



PLANNING COMMITTEE

DATE:	Tuesday, 12 March 2024
TIME:	5.00 pm
VENUE:	Committee Room - Town Hall, Station Road, Clacton-on-Sea, CO15 1SE

MEMBERSHIP:

Councillor Fowler (Chairman)
Councillor White (Vice-Chairman)
Councillor Alexander
Councillor M Cossens

Councillor McWilliams
Councillor Placey
Councillor Sudra
Councillor Wiggins

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

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

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DATE OF PUBLICATION: Monday, 4 March 2024

AGENDA

1 Apologies for Absence and Substitutions

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

2 Minutes of the Last Meeting (Pages 1 - 8)

To confirm and sign as a correct record, the minutes of the meeting of the Committee, held on Thursday, 15 February 2024.

3 Declarations of Interest

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

4 Questions on Notice pursuant to Council Procedure Rule 38

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

5 Report of the Director (Planning) - A.1 - 23/01375/FUL - Parkeston Railway Club, Hamilton Street, Parkeston, Harwich, CO12 4PQ (Pages 9 - 26)

Proposed permanent siting of 4 no. storage containers to rear of property to be used as storage.

6 Report of the Director (Planning) - A.2 - 23/01819/FUL - Land South of Verity Gardens, Weeley, Clacton-on-Sea, CO16 9FA (Pages 27 - 54)

Erection of 3 dwellings and associated ancillary buildings, drainage systems, boundary treatments, hard surfacing with vehicular access from Thorpe Road.

7 Report of the Director (Planning) - A.3 - 23/00993/VOC - Land East Side of Landermere Road, Thorpe-le-Soken, CO16 0NF (Pages 55 - 72)

Application under Section 73 of the Town and Country Planning Act, to allow a variation of Condition 1 (Approved plans) of 17/01482/DETAIL to replace drawing numbers 102 and 2 Rev. E with drawing numbers 102 Rev. A and 2 Rev. F.

8 Report of the Director (Planning) - A.4 - 24/00144/FULHH - 3 Thorrington Road, Great Bentley, Colchester, CO7 8QE (Pages 73 - 82)

New vehicular access.

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 5.00 pm on Monday, 18 March 2024.

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.

OR

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

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

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

WHAT WILL HAPPEN WHEN THE MATTER CONCERNED IS CONSIDERED?

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

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

WHAT SHOULD I SAY AT THE MEETING?

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

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

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

WHO DO I CONTACT FOR MORE INFORMATION?

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

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

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

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

**MINUTES OF THE MEETING OF THE PLANNING COMMITTEE,
HELD ON THURSDAY, 15TH FEBRUARY, 2024 AT 5.00 PM
IN THE COMMITTEE ROOM, TOWN HALL, STATION ROAD, CLACTON-ON-SEA,
CO15 1SE**

Present:	Councillors Fowler (Chairman), White (Vice-Chairman), Alexander, M Cossens, McWilliams, Smith, Sudra and Wiggins
In Attendance:	Gary Guiver (Director (Planning)), John Pateman-Gee (Head of Planning & Building Control), Ian Ford (Committee Services Manager), Joanne Fisher (Planning Solicitor), Michael Pingram (Senior Planning Officer), Madeline Adger (Leadership Support Manager), Hattie Dawson-Dragisic (Performance and Business Support Officer) and Jennie Wilkinson (Assets Surveyor)
Also in Attendance	Joanne Fisher (Planning Solicitor) (available via MS Teams) and Jennie Wilkinson (Assets Surveyor)

76. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

An apology for absence was received from Councillor Placey (with Councillor Smith substituting).

77. MINUTES OF THE LAST MEETING

It was moved by Councillor M A Cossens, seconded by Councillor Alexander and:-

RESOLVED that the minutes of the last meeting of the Committee, held on Tuesday 16 January 2024, be approved as a correct record and be signed by the Chairman.

78. DECLARATIONS OF INTEREST

There were no Declarations of Interests made by Members on this occasion.

79. QUESTIONS ON NOTICE PURSUANT TO COUNCIL PROCEDURE RULE 38

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

80. REPORT OF THE DIRECTOR (PLANNING) - A.1 - 23/01265/FUL - COPPINS HALL COMMUNITY CENTRE, MALDON WAY, CLACTON-ON-SEA, CO16 7PA

Members were informed that this application was before the Planning Committee as the application site was owned by Tendring District Council.

It was reported that the application sought permission for the temporary siting of a storage container on land at the rear of the Coppins Hall Community Centre to store bikes, bike equipment, tools and sports equipment which the charity (Inclusion Ventures) used for community based sessions.

The Committee was advised that the proposal was not considered by Officers to be harmful to the character and appearance of the area and it would not result in any significant impact to neighbouring amenities.

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

At the meeting, an oral presentation was made by the Council's Head of Planning & Building Control in respect of the application.

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

(a) *An additional condition and informative in relation to the colour of the container to read as follows:*

3 FURTHER APPROVAL: AGREEMENT OF MATERIALS COLOUR FINISH

CONDITION: Within 1 month of the date of approval of this planning permission, details of the external colour finish (suitable paint) to be applied to all the external facing elevations of the container shall be submitted to and approved, in writing, by the Local Planning Authority. The approved colour shall be applied to all external facing elevations of the container within one month of the date of the approval of the said colour, and retained as one uniform colour on all the external facing elevations for as long as the container is kept on site.

REASON: To minimise the visual impact of the container on the character and appearance of the area.

Informative - Paint Colour

Due to the current condition of the container, a condition has been imposed for the applicant to paint the container in a uniform colour to minimise its overall impact. It is recommended that the container is painted green to be considered in keeping with the character of the area.

(b) *An amendment to condition 2 to read as follows:*

2 COMPLIANCE: TEMPORARY PERMISSION

CONDITION: The development is hereby approved for a temporary period of 3 years from the date of this decision, by which date the container shall be removed in its entirety and the land returned to its original state and use.

REASON: To accord with the requirements of the application, this is secured as temporary permission. Furthermore, the appearance of the container is not considered appropriate to warrant the granting of a permanent permission in the interests of preserving the visual amenity of the surrounding area. This temporary permission allows time for an application for a suitable permanent scheme to come forward.

There were no public speakers on this occasion.

Matters raised by Members of the Committee:-	Officer's response thereto:-
<i>Is there a possibility of using a paint that</i>	<i>There are paints out there that claim to</i>

<i>is completely resistant to graffiti?</i>	<i>be impervious but I have yet to see one that is completely so. It would be difficult to impose such a condition and to then be able to enforce it.</i>
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It was moved by Councillor Alexander, seconded by Councillor McWilliams and unanimously:-

RESOLVED that -

- (a) the Head of Planning and Building Control be authorised to grant planning permission subject to conditions, as stated at paragraph 8.2 of the Officer report (A.1) and as subsequently amended by the Planning Officer Update Sheet, or varied as is necessary to ensure the wording is enforceable, precise, and reasonable in all other respects, including appropriate updates, so long as the principle of the conditions as referenced is retained; and
- (b) the sending to the applicant of any informative notes as may be deemed necessary.

81. REPORT OF THE DIRECTOR (PLANNING) - A.2 - 23/01418/FUL - BRAHAM HALL FARM, BENTLEY ROAD, LITTLE BROMLEY, CO11 2PS

Members were informed that this application had been referred to the Planning Committee as the proposed development would conflict with the requirements of the Development Plan, principally Policy SPL2 (Settlement Development Boundaries) of the Tendring District Local Plan 2013-2033 and Beyond Section 2 (adopted January 2022) being located outside of any defined settlement development boundary and that it had an Officer recommendation of approval.

It was reported that one of the proposed dwellings was sited in a slightly different location to the east but remained adjacent to the prior approval building, and was of a very similar size, design, and also retained the same number of bedrooms. Officers were content, therefore, that the proposal would not be harmful to the character and appearance of the surrounding area.

The Committee was told that there were no significant issues in respect to neighbouring amenities, or harm to trees. Essex Highways Authority had raised no objections and there was sufficient space for parking, whilst ECC Ecology had removed their initial holding objection following the submission of additional photographic evidence that the building to be demolished would not have any potential for the roosting of bats.

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

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

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

(a) for information purposes only, Essex County Council Place Services (Heritage) initial comments, dated 3rd November 2023, were as follows:

“The application is for proposed erection of two dwellings. (in lieu of prior approval for the conversion of an agricultural building into two dwellings 23/00549/COUNOT). A site visit has been carried out in November 2023.

The proposal site is within the setting of Grade II Listed Braham Hall. The existing barn is part of a group of agricultural buildings that have been added to the farmstead in the 20th century and they are not of historic or architectural significance. However, they form an interesting group which includes the proposal site, three brick and concrete storages/stables and a water tank arranged around a yard, and are considered in keeping with the rural character of the setting. The complex of modern agricultural barns contribute to the setting of the designated heritage asset and to our understanding of the significance of Braham Hall as an historic farmhouse.

There is no objection in principle to the demolition of the existing barn to be replaced by two dwellings. However, the proposed dwellings are very residential in character and are not considered to be in keeping with the rural character of the setting of Braham Hall.

The scheme previously submitted with reference 23/00549/COUNOT can overall be considered acceptable as the conversion of an existing barn, which is constrained by the existing structure, and, while improvable, offers a more bespoke response to the setting of the designated heritage asset.

While the current proposal is very similar in scale and design to the fall-back scheme, it should be noted that, as per Paragraph 206 of the NPPF, local planning authorities should look for opportunities for new development within the setting of heritage assets, to enhance or better reveal their significance. The demolition of the existing barn here, offers the opportunity for a well-designed high quality pair of dwellings of more traditional design and rural in character which could make a positive contribution to the setting of Braham Hall.

The elevations proposed in this current scheme are very similar to the previous proposal, however the addition of features as balconies, canopies, flues, contributes to the residential character of the buildings and makes them incongruous as part of the setting of the former farmhouse. In particular, the south and west elevations, facing the listed building, are particularly cluttered and should be revised and generally simplified.

At this stage, there are not sufficient information regarding external materials. Horizontal cladding with a brick plinth as previously proposed would be an acceptable solution, providing that traditional timber cladding is used. I also advise that, should a metal roof finish be proposed to match the existing, the previously proposed zinc roof is retained instead of the current grey standing seam sheeting. I would not support the use of uPVC windows and doors for this site and advise metal frame or timber frame features are proposed.

A detailed landscape layout, including information on hardstanding materials and boundary treatment would also be required.

In their current form, the proposals fail to preserve the special interest of the listed building, contrary to Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. With regards to the National Planning Policy Framework (2023), the level of harm is considered to be 'less than substantial'. As such the local planning authority should weigh this harm against any public benefits of the proposal including, where appropriate, securing its optimum viable use as per Paragraph 202.

Also, the proposals are not considered to preserve those elements of the setting that make a positive contribution to the identified heritage asset and which better reveal its significance, making paragraph 206 of the NPPF relevant here. Furthermore, the proposed fail to make a positive contribution to local character and distinctiveness, as set out in Paragraph 197c of the NPPF."

(b) amendments to the Officer report paragraphs as per the details below (additional comments in bold) -

6.26 Paragraph 208 of the NPPF states that where a development will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal. **Paragraph 205 adds that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation, irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.**

6.30 Given that the design of the two schemes is near identical, and the prior approval has been implemented, Officers do not consider that it would be reasonable to set aside the prior approval and raise objections solely on the grounds of heritage impacts. Notwithstanding the consistency position, the development does represent less than substantial harm, **which along with the conservation of the Listed Building, is given great weight within the determination of this application. However, on this occasion** the public benefit derived from housing provision, economic growth and design is considered to outweigh the harm and/or any perceived harm to the heritage asset.

(c) amendments to the Officer report's conclusion as follows (additional comments in bold).

7.2 Whilst the proposal is located within proximity to a Grade II Listed Building and ECC Heritage have raised concerns that the proposal does not enhance the setting of this heritage asset, the design is very similar to that previously approved (and implemented) within 23/00549/COUNOT. Officers, **in giving great weight to the conservation of the heritage asset and also recognising that the proposal generates some public benefits**, therefore do not consider it reasonable to raise an objection on these grounds. Furthermore, there is not considered to be significant harm to neighbouring amenities or the character of the area, whilst there is sufficient parking provision. ECC Highways also raise no objections.

(4) removal of Condition 12 – Construction Method Statement

Since the publishing of the agenda, the agent for the application has provided a Construction Method Statement and as such it is proposed to now remove Condition 12.

Peter Le Grys, the applicant's agent, spoke in support of the application.

Matters raised by Members of the Committee:-	Officer's response thereto:-
<i>I note that this application is being done under Class Q and that on this site we will have five dwellings. Is that the maximum allowed under the Regulations? Or could there be more?</i>	<i>The number allowed depends on the definition for smaller and larger developments (based on floor space). For the purposes of this particular development the limit would be five, but the combined applications result in a total of four dwellings on this occasion.</i>
<i>Could you please confirm the gap between dwellings being created by the relocation of Plot 4?</i>	<i>Plot 4 is being moved 2.5m to the east. Whilst I can't confirm the distance between Plots 3 and 4 exactly, it will be approximately four metres.</i>
<i>Would that meet Fire Regulations?</i>	<i>Building Control would look at this as part of its Building Regulations appraisal. They would look at such things as what combustible material is on the boundary between the two dwellings. Indeed, this may have played a part in the Applicant's decision to relocate Plot 4. However, fire regulations and Building Control are outside of the remit of this Committee i.e. it is not a planning matter that can be taken into account in Members' decision making on this application.</i>
<i>Will the size of the visibility splay on the road junction be increased?</i>	<i>Yes</i>
<i>At the fork of public footpath 5 what will be the width?</i>	<i>The minimum width is 4.2m along the northern section of the access, reducing to 3.7m towards the southern section past the 'fork'.</i>
<i>Who is responsible for the maintenance of the private track?</i>	<i>The Owner of the land unless there are covenants that apply</i>
<i>Why does condition number 6 refer to "prior to first use.." whilst conditions 8 & 9 refer to "prior to the occupation.."</i>	<i>Officers will amend condition 6 if that is Members' wish.</i>
<i>Can we add a condition requiring highway signage warning of pedestrians using the track given that the increase in the number of dwellings will lead to an increase in vehicular use?</i>	<i>Officers would not recommend such a condition on grounds including the track already exists, the public footpath already exists, there is an extant planning permission which does not have such a condition imposed upon it, the track is currently used by agricultural vehicles. All of this has taken place in the absence of such signage. In addition, ECC is responsible for ensuring proper signage on its PROW. For those reasons Officers do not believe that such a signage could be</i>

	<i>defended on appeal.</i>
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It was moved by Councillor M A Cossens, seconded by Councillor Sudra and:-

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

- 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, the completion of a legal agreement under the provisions of section 106 of the Town and Country Planning Act 1990 dealing with the following matter:
 - Financial contribution in accordance with the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) totalling £156.76 per dwelling (index linked)
- 2) the planning conditions, as stated at paragraph 8.2 of the Officer report (A.2) and as varied at the meeting i.e. the removal of condition 12 and the amendment to the wording of condition 6, 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;
- 3) the sending to the applicant of any informative notes as may be deemed necessary; and
- 4) that in the event of the requirements referred to in resolution (1) above not being secured and/or not secured within 12 months that the Head of Planning and Building Control be authorised to refuse the application on appropriate grounds at their discretion.

82. REPORT OF THE DIRECTOR (PLANNING) - A.3 - 23/01601/FUL - THE NAZE PENINSULA, OLD, HALL LANE, WALTON-ON-THE-NAZE, CO14 8LG

Members were informed that this application had been referred to the Planning Committee as the applicant and owner of the site was Tendring District Council.

It was reported that the application sought a modification to the access arrangement following the planning permission previously granted for this site under reference 21/01450/FUL in October 2021. This was due to ongoing erosion that had impacted that access arrangement. The works were in support of a wider scheme that was fundamentally designed to improve coastal defences and stabilise the coast, and were supported in principle.

The Committee was made aware that ECC Highways had raised no objections, and whilst the works would result in a small level of visual harm to a site within a Coastal Protection Belt, they were essential to ensure public safety. Furthermore, following the submission of additional ecological information, ECC Ecology had raise no objections, and no harm to neighbouring amenities had been identified.

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

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

An update sheet had been circulated to the Committee prior to the meeting informing it that since the publication of the agenda, Natural England had provided the following additional comments following the completion of a bespoke Habitats Regulation Assessment (HRA) by Officers:

“The bespoke HRA provided does not clearly set out the effects that the proposed modification of the access routes will have on the designated sites. An updated assessment is required to understand on what effects modifying the access routes may have on the foreshore and designated sites.”

Officer response thereto: *“While these comments from Natural England are noted, Officers appreciate that the works involved are essentially a minor variation to those previously allowed under reference 21/01450/FUL. The alterations proposed are considered to have a de minimis impact upon the designated site known as Hamford Water RAMSAR, SAC and SPA, and therefore on this occasion it is not considered to be a reasonable approach to provide a further detailed assessment.”*

There were no public speakers on this application.

Matters raised by Members of the Committee:-	Officer’s response thereto:-
<i>Can you confirm that the small, mechanised diggers will use the same access route that Members used this morning on their site visit?</i>	<i>Yes, I can confirm that is the case.</i>

It was moved by Councillor McWilliams, seconded by Councillor Wiggins and:-

RESOLVED that –

- (a) the Head of Planning and Building Control be authorised to grant planning permission, subject to the conditions as stated at paragraph 8.2 of the Officer report (A.3), or varied as is necessary to ensure the wording is enforceable, precise, and reasonable in all other respects, including appropriate updates, so long as the principle of the conditions as referenced is retained; and
- (b) the sending to the applicant of any informative notes as may be deemed necessary.

