



## **SPECIAL MEETING OF THE PLANNING COMMITTEE**

|               |   |
|---------------|---|
| <b>DATE:</b>  | <b>Monday, 27 November 2023</b>   |
| <b>TIME:</b>  | <b>5.00 pm</b>  |
| <b>VENUE:</b> | <b>Committee Room - Town Hall,<br/>Station Road, Clacton-on-Sea, CO15<br/>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: Friday, 17 November 2023

## AGENDA

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

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

### 2 **Declarations of Interest**

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

### 3 **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.

### 4 **Report of the Director (Planning) - A.1 - 22 02076 FUL - Land North and South of A133 Clacton Road at Finches Lane, Elmstead, CO7 7FD (Pages 1 - 74)**

Hybrid application consisting of the following:

**Full** planning permission for 86 No residential dwellings to the north of Clacton Road including new access, 40 No residential dwellings to the south of Clacton Road using existing access. Construction of market field grows use Class E/F1 to include multi use building (337sqm), reception office (200spm), workshop (222sqm), 65 space car park, ancillary landscaping and buildings.

**Outline** planning permission (considering Access, Appearance, Layout and Scale) for mixed use Class E commercial building (1596sqm) and 53 space public car park.

(The proposal constitutes a departure from the Development Plan).

## **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, 19 December 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**

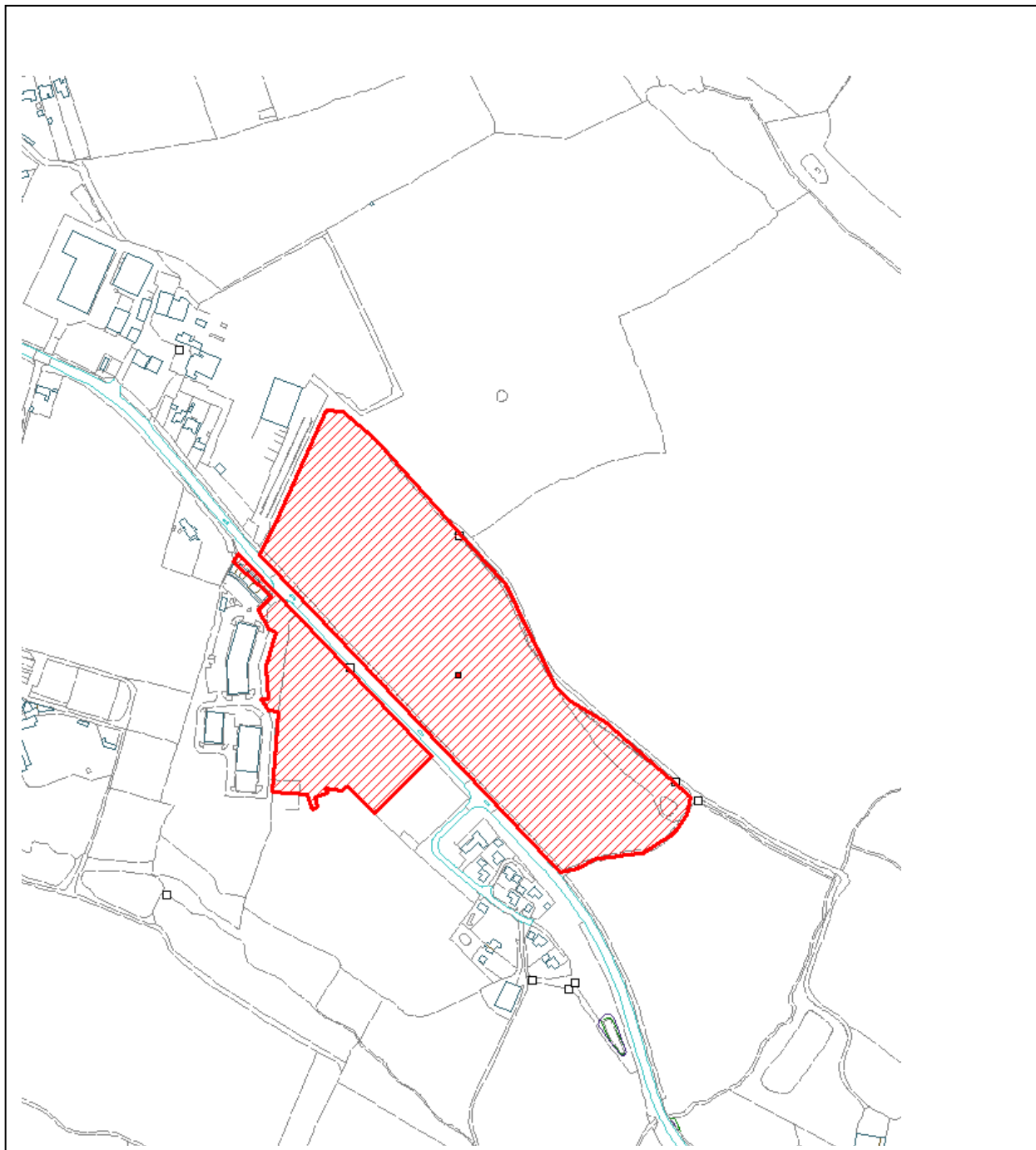


## PLANNING COMMITTEE

27<sup>th</sup> November 2023

### REPORT OF THE DIRECTOR OF PLANNING

#### **A1. PLANNING APPLICATION – 22/02076/FUL – LAND NORTH AND SOUTH OF A133 CLACTON ROAD AT FINCHES LANE ELMSTEAD CO7 7FD**



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|                      |   |                     |                    |
|----------------------|---|---------------------|--------------------|
| <b>Application:</b>  | 22/02076/FUL  | <b>Expiry Date:</b> | 12th April 2023    |
| <b>Case Officer:</b> | Jacob Jaarsma   | <b>EOT Date:</b>    | 31st December 2023 |
| <b>Town/ Parish:</b> | Elmstead Market Parish Council  |                     |                    |
| <b>Applicant:</b>    | Mr D Shaikly - Lanswood and Market Field Grows  |                     |                    |
| <b>Address:</b>      | Land North and South of A133 Clacton Road at Finches Lane Elmstead CO7 7FD  |                     |                    |
| <b>Development:</b>  | Hybrid application consisting of the following:<br><br><p><b>Full</b> planning permission for 86 No residential dwellings to the north of Clacton Road including new access, 40 No residential dwellings to the south of Clacton Road using existing access. Construction of market field grows use Class E/F1 to include multi use building (337sqm), reception office (200sqm), workshop (222sqm), 65 space car park, ancillary landscaping and buildings.</p> <p><b>Outline</b> planning permission (considering Access, Appearance, Layout and Scale) for mixed use Class E commercial building (1596sqm) and 53 space public car park</p> <p>(The proposal constitutes a departure from the Development Plan).</p> |                     |                    |

## 1. Executive Summary

- 1.1 The application is being presented to Members because it constitutes a major development proposal on an unallocated site outside the settlement development boundary of nearby Elmstead Market, and therefore a departure from the Development Plan. More specifically, the residential aspect of the proposal raises concerns by not aligning with the statutory, plan-led approach for future housing in the district. Additionally, the development on the north side of Clacton Road will result in the permanent loss of very good' quality agricultural land, as well as causing localised landscape-related issues. The application has also failed to demonstrate that the commercial (outline) element, to include Class E retail floorspace, will not have an unacceptable impact on Elmstead Market Village Centre. These areas of harm result in clear conflict with the relevant policies as set out in the corresponding sections under the 'Assessment' heading below.
- 1.2 Against this harm the scheme offers substantial benefits, most notably in the provision of a much-needed combined Employment and Special Educational Needs (SEN) facility embodied in Market Field Grows (MFG) element (use Class E/F1), featuring a Multi-Use Building incorporating a publicly accessible library, reception office and workshop areas. Furthermore, the proposal will result in substantial economic benefits, both directly and indirectly, through the provision of the MFG facility and during the construction phases of the development. These benefits hold significant weight due to the clear demand for a facility like Market Field Grows, the lasting positive contributions to the local and wider economy through the positive spin-offs of the MFG, and the community-oriented nature of a key facility, the library, which, among various other measures, will be safeguarded through a legally binding agreement if planning permission is granted.
- 1.3 There are some minor shortcomings in locational infrastructure that may discourage sustainable modes of travel, such as walking and cycling from the development site to nearby Elmstead Market and or other strategic urban settlements such as Clacton-on-Sea and Colchester. However, robust mitigation is proposed in the form of improved footpaths along Clacton Road, a pedestrian crossing

over Clacton Road and implementation of speed restrictions, as well as other necessary environmental and landscape mitigation, all to be secured through conditions and a section 106 agreement. These factors are considered neutral in the overall planning evaluation.

- 1.4 Other third-party representations, including those from technical consultees and members of the public have been thoroughly reviewed and integrated into the officer's assessment of this proposal. It is deemed that the significantly revised proposals, subject to the imposition of conditions and section 106 obligations and contributions as outlined below, have effectively addressed all remaining technical policy concerns.
- 1.5 Ultimately, after careful consideration of the planning balance and material considerations, the significant benefits outlined and explored in this report are deemed to marginally outweigh the considerable concerns related to the failure to align with the statutory plan-led approach that is given full weight. It is recognised that in law development should be refused that is contrary to the development plan unless material considerations dictate otherwise and your officer conclusion is that there is sufficient material benefit to be material and be considered a positive department overall to be approved.

Accordingly, the proposal is recommended for approval.

Recommendation: Approval subject to S106 and consultation/notification of the Secretary of State under paragraph 5(1) of the Town and Country Planning (Consultation) (England) Direction 2021.

- 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:
  - To provide the Market Fields Grow (MFG) facility in full including all buildings, utilities, internet, plastering and decoration, hard surfaces, landscaping and seating prior to occupation of 63rd dwelling and to transfer the facility in a freehold manner for £1 to the registered charity. The facility shall be functionally available on transfer. The finish level of the facility shall be agreed in writing by the LPA, and no dwellings shall be occupied beyond the occupation of the 63rd Dwelling until the MFG is provided in full and thereafter maintain as approved and for this use only.
  - The library in MFG facility to be made accessible to the wider public in perpetuity – detailed arrangements to be agreed in writing by the LPA.
  - The skills training centre element of the MFG facility hereby approved shall remain in use Class F1(a) (provision of education) in perpetuity.
  - Financial contribution of £156.76 per dwelling index linked) towards mitigation in accordance with Recreational disturbance Avoidance and Mitigation Strategy (RAMS)
  - Provision of on-site public access open space and play provision
  - Maintenance and Management of public access open space and open space on site Including the provision of dog waste bins in the POS area including details of maintenance in perpetuity.
  - If within 10 years of the decision the Class E business units (proposed under the Outline element) hereby approved fail to be in functional use (full or part) the land (or as may remain) shall revert to public open space use.
  - Incorporation of a Reviewing mechanism to ensure the viability of the scheme is reviewed. Details to be agreed, any monies gained if viability exceeds agreement shall be used for affordable housing provision.

- A reduction in the speed limit along Clacton Road in front of the site (currently 60mph) to a lower speed limit, possibly 40mph (subject to a safety audit). This obligation is subject to a series of safety audits that apply to developer delivered schemes to the satisfaction of the Highway Authority.
- The existing 40-mph speed limit that terminates approximately 480 metres to the west of the application site to be extended eastwards to incorporate the entire development site fronting Clacton Road, and to include the provision of a gateway feature at the new location (to be agreed with ECC Highways) for the terminal signs.  
Officer comment: In respect of the above two highways mitigation requirements, it should be noted that there is no guarantee that a future reduction in the current speed limit and the extension of an existing 40mph speed limit will actually realise in the area because the implementation of these measures (or not) are subject to a process completely separate to the planning process, and will be subject to a separate consultation process. The Developer is aware of this and has accepted the risk.
- A developer contribution of £77,000 towards Healthcare provision in order to mitigate against the impacts of this proposal. This contribution to go towards capital funding to increase capacity within the local GP Catchment Area. To be held by TDC.

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 Planning obligations or requirements referred to in Resolution (1) above not being secured and/or not secured within 12 months that the Planning Manager be authorised to refuse the application on appropriate grounds at their discretion.

5) That in the event that Secretary of State calls in the application that officers present a supporting case in line with Resolution 1 and 2 above, or grounds of refusal should obligations not be secured.

## 2. Planning Policy

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

### **National:**

National Planning Policy Framework Sept 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  
SP5 Employment

- SP4 Meeting Housing Needs
- SP6 Infrastructure and Connectivity
- SP7 Place Shaping Principles

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

- SPL1 Managing Growth
- SPL2 Settlement Development Boundaries
- SPL3 Sustainable Design
- HP1 Improving Health and Wellbeing
- HP2 Community Facilities
- HP5 Open Space, Sports & Recreation Facilities
- LP1 Housing Supply
- LP2 Housing Choice
- LP3 Housing Density and Standards
- LP4 Housing Layout
- LP5 Affordable and Council Housing
- PP1 New Retail Development
- PP2 Retail Hierarchy
- PP4 Local Impact Threshold
- PP5 Town Centre Uses
- PP7 Employment Allocations
- PP12 Improving Education and Skills
- PP13 The Rural Economy
- PPL1 Development and Flood Risk
- PPL3 The Rural Landscape
- PPL4 Biodiversity and Geodiversity
- PPL5 Water Conservation, Drainage and Sewerage
- PPL10 Renewable Energy Generation
- CP1 Sustainable Transport and Accessibility
- CP2 Improving the Transport Network
- DI1 Infrastructure Delivery and Impact Mitigation

Essex Minerals Local Plan 2014 (MLP)

- S8 Safeguarding Mineral Resources and Mineral Reserves

Supplementary Planning Guidance

Essex Design Guide

Tendring Climate Emergency Action Plan 2020 - 2023

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

**Status of the Local Plan**

- 2.2 Planning law requires that decisions on applications must be taken in accordance with the development plan unless there are material considerations that indicate otherwise (Section 70(2) of the 1990 Town and Country Planning Act and Section 38(6) of the Planning and Compulsory Purchase Act 2004). This is set out in Paragraph 2 of the National Planning Policy Framework (the Framework). The 'development plan' for Tendring comprises, in part, Sections 1 and 2 of the Tendring District Council 2013-33 and Beyond Local Plan (adopted January 2021 and January 2022, respectively), supported by our suite of evidence base core documents (<https://www.tendringdc.uk/content/evidence-base>) together with any neighbourhood plans that have been brought into force.
- 2.3 In relation to housing supply:

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 this development .

### **Neighbourhood Plans**

- 2.5 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>. In summary, without prejudice, the weight that should be applied to Neighbourhood Plans can be understood as follows:

Stage 1: Designated neighbourhood area (Limited Weight)  
Stage 2: Preparing a draft neighbourhood plan (Limited Weight)  
Stage 3: Pre-submission publicity and consultation (Limited Weight)  
Stage 4: Submission of a neighbourhood plan (Limited Weight)  
Stage 5: Independent Examination (Limited/Significant Weight)  
Stage 6: Referendum (Significant Weight)  
Stage 7: Adoption by LPA (Full Weight)

- 2.6 Elmstead Market Parish Council has been working to develop the Neighbourhood Plan which will contain specific policies and proposals for the Elmstead Market area against which planning applications will be judged; alongside district and national policies.
- 2.7 As of the end of September 2023, the draft Elmstead Neighbourhood Plan underwent a six-week public consultation. The feedback received during this period will be compiled and submitted alongside the draft plan to an impartial Planning Inspector for a comprehensive review. Subsequently, a local referendum will be conducted. Following these steps, it is expected that the plan will be presented for adoption by Tendring District Council (TDC).
- 2.8 In accordance with the above 'stages' scale the draft Elmstead NP can be afforded limited weight in the decision making process, but with consideration that this shall continue to gain weight and may also be adopted at the point of decision if resolved to be approved and shall have gained full weight. It is therefore mindful that there will be conflict with the Elmstead NP if this proposal is approved, not least with the NP's own settlement development boundary policy that is similar to the conflict the proposal has with the Local Plan.

The following draft Elmstead NP policies are relevant:

Draft Policy Idea 1. Settlement Development Boundary  
 Draft Policy Idea 3. Housing Mix  
 Draft Policy Idea 5. Design Codes  
 Draft Policy Idea 6. Local Heritage Assets  
 Draft Policy Idea 9. Movement, Connectivity and Traffic  
 Draft Policy Idea 10. Local Green Spaces and  
 Draft Policy Idea 11. Green Ring  
 Draft Policy Idea 12. Nature Recovery  
 Draft Policy Idea 13. Health and Wellbeing Service Provision  
 Draft Policy Idea 14. Local Community Uses

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

|              |   |          |            |
|--------------|---|----------|------------|
| 08/01426/FUL | Rolts Nursery and Garden Centre Clacton Road - Erection of 4 no. buildings to be occupied as B1, B2 and B8 business units including ancillary A1 and A3 units (existing buildings to be demolished); and construction of new vehicular and pedestrian accesses. | Approved | 31.03.2009 |
| 10/00448/FUL | Broomfield House Clacton Road - Erection of building to be occupied as A1, A2, A3, B1, B2, B8 and D1 (day nursery) (existing buildings to be demolished).   | Approved | 29.07.2010 |

#### **Other relevant planning history**

20/00239/FUL – Landswood Park, Bloomfield Road  
 (Opposite side of the road)

Planning permission (hybrid) approved in January 2021 for:

- Outline Permission for up to 10,000sqm of new mixed use (B1, B2, B8) commercial space and 14 houses,
- Full Permission for 71 houses including existing access amended and new residential access to Clacton Road.

### 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 (unless the consultee is continuing the raise a concern despite additional information being provided).
- 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/>.

**Affinity Water**

No response

A programme of archaeological evaluation has been completed at the above site which has identified the survival of significant archaeological remains. A programme of archaeological excavation was completed on land south of Clacton Road as a condition on an earlier application and a report submitted and approved.

The extent of the site north of Clacton Road was evaluated through a programme of trial trenching prior to the submission of the application due to the presence of archaeological remains as indicated through cropmark evidence and recorded on the Essex HER. The evaluation was requested to determine the nature and significance of the heritage assets that would be impacted upon by the proposed scheme and to determine a mitigation strategy for the protection of those assets identified through preservation either by design or by record.

The archaeological evaluation has revealed significant archaeological remains across much of the proposed site north of Clacton Road and a report is due to be produced which will provide further details on the nature, complexity and extent of those remains. There will be a requirement for further work on land north of Clacton Road, likely to consist of open area excavation, the full details of which would be decided once the evaluation report is received.

The following recommendations are made in line with the National Planning Policy Framework (Para 205):

**RECOMMENDATION:**

## Archaeological excavation

1. No development or preliminary groundworks can commence on the development area north of Clacton Road until a mitigation strategy detailing the excavation / preservation strategy, which has been agreed in writing, is submitted to the local planning authority.
2. No development or preliminary groundworks can commence on those areas containing archaeological deposits until the satisfactory completion of fieldwork, as detailed in the mitigation strategy, and which has been approved in writing by the local planning authority.
3. The applicant will submit to the local planning authority a post excavation assessment which has been approved in writing by the Local Planning Authority. This shall be done within 6 months of the date of completion of the archaeological fieldwork unless otherwise agreed in advance in writing by the Local Planning Authority. This will result in the completion of post excavation analysis, preparation of a full site archive and report ready for deposition at the local museum, and submission of a publication report.

## Reason for recommendation:

The development would result in harm to non-designated heritage assets with archaeological interest.

## Further Recommendations:

A professional team of archaeologists should undertake the archaeological work. Tendring District Council should inform the applicant of the recommendation and its financial implications.

Holding objection due to insufficient ecological information on designated sites (Habitats sites).



## Summary

We have reviewed the amended documents including the Updated Preliminary Ecological Appraisal (Richard Graves Associates, September 2023), Supplementary Planning Submission – Public Rights of Way and Open Space (October 2023), and Proposed Site Block Plan – Drawing No. 5750 PA\_10 G (Wincer Kievnaar, September 2023) supplied by the applicant, relating to the likely impacts of development on designated sites, protected & Priority species and habitats and identification of proportionate mitigation.

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

We note that the Updated Preliminary Ecological Appraisal (Richard Graves Associates, September 2023) identifies a number of trees as having “moderate” and “high” potential for roosting bats. However, we note that the Updated Preliminary Ecological Appraisal (Richard Graves Associates, September 2023) indicates that these trees are to be retained. Therefore, the LPA has certainty of the likely impacts to bats, European Protected Species. It should be noted however that any trees with “moderate” or “high” potential for roosting bats should be retained within the public realm, with a suitable buffer, and not constitute a part of any gardens. However, these measures can be secured by condition of consent.

