



## PLANNING COMMITTEE

<b>DATE:</b>	<b>Tuesday, 9 July 2024</b>
<b>TIME:</b>	<b>5.00 pm</b>
<b>VENUE:</b>	<b>Committee Room, Town Hall, Station Road, Clacton-on-Sea, CO15 1SE</b>

### MEMBERSHIP:

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

**Councillor McWilliams**  
**Councillor Smith**  
**Councillor Sudra**  
**Councillor Wiggins**

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

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

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DATE OF PUBLICATION: Monday, 1 July 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 9 - 18)**

To confirm and sign as a correct record, the minutes of the meeting of the Committee, held on Tuesday, 14 May 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 - 23/01699/OUT - Land to the South of Colchester Road, Frating (Pages 19 - 62)**

Outline Planning Application (Access to be considered with all other matters reserved) for new commercial premises.

### **6 Report of the Director (Planning) - A.2 - 24/00035/FUL - Barn A to the Rear of 5 Hunters Chase, Ardleigh, CO7 7LW (Pages 63 - 94)**

Proposed one dwelling in lieu of approved application 22/00359/COUNOT (Barn A). Re-submissions of 23/00773/FUL.

### **7 Report of the Director (Planning) - A.3 - 24/00455/FUL - Land to the Rear of 110 Harwich Road, Little Clacton, CO16 9NJ (Pages 95 - 116)**

Planning Application – three dwellings in lieu of 23/00931/COUNOT.

### **8 Report of the Director (Planning) - 24/00185/FUL - Clacton Rugby Club, Valley Road, Clacton-on-Sea, CO15 6NA (Pages 117 - 128)**

Retention of existing cabin serving as changing room and proposed cabin to extend changing room area, relocation of existing equipment storage structures and other external alterations including new 1.8m high screen fencing (part retrospective).

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

*The next scheduled meeting of the Planning Committee is to be held in the Town Hall, Station Road, Clacton-on-Sea, CO15 1SE at 5.00 pm on Tuesday, 6 August 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 four years (the Council retains three full years 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 5.00 pm in the Committee Room at the Town Hall, Station Road, Clacton-on-Sea CO15 1SE.

### **WHO CAN SPEAK & TIME PERMITTED?** All speakers must be aged 18 or over:

1. The applicant, his agent or representative; or (where applicable) one person the subject of the potential enforcement action or directly affected by the potential confirmation of a tree preservation order, his agent or representative. A maximum of 3 minutes to speak is allowed;
2. One member of the public who wishes to comment on or to speak in favour of the application or someone who produces a signed, written authority to speak on their behalf. A maximum of 3 minutes to speak is allowed;
3. One member of the public who wishes to comment on or speak against the application or someone who produces a signed, written authority to speak on their behalf. A maximum of 3 minutes to speak is allowed;
4. Where the proposed development is in the area of a Parish or Town Council, one Parish or Town Council representative. A maximum of 3 minutes to speak is allowed;
5. All District Councillors for the ward where the development is situated ("ward member") or (if the ward member is unable to attend the meeting) a District Councillor appointed in writing by the ward member. Member(s) of adjacent wards or wards impacted by the proposed development may also speak with the

agreement of the Chairman. Permission for District Councillors to speak is subject to the Council's Code of Conduct and the declarations of interest provisions will apply. A maximum of 5 minutes to speak is allowed;

In accordance, with Council Procedure Rule 36.1, this Public Speaking Scheme takes precedence and no other Member shall be entitled to address or speak to the Planning Committee under Rule 36.1; and

6. A member of the Council's Cabinet may also be permitted to speak on any application but only if the proposed development has a direct impact on the portfolio for which the Cabinet member is responsible. The Leader of the Council must approve the Cabinet Member making representations to the Planning Committee. A maximum of 3 minutes is allowed.

Any one speaking as a Parish/Town Council representative may be requested to produce written evidence of their authority to do so, by the District Council's Committee Services Officer (CSO). This evidence may be an official Minute, copy of standing orders (or equivalent) or a signed letter from the Clerk to the Parish/Town Council and must be shown to the DSO before the beginning of the Planning Committee meeting concerned.

No speaker, (with the exception of Ward Members, who are limited to 5 minutes) may speak for more than 3 minutes on any agenda items associated with applications (such as a planning application and an associated listed building consent application). Speakers may not be questioned at the meeting, nor can any public speaker question other speakers, Councillors or Officers. Speakers are not permitted to introduce any photograph, drawing or written material, including slide or other presentations, as part of their public speaking.

All Committee meetings of Tendring District Council are chaired by the Chairman or, in their absence, the Vice-Chairman whose responsibility is to preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of Councillors and the interests of the community. The Chairman of the Planning Committee therefore, has authority to use their discretion when applying the Public Speaking Scheme to comply with this duty.

## **WHICH MATTERS ARE COVERED BY THIS SCHEME?**

Applications for planning permission, reserved matters approval, listed building consent, conservation area consent, advertisement consent, hazardous substances consent, proposed or potential enforcement action and the proposed or potential confirmation of any tree preservation order, where these are the subject of public reports to the Planning Committee meeting.

## **HOW CAN I FIND OUT WHEN A MATTER WILL BE CONSIDERED?**

In addition to the publication of agendas with written reports, the dates and times of the Planning Committee meetings are shown on the Council's website. It should be noted that some applications may be withdrawn by the applicant at short notice and others may be deferred because of new information or for procedural reasons. This means that deferral takes place shortly before or during the Planning Committee meeting and you will not be able to speak at that meeting, but will be able to do so at the meeting when the application is next considered by the Planning Committee.

## **DO I HAVE TO ATTEND THE PLANNING COMMITTEE MEETING TO MAKE THE COMMITTEE AWARE OF MY VIEWS?**

No. If you have made written representations, their substance will be taken into account and the Committee report, which is available to all Planning Committee Councillors, will contain a summary of the representations received.

## **HOW DO I ARRANGE TO SPEAK AT THE MEETING?**

You can:-

Telephone the Committee Services Officer (“CSO”) (01255 686587 or 686584) during normal working hours on any weekday after the reports and agenda have been published; or

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

## **OR**

On the day of the Planning Committee meeting, you can arrive in the Committee Room in the Town Hall at least 15 minutes before the beginning of the meeting (meetings normally begin at 5.00pm) and speak to the CSO.

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

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

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

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

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

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

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

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

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

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

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

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

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

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



**MINUTES OF THE MEETING OF THE PLANNING COMMITTEE,  
HELD ON TUESDAY, 14TH MAY, 2024 AT 5.00 PM  
HELD IN THE COMMITTEE ROOM, TOWN HALL, STATION ROAD, CLACTON-ON-SEA, CO15 1SE**

<b>Present:</b>	Councillors Fowler (Chairman), White (Vice-Chairman), Alexander, Bray, Goldman, Smith and Wiggins
<b>Also Present:</b>	Councillors Everett and Turner (both items 1 – 5 only)
<b>In Attendance:</b>	Gary Guiver (Director (Planning)), John Pateman-Gee (Head of Planning & Building Control), Ian Ford (Committee Services Manager), Joanne Fisher (Planning Solicitor), Jacob Jaarsma (Planning Team Leader), Michael Pingram (Senior Planning Officer)(except item 6 - 8) and Bethany Jones (Committee Services Officer)
<b>Also in Attendance:</b>	Sue Hooton (Essex County Council Place Services (Ecology)) (except items 6 – 8)

**1. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

Apologies for absence were received from Councillors Everett (with Councillor Bray substituting), McWilliams (with no substitution) and Sudra (with no substitution).

**2. MINUTES OF THE LAST MEETING**

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

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

**3. DECLARATIONS OF INTEREST**

There were no declarations of interest made by Members on this occasion.

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

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

**5. REPORT OF THE DIRECTOR (PLANNING) - A.1 - 23/01191/FUL - TENDRING TECHNOLOGY COLLEGE, ROCHFORD WAY, FRINTON-ON-SEA, CO13 0AZ**

The Committee was informed that the proposal now before it was for the erection of an Artificial Grass Pitch (AGP) on land that formed part of the existing playing pitch within the grounds of Tendring Technology College. This application was before the Planning Committee following a call-in request by Councillor Turner, who had raised his concerns that the development would result in a negative impact on the street scene, was of a poor layout and would result in a negative impact to neighbours.

Officers felt that the proposal would generate a high level of public benefits, notably through the inclusion of modern fit for purpose facilities that could be utilised all year round. Sport England offered strong support despite the part loss of an existing playing

pitch, and Officers were not aware of an alternative location better suited for the proposed development, whilst equally noting that the Playing Pitch Strategy highlighted that there was both a current and future shortfall of youth 11v11 and 9v9 football pitches. A strong level of weight in the overall balance had therefore been given by Officers to the public benefits the scheme would provide.

Furthermore, the proposed development was not considered by Officers to result in significant harm to the character and appearance of the wider area; there was sufficient parking provision and ECC Highways had offered no objections subject to conditions. Similarly, ECC Ecology had not objected to the proposal subject to conditions, and whilst ECC SuDS had initially objected, this had been on more technical matters which had since been addressed.

Members were made aware that, the above notwithstanding, in terms of the impact to neighbouring amenities, whilst from a purely technical perspective the change in noise level was considered to be acceptable due to the absolute noise levels being within the WHO guidelines and the suggested mitigation measures proposed, Officers had equally acknowledged that there would be, inevitably, a degree of noise disturbance given the relatively close proximity of the development to neighbouring properties. Amendments to reduce the operating hours and re-locate the AGP away from neighbouring properties had helped reduce the level of harm, but Officers had still afforded weight to this harm in the overall planning balance.

Similarly, with regard to the impact of the proposed floodlights on neighbouring properties, the lighting plan provided demonstrated that the glare created would not be to an unacceptable level, with all lighting facing inwards towards the pitch. However, given the close proximity of the development to neighbours there would be a degree of visual impact to neighbours, if not from the glare of the floodlights but from the light spillage generated. Officers had afforded this level of harm a low level of weight in the overall planning balance.

The Committee was advised that, taking all of the detailed considerations above into consideration, Officers had concluded that, on this occasion, there were strong wider public benefits of the proposed development that outweighed the identified harm and with careful assessment the planning application had therefore been recommended for approval.

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

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

Prior to the commencement of the meeting, an update sheet had been circulated to Members with details of one additional letter of objection that had been received. The letter stated that the impact and close proximity to local residents of this application must be considered.

Robert Rouse, representing the applicant, spoke in favour of the application.

Ainsley Davidson, a member of the public, spoke in favour of the application.

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

Councillor Richard Everett, a Ward Member, spoke against the application.

Councillor Nick Turner spoke against the application in his capacities of a Ward Member, the caller-in of the application and a Frinton and Walton Town Councillor.

Sue Hooton, ECC Place Services (Ecology) responded to points made by Councillor Everett in his speech.

<b>Matters raised by Members of the Committee:-</b>	<b>Officer's response thereto:-</b>
<i>With reference to Natural England's guidance entitled "Bats: advice for making planning decisions" and "Protected species and development: advice for local planning authorities", other than the ecology assessment referred to in the Officers' report, have any other surveys relating to ecology in any way been done?</i>	<i>No, there have been no further surveys undertaken.</i>
<i>Why would we not follow the advice of Natural England here when normally we would strive to do so?</i>	<i>Reference was made to the Government's National Planning Policy Practice Guide, which stated that you "should". It did not say that you "had to". You should ask for a survey if the proposed development is likely to negatively affect Bats on their roost habitats, foraging habitats or commuting habits. It did also go on to say a survey is required if one, or more, of the following applies: (1) Historical records [not the case here]; (2) the development site includes buildings or other built structures, underground structures or trees that provide roosting opportunities for bats [not aware that this is the case here]; (3) the proposal includes floodlighting of buildings [this was where there was a conflict here as this proposal had floodlighting that was isolated but was not floodlighting buildings or habitats that the bats tended to use. That was where judgement was involved.]; (4) close to water bodies [not applicable here]; (5) close to cliff faces or quarries [again not applicable here]; (6) windfarm proposal [not applicable here]. Ultimately the technical position was correct that had been put forward to Members by the Officers though it was acknowledged that some Members would disagree with that but ultimately it was a judgement issue that was best left to Members' debate.</i>

<p><i>Does not the guidance also refer to the floodlighting of 'green spaces' and therefore as this an application involving a 'green space' then no judgement was required here?</i></p>	<p><i>The entirety of that was "green space close to habitats that bats tend to use". Again the judgement made by Officers was to consider just "how close".</i></p>
<p><i>With reference to the independent acoustic survey organised by the local residents in no place in the report can I find that which is strange given that it did come up with different answers to the survey done by the applicant. That is a concern. Why have we not analysed one against the other given that they are both fully independent surveys and they should both carry significant weight against each other? Why have we assumed one is right and one is wrong?</i></p>	<p><i>The Officer referred the Member to paragraph 8.32 of the Officer written report.</i></p>
<p><i>Can you confirm whether the running track is hard-based, or grassed? If hardstanding what is made from?</i></p>	<p><i>Understanding is that it was hardstanding. Not known what the substance was.</i></p>
<p><i>Will there be provision for spectators and where will they be?</i></p>	<p><i>Potentially there could be room at the sides for spectators. This would be standing only i.e. no seating would be provided. The potential noise from spectators was factored into the noise impact assessment.</i></p>
<p><i>So you confirm that there could be spectators present?</i></p>	<p><i>Yes, there was potential for spectators but there would be no official spectating area provided?</i></p>
<p><i>Where will the changing rooms be? Believe that this is important to this application so what will be the arrangements?</i></p>	<p><i>That did not form part of this proposal. It was assumed that many would turn up already to play/participate. Otherwise, arrangements would need to be made to use the facilities within the college buildings.</i></p>
<p><i>How high are the floodlights compared to the trees present?</i></p>	<p><i>Officer showed images on screen that compared the floodlight height to the nearest local properties. The floodlights would be higher than the average height of a two-storey building.</i></p>
<p><i>Is there potential for those floodlights to shine into residents' back gardens and their properties?</i></p>	<p><i>The floodlights would face inwards so there would be no glare effect on local residents but there would undoubtedly, be some light spillage.</i></p>
<p><i>This is a big block of light that will be able to be seen from quite a distance way. Is this fair?</i></p>	<p><i>The distance to the nearest properties is 23 to 29m. It was accepted that there would be an impact but overall on balance this application had been deemed by Officers to be acceptable.</i></p>
<p><i>Concerned that this floodlighting would lead to a</i></p>	<p><i>Officers are confident that based on the information provided within the application</i></p>

<i>negative impact on local bats, which are a protected species. Some species of bats can be affected by lux levels of less than one. So why are we not doing more?</i>	<i>documents there would be no impact on bats.</i>
<i>What planting will be included on the bund and how long will it take to have an effect?</i>	<i>The Council's Tree Officer was content with the landscaping scheme proposed. The trees would be 3m to 5.5m in height at the time of planting and would be planted on top of the 1.1m high bund so there would be a good level of screening provided.</i>
<i>Concerned about the position of the bund. Any spectators using it would be able to look into residents' back gardens. Is there a condition putting the bund out of bounds.</i>	<i>No proposed condition at present. As part of the application documents, a fence was proposed to be installed in order prevent access onto the bund.</i>
<i>With reference to the possible links between rubber crumb based artificial pitches and cancer, why have we not taken more account of this?</i>	<i>This was not currently covered within the planning legislation. It was not a banned substance within the UK and it was not covered in the Council's local plan policies.</i>
<i>Was the Officers' recommendation of approval finely balanced and therefore could it have been quite easy for Officers to have gone the opposite way?</i>	<i>Yes, this was a finely balanced judgement. Officers do not deny that there will be some harm caused by this application but felt that this was just outweighed by the overall benefits to the public. It was a close call.</i>

The Chairman then adjourned the meeting for a short period of time, at the request of the Head of Planning & Building Control, in order to enable that Officer to seek advice from the Planning Solicitor and colleagues including the Director (Planning).

Following the resumption of the meeting, the Head of Planning & Building Control addressed the Committee as follows:-

*"I appreciate the debate that is about to go ahead is likely to be discussing bats quite considerably. We have obviously taken the time out to consider all of the comments and views raised on this particular issue and ultimately while there are questions about the legality of any decision making, which we are very comfortable with, there is a judgement in respect of the options available. That judgement is a judgement, which you as the decision maker can make. So you perhaps would be minded to consider if you were minded to approve the application that a deferment in respect of seeking a bat survey and ultimately then the application coming back with those results would be a cautious approach that would be recommended. I would add just in addition to that consideration of page 56 and condition number 16 that does reflect the need for a floodlighting design scheme for biodiversity in accordance with the Circular [GN:08/23 Bats and Artificial External Lighting (ILP)] and ultimately that condition would not be discharged without it being clearly demonstrated that bats would not be harmed as a consequence of that lighting scheme. However, setting that condition aside, it is a cautious approach that you may wish to consider appropriately if you were to look at*

*approval as recommended to seek a survey of bats, which ultimately come back to this Committee on that basis. That's the position we are comfortable with and would seek to recommend to you as part of your debate."*

Following the debate, it was moved by Councillor White, seconded by Councillor Bray and, unanimously,:-

**RESOLVED** that consideration of this application be deferred to enable the following to be carried out/investigated:-

- Bat survey;
- Details on construction approach being mindful of school children's presence on site;
- Residents' noise survey review;
- Any possible change to layout/orientation of the 3G AGP.

**6. REPORT OF THE DIRECTOR (PLANNING) - A.2 - 23/01594/FUL, BATHSIDE BAY, STOUR ROAD, HARWICH, CO12 3HF**

The Committee was made aware that the proposal now before it sought permission for the temporary use of the Bathside Bay Container Terminal (BBCT) platform, established under the BBCT permission, as a "Green Energy Hub" (GEH). The GEH was designed and clearly intended to increase, for a temporary period of 15 years, port capabilities to accommodate the rapidly growing offshore energy sector, aligning with the Government's ambitions of installing 50 Giga Watt of offshore wind generating capacity by 2030. Moreover, the proposed GEH would facilitate activities such as wind turbine storage, assembly, and servicing for a temporary period of up to 15 years.

Officers felt that this temporary repurposing allowed for the beneficial use of the BBCT development before the full capacity of the BBCT was required, which was projected to be between 2034 and 2042. Additionally, the proposal would contribute extensively to the advancement of Freeport East, playing a key role in establishing Bathside Bay as a key component of Freeport East's development, in accordance with relevant local and central government objectives for the region.

Insofar as the principle of development was concerned, for the most part, the Local Plan was silent on offshore proposals for storage and distribution facilities for the off shore renewable energy sector, however this proposal was for a temporary change of use to take place on already approved infrastructure (the container terminal platform for the BBCT development). Having regard to the above, the NPPF, in paragraphs 157, 160 and 163 offered very strong support for proposals involving renewable and low carbon energy and associated infrastructure. Local Plan policy PPL10 stated that proposals for renewable energy schemes would be considered having regard to their scale, impact (including cumulative impact) and the amount of energy, which was to be generated.

Members were informed that the development had been purposefully designed to ensure its compatibility with the ongoing use of the platform for BBCT, without slowing or impacting its progression. The activities associated with this GEH had been designed to be entirely reversible and the Applicant had demonstrated that carrying out the works required for the platform to operate as a temporary GEH would not prohibit the BBCT development from being fully completed after the GEH use ceased operation. In the event that planning permission was granted and upon cessation of the use, the site would be restored to its original state and details around those requirements could be

secured by condition stipulating the removal and reinstatement of the site in accordance with an approved decommissioning strategy, overseen by the local planning authority.

It was reported that Officers and Essex County Council’s ecology department considered that the proposal would not result in significant adverse effects on the Stour and Orwell Estuaries Special Protection Area and Ramsar Site.

The Committee was advised that all other material planning considerations, including statutory and third-party concerns had been adequately addressed through the submission of further information, and where relevant, would be covered in the forthcoming submission of further information as required under necessary, reasonable and relevant planning conditions (as set out in section 9 of the Officer report (A.2)), or where not exclusively relevant to planning, or indeed where matters straddled planning and marine law, a separate application for a Marine Licence would cover those matters.

Accordingly, Officers felt that the proposal was acceptable in principle and it had therefore been recommended for approval.

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

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

There were no updates circulated to Members in respect of this application.

John Bowles, agent acting on behalf of the applicant, spoke in support of the application.

Steve Beel, Chief Executive of Freeport East and member of the public, spoke in support of the application.

<b>Matters raised by Members of the Committee:-</b>	<b>Officer’s response thereto:-</b>
<i>Is it correct that after this temporary permission the site will revert back to the BBCT permission?</i>	<i>Yes, that was correct.</i>
<i>How will the components be brought to the site?</i>	<i>Most and especially the larger components would arrive by sea, Some smaller components would likely come by road.</i>
<i>How large will the boats be that will be docking at this site?</i>	<i>That would be decided by the Marine Management Organisation who would determine, in due course, the Marine Licence application.</i>

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

**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.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
- (b) informative notes, as may be deemed necessary, be sent to the applicant.

**7. REPORT OF THE DIRECTOR (PLANNING) - A.3 - PLANNING ENFORCEMENT UPDATE**

The Committee had before it the latest planning enforcement update based on live information taken on 17th April 2024.

Members were aware that the enforcement policy sought to report the following areas:-

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

Members noted that some areas continued not to be available given the resource to export information from the available system, or as addressed directly in the report. Replacement of Microsoft Access as the main reporting tool was being explored, but transfer of the entire database across to a cloud based server this year and an upgrade of the Uniform system had delayed such efforts.

**RESOLVED** that the contents of this report (A.3) be noted.

**8. REPORT OF THE DIRECTOR (PLANNING) - A.4 - PLANNING APPEAL ANNUAL UPDATE**

The Committee had before it the annual update on planning appeals based on live information taken on 17th April 2024 for the period 1st April 2023 to 1st April 2024.

This report for planning appeals focused on appeal decisions against planning permission decisions, tree decisions and planning enforcement notice appeals. In total, for the period covered there had been 68 planning appeals with details as follows:-

Development Management Appeals (Total 65)

Allowed: 14  
Dismissed: 46  
Split: 1  
Turned away by PINNS without decision: 2  
Withdrawn by applicant: 2



Enforcement Appeals (Total 3)

Dismissed: 1

Split: 1

Withdrawn: 1

Notes:-

*Allowed: The applicant won the appeal against the Council*

*Dismissed: The applicant did not win the appeal against the Council*

*Split: Part of the appeal proposal was successful and part was not.*

*Withdrawn / Turned away: Not determined as appeals.*

**RESOLVED** that the contents of this report (A.4) be noted.

The meeting was declared closed at 7.20 pm

**Chairman**

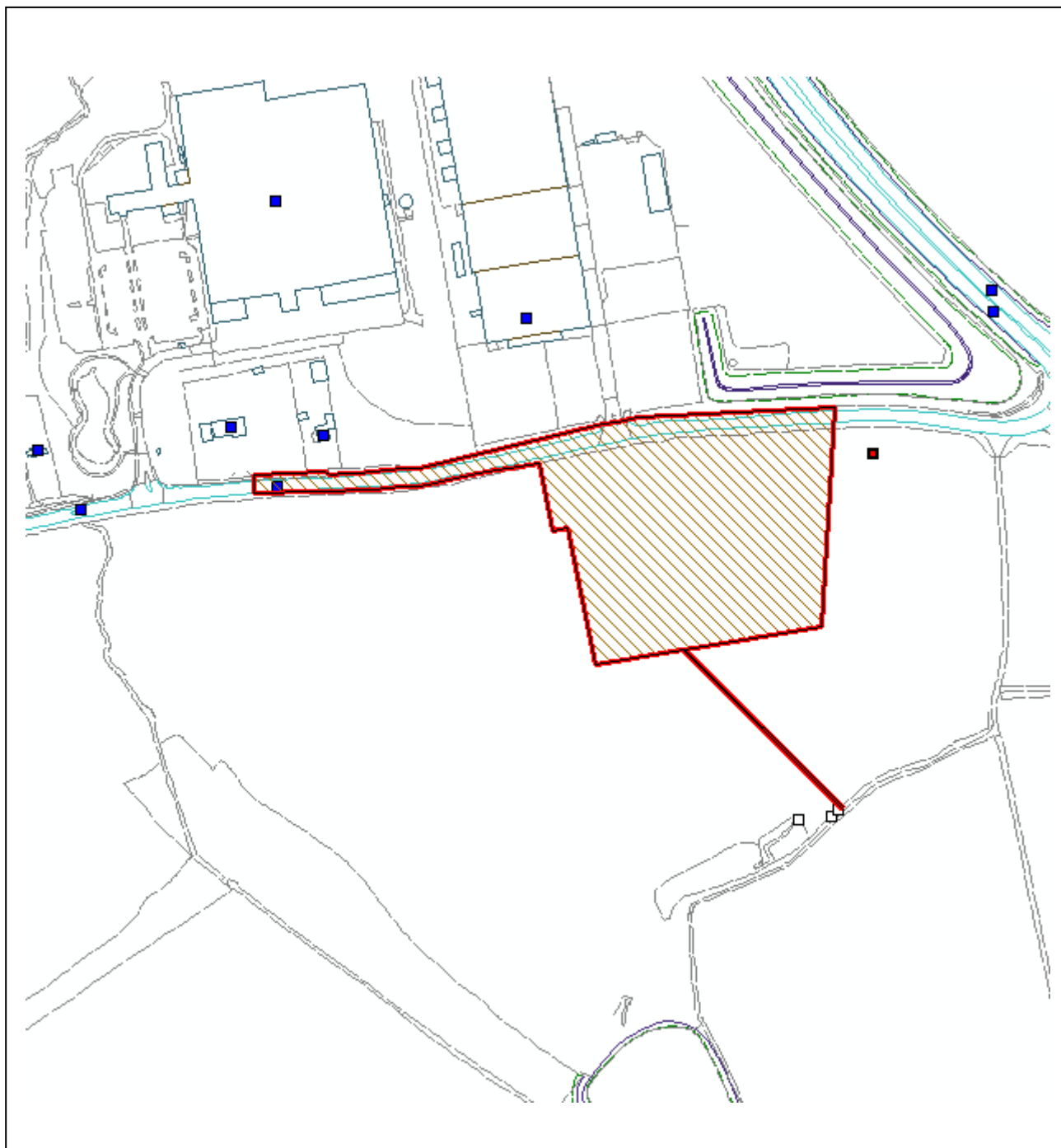
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## PLANNING COMMITTEE

9 JULY 2024

### REPORT OF THE DIRECTOR OF PLANNING

#### A.1 PLANNING APPLICATION – 23/01699/OUT – LAND TO THE SOUTH OF COLCHESTER ROAD, FRATING



DO NOT SCALE

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<b>Application:</b>	23/01699/OUT	<b>Expiry Date:</b>	29th February 2024
<b>Case Officer:</b>	Michael Pingram	<b>EOT Date:</b>	23rd July 2024
<b>Town/ Parish:</b>	Great Bentley Parish Council		
<b>Applicant:</b>	Dalau Limited		
<b>Address:</b>	Land to The South of Colchester Road, Frating		
<b>Development:</b>	Outline Planning Application (Access to be considered with all other matters reserved) for new commercial premises.		

