding rules: The general binding rules - GOV.UK ([www.gov.uk](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.

REASON: to protect the health of residents and nearby residential premises

#### **Essex County Council Archaeology**

**31.03.2023**

The buildings proposed for demolition as part of the development are historic farm buildings associated with Stonehall Farm. The earliest building is depicted on the Tithe Map of c.1840 and fronts Stonehall Lane, this was formerly part of a larger range of agricultural buildings depicted on the Tithe Map at a time when the house was located to the north with the farmstead located to its west. The earlier ranges of farm buildings had been replaced by the U shaped range by the late 19th century following the demolition of the earlier farm house and its relocation to the south. The earlier farm building is of timber frame while the later 19th century ranges are brick built.

Recent work published in the East Anglian Archaeology: Research and Archaeology: A Framework for the Eastern Counties 2. Research Agenda and Strategy states that the East Anglian Farmstead (1750-1914) are a crucial, but understudied component of the East Anglian Landscape. The area was of major international importance in the development of the 'Victorian High Farming tradition' when new ideas culminated in significant alterations in the design and layouts of buildings. The demolition of the farm buildings will ultimately result in the total loss of any surviving historic fabric and features.

NPPF paragraph 205 requires developers to record and advance understanding of the significance of any heritage assets to be lost (wholly or in part) in a manner proportionate to their importance and the impact, and to make this evidence (and any archive generated) publicly accessible. In accordance with paragraph 205 of the NPPF it is therefore important that a Level 2 historic building record is made before demolition takes place.

The following conditions are recommended in line with the National Planning Policy Framework:

1. No demolition or development of any kind shall take place until the applicant has secured the implementation of a programme of historic building recording in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the planning authority.

2. The applicant will submit a historic buildings report which has been submitted and approved by the local planning authority and deposition of a digital archive with the Archaeological Data Service (ADS).

A professional historic building specialist should undertake any fieldwork. A brief detailing the requirements can be produced from this office. The District Council should inform the applicant of the recommendation and its financial implications.

**ECC Highways Dept**

**02.05.2023**

The information submitted with the application has been assessed and conclusions have been drawn from a desktop study with the observations below based on the submitted material. It is noted that the existing buildings are to be demolished. The proposals dwellings will each have a separate vehicular access that joins Stonehall Lane, classed as a local road, under the County's Route Hierarchy, however:

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

It is noted that each dwelling will have a new vehicular access and there is a lack of information on what visibility splay can be achieved for each vehicular access and whether the visibility splays can be provided within land in the control of the applicant or within the extent of the public highway.

Were the applicant to submit additional information as detailed below, the Highway Authority would be able to consider the planning application further:

1. A scale drawing showing the full extent of the visibility splays proposed. The splays should be based on the posted speed limit or the 85th percentile vehicle speed ascertained from a speed survey. Extent of highway should be coloured (see item 3 below)

2. The results of a speed survey if one is conducted to establish the required visibility should be provided in the supporting information.

3. The results of a formal extent of highway search (including the covering letter and/or email) as sourced from <https://www.essexhighways.org/transport-and-roads/highway-schemes-and-developments/adoptions-and-land/highway-status-enquiries.aspx> (any problems with online payment/filling in the form the applicant should email [highway.status@essexhighways.org](mailto:highway.status@essexhighways.org) who process the requests)\*

\*Where there is a roadside ditch or pond, that ditch or pond (even if it has been piped or infilled) would not in the majority of circumstances form part of the highway. Often, roadside ditches, which are apparent on the ground are not indicated on the Ordnance Survey Mapping. The same applies to historic ditches. Therefore, any ditches (including historical) and ponds should also be marked on the drawing.

The proposal is therefore contrary policies DM1, DM4 and DM7 contained within the County Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

Informative:

- 1: It would appear for each vehicular access there is a setback distance of less than 2 metres as measured from and along the nearside edge of the carriageway due to the proposed building

line for plots 1, 2 and 3, the minimum setback distance the Highway Authority would want to see is 2.4 metres.

2: Visibility splays must be achieved within the limits of public highway and/or land in the control of the applicant.

3: In addition, if the applicant were to base the visibility splays on a speed survey a Site Access as Proposed Layout Plan, shall be provided, which shows the appropriate clear to ground visibility splays in both directions with a minor or "X" distance of 2.4 metres by "Y" distance:

a. "Y" distance appropriate for vehicle speeds travelling along Stonehall Lane on the approach to the proposed access (vehicles approaching from the north) as determined from the outcome of the speed survey for the measured 85th percentile speeds.

b. "Y" distance appropriate for vehicles travelling along Stonehall Lane on the non-approach to the proposed access (vehicles approaching from the south) as determined from the outcome of the speed survey for the measured 85th percentile speeds.

c. The location points of the speed measurement must be shown on a Site Layout Plan.

Each visibility splay shall be measured from and along the nearside edge of the carriageway in both directions for each access.

The Highway Authority reserves making a recommendation until such time as the above information has been considered and provided.

**Tree & Landscape Officer**

**27.03.2023**

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

At the present time the existing structures are agricultural in their design and appearance and are in keeping with the rural character of the area.

In terms of the impact of the development proposal on the character and appearance of the area it is considered that the retention and renovation of the existing structures would be more in keeping with the rural character of the area than their demolition and replacement with 3 new dwellings.

The harm caused, to the character of the locality, by the proposed development cannot be satisfactorily ameliorated by soft landscaping.

**UU Open Spaces**

**20.04.2023**

Public Realm Assessment

Play Space - current deficit:

Deficit of 0.76 hectares of equipped play in Great Oakley

Formal Play - current deficit:

Adequate formal open space in the area to cope with some future development

Settlement provision:

Orchard Close/School Lane Play area 3.8 miles

Officer Conclusions and Recommendations

Contribution necessary, related, and reasonable to comply with CIL Regs

No contribution is being requested on this occasion.

Identified project:  
N/A

**ECC Ecology**

**06.06.2023**

Thank you for consulting Place Services on the above application.

Holding objection due to insufficient ecological information on European Protected Species (bats).

**Summary**

We have reviewed the documents supplied by the applicant, relating to the likely impacts of development on designated sites, protected & Priority species and habitats and identification of proportionate mitigation.

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

We are not satisfied that there is sufficient ecological information available for determination of this application. This is because no ecological information has been submitted in support of this application and the demolition of the agricultural buildings could impact upon bats (European Protected Species). If present, bats would be affected so therefore, the LPA does not have certainty of the likely impacts to protected species nor any mitigation to avoid impacts and potentially leading to an offence of disturbing or destroying bats or their roost.

Therefore, we recommend that a Preliminary Roost Assessment for bats should be undertaken by a suitably qualified ecologist to inform the need for any further bat surveys and, if necessary, mitigation & compensation for impacts from this application. This type of inspection can be undertaken at any time of year. Mitigation measures may need to be secured by a condition of any consent or a mitigation licence from Natural England.

To fully assess the impacts of the proposal the LPA need ecological information for the site, particularly for bats, European Protected Species. These surveys are required prior to determination because Government Standing Advice indicates that you should "Survey for bats if the area includes buildings or other structures that bats tend to use or there are trees with features that bats tend to use nearby".

The results of these surveys are required prior to determination because paragraph 99 of the ODPM Circular 06/2005 highlights that: "It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision."

This information is therefore required to provide the LPA with certainty of impacts on legally protected species and be able to secure appropriate mitigation either by a mitigation licence from Natural England or a condition of any consent. This will enable the LPA to demonstrate

compliance with its statutory duties, including its biodiversity duty under s40 NERC Act 2006 and prevent wildlife crime under s17 Crime and Disorder Act 1998.

Additionally, no biodiversity enhancement measures are identified in the documents provided. We recommend that, to secure net gains for biodiversity, as outlined under Paragraph 174d of the National Planning Policy Framework 2021, reasonable biodiversity enhancement measures will need to be provided.

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

We look forward to working with the LPA and the applicant to receive the additional information required to support a lawful decision and overcome our holding objection.

**ECC Ecology**

**16.06.2023**

Thank you for re-consulting Place Services on the above application.

No objection subject to securing:

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

**Summary**

Further to our comments on the 6th June 2023, we have reviewed the Preliminary Ecological Appraisal (Author, Date) and Ecological Impact Assessment (Liz Lord Ecology, June2022) relating to the likely impacts of development on designated sites, protected and Priority species & habitats and identification of appropriate mitigation measures.

The site falls within the evidenced recreational Zone of Influence (ZOI) of Essex Coast RAMs. Therefore, given the residential element of this development, we note that the LPA has prepared a project level HRA Appropriate Assessment to secure a per dwelling tariff by a legal agreement for delivery of visitor management measures at the designated sites. This will mitigate for predicted recreational impacts in combination with other plans and projects and avoid Adverse Effect on Integrity of the designated Habitats sites.

We are satisfied that there is sufficient ecological information available for determination of this application. This provides certainty for the LPA of the likely impacts on designated sites, protected and Priority species & habitats and, with appropriate mitigation measures secured, the development can be made acceptable.

The mitigation measures identified in the Ecological Impact Assessment (Liz Lord Ecology, June2022) should be secured by a condition of any consent and implemented in full. This is necessary to conserve and enhance protected and Priority species particularly Great Crested Newts and nesting birds.

We note that the Ecological Impact Assessment (Liz Lord Ecology, June2022), identifies day roosts for Common Pipistrelle, Soprano Pipistrelle, and Brown Long Eared bats at Plots 1, 2, and 3. Therefore, as outline mitigation has been included within the Ecological Impact Assessment (Liz Lord Ecology, June2022), the LPA can consider that there is sufficient certainty to the likely impacts to bats. Therefore, a mitigation licence must be applied for through Natural England and a copy of this licence should be secured by condition of any consent.

We also support the proposed reasonable biodiversity enhancements of three House Sparrow Boxes, one Starling box, two open front bird boxes, and one Barn Owl box, which have been



recommended by the Ecological Impact Assessment (Liz Lord Ecology, June2022) to secure net gains for biodiversity, as outlined under Paragraph 174d of the National Planning Policy Framework (2021). The reasonable biodiversity enhancement measures should be outlined within a Biodiversity Enhancement Strategy and should be secured by a condition of any consent.

In addition, the Ecological Impact Assessment (Liz Lord Ecology, June2022) highlights that it is likely bats could be foraging/commuting within and around the site. Therefore, if any external lighting is to be proposed, it is advised that a sensitive lighting scheme is developed to minimise any impacts. This should summarise the following measures will be implemented:

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

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

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

We recommend that submission for approval and implementation of the details below should be a condition of any planning consent.

Recommended conditions

#### 1. ACTION REQUIRED IN ACCORDANCE WITH ECOLOGICAL APPRAISAL RECOMMENDATIONS

"All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Ecological Impact Assessment (Liz Lord Ecology, June2022) as already submitted with the planning application and agreed in principle with the local planning authority prior to determination.

This may include the appointment of an appropriately competent person e.g. an ecological clerk of works (ECoW) to provide on-site ecological expertise during construction. The appointed person shall undertake all activities, and works shall be carried out, in accordance with the approved details."

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

#### 2. PRIOR TO COMMENCEMENT OF ANY WORKS WHICH WILL IMPACT THE BREEDING / RESTING PLACE OF BATS: SUBMISSION OF EVIDENCE OF SITE REGISTRATION UNDER A BAT MITIGATION CLASS LICENCE FOR BATS

“Any works which will impact the breeding / resting place of bats, shall not in in any circumstances commence unless the local planning authority has been provided with either:  
a) a licence issued by Natural England pursuant to Regulation 55 of The Conservation of Habitats and Species Regulations 2017 (as amended) authorizing the specified activity/development to go ahead; or  
b) evidence of site registration supplied by an individual registered to use a Bat Mitigation Class Licence; or  
c) a statement in writing from the Natural England to the effect that it does not consider that the specified activity/development will require a licence.”

Reason: To conserve protected species and allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 (as amended) and s17 Crime & Disorder Act 1998.

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

“A Biodiversity Enhancement Strategy for protected and Priority species shall be submitted to and approved in writing by the local planning authority.

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

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

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

Reason: To enhance protected and Priority species & habitats and allow the LPA to discharge its duties under the NPPF 2021 and s40 of the NERC Act 2006 (Priority habitats & species).