Furthermore, the Supplementary Planning Submission – Public Rights of Way and Open Space (October 2023), demonstrates potentially attractive walking routes and loops. However, we note that the majority of these walking loops include a section along the busy Clacton Road (A133). We note that the Supplementary Planning Submission – Public Rights of Way and Open Space (October 2023) confirms that new Traffic Light Controlled pedestrian crossing will be installed along the road, further information should be submitted in relation to demonstrating that a suitable footway will be provided to ensure public safety of the new residents when accessing these promoted routes. This is required to ensure the daily walking routes will be suitably attractive to meet the predicted recreational needs of the new residents to prevent them from travelling to coastal Habitats sites. This is necessary to avoid Adverse Effects on Integrity from the development alone and the LPA will need this certainty when preparing its project level HRA Appropriate Assessment. This is in addition to securing a per dwelling contribution towards the Essex Coast RAMS – and a formal consultation with Natural England.

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

*Officer Comment: The above issues will be addressed in the ‘Ecology and Biodiversity’, and ‘Recreational Disturbance Mitigation’ sections below.*

## **ECC Highways Dept**

**04/10/2023**

The information submitted with the application has been assessed by the Highway Authority and conclusions reached based on a desktop study in conjunction with a site visit. The site is situated north-east of the A133 Clacton Road that is subject to a de-restricted speed limit. The proposal would introduce a new access onto A133 Clacton Road. There is no evidence of any personal injury accidents in the vicinity of the proposed access for the most recent 3-year period (between 01/08/2018 to 31/07/2023). The applicant has demonstrated that the proposed vehicular access has adequate visibility on both approaches and will include a designated right turn lane. Although the development is detached from Elmstead village the applicant has incorporated several mitigation measures, including a reduction in the speed

limit within the proposal, that will improve the sustainability of the existing and proposed developments, albeit these measures will be subject to a series of safety audits that apply to developer delivered schemes for Highway Authority acceptability. The assessment of the application and Transport Assessment was undertaken with reference to the National Planning Policy Framework and the Highway Authority is satisfied that, at peak times, the number of trips generated by the proposal on the highway network would not be severe, considering these factors:

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

1. No development shall take place, including any ground works or demolition, until a Construction Management Plan has been submitted to, and approved in writing by, the local planning authority. The approved plan shall be adhered to throughout the construction period. The Plan shall provide for:

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

**Reason:** To ensure that on-street parking of these vehicles in the adjoining streets does not occur and to ensure that loose materials and spoil are not brought out onto the highway in the interests of highway safety and Policy DM1.

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

- a) A new priority junction off Clacton Road to provide access to the proposed site (to the north-east).
- b) A dedicated right turn lane to be designed in accordance with DMRB standards.
- c) The road junction at its centre line shall be provided with a clear to ground visibility splays of 2.4m x 160m in both directions, as measured from and along the nearside edge of the carriageway and retained free of any obstruction at all times.
- d) Where possible the existing footway to be widened to maximum 3-metres or minimum 2-metres on both sides of Clacton Road to the existing bus stop facilities west of Lanswood Business Park.
- e) To current Essex County Council specification, the upgrade of the two nearest bus stops on Clacton Road, west of Lanswood Business Park (details shall be agreed with the Local Planning Authority and Essex County Council prior to commencement of the development).
- f) The existing 40-mph speed limit that terminates west of the proposed development to be extended eastwards to incorporate the development and to include the provision of a gateway feature at the new location for the terminal signs.
- g) On the completion of the speed limit changes and prior to the occupation of 51st unit the provision of the proposed measures as shown in principle and accord with Drawing Number: 61055/ 0003 Rev. P1 shall be provided.
- h) The provision of a signalised 'Puffin or Toucan' crossing to serve the existing and proposed developments together with the nearest bus stops serving the development.
- i) Suitable pedestrian/cycle provision through the sites to provide permeability.

**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, DM7 and DM9.

3. Prior to the occupation of any of the proposed development the internal road and footway layouts shall be provided in principle and accord with Drawing Numbers:

- PA\_07 E Amended proposed residential site plan part 1
- PA\_08 D Amended proposed residential site plan part 2
- PA\_09 D Amended proposed residential site plan part 3

**Reason:** To ensure that vehicles using the site access do so in a controlled manner, in the interests of highway safety and in accordance with Policy DM1 and DM6.

**Note:** It has been agreed with the developer that the proposed internal road layout, footway layout, surface water drainage or any form of street lighting will not be adopted by the Highway Authority.

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

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

6. 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.

7. Prior to the occupation of the proposed farm/ commercial development, the Developer shall submit a workplace travel plan to the Local Planning Authority for approval in consultation with Essex County Council. Such approved travel plan shall be actively implemented for a minimum period of 5 years. It shall be accompanied by a monitoring fee of £6,760 (plus the relevant sustainable travel indexation) to be paid before occupation to cover the 5-year period.

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

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

**Notes:**

- The Speed Limit Order process is a separate statutory process that can attract comment/objections that require determination, and that outcome cannot be pre judged.

- LTN 1/20 compliance table/report for cycle routes will be required for the development.

- DMRB compliance table, including any departures or relaxation from standards will be required.

- A Stage 1 RSA for the proposed access and highway improvement measures to be provided, ideally to be carried out by Essex Highways (to avoid the issue of additional items being identified at RSA2 stage which can then delay technical approval)

[roadsafety.audit@essexhighways.org](mailto:roadsafety.audit@essexhighways.org)

(Continued...)

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

- 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 to regulate the construction of the highway works.
- Street lighting will be provided in accordance with ECC Operational Plan.
- All highway related details should be agreed with the Highway Authority.
- Any cul-de-sac without a turning head being no more than 20m in length.
- Priority for pedestrians and cyclists across internal junctions. (Internal layout subject to a 20mph Zone).

**Informative:**

1: 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.

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: Prior to occupation, 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.

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 available.

**ECC Planner Minerals**

**Latest comments**

Thank you for your email received 4<sup>th</sup> May 2023 which acted to re-consult the Minerals and Waste Planning Authority (MWPA) on the basis of the submission of a Minerals Resource Assessment in relation to this proposal. The MWPA notes the information set out in Paragraph 6.1 which states that 'strikes of groundwater were encountered in all boreholes during this exploration phase, usually at between 1.8m and 2.0m below ground level'. It is further noted by the MWPA that 'the water table was encountered at 1.0m below ground level

in FL2023-001 at the eastern end of the site with the lowest topography, coinciding with very wet ground and a probable spring-line at the interface with the London Clay.', as set out in Paragraph 6.2. It is noted that 'all boreholes drilled within the site recorded water table strikes between 1.8 and 2.0m below ground level' and the MWPA accepts that 82% of the mineral lies beneath the water table, as per Paragraph 9.2. Therefore, although the MWPA note that analysis of operational costs (Section 8.0) demonstrate that the mineral defined may represent economic viability, the MWPA have no reason to challenge the conclusion that 'prior extraction without full-profile dewatering would require significant wet working (82% of the deposit) and would result in a restoration unsuitable for housing development' and therefore the MWPA accepts that for this proposal and for the exceptional reasons stated, that prior extraction is not possible.

**Essex County Fire Officer**

**20.09.2023**

Access for Fire Service purposes has been considered in accordance with the Essex Act 1987 - Section 13.

Access for fire service is considered satisfactory subject to fire service access for firefighting purposes to the proposed development being fully compliant with Building Regulations Approved Document B Volume 1, B5. Your attention is drawn to ADB Volume 1, B5 Section 13. When referring to Table 15.2. Essex Fire Service appliance details:

More detailed observations on access and facilities for the Fire Service will be considered at Building Regulation consultation stage. Advisory guidance provided.

**Environment Agency**

Thank you for the consultation. Upon reviewing this application, we have no comments to make.

**Environmental Protection**

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

I have reviewed this application and our previous comments submitted on 30th January 2023 and have the following comments to make:

**Contaminated Land**

Having reviewed the phase one desk study report (conducted by Richard Jackson Engineering Consultants dated October 22) I can confirm that the recommendations in the conclusion shall be implemented (as extracted below from part 7 of the report).

'It is recommended that intrusive ground investigations are undertaken at the site to confirm the prevailing ground conditions and assess the contamination status of the site. In-situ and geotechnical laboratory testing should be undertaken to confirm the above assumptions. Intrusive investigations should include the installation and subsequent monitoring of standpipes to assess the gassing regime beneath the site'.

REASON - To ensure that any risks (to future users of the land and neighbouring land and to controlled waters, property, and ecological systems) arising from any land contamination are

minimised and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

\*All other recommendations made on the previous consultation submitted on 30th January 2023 apply as shown below.

Officer comment: *the above requirement will be considered, and where necessary, relevant and reasonable, will be secured by an appropriate worded planning condition(s).*

#### Noise

Given the proposed sites location to a main road, and the surrounding commercial units, the EP Team are requesting a noise impact assessment be undertaken, by a relevantly qualified acoustician, to establish whether the proposed dwellings can achieve compliance with the relevant British Standards and the WHO recommended noise exposure levels in relation to residential dwellings. The report should include information about the current noise climate and outline any recommendations in relation to required mitigation to ensure the noise levels within the property, and within the amenity space of the proposed dwelling, do not expose future residents to potential harm from excessive noise.

REASON: To protect the amenity of future residents

Officer comment: *The matter raised above will be covered in the 'Impact on Residential Amenity' section below.*

#### Construction Method Statement

In order to minimise potential nuisance to nearby existing residents caused by construction and demolition works, Pollution and Environmental Control ask that the following is submitted:

Prior to the commencement of any construction or demolition 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 at minimum include the following where applicable.

##### - 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.

- 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).

REASON: to protect the amenity of nearby residential dwellings

Officer comment: *the above requirements will be considered, and where necessary, relevant and reasonable, will be secured by appropriately worded planning conditions.*

**NHS East Essex CCG**

**06.02.2023**

**1.0 Introduction**

**1.1** We appreciate your engagement with Suffolk and North East Essex Integrated Care Board regarding the planning application mentioned above.

**1.2** In reference to the aforementioned planning application, I would like to convey our comments after reviewing the applicant's submission. These comments pertain to the provision of health and social care services on behalf of the Suffolk and North East Essex Integrated Care System.

**2.0 Existing Healthcare Proximity to the Planning Application Site**

**2.1** The proposed development is expected to affect the services of one primary GP practice and two branch surgeries in close proximity to the application site. These healthcare facilities do not have the capacity to accommodate the additional demand resulting from this development.

**2.2** The proposed development is likely to impact the NHS funding program for primary healthcare provision in the area, specifically within the health catchment of the development. As the primary commissioner of primary care services, Suffolk and North East Essex ICB expects a comprehensive assessment of these impacts and their mitigation.

**3.0 Review of Planning Application**

**3.1** Suffolk and North East Essex ICB has prepared a Healthcare Impact Assessment (HIA) to establish the basis for a developer contribution to enhance capacity within the GP catchment area.

**4.0 Assessment of Development Impact on Existing Healthcare Provision**

**4.1** The current GP practices lack the capacity to accommodate the additional residents expected from the proposed development, estimated at approximately 290 individuals. This development would consequently place additional strain on already constrained healthcare services.

**4.2** Table 1 summarizes the capacity of primary healthcare services within a 2km catchment area of the proposed development.

**Table 1: Summary of Primary Healthcare Services Capacity within 2km Catchment Area**

| <b>Premises</b>                                | <b>Weighted List Size <sup>1</sup></b> | <b>NIA (m<sup>2</sup>)<sup>2</sup></b> | <b>Capacity<sup>3</sup></b> | <b>Spare Capacity (NIA m<sup>2</sup>)<sup>4</sup></b> |
|--|--|--|-----------------------------|---|
| Abbeyfield Medical Centre (including branches) | 18,221                                 | 1,198.63                               | 17,480                      | -51   |
| <b>Total</b>                                   | <b>18,221</b>                          | <b>1,198.63</b>                        | <b>17,480</b>               | <b>-51</b>  |

*Notes:*

1. The weighted list size of the GP Practice based on the Carr-Hill formula, reflecting resource and space needs.
2. Current Net Internal Area occupied by the Practice.
3. Capacity based on 120m<sup>2</sup> per 1750 patients.
4. Based on existing weighted list size.

**4.3** The development would significantly impact primary healthcare provision in the area, and if left unmitigated, these implications would be unsustainable. To be considered under the 'presumption in favor of sustainable development' advocated in the National Planning Policy Framework, the proposed development must incorporate appropriate mitigation measures.

## **5.0 Healthcare Needs Arising From the Proposed Development**

**5.1** It is recommended that, during the early stages of the planning process, collaboration with NHS England and Public Health England occurs to understand the current and future dental needs of the development and surrounding areas. This should consider current dental provision, oral health status, and predicted population growth to ensure accessible and sufficient dental services that meet both development needs and address existing gaps and disparities.

**5.2** Encouraging oral health preventative measures at all stages of planning and integrating oral health into the community, including health hubs, can empower residents to invest in their oral healthcare throughout their lives.

**5.3 *Health & Wellbeing Statement:*** Suffolk and North East Essex Integrated Care System recognizes and supports the role of planning in creating healthy, inclusive communities and reducing health inequalities. Investments should not only focus on infrastructure but also address workforce challenges, digital innovations, and initiatives for improved health and wellbeing.

**5.4** The development necessitates improvements in capacity, in line with the emerging STP Estates Strategy. This could involve refurbishment, reconfiguration, extension, or potential relocation for the benefit of Elmstead Market's patients and surrounding areas. A portion of these costs should be met by the developer.



**5.5** Table 2 outlines the Capital Cost Calculation for additional primary healthcare services required due to the development proposal.

**Table 2: Capital Cost Calculation of Additional Primary Healthcare Services Arising from the Development Proposal**

| <b>Existing Primary Care Premise</b>           | <b>Additional Population Growth 126 dwellings) <sup>5</sup></b> | <b>Additional floorspace required to meet growth (m<sup>2</sup>)<sup>6</sup></b> | <b>Spare Capacity (NIA)<sup>7</sup></b> | <b>Capital required to create additional floor space (£)<sup>8</sup></b> |
|--|---|--|---|--|
| Abbeyfield Medical Centre (including branches) | 290   | 19.88  | -51                                     | £77,000.00   |
| <b>Total</b>                                   | <b>290</b>  | <b>19.88</b>   | <b>-51</b>                              | <b>£77,000.00</b>  |

**Notes:**

- **5:** Calculated using the Tendring District average household size of 2.2 taken from the 2011 Census: Rooms, bedrooms and central heating, local authorities in England and Wales (rounded to the nearest whole number).
- **6:** Based on 120m<sup>2</sup> per 1750 patients (this is considered the current optimal list size for a single GP within the East DCO). Space requirement aligned to DH guidance within “Health Building Note 11-01: facilities for Primary and Community Care Services”.
- **7:** Existing capacity within premises as shown in Table 1.
- **8:** Based on standard m<sup>2</sup> cost multiplier for primary healthcare in the East Anglia Region from the BCIS Public Sector Q1 2020 price & cost Index, adjusted for professional fees, fit-out, and contingencies budget (£3,872/m<sup>2</sup>), rounded to the nearest £100.

**5.6** To mitigate the impacts of this proposal, a developer contribution of £77,000.00 is required. This payment should be made before commencing the development.

**5.7** Suffolk and North East Essex ICB requests that this sum be secured through a planning obligation linked to any grant of planning permission, in the form of a Section 106 planning obligation.

**6.0 Conclusions**

**6.1** In its capacity as the primary healthcare commissioner, Suffolk and North East Essex ICB has identified that the development will necessitate additional primary healthcare provision to address impacts arising from the development.

**6.2** The capital required through developer contribution would constitute a portion of the necessary funding for capacity expansion to accommodate the patient growth resulting from this development.

**6.3** Assuming the above considerations are taken into account during the current application process, Suffolk and North East Essex ICB would not object to the proposed development. However, the Local Planning Authority may need to reevaluate the development's sustainability if these impacts are not adequately mitigated.

**6.4** The terms outlined above represent what Suffolk and North East Essex ICB deems appropriate in light of the emerging needs resulting from the development.

**6.5** Suffolk and North East Essex ICB is satisfied that the basis and value of the developer contribution sought align with the policy and tests for imposing planning obligations as detailed in the NPPF.

**6.6** Suffolk and North East Essex ICB anticipates productive collaboration with the applicant and the Council to effectively address the concerns raised in this consultation response and would appreciate confirmation of the receipt of this letter.

**Arch. Liaison Off, Essex Police**

**22.08.2023**

Security forms a key part of a sustainable and vibrant development, and the Essex Police Designing Out Crime Office (DOCO) considers that it is important that this development 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 official police security initiative that works to improve the security of buildings and their immediate surroundings to provide safe places to live and work and is designed to address emerging criminal methods of attack. This reflects sections 92, 112 and 130 of the NPPF.

Whilst there are no apparent concerns with the layout of this site, Essex Police requests that the developer seeks to achieve the relevant Secured by Design accreditation for this development, which in this case will be SBD - Commercial Developments and SBD ' Homes 2023.

The DOCO would welcome the opportunity to discuss the points below as well as review the security of the complete site with the applicant.

**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.

Essex Police recommend that lighting design meets the current relevant standard (i.e., the newest standard for street lighting BS5489-1 2020).

**Physical security for the commercial and residential units.**

The physical security for the dwellings and commercial units is not mentioned within the documents submitted to the planning portal. We would be keen to discuss how the applicant intends to secure the development to keep future residents and visitors safe whilst also preventing against crime and anti-social behaviour.

**CCTV Operation and supporting policies.**

Although CCTV is not cited within the documents submitted to the planning portal for this application, it is assumed that the proposed commercial site will have CCTV cameras; the most important aspect of utilising CCTV is the quality of the system and its imagery. This should be based on a series of comprehensive operational user and requirement tables. It requested that the CCTV will be monitored at all times, and therefore management plans and procedures, alongside data sharing protocols are required detailing the expectation of all parties. This will need to be embedded within contingency plans and overall policies and procedures. It should be acknowledged that despite the most careful appropriate design and incorporating the most sophisticated physical and electronic security measures the net result will be diminished without suitable policies and procedures.

The Essex Police Designing out Crime Team would welcome further consultation as part of the planning process, and if there are any further queries around embedding designing out crime practices within this project, please do not hesitate to contact [designingoutcrime@essex.police.uk](mailto:designingoutcrime@essex.police.uk)

Officer comment: *where relevant to planning, and where necessary, relevant and reasonable the above requirements can be secured by appropriated worded planning conditions including details of external lighting for the entire development and details of CCTV on the commercial elements of the proposal.*

**Urban Design Advisor – ECC**

**05/10/2023**

(Summarised response) The revised proposal has responded well to our concerns and offers a significant improvement upon the original submission. There have been key improvements to the layout, parking, landscaping, and sustainability of the proposal. The proposal is now more successful from an urban design perspective and our suggestions as to how it might be improved are far less fundamental in comparison to our prior response dated 02/03/2023.

In summary, the revised proposal is a significant upgrade on the prior proposal. However, it is imperfect, in large part due to the hard constraint of a pre-agreed density, but the applicant has made a commendable effort to follow the advice provided in our prior response, within the context of this constraint, and provide a proposal that is adherent to strong urban design principles. There are some amendments that would not contradict the density constraint which we would further encourage design refinement, which are listed below:

- Utilise L-shaped units to offer better active frontage coverage in key areas referenced in this response.
- Scale back the use of shared streets and opt for a smaller-scale but more targeted approach, focusing on key areas and the role of these streets within a broader route hierarchy
- Do not utilise shared streets along the green link, in particular, as it feels confusing and the emphasis should be on the wide path by the green buffer.
- Create a more direct pedestrian access point into the LEAP from the east, whilst maintaining the more scenic meandering route that is currently being utilised.
- Work to provide more interaction from built form and less car dominance from the spaces to the north and south of the main route into Market Field Grows.
- Ensure that market Field Grows' parking area is well-landscaped and feels like a 'soft' space.
- Ensure that the entrance to the parking court serving units 117-124 is well overlooked by active frontage and that the space is well landscaped.