## 1. Executive Summary

- 1.1 This application is before the Planning Committee at the discretion of the Director of Planning and seeks outline planning permission (with all matters reserved bar access) for the erection of a commercial premises. The indicative plans show the building to measure approximately 7,200sqm which would be split between factory use (70%) and office use (30%) and would also accommodate 153 parking spaces.
- 1.2 The relocation of the site from its current base in Clacton-on-Sea would facilitate the expansion of a successful local business, thereby generating significant economic benefits. Additionally, it has been demonstrated that no sites allocated for employment use in the adopted local plan would be suitable. Taking this into account, Officers afford great weight to these benefits.
- 1.3 While the proposal is in outline form, it is considered that the indicative layout, scale and design would be acceptable. There will be no significant harm to neighbouring amenities given the separation distances, and similarly no significant harm to any heritage assets. No harm to existing trees has been identified, and following discussions, ECC Highways, ECC Ecology and ECC SuDS raise no objections subject to conditions.
- 1.4 There will be a degree of harm to the landscape character given that the site is currently an open parcel of agricultural land. However, on this occasion it is also noted that there is significant existing built form in close proximity, admittedly on the northern section of Colchester Road, and the applicant has demonstrated the harm would not be to a significant level, particularly over the passage of time as vegetation matures. That said, a small level of weight is attached to this identified harm.
- 1.5 In conclusion, while it is noted there will be a degree of harm to the landscape character of the area, on this occasion the economic benefits of the development are considered to outweigh this. The application is therefore considered to comply with local and national planning policies and is recommended for approval.

### **Recommendation:** Approval

- 1) That the Head of Planning and Building Control be authorised to grant outline planning permission 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 Local Plan 2013-33 and Beyond (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 made and the Minerals and Waste Local Plans adopted by Essex County Council.

## 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>

There are no emerging or adopted neighbourhood plans relevant to the application site.

## 4. **Planning Policy**

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

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

Local:

Tendring District Local Plan 2013-2033 and Beyond Section 1:

SP1 Presumption in Favour of Sustainable Development  
SP3 Spatial Strategy for North Essex  
SP5 Employment  
SP6 Infrastructure and Connectivity  
SP7 Place Shaping Principles

Tendring District Local Plan 2013-2033 and Beyond Section 2:

SPL1 Managing Growth  
SPL3 Sustainable Design  
PP6 Employment Sites  
PP7 Employment Allocations  
PP13 The Rural Economy  
PPL1 Development and Flood Risk  
PPL3 The Rural Landscape  
PPL4 Biodiversity and Geodiversity  
PPL5 Water Conservation, Drainage and Sewerage  
PPL9 Listed Buildings  
PPL10 Renewable Energy Generation  
CP1 Sustainable Transport and Accessibility

## 5. Relevant Planning History

91/00074/OUT	Sports stadium, business park including hotel, Class B1,B8 uses all related parking, open space access facilities and sewage treatment works	Withdrawn	17.04.1992
23/01699/OUT	Outline Planning Application (Access to be considered with all other matters reserved) for new commercial premises.	Current	

## 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/>.

### ECC SuDS Consultee

**03.01.2024 (initial comments)**

Thank you for your email received on 07/12/2023 which provides this Council with the opportunity to assess and advise on the proposed surface water drainage strategy for the above mentioned planning application.

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

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

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

#### Lead Local Flood Authority position

Having reviewed the Flood Risk Assessment and the associated documents which accompanied the planning application, we wish to issue a holding objection to the granting of planning permission based on the following:

- Please provide some information regarding how the pipework from the basin to the discharge outfall will be safeguarded by any future works since it lies outside of the red line planning boundary for 23/01699/OUT.
- Please confirm that the proposed site usage is not of an industrial nature and that chemicals and fuels (other than domestic fuel oil) are not intended to be delivered, handled, stored, used or manufactured onsite. These site usages would warrant a high pollution hazard level.

<https://www.essexdesignguide.co.uk/suds/water-quality/>

**ECC SuDS Consultee 08.02.2024 (additional comments following additional information provided)**

Thank you for your email received on 30/01/2024 which provides this Council with the opportunity to assess and advise on the proposed surface water drainage strategy for the above mentioned planning application.

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

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

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

**Lead Local Flood Authority position**

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

**Condition 1**

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

- Verification of the suitability of infiltration of surface water for the development. This should be based on infiltration tests that have been undertaken in accordance with BRE 365 testing procedure and the infiltration testing methods found in chapter 25.3 of The CIRIA SuDS Manual C753. Infiltration testing and groundwater monitoring must be carried out specific to the location of the proposed infiltration features. Furthermore, due to the failed infiltration rate at TP01, it may be necessary for the permeable paved car park to have a piped connection. This should be determined by further testing and reviewed at detailed design.
- As a hybrid scheme is proposed, limiting discharge rates to 1l/s for all storm events up to and including the 1 in 100 year plus 45% allowance for climate change storm event. All relevant permissions to discharge from the site into any outfall should be demonstrated.
- Confirmation regarding access and maintenance to the pipe work leading to the watercourse.
- Provide sufficient storage to ensure no off site flooding as a result of the development during all storm events up to and including the 1 in 100 year plus 45% climate change event.
- Demonstrate that all storage features can half empty within 24 hours for the 1 in 30 plus 45% climate change critical storm event. Where the half drain down time is greater than 1440 minutes, it must be demonstrated that features are able to accommodate a 1 in 10 year storm events within 24 hours of a 1 in 30 year event plus 45% climate change.
- Final modelling and calculations for all areas of the drainage system, inclusive of a manhole schedule and the use of a MADD Factor of 0.
- The appropriate level of treatment for all runoff leaving the site, in line with the Simple Index Approach in chapter 26 of the CIRIA SuDS Manual C753.

Demonstration of an appropriate 'train' of SuDS components to reduce the risk of pollutants entering the watercourse or groundwater (given the site is within an Aquifer and a SPZ).

- The ground report identified a thin layer of made ground at locations WS5, WS6, WS8 and WS10. Where made ground is present, unless removed during the earthworks period, the

SuDS features should be lined, especially considering the Aquifer and SPZ designation.

- Detailed engineering drawings of each component of the drainage scheme, including the basin, swale, permeable paving etc.
- A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features.
- An updated drainage strategy incorporating all of the above bullet points including matters already approved and highlighting any changes to the previously approved strategy.

The scheme shall subsequently be implemented prior to occupation. It should be noted that all outline applications are subject to the most up to date design criteria held by the LLFA.

#### Reason

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

#### Condition 2

No works shall take place until a scheme to minimise the risk of offsite flooding caused by surface water run-off and groundwater during construction works and prevent pollution has been submitted to, and approved in writing by, the local planning authority. This must include details regarding mitigation measures within the SPZ and how soil compaction will be minimised. The scheme shall subsequently be implemented as approved.

#### Reason

The National Planning Policy Framework paragraph 167 and paragraph 174 state that local planning authorities should ensure development does not increase flood risk elsewhere and does not contribute to water pollution.

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

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

#### Condition 3

Prior to occupation a maintenance plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, has been submitted to and agreed, in writing, by the Local Planning Authority.

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



#### Reason

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

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

#### Condition 4

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

#### Reason

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

We also have the following advisory comments:

- We strongly recommend looking at the Essex Green Infrastructure Strategy to ensure that the proposals are implementing multifunctional green/blue features effectively. The link can be found below.

<https://www.essex.gov.uk/protecting-environment>

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

- Any works to a ditch may require a S23 Ordinary Watercourse Consent. Please see the below link for more information and how to apply. <https://flood.essex.gov.uk/maintaining-or-changing-a-watercourse/>

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

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

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

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

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

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

**INFORMATIVES:**

- Essex County Council has a duty to maintain a register and record of assets which have a significant impact on the risk of flooding. In order to capture proposed SuDS which may form part of the future register, a copy of the SuDS assets in a GIS layer should be sent to suds@essex.gov.uk.
- Any drainage features proposed for adoption by Essex County Council should be consulted on with the relevant Highways Development Management Office.
- Changes to existing water courses may require separate consent under the Land Drainage Act before works take place. More information about consenting can be found in the attached standing advice note.
- It is the applicant's responsibility to check that they are complying with common law if the drainage scheme proposes to discharge into an off-site ditch/pipe. The applicant should seek consent where appropriate from other downstream riparian landowners.
- The Ministerial Statement made on 18th December 2014 (ref. HCWS161) states that the final decision regarding the viability and reasonableness of maintenance requirements lies with the LPA. It is not within the scope of the LLFA to comment on the overall viability of a scheme as the decision is based on a range of issues which are outside of this authority's area of expertise.
- We will advise on the acceptability of surface water and the information submitted on all planning applications submitted after the 15th of April 2015 based on the key documents listed within this letter. This includes applications which have been previously submitted as part of an earlier stage of the planning process and granted planning permission based on historic requirements. The Local Planning Authority should use the information submitted within this response in conjunction with any other relevant information submitted as part of this application or as part of preceding applications to make a balanced decision based on the available information.

**ECC Highways Dept**

**10.04.2024**

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 submitted material and in conjunction with a site visit. The Transport Assessment is comprehensive and provides information directly applicable to this business in relation to, staff numbers, location, delivery/servicing vehicles and how this will transfer to the proposed site. In addition, some of the existing staff and operational trips associated with the existing company are likely to be already on the highway network. The Highway Authority have looked at the increase that the Delau trips have demonstrated in the model, and these are showing a minimal increase, considering these factors:

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

1. No development shall take place, including any ground works or demolition, until a Construction Management Plan has been submitted to, and approved in writing by, the local planning authority. The approved plan shall be adhered to throughout the construction period. The Plan shall provide for:
  - i. the parking of vehicles of site operatives and visitors,
  - ii. loading and unloading of plant and materials,

- iii. storage of plant and materials used in constructing the development,
- iv. wheel and underbody washing facilities,
- v. traffic management plan and route card for construction traffic avoiding Frating and Elmstead.

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

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

- a) As indicated in principle on drawing no. 502042 IWD XX XX DR C 6000 P04, a new priority junction off Colchester Road to provide access to the proposed site.
- b) A dedicated right turn lane to be designed in accordance with DMRB standards, incorporating refuge islands as indicated in principle on drawing no. 502042 IWD XX XX DR C 6000 P04.
- c) The road junction at its centre line shall be provided with a minimum clear to ground visibility splays of 2.4m x 160m in both directions, as measured from and along the nearside edge of the carriageway and retained free of any obstruction at all times.
- d) As indicated in principle on drawing no. 502042 IWD XX XX DR C 6002 P01, and where possible the existing footway to be widened to maximum 2-metres or minimum 1.8 metres on the north side of Colchester Road to the existing bus stop facilities east of the Car Auction access. The provision of a new 2-metre-wide footway on the south side from the development site to the new bus stop.
- e) To current Essex County Council specification, the upgrade of the nearest bus stop on north side of Colchester Road, and east of the Car Auction access and a new bus stop to be provided on the south side of Colchester Road (details shall be agreed with the Local Planning Authority and Essex County Council prior to commencement of the development).
- f) Where the existing 40-mph speed limit terminates west of the proposed development site the provision of a 50-mph speed limit to be provided eastwards to incorporate the new development and to include the provision of a gateway feature at the new location for the terminal signs east of the development site (details shall be agreed with the Local Planning Authority and Essex County Council prior to commencement of the development).

Reason: To protect highway efficiency of movement and safety and to ensure the proposal site is accessible by more sustainable modes of transport such as public transport, cycling and walking, in accordance with policy DM1, DM7 and DM9.

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

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

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

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

5. Prior to first occupation of the development, details of the travel arrangements to and from the site for employees, customers, and visitors, within the proposed workplace Travel Plan

shall be submitted for the approval in writing by the local Planning Authority in consultation with the Highway Authority. The workplace Travel Plan must contain but not be restricted to the following:

- a) Baseline travel data based upon the information provided in the Transport Assessment, with suitable measures, objectives and targets identified targets to reduce the vehicular trips made by employees, customers, and visitors across the whole development, with suitable remedial measures identified to be implemented if these objectives and targets are not met.
- b) Appointment of a suitably qualified Travel Plan Coordinator to implement the Travel Plan in full and clearly identify their contact details in the Travel Plan.
- c) A commitment to monitor the vehicular trips generated by the employees, customers, and visitors, and submit a revised Travel Plan no later than six months after occupation of the commercial premises.
- d) A commitment to monitor the Travel Plan annually on each anniversary of the approval of the Full Travel Plan and provide the outcome in a revised Travel Plan to be submitted to and approved in writing by the Local Planning Authority and Essex County Council for a minimum period of five years using the same methodology as the baseline monitoring.
- e) A suitable marketing strategy to ensure that all employees on the site are engaged in the Travel Plan process.
- f) Confirmation and evidence of agreement with a local taxi business to provide a free taxi home for car sharers (who have been let down) and employees that have travelled by bus to work for an evening shift and cannot access existing bus services.
- g) A copy of an employee travel pack that includes information to encourage employees to use sustainable travel in the local area.

The site shall not be occupied until the workplace Travel Plan has been agreed. The approved travel plan measures shall be implemented in accordance with a timetable that shall be included in the workplace Travel Plan and shall thereafter adhered to in accordance with the approved workplace Travel Plan.

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

6. A Traffic Management Plan and Route Card shall be provided outlining a designated route to and from the site for the majority of HGV movements via the A133 Colchester Road/ A120 route to be agreed in advance with the Local Planning Authority in consultation with the Highway Authority.

Reason: To control the location and direction of HGV vehicle movements to and from the site in the interests of highway safety and Policy DM1.

7. The public's rights and ease of passage over bridleway no. 2 (Great Bentley\_165) shall be maintained free and unobstructed at all times.

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

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

Notes:

- o The Speed Limit Order process is a separate statutory process that can attract comment/objections that require determination, and that outcome cannot be pre judged.
- o DMRB compliance table, including any departures or relaxation from standards will be required.
- o A Stage 1 RSA for the proposed access and highway improvement measures to be provided,

ideally to be carried out by Essex Highways (to avoid the issue of additional items being identified at RSA2 stage which can then delay technical approval) roadsafety.audit@essexhighways.org

- o The above requirements should be imposed by way of negative planning conditions or planning obligation agreements as appropriate
- o Prior to any works taking place in the highway the developer should enter into an S278 agreement with the Highway Authority under the Highways Act 1980 to regulate the construction of the highway works.
- o Street lighting will be provided in accordance with ECC Operational Plan.
- o All highway related details should be agreed with the Highway Authority.
- o The development should be in accordance with the Parking Standards Design and Good Practice Supplementary Planning Document dated September 2009.

### **Environmental Protection**

**12.12.2023**

With reference to the above application, please see below for comments from the EP Team:

Noise: With reference to the submitted NIA, dated September 2023, I can confirm we are satisfied with the methodology and the findings of the report and as such have no further comments to make in relation to this.

Contaminated Land: With reference to the submitted Geo-Tech report dated November 2023, I can advise we are satisfied with the report methodology and findings. Section 6 of the report outlines recommendations in regards to mitigation. Providing all recommendations are followed and implemented, we have no reason to object in relation to this aspect.

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 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.

#### o Noise Control

1) The use of barriers to mitigate the impact of noisy operations will be used where possible. This may include the retention of part(s) of the original buildings during the demolition process to act in this capacity.

2) No vehicle connected with the works to arrive on site before 07:30 or leave after 19:00(except in the case of emergency). Working hours to be restricted between 08:00 and 18:00 Monday to Saturday (finishing at 13:00 on Saturday) with no working of any kind permitted on Sundays or any Public/Bank Holidays.

3) The selection and use of machinery to operate on site, and working practices to be adopted will, as a minimum requirement, be compliant with the standards laid out in British Standard 5228.

4) Mobile plant to be resident on site during extended works shall be fitted with non-audible reversing alarms (subject to HSE agreement).

5) Prior to the commencement of any piling works which may be necessary, a full method statement shall be agreed in writing with the Planning Authority (in consultation with Pollution and Environmental Control). This will contain a rationale for the piling method chosen and details of the techniques to be employed which minimise noise and vibration to nearby residents.

6) If there is a requirement to work outside of the recommended hours the applicant or contractor must submit a request in writing for approval by Pollution and Environmental Control prior to the commencement of works.

#### o Emission Control

1) All waste arising from the demolition process, ground clearance and construction processes to be recycled or removed from the site subject to agreement with the Local Planning Authority

and other relevant agencies.

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

3) All reasonable steps, including damping down site roads, shall be taken to minimise dust and litter emissions from the site whilst works of construction and demolition are in progress.

4) All bulk carrying vehicles accessing the site shall be suitably sheeted to prevent nuisance from dust in transit.

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

REASON: to protect the amenity of nearby residential dwellings

**Essex County Council Ecology**

**19.12.2023**

Thank you for consulting Place Services on the above outline application.

No objection subject to securing biodiversity mitigation and enhancement measures.

Summary

We have reviewed the Preliminary Ecological Appraisal Report (Practical Ecology, August 2022) relating to the likely impacts of development on designated sites, protected and Priority species & habitats and identification of appropriate mitigation measures.

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

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

The mitigation measures identified in the Preliminary Ecological Appraisal Report (Practical Ecology, August 2022) should be secured by a condition of any consent and implemented in full. This is necessary to conserve and enhance protected and Priority species particularly nesting birds and Hedgehog.

Although, potential impacts to Hazel Dormouse are not considered significant, due to the small scale of the section of hedgerow to be removed, required to facilitate the inclusion of a new access road, the Preliminary Ecological Appraisal Report (Practical Ecology, August 2022) however recommends that a precautionary non-licenced method statement be produced to manage any residual risks to this European Protected Species. This non-licenced method statement should be secured by condition of consent.

We also support the proposed reasonable biodiversity compensation measures of hedgerow planting, and three House Sparrow terraces, and biodiversity enhancements of two Dormouse nest boxes, ten Swift boxes, two solitary beehives, two bat boxes, additional hedgerow planting, and a wildlife beneficial soft landscaping scheme, which have been recommended to secure net gains for biodiversity, as outlined under Paragraph 174d of the National Planning Policy Framework (2023). The reasonable biodiversity enhancement measures should be outlined within a Biodiversity Enhancement Strategy and should be secured by a condition of any consent.

Furthermore, to ensure that compensation and enhancement measures, including the compensatory hedgerow planting, are managed appropriately for the long-term benefit of

biodiversity, a Landscape and Ecological Management Plan (LEMP) should be produced and secured by condition of consent.

In addition, the Preliminary Ecological Appraisal Report (Practical Ecology, August 2022) highlights that it is likely bats could be foraging/commuting within and around the site's boundary features. Therefore, if any external lighting is to be proposed, it is advised that a sensitive lighting scheme is developed to minimise any impacts. This should summarise the following measures will be implemented:

- o Light levels should be as low as possible as required to fulfil the lighting need.
- o Warm White lights should be used at <2700k. This is necessary as lighting which emit an ultraviolet component or that have a blue spectral content have a high attraction effect on insects. This may lead in a reduction in prey availability for some light sensitive bat species.
- o The provision of motion sensors or timers to avoid the amount of 'lit-time' of the proposed lighting.
- o Lights should be designed to prevent horizontal spill e.g. cowls, hoods, reflector skirts or shields.

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

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

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

Recommended Conditions:

**1. CONCURRENT WITH RESERVED MATTERS 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 Report (Practical Ecology, August 2022) as already submitted with the planning application and agreed in principle with the local planning authority prior to determination.

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

Reason: To conserve and enhance protected and Priority species 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. CONCURRENT WITH RESERVED MATTERS PRIOR TO COMMENCEMENT: NON-LICENCED HAZEL DORMOUSE METHOD STATEMENT**

"A Hazel Dormouse Method Statement shall be submitted to and approved in writing by the local planning authority. This will contain precautionary mitigation measures and/or works to reduce potential impacts to Hazel Dormouse during the construction phase.

The measures and/works shall be carried out strictly in accordance with the approved details and shall be retained in that manner thereafter."

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. CONCURRENT WITH RESERVED MATTERS PRIOR TO ANY WORKS ABOVE SLAB LEVEL: BIODIVERSITY ENHANCEMENT STRATEGY

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

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

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

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

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

### 4. CONCURRENT WITH RESERVED MATTERS PRIOR TO BENEFICIAL USE: LANDSCAPE AND ECOLOGICAL MANAGEMENT PLAN

"A Landscape and Ecological Management Plan (LEMP) shall be submitted to, and be approved in writing by, the local planning authority prior to the occupation of the development [or specified phase of development].

The content of the LEMP shall include the following:

- a) Description and evaluation of features to be managed.
- b) Ecological trends and constraints on site that might influence management.
- c) Aims and objectives of management.
- d) Appropriate management options for achieving aims and objectives.
- e) Prescriptions for management actions.
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).
- g) Details of the body or organisation responsible for implementation of the plan.
- h) Ongoing monitoring and remedial measures.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details."

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

And if any external lighting is proposed;

### 5. CONCURRENT WITH RESERVED MATTERS PRIOR TO BENEFICIAL USE: WILDLIFE SENSITIVE LIGHTING DESIGN SCHEME

"A lighting design scheme for biodiversity in accordance with GN:08/23 Bats and Artificial External Lighting (ILP) shall be submitted to and approved in writing by the local planning authority. The scheme shall identify those features on site that are particularly sensitive for bats and that are likely to cause disturbance along important routes used for foraging; and show how and where external lighting will be installed (through the provision of appropriate



lighting plans, drawings and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory.

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

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

**Tree & Landscape Officer**

**21.12.2023**

The application site is in agricultural use with a strong hedgerow on the boundary with the highway containing a visually prominent group of Oaks. There are no trees or other significant vegetation in the main body of the application site.

To show the extent of the constraint of the existing vegetation on the development potential of the land the applicant has provided an Arboricultural Impact Assessment (AIA). This information is in accordance with BS5837: 2012 Trees in relation to design, demolition and construction. Recommendations.

The AIA accurately describes the health, condition and amenity value of the trees and hedgerows and shows that only a short section of the boundary hedgerow would need to be removed to facilitate the construction of the new vehicular access to the site. The harm caused by the removal of the hedgerow could be satisfactorily remediated by new planting.

In terms of local landscape character, the application site is situated the Bromley Heaths Landscape Character Area (LCA). The LCA is in the Heathland Plateau which is primarily an extensively arable landscape of large productive fields divided by low, gappy hedgerows. The application site is situated on the exposed and windswept plateau corresponding to the highest part of the district. The LCA has a low density, rural settlement pattern of farms and halls, villages, hamlets, and small market towns.

The companion document for the above Landscape Character Assessment entitled 'Guidance for the Built Environment' emphasises the importance of conserving the distinct pattern of rural settlement and to ensure that this provides a framework for any new development.

Notwithstanding the above it is recognised that significant areas of land close to the application site are occupied by large commercial/industrial buildings that, despite their size, have been satisfactorily assimilated into their setting by way of a combination of the design of the buildings and the implementation of comprehensive soft landscaping schemes.

To show the potential impact of the development proposal on the area the applicant has provided a Landscape and Visual Impact Assessment (LVIA). This document describes the baseline features and quality of the local landscape character and quantifies the likely impact of the completed development on the local landscape character. The document identifies seven locations (visual receptor viewpoints) from which the application site can be viewed.

The LVIA informs the extent of soft landscaping likely to be required to soften and screen the proposed development. The proposals include the creation of a bund on the boundary of the site and a belt of planting to provide screening.

On balance and as described in point 10 of the Summary section of the LVIA new industrial buildings in this location would have a limited impact on landscape character and visual amenity in the long term. The effects would be mainly limited to the local area, and it is

considered therefore that although the proposals would have an adverse impact on the local landscape setting, over time, the visual impact would soften with the increasing maturity of the existing and proposed vegetation.

Should planning permission be likely to be granted then a comprehensive soft landscaping scheme should be secured by a planning condition to secure details of new planting to soften, screen and enhance the appearance of the development.

**ECC Green Infrastructure**

**13.12.2023**

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

ECC currently provides advice on green infrastructure schemes (GI) for major developments. ECC have been consultees on GI since 2018. Although there are no statutory requirements for GI, the 25 Year Environment Plan and Environment Act (2021) place significant importance on protecting and enhancing GI, accessibility and biodiversity net gain.

In providing advice we look to ensure that adequate provision, protection and improvements of high-quality GI comply with the objectives and planning principles set out in the following documents:

- Local Planning Authorities (LPA) Green Infrastructure Strategy/ SPD or equivalent green and open space strategies provides further guidance on the LPA's Local Development Plan policies regarding the Council's approach to green infrastructure provision in the local authority area.
- Essex Green Infrastructure Strategy, 2020, aims to enhance the urban and rural environment, through creating connected multi-functional GI that delivers multiple benefits to people and wildlife. It meets the County Council's aspirations to improve GI and green spaces in our towns, city and villages, especially close to areas of deprivation.
- Essex Green Infrastructure Standards, 2022, provide clear guidance on the requirements on both planning policy and planning application and processes.

**ECC GI position**

Having reviewed the Planning Design and Access Statement/Landscaping plans/Preliminary Ecological Assessment/Landscape and Visual Impact Assessment and the associated documents which accompanied the planning application, we do not object to the granting of 23/01699/OUT based on the following:

If minded to approve we would recommend the following conditions.

**Condition 1**

The Planning Design and Access Statement mentions landscaping and additional planting will be provided as part of the development at reserved matters, but the landscaping plans submitted needs to provide more details on the:

- new planting
- natural SuDs and green roof
- type of species to be used
- long-term stewardship.