And if any external lighting is proposed;

### 4. PRIOR TO OCCUPATION: WILDLIFE SENSITIVE LIGHTING DESIGN SCHEME

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

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

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

## 5. Representations

5.1 Great Oakley Parish Council object to the application for the following reasons:

- Outside the settlement development boundary
- Overdevelopment
- Impact on heritage asset

5.2 One letter of objection has been received which raises the following planning concerns:

- The buildings to be replaced are historic, Victorian farm structures built to service the original, timber-framed, Elizabethan manor house, Stone Hall, built in 1563 by Richard Stone (hence the name Stones Green)
- To destroy these rare farm buildings would, as the Council's own specialist archaeological advice suggests, "ultimately result in the total loss of any surviving historic fabric and features".
- This application is outside the defined settlement boundaries as allocated in the TDC Local Plan 2022.
- The application is a fundamental shift away from what the Prior Approval system tries to achieve. These farm buildings were never previously residential. To convert them on their existing template is understandable; to knock them down and replace them, patently wrong.
- The siting, scale, massing and look (dark weatherboarding seems out of character with the locality) of these proposed new builds is a stark contrast to appearance of the agricultural buildings they would replace and fails to comply with Policies SPL3 and PPL3.
- Every property on the route from Stones Green to Tendring Green is currently individual and "stand-alone", in keeping with the rural landscape. How long before our once-remote house is encircled by new development becoming a small-scale housing estate.
- The Council has met and surpassed the 5 year housing land supply. Is this application for this style of new build needed? And, if so, is it in the right place?
- The modern design of the proposed dwellings – outwardly more suited to an urban or semi-urban environment - must surely have a negative impact on the landscape; one greater than the "fall-back" plan?
- Replacing a full-length, 14ft-high building that sits precisely on our west boundary with two new gardens looking directly into our rear garden would be a massive loss of privacy. Also, our private, larger, front garden will be overlooked from properties two and three. The largest (east-facing) windows in two of these properties would look directly into what has always been an entirely private and secluded rear garden. No amount of "soft landscaping" will prevent that.
- The continuation of our quite life will be transformed during any development of these barns/new builds. While we would understand and accept some levels of noise, dust and fumes during groundworks and construction, there is an added annoyance factor we have encountered on many occasions before – deliveries.
- Whether sold, rented, or used as holiday lets, these new properties will be seriously overshadowed by the sheer size of our house.

- The most-recent new-build plans show car parking, as designed, would be relatively tight and potentially dangerous, given the small space allowed for manoeuvre or reversing and the closeness of the approaching bend in the road from the North. The proposed new properties are sited very close to the road, which retains a 60mph speed limit.
- Loss of wildlife - the beautiful heart-shaped white face of barn owls (one of them made an appearance flying from one of the barns this week); occasional dark-feathered tawny owls; bats in profusion, both brown long-eared and, less often, common pipistrelle; seasonal nests of swallows and swifts, together with other nesting birds. These buildings are their home. To demolish them without further wildlife investigation might prove a habitat disaster.
- There are other issues attendant to this application relating to the supply of services. Where will the Klargester be sited? Where is the water supply coming from? The existing supply is a “branch” supply whereby pressure already drops dramatically with heavy use on the cattle farm next-door.
- Lack of any local infrastructure – no pubs, restaurants, shops, buses and so on – making these properties entirely reliant of cars.

## 6. **Assessment**

### Site Description

- 6.1 The site is located in a rural area to the east of Stonehall Lane and comprises a group of outbuildings associated with Stonehall Farm. The buildings are primarily of brick construction and set under both tile and slate roofs. The buildings to the north of the site are laid out in a U shaped arrangement with the southern building running parallel to the road. The u-shape building is single storey in height with the building running parallel to the road being one and a half storey.
- 6.2 To the east of the site lies Stonehall Farmhouse which is a residential dwelling under separate ownership. This is a two-storey rendered property which fronts onto the application site. To the north of the site is a steel-clad agricultural building.
- 6.3 The site lies outside of any defined Settlement Development Boundary within the adopted Local Plan 2013-2033.

### Description of Proposal

- 6.4 This application seeks full planning permission for the replacement of former agricultural buildings with the erection of 3 no. dwellings. The proposal would represent an alternative development to the Prior Approval for 3 dwellings subject of application 21/00788/COUNOT.
- 6.5 Plots 1 and 2 are proposed to be single storey, with a gross internal floor area of 130m<sup>2</sup> which provides 3 bedrooms. Plot 3 is proposed to be two storey in height with a gross internal floor area of 93m<sup>2</sup> which provides two bedrooms. Two parking spaces are proposed for each dwelling.
- 6.6 The proposed materials are a mix of facing brickwork, cream render and black timber weatherboard cladding with slates and plain roof tiles.

### Planning History

- 6.7 Under planning reference 21/00788/COUNOT, prior approval permission was granted in June 2021 for the conversion of the agricultural buildings subject of this planning application into 3

no. dwellings. This was allowed as assessed against Class Q of the Town & Country Planning (General Permitted Development) (England) Order (2015). Within the determination of this application the Council did not express any concern on the grounds for consideration of the notification application, namely access, noise, contamination, flooding, location, design or natural light.

#### 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 21/00788/COUNOT in September 2021. The current proposal represents an alternative design to the previously granted permission, which is considered to form a material consideration in respect of the application and denotes what is considered to be a viable fall-back position as outlined below.

#### Fallback Position – Material Consideration

- 6.12 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:
- 6.14 *"First whether there is a fall-back use, that is to say whether there is a lawful ability to undertake such a use; secondly, whether there is a likelihood or real prospect of such occurring. Thirdly if the answer to the second question is "yes" a comparison must be made between the proposed development and the fall-back use."*
- 6.15 The 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.

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

	21/00788/COUNOT (Prior Approval)	22/01138/FUL (Current Application)
Plot 1		
Floorspace	93.5m <sup>2</sup>	130m <sup>2</sup>
Eaves Height	2.5m	2.5m
Ridge Height	4.9m	5m
No. Beds	3	3
Plot 2		
Floorspace	112m <sup>2</sup>	130m <sup>2</sup>
Eaves Height	2.4m	2.5m
Ridge Height	4.9m	5m
No. Beds	4	3
Plot 3		
Floorspace	82m <sup>2</sup>	93m <sup>2</sup>
Eaves Height	2.9m and 1.7m	2.7m and 2.3m
Ridge Height	5.3m and 2.8m	6m and 4m
No. Beds	3	2

6.17 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.

6.18 As outlined above in the comparison table, there is an increase in floorspace proposed for all three units, which equates to a total of 65.5m<sup>2</sup> which is not considered to be significant, subject to the visual impact as discussed below. There is also an increase in height, which again is not considered to be significant. Plots 1 and 2 are proposed to be set further forward than the existing building, but cannot be built without its demolition. Plot 3 is proposed to be further away from the road and re-orientated, which results in a better relationship with the Plot 2. It also partially overlaps the existing building.

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

#### Visual Impacts

6.20 Paragraph 126 of the NPPF states that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.

6.21 Policy SP7 states that all new development should respond positively to local character and context to preserve and enhance the quality of existing places and their environs. Policy SPL3 seeks to provide new development which is well designed and maintains or enhances local character and distinctiveness. The development should relate well to its site and surroundings particularly in relation to its siting, height, scale, massing, form, design and materials and should respect or enhance local landscape character, views, skylines, landmarks, existing street patterns, open spaces and other locally important features.

- 6.22 The site is located in a rural area, which is characterised by open fields and sporadic residential properties and farm buildings.
- 6.23 Plots 1 and 2 are situated further forward on the site than the existing building and Plot 3 is proposed to be set further back on the plot and re-orientated so that it is at right angles to the road. There would be no net increase in the number of dwellings on the site, but there will be a net decrease in the number of bedrooms. A total of 10 bedrooms were approved under application 21/00788/COUNOT and a total of 8 bedrooms are now proposed. There is, however, a net increase of approximately 65.5m<sup>2</sup> gross internal floor space proposed.
- 6.24 The design of the three dwellings will see a pair of semi-detached properties, with Plot 3 being detached to the east of the site. The design is considered to be acceptable for what is a rural location, and includes interesting features and good use of materials to help break up the overall bulk and help it to assimilate well within its rural surrounds. Given this, while Officers acknowledge the proposal will result in a degree of change to the character and appearance of the surrounding area, on balance this is not considered to be sufficient to warrant a reason for refusal as whilst the character will change it is still considered to be appropriate for the rural area.
- 6.25 In terms of the proposed scale, Plots 1 and 2 will broadly have the same eaves and ridge height (a slight increase of 0.1m to the ridge), so will result in a neutral impact to the areas character. Plot 3 will see an increase to the ridge height from between 2.8m and 5.3m to 4m and 6m. Whilst this increase in height will be noticeable, the dwelling has been set back further from the road and the overall increase is not to a significant extent. As such, the harm identified is not considered to be a significant extent.
- 6.26 Policy LP4 requires that new residential developments will be expected to provide for private amenity space of a size and configuration that meets the needs and expectations of residents and which is commensurate to the size of dwelling and the character of the area. The plans show that this comfortably adhered to for both dwellings.

#### Impact to Neighbouring Amenities

- 6.27 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.
- 6.28 The only residential property nearby is Stonehall Farm which is situated to the east of the application site. This property overlooks the application site from windows on the front and side elevation. This means that the gardens of Plots 2 and 3 will be overlooked, however, due to the layout of the proposed buildings and the proposed 1.8m high wall each property will have a small area of private amenity space which on balance is considered to be sufficient.
- 6.29 Plots 1 and 2 are proposed to be single storey in height, Plot 3 is partially single storey and partially one and a half storey in height, with the part closest to the neighbouring property being single storey. Therefore, whilst there are windows on the proposed rear elevation facing the neighbouring property (Stonehall Farm) these are at ground floor level and therefore any direct overlooking will be obscured by the proposed boundary treatment. No details of this have been given but a condition to cover this matter is recommended.
- 6.30 There will also be some impact on the amenities of the neighbouring residents due to the increase in activity on the site, related to the provision of three dwellings, however, this would not be greater than the fallback position of the prior approval.

- 6.31 It is therefore considered that subject to appropriate boundary treatment the proposal would not have a significant impact on the amenities of the neighbouring residents.

#### Highway Safety Impacts

- 6.32 Paragraph 108 of the National Planning Policy Framework 2021 seeks to ensure that safe and suitable access to a development site can be achieved for all users. Paragraph 111 of the Framework states that Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 6.33 Policy SPL3 (Part B) of the Adopted Local Plan seeks to ensure that access to a new development site is practicable and the highway network will be able to safely accommodate the additional traffic the proposal will generate and provision is made for adequate vehicle and cycle parking. Adopted Local Plan Policy CP2 states proposals will not be granted planning permission if there would be an unacceptable impact on highway safety, or the residual cumulative impact on the road network would be severe.
- 6.34 Essex County Council Highways have been consulted on the application and raise an objection due to the fact that there is a lack of information on what visibility splays can be achieved for each vehicular access and whether the visibility splays can be provided within land in the control of the applicant or within the extent of the public highway.
- 6.35 Following the response from Essex County Council Highways the agent has submitted a plan showing that visibility splays of 2.4m by 54m to the north and 2.4m by 203m to the south can be provided.
- 6.36 Whilst the comments from Essex County Council Highways are noted it is considered that given the existing nature of the site (some of which has the potential to be used for informal parking) the potential level of activity that the agricultural use of the building would generate, and that regardless of the determination of the current application there is a fallback position for use of the site for three dwellings, the impact on the local highway network would not be sufficient to warrant a reason for refusal.
- 6.37 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 dwellings.

#### Impacts to Trees and Landscape

- 6.38 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.
- 6.39 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.
- 6.40 The Council's Tree and Landscape Officer has been consulted on the application, and has provided the following comments:

*"No trees or other vegetation will be adversely affected by the development proposal."*



*At the present time the existing structures are agricultural in their design and appearance and are in keeping with the rural character of the area.*

*In terms of the impact of the development proposal on the character and appearance of the area it is considered that the retention and renovation of the existing structures would be more in keeping with the rural character of the area than their demolition and replacement with 3 new dwellings.*

*The harm caused, to the character of the locality, by the proposed development cannot be satisfactorily ameliorated by soft landscaping.”*

- 6.41 Given the above comments, a level of harm has been identified in relation to the impact of the development to the rural character of the area. However, on this occasion while these comments are noted it is equally acknowledged that the design provided is also of a rural nature that would be expected in a location such as this, and therefore the change to the areas character will not be to a significant level that would represent such harm that Officers would consider recommending a reason for refusal.

