



## PLANNING COMMITTEE

<b>DATE:</b>	<b>Thursday, 28 September 2023</b>
<b>TIME:</b>	<b>6.00 pm</b>
<b>VENUE:</b>	<b>Committee Room - Town Hall, Station Road, Clacton-on-Sea, CO15 1SE</b>

### MEMBERSHIP:

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

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

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

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

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DATE OF PUBLICATION: Monday, 18 September 2023

## AGENDA

### **1 Apologies for Absence and Substitutions**

The Committee is asked to note any apologies for absence and substitutions received from Members.

### **2 Minutes of the Last Meeting (Pages 1 - 10)**

To confirm and sign as a correct record, the minutes of the meeting of the Committee, held on Thursday 31 August 2023.

### **3 Declarations of Interest**

Councillors are invited to declare any Disclosable Pecuniary Interests, Other Registerable Interests or 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 THE DIRECTOR (PLANNING) - A.1 - PLANNING APPLICATION 23/00929/FUL – HONEYCROFT & 2 WALDEGRAVE WAY, LAWFORD, CO11 2DX (Pages 11 - 42)**

Erection of 13 Sheltered Housing bungalows for persons 55 years old or older, and a new community facility building (on the site of the recently demolished sheltered housing building).

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

### **6 REPORT OF THE DIRECTOR (PLANNING) - A.2 - PLANNING APPLICATION 22/00979/DETAIL – LAND TO THE SOUTH OF THORPE ROAD, WEELEY, CO16 9AJ (Pages 43 - 96)**

Reserved matters application with details of appearance, landscaping, layout and scale for the development of 277 dwellings, 1,910m<sup>2</sup> commercial floorspace (B1 Uses), railway footbridge, attenuation basins, open space, play equipment and associated infrastructure pursuant to outline permission 19/00524/OUT (Outline planning application with all matters reserved, except for access, for 280 dwellings, a 2 Form of Entry primary school, 56 place early years nursery, up to 3000 sqm of office (B1) buildings on 1 hectare and associated ancillary buildings, drainage systems, boundary treatments and hard surfacing as well as public open space, vehicular access from Thorpe Road a pedestrian footbridge and the closure of existing level crossing and formal diversion of public footpath No 5 - Weeley, over the new railway bridge) including minor alterations to public footpaths No.3 and No. 4 to allow for the proposed layout.

The application stands referred to the Planning Committee, as when the outline planning permission was granted originally, Members decided that the Reserved Matters application(s) would be referred to the Planning Committee for its determination. In addition, Councillor Peter Harris, the Ward Member, has requested that the application be 'called in' to the Planning Committee, due to his concerns about the provision of Open Space within the development; concerns about the surface water drainage scheme; the design of the railway footbridge; and concerns over traffic management and the proposed vehicular access for the site.

**7**     **REPORT OF THE DIRECTOR (PLANNING) - A.3 - PLANNING APPLICATION 22/01332/FUL – LAND SOUTH OF VERITY GARDENS, WEELEY, CO16 9FA (Pages 97 - 122)**

Proposed three dwellings and associated ancillary buildings, drainage systems, boundary treatments, hard surfacing with vehicular access from Thorpe Road, Weeley.

The application stands referred to the Planning Committee, as when the outline planning permission was granted originally granted for a larger site, which included this application site, Members decided that the Reserved Matters application(s) would be referred to the Planning Committee for its determination. In addition, Councillor Peter Harris, the Ward Member, has requested that the application be 'called in' to the Planning Committee, due to his concerns about the access to the site being unsuitable; the potential inability of emergency vehicles to access all dwellings; and the proposed dwellings being too close to the existing dwellings; and the adverse impact this could have on residents' privacy.

**8**     **REPORT OF THE DIRECTOR (PLANNING) - A.4 - REVISED PLANNING ENFORCEMENT POLICY AND HARM RISK ASSESSMENT PRIORITISATION SCHEME (Pages 123 - 174)**

To seek the Committee's approval for a revised version of the Council's Planning Enforcement Policy document and associated Harm Risk Assessment Prioritisation Scheme.

**9**     **Future Meetings of the Committee - Commencement Time**

At the request of the Chairman of the Committee, to enable Members to consider whether to amend the start time of future meetings of the Planning Committee.

As part of that consideration, the Committee is requested to discuss passing the following resolution:-

"That, with effect from the next ordinary meeting of the Planning Committee (due to be held on 24 October 2023), meetings of that Committee will commence at 5.00 p.m. until further notice."

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

*The next scheduled meeting of the Planning Committee is to be held in the Committee Room - Town Hall, Station Road, Clacton-on-Sea, CO15 1SE at 6.00 pm on Tuesday, 24 October 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.

Filming by the Council 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.

# *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 686587 or 686584) during normal working hours on any weekday after the reports and agenda have been published; or

Email: [democraticservices@tendringdc.gov.uk](mailto:democraticservices@tendringdc.gov.uk).

## **OR**

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

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

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

## **WHAT WILL HAPPEN WHEN THE MATTER CONCERNED IS CONSIDERED?**

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

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

## **WHAT SHOULD I SAY AT THE MEETING?**



Please be straightforward and concise and try to keep your comments to planning matters which are directly relevant to the application or matter concerned. Planning matters may include things such as planning policy, previous decisions of the Council on the same site or in similar circumstances, design, appearance, layout, effects on amenity, overlooking, loss of light, overshadowing, loss of privacy, noise or smell nuisance, impact on trees, listed buildings or highway safety.

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

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

### **WHO DO I CONTACT FOR MORE INFORMATION?**

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

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

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

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

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**MINUTES OF THE MEETING OF THE PLANNING COMMITTEE,  
HELD ON THURSDAY, 31ST AUGUST, 2023 AT 6.00 PM  
IN THE COMMITTEE ROOM, AT THE TOWN HALL, STATION ROAD, CLACTON-  
ON-SEA, CO15 1SE**

<b>Present:</b>	Councillors Fowler (Chairman), White (Vice-Chairman), Alexander (except item 30), Bray, Harris, Placey, Sudra and Wiggins
<b>Also Present:</b>	Councillor McWilliams (except items 31 and 32)
<b>In Attendance:</b>	John Pateman-Gee (Head of Planning & Building Control), Joanne Fisher (Planning Solicitor), Ian Ford (Committee Services Manager), Madeline Adger (Leadership Support Manager), Amy Lang (Senior Planning Officer), Michael Pingram (Planning Officer)(except items 31 and 32), Bethany Jones (Committee Services Officer) and Emma Haward (Leadership Support Assistant)

**26. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

Apologies were received from Councillor Everett (with no substitution).

**27. MINUTES OF THE LAST MEETING**

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

**RESOLVED** that the minutes of the last meeting of the Committee, held on Tuesday 1 August 2023, be approved as a correct record and signed by the Chairman.

**28. DECLARATIONS OF INTEREST**

Councillor Alexander declared for the public record in relation to report **A.1 – Planning Application 23/00746/FUL – Grange Farm Barn, Heckfords Road, Great Bentley, Colchester, Essex, CO7 8RR** that he was pre-determined and that therefore he would not participate in the Committee’s deliberations and decision making for this application.

Councillor Wiggins declared for the public record in relation to report **A.2 – Planning Application 23/00794/FUL – Land to South East of ‘Forres’, Clacton Road, Elmstead, Colchester, Essex, CO7 7DD** that she was a Ward Member. She advised that she was not pre-determined, and that therefore she would participate in the Committee’s deliberations and decision making for this application.

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

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

**30. REPORT OF DIRECTOR (PLANNING) - A.1 - 23/00746/FUL - GRANGE FARM BARN, HECKFORDS ROAD, GREAT BENTLEY, COLCHESTER, ESSEX, CO7 8RR**

Earlier on in the meeting as reported under Minute 28 above, Councillor Alexander had declared that he was pre-determined on this application. He therefore withdrew from the meeting and took no part whilst the Committee deliberated and made its decision on this application.

Members were told that this application was before the Planning Committee following a recent decision by the Committee to refuse a similar scheme on the site in February 2023 (reference 22/01601/FUL).

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

The Committee was reminded that the same scheme had been refused by the Planning Committee under 22/01601/FUL (against the Officers' recommendation for approval) as it was not considered to make a positive contribution to the quality of the local environment and character and failed to relate to the site and surroundings, including other buildings, by reason of its excessive height, massing, scale and design, and it did not respect the local landscape views.

The Committee was told that the only difference between 22/01601/FUL and the current application was that a Landscape Appraisal had been provided to address the points raised within the previous refusal reason. Following a review of the Landscape Appraisal, as well as a review of comments provided by the Council's Tree and Landscape Officer, Officers had concluded that the building was of a size, scale and form that was in keeping with the broadly agricultural character of the area and would not significantly alter views across the local setting and wider countryside.

Members heard that the increased size of the building would not detrimentally impact the setting on the nearby listed buildings and would result in a neutral impact to existing neighbouring amenities. In addition, Essex Highways had raised no objections.

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

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

An update sheet had been circulated to the Committee prior to the meeting with details of the wording of proposed planning condition no. 3, which was recommended by Officers to be amended to read as follows:-

*"CONDITION: Within three months of the date of this planning permission a scheme of hard, soft and boundary treatment landscaping works for the site, which shall include any proposed changes in ground levels, shall be submitted to and approved, in writing, by the Local Planning Authority.*

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

*NOTE/S FOR CONDITION:*

*Slab level 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.”*

Parish Councillor Peter Harry, on behalf of Great Bentley Parish Council, spoke against the application.

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

<b>Matters raised by Members of the Committee:-</b>	<b>Officer’s response thereto:-</b>
<i>What is different in this application from the refused application before?</i>	<i>The building is exactly the same. The only material change is the submission of a landscape appraisal.</i>
<i>Is the distance between this building and the Listed Building acceptable?</i>	<i>Yes. The Essex County Council Place Services were consulted and have raised no objections.</i>
<i>Would conditions as to ‘use’ apply to any future owners/occupiers?</i>	<i>This is covered in condition 2, which would preclude use for business purposes. A business use would need planning permission.</i>
<i>Can “ancillary use” be used to permit business use?</i>	<i>A matter of fact and degree is the judgement call. Can be used by owner/occupier to work (work from home), conduct business but if they had customers visiting and/or employed others at the site this would be a material change of use requiring planning permission.</i>
<i>Is the main point of ancillary use whether it attracts a lot of vehicle movements?</i>	<i>If a lot of people outside of friends and family, were visiting regularly for a community activity this would stray into grounds of an un-incidental change of use. Condition 2 is a standard condition that is adequate for case law.</i>
<i>If the building became used as a commercial storage site, could there be a limit on vehicle movements to the site?</i>	<i>It is unreasonable and unnecessary to impose such a condition given its proposed ancillary domestic/leisure use. Also, unreasonable to extend it to the domestic dwelling outside the scope of the ‘red line’.</i>
<i>Can we have an assurance that this is not creating a precedent for the future given the substantial increase to this building?</i>	<i>Officers have followed this up as an enforcement case. The applicant has given a lot of time and money. Every application has to be considered on its own merits. There is nothing to stop it</i>

	<i>under planning law but Officers would not recommend it as an approval route given the ultimate risk that it might have to be removed if permission was not forthcoming.</i>
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It was moved by Councillor Placey, seconded by Councillor Fowler and:-

**RESOLVED** that:

- 1) the Head of Planning & Building Control be authorised to grant planning permission, subject to the conditions as stated at paragraph 8.2 of the Officer report (with the exception of condition 3 which will be amended to reflect the changes set out in the Update Sheet), 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 sending to the applicant of informative notes, as may be deemed necessary.

**31. REPORT OF DIRECTOR (PLANNING) - A.2 - 23/00794/FUL - LAND TO SOUTH EAST OF 'FORRES', CLACTON ROAD, ELMSTEAD, COLCHESTER, ESSEX, CO7 7DD**

Earlier on in the meeting, as reported under Minute 28 above, Councillor Wiggins had stated for the public record that she was a Ward Member for Elmstead. However, as she was not pre-determined on this matter, Councillor Wiggins remained in the meeting and participated as the Committee deliberated and made its decision on this application.

The Committee was told that the application was before Members as the proposal represented a departure from the Local Plan, proposing new residential development outside of the Elmstead Settlement Development Boundary (SDB) as defined within the adopted Tendring District Local Plan 2013 to 2033 and Beyond.

Members heard that the application site was located on the southern side of Clacton Road (A133), on the outskirts of Elmstead Market, on land currently serving the garden area to the rear of the existing dwelling known as 'Forres'.

The Committee heard that the application sought full planning permission for the subdivision of the rear garden serving Forres and the erection of 1 no. detached single storey dwelling. The property would front Oak Tree Place, be served by a detached double gauge and approximately 535 sqm of garden space.

Members heard that to the rear of Forres and the application site was a development of 8 bungalows. The bungalows were served by a new access road, Oak Tree Place, between Forres and Lanswood Business Centre.

The Committee was reminded that the site lay outside of the defined SDB of Elmstead and was therefore contrary to the spatial strategy set out within adopted Local Plan Section 1 Policy SP7 and Section 2 Policy SPL2. Local Plan policy SPL2 does not preclude residential development outside of the defined boundary, but rather requires careful consideration of the scale of development in relation to the settlement hierarchy category, site-specific characteristics, and sustainability of the site.

Members were informed that the adjacent development was originally approved for 9 dwellings (ref. 19/01211/DETAIL), superseded by the full permission for 8 bungalows now under construction (ref. 20/01840/FUL, varied by 21/00908/FUL). The application site itself broadly encompassed a portion of the land previously approved as part of the wider development. Had the previously approved scheme been built out, this would have accommodated a total of 9 detached dwellings. The current proposal would result in a total of 9 dwellings on the overall site. The development would essentially appear as an infill plot, would appear as part of the existing adjacent development, and not result in any harm to the character of the area or wider street scene.

Officers told the Committee that Elmstead Market was identified as a 'rural service centre' with a reasonably good range of services and facilities. The site laid approximately 0.22 miles (353 metres) from the edge of the defined settlement and 0.65 miles (1.05km) from the village centre. The site benefited from a pedestrian crossing and footpath link along Clacton Road. Furthermore, there were bus stops almost directly to the front of the site.

Members were also told that the Officers were satisfied that existing services and facilities within the settlement would be capable of supporting the development of 1 dwelling, and that these were accessible within safe walking distance of the site.

The Committee was informed that, other than the high-level policy conflict regarding the location of the site outside the defined settlement development boundary, in the opinion of Officers the development would not result in any material harm in terms of design, impact, residential amenities or highway safety, and was acceptable in all other regards. For those reasons, the application was recommended by Officers for approval.

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

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

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

(1) an addition to Section 6 (Consultations) of the Officer report:-

**Tree & Landscape Officer No objection subject to conditions**  
**28.06.2023**

*"Application is accompanied by a Tree Survey Report in accordance with BS5837 2012 Trees in relation to design demolition and construction. Recommendations. The report provides an accurate description of the condition and amenity value of the trees on the land.*

*No objections subject to conditions retaining the Oak tree (T13) and a landscaping scheme."*

(2) Correction (shown in bold) to tree number within Paragraph 8.39 of the Officer report, as follows:

*“8.39 Information contained in the tree survey shows the retention of an Oak (T13), the Corylus (T15) and an Arbutus (T16). The Oak has moderate amenity value and will be retained, contributing positively to the site. The Tree Survey Report identifies the need for the removal of a Pine (~~T15~~) (T14). The Pine has significant defects, and its removal is considered acceptable.”*

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

<b>Matters raised by Members of the Committee:-</b>	<b>Officer’s response thereto:-</b>
<i>What happens to the Oak Tree (T13) in, say, 35 years’ time if its roots start affecting this new property? What can be done to protect this tree in perpetuity?</i>	<i>Officers have tried previously to go beyond a 10 year ecological protection period in planning conditions but have faced opposition from the Planning Inspectorate as they have deemed it to be unreasonable to go beyond the average life span of plants which is calculated to be 10 years. Officers have also considered whether this tree is deemed worthy of protection. The Council’s Tree Officer has stated that this tree does not qualify for a Tree Preservation Order and that it would be unlikely to do so in the future. Therefore, ensuring the preservation of this tree is not sufficient grounds to justify a recommendation of refusal by the Officers.</i>
<i>Can we stipulate in the design of property a way to pre-empt any problems with this tree and its root system in the future</i>	<i>In terms of the construction of this proposed dwelling Officers are reliant on the current Building Regulations. They have improved recently in terms of the protection of plants and tree root systems but they are not perfect so Officers cannot say that there is no risk to the tree.</i>
<i>Can you confirm that the original planning application was for a development of 9 houses though in the end it was reduced and only 8 are being built so that in effect this current application is merely returning it to the original 9?</i>	<i>Yes, that is correct though this application does take some of the garden from the property ‘Forres’ that would not have been part of the original application.</i>
<i>Given that Tree T14 is to be removed, can a request be added that the developer replaces this tree somewhere else within the extended development</i>	<i>A provision could be added within the landscaping scheme to require a replacement of that tree (T14).</i>



<i>site?</i>	
<i>Can Officers confirm that part of the long, close boarded fence in Oak Tree Close will be removed to facilitate access to the garage, a dropped kerb and the front entrance to this new dwelling?</i>	<i>Yes that is correct and this was explained in the Officer report and earlier presentation.</i>
<i>Is it correct that this new development will take land that is currently occupied by the developer's construction storage containers?</i>	<i>Yes, that is correct. Once the current development of 8 bungalows is completed then those storage containers will be removed to facilitate this proposed development. A Construction Management Scheme would need to be agreed and this is set out in proposed planning condition number 8.</i>
<i>For the 8 bungalows under construction the developer will be using a package treatment scheme for sewerage disposal. Will this new proposed dwelling go on the 'Mains' scheme or will it also be on a package treatment scheme?</i>	<i>The Agent has confirmed that there is no connection to the 'Mains' and that therefore this proposed new dwelling will be connected to the same package treatment scheme being provided for the other 8 bungalows. This has been deemed to be acceptable.</i>
<i>Has this application already been approved by Building Control or will it go to them after it has been approved by this Planning Committee?</i>	<i>The building control stage always follows the planning application approval stage. The building regulations stage will require much more detailed plans from the applicant.</i>
<i>Could we include within the conditions a requirement that Tree T13 is pollarded and/or copped?</i>	<i>A 'management' condition could be added stipulating how the plants and trees will be protected and maintained. It's possibly excessive to impose this just for one tree but if Members were so minded an extra condition could be added to run alongside the landscape scheme.</i>
<i>The veracity was questioned of a statement within the Officer report that indicated that you could get directly to Alresford and Brightlingsea by bus from Elmstead.</i>	<i>Officers reviewed the current bus provision available, apologised for the error in the Officer report and withdrew that point.</i>

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

**RESOLVED** unanimously that the Head of Planning and Building Control be authorised to grant planning permission subject to:-

- (a) on appropriate terms, as summarised below and those as may be deemed necessary to the satisfaction of the Head of Planning and Building Control to secure the completion of an unilateral undertaking legal agreement under the provisions of section 106 of the Town and Country Planning Act 1990 dealing with the financial contribution in accordance with the Essex Coast Recreational disturbance

Avoidance and Mitigation Strategy (RAMS) totalling £156.76 per dwelling (index linked);

- (b) the planning conditions, as stated at paragraph 10.2 of the Officer report, or varied as is necessary to ensure the wording is enforceable, precise, and reasonable in all other respects, including appropriate updates, so long as the principle of the conditions as referenced is retained and further subject to:-
  - (i) a landscape scheme to include the replacement of Tree T14 within the site as a new tree to be planted; and
  - (ii) a further condition alongside the landscape scheme stating that, prior to the construction of the dwelling, a management scheme and methodology for Tree T13 shall be agreed and thereafter maintained as agreed unless otherwise agreed in writing by the local planning authority.
- (c) the sending to the applicant of any informative notes as may be deemed necessary; or
- (d) that, in the event of the requirements of the legal agreement referred to in resolution (a) above not being secured within 12 months of the date of this meeting, the Head of Planning and Building Control is hereby authorised to refuse the application, on appropriate grounds, at their sole discretion.

**32. REPORT OF DIRECTOR (PLANNING) - A.3 - 23/00376/FULHH - 78 NORTH ROAD, CLACTON-ON-SEA, ESSEX, CO15 4DF**

Members were told that the application had been referred to the Planning Committee as the land was owned by Tendring District Council.

The Committee heard that the application sought retrospective permission for the erection of a conservatory. Whilst the footprint of the conservatory met the permitted development criteria, the overall height measured 3.5 metres and fell within 2 metres of the boundary, so planning permission was therefore required.

Officers informed the Committee that the conservatory was a single storey feature, measuring 3.15 metres deep by 4.75 metres wide. The eaves height was 2.5 metres and overall ridge height measured 3.5 metres. The conservatory was deemed by Officers to be of an acceptable size, scale and appearance with no significant adverse effects on the visual amenities of the area.

The Committee was also told that the single storey nature of the conservatory meant that it posed no significant threat to overlooking or loss of privacy to the adjacent neighbouring dwellings. It had no significant impacts on the loss of light, which, in the opinion of Officers, would be significant enough as to justify refusing planning permission.

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

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

There were no matters raised on the Planning Officers' Update Sheet in respect of this application.

There were no public speakers on this application.

<b>Matters raised by Members of the Committee:-</b>	<b>Officer's response thereto:-</b>
<p>Could you please clarify why Members could not attend this site as part of the Committee's site visits today?</p>	<p>This is a site owned by the Council but it has tenants in situ. Officers did not receive in time the required permission from the tenants to access the site. Therefore, it would have been a breach of their privacy for the Committee to progress through the house in order to view the conservatory in the back garden [there being no side access available]. Officers were also not aware of any public vantage point that would have enabled Members to view this application site. Officers did not have any other valid reason to, otherwise delay the determination of this application.</p>
<p>Can you confirm that this application is only before the Committee because the Council is the landowner otherwise it would have been dealt with by Officers under their delegated powers?</p>	<p>Yes, that is correct.</p>

It was moved by Councillor Bray, seconded by Councillor Placey and:-

**RESOLVED** unanimously that the Head of Planning & Building Control be authorised to grant planning permission, subject to:-

- (a) the condition as stated at paragraph 8.2 of the Officer report, or varied as is necessary to ensure the wording is enforceable, precise, and reasonable in all other respects, including appropriate updates, so long as the principle of the condition as referenced is retained; and
- (b) the sending to the applicant of any informative notes as may be deemed necessary.

The meeting was declared closed at 8.25 pm

**Chairman**

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## PLANNING COMMITTEE

28 SEPTEMBER 2023

### REPORT OF THE DIRECTOR OF PLANNING

#### A.1 PLANNING APPLICATION – 23/00929/FUL – HONEYCROFT & 2 WALDEGRAVE WAY LAWFORD MANNINGTREE ESSEX CO11 2DX



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<b>Application:</b>	23/00929/FUL	<b>Expiry Date:</b>	5th October 2023
<b>Case Officer:</b>	Michael Pingram	<b>EOT Date:</b>	
<b>Town/ Parish:</b>	Lawford Parish Council		
<b>Applicant:</b>	Jennie Wilkinson - Tendring District Council		
<b>Address:</b>	Honeycroft & 2 Waldegrave Way, Lawford, Manningtree Essex CO11 2DX		
<b>Development:</b>	Erection of 13 Sheltered Housing bungalows for persons 55 years old or older, and a new community facility building (on the site of recently demolished sheltered housing building).		

## 1. Executive Summary

- 1.1 The application is before the Planning Committee as Tendring District Council are the applicant.
- 1.2 The application proposes the erection of 13 Sheltered Housing properties alongside a communal building. The site falls within the Settlement Development Boundary for Lawford, whilst NPPG guidance seeks to provide specialist housing for older people. The proposal is therefore accepted in principle.
- 1.3 The design, scale and layout of the proposal is supported by Officers, and therefore will not be significant harm to the amenities of neighbouring properties. While there is a slight shortfall in parking provision, this is not considered to be harmful enough for Officers to justify a refusal reason, and Essex Highways raise no objections.
- 1.4 Furthermore, there will not be significant harm to existing trees and ECC Ecology support the proposal subject to conditions.

### **Recommendation:** Approval subject to Unilateral Undertaking

- 1) On appropriate terms as summarised below and those as may be deemed necessary to the satisfaction of the Head of Planning and Building Control to secure the completion of a legal agreement under the provisions of section 106 of the Town and Country Planning Act 1990 dealing with the following matters:
    - Financial contribution in accordance with the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) totalling £156.76 per dwelling (index linked)
  - 2) That the Head of Planning and Building Control 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 Head of Planning and Building Control or requirements referred to in Resolution (1) above not being secured and/or not secured within 12 months that the

Head of Planning and Building Control be authorised to refuse the application on appropriate grounds at their discretion.

## **2. Planning Policy**

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

National:

National Planning Policy Framework July 2021 (NPPF)

National Planning Practice Guidance (NPPG)

Local:

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

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

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

- SPL1 Managing Growth
- SPL2 Settlement Development Boundaries
- SPL3 Sustainable Design
- LP1 Housing Supply
- LP2 Housing Choice
- LP3 Housing Density and Standards
- LP4 Housing Layout
- LP5 Affordable and Council Housing
- PPL4 Biodiversity and Geodiversity
- PPL5 Water Conservation, Drainage and Sewerage
- PPL7 Archaeology
- PPL10 Renewable Energy Generation
- HP5 Open Space, Sports & Recreation Facilities
- DI1 Infrastructure Delivery and Impact Mitigation
- CP1 Sustainable Transport and Accessibility

Local Planning Guidance:

Essex County Council Car Parking Standards - Design and Good Practice  
Essex Design Guide

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

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

respectively), 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.

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**

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**

02/01581/FUL	Change of use to incorporate a day centre into existing centre for temporary period of one year	Approved	16.10.2002
03/00085/FUL	Revision to the previous approval given to change the use to incorporate a day centre into existing centre for a temporary period of 18 months	Approved	24.02.2003

### **4. Consultations**

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

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



ECC GI position

Having reviewed the Design and Access Statement/Landscape plans/Masterplans and the associated documents which accompanied the planning application, we do not object to the granting of (23/00929/FUL) based on the following:

Condition 1

It is positive to see that the design and access statement indicates that the proposal will seek to retain as much existing GI as possible. The ECC GI Team recommends that no development shall take place until there has been submitted to and approved, in writing, by the Local Planning Authority a Construction Environmental Management Plan (CEMP). Ideally, strategic elements of the GI framework are brought forward in phase one of the development, to create a landscape structure or evidence is shown that substantive GI is secured as early as possible in initial phases of delivery to allow early establishment. Therefore, a Construction Environmental Management Plan (CEMP) will be required to set out how retained GI, such as trees, hedges and vegetation, as well as any nature designated sites (e.g. SSSI's etc.) will be protected during construction.

Reason:

The phased implementation of new GI of the development construction will allow for the GI to mature and it will provide further benefit of reducing/buffering the aesthetic impact from the construction work.

Condition 2

No development shall take place until there has been submitted to and approved, in writing, by SuDS and landscape specialists at the Local Planning Authority a landscape ecological management and maintenance plan and work schedule for a minimum of 10 years.

Details should include who is responsible for GI assets (including any surface water drainage system) and the maintenance activities/frequencies.

We would also expect details on how management company services for the maintenance of GI assets and green spaces shall be funded and managed for the lifetime of the development to be included.

Reason:

To ensure appropriate management and maintenance arrangements and funding mechanisms are put in place to maintain high-quality value and benefits of the GI assets.

Failure to provide the above required information before commencement of works may result in reducing the value of the development, becoming an undesirable place to live that may increase the impacts from climate change, such as flood risk or air pollution from the site.

Condition 3

The applicant or any successor in title must maintain yearly logs of maintenance which should be carried out in accordance with any approved Maintenance Plan. These must be available for inspection upon a request by the Local Planning Authority.

Reason:

To ensure the GI are maintained for the lifetime of the development as outlined in any approved Maintenance Plan so that they continue to function as intended to ensure the high-quality and multi-functional benefits of GI assets.

Recommendations

Green Infrastructure

The ECC GI team recommends that the Essex GI Strategy and Essex GI Standards are consulted and that an assessment of the ecological context of the development is submitted to and approved in writing by a landscape specialist from the local planning authority. We recommend the following are considered for the site:

- The development should be designed to deliver Biodiversity Net Gain and wider environmental net gains, that forms an important component of nature recovery networks and the wider landscape scale GI network.
- Demonstrate that the development site/setting has been reviewed for multiple functions and benefits (listed in the Essex GI Strategy (chapter 5.1, page 35) and ensure that green/open spaces are designed to ensure multi- purpose and functional use.
- Travel Infrastructure should give consideration to use of GI features to ensure accessibility across the site.
- Ensure there are good accessible links for all from the development to existing settlements, urban centres, rural areas, active travel networks and green spaces.
- Demonstrate how the GI has been designed to provide recreational facilities for different user and age groups. It should deliver social inclusive processes that are open to all and incorporate the knowledge and needs of diverse parties.
- Tree Planting should be undertaken on site wherever possible. There are opportunities to work with the Essex Forest Initiative to assist. (environment@essex.gov.uk)

Reason:

GI and its connectivity are to be at the heart of decision making at every stage in the planning and design process for all developments from the outset, thus GI is integral to place shaping. Planning and design of GI will ensure individual building, street, neighbourhood and landscape scale intervention features contribute to a coherent, meaningful and practical network of high-quality and multi-functional GI, that will provide multiple environment, social and economic benefits within the development and wider area. By ensuring good early design in light of the local context and including local policy context, the GI will more effectively meet local priorities and needs.

The National Planning Policy Framework 2021 paragraph 8c sets environmental protection and enhancement as one of the 3 objectives of the planning system. Paragraph 98 states that access to a network of high quality open spaces and opportunities for sport and physical activity is important for the health and well-being of communities, and can deliver wider benefits for nature and support efforts to address climate change.

Biodiversity Net-Gain

The ECC GI Team echoes the recommendation within the PEA, that a metric calculation that demonstrates a minimum of 10% BNG should be submitted and approved as part of the planning application.

At present, the Environment Act identifies a minimum 10% gain required in biodiversity. The Environment Bill received Royal Assent on 9 November 2021, meaning it is now an Act of Parliament. Mandatory biodiversity net gain will become law in November 2023 including the following key components:

- Minimum 10% gain required calculated using Biodiversity Metric and approval of net gain plan
- Habitat secured for at least 30 years via obligations/ conservation covenant
- Habitat can be delivered on-site, off-site or via statutory biodiversity credits
- There will be a national register for net gain delivery sites
- The mitigation hierarchy still applies of avoidance, mitigation and compensation for biodiversity loss
- Will also apply to Nationally Significant Infrastructure Projects (NSIPs)
- Does not apply to marine development
- Does not change existing legal environmental and wildlife protections

The following guidance has already been produced to assist the calculation and delivery of biodiversity net gain:

- an updated Biodiversity Metric 4.0 was published in March 2023.
- CIEEM, IEMA and CIRIA have set out Good Practice Principles for Development and an associated Practical Guide and Case Studies.
- a British Standard on biodiversity net gain and development projects: BS 8683:2021 Process for designing and implementing Biodiversity Net Gain

ECCs GI team expects this development site to deliver Biodiversity Net-Gain (BNG) in line with the Environment Act. The delivery of BNG is expected to take place on-site where possible, via the protection and retention of existing GI and provision of new features. However, it is recognised that this might not always be conceivable, and that off-site delivery could provide additional benefits and be used to protect areas of land that are of local natural and wildlife value.

#### Essex Climate Focus Area

The aforementioned planning application is situated within the Essex Climate Action Commission's (ECAC) recommended Climate Focus Area (CFA), which is formed of the Blackwater and Colne River catchment areas (please see Figure 1 for further details). The objective of this recommendation is for the CFA to "accelerate [climate] action and provide exemplars, for learning and innovation: adopting Sustainable Land stewardship practices: 100% by 2030 and Natural Green Infrastructure: 30% by 2030" (ECAC, 2021). Among the objectives of the CFA are to achieve net zero carbon, biodiversity net gain, improve soil health and air quality, reduce flooding and urban heat island effect, and enhance amenity, liveability and wellbeing of Essex communities. It will achieve this by wholesale landscape change in rural areas and urban areas and it will look to developments and to contribute to these targets.

Figure 1: Map of ECACs Climate Focus Area

#### Sustainable Design Features

It is positive to see the inclusion of GI assets within the proposal, as set out in the Design and Access Statement and block plans. ECCs GI team supports a strategy that seeks to maximise opportunity for habitat retention. To ensure the integration of nature into development, ECCs GI team recommends further sustainable design features are explored. Thus, ECCs GI team recommends consideration of the following: -

- Green Roofs/Walls: The provision of these features allow ecosystems to function and deliver their services by connecting urban, peri-urban and rural areas. Alongside biodiversity habitat creation, green roofs and walls can provide water storage capacity, flood alleviation and energy saving potential. In addition to buildings, these features can be provided on sustainable transport infrastructure (such as on bus stop/ cycle storage facilities).
- Wildlife Bricks: The provision of wildlife bricks creates habitats for invertebrates.

- Dual street furniture/seating (i.e., a bench including a planter): The design of the street furniture and bin stores can contribute to the landscape character, reduce clutter of an area or street and act as a green corridor/link to the wider landscape scale GI network.

#### Urban Greening Factor

Although Defra is proposing to allow sites that have a baseline biodiversity value of zero or negligible to be exempt from BNG requirement, it is encouraged for these sites, regardless of its size to still incorporate biodiversity enhancement into its design. For brownfield sites and sites with low ecological value [or a BNG metric calculation with a low baseline]. The ECC GI team recommends that the Urban Greening Factor is consulted to establish best practice. The Urban Greening Factor (UGF) is a planning tool to improve the provision of Green Infrastructure (GI) particularly in urban areas. It can be used to increase urban greening and contribute to Biodiversity Net Gain. While it is voluntary, the ECC GI team strongly recommends utilisation of the UGF, and it can significantly contribute to place making, nature recovery, biodiversity enhancement, and connectivity to larger green infrastructure networks within proximity to the development site. More information can be found within the National Green Infrastructure Framework Standards (2023).

Any questions raised within this response should be directed to the applicant and the response should be provided to the Essex GI Team for further consideration. If you are minded to approve the application contrary to this advice, we request that you contact us to allow further discussion and/or representations from us.

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

**17.07.2023**

Thank you for consulting Place Services on the above planning application for the erection of 13 Sheltered Housing bungalows for persons 55 years old or older, and a new community facility building (on the site of recently demolished sheltered housing building).

The proposed development lies within an area adjacent to a number of sites recorded on the Essex Historic Environment Record. The site has been previously developed and much of the proposed development will lie within the footprint of former structures. Any archaeological remains within these areas are likely to have suffered from disturbance or destruction from the previous development and there is unlikely to be any significant impact on any undisturbed archaeological remains that may survive within the proposed development area.

There is no objection to the above application and no archaeological investigation will be required for the above application.

If you have any questions about this advice, please do not hesitate to contact me.

#### **ECC Highways Dept**

**19.07.2023**

The information submitted with the application has been assessed by the Highway Authority and conclusions have been drawn from a desktop study with the observations below based on submitted material in conjunction with a site visit. The site is currently vacant, due to the previous Sheltered Housing building becoming inhabitable and subsequently being demolished. The Site itself is located on the southern edge of Waldegrave Road immediately adjacent the Honey Croft Post Office and convenient store and will utilise the previous vehicle access for the Sheltered Housing building, with some proposed modifications to the width, this will be widened to 6.2 m to allow for a fire tender and refuse vehicle to enter the site. The site is within easy reach of local facilities and public transport to sustain the continued use of the site, with the closest bus service within 100m of the site via the bus stops along Colchester

Road. The regular service provides easy access around Lawford, Manningtree and further afield to Colchester. Waldegrave Way is predominately a residential area giving access to smaller avenues that combine a development of semi-detached bungalows and houses. The proposal is that the residents are not car dependant and therefore car movements will be at a minimum. It is noted focus is placed upon ease of movement for pedestrian, cycles, and mobility scooters. To this end wide paths are located through the scheme that links to the communal areas and the wider network, 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, the road junction / access at its centre line shall be provided with a minimum clear to ground visibility splay dimensions of 2.4 metres by 43 metres in both directions, as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the road junction / access is first used by vehicular traffic and retained free of any obstruction at all times.

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

2. Prior to occupation of the development the proposed vehicular turning facility, 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. The vehicular access road for this proposal shall be retained at right angles to the existing carriageway and shall be provided, but not be limited to, the following aspects:

- o Private drive measuring no less than 6.2m in width for the first 10 metres minimum.
- o Provided with an appropriate dropped kerb crossing of the footway/verge.
- o There shall be no discharge of surface water onto the Highway.
- o Where possible the existing footway across the entire site frontage shall be widened to a maximum width of 3 metres.
- o Any other reasonable items to ensure the access is in accordance with current policy standards.

