



PLANNING COMMITTEE

DATE:	Tuesday, 16 April 2024
TIME:	5.00 pm
VENUE:	Committee Room - Town Hall, Station Road, Clacton-on-Sea, CO15 1SE

MEMBERSHIP:

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

Councillor McWilliams
Councillor Smith
Councillor Sudra
Councillor Wiggins

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

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DATE OF PUBLICATION: Friday, 5 April 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 Meetings (Pages 9 - 30)

To confirm and sign as a correct record, the minutes of the meeting of the Committee, held on Tuesday, 12 March 2024 and Monday, 18 March 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 - 21.01718.FUL - Land rear of Bloomfield Cottage, Grange Road, Lawford (Pages 31 - 54)

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

6 Report of the Director (Planning) - A.2 - 23.01707.OUT - Land Adjacent 34 Amerells Road, Little Clacton, CO16 9HA (Pages 55 - 76)

Outline Planning Application with all matters reserved for the erection of two self-build/custom built dwellings.

7 Report of the Director (Planning) - A.3 - 23.01280.FUL - The Stables, Heath Road, Tendring, CO16 0BX (Pages 77 - 98)

Change of use of land for siting of five lodges to be occupied for holiday purposes only.

Date of the Next Scheduled Meeting

The next scheduled meeting of the Planning Committee is to be held in the Committee Room - Town Hall, Station Road, Clacton-on-Sea, CO15 1SE at 5.00 pm on Tuesday, 14 May 2024.

INFORMATION FOR VISITORS

PUBLIC ATTENDANCE AT PLANNING COMMITTEE MEETINGS

Welcome to this evening's meeting of Tendring District Council's Planning Committee.

This is an open meeting which members of the public can attend to see Councillors debating and transacting the business of the Council. However, please be aware that, unless you have registered to speak under the Public Speaking Scheme, members of the public are not entitled to make any comment or take part in the meeting. You are also asked to behave in a respectful manner at all times during these meetings.

Members of the public do have the right to film or record Committee meetings subject to the provisions set out below:-

Rights of members of the public to film and record meetings

Under The Openness of Local Government Bodies Regulations 2014, which came into effect on 6 August 2014, any person is permitted to film or record any meeting of the Council, a Committee, Sub-Committee or the Cabinet, unless the public have been excluded from the meeting for the consideration of exempt or confidential business.

Members of the public also have the right to report meetings using social media (including blogging or tweeting).

The Council will provide reasonable facilities to facilitate reporting.

Public Behaviour

Any person exercising the rights set out above must not disrupt proceedings. Examples of what will be regarded as disruptive, include, but are not limited to:

- (1) Moving outside the area designated for the public;
- (2) Making excessive noise;
- (3) Intrusive lighting/flash; or
- (4) Asking a Councillor to repeat a statement.

In addition, members of the public or the public gallery should **not** be filmed as this could infringe on an individual's right to privacy, if their prior permission has not been obtained.

Any person considered being disruptive or filming the public will be requested to cease doing so by the Chairman of the meeting and may be asked to leave the meeting. A refusal by the member of the public concerned will lead to the Police being called to intervene.

Filming by the Council This meeting will be filmed by the Council for live and/or subsequent broadcast on the Council's website. The whole of the meeting will be filmed, except where there are confidential or exempt items, and the footage will be on the website for up to 24

months (the Council retains one full year of recordings and the relevant proportion of the current Municipal Year). The Council will seek to avoid/minimise footage of members of the public in attendance at, or participating in, the meeting.

Tendring District Council



PLANNING COMMITTEE MEETINGS PUBLIC SPEAKING SCHEME March 2021

This Public Speaking Scheme is made pursuant to Council Procedure Rule 40 and gives the opportunity for a member of the public and other parties identified below to speak to Tendring District Council's Planning Committee when they are deciding a planning application.

TO WHICH MEETINGS DOES THIS SCHEME APPLY?

Public meeting of the Council's Planning Committee are normally held every 4 weeks at 6.00 pm in the Committee Room at the Town Hall, Station Road, Clacton-on-Sea CO15 1SE.

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

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

or wards impacted by the proposed development may also speak with the agreement of the Chairman. Permission for District Councillors to speak is subject to the Council's Code of Conduct and the declarations of interest provisions will apply. A maximum of 5 minutes to speak is allowed;

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

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

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

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

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

WHICH MATTERS ARE COVERED BY THIS SCHEME?

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

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

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

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

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

HOW DO I ARRANGE TO SPEAK AT THE MEETING?

You can:-

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

Email: democraticservices@tendringdc.gov.uk.

OR

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

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

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

WHAT WILL HAPPEN WHEN THE MATTER CONCERNED IS CONSIDERED?

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

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

WHAT SHOULD I SAY AT THE MEETING?

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

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

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

WHO DO I CONTACT FOR MORE INFORMATION?

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

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

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

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

**MINUTES OF THE MEETING OF THE PLANNING COMMITTEE,
HELD ON TUESDAY, 12TH MARCH, 2024 AT 5.00 PM
IN THE COMMITTEE ROOM - TOWN HALL, STATION ROAD, CLACTON-ON-SEA,
CO15 1SE**

Present:	Councillors Fowler (Chairman)(except item 87), White (Vice-Chairman)(in the Chair for item 87 only), Alexander, M Cossens, McWilliams, Smith, Sudra and Wiggins
Also Present:	Councillor Bill Davidson (except items 88 - 90), Councillor Richard Everett, Councillor Peter Harris, Councillor Jo Henderson (except items 88-90), Councillor Daniel Land (items 88 & 89 only) and Councillor Pam Morrison (except items 88 – 90)
In Attendance:	Gary Guiver (Director (Planning)), John Pateman-Gee (Head of Planning & Building Control), Madeline Adger (Leadership Support Manager), Joanne Fisher (Planning Solicitor), Amy Lang (Senior Planning Officer), Alison Pope (Planning Officer) (except items 88 - 90), Alison Newland (Planning Team Leader) (except items 89 & 90), Bethany Jones (Committee Services Officer) and Hattie Dawson-Dragisic (Performance and Business Support Officer)

83. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

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

84. MINUTES OF THE LAST MEETING

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

RESOLVED that the minutes of the last meeting of the Committee, held on Thursday 15 February 2024, be approved as a correct record and be signed by the Chairman.

85. DECLARATIONS OF INTEREST

Councillor Sudra declared for the public record that, in relation to the Planning Application **A.1 – 23/01375/FUL – Parkeston Railway Club, Hamilton Street, Parkeston, Harwich, CO12 4PQ** that she attend the site visit and Planning Committee meeting the first time this Planning Application was considered on 16 January 2024 and that therefore, she would not take part in the discussion and decision making for that application but that she would remain in the meeting.

Councillor Fowler (Chairman) declared a personal interest in Planning Application **A.1 – 23/01375/FUL – Parkeston Railway Club, Hamilton Street, Parkeston, Harwich, CO12 4PQ** due to her knowing the applicants personally and she informed the meeting that therefore she would not participate in the Committee’s deliberations and decision making for this application and that Councillor White (as Vice-Chairman) would take over as Chairman for this item.

86. QUESTIONS ON NOTICE PURSUANT TO COUNCIL PROCEDURE RULE 38

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

87. REPORT OF THE DIRECTOR (PLANNING) - A.1 - 23/01375/FUL - PARKESTON RAILWAY CLUB, HAMILTON STREET, PARKESTON, HARWICH, CO12 4PQ

Earlier on in the meeting as reported under Minute 85 above, Councillor Sudra had declared for the public record that she had not attended the original site visit and meeting of the Planning Committee on 16 January 2024 when this Planning Application had first been considered. Therefore, she did not partake in the discussion and decision making on this application, but she did remain in the meeting.

Also, under Minute 85 above, Councillor Fowler (Chairman) had declared a personal interest. She therefore withdrew from the meeting and took no part whilst the Committee deliberated and made its decision on this application. The Chair was thereupon occupied by the Vice-Chairman (Councillor White).

Committee members were reminded that the application sought to change the use of part of the Parkeston Railway Club car park to site four containers for use by the charity NEST for storage purposes. It had been noted that the proposed use was not restricted and that it might be used for general storage purposes both domestic and commercial.

Members were told that the applicant had detailed the intention for volunteers to access the containers to facilitate deliveries and maintain stock during the day. Local residents/families in need would also be invited to the site by prior arrangement to collect specific items to assist their day-to-day living.

The Committee was aware that the proposal was not considered by Officers to be harmful to the character and appearance of the area, and that it would not result in any significant impact to neighbouring amenities, and that it was acceptable in terms of highway impacts and flood risk.

Officers reminded Members that the application had been originally presented to the Planning Committee on 16 January 2024. The Committee had resolved to defer a decision on the application at that time in order to allow Officers to discuss the proposal with the applicant for the following reasons:

- *How access to the neighbouring use/s shall be maintained as safe.*
- *Review of the layout to establish if by redesigning the scheme enhancements can be made.*
- *To allow resolution of ownership matters in terms of notification requirements and any resultant further representations.*

Updates made to the Officer Planning Committee report following the meeting on 16 January 2024 were noted in bold text.

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

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

There were no updates circulated to Members for this Planning Application.

Matters raised by Members of the Committee:-	Officer's response thereto:-
<i>Could you show me where the excess spaces will be placed?</i>	<i>The car park is not currently set out with car parking spaces and white lines. It is an unmarked car park, as such, the 24 car parking spaces are available in the space that remains, although they are not marked out or white lined.</i>
<i>Can they park anywhere in the car park?</i>	<i>Yes, that is correct.</i>
<i>Can you explain about the lorries also being able to park there?</i>	<i>We established at the last meeting and looking at the review of the history of the site, that there are no restrictions on the parking or the use of the car park for particular vehicles and any restrictions at all. Tractor units or tractor units with trailers could potentially park in the car park.</i>
<i>The new containers are coming up the site more than the original application showed, the turning space for tractor with a trailer is being greatly reduced, are you satisfied with the available space?</i>	<i>The application has been referred to Essex Highways and they have no objection to the application. They are content there is an ample amount of parking spaces for the Parkeston Railway Club and the use of that car park, for the use of the club is sufficient.</i>
<i>Is there a suggestion of planting of shrubbery?</i>	<i>Yes, there is. In the small area of the site, there is proposed planting, I think to fill in the gap, to prevent any body from going into that area for any antisocial behaviour.</i>

Following debate, it was moved by Councillor Alexander, seconded by Councillor M Cossens and:-

RESOLVED that:

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

88. REPORT OF THE DIRECTOR (PLANNING) - A.2 - 23/01819/FUL - LAND SOUTH OF VERITY GARDENS, WEELEY, CLACTON-ON-SEA, CO16 9FA

Following a short break before this Planning Application was presented, the Chairman (Councillor Fowler) returned to the meeting and re-occupied the Chair for the rest of the meeting.

Committee members were told that this application had been referred to the Planning Committee as it followed a refusal by Members (at the Planning Committee's meeting on 28 September 2023) of Application 22/01332/FUL for the same type of development.

Members were also told that the application sought full planning permission for the erection of three dwellings on a small parcel of land that formed part of a much larger site for which the Council had granted outline planning permission. The outline planning permission (19/00524/OUT) allowed for up to 280 dwellings, a new primary school and children's nursery, up to 3,000sqm of office space and associated infrastructure. Reserved Matters approval was recently granted by Members (22/00979/DETAIL) for 277 dwellings, 1,910m² commercial floorspace, railway footbridge, and associated infrastructure pursuant to outline planning permission 19/00524/OUT.

The Committee heard that, because it was proposed that the three dwellings were accessed across land that was outside the red line of outline planning permission, the applicant had been required to submit a separate application for full planning permission, so it was not pursuant to the outline planning permission. If that application was approved that would result in a total of 280 dwellings within the area that had outline planning permission, that would be consistent with the maximum number of dwellings that were allowed under the outline planning permission.

Members were informed that there was no objection to the principle of residential development as the land already had outline planning permission for residential development. Furthermore, the site was located within the Weeley Settlement Development Boundary and was allocated as a mixed-use development in the adopted Local Plan. The detailed design, layout, landscaping and scale were considered acceptable by Officers. There were no objections from consultees and Officers considered that the proposal would not result in harm to highway safety, biodiversity or to residential amenity of a level that would warrant the refusal of planning permission. The application was therefore recommended for approval by Officers subject to the legal agreement and planning conditions listed in the Officer report.

The Committee had before it the published Officer report containing the key planning issues, relevant planning policies, planning history, any response from consultees, written representations received and a recommendation of approval subject to a Section 106 Agreement.

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

There were no updates circulated to Members on this Planning Application.

Will Vote, the applicant's agent, spoke in favour of the application.

Councillor Peter Harris, the Ward Member, spoke in favour of the application.

There were no questions asked by Members on this occasion.