#### Impact on Protected Species

- 6.42 Paragraph 174 of the Framework states planning decisions should contribute to and enhance the natural and local environment, by minimising impacts and providing net gains for biodiversity.
- 6.43 Paragraph 180(a) of the NPPF confirms that in assessing planning applications where significant harm to biodiversity as a result of a development cannot be avoided, adequately mitigated or, as a last resort, compensated for, then planning permission should be refused.
- 6.44 Adopted Policy SP7 requires that all new development should incorporate biodiversity creation and enhancement measures. Adopted Policy SPL3 Part A(d) includes that the design and layout of development should maintain or enhance ecological value.
- 6.45 Given that the application site has the potential for hosting protected species, notably bats, the application is supported by a Preliminary Ecological Assessment (PEA). This assessment concludes that there is potential for breeding barn owls to be present in the loft spaces of Plots 2 and 3, but due to it not being possible to fully inspect the loft spaces further surveys were required. Furthermore, roosting bats were confirmed to have been recently present in Plot 1 and whilst the evidence gathered did not indicate the presence of any large roosts, further detailed survey were necessary to confirm the continued presence of bats, and determine all of the species and numbers of bats present.
- 6.46 Given the conclusions within the PEA, a further more detailed Ecological Survey was undertaken. Within its conclusions, it confirms that some of the buildings provide confirmed nesting habitat for common bird species, and the disturbance and destruction of an active nest could have a negative effect on some bird species at the site level, although there will be negligible loss of foraging habitat. Dusk emergence surveys indicate that breeding barn owls are very unlikely to be present on site. With mitigation and enhancement measures, overall there will be no significant adverse effect on bird species at any level and a minor enhancement for house sparrow and starling may result.
- 6.47 With respect to the impact to bats, the surveys indicate that small numbers of common bat species are using various crevices across Plots 2 and 3, and potentially the southern wall of Plot 1, as day roosts. In the absence of avoidance measures and precautionary methods of working, it is very likely that the proposals could result in disturbance, injury or death to small numbers of common species of roosting bats across Plots 1, 2 and 3. However, with the implementation of suggested mitigation measures, no adverse effects are likely upon individual bats or local bat populations, and an overall minor enhancement of the site for roosting bats is possible.

6.48 As part of the determination of the application, ECC Place Services (Ecology) have been consulted. Initially they raised a holding objection due to insufficient information, however this was quickly rectified with the submission of the additional surveys that had previously been undertaken. Following this, ECC Ecology confirm they have no objections subject to conditions relating to the suggested mitigation/enhancement measures, a Biodiversity Enhancement Strategy, and a bat mitigation class license for bats.

#### Drainage

6.49 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.

6.50 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.

6.51 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.

6.52 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.

6.53 Question 11 of the application form states that it is not intended to connect to a mains sewer. Instead, foul sewage will be disposed of by way of a package treatment plant; details of which have been provided.

6.54 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. 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

- 6.55 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.
- 6.56 The application scheme proposes a residential use on a site that lies within the Zone of Influence (Zoi) being approximately 4.8km away from the Hamford Water SPA (Special Protection Area) and Ramsar. New housing development within the Zoi would be likely to increase the number of recreational visitors to these sites and in combination with other developments it is likely that the proposal would have significant effects on the designated site. Mitigation measures must therefore be secured prior to occupation.
- 6.57 A unilateral undertaking has been prepared to secure this legal obligation. This will ensure that the development would not adversely affect the integrity of European Designated Sites in accordance with Section 1 Policy SP2 and Section 2 Policy PPL4 of the Tendring District Local Plan 2013-2033 and Regulation 63 of the Conservation of Habitat and Species Regulations 2017.

#### Financial Contributions – Open Space and Play Space

- 6.58 Paragraph 54 of the National Planning Policy Framework (2021) states Local Planning Authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Paragraph 56 of the NPPF states planning obligations must only be sought where they are necessary to make the development acceptable in planning terms, directly relate to the development and fairly and reasonably relate in scale and kind to the development.
- 6.59 In line with the requirements of Section 2 Policy HP5 the Council's Open Space Team have been consulted on the application to determine if the proposal would generate the requirement for a financial contribution toward public open or play space. The outcome of the consultation is that there is currently a deficit of 0.76 hectares of equipped play space in Great Oakley, however no contribution is requested on this occasion.

#### Renewable and Energy Conservation Measures

- 6.60 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.
- 6.61 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.
- 6.62 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.
- 6.63 While the submission confirms that electric vehicle charging points 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 three dwellings is acceptable in principle following the previous prior approval granted on the site for three dwellings under planning reference 21/00788/COUNOT.
- 7.2 There is an increase in floorspace proposed for all three units, which equates to a total of 65.5m<sup>2</sup> additional floorspace, although the number of units is the same and the number of bedrooms is reduced from 10 to 8. The positioning of the dwellings are broadly similar to the existing agricultural buildings, although Plots 1 and 2 are set further forward and Plot 3 is set back away from the road and re-orientated. However, the changes proposed, as well as the design being of a rural nature that would be expected in such a location, ensure that Officers do not consider the works 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. In addition, no objections are raised by ECC Ecology subject to conditions. Furthermore, whilst ECC Highways have objected on the grounds there is a lack of visibility splays information, due to the nature of the site and potential level of activity the existing use provides, as well as the fallback position, Officers do not consider the impact on the local highway network would be sufficient to warrant a reason for refusal.
- 7.4 Taking all of the above into consideration, the application is considered to be compliant with local and national planning 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 COMPLIANCE REQUIRED: COMMENCEMENT TIME LIMIT**

**CONDITION:** The development hereby permitted shall be begun not later the expiration of three years from the date of this permission.

**REASON:** To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by 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 permission becoming lapsed and unable to be carried out. 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 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 Numbers 3585-PA-LOC, PA-10-A, PA-11-A, PA-12-B, and the documents titled 'Preliminary Ecological Assessment' and 'Ecological Impact Assessment'.

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 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 should include as a minimum the following:-

- Electric car charging points per dwelling;
- A Water-butts per dwelling;
- Compost bin per dwelling;
- Agreement of heating of each dwelling/building; and
- 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.

- 4      **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.

- 5      **CONSTRUCTION MANAGEMENT TO BE AGREED (PRE COMMENCEMENT)**

**CONDITION:** Prior to the commencement of development details of the construction methodology and timetable shall be submitted to and approved, in writing, by the Local Planning Authority. This shall incorporate the following information:-

a) Details of the hours of work/construction of the development within which such operations shall take place and the hours within which delivery/collection of materials for the said construction shall take place at the site.

b) Details of the loading/unloading/storage of construction materials on site, including details of their siting and maximum storage height.

c) Details of how construction and worker traffic and parking shall be managed. This shall include routing of all traffic and any directional signs to be installed and where.

d) Details of any protection measures for footpaths and trees surrounding the site.

e) Details of any means of access to the site during construction.

f) Details of the scheduled timing/phasing of development for the overall construction period.

g) Details of measures to control the emission of dust and dirt during construction, and including details of any wheel washing to be undertaken, management and location it is intended to take place.

- h) Details of the siting of any on site compounds and portaloos.
- i) Details of the method of any demolition to take place, including the recycling and disposal of said materials resulting from demolition.
- j) Site waste management plan (that shall include reuse and recycling of materials)
- k) Scheme for sustainable construction management to ensure effective water and energy use.
- l) Scheme of review of complaints from neighbours.
- m) Registration and details of a Considerate Constructors Scheme
- n) Details on the provision, location and management of any show home/s or reception, including opening times, parking and advertisements (including flags and directional signs).

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

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

**NOTE/S FOR CONDITION:**

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

**6 FURTHER APPROVAL: ARCHAEOLOGICAL WORKS**

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

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

**7 FURTHER APPROVAL: ARCHAEOLOGICAL WORKS**

CONDITION: No development shall take place until a written report on the results of the archaeology evaluation of the site has been submitted to the Local Planning Authority and that confirmation by the Local Planning Authority has been provided that no further investigation work is required in writing.

Should the Local Planning Authority require further investigation and works, no development shall take place on site until the implementation of a full programme of archaeological work has been secured, in accordance with a Written Scheme of Investigation which has been submitted to and approved in writing by the Local Planning Authority.

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

- a. The programme and methodology of site investigation and recording.
- b. The programme for post investigation assessment.
- c. Details of the provision to be made for analysis of the site investigation and recording.
- d. Details of the provision to be made for publication and dissemination of the analysis and records of the site investigation.
- e. Details of the provision to be made for archive deposition of the analysis and records of the site investigation; and
- f. Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.

The written scheme of investigation shall be carried out in its entirety prior to any other development taking place, or in such other phased arrangement including a phasing plan as may be previously approved in writing by the Local Planning Authority.

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

8 FURTHER APPROVAL: ARCHAEOLOGICAL WORKS 3

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

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

- 9 CONDITION: All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Ecological Impact Assessment (Liz Lord Ecology, June 2022) as already submitted with the planning application and agreed in principle with the local planning authority prior to determination. This may include the appointment of an appropriately competent person e.g. an ecological clerk of works (ECoW) to provide on-site ecological expertise during construction. The appointed person shall undertake all activities, and works shall be carried out, in accordance with the approved details.

REASON: To conserve and enhance protected and Priority species.

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

- a) a licence issued by Natural England pursuant to Regulation 55 of The Conservation of Habitats and Species Regulations 2017 (as amended) authorizing the specified activity/development to go ahead; or



b) evidence of site registration supplied by an individual registered to use a Bat Mitigation Class Licence; or

c) a statement in writing from the Natural England to the effect that it does not consider that the specified activity/development will require a licence.

REASON: To conserve and enhance protected and Priority species.

11 **CONDITION:** A Biodiversity Enhancement Strategy for protected and Priority species shall be submitted to and approved in writing by the local planning authority. The content of the Biodiversity Enhancement Strategy shall include the following:

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

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

Reason: To enhance protected and Priority species & habitats.

12 **APPROVAL REQUIRED: LANDSCAPING SCHEME**

**CONDITION:** 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.

**REASON:** In the interests of visual amenity and the character and appearance of the area, and to protect the amenities of the neighbouring property.

**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.

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.

13 **COMPLIANCE WITH DETAILS AND TIMESCALE REQUIRED - LANDSCAPING SCHEME**

**CONDITION:** All changes in ground levels, soft/hard landscaping shown on the approved landscaping details shall be carried out in full during the first planting and seeding season (October - March inclusive) following the commencement of the development, or in such other phased arrangement as may be approved, in writing, by the Local Planning Authority up to the first use/first occupation of the development. Any trees, hedges, shrubs or turf identified

within the approved landscaping details (both proposed planting and existing) which die, are removed, seriously damaged or seriously diseased, within a period of 10 years of being planted, or in the case of existing planting within a period of 5 years from the commencement of development, shall be replaced in the next planting season with others of similar size and same species unless otherwise agreed in writing by the Local Planning Authority.

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

### 8.3 Informatives

Positive and Proactive Statement:

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

## 9. Additional Considerations

### Public Sector Equality Duty (PSED)

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

### Human Rights

- 9.8 In making your decision, you should be aware of and take into account any implications that may arise from the Human Rights Act 1998 (as amended). Under the Act, it is unlawful for a public authority such as the Tendring District Council to act in a manner that is incompatible with the European Convention on Human Rights.

- 9.9 You are referred specifically to Article 8 (right to respect for private and family life), Article 1 of the First Protocol (protection of property) and Article 14 (right to freedom from discrimination).
- 9.10 It is not considered that the recommendation to grant permission in this case interferes with local residents' right to respect for their private and family life, home and correspondence or freedom from discrimination except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation to grant permission is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