Reason: to ensure that vehicles can enter and leave the highway in a controlled manner and to cater for additional pedestrian traffic generated within the highway as a result of the proposed development, in the interest of highway safety in accordance with policy DM1.

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

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

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

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.

6. Each vehicular parking space shall have minimum dimensions of 2.9 metres x 5.5 metres and as per the Essex Parking Standards (Parking Standards: Design and Good Practice, Sept 2009) 6 metres should be provided behind each parking space to allow for manoeuvring.

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

7. The powered two-wheeler/cycle parking facilities as shown on the approved plan are to be provided prior to the first occupation of the development and retained at all times.

Reason: To ensure appropriate powered two-wheeler and bicycle parking is provided in accordance with Policy DM8.

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

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

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:

(i) Prior to any works taking place in the highway the developer should enter into an S278 agreement with the Highway Authority under the Highways Act 1980 or Minor Works Authorisation to regulate the construction of the highway works.

(ii) The grant of planning permission does not automatically allow development to commence. In the event of works affecting the highway, none shall be permitted to commence until such time as they have been fully agreed with this Authority.

(iii) The above requirements should be imposed by way of negative planning conditions or planning obligation agreements as appropriate.

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](mailto:development.management@essexhighways.org)

2: In main urban areas with frequent and extensive public transport, cycling and walking links, the EPOA Parking Standards recommend that a reduced parking standard provision may be applied to residential developments. A reduced parking standard provision level can be applied to this proposal as it is located very close to regular public transport services and public car parking facilities.

3: On the completion of the Development, all roads, footways/paths, cycle ways, covers, gratings, fences, barriers, grass verges, trees, and any other street furniture within the Site and

in the area, it covers, and any neighbouring areas affected by it, must be left in a fully functional repaired/renovated state to a standard accepted by the appropriate statutory authority.

**ECC SuDS Consultee**

**05.09.2023**

Thank you for your email received on 29 August 2023 which provides this Council with the opportunity to assess and advise on the proposed surface water drainage strategy for the above mentioned planning application.

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

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

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

Lead Local Flood Authority position

Having reviewed the Flood Risk Assessment and the associated documents which accompanied the planning application, we do not object to the granting of planning permission based on the following:

**Condition 1**

No works except demolition shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme should include but not be limited to:

- Final modelling and calculations for all areas of the drainage system.
- The appropriate level of treatment for all runoff leaving the site, in line with the Simple Index Approach in chapter 26 of the CIRIA SuDS Manual C753.
- Detailed engineering drawings of each component of the drainage scheme.
- A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features.
- A written report summarising the final strategy and highlighting any minor changes to the approved strategy.

The scheme shall subsequently be implemented prior to occupation.

**Reason**

- To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site.
- To ensure the effective operation of SuDS features over the lifetime of the development.
- To provide mitigation of any environmental harm which may be caused to the local water environment
- Failure to provide the above required information before commencement of works may result in a system being installed that is not sufficient to deal with surface water occurring during rainfall events and may lead to increased flood risk and pollution hazard from the site.

**Condition 2**

Prior to occupation a maintenance plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance

activities/frequencies, has been submitted to and agreed, in writing, by the Local Planning Authority.

Should any part be maintainable by a maintenance company, details of long term funding arrangements should be provided.

#### 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.

Failure to provide the above required information prior to occupation may result in the installation of a system that is not properly maintained and may increase flood risk or pollution hazard from the site.

#### Condition 3

The applicant or any successor in title must maintain yearly logs of maintenance which should be carried out in accordance with any approved Maintenance Plan. These must be available for inspection upon a request by the Local Planning Authority.

#### Reason

To ensure the SuDS are maintained for the lifetime of the development as outlined in any approved Maintenance Plan so that they continue to function as intended to ensure mitigation against flood risk.

We also have the following advisory comments:

- We strongly recommend looking at the Essex Green Infrastructure Strategy to ensure that the proposals are implementing multifunctional green/blue features effectively. The link can be found below. <https://www.essex.gov.uk/protecting-environment>

- Please note that the Environment Agency updated the peak rainfall climate change allowances on the 10 May 2022. planning application with outline approval are not required to adjust an already approved climate change allowance, however, wherever possible, in cases that do not have a finalised drainage strategy please endeavour to use the updated climate change figures  
Flood risk assessments: climate change allowances - GOV.UK ([www.gov.uk](http://www.gov.uk))

In the event that more information was supplied by the applicants then the County Council may be in a position to withdraw its objection to the proposal once it has considered the additional clarification/details that are required.

Any questions raised within this response should be directed to the applicant and the response should be provided to the LLFA for further consideration. If you are minded to approve the application contrary to this advice, we request that you contact us to allow further discussion and/or representations from us.

#### Summary of Flood Risk Responsibilities for your Council:

We have not considered the following issues as part of this planning application as they are not within our direct remit; nevertheless these are all very important considerations for managing flood risk for this development, and determining the safety and acceptability of the proposal. Prior to deciding this application you should give due consideration to the issue(s) below. It may be that you need to consult relevant experts outside your planning team.

- Sequential Test in relation to fluvial flood risk;
- Safety of people (including the provision and adequacy of an emergency plan, temporary refuge and rescue or evacuation arrangements);
- Safety of the building;
- Flood recovery measures (including flood proofing and other building level resistance and resilience measures);



- Sustainability of the development.

In all circumstances where warning and emergency response is fundamental to managing flood risk, we advise local planning authorities to formally consider the emergency planning and rescue implications of new development in making their decisions.

Please see Appendix 1 at the end of this letter with more information on the flood risk responsibilities for your council.

**Essex County Council Ecology**

**27.07.2023**

We have reviewed the Preliminary Ecological Appraisal (Geo Environmental, June 2023) relating to the likely impacts of development on designated sites, protected and Priority species & habitats and identification of appropriate mitigation measures.

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

We note that the existing building onsite and trees have "moderate" potential for roosting bats. However, it is confirmed that this building and trees are all to be retained by the current proposals. Therefore, the LPA has certainty of the likely impacts to bats, European Protected Species.

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

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

The mitigation measures identified in the Preliminary Ecological Appraisal (Geo Environmental, June 2023) should be secured by a condition of any consent and implemented in full. This is necessary to conserve and enhance protected and Priority species particularly nesting birds and Hedgehogs.

To mitigate any potential impacts to the retained and adjacent habitat especially through dust and pollution events, a Construction Environmental Management Plan for Biodiversity (CEMP: Biodiversity) should be produced and secured by condition of any consent.

Furthermore, the Preliminary Ecological Appraisal (Geo Environmental, June 2023) recommends that a method statement for reptiles be produced to avoid any residual impacts to Reptiles, protected species. Therefore, this reptile method statement should be included within the CEMP: Biodiversity.

We also support the proposed reasonable biodiversity enhancements of bird boxes, bat boxes, native species planting, which have been recommended by the Preliminary Ecological Appraisal (Geo Environmental, June 2023) to secure net gains for biodiversity, as outlined under Paragraph 174d of the National Planning Policy Framework (2021). The reasonable biodiversity enhancement measures should be outlined within a Biodiversity Enhancement Strategy and should be secured by a condition of any consent.

In addition, the Preliminary Ecological Appraisal (Geo Environmental, June 2023) highlights that it is likely bats could be foraging/commuting within and around the site. Therefore, if any external lighting is to be proposed, it is advised that a sensitive lighting scheme is developed to minimise any impacts. This should summarise the following measures will be implemented:

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

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

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

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

#### Recommended conditions

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

"All mitigation measures and/or works shall be carried out in accordance with the details contained in the Preliminary Ecological Appraisal (Geo Environmental, June 2023) as already submitted with the planning application and agreed in principle with the local planning authority prior to determination.

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

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

#### 2. PRIOR TO COMMENCEMENT: CONSTRUCTION ENVIRONMENTAL MANAGEMENT PLAN FOR BIODIVERSITY

"A construction environmental management plan (CEMP: Biodiversity) shall be submitted to and approved in writing by the local planning authority.

The CEMP (Biodiversity) shall include the following.

- a) Risk assessment of potentially damaging construction activities.
- b) Identification of "biodiversity protection zones".
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements) including a precautionary method statement for reptiles.
- d) The location and timing of sensitive works to avoid harm to biodiversity features.
- e) The times during construction when specialist ecologists need to be present on site to oversee works.
- f) Responsible persons and lines of communication.

- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
- h) Use of protective fences, exclusion barriers and warning signs.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority"

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

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

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

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

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

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

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

And if any external lighting is proposed;

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

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

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

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

**Environmental Protection**

**14.07.2023**

Thank you for your consultation regarding the proposed development above. The Environmental Protection Team's comments are given below:

## Contaminated Land

I have read through the phase 2 contaminated land report carried out by Compass Geotechnical dated March 23 and the report recommends that a watching brief is applied therefore please see the following:

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 end users

## Construction Phase

Prior to the commencement of any ground, demolition and/or construction works, the applicant (or their contractors) shall submit a full method statement to, and receive written approval from, the Pollution and Environmental Control. This should include the following where applicable.

o Noise Control

- 1) The use of barriers to mitigate the impact of noisy operations will be used where possible. This may include the retention of part(s) of the original buildings during the demolition process to act in this capacity.
- 2) 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.
- 3) The selection and use of machinery to operate on site, and working practices to be adopted will, as a minimum requirement, be compliant with the standards laid out in British Standard 5228.
- 4) Mobile plant to be resident on site during extended works shall be fitted with non-audible reversing alarms (subject to HSE agreement).
- 5) Prior to the commencement of any piling works which may be necessary, a full method statement shall be agreed in writing with the Planning Authority (in consultation with Pollution and Environmental Control). This will contain a rationale for the piling method chosen and details of the techniques to be employed which minimise noise and vibration to nearby residents.
- 6) If there is a requirement to work outside of the recommended hours the applicant or contractor must submit a request in writing for approval by Pollution and Environmental Control prior to the commencement of works.

o Emission Control

- 1) All waste arising from the demolition process, ground clearance and construction processes to be recycled or removed from the site subject to agreement with the Local Planning Authority and other relevant agencies.
- 2) No materials produced as a result of the site development or clearance shall be burned on site.
- 3) All reasonable steps, including damping down site roads, shall be taken to minimise dust and litter emissions from the site whilst works of construction and demolition are in progress.
- 4) All bulk carrying vehicles accessing the site shall be suitably sheeted to prevent nuisance from dust in transit.

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

Lighting

Any external lighting on the proposed development shall be located, designed and directed [or screened] so that it does not cause avoidable intrusion to neighbouring residential properties. The applicant shall demonstrate compliance with the Institute of Lighting Professionals code of practice. ([www.theilp.org.uk](http://www.theilp.org.uk)).

**Tree & Landscape Officer**

**21.07.2023**

To show the impact of the proposed development on trees and other vegetation on the application site the applicant has provided an Arboricultural Impact Assessment (AIA) and a Tree Protection Method Statement (TPMS).

Information contained in the AIA is in accordance with BS5837 2012 Trees in relation to design demolition and construction. Recommendations and provides an accurate description of the health, condition and value of the trees on the land.

The implementation of the proposed development will necessitate the removal of three small trees. Two in the main body of the site and a third close to the new access. The trees are a Cherry, a Goat Willow and a Lawsons Cypress. The removal of these trees will not have an adverse impact on the amenities of the locality.

The AIA shows how the large trees to the south of the site will be physically protected for the duration of the construction phase of any approved planning permission. This information is sufficient to ensure that retained trees will be adequately protected.

In terms of soft landscaping the Block Plan shows new planting both on the site frontage facing Waldegrave Way and in the main body of the site.

Should planning permission be likely to be granted then details of the indicative soft landscaping such as: plant species, specification and quantities should be secured by a planning condition.

## **5. Representations**

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

## **6. Assessment**

### Site Description

- 6.1 The application site is a broadly rectangular parcel of land located measuring 0.72ha to the west of Honeycroft and to the east of Number 2 Waldegrave Way. The site is to the southern section of Waldegrave Way and is currently open and laid to grass, following the demolition of a previous two storey building that served as 22 Sheltered Housing flats.
- 6.2 The character of the area is heavily urbanised, predominantly through residential properties including eight Sheltered Housing properties sited adjacent to the south. To the east of the site is the Honeycroft convenience store/post office. Approximately 250 metres to the north is the Manningtree High School, and the Manningtree Town Centre is sited approximately 1 kilometre to the north-east.
- 6.3 The site is located within the Settlement Development Boundary for Mistley within the adopted Local Plan 2013-2033, but has no other allocations.

### Description of Proposal

- 6.4 This application seeks planning permission for the erection of 13 bungalows that will be utilised as Sheltered Housing for persons 55 years and older. Five bungalows will be sited along the northern section of the site, three will be to the north-eastern section, with the remaining five more centrally located.
- 6.5 In addition, planning permission is sought for a community facility building (Use Class F2), that will measure 73sqm and be located to the north-western corner of the site.
- 6.6 The proposal follows the demolition of the previous Sheltered Housing building in this location, which previously served 22 Sheltered Housing flats.

### Principle of Development

- 6.7 Paragraph 012 Reference ID: 63-012-20190626 of the National Planning Policy Guidance outlines that plans need to provide for specialist housing for older people where a need exists,

and adds that decision makers should consider the location and viability of a development when assessing planning applications for specialist housing for older people.

- 6.8 Adopted Policy SPL2 states that within the Settlement Development Boundaries, there will be a general presumption in favour of new development subject to detailed consideration against other relevant Local plan policies.
- 6.9 The application site falls within the settlement development boundary for Lawford within the Adopted Local Plan, and specifically seeks to provide specialist housing for older people. The location is adjacent to a Post Office/Convenience Store and is also within good walking distance to other local services and facilities. Accordingly, Officers consider that the principle of development in this location is acceptable, subject to the more detailed considerations discussed below.
- 6.10 Furthermore, given that the site falls within a location that would typically be suitable for any form of residential development, and all units will be Affordable Housing managed by the Council's Housing Department, on this occasion it would not be necessary or reasonable to include a condition restricting the site to persons of 55 years or older.

#### Affordable Housing

- 6.11 Paragraph 65 of the NPPF (2021) states where major development involving the provision of housing is proposed, planning policies and decisions should expect at least 10% of the total number of homes to be available for affordable home ownership. However, exemptions to this 10% requirement should be made where the proposed development provides specialist accommodation for a group of people with specific needs (such as purpose-built accommodation for the elderly or students).
- 6.12 On this occasion, while the proposal seeks planning permission for a total of 13 bungalows, the applicant (Tendring District Council) has confirmed that all properties are to be owned and maintained by the Council and will all be specifically for persons 55 years or older. Therefore, none of the proposed bungalows will be market dwellings. Given this, no objections are raised in this regard.

#### Visual Impacts

- 6.13 Paragraph 130 of the National Planning Policy Framework (NPPF) (2021) requires that developments are visually attractive as a result of good architecture, are sympathetic to local character, and establish or maintain a strong sense of place.
- 6.14 Adopted Policy SP7 of the 2013-33 Local Plan seeks high standards of urban and architectural design, which responds positively to local character and context. Adopted Policy SPL3 Part A (b) requires that development relates well to its site and surroundings, particularly in relation to its siting, height, scale, massing, form, design and materials.
- 6.15 The proposed design will see the erection of 13 single storey properties, which although appear broadly similar do have three different design types, which helps to add variety to the scheme. Plots 1 to 5 are sited along the northern boundary adjacent to Waldegrave Way, Plots 6, 7 and 8 are sited along the eastern boundary adjacent to Nichols Close, and Plots 9 to 13 are located more centrally within the site.
- 6.16 The character of the area sees a mixture of single and two storey properties, although notably the nearest properties are single storey. Therefore, despite the previous building being two storeys, the scale of the properties are in-keeping with the character of the area.

- 6.17 In terms of the proposed design, they are considered to be of a good design and include features such as front gables and good use of materials including natural cedar cladding and white render, which help to break up the overall bulk of the development. Officers therefore consider the design will result in a visual enhancement to the character of the area, and would also be an enhancement to the previous building on site that is now demolished.
- 6.18 The layout shows the majority of the properties being sited adjacent to Waldegrave Way and Nichols Close so that they front onto these roads, and provide an active street frontage. Beyond that, the more centrally located plots connect with the soft landscaping and seating area, with pathways meandering through to link each resident to the garden and wider community. Overall, Officers conclude that the layout is entirely acceptable and would be a welcome addition to the local area, and as such raise no objections in this regard.
- 6.19 The proposed community facility is located to the north-western corner of the site, and while of a differing design to the residential properties, it will be seen acceptably within the same context. In addition, it will continue the active street frontage to Waldegrave Way, and again includes features such as two front gables and a good use of materials to help break up the bulk of the build and provide for an interesting design.
- 6.20 In addition, Policy LP4 states developments should provide for private amenity space of a size and configuration that meets the needs and expectations of residents and which is commensurate to the size of dwelling and the character of the area. The supporting documents confirm that each property will be served by in excess of 50sqm of private amenity space; given the size and number of bedrooms (either one or two) for each property, Officers raise no concerns with the level provided.

#### Impacts to Neighbouring Amenities

- 6.21 Paragraph 130 of the National Planning Policy Framework (2021) confirms planning policies and decisions should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.
- 6.22 Policy SP7 of Section 1 of the 2013-33 Local Plan requires that the amenity of existing and future residents is protected. Section 2 Policy SPL 3 (Part C) seeks to ensure that development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties.
- 6.23 There are neighbouring properties located to all sides of the development, sited along Waldegrave Way and Nichols Close, as well as to the south-eastern corner of the application site. However, Officers note that the properties are all to be single storey and sited a good separation distance apart from any neighbouring plots, while the previous building was of a much larger and domineering size. Given this, there is not considered to be significant harm in respect of overlooking, the development appearing imposing or oppressive, or that it would result in a significant loss of sunlight/daylight.

#### Highway Safety

- 6.24 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.
- 6.25 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 Policy CP1 (Sustainable Transport and Accessibility) states proposals for new development must be sustainable in terms of transport and accessibility and therefore should include and encourage opportunities for access to sustainable modes of transport, including walking, cycling and public transport.

- 6.26 Essex Highways Authority have been consulted on the application and have confirmed that from a highway and transportation perspective the impact of the proposal is acceptable, however have recommended conditions relating to visibility splays, a vehicular turning facility, access width, boundary planting, the vehicle parking area, cycle parking provision, and the submission of a Residential Travel Information Pack.
- 6.27 The Essex Parking Standards (2009) state that for residential properties with one bedroom there should be provision for one parking space measuring 5.5m x 2.9m and, for properties with two bedrooms or more, there should be provision for two spaces. In addition, whilst the Standards have not been updated since the introduction of Class F, they do state that Class D2 would previously have required one space per 20sqm of floorspace.
- 6.28 The residential properties result in a total of 10 properties with one bedroom and three properties with two bedrooms, which results in a need for a total of 16 parking spaces. The communal building measures 75.4sqm and therefore requires four parking spaces, and therefore there is a total requirement for 20 parking spaces. The submission shows there will be 13 parking spaces as well as three visitor spaces. While this falls just short of the Standards, Officers note the site is within a sustainable location in good walking distance to local facilities and services, and therefore do not consider the slight shortfall to be harmful enough to warrant recommending a reason for refusal.

#### Tree and Landscape Impacts

- 6.29 The Council's Tree and Landscape Officer has been consulted on the application and has provided the following comments:

*"To show the impact of the proposed development on trees and other vegetation on the application site the applicant has provided an Arboricultural Impact Assessment (AIA) and a Tree Protection Method Statement (TPMS).*

*Information contained in the AIA is in accordance with BS5837 2012 Trees in relation to design demolition and construction. Recommendations and provides an accurate description of the health, condition and value of the trees on the land.*

*The implementation of the proposed development will necessitate the removal of three small trees. Two in the main body of the site and a third close to the new access. The trees are a Cherry, a Goat Willow and a Lawsons Cypress. The removal of these trees will not have an adverse impact on the amenities of the locality.*

*The AIA shows how the large trees to the south of the site will be physically protected for the duration of the construction phase of any approved planning permission. This information is sufficient to ensure that retained trees will be adequately protected.*

*In terms of soft landscaping the Block Plan shows new planting both on the site frontage facing Waldegrave Way and in the main body of the site.*

*Should planning permission be likely to be granted then details of the indicative soft landscaping such as: plant species, specification and quantities should be secured by a planning condition."*

- 6.30 Taking the above comments into consideration, Officers do not raise any concerns in relation to impacts to trees on or near the site, however do recommend conditions relating to soft landscaping.

#### Biodiversity Impacts

- 6.31 Paragraph 174 of the Framework states planning decisions should contribute to and enhance the natural and local environment, by minimising impacts and providing net gains for biodiversity. Paragraph 180(a) of the NPPF confirms that in assessing planning applications where significant harm to biodiversity as a result of a development cannot be avoided, adequately mitigated or, as a last resort, compensated for, then planning permission should be refused.
- 6.32 Adopted Policy SP7 requires that all new development should incorporate biodiversity creation and enhancement measures. Adopted Policy SPL3 Part A(d) includes that the design and layout of development should maintain or enhance ecological value.
- 6.33 The application site has been vacant for a reasonable period of time and is now overgrown in part. As such there is potential for the site to be occupied by protected species, and therefore a Preliminary Ecological Appraisal (PEA) has been undertaken.
- 6.34 ECC Place Services (Ecology) have been consulted on the application and have confirmed they are satisfied that there is sufficient ecological information available for determination of this application. They suggest that conditions be attached to any recommendation for the mitigation measures outlined within the Appraisal, for the submission of a Construction Environmental Management Plan for Biodiversity (CEMP), and for the submission of a Biodiversity Enhancement Strategy. Therefore, subject to the inclusion of these conditions, Officers raise no objections in this regard.

#### Archaeology

- 6.35 ECC Archaeology have been consulted on the application, and have stated that the proposed development lies within an area adjacent to a number of sites recorded on the Essex Historic Environment Record, has been previously developed, and much of the proposed development will lie within the footprint of former structures. Any archaeological remains within these areas are likely to have suffered from disturbance or destruction from the previous development and there is unlikely to be any significant impact on any undisturbed archaeological remains that may survive within the proposed development area. Given this, no archaeological investigation is required, and no objections are raised.

#### Drainage

- 6.36 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.
- 6.37 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.

- 6.38 The agent for the application has confirmed on the application form that the development would be connected to the existing public foul sewer. This is in accordance with the above policy requirements and is therefore considered to be acceptable in the event of an approval.

#### Renewable and Energy Conservation Measures

- 6.39 Paragraph 112 of the Framework states that applications for development should be designed to enable charging of plug-in and other ultra-low emission vehicles (ULEV) in safe, accessible and convenient locations. However, recent UK Government announcements that ULEV charging points will become mandatory for new development have yet to be published.
- 6.40 Policies PPL10 and SPL3, together, require consideration be given to renewable energy generation and conservation measures. Proposals for new development of any type should consider the potential for a range of renewable energy generation solutions, appropriate to the building(s), site and its location, and be designed to facilitate the retro-fitting of renewable energy installations.
- 6.41 The proposal includes for a development that has the potential to incorporate renewable energy features. No details, however, are provided within the application submission. Therefore, it is considered reasonable and necessary to include a planning condition requiring a scheme, together with a timetable to be submitted for the consideration and installation of these measures, as such a condition is capable of addressing these policy requirements.

#### Financial Contributions - Open Space

- 6.42 Paragraph 55 of the National Planning Policy Framework (2021) states Local Planning Authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Paragraph 57 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.
- 6.43 Section 2 Policy HP5 states that the Council will work with partners and sports providers across the district to maintain, expand and improve the quality and accessibility of public open space, sports and recreational facilities of different types and will aim to achieve and exceed standards set out in the Council's 2017 Open Spaces Strategy or any future update.
- 6.44 On this occasion, given that the site is to be occupied by persons 55 years or older, there will not be such impacts to the public open space, sports and recreational facilities that it would be reasonable or necessary for Officers to request a financial contribution towards the maintenance, expansion and improvement of such areas and facilities.

#### Financial Contributions - Habitat Regulations Assessment

- 6.45 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.
- 6.46 The application scheme proposes a residential on a site that lies within the Zone of Influence (Zol) being approximately 950 metres from the Stour and Orwell Estuaries RAMSAR. New housing development within the Zol would be likely to increase the number of recreational visitors to these sites and in combination with other developments it is likely that the proposal would have significant effects on the designated site. Mitigation measures must therefore be secured prior to occupation.

6.47 The applicant is in the process of completing a Unilateral Undertaking to secure the required contribution in accordance with the above policies and regulations.

## 7. Conclusion

7.1 The application proposes the erection of 13 Sheltered Housing properties alongside a communal building. The site falls within the Settlement Development Boundary for Lawford, whilst NPPG guidance seeks to provide specialist housing for older people. The proposal is therefore accepted in principle. Furthermore, the design, scale and layout of the proposal is supported by Officers, and also will not be significantly harmful to the amenities of neighbouring properties.

7.2 Whilst there is a slight shortfall in parking provision, this is not considered to be harmful enough for Officers to justify a refusal reason, and Essex Highways raise no objections. In addition, there will not be significant harm to existing trees and ECC Ecology support the proposal subject to conditions.

7.3 Accordingly, the application is considered to comply with local and national planning policies and is therefore recommended for approval.

## 8. Recommendation

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

CATEGORY	TERMS
Financial contribution towards RAMS	£156.76 x 1no. dwelling (index linked)

### 8.1 Conditions and Reasons

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

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

**NOTE/S FOR CONDITION:**

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

2 **CONDITION:** The development hereby permitted shall be carried out in accordance with the drawings/documents listed below and/or such other drawings/documents as may be approved by the Local Planning Authority in writing pursuant to other conditions of this permission or such drawings/documents as may subsequently be approved in writing by the Local Planning Authority as a non-material amendment following an application in that regard (except for Listed Building Consents). Such development hereby permitted shall be carried out in accordance with any Phasing Plan approved, or as necessary in accordance with any

successive Phasing Plan as may subsequently be approved in writing by the Local Planning Authority prior to the commencement of development pursuant to this condition.

Drawing Numbers 22/30/01, 22/30/03 Rev A, 22/30/04, 22/30/05, 22/30/06 Rev A, 22/30/07, 22/30/08, 22/30/09, 22/30/10 Rev A, 22/30/11, 22/30/12 Rev A, 22/30/13 Rev A, 22/30/14 Rev A, 22/30/15 Rev A, C-600 Rev P03, C-601 Rev P02, and the documents titled 'Preliminary Ecological Appraisal Report', 'Report on a Phase 2 Ground Investigation and Contamination Assessment', 'Arboricultural Impact Assessment and Method Statements' and 'Flood Risk Assessment/Drainage Strategy' dated August 2023.

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

**NOTE/S FOR CONDITION:**

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

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

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

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

- Electric car charging points per dwelling;
- A Water-butt per dwelling;
- Compost bin per dwelling;
- Agreement of heating of each dwelling/building; and
- Agreement of scheme for waste reduction

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

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

NOTE/S FOR CONDITION:

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

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

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

In such instances of encountering potential contamination, upon completion of the building works a closure report shall be submitted to, and approved in writing by, the Local Planning Authority. The closure report shall include details of;

- a) Details of any sampling and remediation works conducted and quality assurance certificates to show that the works have been carried out in full in accordance with the approved methodology.
- b) Details of any post-remedial sampling and analysis to show the site has reached the required clean-up criteria shall be included in the closure report together with the necessary documentation detailing what waste materials have been removed from the site.
- c) If no contamination has been discovered during the build, then evidence (e.g. photos or letters from site manager) to show that no contamination was discovered should be included.

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

- 5 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 **CONDITION:** Prior to first use of the access, visibility splays shall be provided with a minimum clear to ground visibility splay with dimensions of 2.4 metres by 43 metres in both directions, as measured from and along the nearside edge of the carriageway, and shall then be retained in its approved form. Notwithstanding the provisions of Part 2 Class A of the Town & Country Planning (General Permitted Development)(England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification) no obstruction over 0.6 metres high shall be erected, constructed, planted or permitted to grow within the areas of the visibility splays.

REASON: To ensure vehicles exiting the access would have sufficient visibility to enter the public highway safely and vehicles on the public highway would have sufficient warning of a vehicle emerging in order to take avoiding action.

**NOTE/S FOR CONDITION:**

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

- 7 **CONDITION:** Prior to the first occupation of the development, the vehicular turning facility shall be in full accordance with that shown on Drawing Number 22/30/03 Rev A. The turning facility shall be constructed, surfaced and thereafter maintained free from obstruction within the site at all times for vehicular use only.

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

- 8      **CONDITION:** Prior to first use the access and drive shall be constructed to a minimum width of 6.2 metres for a distance of at least 6 metres measured from the nearby edge of the carriageway and shall then thereafter be retained.

**REASON:** In the interests of highway safety to ensure vehicles can enter and leave the site in a safe manner ensuring opposing vehicles can pass in the interest of highway safety.

**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.

- 9      **CONDITION:** Any new boundary planting shall be planted a minimum of 1 metre back from the highway boundary and any visibility splay.

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

- 10     **CONDITION:** Prior to first occupation of the hereby approved development, the vehicle parking area indicated on the approved plans shall be hard surfaced and sealed. The vehicle parking area and associated turning area shall be retained in this form at all times. The vehicle parking shall not be used for any purpose other than the parking of vehicles that are related to the use of the development unless otherwise agreed in writing 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.

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

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

- 12     **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.

- 13      **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.

- 14      **CONDITION:** Prior to the first occupation of the hereby approved development, all mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Preliminary Ecological Appraisal (Geo Environmental, June 2023).

**REASON:** In order to safeguard protected wildlife species and their habitats in accordance with the NPPF and Habitats Regulations.

- 15      **CONDITION:** Prior to commencement of the hereby approved, a construction environmental management plan (CEMP: Biodiversity) shall be submitted to and approved in writing by the local planning authority. The CEMP (Biodiversity) shall include the following.
- a) Risk assessment of potentially damaging construction activities.
  - b) Identification of "biodiversity protection zones".
  - c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements include for Great Crested Newt).
  - d) The location and timing of sensitive works to avoid harm to biodiversity features.
  - e) The times during construction when specialist ecologists need to be present on site to oversee works.
  - f) Responsible persons and lines of communication.
  - g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
  - h) Use of protective fences, exclusion barriers and warning signs.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

**REASON:** To conserve protected and Priority species.

- 16      **CONDITION:** Prior to any works above slab level of the hereby approved, a Biodiversity Enhancement Strategy for protected and Priority species shall be submitted to and approved in writing by the local planning authority. The content of the Biodiversity Enhancement Strategy shall include the following:
- a) Purpose and conservation objectives for the proposed enhancement measures;
  - b) detailed designs to achieve stated objectives;
  - c) locations of proposed enhancement measures by appropriate maps and plans;

- d) persons responsible for implementing the enhancement measures;
- e) details of initial aftercare and long-term maintenance (where relevant).

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

REASON: To enhance protected and Priority species & habitats.

- 17      **CONDITION:** Prior to any works above slab level of the hereby approved, a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, shall be submitted to and approved in writing by the local planning authority. Such a scheme should include but not be limited to:

- Final modelling and calculations for all areas of the drainage system.
- The appropriate level of treatment for all runoff leaving the site, in line with the Simple Index Approach in chapter 26 of the CIRIA SuDS Manual C753.
- Detailed engineering drawings of each component of the drainage scheme.
- A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features.
- A written report summarising the final strategy and highlighting any minor changes to the approved strategy

The approved scheme shall then be implemented prior to occupation of the hereby approved development.

REASON: To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site.

## 8.2 Informatives

Positive and Proactive Statement:

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

Highways Informatives:

1: All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works. The applicants should be advised to contact the Development Management Team by email at [development.management@essexhighways.org](mailto:development.management@essexhighways.org)

2: In main urban areas with frequent and extensive public transport, cycling and walking links, the EPOA Parking Standards recommend that a reduced parking standard provision may be applied to residential developments. A reduced parking standard provision level can be applied to this proposal as it is located very close to regular public transport services and public car parking facilities.

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

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

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

## **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**

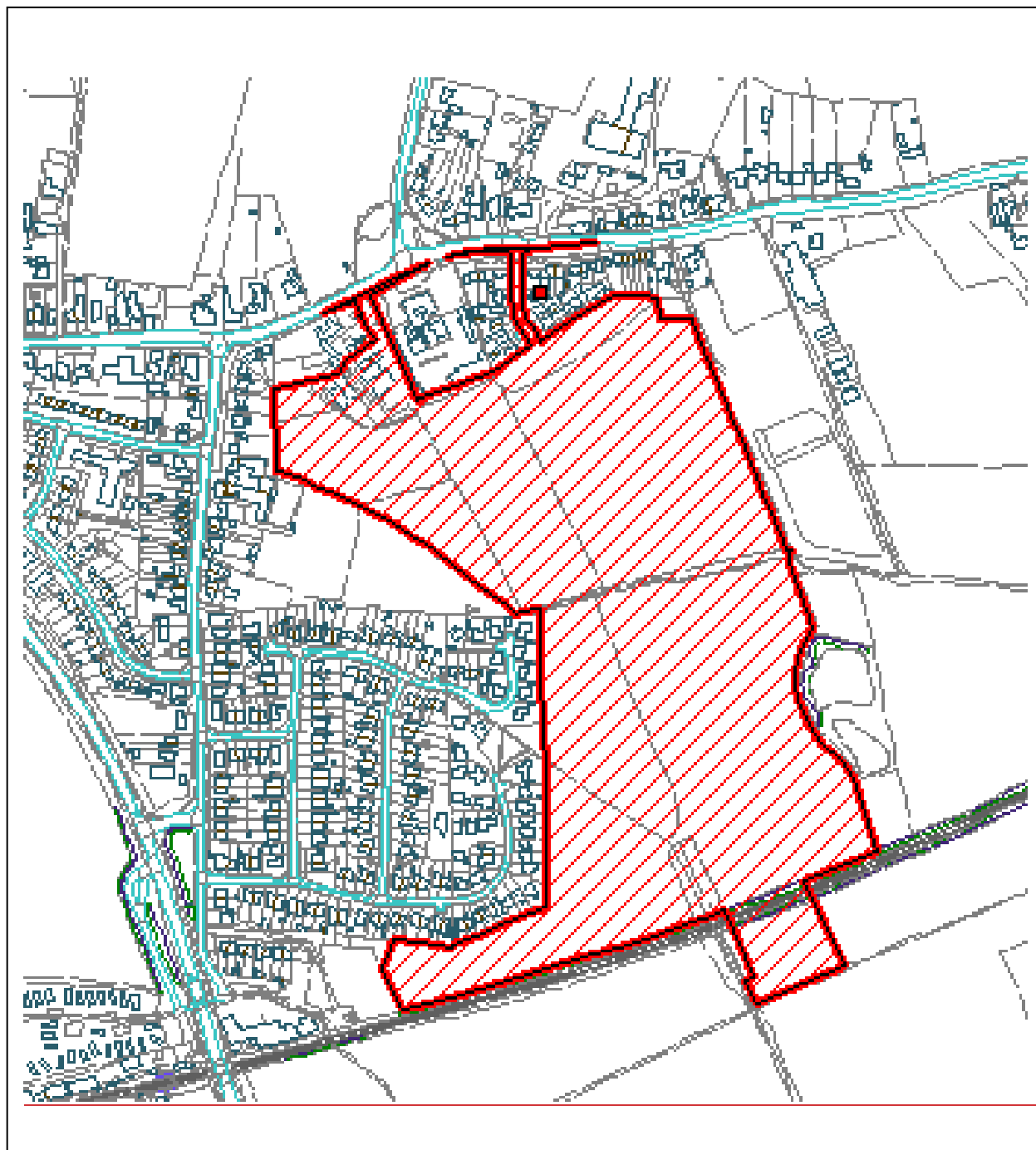
- 10.1 In making this recommendation, officers have considered all plans, documents, reports and supporting information submitted with the application together with any amended documentation. Additional information considered relevant to the assessment of the application (as referenced within the report)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

28<sup>th</sup> September 2023

### REPORT OF THE DIRECTOR OF PLANNING

#### A.2 PLANNING APPLICATION – 22/00979/DETAIL – LAND TO THE SOUTH OF THORPE ROAD WEELEY CO16 9AJ



DO NOT SCALE

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<b>Application:</b>	22/00979/DETAIL	<b>Expiry Date:</b>	23rd September 2022
<b>Case Officer:</b>	Alison Newland	<b>EOT Date:</b>	24th February 2023
<b>Town/ Parish:</b>	Weeley Parish Council		
<b>Applicant:</b>	Mr Lumber and Mrs Weeley		
<b>Address:</b>	Land to The South of Thorpe Road Weeley CO16 9AJ		
<b>Development:</b>	Reserved matters application with details of appearance, landscaping, layout and scale for the development of 277 dwellings, 1,910m <sup>2</sup> commercial floorspace (B1 Uses), railway footbridge, attenuation basins, open space, play equipment and associated infrastructure pursuant to outline permission 19/00524/OUT (Outline planning application with all matters reserved, except for access, for 280 dwellings, a 2 Form of Entry primary school, 56 place early years nursery, up to 3000 sqm of office (B1) buildings on 1 hectare and associated ancillary buildings, drainage systems, boundary treatments and hard surfacing as well as public open space, vehicular access from Thorpe Road a pedestrian footbridge and the closure of existing level crossing and formal diversion of public footpath No 5 - Weeley, over the new railway bridge) including minor alterations to public footpaths No.3 and No. 4 to allow for the proposed layout.		