The meeting was declared closed at 6.04 pm

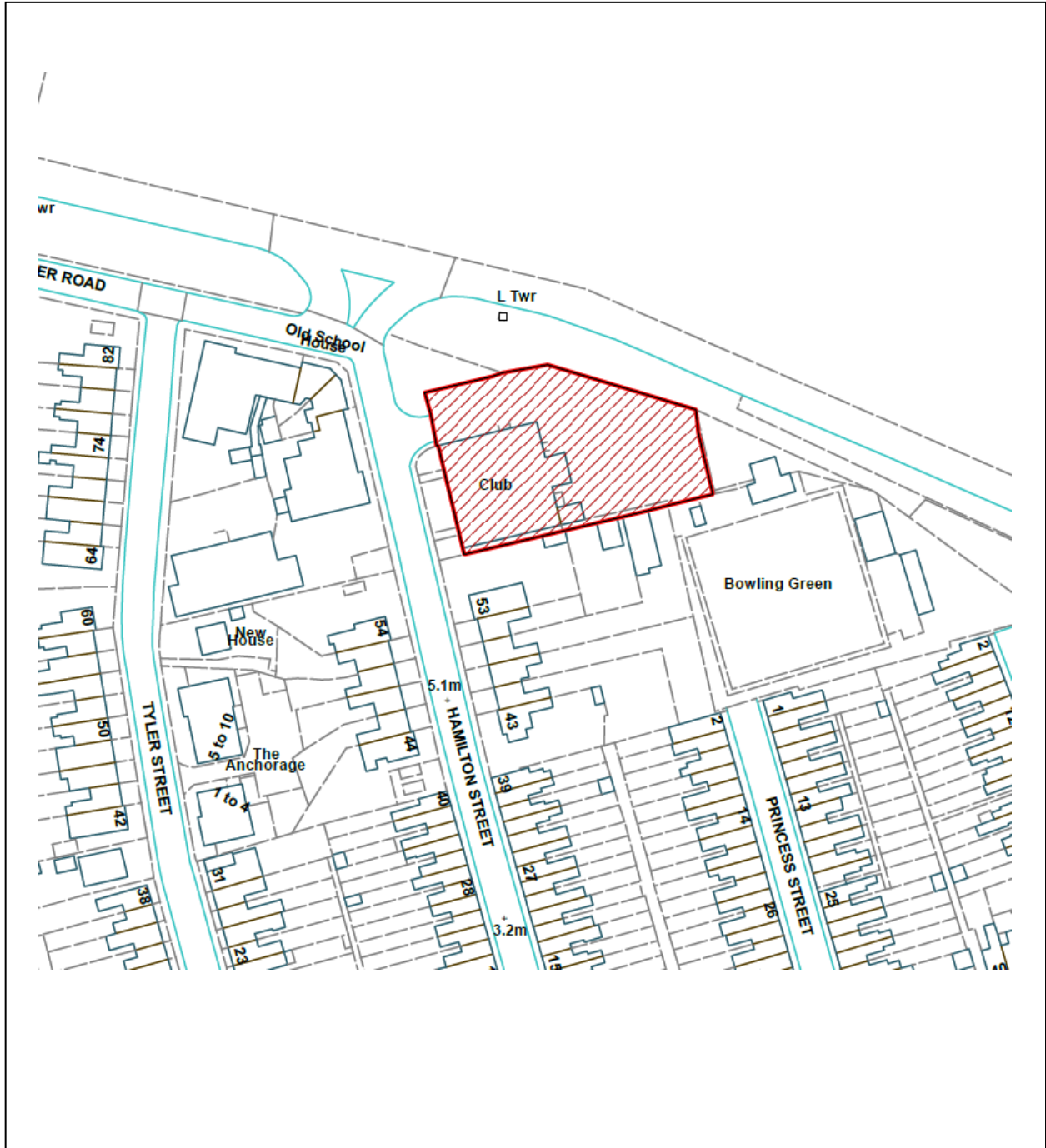
Chairman

PLANNING COMMITTEE

12th March 2024

REPORT OF THE DIRECTOR OF PLANNING

A.1 PLANNING APPLICATION – 23/01375/FUL – PARKESTON RAILWAY CLUB HAMILTON STREET PARKESTON HARWICH CO12 4PQ



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Application:	23/01375/FUL	Expiry Date:	14th December 2023
Case Officer:	Alison Pope	EOT Date:	29 th March 2024
Town/ Parish:	Ramsey & Parkeston Parish Council		
Applicant:	Mr Les Nicol - North Essex Support Team		
Address:	Parkeston Railway Club Hamilton Street Parkeston Harwich CO12 4PQ		
Development:	Proposed permanent siting of 4 no. storage containers to rear of property to be used as storage.		

1. Executive Summary

- 1.1 The application seeks permission to change the use of part of the Parkeston Railway Club car park to site four containers for use by the charity NEST for storage purposes. It is noted that the proposal is not restricted and may be used for general storage purposes both domestic and commercial.
- 1.2 The applicant details the intention for volunteers will access the containers to facilitate deliveries and maintain stock during the day. Local residents/families in need will also be invited to the site by prior arrangement to collect specific items to assist their day to day living.
- 1.3 The proposal is not considered to be harmful to the character and appearance of the area, it will not result in any significant impact to neighbouring amenities, and it is acceptable in terms of highway impacts and flood risk.
- 1.4 **The application was originally presented to the Planning Committee on 16th January 2024. Committee members resolved to defer a decision on the application to allow Officers to discuss the proposal with the applicant for the following reasons:**
 - **How access to the neighbouring use/s shall be maintained as safe.**
 - **Review of the layout to establish if by redesigning the scheme enhancements can be made.**
 - **To allow resolution of ownership matters in terms of notification requirements and any resultant further representations.**
- 1.5 **Updates to this Planning Committee Report following the meeting on 16th January 2024 are noted in bold text.**

Recommendation: Approval

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

2. **Planning Policy**

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

National:

National Planning Policy Framework December 2023 ([NPPF](#))

National Planning Practice Guidance ([NPPG](#))

Local:

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

SP1 Presumption in Favour of Sustainable Development

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

SPL1 Managing Growth

SPL2 Settlement Development Boundaries

SPL3 Sustainable Design

PPL1 Development and Flood Risk

Status of the Local Plan

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

Neighbourhood Plans

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

There is no applicable Neighbourhood Plan for this site.

3. **Relevant Recent Planning History**

96/01258/FUL

Disabled persons access ramp

Approved

05.12.1996

4. **Consultations**

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

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

ECC Highways Dept

06.11.2023

The information that was submitted in association with the application has been fully considered by the Highway Authority and they have no comments to make.

Environment Agency

09.11.2023

The Environment Agency have considered the submitted information, do not object to the proposal, however they make the following comments for further consideration.

Flood Risk

Our maps show the site lies within tidal Flood Zone 3a defined by the 'Planning Practice Guidance: Flood Risk and Coastal Change' as having a high probability of flooding. The proposal is for 4 storage containers, which is classified as a 'less vulnerable' development, as defined in Annex 3:Flood Vulnerability classification of the Planning Practice Guidance.

Therefore, to comply with national policy the application is required to pass the Sequential and (Exception Test) (s) and be supported by a site specific Flood Risk Assessment (FRA). We have reviewed this FRA below.

Review of Flood Risk Assessment (FRA)

To assist you in making an informed decision about the Flood Risk affecting this site, the key points to note from the submitted FRA, referenced Parkeston Railway Club, Hamilton Street, Parkeston, Harwich, CO12 4PQ and dated October 2023, are;

Actual Risk

- The site lies outside the flood extent for a 0.5% (1 in 200) annual probability event, including an allowance for climate change.
- The site does benefit from the presence of defences.
- The site level has not been provided.
- Compensatory storage is not required.
- A Flood Evacuation Plan has been proposed.

Residual Risk

- The site level has not been provided therefore flood depths in a breach event are unknown.

Our data shows that the site is not affected during the 0.5% (1 in 200) annual probability including climate change undefended flood event and is up to 5.4m AOD on site the 0.1% (1 in 1000) annual probability including climate change undefended flood event. You may wish to ask the applicant to provide a breach assessment for the development site in their FRA so that you can make a more informed decision on flood risk.

Additional Guidance

Safety of Inhabitants - Emergency Flood Plan

The local planning authorities should formally consider the emergency planning and rescue implications of new development in making their decisions.

Sequential Test / and Exception Tests

The requirement to apply the Sequential Test is set out in Paragraph 161 of the National Planning Policy Framework. The Exception Test is set out in paragraph 164. These tests are your responsibility and should be completed before the application is determined.

In addition to the above flood risk, the site may be within an area at risk of flooding from surface water, reservoirs, sewer and/or groundwater. We have not considered these risks in any detail, but you should ensure these risks are all considered fully before determining the application.

Environmental Protection

16.01.2024

The Council's Environmental Protection Team have considered the submitted information and have no adverse comments to make.

They note from the site pictures submitted by the applicant and those of the Planner, and from information gleaned from the Planner, that one of the current units appears to be storing asbestos sheeting. This does not confirm the presence of an immediate concern, however information indicates the material may be damaged. In light of this the Environmental Protection Team would strongly suggest the responsible and proper removal of the sheeting, so as to minimise any potential adverse impact to site workers, or nearby residents, should the materials degrade and potentially release fibres to air. As such they request an informative be added to any approval about the safe removal and handling of asbestos.

Environmental Protection

26.01.2024

The Council's Environmental Protection Team confirmed that, following referral by a Planning Committee Member, a visit to the site was undertaken and the public health risk is low.

Although the Environmental Protection Team will not be pursuing formal action against the parties responsible for the site they have made contact with the known registered owner of the land and requested steps are taken to remove and dispose of the items responsibly and they have offered appropriate advice in this regard.

(Officer Note: This is in relation to items not related to the merits of the current planning application for determination, but were noted as a concern by Members)

5. Representations

5.1 Parish Council Consultation

Ramsey and Parkeston Parish Council object to this application due for the following reasons:

- Concerns about the community centre emergency vehicle access
- Concerns there will be a negative impact on urban design and street scene
- Concerns about the highways impact and other commercial vehicles accessing the containers
- Concerns about a negative impact on community activities
- Poor layout of containers, giving Concerns about safety, security, health and safety issues for access and egress whilst traversing.

5.2 Public Consultation

15 letters of objection have been received and 151 people have signed a petition objecting to the proposal. The concerns raised can be summarised as follows:

- parking already a problem for residents/loss of car parking
- ugly unsightly shipping containers
- car park will look like an industrial site
- will cause congestion in the village
- old rusty container in the car park containing asbestos rubbish
- emergency access needed to Parkeston welfare park and community centre
- Large events held at the Parkeston Railway Club and the car park is essential as cars already
- overspill into residential streets
- One container already placed on the land on 8th September 2023
- Roads not suitable for large vehicles
- Containers a risk to children's safety

Officer comments: The above points have been addressed within the report.

5.3 Further concerns were raised related directly to the Parkeston welfare park and community Centre and they are summarised below:

- Parkeston welfare park and community centre have been told they cannot park in the Parkeston Railway Club car park anymore
- No other means of access to Parkeston welfare park and community centre other than via the Parkeston Railway Club car park
- New signs erected 29th September 2023 stating car park is for members and guests of the railway club
- Safety and security of residents accessing the community sports facility and luncheon club and other events
- space for turning the community bus around

Officer comments: Space for parking and turning and access to the Parkeston welfare park and community centre is not a matter to be considered under this planning application. It is a private matter between the parties to the access agreement.

5.4 One objection has been received from the part owner of the Parkeston Railway Club site and he makes the following comments:

- Parking in the village of Parkeston is already a nightmare. Any removal of parking spaces from the car park would have a further adverse knock-on to the already overstretched parking in the village on function nights in the club.
- Currently there is a derelict 20' container on the siting of the proposed additional containers.
- Ownership of the club was known to the Secretary & Treasurer so why was this altered within the planning application?

Officer comments: The parking and derelict container have been addressed in the report. The ownership certificate of the planning application form has been updated to reflect the correct ownership details as registered with Land Registry and it is considered that the planning requirements requiring ownership and notification has been correctly carried out within the limits of the Act.

5.5 Other matters raised by the part owner that are not planning considerations relate to annual accounts, terms and contracts with NEST. This includes reference to no elections to PRC

committee for several years, forklifts handling the containers would place an undue weight over the underground sewage pipes, deeds require additional structures to be approved by the BR Board and an agreement at the Parkeston Railway Club AGM for the lease of the Parkeston sports training ground and community centre to be taken over by Bill Davidson and that joint parking would continue as previously. PRC has recently reneged on the joint parking agreement, nor thought to include Parkeston Sports Training ground and Community Centre within the planning application.

- 5.6 One letter of representation has been received that suggests an emergency general meeting of the Parkeston Railway Club is held to resolve the matters raised by the owner. One letter of representation disputes the ownership and management of the Parkeston Railway Club.
- 5.7 2 letters of support have been received.
- 5.8 Harwich Cultural and Community Projects Ltd (HCCP) of George Street, Harwich have confirmed North Essex Support Team (NEST) and Harwich Hive (HH) are both Corporate Members of HCCP and that both organisations operate from their base in Harwich. Several other groups and charities also use the site and the lease runs till 2038. For the avoidance of and doubt HCCP can state categorically that neither NEST or Harwich Hive have been evicted or in any way compelled to leave.

Officer comment: This is not a planning consideration in this case, there is no requirement to identify a need for the site.

6. Assessment

Site Context

- 6.1 The application site, Parkeston Railway Club is located to the north of Parkeston village adjacent to the Parkeston Bypass and Parkeston Quay to the north and residential properties to the south. The site of Parkeston Railway Club consists of the brick built social club building to the west of the site and associated car parking areas to the north and east of the building.
- 6.2 Access to the Parkeston welfare park and community centre is located on the boundary on the eastern side of the application site.

Proposal

- 6.3 The application seeks permission to change the use of part of the car park of the Parkeston Railway Club to site four containers for storage. One container has already been placed in the car park. An existing old container located at the eastern end of the site will be removed.
- 6.4 The applicant provides that they run a registered charity called NEST (North Essex Support Team) which helps families and individuals in the local community. The four storage containers will be used to store furniture, household items such as crockery, cutlery, saucepans, kettles, toasters, lamps, irons and bedding, clothing and baby items. Volunteers support the charity and it is the volunteers that will access the containers during the day.
- 6.5 The proposal would result in the change of use of the land for part of the site to allow the siting of containers for general storage. This is not a temporary change of use.

Principle of Development

- 6.6 Planning law requires that decisions on planning applications must be taken in accordance with the development plan unless there are material considerations that indicate otherwise (Section 70(2) of the 1990 Town and Country Planning Act and Section 38(6) of the Planning and

Compulsory Purchase Act 2004). The 'development plan' for Tendring comprises, the Tendring District Local Plan 2013-2033 and Beyond Section 1 adopted in January 2021 and the Tendring District Local Plan 2013-2033 and Beyond Section 2 adopted in January 2022.

- 6.7 Policy SPL2 of Section 2 of the Local Plan confirms that 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 the plan.
- 6.8 Harwich and Dovercourt (including Parkeston and part of Ramsey) is considered a strategic urban settlement. 'Strategic Urban settlements' have the larger populations and a wide range of existing infrastructure and facilities, making them the most sustainable locations for growth.
- 6.9 The application site falls outside of the settlement development boundary of Harwich and Dovercourt and does not fall to be considered as an employment site or other designation as defined in the Local Plan. Sites outside of settlement development boundaries are considered 'rural' or in the 'countryside'.
- 6.10 The application site in this case, is adjacent to the Parkeston Bypass and Parkeston Quay to the north and residential development to the south.
- 6.11 Paragraph 88a) states that decisions should enable the sustainable growth and expansion of all types of business in rural areas.
- 6.12 Paragraph 89 of the National Planning Policy Framework states that 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. Going on to say that the use of sites that are physically well-related to existing settlements, should be encouraged where suitable opportunities exist.
- 6.13 The principle of development is acceptable in this case as weight is attached to the established use of the site as a community facility well placed and easily accessible to the local towns of Parkeston, Harwich and Dovercourt.

Scale, layout and appearance

- 6.14 **The four containers will be sited in two pairs parallel to the northern boundary which is also parallel with the Parkeston Bypass beyond. Wire mesh security fencing along with the sides and end of the containers will create a secure enclosure against the northern and eastern boundaries. Planting will serve to fill the gap between the eastern boundary and the easternmost containers, softening the lines of the container at this end and preventing unnecessary space for anti-social behaviour. The fixed siting of the containers within the car park will be secured by condition on the grant of planning permission.**
- 6.15 **The revised layout demonstrates that access is maintained to the Parkeston welfare park and community centre and emergency access would continue to be available.**
- 6.16 An existing container which is old, overgrown with vegetation and in disrepair, sited in the north eastern corner will be removed. A condition will be imposed on the grant of planning permission to secure the removal of this container within 3 months from the date of the permission.
- 6.17 There would be limited views of the containers from Hamilton Road and from the bypass to the north. In combination, with the containers measuring 2.591 metres in height which is lower than existing structures on and around the site, boundary fencing with vegetation and the backdrop

of the container port to the north. It is considered this would unlikely result in material wider visual harm or landscape impacts to warrant refusal.