#### Finance Implications

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

#### **10. Background Papers**

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

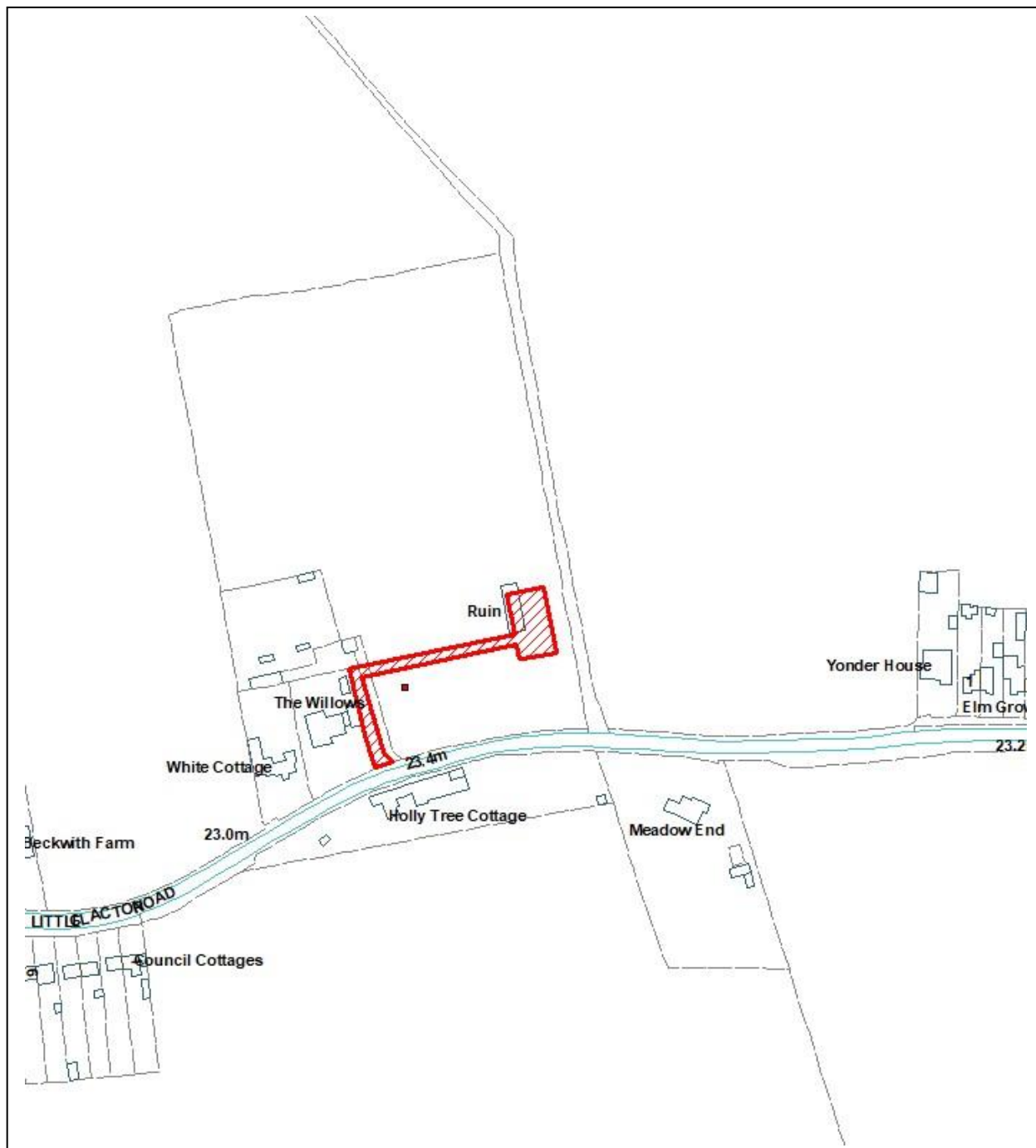
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## PLANNING COMMITTEE

4 July 2023

### REPORT OF THE DIRECTOR OF PLANNING

#### A.4 PLANNING APPLICATION – 22/01937/FUL – Land Adjacent To The Willows, Little Clacton Road, Great Holland, CO13 0ET



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<b>Application:</b>	22/01937/FUL	<b>Expiry Date:</b>	13.01.2023
<b>Case Officer:</b>	Clive Theobald	<b>EOT Date:</b>	
<b>Town/ Parish:</b>	Great Holland Parish Council		
<b>Applicant:</b>	Mr Stevens		
<b>Address:</b>	Land adjacent to The Willows, Little Clacton Road, Great Holland CO13 0ET		
<b>Development:</b>	Proposed demolition of former livestock building and replacement with a two bedroom bungalow (in lieu of Prior Approval for conversion of building into a dwelling subject of application 21/00460/COUNOT). Resubmission of application 22/01052/FUL.		

## 1. Executive Summary

- 1.1 The application is referred to Planning Committee at the Director of Planning's discretion in light of the recent planning history of this site and due to the fact that planning application 22/01052/FUL for the proposed demolition of former livestock building and replacement with a two bedroom bungalow (in lieu of Prior Approval for conversion of building into a dwelling subject of application 21/00460/COUNOT) was refused by Member of the planning Committee following an officer's recommendation of approval.
- 1.2 This application proposes the demolition of former livestock building and replacement with a two bedroom bungalow (in lieu of Prior Approval for conversion of building into a dwelling subject of application 21/00460/COUNOT). This application is effectively a resubmission of application 22/01052/FUL. The proposal would conflict with the requirements of the Development Plan, principally Policies SP3 and SPL2 of the Tendring District Local Plan 2013-2033 and Beyond, being located outside of any Settlement Development Boundary.
- 1.3 It is also your Officers' considered view that the lawful ability to undertake the extant Prior Approval conversion scheme under 21/00460/COUNOT is now highly unlikely and that the weight that can be attributed to the so called 'fall-back position' is much further reduced whereby the further deteriorated condition of the building as seen on site for the current resubmission application since the refusal of application 22/01052/FUL is such that the possibility of compliance with the General Permitted Development Order (as also already previously cited for refusal reason No.1 for refused planning application 22/1052/FUL) is highly unlikely also. For this reason, the proposal is considered to fail the second element of the legal fallback test where there is no likelihood or real prospect of such a lawful event from occurring as set out in explanatory paragraph 6.16 regarding the fall-back position further into this report.
- 1.4 As such, the application is recommended for refusal.

**Recommendation:** Refusal

## 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

SP4 Meeting Housing Needs

SP6 Infrastructure and Connectivity

SP7 Place Shaping Principles

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

SPL1 Managing Growth

SPL2 Settlement Development Boundaries

SPL3 Sustainable Design

LP1 Housing Supply

LP2 Housing Choice

LP3 Housing Density and Standards

LP4 Housing Layout

LP7 Self-Build and Custom Built Homes

PPL1 Development and Flood Risk

PPL3 The Rural Landscape

PPL4 Biodiversity and Geodiversity

PPL5 Water Conservation, Drainage and Sewerage

PPL10 Renewable Energy Generation

CP1 Sustainable Transport and Accessibility

CP2 Improving the Transport Network

DI1 Infrastructure Delivery and Impact Mitigation

#### Supplementary Planning Documents

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

#### Other Documents

Essex Design Guide

Essex County Council Car Parking Standards - Design and Good Practice

#### **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**

96/01537/FUL (Land at Willow Farm (formerly Refused 04.03.1997



	piggeries), adjacent to The Willows, Lt Clacton Road, Gt Holland) Change of use of land to a 5 pitch transit gypsy site with new vehicular access		
98/00019/FUL	(Land at Willow Farm, Little Clacton Road, Gt Holland) Change of use of land to a 5-Pitch transit gypsy site with altered vehicular access	Refused	27.04.1998
19/00180/OUT	Proposed erection of 2no. Bungalows.	Refused	26.04.2019
21/00460/COU NOT	Conversion of agricultural buildings into a dwelling.	Determinati on	22.04.2021
22/01052/FUL	Proposed demolition of former livestock building and replacement with a two bedroom bungalow (in lieu of Prior Approval for conversion of building into a dwelling subject of application 21/00460/COUNOT).	Refused at Planning Committee	05.09.2022
22/01937/FUL	Proposed demolition of former livestock building and replacement with a two bedroom bungalow (in lieu of Prior Approval for conversion of building into a dwelling subject of application 21/00460/COUNOT). Resubmission of application 22/01052/FUL.	Current	

#### 4. **Consultations**

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

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

#### **ECC Highways**

The information that was submitted in association with the application has been fully considered by the Highway Authority. A previous site visit was undertaken in conjunction with an earlier planning application. The information submitted with the application has been

assessed and conclusions have been drawn from a desktop study with the observations below based on submitted material.

It is noted that this application is a resubmission of application 22/01052/FUL whereby the revised scheme has reduced the ridge height of the building from the initial height of 6.3m to 4.7m. As with the previous proposal, vehicular access will be taken from the existing entrance onto Little Clacton Road which will be provided with a bound surface treatment. When compared with the former agricultural use, the level of activity will be on a par or possibly reduced. Again, the proposed dwelling will provide adequate off-street parking and turning. Considering these factors:

The Highway Authority does not object to the proposal as submitted subject to the previous highway conditions that were imposed for 22/01052/FUL being adhered to.

### **TDC Tree and Landscape Officer**

The proposed position of the new dwelling is such that no existing trees or other significant vegetation will be adversely affected by the development proposal.

In order to soften and screen the proposed new bungalow and to ensure that it is satisfactorily assimilated into its setting, details of soft landscaping should be secured to soften and screen the proposed development.

New planting should primarily relate to the eastern boundary of the application site as views from other aspects are obscured by existing intervening vegetation.

### **Public Open Space and Play Team**

There is currently a deficit of 14.12 hectares of equipped play in Frinton, Walton & Kirby and Great Holland

Recommendation: No contribution is requested on this occasion. However, should the development increase in size, a contribution may be required.

## **5. Representations**

- 5.1 Frinton and Walton Town Council - Recommend refusal.
- 5.2 No third party representations from the general public have been received.

## **6. Assessment**

The main considerations arising are as follows:

- Site Description / Context;
- Description of Proposal;
- Relevant Site History;
- Specific Material Considerations (the 'fallback' position);
- Principle of Development;
- Scale, Layout and Appearance;
- Impact on rural amenity
- Highway Safety, Access and Parking;
- Impact on Residential Amenity;

- Water Conservation, Drainage and Sewerage;
- Renewable and Energy Conservation Measures;
- Legal Obligations - Recreational Disturbance (RAMS), Open Space and Play Space.

### Site Description / Context

- 6.1 The site lies on the northern side of Little Clacton Road and comprises part of a flat and overgrown field within which stands the partially collapsed remains of a prefabricated metal 'A' framed piggery building dating from the early 1950's with concrete base slab of approximately 131sqm which formerly comprised part of an extensive pig rearing farm unit known as Seven Acre Farm. The building is identified on various maps as 'Ruin', which is a description of the physical condition of the building at the time of survey identification rather than any historical or archaeological context.
- 6.2 A residential property containing a single storey bungalow with rear outbuildings (The Willows) lies to the immediate west of the site, whilst a farm track runs along the eastern boundary of the site extending to the north which is designated as a public footpath (Frinton and Walton 10). A further residential property lies to the immediate west of The Willows containing a two storey dwelling (White Cottage), whilst another residential property containing a two storey frontage dwelling lies opposite the site on the south side of Little Clacton Road (Holly Tree Cottage). Arable farmland lies to the north and east of the site. A straight concrete vehicular access drive with maintained side boundary hedgerow leads into The Willows from Little Clacton Road which forms the western boundary of the site. The remaining boundaries of the field are vegetated to include mature and established tree planting.
- 6.3 Approximately 150 metres to the east of the site, towards the eastern end of Little Clacton Road at its converging junction with the B1032 at Great Holland village, the character of the area suddenly changes to become more built-up in nature with uninterrupted frontage development (bungalows) along both sides of Little Clacton Road.

### Description of Proposal

- 6.4 This application seeks full planning permission for the proposed demolition of this former livestock building and its replacement with a two bedroomed bungalow in lieu of Prior Approval 21/00460/COUNOT for the conversion of the building into a dwelling. This application is in effect a re-submission of refused application 22/01052/FUL for the same development, but with minor design variations.
- 6.5 The submitted drawings for the re-submission proposal show a new single storey dwelling designed in vernacular barn style having a rectangular footprint with slate ridged roof and traditional eaves line which would be sited in an off-set position to the bottom south-east corner of the footprint of the existing livestock building to be demolished.
- 6.6 The internal layout of the new dwelling would comprise a living/kitchen/dining space, home office, utility, two bedrooms and a bathroom with a stated external floor area of 142.6sqm. The dwelling would incorporate minimal external openings along both flank elevations, but would include central bi-folding doors to the dwelling's north elevation. The dwelling would include a single rooflight along its west flank elevation.
- 6.7 The new dwelling would have an indicated private amenity space to the building's northern aspect to include a sitting-out area, whilst a linking footpath approximately 55m long is shown leading from the dwelling across the field to 2 no. proposed dedicated parallel parking spaces to be formed on the field side of the existing access driveway run-in, leading to The Willows approximately three quarters along its length from the main road.