## 1. Executive Summary

- 1.1 This application is referred to Planning Committee as when Outline planning permission was granted Members of the Committee agreed that the Reserved Matters application(s) would be referred back to the Planning Committee for determination and Cllr Peter Harris has requested that the application be 'called in' to Planning Committee, having raised concerns about the provision of Open Space within the development; concerns about the surface water drainage scheme; the design of the railway footbridge; and concerns over traffic management and the proposed vehicular access for the site.
- 1.2 The current application seeks approval of the reserved matters relating to outline planning permission 19/00524/OUT which granted outline planning permission for the erection of up to 280 dwellings, a potential new primary school and children's nursery, up to 3,000sqm of office (B1) floorspace and associated infrastructure and development including the provision of Public Open Space. The development approved through the outline planning permission includes a pedestrian footbridge over the railway line to the south of the application site.
- 1.3 When the outline planning permission was approved it included approval of the vehicular access to the site – a single road leading from a modified priority junction on Thorpe Road. Whilst the access details were approved all other matters were Reserved. This application includes details of appearance, landscaping, layout and scale, of the whole of the application, excluding the education land and a relatively small parcel of land immediately to the south of Verity Gardens, as these details were not included as part of the outline and are included for consideration in current application 22/01332/FUL.
- 1.4 As established through the granting of outline application 19/00524/OUT the principle of a mixed use, residential led development for up to 280 dwellings, with new education facilities, commercial office space, and pedestrian footbridge have all been found to be acceptable by the Council.

1.5 The detailed design, layout, landscaping, and scale are considered acceptable. The proposal would result in no material harm to residential amenity or highway safety and the application is therefore recommended for approval subject to the planning conditions listed.

Approval (no S106 requirements)

**Recommendation:** Approval

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

## **2. Planning Policy**

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

National:

National Planning Policy Framework July 2023 (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  
HP3 Green Infrastructure  
HP5 Open Space, Sports and Recreation Facilities  
LP2 Housing Choice  
LP3 Housing Density and Standards  
LP4 Housing Layout  
LP5 Affordable Housing  
PP12 Improving Education and Skills  
PPL1 Development and Flood Risk  
PPL3 The Rural Landscape  
PPL4 Biodiversity and Geodiversity  
PPL5 Water Conservation, Drainage and Sewerage

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  
SAMU5 Development South of Thorpe Road, Weeley  
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), 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:

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 Plans**

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

## **3. Relevant Planning History**



14/00082/OUT	Erection of 20 dwellings with associated garages and single access point to Thorpe Road.	Approved	20.06.2014
14/01841/DETAIL	Erection of 20 dwellings with associated garages and single access point to Thorpe Road.	Approved	14.04.2015
15/01443/DISCON	Discharge of condition 8 (details of estate roads and footways), 12 (vehicular turning) and 13 (construction method statement) of planning permission 14/01841/DETAIL.	Approved	20.11.2015
16/00370/DETAIL	Variation of condition 10 of planning permission 14/01841/DETAIL to change wording, removing requirement of construction of estate roads to base course level prior to commencement of dwellings, to allow construction of houses to commence sooner, reducing the period of disruption to neighbours.	Approved	01.06.2016
17/02162/OUT	Outline planning application with all matters reserved, except for access, for 280 dwellings, a 2 Form of Entry primary school, 56 place early years nursery, up to 3000 sqm of office (B1) buildings on 1 hectare and associated ancillary buildings, drainage systems, boundary treatments and hard surfacing as well as public open space, vehicular access from Thorpe Road a pedestrian footbridge and the closure of existing level crossing and formal diversion of public footpath No 5 - Weeley, over the new railway bridge.	Refused	19.11.2018
19/00524/OUT	Outline planning application with all matters reserved, except for access, for 280 dwellings, a 2 Form of Entry primary school, 56 place early years nursery, up to 3000 sqm of office (B1) buildings on 1 hectare and associated ancillary buildings, drainage systems, boundary treatments and hard surfacing as well as public open space, vehicular access from Thorpe Road a pedestrian footbridge and the closure of existing level crossing and	Approved	14.08.2019

	formal diversion of public footpath No 5 - Weeley, over the new railway bridge.		
21/00039/DISCON	Discharge of condition 15 (Archaeology) of approved planning application 19/00524/OUT.	Approved	01.03.2021
21/01143/DISCON	Discharge of condition 4 (Layout and Phasing Plan) of approved application 19/00524/OUT.	Approved	03.09.2021
21/01464/DISCON	Discharge of condition 15 (written scheme of investigation) of application 19/00524/OUT.	Part discharged	01.03.2022
22/01301/DISCON	Discharge of conditions 17 (External lighting), 18 (Refuse collection), 19 (Hard and soft landscaping), 21 (External materials), 23 (Landscape and ecology management plan), 26 (Boundary treatments), 27 (Demolition plan), 36 (On site ecology mitigation), and 38 (Local recruitment strategy) of application 19/00524/OUT.	Current	
22/01332/FUL	Proposed 3 dwellings and associated ancillary buildings, drainage systems, boundary treatments, hard surfacing with vehicular access from Thorpe Road.	Current	

#### 4. Consultations

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

**Anglian Water Services Ltd**

**16.03.2023 & 20.02.2023**

Thank you for your consultation. Having reviewed the development, there is no connection to the Anglian Water sewers, we therefore have no comments.

**Building Control and Access Officer**

**07.07.2022**

In respect of this application details should be provided to show compliance with Parts B5 and M in respect of access to the buildings

**Essex County Council Archaeology**

**20.07.2022**

A programme of archaeological investigation has been completed for the above site and no further fieldwork is required. There will be no requirement for any further archaeological conditions on this application.

**Essex County Council Ecology**

**02.08.2022**

No objection subject to securing biodiversity mitigation and enhancement measures

**Summary**

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

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

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

We note that the information contained within S106 - Ecology Land Specification And Management (Geosphere environmental, October 2021) provides enhancements and appropriate long term aftercare of habitat for bats reptiles, and breeding birds in the specified "Ecology land" shown in the report Drawing No.- D940-OS-002 (Rose, June 2019). This includes the creation of scrub, species rich grassland, wildflower areas, scrapes, reptile hibernacula and log piles. This has been submitted to partially in support of condition 23, which has already been secured by condition of any consent, outlined by the original outline application - 19/00524/OUT.

To ensure that the onsite enhancements, shown within the S106 - Ecology Land Specification And Management (Geosphere environmental, October 2021) remain suitable for foraging/commuting bats, as targeted by the document, it is recommended that if any external lighting is to be proposed, a sensitive lighting scheme is developed to minimise any impacts.

This should summarise the following measures will be implemented:

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

We further note that the proposed Land Plan (Liz Lake Associates, October 2021), demonstrates circular walking routes, dog bin locations and green open space in order to meet the daily recreational needs of the residents as outlined in condition 36 of the original application -19/00524/OUT.

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

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

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

Recommended conditions

If external lighting is to be proposed

**1. PRIOR TO OCCUPATION: WILDLIFE SENSITIVE LIGHTING DESIGN SCHEME**

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

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

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

**ECC Green Infrastructure**

**30.03.2023**

Thank you for your email which provides Essex County Council (ECC) with the opportunity to assess and advise on the proposed landscape and green infrastructure (GI) strategy/plans for the aforementioned planning application.

A summary of the key points:

Background: ECC has been providing advice on green infrastructure schemes for major developments since 2018, driven by the 25 Year Environment Plan and the Environment Act. Although there are no statutory requirements for green infrastructure, it is essential for enhancing accessibility and achieving biodiversity net gain.

Guiding Documents: ECC's advice is aligned with various documents, including:

Local Planning Authorities (LPA) Green Infrastructure Strategy or equivalent.

Essex Green Infrastructure Strategy (2020), aimed at enhancing urban and rural environments.

Essex Green Infrastructure Standards (2021), offering guidance on planning policy and application processes.

ECC's Position: ECC withdrew its previous objection to the planning application and welcomes the proposed additional green space, citing the importance of sustainable design.

ECC recommends sustainable design elements such as green roofs/walls, wildlife bricks, and dual street furniture to connect urban and rural areas.

Essex Climate Focus Area: The planning application is within Essex Climate Action Commission's (ECAC) recommended Climate Focus Area, aiming for climate action and natural green infrastructure. It emphasizes net zero carbon, biodiversity net gain, improved soil health, and urban greening.

Biodiversity Net Gain: ECC mentions the upcoming mandatory biodiversity net gain law, effective from November 2023, which includes specific requirements for habitat preservation and creation.

Climate Change Priority: ECC underscores the importance of mitigating and adapting to climate change, aligning with national and council priorities for net-zero carbon development and climate action.

Recommended advisory conditions  
Condition 1

No development shall take place until there has been submitted to and approved, in writing, by the Local Planning Authority a Construction Environmental Management Plan (CEMP). Ideally, strategic elements of the Green Infrastructure (GI) framework are brought forward in phase one of the development, to create a landscape structure or evidence is shown that substantive GI is secured as early as possible in initial phases of delivery to allow early establishment. Therefore, a Construction Environmental Management Plan (CEMP) will be required to set out how retained GI, such as trees, hedges and vegetation, as well as any nature designated sites (e.g. SSSI's etc.) will be protected during construction.

Reason: The phased implementation of new GI of the development construction will allow for the GI to mature and it will provide further benefit of reducing/buffering the aesthetic impact from the construction work.

Condition 2

No development shall take place until there has been submitted to and approved, in writing, by SuDS and landscape specialists at the Local Planning Authority a landscape ecological management and maintenance plan and work schedule for a minimum of 10 years. The submitted amended landscape management plan references a 'minimum five-year period', we recommend a landscape ecological management and maintenance plan and work schedule for a minimum of 10 years. We would also expect details on how management company services for the maintenance of Green Infrastructure (GI) assets and green spaces shall be funded and managed for the lifetime of the development to be included.

Reason: To ensure appropriate management and maintenance arrangements and funding mechanisms are put in place to maintain high-quality value and benefits of the GI assets.

Failure to provide the above required information before commencement of works may result in reducing the value of the development, becoming an undesirable place to live that may increase the impacts from climate change, such as flood risk or air pollution from the site.

Condition 3

The applicant or any successor in title must maintain yearly logs of maintenance which should be carried out in accordance with any approved Maintenance Plan. These must be available for inspection upon a request by the Local Planning Authority.

Reason: To ensure the Green Infrastructure (GI) are maintained for the lifetime of the development as outlined in any approved Maintenance Plan so that they continue to function as intended to ensure the high-quality and multi-functional benefits of GI assets.

Part of the proposal site lies within the curtilage of Grade II Listed Ash Farmhouse. The proposal also includes the demolition of the existing 20th century farm buildings associated to the designated heritage asset.

The principle of development has already been discussed and approved with outline planning consent 19/00524/OUT, which established that the development would not affect the setting of Ash Farmhouse. It is noted that we were not consulted within the outline planning process, and I do not agree with this conclusion. The proposed development would indirectly affect the significance of Ash Farmhouse by permanently changing the rural character of its wider setting from farmland to residential/mixed use, affecting those elements of the setting that make a positive contribution to the identified heritage asset or which better reveal its significance (paragraph 206 of the NPPF is relevant here).

However, I believe there is the potential here to agree a more sympathetic site layout which minimises or mitigates the impact of the development on the setting of Ash Farmhouse, while delivering high quality design to make a positive contribution to local character and distinctiveness, as set out in Paragraph 197c of the NPPF.

It is noted that the initial layout for the employment area (as proposed in the outline application), which is adjoining the curtilage of Ash Farmhouse, has now been revised to include part of the residential development and therefore increasing the density of the area. The previous proposal was for the construction of office buildings only within the area currently occupied by the existing farm buildings, retaining most of the western side of Parcel A as an open area.

The current proposal further increases the use of land of parcel A and the need for more urban infrastructures, and considerably reduces the landscaped and open area which still contributes to the rural setting of the designated asset. As such, this solution is not considered to mitigate the impact of the development on the setting of Ash Farmhouse as designated heritage asset.

I would advise that alternative solutions are investigated for Parcel A in order to retain this area for employment only as initially proposed and include a landscaped area which serves as a buffer between the Farmhouse and the new development.

#### Design and materials

As the buildings within Parcel A would be within the setting of Ash Farmhouse, high quality materials and design would be required in order to positively contribute to the local character and distinctiveness and preserve those elements of the setting which positively contribute to the asset or better reveal its significance.

The proposed office units, particularly Units A and C, are considerably larger than the existing buildings and seem out of scale and predominant compared to Ash Farmhouse. Sections and street views which include the designated asset would be required in order to illustrate the relationship between the existing building and the proposed development and assess any potential impact.

Also, I generally do not support the use of concrete roof tiles, cement slates, fibre cement weatherboarding and UPVC windows and fittings as proposed and I advise that more traditional materials are used instead.

This follows my previous letter dated 20th September 2023.

Part of the proposal site lies within the curtilage of Grade II Listed Ash Farmhouse. The proposal also includes the demolition of the existing 20th century farm buildings associated to the designated heritage asset.

As previously advised, the proposed development would result in less than substantial harm to the significance of Grade II Listed Ash Farmhouse due to the intensified use of the site and the introduction of a built form within a historically undeveloped land, which would permanently change the rural character of the wider setting into residential. As per Paragraph 202 of the NPPF, this harm shall be balanced against the public benefits of the proposed development.

The revised layout, which sets back the office units, now of reduced scale and mass, from the curtilage of the listed building, represents an improvement from the previous scheme. It is noted that the proposed building would still intrude the open views from Ash Farmhouse towards the open countryside and that the intensified use of this area (which will be residential and commercial) would result in the loss of most of the open space that was initially retained in the outline proposal.

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 by the ECC.

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 the occupation of any phase of the development the internal road layout, public right of way, parking and associated improvements shall be provided in principle and accord with Drawing Numbers:

- 21/12/02 B General layout and phasing plan
- 21/12/04 D Amended proposed block plan parcel A
- 21/12/05 D Amended proposed block plan parcel B
- 21/12/06 D Amended proposed block plan parcel C
- 21/12/07 D Amended proposed block plan parcel D
- 21/12/51 D Amended parking plan
- 21/12/39 D Amended proposed outbuildings
- 21/12/69 D Cycle and pedestrian access
- 21/12/67 D Public Right of Way plan

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

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

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

3. Prior to the first use of each side road within the development, fronting the cycleway, a 2.4 m x 17 m cycle visibility splay, as measured from and along the highway boundary, shall be provided on both sides of the road junction/ access. Such visibility splays shall thereafter be retained free of any obstruction at all times and must not form part of the vehicular surface of the access.

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

4. The development of any phase shall not be occupied until such time as a car parking and turning areas has been provided in accord with current 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. No phase of the development shall be permitted to commence on site until such time as an Order securing the diversion of the existing definitive right of way (within that phase) to a route to be agreed with the Local Planning Authority has been confirmed and the new route has been constructed to the satisfaction of the Local Planning Authority and Highway Authority.

Reason: To ensure the continued safe passage of pedestrians on the public right of way and accessibility in accordance with Policies DM1 and DM11.

6. The public's rights and ease of passage over public footpath nos. 3,4 and 5 (Weeley\_182) shall be maintained free and unobstructed at all times.

Reason: To ensure the continued safe passage of the public on the definitive right of way and accessibility in accordance with Policies DM1 and DM11.

7. The Cycle parking shall be provided for those dwellings without a garage in accordance with the EPOA Parking Standards and drawing detail: 21/12/39 Rev. D. 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.

8. 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.

9. Prior to first occupation of the proposed development and school, the Developer shall submit a residential travel plan and school travel plan, respectively to the Local Planning Authority for approval in consultation with Essex County Council. Such approved travel plan shall then be actively implemented for a minimum period from first occupation of the development until 1 year after final occupation. It shall be accompanied by an annual monitoring fee of £1,690 per annum, index linked, (80-449 dwellings = £1,690 per annum) - dependant on size of development to be paid to Essex County Council. All fees are index-linked with the Government's Consumer Price Index (CPI).

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.

**ECC Highways Dept**

Comments on amended plans to be updated at the meeting/via the update sheet.

**ECC Schools Service**

**17.10.2022**

The amendment to the Illustrative Masterplan previously reviewed at the Outline stage is noted, including the revised shape for the education site.

The requirements for the Education Site are set out in Schedule 5 of the s106 dated 13th August 2019. Further reference can be found in the Essex County Council Developer's Guide to Infrastructure Contributions (Revised 2020). The proposal has been reviewed and ECC consider the submitted plan(s) do not fully meet the requirements of Schedule 5 and the following points should be addressed:

- (i) Section 1 requires the Education Site to be 2.1 hectares of useable land. Confirmation is required to ensure the proposed Education Site area meets this requirement.
- (ii) Section 1 also requires an Education Site Suitability Checklist to be submitted with the first Reserved Matters application to show that the Education Site complies with the Education Site Specification as set out at Annex 1 to the Schedule. At the time of writing, ECC have not had sight of a Checklist and are therefore not in a position to confirm this aspect of the suitability of the Education Site.
- (iii) Section 2 Para 4.4 requires an Education Site Utility Plan and an Education Site Access Plan to be submitted and agreed prior to the RESM application being submitted. Section 2 Paras 5.1 & 5.2 reiterate the requirement for the utilities and access to be provided as set out and agreed in the Education Site Utility Plan and an Education Site Access Plan. ECC have not had sight of either of these plans and have therefore not had an opportunity to provide input into the proposed access arrangements.
- (iv) The submitted Proposed Block Plan (Dwg No.21/12/03 Rev A) sets out an indicative school layout with access points on the north, south and east boundaries. The access points and associated public realm have not been agreed with ECC and do not currently meet the requirements of Schedule 5 of the S106 Agreement nor guidance set out in the Essex Developers Guide (Appendix D).

The following points should be addressed:

- Section 1 requires the provision of a 'pedestrianised public area of at least 100 square metres abutting the boundary of the Education Site' whilst the Education Site Specification Checklist requires the provision of 'suitable areas of public realm for congregation at ingress and egress' adjacent to the Education Site. This should be used to create as much separation as possible between the employment access road and the school boundary.
- It is noted that a pedestrian square is indicated on the submitted Proposed Block Plan, however, the proposed ingress and egress vehicular access conflicts with the purpose of the pedestrianised public area.
- It is noted that the pedestrianised public area is shown within the Education Site boundary. This should be located outside of the Education Site area and does not form part of the Education Site.
- The proposed ingress / egress access arrangement between the employment area access road and the school buildings is unacceptable and must be removed.

- The access road to the employment area should be designed to discourage parents from using it for drop-off and consideration should be given to traffic calming methods including provision of wider footways.
- The school car park should be accessed from the eastern boundary, rather than the north, to avoid conflict with pedestrians.
- Any parental drop-off by car must be directed to the public roads to the east of the school site, and 3-metre-wide footways should be provided between these areas and the school as required under Section 2 Para 5.4. This requirement is also set out in the Essex Developer's Guide (p39)
- A separate vehicular access to the EY&C facility should be provided from the western boundary to avoid conflict with the pedestrianised area at the frontage of the school.
- The grounds maintenance /emergency access to the south of the school site is noted and welcomed.

Ultimately, the access points are not considered to be in the correct positions to facilitate the traffic free school frontage that EEC strives to deliver, and furthermore, do not provide for the requirements as set out in Schedule 5 of the s106 dated 13th August 2019. ECC therefore object to the Reserved Matters application currently before us on the basis that the application prejudices agreement of the Education Site Access Plan.

ECC welcome further engagement with the applicant to address the issues raised above and thank you for consulting this authority in respect of this application.

**ECC Schools Service**

Comments on amended plans to be updated at the meeting/via the update sheet.

**ECC SuDS Consultee**

**09.08.2022 & 28.03.2023**

The documents available in respect of this site provide no information whatsoever on drainage proposals, so we have nothing to comment on. We await the necessary information in order to provide an informed response.

Officer Note: As detailed in the report below drainage is addressed by conditions on the outline planning permission.

**Environmental Protection**

**14.07.2022**

I have reviewed the application and have no comment to make.

**Essex Police, Designing Out Crime**

**11.08.2022**

Security forms a key part of a sustainable and vibrant development and Essex Police considers that it is important that this site is designed incorporating the maximum achievable benefit of crime prevention through environmental design for which Secured By Design (SBD) is the preferred enabler.

SBD is the national official police security initiative that works to improve the security of building and their immediate surroundings to provide a safe and secure environment to help reduce the opportunities for crime and minimise the fear of crime, as referenced in the NPPF,

'Promoting Healthy and Safe Communities' and the Tendring Local Plan policy LP4, which requires developments are safe, secure places to live.

Whilst there are no apparent concerns with the layout of this site, Essex Police has had positive discussions with the developer who is considering applying for Secured by Design accreditation in respect of all relevant aspects of this proposed development. Achieving the SBD award will demonstrate to residents that their security has been considered and incorporated "by design" to the current approved, and therefore proven effective, standard.

We would welcome continued consultation with the developer to provide a safe and secure environment for this development and would invite them to contact us via [designingoutcrime@essex.police.uk](mailto:designingoutcrime@essex.police.uk).

**Additional comments**

**25.04.2023**

Essex Police wish to offer comment with regard the above planning application.

Following the previous planning comment response submitted by Essex Police on 22nd March 2023, the applicant and Essex Police have had constructive consultation and Essex Police is content the ethos of NPPF, sec 12, para 127(f) and the Tendring Local Plan policy PL4, which requires developments that are safe, secure places to live, e.g. appropriate levels of natural surveillance within the residential, commercial, school and ecological area and satisfactory lighting of the public realm, promoting safe and accessible environments.

The applicant has expressed interest in applying for Secured by Design accreditation for this development, Essex Police would welcome this.

**Essex Police, Arch. Liaison Off.**

**22.03.2023**

The Essex Police Designing out Crime team welcomes the Opportunity to make comment on planning application 22/00979/Detail.

We recognise that communities where safety and security has been addressed and 'designed in' at the earliest planning stages, will enhance the health and wellbeing of its residents. Perception of crime and fear of crime can be an influential factor in Determining the synergy and ongoing sustainability of a community.

Security forms a key part of a sustainable and vibrant development and Essex Police considers that it is important that this site is designed incorporating the maximum achievable benefit of crime prevention through environmental design (CPTED) for which Secured by Design (SBD) is the preferred enabler.

SBD is the national official police security initiative that works to improve the security of buildings and their immediate surroundings to provide a safe and secure environment to help reduce the opportunities for crime and minimise the fear of crime, as referenced in the NPPF, 'Promoting Healthy and Safe Communities'.

An integrated approach to crime prevention at an early stage is necessary to all significant components of its design, planning, and layout. Good design and early co-ordination, incorporating CPTED can avoid the conflicts that may be expensive or impossible to resolve once the construction is complete.

Upon review of the available documentation, Essex Police would recommend further information and consideration of the below:

#### Movement Strategy (Access and Egress)

Essex Police would request further information regarding the access and movement proposals of the site ensuring that security cannot be easily compromised. This will mitigate the potential to design in 'crime and ASB generators,' which could breach the integrity, safety and compromise the suitability of the development.

#### Landscape plan

Public realm spaces are designed where safety and security are subliminal to the user of that space. We would welcome the opportunity to liaise regarding the green architecture and appropriate landscaping plan, especially with regards to the use and management of the proposed public realm spaces.

#### Lighting Considerations

Lighting plays a pivotal role in deterring criminal activity but also promotes a feeling of safety within that space. When designing both public and private space, (and when applied and designed correctly), lighting can reduce the potential for crime. We would wish to seek further clarity regarding the lighting proposals as it is imperative that the lighting provision must provide uniform illumination with due consideration given to the spill of light and ecological considerations.

#### Management and maintenance

We recommend that there is a management and maintenance plan in place at the very early stages of design for the various components of this site. The rationale for this is to prevent key areas from becoming crime and anti-social behaviour hot spots or increasing the perception and fear of crime.

We would welcome the opportunity to consult with the developer to provide a safe and secure environment for this development and would invite them to contact [designingoutcrime@essex.police.uk](mailto:designingoutcrime@essex.police.uk).

#### **Housing Services**

**01.09.2022**

I am happy with the level of affordable housing provision proposed on the site, the proposed house types and layouts and the distribution of the affordable homes throughout the site.

The Affordable Housing Plan is satisfactory and meets the requirements of the s106 agreement.

#### **Natural England**

**18.07.2022 & 20.02.2023**

Natural England has no comments to make on this reserved matters application.

Natural England 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 services for advice.

Natural England and the Forestry Commission have also published standing advice on ancient woodland, ancient and veteran trees which you can use to assess any impacts on ancient woodland or trees.

The lack of comment from Natural England does not imply that there are no impacts on the natural environment, but only that the application is not likely to result in significant impacts on

statutory designated nature conservation sites or landscapes. It is for the local planning authority to determine whether or not this application is consistent with national and local policies on the natural environment. Other bodies and individuals may be able to provide information and advice on the environmental value of this site and the impacts of the proposal to assist the decision making process. We advise local planning authorities to obtain specialist ecological or other environmental advice when determining the environmental impacts of development.

We recommend referring to our Site of Special Scientific Interest Impact Risk Zones (available on Magic and as a downloadable dataset) prior to consultation with Natural England. Further guidance on when to consult Natural England on planning and development proposals is available on gov.uk at <https://www.gov.uk/guidance/local-planning-authorities-get-environmental-advice>.

### **Network Rail**

**09.08.2022**

Thank you for consulting Network Rail (NR) regarding the above planning application. Please see below the informative suggested by our Asset protection Team (ASPRO);

A summary of the key points:

1. Contacting Asset Protection Team: Network Rail recommends that the developer contacts the Asset Protection Team (AssetProtectionAnglia@networkrail.co.uk) before commencing any work on the site. They also suggest agreeing on an Asset Protection Agreement for detailed works approval. More information can be found on Network Rail's website.
2. Item 1 - Level Crossing: The developer must consult with Network Rail at least one month (28 days) before issuing a 7-day notice of commencement of works if the proposed works are within 200 metres of a level crossing. Written confirmation of agreement with Network Rail's conditions should be provided one month before work commences.
3. Item 2 - Bridges over Rail Lines: New bridges over Network Rail operational lines should meet specific requirements related to electrical clearance, design standards, and tolerances. Developers should aim for a reinforced insulation of 600mm and consider constraints like stations or level crossings.
4. Item 3 - Collapse of Lifting Equipment: The operation of mobile cranes and tower cranes should comply with specific guidelines. The collapse radius of cranes should not fall within 4 metres of the railway boundary unless possession and isolation on Network Rail lines have been arranged.
5. Item 4 - Train Drivers' Vision: A glint and sunlight glare assessment should be conducted to ensure that the proposed development does not obstruct train drivers' visibility of signals.
6. Item 5 - Artificial Lighting and Human Factors: Lighting associated with the proposed work should not interfere with signalling apparatus or train drivers' vision. Detailed lighting proposals should be approved by Network Rail's Asset Protection Engineer.
7. Item 6 - Structural Stability and Movement: Any proposal that may affect the "track support zone" must be identified, and consultation with Network Rail is required. A track monitoring plan may be necessary to mitigate risks to the operational railway.

8. Item 7 - Maintenance Impact: Future maintenance should not pose risks to the operational railway. It is recommended that all works be situated at least 4 metres from Network Rail's boundary fence/wall.

9. Item 8 - Proximity to Overhead Live Electricity (OLE): No works can be carried out within 3.5 metres of the Overhead Live Electricity (OLE). An electromagnetic compatibility (EMC) assessment should be conducted to assess potential impacts on residents and electromagnetic fields.

10. Item 9 - Construction at Height: Works at height or within 3.0 metres of OLE infrastructure require isolation of overhead lines and possessions. The use of scaffolding in close proximity to Network Rail assets is discouraged.

11. Item 10 - EMC Consideration Near Boundary: Projects within 20 metres of the operational railway or involving transmitters within 100 metres should undergo an Electromagnetic Compatibility assessment to assess the impact on Network Rail.

12. Item 11 - Stability of Railway Infrastructure: The proposed development should not load existing railway infrastructure, including embankments, without agreement from Network Rail. Increased surcharge on railway embankments can risk instability.

13. Item 12 - Buried Services: The developer is responsible for conducting a detailed services survey to locate utility services, including buried services, near the railway and development site. Network Rail may specify measures for their protection.

14. Item 13 - Trespasses and Unauthorised Access: Where necessary, the developer should provide and maintain a substantial trespass-proof fence along the development side of the existing boundary fence, to a minimum height of 1.8 metres. Network Rail's existing fencing/wall should not be removed without agreement.

This email outlines Network Rail's concerns and requirements related to the planning application and emphasizes safety and compliance with railway standards and regulations.

Officer note: In relation to Item 13 fencing details are provided on drawing number 21/12/71 Rev E (Network Rail Fencing Plan) and a condition is imposed to ensure this is provided and maintained.

**Network Rail**

**23.06.2023**

On the 8th of August 2022, Network Rail provided a response in relation to planning application 22/00979/DETAIL. The purpose of this letter is to provide you with Network Rail's updated position and feedback on the proposed development.

Network Rail is supportive of the proposed development which will deliver a new footbridge and facilitate the closure of a level crossing. This will improve the safety of the railway network and provide a number of benefits.

Network Rail and Applicant (Rose Builders) have been working collaboratively in relation to the proposed development, and a Basic Asset Protection Agreement is in place. To ensure the safe operation of the railway, the applicant will be required to enter into additional Basic Asset Protection Agreements relating to additional phases of the development process.

We have provided a list detailing several Asset Protection related matters that the applicant will need to consider and comply with as part of the Basic Asset Protection Agreement, which

is being provided as informatives to the applicant. The list informatives can be found in the attached document named " Network Rail ASPRO Informatives for application 2200979DETAIL - Weeley ".

In particular, the applicant must comply with the following drainage requirements.

Flood risk and/or saturation of the railway track bed and subbase. Any change to the way in which surface water is presented at the railway boundary, from the adjoining land must consider how the surface water will be efficiently passed to the other side of the railway and onwards to a suitable outfall. Network Rail reserves the right to review and approve as appropriate drainage designs proposed by the developer that affect Network Rail infrastructure. This is to safeguard against any potential flooding or maintenance problem due to drainage issues caused by the developer's design.

If you have any questions about this update and Network Rail's position in relation to the proposed development, please let me know.

**Tree & Landscape Officer**

**21.07.2022 and 29.07.2022**

The detailed information provided in relation to soft landscaping is comprehensive and contains a wide and varied selection of tree, shrub, hedge and other plant species. The level of soft landscaping proposed is sufficient to satisfactorily enhance the appearance of the development.

In terms of tree protection it is noted that at the outline planning stage; 19/00524/OUT a Tree Constraints Assessment (TCA) was submitted that contained a Tree Constraints Plan (TCP). This document enabled an analysis of the impact on the development on existing trees to be carried out.

Subsequently it was determined that the development proposal made provision for the most important trees on the application site to be retained.

However, the TCA stated that at the detailed planning stage a full Arboricultural Impact Assessment containing a Tree Protection Plan (TPP) would be provided to show how retained trees would be physically protected for the duration of the construction phase of the development ' this plan does not appear to have been provided.

It will be necessary for a TPP to be provided prior to the determination of the application.

UPDATE 29/07/2022. The applicant has provided a Tree Protection Plan (TPP) to show how retained trees will be physically protected for the duration of the construction phase of the development.

The information is sufficient to ensure that retained trees will not be harmed by the implementation of the development proposal.

**Tree & Landscape Officer**

**23.03.2023**

In order to show the how retained trees will be physically protected for the duration of the construction phase of any development the applicant has provided amended Tree Protection

Plans and associated Method Statements. This information is in accordance with BS5837 2012 Trees in relation to design demolition and construction. Recommendations.

The tree protection and method statements that have been provided will reduce the risk of direct and indirect development related damage that may otherwise occur to the retained trees. If the method statements and tree protection measures are implemented as part of the development, the proposal can be constructed with reduced disturbance to retained trees.

In terms of soft landscaping the detailed information provided is comprehensive and contains a wide and varied selection of tree, shrub, hedge and other plant species. The level of soft landscaping proposed is sufficient to satisfactorily enhance the appearance of the development.

**Tree & Landscape Officer**

**21.04.2023**

The changes shown on the drawing entitled amended detailed planting proposals - 2 of 17 to show the retention of the existing boundary hedgerow are desirable and acceptable.

**Urban Design Advisor - ECC**

**15.08.2022**

#### **OFFICER NOTE**

**In summary the Urban Designer response recommended:-**

#### **Layout:**

**Explore options to resolve layout issues, possibly by relating the housing to the bottom of the site.**

**Address potential overlooking problems, particularly for specific plots.**

**Consider the role of topography in house type/design and housing across steeper parts of the site.**

**Encourage pedestrian movement towards the train station and simplify the change between different areas.**

**Ensure the cycle route connects to the proposed pedestrian/cycle bridge over the railway line to the south.**

#### **Primary School:**

**Improve traffic management, drop-off areas, and pedestrian safety.**

**Reconfigure the school design to align with Essex County Council's best practices.**

**Use the section 106 agreement to create separation between the employment access road and the school boundary.**

#### **Landscape & Amenity:**

**Add more easily accessible green infrastructure and open space to support the housing layout.**

**Explore options for an additional open space area to the north of the site and enhance connectivity with trim-trails or pathways.**

**Consider amenities for employees around the office buildings.**

**Review garden sizes across the development to comply with guidelines.**



**Parking:**

Include cycle parking and electrical vehicle charging points in the layout.  
Adjust visitor parking numbers in line with Essex Design Guide recommendations.  
Avoid impractical parking arrangements and aim to relocate residential parking between dwellings where possible.

**Architectural Detailing & Materiality:**

Ensure house designs reflect local character and provide context appraisal.  
Address design issues with specific house types to improve functionality and aesthetics.  
Submit coloured house type drawings to demonstrate material exploration.

**Urban Design Advisor - ECC**

11.05.2023

**OFFICER NOTE**

Here's a summary of the key differences in the responses from Urban Design.

- 1. General Layout:** The general layout remains unchanged. The suggestion to create a dedicated commercial area in the northwestern corner has been justified but not implemented.
- 2. PROW Amendments:** Amendments to public rights of way (PROW) offer access to a bridge, enhancing connectivity, which is supported.

**Differences and Resolutions:****1. Connections & Road Hierarchy:**

Wide paths buffered by green space and raised tables have been implemented, enhancing pedestrian movement conditions. Some areas of the layout create indirect routes for pedestrians due to cul-de-sacs. It's recommended to provide permeable pedestrian connections to complete loops.

**2. Primary School:** Concerns about small and impractical parking/dropoff areas remain. Suggestion to move school parking eastward to reduce congestion on the northern road is reiterated..

**3. Landscape & Amenity:** Overall, green public open space distribution still lacks a logical and strategic layout. The need for a connected network of green spaces is emphasized, and more tree planting is recommended in key areas. Safety and maintenance concerns about the southwest ecology area persist, and a supporting maintenance and management plan is requested.

The provision of another LEAP is suggested to create a more functional public realm and green network in the north.

**4. Parking:** The need for a demonstration of effective provision regarding cycle storage is requested. There is no reference to electric vehicle charging, and assurances regarding this are needed. While triple-tandem parking has been removed, suggestions to soften or remove frontage parking in specific areas for better accessibility and street quality remain.

**5. Architectural Detailing & Materiality:** The architectural approach is still supported, and the provision of coloured renders is appreciated. Positive modifications have been made to certain house types, such as C, D, Olivia (variation), Anna, and Willow. Additional recommendations are made, including reorienting plot 260 and providing a more subtle finish for the bridge.

**OFFICER COMMENT ON FINAL SCHEME:** Further revisions followed this second consultation response, but Officers have not sought advice on the final submission from Place Services. Instead, Officers have assessed the further changes that have been made to the appearance of the development (as well as the layout) and conclude that following these numerous revisions the appearance of the scheme is acceptable and is appropriate given the character of the area and the context of the site.

**UU Open Spaces**

**29.07.2022**

Response from Public Realm Open Space & Play

**Current Position**

There is currently a deficit of -2.18 hectares of equipped play and formal open space in Weeley.