Officer Comment: *The ECC Urban Design advisor is now broadly in support of the scheme, the suggested further amendments are noted and have been addressed in the 'Assessment' section below (under 'Urban Design Considerations', 'Impact on Character of Area/Landscape and Tree considerations' and 'Highways Safety' sections).*

**Natural England**

**Original Response dated 10.03.2023**

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

SUMMARY OF NATURAL ENGLANDS ADVICE - European designated sites

It has been identified that this development site falls within the "Zone of Influence" (Zol) of one or more of the European designated sites scoped into the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS).

As you will be aware, the Essex Coast RAMS is a large-scale strategic project which involves a number of Essex authorities, including Tendring District Council, working together to mitigate the recreational impacts that may occur on the interest features of the coastal European designated sites in Essex as a result of new residential development within reach of them; the European designated sites scoped into the RAMS are notified for features which are considered sensitive to increased levels of recreation (e.g. walking, dog walking, water sports etc.) which can negatively impact on their condition (e.g. through disturbance birds, trampling of vegetation, erosion of habitats from boat wash etc.). For further information on these sites, please see the Conservation Objectives and Information Sheets on Ramsar Wetlands which explain how each site should be restored and/or maintained in the context of your 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 recreational pressure, either when considered "alone" or "in combination" with other plans and projects.

We understand that you have screened this proposed development and consider that it falls within scope of the Essex Coast RAMS, and that you have undertaken a Habitats Regulations Assessment (HRA) (Stage 2 - Appropriate Assessment), wherein our advice is sought on the adequacy of the proposed mitigation.

We note that the HRA Appropriate Assessment "confirm(s) agreement to pay the RAMS tariff to offset the in-combination recreational effects of the development", and are satisfied to the extent that the financial contribution component of the proposed mitigation has been secured.

However, after carefully reviewing the application documents, Natural England's view is that the provision of SANGS (Suitable Alternative Natural Green Space) is inadequate, and does not reflect the scale of the proposed development.

We consider that the proposed development, without substantial amendment, would:

- have an adverse effect on the integrity of European designated sites within scope of the Essex Coast RAMS

As such, we cannot conclude that the development would not have a significant adverse effect on protected sites, and therefore would object to the proposal in its current form.

You have sought Natural England's advice on this issue, and our detailed advice is set out below.

We advise that an appropriate planning condition or obligation is attached to any planning permission to secure the on-site mitigation measures, including proportionate SANGS provision with links to footpaths in the surrounding area. The financial contribution (as index linked) should be secured through an appropriate and legally binding agreement, in order to ensure no adverse effect on integrity.

Further information

SANGS (Suitable Alternative Natural Green Space)

SANGS is intended to provide mitigation for the potential impact of residential development on designated sites by preventing an increase in visitor pressure. Access and design should be

carefully considered such that the SANGS is more attractive than the Essex Coast to users of the kind that currently visit it (e.g. dog walkers).

The HRA Appropriate Assessment identifies that on-site recreational provision is limited to "0.55 hectares of open space (which) includes a dog walking loop as shown on Proposed Residential Site Plan PA-06 B". We note your request for additional information from the applicant in relation to local outdoor recreational opportunities for new residents.

As currently described in the planning application, the developers proposed on-site green space does not meet the minimum standard required for residential developments on this scale.

As a minimum, we advise that SANGS provisions should include:

- High-quality, informal, semi-natural areas
- A minimum of 8 ha per 1000 population (e.g. at least 2.4 ha for 300 residents)
- Circular dog walking routes of 2.7 km within the site and/or with links to surrounding public rights of way (PRoW)
- Dedicated "dogs-off-lead" areas and dog waste bins
- Signage/information leaflets to householders to promote these areas for recreation
- A commitment to the long term maintenance and management of these provisions

ANNEX I provides further information on the specific SANGS requirements.

Other advice

Further general advice on the consideration of protected species and other natural environment issues is provided in ANNEX A of this letter.

We would be happy to comment further should the need arise but if in the meantime you have any queries please do not hesitate to contact us.

For any queries regarding this letter, for new consultations, or to provide further information on this consultation please send your correspondences to [consultations@naturalengland.org.uk](mailto:consultations@naturalengland.org.uk).

Annex I - Natural England's recommendations for larger scale residential developments within the Essex Coast RAMS zone of influence (100 units plus, or equivalent, as a guide)

Developments of this scale should include provision of well-designed open space/green infrastructure, proportionate to its scale. Such provisions can help minimise any predicted increase in recreational pressure to the European sites by containing the majority of recreation within and around the development site boundary away from European sites. We advise that the Suitable Accessible Natural Green Space (SANGS) guidance here can be helpful in designing this; it should be noted that this document is specific to the SANGS creation for the Thames Basin Heaths, although the broad principles are more widely applicable. As a minimum, we advise that such provisions should include:

- High-quality, informal, semi-natural areas
- Circular dog walking routes of 2.7 km<sup>4</sup> within the site and/or with links to surrounding public rights of way (PRoW)

- Dedicated "dogs-off-lead" areas
- Signage/information leaflets to householders to promote these areas for recreation
- Dog waste bins
- A commitment to the long term maintenance and management of these provisions

Natural England would be happy to advise developers and/or their consultants on the detail of this at the pre-application stage through our charged Discretionary Advice Service (DAS), further information on which is available here.

However, the unique draw of the above European sites means that, even when well-designed, "on-site" provisions are unlikely to fully mitigate impacts when all residential development within reach of the coast is considered together "in combination". We therefore advise that consideration of "off-site" measures (i.e. in and around the relevant European designated site(s)) is also required as part of the mitigation package for predicted recreational disturbance impacts in these cases.

As such, with the adoption of the Essex Coast RAMS by your Authority, a financial contribution should also be agreed with and collected from the developer, prior to commencement, on the basis that it can be used to fund strategic "off site" measures (i.e. in and around the relevant European designated site(s)). These measures should be targeted towards increasing the relevant European site(s) resilience to recreational pressure and be in line with the adopted Essex Coast RAMS Supplementary Planning Document. A suitable delivery mechanism for the measures must be agreed to secure them and ensure they are implemented from the first occupation of dwellings. Alternatively, we understand that it may be acceptable at the outline planning stage to include a suitably-worded planning condition which secures full adherence with the Essex Coast RAMS at the Reserved Matters stage.

**Natural England** (Latest response dated 05.10.2023 (following consultation and revised reports / new information provided)

(Summarised) No further information seems to have been provided on the provision of Suitable Accessible Natural Green Space (SANGs) as set out in our previous response (422294).

As set out in our previous response 422294, as a minimum, we advise that SANGS provisions should include:

- High-quality, informal, semi-natural areas
- A minimum of 8 ha per 1000 population (e.g. at least 2.4 ha for 300 residents)
- Circular dog walking routes of 2.7 km<sup>3</sup> within the site and/or with links to surrounding public rights of way (PRoW)
- Dedicated 'dogs-off-lead' areas and dog waste bins
- Signage/information leaflets to householders to promote these areas for recreation
- A commitment to the long term maintenance and management of these provisions

**Officer Comment:** *The concerns raised by Natural England in both these responses have been fully addressed in the Ecology, Biodiversity and Recreational Disturbance Mitigation Sections below.*

The application is for Hybrid application consisting of the following: full planning permission for 86 No residential dwellings to the north of Clacton Road including new access, 40 No residential dwellings to the south of Clacton Road using existing access. Construction of market field grows use Class E to include multi use building (337sqm), reception office (200sqm), workshop (222sqm), 46 space car park, ancillary landscaping and buildings. Outline planning permission (access only) for mixed use commercial Space 1.12ha up to 2500sqm. The proposal constitutes a departure from the Development Plan.

The proposal site is in proximity to Grade II Listed Beth Chatto Gardens. The Beth Chatto Gardens, is a series of informal gardens developed from 1960 onwards, with additions and alterations in the late-C20 and early-C21, all by Beth Chatto, and are registered for their design and historic interest.

The proposal will change the existing wider setting of the Registered Garden by introducing a built form in a previously undeveloped area. However, it is noted that the garden draws its significance from the innovative design and the historic interest of the complex more than from its setting. The proposal is therefore not considered to have an indirect impact on the significance of this designated heritage asset.

Grade II Listed Hill Farmhouse and Guide Post on Eastern Verge are also in proximity to the proposal site, however, due to the distance, topography of the site, intervening vegetation and existing built form, there is very limited intervisibility between the designated heritage assets and the proposal site

**In Support** (summary)

When estimating the number of children that a new housing development will generate, and therefore require a school place (pupil yield), ECC takes account of the number of houses and flats that are suitable to accommodate children. One-bedroom units and some dwellings, such as student and elderly accommodation, are excluded from the education calculation.

With reference to the details above, and page 6 of the Planning Statement where the unit mix is set out, (ie: all units will be 2+bed houses), a development of this size can be expected to generate the need for up to 11.3 Early Years and Childcare (EY&C) places; 37.8 primary school places, and 25.2 secondary school places.

It is noted that this hybrid planning application is being presented as an 'enabling development' to support the cross funding of a charity employment and skills training facility (Market Field Grows) for SEND16+ children/young adults. The charity, Market Field Farm is working collaboratively with a number of partners to deliver Market Field Grows, an innovative and unique model which will be facilitated by the reduced profit basis of the proposed development. Market Field Grows has links with Market Field School and Market Field College, both providing education for students with moderate learning difficulties from ages 5-16, and 16-19, and the proposed Market Field Grows facility will build upon the excellent work already done by the School and College, adding considerable social value to the local community. In addition, the proposed educational facility will provide a much-needed link and pathway, on a skills training basis, between formal education and employment for young adults aged 16+ with special education needs and disabilities. The model is sustainable and will build resilience and independence in a vulnerable cohort of young people and their families.

In responding to this application, Essex County Council recognises that Market Field Grows has the potential to enable life changing opportunities for young people/adults who have traditionally not been able to find sustainable and meaningful work through other opportunities. This facility will support these young people/adults through an extended education programme, provide skills and training, and create pathways to enable them to benefit from prospective long-term employment.

Essex County Council consider the overall benefit of this facility, and the financial costs associated with delivering the facility and supporting infrastructure, offsets the requirements for financial contributions towards community infrastructure which would otherwise be required in this instance.

Essex County Council supports the proposal. The Planning Statement, as submitted (pages 8-11 apply), identifies a figure in the region of £3.5m as representing the investment required to bring forward the development and benefits. ECC's Infrastructure Delivery Team have advised this is a reasonable cost to deliver the project as proposed. Should costs escalate and not all the works completed, a proportionate financial contribution to community infrastructure would be required. Additionally, it is recommended that the proposed land use for the Market Farm area should be captured in perpetuity through the s106 Legal Agreement.

#### S106 Legal Agreement

The submission of a draft legal agreement is welcomed, and further discussion will be required to agree content through to sealing. As mentioned above, the proposed development would generate the need for additional Early Years and Childcare (EY&C) places, primary school places, and secondary school places, along with additional use of the local library. Under the assumptions of a more standard application, the overall demand arising from the proposed development would attract a level of mitigation by way of financial contributions. These are proffered below for information purposes, but are not requested by ECC for the reasons outlined above.

Please note, the figures below are an assessment based on the number and mix of proposed units and would be subject to Indexation should they be requested.

*Officer Comment: Figures not included due to Essex County Council's overarching position that the overall benefit of the SEN facility, and the financial costs associated with delivering the facility and supporting infrastructure, offsets the requirements for financial contributions towards community infrastructure which would otherwise be required in this instance. The quote figures are however available in the detailed response from ECC Schools which is available on the LPAs website at this link:*

[22\\_02076\\_FUL-REC\\_D\\_20.02.23 - CONSULTEE RESPONSE - ECC SCHOOLS-1827916.pdf \(tendringdc.gov.uk\)](https://tendringdc.gov.uk/22_02076_FUL-REC_D_20.02.23_-_CONSULTEE_RESPONSE_-_ECC_SCHOOLS-1827916.pdf)

#### **UU Open Spaces**

**22.02.2023**

There is currently a deficit of 4.51 hectares of equipped play/formal open space in Elmstead Market.

#### Recommendation

Due to the lack of open space and recreation facilities in Elmstead a contribution towards play and open space is justified and relevant to this development.



The Parish Council have identified a new area of open space plans in to provide additional facilities, at the site known as Charity Fields on School Road, this will help towards the current deficit of play and open space in Elmstead.

*Officer Response: The scheme provides Public Open Space including a SANGS area with a dog walking loop as well as a Locally Equipped Area for Play (LEAP) at the request of Place Services. In light of this provision, Open Spaces request for a contribution towards play and open space Charity Fields on School Road is therefore not considered to be necessary to make the development acceptable in planning terms, and would therefore fail the statutory tests in [regulation 122](#) (as amended by the 2011 and 2019 Regulations) and as policy tests in the Framework.*

**Tree & Landscape Officer**

**30.01.2023**

The application site comprises of two parcels of land either side of the A133 Clacton Road.

It is understood that there is an extant consent for commercial development for the parcel of land to the south of the A133 that has not been built out and the current development proposal proposes that the land is developed for residential use rather than commercial.

The proposed change of use of the land is unlikely to significantly affect the impact of development on the local landscape character. It is noted that and the large specimen Oak by the entrance to the site is shown as retained on the Phase 2 Site Plan ' Ref 492-01-01-PLANN.

With regard to the parcel of land to the north of the A133 this land is currently in agricultural use and has established field boundary hedgerows with specimen trees.

In order to show the potential impact of the proposed development on the trees and other vegetation on the application site the applicant has provided an Arboricultural Impact Assessment (AIA). The AIA provides details of the health, condition and amenity value of the trees as well as the extent to which they are a constraint on the development potential of the land. The 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 within the AIA are sufficient to reduce the risk of direct and indirect development related damage that may otherwise occur to the retained trees as the result of the development.

In conclusion, assuming the method statements and tree protection measures are implemented as part of the development, the proposal can be constructed with minimal disturbance to the trees that will not compromise their health, condition or long term viability.

In terms of the potential impact of the proposed development on the local landscape character it should be noted that the land sits within the Bromley Heaths Landscape Character Area (LCA). It should also be noted that the plateau landscape is visually sensitive as a result of its open and rural character and long views. The remaining heaths, village greens, ancient woodlands, hedgerow trees, historic lanes and unimproved grasslands and roadside verges are the features that are most sensitive to change

Other areas of particular high sensitivity to built development are those on the edge of the plateau overlooking the Stour Valley System (6A), the Alresford Valley System (6C) and the Holland Valley System (6D). This applies to the southern part of the application site close to Tenpenny Brook which is part of the Alresford Valley System.

The landscape strategy for the Bromley Heaths landscape is to conserve the rural character and historic elements of the landscape and to enhance woodland cover, hedgerow condition and heathland character.

In order to show the potential impact of the proposed development on the local landscape character the applicant has provided a Landscape and Visual Impact Assessment (LVIA). The LVIA has been undertaken in accordance with the guidance contained in GLVIA3, which recommends that an assessment is made of the likely impacts of the development and their significance.

As part of the LVIA the applicant has completed a value assessment of the application site in accordance with the latest methodology for assessing landscape value outside national designations as outlined in Technical Guidance Note 02-21, published by the Landscape Institute in 2021.

The LVIA is considered to be a genuine and accurate description of the application site, which in the main finds that the level of harm will be negligible and slight adverse however it should be recognised that the development of the land would adversely affect the local landscape character of the application site itself and result in the loss of a pleasant area of countryside that by the very nature of the development would contribute to the gradual erosion of the countryside. Nevertheless it is accepted that the proposed development would not cause any significant harm to the wider landscape.

In terms of visual harm, with the exception of views from Clacton Road (A133) closest to the application site views from Public Rights of Way and surrounding land are limited to partial and distance views that will not significantly affect walkers use and enjoyment of the countryside.

In order to mitigate the impact of the development on the area a comprehensive soft landscaping scheme will be required.

Therefore, should planning permission be likely to be granted then a condition should be attached, to any such permission, to secure details of soft landscaping to soften, screen and enhance the appearance of the development. Particular attention should be given to the 'Buffer Planting' shown on the Proposed Site Block Plan; Ref -; 5705 PA\_10 B and to the Site Arrangement Plan; Ref ' 5705 PA\_03 B.

Reference to the importance of this planting is referenced in the LVIA

**Anglian Water Services Ltd**

**31.01.2023**

**ASSETS**

**Section 1 - Assets Affected**

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

**WASTEWATER SERVICES**

**Section 2 - Wastewater Treatment**

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

### Section 3 - Used Water Network

This response has been based on the following submitted documents:

Site specific flood risk, FRA appendices

Due to lack of information we are unable to make an informed assessment. A full assessment cannot be made due to lack of information, the applicant has not identified a connection point into Anglian Water owned assets. Anglian water require this information to be able to perform an accurate desktop assessment of the network. Therefore, the development has the potential to have an unacceptable risk of flooding/or pollution from the network. Anglian Water will need to plan effectively for the proposed development, if permission is granted. We will need to work with the applicant to ensure any infrastructure improvements are delivered in line with the development. We therefore request a condition requiring an on-site drainage strategy

Officer comment: *Considerations such as flooding (fluvial and surface water flooding and/or ground water pollution) will be covered in the relevant sections below.*

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

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

INFORMATIVE - Building near to a public sewer - No building will be permitted within the statutory easement width of 3 metres from the pipeline without agreement from Anglian Water. Please contact Development Services Team on 0345 606 6087. INFORMATIVE: The developer should note that the site drainage details submitted have not been approved for the purposes of adoption. If the developer wishes to have the sewers included in a sewer adoption agreement with Anglian Water (under Sections 104 of the Water Industry Act 1991), they should contact our Development Services Team on 0345 606 6087 at the earliest opportunity. Sewers intended for adoption should be designed and constructed in accordance with Sewers for Adoption guide for developers, as supplemented by Anglian Water's requirements.

### Section 4 - Surface Water Disposal

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

From the details submitted to support the planning application the proposed method of surface water management does not relate to Anglian Water. As such, we are unable to provide comments on the suitability of the surface water management. The applicant and the Local Planning Authority should seek the advice of the Lead Local Flood Authority, as they are the statutory consultee for surface water management, and the Internal Drainage Board if applicable. The Environment Agency should be also consulted if the drainage system directly or indirectly involves the discharge of water into a Main River.

### Section 5 - Trade Effluent

The planning application includes employment/commercial use. To discharge trade effluent from trade premises to a public sewer vested in Anglian Water requires our consent. It is an offence under section 118 of the Water Industry Act 1991 to discharge trade effluent to sewer without consent. Anglian Water would ask that the following text be included within your Notice should permission be granted.

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

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

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

#### Section 6 - Suggested Planning Conditions

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

#### Used Water Sewerage Network (Section 3)

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

FOR THE ATTENTION OF THE APPLICANT - if Section 3 or Section 4 condition has been recommended above, please see below information:

Desktop analysis has suggested that the proposed development will lead to an unacceptable risk of flooding downstream. We therefore highly recommend that you engage with Anglian Water at your earliest convenience to develop in consultation with us a feasible drainage strategy.

*Officer comment: matters around flood risk and surface water drainage will be addressed in the relevant section below (under the 'Assessment' heading). In the event of planning permission being granted the applicant will be advised of their responsibilities (through an appropriately worded informative) to engage with Anglian water as part of developing a feasible drainage strategy (details of which will be required as part of planning condition(s) in the event of planning permission being granted.*

If a foul or surface water condition is applied by the Local Planning Authority to the Decision Notice, we will require a copy of the following information prior to recommending discharging the condition:

Foul water:

- Feasible drainage strategy agreed with Anglian Water detailing the discharge solution including:
- Development size
- Proposed discharge rate (Should you require a pumped connection, please note that our minimum pumped discharge rate is 3.8l/s)
- Connecting manhole discharge location (No connections can be made into a public rising main)
- Notification of intention to connect to the public sewer under S106 of the Water Industry Act (More information can be found on our website)
- Feasible mitigation strategy in agreement with Anglian Water (if required)

Officer comment: *Again, in the event of planning permission being granted the development will be advised of these requirements through appropriate worded informative(s).*

**Essex County Fire Officer**

**07.02.2023**

Access for Fire Service is considered satisfactory, subject to compliance with Building Regulations Approved Document B, B5, and specific Essex Fire Service Appliance requirements.

Further assessment of access and Fire Service facilities will occur during the Building Regulation consultation stage.

Building work must comply with Building Regulations, and applicants can choose to engage with the Local Authority for Building Control or appoint an Approved Inspector.

Consultation with relevant authorities is required, depending on the choice of Building Control method.

The architect or applicant should consider additional water supplies for firefighting and contact the Water Section at Service Headquarters if needed.