6.8 The application is accompanied by a planning statement in which the following extracted comments are set out below in support of the proposal:

- The application is a variation to the scheme which was refused by the Council's Planning Committee against the advice of Council Planning Officers;
- [Since the Prior Approval decision], the applicant undertook preparatory work on the commencement of the development while researching the costs involved in the conversion of the building and, in particular, ensuring the quality of the build meets their high expectations while achieving the highest code of sustainable construction and energy efficiency possible. The advice received has now shown that the conversion of the existing building can provide for a good level of construction and finish, but will not necessarily meet the standards they were hoping to achieve. In this respect, the applicants consider that a purpose designed structure will be of a similar cost to the conversion, but will enable far improved sustainable energy levels and higher specification;
- The current application is for the replacement of the structure subject of the prior approval in the same location upon the site. The new dwelling would be a 2 bedroomed bungalow having a gross floor area of 142.6<sup>2</sup>. This proposal will be nominally larger than the approved scheme, with an additional 6m<sup>2</sup> floor area. The existing structure has a relatively low pitch roof, hence the limited eaves height of 3.1m. This revised scheme has reduced the ridge height from the initial height of 6.3m to 4.7m. The external appearance of the replacement building will reflect the existing structure, having a simple profile when viewed from the road, clad in horizontal black weatherboarding with a slate roof;
- In terms of access, the submitted scheme follows the same arrangement as shown upon the approved scheme, although is now provided with a consolidated surface;
- A private amenity area will be available in excess of the approved scheme;
- An electric vehicle charging point will be provided adjacent to the parking spaces;
- Although the proposed dwelling is almost identical in footprint to the approved scheme, it will be nominally greater in height. However, the ridge height of 4.7m will not be unusual for a simple bungalow design while also enabling a contemporary vaulted design to the interior. Having regard to the set back from the road, the impact of this increased height will be limited upon the wider countryside. The external materials will also reflect the character of a rural building. These elements taken together with the commitment to demolish the existing unsightly structure, will make a significant and positive improvement to the appearance of the rural surroundings.
- The proposal will result in a bespoke, custom-built yet modest dwelling rather than a standard housing unit, demonstrating a commitment to provide a unique self-build project as advocated by the government within the NPPF.
- It has been suggested that the existing building is now in such a poor condition that it is unable to be converted. It should be noted that the existing building is identical in its structural condition to that as seen by the authority when the Prior Notification was approved. The building has not deteriorated in any manner whatsoever. The structure is sound and while not weathertight, it is constructed with solid block work walls up to 1m above ground level, with a substantial steel framework and enclosed with steel windows. The roof is similarly sound, although missing a number of steel sheets. However, the building has remained structurally sound for more than 50 years. It is entirely able to be converted into a dwelling. No evidence has been put forward by the Council, including its members to justify the stance taken.
- The existence of the formal prior approval issued in 2021 is a significant 'material consideration' and to which the Council has given very little consideration.
- In the event that this current application is not supported, the extant permission will be developed without any ability for the Council to control the scheme beyond that shown on the submitted drawing.

6.9 The planning statement concludes as follows:

*“It is considered that the proposed application must be judged in the context of the Council’s decision not to oppose the conversion of the existing barn into a self-contained dwelling earlier [in 2021]. The proposed scheme will be directly comparable to the fall-back scheme. It would be constructed to a higher building code, while its location will be no less sustainable than the approved scheme. The weight to be given to this material consideration is substantial. The scheme is therefore considered to be in accordance with the presumption in favour of sustainable development contained within the NPPF”.*

Relevant Site History

6.10 On 22 April 2021, the Council determined that prior approval was not required for the conversion of the existing former livestock building on the site to a single dwelling as the development was considered to represent permitted development as defined in Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (21/00460/COUNOT refers). The drawings submitted for that conversion proposal showed a single storey two bedroomed dwelling with a stated footprint (existing) of 136sqm clad in black weatherboarding and slate and having various window and door openings with bi-folding doors to the south aspect. The Prior Approval scheme has not been implemented to date (required to be completed by 21 April 2024).

6.11 Planning permission was subsequently refused by the Council’s Planning Committee on 5 September 2022 contrary to officer recommendation under ref: 22/01052/FUL for the proposed demolition of the former livestock building and its replacement with a two bedroomed bungalow in lieu of the Prior Approval scheme. The executive summary to the committee report for that application stated as follows in recommending officer approval for that subsequently submitted scheme:

*“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 settlement development boundary, and is recommended for approval. The proposed dwelling is not considered to be so materially different in regard to siting, height, footprint to the development approved under prior approval 21/00460/COUNOT. In the absence of any material harm resulting from the development in regard to its individual appearance, its impact on the wider streetscene, its impact on the character of the rural landscape and its impact on neighbours in regard to amenity and the parking provision, the application is recommend for approval”.*

6.12 However, following a Members site visit for the application and due consideration of the matters as set out in the officer report, Members of the Planning Committee resolved to overturn the officer approval recommendation and to refuse planning permission for the application proposal on the following grounds which form the two cited reasons for refusal for that application, and as set out below:

Refusal Reason 1:

*“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 any defined settlement boundary in the 2013-2033 Local Plan. The proposed development would therefore extend beyond the area planned to provide growth.*

*In view of the housing land supply position, the Council does not need to look beyond identified settlements to meet its housing requirement. The proposal therefore gives rise to harm through failing to comply with a statutory plan-led approach to the location of future housing. In view of this, the proposal's conflict with policy gives rise to a significant degree of harm. The spatial strategy of Policy SP3 and place shaping principles of Policy SP7 reflect the National Planning Policy Framework (2021) sustainable development objectives and the proposal's conflict with both is given full weight. The principle of development is therefore not acceptable in this location.*

*The availability of a building subject to an approved Prior Approval for Class Q is acknowledged and given weight, but given the poor condition of the building since the approval, is no longer considered to be a possibility of compliance with the General Permitted Development Order and not given such weight as to set aside the development plan”.*

#### Refusal Reason 2:

*“Policy PPL 3 - The RURAL LANDSCAPE provides that the Council will protect the rural landscape and refuse planning permission for any proposed development which would cause overriding harm to its character or appearance. Further protection of landscape and good design requirements are required by Policy SPL 3.*

*The proposal fails to demonstrate that the development and associated layout to allow access and drive can be achieved without harm to trees considered to be either within the site or closely associated. The exact location of trees (identified through site visit and photos) and their associated root systems are not clear on plans to enable judgement of likely harm and the application fails to give protection of landscape asset due consideration. Furthermore, by reason of increased height, and size, the proposed development would have a detrimental visual impact on the rural landscape in this location. The material consideration of the prior approval Class Q on site is a material consideration, but the impact and harm of the proposed development is considered to be in excess of the prior approved development by reason of its design. On this basis, the proposal is considered contrary to Policies PPL3 and SPL3 as well as NPPF Section 12 Achieving well-designed places”.*

#### Specific Material Considerations (the ‘fallback’ position):

- 6.13 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. Material considerations are matters or issues which may be relevant to the decision. Principles of Case Law held through the Courts hold significant weight as a material consideration.

#### *The Fallback position*

- 6.14 In this particular regard and in relation to the current planning application, the Mansell v Tonbridge and Malling Borough Council [2017] judgement requires the Council to consider the ‘fallback position’, i.e. what development alternatives a local planning authority is bound to consider relevant where it is for the decision-maker to make a comparison between the development already approved (in this case the extant 2021 prior approval determination made under 21/00460/COUNOT forming the notion of Class Q providing a lawful fall-back position) versus the development proposed under current re-submission application 22/01937/FUL) whereby this judgement 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 In paragraph 22 of the *Mansell v Tonbridge and Malling Borough Council* judgement, it is stated that “*It was not a precondition to the council's consideration of the fallback option that the interested party had made an application indicating an intention to take advantage of Class Q. There was no requirement that there be a formulated proposal to that effect.*” In direct comparison to the application under consideration, there is a formulated Class Q application.
- 6.16 The relevant legal principles relating to the fall-back position and how to interpret the weight attributed to such a 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."*
- 6.17 The lawful ability to carry out the conversion of the existing livestock building exists through the prior approval of application 21/00460/COUNOT (22nd April 2021) whereby that prior approval still remains extant (3 year time limit for completion). However, a detailed inspection of the existing livestock building in April 2023 in consideration of the planning merits of the current planning application has shown that the southern half section of the metal framed former piggery building has collapsed to the ground in concertina fashion leaving just the northern half of the building with partial profiled-sheet roof standing, whereby this surviving section is currently being stabilised by guy ropes secured to the ground. A surviving 0.8m high blockwork wall to the outside perimeter of the building unaffected by this partial collapse runs along the western flank of the remaining structure, although no other meaningful elements of the perimeter blockwork were seen to be surviving upon the site visit.
- 6.18 It is understood that both prefabricated sections of the building were still existing when planning application 22/01052/FUL for the proposed demolition of this former livestock building and its replacement with a two bedroomed bungalow in lieu of previous Prior Approval notification 21/00460/COUNOT for the conversion of the building to a dwelling was submitted to the Council for determination. However, it is understood that the southern section of the A frame building subsequently blew down in a storm in December 2022 following the determination of that application.
- 6.19 Giving the prevailing position at the site, it is your Officers' view that any works to restore the building back to its former structural state to that as considered by the Council for the 2021 Prior Approval notification would now constitute a substantial rebuild rather than a conversion by reason of fact and degree whereby it is contended that any possibility of the collapsed section being lifted back into place would be at considerable expense to the applicant even if this were a practical proposition. Moreover, there is no indication that there is a likelihood or real prospect of such a possibility occurring based on the present facts.
- 6.20 As such, it is your Officer's considered view that a lawful ability to undertake the extant Prior Approval conversion scheme under 21/00460/COUNOT is highly unlikely and the weight that can be attributed to this element is much further reduced. The proposal is therefore considered to fail the first element of the legal fall-back position test as cited above whereby the further deteriorated condition of the building as seen on site for the current resubmission application is such that the possibility of compliance with the General Permitted Development Order (as also already previously cited for refusal reason No.1 for refused planning application 22/1052/FUL) is highly unlikely also. For

this reason, the proposal is also considered to fail the second element of the legal fallback position.

#### Principle of Development

- 6.21 Policy SP3, Section 1 of the Tendring District Local Plan 2013-2033 and Beyond sets out the spatial strategy for North Essex and directs growth towards existing settlements, whilst Policy SP7 sets out place shaping principles. The application site lies outside of the defined Settlement Development Boundary of Great Holland as shown on the inset maps within the adopted Local Plan. The proposed development would therefore extend outside the area planned to provide future housing growth for this settlement and the proposal would conflict with these spatial strategy policies.
- 6.22 Policy SPL2, Section 2 of the 2013-2033 Local Plan supports new development within defined Settlement Development Boundary's (SDB's) 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 (there is currently no Neighbourhood Plan made for Great Holland). The proposed development would similarly result in policy conflict with this detailed growth policy for Tendring District.
- 6.23 The Council currently has a healthy five year housing land supply and a good housing delivery rate, whilst its housing planning policies are up to date within a new Local Plan. Accordingly, the Council does not need to look beyond identified settlements to meet its housing requirement. As such, the 'tilted' balance does not apply and there is not therefore a presumption in favour of sustainable development for the purposes of paragraph 11 of the NPPF.
- 6.24 Accordingly, the proposal gives rise to harm through failing to comply with a statutory plan-led approach to the location of future housing. In view of this, the proposal's conflict with policy gives rise to a significant degree of harm whereby the spatial strategy of Policy SP3 reflects the sustainable development objectives of the National Planning Policy Framework (2021). As such, the proposal's conflict with this policy is thus given full weight and the principle of development is therefore not acceptable in this location.
- 6.25 It is noted in the submitted planning supporting statement that the proposal would be a self-build scheme. Policy LP7 of the adopted Local Plan makes provision for small self-build / custom build housing schemes, including individual dwellings, on land outside of, but within a reasonable proximity to Settlement Development Boundaries (SDB's) as part of the mix of housing choice within Tendring District. However, the acceptance of such housing outside the SDB's is subject to distance criteria and whether the nearest settlement is either a 'strategic urban settlement', a 'smaller urban settlement', a 'rural service centre' or involving the redevelopment of vacant or previously developed land (PDL) whereby the latter can be shown, with evidence, to be unviable for employment use. Great Holland is classified for the purposes of Policy SPL1 as a 'Smaller Rural Settlement' and therefore does not qualify under this Settlement Hierarchy criteria, whilst agricultural land is not defined as PDL. Minimal weight can therefore be afforded to this policy for the submitted proposal.
- 6.26 As identified in refusal reason 1 for refused application 22/01052/FUL, the availability of a building subject to Prior Approval for Class Q is acknowledged and given due weight. However, the already poor condition of the livestock building as seen on site by Members of the Planning Committee in consideration of the planning merits of that application and subsequently and more recently as seen by the planning officer for the current re-submission application (22/01937/FUL) in its further deteriorated state is such



that the weight that can be attributed to the fall-back position is even further reduced and not sufficient to set aside the Development Plan. The proposal is therefore not acceptable in principle.