**Recommendation**

No objection to the design and layout of the open space and play area. The only observation is the use of grass matting in the play area, in our experience bonded rubber mulch is longer lasting option and requires less maintenance. It is our understanding that the future maintenance of the area will be with a management company.

**Waste Management**

**12.07.2022 & 15.03.2023**

All access roads and turning heads to be constructed to suitable standard and size to allow full access and manoeuvring for 26 tonne waste and 2.5 metre wide recycling collection vehicles.

**5. Representations**

**Parish Council**

- 5.1 Weeley Parish Council were consulted on three separate occasions about this application and objected to the application on each occasion. A summary of the main issues raised in the Parish Council consultation responses is set out below:

19 July 2022

Object to the applications for the following reasons.

1) Open space provision is unsuitable – the main area will not be useable year round due to drainage and other landscaped areas are merely vehicle sightlines and not useable space. Limited tree cover.

2) Object strongly to the design of the footbridge. It should be accessible but design is unsympathetic to setting. More sympathetic design should be used or at the very least more use of soft landscaping to screen it.

Other concerns - number of vehicle movements using a single access road onto the busy Thorpe Road and surface water drainage and how it relates to the Barleyfields development.

#### 21 November 2022

- 1) The scale of the site is positively “lilliputian” – roads, houses, gardens designed on a miniature scale. Development should not be just meeting the absolute minimum design standards.
- 2) More visitor parking required – amount of on-plot parking could be reduced.
- 3) Open space at south end of the site is unsuitable due to poor drainage which will restrict use and other landscaped areas are merely vehicle sightlines and not useable space. Limited tree cover.
- 4) Position and layout of the business units appears problematic. To get to units all vehicles will need to pass by the entrance of the proposed school and the houses located immediately to the east of the business units.
- 5) Object strongly to the design of the footbridge. It should be accessible but design is unsympathetic to setting. More sympathetic design should be used or at the very least more use of soft landscaping to screen it.
- 6) Essential (for pedestrian access) that the PROW that runs north to south along the east side of the proposed estate is protected.
- 7) WPC believe number of vehicle movements is under-estimated and remain very concerned about the number of traffic movements at a single access road onto the busy Thorpe Road
- 8) ‘Trigger points’ be set to ensure that the obligations are fulfilled before all of the housing is built.
- 9) Development must include adequate litter and dog bin provision.

#### 28<sup>th</sup> March 2023

WPC object to this revised application for the same reasons that it objected to the original planning application (19/00524/OUT).

Parish Council members and some residents are very concerned that the plans for a school may, in time, be abandoned due to lack of interest or funds by Essex County Council and this could lead to housing supply dropping. Plans to provide improved healthcare facilities at the Silver End surgery may never happen and the same applies to the plans for the school and the business units.

Rose Builders should undertake to construct the school after 100 houses have been built and the commercial units prior to completion of the houses.

No convincing evidence that the business units are needed/wanted. Again, this plan could be abandoned, leaving more space for more homes.

Anglia Water are yet to resolve the foul water drainage issues affecting the area and no more developments should be allowed until the next batch of reports are available.

The Parish Council strongly objects to this application and hopes that it will go before the TDC Planning Committee for consideration.

#### **Public Consultation**

5.2 21 representations objecting to the planning application have been received and a summary of the main issues raised are set out below:

5.3 Principle of Development

- The development is too big for the village, doubling it in size. Weeley is the smallest of Tendring District's seven Rural Service Centres - the development will increase the village housing stock by 57%.
- The development site is currently used regularly and valued by local residents for personal exercise, dog walking. Beneficial for residents' mental health and well-being. Last large green space in the village.
- No need for this development in the village.
- New residents will be dependent on cars to access services and jobs. Few residents will end up working in the new commercial buildings.
- Given shortages of grain etc agricultural land should be protected.

5.4 Infrastructure

- Existing infrastructure and limited amenities will be inadequate for the proposed number of dwellings.
- GP surgery already operating at capacity and this development is not offering a new surgery.

5.5 Access (highway, public transport, cycling and walking)

- Local roads will need to accommodate all the traffic arising from not just the 280 homes but also the commercial development and primary school. The development could generate up to 2000 more vehicles entering and leaving by a single road from the very busy Thorpe Road. Particular problems if turning right.
- There will be significant pedestrian traffic before and after school. This will add to danger around the Thorpe Road / Barleyfield Drive junction.
- A single highway access is insufficient and a safety concern for emergency vehicle access.
- Thorpe Road is already insufficient to support current traffic levels, particularly at peak times and during summer months. The additional traffic will cause further disruption and congestion.
- No excuse to say that poor access arrangements are ok because they were agreed at the Outline Stage.

5.6 Living Conditions/Residential Amenities

- Second Avenue residents will be overlooked and will lose privacy.
- Residents will suffer loss of light; overlooking and loss of privacy; overshadowing; loss of privacy; and nuisance.
- The extra traffic generated by the development will cause air and noise pollution. Barleyfield Drive, currently a small cul-de-sac, will have a regular stream of idling vehicles queuing to gain access onto the busy Thorpe Road.
- The new bridge over the railway will cause disturbance when being built as this will need to be carried out at night.
- Inadequate parking at the school will lead to parents blocking driveways of houses.
- A new bungalow was purchased in Verity Gardens from the developer for two sons who have severe learning disabilities and require 24-hour care support. The property was chosen for specific qualities which will be lost if this application is approved and make the property unsuitable for meeting their needs.
- Local residents living conditions and health will be affected for 5 years during construction.

5.7 Landscape and Ecology

- The wildlife survey carried out is weak and doesn't accurately reflect the diversity of wildlife present. Local residents report seeing bats, barn owls and other birds of prey, woodpeckers, green woodpeckers, Yellow Wagtail (on the UK red list for endangered birds), a variety of birds, deer, foxes, on the site.

- The applicant has already destroyed the wild flower meadow on the site destroying habitat for bees and a Barn Owl.
  - Loss of breeding habitat for many species of wildlife and adverse impact on trees.
  - Increased levels of noise and light pollution will have a detrimental impact on local wildlife.
  - Otters in Weeley Brook may need to be relocated.
- 5.8 Design & Layout
- The plans are the usual new build format packing in as many homes as possible to maximise the profit with tiny gardens, houses overlooked and no character.
  - Not enough Open Space to meet needs of future residents.
- 5.9 Proposed Uses
- The proposed development adds nothing in terms of local amenities. A primary school and some industrial units are a token gesture.
  - Unrealistic to expect Essex County Council to be able to fund a new school and staff it.
  - The proposed development is lacking in useable green spaces and appears to maximise the space for residential homes and financial gain.
  - More industrial units are not required - there are many buildings for sale and rent.
- 5.10 New Primary School
- Traffic to the commercial units will need to pass the school and traffic around the school will make it dangerous for children and pedestrians.
  - School needs parking for 150 cars with separate in/out gates and a one way system.
  - The school should not be built in the final phase (Phase 4) but in Phase 2.
  - Local councillors say that ECC will not adopt the school and after 5 years there will be an application for even more homes.
- 5.11 Sewage/water drainage
- There are well known issues with sewage flooding around the Willow Walk area, including gardens and properties flooded with sewage. Anglian Water and Affinity Water have been unable to resolve. The new housing will connect to the Willow Walk pumping station. The currently failing sewage drainage system must be made fit for purpose before any further development is allowed.
  - The applicant has not provided promised details of foul drainage with this application.
- 5.12 Railway Crossing / Bridge
- The pedestrian bridge is unnecessary, will not be used and is overly complicated.
  - Visually intrusive and could result in light pollution.
  - The bridge does not need to be disabled friendly, because of the condition of the private land on the other side.
  - The money spent on the bridge would be better spent improving the bridge at the station which should be made accessible for all.
  - The bridge will be in the middle of a bat flight path.
- 5.13 Boundary Treatment
- Unclear how boundaries will be treated – planning documents show both the retention of the hedge on the northern boundary (that borders the gardens of 1-6 Thorpe Road) with new planting to thicken this up whilst other plans show a concrete post and panel boundary replacing the existing hedge.
  - The boundary to neighbouring properties run through the middle of the hedge and could only be removed with the neighbouring owner's permission.
- 5.14 Other Matters
- When residents bought homes on the Barleyfield estate, Rose Builders told purchasers that only 25 more houses more would be built on this development.
  - The proposed play area is inadequate and needs to be improved.

- The archaeology of the site should be left for all to enjoy.
- Loss of a beautiful view.

### **Member Call-In**

- 5.15 Cllr Peter Harris (Weeley & Tendring Ward) requested that the application is called-in to the Planning Committee for determination if Officers are not minded to refuse the application. Cllr Harris cites the following material planning considerations.
- The open space is unsuitable in that the area identified suffered poor drainage it will be practically unusable throughout most winters. In addition, the only areas of greenery on the estate are merely vehicle sightlines and do not represent practically useable areas. There appears to be limited tree cover around the estate. With the changing climate, it is felt that more cover would benefit residents.
  - The Parish Council strongly objects to the design of the footbridge. It is accepted that any new footbridge should be accessible. However, to have such an unsympathetic 'industrial style' design in what is an attractive rural setting is totally unnecessary. Different designs that would be more sympathetic with the sitting are available. At the very least more use of soft landscaping to screen the monstrosity must be incorporated in the site design.
  - Poor surface drainage in terms of how it relates to the existing houses on Barleyfield.
  - Poor traffic management, excessive movement via inadequate single access into Thorpe Road.
- 5.16 All relevant material planning considerations have been taken into account in the assessment section of this report above and with the addition of relevant conditions, the amended proposal is considered to be acceptable.

## **6. Assessment**

### **Site Context**

- 6.1 The application site comprises 17.71 hectares of agricultural land that is situated to the south of the B1033 Thorpe Road, Weeley. The northern boundary of the site is shared with a range of land uses, including Ash Farmhouse, a grade II listed building with its farmyard that is in commercial use and forms part of the application site, the former Tendring District Council offices, a relatively modern residential development of 20 no. dwellings known as Barleyfield Drive and more established dwellings, including 1-6 Thorpe Road and a bungalow known as Emma-Dawn.
- 6.2 To the east of the site is the Tendring Hundred Riding Club showground, a pair of ponds and open farmland beyond, to the south is the railway line, with houses which front onto Second Avenue and The Street beyond the western boundary. Also, halfway along the western boundary is another recently completed development at St Andrews Close – a development consisting of 14 no. houses, garages, access, public open space and landscaping on land at the end of St Andrews Road, pursuant to 15/01750/FUL.
- 6.3 The site is relatively flat semi-improved grassland, but the site does slope gently towards the Weeley Brook, to the south, and surrounding it are hedgerows with standard trees, some previously managed as coppice and pollards. To the south of the site is small copse/woodland (through which a Public Right of Way passes down to the railway line) with evidence of previous coppicing, within the site are occasional aged trees, some with veteran associations.

### **Planning History**

- 6.4 In 2014 the Council granted outline planning permission, on land immediately to the north of the application site, for the development of 20 dwellings accessed through a new junction off the

southern side of Thorpe Road. The Reserved Matters for this scheme were approved in 2015 and this development has now been built out and is known as the Barleyfield Drive development.

- 6.5 In 2017 an application for outline planning permission was submitted to the Council on the same site that this Reserved Matters application relates to. The application was made with all matters reserved, except for access, for 280 dwellings, a 2 Form of Entry primary school, 56 place early years nursery, up to 3000 sqm of office (B1) buildings on 1 hectare and associated ancillary buildings, drainage systems, boundary treatments and hard surfacing as well as public open space, vehicular access from Thorpe Road a pedestrian footbridge and the closure of existing level crossing and formal diversion of public footpath No 5 - Weeley, over the new railway bridge. In November 2018 the Council refused the application and the applicant lodged an appeal with the Planning Inspectorate. A public inquiry was scheduled to consider the appeal in October 2019.
- 6.6 The Council sought professional legal and planning advice in preparation for the appeal and on receipt of this legal opinion it was resolved to advise the Planning Inspectorate (by way of the Council's 'Statement of Case' March 2019) that the Council '*...wishes to withdraw its opposition to the Appeal and therefore do not wish to further defend the Appeal at the Public Inquiry.*'
- 6.7 The Council advised the applicant of this change in position, and it was agreed that the applicant would submit a duplicate planning application to the one that was refused in November 2018. Outline planning permission was approved by the Council in August 2019 (19/00524/OUT), subject to 39 planning conditions and planning obligations contained within a Section 106 agreement. Details of access were approved as part of this planning permission but all other matters (Appearance; Landscaping; Layout; and Scale) were reserved. A table summarising the conditions and the current status of each condition is set out below.

<b>OUTLINE PLANNING PERMISSION CONDITIONS – 19/00524/OUT</b>		
		Timing & Status
1	Time frame for submission of Reserved Matters application	Submit application for approval of the Reserved Matters within 3 years of Outline Planning Permission being granted
2	Time frame for commencement of development	Development shall commence within 2 years from the date of approval of the last of the Reserved Matters to be approved
3	The Reserved Matters – Appearance; Landscaping; Layout and Scale	Compliance
4	Approval of a Layout and Phasing Plan	Prior to the submission of the first Reserved Matters (Approved 21/01143/DISCON)
5	Scope of the Planning Permission	Compliance
6	Residential Travel Information Packs	Prior to occupation of the development
7	Provision of vehicular parking	Prior to occupation of the development
8	No surface water discharging to the highway	Compliance
9	Environmental Construction Management Plan	Prior to commencement of development
10	Surface Water Drainage Scheme	Prior to commencement of development

11	On-Site Foul Drainage Works	Prior to construction above damp proof course
12	Surface Water Drainage during construction	Prior to commencement of development
13	Surface Water Drainage Scheme maintenance	Prior to commencement of development
14	Record of Surface Water Drainage maintenance	Compliance
15	Archaeological Investigation	Prior to commencement of development (21/00039/DISCON – Partial Discharge – Written Scheme of Investigation approved & 21/01464/DISCON – Partial Discharge – Scheme of Archaeological Mitigation approved)
16	Piling Method Statement	Prior to commencement of development
17	External Lighting	As part of the first Reserved Matters application (22/01301/DISCON)
18	Refuse / Recycling scheme	Prior to commencement of development (22/01301/DISCON)
19	Hard and Soft Landscaping scheme, incl. changes in ground levels and tree protection	As part of each Reserved Matters application (22/01301/DISCON)
20	Tree & Hedge Protection	Compliance
21	External Materials	Prior to commencement of development (22/01301/DISCON)
22	Implementation of ecological mitigation measures	Compliance
23	Landscape and Ecology Management Plan	Prior to the commencement of development (22/01301/DISCON)
24	Highway Works (Off-Site – Various)	Prior to the first occupation of the development
25	Cycle Storage	Prior to commencement of development
26	Means of Enclosure	As part of each Reserved Matters application (22/01301/DISCON)
27	Details of conversion of redundant listed buildings and / or demolition of non-curtilage listed buildings	As part of the first Reserved Matters application (22/01301/DISCON)
28	Existing and Proposed Levels	Prior to commencement of development
29	Bus Stop Improvements (Thorpe Road)	Prior to commencement of development
30	Visibility Splay – Crow Lane	Compliance



31	Visibility Splay – Barleyfield	Compliance
32	Visibility Splay – Homestead	Compliance
33	Highway Works – traffic calming feature (B1033)	Prior to the first occupation of the development
34	Contaminated Land	Prior to commencement of development
35	Acoustic Mitigation	Prior to commencement of development
36	RAMS – On-Site Mitigation	Prior to the commencement of above ground works (22/01301/DISCON)
37	Broadband	Prior to the first occupation of the development
38	Local Recruitment Strategy	Prior to commencement of development (22/01301/DISCON)
39	Public Right of Way Improvements (On-Site)	Prior to first occupation of the development

- 6.8 As set out in the table the majority of the conditions either require details to be approved prior to the commencement of development or first occupation, or are compliance conditions which specify that the development must be carried out in a specified manner.
- 6.9 Condition no.1 and no.4 require action prior to commencement of development. Condition 4 required that prior to the submission of the Reserved Matters application a layout and phasing plan/programme to include details of market and affordable housing provision, employment provision, identification of the physical extent of each proposed phase of development, the layout and an indicative timescale for implementation of each phase, shall be submitted to and agreed by the Council. An application to discharge the condition was submitted in June 2021 and approved in September 2021 (ref. 21/01143/DISCON). The details submitted for approval in this Reserved Matters application follow the approved scheme.
- 6.10 Condition no.1 required that an application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date the planning permission was granted. This application was validated on 24<sup>th</sup> June 2022, before the outline expiration date of 14.08.2022, complying with the requirements of Condition no.1.
- 6.11 The Section 106 agreement which forms part of the planning permission secured the following planning obligations:
- On-site Affordable Housing (30% of the overall development);
  - Education – 2.1ha of land which could be used by the County Council to provide a 2 form entry primary school and early years nursery;
  - Education contributions for Primary, Secondary School Places and for Secondary School transport;
  - Financial contribution towards increased Healthcare capacity;
  - Provision of Public Open Space, equipped play area and Ecology Land on-site – to be laid out to approved specification and then transferred to management company;
  - Ecology (off site) – Financial contribution towards off-site ecological mitigation – to improve access within Weeley Hall Wood SSSI;
  - Financial Contribution towards RAMS;

- Highways and Transport – A financial contribution towards off-site highway improvements at the A133/B1033/services roundabout and the Frating roundabout;
- Public Rights of Way (PRoW) – Footbridge to be constructed over the railway line and transferred to Network Rail on completion with a commuted sum for future maintenance, PRoW5 to be diverted away from existing level crossing via footbridge on completion.

### Proposal

6.12 This application seeks approval of the Appearance; Landscaping; Layout; and Scale (the 'Reserved Matters') in respect of the development of 277 dwellings; 1,910m<sup>2</sup> commercial floorspace (B1 Uses); a new footbridge over the railway line; attenuation basins; open space, play equipment; and associated infrastructure pursuant to the outline permission 19/00524/OUT.

### Residential Development

6.13 The Outline planning permission allows for the development of up to 280 dwellings at the site. When the Reserved Matters application was first submitted approval was sought for 280 dwellings and mirrored the Outline application site area. This included land immediately to the south of Verity Gardens, which is part of the Barleyfield Drive development. The original application proposed that 3 no. dwellings would be constructed, with access along Verity Gardens to Thorpe Road. However, because Verity Gardens was outside of the red line site boundary of the outline planning permission and as it is not public highway the plans for these three dwellings were not consistent with the Outline planning permission. As a result, the applicant has amended the Reserved Matters application to exclude this land. A separate planning application (22/01332/FUL) has been submitted to the Council seeking a 'stand-alone' Full planning permission for Plots 1, 2 and 3. In total 280 dwellings would be constructed if both this Reserved Matters application (277 dwellings) and the stand-alone permission (3 dwellings) are approved.

6.14 The application proposes that the 277 dwellings will be erected and with the following housing mix.

	<b>Market</b>	<b>Affordable Housing – Affordable Rent</b>	<b>Affordable Housing – Shared Ownership</b>
1-bed apartment	-	9	4
2-bed apartment	-	5	-
2-bed bungalow	9	2	-
2-bed house	34	2	11
3-bed house	103	14	10
4-bed house	47	1	-
	<b>193</b>	<b>59</b>	<b>25</b>

6.15 In total 84 units will be provided as Affordable Housing. This represents 30.3% of the 277 dwellings. This is slightly higher than the Section 106 requirement to provide 30% of the dwellings as Affordable Housing, but when the three dwellings on the southern side of Verity Gardens, that are subject to a separate planning application, are included the 84 Affordable Homes would represent 30% on-site provision.

### Commercial Development

6.16 The Outline planning permission allows for the development of up to 3,000sqm of B1 Office Floorspace on 1 hectare of the site. The Reserved Matters application proposes three office buildings on a parcel of land in the north-western corner of the site. It is proposed that the

buildings are predominantly two storeys, with some single storey elements. The buildings will provide a total of 1,909sqm of floorspace, made up of buildings containing 491sqm, 577sqm and 841sqm respectively.

#### Footbridge

- 6.17 The application also includes details of a footbridge that would replace a level crossing on the railway that runs along the southern boundary of the site. The top deck of the footbridge will span 24.67m with ramps leading up to it on the northern and southern side of the railway line. The bridge needs to cross above the level of the electric overhead lines, so the underside of the bridge is approximately 7.2m above the level of the track. The bridge is designed without steps, so as to be accessible. The structure utilises long ramps with landings for a 180 degree turn. Due to the difference in level between the two sides of the railway line there are three ramps on the northern side, each approximately 45m in length, whilst on the southern side there are four ramps, each approximately 58m in length. The ramps leading up to the bridge deck will be enclosed by metal railings with a handrail on either side. The majority of the ramps would be uncovered but the bottom run of the ramps on each side will be covered by a canopy, to reduce the risk of people accessing the underside of the structure.

#### Open Space & Play Areas

- 6.18 Three main areas of public open space are proposed within the site; the main one being at the southern end of the site adjacent to the railway line, with additional smaller areas of Public Open Space proposed towards the centre of the site on the eastern side and the third on land at the northern end of the Education Land. The area of Open Space on the eastern site boundary and by the Education Land both include a Local Equipped Area of Play.
- 6.19 The Open Space includes land that will be set out to promote ecology and also contains attenuation basins and swales which form part of the Surface Water Drainage System.
- 6.20 It should be noted that the application does not seek approval of the Reserved Matters for the whole of the application site. The Outline planning permission included 2.1 hectares of land which can be used to provide a 2-Form of Entry Primary School and 56 place early years Nursery. If this application is approved, it will dictate the location of the Education Land but it does not include any details of the Appearance; Landscaping; Layout; and Scale of development that may come forward on the Education Land.

#### Principle of Development

- 6.21 The principle of residential development at this location has already been established by the granting of outline planning permission 19/00524/OUT which allows for up to 280 dwellings with vehicular access from Thorpe Road; a new Primary School and Early Years Childrens Nursery; up to 3000 sqm of office (B1) buildings; Public Open Space; a new footbridge over the railway line; and associated development.
- 6.22 The site lies within the Settlement Development Boundary (SDB) for Weeley and is also designated for a Mixed-Use development in the adopted Tendring District Local Plan 2013-2033 and Beyond (TDLP). These facts further emphasis that the Council have assessed the suitability of the site and found that the principle of development is acceptable.
- 6.23 The site and allocation were the subject of a specific policy. Policy SAMU5 of the TDLP specified that the site would provide for a mix of residential development, employment, a Primary School and public open space. The policy contains specific requirements in relation to housing numbers, educational facilities, healthcare provision, highways and open space.

6.24 Policy SAMU5 states: “Land south of Thorpe Road, Weeley, shown on the Map SAMU5, is allocated for mixed use development as follows:

- a. at least 280 new homes of a mixed size and type to include affordable housing as per the Council’s requirements;
- b. 1 hectare of land for employment (potentially utilising buildings at Ash Farm);
- c. 1 hectare of public open space;
- d. 2.1 hectares of land for a new primary school with co-located 56 place commensurate early years and childcare facility (D1 use) as required by the Local Education Authority through Section 106 Planning Obligations;  
*Proposals must accord with the following:*
- e. the principal point of vehicular access will be off Thorpe Road;
- f. capacity and/or safety enhancements to the local highway network where necessary;
- g. where necessary, enhancements to public transport, cycle and pedestrian infrastructure;
- h. provision of a pedestrian/cycle bridge over the railway line, as a replacement for the existing level crossing prior to the occupation of the one-hundredth dwelling;
- i. the design and layout of the development must have regard to the surrounding landscape, seeking to minimise visual impacts through the inclusion of mitigation measures;
- j. delivery of opportunities for the protection and enhancement of the historic environment including the built and archaeological environment;
- k. early engagement with Anglian Water to secure upgrades to both treatment infrastructure and network and to formulate a water and drainage strategy to serve the new development;
- l. a financial contribution to early years and childcare, primary and secondary education provision, as required by the Local Education Authority through Section 106 Planning Obligations;
- m. financial contributions towards other community facilities such as health provision as required by the NHS/CCG either through the Community Infrastructure Levy or Section 106 Planning Obligations.”

6.25 This application seeks approval of the Reserved Matters for a residential development of 277 dwellings, a commercial development providing 1,909sqm of office floorspace, a pedestrian footbridge over the railway line, Public Open Space as well as preserving 2.1 hectares of land which could be used by the County Council to provide a new primary school and early years children’s nursery. The detailed uses are all consistent with the outline planning permission. An assessment of the Reserved Matters for each element of the scheme is set out below with reference to relevant development plan policies.

#### Scale including Housing Mix and Affordable Housing Provision

6.26 The details of the housing mix and tenure split is outlined under the ‘Proposal’ section of this report.

6.27 In accordance with the Section 106 agreement the Reserved Matters scheme provides details confirming that 30% of the dwellings are to be provided as Affordable Housing, with a mix of tenures consisting of Affordable Rent and Shared Ownership. The mix of Affordable Homes consists of properties ranging in size from 1-bed apartments to a 4-bed house. TDLP Policy LP5 states ‘...to avoid an over-concentration of council housing in one location, no single group of council houses will exceed ten dwellings’. The General Layout / Phasing Plan identifies the size of the affordable housing clusters, and these range from a group of 3 through to five groups of 10 units. The appearance of these dwellings is not dissimilar to the market dwellings on site. The Councils Housing team have also confirmed that the tenure, distribution and mix of affordable housing is acceptable.

6.28 TDLP Policy LP2 states that major developments should provide a mix of dwelling size and type that broadly reflects the housing need identified in the District’s latest Strategic Housing Market Assessment. On review the SHMA identifies a need for approximately 8% of new market dwellings to be 1-bed units and no 1-bed market units are proposed in this scheme. The

percentage of 2-bed and 4-bed homes being proposed (22.3% & 24.3% respectively) is broadly consistent with the need identified in the SHMA (27.9% & 22.8%). The number of 3-bed units proposed is however more noticeably higher at 53%, against the assessed need expressed in the SHMA of 40%.

- 6.29 Officers consider that the mix of homes proposed in the reserved matters application is appropriate for the location and context and is broadly consistent with the identified needs set out within the latest Council's Strategic Housing Market Assessment.
- 6.30 Having regard to the scale of the development in this rural edge of settlement location and the character and scale of the housing neighbouring the site, the scheme that is proposed consists of houses and flats that are predominantly 2-storey with a relatively small number of bungalows and one and half storey houses. Both private and market housing have internal floor areas which are equal to, or in excess of, the minimum requirements in the Nationally Described Space Standards. Given all these factors it is considered that the scale of development proposed is acceptable.

#### Office Buildings

- 6.31 The proposed Office buildings were also designed initially as two-storey buildings but the bulk and mass of those buildings was not acceptable by Officers. This part of the development appeared cramped and appeared to represent over-development. The applicant amended the design of the office buildings reducing the floorspace from 2,550sqm to 1,910sqm. The span of the buildings was also reduced, and single storey element added, replacing a two storey projection. Internally the same design approach has been taken, which is to create spaces which could be used either entirely by a single company, or which could be sub divided allowing the buildings to be used by more than one company but sharing communal areas and facilities.
- 6.32 The smaller buildings have a more traditional scale and appearance and are more appropriate for this location, being within the setting of a listed building and within a mixed residential / commercial area.

#### Railway Footbridge

- 6.33 One of the policy requirements for the development of this site, specified in TDLP Policy SAMU5, is that a pedestrian/cycle bridge must be provided over the railway line, as a replacement for the existing level crossing. The applicant has entered a contract with Network Rail to construct the new bridge at their expense.
- 6.34 As a result of the policy and the obligations imposed in the Outline planning permission, the applicant has designed an accessible bridge, without steps, to be constructed over the railway line.
- 6.35 A number of representations made to this application have cited the bridge in their grounds for objecting. It is argued that an accessible bridge is unnecessary and that it is unnecessarily large. The bridge in terms of need and principle is established by the Outline, it is the appearance, scale and layout only that the planning authority can now only consider.

The height and mass of the structure it is argued will harm visual amenity. It is noted that TDLP Policy SAMU5 states that the design and layout of the development must have regard to the surrounding landscape and seek to minimise visual impacts through the inclusion of mitigation measures. Representations received provide that there are more sympathetic bridge designs which could be used, but no further details are provided of what these are and these are not the design put forward with this application to be determined on its merits.

- 6.36 The policy requirement to provide a pedestrian / cycle bridge means that it is inevitable that the structure will feature ramps leading up onto and back down from the bridge and this significantly adds to the mass of the structure. The bridge would also appear more prominent by virtue of its height, with the deck over 7 metres above the track, because of the need to clear the overhead electric lines by Network Rail's safety design standards. The requirement for the bridge to be accessible means that ramps will be required.
- 6.37 Whilst local concerns about the scale of the bridge structure are understood, it is not considered that the extent of harm is so significant to warrant refusal, Officers consider its scale to be necessary to achieve the policy objective of accessibility and create the opportunity and wider public benefit to close the level crossing, with its inherent safety concerns, but retain the ability for all users to be able to continue to use the Public Right of Way.

### Appearance

#### Residential

- 6.38 The mix of housing is varied with 1 and 2-bed apartments, 2-bed bungalows and 2 – 4-bed houses.
- 6.39 Externally the apartments are designed to have a similar appearance to the houses, as opposed to more traditional apartment blocks. The buildings are mostly semi-detached and detached houses with one terrace. With the exception of the bungalows most of the houses are two-storey but there is one house type which is a one and a half storey house. The design of the housing has been shown to take design cues from the adjacent Barleyfield Drive development and the Millers Green development in Weeley Heath, both recently completed by the applicant, but also other elements of good design within the village. The architecture is of a traditional vernacular design with a higher than average level of detailing which include features such as brick plinths, flat gauge brick arch window headers, bay windows, stone cills, door surrounds and porches, brick chimney stacks, stone gable vents, and string courses. The roofscape would be varied including a mixture of half dormers, gables and hipped roofs with chimneys adding further visual interest. The scheme contains a reasonable mix of house types and styles and further variation will be provided by joining some of the different house types together to provide additional visual interest.
- 6.40 The application indicates a range of materials would be used across the site with a mix of red, orange and buff stock bricks, a range of coloured horizontal weatherboarding and renders (which were requested by the Councils Urban Design consultant) and roofs covered with red plain tiles, red and black pantiles and natural and artificial slates. These materials are found in the surrounding areas and will help the development assimilate into the area and help create a 'sense of place'. The proposed mix will ensure variety and visual interest across the development. An external material plan is included with the application documents, and this specifies named materials but the plan is also annotated to say that the actual materials will be as listed or a material of a similar appearance. The Council will need to be clear what materials are being used so the submitted materials plan and schedule cannot be approved. Condition 21 of the Outline planning permission requires details of the external materials to be agreed with the Council prior to commencement of development in a phase. This condition will ensure that the required details are submitted for approval.
- 6.41 The application contains a number of streetscenes which demonstrate that the development will provide attractive and varied streets, with subtle variations in character.

#### Office Buildings

- 6.42 The appearance of the office buildings is acceptable following the receipt of the revised plans. The reduction in floorspace has allowed the buildings to have more traditional proportions and

character with the single storey elements and projecting midstreys helping to break up the mass of the buildings. The appearance of the office buildings takes design cues from traditional Essex Barns, through the hipped roof and being clad in black horizontal weatherboarding under a pantile roof.

#### Railway Footbridge

- 6.43 The detailed design of the bridge has been the subject of extensive discussions between the applicant and Network Rail. Plans have been revised to reflect Network Rail design standards, which include consideration of matters such as “sun glint” and overhead powerline clearance to earthing and construction technique, however it should be noted that the Outline planning application included a drawing which showed a structure very similar in nature to the more detailed design now presented for approval.
- 6.44 The applicant is only able to provide the bridge if the design meets Network Rail’s requirements, and this limits the extent to which the design and appearance of the structure can be altered, or the visual impact mitigated. It is proposed that the bridge is a dark green colour (not red as indicated on the plans), which is considered appropriate for the context. There are some existing trees to the south of the bridge and a woodland block to the north-west which would help soften the prominence of the structure in some views. Whilst the proposed landscaping scheme shows some limited planting to the north, around the edge of the SUDS basin, it is considered that this new planting could be augmented to further help soften the appearance of the structure.
- 6.45 Concerns have been raised that the bridge will be illuminated, further increasing its visual impact, but this is not the case, and a condition is recommended that the bridge should not be illuminated for the avoidance of doubt.
- 6.46 Finally in respect of appearance, Members will note that the consultee section of this report lists two responses from the Urban Design team at Place Services. The team provided advice on the original application and the earlier revised scheme. Their comments included recommended revisions to a number of aspects of the scheme including changes to some of the house types and office buildings, and improvements to the layout.

As can be seen from the second response Place Services acknowledged that the first revisions to the scheme started to address many of the issues that they had raised. Further revisions followed their second consultation response, but Officers have not sought advice on the final submission from Place Services. Instead, Officers have been able to assess the changes that have been made to the appearance of the development (as well as the layout) and to conclude that following these numerous revisions the appearance of the scheme is acceptable and is appropriate given the character of the area and the context of the site.

#### Layout

- 6.47 Although there were no parameter plans listed as approved plans on the Outline planning permission, the outline planning permission did establish a number of important aspects of the layout.
- Access was approved as part of the outline planning permission so the design of the vehicular access off Thorpe Road, via Barleyfield Drive is already fixed. Additionally, it was agreed that there will be a footway/cycleway along the existing Ash Farm entrance to serve the development.
  - The Section 106 agreement contains a plan which identifies indicatively and for illustrative purposes the location of the principal areas of Open Space (at the southern end of the site adjacent to the railway line and a smaller block in a central location on the eastern site boundary), Ecology Land (at the south western corner of the site between Second Avenue and the railway line), and the Education Land (in the north-western quadrant of the site).

- The Council has also approved 'a layout and phasing plan to include details of market and affordable housing provision, and employment provision' in September 2021 to discharge Condition No. 4 of outline permission 19/00524/OUT. This approved plan has been a key factor the applicant has relied upon to design the scheme layout.

- 6.48 The submitted scheme contains some variations to the illustrative layout that was presented as part of the Outline planning application with the uses to the rear of Ashes Farmhouse being altered. The shape and location of the employment and education land has changed, and an additional residential parcel added. It must be noted that a requirement of Condition 4 of the Outline planning permission is that the Reserved Matters application must be consistent with the layout and phasing plan that is approved, and the applicant has done this.
- 6.49 The principal site access was approved by the outline planning permission, with access from Thorpe Road through an improved Barleyfield Drive to a new mini roundabout at the entrance to the main body of the site. The western arm of the roundabout would provide access to the Education Land, Offices and a small residential parcel to the rear of Ashes Farm. The other principal street would continue to run in a southerly direction through the heart of the site, thereby creating a central spine road off which secondary vehicular access routes would be formed. The two main areas of Open Space, at the southern end of the site and the Green on the eastern side of the centre of the site, are included with a number of smaller, but still important, incidental areas of Open Space added at key locations.
- 6.50 The road and footway widths are all accepted by ECC Highways, ensuring that the internal road layout can safely and comfortably accommodate emergency services, waste collection services etc. Streets are generally intelligently laid out and allow for passive surveillance of roads, paths and play areas. There are a limited number of instances where resident's car parking is provided in parallel bays off the carriageway, in front of the properties. Where this is done landscape strips and street trees have added between bays to help soften the appearance and reduce the prominence of car parking in the streetscene. The car parking to the office buildings is dispersed in areas which are landscaped in an appropriate manner.
- 6.51 Paragraph 131 of the NPPF requires that all new developments should provide tree lined streets. Due to the need to widen the carriageway and footways there is insufficient land to add street trees to Barleyfield Drive but upon entry to the body of the application site street trees are shown. Along the principal streets – the main north-south spine road and the road leading to the Education and Employment land – grass verges are provided on both sides of the road and street trees planted rhythmically on one side. Streets on the perimeter blocks are also tree lined, with the trees planted in the open space allowing space for them to grow and mature. The approach to tree planting on secondary streets is more varied. On these streets smaller trees are shown and planted less frequently. The applicant has selected locations, such as to the side of rear gardens or corner plots at the ends of streets, as locations where street trees can be added. As noted above where parallel parking is provided in front of dwellings street trees have also been added. The applicant also relies on views of trees (established and new) at the end of the streets to give the sense of trees predominating. This will all help to soften the streetscene as trees mature and provide a pleasant suburban feel.
- 6.52 The Council have received representations expressing concern about the size of the Equipped Play Area being provided. The application originally proposed the provision of one Local Equipped Area of Play (LEAP) in a central location within the site. The plans show five play experiences within the area along with paths, benches and bins. The Council's Open Space team were consulted on the application, and they confirmed there continues to be a shortfall in the provision of play facilities in the village, but that they were satisfied with the range and quality of the proposed play experiences. They offered an advisory comment regarding the use of bonded rubber mulch over grass matting, but this was not an objection, and the play area will be transferred to a Management Company so will not be the Council's responsibility to maintain.