No works shall take place until a detailed Landscape /GI Strategy for the site, based on the Essex Green Infrastructure Strategy and Essex GI Standards and the Preliminary Ecological Assessment (PEA) of the ecological context of the development, has been submitted to and approved in writing by a landscape specialist from the local planning authority. The scheme should include but not be limited to:

- The strategy will need to take into consideration the Biodiversity Net Gain enhancement mentioned in the PEA and wider environmental net gains, that forms an important component of nature recovery networks and the wider landscape scale GI network.
- Demonstrate that the development site/setting has been reviewed for multiple functions and benefits (listed in the Essex GI Strategy (chapter 5.1, page 35) and ensure that green/open spaces are designed to ensure multi- purpose and functional use for the benefits of wildlife, climate change and employees wellbeing.
- Active travel links to existing and new routes are accessible and provide connectivity from the development to wider active travel networks; use of GI features to ensure accessibility across the site should be considered.

Reason:

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

The National Planning Policy Framework 2021 paragraph 8c sets environmental protection and enhancement as one of the 3 objectives of the planning system.

Paragraph 98 states that access to a network of high-quality open spaces and opportunities for sport and physical activity is important for the health and well-being of communities and can deliver wider benefits for nature and support efforts to address climate change.

Condition 2

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

Reason:

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

Condition 3

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

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

We would also expect details on how management company services for the maintenance of

GI assets and green spaces shall be funded and managed for the lifetime of the development to be included.

Reason:

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

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

Condition 4

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

Reason:

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

Biodiversity Net Gain

The Planning, Design and Access Statement states and the Preliminary Ecological Assessment recommendations state that new planting and other enhancements will deliver biodiversity net gains. However, there is no mention of the units or percentage the proposal will achieve in net gains.

The site's size does not meet the Small Site Metric requirement but does meet the Statutory Biodiversity Metric requirement. At present, the Environment Act, 2021 identifies a minimum 10% gain required in biodiversity and approval of net gain plan. Habitat will need to be secured for at least 30 years via obligations/ conservation covenant through production of a Biodiversity Net Gain Management and Monitoring Plan.

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

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

Condition 5

Planning applications subject to mandatory BNG shall require a Biodiversity Gain Plan to be submitted to and approved in writing by the local planning authority. The Environment Act sets out that the biodiversity gain plan should cover:

- How adverse impacts on habitats have been minimised.
- The pre-development biodiversity value of the onsite habitat.
- The post-development biodiversity value of the onsite habitat.
- The biodiversity value of any offsite habitat provided in relation to the development.
- Any statutory biodiversity credits purchased; plus.
- Any further requirements as set out in secondary legislation.

#### Reason:

Biodiversity Gain Plans (subject to guidance made available) sets out the key ecological considerations relevant to the development proposals, the biodiversity management principles for new habitat creation areas and the enhancements that are likely to be achieved through such management. Like Landscape and Ecology Management Plan it aims to:

1. Verify the ecological baseline features of interest.
2. Identify ecological mitigation requirements; and,
3. Identify management and enhancement requirements relevant to the application area.
4. To enhance Protected and Priority Species/habitats and allow the LPA to discharge its duties under the s40 of the NERC Act 2006 (Priority habitats & species).

#### Other Considerations

##### Green Roofs

According to the Planning, Design and Access Statement that green roofs and PV solar panels are proposed and is welcomed. ECCs GI team expects a detailed scheme for green roofs (including maintenance and management arrangement) to have been submitted and approved in writing by the Local Planning Authority Prior to first occupation.

The ECC GI team recommends that the use of Bio Solar is explored. This can have dual benefits for energy and biodiversity. This includes biodiversity habitat creation, water storage capacity, flood alleviation and energy saving potential. Further information can be found here: <https://livingroofs.org/introduction-types-green-roof/biosolar-green-roofs-solar-green-roofs/> .

##### Sustainable Drainage Systems & Green Infrastructure

ECCs GI Team supports the delivery of 'a variety of green and blue infrastructure that provides an environmental support system for the community and wildlife'. ECC recommends consideration is given to the utilisation of GI as part of the Sustainable Drainage Systems (SuDs) design. GI and SuDs should be developed together to maximise benefits through multifunctionality- they do this by helping to reduce flood risk whilst providing biodiversity and amenity benefits.

##### Urban Greening Factor

It is encouraged for these sites, regardless of its size to still incorporate biodiversity enhancement into its design. The ECC GI team recommends that the Urban Greening Factor (UGF) is consulted to establish best practice. The UGF is a planning tool to improve the provision of GI particularly in urban areas. It can be used to increase urban greening and contribute to Biodiversity Net Gain. While it is voluntary, the ECC GI team strongly recommends utilisation of the UGF, and it can significantly contribute to place making, nature recovery, biodiversity enhancement, and connectivity to larger green infrastructure networks within proximity to the development site. More information can be found within the National Green Infrastructure Framework Standards (2023).

##### Climate Focus Area

The PEA mentioned that the developments is approximately 4km from the Colne Estuary. The aforementioned planning application is situated within the Essex Climate Action Commission's (ECAC) recommended Climate Focus Area (CFA), which is formed of the Blackwater and Colne River catchment areas (please see Figure 1 for further details). The objective of this recommendation is for the CFA to "accelerate [climate] action and provide exemplars, for learning and innovation: adopting Sustainable Land stewardship practices: 100% by 2030 and Natural Green Infrastructure: 30% by 2030" (ECAC, 2021). Among the objectives of the CFA are to achieve net zero carbon, biodiversity net gain, improve soil health and air quality, reduce flooding and urban heat island effect, and enhance amenity, liveability and wellbeing of Essex communities. It will achieve this by wholesale landscape change in rural areas and urban areas and it will look to developments and to contribute to these targets.

Figure 1: Map of ECACs Climate Focus Area

CFA require developments to take into account the following requirements in line with meeting the requirements outlined in NPPF:

- a) biodiversity net gain to enhance biodiversity and the natural environment by creating Natural Green Infrastructure contributing to the CFA 30% by 2030 target and the wider Local Nature Recovery Network/Strategy.
- b) flood and water management, for those properties at risk of flooding to include Integrated Water Management and Natural Flood Management techniques.
- c) New developments to improve urban greening of our towns, and villages through the provision of street trees for example. New developments are necessary in terms of increasing greenspace creation, naturalizing existing green spaces, greening the public realm, and implementing sustainable drainage systems (SuDS).

**Anglian Water Services Ltd**

**20.12.2023**

**ASSETS**

**Section 1 - Assets Affected**

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

**WASTEWATER SERVICES**

**Section 2 - Wastewater Treatment**

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

**Section 3 - Used Water Network**

We have reviewed the Flood Risk Assessment Land south of A133, Frating Green, Essex - Dalau Ltd Job no: 502042 - Date: 23rd November 2023, it is quoted that As there are no local foul water sewers in the area, it is proposed that the foul water drainage system will be a traditional piped system and will outfall by gravity to a large cesspit, which will be emptied on a regular basis by a private contractor. Appropriate storage and alarm systems will be provided to notify the occupier of the foul water levels. Waterless urinals will be used to minimise demand on the system. The proposed drainage strategy is not related to Anglian Water, we therefore recommend that you consult the Environment Agency who are the statutory consultees for private sewerage. As quoted, we can confirm that Anglian Water has no public sewers within the area of the proposed development site.

**Section 4 - Surface Water Disposal**

The preferred method of surface water disposal would be to a sustainable drainage system (SuDS) with connection to sewer seen as the last option. Building Regulations (part H) on Drainage and Waste Disposal for England includes a surface water drainage hierarchy, with infiltration on site as the preferred disposal option, followed by discharge to watercourse and then connection to a sewer. From the Flood Risk Assessment Land south of A133, Frating Green, Essex - Dalau Ltd Job no: 502042 - Date: 23rd November 2023 submitted to support the planning application the proposed method of surface water management does not relate to Anglian Water and the submitted drawings indicate that surface water discharge from this site runs to an attenuation pond and ultimately discharges to a ditch. On this basis, Anglian Water can confirm this is outside our jurisdiction for comment and the Planning Authority will need to seek the views of the Environment Agency.

**Arch. Liaison Off, Essex Police**

**03.01.2024**

The Essex Police Designing Out Crime team thank you for the opportunity to comment on 23/01699/OUT.

There are no apparent concerns with the layout of this proposed development however we would welcome the opportunity to consult with the applicant to embed crime prevention through environmental design (CPTED) throughout the design; this will ensure that security is a by-product of well thought out, inconspicuous crime prevention, minimising the need for future situational crime prevention measures.

From a CPTED perspective, Essex Police would recommend the applicant contemplates the below in its architectural design:

- That public realm spaces are designed where safety and security is subliminal to the user of that space. Essex Police would be keen to take the opportunity to liaise regarding the green space and appropriate landscaping plan.
- Footpaths, Cycle routes and public areas are designed to address issues of permeability and connectivity, promoting natural surveillance.

We would recommend that the commercial units achieve the 'Secured by Design - Commercial' Award. The award addresses the security concerns by reducing the risks for crimes against both the person and the property. This typically would include burglary, theft, arson, vehicle crime and assault. Provision has also been made within the award for the prevention of terrorism. This will promote a safe and sustainable environment for all that use the location, minimising the fear of crime and anti-social behaviour.

Effective physical security is best achieved by multilayering different measures, as any adversary will attempt to identify and exploit perceived weaknesses.

Essex Police provide a free, impartial advice service to applicants who require advice on CPTED and Secured by Design and we would welcome and encourage the opportunity to meet with the applicant to discuss any potential issues.

Please note that the best contact with the Essex Police Designing Out Crime team is via email at [designingoutcrime@essex.police.uk](mailto:designingoutcrime@essex.police.uk)

**Essex County Council Heritage**

**11.01.2024 (initial comments)**

The proposal site is in proximity to a number of designated heritage assets, including but not limited to:

- Grade II Listed Milepost on southern verge between Bentley Brook and Colchester Bypass Roundabout;
- Grade II Listed Crabtree Farmhouse and Guide Post on North Verge to East;
- Grade II Listed Mannings and Pump at Rear (East) Of Mannings;
- Grade II Listed Ivy Lodge.

The Grade II Listed Milepost draws its significance from its archaeological and historic interest and from its location along one of the main routes from Colchester. The proposed development is therefore not considered to affect the setting of the identified heritage asset.

The proposed development is likely to be visible at distance from Crabtree Farmhouse, introducing a further built form in the undeveloped rural landscape which form part of its setting. The information provided are however not considered sufficient to assess whether the proposed development would result in some degree of less than substantial harm to the significance of Crabtree Farmhouse.

At this stage, the heritage statement does not include an assessment of the potential impact of the proposed development on the setting of the Grade II Listed Farm and the site photographs taken from heritage viewpoint 3 (photos 13 and 14) and provided within the LVIA are considered misleading in showing the effective distance of Crabtree from the boundary of the site. Additional information would therefore be required.

The proposed development is not considered to affect the setting of Grade II Listed Mannings and Ivy Lodge due to distance and intervening vegetation which would limit the intervisibility between the site and the identified heritage assets.

Were permission to be granted, a detailed landscape layout including information on proposed boundary treatment and visual mitigation strategy through proposed planting would be required.

**Essex County Council Heritage 01.03.2024 (amended comments following additional information)**

This is an outline Planning Application (Access to be considered with all other matters reserved) for new commercial premises. This follows my previous letter dated 10th January 2024.

Additional information provided confirms that there would be very limited intervisibility between the proposal site and Crabtree Farmhouse due to distance and existing vegetation. This could be further minimised with the introduction of additional planting as proposed.

Were permission to be granted, a detailed landscape layout including information on proposed boundary treatment and visual mitigation strategy through proposed planting would be required.

**Essex County Fire Officer**

**20.12.2023**

Initial Response to Consultation Document

Having reviewed the consultation document, at this time Essex County Fire and Rescue Service would ask that the following are considered during the continued development of the Planning Application 23/01699/OUT, Land to The South of Colchester Road, Frating, Essex:

- Use of community spaces as a hub for our Prevention teams to deliver Fire Safety and Education visits, with the shared use of an electric charging point.
- Adherence to the requirements of the Fire Safety Order and relevant building regulations, especially approved document B.
- Installation of smoke alarms and/or sprinkler systems at suitably spaced locations throughout each building.
- Implementation of vision zero principles where there are introductions of or changes to the road network. For example, the proposed plan illustrates one new road into the development site; one way in and out in onto a main carriageway, within close proximity to a major roundabout and other commercial developments. Consideration should be given to the increased number of vehicle movements in and out of the site via the one access/egress point onto the existing A133. Vehicle movements are likely to include those of employees, visitors and suppliers, utilising a variety of vehicles from cars, light goods vehicles and articulated lorries.
- Consideration should be given to how existing and any increased pedestrian traffic will safely navigate to and from the site, to surrounding amenities and along and across the road network. For example, will the development include improvements to cycle-paths and pedestrian crossings?



- Appropriate planning and mitigations to reduce risks around outdoor water sources.
- Suitable principles in design to aid deliberate fire setting.
- Consideration should be given to potential environmental and ecological impacts in the event of a fire. A significant fire could result in large quantities of contaminated water run-off being generated as the fire is extinguished. How would this water be captured, stored and prevented from entering the ponds and bodies of water such as "Bentley Brook", located within close proximity of the site?
- Regarding flood risk, consideration should be given to how, in the event of a flood, potential environmental and ecological impacts will be mitigated. For example, how any raw and processed industrial or hazardous materials will be prevented from entering the surrounding land and bodies of water.
- Consideration for road widths to be accessible whilst not impeding emergency service vehicle response through safe access routes for fire appliances including room to manoeuvre (such as turning circles). As identified above, the site has one proposed access/egress point. Consideration should be given to how vehicular traffic will evacuate the site in the event of an emergency, and how responding emergency services will access the site via the same route within that timeframe.
- Access for Fire Service purposes must be considered in accordance with the Essex Act 1987
- Section 13, with new roads or surfaces compliant with the table below to withstand the standard 18 tonne fire appliances used by Essex County Fire and Rescue Service.

Min. Width of Road between Kerbs

Min. Width of Gateways

Min. Height Clearance

Min. Carrying Capacity

Min. Turning Circle (Kerb to Kerb)

Min. Turning Circle between Walls

Sweep Circle

Pumping Appliance

3.7m

3.1m

3.7m

18 tonnes

17.8m

19.0m

19.0m

High Reach

3.7m

3.1m

4.0m

26 tonnes

17.8m

20.0m

- Implementation of a transport strategy to minimise the impact of construction and prevent an increase in the number of road traffic collisions. Any development should not negatively impact on the Service's ability to respond to an incident in the local area.
- A risk reduction strategy to cover the construction and completion phases of the project.
- Implementation of a land management strategy to minimise the potential spread of fire either from or towards the development site. Consideration should be given to how a fire at the site and any associated smoke plume could impact surrounding commercial, residential and transport infrastructure, for example the closure of roads or local amenities such as schools.

Essex County Fire and Rescue Service welcomes the opportunity to continue these conversations as the development progresses to ensure opportunities to reduce risk and improve the emergency service provision are realised.

**Highways England**

**08.01.2024**

The proposed development site is development site is to the South of Colchester Road Frating. The impact of this application is likely to be at the site entrance and at the local road junction Colchester road and A133 The potential queues generated on the Southbound A133 (for which ECC are Highway authority for) are very unlikely to tail all the way back form the Colchester Road junction to the A120

Given the above we have no objection to the granting of permission.

**Environment Agency**

**12.06.2024**

Thank you for consulting us on the above application. We have reviewed the documents as submitted and can confirm that we have no objection to the proposed development. We have provided further information for your consideration relating to foul drainage.

**Foul Drainage**

A cesspit is proposed for the foul drainage on site, we wish to take the opportunity to advice that this method of foul drainage removal isn't the most sustainable option as it will involve regular tanker movements. No permits are required as there is no discharge to the environment from a cess pit, it is a sealed tank, but relies on the owner arranging emptying at their own monitoring.

If we were considering a permit application, we'd expect the applicant to use flows and loads guidance to determine the volume of sewage effluent discharged and then apply a calculation to see if it may be reasonable to connect to the foul sewer. [flows\\_and\\_loads\\_\\_bw\\_cop\\_18..pdf \(ymaws.com\)](#)

We are aware that Manheim auctions (opposite the site) have a private connection to the public foul sewer to the east, this is an option the developer could explore connecting to.

**7. Representations**

- 7.1 Great Bentley Parish Council and Frating Parish Council both object to the application on the basis the site is outside of a Settlement Development Boundary, outside of an employment allocation and that that area is classed as a Rural Service Centre where any development needs to be proportionate, achievable and sustainable, and the development proposed is instead disproportionate in size within a rural setting.
- 7.2 There has been one letter of objection received, which raises concerns that previously a joint scheme had been proposed by Dalau Ltd with Pallet Plus, which would have seen the relocation of Pallet Plus from its existing base. However, while these comments are noted, this is not a material planning consideration and can therefore not be given any weight in the determination of this application.

**8. Assessment**

**Site Description**

- 8.1 The application site is a parcel of land measuring 4.28 hectares, that is located along the southern section of Colchester Road within the parish of Frating. The site is currently an open parcel of agricultural land, which is bounded by a hedgerow to its front (northern) boundary.

- 8.2 The character of the surrounding area is relatively mixed; to the northern section of Colchester Road is a significant level of commercial development, including Manheim Colchester Auctions adjacent to the north of the application site, and also some residential properties. However, the land to east, south and west is of a far more rural character with large areas of open agricultural or grassed land.
- 8.3 The site falls adjacent to, but outside of, the Settlement Development Boundary for Frating within the adopted Local Plan 2013-2033. The land adjacent to the north is also allocated as an employment site.

#### Description of Proposal

- 8.4 This application seeks outline planning permission for the erection of a new commercial premises, which would be occupied by Dalau Ltd following their relocation from their existing base in Clacton-on-Sea. The application is in outline form with only access to be considered. All other matters, namely appearance, landscaping, layout and scale, would be reserved for a future detailed planning application.
- 8.5 The indicative plans provided, however, show that the building would have an approximate footprint of 7,200sqm, which would be split between factory use (70%) and office use (30%), and would also accommodate 153 parking spaces.
- 8.6 The application does include for a new access point via Colchester Road to the north, which does form part of the determination of this current planning application.

#### Principle of Development

- 8.7 Policy PP7 (Employment Allocations) of the recently Adopted Tendring District Council Local Plan (2022) allocates 32ha of land for new development within use classes B2 (General Industry) and B8 (Storage and Distribution) to support a diversity of employment opportunities. The table below details these sites:

Name of Site	Local Plan Allocation (ha)
Extension to Gorse Lane Industrial Estate, Telford Road, Clacton	68ha
Land at Stanton Europark, Parkeston	3.3ha
Land at Harwich Valley, East of Pond Hall Farm, Dovercourt	6.3ha (as part of a wider mixed use development)
Land off Clacton Road/Dead Lane, Mistley	2ha
Crown Business Centre, Old Ipswich Road, Ardleigh/Colchester	2.3ha
Land south west of Horsley Cross	11.2ha
<b>Total Employment Land Area</b>	<b>31.9ha</b>

- 8.8 In addition, Policy PP7 states that proposals for new employment-related development on land outside of the above allocations will be considered having regard to their potential to support economic growth in the district and the requirements of other policies in the Local Plan.

- 8.9 Within the applicant's submission, they have provided justification for why each of the sites in the table above are not a realistic option on this occasion; examples include sites having already been sold, being of an insufficient size and being located adjacent to a main line and therefore not suitable given the manufacturing is sensitive to vibrations.
- 8.10 On this occasion, the application site falls outside of both a Settlement Development Boundary and also a designated site for employment uses, however Policy PP7 is clear that in such circumstances due regard must be given to the potential of a development to support economic growth in the district.
- 8.11 Dalau Ltd are an engineering company who manufacture precision machined plastic components worldwide and have been operating since 1955. Operations are currently based in Clacton-on-Sea, specifically across two sites within Ford Road and also one in Brunel Road, which are considered to have reached the end of their life cycle. The current operation is becoming increasingly inefficient, with the two sites in Ford Road located on opposite sides of the road, and Brunel Way located some 2.7 miles apart. This is not cost effective or efficient and as such the company have been sourcing alternative approaches, specifically the siting of a 'fit for purpose' premises that would provide such benefits as allowing the continued growth of the company, the opportunity to provide for a state of the art building that showcases part of their material palette, and be within closer reach to a number of towns and settlements within the District and Colchester. In addition, whilst it has not been clarified what the intended use of the existing buildings would be, Officers acknowledge that the re-use of these (once vacated) would add further economic benefits through increased commercial offering within the District.
- 8.12 For the above reasons, as well as the fact that the proposal is to generate an additional 25 full time employees, Officers are content that the proposal would provide clear economic benefits to the District through the continued and ongoing expansion of a successful local company, and therefore support the principle of development subject to the more detailed considerations discussed below.

#### Landscape and Visual Impact

- 8.13 Paragraph 180(b) of the NPPF states that planning decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside.
- 8.14 Adopted Policy PPL3 confirms the Council will look to protect the rural landscape and refuse planning permission for any proposed development which would cause overriding harm to its character or appearance. Adopted Policy SPL3, Part A (c) requires that development respects or enhances local landscape character, views, skylines, landmarks, existing street patterns, open spaces and other locally important features.
- 8.15 In terms of local landscape character, the application site is situated in the Bromley Heaths Landscape Character Area (LCA). The LCA is in the Heathland Plateau which is primarily an extensively arable landscape of large productive fields divided by low, gappy hedgerows. The application site is situated on the exposed and windswept plateau corresponding to the highest part of the district. The LCA has a low density, rural settlement pattern of farms and halls, villages, hamlets, and small market towns.
- 8.16 The companion document for the above Landscape Character Assessment entitled 'Guidance for the Built Environment' emphasises the importance of conserving the distinct pattern of rural settlement and to ensure that this provides a framework for any new development.
- 8.17 Notwithstanding the above it is recognised that significant areas of land close to the application site are occupied by large commercial/industrial buildings that, despite their size, have been satisfactorily assimilated into their setting by way of a combination of the design of the buildings and the implementation of comprehensive soft landscaping schemes.

- 8.18 To show the potential impact of the development proposal on the area the applicant has provided a Landscape and Visual Impact Assessment (LVIA). This document describes the baseline features and quality of the local landscape character and quantifies the likely impact of the completed development on the local landscape character. The document identifies seven locations (visual receptor viewpoints) from which the application site can be viewed.
- 8.19 The LVIA informs the extent of soft landscaping likely to be required to soften and screen the proposed development. The proposals include the creation of a bund on the boundary of the site and a belt of planting to provide screening.
- 8.20 On balance, new industrial buildings in this location would have a limited impact on landscape character and visual amenity in the long term. The effects would be mainly limited to the local area, and it is considered therefore that although the proposals would have an adverse impact on the local landscape setting, over time the visual impact would soften with the increasing maturity of the existing and proposed vegetation.

#### Design, Scale, Layout and Appearance

- 8.21 Paragraph 135 of the National Planning Policy Framework (NPPF) (2023) requires that developments are visually attractive as a result of good architecture, are sympathetic to local character, and establish or maintain a strong sense of place.
- 8.22 Adopted Policy SP7 of Section 1 of the 2013-33 Local Plan seeks high standards of urban and architectural design, which responds positively to local character and context. Adopted Policy SPL3 Part A (b) requires that development relates well to its site and surroundings, particularly in relation to its siting, height, scale, massing, form, design and materials.
- 8.23 The plans submitted are indicative only but show a proposed layout as well as 3D projections, which are clear that the two-storey factory building, measuring approximately 7,200sqm, would be located to the south-eastern corner of the site, with parking top the north-eastern corner and the front area is to include a landscape buffer.
- 8.24 As stated above, such a development will inevitably result in a level of harm to the areas existing character, which on this side of Colchester Road is more rural in nature. However, Officers equally acknowledge that to the north of the site is a large area of employment uses and associated built form. Against this context, the proposed building, and its indicative design, while large, would not necessarily be out of keeping with the area's broader character. That said, this would be a consideration for any future reserved matters application.
- 8.25 With respect to the indicative site layout, it is noted that the building would be well set back within the site, which allows for significant levels of soft landscaping to the front sections. This is supported as it will allow for a soft transition into the site, and help it better assimilate with the more rural character on this side of Colchester Road.

#### Impact to Trees

- 8.26 The Council's Tree and Landscape Officer has been consulted on this application and has commented as follows:

*"The application site is in agricultural use with a strong hedgerow on the boundary with the highway containing a visually prominent group of Oaks. There are no trees or other significant vegetation in the main body of the application site.*

*To show the extent of the constraint of the existing vegetation on the development potential of the land the applicant has provided an Arboricultural Impact Assessment (AIA). This information is in*

*accordance with BS5837: 2012 Trees in relation to design, demolition and construction. Recommendations.*

*The AIA accurately describes the health, condition and amenity value of the trees and hedgerows and shows that only a short section of the boundary hedgerow would need to be removed to facilitate the construction of the new vehicular access to the site. The harm caused by the removal of the hedgerow could be satisfactorily remediated by new planting.*

*Should planning permission be likely to be granted then a comprehensive soft landscaping scheme should be secured by a planning condition to secure details of new planting to soften, screen and enhance the appearance of the development."*

- 8.27 Taking into account the above comments, no objections are raised in this regard. Full landscaping details will form part of any future reserved matters planning application, and therefore full consideration will be given to this at that stage.