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

RESOLVED that -

- 1) on appropriate terms as summarised below and those as may be deemed necessary to the satisfaction of the Head of Planning and Building Control to secure the completion of a legal agreement under the provisions of section 106 of the Town and Country Planning Act 1990 dealing with the following matters:
 - *linking this planning permission to outline planning permission 19/00524/OUT and the associated Section 106 agreement, in order that the dwellings constructed under 23/01819/FUL are dwellings for the purposes of the Section 106 legal agreement and are bound by the subject to the provisions and obligations contained within that agreement,*
 - *no more than 280 dwellings shall be constructed on the combined area of the application site (23/01819/FUL) and the outline site (19/00524/OUT) and that the 3 residential units constructed under this application are not in addition to the 280 residential units permitted under the outline planning permission,*
 - *not to implement the planning permission (23/01819/FUL) unless and not until the outline planning permission (19/00524/OUT) has commenced,*
 - *to implement this planning permission (23/01819/FUL) prior to the occasion of 50 dwellings under the outline planning permission (19/00524/OUT).*
- 2) that the Head of Planning and Building Control be authorised to grant planning permission subject to the agreed section 106 agreement and conditions as stated at paragraph 8.2 of the Officer report, or varied as is necessary to ensure the wording is enforceable, precise, and reasonable in all other respects, including appropriate updates, so long as the principle of the conditions as referenced is retained;
- 3) the sending to the applicant of any informative notes as may be deemed necessary; and,
- 4) in the event of the Planning obligations or requirements referred to in Resolution (1) above not being secured and/or not secured within 12 months of the date of this meeting, the Head of Planning and Building Control be authorised to refuse the application on appropriate grounds at their discretion.

89. REPORT OF THE DIRECTOR (PLANNING) - A.3 - 23/00993/VOC - LAND EAST SIDE OF LANDERMERE ROAD, THORPE-LE-SOKEN, CO16 0NF

Committee members were told that the application was before Members at the request of the Head of Planning and Building Control, as he deemed it to be in the public interest.

Members were also told that the application sought a variation to the reserved matters regarding Bellway Homes' Henderson Park development of 98 homes off Landermere Road, Thorpe-le-Soken. The application concerned only a very small portion of the site on the eastern boundary, at the end of Henderson Road being approximately 0.018 hectares of the overall site area of 5.6 hectares. That portion of the site formed part of the perimeter landscaping and open space as originally approved.

The Committee heard that the proposed variation sought to remove a small section of hedgerow and lawned area on the eastern perimeter to enable that to accord with the approved Henderson Road connection to the adjacent development for 28 bungalows currently under construction. While the approved road link already superseded, in part, the affected area, the variation updated the open space plan that the original reserved matters and Section 106 agreement for the 98 homes referred to.

Members were informed that, although the site technically formed part of the overall open space provision as originally approved, due to its small size, peripheral siting, and juxtaposition with the defined areas of amenity space and play area elsewhere on the site, the removal of that section, in the opinion of Officers, would not result in any material harm to the useability or the amenity value of the open space for residents and it was a significant material consideration that this judgement had already taken place when the 28 bungalows and associated road link had been decided.

Members also heard that the resultant open space would continue to provide ample, usable open space provision in excess of Local Plan Policy DI1 requirements for a development of that size.

Officers told Members that, the proposed variation would not alter the existing layout or situation to an extent that would result in any harm to residential amenity, including pedestrian or highway safety.

The Committee was made aware that the planning obligations associated with the development were secured via a Section 106 Legal Agreement attached to the outline consent. The application sought a variation to the reserved matters application and a variation to the original Section 106 Agreement was not therefore required.

Finally, Members heard that for the reasons set out above, in the absence of any material harm resulting from the development, the application was recommended by Officers for approval.

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

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

An update sheet had been circulated to the Committee prior to the meeting, with details of the correction to a drawing number at Paragraph 10.2 (Conditions and Reasons) in the Officer report and the correction to the ownership status for adjacent land being developed by Scott Residential Ltd. Paragraphs 8.12 and 8.22 to be corrected in the Officer report in that case. This was as follows:-

“Correction to drawing number at Paragraph 10.2 Conditions and Reasons:

- *Condition 1, 23/00993/VOC Approved Plans and Documents (superseding previous versions) drawing number TLS:800 P14 Amended Site Layout should read as TLS:800 P17 Amended Site Layout Plan.*

Correction to ownership status for adjacent land being developed by Scott Residential Ltd. Paragraphs 8.12 and 8.22 to be corrected as follows:

- 8.12 Although land ownership is not normally a material planning consideration, Bellway Homes have confirmed via up-to-date Land Registry documents that they are the sole owners of the site. Parker Farms are the owners of the adjacent land being developed by Scott Properties. The land (entire site) was previously owned by Strutt & Parker Farms Ltd who were served notice as landowners at the time of the Bellway Homes’ application reference 16/01169/OUT and Scott Properties’ application reference 21/01397/FUL. Strutt & Parker Farms Ltd were also party to the S106 for both applications as landowners at the time of each application. Scott Residential Ltd are now the owners of the site being developed for 28 bungalows.

8.22 Objections have been received on the basis that the developer no longer owns, controls or has right of access to or across the site and that the site belongs of the residents of Henderson Park. As addressed above, Bellway Homes have confirmed via up-to-date Land Registry documents that they are the sole owners of the site. Parker Farms are the owners of the adjacent land being developed by Scott Properties and The S106 does not allow the residents to be owners of this part of the site. Scott Residential Ltd are the owners of the site being developed for 28 bungalows.”

Councillor Dan Land, the Ward member, made a statement in relation to the application.

Matters raised by Members of the Committee:-	Officer’s response thereto:-
<i>Who does own this land, and can the development carry on?</i>	<i>Officers have had confirmation via Land Registry Registration that shows that Bellway are and continue to be the owners of the roads and open space areas around the properties themselves. There is a clause within the Legal Agreement attached to the outline planning permission for the development which hands over the management of the open space to a management company. The residents are required to pay to that management company for the maintenance of that open space which could cause the confusion for residents who could think they are paying for the ownership of that land which is not the case in this instance. The development can also go ahead.</i>
<i>By granting this application, would there be a loss to open space?</i>	<i>In short, no. The Scott properties (28 bungalows), that approval included the development, and this part of the road included the consideration of this open space. The material considerations for that development were considered appropriately and was dealt with delegated approval given the siting within the Settlement Development Boundary. This area was illustrated in the Open Space Plan as approved as the Bellway development – technically it would be a loss to the Open Spare area to that previous approval, however the site is in excess of the Policy requirements and found acceptable. In summary, the loss of the Open Space has already been essentially approved and overall, the open</i>

	<p><i>space require remains in excess of the policy requirements. Officers are content that ample space is retained. The variation application before members seeks amendment to the reserved matters to align that position. The S106 agreement that was tied to the original 98 houses made sure that the Open Space Provision was provided but it didn't seek agreement of the Open Space area, it made it a reserved matter. To make the S106 make sense again, the applicant has submitted the variation have to adjust the reserved matters.</i></p>
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It was moved by Councillor McWilliams, seconded by Councillor M Cossens and unanimously:-

RESOLVED that:-

- 1) the Head of Planning and Building Control be authorised to approve the variation application subject to the conditions as stated at paragraph 10.2 of the Officer report (A.3) and as subsequently amended by the Planning Officer Update Sheet, or varied as is necessary to ensure the wording is enforceable, precise, and reasonable in all other respects, including appropriate updates, so long as the principle of the conditions as referenced is retained; and,
- 2) the sending to the applicant of any informative notes as may be deemed necessary.

90. REPORT OF THE DIRECTOR (PLANNING) - A.4 - 24/00144/FULHH - 3 THORRINGTON ROAD, GREAT BENTLEY, COLCHESTER, CO7 8QE

Councillor McWilliams stated for the record that she had no relation to the applicants, however the application site was in her Ward.

Members heard that the proposal sought planning permission for a new vehicular access to the site that would measure a maximum of 4.8m in width.

It was reported that the proposal was a minor improvement to the site and was a small-scale change and would match other similar development within the surrounding area. The proposal was deemed by Officers to be of an acceptable size, scale and appearance with no significant adverse effects on the visual or other amenities of the area including neighbouring sites.

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

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

There were no updates circulated to Members in relation to this application.

There were no public speakers on this Application.

Matters raised by Members of the Committee:-	Officer's response thereto:-
<i>This is a Tendring District Council application, isn't it?</i>	<i>Yes, that is correct. My apologies for not mentioning that at the beginning. It is a Council owned property and that is why it is in front of Members.</i>
<i>So, it is only before Members for that reason, for being TDC property?</i>	<i>Yes, under TDC's constitution, any development on land that is owned by the Council comes before this Committee.</i>

It was moved by Councillor M Cossens, seconded by Councillor Smith and unanimously:-

RESOLVED that:-

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

The meeting was declared closed at 6.41 pm

Chairman

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**MINUTES OF THE MEETING OF THE PLANNING COMMITTEE,
HELD ON MONDAY, 18TH MARCH, 2024 AT 5.00 PM
IN THE COMMITTEE ROOM - TOWN HALL, STATION ROAD, CLACTON-ON-SEA,
CO15 1SE**

Present:	Councillors Fowler (Chairman), White (Vice-Chairman), Alexander, M Cossens, McWilliams, Smith and Sudra
Also Present:	Councillor Andy Baker, Councillor Bill Davidson, Councillor Richard Everett and Councillor Ivan Henderson (item 94 only)
In Attendance:	Gary Guiver (Director (Planning)), John Pateman-Gee (Head of Planning & Building Control), Joanne Fisher (Planning Solicitor), Jacob Jaarsma (Planning Team Leader), Bethany Jones (Committee Services Officer) and Hattie Dawson-Dragisic (Performance and Business Support Officer)

91. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

Apologies for absence were received from Councillor Placey (with Councillor Smith substituting) and Councillor Wiggins (with no substitution).

92. DECLARATIONS OF INTEREST

Councillor M Cossens declared a personal interest in Planning Application **A.1 – 21/02144/FUL – Land to the South East of Foulton Hall, Harwich Road, Little Oakley, CO12 5JA** due to his being a Councillor for the neighbouring Ward (Hamford & Kirby-le-Soken) and that he also appeared on Tendring District Council’s website as a member of the Naze Management Board but that had not been to any meetings and that as the Planning Application was following on from 20 years ago, he declared that he had also been a pasts Member of the Hamford Water Management Committee which he was no longer a Member of. He also declared that he was a Farm Manager for a farm bordering on the back waters as well.

93. QUESTIONS ON NOTICE PURSUANT TO COUNCIL PROCEDURE RULE 38

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

94. REPORT OF THE DIRECTOR (PLANNING) - A.1 - 21/02144/FUL - LAND TO THE SOUTH EAST OF FOULTON HALL, HARWICH ROAD, LITTLE OAKLEY, CO12 5JA

Before the Planning Officer presented this application, the Planning Solicitor made a statement on the Guidance for Members of the Planning Committee on the cancellation of the site visit. This was as follows:

“With the agreement of the Chairman of the Planning Committee (Councillor Fowler), it has been agreed that the organised site visit for the Agenda Item A.1 – 21/02144/FUL Land to the South East of Foulton Hall, Harwich Road, Little Oakley has been cancelled but the Committee meeting to determine this application will go ahead.

Whilst it is the Council’s standard local practice to undertake site visits, section 7 of the Planning Code and Protocol makes provision for an organised site visit to not be held

where it is not possible due to exceptional circumstances and guidance has been given by the Council's Monitoring Officer.

Site visits are not legally required for the determination of planning applications, but form part of local practice. It has been determined by the Council that it is not possible to organise a site visit for this application because many of the Members will be unable to walk to this site and visit key areas as the Committee bus will not be able to access the site. The closest drop off point is 2.68km away from where the works proposed would mainly take place and any attempts to visit the site may result in health and safety risks for that individual given the distance and uneven ground conditions likely to be encountered.

Instead, arrangements have been made by Officers to ensure that Members can gain a full understanding of the impact of the proposed development through additional supporting material that will be presented to Members of the Committee this evening."

Members were informed that the application had been referred to the Planning Committee because it had been called in by the local Ward Councillor for The Oakleys and Wix. Moreover, the application had also been referred to the Planning Committee due to its strategic importance and interrelated nature with the Bathside Bay Container Terminal Development (from hereon in referred to as the BBCT development). Moreover, there was significant public interest in this development.

It was reported that in 2003, Hutchison Ports (UK) Limited ("HPUK") had applied for planning permission for the construction of a new container terminal and related works at Bathside Bay, Harwich, and the provision of compensatory habitats at Little Oakley and Hamford Water. On 29 March 2006, permissions, inter alia, for reclamation works and a container terminal; a small boat harbour; the managed realignment of the coastline and creation of compensatory inter-tidal habitats off-site, and listed building consent in respect of the partial demolition of the long berthing arm attached to a listed Train Ferry Gantry had been granted by the Secretary of State, following concurrent Public Inquiries held between 20 April 2004 and 21 October 2004. Those developments (which included a similar realignment scheme the subject of this Officer report) had been subjected to rigorous assessments and had been found on balance to be acceptable. In particular, with regard to the then Habitats Regulations, the Secretary of State had found that Imperative Reasons of Overriding Public Interest (IROPI) outweighed the identified harm to the integrity of a European site (the Stour and Orwell Estuaries SPA).

The Committee was told that the habitat creation scheme, purely from a land use perspective, resulted in no policy conflict insofar as the principle of development was concerned. Indeed, key statutory consultees had not challenged the use or suitability of the application site for that purpose.

The Committee was made aware that, some statutory consultees and a number of third parties had raised concerns in respect of whether this development would provide suitable and/or adequate natural habitat and compensatory measures that would be effective in compensating for the BBCT development. For the extensive reasons given in the Officer report, Officers were satisfied, with the imposition of various planning conditions, that the proposal was capable of ultimately providing suitable and adequate natural habitat and compensatory measures.

Members were also told that, Condition 55 of the Bathside Bay Container Terminal planning permission (LPA ref. 21/01810/VOC) had been specifically imposed to ensure the provision of adequate compensatory measures. Concurrently, the Habitats Regulations would also play a key role in evaluating the forthcoming Marine Licence application imminently due to be submitted by the Developer to the Marine Management Organisation (MMO). Therefore, any perceived outstanding concerns regarding the adequacy of compensation could and should be addressed through the submission of details under the above-mentioned Condition 55, the submission of necessary and reasonable further information required under the recommended planning conditions of the proposal, as well as the subsequent determination of the Marine Licence application. Therefore, the proposal and its sufficiency for Bathside Bay mitigation would be looked at separately twice.