- 6.53 To address Officer and consultee comments about the distribution of Open Space a second LEAP is proposed next to the Education Land. It is intended that the area would form part of the pedestrian entrance to the school site. The provision of two LEAPs within the site is considered acceptable and Officers do not object to the proposals.
- 6.54 The majority of dwellings are designed to address the street, to create an active street frontage and provide natural surveillance, and this includes properties occupying corner plots. However, there is an instance where there is a front to back relationship, in the north-western corner in the residential block opposite the Education Land. As the Council's Urban Design consultant notes buildings fronting onto one another is a strong urban design principle. It is however accepted that residential use of this parcel was approved when the Council discharged Condition 4 of the Outline planning permission. If the land is to be developed in an efficient manner this arrangement cannot be easily avoided. Whilst not ideal there would be around 15m from the front elevation of the houses to the rear boundary of the houses in front and the landscaping scheme shows trees being planted in the public realm which help soften the relationship as they mature. Officers consider residents of these houses would not have an unacceptable standard of amenity.

#### Commercial Buildings

- 6.55 The footprint has been reduced during the course of the application and the position amended. These changes have successfully addressed concerns that the buildings appeared cramped and the area over-developed. Parking is now provided with landscaped areas and is not located hard against the boundaries and future office users will also be able to enjoy landscaped amenity areas around the buildings. As previously noted, the design and selection of materials have created buildings which would not appear inappropriate in a mixed use development such as this.

#### Education Land

- 6.56 The shape and location of the Education Land has varied since the illustrative layout was produced to support the outline planning application, however Officers are satisfied that the amendments are acceptable. The land identified is 2.1ha as required and has a broadly regular shape, which is necessary to design an efficient school.
- 6.57 The applicant has shown entrance points to the school and nursery site and has provided grounds maintenance / emergency access to the south of the site. Whilst the Education Authority are keen to encourage traffic free school frontage the reality is that within settlements such as Weeley some children attending the school will need to be driven and it is appropriate to plan for this. The applicant will provide a car parking area for parents to drop off children, without having to stop on surrounding roads. A play area is also shown by the front gates which will be an attractive feature for families waiting to leave or pick up children from the school gate.
- 6.58 The plans also demonstrate that pedestrian and cycle connections through the site will be provided, and these will provide attractive routes for children and families to walk and cycle to school. Officers are satisfied that further discussions between the applicant, County Council and District Council can take place to further refine the proposals as and when the Education Land is bought forward by Essex County Council.

#### Open Space

- 6.59 The Green Infrastructure (GI) team at Essex County Council initially registered a holding objection to the proposed scheme layout. They noted that there was unequal access to Open Space across the development. Planning Officers supported this position, and the applicant revisited the layout to improve the distribution of Open Space through the development and in particular within the north of the development. In addition to the large area of Open Space across

the southern end of the site and the more central Green, with the play area, additional Open Spaces have been provided in front of the Education Land and amenity space around the commercial buildings. The ECC GI team confirmed that they withdrew their holding objection following the submission of the revised layout, and whilst the Councils Urban Design consultant remains concerned that the space in front of the Education Land will not feel as if it is part of the public realm Officers are content with the quantum and distribution of Open Space across the scheme.

- 6.60 Some concerns have also been expressed about the Open Space in the southwestern part of the site, between the railway line and the rear boundaries of houses on Second Avenue. The area forms land which will be managed for ecological purposes, as well as operate as functional Open Space for public use. The applicant has amended the landscaping scheme to add hostile planting along the rear boundaries of the Second Avenue houses, so their boundaries are not left exposed to the public realm. A concern has also been raised that the space is not overlooked by housing and therefore will not enjoy natural surveillance. This area has always been shown to be open space, in both the illustrative layout at Outline stage and in the phasing / layout plan to discharge Condition 4. The applicant has added a seating area, which would be overlooked by new housing, which will provide some passive surveillance of the south western corner of the site. As the area has previously been accepted as being suitable for use as Open Space, Officers are satisfied with the proposed arrangement.

#### Heritage Impact

- 6.61 Part of the proposal site lies within the curtilage of Grade II Listed Ash Farmhouse. The proposal also includes the demolition of the existing 20th century farm buildings associated to the designated heritage asset. When assessing the Outline planning application, the Council considered that the development would not adversely affect the setting of Ash Farmhouse.
- 6.62 The Council's current Historic Buildings advisers have been consulted on the Reserved Matters application and they have stated that they disagree with that initial assessment. In their view the development would indirectly affect the significance of Ash Farmhouse by permanently changing the rural character of its wider setting from farmland to a development with the approved mix of uses.
- 6.63 Having assessed the layout and design initially proposed the Council's Historic Buildings consultant advised that a more sympathetic layout, design and materials could minimise or mitigate the impact of the development on the setting of the listed building. Planning Officers shared some of these concerns, particularly regarding the scale and mass of the proposed office buildings and their siting.
- 6.64 As noted previously the applicant has reduced the scale and mass of the office buildings and finessed the layout, setting the offices slightly further back from the curtilage of the listed building. Whilst the Historic Buildings consultant acknowledges that the revised scheme represents an improvement from the original scheme, they still conclude that the development would result in less than substantial harm to the significance of Grade II Listed Ash Farmhouse due to the intensified use of the site and the introduction of a built form within historically undeveloped land. Paragraph 202 of the NPPF states that when harm to heritage assets is identified this harm should be balanced against the public benefits of the proposed development.
- 6.65 Officers have undertaken this heritage balance weighing heritage harm against public benefits. Officers consider that the public benefits of the scheme include the provision of 277 new homes, with 30% of the homes (84) being provided as much needed affordable housing. As well as the new homes, the scheme includes proposals for the development of three new office buildings providing over 1,910sqm. These buildings would provide employment opportunities and the resultant social and economic benefits for the community. The Section 106 agreement also secures the provision of 2.1ha of land that could be used to provide a new primary school and

nursery. By providing this land the applicant is providing the opportunity for some of the educational requirements of the local community to be met close to their homes. There will be economic benefits arising from construction activity and once occupied the new homes and offices will generate additional trade for local businesses. The provision of a new footbridge over the railway line will provide social benefits by enabling the closure of the level crossing which Network Rail highlight will improve the safety of those wanting to cross the railway line using the public right of way. Officers consider the public benefits of the scheme carry significant weight and cumulatively outweigh the relatively low level of less than substantial harm to the setting of the Grade II listed Ash Farmhouse.

#### Highway Safety/Parking

- 6.66 TDLP Policy SAMU 5 states that the principal point of vehicular access for the development will be off Thorpe Road. The Outline planning permission sought approval for details of Access to the development and one vehicular access point into the site, through Barleyfield Drive, was approved. The approved details show that the existing junction and carriageway in Barleyfield Drive will be improved with the existing 5.5m wide carriageway widened to 6.75m with a 3m wide footway on one side and 2m footway wide footway on the other to ensure strong connections are formed for pedestrians and cyclists. The footway on the south side of Thorpe Road near the junction will also be widened to 3m and the carriageway widened to create a right-hand turn into the Barleyfield Drive, with a further right hand turn lane to the east, into Homestead Lake Park. Concerns have been expressed about the volumes of traffic on Thorpe Road, the safety of motorists and pedestrians, particularly for vehicles leaving the site and turning right. The Highway Authority were satisfied that these works would ensure that junction would operate safely, efficiently and effectively and the Access details were approved as part of the Outline planning permission.
- 6.67 It is noted that many objectors cite concerns about increasing traffic on the local highway network. The impacts of the proposed development on the network were assessed as part of the Outline planning application and the Section 106 agreement secured a financial contribution which can be used by the Highway Authority to help mitigate the impact on junctions where capacity issues were identified.
- 6.68 Whilst the objectors concern about highway safety and capacity are noted both these matters have already been assessed and the planning permission approved subject to conditions and planning obligations. These matters cannot be reconsidered as part of this Reserved Matters application.
- 6.69 Paragraph 104 of the NPPF (2023) states that transport issues should be considered from the earliest stages of development proposals, so that amongst other things opportunities to promote walking, cycling and public transport use are identified and pursued; and patterns of movement, streets, parking and other transport considerations are integral to the design of schemes, and contribute to making high quality places.
- 6.70 The Outline planning permission established that the existing access that serves the dwelling and farm buildings at Ash Farm would be upgraded to provide a 3.5m wide footway/cycleway. This link will provide an attractive and convenient route for pedestrians and cyclists from Thorpe Road into the development, and in particular the part of the site that has been safeguarded for a potential new primary school and nursery.
- 6.71 Strong pedestrian / cycle connectivity continues through the development. A shared pedestrian / cycle path continues from the improved Barleyfield Drive west towards the education site and south down the spine road. The path is separated from the carriageway by new trees planted in a grass verge. The path continues as far as the western boundary where Public Right of Way Weeley 4 lies. The public right of way provides a connection to St Andrews Road and improves the permeability of the site, further improving connectivity with the existing settlement. To further

encourage walking and cycling, the estate roads are designed for a 20mph speed limit, and the carriageway construction will give pedestrians and cyclists using the pedestrian / cycle path priority across internal junctions.

- 6.72 In total three Public Rights of Way (PROW) cross the site. While for the most part the proposed layout allows the routes to follow their current alignments, the application proposes minor amendments to the footpaths so that they would better align with nearby pavements and road crossing points. The Highway Authority have raised no objection in principle to the revisions subject to development not commencing in a phase until such time as an Order securing the diversion of the existing public right of way in that phase has been agreed. It is proposed that the applicant will make a separate application under section 257 of the Town and Country Planning Act. The other change to the PROW network is at the railway line. The current PROW alignment crosses the tracks at the level crossing. An order to formally divert the public footpath over the new footbridge has already been agreed as part of an application under section 119a of the Highways Act. The issuing of the order is dependent on the construction of the bridge over which the diverted footpath will pass.
- 6.73 TDLP Policies SPL3 and LP4 state that the Council will require that suitable provision is made for vehicle and cycle parking, including in residential areas sufficient provision of on-street parking for use by visitors and delivery vehicles.
- 6.74 Commercial Buildings Parking – The Council’s adopted parking standards state that the maximum vehicle parking standard for use class ‘B1-Business’ is 1 space per 30sqm of floorspace. The 1,910sqm of commercial floor space would therefore mean a maximum of 64 parking spaces. The parking plan shows 63 formal car parking spaces being provided, with additional ‘informal’ parking available within the courtyard area. The level of parking is considered to be appropriate in this context.
- 6.75 Each commercial building is shown to be provided with 8 cycle parking spaces in a lean to store on the side of the buildings. The proposals are for five fewer cycle parking spaces than are required under the Council’s adopted parking standards which require a total of 29 spaces, however it is accepted that the provision is very likely to be adequate for the number of cyclists who would be cycling to work. It is also considered that in the event that there were insufficient spaces available cyclists could park their bikes within the overlooked courtyard between the buildings.
- 6.76 Residential Development Parking – the Council’s adopted parking standards require a minimum of one vehicle parking space per 1-bed dwelling and two vehicle parking spaces per dwelling with 2 or more bedrooms. Each new dwelling also needs to be provided with one secure cycle parking space.
- 6.77 All the dwellings are shown to be provided with off-street allocated parking which meets the minimum standards and provides one or two parking spaces, usually to the side or in front of the dwelling.
- 6.78 The adopted parking standards require the provision of a minimum of 70 visitor vehicle parking spaces for a residential development of this size. Initially the applicant proposed that a limited number of visitor spaces would be provided in the public realm with on-plot parking being provided above the level required by the parking standards, negating the need for on-street visitor parking. Officers did not support this approach and the applicant amended the scheme which now provides 68 on-street vehicle parking bays, resulting in a shortfall of 2 visitor parking spaces within the residential areas (visitor spaces within the commercial parking area should not be counted). The applicant is however still over-providing parking on a significant number of the market dwellings. It is accepted that this over-provision on-plot will reduce the need for visitor parking in the public domain in some parts of the site. Officers consider that the level of visitor parking provision is acceptable and should not result in problematic ad-hoc visitor parking.

6.79 The Council require appropriate cycle parking is provided for both new office developments and residential dwellings. The submitted plans show covered cycle parking built into the new office buildings. Condition 25 of the Outline planning permission requires that the developer provides details of cycle storage for each dwelling in each phase prior to commencement of development in each phase.

#### Landscaping/Biodiversity

6.80 Objectors have raised concerns that the development will have an adverse impact on wildlife and reference that numerous species have been seen to use the site. The ecological value of the site was thoroughly assessed when the Outline planning application was considered. A suite of ecological surveys and reports were submitted including a Preliminary Ecological Appraisal (PEA); Barn Owl Mitigation report; Bat Activity Survey; Breeding Bird Survey; and Reptile Survey and Outline Mitigation Strategy. Of note, the site was found to support a wide assemblage of birds, bat foraging activity was observed around field boundaries and hedgerows, and the grassland supports a good population of slow worms. An Ecological Impact Assessment (EclA), was submitted which set out the mitigation measures required to ensure compliance with nature conservation legislation, including the effective protection of protected species and other wildlife, including hedgehogs, and to address any potentially significant ecological effects. The Council's Ecological Consultant was satisfied that planning condition and obligations contained in the Section 106 agreement would provide suitable mitigation measures and raised no objection to the development.

6.81 The Reserved Matters application includes an updated Protected Species report which was produced following updated site surveys. Having already established that there is no ecological objection to the development of the site the Council's Ecologist is satisfied that there is also sufficient ecological information available for determination of this Reserved Matters application. The application includes details about how part of the Open Space at the southern end of the site will be set out to provide the Ecology land required by the Section 106 agreement. The Open Space will be enhanced to provide habitats for bats, reptiles, and breeding birds. This includes the creation of scrub, species rich grassland, wildflower areas, scrapes, reptile hibernacula and log piles. The Council's Ecologist has confirmed that the space can be multi-functional - i.e. it can provide ecological mitigation whilst still allowing the public access to the space. The Council's Ecologist has noted that external lighting needs to be designed sensitively to ensure that the Ecology land remain suitable for foraging/commuting bats. A planning condition is recommended to require the submission and approval of an external lighting scheme, but this is not required as the outline planning permission included a condition to submit and obtain approval for an external lighting scheme.

6.82 The Outline planning application included an assessment of the trees and hedges on the site which allowed an analysis of the impact of the development on existing trees. It was determined that the development made provision for the most important trees on the application site to be retained.

6.83 A Tree Protection Plan has been provided detailing how retained trees and hedges will be protected. The landscaping scheme has been amended to show the retention of additional sections of boundary hedgerow. The Council's Tree and Landscape Officer has reviewed the landscaping scheme and has confirmed that this is a comprehensive scheme that contains a wide and varied selection of tree, shrub, hedge and other plant species. The level of soft landscaping proposed is sufficient to satisfactorily enhance the appearance of the development.

6.84 In addition to the equipped play area proposed by the central green the applicant now proposes the provision of a second equipped play area in front of the Education Land. This second play area would be attractive to families before and after school and would also mean that a greater number of families will be located within a short walk of an equipped play area.

### Impact on Residential Amenity

- 6.85 Objections have been raised about the loss of amenity that residents of Second Avenue will suffer as a result of the development. The Essex Design Guide sets design standards that are intended to protect the amenity of residents living adjacent to new housing developments. Where new development backs on to the rear of existing housing, existing residents are entitled to a greater degree of privacy. Criteria is specified for situations where the rear faces of the new houses are approximately parallel to those of the existing homes, however the layout would not create that type of relationship on the western boundary. Five of the eight properties adjacent neighbouring gardens, on the western boundary, are also bungalows. The other three dwellings are houses but all have either blank side elevations, or only a small bathroom window at first floor level, which would be obscure glazed. Plot 248 is the closest to the neighbour's boundary, but this will be a relatively shallow side elevation which is approximately 5m from the boundary. On the northern site boundary dwellings will also be backing onto existing residents. In this location the applicant proposes three bungalows are sited. The bungalows would not give rise to overlooking, loss of outlook or be overbearing. Overall, the relationship between existing and proposed dwellings is considered to be acceptable. To ensure that this remains the case it is recommended that permitted development rights for roof alterations to the bungalows on the western boundary that back onto Second Avenue are removed to prevent loft conversions.
- 6.86 TDLP Policy LP4 states that the layout of new housing should provide for private amenity space of a size and configuration that meets the needs and expectations of residents and which is commensurate to the size of dwelling and the character of the area. The majority of dwellings will have private amenity space in excess of 100sqm, with some of the market housing having gardens +300sqm. 71 dwellings have gardens below 100sqm. but these are generally 1 & 2-bed dwellings with only 5 of the dwellings with rear gardens under 100sqm being occupied by 3-bed houses. Three of the five dwellings are only 2-3sqm under 100sqm and the other two plots are noted to be provided with large garages. With the exception of a couple of flats all private amenity spaces are in excess of 50sqm and it is noted that many of the apartments are being provided with decent sized private gardens, instead of the more usual communal amenity space. Overall, Officers consider that provision is commensurate to both the size of dwelling and the character of the area.
- 6.87 Officers consider that future occupants of the new dwellings will enjoy a good standard of amenity. Internally all dwellings meet, and the majority exceed, the National Described Space Standards. Back to back distances comply with Essex Design Guide standards to provide a reasonable sense of privacy. All dwellings are provided with some form of private or shared private amenity space. The only part of the site that will be exposed to any significant noise is the houses at the southern end of the site, due to the railway. Condition 35 of the Outline planning permission requires details of acoustic measures to mitigate potential noise prior to development commencing. With suitable measures employed all residents should enjoy reasonable noise levels in their homes and gardens.
- 6.88 Ultimately the proposed detailed layout, appearance, landscaping and scale of the development is acceptable from a residential amenity perspective and in accordance with the relevant adopted policy and local guidance. (Essex Design Guide).

### Drainage

- 6.89 As part of the Outline planning application the applicant provided a strategy for dealing with surface water drainage from the development. The Lead Local Flood Authority, Essex County Council, having reviewed the strategy confirmed that, subject to the imposition of reasonable planning conditions, the proposal would provide appropriate measures to manage surface water through the implementations of SUDS and other engineered hydrological measures. Details of the Surface Water Drainage scheme are not required as part of this Reserved Matters

application as the planning conditions only require that the detailed scheme is submitted to and approved by the Council prior to the commencement of development.

- 6.90 It is noted that concerns have been expressed that the Open Space at the southern end of the site will be less attractive to use for much of the year as it gets very wet. Currently water runs / drains down the site in a natural manner as the site is not drained. As a result of the development surface water within the areas of built development, on the higher ground, will be managed through a Surface Water drainage system that will be approved by the Lead Local Flood Authority. This will collect surface water and then release it in a controlled manner and at an agreed discharge rate. The introduction of this drainage system across the developed areas should mean that less water collects on the Open Space so the area should remain reasonably attractive for use for most of the year.
- 6.91 In respect of foul water sewage, it must be noted that Anglian Water are obligated to accept the foul flows from new developments with the benefit of planning permission and take the necessary steps to ensure that there is sufficient network capacity should the planning authority grant planning permission.
- 6.92 A number of objectors to this application reference on-going issues with the foul sewage network, and in particular to foul water flooding associated with the Weeley Willow Walk Pumping Station which is located a short distance to the west of the south western corner of the application site. The reported flooding affecting both gardens and dwellings. This is clearly an unacceptable situation, but this is an existing issue that the statutory undertaker, Anglian Water, are obligated to deal with.
- 6.93 Requirement k) of TDLP Policy SAMU5 does however acknowledge that there are issues within the local waste water network. The policy requires that the developer of this site engages with Anglian Water from an early stage to secure upgrades to both treatment infrastructure and network and to formulate a water and drainage strategy to serve the new development. The Flood Risk Assessment with the Outline planning application evidenced that this engagement began a number of years ago.
- 6.94 Anglian Water have been consulted automatically on the current Reserved Matters application and they have responded to say that they have no comments as the development does not show a connection to their network. The development would connect to their foul water network and the Anglian Water Development team provided a detailed consultation response to the Outline planning application. Anglian Water raised no objection to the outline application subject to the imposition of a condition requiring a drainage strategy to address any unacceptable risk of flooding downstream. On this basis the Council had no grounds to refuse the Outline planning application due to concerns about sewerage capacity.
- 6.95 Condition 11 of the outline planning permission requires that the applicant agree a scheme of works to the foul sewage network with the Council. This scheme would be agreed in consultation with Anglian Water. The Council is aware that Anglian Water have been working with the applicant to design a solution to mitigate against the development causing an increase in the frequency or severity of flooding. This involves creating additional storage capacity in the network to reduce the volume of flows through the system at peak times. The condition requires that the scheme must be agreed prior to construction above damp proof course level, so the applicant is not required to have agreed the scheme yet. Whilst the Council can require that the developer agree a scheme that should ensure that flood risk is not increased elsewhere as a result of development, the developer cannot be required to address existing problems with the sewage network.
- 6.96 The conditions concerning foul and surface water drainage do not require details are submitted as part of the Reserved Matters application and these details will be agreed at the appropriate time. As such these matters do not fall to be considered as part of the Reserved Matters

application, however Officers felt a full explanation of the situation was appropriate given the strong views and concerns expressed by some objectors.

#### Section 106 of the Town and Country Planning Act 1990 and Viability Matters

- 6.97 As set out in the Planning History section of this report a Section 106 agreement secured planning obligations as part of the Outline planning permission.
- 6.98 The Highway Authority recommendation seeks to secure a residential travel plan and school travel plan, respectively and a travel plan monitoring fee. A residential travel plan and monitoring fee were secured as part of the Outline planning permission. It is not possible to add a condition and planning obligation for a school travel plan and monitoring fee at this stage, as this application is only considering approval of the Reserved Matters.
- 6.99 A number of letters objecting to the application refer to the proposed new primary school and early years and childcare facility. It is claimed that ECC have no intention of building the facilities and that the applicant should be required to build the school at an early stage in the development process.
- 6.100 The Section 106 agreement requires that the applicant identify and safeguard 2.1 hectares of land for a new primary school and nursery. The land must be offered to Essex County Council (ECC) for Education use for a period starting on the date that the 20<sup>th</sup> dwelling is occupied on the site for the first time and ending 10 years after the last dwelling on the development is occupied for the first time. If ECC exercise the option, and the land is transferred for £1, the County Council will have a further 10 years from the date of the transfer to use the site to provide an Educational facility. These obligations follow the standard ECC process for school sites within new housing developments. Whilst it is reasonable for a developer to provide land for a school site where there is an identified need and to make a contribution towards the cost of providing a new school, it would not be reasonable to require a developer to bear the full cost of building a new school when their development would only generate a fraction of the number of children who might attend the school.
- 6.101 Whilst the Education Authority have identified that there may be a need for a new primary school and early years facility in the future the Education Authority keep these matters under review. If, for example, the birth rate was to fall the need for a new school may change as a result of lower demand for school places.

#### Other Matters – Archaeology

- 6.102 Objectors have referenced the archaeological value of the site and that the site should not be developed as a result of archaeological finds. This application seeks approval of the Reserved Matters (Appearance, Layout, Scale and Landscaping) so archaeology is not a matter for consideration as part of this application.
- 6.103 The applicant has agreed a programme of archaeological work with the Council, in accordance with the planning condition on the Outline planning permission. This work included excavation works on the site and these did result in some interesting finds. The applicant continues to comply with the requirements of condition 15 and has been liaising with the Council and Place Services, the Council's Historic Environment Consultants, in respect of archaeological mitigation and recording.

## **7. Conclusion**

- 7.1 The site benefits from outline planning consent and this application seeks approval for the Reserved Matters in respect of all aspects of the development with the exception of the Education Land, which will be the responsibility of Essex County Council acting as Education



Authority. The applicant has submitted a number of revisions to the scheme which seek to address many of the issues raised by Planning Officers and consultees.

- 7.2 Careful consideration has been given both to the matters which were reserved and the elements of the scheme that were previously approved – most notably the access arrangements and principal areas of Open Space which were approved by the outline planning permission and the subsequent discharge of condition 4 of the outline planning permission and the phasing and layout scheme.
- 7.3 Whilst there have been objections from the Parish Council and some local residents many of these issues relate either to the principle of development, which is already agreed, or a matter that was considered or will be mitigated through the planning conditions and planning obligations that form part of the outline planning permission.
- 7.4 With regards to the details contained within this application the applicant has built on the approved access arrangements from the outline permission and produced a permeable scheme which offers further connections to its surroundings. The arrangement includes priority measures for cyclists and pedestrians.
- 7.5 The scale and appearance of the proposal are considered acceptable and would be appropriate in character and appearance with reference to recent developments near the site and the wider village context. Opportunities should be sought to add additional landscaping in the areas around the footbridge which might further soften its appearance.
- 7.6 The concerns of consultees and Planning Officers have been largely addressed in a positive manner. It is however noted that the Council's Historic Buildings Adviser has identified less than substantial harm to the significance of the Grade II listed Ash Farmhouse. Consistent with the NPPF and Tendring District Local Plan policies Officers have weighed the relatively low level of heritage harm against the numerous significant public benefits and have concluded that the heritage harm, while it remains as harm in the planning balance, is outweighed by public benefit. and acceptable. The arrangement of the Education Land, and in particular the approach to the entrance to the site, did concern ECC Officers however the scheme has been revised and Planning Officers now consider the arrangements to be an appropriate design response to what is always a difficult area to plan in new developments. Detailed concerns raised by the Education Authority are addressed by the highly detailed criteria set out in the S106 agreement to be addressed by the developer prior to the transfer of the Education Land.
- 7.7 The scheme now presented is considered by Officers to be acceptable and the application is therefore recommended for approval subject to conditions.

## **8. Recommendation**

- 8.1 The Planning Committee is recommended to grant reserved matters approval subject to the following conditions.

### **8.2 Conditions and Reasons**

#### **1. APPROVED PLANS & DOCUMENTS**

CONDITION: The development hereby permitted shall be carried out in accordance with the drawings/documents listed below and/or such other drawings/documents as may be approved by the Local Planning Authority in writing pursuant to other conditions of this permission, with the exception of approved drawing 2467-LLA-ZZ-00DR-L-0214 P07 – Detailed Planting Proposals – Sheet 14 of 17 and 2467-LLA-ZZ-00-DR-L-0215 P09 – Detailed Planting Proposals – Sheet 15 of 17.

Prior to commencement of development above slab level a scheme for the planting of additional trees around the proposed railway footbridge shall be submitted to and approved in writing by the Local Planning Authority. The planting scheme shall include details of the timing of the planting.

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 – 21/12/01 Rev.A  
General Layout & Phasing Plan – 21/12/02 Rev.C  
Proposed Block Plan – 21/12/03 Rev.F  
Proposed Site Plan Parcel A – 21/12/04 Rev.F  
Proposed Site Plan Parcel B – 21/12/05 Rev.F  
Proposed Site Plan Parcel C – 21/12/06 Rev.F  
Proposed Site Plan Parcel D – 21/12/07 Rev.F  
House Type Key Plan Open Market Housing – 21/12/08 Rev.F  
House Type Key Plan Affordable Housing – 21/12/09 Rev.F  
House Type A & B Floor Plans & Elevations – 21/12/10 Rev.D  
House Type C & D Floor Plans & Elevations – 21/12/11 Rev.D  
House Type E Floor Plans & Elevations – 21/12/12 Rev.D  
House Type F Floor Plans & Elevations – 21/12/13 Rev.D  
House Type G Floor Plans & Elevations – 21/12/14 Rev.D  
House Type H Floor Plans & Elevations – 21/12/15 Rev.D  
House Type J Floor Plans & Elevations – 21/12/16 Rev.D  
House Type J (Variation) Floor Plans & Elevations – 21/12/17 Rev.D  
House Type K Floor Plans & Elevations – 21/12/18 Rev.D  
The Chloe & The Chloe (Variation) Floor Plans & Elevations – 21/12/19 Rev.D  
The Bettina Floor Plans & Elevations – 21/12/20 Rev.D  
The Cecilia Floor Plans & Elevations – 21/12/21 Rev.D  
The Darcey Floor Plans & Elevations – 21/12/22 Rev.D  
The Olivia Floor Plans & Elevations – 21/12/23 Rev.D  
The Olivia (Variation) Floor Plans & Elevations – 21/12/24 Rev.D  
The Georgia Floor Plans & Elevations – 21/12/25 Rev.D  
The Damask Floor Plans & Elevations – 21/12/26 Rev.D  
The Damask (Variation) Floor Plans & Elevations – 21/12/27 Rev.D  
The Amelia Floor Plans & Elevations – 21/12/28 Rev.D  
The Eleanor Floor Plans & Elevations – 21/12/29 Rev.D  
The Alexander Floor Plans & Elevations – 21/12/30 Rev.D  
The Ruby Floor Plans & Elevations – 21/12/31 Rev.D  
The Anna Floor Plans & Elevations – 21/12/32 Rev.D  
The Victoria Floor Plans & Elevations – 21/12/33 Rev.D  
The Imogen Floor Plans & Elevations – 21/12/34 Rev.D  
The Imogen (Variations) Floor Plans & Elevations – 21/12/35 Rev.D  
The Willow Floor Plans & Elevations – 21/12/36 Rev.D  
The Berkeley Floor Plans & Elevations – 21/12/37 Rev.D  
The Braithwaite Floor Plans & Elevations – 21/12/38 Rev.D  
The Braithwaite (Weeley) Floor Plans & Elevations – 21/12/63 Rev.D  
Proposed Outbuildings – 21/12/39 Rev.D  
Office Unit A Floor Plans & Roof Plan – 21/12/40 Rev.E  
Office Unit A Elevations – 21/12/41 Rev.E  
Office Unit B Floor Plans & Roof Plan – 21/12/42 Rev.D  
Office Unit B Elevations – 21/12/43 Rev.E  
Office Unit C Floor Plans & Roof Plan – 21/12/44 Rev.D  
Office Unit C Elevations – 21/12/45 Rev.D  
Accommodation Schedule – 21/12/49 Rev.H

Footpath Context & Site Layout – 21/12/50 Rev.A  
Parking Layout Plan – 21/12/51 Rev.F  
Boundary Treatment Plan - 21/12/53 Rev.H  
Demolition Plan - 21/12/61  
External Works Materials Plan – 21/12/62 Rev.F  
Proposed PROW Plan 21/12/67 Rev.D  
Cycle/Pedestrian Access 21/12/69 Rev.D  
Network Rail Fencing Plan - 21/12/71 Rev E

2467-LLA-ZZ-00DR-L-0001 P07 – Landscape Masterplan  
2467-LLA-ZZ-00DR-L-0201 P07 – Detailed Planting Proposals – Sheet 1 of 17  
2467-LLA-ZZ-00DR-L-0202 P09 – Detailed Planting Proposals – Sheet 2 of 17  
2467-LLA-ZZ-00DR-L-0203 P09 – Detailed Planting Proposals – Sheet 3 of 17  
2467-LLA-ZZ-00DR-L-0204 P08 – Detailed Planting Proposals – Sheet 4 of 17  
2467-LLA-ZZ-00DR-L-0205 P08 – Detailed Planting Proposals – Sheet 5 of 17  
2467-LLA-ZZ-00DR-L-0206 P08 – Detailed Planting Proposals – Sheet 6 of 17  
2467-LLA-ZZ-00DR-L-0207 P07 – Detailed Planting Proposals – Sheet 7 of 17  
2467-LLA-ZZ-00DR-L-0208 P08 – Detailed Planting Proposals – Sheet 8 of 17  
2467-LLA-ZZ-00DR-L-0209 P07 – Detailed Planting Proposals – Sheet 9 of 17  
2467-LLA-ZZ-00DR-L-0210 P09 – Detailed Planting Proposals – Sheet 10 of 17  
2467-LLA-ZZ-00DR-L-0211 P07 – Detailed Planting Proposals – Sheet 11 of 17  
2467-LLA-ZZ-00DR-L-0212 P07 – Detailed Planting Proposals – Sheet 12 of 17  
2467-LLA-ZZ-00DR-L-0213 P07 – Detailed Planting Proposals – Sheet 13 of 17  
2467-LLA-ZZ-00DR-L-0214 P07 – Detailed Planting Proposals – Sheet 14 of 17  
2467-LLA-ZZ-00DR-L-0215 P09 – Detailed Planting Proposals – Sheet 15 of 17  
2467-LLA-ZZ-00DR-L-0216 P07 – Detailed Planting Proposals – Sheet 16 of 17  
2467-LLA-ZZ-00DR-L-0217 P06 – Detailed Planting Proposals – Sheet 17 of 17

2467-LLA-ZZ-00DR-L-0301 P01 - Landscape Specification and Details  
2467-LLA-ZZ-00DR-L-0401 P03 - LEAP Proposals  
2467-LLA-ZZ-00DR-L-0402 P03 - Public Open Space to School Entrance Proposals  
2467-LLA-ZZ-00DR-L-0002 P08 - Land Plan

65203381-SWE-ZZ-XX-DR-R-0001 Rev.B01 - Existing General Arrangement  
65203381-SWE-ZZ-XX-DR-R-0002 Rev.B01 – Proposed General Arrangement  
65203381-SWE-ZZ-XX-DR-R-0003 Rev.B01 – Proposed Sectional Elevations  
65203381-SWE-ZZ-XX-DR-R-0004 Rev.B01 – Proposed Northern Ramp General Arrangement  
65203381-SWE-ZZ-XX-DR-R-0005 Rev.B01 - Proposed Southern Ramp General Arrangement  
65203381-SWE-ZZ-XX-DR-R-0006 Rev.B01 – Proposed Sectional Elevation North Side  
65203381-SWE-ZZ-XX-DR-R-0007 Rev.B01 - Proposed Sectional Elevation South Side  
65203381-SWE-ZZ-XX-DR-R-0008 Rev.B01 – Proposed Main Span  
65203381-SWE-ZZ-XX-DR-R-0009 Rev.B01 – Proposed Main Span Details  
65203381-SWE-ZZ-XX-DR-R-0011 Rev.B01 - Proposed Ramp Details – Sheet 2 of 5  
65203381-SWE-ZZ-XX-DR-R-0012 Rev.B01 - Proposed Ramp Details – Sheet 3 of 5  
65203381-SWE-ZZ-XX-DR-R-0013 Rev.B01 - Proposed Ramp Details – Sheet 4 of 5  
65203381-SWE-ZZ-XX-DR-R-0014 Rev.B01 - Proposed Ramp Details – Sheet 5 of 5  
65203381-SWE-ZZ-XX-DR-R-0015 Rev.B01 – Main Deck Trestle Supports  
65203381-SWE-ZZ-XX-DR-R-0016 Rev.B01 - Ramp Trestle Supports  
65203381-SWE-ZZ-XX-DR-R-0021 Rev.B01 - Proposed Ramp Details – Sheet 1 of 5

TPSar6990117TPP - Tree Protection Plan  
TPSarQU0018 – Tree Protection Plan and Method Statements

REASON: For the avoidance of doubt and in the interests of proper phased planning of the development. Details of additional tree planting on both the northern and southern side of the

railway track are required to help mitigate the visual impact of the new pedestrian footbridge.

## 2. COMPLIANCE WITH DETAILS

CONDITION: The development shall be carried out in accordance with the approved Tree Protection Plan and Method Statements, undertaken by Tree Planning Solutions, dated 1<sup>st</sup> March 2023. No alterations or variations to the approved works or tree protection schemes shall be made without prior written consent of the Local Planning Authority.

The tree protection and method statements that have been provided will reduce the risk of direct and indirect development related damage that may otherwise occur to the retained trees. If the method statements and tree protection measures are implemented as part of the development, the proposal can be constructed with reduced disturbance to retained trees.

REASON: To ensure existing trees, shrubs and hedges are retained as they are considered essential to enhance the character of the development.

## 3. 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 has been 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 to reduce harm to the environment and result in wider public benefit in accordance with the NPPF.

### NOTES FOR CONDITION:

Slab level 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 visualised above ground level or seek confirmation from the Local Planning Authority for your development.

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

## 4. FURTHER APPROVAL – ENCLOSURES TO BE AGREED

CONDITION: No development shall commence above slab level until additional drawings that show details of the proposed means of enclosure, listed on the approved Means of Enclosure plan,

have been submitted to and approved in writing by the Local Planning Authority. Development shall be implemented in accordance with the approved details and shall be permanently maintained as such.

REASON: To ensure that the development does not prejudice the appearance of the locality.