#### Scale, Layout and Appearance

- 6.27 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. Paragraph 130 of the NPPF requires that developments are visually attractive as a result of good architecture, are sympathetic to local character, and establish or maintain a strong sense of place.
- 6.28 Policy SP7, Section 1 of the 2013-33 Local Plan seeks high standards of urban and architectural design which responds positively to local character and context. Policy SPL3, Section 2 of the 2013-33 Local Plan also requires, amongst other things, that the development respects or enhances local landscape character, views, skylines, landmarks, existing street patterns, open spaces and other locally important features. Policy LP4, Section 2 requires that the design and layout of new residential and mixed-use developments in the Tendring District will be expected to deliver new dwellings that are designed to high standards of architecture, which respect local character and which together with a well-considered site layout, create a unique sense of place.
- 6.29 The proposed dwelling would be of simple rectangular form with a semi-rustic external appearance. The external appearance of the dwelling would have a simple building profile clad in horizontal weatherboarding and would have a slate roof. The walls would reflect the same material as proposed through the prior approval scheme under 21/00460/COUNOT whereby the only change to external materials would be the roof having slate tiles rather than profile sheeting which represents a visual enhancement and would be the same external specification as that shown for refused planning application 22/01052/FUL.
- 6.30 Slight design modifications, however, have been made to the proposed dwelling for the current re-submission scheme to that shown for refused application 22/01052/FUL in an attempt to overcome refusal reason no.2 for application 22/01052/FUL whereby the ridge height of the dwelling has now been lowered by 1.6m from 6.3m to 4.7m resulting in less glazing into the north flank gable end elevation of the dwelling. The footprint of the proposed dwelling would remain the same as application 22/01052/FUL. The external appearance of the dwelling would remain the same apart from the aforementioned gable end glazing change as would the internal layout and the indicated rear garden amenity space/sitting out area.
- 6.31 The proposed dwelling would have height parameters which would closely match those of Holly Tree Cottage situated approximately 63m to the south and The Willows situated approximately 80m to the west whereby both of these dwellings have greater footprints. The dwelling would, however, have a greater footprint than the semi-detached properties at Nos.1-6 Little Clacton Road but a lower ridge height. As such, the new dwelling would be consistent in scale with the broad range of scale of built form found in the immediate locality.
- 6.32 There is no locally-established palette of materials for dwellings and buildings found in the immediate locality whereby these are constructed in a range of finishes, which include self-coloured render and render/brick combinations.

- 6.33 The proposed dwelling would considerably exceed the minimum nationally described space internal space standards for a two bedroom, four person single storey occupancy having a floorspace of 143sqm compared to the minimum national standard of 70sqm. It is noted that whilst the indicated residential amenity space for the dwelling is smaller than those typical of properties found in the immediate locality at around 132sqm, it is nonetheless comparable with the five dwellings to the south-east at under 200sqm within a 200 linear metre distance. Further, the proposed dwelling is likely to benefit from uninterrupted views across farmland to the north as an additional private amenity. Overall, therefore, the proposal is considered to secure a good standard of amenity for future occupants of the proposed dwelling.
- 6.34 Accordingly, no design objections are raised to the submitted scheme in terms of Scale, Layout and Appearance under Policies SP7, SPL3 and LP4 of the adopted Local Plan and under Paragraph 130 of the Framework.

#### Impact on rural amenity

- 6.35 Policy PPL3, Section 2 of the adopted Local Plan states that the Council will protect the rural landscape and refuse planning permission for any proposed development which would cause overriding harm to its character or appearance. Further protection of the landscape is afforded by Policy SPL3, Section 2 of the Local Plan which states that all new development should make a positive contribution to the quality of the local environment and protect or enhance local character and relates well to the site and its surroundings.
- 6.36 In refusing previous application 22/1052/FUL, Members resolved that the dwelling proposal shown would by reason of its increased height and size with an indicated ridge height of 6.3m compared to the livestock structure it would replace have a detrimental visual impact on the rural landscape at this field location. Refusal reason no.2 for application 22/1052/FUL reflecting Members' concerns in this regard stated that the material consideration of the Prior Approval Class Q proposal on the site was a material consideration, but that the impact and harm of the proposed development was considered to be in excess of the Prior Approval development by reason of its design.
- 6.37 The current resubmission proposal in recognition of this reason for refusal has reduced the ridge height of the proposed dwelling from 6.3m to 4.7m with the effect of making the dwelling appear more subdued in the local landscape and comparable in size to the livestock building it would replace. It is considered from the changes made to the design of the dwelling in this respect that the proposed dwelling in its revised form would have a neutral impact on the character of the landscape at this location which, according to The 2001 Landscape Character Assessment carried out for Tendring District, is considered to have a weak landscape character overall and could even be considered to be poor in some urban fringe locations, particularly compared to the unsightly and dilapidated building it would replace. It is therefore considered that no rural amenity objections can be reasonably sustained under Policies PPL3 and SPL3 taking these factors into account

#### Highway Safety, Access and Parking

- 6.38 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.

- 6.39 Policy SPL3 (Part B), Section 2 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, Section 2 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 echoing the NPPF.
- 6.40 The proposed dwelling scheme as resubmitted for the current application follows the same proposed access arrangement as shown for refused application 22/1052/FUL and the Prior Approval scheme, namely that vehicular access would be taken from the existing entrance into The Willows situated adjacent to the site from Little Clacton Road. The only change to the indicated parking arrangements is that the 2 no. proposed parallel parking spaces shown for the new dwelling for the current re-submission application are now shown along the existing vehicular access into The Willows itself rather than being positioned at the rear end of the access to avoid the parking spaces possibly compromising the root systems of two mature trees, including a Willow, whereby Members had expressed concerns about their previously indicated rear siting for application 22/1052/FUL and as the exact location of the trees relative to the spaces had not been indicated on the submitted plans as reflected in refusal reason no.2 for application 22/1052/FUL with a linking footpath now extending to the new dwelling from this revised parking position.
- 6.41 Essex Highways Authority have been re-consulted for this resubmission application advising once again that they raise no highway objections to the proposal as the new dwelling would share the established vehicular access with the host dwelling (The Willows) and, when compared with the former agricultural use, the level of vehicular activity associated with the residential use would be on a par or possibly reduced, subject to conditions relating to visibility splays, 6 metres being retained 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.
- 6.42 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 and that 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 relative to the size of the dwelling. No policy objections are therefore raise under Policies SPL3 and CP2 relating to highway safety and parking.

#### Impact on neighbouring amenity

- 6.43 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, Section 1 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. Policy SPL3, Section 2 has a similar requirement.
- 6.44 The site and proposed dwelling is sited a sufficient distance from the nearest neighbouring properties to the south (Holly Tree Cottage) and west (The Willows) so as not to result in any tangible loss of residential amenity to these nearby properties, particularly given the single storey nature of the proposed dwelling. As such, the proposed development would not result in any material harm to the living conditions of the occupants of these neighbouring dwellings. No objections are therefore raised under Policies SP7 and SPL3.

### Water Conservation, Drainage and Sewerage

- 6.45 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.
- 6.46 Paragraph: 020 of the National Planning Policy Guidance states that where a connection to a public sewage treatment plant is not feasible a package sewage treatment plant can be considered. The package sewage treatment plant must comply with the Small sewage discharges in England: general binding rules 2015 (GBR), or a permit will be required. Package sewage treatment plants may only be considered if it can be clearly demonstrated by the applicant that discharging into a public sewer is not feasible (taking into account cost and/or practicability and whether the package treatment plant poses a risk to a designated site) in accordance with Approved Document H of the Building Regulations 2010. A completed Foul Drainage Assessment Form 1 (FDA1) form, or equivalent information, should accompany all planning applications where use of a non-mains system is proposed for foul drainage. The operation of small sewerage discharges, such as those from septic tanks or package treatment plants, is regulated under the Environmental Permitting Regulations 2016 (EPR).
- 6.47 Policy PPL5, 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.
- 6.48 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.
- 6.49 Question 11 of the application form states that it is not intended to connect to a mains sewer. Instead, it is stated that foul sewage will be disposed of by way of a package treatment plant. Details of the proposed treatment plant have subsequently been received which show that the system to be installed would be a Kingspan Klargest commercial sewage treatment plant.
- 6.50 In considering the acceptability of the proposed non-mains drainage, the site is not located in close proximity to any dwelling and in an area where it is unlikely that mains drainage exists for any of the properties, the site is not close to any designated site of importance to biodiversity, is not located within a Drinking Water Safeguard Zone or a Source Protection Zone, and the site is sufficiently large enough to accommodate a soakaway. Furthermore, there is no evidence ground conditions would preclude such a solution. Access for maintenance would be achievable from the existing access. Taking all these factors into account, the use of the package treatment plant is considered to be the only feasible option available.

### Renewable and Energy Conservation Measures

- 6.51 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.
- 6.52 Policies PPL10 and SPL3, Section 2 of the adopted Local Plan 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.
- 6.53 The proposal would include provision for an electric charging point for an electric car which would be provided to an external wall. However, whilst this energy efficiency measure is welcomed, this measure 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.

### Financial Contributions - Recreational Disturbance Avoidance and Mitigation Strategy (RAMS)

- 6.54 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. Policy SP2, Section 1 of the adopted Local Plan states that financial contributions will be secured from development towards mitigation measures in accordance with the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy 2018-20238 (RAMS), whilst Policy PPL4, Section 2 has a similar contributions requirement.
- 6.55 The application scheme proposes a new dwelling on a site that lies within the Zone of Influence (Zol) being approximately 4,152 metres from the Hamford Water SAC and Ramsar. However, new housing development within the Zol would be likely to increase the number of recreational visitors to Hamford Water and, in combination with other developments, it is likely that the proposal would have significant effects on the designated site. Mitigation measures must therefore be secured prior to occupation.
- 6.56 The RAMS contribution is to be secured by way of unilateral undertaking to be completed prior to determination of an application and for the contribution to be paid prior to commencement of development ensuring there will be certainty that the development would not adversely affect the integrity of European Designated Sites in accordance with PPL4, Section 1 of the adopted Local Plan and Regulation 63 of the Conservation of Habitat and Species Regulations 2017. A Unilateral Undertaking has been submitted for the current development proposal. However, the undertaking has yet to be finalised at the time of writing of this report due to an identified Title dispute. Hence, as it stands, a RAMS policy objection is triggered whereby compliance with the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy and Policies SP2 and PPL4 has yet to be achieved.

### Financial Contributions – Open Space and Play Space

- 6.57 Paragraph 55 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.
- 6.58 Policy DI1, Section of the adopted Local Plan states that all new development should be supported by, and have good access to, all necessary infrastructure. Permission will only be granted if it can be demonstrated that there is sufficient appropriate infrastructure capacity to support the development or that such capacity will be delivered by the proposal. It must further be demonstrated that such capacity, as is required, will prove sustainable over time both in physical and financial terms. Where a development proposal requires additional infrastructure capacity to be deemed acceptable, mitigation measures must be agreed with the Local Planning Authority and the appropriate infrastructure provider. Such measures may include financial contributions towards Open Space.
- 6.59 In line with the requirements of Policy HP5, Section 2, the Council's Open Space Team have been consulted on the application to determine if the proposal would generate the requirement for a financial contribution toward public open or play space. The outcome of the consultation is that there is currently a deficit of 14.12 hectares of equipped play in Frinton, Walton & Kirby and Great Holland, but that no financial contribution is requested on this occasion.

## **7.0 Conclusion and Planning Balance**

- 7.1 It is considered that the likelihood to undertake the extant prior approval conversion scheme determined under 21/00460/COUNOT for the conversion of the existing livestock building at this former piggery site is further reduced due to the poor condition of the building as noted for refused application 22/1052/FUL and as subsequently noted for the current re-submission application whereby the building has deteriorated further resulting in its partial collapse as such that it is considered highly unlikely that compliance with the General Permitted Development Order can now be achieved by reason of fact and degree under the 'fall-back' position.
- 7.2 The proposal gives rise to harm through failing to comply with a statutory plan-led approach to the location of future housing by being located outside the Settlement Development Boundary (SDB) for Great Holland whereby the spatial strategy of Policy SP3 and detailed Policy SPL2 reflects the sustainable development objectives of the National Planning Policy Framework (2021) by directing new housing growth to the settlements. As such, the proposal's conflict with Policies SP3 and SPL2 is given full weight and the principle of development is therefore not acceptable in this location. The stated intention of the new dwelling being a self-build dwelling for the applicant is noted. However, the proposal fails the eligibility criteria of Policy LP7 relating to self-build / custom build schemes for sites located outside SDB's and this matter is therefore given only limited weight in the planning balance.
- 7.3 It is considered by the changes made to the design of the dwelling to reduce its roof height to overcome refusal reason no.2 of refused application 22/01052/FUL that the proposed dwelling in its indicated revised form would have a neutral impact on the character of the landscape at this rural location in the planning balance.

7.4 The submitted Unilateral Undertaking to offset recreational disturbance (RAMS) has yet to be finalised at the writing of this report due to an identified Title dispute. Hence, as it stands, a RAMS policy objection is triggered whereby compliance with the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy SPD and Policies SP2 and PPL4 has yet to be achieved.