- 6.18 In terms of appearance of the proposal, a container embodies a functional and utilitarian design and depending on number and height normally has a neutral appearance, characterised by a simple form and scale that allows containers to blend into various environments as referenced above. However, located within a car park, the visual appearance of these containers will affect a very localised semi public space. NPPF section 12 and including Para 31 provides the need to create high quality, beautiful and sustainable buildings and places as fundamental to what the planning and development process should achieve. Neutral containers are not generally considered beautiful and while these are not buildings, their contribution to semi public “place” is material in the planning balance. On this basis the planning balance must also consider the social role of the storage containers as proposed as sustainable planning must be a balance of social, economic and environment affects. The proposal seeks to be a supporting charity use that has social benefit, but planning must also consider that this may change in the lifetime of the development to be a more commercial use as storage in general is the described development. Both proposed use and potential use of storage actively would be positive set against the neutral appearance of the containers and lack of wider design harm identified.
- 6.19 In regards the position and layout of the proposed containers, third party submissions of the level of activity taking place at the Parkeston Railway Club and the Parkeston welfare park and community centre suggest that the car park benefits from natural/informal and formal surveillance thereby minimising the opportunities for crime, anti-social behaviour and misdirected play.
- 6.20 **Notwithstanding the surveillance already available within and around the car park, the redesign provides an enclosure which is not easily accessible when secured and the wire mesh fencing allows views through it, again serving to minimise the opportunities for crime, anti-social behaviour and misdirected play.**

Highway Safety/Parking

- 6.21 The highway authority have no objections to the proposal. The site is served by a good surfaced access and considered suitable to serve the Parkeston Railway Club and the containers. It is possible for larger vehicles that need to access the site to do so via the Parkeston Bypass however this is not enforceable and it is also possible for them to gain access through the village.
- 6.22 The access and movements associated with the use of the containers has been set out in the submitted Statement of Use. Volunteers will access the site at 8.30am and then later in the day with occasional visitors to the site during the day to meet volunteers for particular needs. On a Thursday between 11am and 2pm the Baby Bank and Hygiene Bank is also operated from the containers and allows approximately 30 families to be provided with items they need.
- 6.23 The Essex Parking Standards confirms that the use of Parkston Railway Club requires 1 parking space per 25 square metres of floor space. The building is approximately 600 square metres and therefore 24 car parking spaces are necessary. Following the siting of the containers ample space will remain (while unmarked) for car parking for at least 24 cars. In conclusion any refusal reason if based on the loss of parking would be unreasonable and difficult to defend in planning terms at appeal.
- 6.24 It is noted that Autoprint, the printing business located opposite the Parkeston Railway Club in Hamilton Street have offered car parking provision on their premises by way over an overspill car park. It is not possible to consider this additional car parking provision as part of the planning application. The site does not fall within the red line area of the application site and would therefore not be relevant to the development permitted. It would be possible to secure the parking provision at Autoprint only via a Section 106 legal agreement however as noted in the

paragraph above, sufficient car parking provision will be retained at the Parkeston Railway Club and so this is not necessary.

- 6.25 From the information submitted, the proposed plans and following a site visit, it is apparent that the access to the Parkeston welfare park and community centre would not be obstructed by the containers and emergency access would continue to be available.

Impact on Residential Amenity

- 6.26 There would be no unacceptable overshadowing, overbearing or loss of outlook impacts as a result of the siting of the containers on neighbouring properties given their low height and position.
- 6.27 It is considered that the potential impacts of the use of the containers in terms of noise and disturbance given the type of storage will not be significantly different to that of the existing site use. Taking into account the proposal as submitted in the Statement of Use it is considered reasonable and necessary to impose a condition on the grant of planning permission to restrict the hours of use to 8.00am to 17.00pm Monday to Saturday, so as to protect the amenity of neighbouring residential properties and avoids potential conflict with the existing use of the Parkeston Railway Club.

Flood Risk

- 6.28 Paragraph 174 of the NPPF states that applications for some minor development and changes of use should not be subject to the sequential or exception tests but should still meet the requirements for site-specific flood risk assessments (FRA)
- 6.29 Footnote 59 confirms that a site-specific FRA should be provided for all development in Flood Zones 2 and 3.
- 6.30 The planning practice guidance and footnote 60 of the NPPF also states that the Sequential and [Exception Tests](#) do not need to be applied to [minor developments](#) and changes of use, except for a change of use to a caravan, camping or chalet site, or to a mobile home or park home site.
- 6.31 The proposal is for a change of use of part of the car park serving the Parkeston Railway Club to site four containers for storage within Flood Zones 2 and 3. The proposal does not involve a change of use to a caravan, camping or chalet site, or to a mobile home or park home site and therefore the sequential and exception tests are not required, however an FRA has been submitted.
- 6.32 The proposed use of the containers as storage is classed as 'less vulnerable' according to Annex 3: Flood risk vulnerability classification of the National Planning Policy Framework.
- 6.33 In Flood Zone 2 standing advice for vulnerable developments should be followed for developments (including change of use) that will have a vulnerability classification of 'less vulnerable' and is not a waste treatment site, mineral processing site, water treatment plant, or sewage treatment plant.
- 6.34 In Flood Zone 3, the Environment Agency should be consulted in the case of changes of use where the vulnerability classification will be 'more vulnerable' or 'highly vulnerable' or change from 'water compatible' to 'less vulnerable'.
- 6.35 The FRA is considered appropriate to the scale, nature and location of the development and proportionate to the degree of flood risk. The FRA confirms that the site benefits from flood defences.

- 6.36 The Environment Agency has confirmed that the site lies outside the flood extent for a 0.5% (1 in 200) annual probability event, including an allowance for climate change.
- 6.37 The FRA makes the following recommendations in preparation of a flood event:
- The containers should be anchored down to prevent movement/hazard under flood conditions
 - A flood plan will provide guidance on emergency response procedures in the event of flooding to the site
 - The Flood Warning Service operated by the Environment Agency should be used
- A planning condition is necessary and reasonable on the grant of planning permission requiring the four containers to be anchored down to mitigate hazard during a flood.
- 6.38 The site does not fall within a critical drainage area and there is a no risk of surface water flooding on the site.
- 6.39 The principle of the proposed change of use for the siting of storage containers is acceptable from a flood risk perspective. It is considered that the proposed use which does not include any habitable space and will be used by a charity during the day time only is acceptable in this location.

Other Considerations

- 6.40 **Articles 13 and 14 of the Town & Country Planning (Development Management Procedure) (England) Order 2015 imposes a requirement that all applications for planning permission must be accompanied by a certificate (sometimes called an ‘article 13 certificate’) confirming that either the applicant is the sole owner of the land to which the application relates or that the appropriate notice has been served on any person who is an owner of the land or a tenant.**
- 6.41 **The Local Planning Authority can confirm that these requirements have been satisfied.**

7. Conclusion

- 7.1 In conclusion, the assessment of the proposed change of use for the siting of storage containers at the Parkeston Railway Club site reflects several considerations.
- 7.2 Firstly, the principle of development aligns with planning laws, and the site's historical use as a community facility lends weight to its acceptability. The strategic urban settlement status of Harwich and Dovercourt further supports the proposed use.
- 7.3 The scale, layout, and appearance analysis indicate that the containers, positioned in the north-eastern corner of the site, are unlikely to cause significant visual harm or landscape impacts. While containers may not be considered aesthetically pleasing, their utilitarian design and the charitable purpose they serve contribute positively to the local community or economic benefit, strikes a balance in the planning context.
- 7.4 Concerns related to highway safety and parking are addressed by the absence of objections from the highway authority and the retention of sufficient parking spaces. The proposed hours of use mitigate potential impacts.
- 7.5 The assessment of the impact on residential amenity highlights that the containers' low height and position would not lead to overshadowing or overbearing effects on neighbouring properties. Conditions on hours of use are recommended to protect residential amenity.
- 7.6 Regarding flood risk, the site-specific flood risk assessment demonstrates the appropriateness and proportionality of the proposed development.

7.7 In summary, the proposal for the change of use to site storage containers at the Parkeston Railway Club is deemed acceptable, considering its alignment with planning policies, positive community contributions, and the mitigation measures in place for various potential impacts.

8. Recommendation

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

8.2 Conditions and Reasons

1 COMPLIANCE REQUIRED: COMMENCEMENT TIME LIMIT

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

REASON: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

NOTE/S FOR CONDITION:

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

2 APPROVED PLANS & DOCUMENTS

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

The approved red line plan drawing is Darwing Number: 0132-A-001 Drawing Name: Location and Block Plan received 24 November 2023

Drawing Number: 0132-A-002 Revision Status: 03 Drawing Name: Proposed Outline Plan and Elevations received 19 February 2024

Drawing Number: 0132-A-100

Flood Risk Assessment by Dr Robin Saunders CEng dated October 2023

Statement of Use received 19 October 2023

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

NOTE/S FOR CONDITION:

The primary role of this condition is to confirm the approved plans and documents that form the planning decision. Any document or plan not listed in this condition is not approved,

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

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

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

3 ONGOING REQUIREMENT IMPOSED - RESTRICTION ON OPERATION TIMES

CONDITION: Access to all containers and operational use shall only operate between the hours of 8.00am and 5.00pm Monday to Saturday. There shall be no access on Sundays and Bank Holidays. There shall be no deliveries to the use arranged for outside of these approved hours.

REASON: To enable the Local Planning Authority to retain control over the development in the interests of residential amenity within close proximity.

NOTE/S FOR CONDITION:

1) This condition shall engage and restricts the operation of the development from the first commencement of the use. This condition is imposed to ensure the development avoid unreasonable impact on the residential amenity of neighbouring dwellings, especially given the location of the development with considerations to the prevailing character and amenity currently enjoyed in this location. Without the imposing of this condition, the development would be refused due to the risk of harm and this condition is considered necessary, enforceable and reasonable in all other respects. This condition as detailed will apply to the development at all times unless varied or removed legally.

2) If the development operates outside of the hours stated this may result in unlawful development/use at risk of Enforcement Action. You are encouraged to discuss any concerns with this condition with the Local Planning Authority.

4 ONGOING REQUIREMENT IMPOSED - RESTRICTION ON EXTERNAL OPEN-AIR STORAGE

CONDITION: No goods, products, raw materials, scrap material or other materials of any other sort shall be stored in the open air outside the confines of the containers included in the approved red line site plan related to this permission, except pursuant to the grant of separate planning permission on an application made in that regard.

REASON: The external storage of these items would be harmful to the local amenity, character and appearance of the area.

NOTE/S FOR CONDITION:

This condition shall engage and restricts the operation of the development from the first commencement of the use and/or operation hereby approved. This condition is imposed to ensure the development avoid unreasonable impact on the residential amenity of neighbouring dwellings, especially given the location of the development with considerations to the prevailing character and amenity currently enjoyed in this location. Without the imposing of this condition, the development would be refused due to the risk of harm and this condition is considered necessary, enforceable and reasonable in all other respects. This condition as detailed will apply to the development at all times unless varied or removed legally.

5 COMPLIANCE REQUIRED: FLOOD RISK

CONDITION: Within one month of the date of the permission for the use hereby approved, the existing container (and any replacement) shall be anchored to the ground in accordance with the recommendation made in the Flood Risk Assessment.

REASON: To provide additional safety measures in the event of a flood in the interest of public safety.

6 COMPLIANCE: REMOVAL OF CONTAINER

CONDITION: Within 3 months of the date of the permission for the use hereby approved, the old container shown on **Drawing Number: 0132-A-002 Revision Status: 03 Drawing Name: Proposed Outline Plan and Elevations received 19 February 2024** shown as a dotted red line shall be removed from the site.

REASON: To satisfactorily protect the character and appearance of the area.

7 COMPLIANCE REQUIRED: FURTHER CONTAINERS

CONDITION: The siting of the three further containers on the application site for the use hereby approved shall not commence until the old container shown on **Drawing Number: 0132-A-002 Revision Status: 03 Drawing Name: Proposed Outline Plan and Elevations received 19 February 2024** shown as a dotted red line has been removed from the site.

REASON: To satisfactorily protect the character and appearance of the area.

8 COMPLIANCE REQUIRED: FLOOD RISK

CONDITION: Upon siting of the further three containers (and any replacement) for the use hereby approved, they shall be anchored to the ground in accordance with the recommendation made in the Flood Risk Assessment prior to first use.

REASON: To provide additional safety measures in the event of a flood in the interest of public safety.

9 COMPLIANCE REQUIRED – CONTAINERS QUANTUM AND SITING

CONDITION: For the avoidance of doubt there shall be no more than 4 containers placed on the site at any one time and such containers shall only be sited in the locations outlined on approved **Drawing Number: 0132-A-002 Revision Status: 03 Drawing Name:**

Proposed Outline Plan and Elevations received 19 February 2024, no variations to the location of the storage containers or their replacements shall take place without the prior written approval of the Local Planning Authority.

REASON: In the interests of visual and residential amenity and to ensure sufficient parking provision is retained.

10 SPECIFIC RESTRICTION OF DEVELOPMENT - ILLUMINATION RESTRICTION

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

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

8.3 Informatives

Positive and Proactive Statement

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

Highways Informatives

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

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

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

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

9. Additional Considerations

Public Sector Equality Duty (PSED)

- 9.1 In making 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
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
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The proposal overall shall have a neutral impact.

Consultations undertaken with the affected communities or groups have not been required in this case.

No mitigation measures required.

Human Rights

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

Finance Implications

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

10. Background Papers

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

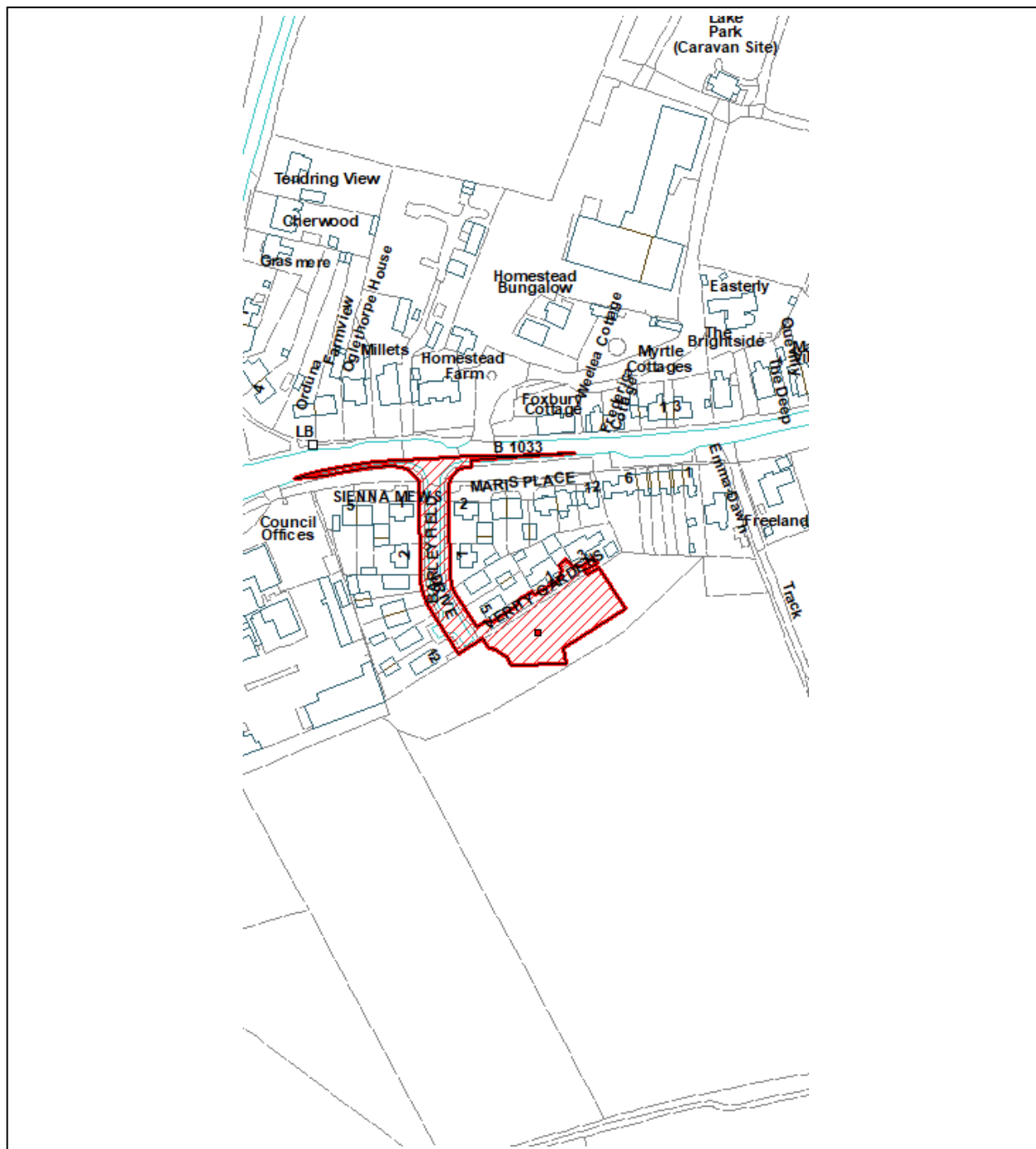
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PLANNING COMMITTEE

12th March 2024

REPORT OF THE DIRECTOR OF PLANNING

A.2 PLANNING APPLICATION – 23/01819/FUL – LAND SOUTH OF VERITY GARDENS WEELEY CLACTON ON SEA CO16 9FA



DO NOT SCALE

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Application:	23/01819/FUL	Expiry Date:	5th March 2024
Case Officer:	Alison Newland	EOT Date:	29 th March 2024
Town/ Parish:	Weeley Parish Council		
Applicant:	Mr Rose and Mrs Lumber - Lawford Homes Ltd		
Address:	Land South of Verity Gardens Weeley Clacton On Sea CO16 9FA		
Development:	Erection of 3 dwellings and associated ancillary buildings, drainage systems, boundary treatments, hard surfacing with vehicular access from Thorpe Road.		

