



PLANNING COMMITTEE

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

MEMBERSHIP:

Councillor Fowler (Chairman)
Councillor White (Vice-Chairman)
Councillor Alexander
Councillor Bray
Councillor Everett

Councillor Harris
Councillor Placey
Councillor Smith
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.

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DATE OF PUBLICATION: Monday, 24 July 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 - 12)

To confirm and sign as a correct record, the minutes of the meeting of the Committee, held on Tuesday, 4 July 2023.

3 Declarations of Interest

Councillors are invited to declare any Disclosable Pecuniary Interests, Other Registerable Interests of Non-Registerable Interests, and the nature of it, in relation to any item on the agenda.

4 Questions on Notice pursuant to Council Procedure Rule 38

Subject to providing two working days' notice, a Member of the Committee may ask the Chairman of the Committee a question on any matter in relation to which the Council has powers or duties which affect the Tendring District **and** which falls within the terms of reference of the Committee.

5 Report of Director (Planning) - A.1 - PLANNING APPLICATION – 22/00953/FUL – LAND AT 55 HARWICH ROAD, LAWFORD, MANNINGTREE, CO11 2LS (Pages 13 - 36)

Proposed erection of two 3-bedroom dwellings (in lieu of Prior Approval for 3 dwellings, subject of application 20/01708/COUNOT).

6 Report of Director (Planning) - A.2 - PLANNING APPLICATION – 21/01718/FUL – LAND REAR OF BLOOMFIELD COTTAGE, GRANGE ROAD, LAWFORD, MANNINGTREE, CO11 2ND (Pages 37 - 56)

Proposed replacement of an agricultural building with a two bed bungalow (in lieu of Prior Approval for 1 No. 2 bed dwelling, subject of application 21/00704/COUNOT).

7 Report of Director (Planning) - A.3 - PLANNING APPLICATION – 22/01333/FUL – LAND WEST OF TURPINS FARM, WALTON ROAD, KIRBY LE SOKEN, CO13 0DA (Pages 57 - 86)

Proposed re-plan of part of site to provide 24 additional smaller units increasing total from 210 approved to 234 (as alternative to part of planning permission 16/00031/OUT and 20/00307/DETAIL).

8 Report of Director (Planning) - A.4 - PLANNING APPLICATION – 17/01229/OUT – LAND ADJACENT AND TO THE REAR OF 755 AND 757 ST JOHNS ROAD, CLACTON-ON-SEA, CO16 8BJ (Pages 87 - 136)

Outline application (all matters reserved except means of access) for the redevelopment (including demolition) of the site for up to 950 residential units (including affordable housing) with a new Neighbourhood Centre comprising a local healthcare facility of up to 1500sqm NIA and up to 700sqm GFA for use classes E(a) (shops), E(b) (food and drink) and/or a Class F.2 community centre; a 2.1ha site for a new primary school; and associated roads, open space, drainage, landscaping and other associated infrastructure.

9 **Report of Director (Planning) - A.5 - PLANNING APPLICATION – 23/00649/FUL – BRIGHTLINGSEA LIDO - SWIMMING POOL, PROMENADE WAY, BRIGHTLINGSEA, CO7 0HH (Pages 137 - 144)**

Construction of canopy over paddling pool.

Date of the Next Scheduled Meeting

The next scheduled meeting of the Planning Committee is to be held in the Committee Room - Town Hall, Station Road, Clacton-on-Sea, CO15 1SE at 6.00 pm on Thursday, 31 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

OR

On the day of the Planning Committee meeting, you can arrive in the Committee Room in the Town Hall at least 15 minutes before the beginning of the meeting (meetings normally begin at 6.00pm) and speak to the CSO.

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

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

WHAT WILL HAPPEN WHEN THE MATTER CONCERNED IS CONSIDERED?

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

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

WHAT SHOULD I SAY AT THE MEETING?

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

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

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

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

WHO DO I CONTACT FOR MORE INFORMATION?

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

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

It always helps to save time if you can quote the planning application reference number.

As approved at the meeting of the Full Council held on 16 March 2021

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**MINUTES OF THE MEETING OF THE PLANNING COMMITTEE,
HELD ON TUESDAY, 4TH JULY, 2023 AT 6.00 PM
IN THE COMMITTEE ROOM - TOWN HALL, STATION ROAD, CLACTON-ON-SEA,
CO15 1SE**

Present:	Councillors Fowler (Chairman), White (Vice-Chairman), Alexander, Bray, Everett, Harris, Placey, Sudra and Wiggins
In Attendance:	Gary Guiver (Director (Planning)), John Pateman-Gee (Planning Manager/Head of Planning), Joanne Fisher (Planning Solicitor), Jacob Jaarsma (Planning Team Leader)(except Items 15 and 16), Ian Ford (Committee Services Manager), Amy Lang (Senior Planning Officer)(except Items 14 - 16), Clive Theobald (Planning Officer)(except Item 16) and Bethany Jones (Committee Services Officer)

8. REPORT OF DIRECTOR (PLANNING) - A.2 - 23/00255/DETAIL LAND TO THE REAR OF MILL HOUSE, HIGH STREET, GREAT OAKLEY, HARWICH, ESSEX, CO12 5AQ

The Chairman informed the meeting that this Planning Application, which was a 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, had been included on the published Agenda for this meeting, at the request of Councillor Mike Bush, due to his concerns that the layout and scale of the development would be harmful to the area’s character, and would be harmful to the nearby heritage assets.

However, having read the published Officer report and having noted that Essex County Council Heritage, having considered the applicant’s amended plans, now felt that the layout of the proposed dwellings had now been simplified in a more holistic and subtle scheme and using traditional external materials which were more in keeping with the local character thereby minimising the visual impact of the proposed development on the setting of the Conservation Area and of Grade II Listed Mill House, had decided not to object to this application, Councillor Bush had subsequently notified the Council that he had withdrawn his “call-in”.

The Chairman stated that she had considered the matter and had agreed that this item would be withdrawn from the Agenda for this meeting. She informed the meeting that this Planning Application would now be determined by Officers, in accordance with the powers delegated to them by the Council’s Constitution.

9. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

There were no apologies for absence or substitutions submitted on this occasion.

10. MINUTES OF THE LAST MEETING

RESOLVED that the minutes of the last meeting of the Committee, held on Tuesday, 6 June 2023 were approved as a correct record.

NOTE: Pursuant to the provisions of Council Procedure Rule 19.6, Councillor Wiggins requested that it be recorded in the Minutes that she had abstained from voting on this item.

11. DECLARATIONS OF INTEREST

There were no declarations of interest submitted by Councillors.

12. QUESTIONS ON NOTICE PURSUANT TO COUNCIL PROCEDURE RULE 38

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

13. REPORT OF DIRECTOR (PLANNING) - A.1 - 22/00556/FUL - SACKETTS GROVE CARAVAN PARK, JAYWICK LANE, CLACTON-ON-SEA, ESSEX, CO16 7JB

It was reported that this application was 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.

Members were told that this application related to the land centrally located within Sacketts Grove Caravan Park site, on the western side of Jaywick Lane, Clacton. The site was largely laid to grass but contained the filled in remains of an outdoor swimming pool and an outbuilding which contained the pump house for the pool.

Members heard that the vehicular access from the public highway would utilise the existing Caravan Park entrance on Jaywick Lane. The site was bordered on all sides of existing park homes with wooden close boarded fences denoting existing plot boundaries.

This application proposed to change the 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 represented a small-scale addition to the existing and established park.

The site was located outside the Settlement Development Boundary and within a Safeguarded Holiday Park, Sacketts Grove was situated within a sustainable location close to amenities.

In the opinion of Officers, 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.

Therefore, this application had been recommended for approval subject to a Unilateral Undertaking securing a financial contribution of £156.76 per dwelling toward recreational disturbance mitigation in accordance with RAMS.

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

An update sheet had been circulated to the Committee prior to the meeting with details of an additional objection letter that had been received as follows with the Officers' response in bold:-

- *“Contrary to the development plan – yet recommended for approval.*
- *Outside settlement boundary and protected for caravans.*
- *The application was refused initially by the same Planning Officer.*
The application has not been subject of a formal determination. An initial view was provided via email to the applicant.
The principle of development is addressed within the officer’s report.
- *Licensed for 102 properties only.*
Licensing falls outside the remit of Planning but a new / amended site licence would be required in the event of an approval.
- *Loss of central green area of the established park.*
The site is not safeguarded amenity space or subject to any other policy designation that would secure or require it’s retention.
- *Surface water flooding issues.*
The recommendation includes conditions to mitigate surface water flooding.

RECOMMENDATION

- *The Officer recommendation of approval remains unchanged.”*

There was no public speaking on this application.

Matters raised by Members of the Committee:-	Officer’s response thereto:-
<i>Are we satisfied everything is place with surface water?</i>	<i>Yes, Officers are satisfied with the surface water disposal as there is no requirement for consultation due to the area of the application site falling below 1 hectare.</i>
<i>Is there a legal requirement for caravans to be a minimum distance apart?</i>	<i>Yes, at least 6 metres apart in accordance with the Model Standards. Applicant has admitted that the current layout fails some of the requirements within the Model Standards. However, this will be addressed via the proposed conditions.</i>
<i>Can you confirm then that TDC remains in control of the layout?</i>	<i>Yes, description has been amended and TDC have conditioned for a new layout to be submitted to address the planning concerns (retention of tree and tight access) plus the applicant needs to demonstrate compliance with the Model Standards.</i>
<i>Can we see a photograph of the proposed layout with the tree in question?</i>	<i>An existing block plan showing the position of the tree is not included within the applicant’s submission.</i>
<i>Can we have reassurance that the</i>	<i>This is covered as part of proposed condition 3.</i>

<i>hornbeam tree can be preserved?</i>	
<i>Can this site still take touring caravans and tents?</i>	<i>An appeal decision at Sandpiper Gardens gave permission for permanent homes. Saddlebrook Chase includes static caravans and tourers. Officers do not have the information to confirm if camping plots are available as the overall site history is very complex. This information is not required for the purposes of the assessment of this application.</i>
<i>Can we have reassurance on what is happening with the tree?</i>	<i>Officers would want to protect the tree and it is fully contained in the site. Officers were told that the tree is healthy, with amenity value but it is not visible to the wider public so therefore it is not conducive to a Tree Preservation Order to be made. Proposed conditions 3 and 5 seek to protect the hornbeam tree.</i>
<i>Why are we saying “up to 8” plots?</i>	<i>The plan is indicative. Believe there is a scope for smaller units that could result in up to 8 plots and keep the tree. Officers have allowed the applicant to keep flexibility given other issues with meeting the Model Standards. The applicant believes they can have 8 plots and that’s without the tree there so Officers say up to 8 with the tree.</i>
<i>What are the mitigation measures?</i>	<i>As permanent homes, they are covered by RAMS requirements therefore a financial contribution is needed from applicant. Covered by the Unilateral Undertaking (UU).</i>
<i>Could the committee see the final layout?</i>	<i>This application is for a change of use of the land, often there’s cases where planning would not have any control over the layout etc of these sorts of developments. However, in this case there is an opportunity for TDC to control the layout via the Conditions. Officers believe that there is no evidence to justify keeping the tree regardless of proposed layout.</i>
<i>If the applicant comes back with a layout that meets model standards but removes the tree but adds more planted trees, would that be considered?</i>	<i>Yes, it would be considered. The location of the new planting of the trees i.e. ideally in a more usable location for the public would be crucial as to whether it would be approved.</i>

It was moved by Councillor Harris and seconded by Councillor Bray that this application be approved, subject to conditions and a Unilateral Undertaking in relation to a financial contribution towards recreation disturbance mitigation in accordance with RAMS.

It was then moved by Councillor Everett and seconded by Councillor Alexander by the way of an amendment that consideration of this application to deferred in order to enable the applicant to submit an amended site layout plan for the Committee’s consideration. Councillor Harris and seconded by Councillor Bray debated acceptance of the amendment without conclusion.

Following a suggestion by the Head of Planning that any Discharge of Condition application relating to the revised layout plan (including any fencing or means of enclosure) could be brought to the Committee for its determination, Councillors Everett and Alexander withdrew their amendment.

Councillors Harris and Bray agreed to incorporate the Head of Planning's suggestion in their motion. On being put to the vote it was therefore unanimously:-

RESOLVED that, the Head of Planning (or equivalent authorised Officer), be authorised to grant permission for the development, subject to:-

- (a) The appropriate terms as summarised below and those as may be deemed necessary to the satisfaction of the Head of Planning to secure the completion of a Unilateral Undertaking 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.
- (b) That the Head of Planning be authorised to grant planning permission subject to the agreed section 106 agreement and conditions as stated at paragraph 8.2 of the Officer's report (A.1) 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; and,
- (d) That any discharge condition application for site layout plan be submitted to the Planning Committee for its determination.

14. REPORT OF DIRECTOR (PLANNING) - A.3 - 22/01138/FUL - STONEHALL FARM BUILDINGS, STONEHALL LANE, GREAT OAKLEY, HARWICH, ESSEX, CO12 5DD

It was reported that this planning application was before the Planning Committee as the proposed development would conflict with the requirements of the Development Plan, principally Policy SPL2 (Settlement Development Boundaries) of the Tendring District Local Plan 2013-2033 and Beyond Section 2 (adopted January 2022) being located outside of any defined settlement development boundary and has a recommendation of approval.

Members were informed that this proposal of dwellings was sited in slightly different locations and resulted in a combined total of 65.5sqm additional footprint, however this was not considered to be materially different to the development approved under prior approval 21/00788/COUNOT. The overall height of Plots 1 and 2 were broadly the same as the existing building, with Plots increased but not to a significant extent.

The Committee heard that there were no significant issues with respect to neighbouring amenities or harm to trees, and there was sufficient parking provision. In addition, no objections had been raised by ECC Ecology subject to conditions. Whilst ECC Highways had objected on the grounds there was a lack of visibility splays information, due to the nature of the site and potential level of activity the existing use provided, as well as the fallback position, it was not considered the impact on the local highway network would be significantly harmful.

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

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

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

Mollie Foley, the applicant’s agent, spoke in support of the application.

Steve Pryer, a member of the public, spoke against the application.

Matters raised by Members of the Committee:-	Officer’s response thereto:-
<i>Is there a fallback position on the footprint of the existing building?</i>	<i>*The Officer showed the changes on the screen*</i>
<i>Is the fallback conversion of the existing building on the current footprint?</i>	<i>Yes, that is correct.</i>
<i>When the Class Q application was made, was there any discussion of Ecology? E.g., Bats, and other protected species.</i>	<i>Bio-diversity information was not available initially.</i>
<i>If the fallback position did not exist, would you be recommending approval?</i>	<i>It is unlikely that Officers would have recommended approval for three new builds in the countryside outside the Settlement Development Boundary of Great Oakley.</i>
<i>Given the new bio-diversity ecology information, what is the legal ability to convert existing buildings given that protected species are present?</i>	<i>Yes, realistic proportion exists, therefore fallback position is given considerable weight. ECC Ecology “holding objection” has been overcome, as little evidence of bats and barn owl activity exists and given the qualified ecologist’s belief that the current buildings are not suitable for protected species.</i>
<i>Would it be legal to convert given the presence of bats in some of the buildings?</i>	<i>Under Class Q – Ecology is not a major consideration, but the Council does have a duty under the Wildlife Act. This was considered in making the original Class Q application. Therefore, Officers have nothing to hand to say there is not a realistic proposition to implement the prior approval. Acknowledgement that mitigation measures may be an issue for the applicant in the future. Weight to be given to the fallback position is for the decision maker based on the material facts presented in each identical case.</i>

<i>If these buildings were brought forward as a non-designated heritage asset, how would it be viewed?</i>	<i>Officers fully acknowledge that these buildings have historic value but are not protected legally by listing. These have not been considered to be non-designated heritage assets. The application must be considered on its current merits. Officers have not consulted Place Services Heritage Team as the buildings are not listed.</i>
<i>Any change in Highways matters from the fallback position?</i>	<i>Nothing has changed. Visibility splays are acceptable. Parking provision is acceptable and impact on highway network is low.</i>
<i>Could you expand on reference in Section 6.54 that site is not located within a Drinking Water Safeguard Zone?</i>	<i>Section 6.54 explains the context and thought process of Officer to justify using a package treatment plant and a soakaway and it was considered acceptable.</i>
<i>Does this site need a soakaway and where will it go?</i>	<i>Yes, it does. Soakaway provision will be covered by Building Control under the Building Regulations.</i>
<i>SPL3 (Suitable Designs) – Does this application meet the criteria of that Policy, given the loss of these historic farm buildings? Also given the increase in the size of the buildings.</i>	<i>Not statutorily listed but accept the historic nature. With SPL3 it comes down to the design of the proposed buildings. The merit of the proposal outweighs its negatives in the opinion of the Officers but it's down to Members to make their own judgements.</i>

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

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

“The erection of 3no. dwellings (in lieu of Prior Approval for three dwellings) would, if approved, result in increased footprint, massing and forward projections directly adjacent to Stonehall Lane and fails to enhance the setting of the locality. Moreover, the appearance would consist of excessive use of cladding out of character in an area where the use of brick is currently the predominant material. Collectively the new development would harm visual amenity, not be in keeping with prevailing rural character and fails to maintain local character and distinctiveness or enhance the location compared to the existing building with retained historic features and materials. Therefore, the development is considered to conflict with the development plan including policies SPL2 SPL3, SP7, PPL3 as well as the NPPF including Section 12. Achieving well-designed places.”

15. REPORT OF DIRECTOR (PLANNING) - A.4 - 22/01937/FUL - LAND ADJACENT TO THE WILLOWS, LITTLE CLACTON ROAD, GREAT HOLLAND, ESSEX, CO13 0ET

It was reported that this application had been referred to the 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) had been previously refused by the Planning Committee following an Officer’s recommendation of approval.

Members were informed the purpose of this application was the demolition of a former livestock building and its 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 was therefore effectively a resubmission of application 22/01052/FUL. This 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.

Members of the Committee were told that the Officer's considered view was that the lawful ability to undertake the extant Prior Approval conversion scheme under 21/00460/COUNOT was now highly unlikely and that the weight that could be attributed to the so called 'fall-back position' was 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 was such that the possibility of compliance with the General Permitted Development Order (as also already previously sited for refusal reason No.1 for refused planning application 22/0152/FUL) was highly unlikely also. For this reason, the proposal was considered by Officers to fail the second element of the legal fallback test where there was no likelihood or real prospect of such a lawful event occurring as set out in the explanatory paragraph 6.16 of this report regarding the fall-back position.

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

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

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

- *"Members should be aware that an email dated 26th June 2023 has been received by the Council from a person stated to be acting as Local Power of Attorney (LPA) on behalf of Mr Graham John Stevens, stated owner and proprietor of The Willows (7 Acre Farm) and applicant for the above planning application in which it is stated that there is currently a dispute over land ownership between two parties. The Council has been made aware (through the contact from the LPA referred to above) that this dispute is currently in the hands of solicitors acting for both parties concerned.*
- *This information (referred to above) provided to the Council has raised an ownership issue that potentially needs to be addressed before the issue of any decision notice.*

RECOMMENDATION

- *The Officer recommendation of refusal remains unchanged. However, final issuing of decision is to be fully delegated to officers and subject to resolution of the correct serving of the certificate as may be needed."*

The Head of Planning addressed Planning Committee in respect of the ownership confirming that as a precautionary measure Members were advised not to access the site and view from public areas only. Member should consider that they have sufficient understanding of the site and proposal to make a reasonable judgement. The matter of ownership is not a determining factor for planning judgement and the Head Of Planning outlined the provisions of Article 14 of the Development Management Order 2015. However, he noted that the agent had already helpfully been in touch and provided additional supporting information likely to make this matter resolved and avoid any delay.

Matters raised by Members of the Committee:-	Officer's response thereto:-
<i>Can we have clarity whether it is realistic to carry out the Class Q fallback application?</i>	<i>Officers cannot state how rudimentary the rebuild is but it could be possible. However, the view is that the first position of the fallback could not be lawfully carried out i.e., a straight conversion.</i>
<i>The Committee can recall an earlier site visit in September 2022. Can Officers confirm whether the approved Class Q application is the same size as this now suggested building?</i>	<i>Supporting documentation shows it was in its pre-existing state, with its two halves in place.</i>
<i>Referred to hedge that had been removed since September 2022 that was between the building and footpath.</i>	<i>Officer was aware and acknowledged that there might be implications under the Hedgerows Regulations.</i>
<i>Is there any suggestion of what percentage of the original building must be included within the fallback conversion?</i>	<i>The percentage figure is not specified. The Legal Officer (JF) also read out a description of Class Q and its limitations on reliance, such as size.</i>

Following discussion by the Committee, it was moved by Councillor Placey, seconded by Councillor Wiggins and unanimously **RESOLVED** that the Head of Planning be authorised to refuse permission for the development 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 (Zoi) being approximately 4,152 metres from the Hamford Water SAC and Ramsar. However, new housing development within the Zoi 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.

3. That the Head of Planning be authorised to issue the decision notice once the issues surrounding the correct serving of the ownership certificate have been resolved.

16. REPORT OF DIRECTOR (PLANNING) - A.5 PLANNING ENFORCEMENT UPDATE REPORT

The Committee was given an updated report on the following areas, in accordance with the Council's approved planning enforcement policy:-

- 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 working 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.

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

RESOLVED that the contents of this report be noted.

The meeting was declared closed at 9.22 pm

Chairman

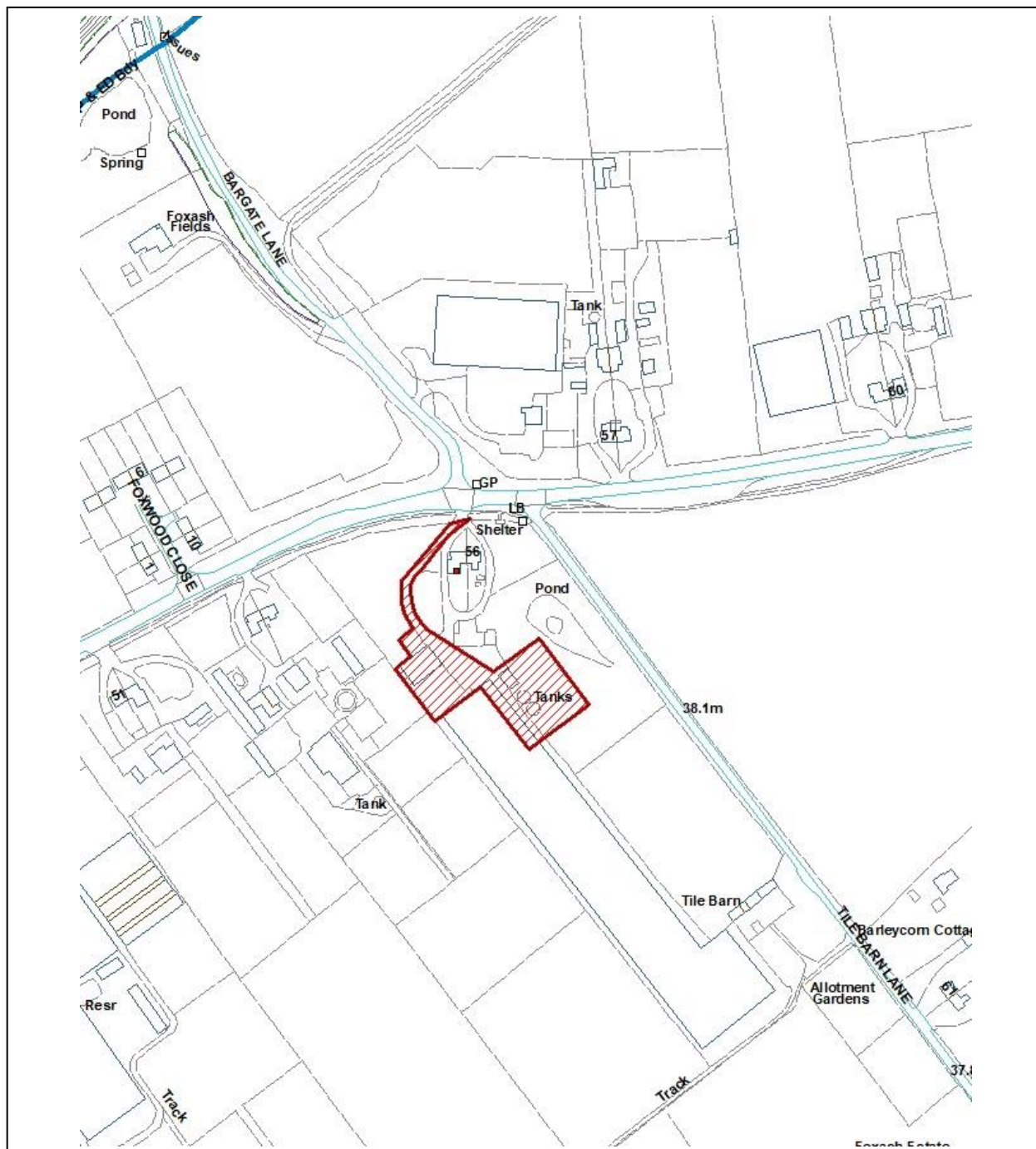
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PLANNING COMMITTEE

1st August 2023

REPORT OF THE DIRECTOR OF PLANNING

A.1 PLANNING APPLICATION – 22/00953/FUL – LAND AT 55 HARWICH ROAD LAWFORD MANNINGTREE CO11 2LS



DO NOT SCALE

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Application:	22/00953/FUL	Expiry Date:	19th August 2022
Case Officer:	Alison Pope	EOT Date:	20th December 2022
Town/ Parish:	Lawford Parish Council		
Applicant:	Mr and Mrs Allin		
Address:	Land at 55 Harwich Road Lawford Manningtree CO11 2LS		
Development:	Proposed erection of two 3-bedroom dwellings (in lieu of Prior Approval for 3 dwellings, subject of application 20/01708/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 two dwellings with a combined total footprint of 241.64 square metres are sited separately on land to the rear of 55 Harwich Road in Lawford as replacement for existing agricultural buildings in the same locations.
- 1.3 The proposed two dwellings are considered to offer an improved scheme in terms of living accommodation and design, scale and appearance when compared to the conversion of the agricultural buildings to three dwellings under prior approval 20/01708/COUNOT with a reduction in footprint of buildings of 36.36 square metres.
- 1.4 There are no significant issues in respect of neighbouring amenities or harm to trees, and there is sufficient parking and vehicular turning provision. In addition, no objections are raised by ECC Highways or the Councils Environmental Protection Team subject to conditions and therefore the application is recommended for approval.

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:
 - **RAMS financial contribution** of of £156.76 per dwelling x 2 units = £313.52 (index linked) toward recreational disturbance at the Stour and Orwell Estuaries Ramsar site and Special Protection Area.
- 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 6 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)

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

SPL2 Settlement Development Boundaries

SPL3 Sustainable Design

LP4 Housing Layout

LP1 Housing Supply

LP2 Housing Choice

LP3 Housing Density and Standards

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

CP3 Improving the Telecommunications Network

DI1 Infrastructure Delivery and Impact Mitigation

Supplementary Planning Documents

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

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

Status of the Local Plan

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

Framework (the Framework). The ‘development plan’ for Tendring comprises, in part, Sections 1 and 2 of the Tendring District Council 2013-33 and Beyond Local Plan (adopted January 2021 and January 2022, respectively), supported by our suite of evidence base core documents (<https://www.tendringdc.uk/content/evidence-base>) together with any neighbourhood plans that have been brought into force.

2.3 In relation to housing supply:

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

2.5 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.

Neighbourhood Plans

2.6 A neighbourhood plan introduced by the Localism Act that can be prepared by the local community and gives communities the power to develop a shared vision for their area. Neighbourhood plans can shape, direct and help to deliver sustainable development, by influencing local planning decisions as part of the statutory development plan to promote development and uphold the strategic policies as part of the Development Plan alongside the Local Plan. Relevant policies are considered in the assessment. Further information on our Neighbourhood Plans and their progress can be found via our website <https://www.tendringdc.uk/content/neighbourhood-plans>

3. Relevant Planning History

00/00223/FUL	Proposed horticultural building	Approved	29.03.2000
02/00161/FUL	Drainage lagoon to improve current arrangements for run off water from the nursery glass and plastic houses	Approved	20.03.2002
18/00510/FUL	Proposed provision of pitched roof to existing dormers.	Approved	22.05.2018
20/00935/OUT	Proposed erection of one dwelling.	Approved	30.10.2020

20/01708/COUNOT	Proposed conversion of two agricultural buildings into three dwellings.	Prior approval not required – permitted development	18.01.2021
21/01686/FUL	Proposed erection of two 4-bedroom cottages (in lieu of Prior Approval for two x 4-bedroom dwellings, subject of application 20/01708/COUNOT demolition of extensive glasshouses).	Refused	21.02.2022
22/01633/DETAIL	Reserved matters application for the erection of one dwelling, considering details of access, appearance, landscaping, layout and scale, pursuant to outline planning consent 20/00935/OUT.	Approved	16.01.2023

4. **Consultations**

- 4.1 Below is a summary of the comments received from consultees relevant to this application proposal. Where amendments have been made to the application, or additional information has been submitted to address previous issues, only the latest comments are included below.
- 4.2 All consultation responses are available to view, in full (including all recommended conditions and informatives), on the planning file using the application reference number via the Council's Public Access system by following this link <https://idox.tendringdc.gov.uk/online-applications/>.

ECC Highways Dept

Please note this supersedes the previous recommendation dated: 6 April 2023 for this application.