7.5 The application is therefore recommended for refusal.

## **8. Recommendation**

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

- 1 Policy SP3, Section 1 of the Tendring District Local Plan 2013-2033 and Beyond sets out the spatial strategy for North Essex and directs growth towards existing settlements, whilst Policy SPL2, Section 2 of the Local Plan has similar aims and objectives specifically to Tendring District. The application site lies outside of any defined Settlement Development Boundary in the 2013-2033 Local Plan. The proposed development would therefore extend beyond the area planned to provide growth.

In view of its favourable housing land supply position, the Council does not need to look beyond identified settlements to meet its housing requirement. The proposal therefore gives rise to harm through failing to comply with a statutory plan-led approach to the location of future housing. In view of this, the proposal's conflict with local plan policy gives rise to a significant degree of harm. The spatial strategy of Policy SP3, Section 1 also reflects the National Planning Policy Framework (2021) sustainable development objectives and the proposal's policy conflict with this policy in this context is given full weight. The principle of development is therefore not acceptable in this location. Consideration has been given to the proposed scheme as a self-build proposal, although limited weight is afforded to this possibility due to the scheme being contrary to the self-build eligibility criteria of Policy LP7 of the Tendring District Local Plan 2013-2033 and Beyond relating to self-build schemes proposed beyond the Settlement Development Boundaries.

The availability of a building subject to an approved Prior Approval for Class Q is acknowledged and given weight (21/00460/COUNOT), but given the poor condition of the building and its subsequently further deteriorated state since the determination of planning application 22/01052/FUL resulting in its partial collapse, it is the Council's assertion that the lawful ability to undertake the extant Prior Approval conversion scheme under 21/00460/COUNOT is now highly unlikely and that the weight that can be attributed to the so called 'fall-back position' (R v Secretary of State for the Environment and Havering BC (1998) EnvLR189) is much further reduced as such that the possibility of compliance with the General Permitted Development Order (as also already previously cited for refusal reason No.1 for refused planning application 22/1052/FUL) is highly unlikely also. For this reason, the proposal is considered to fail the second element of the legal fallback test where it is considered that there is no likelihood or real prospect of such a lawful event from occurring.

- 2 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. Policy SP2, Section 1 of the Tendring District Local Plan 2013-2033 and Beyond states that financial contributions will be secured from development towards mitigation measures in accordance with the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy 2018-20238 (RAMS), whilst Policy PPL4, Section 2 of the Tendring District Local Plan 2013-2033 and Beyond has a similar contributions requirement.

The application scheme proposes a new dwelling on a site that lies within the Zone of Influence (Zol) being approximately 4,152 metres from the Hamford Water SAC and Ramsar. However, new housing development within the Zol would be likely to increase the number of recreational visitors to Hamford Water and, in combination with other developments, it is likely that the proposal would have significant effects on this designated site. Mitigation measures must therefore be secured prior to occupation.

The RAMS contribution is to be secured by way of Unilateral Undertaking to be completed prior to determination of an application and for the contribution to be paid prior to commencement of development ensuring there will be certainty that the development would not adversely affect the integrity of European Designated Sites in accordance with Policies SP2 a PPL4 and Regulation 63 of the Conservation of Habitat and Species Regulations 2017. A Unilateral Undertaking has been submitted for the application proposal. However, this has yet to be finalised at the issue date of this decision notice and as such the proposal fails to comply with the aforementioned policy requirements of Policy SP2, Section 1 and PPL4, Section 2 of the Tendring District Local Plan 2013-2033 and Beyond.

## 8.2 Informatives

The Local Planning Authority considers that the identified issues raised are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and, due to the harm which has been clearly identified within the cited reason(s) for refusal, that approval of the application has not been possible.

## 9. Additional Considerations

### Public Sector Equality Duty (PSED)

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

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



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

### Human Rights

- 9.5 In making your decision, you should be aware of and take into account any implications that may arise from the Human Rights Act 1998 (as amended). Under the Act, it is unlawful for a public authority such as the Tendring District Council to act in a manner that is incompatible with the European Convention on Human Rights.
- 9.6 You are referred specifically to Article 8 (right to respect for private and family life), Article 1 of the First Protocol (protection of property) and Article 14 (right to freedom from discrimination).
- 9.7 It is not considered that the recommendation to refuse 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 refuse to grant permission is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

### **10. Finance Implications**

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

### **11. Background Papers**

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

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## PLANNING COMMITTEE

4<sup>th</sup> JULY 2023

### REPORT OF THE DIRECTOR OF PLANNING

#### **A.5 PLANNING ENFORCEMENT REPORT**

No information in this report is considered to be confidential, but personal and site information that may allow identification of the site and/or persons is not provided given the confidential nature of enforcement activities and consideration of data protection requirements.

Live Information was taken on **14<sup>th</sup> June 2023**.

The enforcement policy seeks to report the following areas.

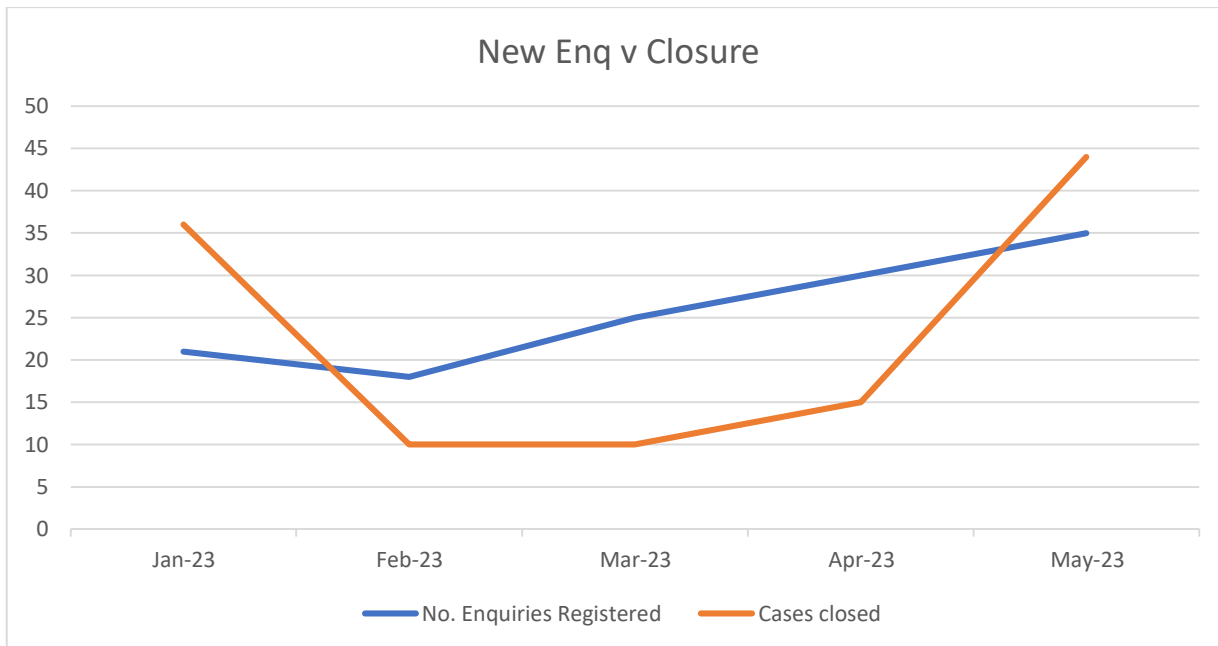
- number of complaints received/registered in the quarter;
- number of cases closed in the quarter;
- number of acknowledgements within 3 working days
- number of harm assessment completions within 20 days of complaint receipt.
- number of site visits within the 20 day complaint receipt period.
- number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

Please note that some areas are not complete given the recent and phased adoption of the policy, revisions and need to adopt new procedures to enable measurement of the areas required. Changes to current systems are being implemented to enable full reporting for future quarters, but this report is evolving. This report refers to 1<sup>st</sup> January 2023 to 14<sup>th</sup> June 2023 to provide ongoing context to the current position.

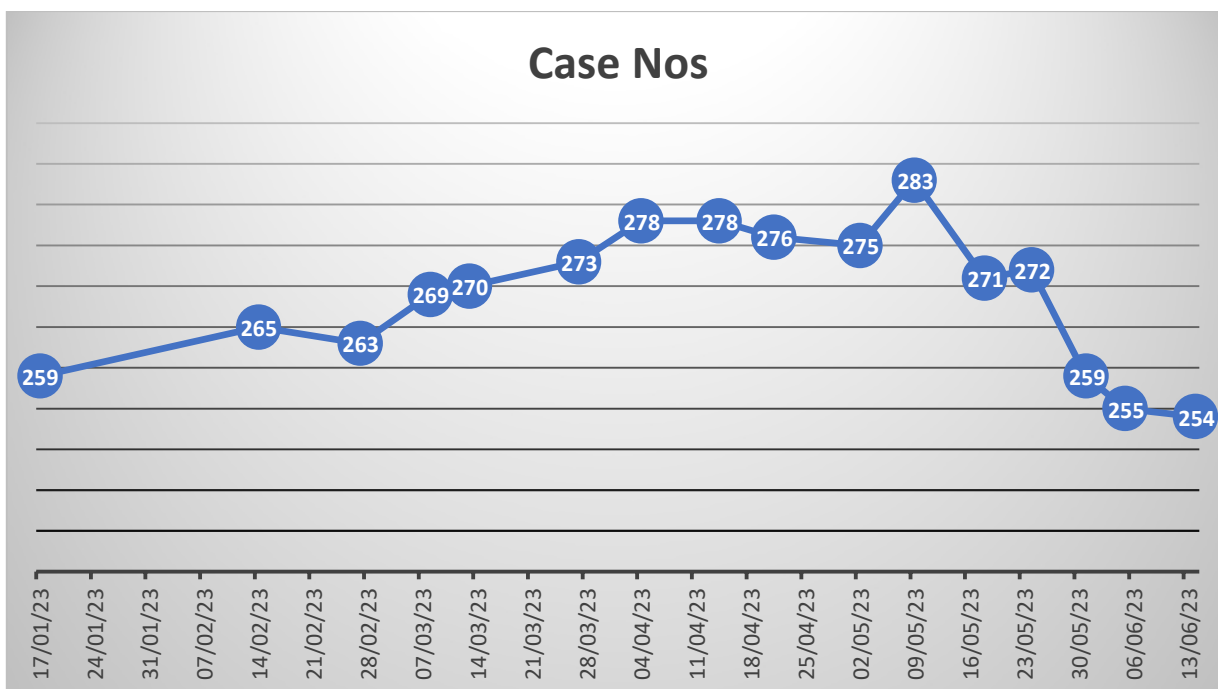
**Number of enforcement complaints received/registered in the quarter +, number of cases closed in the quarter + and number of acknowledgements within 3 working days.**

Month	Year	No. Enquiries Registered	No. Enquiries Registered in 3 Working Days	Cases closed
Jan-23	2023	21	21	36
Feb-23	2023	18	18	10
Mar-23	2023	25	25	10
Apr-23	2023	30	30	15
May-23	2023	35	35	44

New Enquiries and Cases Closed.



In conclusion, all enquiries were acknowledged in 3 days for the above period resulting in 100% success. It is noted that despite record closures we also have increases in new alleged enforcement enquiries. However, with officers closing more than are being opened the net result is a fall in current cases as shown by the sampling of case numbers taken over time below.



While this drop is supported, an expected base line level of enforcement cases is not set as a goal or policy requirement. For any authority, a baseline would be subject to many variables such as the degree of complication of the individual case, population levels, monitoring resource, levels of development, social trust and public interest.

Mostly these factors are not in the direct control of the District itself, and any target baseline for the number of open cases we should expect for Tendring is difficult to set.

Maintaining a level of 180 to 220 enquires/notices based on historic understanding and comparison to other districts may be a reasonable goal. However, there is a careful balance to strike between efficient and appropriate closure to allow officers to move to the next enforcement matter as soon as they can alongside the need for efficient and quality investigation to ensure harm is resolved and/or reduced.

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

At this time harm assessments are used for new cases and all are understood to be within 20 days (129 to date). Harm assessments are stored in Idox and need to be manually counted, but we are looking to automate this to provide up to date information per month.

It is further noted that the Enforcement Policy sought a traffic light and priority system and this has been implemented for new cases.

Priority 1 (P1) This category includes development which could cause irreversible or serious harm if the Council does not act immediately.

Priority 2 (P2) This category includes likely significant public concern or where there is significant immediate harm to the amenity of the area.

Priority 3 (P3) Minor breaches which do not result in significant immediate or irreversible harm or public concern.

There is a Priority 4, but these are non breaches of planning and so are closed straightaway.

Overlaying the priorities is the Red, Amber and Green traffic lights and together this results in the following table. For example P2AMD is Priority 2 and Amber.