1. Executive Summary

- 1.1 This application is referred to Planning Committee as it follows a refusal by Members (at Planning Committee on 28th September 2023) of application 22/01332/FUL for the same type of development.
- 1.2 This application seeks full planning permission for the erection of three dwellings on a small parcel of land that forms part of a much larger site which the Council has granted outline planning permission for. The outline planning permission (19/00524/OUT) allowed for up to 280 dwellings, a new primary school and children's nursery, up to 3,000sqm of office floorspace and associated infrastructure. Reserved Matters approval was recently granted by Members (22/00979/DETAIL) for 277 dwellings, 1,910m² commercial floorspace, railway footbridge, and associated infrastructure pursuant to outline planning permission 19/00524/OUT.
- 1.3 Because it is proposed that the three dwellings are accessed across land that is outside the red line of the outline planning permission the applicant was required to submit a separate application for full planning permission, so it is not pursuant to the outline planning permission. If this application is approved this would result in a total of 280 dwellings within the area that has outline planning permission, this would be consistent with the maximum number of dwellings that were allowed under the outline planning permission.
- 1.4 There is no objection to the principle of residential development as the land already has outline planning permission for residential development. Furthermore, the site is located within the Weeley Settlement Development Boundary and is allocated as a mixed-use development in the adopted Local Plan. The detailed design, layout, landscaping and scale are considered acceptable. There are no objections from consultees and Officers consider that the proposal would not result in harm to highway safety, biodiversity or to residential amenity of a level that would warrant the refusal of planning permission. The application is therefore recommended for approval subject to the legal agreement and planning conditions listed.

Recommendation: Approval subject to S106

- 1) On appropriate terms as summarised below and those as may be deemed necessary to the satisfaction of the Head of Planning and Building Control to secure the completion of a legal agreement under the provisions of section 106 of the Town and Country Planning Act 1990 dealing with the following matters:
 - Linking this planning permission to outline planning permission 19/00524/OUT and the associated Section 106 agreement, in order that the dwellings constructed under 23/01819/FUL are dwellings for the purposes of the Section 106 legal

agreement and are bound by and subject to the provisions and obligations contained within that agreement.

- no more than 280 Dwellings shall be constructed on the combined area of the application site (23/01819/FUL) and the outline site (19/00524/OUT) and that the 3 residential units constructed under this application are not in addition to the 280 residential units permitted under the outline planning permission.
- not to implement the planning permission for this application (23/01819/FUL) unless and until the outline planning permission (19/00524/OUT) has commenced.
- to implement this planning permission (23/01819/FUL) prior to the occupation of 50 dwellings under the outline planning permission (19/00524/OUT)

2) That the Head of Planning and Building Control be authorised to grant planning permission subject to the agreed 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 Head of Planning and Building Control be authorised to refuse the application on appropriate grounds at their discretion.

2. Planning Policy

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

National:

National Planning Policy Framework 2023 (NPPF)
National Planning Practice Guidance (NPPG)

Local:

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

SP1 Presumption in Favour of Sustainable Development

SP2 Recreational disturbance Avoidance and Mitigation Strategy (RAMS)

SP3 Spatial Strategy for North Essex

SP6 Infrastructure and Connectivity

SP7 Place Shaping Principles

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

SPL1 Managing Growth

SPL2 Settlement Boundaries

SPL3 Sustainable Design

HP1 Improving Health and Wellbeing

HP2 Community Facilities

HP3 Green Infrastructure

HP5 Open Space, Sports and Recreation Facilities

LP2 Housing Choice

LP3 Housing Density and Standards

LP4 Housing Layout

PP12 Improving Education and Skills

PPL1 Development and Flood Risk

PPL3 The Rural Landscape

PPL4 Biodiversity and Geodiversity

PPL5 Water Conservation, Drainage and Sewerage

PPL10 Renewable Energy Generation and Energy Efficiency Measures

CP1 Sustainable Transport and Accessibility

CP2 Improving the Transport Network

CP3 Improving the Telecommunications Network

SAMU5 Development South of Thorpe Road, Weeley

DI1 Infrastructure Delivery and Impact Mitigation

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

Essex Design Guide

Status of the Local Plan

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.

Neighbourhood Plans

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

3. Relevant Planning History

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

	associated ancillary buildings, drainage systems, boundary treatments and hard surfacing as well as public open space, vehicular access from Thorpe Road a pedestrian footbridge and the closure of existing level crossing and formal diversion of public footpath No 5 - Weeley, over the new railway bridge.		
21/00039/DISCON	Discharge of condition 15 (Archaeology) of approved planning application 19/00524/OUT.	Part discharged	01.03.2021
21/01143/DISCON	Discharge of condition 4 (Layout and Phasing Plan) of approved application 19/00524/OUT.	Approved	03.09.2021
21/01464/DISCON	Discharge of condition 15 (written scheme of investigation) of application 19/00524/OUT.	Part discharged	01.03.2022
22/00979/DETAIL	Reserved matters application with details of appearance, landscaping, layout and scale for the development of 277 dwellings, 1,910m2 commercial floorspace (B1 Uses), railway footbridge, attenuation basins, open space, play equipment and associated infrastructure pursuant to outline permission 19/00524/OUT (Outline planning application with all matters reserved, except for access, for 280 dwellings, a 2 Form of Entry primary school, 56 place early years nursery, up to 3000 sqm of office (B1) buildings on 1 hectare and associated ancillary buildings, drainage systems, boundary treatments and hard surfacing as well as public open space, vehicular access from Thorpe Road a pedestrian footbridge and the closure of existing level crossing and formal diversion of public footpath No 5 - Weeley, over the new railway bridge) including minor alterations to public footpaths No.3 and No. 4 to allow for the proposed layout.	Approved	04.10.2023
22/01301/DISCON	Discharge of conditions 17 (External lighting), 18 (Refuse collection), 19 (Hard and soft landscaping), 21 (External materials), 23 (Landscape and ecology management plan), 26 (Boundary treatments), 27 (Demolition plan), 36 (On site	Approved	13.11.2023

ecology mitigation), and 38 (Local recruitment strategy) of application 19/00524/OUT.

22/01332/FUL	Proposed 3 dwellings and associated ancillary buildings, drainage systems, boundary treatments, hard surfacing with vehicular access from Thorpe Road.	Refused	04.10.2023
23/01816/DISCON	Discharge of Condition 9 (Construction and Environmental Management Plan), Condition 10 (Surface Water Drainage), Condition 11 (Foul Water Drainage), Condition 12 (Construction Surface Water Management Plan), Condition 13 (Maintenance Plan), Condition 16 (Piling Method), Condition 25 (Cycle Storage), Condition 28 (Existing and Proposed Levels), Condition 29 (Bus Stop Location), Condition 34 (Soil Survey) and Condition 35 (Acoustic Measures) of application 19/00524/OUT.	Current (9, 11, 25, 28 and 35 approved 12/02/24)	

4. Consultations

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

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

Essex County Council Ecology

15.02.2024

No objection subject to securing:

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

We have reviewed the submitted documents, including the Preliminary Ecological Appraisal (PEA) (Geosphere Environmental, January 2024) relating to the likely impacts of development on designated sites, protected species and Priority species & habitats and identification of appropriate mitigation measures.

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

We are satisfied that there is sufficient ecological information available for determination of this application. This provides certainty for the LPA of the likely impacts on designated sites,

protected and Priority species & habitats and, with appropriate mitigation measures secured, the development can be made acceptable.

The mitigation measures identified in the PEA should be secured by a condition of any consent and implemented in full. This is necessary to conserve and enhance protected and Priority species particularly nesting birds, Badger, and Hedgehog.

Furthermore, the PEA recommends that a precautionary method statement for reptiles be produced and included within a Construction and Environmental Management Plan for Biodiversity (CEMP: Biodiversity). This CEMP: Biodiversity should therefore be secured by condition of consent.

We also support the proposed reasonable biodiversity enhancements of bat boxes, bird boxes, log piles, and Hedgehog friendly fencing, which have been recommended by the Preliminary Ecological Appraisal to secure net gains for biodiversity, as outlined under Paragraph 180d of the NPPF. The reasonable biodiversity enhancement measures should be outlined within a Biodiversity Enhancement Strategy and should be secured by a condition of any consent.

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

Recommended conditions

1. ACTION REQUIRED IN ACCORDANCE WITH ECOLOGICAL APPRAISAL RECOMMENDATIONS

"All mitigation measures and/or works shall be carried out in accordance with the details contained in the Preliminary Ecological Appraisal (Geosphere Environmental, January 2024) as already submitted with the planning application and agreed in principle with the local planning authority prior to determination.

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

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

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

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

The CEMP (Biodiversity) shall include the following.

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

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

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

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

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

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

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

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

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

Reason: To enhance protected and Priority species & habitats and allow the LPA to discharge its duties under the NPPF 2023 and s40 of the NERC Act 2006 (Priority habitats & species).

ECC Highways Dept

16.01.2024

The information submitted with the application has been assessed by the Highway Authority and conclusions have been drawn from a desktop study with the observations below based on the updated drawings. A previous site visit was undertaken in conjunction with an earlier planning application, 22/01332/FUL that was previously acceptable to the Highway Authority. It is noted that following consultation with local stakeholders the applicant has made changes to the previous layout. The proposed bungalows have been reorientated and set back further from the existing homes and improvements to the bin collection point for the existing and proposed dwellings has been improved. Although the previous width of Verity Gardens met with the Essex Design Standards it is noted this has been increased as part of the new application, considering these factors:

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

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

Reason: To protect highway efficiency of movement and safety in accordance with policy DM1.

2. No occupation of the development shall take place until the following have been provided or completed:
a) The vehicular and pedestrian access arrangements as shown on the amended planning application drawings.
b) Residential Travel Information Packs in accordance with Essex County Council guidance.
Reason: To protect highway efficiency of movement and safety and to ensure the proposal site is accessible by more sustainable modes of transport such as public transport, cycling and walking, in accordance with policy DM1, DM9 and DM10.

3. The proposed development shall not be occupied until such time as the vehicle parking areas indicated on the approved plans, has been hard surfaced, and sealed. The vehicle parking areas and associated turning area shall be retained in this form at all times. The vehicle parking shall not be used for any purpose other than the parking of vehicles that are related to the use of the development unless otherwise agreed with the Local Planning Authority.
Reason: To ensure that on street parking of vehicles in the adjoining streets does not occur in the interests of highway safety and that appropriate parking is provided in accordance with Policy DM8.

Tree & Landscape Officer

15.01.2024

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

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

Environmental Protection

16.02.2024

Contaminated Land: We are satisfied with the methodology of the report and its findings; providing all recommendations in relation to further investigation / remediation, as outlined in Section 6 of the submitted report, are implemented in relation to this proposal, we have no reason to object.

Construction Method Statement: In order to minimise potential nuisance to nearby existing residents caused by construction and demolition works, Environmental Protection ask that the following is submitted, on any further subsequent planning phase:

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: [see Informatives for full text].

UU Open Spaces

29.01.2024

Public Realm Assessment

Play Space - current deficit: Deficit of 1.34 hectares of equipped play in Weeley

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

Settlement provision: Weeley Village Hall LEAP & Open Space 0.5 miles from development.
Hilltop LEAP 1 mile from the development

Officer Conclusions and Recommendations: No contribution is being requested on this occasion. The Parish Council are in the process of upgrading the current play area, which will then be adequate to cope with some additional development.

Waste Management

11.01.2024

No comments.

5. Representations

5.1 Parish Council Consultation

Weeley Parish Council considered this application at its meeting on 15 January 2024. It resolved to neither object or comment on it.

5.2 Public Consultation

One letter of objection has been received. A summary of the main issues raised are set out below:

- Heavy vehicles will deteriorate road surface and risk damage to parked cars
- Inadequate parking, loading and turning for HGVs
- Construction vehicle pollution, noise, disturbance and damage

6. Assessment

Site Context

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

Planning History

- 6.2 The application site forms part of a larger site that was granted Outline planning permission in August 2019 for a mixed use development containing up to 280 dwellings (19/00524/OUT). The legal agreement for 19/00524/OUT secured 30% affordable housing; 2.1ha of land for a primary school and nursery; education contributions for primary and secondary school places, and secondary school transport; healthcare contribution; public open space, equipped play, and ecology land on site; off site contribution towards Weeley Hall Wood SSSI; RAMS contributions; contributions towards improvements of two local roundabouts; and a footbridge over the railway line to divert the existing public right of way.
- 6.3 Reserved Matters approval (22/00979/DETAIL) for 277 dwellings, offices and associated infrastructure pursuant to that Outline planning permission was granted by Members at Planning

Committee on 28th September 2023. That approval excludes the application site for the current proposal for three dwellings as the driveway serving Verity Gardens was not within the red line site boundary of the Outline planning permission, the Council could not consider those dwellings under the Outline planning permission. The Reserved Matters approval for 277 dwellings plus the current proposal for three dwellings totals 280 dwellings in accordance with the outline planning permission 19/00524/OUT.

- 6.4 At Planning Committee on 28th September 2023, alongside the reserved matters (22/00979/DETAIL) for the wider site, Members also considered application 22/01332/FUL for three dwellings. 22/01332/FUL was refused for the following reasons:
- 6.5 *The proposed development if approved, by reason of its siting, layout, access would be out of keeping with the prevailing spacing and pattern of development of the existing surrounding development. The development fails to enhance the character of locality.*
- 6.6 *Furthermore, if approved, it would likely generate a significant increase in noise levels and disturbance including impact on privacy due to the construction process and subsequent occupation of the three dwellings. By reason of the layout, siting, landscaping and scale of the development this impact would directly affect the quality of life for the neighbouring residents in close proximity, with due regard given to known persons with protected characteristics defined under the Equality Act 2010 who relies on a quiet environment for their well-being and amenity.*
- 6.7 *On this basis the proposal is considered to be contrary to Local Plan Section 1 Policy SP6 part C and Section 2 SPL3 as a whole and including part C and NPPF including Section 8. Promoting healthy and safe communities and Section 12 Achieving well-designed places highlighting Para 130F.*
- 6.8 The current application (23/01819/FUL) is a resubmission which seeks to address the previous reasons for refusal. Just like the outline permission that covers this site, the previous refusal is also a material consideration to be considered alongside the consideration of this application being assessed on its own merits and as a stand-alone application. It is noted that this development is clearly part of the developer's wider plans to develop the land, but this application is assessed on its own merits.

Proposal

- 6.9 This application seeks Full planning permission for the erection of three dwellings on land on the south side of Verity Gardens.
- 6.10 The new dwellings would consist of two detached 2-bed bungalows and one detached 4-bed house. The bungalows are each provided with two parking spaces, the house is provided with a detached double garage plus two parking spaces in front. A visitor parking space and communal bin collection point is also provided along the widened access driveway.

Principle of Development

- 6.11 The principle of residential development at this location has already been established by the granting of outline planning permission 19/00524/OUT which allows for up to 280 dwellings with vehicular access from Thorpe Road; a new Primary School and Early Years Childrens Nursery; up to 3000 sqm of office (B1) buildings; Public Open Space; a new footbridge over the railway line; and associated development.
- 6.12 The site lies within the Settlement Development Boundary (SDB) for Weeley and is also designated for a Mixed-Use development under Policy SAMU5 of the adopted Local Plan. These facts further emphasise that the principle of residential development on this site has been accepted by the Council.