### Highway Safety/Parking

- 8.28 Paragraph 114 of the National Planning Policy Framework 2023 seeks to ensure that safe and suitable access to a development site can be achieved for all users. Paragraph 115 of the Framework states that Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. Paragraph 117 states that all developments that will generate significant amounts of movement should be required to provide a travel plan, and the application should be supported by a transport statement or transport assessment so that the likely impacts of the proposal can be assessed.
- 8.29 Policy SPL3 (Part B) of the Adopted Local Plan seeks to ensure that access to a new development site is practicable and the highway network will be able to safely accommodate the additional traffic the proposal will generate and provision is made for adequate vehicle and cycle parking.
- 8.30 Adopted Policy CP1 (Sustainable Transport and Accessibility) states proposals for new development must be sustainable in terms of transport and accessibility and therefore should include and encourage opportunities for access to sustainable modes of transport, including walking, cycling and public transport. In addition, planning applications for new major development likely to have significant transport implications will normally require a Transport Statement. If the proposal is likely to have significant transport implications or a Transport Assessment, the scope of which should be agreed in advance between the District Council and the applicant, in consultation with Essex County Council as the Highway Authority.
- 8.31 Essex Highways Authority have been consulted on the application, and within their initial comments they confirmed that following a review of the submitted Transport Assessment they found its findings acceptable but entered into liaisons with the agent for the application in relation to a shared footway/cycleway, alterations to shift patterns to better align with the local bus service, and the lowering of the speed limit within the vicinity of the site.
- 8.32 Following this, the agent for the application outlined that the provision of a footway/cycleway would result in significant hedgerow removal, impact upon existing trees and would be a costly addition with little benefits given that due to the shift patterns of staff it is unlikely to be regularly used. It was also possible to alter early morning shift patterns to coincide with the local bus service, and it was agreed that the applicant would fund an agreement with a local taxi service for staff working evening shift patterns.
- 8.33 ECC Highways therefore consider that from a highway and transportation perspective the impact of the proposal is acceptable subject to conditions relating to a Construction Management Plan, visibility splays, provision of a new bus stop and widened footway, boundary planting being set

back from the highway, the submission of a workplace travel plan, a Traffic Management Plan and Route Card, and the continued use of the public bridleway. The reasonable and enforceable sections of the suggested Construction Management Plan recommended by both ECC Highways and the Council's Environmental Protection team are recommended to form a condition, however some elements are not reasonable or enforceable and are therefore not included. With respect to the suggested workplace travel plan condition, which includes a monitoring fee of £6,760, Officers consider that this could not be agreed via a condition and would instead need to be secured by way of a legal agreement. However, on this occasion, there is not considered to be sufficient justification provided by ECC Highways, and also no details in how this would be monitored, and therefore it is not recommended to include this.

- 8.34 In addition to the above, Highways England have been consulted on the application given the works impact upon a major highway network, however they have confirmed they raise no objections.
- 8.35 The Essex Parking Standards (2009) state that for Use Class B2, there is a requirement for one parking space per 50sqm of floorspace. The submitted plans indicate that the building will be 7,200sqm, and therefore there is a need for 144 parking spaces. The submitted plans show that there will be provision for approximately 153 parking spaces, and therefore the need is comfortably met.

#### Impact to Protected Species

- 8.36 Paragraph 180 of the Framework states planning decisions should contribute to and enhance the natural and local environment, by minimising impacts and providing net gains for biodiversity.
- 8.37 Adopted Policy SP7 requires that all new development should incorporate biodiversity creation and enhancement measures. Adopted Policy SPL3 Part A(d) includes that the design and layout of development should maintain or enhance ecological value.
- 8.38 A Preliminary Ecological Appraisal (PEA) has been submitted alongside the application submission. Accordingly, ECC Place Services (Ecology) have been consulted as part of this application and have confirmed they are satisfied that there is sufficient ecological information available for the determination of the application and raise no objections subject to conditions relating to mitigation measures, a Hazel Dormouse Method Statement, a Biodiversity Enhancement Strategy, and the submission of a Landscape and Ecological Management Plan. In addition, in the event external lighting is proposed a wildlife sensitive scheme should be provided.

#### Impact on Neighbouring Amenities

- 8.39 Paragraph 135 of the National Planning Policy Framework (2023) confirms planning policies and decisions should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.
- 8.40 Policy SP7 of Section 1 of the 2013-33 Local Plan requires that the amenity of existing and future residents is protected. Section 2 Policy SPL 3 (Part C) seeks to ensure that development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties.
- 8.41 While this southern section of Colchester Road is rural by nature, there is significant built form located on the northern side, including some residential properties. Those most closely related are located approximately 150 metres to the north-west. A Noise Impact Assessment accompanies the submission and concludes that the calculated noise emission during an intensive use of the facility is considered to be negligible in relation to the changes in the magnitude of noise impact. The Council's Environmental Protection team have been consulted and confirm they are satisfied with

the methodology and findings of this assessment, and therefore no objections are raised in this regard.

- 8.42 Furthermore, the built form itself, while only indicative at this stage, can be sited at such a distance apart that it would not appear oppressive or result in significant loss of daylight/sunlight.
- 8.43 Therefore, Officers do not consider that the development would be significantly harmful to the existing amenities of nearby residential properties.

### Heritage Impacts

- 8.44 Paragraph 200 of the NPPF (2023) states that an applicant should describe the significance of any heritage assets affected, including any contribution made by their setting, with the level of detail being proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance. Paragraph 208 identifies that where a development proposal 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 including, where appropriate, securing its optimum viable use.
- 8.45 Adopted Local Plan Policy PPL9 (Listed Buildings) states proposals for new development affecting a listed building or its setting will only be permitted where they will protect its special architectural or historic interest, its character, appearance and fabric. Where a proposal will cause harm to a listed building, the relevant paragraphs of the NPPF should be applied dependent on the level of harm caused.
- 8.46 The proposal is in proximity to various listed properties and as such ECC Place Services (Heritage) have been consulted on the application. Their initial comments read as follows:

*"The proposal site is in proximity to a number of designated heritage assets, including but not limited to:*

- Grade II Listed Milepost on southern verge between Bentley Brook and Colchester Bypass Roundabout;*
- Grade II Listed Crabtree Farmhouse and Guide Post on North Verge to East;*
- Grade II Listed Mannings and Pump at Rear (East) Of Mannings;*
- Grade II Listed Ivy Lodge.*

*The Grade II Listed Milepost draws its significance from its archaeological and historic interest and from its location along one of the main routes from Colchester. The proposed development is therefore not considered to affect the setting of the identified heritage asset.*

*The proposed development is likely to be visible at distance from Crabtree Farmhouse, introducing a further built form in the undeveloped rural landscape which form part of its setting. The information provided is however not considered sufficient to assess whether the proposed development would result in some degree of less than substantial harm to the significance of Crabtree Farmhouse.*

*At this stage, the heritage statement does not include an assessment of the potential impact of the proposed development on the setting of the Grade II Listed Farm and the site photographs taken from heritage viewpoint 3 (photos 13 and 14) and provided within the LVIA are considered misleading in showing the effective distance of Crabtree from the boundary of the site. Additional information would therefore be required.*

*The proposed development is not considered to affect the setting of Grade II Listed Mannings and Ivy Lodge due to distance and intervening vegetation which would limit the intervisibility between the site and the identified heritage assets.*



*Were permission to be granted, a detailed landscape layout including information on proposed boundary treatment and visual mitigation strategy through proposed planting would be required."*

- 8.47 Following these comments, the agent for the application provided an additional letter to address the outstanding matters raised. ECC Place Services (Heritage), upon re-consultation, have stated that the additional information confirms that there would be very limited intervisibility between the proposal site and Crabtree Farmhouse due to the distance and existing vegetation, and that this could be further minimised with the introduction of additional planting as proposed.
- 8.48 While additional planting will be assessed within any future reserved matters application, given the comments above no objections are raised in this regard.

### Drainage

- 8.49 Policy PPL5 states that proposals for development must demonstrate that adequate provision exists, or can be provided in time, for sewage disposal to a public sewer and water recycling centre (sewage treatment works).
- 8.50 The application is supported by a Flood Risk Assessment and Drainage Strategy, which confirms the site falls within Flood Zone 1, the land use will be 'less vulnerable', and the site is not considered to be at risk from pluvial flooding or reservoirs. Ultimately, the report concludes, surface water rate of runoff should be reduced by the works, with foul water being stored within the site and taken away via a private tanker.
- 8.51 Essex SuDS have been consulted and initially raised a holding objection due to requiring further information relating to how the pipework from the basin to the discharge outfall would be safeguarded by any future works, and confirmation the site usage would not be of an industrial nature involving chemicals and fuels. However, following the submission of additional information to address these technical points, Essex SuDS have confirmed they do not raise any objections subject to conditions relating to the submission of a detailed surface water drainage scheme for the site, the submission of a scheme to minimise the risk of offsite flooding, the submission of a maintenance plan, and the maintenance of yearly logs.
- 8.52 In addition, the Environment Agency (EA) have been consulted given that the proposal involves the use of a cesspit for the disposal of foul drainage. Whilst they raise no objections they have confirmed that this method of foul drainage removal isn't the most sustainable option as it will involve regular tanker movements. The EA are aware that Manheim auctions (opposite the site) have a private connection to the public foul sewer to the east, and this is an option the developer could explore connecting to.
- 8.53 The agent for the application has, however, confirmed that a connection was explored to the existing adopted gravity foul water sewers in Frating but this would require an on-site foul water pumping station which would affect the viability of the project with the additional cost of a rising main along the length of Colchester Road, estimated to be in the region of £0.6m, and is equally not very sustainable given the need for constant power supply. Additionally, a Package Treatment Plant has also been considered but due to the variable and low infiltration rates of the local geology, the treated water would need to go to the watercourse to the south, which would require an increase in size of the attenuation feature and/or additional treatment stages.

### Renewable and Energy Conservation Measures

- 8.54 Paragraph 116 of the Framework states that applications for development should be designed to enable charging of plug-in and other ultra-low emission vehicles (ULEV) in safe, accessible and convenient locations. However, recent UK Government announcements that ULEV charging points will become mandatory for new development have yet to be published.

- 8.55 Policies PPL10 and SPL3, together, require consideration be given to renewable energy generation and conservation measures. Proposals for new development of any type should consider the potential for a range of renewable energy generation solutions, appropriate to the building(s), site and its location, and be designed to facilitate the retro-fitting of renewable energy installations.
- 8.56 The proposal includes for a development that has the potential to incorporate ULEV charging points for electric cars, and potentially additional renewable features. No details, however, are provided within the application submission. Therefore, it is considered reasonable and necessary to include a planning condition requiring a scheme, together with a timetable to be submitted for the consideration and installation of these measures, as such a condition is capable of addressing these policy requirements.

### Biodiversity and Geodiversity

- 8.57 Paragraph 186 of the NPPF states that, when making planning decisions local planning authorities need to assess whether significant harm to biodiversity could result from the development. The NPPF goes on to state the hierarchy that should be applied to mitigate any harm to ecology that is identified. Paragraph 180 of the NPPF requires that Local Planning Authorities contribute to and enhance sites of biodiversity or geological value. TDLP Policy PPL4 states that proposals for new development should be supported by appropriate ecological assessments and, where relevant, provide appropriate mitigation and biodiversity enhancements to ensure a net gain.
- 8.58 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.

### **General duty on all authorities**

- 8.59 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.
- 8.60 This development is subject to the general duty outlined above. The proposal is for a commercial premises on an open parcel of agricultural land. On this occasion, landscaping details shall be considered at a future reserved matters stage. Moreover, a condition to secure a Biodiversity Enhancement Strategy is recommended on this occasion to improve the biodiversity of the site.
- 8.61 Therefore, the development on balance and with consideration of the impact of the development and baseline situation on site, does conserve and enhance biodiversity interests.

### **Biodiversity net gain**

- 8.62 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. The application was submitted prior to the introduction of this requirement and is not therefore applicable for Biodiversity Net Gain (BNG). Officers acknowledge that within their comments, ECC Green Infrastructure make reference to BNG however on the basis that this was introduced after the submission of this planning application, it is not applicable on this occasion.

## **Protected Species**

- 8.63 In accordance with Natural England's standing advice the application site and surrounding habitat have been assessed for potential impacts on protected species. The proposal includes for a new commercial premises. The impacts to protected species have been addressed within the report above, and it is considered that the proposal is unlikely to adversely impact upon protected species or habitats.
- 8.64 In accordance with the overarching duty outlined above, this development is considered to accord to best practice, policy, and legislation requirements in consideration of the impacts on ecology interests.

## **9. Planning Balance and Conclusion**

- 9.1 This application seeks outline planning permission with all matters reserved bar access for the erection of a commercial unit to be occupied by Dalau Ltd measuring approximately 7,200sqm. The relocation of the site from its current base in Clacton-on-Sea would facilitate the expansion of a successful local business, thereby generating significant economic benefits. Additionally, it has been demonstrated that no sites allocated for employment would be suitable. Taking this into account, Officers afford great weight to these benefits.
- 9.2 While the proposal is in outline form, with full details to be provided and assessed within any future reserved matters planning application, it is considered that the indicative layout, scale and design would be acceptable. There will be no harm to neighbouring amenities given the significant separation distances, and similarly no significant harm to any heritage assets. No harm to existing trees has been identified, and following discussions ECC Highways, ECC Ecology and ECC SuDS raise no objections subject to conditions.
- 9.3 The above notwithstanding, there will inevitably be a degree of harm to the landscape character given that the site is currently an open parcel of agricultural land. However, on this occasion it is also noted that there is significant existing built form in close proximity, admittedly on the northern section of Colchester Road, and the applicant has demonstrated the harm would not be to a significant level, particularly over the passage of time as vegetation matures. That said, a small level of weight is attached to this identified harm.
- 9.4 In conclusion, while it is noted there will be a degree of harm to the landscape character of the area, on this occasion the economic benefits of the development outweigh this. The application is therefore considered to comply with local and national planning policies and is recommended for approval.

## **10. Recommendation**

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

### **10.2 Conditions and Reasons**

#### **1 COMPLIANCE REQUIRED: TIME LIMIT FOR RESERVED MATTERS APPLICATION**

CONDITION: Application for approval of all outstanding and the final reserved matters for any phase of the development must be made to the Local Planning Authority not later than the expiration of three years beginning with the date of this permission, and the development must be begun not later than the expiration of two years from the final approval of the reserved matters for the relevant phase or, in the case of approval on different dates, the final approval of the last such matter to be approved.

REASON: To comply with the requirements of Section 92 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 reserved matters need to be received by the Local Planning Authority within the timeframe provided. Failure to comply with this condition will result in the permission becoming lapsed and unable to be carried out. If there is no phasing plan, this condition is considered to apply to the whole site as a single phase. 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 APPROVAL OF RESERVED MATTERS

CONDITION: No development in any phase shall commence until approval of the details of:-

- the Appearance of the building(s) and place,
- Scale of the building(s),
- Layout of the building(s) and site,
- Landscaping

(hereinafter called "the reserved matters") for that particular phase have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and agreed order of phasing.

REASON: To enable the Local Planning Authority to secure an orderly and well designed development in accordance with the character and appearance of the neighbourhood and in accordance with the Development Plan. This condition is required to be agreed prior to the commencement of any development in accordance with proper planning principles to allow public engagement on the outstanding reserved matters and ensure no significant adverse harm results.

NOTE/S FOR CONDITION:

This condition requires approval of all reserved matters as may be listed to agreed in writing prior to any commencement of the approved development. Failure to comply with this condition may result in the permission becoming lapsed and unable to be carried out. If there is no phasing plan, this condition is considered to apply to the whole site as a single phase.

The reserved matters that may be listed above are further defined under government guidance as follows:-

ACCESS: The accessibility to and within the site, for vehicles, cycles and pedestrians in terms of the positioning and treatment of access and circulation routes and how these fit into the surrounding access network

APPEARANCE: The aspects of a building or place within the development which determine the visual impression the building or place makes, including the external built form of the development, its architecture, materials, decoration, lighting, colour and texture.

LANDSCAPING: The treatment of land (other than buildings) for the purpose of enhancing or protecting the amenities of the site and the area in which it is situated and includes: (a) screening by fences, walls or other means; (b) the planting of trees, hedges, shrubs or grass; (c) the formation of banks, terraces or other earthworks; (d) the laying out or provision of gardens, courts, squares, water features, sculpture or public art; and (e) the provision of other amenity features

LAYOUT: The way in which buildings, routes and open spaces within the development are provided, situated and orientated in relation to each other and to buildings and spaces outside the development.

SCALE: The height, width and length of each building proposed within the development in relation to its surroundings.

### 3 APPROVED PLANS & DOCUMENTS

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

Drawing Numbers 502042-IWD-XX-ZZ-DR-A-2010 Revision P13, 502042-IWD-XX-XX-DR-C-6101 Revision P01, 502042-IWD-XX-XX-DR-C-6002, 502042-IWD-XX-XX-DR-C-6001 Revision P01, 502042-IWD-XX-XX-DR-C-6000 Revision P04, 502042-IWD-XX-XX-DR-C-6100 Revision P02, 502042-IWD-XX-XX-DR-A-2400 Revision P03, 10606-D-AIA, and the documents titled 'Planning, Design and Access Statement', 'Preliminary Ecological Appraisal Report', 'Noise Impact Assessment', 'Landscape & Visual Impact Assessment', 'Geotechnical and Geoenvironmental Interpretative Report', 'Flood Risk Assessment' dated 23rd November 2023, 'Tree Survey, Arboricultural Impact Assessment Preliminary Arboricultural Method Statement & Tree Protection Plan', 'Transport Assessment', 'Interim Workplace Travel Plan', and 'Heritage Officer response' dated 28th 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.

- 4     **CONDITION:** Concurrent with the first reserved matter a scheme of hard, soft and boundary treatment landscaping works for the site, which shall include any proposed changes in ground levels, shall be submitted to and approved, in writing, by the Local Planning Authority.

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

**NOTE/S FOR CONDITION:**

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

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

- 5     **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.

- 6     **CONDITION:** Concurrent with the first reserved matter all mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Preliminary Ecological Appraisal Report (Practical Ecology, August 2022) and thereafter maintained.

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

- 7     **CONDITION:** Concurrent with the first reserved matter a Hazel Dormouse Method Statement shall be submitted to and approved in writing by the local planning authority. This will contain precautionary mitigation measures and/or works to reduce potential impacts to Hazel Dormouse during the construction phase. The measures and works shall be carried out strictly in accordance with the approved details and shall be retained in that manner thereafter.

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

8      CONDITION: Concurrent with the first reserved matter a Biodiversity Enhancement Strategy for protected and Priority species shall be submitted to and approved in writing by the local planning authority. The content of the Biodiversity Enhancement Strategy shall include the following:

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

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

REASON: To enhance protected and Priority species and habitats.

9      CONDITION: Concurrent with the first reserved matter a Landscape and Ecological Management Plan (LEMP) shall be submitted to, and be approved in writing by, the local planning authority. The content of the LEMP shall include the following:

- a) Description and evaluation of features to be managed.
- b) Ecological trends and constraints on site that might influence management.
- c) Aims and objectives of management.
- d) Appropriate management options for achieving aims and objectives.
- e) Prescriptions for management actions.
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).
- g) Details of the body or organisation responsible for implementation of the plan.
- h) Ongoing monitoring and remedial measures.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details.

REASON: To enhance protected and Priority species and habitats.

10     CONDITION: Concurrent with the first reserved matter a lighting design scheme for biodiversity in accordance with GN:08/23 Bats and Artificial External Lighting (ILP) shall be submitted to and approved in writing by the local planning authority. The scheme shall identify those features on site that are particularly sensitive for bats and that are likely to cause disturbance along important routes used for foraging; and show how and where external lighting will be installed (through the provision of appropriate lighting plans, drawings and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory. All external lighting shall then be installed in accordance with the specifications and locations set out in the scheme and maintained thereafter in accordance with the scheme.

REASON: To enhance protected and Priority species and habitats.

11 CONDITION: Concurrent with the first reserved matter details of a surface water management scheme/plan, detailing how surface water and storm water will be managed on the site during construction and during the lifetime of the development, is submitted to and agreed in writing by the local planning authority. The scheme shall include but not be limited to:

- Details and verification of the suitability of infiltration of surface water for the development.
- Details of all discharge rates for all flood and storm events up to and including the 1 in 100 year rate plus 40% allowance for climate change
- Provide details of sufficient on site storage to be installed and demonstrate if off site flooding as a result of the development during all storm events up to and including the 1 in 100 year plus 40% climate change event is likely to occur.
- Provide details to demonstrate if all storage features can half empty within 24 hours for the 1 in 30 plus 40% climate change critical storm event.
- Provide details that demonstrate if features proposed are able to accommodate a 1 in 10 year storm events within 24 hours of a 1 in 30 year event plus climate change.
- Provide final modelling and calculations for all areas of the drainage system.
- Provide detailed engineering drawings of each component of the drainage scheme.
- A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features.
- A written report summarising the final strategy and highlighting any minor changes to the approved strategy.

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

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

NOTE/S FOR CONDITION:

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

12 CONDITION: Concurrent with the first reserved matter, a scheme to minimise the risk of offsite flooding caused by surface water run-off and groundwater during construction works and prevent pollution shall be submitted to, and approved in writing by, the local planning authority. This must include details regarding mitigation measures within the SPZ and how soil compaction will be minimised. The scheme shall subsequently be implemented in full accordance with the details as approved.

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

13 CONDITION: Concurrent with the first reserved matter details of the construction methodology and timetable shall be submitted to and approved, in writing, by the Local Planning Authority. This shall incorporate the following information:-

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



- b) Details of the loading/unloading/storage of construction materials on site, including details of their siting and maximum storage height.
- c) Details of how construction and worker traffic and parking shall be managed. This shall include routing of all traffic and any directional signs to be installed and where.
- d) Details of any protection measures for footpaths and trees surrounding the site.
- e) Details of any means of access to the site during construction.
- f) Details of the scheduled timing/phasing of development for the overall construction period.
- g) Details of measures to control the emission of dust and dirt during construction, and including details of any wheel washing to be undertaken, management and location it is intended to take place.
- h) Details of the siting of any on site compounds and portaloos.
- i) Details of the method of any demolition to take place, including the recycling and disposal of said materials resulting from demolition.
- j) Site waste management plan (that shall include reuse and recycling of materials)
- k) Scheme for sustainable construction management to ensure effective water and energy use.
- l) Scheme of review of complaints from neighbours.
- m) Registration and details of a Considerate Constructors Scheme
- n) Details on the provision, location and management of any show home/s or reception, including opening times, parking and advertisements (including flags and directional signs).

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

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

**NOTE/S FOR CONDITION:**

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

14 **CONDITION:** Prior to occupation of the hereby approved development, the following shall have taken place or been completed:

- a) As indicated in principle on drawing no. 502042 IWD XX XX DR C 6000 P04, a new priority junction off Colchester Road to provide access to the proposed site.
- b) A dedicated right turn lane to be designed in accordance with DMRB standards, incorporating refuge islands as indicated in principle on drawing no. 502042 IWD XX XX DR C 6000 P04.
- c) As indicated in principle on drawing no. 502042 IWD XX XX DR C 6002 P01, and where possible the existing footway to be widened to maximum 2-metres or minimum 1.8 metres on the north side of Colchester Road to the existing bus stop facilities east of the Car Auction access. The provision of a new 2-metre-wide footway on the south side from the development site to the new bus stop.
- d) To current Essex County Council specification, the upgrade of the nearest bus stop on north side of Colchester Road, and east of the Car Auction access and a new bus stop to be provided on the south side of Colchester Road (details shall be agreed with the Local Planning Authority and Essex County Council prior to commencement of the development).
- e) Where the existing 40-mph speed limit terminates west of the proposed development site the provision of a 50-mph speed limit to be provided eastwards to incorporate the new development and to include the provision of a gateway feature at the new location for the

terminal signs east of the development site (details shall be agreed with the Local Planning Authority and Essex County Council prior to commencement of the development).

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.

15 CONDITION: Concurrent with the first reserved matter, details of the travel arrangements to and from the site for employees, customers, and visitors, within the proposed workplace Travel Plan shall be submitted for the approval in writing by the local Planning Authority in consultation with the Highway Authority. The workplace Travel Plan must contain but not be restricted to the following:

a) Baseline travel data based upon the information provided in the Transport Assessment, with suitable measures, objectives and targets identified targets to reduce the vehicular trips made by employees, customers, and visitors across the whole development, with suitable remedial measures identified to be implemented if these objectives and targets are not met.

b) Appointment of a suitably qualified Travel Plan Coordinator to implement the Travel Plan in full and clearly identify their contact details in the Travel Plan.

c) A commitment to monitor the vehicular trips generated by the employees, customers, and visitors, and submit a revised Travel Plan no later than six months after occupation of the commercial premises.

d) A commitment to monitor the Travel Plan annually on each anniversary of the approval of the Full Travel Plan and provide the outcome in a revised Travel Plan to be submitted to and approved in writing by the Local Planning Authority and Essex County Council for a minimum period of five years using the same methodology as the baseline monitoring.

e) A suitable marketing strategy to ensure that all employees on the site are engaged in the Travel Plan process.

f) Confirmation and evidence of agreement with a local taxi business to provide a free taxi home for car sharers (who have been let down) and employees that have travelled by bus to work for an evening shift and cannot access existing bus services.

g) A copy of an employee travel pack that includes information to encourage employees to use sustainable travel in the local area. The site shall not be occupied until the workplace Travel Plan has been agreed. The approved travel plan measures shall be implemented in accordance with a timetable that shall be included in the workplace Travel Plan and shall thereafter adhered to in accordance with the approved workplace Travel Plan.

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

16 CONDITION: Concurrent with the first reserved matter 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;
- Agreement of a scheme for water conservation including greywater recycling and rainwater capture/re-use;
- Agreement of heating of each building;

- Agreement of scheme for waste reduction; and
- 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 reduce need, better use or savings in the use of water, energy and resources; reduce harm to the environment; and result in wider public benefit in accordance with the NPPF.

- 17      CONDITION: Notwithstanding the provisions of Article 3, Schedule 2 Part 3 of the Town & Country Planning (General Permitted Development)(England) Order 2015, (or any Order revoking and re-enacting that Order with or without modification), the hereby approved development shall be used as Class B2 and E(g)(i) uses and for no other purpose of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (or in any provision equivalent to that Class in any Statutory instrument and re-enacting that Order with or without modification).

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

- 18      CONDITION: Concurrent with the submission of the Reserved Matters, full details of foul water drainage shall be submitted to and approved, in writing, by the Local Planning Authority. No part of the building/s shall be first occupied or brought into use until the agreed method of foul water drainage has been fully installed and is functionally available for use for that building/s. The foul water drainage scheme shall thereafter be maintained as approved.

REASON: To safeguard the ground water environment from harm.

NOTE/S FOR CONDITION:

This condition shall engage and requires details to be agreed prior to the commencement of works to the building/s approved. This condition is imposed to ensure the potential impact on a sensitive area is considered and harm avoided that may be detrimental to amenity and the environment. This condition as detailed will apply to the development at all times once agreement is obtained unless varied or removed legally.

- 19      CONDITION: Prior to first use of the access, visibility splays shall be provided with a minimum clear to ground visibility splay with dimensions of 2.4 metres by 215 metres in both directions, as measured from and along the nearside edge of the carriageway, and shall then be retained in its approved form. Notwithstanding the provisions of Part 2 Class A of the Town & Country Planning (General Permitted Development)(England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification) no obstruction over 0.6 metres high shall be erected, constructed, planted or permitted to grow within the areas of the visibility splays.

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

### 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.

#### Highways Informatives:

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

2: 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.