The information submitted with the application has been thoroughly assessed and conclusions have been drawn from a desktop study with the observations below based on submitted material. A previous site visit was undertaken in conjunction with an earlier planning application. It is noted that the amended application seeks to demolish the existing glasshouses and replace it with two new dwellings. With the previous amendment, one of the new dwellings was retaining a private vehicular access from Tile Barn Lane serving plot 2 while plot 1 shared the existing vehicular access with the host dwelling onto Harwich Road. The resubmitted scheme removes the new vehicular access onto Tile Barn Lane with both new two 3-bedroom dwellings utilising the existing vehicular access onto Harwich Road, shared with the host dwelling. When compared with the approved conversion and the former agricultural use in terms of vehicular activity the impact would be no greater, considering these factors:

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

1. Prior to occupation of the development, there should be no obstruction above ground level within a 2.4 metres wide parallel band visibility splay as measured from and along the nearside edge of the carriageway across the entire site frontage with

Harwich Road. Such vehicular visibility splays shall be retained free of any obstruction at all times.

Reason: To provide adequate inter-visibility between users of the access and the public highway in the interests of highway safety in accordance with policy DM1.

2. Prior to occupation of the proposed development, a minimum size 5 vehicular turning facility (8m x 8m), shall be constructed, surfaced, and maintained free from obstruction within the site at all times for that sole purpose.

Reason: To ensure that vehicles can enter and leave the highway in a forward gear in the interest of highway safety in accordance with policy DM1.

3. No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary.

Reason: To avoid displacement of loose material onto the highway in the interests of highway safety in accordance with policy DM1.

4. Prior to the occupation of the development, the proposed private drive shall be constructed to a width of 5.5 metres for at least the first 6 metres from the back of Carriageway / Highway Boundary and provided with an appropriate dropped kerb crossing of the verge/ footway.

Reason: To ensure that vehicles can enter and leave the highway in a controlled manner and to ensure that opposing vehicles can pass clear of the limits of the highway, in the interests of highway safety in accordance with policy DM1.

5. There shall be no discharge of surface water onto the Highway.

Reason: To prevent hazards caused by water flowing onto the highway and to avoid the formation of ice on the highway in the interest of highway safety to ensure accordance with policy DM1.

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

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

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

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

8. Prior to commencement of the development, the areas within the curtilage of the site for the purpose of loading / unloading / reception and storage of building materials and manoeuvring of all vehicles, including construction traffic shall be provided clear of the highway.

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

The above conditions are to ensure that the proposal conforms to the relevant policies contained within the County Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

Informative:

1: 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.

2: 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

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

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.

Tree & Landscape Officer

Revised comments to provide an assessment of the effect of the proposed changes in design and access arrangements associated with the proposed development, on the character and appearance locality and the wider landscape.

The application site is currently screened from view by a boundary hedge along Tile Barn Lane comprising primarily of Hawthorn and Blackthorn. It forms part of a long hedge adjacent to the highway and makes a strong contribution to the rural character of the area.

The proposed changes to the vehicular and pedestrian access to the site means that the existing boundary vegetation will be retained and the current level of screening will remain in place.

The change in the design of the dwelling situated on plot 2 from a house to a bungalow will also significantly reduce the impact of the building on the surrounding area.

A combination of the retention of the existing boundary vegetation and the decrease in the height of the dwelling, on plot 2, means that the proposed development will not be prominent in its setting and will not cause harm to the visual qualities of the local landscape character.

UU Open Spaces

Public Realm Assessment

Play Space - current deficit:
Deficit of 3.33 hectares of equipped play in Lawford

Formal Play - current deficit:
Deficit of 3.86 hectares of open space in Lawford

Settlement provision:
School Lane LEAP 1.4 miles from site from development site
Waldergrave Way 1.9 miles from development site

Officer Conclusions and Recommendations

Contribution necessary, related, and reasonable?

No contribution is being requested on this occasion. The current facilities are adequate to cope with this development. However, should there be further development in this area a contribution may be required.

Environmental Protection

With reference to the above application, I can advise I have reviewed the proposal and the previous planning applications and relevant consults, therefore please see below for comments from the EP Team:

Contaminated Land: Given the historic use of the site and nearby agricultural land, the EP Team are requesting a Watching Brief be conditioned to any subsequent planning approval and adhered to throughout the demolition / construction phase/s. 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; or o treatment of material on site to meet compliance targets so it can be re-used; or o removal from site to a suitably licensed landfill or permitted treatment facility.

12. A Verification Report will be produced for the work.

REASON: to protect the health of site workers and nearby existing residential dwellings

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

REASON: to protect the amenity of nearby residential premises

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.

REASON: 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).

*INFORMATIVE

Foul Drainage: Section 5.4 of the submitted Planning Statement advises a Sewerage Treatment Plant may be utilised as a way of disposing of foul waste; we would request, should the application be approved, that the Applicant / Agent, ensure the installation is fully compliant with the Environment Agency's Binding Rules and any other relevant Government guidance and British standards, in respect of these systems. Information on this can be found at: Septic tanks and treatment plants: permits and general binding rules: The general binding rules - GOV.UK (www.gov.uk). It is strongly recommended these rules are complied with, as they will minimise any potential nuisance to nearby residential dwellings, assist in preventing a potential Public Health nuisance, and minimise the potential for adverse incidents, of which may result in formal enforcement action.

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

5. **Representations**

5.1 **Parish Council Consultation**

Lawford Parish Council object to this application as it is outside of the village envelope.

5.2 **Public Consultation**

One representation objecting to the planning application has been received and raises the following concerns:

- More housing development and the creation of additional access points will create more traffic on Tile Barn Lane traffic and associated hazards on the single track lane
- There is no street lighting, nor pedestrian footpaths nor amenities on the lane
- A new property currently under construction with a new access point at the top of Tile Barn Lane right next to the T junction has created a potential hazard for traffic turning in to Tile Barn Lane From Harwich Road
- Walkers, horse riders and cyclist will be put at even more risk
- Lawford has suffered massive building projects in recent years- this has added to huge increases in traffic, and on the main and back roads
- The drains in the area cannot cope with the amount of raw sewage which is having to be transported by lorry to be treated

6. **Assessment**

Site Context

- 6.1 The application site relates to land lying to the rear and south east of a larger, mixed use, residential and horticultural unit known as 55 Harwich Road. The application site is contained within a wider site that is in the same ownership of the applicant. The character of the surrounding area is principally rural, and the site itself is an expansive area of undeveloped rural land. The site lies outside of any Settlement Development Boundary as defined within the Tendring District Local Plan 2013-2033 and Beyond Section 2.

Planning History

- 6.2 20/00935/OUT for one dwelling was approved on land alongside 55 Harwich Road following an appeal decision at 43 Harwich Road reference APP/P1560/W/18/3218683 dated 3rd May 2019 at a time when the Council did not have an up to date Local Plan and could not demonstrate a 5 year housing land supply.
- 6.3 20/01708/COUNOT for the proposed conversion of two agricultural buildings into three dwellings was granted under the prior approval scheme in January 2021.
- 6.4 21/01686/FUL was submitted in lieu of the prior approval scheme, however the circumstances were materially different to that approved under 20/01708/COUNOT and the Council considered it did not constitute a fall back position as the application site was different and a new vehicular access was to be created and therefore the application was assessed on its own merits and refused.

Proposal

- 6.5 Amendments to this proposal through the course of this application have led to an application seeking permission for the erection of two, three bedroom dwellings following demolition of two agricultural buildings and making use of the existing access from Harwich Road. One proposed dwelling is two storey with associated parking and garden space, and replaces a large barn structure containing office, stores, garage and plant room. The second proposed dwelling is single storey with an integral single garage, associated parking and garden space, and replaces a smaller agricultural building.
- 6.6 The development proposal is a replacement for a previously approved prior approval scheme 20/01708/COUNOT 'Proposed conversion of two agricultural buildings into three dwellings', utilising the same two agricultural buildings as under consideration here.
- 6.7 "Demolition of extensive glasshouses" was originally included in the application description, although this has now been omitted. The agricultural land part of the wider site remains as an agricultural use and benefits from said permitted development rights. Approximately two acres of glasshouses associated with the salad growing business which once operated from the wider site have already been removed however the erection of any other type of building or enclosure for use on the agricultural area of land would require planning permission as would any future change of use to any part of the wider site.

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 Manningtree and Lawford within the adopted 2013-2033 Local Plan. The proposed development would therefore extend outside the area planned to provide growth for this settlement. In view of the housing land supply position, the Council does not need to look beyond identified settlements to meet its housing requirement.
- 6.10 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 20/01708/COUNOT in January 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:

	20/01708/COUNOT	22/00953/FUL
	(Prior Approval)	(Current Application)
	Plot 1 and 2	Plot 1
Footprint	221m ²	111.82m ²
Eaves Height	4.64 metres	3.40 metres
Ridge Height	6.44 metres	7.29 metres
No. Beds	2 x 4 beds	3
	Plot 3	Plot 2
Footprint	57m ²	129.82m ² including integral single garage
Eaves Height	3.06 metres	2.24 metres
Ridge Height	3.94 metres	5.58 metres
No. Beds	2	3

- 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, in terms of its siting, size and scale.
- 6.18 As outlined above in the comparison table, the number of proposed dwellings reduces from three to two, the total footprint of the buildings is reduced by 36.36 square metres and although the proposed dwelling on Plot 1 is increased in height by 0.85 metres, the eaves are lower and the

roof form intends to break up the bulk which is currently present as part of the agricultural building on this part of the site. The same can be said for the proposed bungalow which has an increased height of 1.64 metres, however the eaves are lower and the roofs hipped to minimise the visual impact. Both new dwellings are set back in the site and the increased height will not appear significantly out of keeping and is considered acceptable in this location.

- 6.19 There is a realistic prospect of the prior approval scheme being implemented. The existing agricultural buildings appear structurally sound and could be converted for habitable use subject to compliance with Building Regulations. Therefore, the fall-back position is given significant weight in the assessment of this application.
- 6.20 Given the circumstances of this case, along with the legal position and the prior approval fall-back position, the principle of development for two new dwellings on this site is considered to be acceptable subject to the detailed consideration against other relevant Local Plan policies.

Scale, Layout and Appearance

- 6.21 The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. (Para 126 NPPF).
- 6.22 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.
- 6.23 The proposed development comprises a detached house and a detached bungalow with integral garage. Both are considered to be of a size, scale and design that is acceptable as replacements for agricultural buildings and reproduces new dwelling designs that are seen in the locality. The submitted drawings show the use of brickwork, render and cladding which is considered acceptable, however to ensure the quality of materials in this rural location a condition will be imposed on the grant of planning permission to secure the exact details of the materials to be used.
- 6.24 The form and massing of the proposed dwelling at Plot 1 has a significantly smaller footprint than the barn it replaces, however the proposed dwelling at Plot 2 has a slightly larger footprint however both are proportionate when compared to the existing agricultural buildings. For these reasons it is considered that the development would respect the local landscape character and is sympathetic to the wider area.
- 6.25 Therefore, having regard to the above policy considerations, the proposal is considered to be policy compliant in terms of its scale, layout, appearance and design according with the overall thrust of Policies SP7 and SPL3.

Highway Safety/Parking

- 6.26 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.

- 6.27 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.
- 6.28 Vehicular access to the proposed dwellings will be via the existing access to 55 Harwich Road and which served the agricultural enterprise at the rear. The access and driveway to the rear is a concrete surface. Provision of at least two car parking spaces for each dwelling that meets the minimum car parking standards where one space measures 5.0 Metres x 2.5 metres is met. The proposal also incorporates sufficient turning space in front of the parking spaces.
- 6.29 Essex County Council as the Highway Authority were consulted on the application and confirmed when compared with the approved conversion (20/01708/COUNOT) and the former agricultural use in terms of vehicular activity the impact would be no greater ensuring from a highway and transportation perspective the impact of the proposal is acceptable subject to conditions.
- 6.30 The Highway Authority recommend conditions for visibility splays, turning facility, no unbound materials, dimensions of private drive, no discharge of water onto the highway, vehicle parking, cycle parking and provision of construction deliveries, storage of materials and construction vehicles.
- 6.31 It is not considered reasonable or necessary to impose the conditions relating to the visibility splays, no unbound materials, dimensions of the private drive, no discharge of water onto the highway and provision of construction deliveries, storage of materials and construction vehicles. The vehicular access as acknowledged by the Highway Authority is existing and is in use, is formed of concrete with the proposed dwellings significantly set back from Harwich Road. A construction method statement has been submitted as part of the application which confirms "All loading and unloading of material will take place on the site" and "On-site parking will be available for contractors at all times". Given the location and size of the application site it is expected that deliveries to the site will utilise the driveway to place the materials close to where they will be used for construction.
- 6.32 Conditions for vehicle parking and turning, and cycle parking will be imposed on the grant of planning permission.
- 6.33 The Planning Statement confirms that each dwelling will be fitted with an electric vehicle charging point required to support sustainable transport modes, however suitable electric vehicle charging point information has not been submitted. Details of the electric vehicle charging is required to be submitted including its provision in working order and its maintenance prior to occupation of the dwelling, this will be secured by condition on the grant of planning permission.

Landscaping

- 6.34 The application site is currently screened from view by a boundary hedge along Tile Barn Lane comprising primarily of Hawthorn and Blackthorn. It forms part of a long hedge adjacent to the highway and makes a strong contribution to the rural character of the area. Along Harwich Road, hedging encloses 55 and 56 Harwich Road with semi-mature trees located to the west of 55 Harwich Road.
- 6.35 Within the site itself, little vegetation exists due to its use for agriculture, although the new dwelling at plot 1 would involve the removal of a semi-mature tree immediately adjacent and to

the east of the existing barn. The tree is in a reasonable condition, however in this instance does not merit retention or formal legal protection by means of a tree preservation order.

- 6.36 Therefore it is considered reasonable to require a full detailed hard and soft landscaping scheme to be submitted and approved which would need to show the trees which are to be retained and those which are to be removed, along with new soft landscaping to the application site. This can be secured by condition.

Residential Amenity

- 6.37 Paragraph 130 of the National Planning Policy Framework 2021 states that planning should always seek to secure a good standard of amenity for all existing and future occupants. Policy SPL3 states that buildings and structures are designed and orientated to ensure adequate daylight, outlook and privacy for future and existing residents; and the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties.
- 6.38 The proposed dwelling at Plot 1 is sited a distance of 42 metres south west of the existing dwelling of 55 Harwich Road and a distance of 43 metres south east of the proposed dwelling approved under reference 20/00935/OUT.
- 6.39 The proposed dwelling at Plot 2 is sited a distance of 55 metres south east from the existing dwelling of 56 Harwich Road and a distance of 53 metres south of the new dwelling constructed under reference 21/00035/FUL.
- 6.40 As a result of the separation distances between the proposals and the existing properties along with the boundary and intervening vegetation that exists there will be no significant impact to any residential amenities.
- 6.41 Both dwellings benefit from private garden space of more than 400 square metres each which is considered more than adequate.

Housing Standards

- 6.42 Policy LP3 requires compliance with the nationally described space standards. This standard deals with internal space within new dwellings and is suitable for applications across all tenures. It sets out requirements for the Gross Internal (floor) Area of new dwellings at a defined level of occupancy as well as floor areas and dimensions for key parts of the home, notably bedrooms, storage and floor to ceiling height.
- 6.43 A three bedroom, six person two storey dwelling as per Plot 1 requires a minimum of 102 square metres of gross internal floor space which includes built in storage of 2.5 square metres. A three bedroom, five person single storey dwelling as per Plot 2 requires a minimum of 86 square metres of gross internal floor space which includes built in storage of 2.5 square metres.
- 6.44 From the plans submitted the proposal meets the requirements of the space standards. It is also considered that the internal layout of both dwellings is appropriate, with all habitable rooms having adequate natural light.

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 (PPG) 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.
- 6.47 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.
- 6.48 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, a Local Planning Authority (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, foul sewage will be disposed of by way of a package treatment plant; the declaration implies that a mains connection is not possible.
- 6.50 In considering the acceptability of the proposed non-mains drainage, Plot 1, the proposed dwelling nearest to Harwich Road where mains sewage is connected is a distance of approximately 65 metres away. 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 Source Protection Zone 1, and the site is sufficiently large enough to accommodate a soakaway. Furthermore, flows from a treatment plant serving two individual dwellings would be low. Taking all these factors into account, and the absence of a mains connection in close proximity to the site, the proposed foul drainage arrangements are considered to be acceptable.
- 6.51 The site does not fall within an area of recognised surface water flooding or within a critical drainage area. The proposal is considered a minor development where there is no requirement to consult Essex County Council for sustainable drainage planning advice. Sustainable Drainage Systems (SuDS) are designed to replicate natural drainage systems, to drain surface water runoff, and in this case infiltration within the site, which will need to meet building regulation standards will be installed and is considered acceptable.

Renewable Energy

- 6.52 Chapter 14 of the National Planning Policy Framework supports the transition to a low carbon future in a changing climate while Policy PPL10 of the Local Plan supports renewable energy generation and energy efficiency measures for residential development.
- 6.53 No energy efficiency measures have been submitted with the planning application and therefore a condition to secure minimum measures of a water-butts and compost bin, agreement of heating

for the dwelling and a scheme for waste reduction will be secured on the grant of planning permission to reduce the demand for fossil fuels which are a finite resource and release carbon into the atmosphere and accelerate global warming contributing to climate change.

Environmental Protection

- 6.54 The Council's Environmental Protection team have confirmed that due to the historic use of the site and nearby agricultural land, a Watching Brief is required and shall be adhered to throughout the demolition and construction phase. This requirement shall be imposed as a condition on the grant of planning permission. In addition, conditions that controls the hours of construction and restricts burning of materials on the application site are recommended and shall be imposed upon the grant of planning permission.

Financial Contribution – 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 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.
- 6.57 The application scheme proposes two new dwellings on a site that lies within the Zone of Influence (Zol) being approximately 2400 metres from Stour and Orwell Estuaries SPA and RAMSAR. However, new housing development within the Zol would be likely to increase the number of recreational visitors to Stour and Orwell Estuaries; and, in combination with other developments it is likely that the proposal would have significant effects on the designated site.
- 6.58 Should the committee resolve to approve the application, a S106 Legal Agreement will secure the necessary financial contributions for RAMS contributions to 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.

7. Conclusion

- 7.1 It is considered that the proposed development is consistent with the National and Local Plan Policies identified above – in reaching this conclusion due regard is given to other material planning considerations as per section 70 of the Town and Country Planning Act 1990. In the absence of material harm resulting from the proposal the application is recommended for approval.

8. Recommendation

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

CATEGORY	TERMS
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Financial contribution towards RAMS.	RAMS financial contribution of £156.76 per dwelling x 2 units = £313.52 (index linked)
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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.

The approved red line plan drawing is the Digimap Ordnance Survey site plan scale 1:1250 received 9 June 2023

DRG.No 1301/06A

DRG.No 1301/07

DRG.No 1301/05

DRG.No 1301/02B

Construction Method Statement

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

NOTE/S FOR CONDITION:

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

otherwise already approved as part of this permission. A phasing plan submission via this condition is optional and not a requirement.

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

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

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

Reason - to ensure the risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

- 4 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.

Reason - To protect the amenity of nearby residential properties.

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

Reason - To protect the amenity of nearby residential properties.

- 6 SPECIFIC RESTRICTION OF DEVELOPMENT - ILLUMINATION RESTRICTION

CONDITION: There shall be no means of external illumination installed and/or operated on/at the site except pursuant to the prior grant of a planning permission on an application made in that regard.

REASON: In the interests of amenity to reduce the impact of night time illumination on the character of the area and in the interests of biodiversity and nearby residents.

- 7 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.

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.

- 8 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.

9 ACTION REQUIRED: HIGHWAYS TURNING SPACE

CONDITION: Prior to the building/s being first occupied, the vehicle turning spaces, measuring 8 metres x 8 metres located in front of the parking spaces for each dwelling shown on the hereby approved plans shall be provided in its entirety and shall then be retained in its approved form and used for no other purpose.

REASON: To enable vehicles to enter and exit the public highway in forward gear in the interests of highway safety.

10 ACCESS MATERIAL

CONDITION: The access/s 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.

11 HIGHWAYS PROVISION OF PARKING AND TURNING

CONDITION: The hereby approved development shall not be first occupied until such time as the areas for purposes of manoeuvring and parking (including garage spaces as applicable) of vehicles has been provided and made functionally available. The areas shall then be retained and remain free of obstruction thereafter.

REASON: To ensure that on street parking of vehicles in the adjoining streets does not occur in the interests of highway safety and that appropriate parking and layout is provided To ensure the provision of adequate on-site space for the parking and manoeuvring of vehicles where on-street parking and manoeuvring would otherwise be detrimental to highway safety.

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

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

13 AGREEMENT OF MEASURES TO IMPROVE SUSTAINABILITY OF DEVELOPMENT

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 shall include as a minimum to achieve:-

- An electric car charging point per dwelling
- A Water-butt per dwelling
- Compost bin per dwelling
- Agreement of heating of each dwelling/building
- Agreement of scheme for waste reduction

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

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

NOTE/S FOR CONDITION:

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

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

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.

14 FURTHER APPROVAL: AGREEMENT OF MATERIALS

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

REASON: To secure an orderly and well designed finish sympathetic to the character of the existing building(s) and in the interests of visual amenity and the character and appearance of the area.

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.

While this condition does not detail in what form the materials sought shall be detailed to the Local Planning Authority, it is suggested that a plan is submitted with the details to show where the materials will be located and the extent of coverage.

8.3 Informatives

Highways Informative

1: 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.

2: 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

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

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.

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

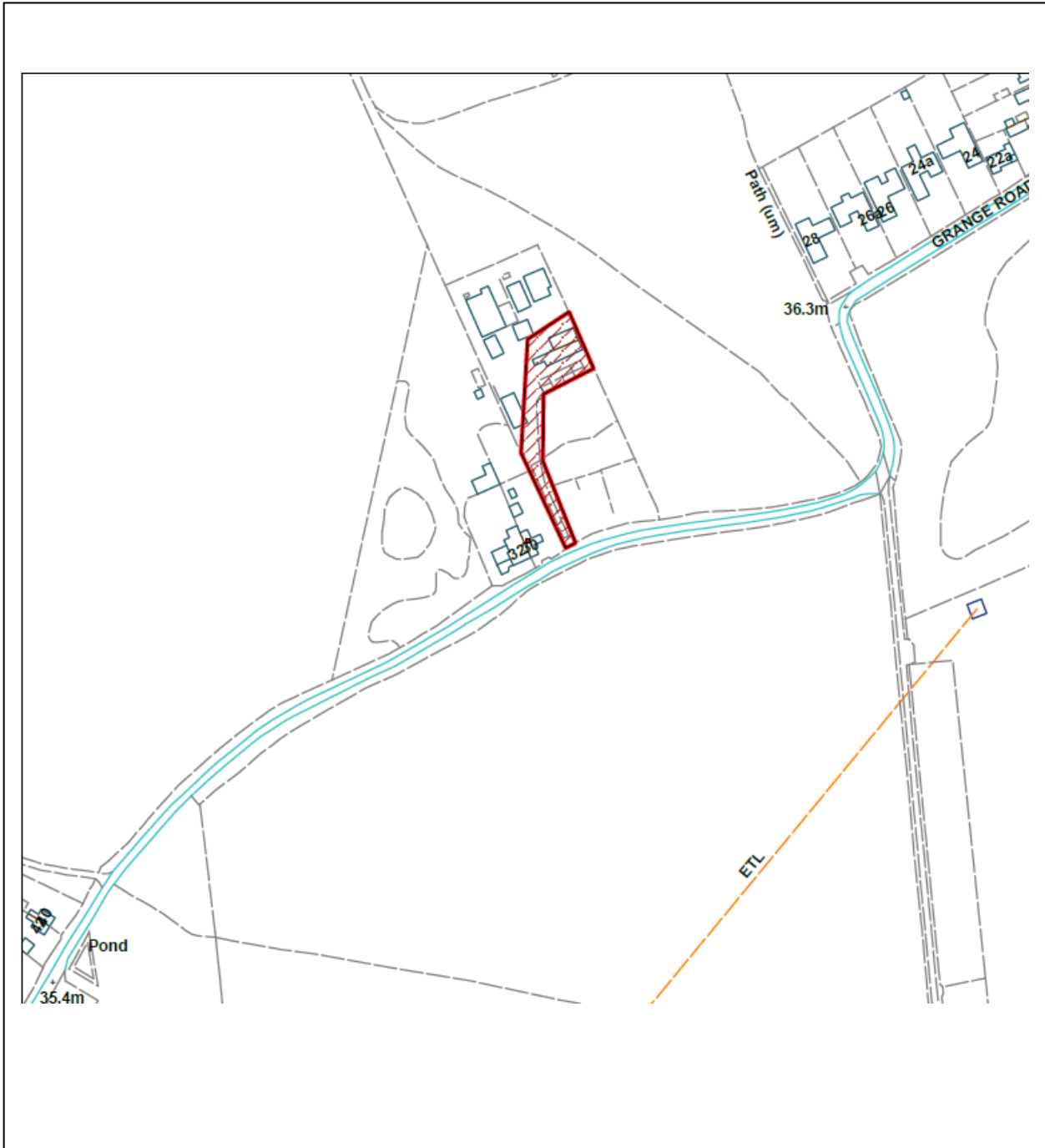
- 10.1 In making this recommendation, officers have considered all plans, documents, reports and supporting information submitted with the application together with any amended documentation. Additional information considered relevant to the assessment of the application (as referenced within the report)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

Tuesday 1st August 2023

REPORT OF THE DIRECTOR OF PLANNING

A.2 PLANNING APPLICATION – 21/01718/FUL – LAND REAR OF BLOOMFIELD COTTAGE GRANGE ROAD LAWFORD MANNINGTREE



DO NOT SCALE

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Application:	21/01718/FUL	Expiry Date:	2 nd December 2021
Case Officer:	Julie Ramsey	EOT Date:	2 nd August 2023
Town/ Parish:	Lawford Parish Council		
Applicant:	Mrs Rebecca Ridge		
Address:	Land rear of Bloomfield Cottage Grange Road Lawford Manningtree Essex CO11 2ND		
Development:	Proposed replacement of an agricultural building with a two bed bungalow (in lieu of Prior Approval for 1 No. 2 bed dwelling, subject of application 21/00704/COUNOT).		

1. Executive Summary

- 1.1 The application is referred to Planning Committee as the proposed development would conflict with the requirements of the Development Plan, principally Policy SPL2 (Settlement Development Boundaries) of the Tendring District Local Plan 2013-2033 and Beyond Section 2 (adopted January 2022) being located outside of any defined settlement development boundary and has a recommendation of approval.
- 1.2 The proposed dwelling is on balance, not considered to be materially different in regard to siting or footprint to the development approved under prior approval 21/00704/COUNOT. The overall height of the proposal exceeds that of the existing building, however this is not considered to result in significant harm.
- 1.3 The application has been revised during the course of the application to a softer more agricultural like appearance with timber cladding and full length windows, which is considered to be in keeping with this rural location. The access remains as existing and there are no objections from the Highways Authority.
- 1.4 The Council's Tree and Landscape Officer notes that the application site is overgrown with some established conifers along the eastern boundary. A soft landscaping scheme to include the site boundaries should be secured by condition as this will help to soften its appearance and screen/filter views of the site from the Public Right of Way to the east.
- 1.5 Sufficient parking and private amenity space is provided, and there will not be significant harm to existing neighbouring amenities, subject to conditions.
- 1.6 Conditions are included within the recommendation to ensure the provision of biodiversity enhancements and a scheme for the provision and implementation of water, energy and resource efficiency measures for the lifetime of the development.

Approval (no S106 requirements)

Recommendation: Approval

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

2) The informative notes as may be deemed necessary.

2. Planning Policy

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

2.2 National:

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

2.3 Local:

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

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

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

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

2.4 Supplementary Planning Guidance:

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

Status of the Local Plan

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

In relation to housing supply:

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

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

Neighbourhood Plans

2.6 A neighbourhood plan introduced by the Localism Act that can be prepared by the local community and gives communities the power to develop a shared vision for their area. Neighbourhood plans can shape, direct and help to deliver sustainable development, by influencing local planning decisions as part of the statutory development plan to promote development and uphold the strategic policies as part of the Development Plan alongside the Local Plan. Relevant policies are considered in the assessment. Further information on our Neighbourhood Plans and their progress can be found via our website <https://www.tendringdc.uk/content/neighbourhood-plans>

3. Relevant Planning History

20/01184/COUNOT	Proposal to convert agricultural buildings into 3 x two-bedroom bungalows, with two parking spaces and a private amenity per dwelling.	Determination Refused	18.02.2021
21/00704/COUNOT	Proposed conversion of one agricultural building into one 2 bed dwelling.	Determination Prior Approval not Required	17.06.2021

4. Consultations

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

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

<u>Environmental Protection</u>	08.11.2021
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Should the above application be approved, the EP Team are requesting a condition be applied in relation to Contaminated Land and an informative in relation to Foul Drainage provision.

Construction Activities - In order to minimise potential nuisance caused by demolition and construction works, Environmental Protection recommend conditions with regards to vehicle movements and no burning on site

UU Open Spaces

09.11.2021

Current Position

There is currently a deficit of -3.44 hectares of equipped play/open space in Lawford.

Recommendation

Due to the significant lack of provision in the area a contribution to increase the play provision is both justified and relevant to the planning application and that this money would be spent at the closest play area which is School Lane Lawford.