Members heard that, in addition to the above, a previous planning application for a near identical realignment and habitat creation scheme had been granted by the Secretary of State in March 2006 (under planning reference 03/01200/FUL). That planning permission had been granted subject to a 10-year time limit for commencement work, however that permission had expired in 2016 – that was the sole reason why there was now a requirement to resubmit an application that had already been previously approved, and this was considered to be a significant planning consideration by Officers.

The Committee was also informed that, given the clear and robust procedural and historic framework, any outstanding concerns regarding the suitability of the compensation in respect of the separate planning application should not serve as grounds for rejecting the habitat creation scheme, because in accordance with the NPPF, there were planning conditions and another separate process (the MMO licence application) that had to be complied with, and would ultimately ensure that the proposal was fully compliant with the relevant Local Plan policies, the relevant provisions in the National Planning Policy Framework (from here on in referred to as 'The Framework') and any other relevant provisions, policy guidance or documents.

It was also reported that, all other material planning considerations, including statutory and third-party concerns had been adequately addressed through the submission of revised information or would be covered in forthcoming submission of details applications or indeed the MMO licence application.

Finally, Members heard that, the proposal as it stood was deemed by Officers to be acceptable in principle and therefore it was recommended for approval for the detailed reasons set out in the Officer report.

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.

An Officer Update Sheet had been circulated to the Committee prior to the meeting, with details about an updated assessment against paragraph 180 of the NPPF ("the Framework"), an update on the Habitats Regulations Assessment (HRA) and considerations and concerns from Titchmarsh Marina. This was as follows:-

“Loss of Agricultural land - updated assessment against paragraph 180 of the NPPF (‘the Framework’)

Paragraph 6.23 of the committee report states the proposal will result in clear conflict with the last part of paragraph 180b of the Framework – this statement is INCORRECT. Following a review of the published committee report, and for the reasons set out below, the updated position is that the proposal will result in no conflict with paragraph 180b of the Framework because:

Under the government’s Agricultural Land Classification (ALC), land is graded on a scale from 1 to 5, with 1 being the highest quality land. Land graded from 1 to 3a is categorised as Best and Most Versatile (BMV) land. The application site is comprised primarily of arable farmland, all of which is Grade 4, or poor-quality agricultural land according to the ALC. Under paragraph 180 b) of the Framework, where the development of agricultural land is necessary, there is a policy preference for poor quality agricultural land to be developed over BMV. As the application site is Grade 4 land, the proposed development results in NO CONFLICT with paragraph 180 b) of the NPPF – Grade 4 and 5 agricultural land is not BMV and proposal will therefore result in no loss of BMV.

Given the (erroneous) conflict with paragraph 180b is the only area of clear policy conflict, having regard to the above there proposal, when assessed against the relevant provisions of the Framework as a whole and the Local Plan as a whole, insofar as the principle of development is concerned, officers consider the scheme will result in no conflict with any of these policies or provisions, subject to conditions as set out in section 8 of the committee report.

Update on the Habitats Regulations Assessment (HRA)

As the site is partially located within the Hamford Water Special Protection Area (SPA), Special Area of Conservation (SAC) and Ramsar site, TDC is required to carry out an HRA. To support TDC in making their assessment, the applicant has provided a ‘shadow’ HRA. The relevant information is contained within the following documents:

- Section 17 of the Hamford Water Realignment Environmental Statement (ES)(26 November 2021)
- Sections 3 and 6 of the Supplementary Environmental Information (SEI) Report (15 December 2023)

The LPA has duties under the Conservation of Species and Habitats Regulations 2017. First, the LPA must determine whether the project is likely to have a significant effect on the Hamford Water SPA and Ramsar site and/or the Hamford Water SAC (the “protected sites”). In relation to each site, if it concludes that the project would not have such an effect, it need not carry out any further assessment of the site. If it finds that there may be a likely significant effect, the LPA must carry out an appropriate

assessment of the project to determine whether it will have an adverse effect on the integrity of the protected site.

*Since the publication of the committee report the LPA has now received a detailed response from ECC Ecology whose ecologists have reviewed the shadow HRA. ECC Ecology has stated that the LPA do not need to prepare a standalone HRA report to support a decision on this application. **Moreover, ECC Ecology confirmed that they are satisfied that Tendring District Council can conclude that the project will avoid an Adverse Effect on the Integrity of the Habitats sites listed in committee report, either alone or in combination with other plan and projects.***

In the interest of transparency, the full consultation response form ECC's Principle Ecological Consultant is included below – this response was received AFTER the publication of the committee report:

ECC Ecology Response dated 12/03/2024

Given the complexity and scale of this scheme, we recommend that the LPA adopts the updated shadow HRA report submitted by the applicant for this realignment project. The updated information to support HRA indicates that the Compensation, Mitigation and Monitoring Agreement (CMMA) and Compensation Mitigation and Monitoring Deed (CMMD) will retain the timing requirement for commencement of compensatory habitat creation before Phase 2 marine works of the development at Bathside Bay.

We welcome Section 25 of the Environmental Statement (shadow Habitats Regulations Assessment) prepared by Royal Haskoning DHV (13 October 2021) for this application related to Phase 1 of this development. This has revisited the information in the 2003 ES - which triggered Stage 2 (Appropriate Assessment to consider if mitigation can avoid Adverse Effect on Integrity (AEOI), Stage 3 Alternative solutions and then Stage 4 Imperative Reasons for Over-riding Public Interest (IROPI) and compensatory measures to ensure the development protects the overall coherence of Habitats sites network. Section 25 therefore provides information to support the competent authority's Habitats Regulations Assessment (HRA) decision on this development either alone or in combination with other plans and projects.

We support the LPA's view that the proposal is capable of ultimately providing suitable and adequate natural habitat and compensatory measures and the mitigation package can be secured for delivery by the LPA with the imposition of appropriately worded conditions of any consent.

Having considered the proposed avoidance and mitigation measures, we are satisfied that Tendring District Council can conclude that, the project will avoid an Adverse Effect on the Integrity of the Habitats sites listed in this assessment, either alone or in combination with other plan and projects and we advise that the LPA needs to record its HRA conclusion.

By adopting the shadow appropriate assessment of the implications of the project for the Habitats sites, in view of those sites' conservation objectives and having consulted

Natural England and fully considered any representation received where necessary, we consider that the authority may as recommended in the Committee report, agree to the project under Regulation 63 of the Conservation of Habitats and Species Regulations 2017 (as amended). As the mitigation has been considered after HRA screening, this HRA Appropriate Assessment is in line with the People over Wind CJEU Court ruling.

I trust that the above text provides reassurance that as the competent authority, the LPA does not need to prepare a standalone HRA report to support a decision on this application

Heritage and Archaeology

LPA officers concur with Historic England in that the proposal would cause 'less than substantial harm' to the setting of the designated heritage assets as set out in the committee report. LPA officers have also considered the impact of the proposal on the non-designated heritage assets in the vicinity and as set out in the report.

Framework paragraph 205 states great weight should be given to a heritage asset's conservation and Framework paragraph 208 states where there is less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal. For the affected non-designated heritage assets, Framework paragraph 209 applies and states a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

The heritage impact of the application proposal should therefore be weighed against the public benefits of the scheme, and insofar as the non-designated heritage assets impact – a decision maker should apply a balanced judgement (Officers Committee Report paras. 7.1. to 7.4) – these exercises have been carried out. For the avoidance of any doubt, as part of the assessment (which led officers to agree with the Historic England position of harm) Officers undertook an assessment based on the following steps:

- 1. A thorough understanding that the application site is located within the setting of the scheduled Monument 'Heavy Anti-aircraft gun site 350m north east of Little Oakley Hall' (LEN: 1019486) and the Grade II* building (St Mary's House, LEN: 1112098) – as clearly set out in the report; and*
- 2. An appreciation of the the historic and cultural significance of these heritage assets and the contribution their setting makes to their significance – as part of this appreciation due regard is given to sections 12.5.2 and 12.5.3 of the Environmental Statement (26 November 2021)*

The LPAs position on the impact of the proposal on the identified heritage assets and non-designated heritage assets remains unchanged as well as the position that the public benefits of the scheme will outweigh the less than substantial harm to the designated heritage assets, and that the overriding need for the compensatory habitat in this location will also outweigh the scale of the harm to the non-designated heritage assets.

In terms of archaeology, ECC Archaeology raise no objection subject to, amongst other things, a programme of archaeological evaluation to be submitted to the LPA – this, including the evidence and the mitigation strategy have been secured in recommended condition 16.

Considerations and concerns from Titchmarsh Marina

The above organisation submitted a letter dated 11 March 2024 raising the following concerns:

- 1. Erosion*
- 2. Impact of proposal on navigation channels at sea and in the Special Protection Areas (SPA's)/on shore, also the applicants alleged 'failure to 'protect' navigational channels'*
- 3. They argue that there are no consideration of recreational value of the Backwaters Area in the context of responsibility of keeping navigations channels free of silt etc*
- 4. Loss of habitat for existing species*
- 5. Various questions relating to the quality and quantity of the submission and the finding of the various reports, studies and data*

In response points 1-3 these areas will be comprehensively covered and dealt with in the pending Marine Management Organisation (MMO) License application. For completeness, MMO Licence application process will cover things like:

- Compliance with the adopted marine plan*
- The national Marine Policy Statement*
- The need to protect the environment and human health*
- The need to prevent interference with legitimate uses of the sea*
- The need for the scheme*
- Hydrodynamic and Sedimentary Regime - Potential effects during construction and operation*
- Marine Water and Sediment Quality - Potential effects during construction and operation*
- Estuarine and Coastal Ecology - Potential effects during construction and operation*
- Ornithology - Potential effects during construction and operation*
- Fish and Shellfish - Potential effects during construction and operation*
- Commercial Fisheries - Potential effects during construction and operation*
- Marine Mammals - Potential effects during construction and operation, and transboundary effects*
- Commercial and Recreational Navigation - Potential effects during construction and operation*
- Archaeology and Cultural Heritage - Potential effects during construction and operation*
- Marine Infrastructure - Potential effects during construction and operation*

- *Terrestrial and Freshwater Ecology - Potential effects during construction and operation*
- *Landscape and Visual Character - Potential effects during construction and operation*
- *Tourism, Recreation and Local Community - Potential effects during construction and operation*
- *Land Drainage and Coastal Defence - Potential effects during construction and operation*
- *Major Accidents and Disasters - Potential effects during operation*
- *Cumulative Effects Assessment*
- *Water Environment Regulations Compliance Assessment*
- *Habitats Regulations Assessment*

In response to points 4 and 5, these elements have been comprehensively covered in the committee report as well as, where relevant, in the recommended conditions.

Conclusion

Having regard to the above updated sheet, and for the reasons set out above and in the published committee report, Officers recommendation remains unchanged and as per sections 1 and 8 of the original committee report.”

John Bowles, the agent, spoke in favour of the application.

Steve Beel, member of the public, spoke in favour of the application.

Neil Marples, member of the public, spoke against the application.

Parish Councillor Nicola Coates, on behalf of Little Oakley Parish Council, spoke against the application.

Matters raised by Members of the Committee:-	Officer’s response thereto:-
<i>Could you show Councillors where the red hills are?</i>	<i>In respect of the salt making sites referred to as red hills, non-designated archaeological sites, Officers cannot find any specific reference to show where these are on the map. It is referenced because Historic England have picked up on it being a non-designated site where there are possible Roman salt making sites which are within the red line site.</i>
<i>Can Councillors have clarification that they haven’t got to decide whether the compensation is adequate for the Bathside Bay development, Councillors are only looking at this application as a stand-alone application to see if Councillors think it is acceptable?</i>	<i>Yes, that is correct. There is Condition 55 on the Bathside Bay permission which deals exclusively with the sufficiency and adequacy of the compensation scheme.</i>

<p><i>Should TDC be looking at compensation for the loss of habitats on this site?</i></p>	<p><i>The first thing to point out is that the aim of this proposal is to provide better habitat creation and compared to what is there at the moment. The applicants have provided extensive bird survey data. There will be areas that will be suitable for skylarks. Officers are not sure on how many hectares that is. The key thing is that the Conditions (Condition 3) recommended requiring the applicants to submit wildlife compensation implementation and management plan which the applicants will need to provide a programme of monitoring of the potential disturbance of water birds within the alignment site as well as other species in consultation with the Royal Society for the Protection of Birds (RSPB), Natural England, the Environment Agency and an adaptive Management Plan will need to be prepared in consultation with the RSPB including Natural England. If there is any monitoring to be needed, such measures will be reflected in updates in the compensation implementation and management plan. So, there is a safeguard under Condition 3 of the report.</i></p>
<p><i>Could the Officer tell Councillors where the warning came for the people walking on the seawall causing problems for the nesting birds?</i></p>	<p><i>This is a wildlife development site. It is to improve the biodiversity net gain. There is a conflict between people enjoying the walk around that area and also keeping them clear of sensitive areas for birdlife and so on. The idea behind that is you don't allow the footpath to go across or all the way around because if it does then a circular walk is created which will encourage people to disturb the wildlife more. If people can go all along the top of the seawall, then this also encourages them to disturb the wildlife. There are viewing points that the public can view the wildlife from without disturbing it.</i></p>
<p><i>In 1.5 of the Executive Summary of the Officer report, it mentions 'near identical realignment' – is it near or identical?</i></p>	<p><i>Officers cannot be sure that this application is identical and that is why the word 'near' is used. It is certainly near identical to the site area.</i></p>
<p><i>Does this mean that Natural England have moved on from the red hills as it wasn't highlighted in the recent communication with them?</i></p>	<p><i>Officers see it as, Natural England have raised that concern and stated that those red hills are non-designated heritage assets, and because they have raised it, the relevant paragraph in the NPPF is engaged. I believe in paragraph 209, it requires to have balanced judgement.</i></p>
<p><i>Within the compensation scheme, could Officers assure us that all of these will be covered and not be put into the material consideration tonight?</i></p>	<p><i>The proposal is for the breaking of the seawall, brand new seawalls and in consequence a creation of a new habitat within those areas. It is all within the Conditions and recommendations within the Officer report.</i></p>
<p><i>Can Councillors assume that all</i></p>	<p><i>Some of the concerns of other interests, relate to</i></p>