The installation of Automatic Water Suppression Systems (AWSS) is strongly recommended by Essex County Fire & Rescue Service (ECFRS) for fire prevention, even if not mandated by Building Regulations.

A risk-based approach to including AWSS is encouraged for enhanced safety.

**ECC SuDS Consultee**

**07.02.2023**

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:

- Verification of the suitability of infiltration of surface water for the Northern section of the development (letter CW/61055/Inf of 22/09/22). This should be based on infiltration tests that have been undertaken in accordance with BRE 365 testing procedure and the infiltration testing methods found in chapter 25.3 of The CIRI SuDS Manual C753.
- Demonstrate that all storage features can half empty within 24 hours for the 1 in 30 plus 40% climate change critical storm event, OR, if impracticable
- Demonstrate that features are able to accommodate a 1 in 10 year storm event within 24 hours of a 1 in 30 year event plus climate change
- Final modelling and calculations for all areas of the drainage system.
- 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

No works shall take place until a scheme to minimise the risk of offsite flooding caused by surface water run-off and groundwater during construction works and prevent pollution has been submitted to, and approved in writing by, the local planning authority. The scheme shall subsequently be implemented as approved.

#### Reason

The National Planning Policy Framework paragraph 163 and paragraph 170 state that local planning authorities should ensure development does not increase flood risk elsewhere and does not contribute to water pollution.

Construction may lead to excess water being discharged from the site. If dewatering takes place to allow for construction to take place below groundwater level, this will cause additional water to be discharged. Furthermore the removal of topsoils during construction may limit the ability of the site to intercept rainfall and may lead to increased runoff rates. To mitigate increased flood risk to the surrounding area during construction there needs to be satisfactory storage of/disposal of surface water and groundwater which needs to be agreed before commencement of the development.

Construction may also lead to polluted water being allowed to leave the site. Methods for preventing or mitigating this should be proposed.

### Condition 3

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 4

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.

## 5. **Representations**

- 5.1 A total of 130 comments were received from third parties following an extensive three-round public consultation process. The consultation exercise included individual letters dispatched to over 200 properties, an advertisement in the local press, and the display of three site notices strategically positioned along Clacton Road, near the vicinity of the application site.
- 5.2 Of the 130 comments, a very significant number (120 in total) are in support of the proposal. A total of 12 objections were received, including an objection from an adjacent housebuilder/developer.
- 5.3 The letters of support endorsed the new SEN facility (MFG) as well as the proposed mitigation measures. These measures, including the expansion of the footway, the installation of a new pelican crossing, and the implementation of a fresh speed limit along the site's frontage, received approval from the supportive correspondents.
- 5.4 Objectors to the scheme expressed concern in respect of insufficient parking, landscape harm, light pollution, new houses outside the settlement development boundary and in an unsustainable location, impact on wildlife, the use of Grange Farm Close for access to the south parcel and other general traffic implications.
- 5.5 Officer Comment: *The third-party concerns outlined above will be covered in the 'Assessment' section of the report below.*

- 5.6 **Neutral stance** - The Parish Council is returning a neutral response and wishes to make the following comments on the above application.
- 5.7 We're grateful to the applicants for their advance notice and discussions to fully inform us of the planning application details.
- 5.8 We recognise the great potential of the Market Field Grows educational facility, which is so very needed and most welcome in the Parish. Market Field School is a wonderful community asset and the need for higher education progressing into employment should be a priority for their pupils. If the Market Field Grows project applied as an independent application, it would have our full support.
- 5.9 Unfortunately, we must recognise the wider contents and context of the application, which brings a significant number of residential dwellings to a rural community that has already grown at an unsustainable rate for a number of years.
- 5.10 We have opposed a number of applications similar to the residential part of the application and must do the same in this case.
- 5.11 The Parish has seen hundreds of new homes built in the last decade, with over a hundred more currently in construction. In this time key public services such as Elmstead Primary School and Elmstead GP surgery have had no effective growth. While they were recognised to be operating at full capacity years ago, they are now operating at an unsustainable level, and additional growth on this scale could overextend them beyond functionality.
- 5.12 The location of the proposed development is such that it is significantly removed from the village centre, meaning access to these key services, alongside other regular trips such as to local shops and places of employment, will predominantly be done by car. We are already encountering increasing problems regarding parking and congestion, causing delays and dangers on key highways, especially around both Market Field school and Elmstead Primary School. Additional growth on the scale provided by the application would only aggravate these problems.
- 5.13 The effect of such increased traffic on the main thoroughfare of the village can also not be ignored, as at peak hours the developments direct access to the A133 can only disrupt traffic flow. The majority of this traffic will have to pass through the central crossroads of the village that is proving to be an increasingly congested and dangerous junction, with multiple serious accidents in the past few months.
- 5.14 Such problems may be somewhat improved if a more robust plan to extend a segregated pavement and cycleway into the village was included in the application, but with current infrastructure it should be noted residents adjacent to the proposed development feel they cannot safely access the village by walking or cycling and any resident of the proposed residences would have the same experience.
- 5.15 These issues are laid out in detail in Elmstead Parish Council's emerging local plan, with the proposal contradicting, in part, or in full policies: ELM1, ELM5, ELM6, ELM7, ELM12, ELM13, ELM15 & ELM17.
- 5.16 We would also generally oppose any additional residential development on greenfield sites, as the proposed land is high grade arable farmland, the vast majority of which would become unproductive under the development proposal.
- 5.17 Considering the overall application has both significant costs and benefits to the Parish, we cannot support the proposal in its current iteration, while we also cannot object to the positive aspects Market Field Grows would bring. As such we would commit our neutral response to the record and ask all matters raised herein be taken into consideration.



## 6. Assessment

### Site Context

- 6.1 The application site encompasses an extensive area spanning 10.4 hectares, straddling both the northern and southern sides of Clacton Road, which is part of the A133 trunk road. The application site is located well outside the settlement development boundary (SDB) of Elmstead Market, being located some 350m to the south east of the south easternmost extent of the SDB along Clacton Road.
- 6.2 Elmstead Market is classed as a 'Rural Service Centre' (the 3<sup>rd</sup> tier down on a 4-tiered settlement hierarchy as set out in Policy SLP 1). Positioned reasonably close to the western boundary of the district and in close proximity to the city of Colchester, it lies 4 miles east of Colchester and 15 miles north west of Clacton – the two nearest major urban centres.
- 6.3 Elmstead Market benefits from a limited range of amenities, including a Budgens supermarket, a petrol station with a convenience store, a part-time post office, and a collection of local business units that encompass small retail outlets, food and beverage establishments, as well as facilities for storage as well as office space. In close proximity to Elmstead Market there are also larger commercial enterprises like Whittings Truck, Autofarm Car Sales, Beth Chatto Gardens and Plant Nursery, and Lanswoodpark Business Centre (opposite and next to the application site), which provides significant employment opportunities.
- 6.4 Within Elmstead Market itself there is also a Primary School, Playing Fields, a Community Centre as well as a Special Education Needs School known as Market Field School.
- 6.5 The application site comprises a relatively flat expanse on both sides of Clacton Road. To the south of Clacton Road lies a section that is part of an existing construction site, gently sloping southward and situated between the Chattowood housing development to the east and Lanswood Park Business Centre to the west. This southern land parcel encompasses an area of 21,000 square meters (2.1 hectares). This southern land parcel forms part of the Lanswood Business Park planning approval under planning reference 20/00239/FUL (refer to the 'Other Relevant Planning history' section above) which granted planning permission for up to 10,000sqm of new mixed use (B1, B2, B8) commercial space and 85 new dwellings. Some of the approved 10,000sqm commercial space includes commercial buildings ((including offices, general industry and storage and distribution uses) to be constructed on this very parcel. This element of the above-mentioned planning approval was never implemented, and the legal agreement attached to the approval does not compel the developer to provide the remaining commercial floorspace as approved in this area under planning permission 20/00239/FUL.
- 6.6 The site north of Clacton Road runs parallel to Clacton Road, benefitting from a frontage of approximately 460 meters and a depth of approximately 140 meters. This northern parcel covers an expansive 83,000 square meters (8.3 hectare) agricultural field. It abuts fields to the northeast and south, and the neighbouring Whiting's Truck Dealer and Scrap Yard to the north. The land in this area is largely flat, extending consistently towards the north and east, where it transitions into a plateau. South of Finches Lane, just beyond the site's boundary, the land descends towards Tenpenny Brook.
- 6.7 The site's northern and eastern boundaries are demarcated by a drainage ditch, which gradually expands southward to form a small basin and a coppice. The vegetation in this area is mixed and not entirely native, offering potential for ecological enhancement. Along the roadside boundary, there is a native hedgerow.
- 6.8 Both parcels (north and south of Clacton Road) are in Flood Zone 1 (low probability of flooding) as per the Environment Agency Flood Maps for Planning. The site is not designated as an area with surface water problems and does not fall in a critical drainage area.

- 6.9 The site is not located in or close to a conservation area, and there are no statutorily listed buildings near the site.

### Proposal

- 6.10 The proposal is a Hybrid application meaning a full planning permission element – and an outline planning permission element.

In terms of the 'Full' element - Planning Permission is sought for the construction of 86 residential dwellings to the north of Clacton Road, along with the establishment of a new access point. Additionally, 40 residential dwellings to the south of Clacton Road are proposed, utilising the existing access point on the south side of Clacton Road leading to Lanswood Business Centre. So a total of 126 residential dwellings is proposed. The scheme is an 'enabling development' (see relevant section titled 'Enabling Development including viability, Affordable Housing and Housing Mix' in the 'Assessment' section of the report). As part of the proposal the residential dwellings will 'enable' the delivery of Market Field Grows (MFG) under Use Class E/F1, comprising a Multi-Use Building spanning 337 square metres, including a Library and Reception Office covering 200 square meters, a Workshop spanning 222 square meters, a 65-space car park, as well as associated landscaping and ancillary buildings.

In terms of the 'Outline' element - Outline Planning Permission is sought for a Mixed-Use Commercial Space to the southwest of the MFG facility, totalling 1596 square meters, distributed across two buildings, with only landscaping considerations reserved for future consideration. In other words, Access, Appearance, Layout and Scale are considered under this outline element. This commercial space will be served by a 53-space public car park.

- 6.11 In more detail, the parcel North of Clacton Road will provide a total of 86 residential properties, featuring a mix of 2, 3, and 4-bedroom houses, and situated within a broadly rectangular, 5.2-hectare parcel of land towards the south-east (of the larger parcel).
- 6.12 A key focus of the northern parcel centres on the MFG facility including the skills training centre which will include employment facilities and a library, all situated to the north of the larger site and covering a 5-acre (2.02-hectare) parcel. For reference and description purposes, this facility is referred to as the 'Market Field Grows' project (from here on referred to as MFG). Located between the MFG project and the proposed housing, adjacent to the new access road, is a commercial/employment facility. This facility has been revised and reconfigured during the live application process to align with the intended design and will provide 1600 square meters of flexible employment space under Class E of the use Classes Order (as amended).
- 6.13 In terms of the development South of Clacton Road, here a total of 40 residential properties are proposed, featuring a variety of 2, 3, and 4-bedroom houses, situated within a 2.14-hectare parcel of land. The layout is centred around a circular spine road bordering the now established Lanswoodpark Business Centre. This parcel has also been subject to layout and design changes during the ongoing application process. Additionally, a dedicated pedestrian and cycle connection will be established, facilitating easy access for the new residents to the existing Chattowood area.

### Principle of Development

- 6.14 As set out above the proposed development consist of 3 distinct elements and land uses: (1) residential; (2) MFG use Class E/F1 to include a multi use building and (3) the Class E Commercial buildings. Taking each of these elements in turn:

Residential Element (126 new residential dwellings – Use Class C3)

- 6.15 The development plan comprises the Tendring District Local Plan (LP) 2013-2033, Section 1 which was adopted on 26 January 2021 (referred to as S1 from this point onwards) and Section 2 of the Tendring District Local Plan 2013-2033 and Beyond which was adopted on 25 January 2022 (referred to as S2 from this point onwards).
- 6.16 S1LP Policy SP3 provides the spatial strategy for North Essex, including Tendring, whereby existing settlements will be the principal focus for additional growth within the plan period. It states that development will be accommodated within or adjoining settlements according to their scale, sustainability and existing role and beyond the main settlements the diversification of the rural economy and conservation and enhancement of the natural environment will be supported.
- 6.17 Whilst a high-level, strategic policy, SP3 quite clearly directs growth towards existing settlements in amounts relative to their scale and service capacity. The supporting text preceding Policy SP3 states that, in the Tendring District, the spatial hierarchy promotes growth in settlements that are the most accessible to the strategic road network, public transport and offer a range of services.
- 6.18 S1LP Policy SP3 relies on the S2LP to identify a hierarchy of Tendring settlements. New development will be accommodated according to the role of the settlement, sustainability, its physical capacity and local needs. S2LP policies SPL1 and SPL2 provide for this by establishing the Tendring settlement hierarchy and address development outside of settlement development boundaries.
- 6.19 S2LP Policy SPL1 defines nearby Elmstead Market as a Rural Service Centre where the supporting text identifies opportunities for smaller-scale growth within the settlement development boundary (SDB). It states villages such as Elmstead Market will accommodate a modest increase in housing stock, where appropriate, within the plan period. The supporting text also states developments will be of a scale that is proportionate, achievable and sustainable for each of the settlements concerned having regard to the existing size and character of each settlement; their more limited range of jobs, shops, services and facilities; and any physical, environmental or infrastructure constraints. It states these developments will make a meaningful contribution toward addressing local housing needs, supporting the village economy and assisting with the overall housing growth proposed for the District.
- 6.20 In this instance, the application site is located well outside the SDB for Elmstead Market being approximately 350m away from the nearest south-easternmost extent of the Elmstead Market SDB. Therefore, although S1LP Policy SP3 states existing settlements will be the principal focus for additional growth across the North Essex Authorities area within the Local Plan period, this does not determine the amount and location for this. The policy is clear that this will be defined in the S2LP.
- 6.21 As provided for in S2LP Policy SPL2, in Elmstead Market, the settlement development boundary is to encourage sustainable patterns of growth and carefully control urban sprawl. Within it there will be a general presumption in favour of new development subject to detailed policy. Outside, considerations will relate to the Settlement Hierarchy and any other relevant development plan policies.
- 6.22 The settlement development boundary for Elmstead Market provides for housing growth of an amount commensurate with its level in the hierarchy. Therefore, both the northern and southern parcels would not be appropriate sites for the residential development proposed, because under adopted development plan policy it would extend well beyond the area planned to provide for this growth. The proposal therefore gives rise to harm through failing to comply with a statutory plan-led approach to the location of future housing.
- 6.23 This plan-led approach is endorsed through the Framework as the means to bring sufficient land forward, and at a sufficient rate, to address objectively assessed needs over the plan period, in line with the presumption in favour of sustainable development. In view of this, and the large amount of residential development involved, the proposed residential element of the scheme is clearly in conflict with the above-mentioned policies and is therefore not acceptable in principle. The remainder of this

report will turn to other relevant material considerations. Moreover, this sub-conclusion does not taken into account the fact that the proposed development is an 'enabling' development and this consideration will also be covered elsewhere in this report and weighed up in the 'Planning Balance and Conclusion' section at the end of the report.

MFG use Class E/F1 to include multi use building (337sqm), reception office (200sqm), workshop (222sqm), 65 space car park, ancillary landscaping and buildings.

- 6.24 The MFG use proposed in the north western part (of the northern parcel) of the is a very unique combination of elements including, as set out above, a multi-use building to include a reception office, a library and a shop. The MFG facility also includes a workshop and other ancillary buildings. Broadly speaking MFG sits alongside 'Market Field Farm' which is a registered charity. The Applicants have explained that the MFG facility will operate alongside the Hope Learning Community which is a special needs trust and is responsible for Market Field School in Elmstead Market, Southview School and Chatten Free School, both in Witham and Market Field College, which operates from Tendring Education Centre in Jaywick. As a combination, and from a planning use class perspective the proposed MFG facility falls under Use Classes E (a), (b), (c(i)) and (g(i)) - Commercial/Business/Service as well as Class F1(a) (provision of education). There is no specific Local Plan policy governing this combination of uses, and for the most part the local plan is silent on this type of use.
- 6.25 Notwithstanding the above, Local Plan Policy PP12 states to improve education and employment prospects for Tendring District's residents, the Council will work with its partners including Essex University, Colchester Institute, local schools and academies, and Essex County Council as the education authority and other educational establishments to deliver new and improved facilities for early years, primary, secondary, further and higher education. The policy also states the Council will support proposals that will result in new, expanded or improved education facilities.
- 6.26 The relevant part of Local Plan Policy PP13 (The Rural Economy) states 'to support growth in the rural economy, the Council may grant planning permission for the following types of development in the countryside outside of defined Settlement Development Boundaries, subject to detailed consideration, including against other policy requirements in this Local Plan (only relevant subsections included):
- (b) business related activity
  - (d) buildings that are essential to support agricultural, aquaculture, horticulture and forestry...'
- 6.27 Turning to the NPPF, paragraph 20 states strategic policies should set out an overall strategy for the pattern, scale and design quality of places, and make sufficient provision for (amongst other things) community facilities (such as health, education and cultural infrastructure). Paragraph 81 of the NPPF states that planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development. The approach taken should allow each area to build on its strengths, counter any weaknesses and address the challenges of the future. Paragraph 82 goes onto say, amongst other things, that planning policies should set out a clear economic vision and strategy which positively and proactively encourages sustainable economic growth and be flexible enough to accommodate needs not anticipated in the plan. Paragraph 83 states that planning policies and decisions should recognise and address the specific locational requirements of different sectors. Paragraphs 84 and 85 of the NPPF Paragraph 85 states Planning policies and decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. In these circumstances it will be important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable (for example by improving the scope for access on foot, by

cycling or by public transport). The use of previously developed land, and sites that are physically well-related to existing settlements, should be encouraged where suitable opportunities exist.

- 6.28 Whilst the MFG element of the proposal is not positively supported by the Local Plan, it also does not directly conflict with any existing local plan policy or indeed the relevant provisions in the NPPF (as set out above), in terms of the general concept of providing a unique facility of this nature, in this location. According to the NPPF, planning policies and decisions should acknowledge that sites catering to local business and community needs in rural areas may sometimes need to be located adjacent to or beyond existing settlements. This can be especially true in areas that lack adequate public transport services.
- 6.29 It is worth noting that the present site does not qualify as previously developed land, and considerations regarding connectivity and its physical relationship with existing settlements are discussed in other sections of this report.
- 6.30 Ultimately, the concept of establishing a facility like this in a location situated outside a settlement development boundary and within a rural setting, as defined for planning purposes, has the potential to be deemed acceptable in principle subject to other material planning considerations (covered below).

#### Class E Commercial buildings (Outline element)

- 6.31 This element of the proposal is in outline with Access, Appearance, Layout and Scale under consideration for two Class E (Commercial, Business and Service) units. Only landscaping is reserved for future consideration. The two buildings the subject of this part of the application will be located between the residential development on the northern parcel, and the proposed MFG facility. The two buildings will accommodate the Class E units and the Applicant deliberately did not specify which sub-class (under Class E) the units will fall under due to a desire to maintain 'flexibility' in respect of potential end users.
- 6.32 Use Class E clearly contains 'main town centre uses' such as retail and office use, and given the fact that an 'open' Class E commercial element is proposed, for assessment purposes it is reasonable to assume that a main town centre use will occupy some or all of the proposed commercial floorspace.
- 6.33 At a high level policy SPL2 states that within Settlement Development Boundaries, there will be a general presumption in favour of new development subject to detailed consideration against other relevant Local Plan policies and any approved Neighbourhood Plans. It also states outside of Settlement Development Boundaries, the Council will consider any planning application in relation to the pattern and scales of growth promoted through the Settlement Hierarchy in Policy SPL1 and any other relevant policies in this plan. The new retail and office floorspace proposed in this location is therefore not positively supported by policies SPL1 and SPL2 of the Local Plan.
- 6.34 Turning to Policy PP1 (New Retail Development), it states that town centres will be the main focus for new additional retail floor space. Policy PP2 provides a list of locations that can be resilient to future economic changes, and which should be considered as part of a sequential test for proposed main town centres. These locations will be the focus for 'town centre uses' which include retail, leisure, commercial, office, tourism and cultural, community and residential development.
- 6.35 Paragraph 90 of the Framework states that when assessing applications for retail and leisure development outside of town centres which are not in accordance with an up-to-date plan, local planning authorities should require an impact assessment if the development is over a proportionate, locally set floorspace threshold (relevant local plan policy PP4 sets the local floorspace threshold for retail and office development at **250 square metres** gross floorspace).