Tree & Landscape Officer

29.10.2021

The application site is overgrown with rank and ruderal vegetation with some self-sown Elder taking hold on the land. There are established conifers on the eastern boundary with the adjacent agricultural land. They are prominent features in their setting and, if retained, would help to screen the proposed development. The overall quality and amenity value of the conifers is such that they do not merit protection by means of a Tree Preservation Order.

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

Should planning permission be granted then soft landscaping of the site boundaries should be secured by condition as this will help to soften its appearance and screen/filter views from the Public Right of Way to the east of the application site.

ECC Highways Dept

10.12.2021

The proposed site is accessed from and along a private road, no new or altered means of access is proposed and this serves existing agricultural buildings from an established vehicular access from Grange Road which is classed as a local road. When compared with the former agricultural use, the level of activity will be on a par or possibly reduced.

It appears that the proposed dwelling will retain adequate off-street parking and turning, 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 in regards to visibility splays, vehicular turning facility, vehicle access provision, discharge of surface water, no use of unbound material to accessway surface, provision of any gates to be inward opening, provision of vehicle parking area, parking space dimensions, provision of cycle parking, areas provided for the storage of building materials clear of the highway.

5. Representations

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

6. Assessment

Site Context

- 6.1 The application site is located on the northern side of Grange Road with access to the highway located alongside the boundary with No. 30 Grange Road. The site is located outside of, but close to (some 115m) the defined settlement development boundary of Lawford and is therefore considered to be a countryside location. In terms of the 'blue line' site location plan as submitted with the application, the applicant owns a large area of land around the proposed site, comprising of a number of dilapidated agricultural buildings. The site is otherwise bordered by open agricultural land.
- 6.2 To the west are two residential dwellings Nos 30 and 32 Grange Road and to the east is the settlement of Lawford. The site is within Flood Zone 1 which has a low risk of flooding.

Relevant History

- 6.3 In June 2021 it was deemed that Prior Approval (namely in regard to access, flooding, design, noise, natural light, space standards and contamination) for the conversion of an agricultural building (the subject of application ref: 21/00704/COUNOT), into one, 1. No. 2 bed dwelling was not required. This scheme is referred to in the submitted Planning Statement as the 'fall back' scheme and is discussed in more detail in the appraisal of the application below.

Proposal

- 6.4 The application proposes one new two bed dwelling in lieu of the prior approval granted for the conversion of the agricultural building to a dwelling, which was the subject of application 21/00704/COUNOT. It is proposed to demolish this agricultural building and construct a new dwelling within the footprint of the agricultural building, along with associated amenity space and a new parking/turning area. It is also proposed to demolish the two barns closest to the development.
- 6.5 The proposed new dwelling is a bungalow with a uniform rectangular footprint, measuring 12.5m x 7.4m, with a dual pitched roof. The eaves height of some 2.5m and a ridge height in the region of 5m. The proposed dwelling has a gross internal area of around 81sqm which is approximately 18sqm more than the existing agricultural building, around a 28% increase in floor space.
- 6.6 The proposed dwelling comprises of two bedrooms, bathroom and an open plan kitchen, dining and lounge area. The external materials proposed are black weatherboard and red pan tiles.

Assessment

Principle of Development

- 6.7 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.
- 6.8 Policy SP3 of Section 1 of the 2013-2033 Local Plan sets out the spatial strategy for North Essex and directs growth towards existing settlements. The application site lies outside of the defined settlement boundary of Lawford in the adopted 2013-2033 Local Plan. The proposed development would therefore extend outside the area planned to provide growth for this settlement. In view of the housing land supply position, the Council does not need to look beyond identified settlements to meet its housing requirement.

- 6.9 Policy SPL2 supports new development within defined SDBs which would encourage sustainable patterns of growth and carefully control urban sprawl. Within a defined SDB, there will be a general presumption in favour of new development subject to detailed consideration against other relevant Local Plan policies and any approved Neighbourhood Plans. Under Policy SPL1 Lawford (along with Manningtree and Mistley) is classified as a Smaller Urban Settlement, which benefits from a range of existing infrastructure and facilities and are considered to be able to support larger -scale growth, within the SDB.
- 6.10 With regard to development outside of the defined SDB, the Council will consider any planning application in relation to the pattern and scales of growth promoted through the Settlement Hierarchy in Policy SPL1 and any other relevant policies in this plan (covered below).

'Fallback Position' Assessment

- 6.11 In this case, Prior Approval has been granted for the conversion of the existing agricultural dwelling to a new dwelling. The existing building is sited within the footprint of the proposed dwelling and inside the red edge application site. This is considered by the applicant to provide a 'fall-back' position.
- 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. This is taken to be the area of land edged in red which denotes the application site.
- 6.13 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 existing location of the agricultural building which was the subject of the Prior Approval application is within a built up group of existing buildings. The proposed new dwelling is within the footprint of the agricultural building, with the front elevation facing south east.
- 6.17 The existing agricultural building in its entirety is some 180sqm measured externally. It is also proposed to demolish two adjoining barns and these combined are some 140sqm externally resulting in a reduction of built form on the site of some 225sqm.
- 6.18 The existing agricultural building is larger than the new dwelling proposed, however the full extent of the building was not converted under the prior approval application, therefore the new dwelling is some 28% larger than the prior approval dwelling (95sqm measured externally). See the comparison table below:

	21/00704/COUNOT (Prior Approval)	21/01718/FUL (New dwelling)
Siting	Building to the front of the existing agricultural buildings, east of the site.	Building in same location as agricultural building, front elevation facing SE

Access	As existing	As existing with new parking and turning area proposed
Appearance	Mainly block built walls and profile metal sheet roof	Black weatherboarding and red pan tiles
Ridge Height	2.6m (monopitch flat roof)	5m (pitched roof)
Eaves Height	2m	2.5m
Gross Internal Area	63sqm	81sqm
Bedrooms	2	2

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

Design, Scale and Impact on Character and Appearance

- 6.23 The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. (Para 126 NPPF).
- 6.24 Policy SP7 states that all new development should respond positively to local character and context to preserve and enhance the quality of existing places and their environs. Policy SPL3 seeks to provide new development which is well designed and maintains or enhances local character and distinctiveness. The development should relate well to its site and surroundings particularly in relation to its siting, height, scale, massing, form, design and materials and should respect or enhance local landscape character, views, skylines, landmarks, existing street patterns, open spaces and other locally important features.
- 6.25 The existing agricultural building within the wider site is of a modest concrete block construction with a profile metal sheet roof and has an agricultural appearance. The building was used for keeping pigs. The building is in close proximity to the other much dilapidated buildings within the wider holding, forming a cluster of buildings in that particular part of the holding. The proposed dwelling, albeit larger and higher than that existing, is sited within the footprint of the existing agricultural building and within close proximity to the other buildings within the wider holding and is therefore not considered to be out of place in this rural location.
- 6.26 The design of the new bungalow, is simple and unassuming and the use of black weatherboarding is considered to reflect a simple barn like structure, which is rural in character Along with suitable

soft landscaping on the boundary, this modest barn like approach to the design of the new dwelling is considered to somewhat mitigate the prominence of the new dwelling in this rural setting and the dwelling would be viewed in context with the other built form nearby, maintaining the open and agricultural character of the area and is considered to be visually superior to the design of the converted agricultural building, which is a flat roof building.

Trees and Landscaping

- 6.26 Policy SPL3 seeks new development that respects or enhances local landscape character, views, skylines, landmarks, existing street patterns, open spaces and other locally important features. The design and layout of the proposed development should maintain or enhance important existing site features of landscape, ecological, heritage or amenity value.
- 6.27 The application site is border to the north, east and west by open agricultural fields, therefore despite the modest size and scale and agricultural barn like appearance, the building has the potential to be fairly visible, particularly when viewed from the east, within the built up area of the wider site, owned by the applicant and it is possible that as a consequence of the development a number of willow trees to the northern boundary would need to be removed.
- 6.28 The Council's tree and landscaping officer does not consider that these are worthy of formal protection via a TPO. The trees and vegetation to the north, provide a degree of screening from the wider open land to the north, and it is therefore considered reasonable to secure a full detailed hard and soft landscaping scheme for the site, in particular to secure new soft landscaping, on this northern boundary of the application site in order to soften and screen the proposed new dwelling from the open views from the north into the site. to the north. These details can be secured by condition.

Living Conditions of future Occupiers

- 6.29 In March 2015, the government launched a new approach to housing standards and published a new set of streamlined national technical standards. This included publication of Technical housing standards – nationally described space standards (2015) which sets out minimum gross internal floor space, bedroom sizes and storage requirements for new dwellings.
- 6.30 All new dwellings must therefore accord with the Technical housing standards. A two bedroom, one storey dwelling requires a minimum of 61-70sqm of Gross Internal Floorspace (GIA). From the plans submitted the proposed bungalow exceeds the requirements of the space standards. It is also considered that the internal layout is appropriate, with all habitable rooms having adequate natural light. The amenity area proposed is considered to meet the needs and expectations of future residents and is commensurate to the size of dwelling.
- 6.31 Overall the proposal is considered to secure a good standard of amenity and accommodation for future occupants of the proposed dwelling.

Impact on Residential Amenity

- 6.32 The NPPF, Paragraph 130 maintains that policies and decisions should result in new development that creates places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.
- 6.33 Policy SPL3 seeks new development that is designed and orientated to ensure adequate daylight, outlook and privacy for future and existing residents, provision is made for adequate private amenity space, waste storage and recycling facilities and the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties.
- 6.34 The application site is located within a fairly rural location, with residential dwellings some distance away fronting Grange Road.

- 6.35 A Construction Management Plan should be provided which will outline measures to minimise potential nuisance to nearby existing residents caused by the construction works, having regard to vehicle movements, working hours, storage of materials, on-site parking, site security, wheel washing facilities, noise control, use of machinery and mobile plant, piling works and both emission and dust control. This can be secured by way of a condition to any grant of planning permission. Due to the location of the site and its previous agricultural use, a condition is recommended in relation to land contamination in the form of a Watching Brief.
- 6.36 Therefore, subject to conditions, it is not considered that this development would impact on the residential amenities of the neighbouring occupiers in any regard.

Highway and Parking Considerations

- 6.37 Paragraph 110 of the Framework seeks to ensure that safe and suitable access to a development site can be achieved for all users. Policy SP7 seeks new development to include parking facilities that are well integrated as part of the overall design. The sentiments of this policy are carried forward within Policies SPL3 and CP1. Furthermore, the Essex County Council Parking Standards 2009 set out the parking requirements for new development.
- 6.38 The Essex County Council Parking Standards 2009 require that dwellings with 2 bedrooms be served by a minimum of 2 parking spaces. Parking spaces should measure 5.5 metres by 2.9 metres and garages, if being relied upon to provide a parking space, should measure 7 metres by 3 metres internally. The submitted plans show that the new dwelling would utilise the existing access from Grange Road and will be provided with two parking spaces that meets policy requirements. It is also proposed to provide a type 3 turning head to allow cars to turn within the site and enter and leave in a forward gear.
- 6.39 Subject to the use of conditions, the proposal would accord with Policies SPL3 and CP1 and the Highways and Parking SPDs. The proposal is not therefore considered to result in any unacceptable harm to highway safety.

Water Conservation, Drainage and Sewerage

- 6.40 Paragraph 170 of the Framework states that planning policies and decisions should contribute to and enhance the natural and local environment by preventing new development from contributing to unacceptable levels of water pollution. Furthermore, Paragraph 180 of the Framework states that planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects of pollution on the natural environment.
- 6.41 Policy PPL5 states that all new development must make adequate provision for drainage and sewerage. Private sewage treatment facilities will not be permitted if there is an accessible public foul sewer, which in this case there is not. Where private sewage treatment facilities are the only practical option for sewage disposal, they will only be permitted where there would be no harm to the environment, having regard to preventing pollution of groundwater and any watercourses and odour. The dwelling is proposed to be connected to a Klargester BioDisc Domestic Sewage Treatment Plant.
- 6.42 Although details of the type of system have been submitted no FDA1 Foul drainage assessment form has been received. This makes it more difficult for the Council to be certain any application for an environmental permit would not be refused, or if any concerns of pollution or nuisance may arise. Nevertheless, the required details in this regard can be secured by way of a condition to any grant of planning permission.

Ecology and Biodiversity Implications

- 6.43 Policy PPL4 seeks to protect and enhance the local biodiversity and geodiversity. Whilst the site is not of any specific designation, it is considered to be within a fairly rural setting. The

development has scope to include wildlife friendly, native planting and habitat boxes for roosting bats and nesting birds. These measures will contribute to biodiversity net-gain in accordance with Paragraph 174(d) of the NPPF (2021).

- 6.44 These measures can be adequately secured by suitable conditions to any grant of planning permission.

Renewable Energy

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

Recreational Disturbance Avoidance and Mitigation Strategy (RAMS):

- 6.47 Under the Habitats Regulations, a development which is likely to have a significant effect or an adverse effect (alone or in combination) on a European designated site must provide mitigation or otherwise must satisfy the tests of demonstrating 'no alternatives' and 'reasons of overriding public interest'. There is no precedent for a residential development meeting those tests, which means that all residential development must provide mitigation.
- 6.48 This new residential development lies within the Zone of Influence. The site is not within or directly adjacent to one of the European designated sites, but is 2100m away from Stour and Orwell Estuaries RAMSAR and SPA.
- 6.49 The Council's Habitats Regulation Assessment has concluded that, with the proposed mitigation, the project would not have an Adverse Effect on the Integrity of the sites included within the Essex Coast RAMS and therefore the proposal is in accordance with the Essex Coast RAMS SPD.
- 6.50 However, new housing development within the Zol would be likely to increase the number of recreational visitors to Colne Estuary; and, in combination with other developments it is likely that the proposal would have significant effects on the designated site. Mitigation measures must therefore be secured prior to occupation.
- 6.51 In accordance with Natural England's advice there is no requirement to consult them due to the specified mitigation.
- 6.52 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

- 6.53 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.

6.54 In line with the requirements of Section 2 Policy HP5 the Council's Open Space Team have been consulted on the application to determine if the proposal would generate the requirement for a financial contribution toward public open or play space. The outcome of the consultation is that there is currently a deficit of -3.44 hectares of equipped play/open space in Lawford. A contribution to increase the play provision is therefore both justified and relevant to the planning application and this money would be spent at the closest play area which is School Lane Lawford.

Environmental Protection

6.55 Due to the location of the site and its previous agricultural use, conditions and informatives are recommended in relation to land contamination and foul drainage.

7. Conclusion

7.1 The proposed demolition of an existing agricultural building and its replacement with a two bed bungalow is acceptable in principle following the previous prior approval granted on the site for one dwelling under planning reference 21/00704/COUNOT.

7.2 On balance, due to the siting of the dwellings close to the existing agricultural building and built form within the wider site, the increase in floorspace and height in comparison to the existing building, is not considered to be significantly harmful to the character and appearance of the area. There are no significant issues in respect to neighbouring amenities or harm to trees. Accordingly, the application is considered to be policy compliant and is recommended for approval.

8. Recommendation

8.1 The Planning Committee is recommended to grant planning permission subject to the following conditions and informatives and the prior completion of a Unilateral Agreement for a financial contribution towards RAMS and Open Space.

CATEGORY	TERMS
Affordable Housing Provision	
NHS contribution	
Education contribution	
Financial contribution towards RAMS.	x
Open Space Contribution	x

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.

Site Location Plan – Rec'd 04/10/21

Proposed Block Plan, Elevations and Floor plans – Drawing No: GRL-05

Planning Statement – Stanfords dated September 2021

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. DEMOLITION OF EXISTING BUILDINGS

CONDITON: Prior to the first occupation of the dwellinghouse, hereby approved, the existing agricultural building (subject of 21/00704/COUNOT) and the two barns, shown as being demolished on drawing no: GRL-05) on the site must be completely demolished and all materials resulting therefrom shall be cleared from the site.

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

4. CONTAMINATION – WATCHING BRIEF

CONDITION: Prior to and during construction, if any unexpected ground conditions are encountered during the following processes must be followed:

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

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

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

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

- a) Details of the hours of work/construction of the development within which such operations shall take place and the hours within which delivery/collection of materials for the said construction shall take place at the site.
- b) Details of the loading/unloading/storage of construction materials on site, including details of their siting and maximum storage height.
- c) Details of how construction and worker traffic and parking shall be managed. This shall include routing of all traffic and any directional signs to be installed and where.
- d) Details of any protection measures for footpaths and trees surrounding the site.
- e) Details of any means of access to the site during construction.
- f) Details of the scheduled timing/phasing of development for the overall construction period.

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

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

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

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, particularly in regards to the eastern boundary. The scheme shall also include any proposed changes in ground levels. The landscaping works must include a detailed plan, showing species to be used, planting positions, numbers of trees and shrubs and the sizes of the plants at time of planting and include wildlife friendly, native planting and locations for habitat boxes for roosting bats and nesting birds.

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

NOTE/S FOR CONDITION:

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

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

7. LANDSCAPING

CONDITION: All changes in ground levels, soft/hard landscaping shown on the approved landscaping details as submitted and agreed with the Local Planning Authority, shall be carried

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

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

8. VISIBILITY SPLAYS

CONDITION: There should be no obstruction above ground level within a 2.4m wide parallel band visibility splay as measured from and along the nearside edge of the carriageway across the entire site frontage. Such vehicular visibility splays shall be provided before the road junction/access is first used by the development and retained free of any of obstruction above 600mm and below 2 metres at all times.

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

9. VEHICLE TURNING FACILITY

CONDITION: Prior to the first occupation of the development hereby approved, the vehicular turning facility, as shown on Drawing No: GRL-05 must be constructed, surfaced, and maintained free from obstruction within the site at all times for that sole purpose.

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

10. VEHICULAR ACCESS

CONDITION: Prior to the first occupation of the proposed development hereby approved dwelling, the vehicular access at Grange Road, must be reconstructed at right angles to the highway boundary the proposed private drive shall not be less than 4.5 metres in width for at least the first 6 metres from the back of Carriageway/Highway Boundary and provided with an appropriate dropped kerb crossing of the verge.

REASON: To ensure that vehicles using the site access do so in a controlled manner, in the interests of highway safety

11. SURFACE TREATMENT OF VEHICULAR ACCESS

CONDITION: No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary.

REASON: To avoid displacement of loose material onto the highway in the interests of highway safety in accordance with policy DM1.

12. ACCESS GATES

CONDITION: Any gates retained or installed at the vehicular access with Grange Road must be inward opening only and shall be set back a minimum of 6 metres from the back edge of the footway/or where no provision of footway is present, the carriageway.

REASON: To enable vehicles using the access to stand clear of the carriageway whilst the gates are being opened and closed and to allow parking off street and clear from obstructing the adjacent footway/cycleway/carriageway in the interest of highway safety

13. RENEWABLE ENERGY AND SUSTAINABILITY

No development shall commence above slab level until a scheme for the provision and implementation of water, energy and resource efficiency measures for the lifetime of the development shall be submitted to and approved, in writing, by the Local Planning Authority. The scheme such include as a minimum to achieve:

- Agreement of provisions to ensure no more than 105 litres per person per day is used
- Agreement of provisions to ensure the development is zero carbon ready
- An electric car charging points per dwelling
- A Water-butt per dwelling
- Compost bin per dwelling
- Agreement of heating of each dwelling/building
- Agreement of a scheme for waste reduction

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

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

NOTE/S FOR CONDITION:

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

14. SURFACE AND FOUL WATER DRAINAGE

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

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

NOTE/S FOR CONDITION:

This condition is imposed to ensure the potential impact on a sensitive area is considered and harm avoided that may be detrimental to amenity and the environment.

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

15. PERMITTED DEVELOPMENT RIGHTS

CONDITION: Notwithstanding Section 55 (2)(a)(ii) of the Town and Country Planning Act 1990 as amended and the provisions of Schedule 2 Part 1 Classes A, B, C, D and E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any Order revoking and re-enacting that Order with or without modification), no extensions, additions, outbuildings, porches or other alterations to the dwellings shall be carried out except in complete accordance with details which shall previously have been approved, in writing, by the Local Planning Authority following the submission of a planning application for such development.

REASON: To minimise and retain control over the amount of development in this rural location, outside of any defined settlement development boundary and to maintain sustainable development principles.

8.3 Informatives

1. 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.

2. Legal Agreement Informative - Recreational Impact Mitigation

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

3. Legal Agreement Informative - Open Space/Play Space Contribution

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: Public Open Space financial contribution in accordance with Policy HP5 and Policy DI1 of the adopted Tendring District Local Plan 2013-2033 and Beyond. Please note that any subsequent variation / removal of condition applications (s73 applications) will require a new legal agreement to secure this obligation unless the development has commenced (subject to all necessary condition discharges) and the contribution has already been paid.

4. Highways

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

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

SMO1 – Development Management Team
Ardleigh Depot,
Harwich Road,

Ardleigh,
Colchester,
CO7 7LT

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

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

5. Foul Drainage

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

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

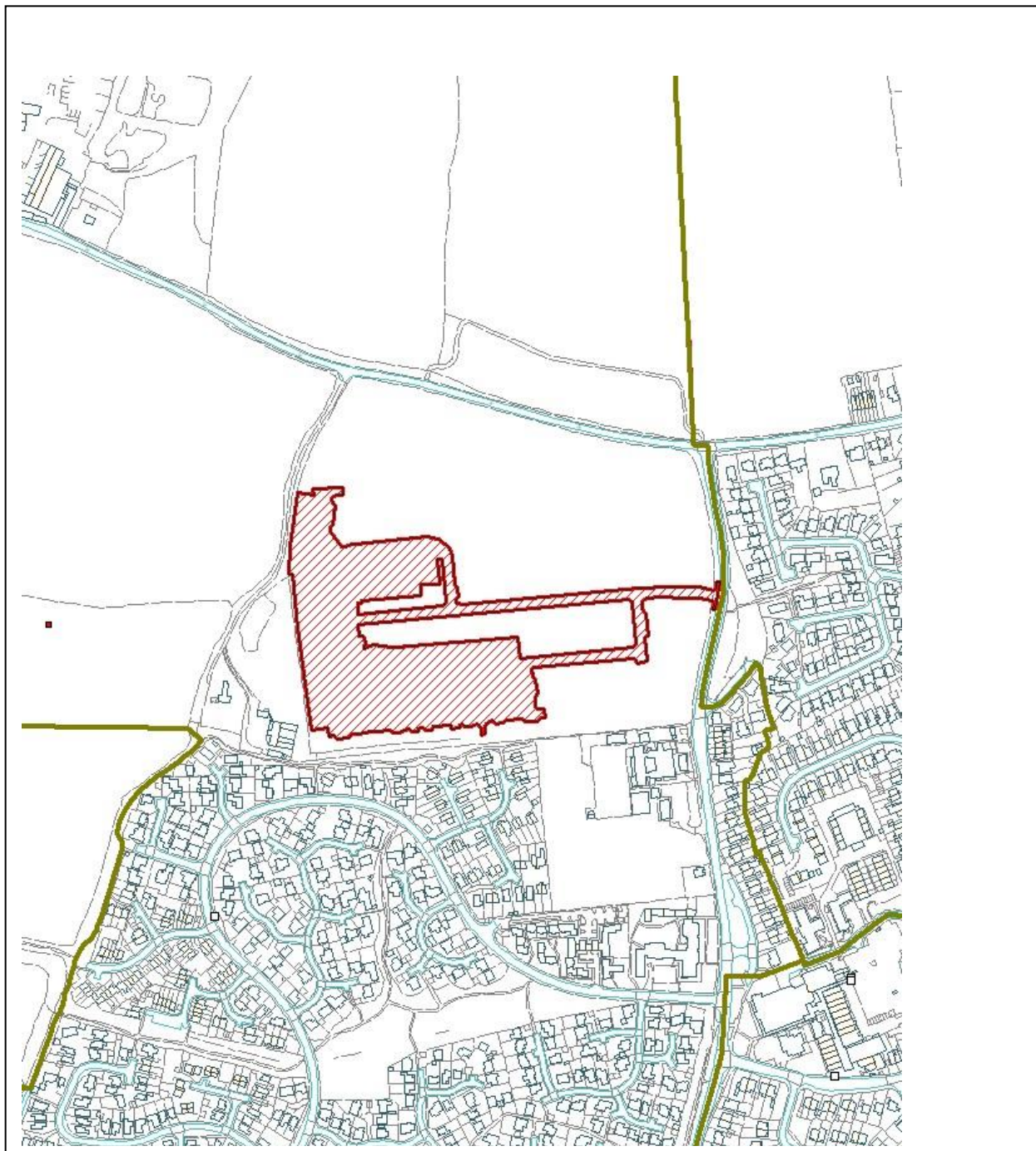
- 10.1 In making this recommendation, officers have considered all plans, documents, reports and supporting information submitted with the application together with any amended documentation. Additional information considered relevant to the assessment of the application (as referenced within the report)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

1 August 2023

REPORT OF THE DIRECTOR OF PLANNING

**A.3 PLANNING APPLICATION – 22/01333/FUL – LAND WEST OF TURPINS FARM,
WALTON ROAD, KIRBY LE SOKEN**



DO NOT SCALE

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Application:	22/01333/FUL	Expiry Date:	06.12.2022
Case Officer:	Clive Theobald	EOT Date:	18.04.2023
Town/ Parish:	Frinton & Walton Town Council		
Applicant:	The Burghes Estate		
Address:	Land West of Turpins Farm, Walton Road, Kirby Le Soken, Essex, CO13 0DA		
Development:	Proposed re-plan of part of site to provide 24 additional smaller units increasing total from 210 approved to 234 (as alternative to part of planning permission 16/00031/OUT and 20/00307/DETAIL).		

1. Executive Summary

- 1.1 This application has been referred to Planning Committee following a Ward Councillor call-in request on the grounds that the proposed development is (i) contrary to the Development Plan, (ii) would have a negative impact on urban design/street scene and (iii) would represent a poor housing layout.
- 1.2 Outline planning permission was granted on 1st March 2017 under ref; 16/00031/OUT for the erection of up to 210 dwellings with access from Elm Tree Avenue, including green infrastructure, children's play area, school drop off point and parking facility and other related infrastructure at Turpins Farm. Reserved Matters for outline approval 16/0031/OUT, including details of appearance, landscaping, layout and scale, were subsequently approved on 24th March 2022 under reserved matters application ref; 20/00307/FUL. The principle of residential development at Turpins Farm has therefore been established by the grant of this outline permission.
- 1.3 The current re-plan scheme application represents a part alternative housing layout to approved reserved matters application 20/00307/FUL for the western part of the site to provide 24 additional smaller housing units increasing the dwelling total for the Turpins Farm site as a whole from 210 approved units to 234 units involving various design and layout modifications to existing streets and house types. Construction is currently proceeding on the eastern half of the site under approved application 20/00307/FUL.
- 1.4 The detailed design, layout, landscaping and scale of the re-plan scheme are considered acceptable. The proposal would not result in any material harm being caused to residential amenity or highway safety.
- 1.5 The application is recommended for officer approval subject to the planning conditions as set out at the end of this report and subject to a s106 agreement to secure necessary local infrastructure requirements arising from the scheme.

Recommendation:

That the Head of Planning be authorised to grant planning permission for the development subject to:-

Within 6 (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 dealing with the following matters (where relevant):

- On-site 30% Affordable Housing Provision
- Education Contribution
- Health Contribution
- Completion and Transfer of Public Open Space and Maintenance Contribution
- RAMS Coastal Recreational Disturbance Financial Contribution
- £10,000 Financial Contribution towards speed reduction measures
- £15,000 Financial Contribution towards additionality footpath improvement works

Subject to the conditions stated in section 8.2

That the Head of Planning be authorised to refuse planning permission in the event that such legal agreement has not been completed within the period of 12 months, as the requirements necessary to make the development acceptable in planning terms had not been secured through a s106 planning obligation.

2. Planning Policy

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

National:

National Planning Policy Framework July 2021 (NPPF)

National Planning Practice Guidance (NPPG)

Local:

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

SP1 Presumption in Favour of Sustainable Development

SP2 Recreational disturbance Avoidance and Mitigation Strategy (RAMS)

SP3 Spatial Strategy for North Essex

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 Boundaries

- SPL3 Sustainable Design
- HP1 Improving Health and Wellbeing
- HP2 Community Facilities
- HP5 Open Space, Sports and Recreation Facilities
- LP1 Housing Supply
- LP2 Housing Choice
- LP3 Housing Density and Standards
- LP4 Housing Layout
- LP5 Affordable Housing
- PPL1 Development and Flood Risk
- PPL3 The Rural Landscape
- PPL4 Biodiversity and Geodiversity
- PPL10 Renewable Energy Generation and Energy Efficiency Measures
- CP1 Sustainable Transport and Accessibility
- CP2 Improving the Transport Network
- DI1 Infrastructure Delivery and Impact Mitigation

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

Essex Design Guide

Status of the Local Plan

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

2.3 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’).

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

Neighbourhood Plan

- 2.5 The site is located within an area that is not subject of any emerging or adopted Neighbourhood Plan.

3. Relevant Planning History

- 3.1 The site has the following relevant site history:

16/00031/OUT	The erection of up to 210 dwellings with access from Elm Tree Avenue, including green infrastructure, children's play areas, school drop off and parking facility and other related infrastructure.	Approved	01.03.2017
20/00307/DETAIL	Reserved matters for outline approval 16/00031/OUT including appearance, landscaping, layout and scale.	Approved	24.03.2022
21/01667/VOC	Variation of Condition 16 of Application 16/00031/OUT to change the form of junction specified in the condition from a priority junction with right hand lane to a simple priority junction and to re-word the condition to specify footway provision and dropped kerb/tactile crossing points on Walton Road and Elm Tree Avenue	Approved	24.11.2021

in accordance with an amended drawing.