<i>the concerns raised are being looked at and being dealt with for the future?</i>	<i>whether or not there is enough mitigation/compensation for Bathside Bay. There are other mechanisms in the future, in terms of, a planning condition and a separate application requirement. This application is a planning application to be determined on its own merits. If there was not enough biodiversity uplift on this site, there is an opportunity to be able to improve it even further because they won't be able to get past the planning condition or the separate application later.</i>
<i>Why can people not walk on top of the seawall?</i>	<i>You have to account for the water that is also being brought in as well as the drainage for that extra water. There are also areas on biodiversity improvement outside of the wall which birds will be nesting on and using. There are 2 environments on either side of the wall to the other. The nature reserve has the existing seawall that people can walk on top of. The southern bend is an elevated wall where the public can enjoy the views at those points. The new seawall will be 4.8m high and the footpath will be outside of the wall, just above sea level.</i>
<i>Will there be any need to recharge the area in years to come?</i>	<i>I refer you to paragraph 285 of the Environmental Advisement.</i>
<i>Can Officers explain the statement from the Environment Agency?</i>	<i>Biodiversity net gain does not apply to this case.</i>
<i>If there is an area to play rather than observing, is there anything the Council can do to make sure that they are quiet areas?</i>	<i>The plan is to have viewing platforms. LPA Officers are very keen to have these structures to be as discreet as possible.</i>
<i>Is Seal rescue and rehabilitation something TDC is exploring?</i>	<i>It is not something Officers are actively exploring as part of this application. Members can recommend a Condition around when the construction can take place, so it is suitably phased.</i>

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

RESOLVED that:-

- 1) 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.1), the Officers' additional condition to ensure permissive paths remain available, unobstructed and available for public access, an additional condition to add a construction phasing plan to the construction management condition to ensure development takes place at least in sensitive times to protect wildlife and seals, another further condition for the agreement of surface material and appearance for new paths created, an advisory to encourage the developer to

work with Seal Medic Unit locally and the updated Conditions in the Officer Update Sheet, or varied as is necessary to ensure the wording is enforceable, precise, and reasonable in all other respects, including appropriate updates, so long as the principle of the conditions as referenced is retained; and,

- 2) the sending to the applicant of any informative notes as may be deemed necessary.

The meeting was declared closed at 7.07 pm

Chairman

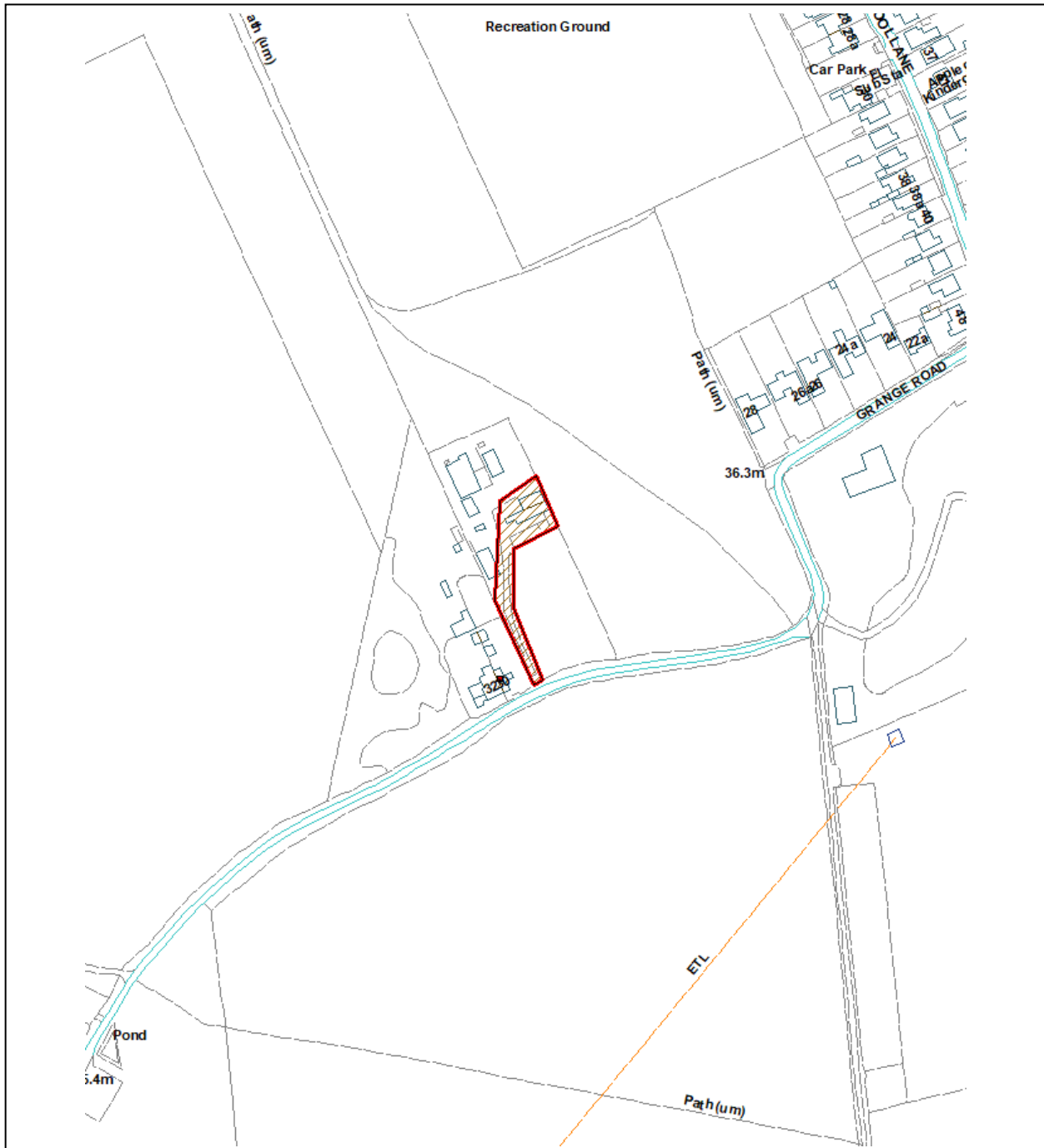
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PLANNING COMMITTEE

Tuesday 1st August 2023

REPORT OF THE DIRECTOR OF PLANNING

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



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Application:	21/01718/FUL	Expiry Date:	2 nd December 2021
Case Officer:	Jacob Jaarsma	EOT Date:	17 April 2024
Town/ Parish:	Lawford Parish Council		
Applicant:	Mrs Rebecca Ridge		
Address:	Land rear of Bloomfield Cottage Grange Road Lawford Manningtree CO11 2ND		
Development:	Proposed replacement of an agricultural building with a two bed bungalow (in lieu of Prior Approval for 1 No. 2 bed dwelling, subject of application 21/00704/COUNOT).		

1. Executive Summary

- 1.1 The application was brought before the Planning Committee Members on 1 August 2023. Following deliberation, the Members voted to defer the item to afford the applicant the opportunity to:
- To provide more information on surface materials and details of the roadway design/width of the access and drive leading to the proposed bungalow;
 - To complete and submit an ecological survey/report for site
 - Provide more details on the Package Treatment Sewage Plant including its location
- 1.2 Regarding the background of this case, the application was initially referred to the Planning Committee in August 2023 due to the proposed development's conflict 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 of a residential unit, in the form of a converted agricultural building, has been established under prior approval reference number 21/00704/COUNOT.
- 1.3 The Applicant has now provided the additional information as set out above. Following the completion of the assessment and in summary, ECC Highways continue to be satisfied with the proposal and confirm that the improved access and drive leading to the proposed bungalow will provide a safe and suitable access for the development. ECC Ecology confirm no objections from an ecological perspective subject to the imposition of appropriate planning conditions to ensure all mitigation and enhancement measures and/or works shall be carried out in full accordance with the details contained in the submitted Preliminary Ecological Appraisal and Preliminary Roost Assessment. Also, the details of the Package Treatment Sewage Plant are also acceptable because it has been demonstrated that this arrangement will result in no harm to the environment.
- 1.4 In terms of other relevant planning considerations, the proposed dwelling is not considered to be materially different regarding siting or footprint to the development approved under prior approval 21/00704/COUNOT. The overall height of the proposal slightly exceeds that of the existing building; however, this is not considered to result in significant harm.
- 1.5 The application has been revised during the course of the application to a softer, more agricultural like appearance with timber cladding and full-length windows, which is considered to be in keeping with this rural location. The access remains as existing and there are no objections from the Highways Authority.

- 1.6 The Council's Tree and Landscape Officer notes that the application site is overgrown with some established conifers along the eastern boundary. A soft landscaping scheme to include the site boundaries should be secured by condition as this will help to soften its appearance and screen/filter views of the site from the Public Right of Way to the east.
- 1.7 Sufficient parking and private amenity space is provided, and there will not be significant harm to existing neighbouring amenities, subject to conditions.
- 1.8 Conditions are included within the recommendation to ensure, amongst other things, the provision of biodiversity enhancements and a scheme for the provision and implementation of water, energy and resource efficiency measures for the lifetime of the development.
- 1.9 Approval (unilateral undertaking completed to secure RAMS and Public Open Space contributions)

Recommendation: Approval

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

2. Planning Policy

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

2.2 National:

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

2.3 Local:

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

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

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

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

2.4 Supplementary Planning Guidance:

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

3. Status of the Local Plan

3.1 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.

3.2 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 19th 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.

3.3 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>)

3.4 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.

4. Neighbourhood Plans

4.1 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>

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

5. **Relevant Planning History**

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

6. **Consultations**

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

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

EEC Ecology

05.02.2024

No objection subject to securing biodiversity mitigation and enhancement measures
 Summary We have reviewed the Preliminary Ecological Appraisal and Preliminary Roost Assessment (Arbtech, October 2023) and Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) Habitat Regulation Assessment (HRA) Record (Tendring District Council, November 2021) relating to the likely impacts of development on designated sites, protected species and Priority species & habitats and identification of appropriate mitigation measures.

We also reviewed the Block Plan titled: Proposed Dwelling (Zoe Mannings Drawing Services Ltd, rev A, June 2021).

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 and Preliminary Roost Assessment (Arbtech, October 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, which have been recommended to secure measurable net gains for biodiversity, as outlined under Paragraph 180d 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. It is recommended that this could also

include provision of a native all native species planting scheme and that the proposed bat and bird boxes are integrated into the new dwelling.

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

Impacts will be minimised such that the proposal is acceptable, subject to the conditions below based on BS42020:2013. We recommend that submission for approval and implementation of the details below should be a condition of any planning consent.

Recommended conditions

1. ACTION REQUIRED IN ACCORDANCE WITH ECOLOGICAL APPRAISAL RECOMMENDATIONS

“All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Preliminary Ecological Appraisal and Preliminary Roost Assessment (Arbtech, October 2023) as already submitted with the planning application and agreed in principle with the local planning authority prior to determination.

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

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

2. PRIOR TO 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 to achieve stated objectives;
- c) locations of proposed enhancement measures by appropriate maps and plans;
- d) persons responsible for implementing the enhancement measures;
- e) details of initial aftercare and long-term maintenance (where relevant).

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

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

Environmental Protection

08.11.2021

Should the above application be approved, the EP Team are requesting a condition be applied in relation to Contaminated Land and an informative in relation to Foul Drainage provision.

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

UU Open Spaces

09.11.2021

Current Position

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

Recommendation

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

Tree & Landscape Officer

29.10.2021

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

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

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

ECC Highways Dept

10.12.2021

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

It appears that the proposed dwelling will retain adequate off-street parking and turning, considering these factors, from a highway and transportation perspective the impact of the proposal is acceptable to Highway Authority subject to the following mitigation and conditions in regards to visibility splays, vehicular turning facility, vehicle access provision, discharge of surface water, no use of unbound material to accessway surface, provision of any gates to be inward opening, provision of vehicle parking area, parking space dimensions, provision of cycle parking, areas provided for the storage of building materials clear of the highway.

Updated ECC Highways Comments following the submission of new information in respect of the access

23.01.2024

The information that was submitted in association with the application has been considered by the Highway Authority. A previous site visit was undertaken in conjunction with the original planning application. The information submitted with the application has been thoroughly assessed and conclusions have been drawn from a desktop study with the observations below based on submitted material, google earth image dated June 2023. The proposed site is accessed from and along a private road, with alterations/ upgrade to the existing access which serves the existing agricultural buildings from the established vehicular access from Grange

Road, classed as a local road within the County's Route Hierarchy. When compared with the former agricultural use, the level of activity will be on a par or possibly reduced or 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 along Grange Road. The proposed dwelling will retain adequate off-street parking and turning, considering these factors:

The Highway Authority does not object to the proposals as submitted, subject to the previous highway conditions that were recommended for 21/01718/FUL (dated: 10 December 2021) are adhered to.