## 11. Additional Considerations

### Equality Impact Assessment

- 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

### Human Rights

- 11.4 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.
- 11.5 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).
- 11.6 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

- 11.7 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.
- 11.8 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.

## **12. Background Papers**

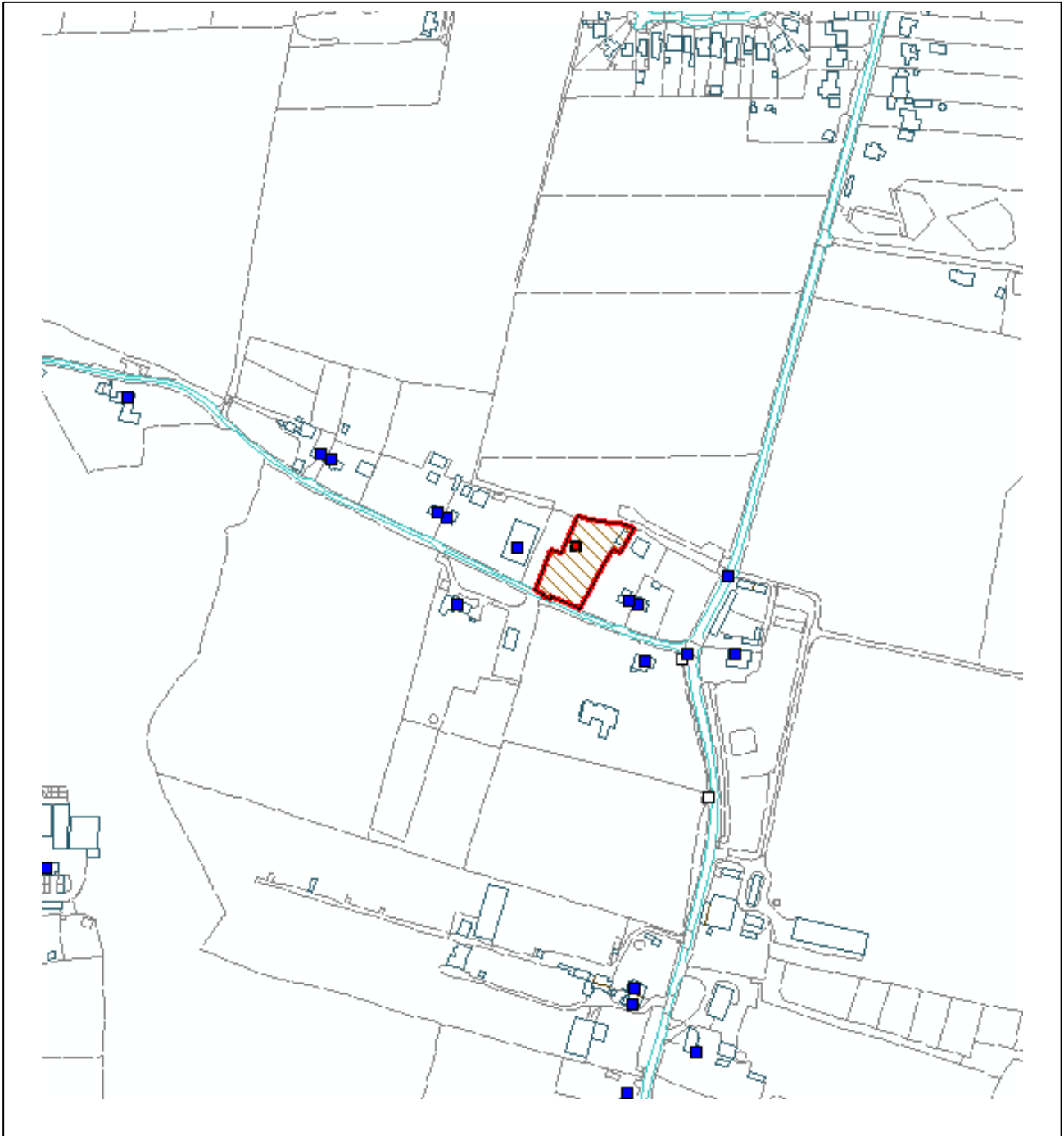
- 12.1 In making this recommendation, officers have considered all plans, documents, reports and supporting information submitted with the application together with any amended documentation. Additional information considered relevant to the assessment of the application (as referenced within the report)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

## PLANNING COMMITTEE

9 July 2024

### REPORT OF THE DIRECTOR OF PLANNING

#### A.2 PLANNING APPLICATION – 24/00035/FUL – BARN A TO THE REAR OF 5 HUNTERS CHASE ARDLEIGH CO7 7LW



DO NOT SCALE

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<b>Application:</b>	24/00035/FUL	<b>Expiry Date:</b>	12th March 2024
<b>Case Officer:</b>	Amy Lang	<b>EOT Date:</b>	31st July 2024
<b>Town/ Parish:</b>	Ardleigh Parish Council		
<b>Applicant:</b>	Bernadette Buck		
<b>Address:</b>	Barn A to the rear of 5 Hunters Chase Ardleigh CO7 7LW		
<b>Development:</b>	Proposed one dwelling in lieu of approved application 22/00359/COUNOT (Barn A). Re-submission of 23/00773/FUL.		

## 1. Executive Summary

- 1.1 The application is before Members due to the application representing a departure from the Development Plan being a proposal for a new dwelling outside any defined settlement development boundary.
- 1.2 The application site comprises a parcel land to the west of number 5 Hunters Chase, Ardleigh encompassing an existing detached barn to the rear of number 5, located to the north-eastern corner of the application site. The site lies outside of the defined settlement development boundary of Ardleigh.
- 1.3 The application seeks full planning permission for the erection of 1 no. 1 bedroom detached dwelling following the demolition of the existing detached barn to the rear of number 5 Hunters Chase (Barn A). The proposed dwelling would replace the existing barn subject of a prior approval for conversion to a dwelling under application reference 22/00359/COUNOT (representing the 'fall-back' position, covered in more detail in the main assessment below). The development would be accessed via a new access from Hunters Chase and not via the access currently serving no. 5 as approved under the Prior Approval Application.
- 1.4 Officers recognise that the access, siting and layout of the proposed development would be materially different to the Prior Approval it is seeking to replace. However, the proposal is seeking to improve upon the overall layout of the prior approval conversion scheme and would now comfortably appear as a well-planned infill residential development on a site surrounded by residential dwellings, and with consent for one dwelling (in the form of the prior approval).
- 1.5 Having regard to the predominantly semi-rural but residential character of the immediate locality, together with the single storey modest scale of the proposed dwelling and ample screening, the development would not amount to any visual harm, harm to the character of the area or wider landscape harm.
- 1.6 In the absence of any material harm resulting from the proposed development, the application is recommended for approval.

### **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 10.2 (including the RAMS UU Condition), 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 as stated at paragraph 10.3.

## 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 Local Plan 2013-33 and Beyond (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 made and the Minerals and Waste Local Plans adopted by Essex County Council.

### **In relation to housing supply:**

The Framework requires Councils to significantly boost the supply of homes to meet the District's housing need. However, the revised Framework, published on 19<sup>th</sup> December 2023, sets out in Paragraph 76 that (for applications made on or after the date of publication of this version of the Framework) local planning authorities are not required to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing for decision making purposes if the following criteria are met:

- their adopted plan is less than five years old; and
- that adopted plan identified at least a five-year supply of specific, deliverable sites at the time that its examination concluded.

The adopted Local Plan meets these criteria.

Notwithstanding this updated provision, the Council will continue to demonstrate an updated supply of specific deliverable sites within its Strategic Housing Land Availability Assessment (SHLAA), which is published annually. The most recent SHLAA was published by the Council in November 2023 and demonstrates a 6.44-year supply of deliverable housing sites against the annual requirement of 550 dwellings per annum set out within the adopted Local Plan, plus a 5% buffer to ensure choice and competition in the market. (The SHLAA can be viewed on the Council's website: <https://www.tendringdc.gov.uk/content/monitoring-and-shlaa>)

On 19th December 2023 the Government published the Housing Delivery Test (HDT) 2022 measurement. Against a requirement for 1,420 homes for 2019-2022, the total number of homes delivered was 2,207. The Council's HDT 2022 measurement was therefore 155%. As a result, the 'tilted balance' at paragraph 11 d) of the Framework does not apply to decisions relating to new housing development.

### **Local Plan Review Informative**

The Local Plan Issues and Options Consultation cannot take place until September due to the pre-election period and the summer holidays.

## 3. **Neighbourhood Plans**

### **Neighbourhood Plan Overview**

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>

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

### **Ardleigh Neighbourhood Plan**

The site is located in the parish of Ardleigh and therefore the draft Ardleigh Neighbourhood Plan is relevant. In terms of the progress of the Ardleigh Neighbourhood Plan, the Examiner published her Final Report on the 5th of May 2024. This Final Report found that the Neighbourhood Plan met the Basic Conditions subject to a number of changes. The decision to progress the Plan to referendum was made by the Director for Planning in consultation with the Portfolio Holder for Housing and Planning on the 13th of May 2024. Therefore, the Ardleigh Neighbourhood Plan, and any relevant policies therein, can be understood as reaching 'Stage 6: Referendum' in terms of the weight that can be attributed to it in the decision-making process. The referendum itself will take place in September 2024.

## **4. Planning Policy**

4.1 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 Plan (adopted January 2021)

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

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

- SPL1 Managing Growth
- SPL2 Settlement Development Boundaries
- SPL3 Sustainable Design
- LP1 Housing Supply
- LP2 Housing Choice
- LP3 Housing Density and Standards
- LP4 Housing Layout
- HP5 Open Space, Sports & Recreation Facilities
- PPL1 Development and Flood Risk
- PPL3 The Rural Landscape
- PPL4 Biodiversity and Geodiversity
- PPL5 Water Conservation, Drainage and Sewerage

PPL10 Renewable Energy Generation  
 CP1 Sustainable Transport and Accessibility  
 CP2 Improving the Transport Network  
 DI1 Infrastructure Delivery and Impact Mitigation

Draft Ardleigh Neighbourhood Plan 2020 - 2033 August 2022 (not yet adopted)

GDP General Approach to Development  
 EP Natural, Built & Historic Environment  
 TP Transport & Parking

Essex Minerals Local Plan Adopted July 2014

S8 Safeguarding mineral resources and mineral reserves  
 DM1 Development Management Criteria

Supplementary Planning Documents

Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy SPD 2020 (RAMS)  
 Tendring Provision of Recreational Open Space for New Development SPD 2008 (under review)  
 Essex Design Guide  
 Statutory guidance -Technical housing standards: nationally described space standard Published 27 March 2015

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

**5. Relevant Planning History**

A full planning history for the dwelling and surrounding buildings is available via Public Access.

Site-specific Site History (Barn A)

22/00359/COUNOT	Proposed conversion of an agricultural building into a dwellinghouse (Barn A).	Determination	20.04.2022
23/00773/FUL	Erection of one single-storey self-build dwelling in lieu of Barn A approved under 22/00359/COUNOT and proposed new access.	Refused	06.10.2023

Adjacent Site History (Barn B)

22/00360/COUNOT	Proposed conversion of an agricultural building into a dwellinghouse. (Barn B)	Determination	20.04.2022
23/00697/FUL	Proposed erection of one self-build dwelling (in lieu of Prior Approval for one dwelling, subject of application 22/00360/COUNOT for Barn B).	Approved	27.11.2023
24/00218/DISCON	Discharge of conditions application for 23/00697/FUL - Condition 3 (Residential Travel Pack); Condition 5 (Biodiversity Enhancement Strategy); Condition 10 (Sustainability); Condition 11 (Landscaping)	Approved	19.03.2024

## 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/>.

### **ECC Highways Dept**

**29.01.2024**

The information that was submitted in association with the application has been fully considered by the Highway Authority. 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, google earth image.

From a highway and transportation perspective the impact of the proposal is acceptable to Highway Authority subject to the following requirements;

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 maximum width of 6 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 verge/carriageway.

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. Any gates provided at the vehicular access shall be inward opening only and shall be set back a minimum of 6 metres from the back edge the carriageway.

Reason: To enable vehicles using the access to stand clear of the carriageway whilst gates are being opened and closed and to allow parking off street and clear from obstructing the adjacent footway/cycleway/carriageway in the interest of highway safety in accordance with policy DM1 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

4. Prior to occupation of the proposed development, the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack per dwelling, for sustainable transport, approved by Essex County Council.

Reason: In the interests of reducing the need to travel by car and promoting sustainable development and transport in accordance with policies DM9 and DM10 of the Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011

### **Environmental Protection**

**06.02.2024**

With reference to the above application, please see below for comments from the EP Team:

Contaminated Land: Given the site and surrounding areas historical use for agriculture, we are requesting a Watching Brief be conditioned and adhered to throughout the demolition and construction phase -

We request that the LPA are contacted in the event of unexpected ground conditions being encountered during construction and that the below minimum precautions are undertaken until such time as the LPA responds to the notification. I would also advise that the developer is made aware that the responsibility for the safe development of the site lies with them. Minimum requirements for dealing with unexpected ground conditions being encountered during construction.

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

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

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

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

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

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

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

REASON: to protect the amenity of nearby residential premises

**\*INFORMATIVE**

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

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

**UU Open Spaces**

**29.01.2024**

Public Realm Assessment

Play Space - current deficit:

- Deficit of 1.61 hectares of equipped play in Ardleigh

Formal Play - current deficit:

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

Settlement provision:

- Millennium Green LEAP and open space 1.6 miles from the development  
- Station Road LEAP 1.7 Miles from the development

Officer Conclusions and Recommendations

Contribution necessary, related, and reasonable?  
to comply with CIL Regs\*

- No contribution is being requested. Current facilities are adequate to cope with this development.

Identified project\*:

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

- None

**Tree & Landscape Officer**

**26.01.2024**

The demolition of the existing building and construction of the proposed dwelling will not result directly in the removal of any existing trees. The proposed development will however necessitate the removal of three trees to create the vehicular access to the new dwelling and result in an incursion into the Root Protection Area (RPA) of the mature Oak tree situated on land adjacent to the development site.

The Oak tree (T8) is a mature and healthy specimen that is approaching veteran status. The position of the tree is such that it does not feature prominently in the public realm however it has intrinsic value and is an important and historical landscape feature.

The applicant has provided an Arboricultural Impact Assessment (AIA). The AIA shows the extent of the RPA of retained trees and the degree to which they are a constraint on the development potential of the land.

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

The AIA demonstrates that the development would result in an incursion into the RPA of the Oak (T8) by approximately 4.4%. Whilst this should not cause significant harm to the tree it could be avoided if the development were to take place on the footprint of the existing structure or if the position of the new dwelling was moved out of the RPA to avoid any built development within the RPA.

If the development were to be approved, then specialist construction techniques should be implemented for any development within the RPA as described in the Planning Statement submitted in support of the application. In Section 7.22 of the Planning Statement it states: 'Notwithstanding the Consultant's confirmation that the development can be implemented with minimal impact on the existing trees; alternative build solutions could be secured ' for example pile & beam or raft foundations.'

Regarding the creation of the vehicular access to the land from the highway (Hunters Chase) this necessitates the removal of a short section of hedge (already removed), the felling of 2 Poplars (T1 & T3) and a poorly formed False Acacia (T5). The removal of these trees will not have a significant effect on the local landscape character and replacement planting is proposed and shown on the soft landscaping plan submitted in support of the application.

The AIA shows the retention of both the Red Oak (T6) and the Pin Oak (T7).

Should planning permission be likely to be granted then details of soft landscaping should be secured by a planning condition. Soft landscaping should aim to soften, screen and enhance the appearance of the development.

**Tree & Landscape Officer**

**01.05.2024**

Notwithstanding previous comments:

The amended layout shows that the position of the proposed dwelling would not result in an incursion into the RPA of the Oak (T8). This is desirable in terms of the long-term retention and viability of the tree.

The creation of the vehicular access to the land from the highway (Hunters Chase) still necessitates the removal of a short section of hedge (already removed), but now shows the retention of 2 Poplars (T1 & T3) and a False Acacia (T5).

It was previously accepted that the removal of these trees would not have a significant adverse effect on the local landscape character and that any harm to the amenity of the locality could be remediated by replacement planting.

In terms of new planting the Amended Tree Protection Plan shows the positions of 3 new trees to be planted. However, the positions of the trees does not accord with the replacement planting shown on the superseded Site Layout Plan and still shown on the Soft Landscaping Plan previously submitted in support of the application.

Therefore, the Amended Tree Protection Plan shows new tree planting that does not accord with that shown on the Soft Landscaping Plan.

It should be noted that that the Soft Landscaping Plan also still shows the removal of trees in accordance with the superseded Site Layout Plan (2 Poplars (T1 & T3) and False Acacia (T5).)

The Soft Landscaping Plan should be updated to ensure that it accords with the current proposal both in terms of tree planting and removal.

The positions and species of new trees should be clarified and further details of tree planting and other soft landscaping, (plant species and specification) should be secured, either prior to the determination of the application or by way of a planning condition.

**Tree & Landscape Officer**

**29.05.2024**

The amended layout still shows that the position of the proposed dwelling will not result in an incursion into the RPA of the veteran Oak (T8). This is desirable in terms of the long-term retention and viability of the tree.

The Amended Block Layout Plan now accords with the Amended AIA (Arboricultural Impact Assessment) and the Amended Soft landscaping Plan in terms of tree retention, removal and planting.

The loss of T7 ' Pin Oak will be adequately mitigated by the proposed new tree planting.

In terms of new planting the applicant will need to provide a specification for new trees P1 ' Copper Beech, P2 ' Liquidambar and P3 ' Tulip Tree.

This information can be provided prior to the determination of the application or can be secured by a planning condition attached to any planning permission that may be granted. In this regard new trees should have a minimum girth of 8 ' 10cm at time of planting.

**Essex County Council Ecology**

**12.02.2024 and 08.05.2024**

No objection subject to securing:

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

**Summary**

We have reviewed amended documents and re-assessed the Ecological Survey and Assessment (Essex Mammal Surveys, August 2023) relating to the likely impacts of development on



designated sites, protected and Priority species & habitats and identification of appropriate mitigation measures.

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

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

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

The mitigation measures identified in the Ecological Survey and Assessment (Essex Mammal Surveys, August 2023) should be secured by a condition of any consent and implemented in full. This is necessary to conserve and enhance protected and Priority species.

We also support the proposed reasonable biodiversity enhancements of two bird boxes, two solitary beehives, and one hedgehog box which have been recommended by the Ecological Survey and Assessment (Essex Mammal Surveys, August 2023) to secure net gains for biodiversity, as outlined under Paragraph 180d of the National Planning Policy Framework (December 2023). The reasonable biodiversity enhancement measures should be outlined within a Biodiversity Enhancement Strategy and should be secured by a condition of any consent.

In addition, the Ecological Survey and Assessment (Essex Mammal Surveys, August 2023) indicates that it is likely bats could be foraging/commuting within and around the site. Therefore, if any external lighting is to be proposed, it is advised that a sensitive lighting scheme is developed to minimise any impacts. This should summarise the following measures will be implemented:

- Light levels should be as low as possible as required to fulfil the lighting need.
- Warm White lights should be used at <2700k. This is necessary as lighting which emit an ultraviolet component or that have a blue spectral content have a high attraction effect on insects. This may lead in a reduction in prey availability for some light sensitive bat species.
- The provision of motion sensors or timers to avoid the amount of 'lit-time' of the proposed lighting.
- Lights should be designed to prevent horizontal spill e.g. cowls, hoods, reflector skirts or shields.

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

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

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

#### Recommended conditions

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

"All mitigation measures and/or works shall be carried out in accordance with the details contained in the Ecological Survey and Assessment (Essex Mammal Surveys, August 2023) as

already submitted with the planning application and agreed in principle with the local planning authority prior to determination.

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 (as amended).

## 2. 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) detailed designs or product descriptions to achieve stated objectives;
- b) locations, orientations, and heights of proposed enhancement measures by appropriate maps and plans;
- c) details of initial aftercare and long-term maintenance (where relevant).

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

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

And if any external lighting is proposed;

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

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

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

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

## 7. Representations

### 7.1 Parish / Town Council

#### **Comments in response to original submission:**

Ardleigh Parish Council object to the application on the following grounds:

- Our Council has repeatedly raised concerns about the number of Class Q, conversions of agricultural buildings, which later become applications to demolish and rebuild.
- We note the earlier refusal of 23/00773 which concluded that the two schemes (this and 22/00359/COUNOT) were not comparable, reducing weight attributable to

22/00359/COUNOT as a fallback position. The result was an assessment of the proposal against the Development Plan.

- This application should be considered against the Development Plan, including the Ardleigh Neighbourhood Plan and its associated Village Design Statement which is now in its final stages.
- As per the officer report for application 23/00773/FUL (refused) it is important to ensure any replacement dwelling reflects the scale, design and proportions of the existing building to be replaced.
- We share the concerns about changing character of rural areas and feel that the use of COUNOT applications and subsequently the fallback position effectively circumvents the plan-led approach.

#### **Comments in response to amended proposals:**

- No comments received.

### **7.2 Neighbour / Local Representations**

#### **Comments in response to original submission:**

1 letter of objection has been received. The objections raised can be summarised as follows:

- Significant Deviation from original plans.
- Detrimental impact on our local environment.
- This application undermines the purpose of the initial application.
- The proposed location and nature of the new dwelling seem to exploit Class Q permissions.
- Could set a concerning precedent that may lead to further misuse of this policy.
- Over 50 trees already felled - disregard for the preservation and enhancement of the local environment.
- Fails to uphold the integrity of local planning policies.
- further deterioration in our local environment.

#### **Comments in response to amended proposals:**

- No comments received.

## **8. Assessment**

8.1 The main issues and considerations relevant to the proposal can be summarised and addressed as follows:

- Site Description and Context
- Description of Development
- Planning History and Fall-back Position
- Principle of Residential Development
- Layout, Design and Landscape Impact
- Trees and Landscaping
- Residential Amenities
- Access and Parking
- Protected Special, Biodiversity Mitigation and Enhancement (including BNG & RAMS)
- Drainage and Foul Sewage Disposal
- Planning Obligation – Open Space and Play Space Provision
- Sustainable Construction & Energy Efficiency

### Site Description and Context

- 8.2 The application comprises a parcel land to the west of number 5 Hunters Chase, Ardleigh. The site area is broadly rectangular in shape, extending approximately 0.25 hectares in size encompassing an existing detached barn to the rear of number 5 (referred to as 'Barn A' further below and in the remainder of the report). Barn A is located to the north-eastern corner of the application site. The western part of the field, abutting the application site comprises a small woodland area.
- 8.3 Barn A sits alongside another barn slightly further to the east (and referred to as 'Barn B' in the remainder of this report). Barn B is also to the rear of number 5 Hunters Chase. Barn B is subject of the planning history set out above (references 22/00360/COUNOT and 23/00697/FUL) permitting a prior approval conversion and subsequent 'in-lieu' planning permission for a replacement dwelling. Barn B is accessed via Coggeshall Road to the east. The redevelopment of Barn B was approved by the Planning Committee on 21st November 2023.
- 8.4 The site is located on the northern side of Hunters Chase, outside of the defined settlement development boundary of Ardleigh. The site is semi-rural in character with open fields to the north and sporadic residential properties and agricultural buildings in the locality.

### Description of Development

- 8.5 The application seeks full planning permission for the erection of 1 no. 1 bedroom detached dwelling following the demolition of the existing detached barn to the rear of number 5 Hunters Chase (Barn A). The proposed dwelling would replace the existing barn subject of a prior approval for conversion to a dwelling under application reference 22/00359/COUNOT (representing the 'fall-back' position, covered in more detail in the main assessment below).
- 8.6 Following officer advice and review of the scheme during the application, the proposed dwelling would now be sited almost centrally within the site, forward of the position of the existing barn, to the west of 5 Hunters Chase.
- 8.7 The development would be served by a new access from Hunters Chase. The accompanying block plan shows the new access from Hunters Chase joining a proposed 'T' shaped driveway leading to a parking area for 2 cars, with a footway beyond leading to the dwelling itself.

### Planning History and Fall-back Position

#### ***Planning History***

- 8.8 On 20 April 2022 under planning reference 22/00359/COUNOT the Council deemed that prior approval was not required for the conversion of the agricultural building to the rear of 5 Hunters Chase (Barn A) into one dwelling (under the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 schedule 2 Part 3, Class Q - agricultural buildings to dwellinghouses).
- 8.9 Development under Class Q is permitted subject to the condition that development must be completed within a period of 3 years starting with the prior approval date. The conversion permitted under 22/00359/COUNOT therefore remains extant (must be completed by no later than 20 April 2025).
- 8.10 This application follows a previously refused application reference 23/00773/FUL for a similar development of 1 no. detached dwelling (in lieu of 22/00359/COUNOT).
- 8.11 Application 23/00773/FUL was refused on the following grounds (officer summary):

1. Unacceptable In Principle (outside Settlement Development Boundary)

2. Harm To Rural Character
3. Failure To Demonstrate – No Harm to Trees
4. Impractical Layout – poor relationship with parking and access

8.12 This revised application addresses the previous reasons for refusal by demonstrating a reduction in the area of hardstanding to serve the access and parking, by amending the siting of the dwelling and layout of the site to deliver, what is considered to be an improve, yet practical layout (see 'Layout, Design and Landscape Impact' section below), taking an opportunity to avoid the loss of significant trees on the boundary. Consequently, the revised proposal would appear as an appropriate infill development bounded by existing residential dwellings to both sides and opposite being well screened by existing and proposed trees and landscaping. These matters are addressed in more detail under the relevant headings below.

**Fall-back Position**

8.13 It is established in case law that permitted development rights can legitimately represent a fall-back position when considering alternative proposals for development of the same site. In summary, the relevant legal principles relating to the fall-back position were set out in R v Secretary of State for the Environment and Havering BC (1998) EnvLR189. In that case Mr Lockhart-Mummery QC, sitting as a Deputy High Court Judge, accepted submissions that there were three elements to the fall-back test:

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

8.15 The notion of Class Q providing a lawful fall-back position was subsequently and comprehensively dealt with at the landmark Court of Appeal case, Mansell vs Tonbridge and Malling Borough Council [2017], which concluded that a realistic fall-back position in regard to Class Q would amount to a material consideration in the determining of an application.