22/00701/NMA	Non-material amendment of approved application 20/00307/DETAIL to change a substation to 2 visitor parking bays by plot 96.	Approved	27.06.2022
22/00702/DISCON	Discharge of condition 4 (Details of the estate roads and footways, including layout, levels, gradients, surfacing, traffic calming and means of surface water drainage) of application 20/00307/DETAIL.	Approved	17.05.2022
22/00703/DISCON	Discharge of condition 2 (Details of the manufacturer and types and colours of the external facing and roofing materials to be used in construction) of application 20/00307/DETAIL.	Approved	11.05.2022
22/00704/DISCON	Discharge of condition 24 (Scheme of hard and soft landscaping works for the site, which shall include any proposed changes in ground levels and also 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.") of application 21/01667/VOC.	Approved	18.05.2022
22/00718/DISCON	Discharge of condition 7 (Details of cycle parking for those properties without a garage) of application 20/00307/DETAIL.	Approved	16.05.2022
22/00876/FUL	Proposed addition of two feature walls by site entrance of previously approved planning application 20/00307/DETAIL.	Approved	15.09.2022
22/01193/FUL	Proposed temporary construction access to Walton Road and	Approved	08.09.2022

discharge of Condition 6
(Construction Method Statement)
of application 21/01667/VOC

22/01201/DOVO5	Deed of variation under TCPA 1990 Section 106A of the terms of the Unilateral Undertaking (UU) dated 10th February 2017 linked to outline planning permission 16/00031/OUT - To change the affordable housing requirement from 30% to 20%.	Current	
22/01291/DISCON	Discharge of condition 8 (electric vehicle charging) of application 20/00307/DETAIL.	Approved	16.09.2022
22/01333/FUL	Proposed re-plan of part of site to provide 24 additional smaller units increasing total from 210 approved to 234 (as alternative to part of planning permission 16/00031/OUT and 20/00307/DETAIL).	Current	
23/00002/DISCON	Discharge of condition 9 (Renewable Energy) of application 20/00307/DETAIL.	Approved	19.01.2023

4. **Consultations**

- 4.1 Below is a summary of the comments received from consultees relevant to this application proposal. Where amendments have been made to the application, or additional information has been submitted to address previous issues, only the latest comments are included below.
- 4.2 All consultation responses are available to view, in full (including all recommended conditions and informatives), on the planning file using the application reference number via the Council's Public Access system by following this link <https://idox.tendringdc.gov.uk/online-applications/>.

ECC Highways Dept. Revised comments 05.07.2023 (further revised 19.07.2023)	<p>Please note this advice supersedes the previous highways recommendation dated 10 October 2022 for this application.</p> <p>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 this planning application. The information submitted with the application has been assessed and conclusions have been drawn from a desktop study with the observations below based on submitted material.</p> <p>It is noted that this application proposes to add 24 no. dwellings to the approved scheme at Turpins Farm. The changes to the layout are relatively small in scale and will not alter the character</p>
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of the approved scheme. The road layout is designed to serve more than the 210 homes approved by the outline planning permission.

The Highway Authority is satisfied that the inclusion of 24 no. additional dwellings would at peak times with the number of additional trips generated by the proposal on the highway network be unlikely to be severe considering these factors:

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

1. Prior to occupation of any of the proposed dwellings the internal road site access and footway layout shall be provided in principle and accord with Drawing Numbers:

- TW024-RE-PL-01 00 Block plan
- TW024-RE-PL-02 00 Development layout

(Continued...)

- TW024-RE-PL-03 00 Detailed layout
- TW024-RE-PL-08 00 Parking layout

Reason: To ensure that vehicles using the site access do so in a controlled manner, in the interests of highway safety and in accordance with Policy DM1.

2. Prior to occupation of any of the proposed dwellings 1.5 metre x 1.5 metre clear visibility splays as measured from and along the boundary shall be provided on both sides of the vehicular accesses. Such visibility splays shall be retained free of any obstruction in perpetuity. These visibility splays must not form part of the vehicular surface of the access.

Reason: To provide adequate inter-visibility between the users of the access and pedestrians in the adjoining public highway in the interest of highway safety in accordance with policy DM1.

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

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

4. Any phase of the development shall not be occupied until such time as car parking and turning areas have been provided in accordance with EPOA Parking Standards. These facilities shall be retained in this form at all times and shall not be used for any purpose other than the parking and turning of vehicles related to the use of the development thereafter.

Reason: To ensure that on-street parking of vehicles in the adjoining streets does not occur in the interests of highway safety and in accordance with Policy DM 1 & 8.

5. Each vehicular parking space shall have minimum dimensions of 2.9 metres x 5.5 metres and each tandem vehicular parking space shall have minimum dimensions of 2.9 metres x 11 metres to accommodate two vehicles.

Reason: To ensure adequate space for parking off the highway is provided in the interest of highway safety in accordance with Policy DM8.

6. Cycle parking shall be provided for those properties without a garage in accordance with the EPOA Parking Standards. The approved facility shall be secure, convenient, covered and provided prior to first occupation and retained at all times.

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

7. A £10,000 S106 financial contribution (index linked) shall be paid by the applicant / developer towards future speed management / reduction measures for Elm Tree Avenue and / or Walton Road. Such a contribution shall be paid prior to commencement of the re-plan area of the approved development.

Reason: To protect highway efficiency of movement and safety and to ensure the proposal site is accessible in accordance with policy DM1 and DM17.

8. A £15,000 financial contribution (index linked) shall be paid by the applicant / developer towards the feasibility, design and/or delivery of improvements (or part thereof) towards improvements to existing footway provision in the site locale that would serve to further encourage walking as a regular travel mode for residents of the development. Such contribution shall be paid on commencement of the development.

Reason: In the interests of reducing the need to travel by car and promoting sustainable development and transport in accordance with policies DM9 and DM10.

The above conditions are to ensure that the proposal conforms to the relevant policies contained within the County Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

Notes:

- The above requirements should be imposed by way of negative planning conditions or planning obligation agreements as appropriate.
- All housing developments in Essex which would result in the creation of a new street (more than five dwelling units

communally served by a single all-purpose access) will be subject to The Advance Payments Code, Highways Act, 1980. The Developer will be served with an appropriate Notice within 6 weeks of building regulations approval being granted and prior to the commencement of any development must provide guaranteed deposits which will ensure that the new street is constructed in accordance with acceptable specification sufficient to ensure future maintenance as a public highway.

□ Mitigating and adapting to a changing climate is a national and Essex County Council priority. The Climate Change Act 2008 (amended in 2019) commits the UK to achieving net-zero by 2050. In Essex, the Essex Climate Action Commission proposed 160+ recommendations for climate action. Essex County

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

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 applicant should be advised to contact the Development Management Team by mail at

development.management@essexhighways.org

2: General note: areas where there is no footway being provided adjacent to the carriageway and the intention is for these areas to be adopted a half a metre 'no build zone' will need to be provided and hard surfaced.

3: The areas directly adjacent to the carriageway(s) in which the trees are to be planted should not be less than 3 metres wide, exclusive of the footway and the trunks of the trees should be no nearer than 2 metres to the channel line of the road. The same dimensions should be used in situations where the footway is located adjacent to the carriageway. In paved areas, whether or not the planted areas are to be adopted highway, trees should be sited no closer than 2 metres to the defined (or undefined) edge of the carriageway. Where the adopted highway is to be an independent path, trees should be planted no closer than 1 metre from the edge of the highway. In all cases, trees should be provided with root barriers to prevent damage to underground services.

4: 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.

5: The Highway Authority cannot accept any liability for costs associated with a developer's improvement. This includes

Assistant Director TDC
Housing and
Environment Services
19.06.2023

Urban Design Advisor
–
ECC Place Services
Revised comments
25.04.2023

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.

Thank you for consulting me on this application. I am happy with the proposed uplift of 7 no. affordable dwellings corresponding to 30% of the additional dwellings proposed as part of this re-plan application. There is a demand for three bedroomed properties in the area, so delivering all seven dwellings as three bed units will be acceptable with a 70% affordable / 30% shared ownership mix.

Thank you for consulting us on the Full Application for 22/01333/FUL | Land West of Turpins Farm.

The application features a proposed re-plan of the development to provide 24 additional smaller units, increasing the total from 210 approved to 234 units (as alternative to part of planning permission 16/00031/OUT and 20/00307/DETAIL).

This response follows on from our previous urban design consultation responses dated 15th November 2022 and 10th March 2023, and assesses the proposed replan of the site.

The following comments are based on the Drawings, Design and Access Statement and other associated documents.

The applicant has made a number of changes to the plans that have responded positively to design concerns expressed in our two prior letters. As such, the application proposal is now considered to be in a position to offer a positive contribution to the local built environment.

Policy Background:

The National Planning Policy Framework Section 12 requires that developments:

- Function well
- Are visually attractive as a result of good architecture, layout and appropriate landscaping.
- Are sympathetic to local character, including the historic built character, while not preventing increased densities.
- Create a strong sense of place through definition of streets and distinctive forms.
- Optimise the potential of the site to create an appropriate amount and mix of development.
- Create places that are safe, inclusive and accessible.
- Are consistent with the principles set out in the National Design Guide.

Furthermore, the NDG section M3 encourages well considered parking and servicing which is convenient but does not undermine the streetscape. Section P2 encourages

development to create safe and secure public spaces through the definition of spaces by buildings, active frontages, and natural surveillance.

Our comments are laid out in the following sections:

North-West Corner

The applicant has followed advice to reinstate L-shaped units to plots 88 and 110. They have not done so for plot 113, but have provided assurances that it features strong side elevations that mitigate this issue. As such, we consider this issue resolved.

Central Loop Road

The applicant has implemented design measures to mitigate the impact of frontage parking on plots 80-98. They have implemented landscaping between parking plots to soften their impact on the street scene and improve movement conditions. They have also added a path to the rear of parking to serve residents and ease the transition between the parking and the residential plots. Overall, the space now reflects a more positive interaction with the street scene and is more effective at connecting the parking spaces with the residential units.

South-West Corner

The applicant has provided justification for the lack of L-shaped units in plots 137 and 143, providing assurances that the units proposed will have strong side elevations to adequately interact with the street corners. As such, we consider the matter resolved.

East-West Street Axis

The applicant has reinstated L-shaped units on plots 163 and 205. This provides significantly enhanced interactions with the key movement channel to the east of the units. Therefore, we consider the issue resolved.

Conclusion

In summary, and based on the submitted plans and supporting information, we consider the applicant to have responded positively to our design concerns. As such, we are prepared to endorse this application. Positive changes made by the applicant are as follows:

- L-shaped units have been provided to ensure that corners are turned more positively by buildings that have stronger interactions with the street scene.
- Where L-shapes have not been implemented, the applicant has provided adequate design justification.
- The frontage parking area on the central loop road has been improved via landscaping and enhanced planting.

ECC Place
Services
03.04.2023

Holding objection due to insufficient ecological information on designated sites (Hamford Water Ramsar and SPA), European Protected Species (bats) and Priority species (farmland birds – Skylarks).

Summary

We have reviewed the Preliminary Ecological Appraisal (Middlemarch, December 2022), Ecological Mitigation Strategy (Middlemarch, December 2022), and Biodiversity Enhancement Strategy (Middlemarch, December 2022) by the applicant, relating to the likely impacts of development on designated sites,

protected

& Priority species and habitats and identification of proportionate mitigation.

We are not satisfied that there is sufficient ecological information available for determination of this application.

Waste Management
22.09.2022

All access roads and drives to be constructed to suitable standard to withstand weight of 26 tonne collection vehicles along with allowing full access to 2.5 metre wide collection vehicles.

Anglian Water
Services Ltd
27.09.2022

ASSETS

Section 1 - Assets Affected

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

WASTEWATER SERVICES

Section 2 - Wastewater Treatment

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

Section 3 - Used Water Network

This response has been based on the following submitted documents: Application Form/Location Plan Development will lead to an unacceptable risk of flooding downstream. Anglian Water will need to plan effectively for the proposed development, if permission is granted. We will need to work with the applicant to ensure any infrastructure improvements are delivered in line with the development. (a full assessment cannot be made due to lack of information, the applicant has not identified a discharge rate or connection point) We therefore request a condition requiring phasing plan and/or on-site drainage strategy (1) INFORMATIVE - Notification of intention to

connect to the public sewer under S106 of the Water Industry Act Approval and consent will be required by Anglian Water, under the Water Industry Act 1991. Contact Development Services Team 0345 606 6087. (2) INFORMATIVE - Notification of intention to connect to the public sewer under S106 of the Water Industry Act Approval and consent will be required by Anglian Water, under the Water Industry Act 1991. Contact Development Services Team 0345 606 6087. (3) INFORMATIVE - Protection of existing assets - A public sewer is shown on record plans within the land identified for the proposed development. It appears that development proposals will affect existing public sewers. It is recommended that the applicant contacts Anglian Water Development Services Team for further advice on this matter. Building over existing public sewers will not be permitted (without agreement) from Anglian Water. (4) INFORMATIVE - Building near to a public sewer - No building will be permitted within the statutory easement width of 3 metres from the pipeline without agreement from Anglian Water. Please contact Development Services Team on 0345 606 6087. (5) INFORMATIVE: The developer should note that the site drainage details submitted have not been approved for the purposes of adoption. If the developer wishes to have the sewers included in a sewer adoption agreement with Anglian Water (under Sections 104 of the Water Industry Act 1991), they should contact our Development Services Team on 0345 606 6087 at the earliest opportunity. Sewers intended for adoption should be designed and constructed in accordance with Sewers for Adoption guide for developers, as supplemented by Anglian Water's requirements.

Section 4 - Surface Water Disposal

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

The surface water strategy/flood risk assessment submitted with the planning application relevant to Anglian Water is unacceptable. We would therefore recommend that the applicant needs to consult with Anglian Water and the Lead Local Flood Authority (LLFA). We request a condition requiring a drainage strategy covering the issue(s) to be agreed.

Section 5 - Suggested Planning Conditions

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

Used Water Sewerage Network (Section 3)

	<p>We have no objection subject to the following condition: Condition Prior to the construction above damp proof course, a scheme for on-site foul water drainage works, including connection point and discharge rate, shall be submitted to and approved in writing by the Local Planning Authority. Prior to the occupation of any phase, the foul water drainage works relating to that phase must have been carried out in complete accordance with the approved scheme. Reason To prevent environmental and amenity problems arising from flooding</p> <p>Surface Water Disposal (Section 4)</p> <p>CONDITION No drainage works shall commence until a surface water management strategy has been submitted to and approved in writing by the Local Planning Authority. No hard-standing areas to be constructed until the works have been carried out in accordance with the surface water strategy so approved unless otherwise agreed in writing by the Local Planning Authority. REASON To prevent environmental and amenity problems arising from flooding.</p>
<p>Tree & Landscape Officer 10.10.2022</p>	<p>The proposed re-design of the layout of part of the site does not affect the preserved trees situated on the western boundary of the earlier approved planning applications.</p> <p>The details provided relating to soft landscaping are comprehensive and sufficient to soften and enhance the appearance of the development.</p>
<p>UU Open Spaces 05.04.2023</p>	<p>No further comments from Open Spaces Team.</p>
<p>ECC Schools Service</p>	<p>Comments not received.</p>
<p>NHS</p>	<p>Comments not received.</p>

5. Representations

5.4 Parish Council:

OBJECT: Recommend refusal as the original outline planning application was for 210 dwellings which was sufficient. Overdevelopment. This is a piecemeal addition to the annual housing requirement as detailed within the Local Plan and not in accordance with PPL10. Developer has tried to reduce the affordable housing element from 30% to 20%. No communal car park to aid school pick-up. Takes away aspirational aspect. Why no 30mph speed zone?

5.5 There have been 4 other letter of representation received.

- Only one access road will serve the proposed development. Already too much traffic at school times. Another 24 new dwellings in addition to the 210 dwellings approved will only add to this congestion;
- The re-plan scheme seeks to increase the approved application by more than 10% which will not fit in with local housing density;
- The additional dwellings will give rise to more problems related to infrastructure availability which is already struggling;

- The alternative plan is purely profit driven and does not represent an improvement to the approved housing layout;

6. Assessment

Site Description

- 6.1 The application site comprises a square 11.7 hectare parcel of greenfield agricultural land between the northern edge of Frinton-on-Sea and the rural settlement of Kirby-le-Soken. The site lies south of Walton Road beyond which are the coastal slopes overlooking Hamford Water with views across to Harwich and Felixstowe. The site lies west of Elm Tree Avenue opposite existing residential development and is located a relatively short distance from the Triangle Shopping Centre. The site lies east of Turpins Farm House and its associated access track immediately north of Hamford Primary School and the existing residential estate at Edenside and its associated network of green paths.
- 6.2 The topography of the site slopes gently downwards from the existing housing estate to Walton Road and the edge of the steeper coastal slopes. The northern boundary of the site is formed by a strong hedgerow with a lower hedgerow containing a number of mature trees along the eastern boundary along Elm Tree Avenue. A greater number of mature trees are found along the site's western boundary along Turpins Farm House and within the green corridor along the north of the Edenside estate.
- 6.3 The predominant style of property on the adjoining housing estate is of mixed size and type in typical brick-built 1980s/1990s style with some care home/institutional use buildings interspersed with well-maintained and attractive open spaces, landscaping and green links. Development to the east on the opposite side of Elm Tree Avenue contains a mix of inter-war and post-war detached and semi-detached properties, Victorian Farm Cottages and more modern estate development backs onto an attractive area of incidental open space and landscaping.
- 6.4 The site is located in Flood Zone 1 and is not located near any Grade II Listed Buildings, thus not requiring any surveys in this regard.

Relevant Planning History

- 6.5 Outline planning permission was granted on 1st March 2017 under ref; 16/00031/OUT for the erection of up to 210 dwellings with access from Elm Tree Avenue, including green infrastructure, children's play area, school drop off point and parking facility and other related infrastructure at Turpins Farm. Reserved Matters for outline approval 16/0031/OUT, including details of appearance, landscaping, layout and scale, were subsequently approved on 24th March 2022 under ref; 20/00307/FUL.
- 6.6 Approved Reserved Matters application 20/00307/FUL is currently being implemented in accordance with the approved details whereby the proposed access road from Elm Tree Avenue has been constructed and several new dwellings have been erected.
- 6.7 A variation of Condition application (VOC) was approved on 24 November 2021 which sought a variation of Condition 16 of outline application 16/00031/OUT to change the form of the junction specified at the entrance with Elm Tree Avenue from a priority junction with right turn lane to a simple priority junction and to re-word the condition to specify footway provision and dropped kerb/tactile crossing points on Walton Road and Elm Tree Avenue in accordance with an amended drawing. The junction has now been built which it is understood is a standard priority T junction without any right turn lane.

- 6.8 Since the approval of the outline and reserved matters applications, several applications have been submitted to and approved by Tendring District Council (TDC) for the discharge of various planning conditions relating to specific matters, including site levels, estate road, drainage, external materials, hard and soft landscaping and cycle parking.

Proposal

- 6.9 This detailed application submission relates to the proposed re-plan of the western part of the approved development site at Turpins Farm to provide 24 additional smaller units increasing the overall total for the site from 210 approved to 234 units as an alternative to part of planning permission 16/00031/OUT and 20/00307/DETAIL) with associated access and infrastructure, the extent of which area is shown on the red line area site plans.
- 6.10 It should be emphasised that the current re-plan application does not replace the outline and reserved matters, but seeks to re-plan the western part of the site, representing approximately a third of the original site layout, to deliver a slightly greater number of homes without altering the overall layout and design principles of the approved development.
- 6.11 In this respect, various amendments have been made to the approved house types with consequential changes to the number of homes planned and also the housing mix. The number of affordable dwellings for the re-plan area is also increased whereby all of the additional affordable dwellings would be 3-bedroom properties.
- 6.12 The submitted re-plan scheme seeks to retain the key principles of the approved detailed scheme, including general layout, street arrangement and landscaping measures. As such, there is no change to the quantity of open space provision for the development as shown from the outline approved and reserved matters applications as these areas are not altered by the current application. The additional dwellings are achieved within the original layout through an adjustment to the approved house types and seeking to make more efficient use of available land within the western half of the site.
- 6.13 This application is supported by technical reports that were approved under outline application 16/00031/OUT and subsequent detailed application 20/00307/DETAIL. Those reports assessed higher dwelling numbers than what was granted planning permission for under those permissions and therefore remain relevant to the uplift in housing numbers now proposed.
- 6.14 The accompanying Planning Statement concludes as follows:

“The development is a modest improvement to the consented scheme that will better reflect the housing market and deliver greater benefits to the community as set out in Section 5 of this Statement. The additional dwellings have been accommodated carefully within the approved layout such that there are no changes to the layout, the open space, setting or quality of the development. There are no adverse impacts in respect of drainage, ecology, transportation, heritage, arboriculture or landscaping. The applicant would be willing to discuss any conditions or agreement to link the application to the original consent to provide confidence in the proper delivery of the wider development. Having regard to the adopted policies and material considerations, the development is considered to accord with the Local Plan and can be approved. The proposal represents an acceptable alternative form of development for the western parcel and it is respectfully requested that the Council positively consider this application and grant planning permission”.

- 6.15 The accompanying Design and Access Statement concludes as follows:

“The road layout is designed to serve more than the 210 homes approved by the outline planning permission and the re-planned scheme has been designed to ensure that the relationships with the existing homes that enclose the site to the south and east are

unchanged. The delivery of the community facilities, including the on-site provision of public open space, play areas and the new school drop off and car park, is unaltered. Furthermore, the revised scheme is designed in compliance with the district council's development management standards and meets all the standards set by planning policy. Care has been taken to ensure that the changes maintain and enhance the character of the approved scheme, augmenting the high quality that was found to be acceptable by the district's Planning Committee [for the approved scheme] and adding in further elements that will enhance the "sense of place" and create a high quality scheme".

6.16 The accompanying Transport Statement concludes as follows:

"The assessments carried out show that the traffic impacts at the local junctions and site access are very similar to those with the original proposal. Given that the local highway authority raised no objection either to the original scope for a development of 300 dwellings or to the planning application for up to 250 dwellings, the expectation is that the assessments showing the amended proposal will be acceptable to the local highway authority. It is concluded that the likely transport impacts of the development are unchanged from those of the original application proposal and therefore the amended proposal for up to 210 dwellings is acceptable in national and local transport policy terms".

Main Issues

- Principle of development
- Design
- Access
- Affordable housing provision
- Impacts upon residential amenity
- Energy Efficiency and Renewable Energy
- Responses to Town Council Comments
- Conclusions and Overall Planning Balance

Principle of Development

- 6.17 The principle of residential development at this location has already been established by the granting of outline planning permission 16/00031/OUT for up to 210 dwellings with vehicular access from Elm Tree Avenue, including the provision of green infrastructure, children's play areas, school drop off point and parking facility and other related infrastructure under 16/00031/OUT whereby this infrastructure provision is subject to a S106 agreement.
- 6.18 Condition No. 4 of outline permission 16/00031/OUT stated that 'the reserved matters shall be in general conformity with the revised Illustrative Concept Plan Drawing No. UK15044-001-Rev. B'. This drawing showed an area of open space to the northern part of the site; access from Elm Tree Avenue and with a pedestrian/cycle and emergency access onto Walton Road and a 30 space car park for school pick-up and drop-off in the south eastern corner of the site. Furthermore, Condition 6 of 16/00031/OUT stated that 'the maximum number of dwellings to be contained in the development shall be up to (but no more than) 210 dwellings'.
- 6.19 The site lies within the combined Settlement Development Boundary (SDB) for Frinton, Walton, Kirby Cross and Great Holland for the purposes of the current Tendring District Local Plan 2013-2033 and Beyond (TDLP). There is therefore a presumption in favour of sustainable development whereby the proposed re-plan application as submitted is in general conformity with the Development Plan. As such, there are no policy grounds under which the principle of development for the proposed re-plan scheme needs to be re-established.
- 6.20 It should be noted that a holding ecology objection has been received in respect of the current application from ECC Place Services relating to a lack of ecology information in respect of

skylarks, bats, recreational dog walking and coastal recreational disturbance. Ecology issues were considered for outline application 16/00031/OUT when Natural England were consulted on that application when no ecology objections were received in relation to a Phase 1 Extended Habitat Survey submitted which assessed the ecological value of the site and immediately surrounding area and the potential ecological impacts of the development. Whilst the potential for the site to support notable and protected species was considered low, the mature trees and hedgerows on the site boundaries were fully investigated and additional surveys were undertaken, including Great Crested Newt, bat activity and breeding bird surveys. No GCN's were found to be present, the potential for significant impacts on breeding birds was not considered to be significant where boundary hedges are proposed to be retained and new landscaping proposed and the suggested potential for small scale bat roosts within existing Oak trees within the boundary hedgerows could be mitigated by new native tree planting.

- 6.21 The current re-plan proposal does not extend the red line of the wider approved development site, whilst it is considered that there are good opportunities for occupiers of the new dwellings to be able to access natural green space and walking networks in the surrounding area, including for dog walking, whereby it is noted for the committee report for outline application 16/0031/OUT that it was considered that the numbers of people from the proposed development adding to existing levels of local and coastal recreational disturbance would be minimal. This would remain the case for the proposed re-plan application for an additional 24 no. dwellings for the approved development as a whole whereby the applicant/ developer is committed to making a financial contribution as part of any S106 Agreement to offset the impacts of the development on the Hamford Water SPA and Ramsar site.
- 6.22 Notwithstanding the above, a further Preliminary Bat Roost Assessment of Trees, Nesting Bird Survey and ECOW was conducted at the site on 17 May 2023 and 31 May 2023 to establish if there was any change in position since the previous survey assessment conducted. The further assessment has shown that there is no increased levels of bat roosting activity within the trees which line the southern and western boundaries of the site from the previous bat roost survey conducted whereby nearby artificial light levels have reduced this potential. The further assessment has shown, however, that a section of hedging along the northern boundary of the wider development site contains behaviour consistent with breeding sparrows.
- 6.23 As such, whilst the comments received from ECC Place Services are duly noted, it is considered that these matters have already been sufficiently addressed under the approved outline application for the 210 residential units at the site (16/0031/OUT) whereby it should be emphasised that the red line for the proposed re-plan scheme is for a lesser site area than the Turpins Farm development site area as a whole meaning that there are no reasonable grounds to require further ecology information for the current re-plan application, including for skylarks. No policy objections are therefore raised to the proposed re-plan scheme under Policies SP2 and PPL4 for this section of the report.

Design

- 6.24 The proposed replan scheme follows the overall block structure of the wider approved detailed scheme for the site with the principal changes being to alter the house types along specific streets to provide for a number of smaller dwellings to take into account changes in market trends to smaller/family sized dwellings. There would be changes to five streets in total for the re-plan red line area, including swopping of house types to some dwellings from detached houses to semi-detached houses, whereby for comparison purposes the amended plots would increase from 78 to 102 dwellings (namely an increase in 24 no. dwellings) which would include a proportionate increase in affordable dwellings for the re-plan area - see Affordable Housing section below). A total of three new house types would be introduced as a result of the re-plan changes ('Byford', 'Ardale' and Kingdale'). The re-plan scheme would also replace some house units as originally approved with wide frontages to the street with types which have a narrower footprint. No design or layout changes are being made to the other parts of the wider

Turpins Farm development site currently being implemented under 20/00307/DETAIL. A detailed Design and Access Statement accompanies the submitted application which explains in more detail the design and layout changes proposed.

- 6.25 Schedules of Accommodation have been submitted with the application which show a comparison in the bedroom accommodation for the approved scheme for Turpins Farm under 20/00307/DETAIL and the proposed re-plan scheme, which are replicated below:

Approved Scheme (20/00307/DETAIL)

Name	Reference	No. of bedrooms	Number
Ashenford	NA20	2	21
Blandford	NA22	2	22
Gosford	PA34	3	27
Yewdale	PT37	3	28
Coltford	NA34	3	20
Woodman	Wood	3	16
Manford	NA44	4	27
Waysdale	NT42	4	21
Marford	NA45	4	23
Wayford	NT51	5	5
Total			210

Proposed Replan Scheme (22/01333/FUL)

Name	Reference	No. of bedrooms	Number
Ashenford	NA20	2	25
Blandford	NA22	2	22
Gosford	PA34	3	20
Yewdale	PT37	3	11
Byford (new)	NA32	3	42
Ardale (new)	NT30	3	10
Coltford	NA34	3	26
Kingdale (new)	NT31	3	5
Woodman	Wood	3	14
Manford	NA44	4	23
Waysdale	NT42	4	14
Marford	NA45	4	17
Wayford	NT51	5	5
Total			234

- 6.26 It is considered that the changes in bedroom accommodation as shown above for the current re-plan application to reflect the applicant's desire to scale down to provide more 3 bedroomed family sized dwellings to reflect changing market trends is appropriate where the three additional house types proposed ('Byford', 'Ardale' and 'Kingsdale') are provided as additional 3-bed dwellings.

- 6.27 The submitted Design and Access Statement shows how layout changes would be made to particular parts of the re-plan area, notably effecting existing Plots 81-85, 86, 87-95, 105-115, 116-124, 125-134, 135-149, 165-167 and 168-182. Some of the changes have introduced

corner plots, although some existing corner plots have been replaced by dual fronted types to provide improved active frontages to the public realm.