7. Representations

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

8. Assessment

Site Context

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

Relevant History

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

Proposal

- 8.4 The application proposes one new two bed dwelling in lieu of the prior approval granted for the conversion of the agricultural building to a dwelling, which was the subject of application 21/00704/COUNOT. It is proposed to demolish this agricultural building and construct a new dwelling within the footprint of the agricultural building, along with associated amenity space and a new parking/turning area. It is also proposed to demolish the two barns closest to the development.
- 8.5 The proposed new dwelling is a bungalow with a uniform rectangular footprint, measuring 12.5m x 7.4m, with a dual pitched roof. The replacement building will have an eaves height of some 2.5m and a ridge height in the region of 5m. The proposed dwelling has a gross internal area of around 81sqm which is approximately 18sqm more than the existing agricultural building, around a 28% increase in floor space.

- 8.6 The proposed dwelling comprises of two bedrooms, a bathroom and an open plan kitchen, dining and lounge area. The external materials proposed are black weatherboard and red pantiles.

Assessment

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 application site lies outside of the defined settlement boundary of Lawford in the adopted 2013-2033 Local Plan. The proposed development would therefore extend outside the area planned to provide growth for this settlement. In view of the housing land supply position, the Council does not need to look beyond identified settlements to meet its housing requirement.
- 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 Lawford (along with Manningtree and Mistley) is classified as a Smaller Urban Settlement, which benefits from a range of existing infrastructure and facilities and are considered to be able to support larger scale growth, within the SDB.
- 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 dwelling to a new dwelling. The existing building is sited within the footprint of the proposed dwelling and inside the red edge application site. This is considered by the applicant to provide a 'fall-back' position.
- 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 building which was the subject of the Prior Approval application is within a built-up group of existing buildings. The proposed new dwelling is within the footprint of the agricultural building (the subject of the prior approval), with the front elevation facing southeast.
- 8.17 The existing agricultural building in its entirety is some 180sqm measured externally. It is also proposed to demolish two adjoining barns and these combined are some 140sqm externally resulting in a reduction of built form on the site of some 225sqm.
- 8.18 The existing agricultural building is larger than the new dwelling proposed, however the full extent of the building was not proposed to be converted under the prior approval application, therefore the new dwelling is some 28% larger than the prior approval dwelling (95sqm measured externally). See the comparison table below:

	21/00704/COUNOT (Prior Approval)	21/01718/FUL (New dwelling)
Siting	Building to the front of the existing agricultural buildings, east of the site.	Building in same location as agricultural building, front elevation facing SE
Access	As existing	As existing with new parking and turning area proposed
Appearance	Mainly block built walls and profile metal sheet roof	Black weatherboarding and red pantiles
Ridge Height	2.6m (monopitch flat roof)	5m (pitched roof)
Eaves Height	2m	2.5m
Gross Internal Area	63sqm	81sqm
Bedrooms	2	2

- 8.19 Prior approval 21/00704/COUNOT continues to be in existence, and it is therefore considered that the Prior Approval granted for the conversion of the existing agricultural building would amount to viable 'fall back' position. This planning application now seeks to demolish the agricultural building and construct a new, slightly larger dwelling in a similar location, within the existing built-up area of the wider site.
- 8.20 In conclusion, having regard to the above, the application, on balance, is considered to meet all 3 tests set out for a viable fall-back position in terms of the legal position set out earlier. There is a fall-back use in the form of the Prior Approval and it is considered that the proposed development, is, in the main, comparable to that approved under the Prior Approval, in terms of its siting, size, scale and external appearance.
- 8.21 As outlined above in the comparison table, there is an increase in the height and floor space of the new dwelling, however this is considered to be reasonable in this rural location, for a two-bed dwelling and is not out of character in terms of external appearance, with the existing agricultural buildings on site. Given the location of the proposed dwelling, it is considered that there is a realistic prospect of the prior approval scheme being implemented, as the siting is the same. Therefore, the fall-back position is given significant weight in the assessment of this application.
- 8.22 Therefore given the circumstances of this case, along with the legal position and the Prior Approval fall-back position, the principle of development for a new dwelling on this site is considered to be acceptable subject to the detailed consideration against other relevant Local Plan policies and any approved Neighbourhood Plans.

Design, Scale and Impact on Character and Appearance

- 8.23 The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of

sustainable development, creates better places in which to live and work and helps make development acceptable to communities. (Para 131 NPPF).

- 8.24 Policy SP7 states that all new development should respond positively to local character and context to preserve and enhance the quality of existing places and their environs. Policy SPL3 seeks to provide new development which is well designed and maintains or enhances local character and distinctiveness. The development should relate well to its site and surroundings particularly in relation to its siting, height, scale, massing, form, design and materials and should respect or enhance local landscape character, views, skylines, landmarks, existing street patterns, open spaces and other locally important features.
- 8.25 The existing agricultural building within the wider site is of a modest concrete block construction with a profile metal sheet roof and has an agricultural appearance. The building was used for keeping pigs. The building is in close proximity to the other much dilapidated buildings within the wider holding, forming a cluster of buildings in that particular part of the site. The proposed dwelling, albeit larger and higher than that existing, is sited within the footprint of the existing agricultural building and within close proximity to the other buildings within the wider holding and is therefore not considered to be out of place in this rural location.
- 8.26 The design of the new dwelling is simple and unassuming and the use of black weatherboarding is considered to reflect a simple barn like structure, which is rural in character along with suitable soft landscaping on the boundary, this modest barn like approach to the design of the new dwelling is considered to somewhat mitigate the prominence of the new dwelling in this rural setting and the dwelling would be viewed in context with the other built form nearby, thereby maintaining the open and agricultural character of the area and is considered to be visually superior to the design of the converted agricultural building, which is a flat roof building.

Trees and Landscaping

- 8.27 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.
- 8.28 The application site is bordered to the north, east and south by open agricultural fields, therefore despite the modest size and scale and agricultural barn like appearance, the building has the potential to be fairly visible, particularly when viewed from the east, within the built up area of the wider site, owned by the applicant and it is possible that as a consequence of the development a number of willow trees to the northern boundary would need to be removed.
- 8.29 The Council's tree and landscaping officer does not consider that these are worthy of formal protection via a TPO. The trees and vegetation to the north, provide a degree of screening from the wider open land to the north, and it is therefore considered reasonable to secure a full detailed hard and soft landscaping scheme for the site, in particular to secure new soft landscaping, on this northern boundary of the application site in order to soften and screen the proposed new dwelling from the open views from the north into the site. These details are to be secured by condition.

Living Conditions of future Occupiers

- 8.30 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.
- 8.31 All new dwellings must therefore accord with the Technical housing standards. A two-bedroom, one storey dwelling requires a minimum of 61-70sqm of Gross Internal Floorspace (GIA). From the plans submitted the proposed 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 amenity area proposed is considered to meet the needs and expectations of future residents and is commensurate to the size of dwelling.

- 8.32 Overall the proposal is considered to secure a good standard of amenity and accommodation for future occupants of the proposed dwelling.

Impact on Residential Amenity

- 8.33 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.
- 8.34 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.
- 8.35 The application site is located within a fairly rural location, with residential dwellings some distance away fronting Grange Road.
- 8.36 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.
- 8.37 Therefore, subject to conditions, it is not considered that this development would impact on the residential amenities of the neighbouring occupiers in any regard.

Highway and Parking Considerations

- 8.38 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.
- 8.39 The Essex County Council Parking Standards 2009 require that dwellings with 2 bedrooms be served by a minimum of 2 parking spaces. Parking spaces should measure 5.5 metres by 2.9 metres and garages, if being relied upon to provide a parking space, should measure 7 metres by 3 metres internally. The applicant has now provided more information on surface materials and details of the roadway design/width of the access and drive leading to the proposed bungalow. This shows an access width (at the Grange Road junction) of some 4.5m, together with a bound surface of 6.0m from the back edge of Grange Road. The submitted plans and additional information continue to show that the new dwelling would utilise the existing access from Grange Road and will be provided with two parking spaces that meets policy requirements. It is also proposed to provide a type 3 turning head to allow cars to turn within the site and enter and leave in a forward gear.
- 8.40 Following the provision of the above-mentioned additional highways information the LPA has reconsulted ECC Highways who continue to raise no objection to the scheme subject to the use of conditions. As such, 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

- 8.41 Paragraph 180 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.
- 8.42 Policy PPL5 states that all new development must make adequate provision for drainage and sewerage. Private sewage treatment facilities will not be permitted if there is an accessible public foul sewer, which in this case there is not. Where private sewage treatment facilities are the only practical option for sewage disposal, they will only be permitted where there would be no harm to the environment, having regard to preventing pollution of groundwater and any watercourses and odour. The dwelling is proposed to be connected to a 'Bio Pure 2' Eco Range package sewage treatment plan, the exact location shown in a red circle on the recently submitted Upgraded Vehicular Access and Site Drainage Layout – Drawing No: 02. Moreover, the scheme also now include a below ground rainwater harvesting tank for garden irrigation, as also shown on the above-mentioned drawing no: 02.
- 8.43 The chosen Eco Range system utilises a combination of physical, chemical, and biological processes to effectively break down waste to ensure any discharge into the existing drainage ditch along Grange Road is purified. The applicant has therefore demonstrated that utilising this system will result in no harm to the environment. Moreover, this element would also require separate building regulations approval and other environmental regulations may also apply, particularly concerning the discharge of treated water into nearby streams, which may require separate permits or other approvals.

Ecology and Biodiversity Implications

- 8.44 Policy PPL4 seeks to protect and enhance the local biodiversity and geodiversity. Whilst the site is not of any specific designation, it is considered to be within a fairly rural setting. The development has scope to include wildlife friendly, native planting and habitat boxes for roosting bats and nesting birds. These measures will contribute to biodiversity net-gain in accordance with relevant paragraphs in the NPPF (2023).
- 8.45 Following the submission of a preliminary ecological appraisal and preliminary roost assessment (dated 25 October 2023), the LPA undertook a consultation with ECC Ecology who confirmed that the ecological information available is deemed sufficient to determine the application. ECC Ecology confirmed that there is now certainty regarding the likely impacts on designated sites, protected species, and habitats. With appropriate mitigation measures in place, the development can be deemed acceptable. Therefore, the mitigation measures from the Preliminary Ecological Appraisal and Preliminary Roost Assessment should be implemented fully to conserve and enhance protected species. Additionally, reasonable biodiversity enhancements are supported to secure no net loss of biodiversity on site. These enhancements should be outlined in a Biodiversity Enhancement Strategy and for these reasons it is considered reasonable, necessary, and relevant to include suitable planning conditions to secure the above and in the event that planning permission is granted.
- 8.46 Having regard to the above it is considered that the proposal, subject to condition, will meet the requirements of the relevant Local Plan policy and provisions in the NPPF as set out above.

Renewable Energy

- 8.47 Policy PPL10 addresses renewable energy generation and energy efficiency measures for residential development involving the creation of one or more dwellings. Measures including

electric car charging points should be considered. Paragraph 116 e) of the Framework states that applications for development should be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations.

- 8.48 As such a condition seeking a scheme for the provision and implementation of energy and resource efficiency measures for the lifetime of the development is considered reasonable and necessary and can be added to any grant of planning permission.

Recreational Disturbance Avoidance and Mitigation Strategy (RAMS):

- 8.49 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.
- 8.50 This new residential development lies within the Zone of Influence. The site is not within or directly adjacent to one of the European designated sites but is 2100m away from Stour and Orwell Estuaries RAMSAR and SPA.
- 8.51 The Council's Habitats Regulation Assessment has concluded that, with the proposed mitigation, the project would not have an Adverse Effect on the Integrity of the sites included within the Essex Coast RAMS and therefore the proposal is in accordance with the Essex Coast RAMS SPD.
- 8.52 However, new housing development within the ZOI would be likely to increase the number of recreational visitors to Colne Estuary; and, in combination with other developments it is likely that the proposal would have significant effects on the designated site. Mitigation measures must therefore be secured prior to occupation.
- 8.53 In accordance with Natural England's advice there is no requirement to consult them due to the specified mitigation.
- 8.54 A unilateral undertaking has been prepared to secure this legal obligation. This will ensure that the development would not adversely affect the integrity of European Designated Sites in accordance with Section 1 Policy SP2 and Section 2 Policy PPL4 of the Tendring District Local Plan 2013-2033 and Regulation 63 of the Conservation of Habitat and Species Regulations 2017.

Financial Contributions – Open Space and Play Space

- 8.55 Paragraph 54 of the National Planning Policy Framework (2021) states Local Planning Authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Paragraph 56 of the NPPF states planning obligations must only be sought where they are necessary to make the development acceptable in planning terms, directly relate to the development and fairly and reasonably relate in scale and kind to the development.
- 8.56 In line with the requirements of Section 2 Policy HP5 the Council's Open Space Team have been consulted on the application to determine if the proposal would generate the requirement for a financial contribution toward public open or play space. The outcome of the consultation is that there is currently a deficit of -3.44 hectares of equipped play/open space in Lawford. A contribution to increase the play provision is therefore both justified and relevant to the planning application and this money would be spent at the closest play area which is School Lane Lawford. A unilateral undertaking has been completed to secure this contribution.