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

	<b>22/00359/COUNOT (Prior Approval)</b>	<b>24/00035/FUL (Current application)</b>
<b>Siting</b>	To the rear of 5 Hunters Chase, in the northern corner.	Re-sited, approximately centrally within the adjacent field.
<b>Access</b>	Via the existing access serving number 5 Hunters Chase.	Creation of a new access, driveway and parking areas from Hunters Chase.
<b>Appearance</b>	Minimal changes / no materials details provided.	Natural Larch Wood Elevations Marley Eternit Slate Roof
<b>Ridge Height</b>	3.75 metres	4.8 metres
<b>Eaves Height</b>	2 metres	2.5 metres
<b>Identified site / site area</b>	119m2 / 0.01ha	0.25ha
<b>Floor Area / footprint</b>	53m2	66.8m2

<b>Bedrooms</b>	1 bedroom	1 bedroom
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- 8.17 Having regard to the above, officers accept that there is a lawful ability to undertake the fall-back use of the building as a dwelling permitted by Class Q, and there is a likelihood or real prospect of this occurring (remains extant until 2025).
- 8.18 Turning to the third element of the legal fall-back position, namely 'a comparison' between the proposed development and the fall-back use, there are material differences and additions when compared to the prior approval scheme. These can be summarised as follows:
- The proposed dwelling would now be sited centrally within the site with a much-altered access and proposed landscaping.
  - The site encompasses a larger area of land that would change use to residential curtilage, again not permitted by the Prior Approval.
  - The proposed dwelling would be served by a new access and an area of hard surfacing to create the access, driveway and parking areas.
- 8.19 Consequently, when assessing the proposed development against the prior approval fallback position and insofar as a direct comparison is concerned, the weight that can be attributed to the fall-back position as a material planning consideration is reduced because the new dwelling will clearly be in a different location, but the scheme nevertheless proposes one dwelling in lieu of the prior approval conversion scheme. The relocation element will be considered in the sections below and weighed in the planning balance and conclusion section.

Principle of Residential Development

***Spatial Strategy***

- 8.20 As addressed above (Status of the Local Plan), in line with Section 70(2) of the 1990 Town and Country Planning Act and Section 38(6) of the Planning and Compulsory Purchase Act 2004, planning law requires that planning application decisions must be taken in accordance with the development plan unless there are material considerations that indicate otherwise. The 'development plan' for Tendring comprises, in part, Sections 1 and 2 of the Tendring District Council 2013-33 and Beyond Local Plan (adopted January 2021 and January 2022, respectively), together with any neighbourhood plans that have been brought into force. The site is not located within an area subject of any adopted Neighbourhood Plans.
- 8.21 Adopted Tendring District Local Plan 2013-2033 and Beyond Section 1 (TDLPS1) Policy SP1 states that when considering development proposals, Local Planning Authorities will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework. They will always work pro-actively with applicants to find solutions which mean that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area. Development that complies with the Plan will be approved without delay, unless material considerations indicate otherwise. TDLPS1 Policy SP3 describes the overarching spatial strategy for growth across North Essex up to 2033. It provides that existing settlements will be the principal focus for additional growth and that development will be accommodated within or adjoining settlements according to their scale, sustainability and existing role both within each individual district and, where relevant, across the wider strategic area. It states that future growth will be planned to ensure existing settlements maintain their distinctive character and role, to avoid coalescence between them and to conserve their setting.
- 8.22 Policy SP3 in Section 1 of the Local Plan also provides that the Section 2 Local Plan for each local planning authority will identify a hierarchy of settlements where new development will be accommodated according to the role of the settlement, sustainability, its physical capacity and local

needs. It is TDLP Section 2 (TDLPS2) that subsequently gives effect to the overarching spatial strategy through Policy SPL1 which defines the settlement hierarchy in Tendring and Policy SPL2 that determines how sustainable development will be achieved, i.e., by explicitly defining settlement development boundaries around relevant settlements to make land available as necessary for development to meet the planned housing requirement.

- 8.23 Policy SPL2 thus states that to encourage sustainable patterns of growth and to carefully control urban sprawl, each settlement listed in Policy SPL1 is defined within a 'Settlement Development Boundary' as shown on the relevant Policies Map and Local Map. It goes on to state that within the Settlement Development Boundaries, there will be a general presumption in favour of new development subject to detailed consideration against other relevant Local Plan policies and any approved Neighbourhood Plans. In this instance, the Draft Ardleigh Neighbourhood Plan 2020 - 2033 August 2022 (not yet adopted).
- 8.24 Whilst the site falls within the Parish of Ardleigh, the application site falls outside of the defined settlement boundary for the area as identified on the Local Plan Policies Maps, and therefore does not benefit from the general presumption in favour of new development offered by Policy SPL2.

### ***Site-Specific Characteristics***

- 8.25 As mentioned above, adopted Local Plan Policy SPL1 identifies a hierarchy of settlements to where new development will be directed. In doing so, it seeks to prioritise locations with access to the strategic road network, public transport, and those with the potential to offer the widest range of services. In areas outside of development settlement boundaries, these are considered to be part of the countryside. Ardleigh is categorised as a 'smaller rural settlement' in recognition of its limited services and amenities. Growth here is limited to within the defined settlement boundary consistent with local community needs.
- 8.26 The application site is located approximately 2 km from the defined settlement boundary of Ardleigh and therefore located within the countryside where development is restricted to protect and enhance the character and openness of the countryside. The nearest bus stop is located on Harwich Road approximately 1 km from the site via an unlit, country road with no pedestrian footpath. The site poorly located in terms of accessibility of local services and future occupants would be reliant on their private car, therefore failing to represent sustainable development.

### ***Other Material Planning Considerations***

- Five-year housing land supply
- 8.27 One of the material planning considerations that might sometimes require the Council to depart from the approach in Policy SPL2 (providing support for development outside of the settlement development boundary) is our ability (or otherwise) to demonstrate a five-year supply of deliverable housing. In the past and particularly before the adoption of the new Local Plan, a number of residential developments outside of settlement development boundaries were granted permission as a departure from policy to address a shortfall in the demonstrable housing supply. However, at the time of writing, those circumstances do not apply as there is now an up-to-date Local Plan in place and the Council is able to report a comfortable surplus of housing land supply over and above the 5-year requirement. There is consequently no argument in housing supply terms for extending the general presumption in favour of development set out in Policy SPL2 to sites beyond the defined settlement development boundaries and thus a plan-led approach should prevail.

### ***Prior Approvals and the Fall-back Position***

- 8.28 As explained above, another material consideration as established by case law, is the "fall-back position" when considering alternative proposals for development of the same site.

- 8.29 Within the District it has become commonplace for landowners to seek planning permission for a new dwelling once prior approval has been granted for the conversion of an agricultural building to a dwelling. The Council recognises that there are benefits of doing this in respect of the eco-credentials of the resultant building, because a new build is likely to be more thermally efficient and designed to incorporate sustainable construction methods and technologies, thereby reducing the environmental impact of the dwelling. However, the purpose of the prior approval process introduced by the government was to bring existing buildings back into use and to meet housing needs, not to change the character of rural areas to being overly domestic or suburban in their appearance. Therefore, it remains important to ensure any replacement dwelling reflects the scale, design and proportions of the existing building to be replaced. Applications for alternative schemes that increase the height, scale or position of the replacement dwelling to the extent where clear and overriding harm will ensue, will be resisted because such a proposal would not be comparable to the fall-back position.
- 8.30 The proposed building would reflect the scale, design and proportions of Barn A (to be replaced), albeit in a different location with a much-altered access and different landscaping proposals. For the reasons explained above, the development cannot be considered directly comparable to the "fall-back position" (established by prior approval reference 22/00359/COUNOT) as the dwelling would be re-located into the adjacent field with a larger curtilage, served by a new access with associated hardstanding. This has been a matter of review for your officers, but a planning balance needs to be established between the fallback and creation of place that has advantages in terms of neighbour amenity relationship and protection of space and reduction of risk for important trees. Therefore, the 'fall-back position' holds weight in terms of principle, but there are further considerations on weight in terms of layout, both reduced in terms of fallback, but a fine balance by other planning considerations of good layout and design.
- 8.31 Given the site's location outside of any defined settlement development boundary, the proposed development is considered to represent a new dwelling in the countryside. The fallback is a material planning consideration relevant to the site or development that require the Council to consider in determining the application. The site is not located in an area which is promoted as a suitable location for further housing growth under normal policy consideration. The proposed development would conflict with adopted Local Plan Section 1 Policies SP1, SP3 and Local Plan Section 2 Policies SPL1 and SPL2, and the draft Ardleigh Neighbourhood Plan Policy GDP General Approach to Development.

#### Layout, Design and Landscape Impact

- 8.32 Paragraph 131 of the National Planning Policy Framework (NPPF) states that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.
- 8.33 Local Plan Policy SP7 states that all new development should respond positively to local character and context to preserve and enhance the quality of existing places and their environs. Furthermore, Policy SPL3 seeks to provide new development which is well designed and maintains or enhances local character and distinctiveness. The development should relate well to its site and surroundings and should respect or enhance local landscape character and other locally important features.
- 8.34 Moreover, Policy PPL3 states that the Council will protect the rural landscape and refuse planning permission for any proposed development which would cause overriding harm to its character or appearance.
- 8.35 The site comprises a parcel of land with several sporadic trees and vegetation, bounded by mature trees and hedgerow with open countryside to the rear and a small, wooded area to the west.



- 8.36 The application proposes a modest, single storey dwelling, well set back from the highway. Officers recognise that the set-back siting and minor scale of the dwelling could be screened by existing and new vegetation. Recognising the existing barn it is on a limited plot, cramped and would likely conflict in terms of amenity with the existing neighbour and future new neighbour to the east. The proposal does move the new residential use into the adjacent field of an enclosed paddock nature, and this causes conflict in terms of some urbanisation. However, this paddock is essentially an infill between clear residential developments and would be opposite a recently developed dwelling. It is not open rural land and to establish direct harm would be a subjective argument. In the balance the centralised position provides as much space as possible around the building to maintain the spacious relationships between dwellings in this area, it promotes landscaping potential and space to enable green space, but also ensures suitable distance to rear established boundary treatment and a large tree that may have been a threat to residential use in the fallback was taken forward.
- 8.37 Officers recognise that the access, siting and layout of the proposed development would be materially different to the Prior Approval it is seeking to replace. However, the proposal would comfortably appear as an infill residential development, with neighbouring dwellings to both sides and on the opposite side of Hunters Chase. An observer will experience a very modest dwelling set centrally in the site but set back from the road, and behind existing and proposed landscaping. This arrangement, in officers' opinion, would be superior from a design and layout perspective compared to a location in the far northeastern corner of the site.
- 8.38 Having regard to the semi-rural but residential character of the immediate locality, together with the single storey modest scale of the proposed dwelling and ample screening, the development would not amount to any visual harm, harm to the character of the area or wider landscape harm.

#### Trees and Landscaping

- 8.39 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.
- 8.40 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.
- 8.41 Whilst the demolition of the existing building and construction of the proposed dwelling will not directly result in the removal of any existing trees, the development will necessitate the removal of T7 ' Pine Oak will be adequately mitigated by the proposed new tree planting.
- 8.42 The amended layout shows that the position of the proposed dwelling will not result in an incursion into the RPA of the veteran Oak (T8) and will ensure the long-term retention and viability of the tree. Furthermore, following initial errors and concerns, the Amended Block Layout Plan accords with the Amended AIA (Arboricultural Impact Assessment) and the Amended Soft landscaping Plan in terms of tree retention, removal and planting.
- 8.43 In terms of new planting the applicant will need to provide a specification for new trees P1 ' Copper Beech, P2 ' Liquidambar and P3 ' Tulip Tree. This can be secured by a planning condition.

#### Access and Parking

- 8.44 Paragraph 114 of the NPPF seeks to ensure that safe and suitable access to a development site can be achieved for all users. TDLP 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.

- 8.45 The EPOA Parking Standards 2009 require that for dwellings with 2 or more bedrooms, a minimum of 2 parking spaces is required. Parking spaces should measure 5.5 metres by 2.9 metres and garages should have internal dimensions of 7 metres by 3 metres (if being replied upon as a parking space). One secure, covered parking space for bicycles is required per dwelling.
- 8.46 The submitted plans show that there is sufficient space within the site to provide the necessary parking for the dwelling.
- 8.47 Essex County Council Highway Authority have been consulted on the application and raise no objection subject to conditions. Where necessary and relevant, the conditions have been included within the recommendations in accordance with the legislative and national guidance.

#### Protected Special, Biodiversity Mitigation and Enhancement (including BNG & RAMS)

##### **General duty on all authorities**

- 8.48 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. Section 40 A1 states "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".
- 8.49 The duty to conserve and enhance biodiversity is placed on public authorities with functions exercisable in relation to England, this includes local authorities, which encompass local planning authorities. Section 40 provides authorities must consider what actions they can take to further the general biodiversity objective and, after consideration, determine policies and specific objectives to achieve this goal. The actions mentioned include conserving, restoring, or enhancing populations of particular species and habitats. While the Section doesn't explicitly state that planning decisions must contribute to biodiversity conservation, it's essential to consider the broader context of planning functions within the authority. Typically, local planning authorities play a crucial role in land use decisions, and decisions related to development and land management can have significant implications for biodiversity. In conclusion for decision making, it is considered that the LPA must be satisfied that the development would conserve and enhance.

##### **Mandatory Biodiversity Net Gain**

- 8.50 Under the same Act (Environment Act 2021) mandatory Biodiversity Net Gain came into force for applications validated on or after 12<sup>th</sup> April 2024. In this instance, this application was validated on 16<sup>th</sup> January 2024 does not require a minimum biodiversity net gain of 10%.
- 8.51 Nevertheless, there is scope to enhance biodiversity through appropriately worded conditions to secure such features as new planting, permeable surfacing, wildlife-friendly fencing and lighting, nesting boxes and rainwater capture. The development will therefore conserve and enhance biodiversity interests.

##### **Protected Designated Habitats**

- 8.52 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. Mitigation measures must be secured prior to occupation and are achieved through a financial contribution of £163.86 per dwelling, secured through a legal agreement.

- 8.53 This residential development lies within the Zone of Influence. The site is not within or directly adjacent to one of the European designated sites but is approximately 3 kilometres from Stour and Orwell Estuaries Ramsar site.
- 8.54 To comply with the adopted Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS), Local Plan Policies SP2 and PPL4, and Regulation 63 of the Conservation of Habitats and Species Regulations 2017, an appropriately worded condition will be added to secure the completion of a Unilateral Undertaking thus securing the payment of the required financial contribution prior to the occupation of the development.
- 8.55 The completed UU already provided relates to a different site area and does not reflect the current RAMS contribution amount and therefore a new UU will be required.

### **Conclusion**

- 8.56 In accordance with the overarching duty outlined above, through the imposition of appropriately worded conditions, this development is considered to accord to best practice, policy, and legislation requirements in consideration of the impacts on ecology interests.

### Residential Amenities

- 8.57 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.
- 8.58 Local Plan Policy SPL3, Part B requires that buildings and structures are designed and orientated to ensure adequate daylight, outlook and privacy for future and existing residents. Furthermore, Part B states that, new development must meet practical requirements, including provision for adequate private amenity space, waste storage and recycling facilities, vehicle and cycle parking.
- 8.59 Policy LP4 j. states that the design and layout of new residential will be expected to provide for private amenity space of a size and configuration that meets the needs and expectations of residents, and which is commensurate to the size of dwelling and the character of the area. The private amenity space is considered excessive for a 1-bedroom dwelling but would not represent a reason for refusal.
- 8.60 The single storey scale of the dwelling minimises any neighbouring impact with its low eaves' height and low ridge height. This together with the size of the plot and separation distance ensures that no harm to residential amenities in terms of light, sunlight, outlook, overlooking or privacy will result from the development.

### Drainage and Foul Sewage Disposal

- 8.61 Paragraph 170 of the Framework states that planning policies and decisions should contribute to and enhance the natural and local environment by preventing new development from contributing to unacceptable levels of water pollution. Furthermore, Paragraph 180 of the Framework states that planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects of pollution on the natural environment.
- 8.62 Adopted Policy PPL5 of Section 2 of the Adopted Local Plan states that all new development must make adequate provision for drainage and sewerage. Connection to the mains is the preferred option having regard to the drainage hierarchy and building regulations requirements. However, where this is not possible, an application will need to confirm how foul sewage disposal will be dealt with in compliance with the building regulations and Environment Agency drainage hierarchy.

- 8.63 In this instance, the dwelling would be served by a Package Treatment Plant. Details of the proposed Package Treatment Plant have not been provided with the application. A condition is therefore included within the recommendation to secure these details.

#### Planning Obligation - Open Space and Play Space Financial Contribution

- 8.64 In line with the requirements of adopted Local Plan Section 2 Policy DI1, the Council's Public Realm have been consulted on the application to determine if the proposal would generate the requirement for a financial contribution toward public open or play space.
- 8.65 Whilst it has been established that there is currently a deficit of equipped play in Ardleigh, no contribution is being requested on this occasion as the current facilities are adequate to cope with this development.

#### Sustainable Construction & Energy Efficiency

- 8.66 Paragraph 116 of the NPPF states that applications for development should be designed to enable charging of plug-in and other ultra-low emission vehicles (ULEV) in safe, accessible and convenient locations. Policies PPL10 and SPL3 require consideration be given to renewable energy generation and conservation measures. Proposals for new development of any type should consider the potential for a range of renewable energy generation solutions, appropriate to the building(s), site and its location, and be designed to facilitate the retro-fitting of renewable energy installations.
- 8.67 The application is accompanied by a block plan showing the location and specification of the electric vehicle charging point to serve the dwelling. The proposed parking area has been amended since the previous application bringing it closer to the dwelling. This, together with the specification details including a 10m charger at a distance of 7m from the dwelling demonstrates how the development will comply with the aims of Policies PPL10 and SPL3.

#### Environmental Protection

- 8.68 Consultation with the Council's Environmental Protection Team (EPT) has been undertaken.
- 8.69 The application is accompanied by a Contamination Statement. The previous application was accompanied by a Construction Management Plan, but this has not been provided with this application.
- 8.70 EPT raise no objection to the development subject to conditions securing a contaminated land watching brief and construction management (timing and clearance) and an informative ensuring the Package Treatment Plant accords with current standards. Environmental protection matters can be satisfactorily controlled by the recommended conditions.

### **9. Overall Planning Balance and Recommendation**

- 9.1 The proposal is not in accordance with the Local Plan's spatial approach to housing delivery representing a new dwelling in the countryside. The proposal is therefore contrary to the Council's plan-led spatial strategy to direct development to the main urban areas and manage growth. In terms of its location, the proposal is therefore contrary to Policies SP1, SP3, SPL1 and SPL2, and is unacceptable in principle.
- 9.2 Regard has been given to the material planning consideration of the fall-back position established through the prior approval application reference 22/00359/COUNOT. For the reasons set out above, the weight attributed to this is more complex as the proposal would not result in a comparable development when considered against the prior approval conversion, thus failing the third ('comparability') test cited within the relevant case law. However, the planning balance must be taken as a whole and there are advantages of the proposal to consider on their individual merits.

- 9.3 All other relevant material planning considerations as set out in the main body of the report are either policy compliant, or capable of being policy compliant subject to relevant, necessary and reasonable planning conditions, which can be secured upon any planning approval.
- 9.4 In officers' opinion, holistically the proposal, for the reason given, will result in a superior scheme from a general layout, access, design and landscaping perspective when compared to the prior approval conversion scheme. Accordingly, the proposal is recommended for approval subject to conditions.

## **10. Recommendation**

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

### **10.2 Conditions**

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

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

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

#### **2. COMPLIANCE: APPROVED PLANS AND 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.

- 1:1250 Ordnance Survey Extract
- 1:500 Amended Block Plan – Revision A
- Planning Statement Revision A
- Amended Hard landscaping and Demolition - Revision A
- Amended Soft Landscaping Retained and Proposed - Revision A
- Amended Arboricultural Impact Assessment (AIA) TPSQU0202 Issue 2
- AIA Appendix 1 Tree survey and explanatory notes
- AIA Appendix 2 Tree Survey and Constraints Plan Dwg. No. TPSQU0202 TSCP
- AIA Appendix 3 & 4 Protective Fencing & Signage
- AIA Appendix 5 Tree Protection Plan Dwg. No. TSPQU0202 TPP Rev. B
- AIA Appendix 6 Arboricultural Monitoring Form
- Amended Proposed Block Plan, Elevations and Floor Plans Dwg. No. BB-01 Revision C
- 1:1250 Visibility Splay Plan
- Dwg. No. AJC/01 Roof Plan
- Amended Parking & Access - Revision A
- Broadband Connection
- Contamination Statement
- Foul Drainage Assessment
- Ecological Survey and Assessment August 2023

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

### 3. COMPLIANCE: PERMEABLE SURFACING & NO UNBOUND SURFACE MATERIALS

CONDITION: All new parking areas and areas of hardstanding shall be made of porous materials, or provision shall be made to direct run-off water from the hard surface to a permeable or porous area within the site area. No unbound materials shall be used in the surface treatment of the individual private driveways and throughout the development.

REASON: To ensure that loose materials are not brought out onto the highway, in the interests of highway safety, and in the interests of sustainable development to minimise the risk of surface water flooding.

### 4. FURTHER APPROVAL: MITIGATION TO BE AGREED - RAMS

CONDITION: Prior to the commencement of any works to the development hereby approved, detailed proposals addressing the mitigation of the development's impact on protected Essex Habitats Sites have been submitted to and received written approval from the Local Planning Authority. Such proposals must provide for mitigation in accordance with the joint Habitats Regulations Assessment Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) or demonstrate mitigation measures of an equivalent effectiveness.

These proposals may require on site or off-site mitigation, but in either case must include evidence of the completion of a necessary legal agreement to secure the proposed mitigation and/or contribution towards mitigation. Please note a legal agreement will include legal fees and may require obligations to secure monitoring and associated fees. For any on site mitigation proposals approved, it shall be carried out in full and thereafter shall be maintained as approved.

REASON: In order to safeguard protected wildlife species and their habitats in accordance with the NPPF and Habitats Regulations. Failure to achieve satisfactory mitigation would result in harm by new residents due to the development's impact on protected sites.

#### NOTE/S FOR CONDITION:

This condition establishes the necessity to ensure the implementation of appropriate mitigation measures due to the impact of the approved development. Such mitigation may be required on-site, off-site, or a combination of both.

Typically, a contribution towards visitor management measures at the protected Habitats Site(s) is the preferred and simplest approach to fulfil the requirements of this condition. To fulfil this requirement, you can contribute funds towards a range of mitigation projects in the protected areas. It is essential to secure this provision through a legal agreement between the Council, Developer/Applicant, and site owners before occupation. If this is the approach to fulfilling this condition you wish to take, you are strongly advised to finalise the legal agreement with the Council before submitting any request to discharge this condition. Failure to conclude the agreement within the discharge of condition application time frame may lead to the refusal to discharge the condition.

#### LEGAL AGREEMENT REQUIRED

As per the relevant condition above, this application requires mitigation against recreational impact in accordance with The Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) and Regulation 63 of the Conservation of Habitat and Species Regulations 2017. The current RAMS tariff is £163.86 per new dwelling (from the 1st April 2024). To satisfy a RAMS condition and allow a condition to be formally discharged, a completed UU must be submitted with a Discharge of Condition application.

Prior to the submission of the Discharge of Condition application, we can prepare the UU for you (to be reviewed by your solicitor) or we can review a draft UU you have provided (drafted by your solicitor). Both services will incur a charge.

Please see the 'Preparation of a UU' guidance on our website at:  
<https://www.tendringdc.gov.uk/content/the-s-106-process>

## 5. FURTHER APPROVAL: CONSTRUCTION MANAGEMENT TO BE AGREED

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

- a) Confirmation of the hours of operation on the site. 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.
- 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 wheel and underbody washing facilities to be provided and used at the site.
- e) Details of any protection measures for footpaths and trees surrounding the site.
- f) Details of any means of access to the site during construction.
- g) Details of the scheduled timing/phasing of development for the overall construction period.
- h) 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.
- i) Details of the siting of any on site compounds and portaloos.
- j) Details of the method of any demolition to take place, including the recycling and disposal of said materials resulting from demolition.
- k) Site waste management plan (that shall include reuse and recycling of materials) and the prohibition of the burning of materials on the site.
- l) Scheme for sustainable construction management to ensure effective water and energy use.
- m) A scheme to control noise and vibration during the construction phase, including details of any piling operations. If piling is to be carried out on the site a rationale for the piling method chosen and details of the techniques to be employed which minimise noise and vibration to nearby residents shall be provided.
- n) Scheme of review of complaints from neighbours.
- o) 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 in adverse harm to neighbouring residents' amenities.

6. COMPLIANCE: IN ACCORDANCE WITH AIA

CONDITION: The development shall be carried out in accordance with the approved Amended Arboricultural Impact Assessment (AIA) TPSQU0202 Issue 2 and accompanying Arboricultural Impact Assessment Appendices 1 to 6. This shall include a qualified Arboriculturalist visiting the site throughout the development process to carry out an assessment of tree health and protection condition and make recommendations when required.

No alterations or variations to the approved works or tree protection schemes shall be made without prior written consent of the local planning authority.

REASON: To ensure existing trees, shrubs and hedges that are identified as being retained are not removed and are protected appropriately during the development, as they are considered essential to enhance the character of the development and contribute positively to the appearance of the area.

7. FURTHER APPROVAL: HARD AND SOFT LANDSCAPING SCHEME

CONDITION: Prior to the commencement of any above ground works, a scheme of hard and soft landscaping for the site shall be submitted to and approved, in writing, by the local planning authority. The scheme shall include any proposed changes in ground levels, accurately identify spread, girth and species of all existing trees, shrubs and hedgerows on the site and indicate any to be retained in compliance with the recommendations set out in the British Standards Institute publication "BS 5837: 2012 Trees in relation to design, demolition and construction". The scheme shall be in general conformity with the indicative landscape details shown on the approved drawings, subject to any new boundary planting being planted a minimum of 1 metre back from the highway boundary and any visibility splay and retained free of obstruction above 600mm at all times.

REASON: In order to enhance the appearance of the development, in the interests of visual amenity and the quality of the development, and to ensure that the future outward growth of the planting does not encroach upon the highway or interfere with the passage of users of the highway, to preserve the integrity of the highway and in the interests of highway safety.

8. COMPLIANCE: IMPLEMENTATION OF 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 is implemented in accordance with the approved scheme and has sufficient time to establish, in the interests of visual amenity and the quality of the development.