- 6.28 The scale, appearance and proposed external finishes of the house types for the re-plan area to reflect the proposed site layout changes, including the new house types introduced to incorporate the additional 24 no. dwellings, reflect those of the house types shown for approved application 20/00307/DETAIL and are considered acceptable whereby the appearance and detailing would reflect those of the dwellings of the approved scheme and which are currently being built out.
- 6.29 The plots shown for the re-plan area would comply with recommended garden amenity standards and also EPOA parking standards, including those plots which have been reduced in size. The slight increase in housing density to reflect the additional 24 no. units for the re-plan area is also considered acceptable whereby the general street layout for the re-plan area remains essentially the same as for 20/00307/DETAIL without any discernible layout changes.
- 6.30 In terms of landscaping, the Council's Tree and Landscape Officer has advised that the proposed re-design of the layout of the western part of the site would not affect the preserved trees situated along the western boundary of the earlier approved planning applications and that the details provided relating to soft landscaping are considered comprehensive and sufficient to soften and enhance the appearance of the proposed development.
- 6.31 The re-plan layout as submitted has been examined by Place Services' Urban Design Team who made initial design comments on the originally submitted drawings. In their consultation response dated 10 March 2023, they stated that the re-plan scheme as submitted did not show adequate progression with regard to quality from an urban design perspective with respect to general layout and movement, streetscene interaction and impact, dwellings on prominent corner plots which had inactive elevations, frontage parking arrangements, street landscaping and natural surveillance, most notably relating to the north-west and south-west corners of the site, the East-West street axis and the Central Loop Road. As such, Place Services remarked that, overall, further justification was required for the design and layout choices selected, adding that the lack of L-shaped units and some inactive side elevations on corner plots resulted in poor interactions with the street scene, especially in key areas, such as on the East-West Street Axis and that the inclusion of frontage parking severed the connection between residential units and the street. Accordingly, Place Services advised that these identified design weaknesses should be addressed.
- 6.32 The initial comments received from Place Services has resulted in revisions being made to the submitted scheme as shown on the revised drawings. Place Services have been re-consulted on these revisions who have stated in their re-consultation letter dated 10 March 2023 that the changes made to the re-plan layout have responded positively to the design concerns expressed and, as such, now offer a positive contribution to the local built environment. As such, they advise that they are able to endorse the the-plan scheme from an urban design perspective where:
- L shaped units have been provided to ensure that corners are turned more positively by dwellings that have stronger interactions with the street scene;
 - Where L shaped units have not been provided, the applicant has provided adequate design justification;
 - The frontage parking area on the central loop road has been improved via landscaping and enhanced planting.
- 6.33 Given these drawing revisions, it is considered that the design of the re-plan scheme is now acceptable under the provisions of Section 12 of the NPPF, the National Design Guide (M3) and Policies SP7, SPL3, LP3 and LP4 of the adopted TDLP. It is accepted that there has been a slight upwards adjustment in the housing density for the western section of the site and a

reduction in garden sizes as a result of the re-plan submission and due consideration must therefore be given as to whether these layout changes would have a resulting detrimental impact on the character and feel of the development as already approved and the amenity of future occupiers whereby the NPPF states that development that is not well designed should be refused. It is considered in this regard that the design and layout concessions made to provide the additional 24 no. units are relatively minor and inconsequential when compared to the site layout approved under 20/00307/FUL where the design parameters of that approved scheme are still closely followed. As such, it is considered that it would be unreasonable to refuse planning permission for the re-plan scheme as submitted, particularly as the scheme has been subject to additional design scrutiny by Place Services' Urban Design team as referenced above whereby requested design revisions to the scheme have responded positively to their initial design concerns.

Access

- 6.34 Vehicular access to the re-plan area from the rest of the wider development site would still be taken from the existing access point off Elm Tree Avenue whereby this means of access has not changed from the previously approved scheme shown for 20/00307/DETAIL (and as subsequent shown for VOC application 21/1667/VOC). ECC Highways have advised in their updated response dated 5 July 2023 that the changes made to the approved layout under the current re-plan scheme are relatively small in scale and will not alter the character of the approved scheme, adding that the road layout is designed to serve more than the 210 homes approved by the outline planning permission.
- 6.35 As such, ECC Highways have stated that they are satisfied that the inclusion of 24 no. additional dwellings for the re-plan scheme, bringing the total amount of dwellings for the Turpins Farm development as a whole up to 234 units, would, at peak times, with the number of additional trips generated by the proposal on the highway network, be unlikely to be severe considering these factors or in terms of increased traffic flow/capacity upon the existing junction now constructed. They conclude in their response that the impact of the proposal is therefore acceptable from a highway and transportation perspective subject to highways mitigation and highway conditions. No highway policy objections are therefore raised to the proposal due to ECC Highways' comments under Policies SP7, SPL3 and CP2 of the adopted TDLP.
- 6.36 The applicant has confirmed to the Council that it is willing to make a £10,000 financial contribution towards future speed management / reduction measures for Elm Tree Avenue and / or Walton Road and also a £15,000 financial contribution towards additional footpath improvements within the locale over and above footpath improvements which it has stated it has already provided as part of the wider development scheme for Turpins Farm whereby ECC Highways have advised that the latter contribution is likely to be used for upgrading the existing footpath on the north side of Walton Road which it is understood is regularly used by pedestrians and recreational walkers but which currently does not meet footpath standards. However, the applicant has stated to the Council that the additional footpath improvements contribution would be reliant upon planning permission being granted for the current re-plan scheme as otherwise it would continue implementing the approved reserved matters scheme across to the eastern part of the site without making such a financial contribution where it is not obliged to do so under the heads of terms for the S106 agreement for the approved outline application. Both financial contributions can be conditioned (see revised ECC Highways updated consultation responses above) and would be secured by way of a S106 agreement whereby both financial contributions are required to be paid prior to commencement of development.

Affordable housing provision

- 6.37 The approved detailed application for the Turpins Farm development (20/00307/DETAIL) relating to 210 dwellings requires 30% affordable housing provision or the provision of 18 no. gifted units as an alternative affordable option for that approved scheme.
- 6.38 The current re-plan application for the reduced red line area will similarly require 30% affordable housing provision under Policy LP5 of the adopted TDLP. The additional 24 units proposed for the re-plan scheme would mean that 7 no. additional affordable units would be required to be provided as a proportionate 30% figure. The applicant has confirmed to the Council that it is committed to providing these 7 additional affordable units to be secured through a S106 legal agreement which would all be 3-bedroomed dwellings whereby the affordable dwellings are shown on revised drawing TW024-RE-PL-06 Rev C dated April 2023 ('Affordable Housing Location Plan - Re-Plan').
- 6.39 The Council's Housing Department have confirmed in their consultation response dated 19 June 2023 that they are happy with the proposed uplift of 7 no. affordable dwellings corresponding to 30% of the additional dwellings proposed as part of this re-plan application. They have added that there is a demand for 3-bedroomed affordable housing properties in the local area and so delivering all seven dwellings as three bed units would be acceptable whereby these should comprise a 70% affordable / 30% shared ownership tenure mix.. Accordingly, the proposal complies with Policy LP5 of the adopted TDLP. Such a stated commitment by the applicant to provide 30% affordable housing for the replan area is welcomed and also addresses one of the Town Council's raised concerns that the re-plan scheme would only deliver reduced 20% affordable housing provision.

Impacts on residential amenity

- 6.40 The committee report for 20/00307/DETAIL noted that there would be some residential impacts on those residential properties situated along the frontage of Ashes Close to the east of the site on the opposite side of Elm Tree Avenue, but that any such impacts would be insignificant given the separation distances involved. The re-plan area for the current re-plan application involves approximately only a third of the approved site on its western side whereby the site on this side is bordered by a track and fields meaning that there would not be any residential amenity impacts arising from the current proposal.

Energy Efficiency and Renewable Energy Measures

- 6.41 Renewable energy provision is addressed within Policies PPL5, PPL10 and SPL3 of the adopted Local Plan. No specific energy efficiency and renewable energy measures have been included with the submitted application where it is noted that no such details were submitted for approved detailed application 20/00307/DETAIL either as noted in the committee report for that application. It is important under adopted local plan policies and in line with NPPF advice that appropriate energy efficiency and renewable energy measures are embedded within the re-plan scheme (fabric first) rather than having to resort to retrofitting. As such, and in line with the previous committee report, it is considered that this issue can be best addressed through a planning condition:
- 6.42 With such a condition in place, Officers believe that the proposed development can adequately comply with the requirements of Policies PPL5, PPL10 and SPL3.

Response to Town Council comments

- 6.43 Response as follows:
- It is accepted that the planning merits of the site layout for the outline scheme for this site was considered on a reduced dwelling basis from originally up to 250 dwellings down to 210 dwellings as reflected in the detailed layout scheme for subsequent reserved matters

application 20/00307/DETAIL as approved. However, this is not a rigid quantum should a developer seek to subsequently seek to amend a housing layout and the merits of the current application have been considered on this basis.

- The re-plan scheme as submitted meets current residential amenity and parking standards whereby the proposed rear garden sizes are commensurate with the size of the smaller dwellings shown to reflect current market housing trends to downscale from larger dwelling schemes.
- The applicant has confirmed that the re-plan scheme will provide a ratio of 30% affordable housing, which would be TDC policy compliant.
- Financial contributions are to be paid by the applicant towards speed reduction measures and additional footpath improvements in the area as requested by the Town Council to be secured by way of S106 agreement.
- The comments regarding a requested communal school car park with separate access direct onto Elm Tree Avenue to aid school pick-ups are noted. However, whilst the reasons for this request are appreciated, ECC Highways have informally indicated that they may not be willing to support such a request in view of existing site visibility issues, a road entrance which exists opposite the proposed access point and future maintenance issues whereby these reasons can be regarded as material considerations.

7. Conclusion and Overall Planning Balance

- 7.1 The principle of residential development at this location for up to 210 dwellings has been established through the grant of outline application 16/00031/OUT. The site lies within the Settlement Development Boundary for Frinton, Walton and Great Holland where there is a presumption in favour of sustainable development. As such, there is no policy conflict in principle with the submitted re-plan scheme proposing an additional 24 dwellings at the site whereby the submitted scheme is in accordance with the Development Plan.
- 7.2 Matters of detail relating to access, layout, scale, appearance and landscaping are considered acceptable for this re-plan submission scheme representing an alternative part site layout to approved detailed application 20/00307/DETAIL for the reasons as stated in this report.
- 7.3 The proposed replan scheme as submitted would provide a range of smaller market dwellings, including the provision of smaller family unit accommodation, to take into account changing market trends with a proportionate uplift in affordable dwellings at 30% policy compliant provision supported by the Council's Housing Team. Whilst the various comments from the Town Council are noted, it is considered on balance that the benefits of the proposal, including the aforementioned housing mix changes and also the offer by the applicant to make local infrastructure financial contributions, outweigh the limited concessions made to the design and layout of the scheme to provide 24 no. additional dwelling units whereby the re-plan site layout still reflects closely the layout and design parameters of the approved and partly implemented detailed scheme for the site and where no objections have been raised to the proposal by ECC Highways in terms of the limited additional traffic capacity impacts predicted at the site and upon the local road network resulting from the re-plan scheme.
- 7.4 The application is therefore recommended for approval subject to securing an appropriate legal agreement.

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 S106 legal agreement, with the agreed Heads of Terms as set out below:
- On-site 30% Affordable Housing Provision
 - Education Contribution

- Health Contribution
- Completion and Transfer of Public Open Space and Maintenance Contribution
- RAMS Coastal Recreational Disturbance Financial Contribution
- £10,000 Financial Contribution towards speed reduction measures
- £15,000 Financial Contribution towards additionality footpath improvement works

8.2 Conditions and Reasons

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

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

- 2 The development hereby permitted shall be carried out in accordance with the following approved Drawing Nos:
KA16522 01

TW024-RE-PL-01 00
 TW024-RE-PL-01A
 TW024-RE-PL-02 B
 TW024-RE-PL-03 A
 TW024-RE-PL-04 A
 TW024-RE-PL-05 A
 TW024-RE-PL-06 C
 TW024-RE-PL-07 A
 TW024-RE-PL-08 A
 TW024-RE-PL-09 A

TW024-PL-10 C

TW024-RE-NA20-01 00
 TW024-RE-NA22-01 00
 TW024-RE-NA32-01 00
 TW024-RE-NA32-02 00
 TW024-RE-NA34-01 00
 TW024-RE-NA44-01 00
 TW024-RE-NA45-01 00
 TW024-RE-NT30-01 00
 TW024-RE-NT31-01 00
 TW024-RE-NT42-01 00

TW024-RE-ST-01 00
 TW024-RE-ST-02 00
 TW024-RE-WOOD-01 00

6338-SK-001 C
 6338/SK/003 B

21.5136.01 F
 21.5136.02
 21.5136.03 E
 21.5136.04 F
 21.5136.05 F
 21.5136.06 E
 21.5136.07 E

21.5136.08 E
21.5136.09 E
21.5136.10 F
21.5136.11 E
21.5136.12 F

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

- 3 No development shall be commenced until precise details of the manufacturer and types and colours of the external facing and roofing materials to be used in construction have been submitted to and agreed, in writing, by the Local Planning Authority. Such materials as may be agreed shall be those used in the development.

REASON - To ensure that materials of an acceptable quality appropriate to the area are used and insufficient information has been submitted in this regard.

- 4 Prior to the occupation of any of the proposed development the internal road site access and footway layout shall be provided in principle and accord with Drawing Numbers:

- TW024-RE-PL-01 00 Block plan
- TW024-RE-PL-02 B Development layout
- TW024-RE-PL-03 A Detailed layout
- TW024-RE-PL-08 A Parking layout

REASON: To ensure that vehicles using the site access do so in a controlled manner in the interests of highway safety.

- 5 Prior to occupation of the development a 1.5 metre x 1.5 metre clear visibility, as measured from and along the boundary, shall be provided on both sides of the vehicular accesses. 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.

- 6 Prior to the commencement of any phase of the development, details of the estate roads and footways (including layout, levels, gradients, surfacing, traffic calming and means of surface water drainage) shall be submitted to and approved in writing by the Local Planning Authority.

REASON: To ensure that roads and footways are constructed to an acceptable standard in the interests of highway safety.

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

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

- 8 No phase of the development shall be occupied until such time as car parking and turning areas has been provided in accordance with current EPOA Parking Standards. These facilities shall be retained in this form at all times and shall not be used for any purpose other than the parking and turning of vehicles related to the use of the development thereafter.

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

- 9 Each vehicular parking space shall have minimum dimensions of 2.9 metres x 5.5 metres and each tandem vehicular parking space shall have minimum dimensions of 2.9 metres x 11 metres to accommodate two vehicles.

REASON: To ensure adequate space for parking off the highway is provided in the interest of highway safety.

- 10 Cycle parking shall be provided for those properties without a garage in accordance with the EPOA Parking Standards. The approved facility shall be secure, convenient, covered and provided prior to first occupation and retained at all times.

REASON: To ensure appropriate cycle parking is provided in the interest of highway safety and amenity.

- 11 A £10,000 S106 financial contribution (index linked) shall be paid by the applicant / developer towards future speed management/reduction measures for Elm Tree Avenue and/or Walton Road. Such contribution shall be paid prior to the commencement of development of the re-plan area.

REASON: To protect highway efficiency of movement and safety and to ensure the proposal site is accessible.

- 12 A £15,000 S106 financial contribution (index linked) shall be paid by the applicant / developer towards the feasibility, design and/or delivery of improvements (or part thereof) towards improvements to existing footway provision in the site locale that would serve to further encourage walking as a regular travel mode for residents of the development. Such contribution shall be paid prior to commencement of the re-plan area.

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

- 13 Prior to the occupation of any dwelling, a scheme for the provision of electric vehicle charging facilities for the new dwellings hereby approved shall have first been submitted to and approved in writing by the local planning authority. Thereafter the charging facilities shall be installed in a working order prior to first occupation of the dwellings.

REASON: In order to promote sustainable transport.

- 14 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 is submitted to and approved, in writing, by the Local Planning Authority. The scheme shall include as a minimum:-

- An electric car charging point per dwelling
- A Water-butt per dwelling
- Compost bin per dwelling
- Agreement of heating of each dwelling/building
- Agreement of scheme for waste reduction

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

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

8.3 Informatives

1 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.

2 Highway 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 applicant should be advised to contact the Development Management Team by email at development.management@essexhighways.org

2: General note: areas where there is no footway being provided adjacent to the carriageway and the intention is for these areas to be adopted, a half a metre ‘no build zone’ will need to be provided and hard surfaced.

3: The areas directly adjacent to the carriageway(s) in which the trees are to be planted should not be less than 3 metres wide, exclusive of the footway and the trunks of the trees should be no nearer than 2 metres to the channel line of the road. The same dimensions should be used in situations where the footway is located adjacent to the carriageway. In paved areas, whether or not the planted areas are to be adopted highway, trees should be sited no closer than 2 metres to the defined (or undefined) edge of the carriageway. Where the adopted highway is to be an independent path, trees should be planted no closer than 1 metre from the edge of the highway. In all cases, trees should be provided with root barriers to prevent damage to underground services.

4: 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 Legal Agreement Informative

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:

On-site 30% Affordable Housing Provision

Education Contribution

Health Contribution

Completion and Transfer of Public Open Space and Maintenance Contribution

RAMS Coastal Recreational Disturbance Financial Contribution

£10,000 Financial Contribution towards speed reduction measures

£15,000 Financial Contribution towards additional footpath improvement works

9. Additional Considerations

Public Sector Equality Duty (PSED)

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

Human Rights

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

Finance Implications

- k. Local finance considerations are a matter to which local planning authorities are to have regard in determining planning applications, as far as they are material to the application.
- l. The New Homes Bonus (NHB) is one local finance consideration capable of being a material consideration to which the weight given shall be determined by the decision maker. The NHB is a payment to local authorities to match the Council Tax of net new dwellings built, paid by

Central Government over six consecutive years. In this instance, it is not considered to have any significant weight attached to it that would outweigh the other considerations.

10. Background Papers

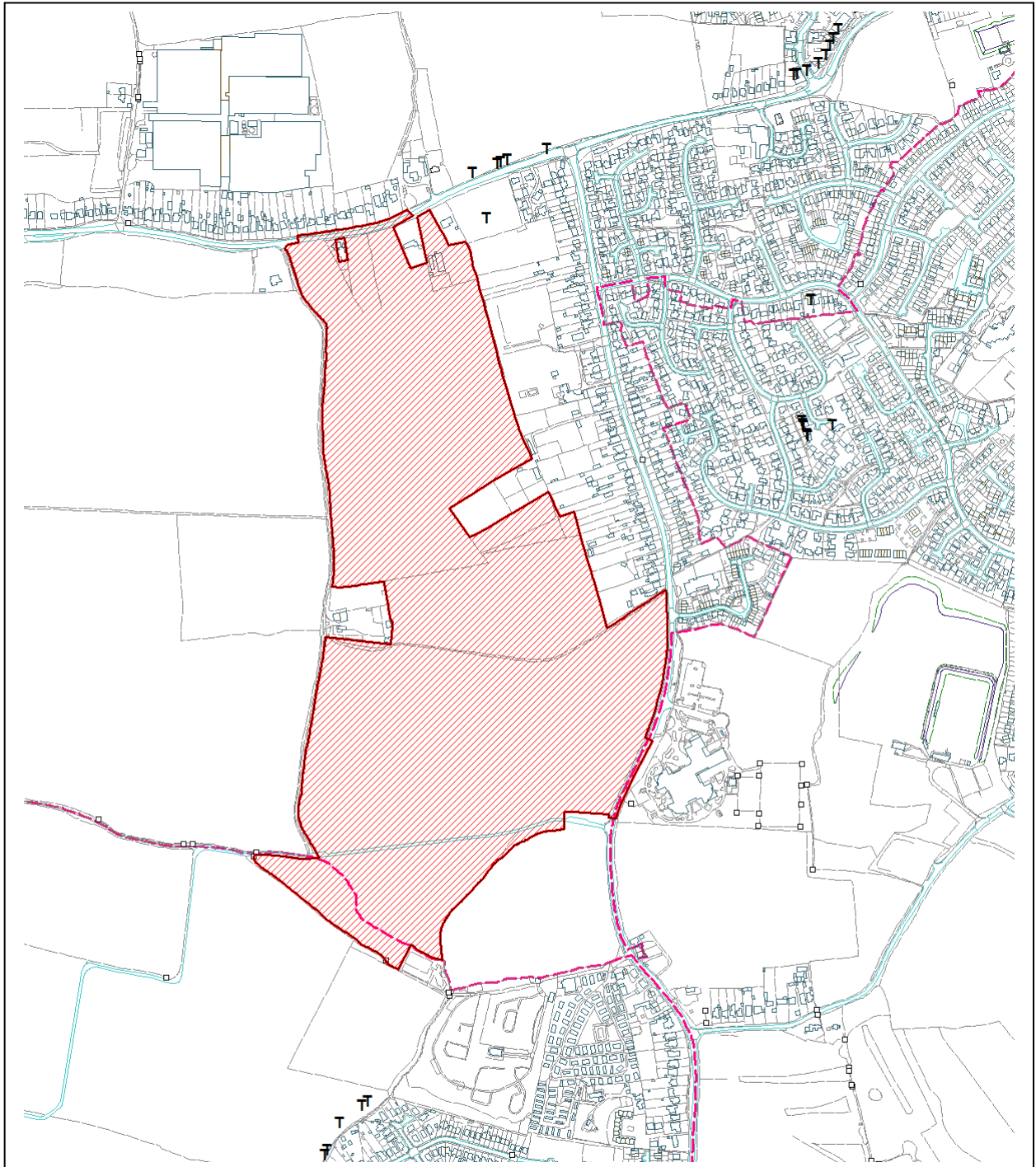
- a. In making this recommendation, officers have considered all plans, documents, reports and supporting information submitted with the application together with any amended documentation. Additional information considered relevant to the assessment of the application (as referenced within the report)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

PLANNING COMMITTEE

1st August 2023

REPORT FROM THE DIRECTOR FOR PLANNING

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



DO NOT SCALE

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Application: 17/01229/OUT

Town / Parish: Clacton Non Parished

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

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

Development: Outline application (all matters reserved except means of access) for the redevelopment (including demolition) of the site for up to 950 residential units (including affordable housing) with a new Neighbourhood Centre comprising a local healthcare facility of up to 1500sqm NIA and up to 700sqm GFA for use classes E(a) (shops), E(b) (food and drink) and/or a class F.2 community centre; a 2.1ha site for a new primary school; and associated roads, open space, drainage, landscaping and other associated infrastructure.

Background

Approximately 14 months ago at a Planning Committee dated 7th June 2022 Members of that Planning Committee resolved to grant planning permission for the development referred to above. This resolution was subject to a 6-month time limit (from the 7 June 2022 resolution) to allow the completion of a legal agreement under the provisions of section 106 of the Town and Country Planning Act 1990, and dealing with the matters set out under paragraph 1.10 below.

However, this agreement has taken significantly longer than anticipated, primarily due to unresolved matters between Essex County Council (ECC) Highways in respect of a Travel Plan Monitoring Fee, areas of dispute between the Developer and ECC Education as well as legal and site value implications in respect of an overage clause. All these matters have now been satisfactorily resolved and this have been confirmed in writing by all the respective signatories to the legal agreement. The latest draft section 106 legal agreement is now ready to be signed by all parties.

Given that it has been over the 6 months since the June 2022 Planning Committee resolution, and following legal advice, it is necessary for the application to revert to Members for consideration, and specifically to seek authority from Members of the Planning Committee to issue the outline consent now that the section 106 legal agreement is ready for engrossment.

To assist the Planning Committee, the original report to the Planning Committee on June 2022 is replicated below, with the relevant updates where necessary.

1. Executive Summary

- 1.1 The application site known as 'Rouses Farm' comprises 42 hectares of predominantly agricultural land on the western side of Clacton on Sea and north of Jaywick. This land is allocated for a major residential and mixed-use development in the Council's adopted Local Plan and outline planning permission is now being sought for up to 950 residential units; a new Neighbourhood Centre comprising a local healthcare facility and units for shops, food and drink and/or a community centre; a 2.1ha site for a new primary school; and associated roads, open space, drainage, landscaping and other associated infrastructure.
- 1.2 The site is allocated through Policy SAMU4 for a mix of residential development of use to 950 new homes, community facilities including a new two-form entry primary school and public open space. The proposal the subject of the outline application is aligned with the allocation description. Officers have worked positively with the applicants to resolve all technical planning issues with a view to bringing the application to this (June 2022) Planning Committee with a recommendation of approval.
- 1.3 This is an application for outline planning permission with all matters reserved with the exception of access. Other matters including appearance, landscaping, layout and scale are reserved for approval at a later date and therefore this application seeks only to establish the principle of residential and mixed-use development of this allocated site, and the arrangements for access. The applicant has provided details of how they propose to access the site off St. John's Road and Jaywick Lane and the Highway Authority, having recently modelled the impacts of this development on the highway network as part of the Local Plan process, Planning Officers can confirm that there remain no objections in principle to the proposed arrangements, subject to conditions requiring the approval of further details and certain off-site highway improvements.
- 1.4 Due to the large scale and potential impacts of the development, planning regulations require the preparation of an Environmental Statement. The applicant's Environmental Statement contains a thorough assessment of the following matters: landscape & visual; ecology and nature conservation; archaeology and cultural heritage; transport & access; air quality; noise & vibration; soils and agriculture; hydrology, flood risk & drainage; ground conditions and contamination; and socio-economics. The Environmental Statement concludes that no significant adverse or cumulative effects on the environment have been identified during the construction and operational phases of the proposed development. During the middle stages of 2022 the LPA undertook a full re-consultation of the Environmental Statement which included all relevant statutory consultees offering them an opportunity to provide comments on the full re-evaluation of the original July 2017 Environmental Statement to determine if the original findings are still valid. The re-evaluation report is titled 'Comment on the Evidence Base supporting 17/01229/OUT', it has been widely circulated to statutory consultees and is available on the Council planning pages online. Natural England, Historic England and the Environment Agency are the key consultees for development requiring an Environmental Statement and their comments, as well as other statutory consultation responses and third-party comments have all been taken into account and addressed as appropriate through the assessment of this application. None of the consultees have raised a concern in this regard and Planning Officers remain satisfied that the application can still be recommended for approval for the full reasons and justifications as set out in this report.

- 1.5 This large scale major application is the subject of 5 local objections raising general concerns about the impact of the development in this location. They have all been considered in this report and are addressed accordingly.
- 1.6 Officers are content that subject to the imposition of reasonable planning conditions and s106 planning obligations, the general principle of this level of development on the allocated site is acceptable. It complies with the Policy requirements of Site Allocation SAMU4, is in keeping with both the site's location to the west of Clacton and, along with the need to facilitate on site strategic landscaping, open space and the retention of existing landscape features, there are no policy conflict and the proposal constitute a sustainable form of development. Furthermore, subject to details and mitigation, officers are satisfied that the proposal would not harm the living conditions of existing and future residents, or result in any materially detrimental impacts, whilst significantly boosting housing supply within the district. The Applicant is committed to bringing forward a Reserved Matters Application for Phases 1 & 2 of the Development in the coming months, to allow work to commence on site as soon as possible.
- 1.7 The recommendation is therefore to approve outline planning permission subject to the completion of a legal obligation under Section 106 of the Town and Country Planning Act 1990 and a number of controlling conditions.

Recommendation:

That the Assistant Director for Planning be authorised to grant planning permission for the development subject to:-

a) 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 (where relevant):

- 20% On-site Affordable Housing
- Provision of land on-site for a new healthcare facility together with a 554,900 financial contribution towards its provision. [In the event that the land is not required, the financial contribution will be spent on health facilities elsewhere (to be determined by the NHS);
- Transfer of new open space, including proposed equipped play areas to the Council or a management company;
- Land for a new primary school and early years and childcare facility on site with financial contributions towards the provision of those facilities;
- Financial contributions to create additional secondary school places;
- New neighbourhood centre; and
- Financial contributions towards RAMS and off-site ecological mitigation.
- A £500,000 financial contribution towards public transport provision
- Provision of a Residential Travel Plan (RTP) and RTP monitoring fee

b) Subject to the conditions stated in section 8.2, or varied as is necessary to ensure the wording is enforceable, precise, and reasonable in all other

respects, including appropriate updates, so long as the principle of the conditions as referenced is retained; and,

- c) The informative notes as may be deemed necessary.

2. Planning Policy

- 2.1 Since the publication of the original May 2018 planning committee report, and indeed the consideration of this development proposal at the May 2018 planning committee, there has been two key changes to both the local and national planning policy landscape:

1 – The NPPF 2012 was in place at the time of the May 2018 committee, that NPPF has been revised in July 2018, updated in February 2019 and again in July 2021. The relevant NPPF at this time is the NPPF 2021.

2 – Section 1 and 2 of the Tendring District Local Plan 2013-2033 and Beyond were adopted in January 2021 and January 2022 respectively and the policies in the local plan are now afforded full weight.

- 2.2 The 'Assessment' section below is comprehensive and detailed but will nevertheless aim to highlight the areas where the changes in the above mentioned policy landscape have affected the planning assessment of this development proposal. As such, unless specifically indicated otherwise, this report can be read in conjunction with the May 2018 committee report and not as a substitute to the May 2018 committee report.
- 2.3 The following Local and National Planning Policies are relevant to this planning application (this remainder of this section below replaces in its entirety the equivalent section in the May 2018 committee report).