- 6.36 As briefly alluded to above, Local Plan Policy PP4 (Local Impact Threshold) identifies the locally set floorspace thresholds above which a Retail Impact Assessment is required. Following the WYG Retail Study (2016) a tiered approach is set, with different thresholds based upon the location, role and function of the centre. For the nearest town centre of Brightlingsea, this is set at 250 square metres gross floorspace. Having regard to the nature of the submission ('open' use class E), some or all of the proposed 1596 square meters of new commercial floorspace could end up as retail or office floorspace (or a combination of both) as such a Retail Impact Assessment is therefore required and was not provided by the Applicant.
- 6.37 The application site is located approximately 350 metres to the south east of the Elmstead Market Village Centre, which consists of a Budgens supermarket, a petrol station with a convenience store, a part-time post office, and a collection of local business units that encompass small retail outlets, food and beverage establishments. Policy PP3 states the Council will work with its partners, including local businesses, to protect and enhance such a Village Centre.
- 6.38 As set out above, a Retail Impact Assessment has not been submitted as part of this application. In the absence of a Retail Impact Assessment the application has failed to demonstrate that unrestricted Class E commercial elements of the proposal will not have an unacceptable impact on the nearest town centre of Brightlingsea or Elmstead Market Village Centre, contrary to policies PP1 and PP4.
- 6.39 In response the Applicant has offered a restriction on the amount of new floorspace that can be allocated to class E (a) retail - to be set at 249 square metres (maximum) to be allocated to retail. If planning permission is granted it is considered reasonable and necessary to impose a planning condition to ensure that the total floorspace that can be allocated to retail floorspace in this part of the development cannot exceed 249 square metres. Such a condition will ensure that an appropriate quantum of the retail floorspace is allocated so as to ensure this element of the proposal will not have an unacceptable impact on the vitality and viability of the town centre of Brightlingsea and/or the village centre of Brightlingsea, therefore resulting in no conflict with policy PP1 and PP4.
- 6.40 This element of the proposal also includes office floorspace, another main town centre use, and for similar reasons as set out above the application is not accompanied by an impact assessment as required under policy PP4, and therefore results in conflict with the said policy. However, the partially implemented Landswood Business Centre planning permission 20/00239/FUL includes up to 10,000 square metres of (former) B1 (which was office under the previous use classes order) as well as new B2 (General Industry) and B8 (Storage and Distribution). Some, but not all of the 10,000 square metres of office, general industry and storage/distribution floorspace have been built and could still be provided in the areas south of Clacton Road, including the southern parcel. Having regard to the above, the weight that can be given to the policy conflict is therefore very significantly reduced and up to a point where it is concluded that, due to the fallback position set out above, the comparatively small element of office floorspace that will be provided here (anything up to 1,350 square metres) would not harm the vitality and viability of the village centre of Elmstead Market or indeed the nearest town centre of Brightlingsea. For the above reasons it is also considered unreasonable to impose a similar condition as set out in the paragraph above restricting the office floorspace that can be provided to up to 249 square metres.

The remainder of the uses proposed under class E include:

- (b) – food and drink mostly consumed on the premises;
- (c) (i-iii) – financial, professional or any other service which is appropriate to provide in a commercial, business or service locality;
- (d) indoor sport and recreation;
- (e) Medical services not attached to the residence of the practitioner;
- (f) Non-residential creche, day centre or nursery; or
- (g) (ii) the research and development of products or processes or (iii) any industrial process, (which can be carried out in any residential area without causing detriment to the amenity of the area)

- 6.41 Again, for the most part the Local Plan is silent on the acceptability (or not) of the types of uses as set out above, and in a location such as this. However, policy SPL2 states that within Settlement Development Boundaries, there will be a general presumption in favour of new development subject to detailed consideration against other relevant Local Plan policies and any approved Neighbourhood Plans. It also states outside of Settlement Development Boundaries, the Council will consider any planning application in relation to the pattern and scales of growth promoted through the Settlement Hierarchy in Policy SPL1 and any other relevant policies in this plan. These uses in this location is therefore not positively supported by policies SPL1 and SPL2 of the Local Plan.
- 6.42 The remainder of this report will cover other material planning considerations including the potential for the proposals to support economic growth and it will also assess the proposal against the other policies in the Local Plan in the sections below, including the site's overall sustainability credentials (or lack thereof). The overall balance of the planning considerations is further considered in the section on planning balance below.

#### Conclusion – Principle of Development

- 6.43 In conclusion, insofar as the principle of development is concerned, and for the reasons outlined above the proposal as a whole would fail to accord with the relevant provisions of the development plan as set out above and is therefore not supported in principle. The remainder of this report will turn to 'other material planning consideration'.

#### Loss of Agricultural Land

- 6.44 Former saved Policy EN4 of 2007 Local Plan sought to prevent the unavoidable loss of agricultural land, and loss of the best and most versatile agricultural land unless special justification could be shown. This policy was superseded with the adoption of the Section 2 Local Plan and there is no direct replacement policy.
- 6.45 Nevertheless, Paragraph 7.3.1 of the Section 2 Local Plan states that in order to promote sustainable development, in considering where to select sites for new development in this Local Plan, the Council has taken particular care to assess the value of the landscape and, where practical, allocate sites with the lowest sensitivity, thereby helping to protect valued landscapes and the best and most versatile agricultural land.
- 6.46 The Glossary to the Framework defines best and most versatile agricultural land as land in grades 1, 2 and 3a of the Agricultural Land Classification (ALC). Paragraph 174 a) of the Framework states that planning policies and decisions should contribute to, and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland.
- 6.47 Paragraph: 001 Reference ID: 8-001-20190721 of the NPPG states, amongst other things, that planning decisions should take account of the economic and other benefits of the best and most versatile agricultural land. Paragraph: 002 Reference ID: 8-002-20190721 states that soil is an essential natural capital asset that provides important ecosystem services – for instance, as a growing medium for food, timber and other crops, as a store for carbon and water, as a reservoir of biodiversity and as a buffer against pollution.
- 6.48 The northern parcel is indicated in the ALC map as Grade 2 (very good) – this is on a scale of 1-5 where Grade 1 is 'excellent' and Grade 5 is 'very poor'. Natural England's guide to assessing development proposals on agricultural land states that Grade 2 – 'very good' quality agricultural land is:

- 6.49 “Land with minor limitations that affect crop yield, cultivations or harvesting. A wide range of agricultural and horticultural crops can usually be grown. On some land in the grade there may be reduced flexibility due to difficulties with the production of the more demanding crops, such as winter harvested vegetables and arable root crops. The level of yield is generally high but may be lower or more variable than grade 1.”
- 6.50 The proposal, if approved, will clearly result in the loss of very good agricultural land and there is therefore conflict with Paragraphs 174 a) and b) of the Framework – this area of conflict weighs against the proposal. This loss will be weighed against other benefits (if any) of the scheme as part of the ultimate planning balance.

### **Safeguarded Sand and Gravel (MSA) Area**

- 6.51 Policy S8 of the Essex Minerals Local Plan 2014 states the Minerals Planning Authority (MPA) shall be consulted on all planning applications for development on a site located within an Safeguarded Sand and Gravel area (MSA) that is 5ha or more for sand and gravel. The application site is more than 5ha in size and located in an MSA.
- 6.52 Following the submission of additional information from the applicant indicating that prior mineral extraction without full-profile dewatering would require significant wet working (82% of the deposit) and would subsequently result in a restoration unsuitable for housing development, the MWPA acknowledges and accepts that, for this proposal, and based on the exceptional circumstances outlined in the submission, prior extraction is not a feasible option. The proposal therefore results in no conflict with policy S8 of the Essex Minerals Local Plan 2014 because prior extraction is not a feasible option and therefore the development proposal on the northern parcel will not unnecessarily sterilise mineral resources.

### **Design Considerations**

- 6.53 Paragraph 130 of the National Planning Policy Framework (NPPF) (2023) 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.
- 6.54 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.

### **Overall Pattern of development and Access**

- 6.55 In terms of the overall layout and access arrangements, the proposal has undergone significant improvements, notably transitioning from its initial cul-de-sac layout to a more organic urban block style arrangement. It is considered that this layout shift resulted in the enhancement of the development's accessibility, legibility, and permeability. This in turn resulted in an improved pedestrian layout and overall navigation with some bendy roads as well as more linear character streets with tree planting on either side.

### **Layout - Northern Parcel**

- 6.56 The Applicants have positively responded to the LPA's request for a route along the north side of Clacton Road that preserves the existing hedgerow. This adaptation is considered to result in a more positive interaction with Clacton Road and the existing hedgerow, significantly improving the development's overall integration with the evolving immediate vicinity which is in the process of establishing itself as a mix-used destination consisting of predominantly business areas (Landswood Business Centre) as well as the pockets of residential development found in the vicinity. Following a number of constructive design meetings between Applicant, LPA and ECC



Urban Design Advisors, the applicants have also introduced a much-improved pedestrian link near plot 47 (which is the first dwelling on the right as one enters the northern parcel off Clacton Road). This addition significantly enhances permeability within the area, ensuring good pedestrian and cycle movement, and easy pedestrian and cycle navigation around the northern parcel.

- 6.57 A wider path and green buffer along the northernmost street (northern parcel) is also now provided, establishing a green link connecting the park and Locally Equipped Area for Play (LEAP) with the MFG facility – this arrangement is considered successful and will bolster onsite connectivity, offering a landscaped and pedestrian-friendly connection in this north eastern part of the site between these two vital areas (the MFG facility and the LEAP).
- 6.58 ECC Urban Design raised a concern in that a small section of the southern side of this street lacks an active frontage, mainly comprising garden fences and some parking. In response, only very short sections on the south side of this street will comprise of garden fences and two instances of parking, on both occasions are considered to be sufficiently set back from the roadside kerb. In addition, as shown on drawing number PA-09 Rev D, the side and rear garden fences of plots 19-21 will be set back from the roadside kerb by at least 2.2m leaving a 2.0m wide landscaped strip which is considered to be sufficient to provide effective planting to mitigate against the impact of fencing along this short section of road. If planning permission is granted a condition is considered reasonable and necessary to ensure effective landscaping is provided along these (and indeed other areas) across the two parcels. The other instances of side garden fences at plots 27, 31 and 31 constitutes very short sections of fences, also set back and interspersed by active side elevations of well articulate corner dwellings, or visitor parking or road junctions which will, as a combination, result in an open and well-connected layout along this northern section of the northern parcel. Finally (in respect of this matter), an observer's experience when walking, cycling or driving up and down the northernmost road will revolve around forward looking vistas due to the slight bends in the road, for example when travelling eastwards along the northernmost road one will experience the significant green space of the public open space and LEAP, and when travelling westwards the predominant features will be the green link between the road and the footpath and the well-articulated and rhythmic semi-detached and detached dwellings along the northern side of this road (see detailed assessment of the design of the various dwelling types proposed under the corresponding heading below). Having regard to the other material considerations set out above the layout arrangements in the northern parcel are considered to be entirely appropriate and will meet and exceed the high design expectations as set out in the above-mentioned policies.
- 6.59 The incorporation of numerous paths through the park and LEAP will also result in the successful integration of the various residential blocks into the development pedestrian movement network but also the local pedestrian movement network. This arrangement will ensure effective pedestrian-oriented movement whilst enhancing passive surveillance in public open areas, and establishing a local node.
- 6.60 The latest proposals now also incorporate built forms to create attractive vistas at both ends of the route connecting the Market Field Grows area with the residential parcel north of Clacton Road.

#### Layout - Southern Parcel

- 6.61 The southern plot has undergone a substantial improvement compared to the original submission. Notably, successful efforts have been made to minimize instances where units are situated with their backs facing the public realm. The inclusion of the pedestrian link and toucan/pelican crossing (over Clacton Road) near plot 89, eliminating the need for pedestrians and cyclists to take a longer, indirect car route to access Clacton Road, is also a significant positive aspect toward ensuring safe and accessible pedestrian movement between these areas, subject to details to be provided in consultation with the highways authority (see highways section below).
- 6.62 Similar to the issues raised in respect of plots 19-21 above (northern parcel), ECC Urban Design raised a concern in respect of plots 115 and 116 where a short section of side/rear garden fences

will face the public realm (the southern section of the loop-road in the southern parcel). Again, only a very short section will comprise of garden fences and once again the garden fences will be sufficiently set back from the roadside kerb by at least 1.8m to ensure soft landscaping can be included along this linear strip. This arrangement is considered to be sufficient to provide effective planting to mitigate against the impact of the fencing along this short section of road.

#### Sub-conclusion – both parcels (Layout)

- 6.63 Whilst ECC Urban Design colleagues have expressed concern in respect of over-use of shared streets, it is considered that the streets within this proposal are thoughtfully lined with trees with the introduction of raised sections and various other speed calming measures to ensure enhancement of the overall visual appeal of the development and promoting easy movement. As previously mentioned, this is especially notable along the green link in the northern parcel. This green connection effectively bridges two landscaped areas, allowing pedestrians and cyclists to safely traverse between them, all while maintaining a natural environment ambiance. It is important to note that the local Highways Authority raise no objection to the proposal and prefers the use of shared streets where appropriate.
- 6.64 The inclusion of a well-connected LEAP within the park is also a significant enhancement in the amenity offerings compared to the original submission. This addition not only provides a dedicated space for children to play and parents to socialise but also increases foot traffic and natural surveillance in the park, resulting in a more enjoyable and safer environment. Furthermore, it establishes a local focal point when approached from both the northwest and the south/south-east, enhancing the overall clarity and coherence of the proposal.

#### Design (individual buildings) – both parcels

- 6.65 In terms of the residential element of the proposal, a total of 10 different dwelling types are proposed to include a mix of 2, 3 and 4 bedroom properties in the form of short terraces of up to 4 dwellings, semi-detached pairs and larger detached dwellings. The mix of dwelling types will include attractive, strongly articulated features such as reconstituted stone lintels and window cills, brick string courses, square and bay windows (along the ground floors of the larger properties), decorative canopies above front entrance doors and two storey projecting gables (again on some of the larger properties). Insofar as the design appearance of the residential elements are concerned, the overall design strategy of the residential parcels is deemed highly successful, surpassing the stipulations of policies SP7 and SPL3.
- 6.66 The main building at the MFG facility (referred to as the 'Multi-Use Building') will be located at the end of the main access road into and out of the MFG facility. The Multi-Use building will include a café, a shop, a bakery, a kitchen, servery, library and WC facilities. It will be a single storey building with a dual pitched roof including distinctive roof overhangs at both ends supported by angled timber poles. The building will be finished in a red brick plinth wall and vertical timber cladding. A number of other small scale ancillary buildings are also proposed on the MFG site to include a reception building located to the north east of the multi-use building (the reception building will be a repetition of the multi-use building in design terms just small), as well as 3 animal pens to the west of the multi-use building, a cart lodge in the northern corner of the site and a separate building containing three workshops and a meeting room to be located along the northern boundary of the site. These buildings will also follow the same, or a similar design approach to the multi-use and reception buildings in that they will be finished in vertical timber cladding with similar pitched roofs ensuring consistency in architectural language.
- 6.67 Larger areas of landscaping and planting are also proposed on the MFG site to ensure this element will successfully blend into the relatively sparsely build up nature along the north eastern side of Clacton Road. Overall the design approach of the MFG facility is considered to be highly successful and will meet and exceed the design requirements of policies SP7 and SPL3.

- 6.68 Concerning the commercial aspect, two buildings are proposed within the northern parcel, strategically positioned between the residential and MFG sectors. One of these buildings will front Clacton Road, while the other, situated behind it, will face the access road linking the residential parcel with the MFG facility. The layout includes a total of 54 car parking spaces distributed around, between, and opposite the aforementioned road to cater to the parking needs of this commercial segment.
- 6.69 Both buildings share an identical design, consisting of two stories and culminating in dual-pitched roofs with distinctive gables. The elevations are characterized by a high level of articulation, featuring rhythmic window openings and expansive glass doors on the ground floor to ensure clearly defined entrance points. The exterior finish is a well-conceived blend of brick, timber cladding, and a timber-panelled system along the primary projecting gables, ensuring a visually cohesive and appealing architectural expression.
- 6.70 Regarding the visual aesthetics of the commercial element, the comprehensive design approach employed for these two identical buildings is considered to be successful in this context, exceeding the criteria outlined in policies SP7 and SPL3. Landscaping for this element of the scheme is reserved for future consideration.

#### Parking and Security

- 6.71 In terms of the residential parcels, the predominant parking arrangement proposed is situated between the dwellings, a favourable choice when compared to frontage parking. This approach ensures that houses can effectively engage with the street, creating lively and inviting facades. Additionally, the side parking design in this proposal limits the placement of more than two cars side by side, consider is an effective design approach because it prevents the public realm from feeling overwhelmed by cars and preserves the distinct character of the built environment. The larger houses being proposed also effectively utilize garages, which not only offer ample parking space but also maintain the integrity of the public realm by keeping cars discreetly tucked away, with the additional benefit of ensure sizeable gaps between properties.
- 6.72 In terms of the Market Field Grows development, the choice of utilising large parking courts aligns with their land use and the masterplan's intention to incorporate landscaping. Whilst landscaping illustrations are considered sufficient for the application, the precise landscaping details are lacking across the development and it is therefore considered necessary and reasonable to include a planning condition to seek more comprehensive landscaping details ensuring, for example at the parking areas for the MFG facility, the realization of a landscaped surface rather than an unappealing expanse of tarmac, which would clash with Market Fields Grows' rustic farm-style aesthetic. Moreover, if trees are to be placed between parking spaces rather than rows, possibly due to feasibility constraints, the LPA recommend limiting the number of parking spaces between trees to no more than four to preserve the area's natural ambiance.
- 6.73 Ultimately the proposal, from a design perspective is considered to result in no conflict with the above-mentioned policies.

#### Impact to Character of Area/Landscape and Tree considerations

- 6.74 Paragraph 92 of the framework states that planning policies and decisions should aim to achieve healthy, inclusive and safe places which enable and support healthy lifestyles through the provision of safe and accessible green infrastructure, sports facilities. Paragraph 93 of the framework states that to provide the social, recreational and cultural facilities and services the community needs, planning policies and decisions should plan positively for the provision and use of shared spaces, community facilities (such as open space) to enhance the sustainability of communities and residential environments. Paragraph 98 of the framework states 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.

- 6.75 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. Paragraph 134 of the NPPF adds that development that is not well designed should be refused.
- 6.76 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 (Sustainable Design) of the Tendring District Local Plan 2013-2033 states that all new development (including changes of use) should make a positive contribution to the quality of the local environment and protect or enhance local character.
- 6.77 In terms of the parcel south of Clacton Road (next to Landswood Business Park) the proposed introduction of 40 dwellings on a site that benefits from planning permission for various business units is not expected to have a significant impact on the local landscape character. Notably, the Phase 2 Site Plan 'Ref 492-01-01-PLANN' indicates the preservation of the large specimen Oak tree near the site's entrance which is welcomed.
- 6.78 Regarding the parcel of land north of the A133, it currently serves agricultural purposes and features established field boundary hedgerows with specimen trees.
- 6.79 To assess the potential impact of the development on trees and vegetation, the applicant has provided an Arboricultural Impact Assessment (AIA). The AIA details the health, condition, amenity value, and constraints posed by trees on the development site, along with recommendations.
- 6.80 The tree protection and method statements within the AIA are deemed adequate to mitigate the risk of direct and indirect damage to retained trees during development.
- 6.81 During the application's processing and subsequent to requests from the Local Planning Authority (LPA) to expand the rear gardens of the properties along the northern edge of the site to encompass the trees situated along the northeastern boundary, the LPA opted to impose a Tree Preservation Order (TPO) for the trees (designated under TPO reference 23/00008/TPO) along the north eastern boundary of the site. The trees include a 4 Oak trees, 2 Hawthorn trees and a Holly. This action was taken in recognition of the fact that these trees, which hold significant public amenity value, will, in the future, and assuming planning permission is granted, become part of the private rear garden areas of privately owned residential properties. The issuance of the aforementioned TPO will provide legal protection to ensure the preservation of these trees in perpetuity.
- 6.82 In summary, provided the method statements and tree protection measures are adhered to during development, it is considered that the proposal can be implemented with minimal disturbance to the trees, ensuring their health, condition, and long-term viability remain intact.
- 6.83 Regarding the potential impact on the local landscape character, the site falls within the Bromley Heaths Landscape Character Area (LCA). This area's plateau landscape holds visual sensitivity due to its open and rural character, offering long-range views. Features such as heaths, village greens, ancient woodlands, hedgerow trees, historic lanes, unimproved grasslands, and roadside verges are particularly sensitive to change.
- 6.84 Highly sensitive areas for built development include those on the plateau's edge, overlooking the Stour Valley System (6A), the Alresford Valley System (6C), and the Holland Valley System (6D). This applies especially to the southern part of the application site near Tenpenny Brook, part of the Alresford Valley System.