Environmental Protection

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

9. Conclusion

- 9.1 The proposed demolition of an existing agricultural building and its replacement with a two-bed bungalow is acceptable in principle following the previous prior approval granted on the site for one dwelling under planning reference 21/00704/COUNOT.
- 9.2 For the reasons set out in this report, the increase in floorspace and height in comparison to the existing building is not considered to result in overriding harm to the character and appearance of the area. There are no significant issues in respect to neighbouring amenities or harm to trees. Accordingly, in terms of these other material considerations set out above, the application is considered to be policy compliant and is recommended for conditional 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 and Open Space.

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

10.2 Conditions and Reasons

1. COMPLIANCE REQUIRED: COMMENCEMENT TIME LIMIT

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

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

NOTE/S FOR CONDITION:

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

2. APPROVED PLANS & DOCUMENTS

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

Site Location Plan – Rec'd 04/10/21

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

Upgraded Vehicular Access and Site Drainage Layout – Drawing No: 02 (by Embrace Architecture)

Planning Statement – Stanfords dated September 2021

Preliminary Ecological Appraisal and Preliminary Roost Assessment (Arbtech, October 2023)

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

NOTE/S FOR CONDITION:

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

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

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

3. DEMOLITION OF EXISTING BUILDINGS

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

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

4. CONTAMINATION – WATCHING BRIEF

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

- a. All site works at the position of the suspected contamination will stop and the Local Planning Authority and Environmental Health Department will be notified as a matter of urgency.
- b. A suitably trained geo-environmental engineer should assess the visual and olfactory observations of the ground and the extent of contamination and the Client and the Local Authority should be informed of the discovery.
- c. The suspected contaminated material will be investigated and tested appropriately in accordance with assessed risks. The investigation works will be carried out in the presence of

a suitably qualified geo-environmental engineer. The investigation works will involve the collection of solid samples for testing and, using visual and olfactory observations of the ground, delineate the area over which contaminated materials are present.

d. The unexpected, contaminated material will either be left in situ or be stockpiled (except if suspected to be asbestos) whilst testing is carried out and suitable assessments completed to determine whether the material can be re-used on site or requires disposal as appropriate.

e. The testing suite will be determined by the independent geo-environmental specialist based on visual and olfactory observations.

f. Test results will be compared against current assessment criteria suitable for the future use of the area of the site affected.

g. Where the material is left in situ awaiting results, it will either be reburied or covered with plastic sheeting.

h. Where the potentially contaminated material is to be temporarily stockpiled, it will be placed either on a prepared surface of clay, or on 2000-gauge Visqueen sheeting (or other impermeable surface) and covered to prevent dust and odour emissions.

i. Any areas where unexpected visual or olfactory ground contamination is identified will be surveyed and testing results incorporated into a Verification Report.

j. A photographic record will be made of relevant observations.

k. The results of the investigation and testing of any suspect unexpected contamination will be used to determine the relevant actions. After consultation with the Local Authority, materials should either be:

- re-used in areas where test results indicate that it meets compliance targets so it can be re-used without treatment; or o treatment of material on site to meet compliance targets so it can be re-used;
- or removal from site to a suitably licensed landfill or permitted treatment facility.

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

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

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

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

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

b) Details of the loading/unloading/storage of construction materials on site, including details of their siting and maximum storage height.

c) Details of how construction and worker traffic and parking shall be managed. This shall include routing of all traffic and any directional signs to be installed and where.

d) Details of any protection measures for footpaths and trees surrounding the site.

e) Details of any means of access to the site during construction.

f) Details of the scheduled timing/phasing of development for the overall construction period.

g) Details of measures to control the emission of dust and dirt during construction and including details of any wheel washing to be undertaken, management and location it is intended to take place.

h) Details of the siting of any on site compounds and portalos.

i) Details of the method of any demolition to take place, including the recycling and disposal of said materials resulting from demolition.

j) Site waste management plan (that shall include reuse and recycling of materials)

k) Scheme for sustainable construction management to ensure effective water and energy use.

- l) Scheme of review of complaints from neighbours.
- m) Registration and details of a Considerate Constructors Scheme
- n) Details on the provision, location and management of any show home/s or reception, including opening times, parking and advertisements (including flags and directional signs).

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

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

NOTE/S FOR CONDITION:

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

6. LANDSCAPING

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

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

NOTE/S FOR CONDITION:

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

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

7. LANDSCAPING

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

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

8. VISIBILITY SPLAYS

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

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

9. VEHICLE TURNING FACILITY

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

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

10. VEHICULAR ACCESS

CONDITION: Prior to the first occupation of the development hereby approved dwelling, the vehicular access at Grange Road, must be reconstructed at right angles to the highway boundary the proposed private drive shall not be less than 4.5 metres in width for at least the first 6 metres from the back of Carriageway/Highway Boundary in accordance with the Upgraded Vehicular Access and Site Drainage Layout – Drawing No: 02 (by Embrace Architecture), 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

11. SURFACE TREATMENT OF VEHICULAR ACCESS

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

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

12. ACCESS GATES

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

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

13. RENEWABLE ENERGY AND SUSTAINABILITY

No development shall commence above slab level until a scheme for the provision and implementation of water, energy and resource efficiency measures for the lifetime of the

development shall be submitted to and approved, in writing, by the Local Planning Authority. The scheme such include as a minimum to achieve:

- 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.

14. SURFACE AND FOUL WATER DRAINAGE

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

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

NOTE/S FOR CONDITION:

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

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

15. PERMITTED DEVELOPMENT RIGHTS

CONDITION: Notwithstanding Section 55 (2)(a)(ii) of the Town and Country Planning Act 1990 as amended and the provisions of Schedule 2 Part 1 Classes A, B, C, D and E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any Order revoking and re-enacting that Order with or without modification),no extensions,

additions, outbuildings, porches or other alterations to the dwellings shall be carried out except in complete accordance with details which shall previously have been approved, in writing, by the Local Planning Authority following the submission of a planning application for such development.

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

16. ACTION REQUIRED IN ACCORDANCE WITH ECOLOGICAL APPRAISAL RECOMMENDATIONS

All mitigation and enhancement measures and/or works shall be carried out in full accordance with the details contained in the Preliminary Ecological Appraisal and Preliminary Roost Assessment (Arbtech, October 2023) 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).

17. 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.

10.3 Informatives

1. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining

to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

2. Legal Agreement Informative - Recreational Impact Mitigation

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

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

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

4. Highways

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

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

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

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

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

5. Foul Drainage

The application proposes a Sewerage Treatment Plant will be utilised as a way of disposing of foul waste; we would request, should the application be approved, that the Applicant / Agent, ensure the installation is fully compliant with the Environment Agency's Binding Rules and any other relevant Government guidance and British standards, in respect of these systems. Information on this can be found at: Septic tanks and treatment plants: permits and general

binding rules: The general binding rules - GOV.UK (www.gov.uk). It is strongly recommended these rules are complied with, as they will minimise any potential nuisance to nearby residential dwellings, assist in preventing a potential Public Health nuisance, and minimise the potential for adverse incidents, of which may result in formal enforcement action.

11 **Additional Considerations**

Equality Impact Assessment

- 11.3 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.
- 11.4 In the present context, it has been carefully evaluated that the recommendation articulated in this report and the consequent decision are not expected to disproportionately affect any protected characteristic* adversely. The PSED has been duly considered and given the necessary regard, as expounded below.

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

Human Rights

- 11.5 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.

- 11.6 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).
- 11.7 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

- 11.8 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.
- 11.9 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

- 12.3 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/>.

Application:	23/01707/OUT	Expiry Date:	29th January 2024
Case Officer:	Amy Lang	EOT Date:	Not agreed
Town/ Parish:	Little Clacton Parish Council		
Applicant:	P. Kench, R. Carter Kench and C. Carter Golland		
Address:	Land adjacent 34 Amerells Road Little Clacton CO16 9HA		
Development:	Outline Planning Application with all matters reserved for the erection of two self-build/custom built dwellings.		

1. Executive Summary

- 1.1 The application is before Members at the request of Councillor Bray, due to the site being located outside the settlement development boundary and concerns with the impact of the proposed development.
- 1.2 The application relates to the land adjacent to number 34 Amerells Road, Little Clacton. The site is located to the eastern end of Amerells Road and forms part of an agricultural field.
- 1.3 The application seeks outline planning permission for the erection of two self-build/custom built dwellings with all matters reserved. For the avoidance of doubt, Access, Layout, Scale, Appearance and Landscaping are all reserved for subsequent consideration as part of future Reserved Matters application(s) (and if outline planning permission is granted).
- 1.4 The site is located outside, but directly adjacent to the defined Settlement Development Boundary of Little Clacton which is categorised within Local Plan Policy SPL1 as a Rural Service Centre in recognition of its level of services and amenities. Policy SPL2 does not explicitly preclude the development of housing outside SDBs as a matter of principle. The category of the settlement and the site's relationship with the defined settlement boundary complies with the principles of sustainable development as well as the policy requirements for self-build homes as set out in Policy LP7.
- 1.5 The proposed dwellings would intrude into the open field to some extent. However, the application site is bordered by existing development on 2 sides (immediately to south and west), and further away, the site is enclosed by residential development along Harwich Road (to the north) and Feverills Road (to the south). Views into the open field would largely be retained and a residential development here in the form of two dwellings would be viewed against the backdrop of the existing dwellings in Feverills Road. Consequently, no overriding harm to the character of the area or landscape would result.
- 1.6 The additional traffic associated with 2 no. dwellings would not be significant and could not be deemed as materially harmful to highway or pedestrian safety.
- 1.7 Officers consider that sufficient space is available on the site to provide a development of 2 dwellings that could achieve an internal layout and separation distances that would not detract from the amenities of nearby properties or the future occupiers of the proposed dwellings.
- 1.8 Considering the impact of the development and baseline situation on site, subject to the inclusion of the recommended conditions and completed UU, the development will conserve and enhance biodiversity interests.

1.9 For these reasons, the application is recommended for approval.

Recommendation: Outline Approval subject to UU

- 1) On appropriate terms as summarised below, and those as may be deemed necessary to the satisfaction of the Head of Planning and Building Control, to secure the completion of the drafted legal agreement (already received) under the provisions of section 106 of the Town and Country Planning Act 1990 dealing with the following matters:
 - A financial contribution of £163.86 per dwelling (new tariff effective from 1st April 2024) (to be index linked) in accordance with the Recreational Avoidance and Mitigation Strategy (RAMS).
 - 2) That the Head of Planning and Building Control be authorised to grant outline consent subject to the agreed section 106 agreement and 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,
 - 3) The informative notes as may be deemed necessary.
- Or;**
- 4) That in the event of the Planning obligations or requirements referred to in Resolution (1) above not being secured and/or not secured within 12 months that the Head of Planning and Building Control be authorised to refuse the application on appropriate grounds at their discretion.

2. Status of the Local Plan

2.1 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.

2.2 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 19th 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.

2.3 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>)

2.4 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.

3. Neighbourhood Plans

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

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

4. Planning Policy

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

National:

National Planning Policy Framework 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
- HP5 Open Space, Sports and Recreation Facilities
- LP1 Housing Supply
- LP2 Housing Choice
- LP3 Housing Density and Standards
- LP4 Housing Layout
- LP7 Self-Build and Custom-Built Homes
- PPL1 Development and Flood Risk
- PPL3 The Rural Landscape
- PPL4 Biodiversity and Geodiversity

- PPL5 Water Conservation, Drainage and Sewerage
- PPL10 Renewable Energy Generation and Energy efficiency Measures
- CP1 Sustainable Transport and Accessibility
- CP2 Improving the Transport Network
- DI1 Infrastructure Delivery and Impact Mitigation

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

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

5. Relevant Planning History

5.1 No site-specific planning history.

6. Consultations

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

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

ECC Highways Dept

19.12.2023

The information submitted with the application has been assessed by the Highway Authority and conclusions have been drawn from a desktop study with the observations below based on submitted material with this planning application and in conjunction with a site visit. It is noted that the proposal site is located at the end of Amerells Road which forms a residential cul-de-sac which has no turning head. It was observed during the site visit that a refuse vehicle has to reverse down the full length of the road during a bin collection day to be able to drive back out in forward gear. There is an existing private roadway between No's 31 and 34 leading to the proposal site, this access does not form part of the publicly adopted highway and will not therefore introduce a new vehicular access. It is also noted that the road will remain as a private driveway, it is not considered that the introduction of two dwellings 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:

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

Recommended conditions:

1. Minimum Size 3 Turning Facility
2. Prior to occupation; A straight section of carriageway to be provided from the entrance junction for a minimum distance of 6 metres; combined pedestrian and vehicular surface width of 6 metres; no unbound material shall be used in the surface treatment of the private driveway throughout; there shall be no discharge of surface water onto the Highway; each private vehicular access shall be constructed at right angles to the carriageway; the width of the access at its junction with the highway shall not be less than 3.6 metres (equivalent

to 4 drop kerbs), shall be retained at that width for a minimum distance of 6 metres within the site and shall be provided with an appropriate dropped kerb vehicular crossing; and The repair and/or resurfacing of the private road including the reconstruction of the kerbing on the south side between nos. 31 -34 to be agreed with the Local Planning Authority.

3. Parking space dimension.
4. Cycle / TWP parking.
5. Travel Information Pack.

UU Open Spaces

03.01.2024

Play Space - current deficit:

Deficit of 2.22 hectares of equipped play in Little Clacton

Formal Play - current deficit:

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

Settlement provision:

Parish Fields, Plough Corner 0.2 miles (open space and used for all sports)

Officer Conclusions and Recommendations

Due to the significant lack of play facilities in the area, a contribution towards play is justified and relevant to the planning application. The Parish Playing Fields at Plough Corner are located 0.2 miles from the proposed development in order to cope with additional development in the area the Parish are looking to improve the current facilities at this site.