NPPF National Planning Policy Framework July 2021

National Planning Practice Guidance

Adopted Tendring District Local Plan 2013-2033

Section 1 Policies:

- 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
- SP5 Infrastructure & Connectivity
- SP7 Place Shaping Principles

Section 2 policies:

- SPL1 Managing Growth
- SPL2 Settlement Development Boundaries
- SPL3 Sustainable Design
- HP1 Improving Health and Wellbeing
- HP2 Community Facilities
- HP5 Open Space, Sports & Recreation Facilities
- LP1 Housing Supply
- LP2 Housing Choice
- LP3 Housing Density and Standards
- LP4 Housing Layout
- LP5 Affordable and Council Housing
- PP3 Village and Neighbourhood Centres
- PP12 Improving Education and Skills
- PPL1 Development and Flood Risk
- PPL3 The Rural Landscape
- PPL4 Biodiversity and Geodiversity
- PPL5 Water Conservation, Drainage and Sewerage
- PPL7 Archaeology
- PPL9 Listed Buildings

PPL10 Renewable Energy Generation and Energy Efficiency Measures

CP1 Sustainable Transport and Accessibility

CP2 Improving the Transport Network

CP3 Improving the Telecommunications Network

SAMU4 Development at Rouses Farm, Jaywick Lane, Clacton

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

Essex Design Guide

Status of the Local Plan

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

In relation to housing supply:

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

3. Relevant Planning History

01/01415/FUL	Workshop for the repair of cars (Renewal of 99/01370/FUL)	Refused	12.10.2001
92/00248/FUL	Change of use of farm yard to a base for three goods vehicles and use of building for repair and maintenance of these goods vehicles	Approved	01.09.1993
99/01370/FUL	Workshop for the repair of cars	Approved	17.08.2000
15/30060/PREAPP	Request for EIA scoping opinion for the construction of up to 800 residential dwellings, primary school, local centre and associated infrastructure.	Response provided	09.04.2015
15/30108/PREAPP	Redevelopment of the site to provide 875 residential dwellings, primary school, local centre and associated infrastructure.	Response provided	24.08.2015
17/01229/OUT	Outline application (all matters reserved except means of access) for the redevelopment (including demolition) of the site for up to 950 residential units (including affordable housing) with a new Neighbourhood Centre comprising a local healthcare facility of up to 1500sqm NIA and up to 700sqm GFA for use classes A1 (shops), A3 (food and drink) and/or D1 (community centre); a 2.1ha site for a new primary school; and associated roads, open space, drainage, landscaping and other associated infrastructure.	Current	
19/01660/EIASC	EIA Screening Opinion Request following outline permission 17/01229/OUT.	Current	
15/30108/PREAPP	Redevelopment of the site to provide 875 residential dwellings,	Response provided	24.08.2015

primary school, local centre and associated infrastructure.

19/30155/PREAPP	Reserved matters for circa 480 homes within phases 1 and 2 together with details of spine road and landscaping.	Current
18/01779/FUL (St Johns Plant Centre Earls Hall Drive Clacton On Sea Essex CO16 – on opposite side of St Johns Road opposite the development proposal the subject of this report)	Demolition of nursery buildings and dwellinghouse. Erection 195 residential units (comprising 6 two bed houses, 87 three bed houses, 33 four bed houses, 25 five bed houses, 12 one bedroom apartments and 24 two bedroom apartments), and 8 live work units (mixed commercial units measuring 1064 square metres in total with flats above). Associated roads, open space, drainage, landscaping, and other infrastructure.	Refused Dismissed at Appeal 19.02.2020
21/01000/FUL (St Johns Plant Centre Earls Hall Drive Clacton On Sea Essex CO16 – on opposite side of St Johns Road opposite the development proposal the subject of this report)	Proposed demolition of nursery buildings and dwelling house (700 St Johns Road) and erection of 180 residential units (including affordable housing) comprising 10 two bed houses, 83 three bed houses, 24 four bed houses, 15 five bed houses, 16 one-bedroom apartments and 24 two-bedroom apartments and 8 live work units (mixed commercial units totalling 1064 square metres with flats above); and roads, open space, drainage, landscaping and other associated infrastructure.	Refused on 18 May 2022 for the following reasons (summarised): 1. Submitted Transport Assessment insufficient to demonstrate that the proposal would not have a severe impact on highway safety or the local road network, contrary to the above mentioned Policy and the relevant paragraph of the NPPF 2021. 2. Proposed access would have an adverse impact on the amenities of the occupiers of the existing properties directly to the east and west of the proposed access by reason of the significant increase in vehicular

movements in close proximity to the side elevations and rear gardens of those properties, as well as the associated noise, vibration and light pollution.

3. In the absence of a Dormouse Survey, means an informed decision on the wellbeing of protected species in this location cannot be made. The application is therefore contrary to the above mentioned Policy and relevant paragraph of the NPPF 2021 as set out above.

4. Lack of section 106 legal agreement to secure RAMS and other necessary obligations.

- 3.1 In respect of the St Johns Plant Centre site and refusal ref 21/01000/FUL mentioned directly above, an appeal was lodged against this refusal and on the 22nd March 2023 the appeal was allowed (under appeal ref APP/P1560/W/22/3308647). During the appeal hearing the Council confirmed that new traffic data addressed previous concerns in respect of the impact of the proposal on highway safety and the local road network. Moreover, the Council also confirmed (in the build-up to, and during the hearing) that a survey submitted with the appeal addresses its concern in relation to dormice, whilst other matters to do with securing necessary obligations are addressed by the submitted Unilateral Undertaking (UU). The only remaining matter was therefore the impact of the proposal on the living conditions of two properties either side of the main access into the site. On this the Inspector concluded that that the effects of the proposed development on the living conditions of occupants of 698 and 702 St Johns Road in relation to noise, vibration and light, would be acceptable. There appeal was subsequently allowed subject to conditions and a UU.

4. Consultations

- 4.1 As outlined above, the Applicant prepared a report reviewing the Application Evidence Base, including the Environmental Statement, which was published on the Council's website in January 2022, and distributed to various Statutory Consultees to seek their comments on the Evidence Base and Environmental Statement, the following statutory consultees responded to the consultation as follows:

TDC Trees
and
Landscapin
g

No further comments at this time (officer comment: TDC Trees and Landscaping raise no objection previously subject to conditions.

TDC Env
Health

Contaminated Land: With reference to the submitted Environmental Assessment, dated July 2017 (section 14), I can confirm we are satisfied with the findings of the report. Section 14.5.1, confirms actions are still required to confirm the extent of contamination on the site, with areas of the north western corner being identified in the first instance. A further intrusive investigation will be required, once the final, proposed layout has been confirmed; it is necessary to understand the location of the garden / private amenity spaces, to enable the assessment to reflect the site as a whole. As such we are requesting the following be conditioned on any subsequent approval, and relevant documentation be submitted at any further planning phase–

No development shall take place until the ground conditions on the site have been subject to a detailed investigation to establish their suitability for the proposed end use. A historical investigation, sampling and analysis of current soils, site assessment and action plan to remedy any contamination must be agreed by the local planning authority in writing and carried out prior to the commencement of any other works in relation to any development on the site. The local planning authority is to be consulted at all key stages in this investigation process.

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

Noise: The submitted Environmental Assessment, dated July 2017 (section 11), identifies, via relevant noise surveys, that the end users of the site will not be adversely impacted by the noise environment; as such we are satisfied with its findings and would like any actions outlined in the relevant mitigation sections of the aforementioned document are followed and adhered to.

REASON: to protect the amenity of nearby existing residential dwellings, and future residents

Air Quality: The submitted Environmental Assessment dated July 2017 (section 10), confirms by way of relevant modelling that the proposed development would not have an adverse impact on the air quality within the localised area, and as such we are satisfied with the processes followed and the findings. However, should this application

be approved and progress to a further planning phase, we would like to ensure that should the development in principal be approved, all steps are taken to minimise emissions from the site during the construction phase, and any mitigation techniques, as outlined in section 10.8.4 are followed and adhered to throughout the development.

REASON: to protect the public health and amenity of nearby existing and future residents

Construction Method Statement: With reference to the submitted CMS, dated 26th July 2017, I can advise we are satisfied with its contents, but would like to request that the working hours, reflect that of our published working hours for construction sites; providing this section can be amended to reflect this, we have no further comments to make in relation to this document –

- 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 Monday to Saturday (finishing at 13:00 on Saturday) with no working of any kind permitted on Sundays or any Public/Bank Holidays.

REASON: to protect the amenity of nearby residential dwellings

Officer comment: *The above requirements will be secured by condition.*

ECC
Heritage

The proposed site has maintained its agricultural nature at least since 1777, as documented in the attached Built Heritage Assessment. It does not contain any designated or not designated heritage assets within its boundaries, however, it is in close proximity to at least two Grade II listed building, Bluehouse Farmhouse and Duchess Farmhouse and it is historically part of Rouses Farm since the 19th Century. The adjoining land on the East side of Rouses Lane was also part of Duchess Farmhouse in the 19th Century.

As stated in the Built Heritage Assessment, there would be less than substantial harm to the significance of Duchess Farmhouse due to the loss of the open fields which originally constituted part of the farmland. It is noted that the farmhouse has now lost its original use and the rural character of the surrounding area has been already compromised by the construction of mid-20th century dwellings, however, the proposed scheme would still alter the immediate setting of the listed building. With regards to the National Planning Policy Framework (2021), the level of harm to Duchess Farmhouse as a designated heritage asset 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.

It is not clear whether Rouses Farm, which is a 19th century settlement, has the potential to be considered a non-designated asset in which case, given the proposal would have a detrimental impact upon its significance, the local planning authority should take a balanced judgement, having regard for the scale of harm identified and the significance of the heritage asset as per Paragraph 203 of the NPPF. It is recommended that the applicant submits additional information regarding the significance of this potential heritage asset, including any contribution made by its setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance, a requirement set out in Paragraph 194 of the NPPF.

Should the outline application be approved, I recommend that:

- Section R9 of the Masterplan, along the Site northern boundary fronting St John's Road, which is in close proximity to Duchess Farmhouse, should be retained as open space in order to reduce the impact of the new development on the setting of the designated heritage asset. Should the proposal of a built environment be approved, only low density detached or semi-detached housing shall be introduced and the development should be set back from the northern boundary by a sufficient distance;
- Should Rouses Farm be assessed to be a non-designated asset, similar considerations should be extended to the development along the East boundary;
- At reserved matters stage, the scheme design shall introduce elements from the vernacular architecture as proposed in the Built Heritage Assessment, with reference to the Essex Design Code (2007), in terms of storey heights, building depths, building materials, density, architectural style, and detailing such window forms, porches, dormers etc;

Officer Comment: *The issues raised by ECC Heritage have been addressed in the 'Assessment' section below (under the 'Heritage' heading)*

ECC
Archaeology

ECC Archaeology maintain their original comments from 2017 and stated: In accordance with Paragraph 194 (NPPF 2021) a field evaluation is required in order to describe the significance of the heritage assets which will be affected by the above application. This evaluation would enable due consideration to be given to the archaeological implications and would lead to proposals for preservation in situ and/or the need for further investigation. This should be carried out prior to determination of the application. However if the authority is minded to give permission it is recommended that the following condition is attached to any consent to ensure a full detailed record of this significant site is made in advance of destruction.

1. No development or preliminary groundworks of any kind shall take place until a programme of archaeological investigation has been secured in accordance with a written scheme of investigation which has been submitted by the applicant, and approved in writing by the local planning authority.

2. No development or preliminary groundworks of any kind shall take place until the completion of the programme of archaeological evaluation identified in the WSI defined in Part 1 and confirmed by the Local Authority archaeological advisors.

3. A mitigation strategy detailing the excavation / preservation strategy shall be submitted to the local planning authority following the completion of the archaeological evaluation.

4. No development or preliminary groundworks can commence on those areas containing archaeological deposits until the satisfactory completion of fieldwork, as detailed in the mitigation strategy, and which has been approved in writing by the local planning authority.

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

Officer comment: In the May 2018 Committee Report the LPA concluded that 'this information (required by ECC Archaeology) would normally be required in advance of a planning decision, but given that this is an outline application with all matters reserved apart from access, it is considered reasonable for this information to be required as part of the reserved matters application.'

In light of this position as outlined in 2018 by the LPA including the fact that there has been no significant shift in local or national policy, as well as ECC's willingness to accept a planning condition(s) if the LPA is minded to recommend approval, it is considered to be unreasonable to insist on further field evaluations prior to the determination of the application, especially at this very advanced stage.

Natural
England

Natural England has no further comments to make on this application. The proposed amendments to the original application are unlikely to have a significant different impacts on the natural environment than the original proposal.

NE has not assessed this application for impacts on protected species. Natural England has published standing advice which you can use to assess impacts on protected species or you may wish to consult your own ecology service for advice.

ECC Place
Services
Ecology

No response

Officer comment/updated position: *The Applicants have continued to undertake ecological surveys throughout the past few years to ensure the baseline position on ecology is understood. The latest Impact Assessment is dated January 2022 and confirms that the site is dominated by arable fields of limited ecological value; with native hedgerows qualifying as Habitats of Principal Importance. In terms of species on site, in summary it is considered that GCNs and roosting bats are considered absent from the site; the wintering bird surveys identified an assemblage of species considered to be of at least local importance, and in the case of the corn bunting assemblage, up to County value; The breeding bird surveys identified a species assemblage of District value utilising the site; and a small population of common lizard and slow worm was identified during reptile surveys.*

With regards biodiversity, the 'approved' ES identifies a series of on-site mitigation measures. These will be fully detailed as part of a condition as recommended below, but in summary these will include bat boxes, grassland strips (on site) for breeding birds, bird boxes, habitat creation for reptiles and other notable species. The proposed development will provide a total of 13ha of greenspace (amounting to 31% of the site) including 10.7ha of Suitable Alternative Natural Greenspace (SANGS) therefore there is suitable opportunities to provide for net gain throughout the site, to be determined through the Reserved Matters scheme (landscaping reserved matter) and conditions. As soon as a 'fixed' layout is agreed (to be agreed as part of Reserved Matters) the Applicant, through their agents will be starting discussions with ECC Place Services on the onsite ecology enhancement to secure that net gain.

In terms of other mitigation, this will include:

- Provide overwinter stubble (cultivated and sprayed as later as possible) to provide a seed resource;*
- 8m x 500m conservation headland, located adjacent to an existing hedgerow.*
- the existing field margin south of the main farm track should be managed as rough grassland and cut on a three-year rotation.*
- Winter feeding station with an area of rotational set-aside – an area of at least 0.4ha spread with seed mix twice per week from 1 December until 30 April.*

Essex
Wildlife
Trust

No response

NHS
England

Response included below

1.0 Introduction

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

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

2.0 Existing Healthcare Position Proximate to the Planning Application Site

2.1 The proposed development is likely to have an impact on the services of 3 practices including 2 of these being branch surgeries operating within the vicinity of the application site. These GP practices and branch surgeries do not have capacity for the additional growth resulting from this development.

2.2 In addition to a primary healthcare response, the proposed development is likely to have an impact on other health and social care system providers that have been consulted as part of this healthcare impact assessment. This incorporates responses from:

- East Suffolk & North East Essex Foundation Trust
- Essex Partnership University Foundation Trust (Mental Health)
- East of England Ambulance Service NHS Trust

2.3 The proposed development will be likely to have an impact on the NHS funding programme for the delivery of primary healthcare provision within this area and specifically within the health catchment of the development. As the commissioner of primary care services, North

East Essex CCG would therefore expect these impacts to be fully assessed and mitigated

3.0 Review of Planning Application

3.1 North East Essex CCG acknowledges that the planning application includes a Planning Statement which suggests that a capital contribution may be required to mitigate against the healthcare impacts arising from the proposed development

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

4.0 Assessment of Development Impact on Existing Healthcare Provision

4.1 The existing GP practices do not have capacity to accommodate the additional growth resulting from the proposed development. The development could generate approximately 2,090 residents and subsequently increase demand upon existing constrained services

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

Table 1: Summary position for primary healthcare services within 2km catchment (or close to) the proposed development

Premises	Weighted List Size ¹	NIA (m²)²	Capacity³	Spare Capacity (NIA m²)⁴
Clacton Community Practice (including branches Nayland Road & Kennedy Way)	20,880	1,724.83	25,154	293
Total	20,880	1,724.83	25,154	293

Notes:

1. The weighted list size of the GP Practice based on the Carr-Hill formula, this figure more accurately reflects need of a practice in terms of resource and space and may be slightly lower or higher than the actual patient list.
 2. Current Net Internal Area occupied by the Practice
 3. Based on 120m² per 1750 patients (this is considered the current optimal list size for a single GP within the East DCO). Space requirement aligned to DH guidance within "Health Building Note 11-01: facilities for Primary and Community Care Services"
 4. Based on existing weighted list size
- 4.3 The development would have an impact on primary healthcare provision in the area and implications, if unmitigated, would be unsustainable. The proposed development must therefore, in order to be considered under the 'presumption in favour of sustainable development' advocated in the National Planning Policy Framework, provide appropriate levels of mitigation.

5.0 Healthcare Needs Arising From the Proposed Development

5.1 At the earliest stage in the planning process it is recommended that work is undertaken with NHS England and Public Health England to understand the current and future healthcare needs of the development and surrounding areas giving consideration to the current healthcare provision, current oral health status of the area and predicted population growth to ensure

that there is sufficient and appropriate dental services that are accessible to meet the need of the development but also address existing gaps and inequalities.

- 5.2 Encourage oral health preventative advice at every opportunity when planning development, ensuring that oral health is everybody's business, integrating this into the community and including this in the health hubs to encourage and enable residents to invest in their own oral healthcare at every stage of their life.

5.3 **Health & Wellbeing Statement**

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

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

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

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

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

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

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

Table 2: Capital Cost calculation of additional primary healthcare services arising from the development proposal

Existing Primary Care Premise	Additional Population Growth (950 dwellings) ⁵	Additional floorspace required to meet growth (m ²) ⁶ <small>MUST BE TO TWO DECIMAL PLACES</small>	Spare Capacity (NIA) ⁷	Capital required to create additional floor space (£) ⁸
Clacton Community Practice (including branches Nayland Drive & Kennedy Way)	2,090	143.31	293	£554,900.00
Total	2,090	143.31	293	£554,900.00

Notes:

5. Calculated using the Tendring District average household size of 2.2 taken from the 2011 Census: Room bedrooms and central heating, local authorities in England and Wales (rounded to the nearest whole number)
6. Based on 120m² per 1750 patients (this is considered the current optimal list size for a single GP within the East DCO). Space requirement aligned to DH guidance within "Health Building Note 11-01: facilities for Primary and Community Care Services"
7. Existing capacity within premises as shown in Table 1
8. Based on standard m² cost multiplier for primary healthcare in the East Anglia Region from the BCIS Publ Sector Q1 2020 price & cost Index, adjusted for professional fees, fit out and contingencies budget (£3,872/m² rounded to nearest £100).

- 5.6 A developer contribution will be required to mitigate the impacts of this proposal. North East Essex CCG calculates the level of contribution required, in this instance to be **£554,900.00**. Payment should be made before the development commences.
- 5.7 North East Essex CCG therefore requests that this sum be secured through a planning obligation linked to any grant of planning permission, in the form of a Section 106 planning obligation in order to enhance primary care services within this area of high deprivation.

6.0 Conclusions

- 6.1 In its capacity as the primary healthcare commissioner, North East Essex CCG has identified that the development will give rise to a need for additional primary healthcare provision to mitigate impacts arising from the development.
- 6.2 The capital required through developer contribution would form a proportion of the required funding for the provision of capacity to absorb the patient growth generated by the development West of Clacton. It is recognised that under the current guidance all primary care premises that are contracted under the same provider, in this case Clacton Community Practices. This contracted provider recently relocated two of its sites into a refurbished existing NHS Premise known as Kennedy Way Medical Centre increasing the capacity for the population of East Clacton. However, this site is 3 miles away from the proposed development with no direct public transport route (40 minute journey) from the proposed development and therefore would not be able to support the new population.
- 6.3 Assuming the above is considered in conjunction with the current application process, North East Essex CCG would not wish to raise an objection to the proposed development. Otherwise the Local Planning Authority may wish to review the development's sustainability if such impacts are not satisfactorily mitigated.
- 6.4 The terms set out above are those that North East Essex CCG deem appropriate having regard to the formulated needs arising from the development.
- 6.5 North East Essex CCG is satisfied that the basis and value of the developer contribution sought is consistent with the policy and tests for imposing planning obligations set out in the NPPF.
- 6.6 North East Essex CCG look forward to working with the applicant and the Council to satisfactorily address the issues raised in this consultation response and would appreciate acknowledgement of the safe receipt of this letter.

Officer Comment: *As part of this outlined proposal (and if approved) the development will provide for 'Health Centre Land' (to be secured in the section 106 agreement) – this is land which is defined as 'an area of land no less than One Thousand Five Hundred (1,500.00) square metres located within Phase 2A'. The obligations in this respect are that Developers are to provide the site in a 'Serviced Condition' (i.e. the provision of roads, sewers and other required services to the boundary of the Health Centre Land).*

The draft S106 provides that the Developers cannot commence development of Phase 2 until they have offered to transfer the Health Centre Land in a serviced condition to the NHS; the NHS will have 3 calendar months to accept the land. Should they not respond or refuse to accept the transfer, then the Developers are obligated to pay an agreed Health Contribution instead, which will be used towards the provision and/or improvement of healthcare facilities at Nayland Drive Branch and/or Clacton Road Branch (including its main Old Road Medical Practice); Surgery Branch, Church Square (including its main St James Surgery). In other words, the NHS can either choose to have a serviced site or the financial contribution towards existing facilities.

Should the ultimate position be a financial contribution towards existing facilities then the site marked for the 'Health Centre Land' would be able to be used for alternative purposes (where relevant subject to planning permission and bearing in mind that the site earmarked for the 'Health Centre Land' lies within the Neighbourhood Centre).

ECC
Highways

This Authority has reviewed the updated highway and transportation impact of the proposal, the baseline information represented in the 2017 Environmental statement remains appropriate when comparing the predicted 2022 flows with the surveyed 2021 flows and it is considered that the original assessment was robust and no further reassessment in this regard is required: with the agreed mitigation measures remaining relevant. Considering these factors:

The Highway Authority has nothing further to add to our previous comments dated 11 and 30 May 2018 for this application.

Informative:

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

The applicants should be advised to contact the Development Management Team by email at

development.management@essexhighways.org

2: 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.

Env Agency No further comments

ECC Suds With reference to the Environment Statement report, we understand that the high level flood and drainage elements are discussed to understand the overall site hydrology. We do not ask any further information as part of EIA/ES to cover drainage however always recommend (developers) to engage LLFA in pre-application discussions when developing a surface water drainage proposal or seeking discharge of condition.

ECC Suds would recommend to look at ECC SuDS Design Guide at <https://www.essexdesignguide.co.uk/suds>
If (the developer) would like to request a meeting with us then please apply for it at <https://flood.essex.gov.uk/new-development-advice/apply-for-suds-advice/>

External Viability consultant (response dated 28 April 2022) In relation to an updated viability appraisal which has been submitted in relation to the subject site in a letter dated 2 December 2021 prepared by Pioneer, in addition to an email dated 11 April 2022 that provides additional supporting evidence. In summary, the Applicant's appraisal seeks to demonstrate that the proposed scheme cannot support more than c. 20% Affordable Housing. I have reviewed the submitted information and I set out my comments under the headings below.

Market Housing Revenue The proposed scheme market housing generates revenue of c. £199.46m equating to a blended capital value per sq/ft of £298. In support of this revenue, the Applicant has submitted a schedule outlining sale prices of units from their scheme at 'Flint Grange' which is located c. 2.4 miles to the north-east of the subject site in which sales revenue equates to c. £298 per sq/ft. We have reviewed this information and we do not consider that the proposed scheme sales revenue is unreasonable.

Affordable Housing Revenue

The affordable housing units generate revenue of c. £21.97m equating to a blended capital value per sq/ft of c. £130. In support of this revenue, the Applicant has provided the following statement:

"The attached email that you send [sic] me, relating to Oakwood Park, provides details of a details of [sic] an affordable housing exercise for the site in Clacton-on-Sea. The highest offer received equated to 43.48% of OMV. This has been applied to the £298.34psft open market sales figure, resulting in an affordable revenue of £21,937,304

(£129.72 psft). In Pioneer's experience, Tendring is usually a relatively difficult location in which to secure healthy offers from Registered Providers, with typically the same 2 or 3 submitting offers each time".

Whilst this statement refers to an offer received for a different site in 2020, we highlight that the Applicant's original letter dated 2 December 2021 states:

With regards to affordable housing revenues, Persimmon have an affordable housing contract in place at Thorpe Road. Following an extensive tender process they identified an RP able to pay 52.83% of open market value, and this percentage has been applied to the modelling for Rouses Farm".

We queried the discrepancy between the two statements and the Applicant has advised:

"On the HA revenue, we had attached the results of the marketing exercise we did with the Council for the affordable on our Flint Grange scheme and this supports the c. 44% we are reporting. We have also recently tendered other schemes in Tendring and these are showing very little appetite (with only one or two RP's [sic] interested) and their level of interest around this 44% of OMV level".

On the basis of this statement we have adopted the Applicant's affordable housing revenue at 44% of market value.

Construction Costs

The Applicant has increased the previously adopted construction costs that were agreed in March 2019 and indexed them by 4.48% to Q1 2022 in accordance with the BCIS Tender Price Index ('TPI'). We highlight that the TPI is now showing that costs have increased from March 2019 to Q2 2022 by 7.16%. Consequently, we have increased costs by 7.16% generating a total cost of c. £134.75m including abnormals.

Additional Costs

The Applicant has provided the following statement to support additional costs totalling c. £2.50m:

"EV Charging – EV charging points are required to serve every property in order to comply with the Council's latest emerging policy. This is coupled with the imminent changes to Part S that will require such EV points to be fast charging. I understand that Persimmon's contractor has advised that the cost of supplying and fitting such will be £819.14 per socket. Therefore, for 950 sockets this will amount to the projected £778,183.

Renewables – To meet the Council’s latest emerging policy for delivering renewables, you have informed me that Persimmon have recently completed an assessment on a scheme that was granted permission at the end of January 2022 with [sic] the Council. This required the provision of 128 no. Clearline PV16-340-G1W solar panels to meet the requirements of the policy for that 50 dwellings scheme. Therefore, in order to meet the requirement for our 950 dwelling development at Rouses Lane a total of 2,432 panels will be required. The cost of supplying and fitting these panels is £726.54 per panel and so the total cost for providing the 2,432 panels is £1,766,945.28”.

We request that the Applicant provides this information from the contractor on letter headed paper. We would also ask that the Council confirm that the measures above are required for this particular scheme.

Profit

With regards to profit the Applicant has stated:

“I can see no real justification to reduce the level of return on the private sales from 20% of GDV to 17.5%. The macroeconomic threats are a clear challenge on a site of this size and associated length of delivery: continued Brexit fallout, further Covid restrictions, geopolitical turmoil, and rises in inflation and interest rates. The original viability submission and agreed appraisal both assumed 20% of GDV on private sales, as does the Tendring Council Viability Study produced by Three Dragons and Troy Planning+ Design (June 2017), produced to assess deliverability of the Local Plan”.

We have considered the Applicant’s statement and for the purpose of this assessment, we have maintained a profit of 17.5% on the basis that the property market is cyclical and due to the duration of the project programme (i.e. 9 year multi-phased scheme) the Applicant will have the ability to adapt to changing market conditions. Multiple phase developments by their nature are more adept at dealing with market cycles as the developer has the ability to speed up or slow down each phase so that they are only selling at a time of favourable market conditions. By contrast, a single phased scheme comprising fewer units (over a 12 month to 18 month programme) could potentially incur a greater risk as all units would be constructed and marketed during a period of market uncertainty. Furthermore, in terms of risk, housing schemes are generally accepted to be at the lower end of the range, whereas high density flatted schemes are considered to be at the top end of the risk range. We are seeing a range of high density flatted schemes across the south east coming forward with profit at 17.5%, so if anything, the profit on the subject scheme could arguably be lower.

Appraisal Results

In conclusion, the Applicant's updated appraisal concludes that the scheme cannot support more than 20% affordable housing as their appraisal generates a deficit of c. £1.14m.

We have undertaken our own appraisal and on the basis of a profit of 17.5% for the market housing units our appraisal generates a surplus of c. £2.87m and we attach our appraisal as Appendix 1 to this letter.

We have converted this surplus into affordable housing and we attach a copy of this appraisal as Appendix 2. In summary, the scheme can support c. 23.58% affordable housing (224 units).

Officer comment: *Following the above comments from the Viability consultant the Developer, via their agent provided additional clarification on the outstanding matters and / or areas where common ground does not exist. Following consideration of the additional information the Viability consultant confirmed, via an email dated 20/05/2022 that given a developer profit of 20% was agreed the first time around, that it would be unreasonable to insist on a lower profit this time around, or indeed a higher level of affordable housing, officers continue to agree with this position, and specifically that it will continue to be unreasonable to insist on a lower profit this time around. Further clarification on the latest viability position is also included in the 'Assessment' section below.*

ECC
Infrastructure
Planning
Officer
(IPO)

Can advise that whilst the school would be delivered during the early phase of the development this is considered to be acceptable. However, there is correspondence on file relating to the Masterplan and some concerns regarding the delivery of a sustainable environment surrounding the school site. The IPO is also aware that ECC do not appear to have had sight of a Land Compliance Study and do not have copies of all the plans referred to in the draft s106 attached. Please could these documents be forwarded as they will inform the final drafting of the s106.

Officer comment: *These drawings and documents have since been provided to the ECC Infrastructure Planning Officer and they have confirmed in writing that all the previously stated outstanding matters (as set out above) have now been resolved.*

Anglian
Water

No response

Essex
Bridleway
Association

No response

5. Representations

- 5.1 No further third party comments have been received following the publication of the Application Evidence Base, including the Environmental Statement, which was published on the Council's website in January 2022. There continue to be only five local objections raising general concerns about the impact of the development in this location. These objections have all been considered in this report and the original May 2018 committee report, and where indicated are addressed accordingly.