Scale, Layout & Appearance

- 6.13 In refusing 22/01332/FUL Members expressed concern regarding the siting, layout and access being out of keeping with the prevailing spacing and pattern of development failing to enhance the character of the locality.
- 6.14 The refused scheme had the two detached bungalows directly opposite the existing bungalows fronting Verity Gardens, with the main entrance and kitchen and bedroom windows facing the neighbours. The bungalows shared a detached double garage with a second parking space each in front.
- 6.15 The amended proposal reorientates the bungalows so Plot 3 is set just off the rear boundary and Plot 2 is turned (blank) end on to the neighbours with additional separation provided by soft landscaping and a garden brick wall. This creates an open soft landscaped frontage, including parking, for the proposed bungalows to look across and provides substantial separation to the existing bungalows.
- 6.16 Following Member's concerns about the width of the existing access drive (3.8m) this has been widened to 5.5m in excess of the required width for a private drive, and a visitor parking bay has been added. The detached garage and parking serving the proposed house on Plot 1 is also set back further in its plot with more generous soft landscaping.
- 6.17 Plot 1 still proposes a detached four bedroom house and a substantial building of this scale was considered to be appropriate for this location which will be the key entrance to the wider development. The detached house will sit in a generous corner plot, facing out towards Barleyfield Drive. The house will be separated from the bungalows by a detached double garage, and it will also relate to other houses further along Barleyfield Drive and approved to the south. Given all these factors the scale of the three dwellings and the change in scale across the application site is considered to be acceptable.
- 6.18 The detailed design of the three plots reflects the wider development and the architectural style is considered appropriate for the village and site context with the buildings displaying attractive architectural features. All plots meet the nationally described space standards and provide ample private amenity space. The proposed materials are taken from the palette of materials approved for use on the larger site. All three plots and the detached garage are proposed to be clad in a red stock brick. The bungalows and detached garage have a dark red pantile roof covering, with the house being roofed with dark red plain tiles. Hard surfacing comprises block paving to match the existing driveway, with contrasting colour to parking bays and bin collection point.
- 6.19 A 1.8m high brick wall with stone coping will be erected around the public facing boundary to both sides of Plot 1 screening the rear garden, with soft landscaping to the public side. The plot occupies a prominent location within the streetscene and this is considered to be an appropriate means of enclosure. The boundary treatment plan shows no means of enclosure along the outer boundary of Plot 1 and Verity Gardens. This is a relatively long and prominent boundary and Officers consider some form of low level enclosure should be provided to differentiate between the public and private realm. A condition is recommended to obtain and approve these details. Permitted development rights are also recommended to be removed for new enclosures forward and to the north of Plot 1 to prevent harsh or high level boundary treatments being erected in the future to enclose this large and prominent front garden area. A 1.8m high brick wall is also proposed along the side boundary with Plot 2 fronting Verity Gardens with all other boundaries fenced by 1.8m high close boarded fencing in keeping with the wider development.

- 6.20 Concerns were previously raised by existing residents of Verity Gardens about waste collection and the proposal includes a waste collection point sufficient for the existing and proposed dwellings within the required 20 metres of Barleyfield Drive.
- 6.21 **It is considered that the proposed layout overcomes the previous reasons for refusal and would represent an acceptable development of the site in accordance with the provisions of the NPPF and Local Plan Policies SP7 and SLP3.**

Highway Safety/Parking

- 6.22 Paragraph 114 of the NPPF seeks to ensure that safe and suitable access to a development site can be achieved for all users. Paragraph 115 of the NPPF 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.
- 6.23 Adopted Local Plan Policy SPL3 (Part B) seeks to ensure that access to a new development site is practicable and the highway network will be able to safely accommodate the additional traffic the proposal will generate, and provision is made for adequate vehicle and cycle parking. Adopted Local Plan Policy CP2 states proposals will not be granted planning permission if there would be an unacceptable impact on highway safety, or the residual cumulative impact on the road network would be severe.
- 6.24 The application site is approximately 85m south of Thorpe Road (B1033). Vehicular access to the proposed dwellings will be from Verity Gardens, which is an existing road leading off Barleyfield Drive, which is currently a 5.5m wide carriageway with footways. Barleyfield Drive is widened to 6.75m as part of the approval for the wider site. Barleyfield Drive currently serves 20 dwellings and Officers do not consider that it would be necessary to condition the widening of Barleyfield Drive to a 6.75m wide carriageway to serve the additional three dwellings proposed by this application.
- 6.25 The Essex Design Guide confirms a 'Type H' road Private Drive is appropriate to serve a maximum of 5 dwellings and should be 5.5m wide for the first 6m then taper down to a lesser, unspecified, width. Verity Gardens (serving the two existing bungalows) currently complies with these standards. Following Member's previous concerns about the width of the existing access drive (3.8m) this is proposed to be widened to 5.5m, in excess of the required width for a private drive, and a visitor parking bay has also been added.
- 6.26 The Highway Authority raised no objection to the refused proposal, and raise no objection to the current proposal, subject to conditions. The recommended conditions require approval of a Construction Traffic Management Plan, Resident's Travel Information Packs, and provision of the parking and turning areas prior to occupation.
- 6.27 The Parking Standards require the provision of at least two car parking spaces for each new dwelling measuring 5.5m x 2.9m, or 7m x 3m within a garage, plus 25% visitor parking. The proposed development exceeds the parking standards with two additional parking spaces provided for the house on Plot 1. Cycle parking provision is also provided, within the garage for Plot 1 and within cycle stores in the rear gardens for Plots 2 and 3. A condition will be imposed to secure provision of the cycle stores prior to occupation to encourage sustainable modes of transport.

Landscaping/Biodiversity

- 6.28 This report addresses the distinct legal requirements, ensuring a comprehensive analysis of the ecology and biodiversity impacts of the proposal in line with regulatory standards.

- 6.29 The site is currently open and relatively bare. No trees or hedges would be affected by the proposals. A soft landscaping scheme has been submitted with the application and the Council's Tree and Landscape Officer raises no objection to the proposals. This area of land was subject to extensive ecological investigation as part of the consideration of the Outline planning permission. The submitted Preliminary Ecological Appraisal Report (02/01/2024) is an up to date assessment of the application site.
- 6.30 The site was also identified as having the potential to impact on the Weeley Hall Wood SSSI (which does not fall within the Essex Coast RAMS). Suitable mitigation has been secured through the legal agreement attached to the Outline planning permission which included this application site. The development will be linked to the main Section 106 agreement and as such Officers are content that no further mitigation needs to be specified in connection with this application.

General duty on all authorities

- 6.31 The Natural Environment and Rural Communities Act 2006 amended by the Environment Act 2021 provides under Section 40 the general duty to conserve and enhance biodiversity: "For the purposes of this section "the general biodiversity objective" is the conservation and enhancement of biodiversity in England through the exercise of functions in relation to England." Section 40 states authorities must consider what actions they can take to further the general biodiversity objective and determine policies and specific objectives to achieve this goal. The actions mentioned include conserving, restoring, or enhancing populations of particular species and habitats. In conclusion for decision making, it is considered that the Local Planning Authority must be satisfied that the development would conserve and enhance.
- 6.32 This development is subject to the general duty outlined above. The following features underscore how the proposal positively impacts biodiversity, offsetting requirements necessary for the development to take place.
- 6.33 The submitted Preliminary Ecological Appraisal Report (02/01/2024) confirms that bird and bat boxes, hedgehog friendly fencing and log piles for invertebrates and reptiles, should be included within the final development design to improve the site for birds, bats, and reptiles. As recommended by ECC Ecology a Biodiversity Enhancement Strategy condition will secure the details, provision and implementation/maintenance of these biodiversity enhancements.

Biodiversity net gain

- 6.34 Biodiversity net gain (BNG) is an approach that aims to leave the natural environment in a measurably better state than it was beforehand. The minimum requirement is for a 10% net gain in biodiversity value achieved on a range of development proposals. As a 'minor' planning application the requirement for BNG does not apply for applications made before 2nd April 2024, so this development is not applicable for Biodiversity Net Gain.

Protected Designated Habitats

- 6.35 The site falls within the recreational Zone of Influence (ZOI) of the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). Under the Habitats Regulations, a development which is likely to have a significant effect or an adverse effect (alone or in combination) on a European designated site must provide mitigation or otherwise must satisfy the tests of demonstrating 'no alternatives' and 'reasons of overriding public interest'. There is no precedent for a residential development meeting those tests, which means that all residential development must provide mitigation.
- 6.36 A Habitat Regulations Assessment has been completed for the proposal. The new development would be likely to increase the number of recreational visitors to the designated area and, in

combination with other developments, it is likely that the proposal would have significant effects on the designated site. Prior to any approval, a S106 Legal Agreement/Unilateral Undertaking will be sought to tie the permission to the requirements of the outline planning permission S106 which secures the necessary financial contributions for RAMS to ensure that the development would not adversely affect the integrity of European Designated Sites in accordance with Section 1 Policy SP2 and Section 2 Policy PPL4 of the Tendring District Local Plan 2013-2033 and Regulation 63 of the Conservation of Habitat and Species Regulations 2017.

Protected Species

- 6.37 In accordance with Natural England's standing advice the application site and surrounding habitat have been assessed for potential impacts on protected species. The submitted Preliminary Ecological Appraisal Report (02/01/2024) confirms the habitats onsite have the potential to support breeding birds, reptiles, badgers, and hedgehog. The report details the avoidance measures and timing of works to reduce impact on these protected species. The report refers to further surveys on the wider site but confirms no further surveys are required for the current proposal.
- 6.38 In compliance with relevant wildlife legislation and planning policies, the development will adhere to best practices to protect and enhance the habitat for these protected species. As recommended by ECC Ecology conditions are imposed requiring works to be carried out in accordance with the recommendations of the Preliminary Ecological Appraisal Report, and submission and approval of a Constructional Environmental Management Plan for Biodiversity and a Biodiversity Enhancement Strategy.
- 6.39 **Conclusion: In accordance with the overarching duty outlined above, this development is committed to actively contributing to the conservation and enhancement of biodiversity as set out above and within the planning conditions. In conclusion, this development is considered to accord to best practice, policy, and legislation requirements in consideration of the impacts on ecology interests.**

Impact on Residential Amenity

- 6.40 Paragraph 135 of the NPPF states that planning should always seek to secure a good standard of amenity for all existing and future users. Policy SPL3 states that buildings and structures are designed and orientated to ensure adequate daylight, outlook and privacy for future and existing residents; and the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties.
- 6.41 Plot 1 comprises the detached four bedroom house which will face the new mini roundabout at the entrance to the wider site. This plot is well separated from the approved dwelling to the south, the existing house to the north of Verity Gardens, and the proposed bungalows on Plots 2 and 3 to ensure no material loss of light or outlook. The two small first floor windows to the side elevations serve bathrooms, and the two first floor rear bedroom windows are around 22m from the side bedroom window of the proposed bungalow on Plot 3 with intervening boundary treatment and planting. No material loss of privacy would therefore result from the house on Plot 1.
- 6.42 There are two existing bungalows in Verity Gardens, opposite the application site, who currently have an outlook over fields. Under the previously refused scheme, a number of representations referenced two of the existing residents, living at the end of Verity Gardens, who have severe disabilities which require round the clock care. The family said that they bought the bungalow in the expectation that it would provide suitable living conditions and that the area around their homes would continue to meet their needs. They felt aggrieved that the proposed development will bring changes that their family members may experience difficulty in coping with. Whilst we are sympathetic, any assurances given and subsequently relied upon is a private matter

between the family and the developer and/or their agents and are not material planning considerations in the determination of this application. The Council's planning policies and the previous grant of Outline planning permission have all firmly established this to be a location where residential development is acceptable, and so must be lawfully considered against current planning policy. However, all planning decisions must also have due regard to the impact on those with protected characteristics under the Equality Act 2010 (including section 29(1) and (6); and the general equality duty which is set out in section 149 of the Equality Act 2010). The Local Planning Authority is mindful that development of the nature sought may have a different impact on such individuals as opposed to those without such characteristics, especially through construction as the environment changes and ongoing increased disturbance of increased domestic activity in the surrounding area.

- 6.43 In refusing 22/01332/FUL Members expressed concern regarding the likely significant increase in noise levels, disturbance and loss of privacy due to the construction process and subsequent occupation of the three dwellings. Furthermore, by reason of the layout, siting, landscaping and scale this impact would directly affect the quality of life for the neighbouring residents in close proximity, with due regard given to known persons with protected characteristics who rely on a quiet environment for their well-being and amenity.
- 6.44 The amended proposal reorientates the bungalows so Plot 3 is set just off the far rear boundary and Plot 2 is turned (blank) end on to the neighbours with additional separation provided by soft landscaping. This creates an open soft landscaped frontage, including parking, for the proposed bungalows to look across and provides substantial separation to the existing bungalows. There is also a 1.8m high brick wall along the garden boundary of Plot 2 providing a continuous blank elevation to the bungalow occupied by the residents with protected characteristics. The wall is over 6.5m away and the bungalow on Plot 2 is almost 10m away from the closest point of the neighbouring bungalow. A condition is included to remove permitted development rights for new windows/doors in the end elevation of Plot 2 so the Council can retain control over this in the interests of neighbouring amenity. There is over 21 metres separation at the closest point between the front elevation of Plot 3 and the other existing bungalow. Whilst it is accepted that the development will significantly alter the outlook of these two properties it is not considered that the proposals would have a materially damaging impact on their privacy, or other amenities, such that the application should be refused.
- 6.45 The planning balance is to consider the level of harm to amenity against the benefits and merits of the scheme. In the finer balance it is considered that given the design of the scheme, existing public access, housing need and benefit and noting the surrounding development that a robust refusal on harm to amenity in this regard could not be defended. We consider that the wider public benefit in adding to the available housing stock that this development would bring is also an important consideration and therefore we recommend that approval of the application is a proportionate response to achieving a legitimate aim having regard to the interests of all. The applicant has confirmed they are willing to agree a Construction Management Plan as a pre-commencement condition which will set out the measures they can employ to further limit disturbance during construction. The legal agreement also requires these plots to be completed within the first 50 dwellings which will then provide separation to the rest of the construction site.
- 6.46 An objector has raised concerns about damage, inconvenience and pollution caused by construction vehicles. The required Construction Management Plan will limit these impacts in accordance with the detailed informatives contained within the recommendation.

Drainage

- 6.47 The site area and proposal falls significantly below the threshold where a flood risk assessment would be required. The site lies within Flood Zone 1 at lowest risk of flooding and is not identified as being at surface water flood risk.

- 6.48 TDLP Policy PPL5 states that all new development must make adequate provision for drainage and sewerage. The application form confirms connection will be to mains sewer which is the preferred option having regard to the drainage hierarchy and building regulations requirements.

Section 106 of the Town and Country Planning Act 1990

- 6.49 A planning application providing just three residential dwellings would not usually need to be subject to a Section 106 agreement, however as these three dwellings form part of a larger development they need to be tied to the planning obligations for the larger site.
- 6.50 The applicant has prepared a Unilateral Undertaking that effectively ties this Full application to the main development, and the associated Section 106 agreement, so that the three dwellings are bound by and subject to the provisions and obligations contained within that agreement. The Unilateral Undertaking also ensures no more than 280 Dwellings shall be constructed on the combined area of the application site (23/01819/FUL) and the outline site (19/00524/OUT) and that the 3 residential units constructed under this application are not in addition to the 280 residential units permitted under the outline planning permission. Furthermore, in the interests of proper planning the Council would not want to consider an application on part of an allocated mixed use development site that would in some way prejudice the delivery of the remainder of the site. The Unilateral Undertaking therefore ensures the planning permission for this application (23/01819/FUL) cannot be implemented unless and until the outline planning permission (19/00524/OUT) has commenced. This planning permission (23/01819/FUL) must also be implemented prior to the occupation of 50 dwellings under the outline planning permission (19/00524/OUT), to ensure that the dwellings come forward in a timely manner and to reduce the period of time that the existing residents could be exposed to the potential impact of construction activity on the main site.
- 6.51 The Unilateral Undertaking is signed and awaiting final completion pending Member's determination of this application.

Heritage Assets

- 6.52 The site is not within a conservation area or the setting of any listed buildings. The applicant has agreed a programme of archaeological work with the Council, in accordance with condition 15 on the Outline planning permission (19/00524/OUT). This has included excavation works on the wider site and the applicant continues to comply with the requirements of condition 15 in respect of archaeological mitigation and recording.

Sustainable Construction and Energy Efficiency

- 6.53 Adopted Local Plan Policy PPL10 states that proposals for new development should consider the potential for renewable energy generation, appropriate to the site and its location, and should include renewable energy installations, or be designed to facilitate the retro-fitting of renewable energy installations.
- 6.54 A condition is therefore imposed securing details of water, energy and resource efficiency measures to improve the sustainability of the development.

Contaminated Land

- 6.55 Condition 34 of the outline planning permission (19/00524/OUT) requires soil surveys to be undertaken prior to commencement, and where contamination is identified a scheme for decontamination to be agreed and completed prior to first occupation. At the time of writing this condition is pending discharge. However, the submitted report confirms the contamination is only in the north west of the wider site (around Ash Farm) and not within the application site. The recommendations in relation to further investigation/remediation referred to by

Environmental Protection in their consultee response are therefore not relevant to the application site and no further contamination assessment/remediation needs to be secured under this proposal.

7. Conclusion

- 7.1 The principle of residential development at this location has previously been accepted by the grant of outline planning permission (19/00524/OUT) for up to 280 dwellings. The site now lies within the Settlement Development Boundary for Weeley where there is a presumption in favour of sustainable development. Furthermore, the site forms part of a larger site allocated for mixed-use residential led development in the adopted Local Plan. As such, there is no policy conflict in principle with the proposed residential development of this land.
- 7.2 The scale, appearance and landscaping of the proposal are considered acceptable and would be appropriate in character and appearance with reference to the existing development of twenty dwellings at Barleyfield Drive and the approved development of 277 dwellings to the south. The proposal is acceptable in terms of highway safety and biodiversity, and would not warrant refusal on the grounds of adverse impact on neighbouring amenity. The application is therefore recommended for approval subject to securing an appropriate legal agreement.

8. Recommendation

- 8.1 The Planning Committee is recommended to grant planning permission subject to the following conditions and informatives and the prior completion of a Unilateral Undertaking to link this planning permission to the planning permission 19/00524/OUT and the associated Section 106 agreement, in order that the dwellings constructed under 23/01819/FUL are dwellings for the purposes of the Section 106 legal agreement and are bound by and subject to the provisions and obligations contained within that agreement. No more than 280 Dwellings shall be constructed on the combined area of the application site (23/01819/FUL) and the outline site (19/00524/OUT) and that the 3 residential units constructed under this application are not in addition to the 280 residential units permitted under the outline planning permission. Not to implement the planning permission for this application (23/01819/FUL) unless and until the outline planning permission (19/00524/OUT) has commenced. To implement this planning permission (23/01819/FUL) prior to the occupation of 50 dwellings under the outline planning permission (19/00524/OUT).