Identified project:

The Parish Council have plans in place to carryout improvements and add additional facilities at Parish Playing Fields at Plough Corner. Any contribution received will go towards making these improvements.

Tree & Landscape Officer

14.12.2023

The application site is in agricultural use and forms part of the countryside setting to existing development. There are no trees or other significant vegetation in the main body of the application site or its boundaries. In terms of the impact of the proposed development on the local landscape character the development would be an extension to the existing development pattern. Whilst not out of keeping with the appearance of the existing, and adjacent, developed land the proposed development would, if approved, contribute to the gradual erosion of the countryside. Incremental development of this nature will diminish and degrade the rural character of the locality. Section 5.2 of the Planning Statement submitted in support of the application describes the planting of a hedgerow and trees on the eastern boundary of the application site.

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

Environmental Protection

08.01.2024

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

Essex County Council Ecology

19.12.2023

No objection subject to securing:

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

Recommended conditions:

1. Biodiversity Enhancement Strategy
2. Wildlife Sensitive Lighting Design Scheme

7. **Representations**

Ward Member / call-in

7.1 The application has been referred to Planning Committee by Councillor Bray for the following reasons:

- Contrary to the development plan - outside of boundary
- Access issues affecting other residents, and additional highways/traffic on a dead-end road which is already hard to park/turn.
- Negative impact on urban design/street scene
- Negative Impact on neighbours
- Loss of agricultural land.

Parish / Town Council

7.2 Little Clacton Parish Council object to the application on the following grounds (officer response in italics).

- Unwanted expansion into the countryside.
- Changing the current status quo of the street scene by extending the road.
- Impact and effect on the character and appearance of what is currently a rural setting with protected wildlife in proximity.
- Loss of valuable agricultural land which supports the local economy.
- Disruption during construction phase on what is a narrow rural road to a dead end.

These concerns are addressed within the main assessment section below, under the relevant section heading.

Neighbour / Local Representations

7.3 31 letters of objection have been received against the application. The concerns raised can be summarised and addressed as follows (officer response in italics).

- Outside the settlement boundary.
- No housing shortfall.
- Does not meet the objectives of a sustainable development – contrary to development plan.
- Limited public transport and access to services.
- Will place added pressure on infrastructure and services.
- Will contribute to Little Clacton being overcrowded with newbuilds.
- Schools, doctors, and dentists are already over loaded.
- Mentioned appeal decisions from Weeley are not relevant.
- If approved, will set a harmful precedent.
- Harmful encroachment into the countryside.
- Severely harmful to the character of the area.
- Out of keeping with the village character.

These issues are addressed in the main report below.

- Planning history on the site for over 80 dwellings – this will lead to more being approved.
There is no planning application history for the current application site. The wider site (entire field at 4.37ha) was subject to an assessment under the Strategic Housing Land Availability Assessment (SHLAA) (site reference RCS13) but was discounted for the proposal of 87 dwellings due to access issues. However, it was noted that, if the access issues could be overcome, the site could come forward later in the plan period.
- Not in keeping with the properties in the road – larger with double garages.
The application seeks outline planning permission with all matters reserved. The detailed design, layout and parking arrangements will be assessed at the reserved matters stage / detailed application stage.
- Loss of agricultural land.
The scale of development will not result in a significant loss or harmful impact on agricultural land provision and productivity.
- No right of access over the access/unadopted part of the road.
- Who will be responsible for the future upkeep of the unadopted road.
The existing and future owners of the unadopted section of the road will be jointly responsible. This is a land ownership and access rights issue and not covered by planning legislation as part of a planning application.
- Unsuitable for Heavy Goods Vehicles (see sign at road entrance).
- Amerells Road is totally unsuitable for construction traffic.
- Parked cars overhanging footway - obstruction to pedestrians, emergency vehicles, refuse collection vehicles.
- Road too narrow to take more development, more on-street parking, construction traffic.
- Noise and dust from the construction.
Accessibility and parking is addressed in the main report below. While some degree of disruption during construction would be unavoidable, the consequent disturbance can be adequately mitigated by means of the accompanying Construction Method Statement, secured by condition.
- Local roads are already in disrepair and poorly maintained by the council.
As the Highway Authority for the area, Essex County Council are responsible for road conditions, not Tendring District Council.
- Unreasonable loss of amenity to adjacent properties.
- Loss of privacy.
- Harm to our standard of living.
Residential amenities are considered in the main report below. However, full consideration of the impact of the development upon neighbouring amenities will be fully assessed at the reserved matters stage of the application process.
- Loss of view.
This is not a material planning consideration.
- No site notice.
A site notice was erected within Amerells Road on 20.12.2023 and the application was advertised in the local paper on 15.12.2023, in accordance with statutory requirements. In addition, several neighbour notification letters were sent to neighbouring properties adjacent to the application site.
- Loss of habitat and harm to wildlife and protected species.

The site consists of arable land bordered by residential areas and no ecology reports are required. Essex County Council Ecology Team raise no objection to the development, subject to conditions.

8. Assessment

8.1 The main planning considerations are:

- Site Description and Context
- Proposed Development
- Principle of Development / Self-Build and Custom-Built Homes
- Scale, Layout and Impact
- Access, Parking and Highway Safety
- Residential Amenities
- Trees and Landscaping
- Habitats, Protected Species and Biodiversity Enhancement (including RAMS)
- Environmental Protection
- Flood Risk and Surface Water Flooding
- Foul Sewage Disposal and Drainage
- Planning Obligation - Open Space and Play Space
- Renewable Energy Generation and Energy Efficiency Measures

Site Description and Context

8.2 The site subject of this application is located at the eastern end of Amerells Road, off The Street (B1441) within the Parish of Little Clacton. The Highways Register confirms that the majority of Amerells Road is an unclassified road / Local Road. However, a short section at its eastern end leading to the open field beyond is Private. This section lies directly to the front of no. 29 and no. 31 (to the northern side of the road) and no. 32 and no. 34 (to the southern side of the road).

8.3 The application site lies adjacent to number 34 Amerells Road, measuring approximately 0.20 hectares in size (including connection to the adopted part of Amerells Road) and forms part of the wider open field.

8.4 The field extends to the east, up to Grove Road (running from the north to the south from Harwich Road to Feverills Road). The northern part of the wider field adjoins the rear gardens of existing dwellings fronting Harwich Road, and the southern part of the wider field adjoins the rear of existing properties fronting Feverills Road (open field beyond no. 71 Feverills Road).

8.5 The application site is currently in agricultural use (Grade 3 Agricultural Land - Good to Moderate). There are no trees or other significant vegetation in the main body of the application site or its boundaries. To the north of the site, adjacent to no. 31 Amerells Road is an area of well vegetated land containing several trees, including a protected mature Oak tree to its frontage (reference: 88/00010/TPO).

8.6 Amerells Road is characterised by a mix of single, 1.5 storey and 2 storey dwellings, although bungalows dominate the street scene specifically directly adjacent to the application site.

8.7 The site is located outside, but directly adjacent to the defined Settlement Development Boundary of Little Clacton.

Proposed Development

8.8 The application seeks outline planning permission for the erection of 2 two self-build/custom built dwellings.

- 8.9 The application is made in outline form with all matters reserved, thus considering the principle of development only. Access, Layout, Scale, Appearance and Landscaping are all reserved for subsequent consideration as part of a Reserved Matters or 'DETAIL' application.
- 8.10 The application is accompanied by a red lined site plan, but no indicative layout plan has been provided. However, the accompanying Planning Statement provides further details on what is envisaged for the site and how it could be developed to accommodate two new dwellings.

Principle of Development / Self-Build and Custom-Built Homes

- 8.11 Adopted Tendring District Local Plan 2013-2033 and Beyond (TDLP) Section 1 Policy SP3 sets out a spatial strategy for North Essex, which includes that development will be accommodated within or adjoining settlements according to their scale, sustainability, and existing role. TDLP Section 2 Policy SPL1 sets out a settlement hierarchy in which Little Clacton is defined as a Rural Service Centre.
- 8.12 TDLP Section 2 Policy SPL2 defines Settlement Development Boundaries (SDBs) for settlements listed in Policy SPL1. Outside SDBs, Policy SPL2 says that the Council will consider any planning application in relation to the pattern and scales of growth promoted through the settlement hierarchy in Policy SPL1 and any other relevant policies in the plan.
- 8.13 Although the supporting text indicates that development outside SDBs will be subject to strict control to protect and enhance the character and openness of the countryside, neither Policy SP3 nor Policy SPL2 explicitly preclude the development of housing outside SDBs as a matter of principle. Furthermore, the supporting text indicates that Rural Service Centres are expected to contribute to housing delivery during the plan period, at a scale which is proportionate, achievable and sustainable for each settlement.
- 8.14 Little Clacton provides a range of local services and facilities consistent with its status as a Rural Service Centre. A convenience shop and recreation ground are available within walking distance of the site. There is a bus route along the B1441, again being easily accessible from the site, providing public transport into Clacton-on-Sea.
- 8.15 As explained within the 'Status of the Local Plan' section above, the Council is able to report a comfortable surplus of housing land supply over the 5-year requirement. As a result, the 'tilted balance' at paragraph 11 d) of the Framework does not apply to decisions relating to new housing development. However, the policies outlined above do not place an upper limit on housing delivery, nor would any such limit be consistent with the focus of national planning policy on boosting the supply of housing.
- 8.16 Ultimately, having regard to the specific policy wording as outlined above, the principle of providing two new self-build dwellings in this location directly adjacent to the SDB of Little Clacton may be acceptable in principle subject to criteria and having regard to all other relevant material planning considerations (covered below and in the remainder of this report).
- 8.17 Development at the modest scale proposed would not undermine Little Clacton's role as a Rural Service Centre and there is no clear evidence that it would compromise the Council's strategic approach to housing delivery. Future occupiers would have access to services and facilities, without being excessively reliant on travel by car.

Self-Build and Custom-Built Homes

- 8.18 As the application proposes self-build/custom built homes, TDLP Section 2 Policy LP7 is also of relevance to the consideration of this application.

- 8.19 Adopted Local Plan Policy LP7 states that, "The Council will also consider, on their merits, proposals for small developments of new Self-Build and Custom-Built Homes on land outside of, but within a reasonable proximity to, settlement development boundaries, where they will still support a sustainable pattern of growth in the District and are brought forward by individuals or associates of individuals who will occupy those homes. All new dwellings on such developments must either:
- a. be safely accessible on foot within 600 metres of the edge of the settlement development boundary of one of the District's 'strategic urban settlements', or 'smaller urban settlements';
 - b. be safely accessible on foot within 400 metres of the edge of the settlement development boundary of one of the District's 'rural service centres'; or
 - c. involve the redevelopment of vacant or redundant previously developed land that can be shown, with evidence, to be unviable for employment use."
- 8.20 As mentioned above, the site abuts the defined settlement development of Little Clacton which is categorised within Local Plan Policy SPL1 as a Rural Service Centre. The category of the settlement and the site's relationship with the defined settlement boundary therefore supports the proposed development for self-build homes being compliant with Policy LP7, b.
- 8.21 The latter part of Policy LP7 also states, "the proposal shall have no significant material adverse impact on the landscape, residential amenity, highway safety, or the form and character of nearby settlements and shall be otherwise appropriate in scale and design for their location, having regard to other policies in this Local Plan."
- 8.22 Having regard to the above, the principle of development on this site for two self-build dwellings is supported by policy LP7, subject to the detailed considerations below.

Scale, Layout and Impact

- 8.23 Adopted Policy SP7 of the 2013-33 Local Plan seeks high standards of urban and architectural design, which responds positively to local character and context. Policies SPL3 and LP4 of Section 2 of the 2013-33 Local Plan 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, create a unique sense of place. Paragraph 135 of the Framework 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.
- 8.24 The site is part of an open field on the eastern edge of Little Clacton. There is existing housing slightly further to the north and immediately to the south, which also includes continuous and well-established housing along Harwich Road and Feverills Road, both extending beyond the proposed development site. Some sporadic residential and commercial development also exists along Grove Road to the east and southeast of the site.
- 8.25 Officers recognise that the existing field represents a visual break in built form, providing a sense of connection with the wider countryside. The provision of two dwellings on the site could be located and designed in a manner to ensure a continuation of the immediate linear pattern of development along Amerells Road.
- 8.26 The proposed dwellings would intrude into the open field to some extent. However, the application site is bordered by existing development on 2 sides (immediately to south and west), and further away, the site is enclosed by residential development along Harwich Road (to the north) and Feverills Road (to the south). Views into the open field would largely be retained and a residential development here in the form of two dwellings would be viewed against the backdrop of the existing dwellings in Feverills Road. Consequently, no overriding harm to the character of the area or landscape would result.

- 8.27 As explained above, the application seeks outline planning permission with all matters reserved. Although no indicative layout plan has been provided, the accompanying planning statement provides further detail on the development envisaged for the site. Having regard to the existing pattern of residential development in Amerells Road and the size of the site in relation to the size of existing plots, officers are content that 2 dwellings of a scale, layout and appearance in keeping with the character of the area could be achieved on the site. While the additional built development would be clearly visible, it would not be harmfully prominent or intrusive.
- 8.28 Whilst officers recognise the concerns raised about the potential for further development in the remaining field, it is a well-founded principle that each application should be considered on its merits. Should an application come forward in the future for further development proposals for part or all of the remaining field, this would require a case specific assessment against up-to-date policies and material planning considerations at the time.