6. **Assessment**

Site Context

- 6.1 The description of the site context as set out in section 6 of the 30 May 2018 and the 7 June 2022 committee reports remains relevant and accurate for the purposes of assessing this development proposal.

Proposal

- 6.2 Outline planning permission is now being sought for up to 950 residential units; a new Neighbourhood Centre comprising a local healthcare facility and units for shops, food and drink and/or a community centre; a 2.1ha site for a new primary school; and associated roads, open space, drainage, landscaping and other associated infrastructure.
- 6.3 With the exception of the formation of the access into the site, details of the appearance, landscaping, layout and scale are all reserved matters which means that approval is not sought for these at this stage and details are therefore not currently required. If the outline application were to be granted the applicant, or any successors in title, would need to submit reserved matters applications to the Local Planning Authority, in addition to discharging planning conditions before development could commence.
- 6.4 The application proposes two vehicular access points into the site, one onto St John's Road, to the east of no 755, the other opposite the Tendring Education Centre onto Jaywick Lane. Both these junctions would have dedicated right turn, signalised junctions and as illustrated on the submitted Masterplan and Access and Movement Parameter Plans, these would connect up through a central spine road which would be designed to accommodate bus services and a central cycle route through the scheme. The spine road would therefore connect the proposed new dwellings and the surrounding area to the proposed neighbourhood centre and primary school, as well as allowing local traffic to bypass Jaywick Lane.
- 6.5 The Access and Movement Parameter Plan also identifies indicative secondary roads as well as footpaths throughout the site, with the Design and Access Statement (DAS) which has been updated during the processing of the planning application to add further detail to the design approach and to give a clearer vision for the road hierarchy. The exact location of the routes through the site would be refined through the Reserved Matters process, although the applicant's opinion that the information provided with the submission demonstrates that it is possible to deliver a well-connected site.
- 6.6 Whilst a reserved matter, the indicative Masterplan and Land Use Parameter Plan identify the potential layout of the site, which is intended to give some certainty to the general

location of development and ultimately be used to inform the Reserved Matters stage/s. This would be a predominantly housing-led scheme for up to 950 units and whilst the precise mix of dwelling types is unknown, the applicants state that they intend to provide a broad range of residential accommodation ranging from one bedroom apartments to five bedroom houses. It is also intended that the scheme would include an element of bungalow accommodation with the precise amount to be a matter for the detailed design stage. To accord with the emerging plan, an appropriate proportion of dwellings would be provided as affordable housing.

- 6.7 Housing density across the scheme would average at approximately 40 dwellings/Ha (net) or 23 dwellings per hectare (gross). Density would however vary through the scheme to create differing character areas eg. It is envisaged that densities would generally be lower around the edges of the scheme and higher towards the core and around key focal points within the development. The DAS highlights that it is intended that the development would be of a style based on the local vernacular, and that the principles of the Essex Design Guide would be followed.
- 6.8 The primary school site is shown to be located on a 2.1 Hectare (Ha) parcel of land to the north and close to the St John's Road access point which would allow it to be delivered early in the development process, and also means that it would not be surrounded by construction activity once operational. It would also ensure that it is close to the existing community that it would also serve.
- 6.9 The Neighbourhood Centre would include the healthcare facility and would be located towards the Jaywick Lane access (to south of) to ensure that it could also serve the wider community as well as the development site. Again, its proximity to the site access also means that it would not be surrounded by construction activity when operational.
- 6.10 A minimum 20m landscape buffer is identified along the western boundary of the site to comply with the emerging Local Plan's policies for this site and form a suitable transition between the built development and surrounding countryside. A large area of open space is indicated at the southern end of the site, and which complements the proposed Strategic Green Gap allocation between Clacton and Jaywick. Further landscape buffers are proposed to be located around the sensitive boundaries of the site, as well as smaller pockets of Public Open Space (POS), two of which would include Local Equipped Areas for Play (LEAP). In total, POS would amount to some 13 Ha, including surface water attenuation areas.
- 6.11 Below are the key and most important material planning considerations insofar as this development proposal is concerned:

Principle of Development

- 6.12 The site is allocated through Policy SAMU4 for a mix of residential development, community facilities and public open space as set out in Policy SAMU4 of Section 2 of the Local Plan to 2033 and beyond. As stated above, section 2 of the local plan has been adopted in January 2022 and full weight is attributed to its policies. The principle of development therefore remains acceptable, in fact, the acceptability of the principle of development on this allocated site has been reinforced compared to the situation in May 2018 mainly due to the adoption of section 2 of the local plan to 2033.

Environmental Impact

Landscape & Visual Impact

6.13 In the context of this allocated site and having regard to the surrounding area, the substance of policies governing landscape and visual impact have not significantly changed since May 2018. Having regard to the Application Evidence Base report, including the updated Environmental Statement, it continues to be the view of the LPA that the proposal would not give rise to significant adverse effects upon the surrounding landscape, subject to the mitigation measures proposed which could be secured through the submission of reserved matters and the imposition of appropriate conditions.

Ecology and Nature Conservation

6.14 In addition to the survey work undertaken in 2015, 2016 and 2017, the Applicants, through their agents have commissioned an updated Preliminary Ecological appraisal and Phase 2 Surveys through 2021 for submission alongside the Phase 1 and 2 RM application to update the baseline ecology information. These surveys are provided with this report as Appendix 1.

6.15 The updated surveys in summary confirms that the baseline remains largely consistent with the July 2017 ES as outlined in the summary table in paragraph 7.7 of the Application Evidence Base report dated January 2022 and Appendix 1 (Ecological Surveys and Impact Assessment dated January 2022) – these findings are not challenged by Natural England who confirmed to no further comments following the latest consultation in January 2022.

6.16 With regards mitigation and enhancement, as this is an outline application only, should planning permission be granted then the detailed application (reserved matters stages and various phases) will have to be designed in accordance with the mitigation and enhancement proposed and as set out in the July 2017 Environmental Statement.

6.17 In terms of habitats, previously (as part of the 2017 consultation) Natural England identified that this allocation at Rouses Farm has ‘moderate’ potential to be used as an off-site Special Protection Area (SPA) habitat (also known as ‘functionally linked land’ (FLL)) for golden plover and lapwing. Natural England previously noted from the Environmental Statement that wintering bird surveys were undertaken with the conclusions as follows: “No species of bird which is listed as a qualifying feature of the Colne Estuary SPA was recorded. Despite the limitation placed by the late dates of the two surveys, there is nothing to suggest that SPA species are likely to use the Application Site earlier in the winter. There are also no records in The Essex Bird Reports (2010 and 2012) suggesting this area is used by SPA species”. On this basis, they have no objections in this respect.

6.18 A condition is recommended to secure an Ecological Management Plan for each phase and will comprise the following measures:

- Provide overwinter stubble (cultivated and sprayed as later as possible) to provide a seed resource;

- An 8m x 500m conservation headland (avoid spraying this area with herbicides targeted at broad-leaved weeds), located adjacent to an existing hedgerow.
- Permanent set-aside – the existing field margin south of the main farm track should be managed as rough grassland and cut on a three-year rotation.
- Winter feeding station with an area of rotational set-aside – an area of at least 0.4ha spread with seed mix twice per week from 1 December until 30 April.

6.19 In addition, should outline planning permission be granted then the final reporting and assessment work to accompany the Phases 1 and 2 Reserved Matters submissions, which will include an updated Preliminary Ecological Appraisal and Phase 2 Surveys Report for 2021, and officers agree that no additional or unexpected likely significant ecological effects over and above those defined within the July 2017 Environmental Statement (ES) are anticipated. It is considered that the July 2017 ES properly considered the effects of the proposal development on the local population and there has been no change in the baseline information in this, and therefore with mitigation, to be secured via conditions and in the section 106, there continuous to be no policy conflict in respect of Ecology and Nature Conservation

Heritage

6.20 As part of the latest round of consultation ECC heritage position is that the development would result 'less than substantial harm' to the nearby Dutchess Farmhouse. The May 2018 committee report concluded that setting of the Dutchess Farmhouse as a designated heritage asset 'would not be harmed by the proposal'. As mentioned above the site is allocated through Policy SAMU4 for a mix of residential development, community facilities and public open space. As part of the procedure to allocate this large 42 hectare site, the potential impact on designated heritage assets would have been a consideration. Notwithstanding this, it is considered that the public benefits of a 950 residential units development, to include 20% affordable dwellings, a new Neighbourhood Centre comprising a local healthcare facility and units for shops, food and drink and/or a community centre and a 2.1ha site for a new primary school, would collectively and clearly outweigh the identified 'less than substantial harm' to the designated heritage asset.

6.21 ECC Heritage also stated Rouses Farm, which is a 19th century settlement, has the potential to be considered a non-designated asset however TDC does not have a local list of non-designated heritage assets. In any event it is considered that the public benefits of a 950 residential units development, to include 20% affordable dwellings, a new Neighbourhood Centre comprising a local healthcare facility and units for shops, food and drink and/or a community centre and a 2.1ha site for a new primary school, would collectively and clearly outweigh any harm to Rouses Farm as a settlement with the potential to be a non-designated heritage asset.

Archaeology

6.22 ECC Archaeology maintain their original comments from 2017 and stated: In accordance with Paragraph 194 (NPPF 2021) a field evaluation is required to describe the significance of the heritage assets which will be affected by the above application. This evaluation would enable due consideration to be given to the archaeological

implications and would lead to proposals for preservation in situ and/or the need for further investigation. This should be carried out prior to determination of the application. However, ECC Archaeology also stated that if the authority is minded to grant permission it is recommended that the following condition is attached to any consent to ensure a full detailed record of this significant site is made in advance of destruction.

6.23 In the May 2018 Committee Report the LPA concluded that *'this information (required by ECC Archaeology) would normally be required in advance of a planning decision but given that this is an outline application with all matters reserved apart from access, it is considered reasonable for this information to be required as part of the reserved matters application.'*

6.24 In light of this position as outlined in 2018 by the LPA including the fact that there has been no significant shift in local or national policy, as well as ECC's willingness to accept a planning condition(s) if the LPA is minded recommending approval, it is considered to be unreasonable to insist on further field evaluations at this time and prior to the determination of the application.

Transport & Access

6.25 The July 2017 ES identified the level of traffic generation generated by the proposed development, as set out at Table 9.3, which were 703 trips in the AM, and 722 trips in the PM. These trips were based on 950 residential dwellings and associated community uses, including the new school and medical centre, and distributed to the highway network based on Census 2011 travel to work data, which remains extant. Accordingly, it is considered that the level of traffic generation generated by the proposed development has been properly considered and understood by the July 2017 ES.

6.26 Traffic surveys were undertaken in 2017 and predicted for 2022, as set out at Table 9.9 of the July 2017 ES. The results of these surveys and subsequent assessment have indicated that the potential adverse environmental effects resulting from the increase in traffic generated by the Proposed Development are predicted to be minor or negligible, providing that the mitigation measures are implemented. ECC Highways agree with these findings and have stated:

6.27 ECC Highways has reviewed the updated highway and transportation impact of the proposal, the baseline information represented in the 2017 Environmental statement remains appropriate when comparing the predicted 2022 flows with the surveyed 2021 flows and it is considered that the original assessment was robust and no further reassessment in this regard is required with the agreed mitigation measures remaining relevant.

The agreed mitigation measures (to be secured via planning conditions or in the section 106 where necessary) include:

- Provision of new traffic signals junctions at the site access, incorporating pedestrian crossing facilities on St John's Road (full details to be submitted through Condition 9 and to be installed prior to the first residential occupation);

- Provision of high quality pedestrian and cycling links throughout the site and connecting to the surrounding highway network, which will be fully detailed within the Phases 1 & 2 RM submission;
- Site layout designed to accommodate buses (detail can be secured through each subsequent RM application);
- Implementation of a Construction Traffic Management Plan (to be submitted through condition 8 and before development commences);
- Improvements to St John's Road/Jaywick Lane junction (details to be submitted through condition 16 and to be undertaken prior to the occupation of the 250th dwelling);
- Redesign of St John's Road/Cloes Lane junction as a traffic signals junction with pedestrian crossing facilities on all approaches (details to be submitted through condition 14 and to be undertaken prior to the occupation of the 250th dwelling);
- Modifications to St John's Road/Peter Bruff Avenue junction (details to be submitted through condition 15 and to be undertaken prior to the occupation of the 500th dwelling);
- Improvements to St John's Road/A133 roundabout (details to be submitted through condition 16 and to be undertaken prior to the occupation of the 500th dwelling); and
- Implementation of a Travel Plan (to be submitted through condition 20 and before the occupation of any dwelling).

In addition to the above, the Developers have agreed to provide each dwelling with an EV charging point, which will be secured by planning condition; with the travel plan providing full details of sustainable transport measures to encourage residents to not use their car when appropriate.

Air Quality

6.28 Following the latest round of consultation and having regard to the updated information on air quality provided by the applicant, the Councils Environmental Health Team stated that the proposed development would not have an adverse impact on the air quality within the localised area, and as such they are satisfied with the processes followed and the findings. However, they also stated should this application be approved and progress to a further planning phase, all steps should be taken to minimise emissions from the site during the construction phase, and any mitigation are followed and adhered to throughout the development. As such, necessary planning conditions have been included to secure mitigation.

Noise & Vibration

6.29 Again following the latest round of consultation the Council's Environmental Health Team is satisfied with the findings in the ES and would like any actions outlined in the relevant mitigation sections of the aforementioned document to be followed and adhered to. This will be secured by conditions should outline consent be granted.

6.30 In terms of vibration, likely significant road traffic noise effects are properly addressed and understood in the ES and therefore no additional or unexpected likely significant effects associated with the development as defined and assessed within the July 2017 ES are expected. The Council's Environmental Health Team raised no concerns or have not contradict these findings.

Soils and Agriculture

6.31 The proposal would involve the loss of 39 hectares of best and most versatile agricultural land in Grades 2 and 3a. The site is allocated for housing and other uses as outlined above and the permanent loss of agricultural land cannot be mitigated. Having regard to this and the presumption in favour of sustainable development, it is considered that the loss of this particular site from agricultural use is not considered to represent a sufficient basis for resisting the scheme, especially now that section 2 of the local plan to 2033 has been adopted and full weight is afforded to key policy SAMU4 that allocates this site for development.

Hydrology, Flood Risk & Drainage

6.32 Both the Environment Agency and ECC Suds team continue to raise no objection to this development subject to mitigation which will include (and have been secured by conditions):

- Environmental Construction Management Plan (Pre-Commencement);
- Surface Water Drainage Scheme (Pre-Commencement);
- Construction Water Management (Pre-Commencement);
- Surface Water Maintenance Statement (Pre-Commencement);
- Foul Water Strategy (Pre-Commencement); and
- Water, Energy and Resource Efficiency Measures (Pre-Commencement)

Ground Conditions and Contamination

6.33 In respect of the above and following the latest round of consultation the Council's Environmental Health Team continues to raise no objection subject to conditions which will be secured should outline consent be granted. In particular, a condition is recommended which will secure the following aspects:

- An Initial Investigation And Risk Assessment;
- A Detailed Remediation Scheme;
- Implementation Of Approved Remediation Scheme;
- Reporting Of Unexpected Contamination; And
- Long Term Monitoring And Maintenance.

Socio-economics

6.34 The latest version of the NPPF continues to state that local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition.

6.35 This section also outlines the manner in which planning obligations would satisfy the tests set out in the Community Infrastructure Levy Regulations 2010 (CIL Regs) and relevant paragraphs in the NPPF, which states that obligations should only be sought where they meet all of the following tests:

- necessary to make the development acceptable in planning terms;
- directly related to the development; and

- fairly and reasonably related in scale and kind to the development.

6.36 The final core planning principle as set out within para. 93 of the NPPF requires the planning system to take account of and support local strategies to improve health, social and cultural well-being for all sections of the community.

6.37 The proposed development would provide up to 950 dwellings which would result in a number of social and economic benefits to include:

- the creation of jobs during the construction phase,
- supporting a larger economically-active population,
- provision of new healthcare and education facilities onsite;
- Provision of public open space;
- The provision of new open-market and affordable dwellings

6.38 The potential for significant adverse effects arises from the increase in population which, if unmitigated, would increase pressure on local healthcare and education facilities. However, the proposal incorporates a two form-entry primary school and a 1,500 sq m medical centre, which would address the needs arising from the development and would assist in meeting the needs arising from the existing population.

Affordable Housing and Viability

6.39 Adopted policy LP5 states the Council will expect 30% of new dwellings to be made available to Tendring District Council (subject to viability testing) or its nominated partner(s) to acquire at a proportionate discounted value for use as affordable housing.

6.40 A financial viability report has been submitted and updated in 2022 (to reflect prevailing market conditions) by the Applicant. The latest viability report continues to support 20% affordable housing on site (which equate to a total of 190 homes (approximately a years' worth of supply). In summary the financial viability report finds that:

- Construction costs have risen by 12.32% since 2019 (as evidenced within the submission with reference to The BCIS Cost Index) – officer comment: *at the time of writing construction costs remain high and continue to be at or slightly above the level quoted above.*
- New Planning Policy Requirements for EV Charging to each plot, plus 20% Renewable energy generation, will incur costs of c.2.5m across the development – Officer comment: *these requirements remain and are unchanged.*

6.41 The above is in addition to the other identified costs that were agreed in 2019, such as the road/site works (c. £6m).

6.42 Given the trend in cost increases and widely reported forecasts regarding the supply of labour and building materials, the LPA continues to be in agreement that it is reasonable to assume that 12.32% may represent an underestimate.

6.43 For the reasons set out above and in the consultation section LPA officers continue to be satisfied that the offer of 20% affordable housing is still appropriate in this instance and in accordance with policy LP5 which allows for viability testing.

Community Facilities/Neighbourhood Centre

- 6.44 A requirement of Policy SAMU4 is for the development to provide a new neighbourhood centre. Accordingly, the application description includes a new neighbourhood centre comprising a local healthcare facility of up to 1500 sqm NIA (Net Internal Area) and up to 700 sqm GFA (Gross Floor Area) for use classes E (shops, food and drink and/or use class F.2 (community centre). The indicative masterplan shows the location of this at the Jaywick Lane end of the site.
- 6.45 Requirement d) of Policy SAMU4 is for a site for a new healthcare facility to meet the primary health care needs of the growing population in West Clacton. The NHS have concluded that a developer contribution will be required to mitigate the impacts of the proposal. Northeast Essex CCG calculates the level of contribution required, in this instance to be £554,900. The Developer has agreed to this, and it will be secured in the section 106 legal agreement

Education

- 6.46 In accordance with requirement b) of Policy SAMU4, a new 2 form entry primary school with co-located 56 place early years and childcare facility (E(f)) use on 2.1 hectares of land is proposed to be provided as required by the Local Education Authority (LEA) through Section 106 Planning Obligations. The application makes provision for this requirement and the applicant has liaised directly with Essex County Council in its capacity as the local education authority to determine where and how this will be delivered. In addition to the above, if approved the outline consent will also secure a reasonable, necessary, fair and directly related (to the development) financial contributions to create additional secondary school places, again in accordance with the allocation.

Public Open Space

- 6.47 The NPPF states that access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and well-being of communities; and Requirement e) of Policy SAMU4 is for minimum of 5 hectares of Public Open Space (POS) to be provided within the development.
- 6.48 The landscape scheme at the Reserved Matters stage would include: An area of POS well in excess of the requirement and will be specifically designed to meet Natural England's criteria, including a single large block of 4.5ha in the southern section with a central open water/wetland feature, a 6.7ha of linear park long sections of the west, northwest and eastern site perimeters and two areas of equipped children's play area.
- 6.49 This would satisfy the Council's policy requirements and the POS and the section 106 legal agreement (should outline consent be granted) will ensure the transfer of new open space, including proposed equipped play areas to the Council or a management company.

Reserved Matters

- 6.50 For the same reasons as outlined in the May 2018 committee report, it remains the view of LPA officers that the general principle of this level of development on the site is

considered acceptable; and is in keeping with both the site's location on the edge of the town and along with the need to facilitate on site strategic landscaping, open space and the retention of existing landscape features.

- 6.51 Due to the scale of the development proposed, and in order to minimise disturbance to existing residents, as well as ensuring that the mix of housing meets the requirements of the Council's Strategic Market Housing Assessment, it is recommended that a Site Wide Housing and Phasing Strategy be submitted for approval prior to the submission of the first Reserved Matters application – this will be a condition.

Living Conditions

- 6.52 For the same reasons as outlined in the May 2018 committee report, it remains the view of LPA officers that the living conditions of existing and future residents would be protected from any materially detrimental impacts, in accordance with the latest relevant policies governing design and residential amenity considerations in planning applications.

Planning Obligations under S106 of the Town and Country Planning Act 1990

- 6.53 In order to mitigate against the impacts of the development it is proposed to secure a legal obligation under Section 106 of the Town and Country Planning Act. These obligations will cover the following:

- A total of 20% On-site Council Housing/Affordable Housing
- Provision of land on-site for a new healthcare facility together with a £554,900 financial contribution towards its provision. In the event that the land is not required, the financial contribution will be spent on health facilities elsewhere (to be determined by the NHS);
- Transfer of new open space, including proposed equipped play areas to the Council or a management company;
- Land for a new primary school and early years and childcare facility on site with financial contributions towards the provision of those facilities;
- Financial contributions to create additional secondary school places;
- New neighbourhood centre; and
- Financial contributions towards RAMS and off-site ecological mitigation.
- A contribution of £500,000 towards public transport provision
- Provision of a Residential Travel Plan and RTP monitoring fee

7. Conclusion and Planning Balance

- 7.1 This is an application for Outline Planning permission, with all matters reserved with the exception of access. The applicant has provided details of how they propose to access the site off St. John's Road and Jaywick Lane; and the Local Highway Authority continues to raise no objection to the proposed arrangements. All other matters (Appearance; Landscaping; Layout; and Scale) are reserved and it can therefore be said that the application seeks to establish the principle of residential development of the site.

- 7.2 The latest NPPF 2021 stipulates that at its heart is a presumption in favour of sustainable development. For decision-taking this means approving development proposals that

accord with an up-to-date development plan without delay; or where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

- 7.3 The site is specifically allocated through recently adopted Policy SAMU4 for a mix of residential development, community facilities and public open space in the Local Plan. This can be afforded full weight in the decision making process due to the recently adopted status of the Local Plan.
- 7.4 The application is accompanied by an Environmental Statement (ES) including a re-evaluation of the ES and concludes that no significant adverse or cumulative effects on the environment have been identified during the construction and operational phases of the proposed development, therefore it would be compliant with legislation and planning policy.
- 7.5 In addition, whilst outline in form, Officers remain content that subject to the imposition of reasonable planning conditions and obligations that the general principle of this level of development on the site is considered acceptable; and is in keeping with both the site's allocation as a planned for western extension of the town and along with the need to facilitate on site strategic landscaping, open space and the retention of existing landscape features. Furthermore, the proposal would ensure that the living conditions of existing and future residents would be protected from any materially detrimental impacts whilst providing much needed housing within the District.
- 7.6 Accordingly, it is recommended that outline planning permission is granted subject to the following:

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 below:
- 20% On-site Affordable Housing
 - Provision of land on-site for a new healthcare facility together with a 554,900 financial contribution towards its provision. [In the event that the land is not required, the financial contribution will be spent on health facilities elsewhere (to be determined by the NHS);
 - Transfer of new open space, including proposed equipped play areas to the Council or a management company;
 - Land for a new primary school and early years and childcare facility on site with financial contributions towards the provision of those facilities;
 - Financial contributions to create additional secondary school places;
 - New neighbourhood centre; and
 - Financial contributions towards RAMS and off-site ecological mitigation.
 - A £500,000 financial contribution towards public transport provision
 - Provision of a Residential Travel Plan (RTP) and RTP monitoring fee

8.2 Conditions and Reasons

- 1 The first application for the approval of reserved matters for at least the first phase of development shall be made to the Local Planning Authority no later than three years from the date of this permission. All subsequent applications for approval of reserved matters shall be made to the Local Planning Authority before the expiration of ten years from the date of this permission.

Reason - To comply with the requirements of Section 92 of the Town and Country Planning Act 1990.

- 2 The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.

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

- 3 No development on any phase shall be commenced until plans and particulars of "the reserved matters" referred to in the above conditions relating to the appearance, landscaping (including a hard and soft landscaping scheme for that phase), layout and scale, for that phase, have been submitted to and approved, in writing, by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason – A pre-commencement condition is necessary because the application as submitted does not provide sufficient particulars for consideration of these details.

- 4 No development shall commence until a Phasing Plan and Programme for the development has been submitted to and approved in writing by the Local Planning Authority. The document shall identify the physical extent of each proposed phase of development and an indicative timescale for implementation of each phase. The development shall thereafter be carried out in accordance with the approved Phasing Plan and Programme.

Reason - A pre-commencement condition is necessary to ensure the scheme is brought forward in a timely and comprehensive manner in the interests of proper planning, highway safety and amenity. Given the scale and mixed use nature of the development, the definition of phases will also enable more specific planning conditions to be discharged, as appropriate, on a phase-by-phase basis to assist in the timely delivery of the whole scheme.

- 5 The development hereby permitted shall be carried out in accordance with the following approved Drawing Nos: 160259-X-00-DR-C610 and 160259-00-X-DR-C601, and each phase or phases of the residential development so approved shall be completed in accordance with a hard and soft landscaping scheme, agreed pursuant to condition 3 above.

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

- 6 The reserved matters shall be in general conformity with the following plans and documents unless as otherwise varied by an approved Phasing Plan and Programme pursuant to condition 4:

P.1509_08 Sheet No. 07 Rev. F - Phasing Parameter Plan

P.1509_08 Sheet No. 06 Rev. C - Density Parameter Plan

P.1509_08 Sheet No. 04 Rev. B - Land Use Parameter Plan

P.1509_08 Sheet No. 03 Rev. E - Access and Movement Parameter Plan

P.1509_08 Sheet No. 02 Rev. C - Open Space Parameter Plan

P.1509_08 Sheet No. 01 Rev. B - Building Height Parameter Plan

P.1509_07 Rev. G - Masterplan

P.1509_13 E - Design and Access Statement

Reason - To establish reasonable limits to the layout of the development in the interests of good design, layout, appearance and residential amenity.

- 7 The development hereby permitted comprises:

a) No more than 950 dwellings

b) A single continuous site of not less than 2.1 hectares for a new Primary School

c) A neighbourhood centre comprising a local health facility with an net internal area of no less than 1500 square metres and no more than 700 square metres gross floor area for uses falling with Classes E(a) (Display or retail sale of goods, other than hot food), E(b) (Sale of food and drink for consumption (mostly) on the premises), E(d) (Indoor sport, recreation or fitness (not involving motorised vehicles or firearms or use as a swimming pool or skating rink), E(e) Provision of medical or health services (except the use of premises attached to the residence of the consultant or practitioner), E(f))Creche, day nursery or day centre (not including a residential use)

Reason - To ensure compliance with the description of development hereby approved.

- 8 No development of any phase shall take place before an Environmental Construction Management Plan for the construction of the development of such a phase hereby approved has been submitted to, and approved in writing by, the Local Planning Authority. The demolition and construction works on that phase shall be carried out in accordance with the approved Environmental Construction Management Plan for that phase.

Details submitted in respect of each of the Environmental Construction Management Plan(s), incorporated on a plan, shall provide for wheel cleaning facilities during the excavation, site preparation and construction stages of the development on the relevant phase. The method statement(s) shall also include details of a construction traffic management plan, a soil management plan, the loading and unloading of plant and materials, hours of construction, dust suppression strategy, means of recycling materials, the provision of parking facilities for contractors during all stages of the development on that phase (excavation, site preparation and construction) and the provision of a means of storage and/or delivery for all plant, site huts, site facilities and materials and means of safeguarding the public right of way during construction of that phase.

Reason - A pre-commencement condition is necessary to ensure that development is carried out in a controlled manner while minimising impacts on the surrounding residential properties and also in the interests of highway safety.

- 9 Prior to the first residential occupation or operation of the school (whichever comes first) within Phases 1, 1A or 2 as shown on Phasing Parameter Plan Drawing No. P.1509_08 Sheet No. 07 Rev. F, the signalised junction onto St Johns Road as shown in principle on Drawing No. 160259-00-X-DR-C601, including pedestrian and cycle infrastructure, shall be provided and brought into use in accordance with detail to be submitted to and agreed in writing with the Local Planning Authority.

Reason - To provide adequate highway infrastructure to accommodate the increased level of traffic on the surrounding highway network created as a result of the development in the interest of highway safety and efficiency.

- 10 Prior to the first residential occupation or occupation of the Neighbourhood Centre (whichever comes first) within Phases 2A, 3 or 4 as shown on Phasing Parameter Plan Drawing No. P.1509_08 Sheet No. 07 Rev. F, the signalised junction onto Jaywick Lane as shown in principle on Drawing No. 160259-00-X-DR-C610, shall be provided and brought into use in accordance with details to be submitted to and agreed in with the Local Planning Authority. The details submitted shall incorporate a toucan crossing facility together with a 3 metre wide section of cycleway to the east of Jaywick Lane to allow the existing Toucan Crossing to be removed.

Reason - To provide adequate highway infrastructure to accommodate the increased level of traffic on the surrounding highway network created as a result of the development in the interest of highway safety and efficiency.