8.2 Conditions and Reasons

1. COMPLIANCE REQUIRED: COMMENCEMENT TIME LIMIT

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

REASON: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

NOTES FOR CONDITION:

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

2. APPROVED PLANS & DOCUMENTS

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

The approved red line plan drawing is Drawing 21/12/100 Rev.E received 22.12.2023.

Sketch Site Plan – 21/12/SK101
Proposed Block Plan – 21/12/101 Rev. F
Proposed Site Plan – 21/12/102 Rev. F
Parking Plan – 21/12/103 Rev. F
Waste and Recycling Collection Plan – 21/12/104 Rev. F
Boundary Treatment Plan – 21/12/105 Rev. F
Proposed Materials Plan – 21/12/106 Rev. F
External Works Materials Plan – 21/12/106 Rev. F
Plot 1 Floor Plans & Elevations – 21/12/110
Plot 2 Floor Plans & Elevations – 21/12/111
Plot 3 Floor Plans & Elevations – 21/12/112
Proposed Outbuildings - 21/12/113
Detailed Planting Proposals – Plot 1-3 – 2467-LLA-ZZ-00-DR-L-0218 Rev.P05
Landscape Specification & Details - 2467-LLA-ZZ-00-DR-L-0301 Rev. P01
Preliminary Phase 2 Report No 212518B dated November 2021
Preliminary Ecological Appraisal Report dated 02/01/2024

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

NOTES FOR CONDITION:

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

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

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

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

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

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

- a) Details of the hours of work/construction of the development within which such operations shall take place and the hours within which delivery/collection of materials for the said construction shall take place at the site.
- b) Details of the loading/unloading/storage of construction materials on site, including details of their siting and maximum storage height.
- c) Details of how construction and worker traffic and parking shall be managed. This shall include routing of all traffic and any directional signs to be installed and where.
- d) Details of any protection measures for roads adjoining the site.
- e) Details of any means of access to the site during construction.
- f) Details of the scheduled timing/phasing of development for the overall construction period.
- g) Details of measures to control the emission of dust and dirt during construction and including details of any wheel washing to be undertaken, management and location it is intended to take place.
- h) Details of the siting of any on site compounds and portaloos.
- i) Details of the erection and maintenance of security hoarding.
- j) Scheme for sustainable construction management to ensure effective water and energy use.
- k) Scheme of review of complaints from neighbours.
- l) Registration and details of a Considerate Constructors Scheme

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

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

4. COMPLIANCE REQUIRED: – WASTE STRATEGY

CONDITION: The storage and collection areas for refuse/recycling bins as shown on drawing number 21/12/104 revision F shall be provided prior to first occupation/use and thereafter retained as approved, unless otherwise agreed in writing by the Local Planning Authority.

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

5. AGREEMENT OF MEASURES TO IMPROVE SUSTAINABILITY OF DEVELOPMENT

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

- An electric car charging point per dwelling
- Agreement of a scheme for water conservation including greywater recycling and rainwater capture/re-use for new dwellings.
- Agreement of a scheme to achieve as far as possible a water consumption rate of not more than 110 litres, per person, per day for new dwellings.
- Agreement of heating of each dwelling/building
- Agreement of scheme for waste reduction
- Provision of a fibre optic broadband connection to the best possible speed installed on an open access basis and directly accessed from the nearest exchange, incorporating the use of resistant tubing. (If the applicant is unable to achieve this standard of connection, and can evidence through consultation that this would not be possible, practical or economically viable an alternative superfast (i.e. will provide speeds greater than 30mbps) wireless service will be considered.)

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 reduced need, better use or savings in the use of water, energy and resources; reduced harm to the environment; and result in wider public benefit in accordance with the NPPF.

NOTES FOR CONDITION:

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

Broadband provision is included to ensure the development is able to be equipped with high speed broadband to enable opportunities for web-based communication and homeworking reducing the need for unsustainable travel.

A water consumption rate of not more than 110 litres, per person, per day adopted as Planning Policy and as imposed by this condition will directly change the building regulations water consumption rate to match as a result of this policy. The introduction of effective utilities, rainwater capture for watering plants, aerators to taps and other water saving options can be considered.

6. ACTION REQUIRED IN ACCORDANCE WITH ECOLOGICAL APPRAISAL RECOMMENDATIONS

All mitigation measures and/or works shall be carried out in accordance with the details contained in the Preliminary Ecological Appraisal (Geosphere Environmental, January 2024). 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 prior to occupation.

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).

7. **PRIOR TO COMMENCEMENT: CONSTRUCTION ENVIRONMENTAL MANAGEMENT PLAN FOR BIODIVERSITY**

Prior to commencement of development a Construction Environmental Management Plan (CEMP: Biodiversity) shall have been submitted to and approved in writing by the Local Planning Authority. The CEMP (Biodiversity) shall include the following. a) Risk assessment of potentially damaging construction activities. b) Identification of "biodiversity protection zones". c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements) including a precautionary method statement for reptiles. d) The location and timing of sensitive works to avoid harm to biodiversity features. e) The times during construction when specialist ecologists need to be present on site to oversee works. f) Responsible persons and lines of communication. g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person. h) Use of protective fences, exclusion barriers and warning signs. The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority.

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

8. **PRIOR TO ANY WORKS ABOVE SLAB LEVEL: BIODIVERSITY ENHANCEMENT STRATEGY**

Prior to any works above slab level a Biodiversity Enhancement Strategy for protected and Priority species shall have been 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) persons responsible for implementing the enhancement measures; e) details of initial aftercare and long-term maintenance (where relevant). The works shall be implemented in accordance with the approved details prior to occupation and shall be retained as approved thereafter.

REASON: To enhance protected and Priority species & habitats and allow the LPA to discharge its duties under the NPPF 2023 and s40 of the NERC Act 2006 (Priority habitats & species).

9. **RESIDENTIAL TRAVEL INFORMATION PACK**

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

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

10. HIGHWAYS PROVISION OF PARKING AND TURNING

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

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

11. FURTHER APPROVAL – SCREEN WALLS AND FENCES

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

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

12. COMPLIANCE WITH DETAILS AND TIMESCALE REQUIRED - LANDSCAPING SCHEME

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

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

13. SPECIFIC RESTRICTION ON DEVELOPMENT: REMOVAL OF PERMITTED DEVELOPMENT RIGHTS ENCLOSURES

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

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

14. SPECIFIC RESTRICTION ON DEVELOPMENT: REMOVAL OF PERMITTED DEVELOPMENT RIGHTS NEW OPENINGS

Notwithstanding the provisions of Article 3, Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), no new openings shall be inserted in the north elevation of Plot two except pursuant to the grant of planning permission on an application made in that regard.

REASON: In the interests of the amenities of the occupants of neighbouring property.

8.3 Informatives

Positive and Proactive Statement

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

Highways Informatives

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

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

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

Construction Management Informatives

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).

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 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 (As known with application)
Age	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Disability	The proposal put forward will have direct equality impacts on individuals from this target group.	See 9.3 below
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

- 9.3 The proposal put forward will have direct equality impacts on individuals with the protected characteristic of disability as detailed under the Impact on Residential Amenity section above. As assessed within the report the Council has had due regard to the impact on those with protected characteristics. The impacts are satisfactorily reduced by the sensitive design of the proposal in relation to the individuals with protected characteristics, and by the imposition of conditions and a legal agreement to limit disturbance during the construction period.

Human Rights

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

Finance Implications

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

10. Background Papers

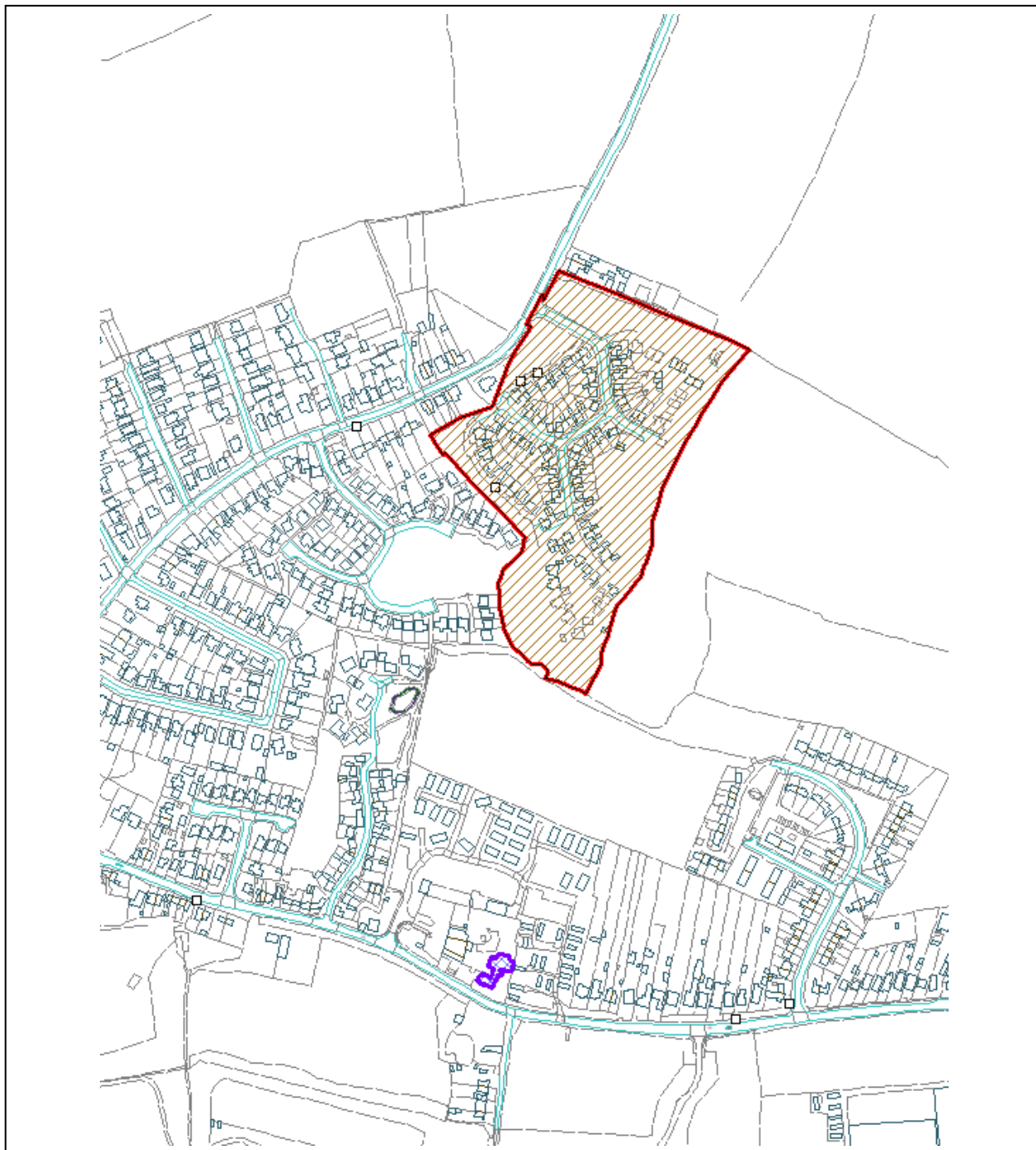
10.1 In making this recommendation, officers have considered all plans, documents, reports and supporting information submitted with the application together with any amended documentation. Additional information considered relevant to the assessment of the application (as referenced within the report)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

PLANNING COMMITTEE

12th March 2024

REPORT OF THE DIRECTOR OF PLANNING

A.3 PLANNING APPLICATION – 23/00993/VOC – LAND EAST SIDE OF LANDERMERE ROAD THORPE LE SOKEN ESSEX CO16 0NF



DO NOT SCALE

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Application:	23/00993/VOC	Expiry Date:	11th October 2023
Case Officer:	Amy Lang	EOT Date:	To be confirmed
Town/ Parish:	Thorpe Le Soken Parish Council		
Applicant:	Bellway Homes		
Address:	Land East Side of Landermere Road Thorpe Le Soken Essex CO16 0NF		
Development:	Application under Section 73 of the Town and Country Planning Act, to allow a variation of Condition 1 (Approved plans) of 17/01482/DETAIL to replace drawing numbers 102 and 2 Rev. E with drawing numbers 102 Rev. A and 2 Rev. F.		

1. Executive Summary

- 1.1 The application is before Members at the request of the Head of Planning and Building Control, in the public interest.
- 1.2 The application seeks a variation to the reserved matters regarding Bellway Homes Henderson Park development of 98 homes off Landermere Road, Thorpe-le-Soken. The application concerns only a very small portion of the site on the eastern boundary, at the end of Henderson Road being approximately 0.018 hectares of the overall site area of 5.6 hectares. This portion of the site forms part of the perimeter landscaping and open space originally approved.
- 1.3 The proposed variation seeks to remove a small section of hedgerow and lawned area on the eastern perimeter to enable this to accord with the approved Henderson Road connection to the adjacent development for 28 bungalows currently under construction. While the approved road link already supersedes, in part, the affected area, the variation updates the open space plan that the original reserved matters and S106 agreement for the 98 homes refers to.
- 1.4 Although the site technically forms part of the overall open space provision as originally approved, due to its small size, peripheral siting, and juxtaposition with the defined areas of amenity space and play area elsewhere on the site, the removal of this section will not result in any material harm to the useability or the amenity value of the open space for residents and it is a significant material consideration that this judgement has already taken place when the 28 bungalows and associated road link was decided.
- 1.5 The resultant open space will continue to provide ample, usable open space provision in excess of Local Plan Policy DI1 requirements for a development of this size.
- 1.6 The proposed variation will not alter the existing layout or situation to an extent that would result in any harm to residential amenity, including pedestrian or highway safety.
- 1.7 The planning obligations associated with the development are secured via a S106 Legal Agreement attached to the outline consent. This application seeks a variation to the reserved matters application and a variation to the original S106 is not required.
- 1.8 For the reasons set out above, in the absence of any material harm resulting from the development, the application is recommended for approval as set out below.

Recommendation: Approval

- 1) That the Head of Planning and Building Control be authorised to approve the variation application subject to the conditions as stated at paragraph 10.2, or varied as is necessary to ensure the wording is enforceable, precise, and reasonable in all other respects, including appropriate updates, so long as the principle of the conditions as referenced is retained; and,
- 2) The informative notes as may be deemed necessary.

2. **Status of the Local Plan**

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

3. **Neighbourhood Plans**

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

At the time of writing, there are no draft or adopted neighbourhood plans relevant to this site.

4. **Planning Policy**

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

National:

National Planning Policy Framework July 2023 ([NPPF](#))

National Planning Practice Guidance ([NPPG](#))

Local:

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

SP1 Presumption in Favour of Sustainable Development

SP3 Spatial Strategy for North Essex

SP7 Place Shaping Principles

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

SPL1 Managing Growth

SPL3 Sustainable Design

CP1 Sustainable Transport and Accessibility

DI1 Infrastructure Delivery and Impact Mitigation

5. **Relevant Planning History (full history available online)**

5.1 Application site (Bellway development):

16/01169/OUT	Outline planning permission for the erection of up to 98 dwellings, public open space and supporting site infrastructure with all matters reserved apart from access.	Approved	28.04.2017
17/01482/DETAIL	Reserved matters application for the erection of up to 98 dwellings, public open space and supporting site infrastructure and site access.	Approved	13.12.2017
18/01195/NMA	Non material amendment to 17/01482/DETAIL - Change to materials schedule to better reflect available materials.	Approved	07.08.2018
19/00369/DETAIL	Reserved Matters Application following Outline Approval of 16/01169/OUT considering appearance only to allow for a change in brick and roof tile materials (variation of previously approved 17/01482/DETAIL and 18/01195/NMA).	Approved	19.06.2019
20/01752/NMA	Non-material amendment to application 19/00369/DETAIL - Alterations to roof tiles for plots 1, 11-14 and 35.	Approved	02.02.2021

5.2 Adjacent site (Scott Properties development):

21/01397/FUL	Proposed construction of 28 no. bungalows with associated parking, roads, site infrastructure and hard and soft landscaping.	Approved	10.02.2023
23/00304/VOC	Application under Section 73 of the Town and Country Planning Act, to allow a variation of condition 15 of 21/01397/FUL to amend the wording as follows: Prior to the commencement of development, details of the estate roads and footways (including layout, levels, gradients, surfacing and means of surface water drainage) shall be submitted to and approved in writing by the Local Planning Authority. No dwelling shall be occupied until the carriageways and footways serving that dwelling, have been constructed to at least base course level or	Approved	25.04.2023

better, in accordance with the approved details. The approved details shall be implemented in full prior to the occupation of the 28th dwelling. Reason - To ensure that roads and footways are constructed to an acceptable standard and to ensure that satisfactory access is provided for residents and the public, in the interests of highway safety.