- 6.85 The landscape strategy for Bromley Heaths seeks to conserve the rural character and historic elements while enhancing woodland cover, hedgerow condition, and heathland character.
- 6.86 To evaluate the potential impact on local landscape character, the applicant has supplied a Landscape and Visual Impact Assessment (LVIA).
- 6.87 The LVIA provides an accurate description of the application site and predominantly indicates that the level of harm will be negligible or slightly adverse. Officers consider that the development of the northern parcel would have adverse effects on the local landscape character, resulting in the loss of a pleasant countryside area. Given the nature of the development, it would contribute to the gradual erosion of the countryside. Thus, the proposal would adversely affect the immediate local landscape character north of Clacton Road and the open character of this part of the application site, contrary to policies SP7 and SPL3. The additional landscaping planned along the boundaries is unlikely to effectively mitigate these harmful effects due to the development's substantial scale and the site's baseline, which is essentially open countryside, albeit currently an agricultural field.
- 6.88 Notwithstanding the landscape harm identified above, and for the avoidance of doubt, officers consider that that the proposed development would not cause significant harm to the broader landscape.

### **Impact on Neighbouring Amenities**

- 6.89 Paragraph 130 of the National Planning Policy Framework (2023) 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. Paragraph 174 of the Framework provide that planning decisions should contribute to and enhance the natural and local environment by preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality.
- 6.90 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 SPL3, Part B criterion e), requires that buildings and structures are designed and orientated to ensure adequate daylight, outlook and privacy for future and existing residents. Part B, criterion f), necessitates provision is made for adequate private amenity space. Part C, criterion a), requires that development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties.
- 6.91 The closest residential properties adjacent to the application site, situated on the northeastern side of Clacton Road, are found southwest, across Clacton Road. These properties are set back from the road by approximately 15 to 30 meters, depending on their specific location. The nearest proposed dwellings within the northern parcel will be situated between 50 to 75 meters away from these existing properties, with Clacton Road providing additional separation. On the southwest side of Clacton Road, within the proposed residential parcel, the nearest existing residential properties are approximately 20 to 25 meters away and directly south of this part of the application site. There are also residential properties to the northwest of Lanswood Business Centre and to the west of the vehicle breakage yard; however, these dwellings are even further removed from the site than the ones mentioned above. In terms of separation distances on site (both parcels) – these distances will meet and exceed the guidelines set forth in the Essex Design Guide. Additionally, the proposed gardens are spacious and will meet the needs and expectations of future residents. Having regard to all the above it is considered that the proposal will have no adverse impact on the outlook, privacy, or amenities of both existing and future residents.
- 6.92 Regarding potential noise generated by the proposed Class E commercial units, the considerable distances mentioned above, the presence of Clacton Road, and the nature of Class E units, which encompass various uses like shops, financial services, indoor sport and recreation, medical

services, non-residential creche/day centre, day nursery, offices, research and development, and industrial processes (which can be conducted in residential areas without detriment to the surrounding amenities and can be regulated by conditions), all contribute to the conclusion that this aspect of the scheme, subject to appropriate conditions, will not result in unacceptable noise levels that would be detrimental to the quality of life for existing or future occupants.

6.93 In respect of the noise related points raised by the Councils Environmental Health Officer, in response:

6.94 The updated design of the houses along Clacton Road has resulted in a reduction in the separation between the houses and the road, which could potentially lead to increased noise levels. However, to mitigate this noise concern, measures have been taken to address the issue. Notably, the speed limit along this stretch of the road will be reduced should planning permission be granted for this development (subject to a legal agreement - see relevant highways section below). This measure will have a significant positive impact on the acoustic environment. The reduction in speed serves as a compensatory measure for the decreased distance between the houses and the road, ultimately ensuring a more favourable noise situation.

6.95 Furthermore, the process of confirming and refining the commercial aspect of the project is considered to eliminate the necessity for the initial British Standards assessment. Instead, any prospective commercial tenants are required to adhere to the standard criteria established by Environmental Health Officers (EHO) and the recommended planning conditions at the end of this report when it comes to the installation of external equipment, as needed. This approach ensures that all commercial activities align with the necessary noise and environmental standards without the need for additional assessments.

6.96 The proposal, from a residential amenity perspective is therefore considered to accord with the relevant Local Plan policies and provisions in the NPPF as set out above.

### **Sustainable Drainage and Foul Sewage Disposal**

6.97 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.

6.98 Paragraph 167 of the NPPF states that, when determining planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Paragraph 169 goes on to say that developments should incorporate sustainable drainage systems. The systems used should, amongst other things, take account of advice from the lead local flood authority and have maintenance arrangements in place to ensure an acceptable standard of operation for the lifetime of the development.

6.99 TDLPS2 Policy PPL5 requires that all new development must make adequate provision for drainage and sewage treatment and should include sustainable drainage systems (SuDS).

6.100 The application is supported by a site-specific Flood Risk Assessment including appendices. The Flood Risk Assessment aims to identify any potential flood risk sources or surface water management issues related to the proposed development site that may warrant further consideration. Further to identification of flood risks, the FRA outlines mitigation measures, where appropriate, in order for the proposed development to be made safe in terms of flood risk and in accordance with the NPPF and its supporting Technical Guidance.

6.101 Consultation has been undertaken with the Local Lead Flood Authority SuDS (LLFA) who have reviewed all supporting information.

### Fluvial and Tidal Flooding

- 6.102 The site is located within Flood Zone 1 (low risk of flooding) as shown on the Environment Agency mapping – as such there is no need to carry out a sequential test in respect of flood risk since the site is located in an area at the lowest risk of flooding having regard to the flood risk hierarchy.

### Surface Water Management

- 6.103 In terms of the Commercial and Educational Area in northern parcel - A drainage network and soakaway system is proposed and will be designed to store all flows up to the 1 in 100 year plus 20% climate change, with the soakaway being 400m<sup>2</sup> with a depth of 0.8m. Ditch networks and permeable paving to parking areas will be used within the educational facility to convey water and provide water treatment while the commercial parcels will utilise permeable paving to parking areas and incorporate proprietary treatment methods such as aqua swirls (details prior to water being discharged to the soakaway).
- 6.104 The residential development area in the northern parcel - it is proposed to attenuate surface water flows from the residential roofs and private driveway areas within the private permeable road surface with an attenuation crate provided beneath the POS area. The Applicant has explained that due to site levels, it is not possible to form this as an open SuDS feature, and instead, a below service crate storage area is proposed. A swale will be provided to the eastern boundary of site allowing conveyance to the discharge point from site, flows will then be conveyed offsite via pipework to an existing ditch on Finches Lane allowing eventual discharge to the Tenpenny Brook.
- 6.105 In terms of the southern development parcel – for the reasons given in the submitted FRA, it is proposed to attenuate surface water flows from the residential roofs and private driveway areas within the private driveways allocated to each plot and infiltrate into the ground via the road pavement structure. Individual private driveways will be formed of permeable paving to depth only required to be suitable structurally, the water run off will then discharge directly into the main access road areas. The main access road areas will be formed with permeable paving and water will be discharged directly into the sub-base before infiltrating into the ground. The FLOW calculations show that all flows up to the 1 in 100 year plus 45% climate change can be attenuated and infiltrated within the permeable paved road.
- 6.106 The proposed foul water drainage network will discharge by gravity to the existing adopted network along Clacton Road.
- 6.107 The maintenance regime for all drainage components will include regular checks and maintenance as indicated in Appendix J of the submitted FRA. Whilst the details are scant it is considered necessary and reasonable to secure further details, including final details of a surface water drainage strategy, as part of a planning conditions seeking full details of the maintenance plan for the surface water drainage system.
- 6.108 The LLFA have confirmed that they are satisfied with the proposal drainage and foul sewage disposal of the scheme, subject to conditions.

### Highway Safety

- 6.109 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.
- 6.110 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.

#### Access points and impact of the proposal on highway network

- 6.111 The northern development parcel is situated north-east of the A133 Clacton Road that is subject to a de-restricted speed limit (60mph). There is no evidence of any personal injury accidents in the vicinity of the proposed access for the most recent 3-year period (between 01/08/2018 to 31/07/2023). The proposal will result in the creation of a new vehicular and pedestrian access point along the north side of Clacton Road, approximately 100 metres to the east of the existing access point providing access to Lanswood Business Centre. The applicant has demonstrated that the proposed vehicular access has adequate visibility on both approaches and will also include a designated right turn lane into the northern parcel (when the development is approached from the south east along Clacton Road). As mentioned, the access point to the south leading to Lanswood Business Centre is established and the proposal will simply utilize this access point with a new east/west spur road off the roundabout to connect the southern parcel with Clacton Road. The assessment of the application and Transport Assessment was undertaken with reference to the National Planning Policy Framework and the Highway Authority is satisfied that, at peak times, the number of trips generated by the proposal on the highway network would not be severe. An adjacent landowner has objected to the scheme on the basis that potential use of Grange Farm Close (located to the south east of the existing Lanswood Business Centre) will result in highway safety issues. In more detail the objection states the adjacent landowner 'will soon be installing an access gate to be used by their residents' and this will then have to potential for vehicles to back out onto the busy Clacton Road and cause highway safety problems. In response, the proposed southern parcel (to provide the 40 dwellings) will be access via the existing and dedicated vehicle access to Lanswood Business Park and the application has been assessed on this basis by the Highways Authority and TDC planning officers. The Grange Farm Close access point off Clacton Road is not included in the red line plan and the LPA is not aware of any plans to install an 'access gate' on Grange Farm Close. In any event, any future plans to install barriers or access gates on the internal roads to the south of the southern parcel will be a matter for either ECC Highways, TDC Planning Enforcement or TDC Planning (or all of the above) and such an action (to install barrier preventing vehicular traffic from accessing the southern parcel via Grange Farm Close) will not have a bearing on this development proposal because a separate access via the Lanswood Business Park access point is proposed and is considered to be a suitable vehicular access point as confirmed by ECC Highways.

#### Accessibility and Connectivity

- 6.112 Currently along this stretch of Clacton Road there is a footpath along the northern side (of Clacton Road). This footpath leads all the way to the build-up area of Elmstead Market some 0.3 miles to the north west. The footpath is narrow in places, however there is also a wider footpath along the south side of Clacton Road which starts at the Oaktree Place junction to the north west of Lanswood Business Centre, but only extends to the bus stop along Clacton Road approximately 100m to the north west, where it terminates. Despite this, pedestrian access to Elmstead Market from the application site is possible albeit along a narrow footpath hard up against the road, with sporadic uneven surfaced areas. Currently there are two bus stops along Clacton Road and in close proximity to the application site (a very short walking distance to the north west). Bus routes 77 and 721 runs to the north and east respectively. National cycle network route 51 runs along Bromley Road to the north. Although the development site is physically clearly detached from Elmstead village, the applicant is proposing several mitigation measures to include the following:

#### Mitigation Measures

- 6.113 A reduction in the speed limit along Clacton Road in front of the site (currently 60mph) to a lower speed limit, possibly 40mph (subject to a safety audit). This measure is considered necessary and reasonable and will better reflect the evolving nature of the area which will become more build up



should planning permission be granted, and will also improve the sustainability of the existing and proposed developments. It should however be noted that this measure will be subject to a series of safety audits that apply to developer delivered schemes for Highway Authority acceptability.

- 6.114 A new priority junction off Clacton Road to provide access to the proposed site (to the north-east).
- 6.115 A dedicated right turn lane to be designed in accordance with DMRB standards.
- 6.116 A detailed scheme for the widening of the existing footway one both sides of Clacton Road to the existing bus stop facilities west of Lanswood Business Park.
- 6.117 To current Essex County Council specification, the upgrade of the two nearest bus stops on Clacton Road, west of Lanswood Business Park (details to be agreed with the Local Planning Authority and Essex County Council prior to commencement of the development).
- 6.118 The existing 40-mph speed limit that terminates approximately 480 metres to the west of the application site to be extended eastwards to incorporate the entire development site fronting Clacton Road, and to include the provision of a gateway feature at the new location (to be agreed with ECC Highways) for the terminal signs.
- 6.119 The provision of a signalised 'Puffin or Toucan' crossing at a point more or less in the middle of the two access points to the southern and northern parcels, to serve the existing and proposed developments together with the nearest bus stops serving the development.
- 6.120 The above mitigation measures can either be secured through planning conditions or, in terms of numbers 1 and 6 set out above, in a section 106 legal agreement. The mitigation to be secured via conditions are considered to meet the NPPF tests and will be included in the event the officer recommendation is to approve. The above measures to be secured via condition should be submitted prior to the commencement of development above slab level on the first phase, and the submission should include a timetable for implementation.
- 6.121 The highways measures to be secured via the legal agreement (as indicated) should be incorporated prior to the occupation of the 51st residential unit, and these mitigation measures are considered to meet the tests set out in Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 and consistent with Paragraph 57 of the Framework.
- 6.122 Having regard to the highways implications of the development and subject to the above conditions and obligations, the proposal would accord with the requirements of Policies CP1, DI1 and SPL 3, and the Highways and Parking SPDs, and the relevant sections of the NPPF 2023.

### **Renewable Energy**

- 6.123 Paragraph 7.9.3 of the Section 2 Local Plan highlights that in 2019 the Council declared a climate emergency, committing it to the preparation of an action plan with the aim of making its own activities carbon neutral by 2030, and acting as a community leader to encourage communities and developers to reduce carbon emissions and tackling climate change.
- 6.124 Policy SPL3 states that all new development should incorporate climate change adaptation measures and technology from the outset including reduction of emissions, renewable and low carbon energy production, passive design, and through green infrastructure techniques, where appropriate. Under Policy PPL10, there is a requirement for all development proposals to demonstrate how renewable energy solutions, appropriate to the building(s) site, and location have been included in the scheme and for new buildings, be designed to facilitate the retro-fitting of renewable energy installations.

6.125 Paragraph 112 e) of the Framework states that applications for development should be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations.

6.126 Paragraph 152 states:

“The planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure.”

6.127 Paragraph 157 states:

“In determining planning applications, local planning authorities should expect new development to:

A - comply with any development plan policies on local requirements for decentralised energy supply unless it can be demonstrated by the applicant, having regard to the type of development involved and its design, that this is not feasible or viable; and

B -take account of landform, layout, building orientation, massing and landscaping to minimise energy consumption.”

6.128 The applicant has confirmed that the proposed development will incorporate the following renewable energy solutions:

- All the proposed dwellings will be equipped with air source heat pumps, eliminating the use of carbon-based boilers;
- Electric car charging infrastructure will be incorporated into the proposed dwellings;
- The proposed dwellings will be fitted with Solar panels on the roofs. The applicants have explained that the specific design of the solar panels (integrated panels (tiles) or roof-mounted) is not yet known that they are happy to accept a planning condition seeking detailed design specifications of the roofs of all buildings to include solar panels;
- The Market Field Grows buildings will feature roof-mounted solar panels capable of generating 35kw of electricity. These panels will have potential to complement the air source heat pumps and heat recovery ventilation systems; and
- The car parks at the Market Field Grows facility and the commercial element incorporate electric car charging parking bays.

6.129 Whilst the Applicants have confirmed that the above renewable energy solutions will be incorporated into the development, precise details and implementation of these solutions are lacking in the submission. Having regard to the NPPG and the NPPF it is considered necessary, reasonable and relevant to impose a planning condition seeking precise details of energy and resource efficiency measures for the development to ensure energy efficiency maximation and the use of renewable energy across the development in its entirety.

6.130 Subject to the inclusion of the above-mentioned condition and the relevant and necessary information and renewable energy information coming forward, the development is considered to be capable of meeting the aims and objectives of the above-mentioned policies and NPPF requirements.

### **Ecology and Biodiversity**

6.131 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. 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.

- 6.132 Natural England (NE) also raised concerns and is of the view that the alternative natural green space (or the open space areas) provided as part of the development is 'inadequate, and does not reflect the scale of the proposed development'. In essence and in summary, NE consider that the proposed development would have an adverse effect on the integrity of European designated sites within scope of the Essex Coast RAMS
- 6.133 The latest comments from both ECC Ecology and NE comments are included in the 'Consultations' section above.
- 6.134 In response, the Applicant provided an updated Preliminary Ecology Assessment (PEA) report on the 26 September 2023, LPA reconsulted both ECC Ecology and NE. As the time of writing a response from NE remains outstanding.
- 6.135 Notwithstanding the above, the main issue raised by Natural England (NE) centres on their belief that the on-site Suitable Alternative Natural Green Space (SANGS) provision is insufficient and does not align with the scale of the proposed development. Consequently, NE contends that unless significant modifications are made (to the layout), the proposed development could potentially harm the integrity of European-designated sites covered by the Essex Coast RAMS – they do not explain precisely how this will occur or offer any clear evidence.
- 6.136 ECC Ecology on the other hand seems to be concerned that the retained trees (now also the subject of a TPO) with "moderate" or "high" potential for roosting bats will now (following revisions requested by LPA officers) be located in the private gardens of the proposed dwellings along the north of the northern parcel. ECC Ecology have also raised concerns in respect of the quality of the existing footway along Clacton Road and requested more information to demonstrate that a suitable footway will be provided to ensure public safety of the new residents when accessing locally promoted walking routes (rather than future residents visiting the designated RAMS sites in the district).
- 6.137 In response, the LPA, in collaboration with ECC Urban Design has worked with the applicant to substantially enhance the design and layout of the project, all while taking into consideration the initial feedback from Natural England (NE). The provision of public open space (POS) on site is well in excess of the 10% requirement (of the gross site area to be provided as open space) as set out in the Local Plan. Moreover, there are footpath routes spanning the entire site encompass a length of at least 3.2 kilometres (in excess of the 2.7km requirement sought by NE) - this measurement does not take into account the enhanced roadway crossings and the southern area, which further facilitates a direct connection into Chattowood to expand the footpath network. The provision of dog waste bins will be secured in the legal agreement including their maintenance. In terms of the two remaining issues raised by NE, signage and information leaflets to home owners will be secured via condition and a private management company will maintain the public open space including the landscaped gardens and tree maintenance. This element will be secured in the legal agreement.
- 6.138 In response to ECC Ecology's concerns, as briefly alluded to above, the inclusion of the now protected trees along the northeastern boundary of the northern parcel into private rear gardens was prompted by specific requests from LPA officers and ECC Urban Design. These requests aimed to address, what LPA officer considered to be a poorly planning, the (previously proposed) narrow and truncated open space corridor along the north eastern boundary, opting instead to incorporate this 'corridor' into the rear gardens of properties along the north. As a result, these trees will now be integrated into the far ends of future rear gardens of the properties along the

northern boundary (and should planning permission be granted). Recognising the significance of this change, the LPA subsequently took measures to impose a tree preservation order on these trees, ensuring their legal protection. Importantly, these trees will be situated at the far end of sizeable rear gardens, maintaining a substantial distance from the rear elevations of the dwellings. The LPA's view is that, with the legal protection now in place, these trees will continue to offer a "moderate" or "high" potential for roosting bats.

6.139 Furthermore, if planning permission is granted, relevant and reasonable planning conditions will be imposed to ensure:

- All mitigation and enhancement measures and/or works align with the details outlined in the preliminary ecological assessment report by Richard Graves Associates, dated September 2023, and the ecology report by Richard Graves Associates, dated October 2023.
- Implementation of a comprehensive scheme of protected species mitigation measures.
- Development and execution of a Biodiversity Enhancement Strategy, particularly focusing on protected and Priority species.
- The design of a lighting scheme sensitive to biodiversity, with a particular emphasis on creating lighting that minimizes impact on bats and their habitats.

6.140 Having regard to the above, and subject to conditions, no policy conflict can be identified in respect of the above mentioned policies.