- 11 Prior to the first occupation of Phase 3 or 4 (whichever comes first) as shown on Drawing No. P.1509_08 Sheet No. 07 Rev. F a link road through the application site connecting St Johns Road to Jaywick Lane shall be provided and brought into use in accordance with details to be submitted to and agreed in writing by the Local Planning Authority. The details submitted shall provide for a road with a carriageway width of 6.75 metres with 1 x 2 metre footway and 1 x 3.5 metres shared footway/cycleway and show appropriately positioned bus stops equipped with current infrastructure.

Reason - To provide adequate highway infrastructure to accommodate the increased level of traffic on the surrounding highway network created as a result of the development in the interest of highway safety and efficiency.

- 12 Prior to the first residential occupation or occupation of the Neighbourhood Centre (whichever comes first) within Phases of Phases 2A, 3 or 4 as shown on Phasing Parameter Plan Drawing No. P.1509_08 Sheet No. 07 Rev. F, a 3 metre wide cycleway/footway across the Jaywick Lane frontage, including surfacing/reconstruction of the existing footway shall be provided and brought into use in accordance with details to be submitted to and agreed in writing by the Local Planning Authority.

Reason - To provide adequate highway infrastructure to accommodate the increased level of traffic on the surrounding highway network created as a result of the development in the interest of highway safety and efficiency.

- 13 Prior to the first occupation of the 250th dwelling hereby permitted St Johns Road/Jaywick Lane junction improvements to include the provision of a standard roundabout (increasing the inscribed circle diameter to 22 metres), increasing the entry width of both St John's Road approaches to the roundabout and the provision of a 'through lane' on St Johns Road shall be provided and brought into use in accordance with detail submitted to and agreed in writing by the Local Planning Authority.

Reason - To provide adequate highway infrastructure to accommodate the increased level of traffic on the surrounding highway network created as a result of the development in the interest of highway safety and efficiency.

- 14 Prior to the first occupation of the 250th dwelling hereby permitted St Johns Road/Cloes Lane junction improvements to include either the installation of a signal controlled junction or an alternative junction arrangement as shown on drawing no. 160259-X-00-DR-C-604 REV A and Fig. 6.7 of the Submitted Transport Assessment shall be provided and brought into use in accordance with detail submitted to and agreed in writing by the Local Planning Authority.

Reason - To provide adequate highway infrastructure to accommodate the increased level of traffic on the surrounding highway network created as a result of the development in the interest of highway safety and efficiency.

- 15 Prior to the first occupation of the 500th dwelling hereby permitted St Johns Road/Peter Bruff Avenue junction improvements to include but not be restricted to increasing the entry width of both St John's Road approaches to the roundabout as shown on drawing no. 160259-X-00-DR-C-608 REV A and Fig. 6.10 of the submitted Transport Assessment (such junction improvements are to be limited to the extent of adoptable highway) shall be provided and brought into use in accordance with detail submitted to and agreed in writing by the Local Planning Authority.

Reason - To provide adequate highway infrastructure to accommodate the increased level of traffic on the surrounding highway network created as a result of the development in the interest of highway safety and efficiency.

- 16 Prior to the first occupation of the 500th dwelling hereby permitted either:

a) St Johns/A133 improvements for the St John's/A133 Roundabout to include but not be restricted to increasing the flare length and entry width of both the St John's Road west approach and the London Road south approach to the roundabout as shown in principle on the planning application drawings, in particular as shown on drawing no. 160259-X-00-DR-C-609 REV A and Fig. 6.12 of the submitted Transport Assessment (which show the maximum extent of such increased flare length and entry width) (such junction improvements are to be limited to the extent of adoptable highway) shall be provided and brought into use in accordance with detail submitted to and agreed in writing by the Local Planning Authority; or

b) an alternative scheme for the delivery of such highway works shall be submitted to and agreed in writing by the Local Planning Authority

Reason - To provide adequate highway infrastructure to accommodate the increased level of traffic on the surrounding highway network created as a result of the development in the interest of highway safety and efficiency.

- 17 Prior to the occupation of the first residential dwelling hereby permitted improvements to the two bus stops on St Johns Road nearest to the St Johns Road site access shall be provided and brought into use in accordance with details submitted to and agreed in writing by the Local Planning Authority. Such details shall include timetable information, bus stop signage and raised kerbs and hardstanding.

Reason - To provide adequate highway infrastructure to accommodate the increased level of traffic on the surrounding highway network created as a result of the development in the interest of highway safety and efficiency and to promote the use of sustainable transport.

- 18 Prior to the occupation of the first residential dwelling hereby permitted appropriate pedestrian access from the site to the bus stop(s) on St Johns Road referred in Condition No. 17 (using either the site or existing adoptable highway) shall be provided and brought into use in accordance with details submitted to and agreed in writing by the Local Planning Authority.

Reason - To provide adequate highway infrastructure to accommodate the increased level of traffic on the surrounding highway network created as a result of the development in the interest of highway safety and efficiency and to promote the use of sustainable transport.

- 19 Prior to the occupation of the phase 1A Primary School or the phase 2A Neighbourhood Centre, if the Link Road has not been completed pursuant to Condition No. 11 and is open for use by the public, an alternative footpath/cycleway to allow access between the northern and eastern parts of the sites and the school and neighbourhood centre shall be provided and brought into use in accordance with details submitted to and approved in writing by the Local Planning Authority which shall remain in place until the Link Road has been completed pursuant to Condition No. 11 .

Reason - To allow for connectivity through site to encourage the use of sustainable forms of transport.

- 20 Prior to first residential occupation of the each phase of the development hereby permitted, a Residential Travel Plan for that phase shall be submitted to and approved by the Local Planning Authority for approval in consultation with Essex County Council. This shall include, but not limited to, details of the monitoring of the implementation of the travel plan details of a Residential Travel Information Pack to be provided to new households on that phase aimed at promoting the benefits of sustainable transport in support of the objective to secure a modal shift from the private car and increase the use of sustainable modes of travel. Such approved Travel Plan shall then be actively implemented for a minimum period from first

occupation of that phase of the development until 1 year after final residential occupation on that phase.

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

- 21 Upon first occupation of each dwelling hereby permitted, each household will be provided with a Residential Travel Information Pack, the details of which will have been agreed pursuant to condition 20.

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

- 22 No works shall take place within a Phase of development hereby permitted (other than site investigations, the provision of the spine road, formation of service trenches or provision of services or agreed landscaping or formation of agreed surface water attenuation features) until a detailed Surface Water Drainage Scheme for that phase, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the local planning authority. The detailed surface water drainage scheme for each phase shall include but not be limited to:

- a) Provision of a detailed surface water drainage scheme for that phase of development and details of how this integrates and complies with the surface water drainage system for the development site as a whole;
- b) Provide details of the discharge rates from that phase and demonstrate how this ensures that development as a whole will achieve discharge rates to the Greenfield 1 in 1 for all storm events up to and including the 1 in 100 year rate plus 40% allowance for climate change;
- c) Detail any surface water storage within the Phase and demonstrate how it integrates with the development as a whole to provide sufficient surface water storage to ensure no off site flooding as a result of the development during all storm events up to and including the 1 in 100 year plus 40% climate change event;
- d) Final modelling and calculations for all areas of the drainage system to serve that phase, having regard to totality of development permitted;
- e) Detail how the phase will contribute to the achievement of the appropriate level of treatment for all runoff leaving the site as a whole, in line with the CIRIA SuDS Manual C753;
- f) Detailed engineering drawings of each component of the drainage scheme within that Phase or to serve that Phase;
- g) A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features relevant to that phase;

h) An implementation plan providing a timetable for the implementation of the detailed surface water drainage scheme for that phase.

The scheme shall subsequently be implemented on the relevant phase in accordance with the agreed details.

Reason – A pre-commencement condition is necessary to prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site; to ensure the effective operation of SuDS features over the lifetime of the development and to provide mitigation of any environmental harm which may be caused to the local water environment.

- 23 No works within a Phase of development shall take place (other than site investigations) until a scheme to minimise the risk of offsite flooding caused by surface water run-off and groundwater during construction works within that Phase together with measures to prevent pollution has been submitted to, and approved in writing by, the Local Planning Authority. The scheme shall subsequently be implemented as approved.

Reason – A pre-commencement condition is necessary to ensure development does not increase flood risk elsewhere and does not contribute to water pollution.

- 24 There shall be no residential occupation within a Phase of development until a Maintenance Plan for the Surface Water Drainage detailing the management and maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies for that phase has been submitted to and agreed, in writing, by the Local Planning Authority. Should any part on the relevant phase be maintainable by a maintenance company, details of long term funding arrangements for that phase should be provided for approval. The development shall thereafter be managed and maintained in accordance with the approved details.

Reason - To ensure appropriate maintenance arrangements are put in place to enable the surface water drainage system to function as intended to ensure mitigation against flood risk.

- 25 No development on a phase shall commence until a Foul Water Strategy for that phase has been submitted to and approved in writing by the Local Planning Authority. The Foul Water Strategy for each phase shall include a timetable for implementation and a phasing strategy having regard to the phasing of the development as a whole. Development of the relevant phase shall be undertaken in accordance with the Foul Water Strategy for that phase and thereafter managed and maintained in accordance with the approved details.

Reason - To prevent environmental and amenity problems arising from flooding.

- 26 A. No development or preliminary ground-works within any defined phase of the development shall commence until a Programme of Archaeological Trial Trenching for that phase has been secured and undertaken in accordance with a Written Scheme of Investigation for that Phase, which has been submitted by the applicant, and approved by the Local Planning Authority. Following the completion of this initial

phase of archaeological work for a phase, a summary report will be prepared and a mitigation strategy detailing the approach to further archaeological excavation and/or preservation in situ through re-design of the development within that Phase, shall be submitted to the Local Planning Authority.

B. No development within a Phase or preliminary groundwork within a Phase can commence on those areas of the Phase containing archaeological deposits, until the satisfactory completion of archaeological fieldwork, as detailed in the mitigation strategy for that Phase, which has been signed off by the Local Planning Authority.

C. Following completion of the archaeological fieldwork for the Phase, a post-excavation assessment for that Phase shall be submitted to the Local Planning Authority (within six months of the completion date, unless otherwise agreed in advance with the Local Planning Authority), which will result in the completion of post-excavation analysis, preparation of a full site archive and report ready for deposition at the local museum, and submission of a publication report.

Reason – A pre-commencement condition is necessary because the proposed development is located within an area with potential for below ground archaeological deposits.

- 27 Unless otherwise agreed by the Local Planning Authority, development other than that required to be carried out as part of an approved scheme of remediation must not commence until parts A to D of this condition for that phase have been complied with. If contamination is found after development has begun, development must be halted on that part of the site affected by the contamination to the extent specified by the Local Planning Authority in writing until part D has been complied with in relation to that contamination.

A. Site Characterisation

An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

- (i) a survey of the extent, scale and nature of contamination;
- (ii) an assessment of the potential risks to:
 - human health,
 - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
 - adjoining land,
 - groundwaters and surface waters,
 - ecological systems,
 - archaeological sites and ancient monuments;
- (iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

B. Submission of Remediation Scheme

A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

C. Implementation of Approved Remediation Scheme

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

D. Reporting of Unexpected Contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of A, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of B, which is subject to the approval in writing of the Local Planning Authority.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with C.

E. Long Term Monitoring and Maintenance

A monitoring and maintenance scheme to include monitoring the long-term effectiveness of the proposed remediation and the provision of reports on the same must be prepared, both of which are subject to the approval in writing of the Local Planning Authority.

Following completion of the measures identified in that scheme and when the remediation objectives have been achieved, reports that demonstrate the effectiveness of the monitoring and maintenance carried out must be produced, and submitted to the Local Planning Authority.

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

Reason - To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried

out safely without unacceptable risks to workers, neighbours and other offsite receptors.

- 28 There shall be no above slab level development within a Phase until precise details of the provision, siting, height, design and materials of all boundary walls and fences which face onto public spaces/highways or private drives within that Phase have been submitted to and approved in writing by the Local Planning Authority. The boundary walls and fences so approved shall be erected prior to the building/s to which they relate being first occupied and shall thereafter be retained in their approved form.

Reason – To ensure a satisfactory development in terms of appearance and functionality, in the interests of amenity.

- 29 No above slab level works shall commence on a phase of development until precise details of the manufacturer and types and colours of the external facing and roofing materials to be used in the construction of that phase have been submitted to and approved, in writing, by the Local Planning Authority. Such materials so approved shall be those used in that particular phase of development.

Reason – To ensure a satisfactory development in relation to external appearance.

- 30 Prior to commencement of any phase of development, details of all refuse/recycling storage and collection points required to serve that phase of development shall be submitted to and approved in writing by the Local Planning Authority. Each refuse/recycling storage and collection point so approved shall be provided prior to first occupation of any dwelling to which it relates and shall be retained thereafter as approved.

Reason – A pre-commencement condition is necessary to ensure a satisfactory development in terms of appearance and functionality in the interests of amenity.

- 31 Within each phase of development, all planting, seeding or turfing shown on the landscaping details required to be submitted and approved under Condition No. 3 above shall be carried out on that phase during the first planting and seeding season (October - March inclusive) following the first occupation of that phase of development or in such other phased arrangement as may be agreed in writing by the Local Planning Authority.

Reason - In order to ensure the earliest practicable implementation of new planting required to mitigate the impact of development, in the interests of local and residential amenity.

- 32 The implementation of the development shall take place at all times in accordance with the Tree Survey/Protection Plan Drawing Ref: TPP Rev. A (dated 27.04.17) submitted with the Outline application. No development within a phase shall commence until details of tree protection measures for that phase, including during the construction phase, have been submitted to and approved in writing by the Local Planning Authority and such measures as approved shall be implemented fully in accordance with such requirements.

Reason - In order to ensure the protection of trees, in the interests of local and residential amenity.

- 33 Within the hereby permitted development, no dwelling shall be occupied until a high-speed broadband connection is installed to that dwelling.

Reason - To ensure the development is able to be equipped with high speed broadband to enable opportunities for web-based communication and homeworking.

- 34 Prior to commencement of development of a Phase, the applicants shall submit to the Local Planning Authority, in writing, a Local Recruitment Strategy for that Phase such strategy is to include details of how the applicant/ developer shall use their reasonable endeavours to advertise jobs locally and encourage the recruitment of employees and other staff from the locality of the application site, for the construction of that phase of the development. The approved Local Recruitment Strategy shall be adhered to for that phase therein after.

Reason – A pre-commencement condition is necessary to promote and encourage the recruitment of employees and other staff in the locality of the application site.

- 35 Prior to commencement of a phase of development (excluding site investigation, levelling and ground works and remediation) a scheme for the provision and implementation of water efficiency measures, during the construction and occupational phases of the development in that phase shall be submitted to and agreed in writing by the Local Planning Authority. The scheme shall include a clear timetable for the implementation of the measures in relation to the construction and occupancy of the development on that phase. The development of the relevant phase shall be constructed and the measures provided and made available for use on that phase in accordance with such timetables as may be agreed by the Local Planning Authority for that phase.

Reason – A pre-commencement condition is necessary to enhance the sustainability of the development through better use of water, energy and materials.

- 36 Other than for external lighting within the curtilage of a dwellinghouse or lighting within the public highway, details of external lighting for each phase of the development hereby approved shall be submitted to and approved in writing by the Local Planning Authority prior to its installation. These external lighting details for each phase shall consider how the use of such lighting will avoid, or minimise harm caused by light pollution and the development of that phase shall be carried out in accordance with the approved details.

Reason - To ensure that new external lighting of the development is not harmful to biodiversity or local amenity.

- 37 No development within a phase (excluding site investigation and remediation) shall commence until details of existing and proposed levels within that Phase of the site, finished floor levels and identifying all areas of cut or fill within that Phase, have been submitted to and approved in writing by the Local Planning Authority. The development of the relevant shall be carried out in accordance with the approved details for that phase.

Reason – A pre-commencement condition is necessary to protect the impact on neighbours and in the interest of visual amenity.

- 38 No development shall commence within a phase of the development until a Landscape Management Plan for that phase has been submitted to, and approved in writing by, the Local Planning Authority. The Landscape Management Plan(s) shall include design objectives, management responsibilities and maintenance schedules for the landscaped elements of the development on that phase. The development of the relevant phase shall be implemented and thereafter maintained in line with the details and timescales in the approved plan for that phase.

Reason – A pre-commencement condition is necessary to ensure proper planning, management and maintenance of the approved landscaping; landscaped areas; sustainable urban drainage features; public open space; amenity space and play areas and equipment in the interests of amenity; sustainability and the character and appearance of the area.

- 39 No development shall commence within a phase of the development until an Ecological Management Plan for that phase has been submitted to, and approved in writing by the Local Planning Authority. The Ecological Management Plan will reflect the mitigation strategy as contained within the Phase 2 Ecological Surveys and Assessment at Appendix 7 of the submitted Environmental Statement and the Natural England Consultation Response dated 5th June 2018. The development of that phase shall be implemented in line with the measures contained within the approved Ecological Management Plan for that phase.

Reason – A pre-commencement condition is necessary in order to safeguard protected wildlife species and their habitats and in the interests of biodiversity and to ensure best practice measures are used on site during both construction and occupation phases of development to minimise the impact on birds and wildlife and to promote biodiversity.

40. Prior to above ground works in any phase identified within the phasing plan, a scheme for the provision of electric vehicle charging facilities for the dwellings, neighbourhood centre, and school hereby approved shall have first been submitted to and approved in writing by the local planning authority. Thereafter the charging facilities shall be installed in a working order prior to first occupation of the dwelling.

Reason - To enhance the sustainability of the development through better use of energy and materials.

41. No phase of the development identified within the Phasing plan shall be occupied until a scheme detailing how a minimum of 20% of the energy needs generated by the development can be achieved through renewable energy sources shall be submitted to and approved in writing by the local planning authority. The scheme shall detail the anticipated energy needs of the scheme, the specific renewable technologies to be incorporated, details of noise levels emitted (compared to background noise level) and how much of the overall energy needs these will meet and plans indicating the location of any external installations within the development.

The development shall be carried out in accordance with the approved details and shall be retained as such thereafter.

Reason - To enhance the sustainability of the development through better use of energy and materials.

8.3 Informatives

Positive and Proactive Statement

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

The applicant is reminded that this permission is linked to a planning obligation under Section 106 of the Town and Country Planning Act 1990.

Highway 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 satisfaction of, the Highway Authority, details to be agreed before the commencement of works. The applicants should be advised to contact the Development Management Team by email at development.management@essexhighways.org or by post to: SMO1 - Essex Highways, , 653, The Crescent, Colchester Business Park, Colchester CO49YQ
2. The Highway Authority cannot accept any liability for costs associated with a developer's improvement. This includes design check safety audits, site supervision, commuted sums for maintenance and any potential claims under Part 1 and Part 2 of the Land Compensation Act 1973. To protect the Highway Authority against such compensation claims a cash deposit or bond may be required.
3. Commuted Sums - Any signal equipment/structures/non-standard materials/trees/public rights of way through the site proposed within the existing extent of the public highway or areas to be offered to the Highway Authority for adoption as public highway, will require a contribution (commuted sum) to cover the cost of future maintenance for a period of 15 years following construction.

Anglian Water Informatives

1. Anglian Water has assets close to or crossing this site or there are assets subject to an adoption agreement. Therefore the site layout should take this into account and accommodate those assets within either prospectively adoptable highways or public open space. If this is not practicable then the sewers will need to be diverted at the developers cost under Section 185 of the Water Industry Act 1991. or, in the case of apparatus under an adoption agreement, liaise with the owners of the apparatus. It

should be noted that the diversion works should normally be completed before development can commence.

2. An application to discharge trade effluent must be made to Anglian Water and must have been obtained before any discharge of trade effluent can be made to the public sewer.

3. Anglian Water recommends that petrol / oil interceptors be fitted in all car parking/washing/repair facilities. Failure to enforce the effective use of such facilities could result in pollution of the local watercourse and may constitute an offence.

4. Anglian Water also recommends the installation of a properly maintained fat traps on all catering establishments. Failure to do so may result in this and other properties suffering blocked drains, sewage flooding and consequential environmental and amenity impact and may also constitute an offence under section 111 of the Water Industry Act 1991.

Building Regulations

Access for fire fighting appliances should be in accordance with regulation B5.

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

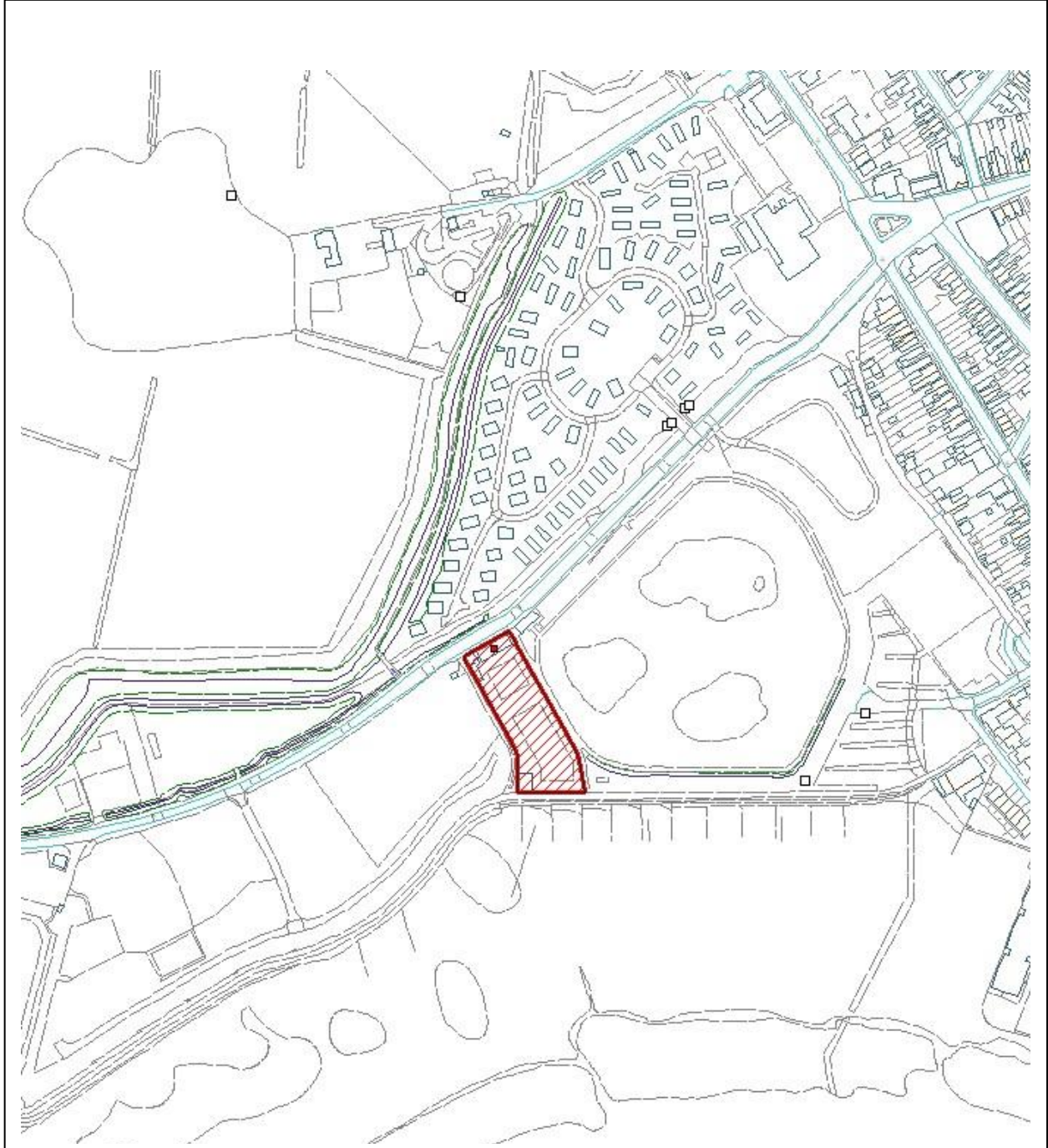
- 10.1 In making this recommendation, officers have considered all plans, documents, reports and supporting information submitted with the application together with any amended documentation. Additional information considered relevant to the assessment of the application (as referenced within the report)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

Tuesday 1st August 2023

REPORT OF THE DIRECTOR OF PLANNING

A.5 PLANNING APPLICATION – 23/00649/FUL – BRIGHTLINGSEA LIDO - SWIMMING POOL PROMENADE WAY BRIGHTLINGSEA CO7 0HH



DO NOT SCALE

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Application:	23/00649/FUL	Expiry Date:	29th June 2023
Case Officer:	Julie Ramsey	EOT Date:	02.08.2023
Town/ Parish:	Brightlingsea Town Council		
Applicant:	Town Clerk - Brightlingsea Town Council		
Address:	Brightlingsea Lido - Swimming Pool Promenade Way Brightlingsea CO7 0HH		
Development:	Construction of canopy over paddling pool.		

1. Executive Summary

- 1.1 The application seeks planning permission to construct a canopy over one half of the small swimming pool at the Brightlingsea Lido. This is to provide some shade and cover over the new decking area, providing shade from the sun and cover during inclement weather for users of the Lido and a wide range of community activities.
- 1.2 The site is leased and managed by Brightlingsea Town Council via a group of volunteers. The canopy proposed is a large shade sail covering a framework of laminated timber roof beams supported of steel posts fixed to the ground. The proposal is considered to be acceptable and would provide a required upgrade to the facilities at the Lido.
- 1.3 The application is before planning committee as Tendring District Council own the site.

Approval (no S106 requirements)

Recommendation: Approval

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

2. Planning Policy

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

National:

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

Local:

Tendring District Local Plan 2013-2033 and Beyond North Essex Authorities' Shared Strategic Section 1 Plan (adopted January 2021)
SP1 Presumption in Favour of Sustainable Development

SP7 Place Shaping Principles

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

SPL3 Sustainable Design
CP1 Sustainable Transport and Accessibility
HP2 Community Facilities
HP5 Open Space, Sports & Recreation Facilities
PP8 Tourism
PPL1 Development and Flood Risk

Status of the Local Plan

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

3. Relevant Recent Planning History

19/00110/FUL	Extend and refurbish the kiosk to create a community cafe.	Approved	26.03.2019
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4. Consultations

4.1 None

5. Representations

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

6. Assessment

Site Context

6.1 The application site is located to the south of Promenade Way, and comprises of two swimming pool, changing rooms, a café and associated facilities and operates as Brightlingsea Lido.

6.2 The site is within Flood Zone 2 and 3 which have a high risk of flooding and is owned by Tendring District Council. The site is leased to Brightlingsea Town Council and operated by a group of volunteers.

Principle of Development

6.3 The site is an establish community/tourist facility within Brightlingsea, but outside of any defined settlement development boundary. Nonetheless the proposal is for improvements to the existing operation and therefore the principle of development in this location is considered to be acceptable subject to the detailed considerations set out below.

Character and Appearance

- 6.4 The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Policy SP7 states that all new development should respond positively to local character and context to preserve and enhance the quality of existing places and their environs. Policy SPL3 seeks to provide new development which is well designed and maintains or enhances local character and distinctiveness.
- 6.5 The proposed sail like canopy is considered to be acceptable within the setting of the swimming pool area. The canopy measures 15m x 8m and has a maximum height of some 3.75m. The structure consists of Gluelam timber roof beams with a tensioned heavy sail cloth material over and is supported by steel posts. Gluelam timber is a type of structural engineered wood product made up of layers of dimensional lumber bonded together with durable, moisture-resistant structural adhesives. This choice of material is aesthetically pleasing and is considered to be appropriate for this open seafront location and is a durable material that would require minimal maintenance.
- 6.6 Furthermore the canopy is considered to be screened from view by the existing buildings to the front of the site and the existing boundary treatment that encloses the site and any views would be seen in the context of the wider site. The proposal is therefore considered to in keeping with the character of the site and the surrounding area.

Highway Safety/Parking

- 6.7 The proposal does not impact on the pedestrian access arrangements to the site. The site itself has no off street parking but there is unrestricted parking within the area for visitors and this is an existing situation.

Impact on Residential Amenity

- 6.8 NPPF, Paragraph 17, states that planning should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings. Policy SPL 3 states that all new development must meet practical requirements, it must be designed and orientated to ensure adequate daylight, outlook and privacy for future and existing residents.
- 6.9 There are no residential properties adjoining the site, the nearest neighbours are the occupiers of the adjacent caravan and camping parks and given the small scale nature of the proposal there are no concerns raised with regards to residential amenity.

Flood Risk

- 6.10 Given the small scale nature of the proposal and the wider use of the site. The application is considered to be of a similar water compatible use and therefore there is no requirements to apply the sequential and exceptions test. Furthermore the development is not considered to increase the flood risk elsewhere.

7. Conclusion

- 7.1 It is considered that the proposed development is consistent with the National and Local Plan Policies identified above. In the absence of material harm resulting from the proposal the application is before committee with a recommendation 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 No: 986/01 - Site Location Plan

Drawing No; 986/02 - Block Plan

Drawing No. 986/03 - Proposed Elevations and Floor Plan

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

NOTE/S FOR CONDITION:

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

Please note in the latest revision of the National Planning Policy Framework (NPPF) it provides that Local Planning Authorities should seek to ensure that the quality of approved development is not materially diminished between permission and completion, as a result of changes being made to the permitted scheme (for example through changes to approved

details such as the materials used). Accordingly, any future amendment of any kind will be considered in line with this paragraph, alongside the Development Plan and all other material considerations.

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

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. In this case the site is owned by Tendring District Council and is leased to Brightlingsea Town Council.

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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