23/00393/DISCON	Discharge of conditions 15 (Estate Road Details), 18 (Travel Pack), 19 (Construction Management Plan), 20 (Arch Evaluation), 21 (Arch Fieldwork), 22 (Arch Post Evac), 23 (SuDS Scheme) and 24 (Off-site flooding scheme) of application 23/00304/VOC.	Current <i>Approval of Conditions – 15 and 23 imminent – all necessary information received</i>
<i>PART APPROVED</i> Conditions - 18, 19, 20, 21, 22 and 24		

6. Consultations

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

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

<u>Tree & Landscape Officer</u>	31.07.2023	NO OBJECTION
The information provided relating to the layout and species selection for the soft landscaping of the open space associated with the development is sufficient to secure a satisfactory amount of new planting.		

<u>ECC Highways Dept</u>	15.08.2023	NO OBJECTION
It is noted that this application concerns variation of condition 1 only to alter the approved S106 Open Space Plan, landscaping, and road to join to neighbouring development approved under 23/00304/VOC, therefore:		
The Highway Authority does not object to the proposal as submitted.		
1: All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.		
The applicants should be advised to contact the Development Management Team by email at development.management@essexhighways.org		

UU Open Spaces

No comments received.



7. Representations

Thorpe-le-Soken Parish Council

7.1 No comments have been received from Thorpe-le-Soken Parish Council.

Residents and Other Interested Parties

7.2 33 individual letters of objection have been received against the application (several of which have similar or identical content). The issues and concerns raised can be summarised as follows.

- No right of ownership or right of way to this land, or through it. It belongs to the residents of the Bellway development – not Bellway.
- The applicant has falsely stated ownership on the application.
- All 98 owners should have been given advanced notice of this application.
- 21/01397/FUL certificate of ownership was also flawed (only notifying Bellway and Strutt and Parker Farms).
- 21/01397/FUL falsely stated that no new or altered access was required.
- Dangerous having a new road next to children's play area.
- S106 legal agreement requires open space to be for recreational and amenity use in perpetuity.
- New road is in breach of the S106 legal agreement.
- New road requires planning permission.
- According to the agreement, the public open space should have been handed over to Trinity Management when 80% of the properties had been sold (this benchmark was reached in June 2021).
- Once a plan has been approved that it cannot be changed.
- Enforcement action should be taken due to the unlawful road and breach of S106.
- Damage being done to Henderson Road from construction traffic.
- Case law supports revoking fraudulent approvals.
- Material considerations - planning is concerned with land use in the public interest.

7.3 Concerns raised which are not material planning considerations and / or form private legal matters that cannot be taken into account as part of the assessment of this application are summarised below:

- Loss of open views.
- Impact on house prices.
- Conflicts with what is written into the current residents of Henderson Road title deeds and the management of open space and roads.
- No right of access through Henderson Park development.
- What is the compensation due to residents.
- Occupation restrictions will hinder sale of properties.
- Residents pay toward maintenance of the open space land.
- Bellway promised/showed every Henderson Park resident that no new developments were possible anywhere in the near vicinity.

7.4 Officer Comments on representations received.

On the matter of Ownership. For the purpose of a planning application notice needs to be served on all known owners or otherwise, if there are some unknown owners the application needs to be published. Initially there was some debate on the extent of ownership as, while the focus of the

application relates to a small area, the nature of the variation relates technically to the red line for the 98 dwellings now occupied. Accordingly, ownership notification has been updated during the course of the application and this issue is resolved.

The second matter of ownership relates to claims by residents who live within the occupied 98 dwellings that they own or should own the small open space area itself. While ownership dispute is a private legal matter, in planning terms it is correct to point out two provisions of the S106 agreement for the site (98 Dwellings).

The agreement clearly ensures that at no time will the open space areas of the entire site fall to an individual or individuals who own any of the 98 Dwellings.

Part Two Para 2.3

- 2.3 a covenant that the Council or the Nominated Body (as appropriate) will not transfer the Open Space Land into the individual ownership of the owner or owners of any of the Dwellings

The second provision, for the avoidance of doubt, provides that the S106 does not in any way restrict the powers and functions of the District Council. This covers a range functions, but in planning terms does not stop the consideration of later applications, changing plans or any other planning function.

Under 2 Effect of this Agreement.

- 2.3 Nothing in this Agreement restricts or is intended to restrict the proper exercise at any time by the Council or the County Council of any of their statutory powers, functions or discretions in relation to the Site or otherwise.

Other matters will be considered further in the report, but it is correct that the road (while approved under a separate planning application) is in breach of the open space plan and that is why this variation is made to correct that.

The new road does not require permission as it already has it.

8. **Assessment**

8.1 The main consideration relevant to the assessment and determination of this application can be summarised and addressed as follows:

- Site Description and Context
- Site Background and Adjacent Development
- Proposal
- Loss of Open Space
- Landscaping and Visual Impact
- Parking Provision and Pedestrian Safety
- Impact on Residential Amenity
- Legal Agreement Obligations

Site Description and Context

8.2 The application site is located on the edge of, but within the defined Thorpe-le-Soken Settlement Development Boundary, to the east of the village centre.

- 8.3 The application relates to the Bellway Homes Henderson Park development of 98 homes off Landermere Road approved under planning application reference 16/01169/OUT and 17/01482/DETAIL, with the materials schedule amended under application references 18/01195/NMA, 19/00369/DETAIL and 20/01752/NMA.
- 8.4 The entirety of the Bellway site / Henderson Park development site extends approximately 5.6 hectares in size. As this application seeks a variation to the previous approval under application 17/01482/DETAIL, the application site area is the same. However, the proposed variation concerns only a small portion of the site on the eastern boundary, at the end of Henderson Road, with the junction to Ronson Drive to the north, and the development's play area to the south.
- 8.5 The specific area of the site to which this application relates extends approximately 180 square metres, being 0.018 hectares of the overall site area of 5.6 hectares. This portion of the site forms part of the perimeter landscaping and open space originally approved.
- 8.6 For the purposes of this report, the 0.018ha portion of the overall Bellway development to which this application relates will be hereon referred to as "the site", not to be confused with the entirety of the site identified within the red line.
- 8.7 For illustration purposes only the main area of change is shown on the plan below that has attempted to combine the 98 and 28 dwelling developments together. The red line to indicate the area of landscaping/open space to road link.



Site Background and Adjacent Development

- 8.8 As explained above, 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).

- 8.9 The Bellway development, application reference 16/01169/OUT, was approved on 28th April 2017. Although this approval came prior to the full adoption of our current Local Plan, the site was allocated for residential development for the plan period of 2013 – 2033 within the Preferred Options Consultation Document July 2016, and was approved on this basis (subject to several other considerations).
- 8.10 Development of the adjoining land to the east / south-east is currently under construction by Scott Properties as per the approval under planning application reference 21/01397/FUL for 28 no. bungalows and associated parking, roads, site infrastructure and hard and soft landscaping (varied by 23/00304/VOC). Access to the Scott Properties development is to be served by an approved extension to Henderson Road.
- 8.11 For the avoidance of doubt, the extent of the site under development by Scott Properties also formed part of the housing allocation for the plan period as contained within the 2016 preferred options document.
- 8.12 Although land ownership is not normally a material planning consideration, Bellway Homes have confirmed via up-to-date Land Registry documents that they are the sole owners of the site. Parker Farms are the owners of the adjacent land being developed by Scott Properties.
- 8.13 Objections have been received from residents on the basis that Bellway Homes and Scott Properties have failed to correctly serve notice on interested parties and landowners through the planning application process. Submission of a planning application requires notice to be served on any other owners of the application site (red lined site area not including the adopted highways). Officers are content that the correct certificate of ownership has now been completed for this current application. The application has also been the subject of neighbour notification letters, a site notice and press advert.

Proposal

- 8.14 This application seeks a variation application under Section 73 of the Town and Country Planning Act, to allow a variation of Condition 1 (Approved plans) of 17/01482/DETAIL removing a section of hedgerow and lawned area on the eastern edge perimeter and the small section not to be part of the open space plan.
- 8.15 Most of the plans and documents approved under application reference 17/01482/DETAIL will remain unchanged and as approved. The plans that require amendment (the portion of the overall site where the application site features) are listed below. The main layout plans are included in the application description, but it was not expedient to list all plans subject to change.

Drawing Number	Drawing Title
TLS:806 P2	Affordable Housing Site Layout
171650-002 C	Surface And Foul Water Drainage Strategy
171650-003 B	Level Strategy
2 F	Open Space Landscape Masterplan
3 C	Amended S106 Open Space Plan
TLS:803 P7	Materials Finishes
TLS:804 P2	Parking Plan
TLS:805 P2	Refuse Strategy
TLS:806 P2	Affordable Housing Layout
TLS:808 P2	Cycle/Pedestrian Routes
TLS:809 P2	Road Hierarchy Plan
TLS:810 P2	Storey Heights Plan
TLS:811 P2	Constraints Plan
TLS:800 P14	Amended Site Layout

TLS:802 P3	Amended Block Plan
TLS:807 P3	Amended Enclosures Layout
-	Lighting Calculation Received 08.01.2024
101A	Detailed Hard and Soft Landscaping Scheme
102A	Detailed Hard and Soft Landscaping Scheme
103A	Detailed Hard and Soft Landscaping Scheme

8.16 A temporary access has been installed on the site to serve construction traffic associated with the development of the adjacent site. The hedgerow and lawned area have therefore already been removed. This has been undertaken in accordance with the approved plans and arboricultural statement accompanying the application for the 28 bungalows.

Loss of Open Space

8.17 Adopted Local Plan Section 2 Policy DI1 requires all new residential developments of 11 or more dwellings on sites of 1.5 hectares and above to provide a minimum 10% of the gross site area as open space. No single area of useable open space will be less than 0.15 hectares in size.

8.18 The overall Bellway site area amounts to 5.6 hectares. The 10% local plan policy requirement for open space provision for a development this size therefore equates to 0.56 hectares. Furthermore, the site occupies approximately 0.018 hectares falling below the size specified in local plan policy as a useable space.

8.19 As demonstrated on accompanying Drawing Number 3 (S106 Open Space Plan), the resultant open space land will total approximately 1.97 hectares. The open space is formed by amenity open space areas together with a meadow, SuDS features and equipped play area.

8.20 The loss of this small portion of the open space will not result in a policy conflict in so far as open space policy is concerned, and the development will continue to provide ample, usable open space provision in excess of Local Plan Policy DI1 requirements.

8.21 Although the site technically forms part of the overall open space provision as originally approved, due to its small size, peripheral siting, and juxtaposition with the defined areas of amenity space and play area, the loss of this section will not result in a materially harmful impact to the useability of the open space or amenity value of the open space overall.

8.22 Objections have been received on the basis that the developer no longer owns, controls or has right of access to or across the site and that the site belongs to the residents of Henderson Park. As addressed above, Bellway Homes have confirmed via up-to-date Land Registry documents that they are the sole owners of the site. Parker Farms are the owners of the adjacent land being developed by Scott Properties and the S106 does not allow the residents to be owners of this part of the site.

Landscaping and Visual Impact

8.23 As explained above, the approved road link for the 28 bungalows already supersedes, in part, the affected area. This variation updates the relevant plans previously approved for the 98 homes. However, for completeness, the resultant visual impact is addressed as follows.

8.24 Paragraph 136 of the NPPF sets out the importance of trees and the contribution they make to the character and quality of urban environments. It states that planning policies and decisions should ensure that opportunities are taken to incorporate trees in developments and that existing trees are retained wherever possible.

- 8.25 TDLPS2 Policy LP4 relates to housing layout and states; to ensure a positive contribution towards the District's 'sense of place', the design and layout of new residential developments will be expected to incorporate and maximise the use of green infrastructure, verges, trees and other vegetation.
- 8.26 The development proposal shows the removal of a short section of hedgerow approximately 23 metres in length together with a small area of grass. The hedgerow does not fall within the scope of the Hedgerow Regulations 1997 as it is situated on developed land. The Hedgerow Regulations 1997 only apply to hedgerows situated on agricultural land. Furthermore, as Tree Preservation Order (TPO) legislation only relates to trees, the hedgerow also falls outside of the controls of the respective TPO legislation. On this basis, the Local Planning Authority does not have the power to retain the hedgerow.
- 8.27 Officers recognise that the replacement of soft landscaping with hard surfacing will result in a degree of visual harm. Nevertheless, the small size of the site and minimal amount of hedging to be removed, together with the context of the site within the settlement boundary, any harm would be minimal and would not be sufficient justification for refusal.
- 8.28 Moreover, the introduction of the approved new section of highway will be well associated with adjacent development (allocated for residential development within the Local Plan), will not be prominent in its setting and will be sufficiently softened by retained boundary hedging and the extension to the play area and associated new landscaping to be delivered as part of the Scott Properties development.
- 8.29 For these reasons, the development will not have a negative impact on the public realm or local landscape character.

Parking Provision and Pedestrian Safety

- 8.30 Paragraph 114 of the NPPF seeks to ensure that safe and suitable access to a development site can be achieved for all users, the design of parking areas and other transport elements reflects current national guidance and the content of associated standards. Paragraph 115 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.
- 8.31 Policy SPL3 Part B of Section 2 of the Tendring District Local Plan 2013-2033 and Beyond seeks to ensure that access to a new development site is practicable and the highway network will be able to safely accommodate the additional traffic the proposal will generate and provision is made for adequate vehicle and cycle parking.
- 8.32 The variation will not result in the loss of any designated visitor parking or alter the road layout to an extent that would materially impact access, turning or parking for residents.
- 8.33 Objections have been received raising concerns with the relationship of the extended road with the adjacent play area. Henderson Road currently extends alongside the play area with pedestrian access and tactile paving already in situ. The play area and surrounding open space are both enclosed by fencing and well set back from the road frontage of Henderson Road. Furthermore, it is noted that vehicular access to the properties fronting Paolozzi Way also runs directly adjacent to this area of open space and close to the play area.
- 8.34 The proposed variation will not alter the existing layout or situation to an extent that would result in any harm to pedestrian or highway safety to warrant refusal.

Impact on Residential Amenity

- 8.35 Paragraph 135 of the NPPF includes that planning decisions should ensure developments 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.
- 8.36 Section 1 Policy SP7 of the 2013-33 Local Plan requires that the amenity of existing and future residents is protected. Section 2 Policy SPL 3 Part C seeks to ensure that development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties.
- 8.37 Due to its small size, peripheral siting, and juxtaposition with the defined areas of amenity space and play area, the loss of this section will not result in a materially harmful impact on the amenity value of the open space for residents and is not considered to result in any material harm or conflict with the above-mentioned policies.

Legal Agreement Obligations

- 8.38 This current application seeks an amendment to the Reserved Matters application and the S106 is attached to the outline consent. The S106 Open Space Plan is not referenced in the S106 or approved plans conditions (only site layout, landscaping plans etc are listed as approved plans). Details of the location and details of the open space and landscaping were not part of the application.
- 8.39 However, the Section 106 agreement tied to that outline permission did include the provision of securing open space with the submission of the Reserved matters application. Therefore, whatever is agreed with the reserved matters as the open space plan would be protected as open space for public access in perpetually or unless a deed of variation to that agreement is applied for and may be agreed, or unless the plan is changed as sought. This is what is now the case as a S73 Application to change this plan that was agreed under the reserved matters.
- 8.40 Ref 21/01397/FUL for the 28 Dwellings and road link provides planning permission to remove this approved open space, essentially superseding this section of the original outline and reserved matters in terms of layout/design. However, while the planning permission for a road across this space is agreed, the obligation of the original S106 remains and is why that open space plan under the reserved matters needs to be changed to align with the approval.

9. Conclusion

- 9.1 The loss of the small section of vegetation will not result in any material harm to the useability or the amenity value of the open space for residents.
- 9.2 The resultant open space will continue to provide ample, usable open space provision in excess of Local Plan Policy DI1 requirements for a development of this size.
- 9.3 The proposed variation will not alter the existing layout or situation to an extent that would result in any harm to pedestrian or highway safety.
- 9.4 Only the approved plans condition is required in this instance, as all other requirements set out in conditions 2 to 7 of 17/01482/DETAIL have been satisfied through the implementation and completion of the development.