9. FURTHER APPROVAL: SUSTAINABILITY & ENERGY EFFICIENCY

CONDITION: No development shall commence above slab level until full details of the sustainability and energy efficiency measures to be used in the development shall be submitted



to and approved in writing by The Local Planning Authority. The detailed scheme shall include as a minimum:-

- An electric car charging point scheme
- Agreement of a scheme for water conservation including greywater recycling and rainwater capture/re-use for the new dwelling
- 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 the new dwelling
- Agreement of heating for the new dwelling
- Agreement of scheme for waste reduction
- In line with the accompanying Broadband Statement, the 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.

#### 10. COMPLIANCE: ACCESS DETAILS AND WIDTH

CONDITION: 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 maximum width of 5 metres, shall be retained at that width for 5 metres within the site and shall be provided with an appropriate dropped kerb vehicular crossing of the verge/carriageway.

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

#### 11. REMOVAL OF PERMITTED DEVELOPMENT: FENCING & ENCLOSURES

CONDITION: Notwithstanding the provisions of the Town & Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that order with or

without modification), other than the fencing shown on the approved drawings, there shall be no other gates/fence and/or other means of enclosure erected at the point of access or anywhere on or within the site, unless details are first agreed, in writing, by the local planning authority. Any gates provided at the vehicular access shall be inward opening only and shall be set back a minimum of 6 metres from the back edge the carriageway.

REASON: To allow the local planning authority additional control over the erection of fencing and enclosures, in the interests of proper planning of the development, in the interests of highway safety and in the interests of visual amenity and the semi-rural character and appearance of the area.

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

#### 12. REMOVAL OF PERMITTED DEVELOPMENT: NO EXTENSIONS OR OUTBUILDINGS

CONDITION: Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any other order revoking and re-enacting that order with or without modifications), Classes A, B, C and E no extensions or alterations to the dwelling or its roof shall be undertaken, nor shall any sheds or amenity/utility buildings, or other buildings or structures, other than those shown on the approved plans shall be erected on the site unless details of their size, materials and location have previously been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

REASON: In the interests of proper planning of the development, in the interests of visual amenity and the character and appearance of the area.

#### 13. FURTHER APPROVAL: DRAINAGE DETAILS

CONDITION: Full details of surface and foul water drainage shall be submitted to and approved, in writing, by the local planning authority prior to the commencement of any works to the building/s it would serve. No part of the building/s shall be first occupied or brought into use until the agreed method of surface and foul water drainage has been fully installed and is functionally available for use for that building/s. The surface and foul water drainage scheme shall thereafter be maintained as approved.

REASON: To safeguard the ground water environment from harm and minimise the risk of flooding as insufficient information has been provided with the application.

NOTE/S FOR CONDITION:

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

#### 14. COMPLIANCE: ECOLOGICAL APPRAISAL RECOMMENDATIONS

CONDITION: All mitigation measures and/or works shall be carried out in accordance with the details contained in the hereby approved Ecological Survey and Assessment (Essex Mammal Surveys, August 2023).

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 (as amended).

#### 15. FURTHER APPROVAL: BIODIVERSITY ENHANCEMENT STRATEGY

CONDITION: Prior to any above ground works, a Biodiversity Enhancement Strategy for protected and Priority species shall be submitted to and approved in writing by the local planning authority. The content of the Biodiversity Enhancement Strategy shall include the following:

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

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

REASON: To enhance protected and Priority species and habitats.

#### 16. FURTHER APPROVAL: EXTERNAL LIGHTING

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

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

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

### 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.

## Environmental Protection Informatives

### ***Contaminated Land***

We request that the LPA are contacted in the event of unexpected ground conditions being encountered during construction and that the below minimum precautions are undertaken until such time as the LPA responds to the notification. I would also advise that the developer is made aware that the responsibility for the safe development of the site lies with them.

Minimum requirements for dealing with unexpected ground conditions being encountered during construction.

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

### ***Asbestos***

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

## Highways Informatives

- i. All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works. The applicants should be advised to contact the Development Management Team by email at [development.management@essexhighways.org](mailto:development.management@essexhighways.org)
- ii. 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.
- iii. The Highway Authority cannot accept any liability for costs associated with a developer's improvement. This includes design check safety audits, site supervision, commuted sums for maintenance and any potential claims under Part 1 and Part 2 of the Land Compensation Act 1973. To protect the Highway Authority against such compensation claims a cash deposit or bond may be required.

## **11. Additional Considerations**

### Equality Impact Assessment

- 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

### Human Rights

- 11.4 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.
- 11.5 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).
- 11.6 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

- 11.7 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.
- 11.8 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.

## **12. Background Papers**

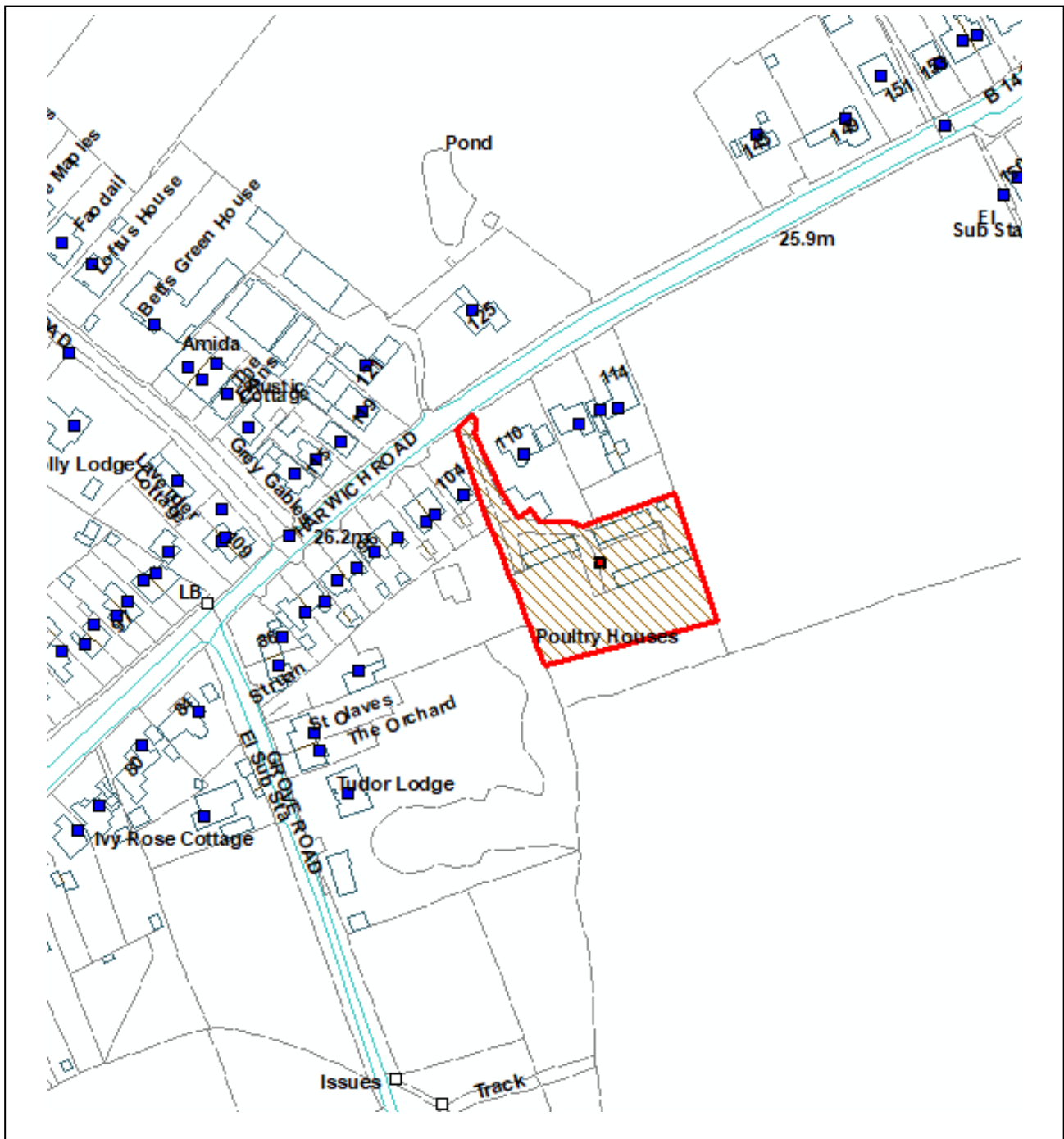
- 12.1 In making this recommendation, officers have considered all plans, documents, reports and supporting information submitted with the application together with any amended documentation. Additional information considered relevant to the assessment of the application (as referenced within the report)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

## PLANNING COMMITTEE

9 July 2024

### REPORT OF THE DIRECTOR OF PLANNING

#### **A.3 PLANNING APPLICATION – 24/00455/FUL – LAND TO THE REAR OF 110 HARWICH ROAD LITTLE CLACTON CO16 9NJ**



DO NOT SCALE

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<b>Application:</b>	24/00455/FUL	<b>Expiry Date:</b>	20th June 2024
<b>Case Officer:</b>	Oliver Ashford	<b>EOT Date:</b>	12th July 2024
<b>Town/ Parish:</b>	Little Clacton Parish Council		
<b>Applicant:</b>	Mr and Mrs Patrick		
<b>Address:</b>	Land to the rear of 110 Harwich Road Little Clacton CO16 9NJ		
<b>Development:</b>	Planning Application - three dwellings in lieu of 23/00931/COUNOT		

**1. Executive Summary**

- 1.1 This application is before the Planning Committee as the proposed development conflicts with the Development Plan's requirements. This conflict arises from the development's location beyond any defined settlement development boundary. This situation persists, although it's noteworthy that the concept residential units, in the form of a converted agricultural building, has been established under prior approval reference number 23/00931/COUNOT.
- 1.2 The application seeks permission for the erection of three dwellings on Land to the Rear of 110 Harwich Road, Little Clacton
- 1.3 The proposed dwellings are in lieu of the previously approved scheme above. Their design and scale is considered consistent with the semi-rural character of the site. Safe and suitable access is proposed to all dwellings and the proposals will not result in any significant impact to neighbouring amenities. Accordingly, the application is recommended for approval subject to conditions

Approval

<p><b>Recommendation:</b> Approval</p> <ul style="list-style-type: none"> <li>1) That the Head of Planning and Building Control be authorised to grant planning permission subject to conditions as stated at paragraph 10.1 or varied as is necessary to ensure the wording is enforceable, precise, and reasonable in all other respects, including appropriate updates, so long as the principle of the conditions as referenced is retained; and,</li> <li>2) The informative notes as may be deemed necessary.</li> </ul>
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**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 Local Plan 2013-33 and Beyond (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 made and the Minerals and Waste Local Plans adopted by Essex County Council.



### 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>

There are no neighbourhood plans in place for this area.

### 4. **Planning Policy**

4.1 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  
SP2 Recreational Disturbance Avoidance and Mitigation Strategy (RAMS)  
SP3 Spatial Strategy for North Essex  
SP4 Meeting Housing Needs  
SP7 Place Shaping Principles

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

SPL1 Managing Growth  
SPL2 Settlement Development Boundaries  
SPL3 Sustainable Design  
LP1 Housing Supply  
LP2 Housing Layout  
HP5 Open Space, Sports and Recreation Facilities  
PPL1 Development and Flood Risk  
PPL3 The Rural Landscape  
PPL4 Biodiversity and Geodiversity  
PPL5 Biodiversity and Geodiversity  
CP1 Sustainable Transport and Accessibility

#### Supplementary Planning Documents

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

Tendring Provision of Recreational Open Space for New Development SPD 2008

Essex Design Guide

Technical housing standards: nationally described space standard Published 27 March 2015

Biodiversity Net Gain Supplementary Planning Document June 2023 (DRAFT)

#### Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

## 5. Relevant Planning History

14/00988/OUT	Outline planning application with all matters reserved for the residential development of 0.44 ha of land to create 4 detached dwellings with associated garaging and parking.	Refused	08.09.2014
23/00931/COUNOT	Prior Approval Application under Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for proposed conversion of 3 no. existing barns in to 4no. two-bedroom dwellings.	Determination	15.08.2023
24/00455/FUL	Planning Application - three dwellings in lieu of 23/00931/COUNOT	Current	

## 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/>.

### Environmental Protection

01.05.24

With reference to the above application, please see below for comments from the EP Team:

Contaminated Land: Given the sites historic use, the proximity to historical and current agricultural land, its location to a piece of historical, registered contaminated land, and having consideration for the scale of the development, the EP Team are requesting a minimum of a Phase One Contaminated Land Survey be performed, to ensure the land is suitable for the proposed end use - The following works shall be conducted by competent persons and in accordance with the Essex Contaminated Land Consortium's 'Land Affected by Contamination: Technical Guidance for Applicants and Developers' and Environment Agencies "Land Contamination Risk Management (LCRM) " and other current guidance deemed authoritative for the purposes. The development hereby permitted shall not commence until the measures set out in the approved report have been implemented.

#### A. Site Characterisation

Notwithstanding the details submitted with this application, no development shall commence other than that required to carry out additional necessary investigation which in this case includes demolition, site clearance, removal of underground tanks and old structures until an investigation and risk assessment has been submitted to and approved in writing by the local planning authority. The risk assessment shall assess the nature and extent of any contamination on the site, whether or not it originates on the site. The investigation and risk

assessment must be undertaken by competent persons and a written report of the findings must be produced. The report of the findings must include:

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

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

Construction Method Statement: We are satisfied with the submitted CMS and have no adverse comments to make.

\*INFORMATIVE - The submitted Planning Statement and other associated documents confirm the use of a Sewerage Treatment Plant, we would request the standard informative in respect of the "binding rules" is included with any subsequent approval:

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

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

**ECC Highways Dept**

**17.06.2024**

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 submitted material, google earth image and in conjunction with a site visit. It is noted that this application is similar to a previous residential redevelopment (Application: 14/00988/OUT) for four dwellings that was previously acceptable to the Highway Authority. In addition, an application for the change of use of two of the buildings on the site to be used for B8 (storage and distribution) use was approved in 2000 (Application: 00/00224/FUL). The proposal will utilise an existing access serving the site, while no new or altered means of access is proposed as part of this application. When compared with the former agricultural use of the site, it is not considered that the proposed change of use would give rise to an increase in vehicle movements or result in a material change in the character of the traffic in the vicinity of the site, considering these factors:

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

1. Prior to occupation of the development, the road junction / access at its centre line shall be provided with a minimum clear to ground visibility splay with dimensions of 2.4 metres by 53 metres to the north-east and 2.4 metres by 43 metres to the south-west, as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the road junction / access is first used by vehicular traffic and retained free of any obstruction at all times.

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

2. As indicated on drawing no. TPSL-05 and prior to occupation of the development a size 3 vehicular turning facility, shall be constructed, surfaced, and maintained free from obstruction within the site at all times for that sole purpose.

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

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

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

4. 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.

5. At no point shall gates be retained at the vehicular access. The access shall remain open and free for use thereafter.

Reason: To give vehicles using the access free and unhindered access to and from the highway in the interest of highway safety and in accordance with policy DM1.

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

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

7. Each vehicular parking space shall have minimum dimensions of 2.9 metres x 5.5 metres.

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

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

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

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

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

10. Prior to occupation of the proposed development, a (communal) bin/refuse collection point shall be provided within 25m of the highway boundary and additionally clear of all visibility splays at the access.

Reason: To minimise the length of time a refuse vehicle is required to wait within and cause obstruction of the highway, in the interests of highway safety and in accordance with Policy DM1.

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

## 7. Representations

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

## 8. Assessment

### Site Description

8.1 The site is located to the south of 110 Harwich Road, Little Clacton with access to the highway alongside the boundary. The site is located partially within and partially outside the defined settlement development boundary of Little Clacton. In terms of the blue line a small parcel of land is retained to the south of the site.

8.2 To the east and south of the site lies open agricultural fields. To the west of the site is situated No. 104 Harwich Road and a row of residential dwellings onwards.

### Planning History

8.3 In August 2023 it was deemed that Prior Approval (namely in regard to access, flooding, design, noise, natural light, space standards and contamination) for the conversion of three agricultural into 4 no. 2 bedroom dwellings was not required (Ref. 23/00931/COUNOT). This scheme is referred to in the submitted Planning Statement as the 'fall back' scheme and is discussed in more detail in the appraisal of the application below.

### Proposal

8.4 The application seeks planning permission for the demolition of the existing three barns on site and for the erection of three new dwellings in lieu of the prior approval granted for the conversion of three agricultural buildings into 4 dwellings which the subject of application 23/00931/COUNOT. The footprint of the proposed dwellings varies from that approved with amended associated amenity space and parking/turning area.

8.5 The proposed new dwellings are bungalows with a uniform rectangular footprint measuring 14.5m x 10m with a dual pitched roof. The Gross Internal Area will be approximately 128m<sup>2</sup>. The dwellings compromise 3 bedrooms, a bathroom, en-suite, open plan kitchen/dining/living area and a utility

room. The proposed external materials are cladding and roof tiling.

### Assessment

8.6 The Main Considerations for this application are:

- Principle of Development
- 'Fallback Position' Assessment
- Design and Appearance
- Trees and Landscaping
- Impact upon Residential Amenities
- Highways Impacts
- Water Conservation, Drainage and Sewerage
- Habitats, Protected Species and Biodiversity

### Principle of Development

8.7 Planning law requires that decisions on planning applications must be taken in accordance with the development plan unless there are material considerations that indicate otherwise (section 70(2) of the 1990 Town and Country Planning Act and section 38(6) of the Planning and Compulsory Purchase Act 2004). The development plan for Tendring Council comprises of the adopted Tendring District Local Plan 2013-2033 and Beyond Sections 1 and 2.

8.8 Policy SP3 of Section 1 of the 2013-2033 Local Plan sets out the spatial strategy for North Essex and directs growth towards existing settlements. The site is located partially in and partially outside of the Settlement Development Boundary of Little Clacton as defined within the adopted plan. The proposed development would therefore extend outside the area planned to provide growth for this settlement. In view of the housing land supply position, the Council does not need to look beyond identified settlements to meet its housing requirement.

8.9 Policy SPL2 supports new development within defined SDBs which would encourage sustainable patterns of growth and carefully control urban sprawl. Within a defined SDB, there will be a general presumption in favour of new development subject to detailed consideration against other relevant Local Plan policies and any approved Neighbourhood Plans. Under Policy SPL1 Little Clacton is defined as a Rural Service Centre, which is under pressure to grow and some small-scale development which is sympathetic to the rural and often historic character of the settlement might help younger people to continue to live in the area, keep local shops and services viable and help bring balance to an ageing population.

8.10 With regard to development outside of the defined SDB, the Council will consider any planning application in relation to the pattern and scales of growth promoted through the Settlement Hierarchy in Policy SPL1 and any other relevant policies in this plan (covered below).

### 'Fallback Position' Assessment

8.11 In this case, Prior Approval has been granted for the conversion of the existing agricultural barns to 4 new dwellings within the settlement boundary. The existing buildings are sited within the footprint of the proposed dwellings for the most part and inside the red edge application site. This is considered by the applicant to provide a 'fall-back' position.

8.12 It is established in case law that permitted development rights can legitimately represent a fall-back position when considering alternative proposals for development of the same site. This is taken to be the area of land edged in red which denotes the application site.

8.13 The relevant legal principles relating to the fall-back position were set out in R v Secretary of State for the Environment and Havering BC (1998) EnvLR189. In that case Mr Lockhart-Mummery

QC, sitting as a Deputy High Court Judge, accepted submissions that there were three elements to the fall-back test:

- 8.14 *“First whether there is a fall-back use, that is to say whether there is a lawful ability to undertake such a use; secondly, whether there is a likelihood or real prospect of such occurring. Thirdly if the answer to the second question is “yes” a comparison must be made between the proposed development and the fall-back use”.*
- 8.15 The notion of Class Q providing a lawful fall-back position was subsequently and comprehensively dealt with at the landmark Court of Appeal case, *Mansell vs Tonbridge and Malling Borough Council* [2017], which concluded that a realistic fall-back position in regard to Class Q would amount to a material consideration in the determining of an application.
- 8.16 The existing location of the agricultural buildings which were the subject of the Prior Approval application are located to the rear of an existing dwelling. The proposed new dwellings are within the footprint of the agricultural buildings (subject of the prior approval), with the front elevation facing north.
- 8.17 The existing agricultural buildings have a GIA of 119sqm (Barn A) 163sqm (Barn B) & 119sqm (Barn C). Barn B is larger than the new dwelling proposed however, Barn A & Barn C are smaller than the dwellings proposed in their place.
- 8.18 Prior Approval 23/00931/COUNOT continues to be in existence, and it is therefore considered that the Prior Approval granted for the conversion of the existing agricultural buildings would amount to a viable ‘fall back’ position. This planning application now seeks to demolish all three barns and construct new dwellings in a similar location, within the existing built-up area of the wider site.
- 8.19 In conclusion, having regard to the above, the application, on balance, is considered to meet all 3 tests set out for a viable fall-back position in terms of the legal provisions set out earlier. There is a fall-back use in the form of the Prior Approval, and it is considered that the proposed development is, in the main, comparable to that approved under the Prior Approval, in terms of its siting, size, scale and external appearance.
- 8.20 There is an increase in floor space of one of the proposed new dwellings, however this is considered to be reasonable in this rural location, for a three-bed dwelling and is not out of character in terms of external appearance. Given the location of the proposed dwellings it is considered that there is a realistic prospect of the prior approval scheme being implemented, as the site is the same. Therefore, the fall-back position is given significant weight in the assessment of this application.
- 8.21 Therefore given the circumstances of this case, along with the legal position and the Prior Approval fall-back position, the principle of development for new dwellings on this site is considered to be acceptable subject to the detailed consideration against other relevant Local Plan policies and any approved Neighbourhood Plans.

### Design and Appearance

- 8.22 The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. (Para 131 NPPF).
- 8.23 Policy SP7 states that all new development should respond positively to local character and context to preserve and enhance the quality of existing places and their environs. Policy SPL3 seeks to provide new development which is well designed and maintains or enhances local character and distinctiveness. The development should relate well to its site and surroundings particularly in relation to its siting, height, scale, massing, form, design and materials and should respect or enhance local

landscape character, views, skylines, landmarks, existing street patterns, open spaces and other locally important features.

- 8.24 The existing agricultural buildings within the wider site is of a modest concrete block construction with a profile metal sheet roof and has an agricultural appearance. The buildings were used for keeping chickens. The proposed dwellings are not considered to be out of place in this rural location. The design is simple and unassuming using cladding and tile roofing to reflect a simple barn like structure, which is rural in character along with suitable soft landscaping on the boundary. This helps to maintain the open and agricultural character of the area and is considered to be visually superior to the design of the agricultural buildings.

#### Trees and Landscaping

- 8.25 Policy SPL3 seeks new development that respects or enhances local landscape character, views, skylines, landmarks, existing street patterns, open spaces and other locally important features. The design and layout of the proposed development should maintain or enhance important existing site features of landscape, ecological, heritage or amenity value.
- 8.26 The application site is bordered to the east and south by open agricultural fields, therefore despite the modest size and scale and agricultural barn like appearance, the new dwellings have the potential to be fairly visible particularly when viewed from the east, within the built up area of the wider site. Details of soft landscaping can be secured by condition to ensure appropriate screening and protect the wider rural landscape.

#### Impact on Residential Amenity

- 8.27 In March 2015, the government launched a new approach to housing standards and published a new set of streamlined national technical standards. This included publication of Technical housing standards – nationally described space standards (2015) which sets out minimum gross internal floor space, bedroom sizes and storage requirements for new dwellings.
- 8.28 All new dwellings must therefore accord with the technical housing standards. A three-bedroom, one storey dwelling requires a minimum of 74-95sqm of Gross Internal Floorspace (GIA). From the plans submitted the proposed dwelling exceeds the requirements of the space standards. It is also considered that the internal layout is appropriate, with all habitable rooms having adequate natural light. The private amenity areas proposed are considered to meet the needs and expectations of future residents and is commensurate to the size of the dwelling.
- 8.29 Overall the proposals are considered to secure a good standard of amenity and accommodation for future occupants of the proposed dwellings.
- 8.30 The NPPF Paragraph 135 maintains that policies and decisions should result in new development that creates places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.
- 8.31 Policy SPL3 seeks new development that is designed and orientated to ensure adequate daylight, outlook and privacy for future and existing residents, provision is made for adequate private amenity space, waste storage and recycling facilities and the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties.
- 8.32 The application site is located is a semi-rural location with residential dwellings to the west along Harwich Road. There would be no side elevation windows facing the neighbouring dwelling to the west and with the proposed dwellings being single storey in nature it is not considered that there would be any concerns in relation to overlooking or loss of privacy.



- 8.33 In the event that planning permission is forthcoming it is considered necessary and reasonable to include a planning condition seeking details of a Construction Management Plan to be provided which will outline measures to minimise potential nuisance to nearby existing residents caused by the construction works, having regard to vehicle movements, working hours, storage of materials, on-site parking, site security, wheel washing facilities, noise control, use of machinery and mobile plant, piling works and both emission and dust control. Moreover, due to the location of the site and its previous agricultural use, a condition is recommended in relation to land contamination in the form of a Watching Brief.
- 8.34 Therefore, subject to conditions, it is not considered that this development would impact on the residential amenities of the neighbouring occupiers in any regard.

#### Highways and Parking Considerations

- 8.35 Paragraph 114 of the Framework seeks to ensure that safe and suitable access to a development site can be achieved for all users. Policy SP7 seeks new development to include parking facilities that are well integrated as part of the overall design. The sentiments of this policy are carried forward within Policies SPL3 and CP1. Furthermore, the Essex County Council Parking Standards 2009 set out the parking requirements for new development.
- 8.36 The Essex County Council Parking Standards 2009 require that dwellings with 3 bedrooms be served by a minimum of 2 parking spaces. Parking spaces should measure 5.5 metres by 2.9 metres and garages, if being relied upon to provide a parking space, should measure 7 metres by 3 metres internally.
- 8.37 ECC Highways have been consulted on the application and raise no objection. When compared with the former agricultural use of the site, it is not considered that the proposed change of use would give rise to an increase in vehicle movements or result in a material change in the character of the traffic in the vicinity of the site. As such, subject to conditions, the proposal would accord with policies SPL3 and CP1 and the Highways and Parking SPDs. The proposal is not therefore considered to result in any unacceptable harm to highway safety.