#### 5. COMPLIANCE WITH DETAILS – HIGHWAY WORKS

CONDITION: Prior to the first occupation of any phase of the development the internal road layout, public right of way, parking and associated improvements shall be provided in principle and accord with Drawing Numbers:

General Layout & Phasing Plan – 21/12/03 Rev.F

Proposed Site Plan Parcel A – 21/12/04 Rev.F

Proposed Site Plan Parcel B – 21/12/05 Rev.F

Proposed Site Plan Parcel C – 21/12/06 Rev.F

Proposed Site Plan Parcel D – 21/12/07 Rev.F

Parking Layout Plan – 21/12/51 Rev.F

Proposed Outbuildings – 21/12/39 Rev.D

Cycle/pedestrian access - 21/12/69 Rev. D

Proposed PROW Plan - 21/12/67 Rev. D

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

#### 6. ACTION REQUIRED: HIGHWAYS PROVISION OF VISIBILITY SPLAYS

CONDITION: Prior to occupation of each dwelling/flat its associated vehicular access shall be provided with a 1.5 metre x 1.5 metre clear visibility, as measured from and along the boundary, on both sides of each vehicular access. Such visibility splays shall be retained free of any obstruction in perpetuity. These visibility splays must not form part of the vehicular surface of the access.

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

#### 7. ACTION REQUIRED: HIGHWAYS PROVISION OF VISIBILITY SPLAYS

CONDITION: Prior to the first use of each side road within the development, fronting the cycleway, a 2.4 m x 17 m cycle visibility splay, as measured from and along the highway boundary, shall be provided on both sides of the road junction/ access. Such visibility splays shall thereafter be retained free of any obstruction at all times and must not form part of the vehicular surface of the access.

REASON: To provide adequate inter-visibility between the users of the access and cyclists in the adjoining highway in the interest of highway safety. In accordance with policy DM1.

#### 8. SPECIFIC ACTION: ROADS AND FOOTPATHS

CONDITION: No dwelling/flat shall be occupied until the carriageways and footways serving that dwelling/flat have been constructed to at least basecourse level or better in accordance with the approved details.

REASON: To ensure that satisfactory access is provided for the safety of residents and the public.

#### NOTES FOR CONDITION:

It is an OFFENCE to carry out works within the public highway, which includes a Public Right of Way, without the permission of the ECC Highway Authority. Any conditions which involve work

within the limits of the public highway do not give the applicant permission to carry them out. Unless otherwise agreed in writing all works within the public highway shall be carried out by Essex County Council or its agents at the applicant's expense.

#### 9. FURTHER APPROVAL – PROW DIVERSION

CONDITION: No development shall commence above slab level on any phase of the development until such time as an Order securing the diversion of the existing definitive right of way (within that phase) to a route to be previously agreed in writing by the Local Planning Authority has been confirmed and the new route has been constructed to the satisfaction of the Local Planning Authority, unless otherwise agreed in writing by the Local Planning Authority.

REASON: To ensure the continued safe passage of pedestrians on the public right of way and accessibility in accordance with Policies DM1 and DM11.

#### 10. ACTION REQUIRED: HIGHWAYS PROVISION OF VISIBILITY SPLAYS

CONDITION 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.

#### 11. COMPLIANCE WITH DETAILS: FOOTBRIDGE COLOUR

CONDITION: The pedestrian footbridge shall be dark green in colour and permanently maintained as such.

REASON: To safeguard the visual amenities of the locality.

#### 12. SPECIFIC RESTRICTION OF DEVELOPMENT - ILLUMINATION RESTRICTION

CONDITION: There shall be no illumination installed on or projected on to the pedestrian footbridge structure at any time, including the ramps on either side.

REASON: To minimise light pollution of the environment and to safeguard the amenities of the locality, and in the interests of protecting and enhancing biodiversity.

#### 13. ONGOING REQUIREMENT: HIGHWAYS RETENTION OF GARAGE/PARKING SPACES

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

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

#### 14. SPECIFIC RESTRICTION ON DEVELOPMENT: REMOVAL OF PERMITTED DEVELOPMENT RIGHTS EXTENSION AND ALTERATIONS

CONDITION: Notwithstanding Section 55 (2)(a)(ii) of the Town and Country Planning Act 1990 as amended and the provisions of the Town and Country Planning (General Permitted Development) Order 2015, (or any Order revoking and re-enacting that Order with or without modification):- no

enlargement of, or additional windows, doors, rooflights, or dormer windows, shall be constructed/inserted on the dwellings on Plots 4, 5, 6, 166, 178, 252, 253 and 254 hereby permitted, except pursuant to the grant of planning permission on an application made in that regard.

REASON: To enable the Local Planning Authority to retain control over the development in the interest of the amenity of the occupants of adjacent dwellings, and in the interest of the visual amenity of the locality.

#### 15. SPECIFIC RESTRICTION ON DEVELOPMENT: REMOVAL OF PERMITTED DEVELOPMENT RIGHTS WINDOWS

CONDITION: Notwithstanding the provisions of Article 3, Schedule 2, Part 1 Class A and C of the Town and Country Planning (General Permitted Development)(England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), no additional first floor side windows (facing westwards) or roof lights (facing westwards) shall be erected or installed at Plots 165, 248 or 266 except pursuant to the grant of planning permission on an application made in that regard.

REASON - In the interest of the amenity of the occupants of adjacent dwellings.

#### 16. COMPLIANCE WITH DETAILS: NETWORK RAIL FENCING

CONDITION: The 1.8m high palisade fencing shown on drawing number 21/12/71 Rev. E shall be installed upon completion of the hereby approved footbridge and shall be retained and maintained as approved thereafter, unless otherwise agreed in writing by the Local Planning Authority.

REASON: To prevent trespass and unauthorised access onto the railway land in the interests of public safety.

#### a. 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.

##### Highways:

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

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

2: General Note: The proposed vehicular accesses shall be constructed at right angles to the proposed carriageway and shall be provided with an appropriate dropped kerb vehicular crossing of the footway/cycleway/highway verge.

3: 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.

4: 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.

5: Prior to occupation of any phase, the development shall be served by a system of operational street lighting of design approved from the Highway Authority, which shall thereafter be maintained in good repair.

6: 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.

## **8 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.

#### **9 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/>.

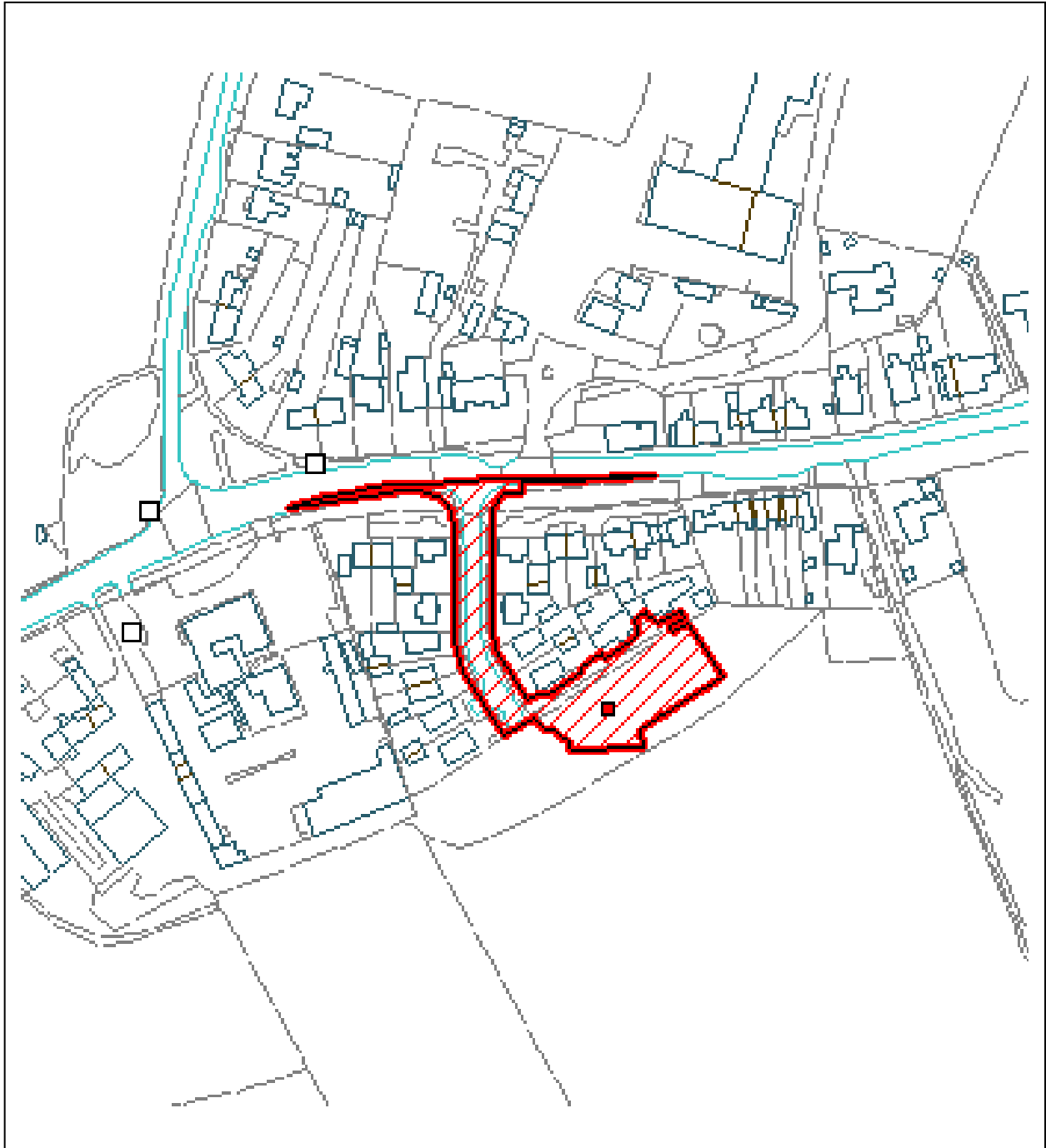
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## PLANNING COMMITTEE

28th September 2023

### REPORT OF THE DIRECTOR OF PLANNING

#### A.3 PLANNING APPLICATION – 22/01332/FUL – LAND SOUTH OF VERITY GARDENS WEELEY CLACTON ON SEA



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<b>Application:</b>	22/01332/FUL	<b>Expiry Date:</b>	25th October 2022
<b>Case Officer:</b>	Alison Newland	<b>EOT Date:</b>	23rd February 2023
<b>Town/ Parish:</b>	Weeley Parish Council		
<b>Applicant:</b>	Mr Rose and Mrs Limber - Lawford Homes Ltd		
<b>Address:</b>	Land South of Verity Gardens Weeley Clacton On Sea CO16 9FA		
<b>Development:</b>	Proposed 3 dwellings and associated ancillary buildings, drainage systems, boundary treatments, hard surfacing with vehicular access from Thorpe Road.		

## 1. Executive Summary

- 1.1 This application is referred to Planning Committee as when Outline planning permission was granted for a larger site, which included this application site, Members of the Committee agreed that the Reserved Matters application(s) would be referred back to the Planning Committee for determination. Cllr Peter Harris has also requested that the application be 'called in' to Planning Committee for determination, having raised concerns about the access to the site not being suitable, the inability of emergency vehicles to access all dwellings; and the dwellings being too close to existing dwellings, and the adverse impact this will have on residents privacy.
- 1.2 This application seeks full planning permission for the erection of three dwellings on a small parcel of land that forms part of a much larger site which the Council has granted outline planning permission for. The outline planning permission (19/00524/OUT) allows for the erection of up to 280 dwellings, a new primary school and children's nursery, up to 3,000sqm of office (B1) floorspace and associated infrastructure and development including the provision of Public Open Space.
- 1.3 Because it is proposed that the three dwellings are accessed across land that is outside the red line of the outline planning permission the applicant has submitted this application for full planning permission, so it is not pursuant to the outline planning permission. A separate application seeking approval for the Reserved Matters for development (22/00979/DETAIL), including the erection of 277 dwellings on land to the south of this application site, is pending determination by the Council. If both applications are approved a total of 280 dwellings would be erected within the area that has outline planning permission. This would be consistent with the maximum number of dwellings that were allowed under the outline planning permission.
- 1.4 There is no objection to the principle of residential development as the land already has outline planning permission for residential development. Furthermore, the site is located within the Weeley Settlement Development Boundary and is specifically designated to be part of a mixed-use development in the adopted Tendring District Local Plan. The detailed design, layout, landscaping and scale are considered acceptable. There are no objections from consultees and Officers consider that the proposal would not result in harm to residential amenity of a level that would warrant the refusal of planning permission. The application is therefore recommended for approval subject to the legal agreement and planning conditions listed.

**Recommendation:** Approval subject to S106

- 1) On appropriate terms as summarised below and those as may be deemed necessary to the satisfaction of the Head of Planning and Building Control 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:

- Linking this planning permission to outline planning permission 19/00524/OUT and the associated Section 106 agreement, in order that the dwellings constructed under 22/01332/FUL are dwellings for the purposes of the Section 106 legal agreement and are bound by and subject to the provisions and obligations contained within that agreement.
  - no more than 280 Dwellings shall be constructed on the combined area of the application site (22/01332/FUL) and the outline site (19/00524/OUT) and that the 3 residential units constructed under this application are not in addition to the 280 residential units permitted under the outline planning permission.
  - not to implement the planning permission for this application (22/01332/FUL) unless and until the outline planning permission (19/00524/OUT) has commenced.
  - to implement this planning permission (22/01332/FUL) prior to the occupation of 50 dwellings under the outline planning permission (19/00524/OUT)
- 2) That the Head of Planning and Building Control be authorised to grant planning permission subject to the agreed legal agreement and conditions as stated at paragraph 8.2, or varied as is necessary to ensure the wording is enforceable, precise, and reasonable in all other respects, including appropriate updates, so long as the principle of the conditions as referenced is retained; and,
- 3) The informative notes as may be deemed necessary.

**Or;**

- 4) That in the event of the Planning obligations or requirements referred to in Resolution (1) above not being secured and/or not secured within 12 months that the Head of Planning and Building Control 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 2023 (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

HP3 Green Infrastructure

HP5 Open Space, Sports and Recreation Facilities

LP2 Housing Choice

LP3 Housing Density and Standards

LP4 Housing Layout

PP12 Improving Education and Skills

PPL1 Development and Flood Risk

PPL3 The Rural Landscape

PPL4 Biodiversity and Geodiversity

PPL5 Water Conservation, Drainage and Sewerage

PPL10 Renewable Energy Generation and Energy Efficiency Measures

CP1 Sustainable Transport and Accessibility

CP2 Improving the Transport Network

CP3 Improving the Telecommunications Network

SAMU5 Development South of Thorpe Road, Weeley

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), 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:

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 Plans**

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

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

14/00082/OUT	Erection of 20 dwellings with associated garages and single access point to Thorpe Road.	Approved	20.06.2014
14/01841/DETAIL	Erection of 20 dwellings with associated garages and single access point to Thorpe Road.	Approved	14.04.2015
15/01443/DISCON	Discharge of condition 8 (details of estate roads and footways), 12 (vehicular turning) and 13 (construction method statement) of planning permission 14/01841/DETAIL.	Approved	20.11.2015
16/00370/DETAIL	Variation of condition 10 of planning permission 14/01841/DETAIL to change wording, removing requirement of construction of estate roads to base course level prior to	Approved	01.06.2016

commencement of dwellings, to allow construction of houses to commence sooner, reducing the period of disruption to neighbours.

17/02162/OUT	Outline planning application with all matters reserved, except for access, for 280 dwellings, a 2 Form of Entry primary school, 56 place early years nursery, up to 3000 sqm of office (B1) buildings on 1 hectare and associated ancillary buildings, drainage systems, boundary treatments and hard surfacing as well as public open space, vehicular access from Thorpe Road a pedestrian footbridge and the closure of existing level crossing and formal diversion of public footpath No 5 - Weeley, over the new railway bridge.	Refused	19.11.2018
19/00524/OUT	Outline planning application with all matters reserved, except for access, for 280 dwellings, a 2 Form of Entry primary school, 56 place early years nursery, up to 3000 sqm of office (B1) buildings on 1 hectare and associated ancillary buildings, drainage systems, boundary treatments and hard surfacing as well as public open space, vehicular access from Thorpe Road a pedestrian footbridge and the closure of existing level crossing and formal diversion of public footpath No 5 - Weeley, over the new railway bridge.	Approved	14.08.2019
21/00039/DISCON	Discharge of condition 15 (Archaeology) of approved planning application 19/00524/OUT.	Approved	01.03.2021
21/01143/DISCON	Discharge of condition 4 (Layout and Phasing Plan) of approved application 19/00524/OUT.	Approved	03.09.2021
21/01464/DISCON	Discharge of condition 15 (written scheme of investigation) of application 19/00524/OUT.	Part discharged	01.03.2022
22/00979/DETAIL	Reserved matters application with details of appearance, landscaping, layout and scale for the development of 277 dwellings, 1,910m2 commercial floorspace (B1 Uses),	Current	



railway footbridge, attenuation basins, open space, play equipment and associated infrastructure pursuant to outline permission 19/00524/OUT (Outline planning application with all matters reserved, except for access, for 280 dwellings, a 2 Form of Entry primary school, 56 place early years nursery, up to 3000 sqm of office (B1) buildings on 1 hectare and associated ancillary buildings, drainage systems, boundary treatments and hard surfacing as well as public open space, vehicular access from Thorpe Road a pedestrian footbridge and the closure of existing level crossing and formal diversion of public footpath No 5 - Weeley, over the new railway bridge) including minor alterations to public footpaths No.3 and No. 4 to allow for the proposed layout.

22/01301/DISCON	Discharge of conditions 17 (External lighting), 18 (Refuse collection), 19 (Hard and soft landscaping), 21 (External materials), 23 (Landscape and ecology management plan), 26 (Boundary treatments), 27 (Demolition plan), 36 (On site ecology mitigation), and 38 (Local recruitment strategy) of application 19/00524/OUT.	Current
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**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**

**16.03.2023**

The information submitted with the application has been assessed by the Highway Authority and conclusions have been drawn from a desktop study with the observations below based on the updated drawings. No site visit was undertaken in conjunction with this planning application. It is noted that the changes relate to the front-to-front distances between these two proposed bungalows and the existing bungalows opposite, this has now increased, and the changes have also allowed for greater manoeuvring space for cars accessing the proposed driveways, considering these factors:

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

1. Prior to commencement of the development a construction traffic management plan, to include but shall not be limited to details of vehicle/wheel cleaning facilities within the site and adjacent to the egress onto the highway, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the agreed plan.

Reason: To protect highway efficiency of movement and safety in accordance with policy DM1 of the Highway Authority's Development Management Policies as adopted as County Council Supplementary Guidance in February 2011

2. No occupation of the development shall take place until the following have been provided or completed:

a) The vehicular and pedestrian access arrangements as shown on the amended planning application drawings.

b) Residential Travel Information Packs in accordance with Essex County Council guidance.

Reason: To protect highway efficiency of movement and safety and to ensure the proposal site is accessible by more sustainable modes of transport such as public transport, cycling and walking, in accordance with policy DM1, DM9 and DM10

3. The proposed development shall not be occupied until such time as the vehicle parking areas indicated on the approved plans, has been hard surfaced, and sealed. The vehicle parking areas 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.

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.

**Tree & Landscape Officer**

**21.03.2023**

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

The applicant has provided details of soft landscaping, including tree planting, that will both soften and enhance the appearance of the development.

**UU Open Spaces**

**06.04.2023**

Public Realm Assessment

Play Space - current deficit: **Deficit of 1.37 hectares of equipped play in Weeley**

Formal Play - current deficit: **Deficit of 0.85 hectares of Open Space in Great Bromley**

Settlement provision: **Leap and Open Space provided at the village hall and recreation ground on Clacton Road located 1.4 miles away**

Officer Conclusions and Recommendations

Contribution necessary, related, and reasonable?

**-No contribution is being requested on this occasion, the provision is adequate to cope with some development**

**-Should the development increase in size a contribution maybe required.**

Identified project\*:

(In consultation with Town / Parish Council on upcoming projects or needs for maintenance)

**-None on this occasion**

## 5. Representations

### 5.1 Parish Council Consultation

Weeley Parish Council were consulted on three separate occasions about this application and objected to the application on each occasion. A summary of the main issues raised in each Parish Council consultation response is set out below:

#### 25<sup>th</sup> March 2023

Object to the applications for the following reasons.

- Object to this revised application for the same reasons that it objected to the original planning application (19/00524/OUT).
- Remain doubtful that the school and offices will be delivered, and they are likely to be replaced with more houses. The developer should be made to provide the school.
- Anglian Water are unable to resolve the foul water drainage issues pertaining to Barleyfields. No new housing should be allowed until this is resolved.

#### 24<sup>th</sup> March 2023

Object to the applications for the following reasons.

- The revised application does not address the issue of the narrow width of the road. It works at the moment because there are only bungalows on one side of the road and there is a turning head that provides access to the existing garages to Nos. 1 and 2. It is difficult to see how drivers would be able to manoeuvre directly into the garages on proposed plots 2 and 3.
- The revised plans still show the windows of the proposed homes closely overlooking the existing properties.
- Anglian Water are unable to resolve the foul water drainage issues pertaining to Barleyfields. No new housing should be allowed until this is resolved.
- The developer is proposing to shoehorn too many properties onto this site so this is over development.

#### 1<sup>st</sup> October 2022

Object to the applications for the following reasons.

- These dwellings should have their own access. Verity Gardens does not appear wide enough to accommodate the additional traffic and ensure that emergency vehicles would access the end dwelling.

- The proposed dwellings would be far too close to the existing houses allowing residents to peer into each other's homes.
- This is an example of over development.

## 5.2 Public Consultation

Representations objecting to the planning application have been received from seven households. A summary of the main issues raised are set out below:

### Principle of Development

- The Council can demonstrate a 5-year housing land supply even without the inclusion of a further 277/280 dwellings, so the development is unnecessary.
- This application should be considered with the larger scheme and a new access designed suitable to accommodate the additional traffic from both.

### Access Arrangements

- Verity Gardens is a narrow private drive which is barely wide enough to handle existing vehicle movements. The road is too narrow. Emergency vehicles would have difficulty entering which is particularly worrying as residents living in one of the properties require round the clock care. The three proposed properties should have their own access road.
- Verity Gardens is not owned by the applicant.
- There is no visitor parking.
- Residents do not use garages and end up parking their cars on the street.
- Sienna Mews and Maris Place residents struggle with parking and the day-to-day movement of vehicles and Verity Gardens would be the same.
- There is already overflow parking along Barleyfield Drive as the 20 dwellings have insufficient parking, but Barleyfield Drive will be far busier when it is the vehicular access to the main development.

### Impacts on existing residents

- Two residents living in Verity Gardens have severe learning disabilities and will not be able to cope with the change that the new development would bring, and it would adversely affect their quality of life.
- Residents right to privacy would be lost.
- Existing residents would not have bought properties if they knew this development was going to happen opposite their homes.
- The parking for plot 2 is directly in front of a bedroom window so reversing vehicles will be within 3m of their window. The kitchen, dining and lounge window of Plot 2 is 9m from the neighbour's bedroom windows and is slightly further from our other 2 bedrooms and lounge. 4 rooms are overlooked.
- The new properties are too close to the existing properties, which in the future could cause friction. Increasing the separation by 1.2m will have minimal effect.
- Other Councils require minimum of 22m between facing principal windows in order to retain sufficient privacy. Dispute the applicants claim that the proposed properties facing ours are no closer than on the current Barleyfields development.
- Rear gardens with 6-8ft fences would be more acceptable backing on to Verity Gardens.
- Development will add to queuing traffic along Barleyfield Drive resulting in noise and air quality issues for existing residents.
- No indications of how the developer will maintain access to existing residents and minimise pollution and general inconvenience during construction.

## Cumulative Impacts

- This application is part of a larger development that would see 280 new dwellings erected, adding 57% to the existing size of Weeley. The development will harm the character of the village. This larger development is mixed use, with offices and a new school, and only has a single point of vehicular access onto the already busy Thorpe Road. Existing and future residents will suffer congestion. These dwellings will add to existing problems with the foul sewage network. Anglian Water have been unable to find a solution to prevent the flooding of gardens and homes that already happens.

### 5.3 Member Call In

Cllr Peter Harris (Weeley & Tendring Ward) requested that the application is called-in to the Planning Committee for determination if Officers are not minded to refuse the application. Cllr Harris cites the following material planning considerations.

- The proposed 3 new properties are to share the existing access road which currently services 2 properties in Verity Gardens. The access is not suitable to serve a further 3 properties.
- The access road is clearly far too narrow for 5 houses to share as visitors will need to park on the road.
- Having 3 more properties sharing the access road could severely hamper emergency vehicles reaching the properties.
- The proposed properties are also very close to the current properties in Verity Gardens 9m window to window with the existing property opposite – destroying any privacy.

## 6. **Assessment**

### Site Context

- 6.1 Apart from the carriageway along Verity Gardens and Barleyfield Drive the application site is an undeveloped greenfield site. Currently a 1.2m high wooden post and rail fence runs along the southern side of the carriageway. On the northern side of Verity Gardens there are three dwellings – two 3-bedroom detached bungalows and a house on the corner plot facing Verity Gardens but with parking off Barleyfield Drive. The existing bungalows have red brick walls and red pantile roof covering. No.3 Verity Gardens has four parking spaces - two spaces within a double garage which is built at the end of the road and two spaces in front of the garage building. The neighbouring property has two spaces provided in a double garage which is built behind a turning head that extends between the two bungalows.

### Planning History

- 6.2 The application site forms part of a larger site that was granted Outline planning permission in August 2019 for a mixed use development containing up to 280 dwellings (application ref.19/00524/OUT).
- 6.3 The applicant has submitted an application for approval of the Reserved Matters pursuant to that Outline planning permission (application ref. 22/00979/DETAIL) which is also pending determination. When first submitted the Reserved Matters application included the land that now forms this application site. The original Reserved Matters application originally sought to deliver three new dwellings on this parcel of land with access over Verity Gardens. However, as Verity Gardens was not within the red line site boundary of the Outline planning permission the Council could not consider those dwellings under the Outline planning permission. The Reserved Matters application has been amended to exclude this parcel of land and now seeks approval for 277 dwellings rather than the original 280.
- 6.4 As the applicant still wishes to develop three dwellings on this land, with access off Verity Gardens this full planning application has been submitted. This application will need to be

assessed on its own merits and as a stand-alone application, despite clearly being part of the developer's wider plans to develop the land.

### Proposal

- 6.5 This application seeks Full planning permission for the erection of three dwellings on land on the south side of Verity Gardens.
- 6.6 The new dwellings would consist of two detached 2-bed bungalows and one 4-bed detached house. A double width garage would be constructed between the bungalows providing each dwelling with a parking space and a driveway in front of the garage, which would provide a further space for each dwelling. The house would be provided with its own double garage and two parking spaces in front.

### Principle of Development

- 6.7 The principle of residential development at this location has already been established by the granting of outline planning permission 19/00524/OUT which allows for up to 280 dwellings with vehicular access from Thorpe Road; a new Primary School and Early Years Childrens Nursery; up to 3000 sqm of office (B1) buildings; Public Open Space; a new footbridge over the railway line; and associated development.
- 6.8 The site lies within the Settlement Development Boundary (SDB) for Weeley and is also designated for a Mixed-Use development by virtue of Policy SAMU5 of the adopted Tendring District Local Plan 2013-2033 and Beyond (TDLP). These facts further emphasise that the principle of residential development on this site has been accepted by the Council. Whilst the concerns expressed by the Parish Council and local residents about the potential impacts about the development of up to 280 homes are noted, the Council's planning policies and the previous grant of Outline planning permission have all firmly established this to be a location where development is acceptable. Many of the issues raised about development, including traffic congestion, air quality and noise, impact on local character, visual impact, and infrastructure capacity, were all assessed as part of the outline application and were either found to be acceptable, or capable of mitigation as part of the larger development.
- 6.9 In the interests of proper planning the Council would not want to consider an application on part of an allocated mixed use development site that would in some way prejudice the delivery of the remainder of the site. The layout and phasing plan, approved through the discharge of Condition 4 of the Outline planning permission, has shown residential development on this site and Officers do not consider that these proposals would prejudice delivery of any of the other uses envisaged in Policy SAMU5 (up to 280 residential dwellings, up to 3000sqm of office space; a Primary School and Nursery and public open space).

### Scale, Layout & Appearance

- 6.10 It is proposed that two no. 2-bedroom detached bungalows are erected opposite the existing two detached bungalows on Verity Gardens. This scale of development is considered to be the appropriate design response in terms of scale. On Plot 1 the applicant proposes a much larger 4-bed detached house. A substantial building of this scale is also considered to be appropriate for this location which will be the key entrance to the development. The transition from bungalow to large, detached family house can sometimes be problematic but in this instance the detached house will sit in a generous corner plot, facing out back towards Barleyfield Drive. The house will also be separated from the bungalows by a detached double garage, and it will also relate to other houses further along Barleyfield Drive. Given all these factors the scale of the three dwellings and the change in scale across the application site is considered to be acceptable.

- 6.11 The two 'house types' are taken from the range of house types proposed for the larger development to the south. The architectural style is considered appropriate for the village and site context and the buildings display attractive architectural features. The proposed materials for the three dwellings are taken from the palette of materials that the applicant has proposed for use on the larger site. The bungalows are proposed to be clad in a red / orange brick, with a black pantile roof covering. Whilst not stated on the materials plan submitted with the application the front projection is shown on the drawing to be clad with a white render. The garage would be built in a matching brick but with a dark red pantile roof. The house in contrast is proposed to be clad in a red stock brick with dark red plain tile on the main roof and imitation slate on the single storey rear 'addition'. The detached garage for the house would be clad in the same brick as the house under a dark red pantile roof. Whilst a material plan is included for approval, listing specific materials, the plan is annotated to say that the actual materials will be as listed or a material of a similar appearance. The Council will need to be clear on the materials that are being used so the submitted materials plan and schedule cannot be approved and details will be required by condition.
- 6.12 The plans show a 1.8m high brick wall will be erected around the public facing boundary to the side of Plot 1 screening the rear garden. The plot occupies an exposed and prominent location within the streetscene. This is considered to be an appropriate means of enclosure, but no details of the material or design of the wall have been supplied. In addition, the boundary treatment plan shows no mean of enclosure along the boundary of Plot 1 and Verity Gardens. This is a relatively long and again prominent boundary and Officers consider some form of enclosure should be provided to differentiate between the public and private realm. A condition is recommended to obtain and approve these details. Permitted development rights are also recommended to be removed for new enclosures forward and to the north of Plot 1 to prevent harsh or high level boundary treatments being erected in the future to enclose this large and prominent front garden area.
- 6.13 A plan showing where refuse and recycling will be presented for collection has been submitted with the application. This shows bins / bags being presented directly in front of the dwellings. These collection points are more than 20m from Barleyfield Drive and would therefore only be acceptable if the Council's refuse vehicles were to enter Verity Gardens. The Council's Waste Manager has not provided a consultation response at the time of writing this report to confirm whether this arrangement is acceptable, so a condition is recommended to ensure that details of appropriate refuse and recycling collection points are agreed by the Council. This could include details of a bin collection point, which would need to be designed in, if required by the Council's Waste Manager.
- 6.14 Subject to these conditions the scale, layout and appearance of the development is considered to be acceptable.

#### Highway Safety/Parking

- 6.15 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.
- 6.16 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.

- 6.17 The application site is approximately 85m south of the Thorpe Road (B1033). Vehicular access to the proposed dwellings will be from Verity Gardens, which is an existing road leading off Barleyfield Drive, which is currently a 5.5m wide carriageway with footways. It is proposed that Barleyfield Drive is widened to provide a 6.75m wide carriageway on the planning drawings but the purpose of this widening is to serve the much larger development on land further to the south (19/00524/OUT). Barleyfield Drive currently serves 20 dwellings and Officers do not consider that it would be necessary to widen Barleyfield Drive to a 6.75m wide carriageway to serve the additional three dwellings proposed by this application.
- 6.18 The Essex Design Guide Street Type Table sets out the standards for different roads types in Essex. A 'Type H' road – Private Drive – is appropriate to serve a maximum of 5 dwellings and should be 5.5m wide for the first 6m then taper down to a lesser, unspecified, width. Verity Gardens would comply with these standards, with the road serving the two existing bungalows and the three new dwellings.
- 6.19 Essex County Council as the Highway Authority were consulted on the application and they have raised no objection in respect of highway safety or capacity, subject to conditions. The recommended conditions are for the applicant to provide details and get approval for a Construction Traffic Management Plan and Resident's Travel Information Packs. A condition is also recommended requiring that the parking spaces for the dwellings are available prior to the dwellings being occupied. For the reasons set out above Officers have not applied the recommended condition requiring the applicant to carry out the 'vehicular and pedestrian access arrangements as shown on the amended planning application drawings'.
- 6.20 The Council's adopted Parking Standards require the provision of at least two car parking spaces for each new dwelling that meets the minimum car parking standards where one space measures 5.5m x 2.9m, or where parking is provided within garages this must measure 7m x 3m. The proposed development meets the Council's adopted minimum parking standards.
- 6.21 Concerns have been raised about the ability of vehicles to manoeuvre into and out of the parking spaces between the bungalows given the width of carriageway on Verity Gardens. The applicant has acknowledged these concerns and as well as adjusting the distance between the dwellings they have also set the parking spaces further back from the edge of the carriageway. The spaces on the driveway are now set back by 2.5m from the edge of the carriageway with the driveways splayed to further aid driver manoeuvres. Officers consider that the proposed scheme provides sufficient turning space for the parking spaces to be useable.
- 6.22 The Council's parking standards also require that visitor car parking is provided to serve new housing, at a rate of one visitor space for every four dwellings. When Verity Gardens was approved a visitor parking space was incorporated in the layout on the northern side of the road and is secured for retention via condition on 14/01841/DETAIL. The proposed house also includes a third off street parking space as a visitor parking space to serve that dwelling.
- 6.23 All three dwellings will be provided with garages that will be large enough to store a vehicle and a bicycle so there is no requirement for additional cycle parking to be provided. A condition is recommended that each dwelling will be fitted with an electric vehicle charging point required to support more sustainable transport modes.

#### Landscaping/Biodiversity

- 6.24 The site is currently open and relatively bare. No trees or hedges would be affected by the proposals. A soft landscaping scheme has been submitted with the application and the Council's Tree and Landscape Officer raises no objection to the proposals.
- 6.25 This area of land was subject to extensive ecological investigation as part of the consideration of the Outline planning permission. The applicant has commissioned an updated Protected Species



survey, which included a further assessment of the habitats on the whole of the site which has Outline planning permission. This application site is recorded as being in an area of Improved Grassland. The report references some bat commuting activity, and a low number of adders were noted within the vicinity of the site.

- 6.26 Whilst the Council's Ecologist has not provided a consultation response to this particular application, they have assessed the report as part of the Reserved Matters application for the larger site and they confirmed that the Council has sufficient information to determine the application and that they do not object to the application, subject to the mitigation secured through the Outline planning permission. As protected species were found in the vicinity of the site the principal concern is to make sure that the development does not inadvertently harm any protected species during the construction process. A condition is recommended that the applicant produce a targeted Construction Environment Management Plan to ensure that if this parcel of land were to be developed in isolation suitable measures would be employed to guard against harm to protected species.
- 6.27 The site has been identified as falling within the 'Zone of Influence' (Zoi) of a number of European designated sites scoped into the Essex Coastal Recreational disturbance Avoidance and Mitigation Strategy (RAMS) – namely the Hamford Water Special Protection Area (SPA), Ramsar site and Site of Special Scientific Interest (SSSI); the Essex Estuaries Special Area of Conservation (SAC); the Colne Estuary SPA, Ramsar site and SSSI; and the Stour and Orwell Estuaries SPA, Ramsar site and SSSI. In the context of the Council's duty as 'competent authority' under the provisions of the Habitats Regulations, it is therefore anticipated that, without mitigation, new residential development in this location is *'likely to have a significant effect on one or more European designated sites through increased recreation pressure, either when considered 'alone' or 'in combination' with other plans or projects.'*
- 6.28 The site was also identified as having the potential to impact on the Weeley Hall Wood SSSI (which does not fall within the Essex Coast RAMS).
- 6.29 Suitable mitigation has been secured through the planning conditions and obligations attached to the Outline planning permission which included this application site. The development would be linked to the main Section 106 agreement and as such officers are content that no further mitigation needs to be specified in connection with this application.

#### Impact on Residential Amenity

- 6.30 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.
- 6.31 Strong objections have been raised by parties objecting to the impact the new dwellings would have on the existing residents of Verity Gardens.
- 6.32 With regards to the potential loss of privacy the development would see residents living opposite the existing residents who currently have an outlook over fields. The existing bungalows do have windows to habitable rooms at the front of the property. Having people living opposite will mean that those windows will have people looking at them more often, but those windows are already exposed to the public realm so neighbours, visitors and delivery drivers will already pass these windows, so there is a reduced expectation of privacy compared to windows which would be on the rear elevation of a dwelling. Even if the development is approved the residents of Verity Gardens will still be likely to have relatively low numbers of people passing their properties and any views that residents opposite would have will only be from ground floor windows.