#### **Recreational Disturbance Mitigation**

6.141 The application scheme proposes new dwellings on a site that lies within the Zone of Influence (Zol) for protected sites. New housing development within the Zol would be likely to increase the number of recreational visitors to these designated sites; and, in combination with other developments it is likely that the proposal would have significant effects on the designated sites. Mitigation measures must therefore be secured prior to occupation. A financial contribution, current set at £156.76 per dwelling, is therefore required and will be secured in a legal agreement in the event that planning permission is granted. This will provide certainty that the development would not adversely affect the integrity of Habitats Sites.

#### **Enabling Development including viability, Affordable Housing and Housing Mix**

6.142 As set out elsewhere in this report the proposal is submitted as a departure the Local Plan and as an enabling development. Simplistically put, the housing element (ie the 126 dwellings) is proposed to fund the construction and delivery of Market Field Grows facility.

6.143 The applicant's submission, supported by a Viability Assessment, provides evidence that the proposed scheme cannot accommodate any on-site affordable housing or support a contribution towards off-site affordable housing due to the following reasons (summarised):

- Implementing a policy-compliant 30% affordable housing provision (equivalent to 38 properties) would result in a substantial income loss (from those 38 properties).
- This income loss is particularly acute given the previously projected 8.7% return on investment. The Applicant has explained that a developer would have to accept a profit on GDV of 8.7% for the landowner to achieve the required return and that this figure is around 10% less than a typical return that a developer would require for a scheme of this type – or in pure monetary terms around £5,000,000.
- As per the applicant's contention, it is unfeasible to integrate affordable housing into the project without negatively impacting its financial viability or necessitating a significant increase in the total number of homes to achieve the same overall outcome.

6.144 The Viability Report accompanied by the application has been submitted to an independent viability consultant (BNP Paribas) who confirmed that the scheme will generate a deficit of in the

region of £1.29m and as such, the scheme cannot support any affordable housing or any other S106 contributions.

- 6.145 The LPA accept the findings of the viability appraisal and the independent review, and specifically that the scheme cannot support any on-site affordable housing, or indeed any payment for off-site affordable housing provision, and based on the viability assessment submitted at the time.
- 6.146 However, the proposal is for a large scale development consisting of 126 properties, a commercial element as well as the MFG facility, with a probable 3-5 year construction period (overall). As such the LPA consider it reasonable and necessary to include a reviewing mechanism in the section 106 to ensure the financial viability is reviewed in accordance with details to be agreed, and any monies gained if viability exceeds the agreement shall be used for affordable housing provision.
- 6.147 The health impacts of the development (see section below) also cannot be left unmitigated for the reasons covered below and in the 'Consultations' section above (see NHS Suffolk and North East England consultation response) and necessary, relevant and reasonable mitigation in the form of a £77,000 payment is sought and will be secured in the legal agreement.
- 6.148 In terms of the proposed housing mix, the proposed development comprises a mix of sizes and types of dwellings, including bungalows, 2 storey and some 2.5 storey properties laid out in a combination of short terraces of 4 dwellings, semi-detached and detached dwellings. This mix of size, types of dwellings as set out in the table below (and indeed the overall proposed layout - covered above) allows for a mixed community and suitable housing choice, in accordance with policy LP2 and the latest updated Strategic Housing Market Assessment.

**Table**

| 2 Beds | 3 Beds | 4 Beds | Total |
|--------|--------|--------|-------|
| 22     | 76     | 28     | 126   |

- 6.149 As confirmed above, all the proposed dwellings are market dwellings.
- 6.150 The site area for the residential parcels is approximately 7.94 hectares in size and proposes 126 dwellings. This equates to 15.86 dwellings per hectare which is considered to be an entirely appropriate density for this location and is suitably comparable to the existing residential areas on the south side of Clacton Road.

**Section 106 of the Town and Country Planning Act 1990**

- 6.151 The following heads of terms are proposed to be secured via a legal agreement:
  - To provide the Market Fields Grow (MFG) facility in full including all buildings, utilities, internet, plastering and decoration, hard surfaces, landscaping and seating prior to occupation of 63rd dwelling and to transfer the facility in a freehold manner for £1 to the registered charity. The facility shall be functionally available on transfer. The finish level of the facility shall be agreed in writing by the LPA, and no dwellings shall be occupied beyond the occupation of the 63rd Dwelling until the MFG is provided in full and thereafter maintain as approved and for this use only.
  - The library in MFG facility to be made accessible to the wider public in perpetuity – detailed arrangements to be agreed in writing by the LPA.
  - The skills training centre element of the MFG facility hereby approved shall remain in use Class F1(a) (provision of education) in perpetuity.
  - Financial contribution of £156.76 per dwelling index linked) towards mitigation in accordance with Recreational disturbance Avoidance and Mitigation Strategy (RAMS)
  - Provision of on-site public access open space and play provision

- Maintenance and Management of public access open space and open space on site Including the provision of dog waste bins in the POS area including details of maintenance in perpetuity.
- If within 10 years of the decision the Class E business units (proposed under the Outline element) hereby approved fail to be in functional use (full or part) the land (or as may remain) shall revert to public open space use.
- Incorporation of a Reviewing mechanism to ensure the viability of the scheme is reviewed. Details to be agreed, any monies gained if viability exceeds agreement shall be used for affordable housing provision.
- A reduction in the speed limit along Clacton Road in front of the site (currently 60mph) to a lower speed limit, possibly 40mph (subject to a safety audit). This obligation is subject to a series of safety audits that apply to developer delivered schemes to the satisfaction of the Highway Authority.
- The existing 40-mph speed limit that terminates approximately 480 metres to the west of the application site to be extended eastwards to incorporate the entire development site fronting Clacton Road, and to include the provision of a gateway feature at the new location (to be agreed with ECC Highways) for the terminal signs.
- Officer comment: In respect of the above two highways mitigation requirements, it should be noted that there is no guarantee that a future reduction in the current speed limit and the extension of an existing 40mph speed limit will actually realise in the area because the implementation of these measures (or not) are subject to a process completely separate to the planning process, and will be subject to a separate consultation process. The Developer is aware of this and has accepted the risk.
- A developer contribution of £77,000 towards Healthcare provision in order to mitigate against the impacts of this proposal. This contribution to go towards capital funding to increase capacity within the local GP Catchment Area. To be held by TDC.

6.152 All of the above contributions and obligations to be secured via the legal agreement (as indicated) are considered to meet the tests set out in Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 and consistent with Paragraph 57 of the Framework in that they are necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development.

### Other Considerations

#### Environmental Impact Assessment (EIA) screening

6.153 The development falls within category 10(b) of Schedule 2 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 ('The Regulations'). The site is not within a 'sensitive area'. The site area exceeds the 5 hectare threshold, being 10.43 hectares in area and therefore requires EIA screening. The application has been considered against the criteria set out in Schedule 3 of the EIA Regulations and guidance within the Planning Practice Guidance. The development has been screened under the above regulations. The Council has considered the development against the criteria set out in Schedule 3 of the regulations and has decided that EIA is not required. The decision is attached as Appendix 1 to this report.

#### Referral to Secretary of State under the Town and Country Planning (Consultation) (England) Direction 2021

6.154 Paragraph 5.(1) of the above direction states:

For the purposes of this Direction (the authority shall consult the Secretary of State) for, "development outside town centres" meaning development which consists of or includes retail, leisure or office use, and which –

- (a) is to be carried out on land which is edge-of-centre, out-of-centre or out-of-town; and
- (b) is not in accordance with one or more provisions of the development plan in force in relation to the area in which the development is to be carried out; and

(c) consists of or includes the provision of a building or buildings where the floor space to be created by the development is:  
5,000 square metres or more; or extensions or new development of 2,500 square metres or more which, when aggregated with existing floor space, would exceed 5,000 square metres

6.155 By reason of the commercial uses when combined with the rest of the development the proposal is caught by criteria (a), (b) and (c)(i) and in the event that Members resolve to approval consultation with the Secretary of State would be sought.

### **Planning Balance and Conclusion**

6.156 The proposal is for a large-scale residential development including two commercial units (Class E) and the MFG facility (Class E/F1) on an unallocated site well outside the settlement development boundary for Elmstead Market. The residential element of the proposal therefore gives rise to harm through failing to comply with a statutory plan-led approach to the location of future housing. The Local Plan does not positively support the other two uses in a location such as this, however the Local Plan also does not prevent the unique combination of the Class E/F1 MFG facility from coming forward in areas outside defined settlement development boundaries.

6.157 Clear policy conflict has been identified in terms of the permanent loss of very good' quality agricultural land and the landscape harm that will ensue to the north of Clacton Road, where currently the site is an agricultural field with decent views towards open countryside to the north and north-west. The application has also failed to demonstrate that the commercial (outline) element of the proposal will not have an unacceptable impact on Elmstead Market Village Centre and the nearby town centre of Brightlingsea. The weight given to this particular area of policy conflict is tapered because the LPA acknowledge that the immediate area around the application site has evolved over the last 4 years with the business and housing developments. Weight is also given to reason that the Class E commercial buildings will contribute towards providing a localised shop and other class E services that will assist in serving the growing population in the area south east of Elmstead Market. Further weight is given to the commercial scheme approved previously, but not implemented and would be essentially replaced by this proposal. This however does not overcome the policy conflict identified in the 'Principle of Development' section above. Significant weight is attributed to the rest of the harmful elements and the resultant policy conflict.

6.158 However as set out in the relevant section in the 'Assessment' part of the report above, the justification for the 100% market housing lies in the enabling nature of the proposal and the viability information confirming that the proposal cannot support any affordable housing. So against the harmful elements set out in the paragraph above the benefits of the scheme will include a much needed SEN facility in the form of the Market Field Grow (use Class E/F1) use (which will be secured in the legal agreement to remain as such in perpetuity), including the provision of a library accessible to the wider public, as well as positive benefits to the local and wider economy through direct and indirect job creation and retention (both for the workers at the MFG facility but also for the students of the facility because there is clear evidence that such a facility improve life chances for students of institutions such as the one proposed here).

6.159 These benefits would be considerable, and in this planning balance, very significant weight is attributed to them because of the clear demonstration of need for a facility such as the MFG use while considering that other school provision is not addressed by this proposal for the housing created and shall be a burden the county will need to address elsewhere. The 1600 square metres of new Class E commercial floorspace and the commercial floorspace included in the MFG facility (such as the ancillary shop, bakery etc) has potential to support economic growth in the district – this is also an element of the proposal weighing in favour and some weight is given to this benefit. The provision of 126 market dwellings adds very little weight in favour of the proposal because of the Councils' strong 5-year housing land supply position but is nevertheless a benefit that weighs in favour as economic benefit and enabling this facility.

- 6.160 Other third-party representations, including those from technical consultees and members of the public have been carefully considered, and where necessary, considered as part of the officer assessment of this scheme. It is considered that the revised proposals, subject to the imposition of conditions other obligations have addressed all other technical and fundamental policy matters – all these considerations are neutral in the planning balance.
- 6.161 There are currently minor locational infrastructure shortfalls which will make travelling using sustainable options (such as walking and cycling) from the development site to Elmstead Market and large urban settlements such as Clacton on Sea and Colchester unattractive to users and occupiers of the development, however effective mitigation is proposed and will be secured as part of conditions and a section 106 legal agreement. These elements are also neutral in the planning balance.
- 6.162 Ultimately and on balance, the weight given to the substantial benefits as outlined above is considered to very marginally outweigh the significant weight given to the failure of the development as a whole to comply with the statutory plan led approach, and the significant weight given to the landscape and character harm.
- 6.163 For all these reasons, it is recommended that planning permission be granted, subject to the completed S106 legal agreement and the conditions recommended below. In reaching this conclusion great weight is given to the unrestricted access to the library in the multi use building which will be secured in the legal agreement.
- 6.164 In summary, the proposed large-scale residential development outside Elmstead Market's settlement boundary raises concerns about non-compliance with the statutory plan-led approach for housing location. Despite policy conflicts and potential landscape harm, the justification for 100% market housing lies in the enabling nature of the proposal and viability constraints.
- 6.165 The scheme brings significant benefits, including a much-needed SEN facility, a public-accessible library, and positive economic impacts. The addition of commercial space supports economic growth, while the 126 market dwellings contribute less weight due to a robust housing land supply.
- 6.166 Revised proposals address technical and policy matters, with third-party representations considered. Minor infrastructure shortfalls are acknowledged, with proposed mitigations. The planning balance slightly tips in favour of the project, emphasising the considerable benefits over concerns about non-compliance and landscape impact in light of the scale of the project.

## **7. Recommendation**

7.1 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 section 1.1 above

### **7.2 Conditions and Reasons**

#### **FULL PLANNING PERMISSION** (126 dwellings and new MFG Facility)

##### **1. COMPLIANCE: TIME LIMIT**

The development hereby permitted shall be begun before the expiration of one year from the date of this permission.



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

## 2. COMPLIANCE: APPROVED PLANS AND DOCUMENTS (To be updated as necessary)

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

### **Plans Schedule**

- Site Location Plan 1:1250 – Drawing Nr PA 02 Rev B
- Proposed Site Arrangement 1:1000 – Drawing Nr PA 03 Rev E
- Constraints 1:2500 – Drawing Nr PA 04 Rev C
- Function Mapping Existing 1:5000 - Drawing Nr PA 05 Rev C
- Proposed Residential Site Plan 1:500 – Drawing Nr PA 06 Rev E
- Proposed Detailed Residential Site Plan 1 1:500 – Drawing Nr PA 07 Rev E
- Proposed Detailed Residential Site Plan 2 1:500 – Drawing Nr PA 08 Rev D
- Proposed Detailed Residential Site Plan 3 1:500 – Drawing Nr PA 09 Rev D
- Proposed Site Block Plan 1:1000 – Drawing Nr PA 10 Rev G
- Proposed Market Field Grows Site Plan 1:500 – Drawing Nr PA 11 Rev B
- Proposed Detailed Market Field Grows Plan 1:200 – Drawing Nr PA 12 Rev B
- Proposed Multi-Use Building Plan 1:100 – Drawing Nr PA 13 Rev A
- Proposed Multi-Use Building Elevations 1:100 – Drawing Nr PA 14
- Proposed Reception Building Plan 1:100 – Drawing Nr PA 15
- Proposed Reception Building Elevations 1:100 – Drawing Nr PA 16
- Proposed Animal Pens 1:100 – Drawing Nr PA 17
- Proposed Cart Lodge 1:100 – Drawing Nr PA 18
- Proposed Bins and Composting 1:100 – Drawing Nr PA 19
- Proposed Workshop Plans and Elevations 1:100 – Drawing Nr PA 20
- T1A Floor Plans and Elevations 1:50/1:100 – Drawing Nr PA 21 Rev A
- T1C Floor Plans and Elevations 1:50/1:100 – Drawing Nr PA 22
- T1D Floor Plans and Elevations 1:50/1:100 – Drawing Nr PA 23 Rev A
- T2 Floor Plans and Elevations 1:50/1:100 – Drawing Nr PA 24 Rev A
- T3 Floor Plans and Elevations 1:50/1:100 – Drawing Nr PA 25 Rev A1
- T3A Floor Plans and Elevations 1:50/1:100 – Drawing Nr PA 26 Rev A1
- T5 Floor Plans and Elevations 1:50/1:100 – Drawing Nr PA 27
- T6 Floor Plans and Elevations 1:50/1:100 – Drawing Nr PA 28 Rev B
- T6(corner) Floor Plans and Elevations 1:50/1:100 – Drawing Nr PA 29 Rev B
- T7 Floor Plans and Elevations 1:50/1:100 – Drawing Nr PA 30 Rev A
- T12 Floor Plans and Elevations 1:50/1:100 – Drawing Nr PA 31
- T13 Floor Plans and Elevations 1:50/1:100 – Drawing Nr PA 32 Rev A
- G1 and G2 Floor Plans and Elevations 1:50/1:100 – Drawing Nr PA 33 Rev A
- Street Scenes 1:2500 – Drawing Nr PA 34 Rev A
- Proposed Function Mapping 1:5000 – Drawing Nr PA 35 Rev E
- T8 Floor Plans and Elevations 1:100 – Drawing Nr PA 36
- T1A-T1D Terraced Floor Plans and Elevations 1:100 – Drawing Nr PA 39
- T14 Floor Plans and elevations 1:50/1:100 – Drawing Nr PA 40

### **Statements Schedule**

- PRELIMINARY ECOLOGICAL ASSESSMENT REPORT by Richard Graves Associates dated September 2023
- ECOLOGY REPORT by Richard Graves Associates dated October 2023
- AMENDED PLANNING STATEMENT by ABC Planning dated Aug 2023
- MINERAL RESOURCE ASSESSMENT dated March 2023
- TRANSPORT ASSESSMENT and APPENDICES by Richard Jackson Engineering Consultants dated December 2022
- PHASE ONE DESK STUDY REPORT by Richard Jackson Engineering Consultants dated October 2022
- WRITTEN SCHEME OF INVESTIGATION dated November 2022
- LANDSCAPE AND VISUAL IMPACT ASSESSMENT by Wynne Williams Associated dated December 2022
- SITE SPECIFIC FLOOD RISK ASSESSMENT by Richard Jackson Engineering Consultants dated December 2022
- GROUND INVESTIGATION REPORT by Richard Jackson Engineering Consultants dated October 2022
- ARBORICULTURAL IMPACT ASSESSMENT AND METHOD STATEMENT with APPENDICES by TPS dated December 2022

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

**OUTLINE PLANNING PERMISSION** (Class E commercial buildings (1596sqm) and 53 space public car park)

### 3. COMPLIANCE: TIME LIMIT

The development hereby permitted shall be begun before the expiration of one year from the date of approval of the reserved matters application.

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

### 4. COMPLIANCE: TIME LIMIT RESERVED MATTERS APPLICATION

Application for approval of the reserved matter (landscaping) shall be made to the Local Planning Authority before the expiration of two years from the date of this permission.

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

### 5. COMPLIANCE: APPROVED PLANS AND DOCUMENTS (To be updated as necessary)

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.

- Site Location Plan 1:1250 – Drawing Nr PA 02 Rev B
- Proposed Site Arrangement 1:1000 – Drawing Nr PA 03 Rev E

- Proposed Site Block Plan 1:1000 – Drawing Nr PA 10 Rev G
- Commercial Building Elevations 1:100 – Drawing Nr PA 38

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

#### 6. COMPLIANCE: RESERVED MATTER APPROVAL

No development on any phase shall be commenced until plans and particulars of "the reserved matter" referred to in the above condition relating to the landscaping for the Class E commercial buildings have been submitted to and approved, in writing, by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason - The application as submitted does not provide sufficient particulars for consideration of these details.

#### 7. COMPLIANCE: MAXIMUM RETAIL FLOORSPACE RESTRICTION

Notwithstanding drawings numbers PA 03 Rev E, PA 10 Rev G and PA 38 hereby approved, the maximum floorspace that can be allocated to retail under Class E(a) of the Use Classes Order 1987 (as amended) and the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) shall not exceed 249 square metres gross floorspace across both commercial buildings hereby approved. No development above slab level on the commercial buildings hereby approved shall commence until detailed floorplans reflecting the above have been submitted to and approved in writing by the Local Planning Authority. The Class E commercial buildings (up to 1596sqm) and 53 space public car park hereby approved shall thereafter be implemented in accordance with the approved floorplans.

Reason - To enable the Local Planning Authority to retain control over the impact of the development on the vitality and viability of nearby town and village centres and to ensure compliance with policy PP4 of the Local Plan.

#### 8. FURTHER APPROVAL - SOUND MITIGATION MEASURES TO BE AGREED

Before any machinery/plant is first used on the commercial buildings hereby approved as part of this permission, it shall be enclosed with sound insulating material and mounted in a way which will minimise transmission of structure borne sound in accordance with a scheme to be approved, in writing, by the Local Planning Authority. The scheme shall thereafter been maintained as may be approved.

REASON: In the interest of the amenity of neighbouring residents having regard to the background noise levels in the area.

NOTE/S FOR CONDITION:

This condition shall engage and requires details to be agreed prior to first use. This condition is imposed due to concern/s over potential noise that may harm amenity and is imposed as it is considered necessary to control potential noise that would have otherwise warranted a refusal.

### FULL

#### 9. FURTHER APPROVAL: PHASING PLAN

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

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

## **Materials**

### **10. FURTHER APPROVAL: AGREEMENT OF MATERIALS**

No development on any phase 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 of all buildings in that phase, have been submitted to and approved, in writing, by the Local planning authority. Such materials as may be agreed shall be those used in the development and fully applied prior to the first use/occupation.