#### Water Conservation, Drainage and Sewerage

- 8.38 Paragraph 180 of the NPPF states that planning policies and decisions should contribute to and enhance the natural and local environment by preventing new development from contributing to unacceptable levels of water pollution. Furthermore, Paragraph 180 of the Framework states that planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects of pollution on the natural environment.
- 8.39 Policy PPL5 states that all new development must make adequate provision for drainage and sewerage. Private sewage treatment facilities will not be permitted if there is an accessible public foul sewer, which in this case there is not. Where private sewage treatment facilities are the only practical option for sewage disposal, they will only be permitted where there would be no harm to the environment, having regard to preventing pollution of groundwater and any watercourses and odour. The proposed dwellings will use a new package treatment plant in order to comply with the above.

#### Habitats, Protected Species and Biodiversity Enhancement

- 8.40 General duty on all authorities

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.

This development is subject to the general duty outlined above. In the event that planning permission is forthcoming an informative can be imposed on the decision notice strongly encouraging the applicant to improve the biodiversity of the application site through appropriate additional planting and wildlife friendly features. Therefore the development on balance, with consideration of the impact of the development and baseline situation on site, is considered likely to conserve and enhance biodiversity interests.

#### 8.41 Biodiversity net gain

Biodiversity net gain (BNG) is an approach that aims to leave the natural environment in a measurably better state than it was beforehand. This excludes applications for Listed Building Consent, Advert Consent, Reserved Matters, Prior Approvals, Lawful Development Certificates, householders, self builds, and other types of application which are below the threshold i.e. does not impact a priority habitat and impacts less than 25 sq.m of habitat, or 5m of linear habitats such as hedgerow). This proposal was submitted prior to 2<sup>nd</sup> April 2024 and is not therefore applicable for Biodiversity Net Gain.

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.

### 9. Conclusion

- 9.1 It is considered that the proposed development is consistent with the National and Local Plan Policies identified above. In the absence of material harm resulting from the proposal the application is recommended for approval.

### 10. Recommendation

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

### 11. Conditions and Reasons

#### 1 COMPLIANCE REQUIRED: COMMENCEMENT TIME LIMIT

CONDITION: The extension to the existing changing facilities and new 1.8m high screen fencing hereby permitted shall be begun not later the expiration of three years from the date of this permission.

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

NOTE/S FOR CONDITION:

The development needs to commence within the timeframe provided. Failure to comply

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

## 2 APPROVED PLANS & DOCUMENTS

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

Site Plan – Received 27.03.2024

Drawing No. TPSL-04

Drawing No. TPSL-05

Drawing No. 03.24.001-00#

Arboricultural Impact Assessment & Appendix 1-6 – Received 27.03.2024

Broadband Details – Received 27.03.2024

Construction Method Statement – Received 27.03.2024

Contamination Statement – Received 27.03.2024

EV Charging Details – Received 27.03.2024

EV Charging Specifications – Received 27.03.2024

Foul Drainage Assessment – Received 27.03.2024

Sewage Treatment Details – Received 27.03.2024

Visibility Splays – Received 27.03.2024

EV, Cycle & Bin Storage – Received 27.03.2024

Cycle Storage Details – Received 27.03.2024

Planning Statement – Received 27.03.2024

Ecological Survey & Assessment – Received 27.03.2024

**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. FURTHER APPROVAL: MITIGATION TO BE AGREED, RAMS

**CONDITION:** The hereby approved development shall not be first commenced until detailed proposals addressing the mitigation of the development's impact on protected Essex Habitats Sites have been submitted to and received written approval from the Local Planning Authority. Such proposals must provide for mitigation in accordance with the joint Habitats Regulations Assessment Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS), or demonstrate mitigation measures of an equivalent effectiveness.

These proposals may require on site or off site mitigation, but in either case must include evidence of the completion of a necessary legal agreement to secure the proposed mitigation and/or contribution towards mitigation. Please note a legal agreement will include legal fees and may require obligations to secure monitoring and associated fees. For any on site mitigation proposals approved, it shall be carried out in full and thereafter shall be maintained as approved.

**REASON:** In order to safeguard protected wildlife species and their habitats in accordance with the NPPF and Habitats Regulations. Failure to achieve satisfactory mitigation or contribution towards would result in harm by new residents due to the development's impact on protected sites.

#### NOTE/S FOR CONDITION:

This condition establishes the necessity to ensure the implementation of appropriate mitigation measures due to the impact of the approved development. Such mitigation may be required on-site, off-site, or a combination of both. Typically, a contribution towards visitor management measures at the protected Habitats Site(s) is the preferred and simplest approach to fulfil the requirements of this condition. To fulfil this requirement, you can contribute funds towards a range of mitigation projects in the protected areas. It is essential to secure this provision through a legal agreement between the Council, Developer/Applicant, and site owners before commencement. If this is the approach to fulfilling this condition you wish to take, you are strongly advised to finalise the legal agreement with the Council before submitting any request to discharge this condition. Failure to conclude the agreement within the discharge of condition application timeframe may lead to the refusal to discharge the condition.

Please note if there are other obligations needed for this development, for example to secure monitoring and maintenance of a Biodiversity Net Gain Plan you may wish to combine these together as one legal agreement.

#### LEGAL AGREEMENT REQUIRED TO DISCHARGE CONDITION

As per the relevant condition above, this application requires mitigation against recreational impact in accordance with The Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) and Regulation 63 of the Conservation of Habitat and Species Regulations 2017. To satisfy a RAMS condition and allow a condition to be formally

discharged, a completed UU must be submitted with a Discharge of Condition application.

Prior to the submission of the Discharge of Condition application, we can prepare the UU for you (to be reviewed by your solicitor) or we can review a draft UU you have provided (drafted by your solicitor). Both services will incur a charge.

Please see the 'Preparation of a UU' guidance on our website at:  
<https://www.tendringdc.gov.uk/content/the-s-106-process>

#### 4. DEMOLITION OF EXISTING BUILDINGS

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

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

#### 5. LANDSCAPING

CONDITION: No development above slab level shall take place until there has been submitted to and approved, in writing, by the Local Planning Authority a scheme of hard, soft and boundary treatment landscaping works for the site, particularly in regards to the eastern boundary. The scheme shall also include any proposed changes in ground levels. The landscaping works must include a detailed plan, showing species to be used, planting positions, numbers of trees and shrubs and the sizes of the plants at time of planting and include wildlife friendly, native planting and locations for habitat boxes for roosting bats and nesting birds.

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

#### NOTE/S FOR CONDITION:

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

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

#### 6. LANDSCAPING

CONDITION: All changes in ground levels, soft/hard landscaping shown on the approved landscaping details as submitted and agreed with the Local Planning Authority, shall be carried out in full during the first planting and seeding season (October - March inclusive) following the commencement of the development, or in such other phased arrangement as

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

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

#### 7. VISIBILITY SPLAYS

CONDITION: Prior to occupation of the development, the road junction / access at its centre line shall be provided with a minimum clear to ground visibility splay with dimensions of 2.4 metres by 53 metres to the north-east and 2.4 metres by 43 metres to the south-west, as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the road junction / access is first used by vehicular traffic and retained free of any obstruction at all times.

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

#### 8. VEHICLE TURNING FACILITY

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

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

#### 9. VEHICULAR ACCESS

CONDITION: Prior to the first occupation of the development hereby approved dwellings, the vehicular access at Harwich Road, must be reconstructed at right angles to the highway boundary the proposed private drive shall not be less than 4.5 metres in width for at least the first 6 metres from the back of Carriageway/Highway Boundary in accordance with drawing no. TPSL-05 including the provision a dropped kerb crossing of the verge.

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

#### 10. SURFACE TREATMENT OF VEHICULAR ACCESS

CONDITION: No unbound material shall be used in the surface treatment of the vehicular access within 5 metres of the highway boundary.

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

#### 11. ACCESS GATES

CONDITION: Any gates retained or installed at the vehicular access with Harwich Road must be inward opening only and shall be set back a minimum of 5 metres from the back edge of the footway/or where no provision of footway is present, the carriageway.

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

## 12. RENEWABLE ENERGY AND SUSTAINABILITY

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 such include as a minimum to achieve:

- An electric car charging point for the dwelling
- 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 the new dwelling.
- Agreement of heating of the dwelling
- 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 better use of water, energy and resources reduce harm to the environment and result in wider public benefit in accordance with the NPPF.

### NOTE/S FOR CONDITION:

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

## 13. SURFACE AND FOUL WATER DRAINAGE

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

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

NOTE/S FOR CONDITION:

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

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

14. PERMITTED DEVELOPMENT RIGHTS

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

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

15. ACTION REQUIRED IN ACCORDANCE WITH ECOLOGICAL APPRAISAL

All mitigation and enhancement measures and/or works shall be carried out in full accordance with the details contained in the Ecological Survey and Assessment (Essex Mammal Surveys, March 2024) as submitted with the hereby approved planning application.

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).

16. PRIOR TO DEMOLITION: BIODIVERSITY ENHANCEMENT STRATEGY

Prior to demolition of the existing building on site, a Biodiversity Enhancement Strategy for protected and Priority species shall be submitted to and approved in writing by the local planning authority.

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

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



The approved works shall be implemented in accordance with the approved details prior to first occupation of the hereby approved dwelling, 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 s40 of the NERC Act 2006 (Priority habitats & species). This condition is required to be agreed prior to the commencement of any demolition or development as any construction process, including site preparation, has the potential to disturb protected and priority species and their habitat.

## **12. 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.

In accordance with the Council's general duty to conserve and enhance biodiversity, you are strongly encouraged to improve the biodiversity of the application site through appropriate additional planting and wildlife friendly features. Suggested enhancements could include: <https://www.rhs.org.uk/wildlife/in-the-garden/encourage-wildlife-to-your-garden>  
Highways

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

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

SMO1 – Development Management Team  
Ardleigh Depot,  
Harwich Road,  
Ardleigh,  
Colchester,  
CO7 7LT

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

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

## **13. Additional Considerations**

### Public Sector Equality Duty (PSED)

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

#### Human Rights

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

#### Finance Implications

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

### Background Papers

- m. 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/>.

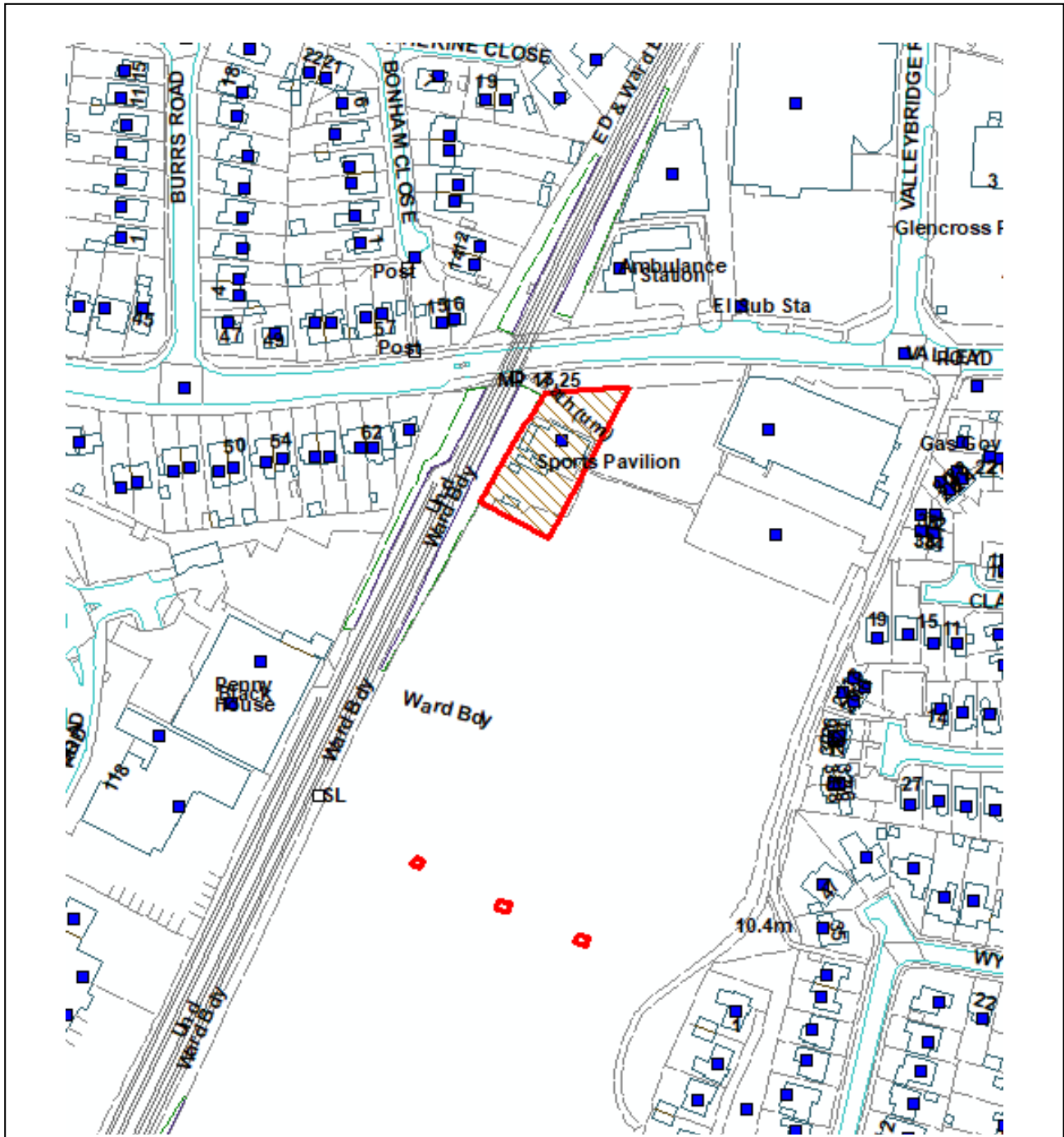
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## PLANNING COMMITTEE

9 July 2024

### REPORT OF THE DIRECTOR OF PLANNING

#### A.4 PLANNING APPLICATION – 24/00185/FUL – CLACTON RUGBY CLUB VALLEY ROAD CLACTON ON SEA CO15 6NA



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<b>Application:</b>	24/00185/FUL	<b>Expiry Date:</b>	7th May 2024
<b>Case Officer:</b>	Oliver Ashford	<b>EOT Date:</b>	12th July 2024
<b>Town/ Parish:</b>	Clacton Non Parished		
<b>Applicant:</b>	Brian White - Clacton Rugby Club		
<b>Address:</b>	Clacton Rugby Club Valley Road Clacton On Sea CO15 6NA		
<b>Development:</b>	Retention of existing cabin serving as changing room and proposed cabin to extend changing room area, relocation of existing equipment storage structures and other external alterations including new 1.8m high screen fencing (part retrospective).		

## 1. Executive Summary

- 1.1 This application is before the Planning Committee as the application site is owned by Tendring District Council.
- 1.2 The application seeks permission for the retention of existing cabin serving as changing room and proposed cabin to extend changing room area, relocation of existing equipment storage structures and other external alterations including new 1.8m high screen fencing (part retrospective).
- 1.3 The proposal, with the addition of a landscaping scheme and painting schedule is not considered to be harmful to the character and appearance of the area and will not result in any significant impact to neighbouring amenities. Accordingly, the application is recommended for approval subject to conditions.

### Approval

#### **Recommendation:** Approval

- 1) That the Head of Planning and Building Control be authorised to grant planning permission subject to 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. 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 Local Plan 2013-33 and Beyond (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 made and the Minerals and Waste Local Plans adopted by Essex County Council.

### 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>

There are no neighbourhood plans in place for this area.

### 4. **Planning Policy**

4.1 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

SP3 Spatial Strategy for North Essex

SP7 Place Shaping Principles

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

SPL1 Managing Growth

SPL2 Settlement Development Boundaries

SPL3 Sustainable Design

HP1 Improving Health and Wellbeing

HP2 Community Facilities

HP3 Green Infrastructure

HP4 Safeguarded Open Space

HP5 Open Space, Sports and Recreation Facilities

PPL1 Development and Flood Risk

PPL4 Biodiversity and Geodiversity

CP1 Sustainable Transport and Accessibility

#### Supplementary Planning Documents

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

Tendring Provision of Recreational [Open Space for New Development SPD](#) 2008

[Essex Design Guide](#)

[Technical housing standards](#): nationally described space standard Published 27 March 2015

Biodiversity Net Gain Supplementary Planning Document June 2023 (DRAFT)

#### Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

### 5. **Relevant Planning History**

90/00278/FUL

Extension to club.

Approved

30.03.1990

95/00812/FUL	(Clacton Recreation Ground Rugby Club (Softball Pitch),) Improvements to softball pitch and facilities to include levelling of pitch/retaining wall, tiered seating, storage building and water tanks	Approved	05.09.1995
95/01317/FUL	(Recreation Ground, Valley Road, Clacton on Sea) Club house extension/alterations. Pitch improvements	Approved	30.01.1996
04/02180/FUL	Extension and alteration and training lights	Approved	16.12.2004
05/00647/FUL	Extension and alteration and training lights (revised design from app 04/02180/FUL)	Approved	11.08.2005
09/00398/FUL	Proposed changing room cabin, entrance canopy and storage containers alterations.	Refused	16.09.2009
11/00971/FUL	Phase 1, extension and alterations and additional training lights.	Withdrawn	15.08.2011
11/00976/FUL	Club house extensions and alterations and additional flood lighting.	Approved	08.12.2011
12/00704/FUL	Club house extensions and alterations and additional flood lighting (amendments to application 11/00976/FUL).	Approved	21.08.2012

## 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/>.

### Asset Management Team

No Comments

### Environmental Protection

Construction Activities: In order to minimise potential nuisance caused by demolition/construction works, Environmental Protection recommend that the following hours and actions be adhered to, should the application be approved;



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

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

*REASON: to protect the amenity of nearby residential premises*

### **Essex County Council Highways**

The information submitted with the application has been assessed and conclusions have been drawn from a desktop study with the observations below based on the submitted material and google earth photo dated June 2023. No site visit was undertaken in conjunction with this planning application. It is noted that no changes are proposed to the established vehicular access off Valley Road or to the internal off-street car parking area within the site. The proposal is set well back from the public highway, and it is not envisaged that the alterations would give rise to a significant increase in vehicle movements to and from the site or result in a material change in the character of the traffic in the vicinity of the site, considering these factors:

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

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

- the parking of vehicles of site operatives and visitors,
- loading and unloading of plant and materials,
- storage of plant and materials used in constructing the development,
- wheel and underbody washing facilities.

(Continued...)

v. Before and after condition survey to identify defects to highway in the vicinity of the access to the site and where necessary ensure repairs are undertaken at the developer expense when caused by the developer.

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

2. Prior to the first use of any new external lighting / floodlighting within the development site, the light source shall be so positioned and shielded, in perpetuity, to ensure that users of the highway are not affected by dazzle and/or glare, in accordance with details to be submitted to and approved in writing by the Local Planning Authority.

**Reason:** To ensure that users of the highway are not subjected to glare and dazzle from lighting within the development in the interest of highway safety and in accordance with Policy DM1.

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

## **7. Representations**

### **7.1 Parish / Town Council**

Clacton on Sea is non parished – No comments received.

One letter of support has been received on the application from Cllr Baker with points summarised below:

- Expansion of sports provision
- Facilities to cater for all
- No comments on design

## **8. Assessment**

### Site Description

8.1 The site is located to the south of Valley Road and east of the Railway line and west of the Clacton & District Indoor Bowls Club. The Vista Road recreation ground is located due south which is a Safeguarded Open Space. The site is located within the Settlement Development Boundary for Clacton on Sea. The site contains a detached clubhouse with a small fenced area around. An existing cabin building is already in place which forms part of this application. Parking is available in the car parking area to the east of the site however this does formally form part of the application site and predominately services the Clacton & District Indoor Bowls Club.

### Planning History

8.2 The current storage container on site does not benefit from planning permission. An application for Club house extensions and alterations and additional flood lighting (amendments to application 11/00976/FUL) was approved under reference 12/00704/FUL.

### Proposal

8.3 The application seeks planning permission for the retention of an existing storage container which is currently used as a changing room and the addition of an existing storage container to provide further changing facilities. The containers are proposed to be permanent and provide an expanded provision for the users of the Rugby Club which as well as male users also has a youth section with teams from 8-16 years both boys and girls running on Sundays and a new ladies team.

8.4 Following the officers site visit, the current storage container is in situ with a further container located at the southern boundary of the site but this is not currently in use.

8.5 The existing container measures 2.7m in height, 2.7m in depth and 13.3m in width. It is proposed to be connected to the new container which measures 2.7m in height, 3m in depth and 9m in depth. A small corridor walkway will connect the two units. Both containers are proposed to be painted cream to match the southern end gable elevation of the elevation and a detailed landscaping scheme has been submitted to replace the existing harris fencing.

### Assessment

8.6 The Main Considerations for this application are:

- Principle of Development
- Design and Appearance
- Impact upon Neighbouring Amenities
- Highways Impacts

### Principle of Development

8.7 The site is within the Settlement Development Boundary and the development relates to the existing use of the Rugby Club. Policy HP2 seeks to deliver and maintain a range of new community facilities. New development should support and enhance community facilities by providing or contributing towards new or enhanced community facilities to meet needs arising from the proposed development or growth.

The proposed development, which is required to support the operation and services provided by the Rugby Club is considered to be aligned with the aims of HP2 and therefore the principle of development is supported subject to the detailed policy considerations discussed below.

### Design and Appearance

8.8 The Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.

8.9 Paragraph 135 of the NPPF requires that developments are visually attractive as a result of good architecture, are sympathetic to local character and history, including the surrounding built environment, function well and add to the overall quality of the area, and establish or maintain a strong sense of place.

8.10 Local Plan Policy SP7 seeks high standards of urban and architectural design, which respond to local character and context. Local Plan Policies SPL3 and LP4 also require, amongst other things, that developments deliver new dwellings that are designed to high standards and which, together with a well considered site layout that relates well to its site and surroundings.

8.11 The existing and proposed containers are of a functional design as is determined by their very nature and located to the rear of the existing Rugby Club. Additional screening has been proposed along the eastern and southern boundary which will remove some visual impact when viewed across the Recreation Ground. A condition is necessary to ensure that the proposed screening is implemented within two months of the date of the decision. To the west, the proposals will be visible from the railway line which has a higher elevation however it is not possible to provide screening from this viewpoint. The containers will also be painted cream to match the existing end gable on the southern elevation. It is considered that these mitigating factors would not result in any long-term material harm to the character and appearance of the surrounding area. For the reasons set out above, and specifically due to the proposed screening measures, officers view is that a temporary use condition is not necessary in this instance.

### Impact on Neighbouring Amenities

8.12 Paragraph 135 of The Framework maintains that policies and decisions should result in new development that creates places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users. Policy SPL3 seeks new development that does not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties.

8.13 It is not considered, given the siting of the proposed containers and the separation distances from the neighbouring residential properties, coupled with the fact the existing Rugby Club provides and

Recreation ground is a functioning sports facility, that the proposal would have an adverse impact on the residential amenity of the neighbouring properties

### Highway Impacts

- 8.14 Paragraph 114 of the NPPF states that in assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that safe and suitable access to the site can be achieved for all users.
- 8.15 Policy CP1 of the Local Plan states that Proposals for new development must be sustainable in terms of transport and accessibility and therefore should include and encourage opportunities for access to sustainable modes of transport, including walking, cycling and public transport.
- 8.16 Essex County Council as Highway Authority have been consulted as part of this application and note that no changes are proposed to the established vehicular access off Valley Road or to the internal off-street car parking area within the site. The proposal is set well back from the public highway, and it is not envisaged that the alterations would give rise to a significant increase in vehicle movements to and from the site or result in a material change in the character of the traffic in the vicinity of the site, therefore the proposals are acceptable from a highway safety point of view subject to appropriate conditions.

### Habitats, Protected Species and Biodiversity Enhancement

#### 8.17 General duty on all authorities

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.

This development is subject to the general duty outlined above. In the event that planning permission is forthcoming an informative can be imposed on the decision notice strongly encouraging the applicant to improve the biodiversity of the application site through appropriate additional planting and wildlife friendly features. Therefore the development on balance, with consideration of the impact of the development and baseline situation on site, is considered likely to conserve and enhance biodiversity interests.

#### 8.18 Biodiversity net gain

Biodiversity net gain (BNG) is an approach that aims to leave the natural environment in a measurably better state than it was beforehand. This excludes applications for Listed Building Consent, Advert Consent, Reserved Matters, Prior Approvals, Lawful Development Certificates, householders, self builds, and other types of application which are below the threshold i.e. does not impact a priority habitat and impacts less than 25 sq.m of habitat, or 5m of linear habitats such as hedgerow). This proposal was submitted prior to 2<sup>nd</sup> April 2024 and is not therefore applicable for Biodiversity Net Gain.

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.

## 9. Conclusion

9.1 It is considered that the proposed development is consistent with the National and Local Plan Policies identified above. In the absence of material harm resulting from the proposal the application is recommended for approval.

## 10. Recommendation

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

### 10.2 Conditions and Reasons

#### 1 COMPLIANCE REQUIRED: COMMENCEMENT TIME LIMIT

CONDITION: The extension to the existing changing facilities and new 1.8m high screen fencing 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. 5000 24-A 2 REV

Drawing No. 5000 24-A 3 REV

Drawing No. 5000 24-A 4 REV

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

#### NOTE/S FOR CONDITION:

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

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

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

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

3. **CONDITION:** 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.

4. **CONDITION:** The hereby approved and retained 1.8m screen fence shall be constructed in accordance with the approved plans within 6 months of this decision and shall be retained thereafter in its entirety. Should any part need to be replaced for any reasons, it shall be replaced to accord with the approved plans within 1 month of removal.

**REASON:** To enable the boundary treatments to be protected and retained in the interests of visual amenity.

### 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.

In accordance with the Council's general duty to conserve and enhance biodiversity, you are strongly encouraged to improve the biodiversity of the application site through appropriate additional planting and wildlife friendly features. Suggested enhancements could include: <https://www.rhs.org.uk/wildlife/in-the-garden/encourage-wildlife-to-your-garden>

## **11. Additional Considerations**

### Public Sector Equality Duty (PSED)

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

### Human Rights

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

### Finance Implications

- k. Local finance considerations are a matter to which local planning authorities are to have regard in determining planning applications, as far as they are material to the application. It is noted that this is Council land, but no weight is given to this matter.

## **12. Background Papers**

- I. 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/>.