10. Recommendation

- 10.1 The Planning Committee is recommended to grant the variation to the approved plans condition under 17/01482/DETAIL subject to the following conditions and informatives:
- 10.2 Conditions and Reasons

1. COMPLIANCE: APPROVED PLANS AND DOCUMENTS

CONDITION: The development hereby permitted shall be carried out in accordance with the following approved plans:

17/01482/DETAIL Approved Plans and Documents:

17.011/901 P1	Affordable Housing Plots 4-6 - Proposed Elevations, Floor Plans and Roof Plan
17.011/902 P1	Affordable Housing Plots 7-10 - Proposed Elevations, Floor Plans and Roof Plan
171650-003 A 3 A	Level Strategy S106 Open Space Plan
TLS:001 P2	House Type 2b Bungalow - Proposed Floor Plan and Roof Plan
TLS:002 P2	House Type 2b Bungalow - Proposed Elevations
TLS:003 P1	House Type 2b Bungalow - Proposed Floor Plan and Roof Plan
TLS:004 P1	House Type 2b Bungalow - Proposed Elevations
TLS:005 P1	House Type 2b Bungalow - Proposed Floor Plan and Roof Plan
TLS:006 P1	House Type 2b Bungalow - Proposed Elevations
TLS:011 P1	House Type Almond (Country Brick) - Proposed Floor Plans and Roof Plan
TLS:017 P1	House Type Campbell (Std Brick) - Proposed Elevations, Floor Plans and Roof Plan
TLS:018 P1	House Type Campbell (Render) - Proposed Elevations, Floor Plans and Roof Plan
TLS:019 P1	House Type Campbell (Std Brick-Modern) - Proposed Floor Plans and Roof Plan
TLS:023 P1	House Type Cherry (Std Brick) - Proposed Floor Plans and Roof Plan
TLS:025 P1	House Type Elm (Std Brick-Modern) - Proposed Floor Plans and Roof Plan
TLS:027 P1	House Type Fitzgerald - Proposed Floor Plans and Roof Plan
TLS:028 P1	House Type Fitzgerald - Proposed Elevations
TLS:033 P1	House Type Japonica (Town Render) - Proposed Elevations, Floor Plans and Roof Plan
TLS:037 P1	House Type Mulberry (Std Brick-Modern) - Proposed Elevations and Floor Plans
TLS:041 P1	House Type Osbourne (Std Brick-Modern) - Proposed Elevations and Floor Plans
TLS:042 P1	House Type 1 Bed Maisonette (Std Brick) - Proposed Floor Plans and Roof Plan
TLS:043 P1	House Type 1 Bed Maisonette (Std Brick) – Proposed Elevations
TLS:044 P1	House Type 2b & 3b - Proposed Floor Plans and Roof Plan
TLS:060 P1	Street Elevations Key
TLS:070 P2	Detached Single Garage - Proposed Elevations and Floor Plan (Sheet 1 of 7)
TLS:071 P2	Detached Double Garage - Proposed Elevations and Floor Plan (Sheet 2 of 7)
TLS:072 P2	Detached Double Carport - Proposed Elevations and Floor Plan (Sheet 3 of 7)
TLS:076 P1	Attached Single Garage - Proposed Elevations and Floor Plan (Sheet 4 of 7)
TLS:077 P1	Attached Single Garage - Proposed Elevations and Floor Plan (Sheet 5 of 7)
TLS:078 P1	Attached Double Garage - Proposed Elevations and Floor Plan (Sheet 6 of 7)
TLS:079 P1	Attached Double Garage - Proposed Elevations and Floor Plan (Sheet 7 of 7)
TLS:007 P2	Amended House Type 3b Bungalow - Proposed Floor Plan and Roof Plan
TLS:008 P2	Amended House Type 3b Bungalow - Proposed Elevations
TLS:009 P2	Amended House Type 3b Bungalow - Proposed Floor Plan and Roof Plan
TLS:010 P2	Amended House Type 3b Bungalow – Proposed Elevations
TLS:012 P2	Amended House Type Almond (Country Brick) – Proposed Elevations

TLS:013 P2 Amended House Type Almond (Country Render) - Proposed Floor Plans and Roof Plan

TLS:014 P2 Amended House Type Almond (Country Render) - Proposed Elevations

TLS:015 P2 Amended House Type Campbell (Std Brick-Modern) – Proposed Elevations and Floor Plan

TLS:016 P2 Amended House Type Campbell (Town Brick) – Proposed Elevations, Floor Plans and Roof Plan

TLS:020 P2 Amended House Type Campbell (Std Brick-Modern) - Proposed Elevations

TLS:021 P2 Amended House Type Cherry (Town Brick) - Proposed Elevations, Floor Plans and Roof Plan

TLS:022 P2 Amended House Type Cherry (Town Render-Front Gable) – Proposed Elevations and Floor Plan

TLS:024 P2 Amended House Type Cherry (Std Brick) - Proposed Elevations

TLS:026 P2 Amended House Type Elm (Std Brick-Modern) - Proposed Elevations

TLS:029 P2 Amended House Type Fitzgerald – Proposed Floor Plans and Roof Plan

TLS:030 P2 Amended House Type Fitzgerald – Proposed Elevations

TLS:031 P2 Amended House Type Japonica (Std Brick-Modern) - Proposed Elevations and Floor Plan

TLS:032 P2 Amended House Type Japonica (Country Brick) - Proposed Elevations and Floor Plan

TLS:034 P2 Amended House Type Japonica-Corner Turner (Country Brick) – Proposed Elevations

TLS:035 P2 Amended House Type Japonica-Corner Turner (Country Render) - Proposed Elevations

TLS:036 P2 Amended House Type Walnut (Std Brick-Modern) - Proposed Elevations and Floor Plans

TLS:038 P2 Amended House Type Mulberry (Country Brick) - Proposed Elevations and Floor Plans

TLS:039 P2 Amended House Type Mulberry (Town Brick) - Proposed Elevations, Floor Plans and Roof Plan

TLS:041 P2 Amended House Type Osbourne (Std Brick-Modern) – Proposed Elevations and Floor Plans

TLS:045 P2 Amended House Type 2b & 3b – Proposed Elevations

TLS:046 P1 House Type Fitzgerald (Plot 41) – Proposed Floor Plans

TLS:047 P1 House Type Fitzgerald (Plot 41) – Proposed Elevations

TLS:048 P1 House Type Japonica (Country Brick) - Proposed Elevations, Floor Plans and Roof Plan

TLS:061 P2 Amended Street Elevations (Sheet 1 Of 5)

TLS:062 P2 Amended Street Elevations (Sheet 2 Of 5)

TLS:063 P2 Amended Street Elevations (Sheet 3 Of 5)

TLS:064 P2 Amended Street Elevations (Sheet 4 Of 5)

TLS:065 P2 Amended Street Elevations (Sheet 5 Of 5)

TLS:801 P2 Amended Site Location Plan

171650-011 Drainage Construction Details (Sheet 1 Of 2)

171650-012 Drainage Construction Details (Sheet 2 Of 2)

171650-013 Attenuation Basin Cross Sections

23/00993/VOC Approved Plans and Documents (superseding previous versions):

TLS:806 P2 Affordable Housing Site Layout

171650-002 C Surface And Foul Water Drainage Strategy

171650-003 B Level Strategy

2 F Open Space Landscape Masterplan

3 C Amended S106 Open Space Plan

TLS:803 P7 Materials Finishes

TLS:804 P2 Parking Plan

TLS:805 P2	Refuse Strategy
TLS:806 P2	Affordable Housing Layout
TLS:808 P2	Cycle/Pedestrian Routes
TLS:809 P2	Road Hierarchy Plan
TLS:810 P2	Storey Heights Plan
TLS:811 P2	Constraints Plan
TLS:800 P14	Amended Site Layout
TLS:802 P3	Amended Block Plan
TLS:807 P3	Amended Enclosures Layout
-	Lighting Calculation Received 08.01.2024
101A	Detailed Hard and Soft Landscaping Scheme
102A	Detailed Hard and Soft Landscaping Scheme
103A	Detailed Hard and Soft Landscaping Scheme

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

10.3 Informatives

Positive and Proactive Statement

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

11. Additional Considerations

Public Sector Equality Duty (PSED)

11.1 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.

11.2 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.

11.3 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
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

11.4 The proposal overall shall have a neutral impact.

11.5 Consultations undertaken with the affected communities or groups have not been required in this case.

11.6 No mitigation measures required.

Human Rights

11.7 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.

11.8 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).

11.9 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

11.10 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.

11.11 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.

12. Background Papers

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

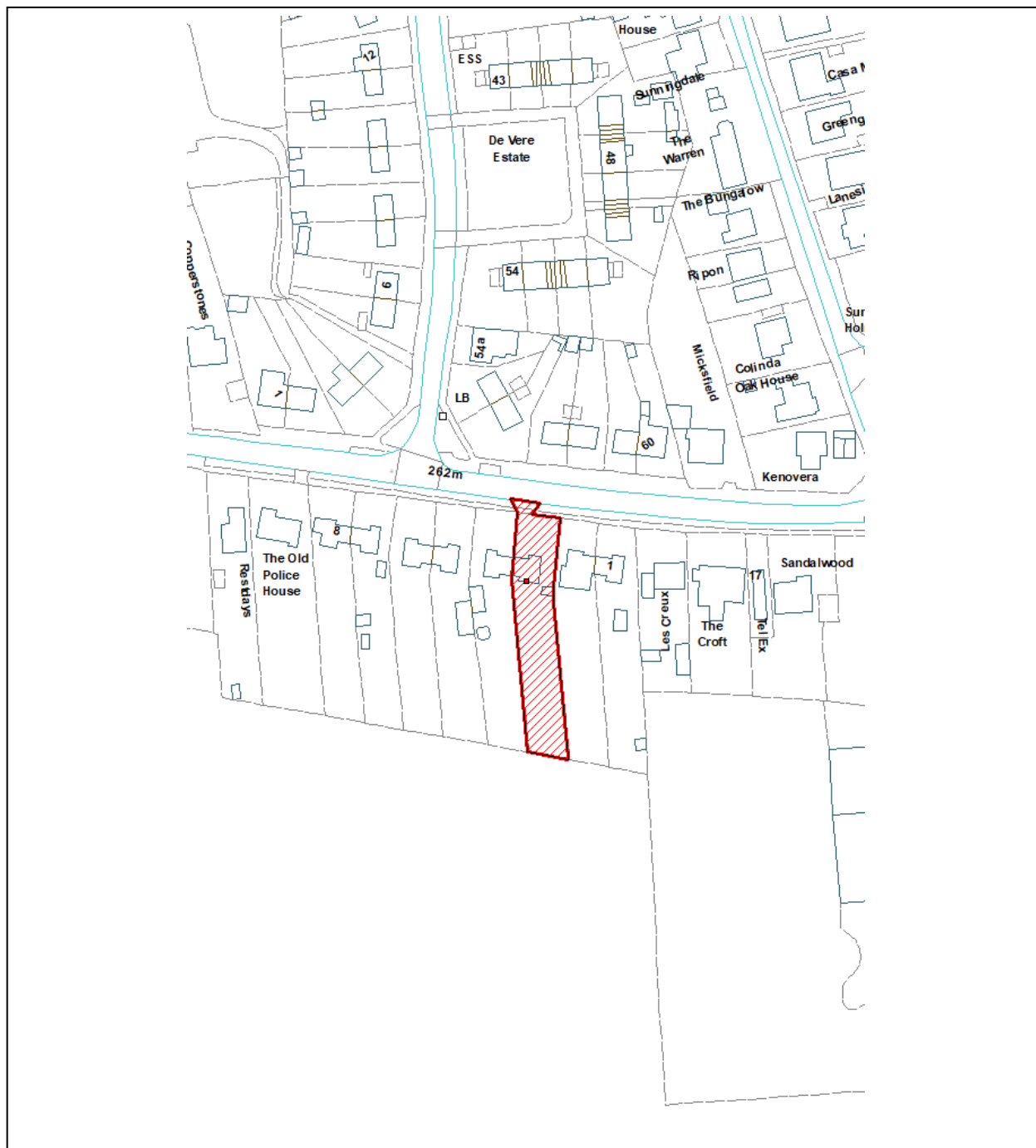
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PLANNING COMMITTEE

12th March 2024

REPORT OF THE DIRECTOR OF PLANNING

A.4 PLANNING APPLICATION – 24/00144/FULHH – 3 THORRINGTON ROAD GREAT BENTLEY CO7 8QE



DO NOT SCALE

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Application:	24/00144/FULHH	Expiry Date:	4th April 2024
Case Officer:	Eve Ramsden	EOT Date:	
Town/ Parish:	Great Bentley Parish Council		
Applicant:	Housing Portfolio Holder - Tendring District Council		
Address:	3 Thorrington Road Great Bentley CO7 8QE		
Development:	New vehicular access.		

1. Executive Summary

- 1.1 The application is brought to Planning Committee as the building is owned by Tendring District Council.
- 1.2 The proposal seeks planning permission for a new vehicular access to the site will measure a maximum of 4.8m in width.
- 1.3 The proposal is a minor improvement to the site which is a small-scale change and will match other similar development within the surrounding area. The proposal is deemed to be of an acceptable size, scale and appearance with no significant adverse effects on the visual amenities of the area.
- 1.4 The proposal is of a small-scale nature which would not result in a significant impact to the amenities to the neighbouring sites.

Recommendation: Approval

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

2. Planning Policy

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

NATIONAL:

National Planning Policy Framework 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
SP7 Place Shaping Principles

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

SPL1 Managing Growth

- SPL3 Sustainable Design
- LP3 Housing Density and Standards
- LP4 Housing Layout
- CP1 Sustainable Transport and Accessibility
- CP2 Improving the Transport Network

Supplementary Planning Guidance:
Essex Design Guide

Local Planning Guidance:
Essex County Council Car Parking Standards - Design and Good Practice

No emerging or adopted neighbourhood plan

Status of the Local Plan

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

Neighbourhood Plans

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

3. Relevant Planning History

24/00144/FULHH New vehicular access. Current

4. Consultations

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

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

ECC Highways Dept

27.02.2024

The information that was submitted in association with the application has been fully considered by the Highway Authority. No site visit was undertaken in conjunction with this planning application. The information submitted with the application has been thoroughly assessed and conclusions have been drawn from a desktop study with the observations below

based on submitted material and google earth image.

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

1. Prior to occupation of the development the vehicular access shall be constructed at right angles to the highway boundary and to the existing carriageway. The width of the access at its junction with the highway shall not be less than 3 metres, shall be retained at that width for 6 metres within the site and shall be provided with an appropriate dropped kerb vehicular crossing of the footway.

Reason: to ensure that vehicles can enter and leave the highway in a controlled manner in the interest of highway safety in accordance with policy DM1 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

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

Reason: To avoid displacement of loose material onto the highway in the interests of highway safety in accordance with policy DM1 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

3. A vehicular turning facility shall be provided, surfaced and maintained free from obstruction within the site at all times for that sole purpose.

Reason: To ensure that vehicles can enter and leave the highway in a forward gear in the interest of highway safety in accordance with policy DM1 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

Informative:

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

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

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

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

5. **Representations**

Great Bentley Parish Council have no objections to the proposal.

There have been no letters of representation received.

6. **Assessment**

Site Context

- 6.1 The application site comprises of a two storey semi detached dwelling located within the development boundary of Great Bentley. The house is set back on its plot with some minor planting along the front boundary. The front of the site is sectioned into two elements with one section comprising of hardstanding and the other laid to lawn.
- 6.2 The surrounding area consists of houses of a similar design to the application dwelling with many already benefiting from vehicular accessed leading to off road parking spaces to the fronts.
- 6.3 The Essex County Council Highways Register confirms that "Thorrington Road" is a "Class III" classified road.

Planning History

- 6.4 There is no relevant history to the site or proposal in this instance.

6.5 Proposal

This application seeks planning permission for a new vehicular access to the front of the site which will measure 4.8m in width.

Appearance

- 6.6 The proposal is of a minor change to the front of the site which will allow for better access for vehicles.
- 6.7 The alteration is minor in nature and will be consistent with other properties already benefiting from existing vehicular access.
- 6.8 The proposal will therefore be considered an appropriate change which would not result in a harmful impact to the appearance and character of the dwelling or area.

Highway Safety/Parking

- 6.9 The Essex County Council Parking Standards states that where a house comprises of two or more bedrooms that 2no parking spaces should be retained which measure 5.5m by 2.9m per space. The area to the front of the site is large enough to accommodate this requirement.
- 6.10 The ECC Highways team have been consulted as part of the application and have provided no objections to the scheme, subject to conditions regarding the width of the access, prevention of the use of unbound materials close to the highways and the provision of a turning facility.
- 6.11 The suggested condition requesting the size of the access is not considered to be necessary in this case as this detail is shown on the plans provided and covered by the condition referring to the approved plans.
- 6.12 The existing site does not benefit from a large turning area at present with half of it being currently a lawned section. The existing hardstanding is already used and established as an area of parking with users accessing this section despite there not being a low kerb.
- 6.13 It is also noted that the access is a minor improvement to just one house in this instance and the introduction of an established turning area could result in a large unattractive area of hardstanding which would appear as an incongruous feature when viewing the house.

- 6.14 Whilst other sites within the vicinity benefit from new vehicular accesses they do not all have areas to turn and manoeuvre on site.
- 6.15 It is therefore considered that the suggested condition requesting an area to turn and manoeuvre vehicles clear of the highway in this instance would not be necessary to the proposal.
- 6.16 The proposal will therefore not contravene highway safety and the condition pertaining to the use of unbound materials within the development will be applied.

Impact on Residential Amenity

- 6.17 The proposal is of a small-scale nature which would not result in a significant impact to the amenities to the neighbouring sites.

7. Conclusion

- 7.1 The proposal has been considered against the national and local policies listed above and is complicit with these. In the absence of material harm resulting from the proposed development the application is recommended for approval.

8. Recommendation

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

8.2 Conditions and Reasons

1. COMPLIANCE REQUIRED: COMMENCEMENT TIME LIMIT

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

REASON: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

NOTE/S FOR CONDITION:

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

2. APPROVED PLANS & DOCUMENTS

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

Drawing No A2024/04/01 Revision A
Photograph showing annotated measurements (Received 8th February 2024)

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

NOTE/S FOR CONDITION:

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

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

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

3. HIGHWAYS CONDITION

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

Reason: To avoid displacement of loose material onto the highway in the interests of highway safety.

8.3 Informatives

Positive and Proactive Statement

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

Highways Informative:

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

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

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

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

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 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 (As known with application)
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
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
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Human Rights

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

Finance Implications

- 9.6 Local finance considerations are a matter to which local planning authorities are to have regard in determining planning applications, as far as they are material to the application. In this case there are none known, but the ownership of the land is Council owned and may have implications.

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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