REASON - To secure an orderly and well-designed finish in the interests of visual amenity and the character and appearance of the development.

## **Landscaping**

### **11. APPROVAL REQUIRED: LANDSCAPING SCHEME**

No development above slab level on any of the residential or MFG phase(s) shall take place until there has been submitted to and approved, in writing, by the Local planning authority a precise scheme of hard, soft and boundary treatment landscaping works for the relevant phase, which shall include any proposed changes in ground levels.

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

### **12. COMPLIANCE WITH DETAILS AND TIMESCALE REQUIRED - LANDSCAPING SCHEME**

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

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

### **13. APPROVAL REQUIRED: LANDSCAPE MANAGEMENT PLAN**

No development on any phase shall take place until there has been submitted to and approved, in writing, by the Local planning authority a landscape management plan for a minimum of 5 years. Both new and existing planting (including SUDs features as applicable) will be required to

be included in a long-term management plan. The landscape management plan shall also include long term design objectives, management responsibilities and maintenance schedules for all landscape areas, other than small, privately owned, domestic gardens. The landscape management plan shall be carried out as approved in accordance with the details and timescales in the plan and thereafter retained.

Reason - To support plant establishment and ensure the proper management and maintenance of the approved landscaping in the interests of amenity, functionality and the character and appearance of the area.

#### 14. APPROVAL REQUIRED: DETAILS OF SCREEN WALLS AND FENCES

Prior to the first occupation of the residential element of the development precise details of the provision, siting, design and materials of all screen walls and fences on the residential parcels and MFG development shall be submitted to and approved, in writing, by the Local planning authority. The screen walls and fences as may be approved shall be erected prior to the dwelling/s/building/s to which they relate being first occupied/used and thereafter be retained in the approved form.

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

### **Removal of Permitted Development Rights (PD)**

#### 13. SPECIFIC RESTRICTION ON DEVELOPMENT: REMOVAL OF PD FOR ROOF ADDITIONS AND OPENINGS

Notwithstanding Section 55 (2)(a)(ii) of the Town and Country Planning Act 1990 as amended and the provisions of the Town and Country Planning (General Permitted Development) Order 2015, Schedule 2, Part 2 Development within the curtilage of a dwellinghouse Class B and Class C (or any Order revoking and re-enacting that Order with or without modification):- no enlargement, improvement, insertion of new openings or other alterations to the roof of the dwelling house(s) shall be carried out, except pursuant to the grant of planning permission on an application made in that regard.

Reason - To enable the local planning authority to retain control over the development in the interests of the visual amenity, the quality of the development and residential amenities.

### **Highways**

#### 14. HIGHWAYS PROVISION OF PARKING AND TURNING

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 for the relevant phase, has been provided and made functionally available. The area shall then be retained and remain free of obstruction thereafter.

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

#### 15. ACTION REQUIRED: HIGHWAY WORKS PRIOR TO OCCUPATION

Prior to the commencement of development above slab level on the first phase, a scheme of highway improvements shall be submitted in writing to the local planning authority for written approval that shall comprise of the following and include a timetable for implementation.:

- A new priority junction off Clacton Road to provide access to the development parcel located on the north-eastern side of Clacton Road.
- A new dedicated right turn lane into the development parcel located on the north-eastern side of Clacton Road to be designed in accordance with DMRB standards.
- A detailed scheme for the widening of the existing footway one both sides of Clacton Road to the existing bus stop facilities west of Lanswood Business Park.
- To current Essex County Council specification, the upgrade of the two nearest bus stops on Clacton Road, west of Lanswood Business Park (details to be agreed with the Local Planning Authority and Essex County Council prior to commencement of the development).
- The provision of a signalised 'Puffin or Toucan' crossing on Clacton Road as indicatively indicated on Drawing Nr 0001 Revision P1 (by Richard Jackson Engineering Consultants) to serve the existing and proposed developments together with the nearest bus stops serving the development.

The improvements as may be agreed shall be implemented as approved in the timetable provided and completed in their entirety.

Reason - To protect highway efficiency of movement and safety and to ensure the proposal site is accessible by more sustainable modes of transport such as public transport, and walking.

#### 16. COMPLIANCE: INTERNAL ROAD AND FOOTWAYS PRIOR TO OCCUPATION

Prior to the occupation of the development, the associated internal road, footway layout and parking shall be provided in accordance with approved drawing numbers:

- PA\_07 E Amended proposed residential site plan part 1
- PA\_08 D Amended proposed residential site plan part 2
- PA\_09 D Amended proposed residential site plan part 3

Reason - To ensure that vehicles using the site access do so in a controlled manner, in the interests of highway safety.

Note: It has been agreed with the developer that the majority of the internal road layout, footway layout, surface water drainage or any form of street lighting will not be adopted by the Highway Authority.

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

Prior to the commencement of development on any phase, details of the construction methodology, layout plan and timetable for the relevant phase 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 for the development and details of times for removal when not required).

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

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

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

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

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

#### **19. FURTHER APPROVAL: RESIDENTIAL TRAVEL PACK PRIOR TO OCCUPATION**

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

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

Note: Please contact the Travel Plan Team at ECC Highways via email to [Travel.PlanTeam@essex.gov.uk](mailto:Travel.PlanTeam@essex.gov.uk) to obtain a Residential Travel Information Pack template and the associated day travel vouchers required.

### **Archaeology**

#### **20. FURTHER APPROVAL: ARCHAEOLOGICAL WORKS**

No development or preliminary groundworks can commence on the development area north of Clacton Road until a mitigation strategy detailing the excavation / preservation strategy has been submitted to and approved in writing by the Local Planning Authority.

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

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

## 21. FURTHER APPROVAL: ARCHAEOLOGICAL WORKS

A post excavation assessment shall be submitted to and approved in writing by the Local Planning Authority within 6 months of the date of completion of the archaeological fieldwork set out in the condition above. Furthermore, no dwelling on the development area north of Clacton Road shall be occupied until analysis, publication and dissemination of results and archive deposition from the archaeology investigations as set out above has taken place, unless an alternative agreed timetable or phasing for the provision of results is agreed in writing by the Local Planning Authority.

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

## **Biodiversity and Protected Species**

### 22. COMPLIANCE: IN ACCORDANCE WITH ECOLOGICAL APPRAISAL

All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the PRELIMINARY ECOLOGICAL ASSESSMENT REPORT by Richard Graves Associates dated September 2023 and the ECOLOGY REPORT by Richard Graves Associates dated October 2023. 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).

### 23. FURTHER APPROVAL: MITIGATION TO BE AGREED

Prior to the commencement of development on the development parcel north of Clacton Road, a scheme of appropriate protected species mitigation measures (including precise details of the timing, any translocation measures deemed necessary and method of protection) shall be submitted to and approved, in writing, by the Local Planning Authority. No development shall be undertaken except in accordance with the approved scheme of mitigation and timings as may be agreed in writing.

REASON: In order to safeguard protected wildlife species and their habitats and because [this is



a timber framed building where it is highly likely, due to its age, that bats will be present] [the site includes a pond which with the surrounding habitat is likely to support great crested newts]. This condition is required to be agreed prior to the commencement of any development as any construction process, including site preparation, has the potential to disturb protected species and their habitat.

**NOTE/S FOR CONDITION:**

Any disturbance of protected species can be a criminal offense and you may need to seek professional advice.

**24. FURTHER APPROVAL: BIODIVERSITY ENHANCEMENT STRATEGY**

Prior to commencement of development on the development parcel north of Clacton Road, 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).

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

Prior to commencement of development on the development parcel north of Clacton Road, a lighting design scheme for biodiversity shall be submitted to and approved in writing by the local planning authority. The scheme shall identify those features on site that are particularly sensitive for bats and that are likely to cause disturbance along important routes used for foraging; and show how and where external lighting will be installed (through the provision of appropriate lighting plans, drawings and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory. The scheme shall include position, height, aiming points, lighting levels and a polar luminance diagram.

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

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

**26. APPROVAL REQUIRED: LANDSCAPE PROTECTION**

No development shall be commenced on any phase until the existing tree/s on the site, agreed with the Local Planning Authority for inclusion in the scheme of landscaping, have been protected by the erection of temporary protective fences of a height, size and in positions which shall previously have been approved, in writing, with the Local Planning Authority prior to the commencement of development. The protective fences shall be retained throughout the duration of building and engineering works in the vicinity of the tree/s to be protected. Any tree/s dying or becoming severely damaged as a result of any failure to comply with these requirements shall be replaced with a tree or trees of appropriate size and species during the first planting season, or in accordance with such other arrangement as may be approved, in writing, with the Local Planning Authority up to first use or first occupation of the development, following the death of, or severe damage to the tree/s.

Reason: For the avoidance of damage to protected tree/s included within the landscaping scheme in the interests of visual amenity and the character and appearance of the area. This condition is required to be carried out prior to the commencement of any other development to ensure trees are protected early to ensure avoidance of damage or lost due to the development and/or its construction. If agreement was sought at any later stage there is an unacceptable risk of lost and damage to trees.

### **Sustainable Drainage (SuDS)**

#### **27. FURTHER APPROVAL – SURFACE WATER DRAINAGE DETAILS (FOR CONSTRUCTION)**

No development shall commence until details of a construction surface water management plan, including timetable, detailing how surface water and storm water will be managed on the site during construction, are submitted to and agreed in writing by the local planning authority. No part of the development shall be commenced and/or developed except as may be agreed and in accord with the approved timetable. The drainage scheme shall thereafter be maintained as approved or as be agreed to be retained by the local planning authority in writing.

Reason - To safeguard the ground water environment and minimise the risk of flooding. This condition is required to be agreed prior to the commencement of any development as any construction process, including site preparation, by reason of the location and scale of development may result adverse harm by reason of flood risk.

#### **NOTE/S FOR CONDITION:**

This condition shall engage and requires details to be agreed prior to the commencement of development. This condition is imposed to ensure the potential impact on a sensitive area is considered and harm avoided that may be detrimental to amenity and the environment. Construction may lead to excess water being discharged from the site. If dewatering takes place to allow for construction to take place below groundwater level, this will cause additional water to be discharged. Furthermore, the removal of topsoils during construction may limit the ability of the site to intercept rainfall and may lead to increased runoff rates. To mitigate increased flood risk to the surrounding area during construction there needs to be satisfactory storage of/disposal of surface water and groundwater which needs to be agreed before commencement of the development.

#### **28. FURTHER APPROVAL - SURFACE WATER DRAINAGE DETAILS (OPERATIONAL)**

No development on any phase shall commence (except demolition) until details of a surface water drainage scheme, 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:

- Verification of the suitability of infiltration of surface water for the Northern section of the development (letter CW/61055/Inf of 22/09/22). This should be based on infiltration tests that have been undertaken in accordance with BRE 365 testing procedure and the infiltration testing methods found in chapter 25.3 of The CIRI SuDS Manual C753.
- Demonstrate that all storage features can half empty within 24 hours for the 1 in 30 plus 40% climate change critical storm event, OR, if impracticable
- Demonstrate that features are able to accommodate a 1 in 10 year storm event within 24 hours of a 1 in 30 year event plus climate change
- Final modelling and calculations for all areas of the drainage system.
- Detailed engineering drawings of each component of the drainage scheme.
- A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features.
- A written report summarising the final strategy and highlighting any minor changes to the approved strategy.

Unless a timetable is agreed as part of the surface water management scheme submitted, no part of the development shall be first occupied or brought into use until the scheme is fully installed and is functionally available for use, unless alternative timing for installation is otherwise agreed in writing by the Local planning authority. The drainage scheme shall thereafter be maintained as approved.

Reason – A pre-commencement condition is necessary to safeguard the ground water environment and minimise the risk of flooding. This condition is required to be agreed prior to the commencement of any development as any construction process, including site preparation, by reason of the location and scale of development may result adverse harm by reason of flood risk.

**NOTE/S FOR CONDITION:**

This condition shall engage and requires details to be agreed prior to the commencement of development. This condition is imposed to ensure the potential impact on a sensitive area is considered and harm avoided that may be detrimental to amenity and the environment.

**29. SURFACE WATER DRAINAGE SYSTEM**

Prior to first occupation on any phase of the development hereby approved, a maintenance plan for the surface water drainage system, detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities and frequencies shall be submitted to and approved in writing by the Local Planning Authority. The approved maintenance plan shall thereafter be implemented and the maintenance arrangements carried out in accordance with the approved plan for as long as the development shall exist.

Reason: A pre-commencement condition is necessary 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.

**Bins / Collection**

**30. ACTION AND DISCHARGE REQUIRED: REFUSE BINS AND COLLECTION AREAS**

Prior to the first use/occupation of the development on any phase, or in accordance with an alternative timetable for provision as may be agreed in writing by the Local planning authority, details of the storage for refuse/recycling bins and any collection areas shall be submitted to and approved, in writing, by the local planning authority. The approved areas shall be provided prior to first occupation/ use and thereafter retained as approved.

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

NOTE/S FOR CONDITION:

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

## **Local Recruitment Strategy**

### **31. ACTION AND DISCHARGE REQUIRED**

Prior to commencement of development on any phase the applicants shall submit to the Local planning authority, in writing, a Local Recruitment Strategy to include details of how the applicant/developer shall use their reasonable endeavours to promote and encourage the recruitment of employees and other staff in the locality of the application site, for the construction of the development and for the uses of the development thereafter. The approved Local Recruitment Strategy shall thereafter be adhered to.

Reason - To promote and encourage the recruitment of employees and other staff in the locality of the application site.

## **Renewable Energy and Energy Efficiencies**

### **32. COMPLIANCE: IN ACCORDANCE WITH ENERGY STATEMENT**

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

- Details of, including the location of an electric car charging points per dwelling and electric car charging points for the MFG facility
- Details of, including the location of a Water-butt per dwelling
- Details of, including the location of solar panels for each dwelling
- Agreement of heating of each dwelling/building
- Agreement of scheme for waste reduction

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

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

## **8. 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.

### Legal Agreement Informative

This application is the subject of a S106 legal agreement, and this decision should only be read in conjunction with this agreement. Please note that any subsequent variation / removal of condition applications (s73 applications) are likely to require a new legal agreement to secure the necessary planning obligations.

### Highways Informatives

1. The proposed junction layout and footway proposals will require an initial Stage 1 Road Safety Audit, ideally to be carried out by Essex Highways (to avoid the issue of additional items being identified at RSA2 stage which can then delay technical approval) [roadsafety.audit@essexhighways.org](mailto:roadsafety.audit@essexhighways.org)
2. All or some of the above requirements may attract the need for a commuted sum towards their future maintenance (details should be agreed with the Highway Authority as soon as possible).
3. 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
4. All highway related details should be agreed with the Highway Authority.
5. Priority for pedestrians and cyclists across internal junctions. (Internal layout subject to a 20mph Zone).
6. Speed tables: A plateau may be created by ramps rising 75mm at a rise of 1-in-12. Unless there is a junction, such a plateau should be no longer than 7m.
7. 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)

8. The Public Right of Way network is protected by the Highways Act 1980. Any unauthorised interference with any route noted on the Definitive Map of PROW is considered to be a breach of this legislation. The public's rights and ease of passage over public footpath no.5 (Great Oakley\_168) shall be maintained free and unobstructed at all times to ensure the continued safe passage of the public on the definitive right of way.
9. 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. In the interests of highway user safety this may involve the applicant requesting a temporary closure of the definitive route using powers included in the aforementioned Act. All costs associated with this shall be borne by

the applicant and any damage caused to the route shall be rectified by the applicant within the timescale of the closure.

10. 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.
11. 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, schools are also available.

## 12. Environmental Protection Informatives

In order to minimise potential nuisance caused by construction works, the applicant (or their contractors) the construction method statement required by Condition 15 above shall include the following:

- No vehicle connected with the works to arrive on site before 07:30 or leave after 19:00 (except in the case of emergency). Working hours to be restricted between 08:00 and 18:00 Mondays to Saturdays (finishing at 13:00 on Saturdays) with no working of any kind permitted on Sundays or any Public/Bank Holidays
- The use of barriers to mitigate the impact of noisy operations will be used where possible.
- No materials produced as a result of the site development or clearance shall be burned on site.
- All reasonable steps, including damping down site roads, shall be taken to minimise dust and litter emissions from the site whilst works of construction and demolition are in progress.
- 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 5228:2014.
- Mobile plant to be resident on site during extended works shall be fitted with non-audible reversing alarms (subject to HSE agreement).
- 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.
- 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.
- Adequate and suitable measures should be carried out for the minimisation of asbestos fibres during demolition, so as to prevent airborne fibres from affecting workers carrying out the work, and nearby properties. Only contractors licensed by the Health and Safety Executive should be employed. Any redundant materials removed from the site should be transported by a registered waste carrier and disposed of at an appropriate legal tipping site.
- All waste arising from the ground clearance and construction processes to be recycled or removed from the site subject to agreement with the Local Planning Authority and other relevant agencies.

- No materials produced as a result of the site development or clearance shall be burned on site. All reasonable steps, including damping down site roads, shall be taken to minimise dust and litter emissions from the site whilst works of construction and demolition are in progress.
- All bulk carrying vehicles accessing the site shall be suitably sheeted to prevent nuisance from dust in transit.

13. You are advised to engage with Anglian Water at your earliest convenience as part of developing a feasible drainage strategy for the development and as required under the relevant condition(s) outlined above.

14. In respect of developing a feasible drainage strategy for the development you are recommended to submit a Pre-planning enquiry with Anglian Water's Pre-Development team. This can be completed online at the following website  
<http://www.anglianwater.co.uk/developers/pre-development.aspx>

Once submitted, Anglian Water will work with you in developing a feasible mitigation solution. If a foul or surface water condition is applied by the Local Planning Authority to the Decision Notice, Anglian Water will require a copy of the following information prior to recommending discharging the condition:

Foul water:

- Feasible drainage strategy agreed with Anglian Water detailing the discharge solution including:

- Development size

- Proposed discharge rate (Should you require a pumped connection, please note that our minimum pumped discharge rate is 3.8l/s)

- Connecting manhole discharge location (No connections can be made into a public rising main)

- Notification of intention to connect to the public sewer under S106 of the Water Industry Act (More information can be found on our website)

- Feasible mitigation strategy in agreement with Anglian Water (if required)

## **9. Additional Considerations**

### **Equality Impact Assessment**

9.1 In making this recommendation/decision regard must be had to the public sector equality duty (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 that in summary include 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\* (See Table) and those who do not; C. Foster good relations between people who share a protected characteristic\* and those who do not, including tackling prejudice and promoting understanding.

9.2 It is vital to note that the PSED and associated legislation are a significant consideration and material planning consideration in the decision-making process. This is applicable to all planning decisions including prior approvals, outline, full, adverts, listed buildings etc. It does not impose

an obligation to achieve the outcomes outlined in Section 149. Section 149 represents just one of several factors to be weighed against other pertinent considerations.

9.3 In the present context, it has been carefully evaluated that the recommendation articulated in this report and the consequent decision are not expected to disproportionately affect any protected characteristic\* adversely. The PSED has been duly considered and given the necessary regard, as expounded below.

| Protected Characteristics *  | Analysis  | Impact              |
|--|---|---------------------|
| Age  | The proposal put forward will not likely have direct equality impacts on this target group. | Neutral             |
| Disability   | The proposal put forward will not likely have direct equality impacts on this target group. | Neutral to Positive |
| Gender Reassignment  | The proposal put forward will not likely have direct equality impacts on this target group. | Neutral             |
| Marriage or Civil Partnership                                      | The proposal put forward will not likely have direct equality impacts on this target group. | Neutral             |
| Pregnancy and Maternity  | The proposal put forward will not likely have direct equality impacts on this target group. | Neutral             |
| Race (Including colour, nationality and ethnic or national origin) | The proposal put forward will not likely have direct equality impacts on this target group. | Neutral             |
| Sexual Orientation   | The proposal put forward will not likely have direct equality impacts on this target group. | Neutral             |
| Sex (gender)   | The proposal put forward will not likely have direct equality impacts on this target group. | Neutral             |
| Religion or Belief   | The proposal put forward will not likely have direct equality impacts on this target group. | Neutral             |

9.4 The proposal overall shall have a neutral impact on equality in general.

9.5 Consultations undertaken with relevant communities and groups such as the Parish Council has taken place and no specific concerns of objections were raised in respect of equality.

9.6 As a result of the above conclusion no mitigation measures apply.

#### 9.7 Human Rights

- a. 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.



- b. 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).
- c. 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

- d. 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.
- e. 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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