<b>P2AMB</b>	<b>6</b>
<b>P2RED</b>	<b>1</b>
<b>P3AMB</b>	<b>25</b>
<b>P3GRE</b>	<b>12</b>
<b>(blank)</b>	<b>207</b>
<b>P2GRE</b>	<b>2</b>
<b>P1GRE</b>	<b>1</b>

There are 207 blanks. These are older cases or before the implementation of the traffic light scheme and priority system that continue to be live matters. They will be adjusted as they are updated and their investigations continue.

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

While site visits are recorded, there is not yet a report designed to pull out this information and would require a manual count. There is limited skilled technical officers available to design this report at this time.

**Number of update letters provided on/by day 21**

It remains the case that there is also no report designed to pull this information from the system at this time and this needs expert help to create from the Uniform system in place.

We have instead developed a way to track all future update dates for all Enforcement Cases to ensure updates to complainants are not missed.

This has enabled us to understand the resource need of this task. The average number of update letters/emails required given a 21 day cycle is 105 update letters/emails per week (and never less than a hundred). This significant requirement is not considered likely to be met as a target as it currently applies to all cases. Instead officers are prioritising the active cases for updates only.

Updates may include:

- Writing to say no update is available.
- Writing to provide an update on the stage of investigation and may vary in level of detail
- Writing to close/conclude the investigation and explaining why.

It is realised that should Enforcement Team seek to meet the entire requirement of the policy that over a hundred updates a week need to be issued.

As case numbers drop this will be more manageable as the update demand will also fall, but further consideration of processes, resource and possible automation will be needed to fulfil the policy requirement in full.

For example, if it is an update is only to say “no update is available”, this may perhaps be able to be issued as a standard letter by our support team instead of the officer.

This matter will be explored further and reported back to Members.

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

There are 254 Live Cases at the time of writing this report (14<sup>th</sup> June).

Time Period since receipt.

Age	No of Cases
Year 1	73
Year 2	69
Year 3	21
Year 4	5
Year 5	4
Year 6	4
Year 7	49
Year 8	4
Year 9	1
Year 10	1
Year 11	2
Year 12	20
Year 13	1

Category

Type	No of Current Enforcement Cases
------	---------------------------------

Breach of Planning Consent	79
Change of use of Land	12
Failure to build in accordance with Approved Plans	1
Other types of Breaches	149
Unauthorised Advert	1
Unauthorised Building Works	11
Work to TPO Tree	1

Above is the current standard category list used for many years. It has been intended to altered this in future reports to provide a more informative account of enforcement matters and also include a necessary data cleanse of this information. This revision has not yet taken place. However, the following categories are now agreed to be used as replacements and we have instructed an officer to relabelling all current cases. This may take a few weeks to complete as a task.

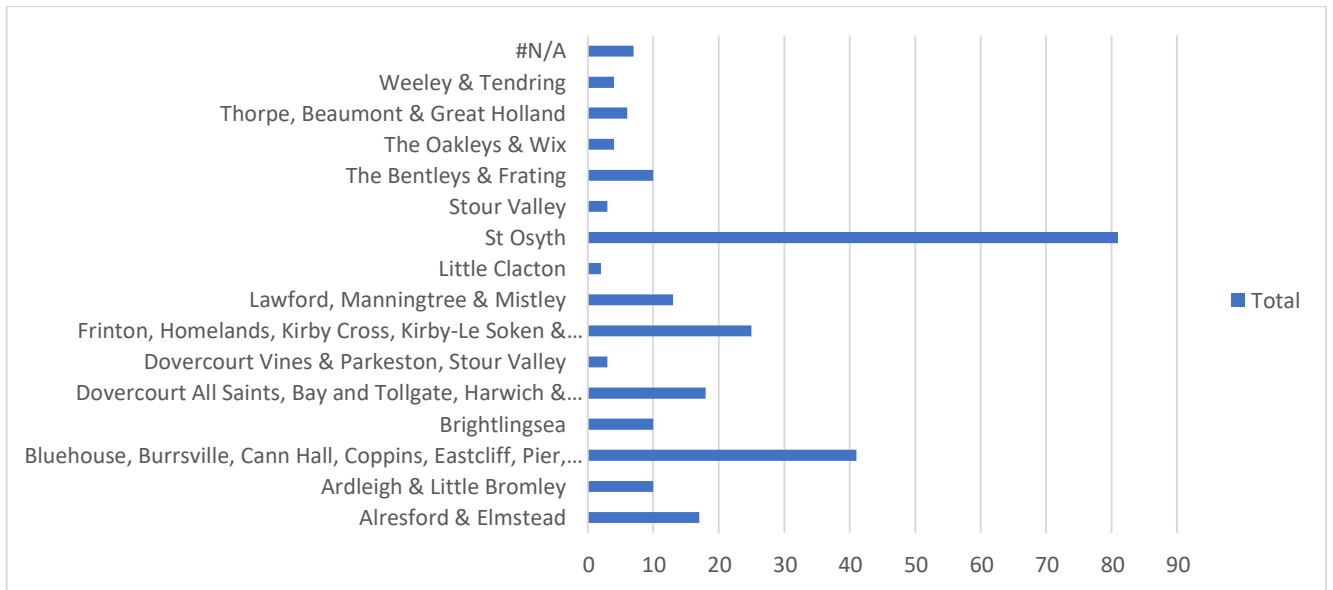
Alleged Breach of 106 Agreement  
 Alleged Breach of Article 4  
 Alleged Change of use of Land  
 Alleged Breach of Condition/s  
 Alleged Breach of Occupancy Condition  
 Alleged Unauthorised Advertisement  
 Alleged Unauthorised Building Works  
 Alleged Unauthorised Engineering Works  
 Alleged Works to Listed Building  
 Alleged Untidy Site  
 Alleged Repair Notice Required  
 Alleged High Hedge/s  
 Alleged Works to TPO Tree

### Electoral ward

The following is the number of current enforcement cases divided by Ward. This is translated into a graph further down.

<b>WARD</b>	<b>Number of Enforcement Cases</b>
Alresford & Elmstead	17
Ardleigh & Little Bromley	10
Bluehouse, Burrsville, Cann Hall, Coppins, Eastcliff, Pier, St Batholomews, St James, St Johns, St Pauls, West Clacton & Jaywick Sands	41
Brightlingsea	10
Dovercourt All Saints, Bay and Tollgate, Harwich & Kingsway	18
Dovercourt Vines & Parkeston, Stour Valley	3
Frinton, Homelands, Kirby Cross, Kirby-Le Soken & Hamford, Thorpe, Beaumont & Gt Holland, Walton	25

Lawford, Manningtree & Mistley	13
Little Clacton	2
St Osyth	81
Stour Valley	3
The Bentleys & Frating	10
The Oakleys & Wix	4
Thorpe, Beaumont & Great Holland	6
Weeley & Tendring	4
N/a	7



N/a (Being processed at time of data collection)

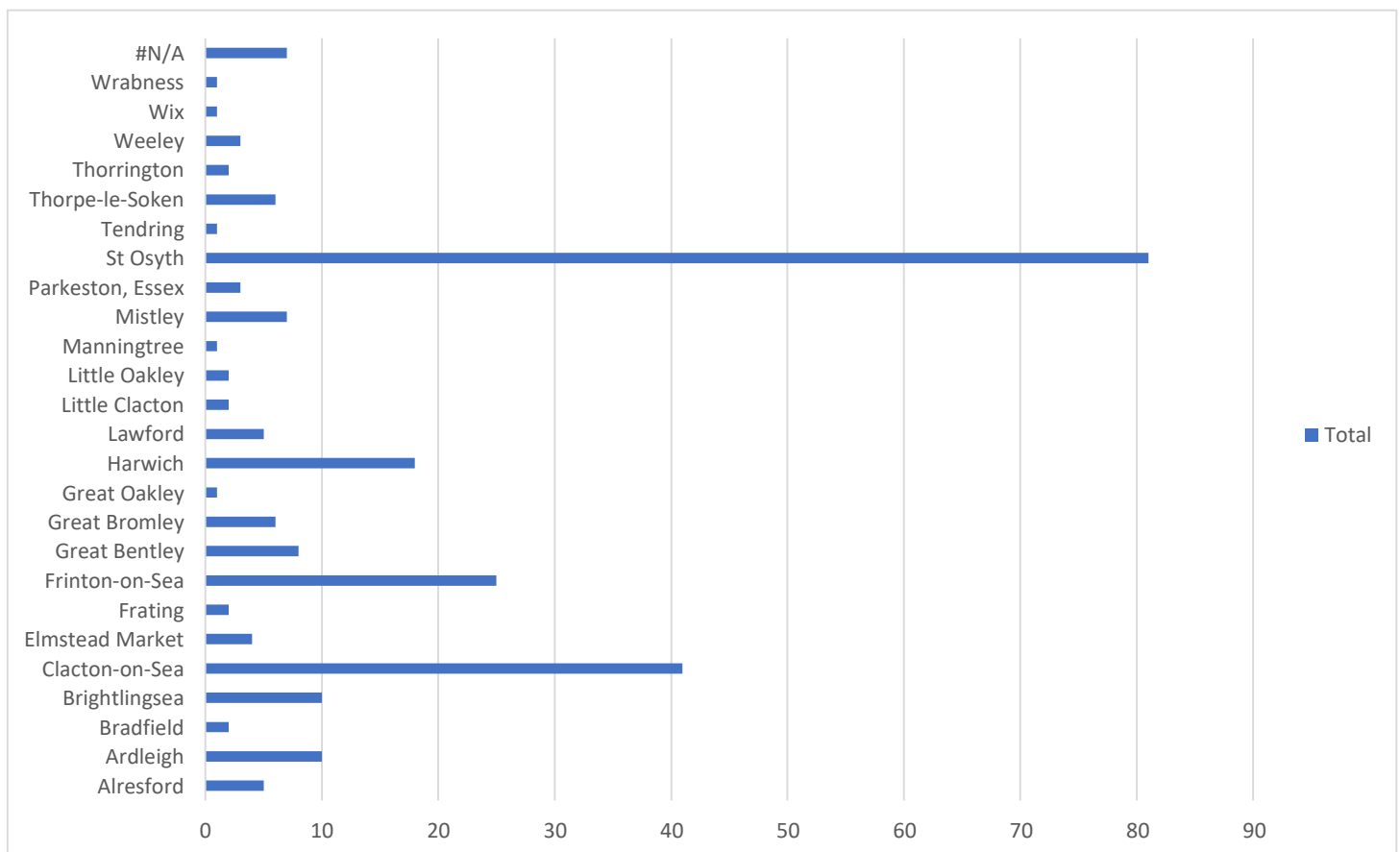
### Parish

The following is the number of enforcement cases divided by Parish with graph below.

Parish	No of Enforcement Cases
Alresford	5
Ardleigh	10
Beaumont-cum-Moze	2
Brightlingsea	10
Clacton-on-Sea	41
Elmstead Market	4
Frating	2
Frinton-on-Sea	25
Great Bentley	8
Great Bromley	6
Great Oakley	1
Harwich	18
Lawford	5
Little Bentley	2
Little Clacton	2
Little Oakley	1



Manningtree	7
Mistley	3
Parkeston, Essex	81
St Osyth	1
Tendring	6
Thorpe-le-Soken	2
Thorrington	3
Weeley	1
Wix	1
Wrabness	7
#N/A	7



### Enforcement-related appeal decisions.

We have 9 live enforcement appeals at the time writing this report

APPEAL REF	ADDRESS	NATURE	APPEAL LODGED
22/00034/ENFORC	Jaywick	Extension on the front and a large extension on the rear of building.	01/08/2022
22/00037/ENFORC	Jaywick	Stationing of Caravan water and sewage connected to caravan illegally. Being used as main residence.	31/08/2022
22/00042/ENFORC	Manningtree	Running a commercial business from residential property.	15/09/2022

22/00043/ENFORC	Ardleigh	Storage/plant construction yard at Goodhall Farm continuing to be used by TG RAM. The owner of the land was required to seek planning permission for this activity, which he failed to do.	15/09/2022
22/00047/ENFORC	Clacton on Sea	The erection of a double garage and associated hardstanding in front of the dwelling house (2 Lancaster Gardens East), fronting a highway in a specially designated area.	03/10/2022
22/00048/ENFORC	St Osyth	Change of use for residential caravans and possible building of new dwelling.	06/10/2022
22/00054/ENFORC	Tesco Express, Manningtree	Installation of an air conditioning unit without planning permission.	18/10/2022
23/00001/ENFORC	Clacton on Sea	Alleged change of use from residential care home (C2) to hostel for asylum seekers (sui generis), also possible building works. (Includes 42-46 Old Road)	13/01/2023
23/00015/ENFORC	Weeley	Unauthorised traveller/gypsy and further operational development	21/03/2023

**RECOMMENDATION – That the Committee notes the contents of this report.**