6.33 The applicant has revisited their original plans and to provide slightly more separation the proposed bungalows have been moved back by 1.2m so that there is now almost 11m between the front elevations of the facing bungalows. This slightly greater separation should also reduce the proximity of vehicle manoeuvres as residents drive in and out of the new dwellings. Whilst it is accepted that the development will significantly alter the outlook of these properties it is not considered that the proposals would have a materially damaging impact on their privacy, or other amenities, such that the application should be refused.

6.34 A number of representations reference two of the existing residents, living together at the end of Verity Gardens, who have severe disabilities which require round the clock care. The family have said that they bought the property at the end of the cul-de-sac in the expectation that the property would provide suitable living conditions and that the area around their home would continue to meet their needs. They feel aggrieved that the proposed development will bring changes that their family members may experience difficulty in coping with. Whilst we are sympathetic, any assurances given and subsequently relied upon is a private matter between the family and the developer and/or their agents and are not material planning considerations in the determination of this application. The Council's planning policies and the previous grant of Outline planning permission have all firmly established this to be a location where residential development is acceptable, and so must be lawfully considered against current planning policy. However, all planning decisions must also have due regard to the impact on those with protected characteristics under the Equality Act 2010 (including section 29(1) and (6); and the general equality duty which is set out in section 149 of the Equality Act 2010). The Local Planning Authority is mindful that development of the nature sought may have a different impact on such individuals as opposed to those without such characteristics, especially through construction as the environment changes and ongoing increased disturbance of increased domestic activity in the surrounding area. The planning balance is to consider the level of harm to amenity against the benefits and merits of the scheme. In the finer balance it is considered that given the design of the scheme, alternative uses of the site without the need for permission, existing public access, housing need and benefit and noting the surrounding development that a robust refusal on harm to amenity in this regard could not be defended.

6.35 We consider that the wider public benefit in adding to the available housing stock that this development would bring is also an important consideration and therefore we recommend that approval of the application is a proportionate response to achieving a legitimate aim having regard to the interests of all. The applicant has confirmed they are willing to agree a Construction Management Plan as a pre-commencement condition which will set out the measures they can employ to further limit disturbance during construction. Further enquiries are also underway to establish whether there are reasonable adjustments that could be included by way of lawful planning conditions that could mitigate any adverse impact on the individuals concerned, and further information on this point will be available on the update sheet.

6.36 In conclusion, Officers do not consider that the proposed development would be contrary to the Council's planning policies and warrant refusal on grounds of adverse impact on neighbour amenity.

#### Section 106 of the Town and Country Planning Act 1990 and Viability Matters

6.37 A planning application providing just three residential dwellings would not usually need to be subject to a Section 106 agreement, however the applicant acknowledges that these three dwellings form part of a larger development and they do not seek to separate these dwellings from the planning obligations for the larger site.

6.38 The applicant has prepared a Unilateral Undertaking that effectively ties this Full application to the main development, and the associated Section 106 agreement, so that the three dwellings are bound by and subject to the provisions and obligations contained within that agreement. The

Unilateral Undertaking also ensures no more than 280 Dwellings shall be constructed on the combined area of the application site (22/01332/FUL) and the outline site (19/00524/OUT) and that the 3 residential units constructed under this application are not in addition to the 280 residential units permitted under the outline planning permission. Furthermore, in the interests of proper planning the Council would not want to consider an application on part of an allocated mixed use development site that would in some way prejudice the delivery of the remainder of the site. The Unilateral Undertaking therefore ensures the planning permission for this application (22/01332/FUL) cannot be implemented unless and until the outline planning permission (19/00524/OUT) has commenced. This planning permission (22/01332/FUL) must also be implemented prior to the occupation of 50 dwellings under the outline planning permission (19/00524/OUT), to ensure that the dwellings come forward in a timely manner and to reduce the period of time that the existing residents could be exposed to the potential impact of construction activity on the main site.

6.39 The Unilateral Undertaking is signed and awaiting final completion pending Member's determination of this application.

## **7. Conclusion**

7.1 The principle of residential development at this location has previously been accepted, as evidenced by the grant of outline planning permission (19/00524/OUT) for up to 280 dwellings in 2019. The site now lies within the Settlement Development Boundary for Weeley where there is a presumption in favour of sustainable development. Furthermore, the site forms part of a larger site allocated for mixed-use residential led development in the adopted Development Plan. As such, there is no policy conflict in principle with the proposed residential development of this land.

7.2 There is also no concern over vehicular access from Thorpe Road via Barleyfield Drive. Concerns have been expressed about the narrowness of Verity Gardens and its capacity to accommodate the additional vehicle movements from three additional dwellings. However, the proposed development complies with the Council's adopted parking standards and Officers consider that the proposed dwellings can be safely and reasonably accessed.

7.3 The scale, appearance and landscaping of the proposal are considered acceptable and would be appropriate in character and appearance with reference to the existing development of twenty dwellings at Barleyfield Drive and the proposed development of 277 dwellings to the south. 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 Unilateral Undertaking to link this planning permission to the planning permission 19/00524/OUT and the associated Section 106 agreement, in order that the dwellings constructed under 22/01332/FUL are dwellings for the purposes of the Section 106 legal agreement and are bound by and subject to the provisions and obligations contained within that agreement. No more than 280 Dwellings shall be constructed on the combined area of the application site (22/01332/FUL) and the outline site (19/00524/OUT) and that the 3 residential units constructed under this application are not in addition to the 280 residential units permitted under the outline planning permission. Not to implement the planning permission for this application (22/01332/FUL) unless and until the outline planning permission (19/00524/OUT) has commenced. To implement this planning permission (22/01332/FUL) prior to the occupation of 50 dwellings under the outline planning permission (19/00524/OUT).

### **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.

NOTES 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 of 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. 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 Drawing 21/12/100 Rev.E received 09.08.2023.

Proposed Site Plan – 21/12/102 Rev.E

The Braithwaite Floor Plans & Elevations – 21/12/38 Rev.D

The Cecilia Floor Plans & Elevations – 21/12/21 Rev.D

Proposed Outbuildings - 21/12/39 Rev.D

External Works Materials Plan – 21/12/107 Rev.E

Detailed Planting Proposals – Plot 1-3 – 2467-LLA-ZZ-00-DR-L-0218 Rev.P03

Amended Parking Layout Plan – 21/12/103 Rev.E

Amended Boundary Treatment Plan – 21/12/105 Rev.E

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

NOTES 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.

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

3. 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 roads adjoining the site.
- e) Details of any means of access to the site during construction.
- f) Details of the scheduled timing/phasing of development for the overall construction period.
- g) Details of measures to control the emission of dust and dirt during construction and including details of any wheel washing to be undertaken, management and location it is intended to take place.
- h) Details of the siting of any on site compounds and portaloo's.
- i) Details of the erection and maintenance of security hoarding.
- j) Scheme for sustainable construction management to ensure effective water and energy use.
- k) Scheme of review of complaints from neighbours.
- l) Registration and details of a Considerate Constructors Scheme

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.

4. FURTHER APPROVAL – WASTE STRATEGY

CONDITION: No development above slab level shall take place until there has been submitted to and approved, in writing, by the Local Planning Authority, details of the storage for refuse/recycling bins and any collection areas shall be submitted to and approved, in writing, by the Local Planning Authority. The approved areas shall be provided prior to first occupation/use and thereafter retained as approved.

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

5. 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.

NOTES FOR CONDITION:

Slab level 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 visualised 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.

6. FURTHER APPROVAL – LIGHTING

CONDITION: No development above slab level shall take place until a lighting design scheme for biodiversity has been submitted to and approved in writing by the local planning authority. The scheme shall identify those features on site that are particularly sensitive for bats and that are likely to cause disturbance along important routes used for foraging; and show how and where external lighting will be installed (through the provision of appropriate lighting contour plans, Isolux drawings and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory.

All external lighting shall be installed in accordance with the specifications and locations set out in the scheme and maintained thereafter in accordance with the scheme. Under no circumstances should any other external lighting be installed without prior written consent from the Local Planning Authority.

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

## 7. 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 has been 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.

### NOTES FOR CONDITION:

Slab level 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 visualised above ground level or seek confirmation from the Local Planning Authority for your development.

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

## 8. FURTHER APPROVAL – CEMP

CONDITION: No development shall take place, (including any demolition, ground works, site clearance, vegetation clearance) until a construction environmental management plan (CEMP: Biodiversity) has been submitted to and approved in writing by the Local Planning Authority. The CEMP: Biodiversity shall include the following:

- i) Risk assessment of potentially damaging construction activities
- ii) Identification of 'biodiversity protection zones'
- iii) Practical measures (both physical measures and sensitive working practices) to avoid or reduce the impacts of construction (this may be provided as a set of method statements)
- iv) The location and timing of sensitive works to avoid harm to biodiversity features
- v) The times during the construction process when specialist ecologists need to be present on site to oversee works
- vi) Responsible persons and lines of communication
- vii) The role and responsibilities on site of an ecological clerk of works (EcOW) or similarly competent person
- viii) Use of protective fences, exclusion barriers and warning signs.
- ix) Containment, control and removal of any Invasive non-native species present on site

The approved CEMP: Biodiversity shall be adhered to and implemented throughout the construction period in strict accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To conserve Protected and Priority species and allow the LPA to discharge its duties under the UK Habitats Regulations 2017, the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species). This condition is required to be agreed prior to the commencement of any development, including site clearance, as any potential disturbance of the site before appropriate measures are put in place could result in harm to protected species.

9. RESIDENTIAL TRAVEL INFORMATION PACK

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

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

10. 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 have been provided and made functionally available. The areas shall then be retained as approved 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.

11. FURTHER APPROVAL – SCREEN WALLS AND FENCES

Prior to first occupation of the development hereby approved details of all gates / fences / walls or other means of enclosure shall be submitted to and approved in writing by the Local Planning Authority. The details shall include position, design, height and materials of the enclosures, and shall include details of a suitable means of enclosure along the boundary of Plot 1 and Verity Gardens. The enclosures as approved shall be provided prior to the occupation of the development hereby approved and shall be permanently maintained as such.

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

12. 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.

### 13. FURTHER APPROVAL – BROADBAND

CONDITION: The hereby permitted development shall not be occupied until a fibre optic broadband connection installed on an open access basis and directly accessed from the nearest exchange, incorporating the use of resistant tubing, has been installed at the site, in accordance with details that shall be submitted and approved, in writing, by the Local Planning Authority. If the applicant is unable to achieve this standard of connection, and can evidence through consultation that it would not be possible, practical or economically viable an alternative superfast (i.e. will provide speeds greater than 24mbps) wireless service will be considered acceptable.

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

### 14. SPECIFIC RESTRICTION ON DEVELOPMENT: REMOVAL OF PERMITTED DEVELOPMENT RIGHTS ENCLOSURES

CONDITION: Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015, (or any Order revoking and re-enacting that Order with or without modification):- no fence, gate, wall or any other means of enclosure shall be erected forward (west) or north of Plot 1 except pursuant to the grant of planning permission on an application made in that regard.

REASON: To enable the Local Planning Authority to retain control over the development in the interests of the amenity of the locality and to safeguard local distinctiveness.

## 8.3 Conditions and Reasons

### 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.

1: The above requirements should be imposed by way of negative planning conditions or planning obligation agreements as appropriate

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](mailto:development.management@essexhighways.org)

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

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

## **9. Additional Considerations**

### Public Sector Equality Duty (PSED)

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

### Human Rights

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

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

#### Finance Implications

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

#### **10 Background Papers**

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

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## PLANNING COMMITTEE

28 SEPTEMBER 2023

### REPORT OF THE DIRECTOR OF PLANNING

#### **A.4. REVISED PLANNING ENFORCEMENT POLICY AND HARM RISK ASSESSMENT PRIORITISATION SCHEME**

(Report prepared by Gary Guiver)

#### **PART 1 – KEY INFORMATION**

<b>PURPOSE OF THE REPORT</b>
To seek Planning Committee approval for a revised version of the Council's Planning Enforcement Policy document and associated Harm Risk Assessment Prioritisation Scheme.
<b>EXECUTIVE SUMMARY</b>
<p>The National Planning Policy Framework (NPPF) requires local planning authorities to consider publishing a local planning enforcement policy or plan which describes how the Council will manage planning enforcement in a way which is appropriate to their specific area. The NPPF also makes clear that planning enforcement is discretionary and local authorities should act proportionately in responding to breaches of planning control.</p> <p>The purpose of the Enforcement Policy is to provide elected Members and the wider public with a clear understanding of how planning enforcement will be delivered and the criteria used in making assessment of potential breaches of planning law.</p> <p>The Council's current Planning Enforcement Policy was adopted, by decision of the Planning Committee following its meeting on 1 September 2022. The revised version incorporates specific changes recommended by the Resource and Services Overview and Scrutiny Committee following the report of the Task &amp; Finish Working Group looking at the Council's Planning Enforcement Function, subsequently endorsed by the Cabinet.</p>
<b>RECOMMENDATIONS</b>
<b>That the Planning Committee agrees to the adoption of the revised version of the Planning Enforcement Policy 2003 (attached at Appendix 1) and the associated Harm Risk Assessment Prioritisation Scheme (attached at Appendix 2).</b>

## PART 2 – IMPLICATIONS OF THE DECISION

### DELIVERING PRIORITIES

A corporate priority of the Council is ensuring that as part of delivering high quality services the Council has a proactive planning service. This document contributes to that aim.

### RESOURCES AND RISK

**Resources:** There are no direct resource implications in producing and adopting these documents although implementation relies on having a full complement of planning enforcement staff in place.

**Risks:** Adoption of the revised document sets down the standards the public can expect from the planning enforcement function of the Council. Delivery of the proposed standards of service is therefore essential to manage expectations and utilise resources in an appropriate manner.

### LEGAL

As noted above the NPPF expects Councils to publish a planning enforcement policy or plan demonstrating how local authorities will manage planning enforcement in a way which is appropriate to their specific area. The policy should be implemented in accordance with national legislation contained under the Town and County Planning Act 1990 along with policy contained in the NPPF and the adopted Local Plan.

### OTHER IMPLICATIONS

**Crime and Disorder:** In some cases breaches of planning legislation can significantly impact on the local population and where appropriate such cases will be referred to court seeking full mitigation of the impacts of unauthorised development. Having an up to date enforcement policy document in place assists in supporting legal action.

**Equality and Diversity:** There are no equalities implications. All alleged breaches of planning enforcement will be investigated with complete impartiality and investigated in accordance with the standards and timescales set down with the adopted policy document.

**Health Inequalities:** Ensuring that breaches of planning control which adversely affect the local population are fully mitigated or removed clearly contributes to addressing issues of health inequality not least in improving the quality of the local environment.

**Area or Ward affected:** All.

## **PART 3 – SUPPORTING INFORMATION**

### **BACKGROUND**

The purpose of the Planning Enforcement Policy document is the establishment of a set of standards and procedures on how the Council will respond to suspected breaches of planning control, deciding on what action should be taken as well as monitoring the implementation of new development through conditions monitoring.

It perhaps should be noted that it is not a criminal offence to undertake unauthorised works but it remains open to the Council to take legal action against such works and refer matters to the Courts if necessary. As noted within the NPPF such action is discretionary and should be proportionate taking into account the impacts of the particular unauthorised development. Where at all possible negotiation should be used to remedy a particular case with formal enforcement action or legal action being a last resort. The majority of cases are resolved through negotiation.

It may be the case therefore that in minor cases where the impacts of development are negligible or have little adverse impact on the wider public realm that any further action following investigation is unnecessary. Often the Council will seek a retrospective planning application where the development is generally in compliance with planning policy but can then be subject to control by planning condition. On occasion however breaches of planning can be considered as having such a serious impact on amenity and the environment and cessation or removal of such development is the only option. Such cases may require determination by the courts.

It is important that cases are prioritised and that serious breaches of planning law or policy are dealt with quickly (i.e. unauthorised demolition of a listed building). How we prioritise such investigation is set down within the proposed policy along with a Harm Risk Priority Assessment Scheme (see Appendix B) which establishes a set of criteria for how officers prioritise case work.

The Planning Enforcement Policy document is an important guide to how the Council undertake enforcement action and how we prioritise such action. It provides transparency to the public as to how decisions on enforcement are reached and provides clarity to those involved in the enforcement process.

### **PLANNING ENFORCEMENT POLICY**

Planning enforcement is a key function of the Development Management process and assists the Council in delivering a proactive planning service in line with Corporate priorities. It is a high profile element of the service and how the Council deal with enforcement issues should be clear and transparent.

The policy sets down how alleged breaches of planning control should be reported to the Council and how these will be dealt with in priority order. Where breaches do occur the Council will work with developers, businesses and individuals to ensure they seek compliance with planning policy or remedy the impacts of the development in question. In the majority of cases compliance is achieved through negotiation with formal enforcement action (i.e. serving of an enforcement notice or an injunction) as a last resort.

The types of development subject to planning control include building works, changes of use, works to listed buildings, trees and hedges, control of advertisements. Normally enforcement action should only be carried out in the public interest and where the impacts are 'material' such as loss of light/amenity, highway safety, adverse impact on the character of the area. The policy also lists the various options open to the Council in terms of the type of enforcement action to take – this can include the serving of Planning Contravention Notices, Stop Notices, Breach of Condition Notices and in rare cases the serving of injunctions.

The Enforcement Policy sets down how the Council will follow the 'principles of good enforcement' including establishing and following a set of service standards, being open and transparent, being helpful, consistent in decision making, making proportional decisions and being accountable.

In terms of service standards the Council have established a priority system for dealing with enforcement matters which reflects the level of seriousness of the complaint/breach reported. Priorities are listed 1 to 4 with 1 being the highest priority case and 4 the lowest (see paragraph 7.2 of the document).

A priority 1 case for instance requires officers to investigate the case within 2 days and preferably within 1 day particularly where the potential harm is irreversible such as demolition of a listed building or protected tree. Priority 2 cases which must be assessed within 5 working days include unauthorised development in a conservation area or non-compliance with a planning condition. Examples where the time frame for action can be extended (i.e. Priority 3 cases) might include display of unauthorised adverts, untidy land or minor infringements of policy or legislation.

The Council is committed to responding to complaints within 3 working days and ensuring that complainants are kept updated with progress on their specific case.

In addition to dealing with complaints made direct to the Planning Service enforcement officers also work with other teams across the Council in proactively seeking to improve specific locations or buildings particularly in cases where the development in question is in breach of different areas of legislation (environmental health or housing standards for instance) as well as planning law. This can include the serving of section 215 notices to remove adverts, untidy land and buildings in severe disrepair.

Attached at Appendix B is a revised Harm Risk Priority Assessment Scheme which sets down the criteria for how officers prioritise the investigation of alleged breaches of planning control. As noted



the scheme provides a grade for the level of harm being caused – in the majority of cases enforcement action will be taken if the total harm score is 6 or more. The criteria used covers a wide range of development impacts including urgency (i.e. works to a listed building), highway safety impacts, policy compliance, extent of harm etc. This is a similar method also used by other Essex local planning authorities.

There will be occasion where a score might fall below 6 but officers may consider it still expedient to undertake enforcement action. However the Harm Assessment Form provides a useful guide to officers in making their initial assessment of a particular case and ensures that each case dealt with can be undertaken in an open and transparent manner, provides speed and flexibility of assessment and ensures equality of decision is made.

In conclusion the Planning Enforcement Policy establishes the framework of how the Council will deliver its planning enforcement function and will contribute to providing a proactive planning service. It establishes how cases will be prioritised and sets down standards of service that the public can expect when making an enforcement complaint. It is recommended that the Committee adopt the revised Planning Enforcement Policy document.

## **PROPOSED CHANGES**

In October 2022, shortly after the adoption of the current Planning Enforcement Policy and Harm Risk Assessment Prioritisation Scheme, a Task & Finish Working Group was set up by the Council's Resources and Services Overview and Scrutiny Committee to look at the Council's Planning Enforcement Function. One of the areas for inquiry was around policy to:

- To review the Council's Planning Enforcement Policy which sets out the available powers and the approach that the Council will take when receiving, investigating and, where appropriate, taking action against alleged breaches of planning control.
- To review the associated 'harm risk assessment' which is used by Officers to prioritise the investigation of cases and to inform decisions about appropriate levels of action going forward.
- To recommend improvements to the Planning Enforcement Policy and harm risk assessment as deemed necessary to improve the effectiveness of approach.

In its final report dated 14 February 2023, the Task & Finish Working Group recommended a selected number of changes to the Planning Enforcement Policy and the Harm Risk Assessment Scheme which were considered and endorsed by the Resources and Services Overview Scrutiny Committee at its meeting on 13 March 2023. These were subsequently reported to the Cabinet on 23 June 2023.

The proposed changes are set out as follows:

## Planning Enforcement Policy

The first paragraph on Page 19, to be updated with the addition of the following underlined wording:

*The result of the harm assessment by the twentieth day will allow the decision on “harm” to be incorporated in the 21 day update letter sent to complainants to inform them of the investigation findings and proposed action. Where the Council decides that action is required, it will thereafter aim to update the complainants at least once every 21 days on any progress, or as otherwise necessary.*

## Harm Risk Assessment Prioritisation Scheme

Under section 3 ‘Operational Aspects’, to include the following additional wording to the second paragraph:

*The result of the harm assessment by the twentieth day will allow the decision on “harm” to be incorporated in the Service’s normal 21 day update letter to complainants informing them of the Service’s findings and intended action or, where applicable, that no additional is to be taken. Where the Council determines that action is required, it will thereafter aim to update the complainants at least once every 21 days on any progress, or as otherwise necessary.*

In the harm assessment form, to make the following changes (deletions shown as ~~struck through~~ and additions shown as underlined):

Points Allocation		Score
1	Urgency: Is the <del>breach</del> <u>enforcement matter</u> :	Ongoing (1) Getting worse (2) <u>Stable/Paused</u> (0)
2	Highway safety issues:	Yes (2) No (0)
3	Danger to public or animal safety:	Yes (2) No (0)
4	Does the alleged breach cause a statutory or serious environmental issue such as noise pollution, odour, flood risk?	<u>Causes Flood Risk (2)</u> <u>Noise/disturbance concerns (2)</u> <u>Pollution/odour (2)</u> <u>Light pollution (2)</u> <u>Other (1)</u> <del>Yes (2)</del> No (0)
5	Complainant:  <u>(Note that all complainant details will be kept confidential, however providing a named contact will enable the Council to update the complainant and seek potentially useful additional information from them)</u>	<del>TDC Member (2)</del> <del>Named member of public (2)</del> <del>Statutory agency (2)</del> <del>Member of staff (2)</del> <del>Parish Council (2)</del> Named (2) Anonymous / malicious (0)

6	Timescale i.e. time remaining before enforcement action can no longer be taken & lawful use rights exist (i.e. 4 years & 10 year enforcement period)  <u>Affects listed buildings, protected trees, Conservation Areas or other protected assets:</u>	<del>Less than 3 months (1)</del> <del>More than 3 months (2)</del> <del>More than 4 years if exempt (0)</del> <del>More than 10 years (0)</del>  <u>Yes (2)</u> <u>No (0)</u>	
7	<del>Contrary to Local</del> <u>the Development Plan or including Neighbourhood Plan</u> policy?	<del>Yes (2)</del> <del>No (0)</del>	
8	Extent of harm	<del>Widespread (2)</del> <del>Local (e.g. within the street area) (1)</del> <del>None (0)</del>	
9	Is harm irreversible (e.g. has it, or could it, result in the loss of irreplaceable assets?)	<del>Yes (2)</del> <del>No (0)</del>	
10	Intensity of activity	<del>High (2)</del> <del>Low (1)</del> <del>Negligible (0)</del>	
11	Breach of planning condition <u>(including divergence from approved plans)?</u>	<del>Yes (1)</del> <del>No (0)</del>	
12	Impact on <u>residential</u> amenity	<del>Long term (2)</del> <del>Short term (1)</del> <u>N/a (0)</u>	
13	Previous enforcement action/ <u>relevant</u> planning history <u>at the site/premises</u>	<del>Yes (1)</del> <del>No (0)</del>	
14	<del>Safety hazards (specify)</del>	<del>Yes (1)</del> <del>No (0)</del>	
15	<del>Undesirable precedent?</del>	<del>Yes (1)</del> <del>No (0)</del>	

## APPENDICES

Appendix 1: Revised Planning Enforcement Policy 2023

Appendix 2: Revised Harm Risk Assessment Priority Scheme 2023

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# **LOCAL PLANNING ENFORCEMENT POLICY**

**V.3: SEPTEMBER 2023**





## VERSION HISTORY

Version	Date	Details
V.1	2010	Created
V.2	01.09.2022	Revised & Updated
V.3	18.09.2023	Revised & Updated



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## Adopted Policy

This policy was adopted by Tendring District Council on 1st September 2022 as working practice. It is complimentary to the Council's Corporate Enforcement Strategy adopted in September 2017 and replaces the Council's Planning Enforcement Policy dated 2010 and the Enforcement Manual dated July 2008.

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## 1. INTRODUCTION

This Local Enforcement Policy relates to Tendring District Council's Planning Enforcement service. It describes the purpose of the service and how it will be delivered within the Tendring District.

Tendring District Council is a Local Planning Authority and has responsibility to investigate and enforce breaches of planning control where it is in the public interest to do so. The ability to remedy harmful breaches of planning control allows us to protect the quality of life for the people who live, work and visit Tendring, and the quality of the District's built and natural environment.

The decision whether to take enforcement action against breaches of planning control is discretionary and this Policy sets out the Council's policy and procedures for dealing with alleged breaches of planning control including the principles adopted in the exercise of that discretion.

The Policy explains how alleged breaches of planning control should be reported to the Council and also sets out how these will be prioritised, adopting a risk based approach, to ensure that the Council's resources are put to the best use in dealing with the most serious and harmful breaches of planning control. It also explains how alleged breaches will be investigated, and the options available to the Council to take action.

Effective and well-targeted enforcement is essential in promoting fairness and protection from harm, and the Council adopts a positive and proactive approach towards ensuring compliance, helping and encouraging businesses and individuals to understand and meet planning controls, and responding proportionately to breaches. There is significant public interest in the enforcement of planning control and effective enforcement is critical to the Council's reputation.

The Policy is intended to ensure that the public, Councillors and officers are aware of the Council's approach to planning enforcement, and to provide greater certainty for all parties engaged in the planning enforcement service process.

In this document 'enforcement' includes any action taken by the Council aimed at ensuring that individuals and businesses comply with planning regulations. The term 'enforcement' has a wide meaning and applies to all dealings between the Council and those upon whom the law places responsibilities, so can include a range of interventions that seek to achieve compliance. 'Formal enforcement action' refers to the exercise of statutory powers to secure compliance, including but not limited to, the issue of an enforcement notice, a prosecution or injunction.

Trees protected by a Tree Preservation Order or in a Conservation Area, and the display of advertisements are also included in this Policy. The Policy also deals with protected hedgerows under the Hedgerows Regulations.



However there is separate legislation and an application process to deal with issues concerning the impact of high hedges on neighbours and this Policy does not relate to high hedges.

If you have a query concerning high hedges please refer to the following: 'High Hedges – A guide to the new High Hedges Legislation' and 'High Hedges – Criteria for resolving disputes' which are available on the Council website.

The Council will review the content of this document on a four yearly basis, ensuring that the Policy is compliant with National and local planning policy and is kept up to date in terms of good practice.

## **2. THE PURPOSE OF PLANNING ENFORCEMENT**

Planning permission is required for the carrying out of the development of land under the Town and Country Planning Act 1990 (as amended). Development requiring planning permission includes:

- Many types of building works;
- Material changes in the use of land or buildings;
- Some types of engineering operations;
- Mining and other operations.

Planning permission may be granted by the Council on application or by a development order, known as 'permitted development'. The most common type of permitted development is granted under the Town and Country Planning (General Permitted Development) (England) Order 2015 and relates to minor development including house extensions, outbuildings, garages and fences.

Where development is carried out without planning permission, or in breach of a condition or limitation attached to a grant of planning permission, it involves a breach of planning control.

The Council's planning enforcement service is also responsible for the enforcement of other planning controls, including:

- Works to listed buildings
- Protection of trees and hedges
- Control of advertisements



Planning enforcement ensures that breaches which have an unacceptable impact on amenity are dealt with effectively and proportionately.

The government's Planning Practice Guidance, "Ensuring effective enforcement" provides National guidance on responding to breaches of planning control:

*Effective enforcement is important to:*

- *Tackle breaches of planning control which would otherwise have an unacceptable impact on the amenity of the area;*
- *Maintain the integrity of the decision-making process;*
- *Ensure that public acceptance of the decision making process is maintained.*

Enforcement action cannot be taken where there has been no breach of planning control nor can enforcement action be taken to protect private interests or disputes; it can only be exercised in the public interest.

### **3. POLICY AND GUIDANCE**

Local Planning Authorities have discretion to take enforcement action when it is expedient to do so, having regard to the Development Plan and any other material considerations, including the adopted Local Enforcement Policy and the National Planning Policy Framework. The Government has issued policy guidance on the adoption of Policies and the enforcement of breaches of planning control.

In paragraph 59 of the National Planning Policy Framework ('the NPPF', 2021), the Government advises:

*'Effective enforcement is important as a means of maintaining public confidence in the planning system. Enforcement action is discretionary and local planning authorities should act proportionately in responding to breaches of planning control. Local planning authorities should consider publishing a local enforcement plan to manage enforcement proactively in a way that is appropriate to their area. This should set out how they will monitor the implementation of planning permissions, investigate alleged cases of unauthorised development and take action where it is appropriate to do so.'*



The government's Planning Practice Guidance document "Ensuring effective enforcement" (2018) advises that the preparation and adoption of a Policy is important because it:

- *Allows engagement in the process of defining objectives and priorities which are tailored to local circumstances;*
- *Sets out the priorities for enforcement action, which will inform decisions about when to take enforcement action;*
- *Provides greater transparency and accountability about how the local planning authority will decide if it is expedient to exercise its discretionary powers;*
- *Provides greater certainty for all parties engaged in the development process.*

In preparing and adopting this Policy, the Council had regard to the Government's recommendations in paragraph 58 of the NPPF and the Planning Practice Guidance on effective enforcement

### **Local Plan Policy**

The Council's adopted 'Development Plan' is fundamental in guiding decisions relating to breaches of planning control. The current Development Plan is the 2021 Tendring District Local Plan 2013-2033 and Beyond and Section 1 was adopted on 26th January 2021.

Section 2 of the Tendring District Local Plan 2013-2033 and Beyond was adopted on 25th January 2022 and provides the statutory framework for planning decisions in Tendring District until 2033. The Local Plan includes a wide range of policies relating to topics including housing, employment, transport, education, heritage and landscape.

For example Policy SPL3 relates to new development and its impact on the character and appearance of the locality.

### **Human Rights**

The provisions of the European Convention on Human Rights are relevant when considering enforcement action. There is a clear public interest in enforcing planning controls in a proportionate way and in deciding whether enforcement action is taken, the Council should have regard to the potential impact on the health, housing needs and welfare of those affected by the proposed action, and those who are affected by a breach of planning control.



## **Public Sector Equality Duty (PSED)**

In making decisions in relation to planning enforcement the Council will have regard to the PSED under section 149 of the Equality Act 2010 (as amended). This means that the Council must have due regard to the need in discharging its functions to:

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

The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, being married or in a civil partnership, race including colour, nationality and ethnic or national origin, religion or belief, sex and sexual orientation.

## **4. PRINCIPLES OF GOOD ENFORCEMENT**

The Council is committed to following good enforcement practice in accordance with current legislation, guidance and codes of practice, as set out in the Corporate Enforcement Strategy (2017).

In achieving compliance, the Council will work within the principles of good enforcement practice and exercise our regulatory functions in a way that delivers the following qualities:

### **Service standards**

The planning enforcement service standards are published in this Policy to ensure that it is clear what you can expect from the Local Planning Authority responsible for planning enforcement.

### **Openness & transparency**

Information and advice on breaches of planning control will be provided in a timely manner and in plain language and any action which may be required to be taken to remedy the breach. The reasoning behind the decision will be explained, reasonable timescales for compliance set, and clear instructions given on what will happen to the owner/responsible party if they do not comply.





The decision-making process will be transparent to ensure that everyone has confidence in the service. As part of this process of openness we will not usually deal with complaints from an anonymous source. The Council will publish the decision when a case is closed, when an Enforcement Notice is issued or other formal enforcement action is taken.

Personal details will not normally be made available unless the Council is ordered to do so by a Court. Where a party feels intimidated and unable to provide the Council with their name and address, they can alternatively contact their local Councillor or Parish Council and ask them to raise the case without providing your personal details.

Information on planning enforcement will also be published on the Council's website explaining how the public can contact the planning enforcement team and what will be expected from the Council once an enforcement complaint is raised.

### **Helpfulness**

Our aim is to work with all parties to remedy breaches without taking formal enforcement action and if practicable, giving those responsible a chance to rectify matters quickly. We will tell all parties who is dealing with the investigation, how they can be contacted and explain the actions we may take, and if formal enforcement action is taken, inform those concerned of any rights of appeal.

A case reference number is applied to all cases including the initial acknowledgement of complaints. Officers will at all times attempt to make direct contact with the property or site owner prior to taking formal enforcement action and will make themselves known to the site owners/occupiers when visiting the site where this is possible.

### **Consistency**

We will carry out planning enforcement duties in a fair and consistent manner taking into account the particular aspects of each case, with the exercise of individual discretion and professional judgement. When deciding whether to take enforcement action, the Council must always consider meeting the objectives and policies of the development plan, the NPPF and other material considerations to ensure that development does not have an unacceptable impact.

Each decision will also take into account: the particular circumstances of the site and surrounding area; the level of harm being caused, including that to third parties such as adjacent landowners and their amenity as well as any relevant planning history, including previous refusals, planning permissions or appeals.

When necessary, officers will also visit sites outside normal working hours or at weekends to fully assess the impact of unauthorised development. Where appropriate other Council departments may be involved in resolving breaches.

Where there is a wider interest, we will liaise and co-operate with the appropriate agency.



## **Proportionality:**

Enforcement action should be proportionate to the seriousness of the breach, including any harm caused by the breach. Where persons responsible are unwilling to remedy the breach voluntarily, formal enforcement action will be necessary.

Some breaches could cause serious risk to public health and safety, environmental damage or loss of amenity. One of the Council's responsibilities is to protect the public and prevent harm to the environment. We are also committed to dealing with those who deliberately or persistently fail to comply.

Enforcement action will only be taken in accordance with the law and after consideration of the provisions of the European Convention on Human Rights. We will also examine any equalities issues in accordance with our duty under the Equalities Act 2010.

It is important to ensure that the planning enforcement team is fully resourced to undertake the levels of casework presented and it will be essential to use the available resources to maximum effect. In planning terms this means where there is most harm to the public, amenity or the environment.

Enforcement action should focus on the most harmful breaches of planning control. It is not possible to take action against **all** breaches which do not cause significant harm, however alleged harm may also fall under the control of legislation separate to that of town planning and in this regard it is essential that officers work closely with other Council teams to ensure enforcement is fully effective.

Reports of alleged breaches will be prioritised and assessed in accordance with this Policy. Where enforcement action is required, this should be proportionate to the harm and seriousness of the breach although cases where developers or landowners regularly and deliberately flout planning law will be made a high priority.

## **Accountability**

Planning enforcement service standards ensure that members of the public are aware of what to expect from this service. If you are not happy with the way an enforcement matter has been dealt with you can submit a complaint. Details of the complaints process can be found via the following link:

<https://www.tendringdc.gov.uk/council/consultation-contact-and-complaints/how-complain>

## 5. BREACHES OF PLANNING CONTROL

Many types of development require planning permission before they can be carried out including building works, engineering and mining operations and material changes to the use of land or buildings.

A breach of planning control is defined in section 171A of the Town and Country Planning Act 1990 as:

- *The carrying out of development without the required planning permission; or*
- *Failing to comply with any condition or limitation subject to which planning permission has been granted.*

A contravention of the conditions relating to permitted development rights, under the Town and Country Planning (General Permitted Development) (England) Order 2015, also constitutes a breach of planning control against which enforcement action may be taken.

Examples of breaches of planning control include:

- Erection or extension of a building without planning permission;
- Material change of use of a building without planning permission, for example a house to a shop;
- Development not in accordance with the plans approved by the permission;
- Not complying with the conditions of a grant of planning permission
- Engineering works without planning permission for example, substantial raising of ground levels.

There may also be breaches of other special planning controls (not within the definition of a 'breach of planning control') for example:

- Removal of trees protected by a Tree Preservation Order or trees in a conservation area;
- Demolition or works to a listed building which affect its special interest without listed building consent;
- Display of an advertisement without consent.



Certain minor works may not involve a breach of planning control such as:

- Internal building works – but may require building regulations approval
- Civil matters such as boundary disputes, damage to private property or blocking rights of way
- Fly tipping or rubbish deposited on the public highway
- Adverts which are allowed to be displayed under the advertisement regulations;
- Parking on grass verges or obstruction of the highway is dealt with by the Essex County Council as Highway Authority.

Development or use of a building within 'permitted development' under the Town and Country Planning (General Permitted Development) (England) Order 2015 is not a breach of planning control.

### **Is a breach a criminal offence?**

Most breaches of planning control are not criminal offences but may result in the Council taking enforcement action where this is justified in the public interest. If formal enforcement action is taken it is a criminal offence to fail to comply with the notice.

There are certain breaches of planning control and breaches of other special planning controls that are criminal offences, including:

- Demolition of a listed building or the carrying out of works that affect its special interest without listed building consent;
- Breaches of condition of listed building consent;
- Demolition of an unlisted building in a conservation area without planning permission;
- Felling or unauthorized works to trees protected by a Tree Preservation Order or within a Conservation Area or removal of a protected hedgerow.
- Display of unauthorised advertisements;

### **Time Limits**

If no enforcement action is taken within specified time limits, development can become immune from action. If enforcement action is expedient it must be taken:

- Within 4 years of substantial completion of building works, engineering works or similar operations;
- Within 4 years of an unauthorised change of use of a building to a single dwellinghouse;
- Within 10 years for any other unauthorised change of use of land or building.



In certain circumstances it is possible to take enforcement action after these time limits have expired. For example, in cases of deliberate concealment of a breach of planning control and the deception has not come to light until after the period for taking action has passed.

A Planning Enforcement Order enables the Council to take action against an apparent breach of planning control when the time limit has expired. There is no time limit as to when enforcement action may be taken in respect of the unauthorised demolition of an unlisted building in a conservation area or unauthorised works to a listed building.

## 6. REPORTING AN ALLEGED BREACH

Breaches of planning control can be reported to the Council by letter, email or by completing the 'Enforcement Complaint Form' form on the Tendring District Council website. Further information and the Enforcement complaint form can be found via the following link.

[Planning enforcement - Who can complain and what we do next | Tendring District Council \(tendringdc.gov.uk\)](https://www.tendringdc.gov.uk/planning-enforcement-who-can-complain-and-what-we-do-next)

Any interested party can also contact us in person or by phone in cases of urgent matters, for example unauthorised works are being undertaken to a Listed Building or protected tree.

Please telephone during office hours on 01255 686120 or email:  
[planning.enforcement@tendringdc.gov.uk](mailto:planning.enforcement@tendringdc.gov.uk)

Where an alleged breach is reported but the web site form is not used, the complainant will be asked to provide the information required before we can investigate further, or they may be asked to complete the form. We will ask the complainant to provide: sufficient information to enable us to prioritise the action to be taken and to give contact details so that we can keep them informed at key stages.

Please note that anonymous complaints will not usually be investigated unless there is sufficient evidence and the alleged breach is serious or readily apparent. Personal details will remain confidential and will not be revealed unless required by law. In exceptional cases we may be required to reveal personal details to the police in connection with an associated investigation.

The complainant can also speak to their local District Councillor, Town or Parish Council, but advising them about their concerns is not a formal enforcement request for an investigation. Councillors, Town and Parish Councils will decide whether they raise a matter with the planning enforcement team, but this will not be logged as a complaint from a member of the public.

The priority given to an investigation is not affected by the source and whether it is received from a Councillor, Town or Parish Council. Whichever route you take, we will need enough information to complete the online complaint form before it is investigated further.



## **7. PRIORITIES FOR INVESTIGATION**

Given the size of the Tendring District and the wide range of planning issues it faces, the Council deals with a large number of enforcement cases.

Because of this, it is not practical to treat every enforcement complaint as a top priority. Therefore to make the best use of its resources to maximum effect in the public interest, the Council will prioritise the investigation of complaints having particular regard to the level of 'harm' being caused by the alleged breach.

The Council has established a set of priorities to reflect the importance it places on the quality of life for its residents and businesses, and the need to protect the special character of the built and natural environment.

The performance standards set for the service are intended to encourage a more proactive approach to enforcement and the Council aims to achieve these standards and monitor progress regularly. The priorities are intended as a set of guiding principles, rather than attempting to take account of all eventualities. Regardless of who has made the complaint, it will be assigned a priority category which then sets a performance standard for the first site visit.

### **Priority 1**

First investigation within 2 working days of receipt of a completed complaint form. This category includes development which could cause irreversible or serious harm if the Council does not act immediately. Examples include:

- Demolition of a listed building or unlisted building in a conservation area.
- Works to a listed building (including development within its setting)
- Removal of a protected tree or hedgerow.
- Use of land which causes serious harm to the locality or the natural environment
- Development which has been undetected and where the time limit for enforcement action will expire within six months.

### **Priority 2**

First investigation within 5 working days of receipt of a completed complaint form. This category includes likely significant public concern or where there is significant immediate harm to the amenity of the area. Examples include:

- Unauthorised development in the Dedham Vale AONB or a Conservation Area.
- Unauthorised development affecting designated sites including SSSIs, Ramsar sites, Special Areas of Conservation or Special Protection Areas.
- Unauthorised development affecting a non-designated heritage asset including a locally listed building.
- Unauthorised development or non-compliance with a planning condition, which is causing immediate and significant harm to the public or amenity of the area.



### **Priority 3**

First investigation within 10 working days of receipt of a completed complaint form. Minor breaches which do not result in significant immediate or irreversible harm or public concern. Examples include:

- Display of unauthorised advertisements and developer directional signs.
- Untidy sites
- All other complaints relating to unauthorised development not falling in any of the above categories.

### **Priority 4**

Complaints which do not involve unauthorised development or other breaches which cannot be investigated by Planning Services where the aim is to provide an initial response within 15 working days of a completed complaint form.

All complaints will be acknowledged within 3 working days and will provide the name and contact details of the officer who will be investigating the complaint.

We ask that for a phone number or e-mail address as we no longer intend to respond via post. Complaints will be investigated according to their priority, within the periods set out above. Wherever possible we will investigate a **Priority 1** complaint on the day of, or the day following, receipt of the request.

After an initial investigation if there is no breach of planning control the complainant will be notified, and the complaint will be closed. Where a breach is found, a harm assessment will be carried out to determine whether or not the matter will be subject to further investigation (see Section 8 below).

Enforcement cases will also be identified via a 'traffic light system' in order to identify the highest priority cases. In other words, cases of very high priority and urgency will be identified as red, less urgent cases amber and cases which are either not urgent or can be investigated under a longer time line identified as green. This ensures that the cases causing most harm and impact can be dealt with expediently.

Progress on cases will also be reported to the Councils Planning Committee on a quarterly basis via a performance report on current caseloads.



## **8. HARM ASSESSMENT**

The decision whether to take enforcement action is discretionary and the Council has limited resources and so a process to assess the degree of harm is carried out to assist in deciding whether it is expedient to take action and how the case should be prioritised.

Following an investigation in accordance with the priorities outlined above, where a breach has been confirmed an assessment will be carried out to assess the degree of harm the breach is causing and determine whether it is in the public interest to take enforcement action.

The Council receives in excess of 350 enforcement investigation requests each year of which almost half are found to involve no breach of planning control whilst the others range from minor infringements to more serious breaches. Where it is decided that enforcement action should not be taken, for example where the breach is minor or results in no significant harm, the case will be closed and the reasons for the Council's decision recorded.

The degree of harm resulting from the breach is graded against a series of planning criteria. The level of harm to take enforcement action is currently a score of 6 and above. These breaches will be pursued by taking appropriate action until matters are resolved, either by negotiation or by taking enforcement action.

A cumulative score of less than 6 or will cause little or no harm to amenity or the environment and it will not be considered expedient to take enforcement action in the majority of cases. In these circumstances the case will be closed and advisory letters sent to the offender and complainant explaining the reasons for the decision. The owner will be advised of the need to rectify the situation, normally by the submission of a retrospective planning application.

Once the complainant and owner have been notified, no further action will be taken unless circumstances change or new evidence is received although this. This will not apply to those cases with a harm score of less than 6 where agreed by the authorised officer.

In cases where it is considered that the breach would not receive planning permission the enforcement action will be pursued to a successful conclusion.

A Harm Assessment will be applied to all cases involving alleged breaches of planning control. The harm assessment form sets out various planning "harm" factors dealing with the nature of the breach, policy matters, safety issues, degree of harm, etc.

Cases involving Advertisement Control, Amenity Notices and Tree/Hedgerow matters have different legislative requirements and are dealt with separately.

The harm assessment form should be completed within 20 working days of receipt of a complaint. Where the breach relates to a change of use of land the site should be visited on at least 2 occasions during that twenty day period (if necessary) to confirm whether a breach of planning control is occurring.



The result of the harm assessment by the twentieth day will allow the decision on “harm” to be incorporated in the 21 day update letter sent to complainants to inform them of the investigation findings and proposed action. Where the Council decides that action is required, it will thereafter aim to update the complainants at least once every 21 days on any progress, or as otherwise necessary.

Harm assessment provides for a quantitative and qualitative assessment to be made which is open, quick and effective. The criteria and scoring enables breaches of planning control to be assessed and for the prioritising other breaches of planning control.

The effectiveness of the Harm Assessment form will be assessed every six months to ensure that the scoring system provides an accurate guide for officers in assessing case priorities. Amendments can be made to ensure that the system robustly identifies cases for future action.

## 9. MATERIAL CONSIDERATIONS

Planning enforcement operates to protect the public rather than the private interest and certain factors should **not** be taken into account when assessing an alleged breach of planning control, such as:

- loss of value to property
- loss or trade or increased competition with other businesses
- loss of view
- breach of covenants
- land ownership disputes

When considering whether it is expedient to take enforcement action, the Council should have regard to the development plan and any other material considerations, including the adopted Local Enforcement Policy, the government’s National Planning Policy Framework and planning practice guidance.

Those planning considerations which **are** material include:

- Overlooking/loss of privacy
- Loss of light/overshadowing
- Parking provision for development
- Highway safety
- Noise, dust and fumes
- Impact on listed buildings and conservation areas
- Layout and density
- Drainage and flood risk
- Design, appearance and materials
- Impact on character and appearance of the area
- Loss of trees
- Planning history (including appeal decisions)



- Impact on landscape and nature conservation
- Archaeological impact

Harm can result from a breach of planning control that has various adverse impacts including those on residential amenity; highway safety; flood risk; damage to the historic environment, archaeology, conservation areas; the natural environment including protected species, designated landscapes and habitats. Unauthorised development which undermines the policies of the development plan, or could set a precedent which, if repeated, would undermine the policies of the development plan.

If the unauthorised development would have been permitted, had a planning application been submitted, it would be unlikely to be expedient to take enforcement action. A fundamental principle is that taking enforcement action must be in the public interest.

### **Other planning controls**

There are other specific planning controls relating to the protection of trees, hedges and advertisements. Planning enforcement is also responsible for:

- Statutory powers for the control of works to listed buildings
- Protection of trees subject to Tree Preservation Orders or within Conservation Areas
- Control of advertisements
- Protection of hedgerows

Breaches which have an unacceptable impact on amenity will be dealt with effectively and proportionately. However it should be recognised that enforcement action will not be taken simply because a breach has occurred. It should be demonstrated that the breach results in harm which underlines the need to undertake an assessment of the degree of harm.

### **No Breach and No Further Action**

After undertaking an investigation in many cases it may be decided that no further action is appropriate. This may be because the breach is relatively minor and does not cause material harm or because there has been no breach of planning control. Alternatively, the works may be 'permitted development' which can be carried out without planning permission. The details of what is 'permitted development' are set out in the Town and Country Planning (General Permitted Development) (England) Order 2015).

Similarly, it may be decided not to carry out an investigation, even if there is a clear breach of planning control, because it is not 'expedient' to take action. This might be because the breach does not cause any material harm and formal action would not be in the public interest. In reaching such a decision the harm must be balanced against the likely success of any formal action, the availability of resources, and other cases which might be causing a greater level of harm but whose progress might be delayed as a result.



Certain advertisements do not require Advertisement Consent because they are exempt from control or have “deemed” consent under the Town and Country Planning (Control of Advertisements) Regulations 2007.

Unauthorised advertisements are assessed in terms of their harm to amenity and/or potential danger to highway safety and it may be decided not to take action against advertisements or signs which are not harmful or dangerous.

The timescale to resolve an enforcement investigation varies depending on a range of factors:

- Nature of alleged breach;
- Harm being caused
- Extent of investigations
- Planning history
- Tracing ownership
- Need to carry out more than one visit
- Problems gaining access
- Resources available.

Where an Enforcement Notice is issued there is a right of appeal to the Secretary of State which can add significantly to the overall timescale. Therefore, it is not possible to give an average time for resolving an investigation. Complainants should be kept informed throughout the process both in writing at key stages and via our website where progress is monitored for each investigation.

To help meet these targets the Council has delegated certain powers to officers including whether to take enforcement action. This allows decisions to be made without having to refer matters to Committee. The reasons for taking any decision will be made clear to all parties.

## **10. TYPES OF ENFORCEMENT ACTION**

When a complaint has been investigated and it has been established that there has been a breach of planning control, there are a number of options available to resolve the breach, although not all options will be suitable in each case.

### **Planning Contravention Notice (PCN)**

The PCN enables Local Planning Authorities to obtain information about a suspected breach of planning control. It sets out a list of questions about the development or activity to establish whether a breach has occurred. The Council can offer a meeting to allow additional information to be provided. It is an offence not to comply with the requirements of the notice within the period set for its return or to make false or misleading statements.



## **Section 16 Notice (Local Government (Miscellaneous Provisions) Act 1976)**

This is primarily intended to establish information about ownership and other interests in the land. It is an offence to fail to comply with the requirements of the notice within the period set for its return, or to make false or misleading statements in reply.

## **Section 330 Town and Country Planning Act 1990**

The Council can use this Act to obtain information, usually at an early stage of the enforcement process. It involves serving a Notice on occupiers of premises and/or person(s) receiving rent. It is an offence to fail to comply with the requirements of the Notice within the period set for its return, or to make false or misleading statements in reply.

## **Breach of Condition Notice (BCN)**

The Council can serve a BCN on the developer or occupier if they do not comply with conditions imposed on a planning permission. There is no right of appeal against a BCN and failure to comply within the specified period is a criminal offence allowing the Council to take legal action.

A BCN can only be used to secure complete compliance. It does not apply to breaches of control relating to listed buildings, advertisements or protected trees. The Council can use this procedure in preference to issuing an Enforcement Notice, where appropriate, however the penalties for non-compliance may be lower than if an Enforcement Notice is used to deal with the breach of condition.

## **Enforcement Notice**

The Council may serve an enforcement notice when it is satisfied that there has been a breach of planning control and it is appropriate to take action. With an enforcement notice, the recipient must take the specified steps within a specified time period of at least 28 days.

Failure to comply with an enforcement notice is a criminal offence. The recipient of a notice has a right of appeal to the Secretary of State through the Planning Inspectorate. An appeal suspends the effect of the notice until it is determined. If the recipient lodges an appeal, the Council will let the informant know how they can make representations to the Planning Inspectorate. Representations will be available for public inspection.

## **Stop Notice**

The Council can serve a Stop Notice with an Enforcement Notice where it considers that continuing unauthorised development is causing significant harm. The Stop Notice continues to take effect even if an appeal is lodged against the Enforcement Notice. The Stop Notice does not usually come into effect until three days after it is served, although this can be reduced if necessary. Work must stop immediately the Notice comes into effect.



There are compensation liabilities if the Enforcement Notice is quashed, but these are not related to the planning merits of the case. There is no right of appeal and failure to comply with the notice is an offence.

### **Temporary Stop Notice**

Where there has been a breach of planning control, immediate action can be taken to safeguard the amenities of the area by a temporary stop notice. This differs from a normal Stop Notice as it has immediate effect and does not have to be accompanied by an Enforcement Notice but a Temporary Stop Notice only lasts for 28 days. There is no right of appeal but judicial review can challenge the decision to issue the notice.

### **Injunction**

The Council can apply to the County Court or High Court for an injunction to stop an actual or imminent breach of planning or listed building control, even when the identity of the person is unknown.

An injunction can be sought whether or not other enforcement action has been taken. Failure to comply with an injunction can be contempt of court and can lead to an unlimited fine, confiscation of assets or imprisonment.

### **Section 215: Untidy Site Notice**

Under Section 215 of the Town and Country Planning Act, 1990 the Council has powers to require an owner/occupier to maintain land or buildings if their condition causes harm to the amenity of an area.

In assessing the harm, consideration will be given to the appearance of the site and the impact on the amenities of the surrounding area. The Council will decide whether the extent of any harm to amenity of the area justifies the service of a Notice requiring the proper maintenance of land.

A Section 215 Notice will specify what steps the owner must carry out to improve the site to secure an improvement in its appearance in order to avoid further action or prosecution. The owner has a right of appeal to the magistrate's court but failure to comply with the notice is an offence. The Council may also carry out the works in default and recover the cost from the owner.

Section 215 Notices may be appropriate in connection with a prominent and derelict site, particularly if it has started to attract fly-tipping, or where an important town centre street frontage has fallen into disrepair, particularly if it is within a Conservation Area. The Council may also serve a Notice where the condition of land impacts upon the wider landscape, particularly if it is in an area of countryside which is noted for its landscape value or natural beauty.



If a residential property is in a dilapidated condition due to lack of proper maintenance over a long period, or the garden is overgrown with domestic waste or there abandoned vehicles left in the garden, an Untidy Site Notice may be an appropriate remedy.

However gardens which are merely neglected or a house that needs some cosmetic maintenance may not generally qualify for a Section 215 Notice. As with other enforcement investigations, the Council will allocate resources where they can be most effective and where the greatest harm is being caused. It will not use these Notices where there are other more specific and applicable powers available to address the concern.

A Section 215 Notice will specify the steps required to maintain the land and buildings to a satisfactory standard. The scope of works which can be required may include making the site secure, undertaking external repairs, replacing roof tiles, repairs to guttering, repairs to doors and windows, redecoration, removing waste, and cutting back overgrown vegetation. Works which require planning permission, for example the re-building of a garage or extension fall beyond the scope of a Section 215 Notice.

The owner will be notified before serving a Section 215 Notice advising that formal action will be taken unless the appearance of the site is improved. Where no action is taken by the owner and a Notice becomes effective but is not complied with, the Council may:

- Prosecute in the Magistrates Court. A successful prosecution may result in a fine of up to £1,000 and a criminal record.
- Direct action: carrying out the required steps in default and the costs incurred recovered from the owner. Where the costs cannot be recovered a charge on the property can be registered with the Land Registry, thus assuring full cost recovery plus base-rate interest.

The course of action will vary from site to site, and in some cases both direct action and prosecution may be appropriate. Where the costs cannot be recovered a charge on the property will be registered with the Land Registry, thus assuring full cost recovery plus base-rate interest.



## 11. COMPLAINTS ABOUT YOUR DEVELOPMENT

In many cases a breach of planning control is not intentional and can be the result of a misunderstanding or being unaware of the planning requirements. Therefore, if you receive a letter from the Council or a visit is made by an Enforcement Officer, you are encouraged to respond positively and provide the information needed to resolve the matter.

It is beneficial to all parties if a breach is addressed at an early stage. If it is possible to investigate the concerns without disturbing you and establish that there is no breach of planning control, there will be no need to contact you.

Depending on the level of harm caused, the Council will discuss what alternative solutions might be acceptable, rather than the complete removal or rebuilding of the development. However, this does not mean that you can delay any action that you have agreed to do.

You will be expected to respond within the stated timescales and the Council may prosecute for failing to respond to formal notices. Protracted negotiations which delay taking action to rectify the breach will not be encouraged. In many cases, particularly where the works are likely to be acceptable, perhaps with some minor changes, there will be an opportunity to submit a retrospective application. This will enable the development to be considered in more detail and, if appropriate, control it through planning conditions.

You should be aware that development which requires, but does not have, planning permission is unauthorised and remains subject to potential enforcement action for a set number of years.

In the case of building works, or the use of a building as living accommodation, the time period is 4 years after completing the works or occupying the accommodation. Where the breach is an unauthorised change of use of land or buildings, or breach of a planning condition, the time period is 10 years.

If you subsequently wish to sell a property which has been subject to unauthorised works or a change of use, the sale could be delayed or lost as a result. Mortgage providers are normally made aware of breaches of planning control and will be sent a copy of any formal notice or decision about planning enforcement. The Council's Local Land Charges section will be advised where formal notices have been served, and where potential enforcement action remains outstanding.

Enforcement officers will make themselves known to the landowner/occupier if they are present when they enter a site, but it is not always possible to give prior notice.



Enforcement officers are legally entitled to enter land to investigate suspected breaches of planning control. You do not have to be present when an enforcement officer makes a site visit nor are officers required to give notice of entry unless admission to any building used as a dwelling house is necessary, in which case 24 hours' notice must be given to the occupier of the building. If an officer is prevented from entering land or buildings (which includes no reply being received to a request being made by the Council for admission, within a reasonable period) the Council can apply for a warrant to enter the land/or buildings and any obstruction or refusal of entry is a criminal offence.

The information from a site visit will be used to assess the harm being caused and what further action may be required. Allowing the enforcement officer to make a site visit and take photographs will help to reduce delays and any potential inconvenience. A senior officer then makes the decision to serve a formal notice with the recommendation of the enforcement officer.

Enforcement officers can explain the different notices and help you understand the implications. However, they will not act as your advisor and cannot make decisions on your behalf. You should consider whether you wish to get your own independent advice from a planning consultant or other property professional. If you cannot afford to employ a consultant you may wish to contact Planning Aid which is a voluntary service which offers free independent, professional advice (see contacts below).

## **11. LISTED BUILDINGS**

### **Listed Building Enforcement Notice**

Where there has been a breach of listed building control, such as unauthorised works which affect the special character and appearance of a listed building, a Listed Building Enforcement Notice can be issued.

The recipient must take the specified steps within the Notice within a set time period. Failure to comply with a notice is a criminal offence. The Notice will usually specify work required to remedy the breach of control which may include a requirement to restore the listed building to its condition immediately prior to the unauthorised work.

The recipient has a right of appeal to the Secretary of State through the Planning Inspectorate within 28 days. An appeal suspends the effect of the notice until it is determined. If the recipient lodges an appeal, we will notify neighbours of the appeal and how they can make representations to the Planning Inspectorate.



## Listed Building Prosecution

Unlike standard enforcement notices the Council may commence Court proceedings for unauthorised works to a listed building without the need to serve formal Notices. These proceedings may include a prosecution or a formal caution.

This is a formal process where the offence is formally admitted and may be referred to at the sentencing stage. If you are found guilty of a subsequent offence it may also be taken into consideration when deciding whether to prosecute at a later stage for another similar offence.

In order to bring a successful prosecution it must be proved that:

- the building is listed;
- there has been a breach of a formal notice if one has been issued
- you have carried out, caused, or permitted the works
- the works were carried out without consent
- the works were not exempt

## Warning

It should be noted that in serious cases, the Magistrates' Court and the Crown Court, in addition to substantial fines, have the power to impose custodial sentences on offenders carrying out unauthorised work to a listed building. You are advised to discuss the need for planning permission and/or listed building consent with the Council before carrying out any works to a listed building. Contractors and workers may be at risk of prosecution as well as owners or occupiers.

## 12. ADVERTISEMENT CONTROL

It is a criminal offence to display an advertisement without Advertisement Consent or Deemed Consent although there is an exception for certain exempt advertisements such as road signs.

Where an advertisement is considered to be illegal or harmful the advertiser will be advised to remove it within 14 days. In certain cases the period for removal may be shorter, for example where the advert is a danger to road safety. Adverts on a listed building will often need listed building consent as well as advert consent and the advertiser may be advised to remove it within a shorter period if it is causing harm to a listed building.

The content of an advert is not usually a material consideration but it could be a factor in reducing the timescale for removal of illegal adverts which are offensive. Lawful adverts on legal advertising sites may still give offence which is a matter for the Advertising Standards Authority rather than the Local Planning Authority. An example might be an advert on a bus shelter near a primary school for a particularly violent or explicit film. A link to the Advertising Standards Authority web site appears at the end of this Policy.



Where prior warnings are ignored and an advertisement remains on display, legal proceedings can be taken in the form of a prosecution and a formal caution. In order to bring a successful prosecution it must be proved that the advertisement did not have the required Consent, Deemed Consent or an exemption and was therefore illegal. It must also be proved that the advertisement was displayed on the date of the offence. Each day on which an advert is displayed whilst being illegal gives rise to a separate offence.

The Council will work with Essex County Council as Highway Authority to remove unauthorised advertisements on the highway under the Highways Act 1980. Advertisers may be charged a fee (currently £40) for the return of adverts which are removed. The advert should not be replaced and if it is it may be confiscated.

### **13. PROSECUTION**

The Council may commence legal proceedings where a formal notice has been breached. In some cases legal proceedings can be taken against unauthorised works without the need to serve any formal Notices, for example unauthorised works to a listed building, a protected tree, or an unauthorised advertisement. These proceedings can include:

- Prosecution
- Formal caution

Formal caution is process where the offence is admitted. It may be referred to at the sentencing stage if the offender is ever found guilty of a subsequent offence. It may also be taken into consideration when the Council decides whether or not to prosecute at a later stage for a similar offence.

In order to bring a successful prosecution, the Council will need to prove that:

- A building or tree was protected;
- Someone has breached a formal notice (Listed Building);
- Someone has carried out, caused, or permitted the works
- The works were carried out without consent
- The works were not exempt

The Council will apply two tests in cases where a prosecution appears likely in consultation with its legal advisors:

#### **The Evidential Test:**

The Council will not start a prosecution unless there is sufficient admissible and reliable evidence that the offence has been committed, and there is a reasonable prospect of conviction.



### **The Public Interest Test:**

The Council will only bring a prosecution where this is in the public interest. It may apply cautioning in cases where a prosecution can properly be brought, but where it is not considered such action is appropriate in the circumstances of the case. Cautions will be used in accordance with Home Office guidance. People who have previously received a formal caution will normally be dealt with by prosecution.

## **14. PROTECTION OF TREES**

Trees which are subject of Tree Preservation Orders or trees within Conservation Areas are protected by planning legislation. In general, authorisation is required from the Council before you do any work. This includes cutting down, uprooting, lopping or topping a protected tree. It is a criminal offence to wilfully damage or destroy a protected tree. .

Hedgerows which are ancient and within the scope of the Hedgerows Regulations are also subject to special protection. The removal of a protected hedgerow may be a criminal offence. Anyone who contravenes the Hedgerow Regulations may be prosecuted and liable to a fine of up to £2,500 if convicted.

Any proceedings for these offences must be brought within six months of the date the offence was committed. In prosecuting we will need to decide if:

- The tree or hedgerow was protected;
- You have carried out, caused, or permitted the works
- The works were carried out without consent
- The works were not exempt

When a protected tree is damaged or destroyed two offences may apply:

- Anyone who cuts down, uproots or wilfully destroys a tree, or who lops, tops or wilfully damages it in a way that is likely to destroy it, is liable, if convicted in the Magistrates Court, to a fine of up to £20,000 (the fine is unlimited if there is a trial in the Crown Court). The Courts have decided that it is not necessary for a tree to be obliterated for it to be “destroyed”, it is sufficient for the tree to have been rendered useless as an amenity.
- Anyone who carries out unauthorised works to a tree which are not likely to destroy it is liable, if convicted in the Magistrates Court, to a fine of up to £2500.



## **Investigations**

The initial investigation will involve a site visit to establish:

- Whether the tree is protected;
- Whether any consent has been granted; and
- Who is carrying out the work.

## **Unauthorised works to Trees**

As with planning enforcement complaints, officers investigating unauthorised works to protected trees have rights to enter land to carry out investigations and will take photographs which may later be used as evidence.

The property owner/occupier will have an opportunity to give their version of events during the investigation. However, if it appears that they did carry out the works then a caution will be given under the Police and Criminal Evidence Act 1984 because it may involve a criminal offence.

If trees are removed through unauthorised works (or because they are dead, dying or dangerous) the onus is on those carrying out the work to prove that the tree was in such a condition to warrant its removal. The landowner has a duty to plant a replacement tree of a suitable size and species in the same position as soon as reasonably possible (unless the Council waives that requirement). The replacement tree is then subject to the same protection as the tree that was removed.

The Council can serve a Tree Replacement Notice within a period of four years to ensure the landowner complies and there are rights of appeal against Tree Replacement Notices.

## **Whether to take action**

The Council will decide what action to take in cases of unauthorised works on trees based on the public interest test and each case will be considered on its merits. The Council would not normally prosecute unless the unauthorised works have resulted in a loss of public amenity. In most cases, prosecution will not be pursued if the Council would have granted consent (or raised no objection) for the works if they had been properly applied for.

In considering whether to bring a prosecution, the Council will have regard to the likelihood of the offence being repeated and the degree to which a prosecution would act as an effective deterrent. It will also have regard to any financial advantage perceived to have been gained by carrying out the unauthorised works, and whether prosecutions, cautions or warnings have been issued to the offender for similar offences in the past. The Council will take into account any expression of regret, helpfulness and co-operation with the investigation and any evidence that the offender was acting in good faith.



The Council will normally require the planting of replacement trees, irrespective of a prosecution or caution. When replacement planting is required, the situation will be monitored to make sure it is undertaken. If necessary the Council will serve a Tree Replacement notice to secure replacement planting, which can be invoked if the landowner does not voluntarily carry out replacement planting.

## **CONTACTS AND FURTHER INFORMATION**

You can contact the Council's planning enforcement team at the following address:

### **Planning Enforcement**

Tendring District Council  
Town Hall  
Station Road  
Clacton-on-Sea  
Essex CO15 1SE

Tel: 01255 686120

Email: [planning.enforcement@tendringdc.gov.uk](mailto:planning.enforcement@tendringdc.gov.uk)



## Further Information

### **Department for Levelling Up, Housing and Communities**

(The Government Department with overall responsibility for planning)

<https://www.gov.uk/government/organisations/department-for-levelling-up-housing-and-communities>

### **Planning Inspectorate**

(The independent body responsible for planning and enforcement appeals.)

Registry/Scanning,  
Room 3/01, Kite Wing,  
Temple Quay House,  
2 The Square,  
Temple Quay,  
Bristol, BS1 6PN.

[www.planning-inspectorate.gov.uk/pins/index.htm](http://www.planning-inspectorate.gov.uk/pins/index.htm)

**Planning Portal:** Is the Government's online planning resource where you can learn about the planning system and research the latest government policy.

[Planning Portal](http://www.planningportal.gov.uk)

**Planning Aid:** Provides free, independent, professional town planning advice to communities and individuals who cannot afford to pay planning consultant fees.

Planning Aid  
PO Box 37,  
Freshwater,  
Isle of Wight, PO40 9ZR

Phone: 0207 929 8338

[info@planningaid.rtpi.org.uk](mailto:info@planningaid.rtpi.org.uk)



## **National Policy and Guidelines:**

National Planning Policy Guidance (2021)

Planning Practice Guidance (2018)

[Planning practice guidance - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/planning-practice-guidance)

Town and Country Planning (General Permitted Development) (England) Order 2015,

**Enforcement Concordat, published by the Department for Trade and Industry**

[\[ARCHIVED CONTENT\] \(nationalarchives.gov.uk\)](https://www.nationalarchives.gov.uk/enforcement-concordat/)

## **RTPI | Planning Enforcement Handbook for England**

<https://www.rtpi.org.uk/practice/2020/may/planning-enforcement-handbook-for-england/>

## **Advertising Standards Authority**

[Home - ASA | CAP](https://www.asa.co.uk/)

## **High Hedges**

Information and guidance on High Hedges and how to make a complaint can be found on the Council's website via the following link.

[High Hedges | Tendring District Council \(tendringdc.gov.uk\)](https://www.tendringdc.gov.uk/high-hedges/)

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# **Planning Enforcement Harm Assessment Prioritisation Scheme**

**V2: September 2023**

Page 167





## VERSION HISTORY

Version	Date	Details
V.1	September 2022	Created
V.2	18.09.2023	Revised and updated



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## **HARM ASSESSMENT: PRIORITISATION SCHEME**

### **1. Purpose**

This document sets out the Council's Harm Assessment procedure to prioritise the investigation of alleged breaches of planning control. It assesses the degree to which the breach is perceived to cause harm and provides a process for the closure of minor breaches of planning control.

One of the Council's responsibilities is to protect the public and prevent harm to the environment. There may be occasions when a breach of planning regulations will justify enforcement action. Any such action will only be taken in accordance with the law, the relevant policies and guidance and after due consideration has been given to any Rights under the Human Rights Act 1998 that may be affected by such action. However, the Council's resources are limited and this assessment of harm will assist in maximizing the use of available resources.

### **2. Harm Assessment**

The Harm Assessment Scheme is applied to breaches of planning control following a site inspection. The scheme grades the "harm" of that breach against a series of scored planning criteria. The agreed level of harm (the score) to take enforcement action is 6 and above.

Where the cumulative score is 5 or less it will generally not be considered expedient to take action as the impact on public amenity or public interest will be negligible. The case will be closed and advisory letters will be sent to both the offender and complainant. The land owner/occupier will also be advised of the need to rectify the situation, most usually through the submission of a retrospective planning application, or the compliance with any conditions attached to a planning approval. The submission of an application will not, however, be monitored or pursued. Once all parties have been notified no further action will be taken.

However, the above will not apply to those cases with a Harm Assessment Score of 5 or less where it is agreed by the Director of Planning (or equivalent authorised officer) that the breach would not receive an unconditional grant of planning permission. In these instances the breach will be pursued to a successful conclusion. Breaches of planning control which score 6 or more will be pursued until matters are resolved either by negotiation or by taking formal action.

Harm Assessment will be applied to all incidents involving development. Fifteen planning "harm" factors are set out in the harm assessment form dealing with factors such as, the nature of the breach, safety issues, policy matters, degree of harm etc.



### **3. Operational Aspects**

The Harm Assessment Form will be completed by the enforcement officer within 20 working days of receipt of an incident. Where the alleged breach of control relates to a change of use of land, the investigator should visit the site a minimum of three times in that twenty day period (if necessary) to establish if a breach of control is occurring (if the initial or second visit are inconclusive).

The result of the harm assessment by the twentieth day will allow the decision on “harm” to be incorporated in the Service’s normal 21 day update letter to complainants informing them of the Services findings and intended action or, where applicable, that no additional action is to be taken. Where the Council determines that action is required, it will thereafter aim to update the complainants at least once every 21 days on any progress, or as otherwise necessary.

### **4. Conclusion**

The Harm Assessment scheme provides:

- A quantitative and qualitative assessment of harm to public amenity/interest
- A procedure that is open and transparent
- Quick and effective processing of incidents
- A flexible system to make efficient use of resources
- Equality of treatment of dealing with incidents

The harm assessment criteria and scoring is an effective means of identifying minor/trivial breaches of planning control, as well as providing an opportunity for it to be used in prioritising of other breaches of planning control to be investigated.

The Council will review the effectiveness of the Harm Assessment form and the current scoring system on a six month basis. Amendments to the scoring system will be made as appropriate.



## HARM ASSESSMENT FORM: To be completed by the officer who inspected the site

Each new complaint will be allocated a score as set out below, to assess its degree of harm. The priority will be based on the total score. Where no breach of planning control is found, the file will be closed.

Points Allocation			Score
1	Urgency: Is the enforcement matter	Ongoing (1) Getting worse (2) Stable/Paused (0)	
2	Highway safety issues:	Yes (2) No (0)	
3	Danger to public or animal safety:	Yes (2) No (0)	
4	Does the alleged breach cause a statutory or serious environmental issue such as noise pollution, odour, flood risk?	Causes Flood Risk (2) Noise/disturbance concerns (2) Pollution/odour (2) Light pollution (2) Other (1) No (0)	
5	Complainant:  (Note that all complainant details will be kept confidential, however providing a named contact will enable the Council to update the complainant and seek potentially useful additional information from them)	Named (2) Anonymous / malicious (0)	
6	Affects listed buildings, protected trees, Conservation Areas or other protected assets:	Yes (2) No (0)	
7	Contrary to the Development Plan, including Neighbourhood Plan policy?	Yes (2) No (0)	
8	Extent of harm	Widespread (2) Local (e.g. within the street area) (1) None (0)	
9	Is harm irreversible?	Yes (2) No (0)	
10	Intensity of activity	High (2) Low (1) Negligible (0)	
11	Breach of planning condition (including divergence from approved plans)?	Yes (1) No (0)	
12	Impact on residential amenity	Long term (2) Short term (1) N/a (0)	
13	Previous enforcement action / planning history	Yes (1) No (0)	
		<b>TOTAL SCORE</b>	
<b>Case Officer:</b>			
<b>Signature:</b>		<b>Date:</b>	

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