Access, Parking and Highway Safety

- 8.29 Paragraph 114 of the National Planning Policy Framework seeks to ensure that safe and suitable access to a development site can be achieved for all users. Policy SPL3 Part B of Section 2 of the Tendring District Local Plan 2013-2033 and Beyond seeks to ensure that access to a new development site is practicable and the highway network will be able to safely accommodate the additional traffic the proposal will generate, and provision is made for adequate vehicle and cycle parking.
- 8.30 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).
- 8.31 As access and layout are reserved for subsequent consideration, precise details are not required at this outline stage. However, the supporting statement explains that the development will deliver a layout and parking provision for each of the dwellings like existing properties. The dwellings will be accessed by a continuation of Amerells Road and proposes to include a new turning area.
- 8.32 Essex County Council as the Highway Authority has been consulted on the application and raise no objections subject to several conditions. As all matters are reserved and this application is not considering the full details of the development, the recommended highway conditions will be imposed where necessary and reasonable, or added as informatives to provide as a guide to the detailed design of the development to be submitted with the reserved matters application.
- 8.33 Officers recognise the concerns raised by residents of Amerells Road regarding the narrow width of the road and the obstructive parking and manoeuvring that currently occurs. However, the additional traffic that would result from 2 no. dwellings would not be significant and would not exacerbate existing problems to an extent that would be deemed as materially harmful to highway or pedestrian safety. Moreover, a turning area and on-plot parking for the new dwellings will be provided within the extension to Amerells Road, thus containing the majority of any associate traffic movements within the site area.
- 8.34 While some degree of disruption during construction would be unavoidable, and this may include disruption due to relocation of services, the consequent disturbance can be adequately mitigated by means of a Construction Method Statement, to be secured by condition.

Residential Amenities

- 8.35 Paragraph 135 of the NPPF 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. 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.

- 8.36 Furthermore, Policy LP4 seeks to ensure that new dwellings are served by a 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. In addition, TDLP Policy SPL3 Part states that all new development must meet practical requirements, including provision for adequate waste storage and recycling facilities.
- 8.37 The application is in outline form with all matters reserved. A full assessment of the impact of the development will be undertaken at the reserved matters stage when fully detailed elevations and floor plans are provided. Nonetheless, officers consider that sufficient space is available on the application site to provide a development of 2 dwellings that could achieve an internal layout and separation distances that would not detract from the amenities of nearby properties or the future occupiers of the proposed dwellings.
- 8.38 Officers will also ensure the reserved matters application provides for the necessary bin store and waste collection for each dwelling in accordance with Policy SPL3.

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 TDLP2 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 Consultation with the Council's Tree and Landscaping Officer has been undertaken, confirming there are no trees or other significant vegetation in the main body of the application site or its boundaries. Concerns have been raised regarding the potential for incremental development of the wider site and the gradual erosion of the countryside. However, any future application would be considered on its merits. An officer recommendation of approval for this scheme for 2 dwellings should not be taken to suggest that further development of the site would be acceptable.
- 8.42 As mentioned above, to the north of the site, adjacent to no. 31 Amerells Road is an area of well vegetated land containing several trees, including a protected mature Oak tree to its frontage (reference: 88/00010/TPO). There is nothing in the application to suggest that the proposed development would result in any impact or harm to the root protection area of the tree. However, at the time of the reserved matters application, when the detailed road layout and turning area are presented, an potential impacts will be re-assessed as necessary.
- 8.43 Section 5.2 of the accompanying Planning Statement describes the planting of a hedgerow and trees on the eastern boundary of the application site. This would help to soften the outer edge of the development and would also establish a clearly defined and appropriately landscaped boundary. As landscaping is a reserved matter, a landscaping scheme, its implementation and maintenance would be assessed and secured as part of the detailed application stage.

Habitats, Protected Species and Biodiversity Enhancement

General duty on all authorities

- 8.44 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.
- 8.45 This development is subject to the general duty outlined above. The following features underscore how the proposal positively impacts biodiversity, offsetting requirements necessary for the development to take place.

Habitat and Protected Species

- 8.46 The preamble to Policy PPL4 states that where a development might harm biodiversity an ecological appraisal will be required to be undertaken, and the potential for harm should be considered and addressed in any application. Policy SPL3, Part A criterion d), requires that the design and layout of development maintains or enhances site features, including ecological value.
- 8.47 Consultation has been undertaken with Essex County Council Place Services Ecology (ECC Ecology). Whilst no ecological information has been submitted with the application, ECC Ecology are satisfied that sufficient ecological information is available for determination of this application on the basis that the site entirely consists of arable land bordered by residential areas.
- 8.48 ECC Ecology have assessed the application against relevant sources (including DEFRA Magic Map) relating to the likely impacts of development on designated sites, protected and Priority species & habitats and identification of appropriate mitigation measures. This provides certainty for the LPA of the likely impacts on designated sites, protected and Priority species & habitats and, with appropriate mitigation measures secured, that the development can be made acceptable.
- 8.49 In this instance, ECC Ecology raise no objection to the development subject to conditions securing the submission and approval of a biodiversity enhancement strategy and a sensitive lighting scheme. The biodiversity enhancement strategy should look to include native planting strategies and insect friendly planting, wildlife-friendly infrastructure i.e. nesting boxes, bee bricks and habitat structures. It is likely bats could be foraging/commuting around perimeter of the site as suitable habitat is observed adjacent to the site. Therefore, if any external lighting is to be proposed, it is advised that is developed to minimise any impacts.

Planning Obligation - Recreational Disturbance

- 8.50 The site falls within the evidenced recreational Zone of Influence (ZOI) and seeks consent for residential development. The LPA have prepared a project level Habitat Regulations Assessment (HRA) to secure a per dwelling tariff 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 in accordance with the Essex Coast Recreational disturbance Avoidance & Mitigation Strategy (RAMS).
- 8.51 A unilateral undertaking is being drafted to secure the financial contribution required to mitigate against any recreational impact from the new dwellings and to ensure that the development would not adversely affect the integrity of European Designated Sites in accordance with policies Policy PPL4 of the adopted Local Plan and Regulation 63 of the Conservation of Habitat and Species Regulations 2017.

Conclusion

- 8.52 Considering the impact of the development and baseline situation on site, subject to the inclusion of the recommended conditions and completed UU, will conserve and enhance biodiversity interests.

Environmental Protection

- 8.53 Consultation with the Council's Environmental Protection Team confirms that the accompanying Construction Method Statement (CMS) is acceptable. No other conditions are recommended.
- 8.54 A condition is included within the officer recommendation to secure compliance with the accompanying CMS during the construction phase of the development in order to mitigate and minimise harm to highway safety and residential amenities.

Flood Risk and Surface Water Flooding

- 8.55 Adopted Local Plan Policy PPL1 (Development and Flood Risk) states that all new development proposals should include appropriate measures to respond to the risk of flooding on and/or off site.
- 8.56 The site is located within Flood Zone 1 and is not at undue risk of flooding. Furthermore, with a site area of less than 1 hectare a site-specific Flood Risk Assessment is not required, nor is consultation with the Environment Agency or Lead Flood Authority a requirement for a development of this scale.
- 8.57 Any surface water flooding or surface water discharge can be managed and mitigated through the detailed design stage of the development, considered fully at the reserved matters stages of the application process.

Foul Sewage Disposal and Drainage

- 8.58 Paragraph 180 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 191 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.
- 8.59 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 requirement.
- 8.60 There is no evidence that the proposal would be at undue risk of pollution from sewage. Building Regulations would ensure compliance with the drainage hierarchy Approved Document H.

Planning Obligation - Open Space and Play Space

- 8.61 Adopted Local Plan Policy DI1 states that all new development should be supported by, and have good access to, all necessary infrastructure. Where a development proposal requires additional infrastructure capacity to be deemed acceptable, mitigation measures must be agreed with the Local Planning Authority. Such measures may include financial contributions towards new or expanded facilities and the maintenance thereof. Contributions should be used towards the delivery of improvements, expansion, or new open spaces and/or sports facilities.
- 8.62 Consultation has been undertaken with the Council's Public Realm Team. Whilst there is adequate formal open space provision to cope with some future development, there is currently a deficit of 2.22 hectares of equipped play in Little Clacton. The Parish Fields at Plough Corner (open space and used for all sports) is the settlement provision being located 0.2 miles from the proposed development. To cope with additional development in the area, the Parish are looking to improve the current facilities at the Parish Fields.

8.63 Paragraph 57 of the NPPF states that, planning obligations must only be sought where they meet all of the following tests as set out in Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 (CIL Regs):

- a) necessary to make the development acceptable in planning terms,
- b) directly related to the development; and,
- c) fairly and reasonably related in scale and kind to the development.

8.64 It has not been possible to obtain sufficient evidence from the Parish Council to justify the open space contribution request against the requirements of the CIL Regs. Therefore, no contribution toward open space improvements is being requested by officers in this instance.

Renewable Energy Generation and Energy Efficiency Measures

8.65 The NPPF requires local planning authorities to adopt proactive strategies to mitigate climate change and promote sustainable development. Local Plan Section 1 Policy SP7 requires new development to include measures to promote environmental sustainability including addressing energy and water efficiency. Policy PPL10 requires proposals for new development to consider the potential for a range of renewable energy solutions and for proposals for residential development to deliver measures that will be incorporated into the design, layout and construction aimed at maximising energy efficiency and the use of renewable energy.

8.66 Whilst the application includes details of EV charging provision and brief statement setting out the proposed approach to sustainable construction and energy and water demand reduction to be delivered at the development, to ensure full compliance with these policy aims and maximise the energy efficiencies for the lifetime of the development, in the event that outline planning permission is granted, a condition can be included to secure the submission and approval of a detailed energy efficiency scheme for each dwelling to be submitted concurrently with the reserved matters application.

9. Conclusion

9.1 Although the site is located outside of the defined settlement development, its close relationship with the amenities available within Little Clacton as a Rural Service Centre meet the principles of sustainable development.

9.2 Development at the modest scale proposed would not undermine Little Clacton's role as a Rural Service Centre and there is no clear evidence that it would compromise the Council's strategic approach to housing delivery. Future occupiers would have access to services and facilities, without being excessively reliant on travel by car.

9.3 In addition, the development also meets the criteria for self-build dwellings set out in Policy LP7 and is therefore a suitable site for two self build/custom build dwellings.

9.4 For the reasons set out above, no overriding harm to the character of the area or landscape would result, there would be no significant impact or harm to highway safety, subject to the inclusion of the recommended conditions and completed UU, the development will conserve and enhance biodiversity interests and officers are content that sufficient space is available on the site to provide a development of 2 dwellings that could achieve an internal layout and separation distances that would not detract from the amenities of nearby properties or the future occupiers of the proposed dwellings.

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 section 106 legal agreement with the agreed Heads of Terms, as set out in the table below:

CATEGORY	TERMS
Financial contribution in accordance with the Recreational Avoidance and Mitigation Strategy (RAMS)	Financial contribution of £163.86 x 2 dwellings = £327.72 (index linked) (New tariff effective from 1 st April 2024)

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 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,
- the means of Access
- Landscaping

(hereinafter called "the reserved matters") for that dwelling and its plot have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

REASON: 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 for the specific dwelling and its plot 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.

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

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.

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

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.

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.

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.

3. COMPLIANCE: APPROVED CONSTRUCTION MANAGEMENT

CONDITION: The development hereby permitted shall be carried out in accordance with the accompanying approved Construction Method Statement, unless otherwise agreed in writing by the local planning authority.

REASON: For the avoidance of doubt and in the interests of proper planning and in the interests of highway safety and residential amenities.

4. FURTHER APPROVAL: SUSTAINABILITY & ENERGY EFFICIENCY

CONDITION: Concurrently with any reserved matters application, 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 design principles set out within the accompanying Water, Energy and Resource Efficiency Measures Statement shall be applied to the detailed design of the development and demonstrated, where necessary, on the plans. The detailed scheme shall include as a minimum:-

- Electric car charging points per dwelling.
- Agreement of a scheme for water conservation including greywater recycling.
- Agreement of heating of each building
- Agreement of scheme for waste reduction
- Provision of a fibre optic broadband connection to the best possible speed installed on an open access basis and directly accessed from the nearest exchange, incorporating the use of resistant tubing. (If the applicant is unable to achieve this standard of connection and can evidence through consultation that this would not be possible, practical or economically viable

an alternative superfast (i.e. will provide speeds greater than 30mbps) wireless service will be considered.)

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

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

5. FURTHER APPROVAL: BIODIVERSITY ENHANCEMENT STRATEGY

CONDITION: Concurrently with any reserved matters application and prior to any works above slab level, a Biodiversity Enhancement Strategy for protected and Priority species shall be submitted to and approved in writing by the Local Planning Authority.

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

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

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

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

6. FURTHER APPROVAL: WILDLIFE SENSITIVE LIGHTING DESIGN SCHEME

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

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

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

7. COMPLIANCE: TURNING AREA

CONDITION: Concurrently with any reserved matters application, as indicated in the supporting information, details of a size 3 vehicular turning facility (minimum) shall be included within the

development. The approved vehicular turning facility shall be constructed, surfaced and made available for use prior to occupation of the development 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.

8. FURTHER APPROVAL: RESIDENTIAL TRAVEL PACK PRIOR TO OCCUPATION

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

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

NOTE FOR CONDITION: Please contact the Travel Plan Team at ECC Highways via email to Travel.PlanTeam@essex.gov.uk to obtain a Residential Travel Information Pack template and the associated day travel vouchers required.

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

2. It is noted that part of Amerells Road outside nos. 31 and 34 is classified as a Private Road, the applicant should therefore be requested to demonstrate the rights of pass and repass to the proposed development site exist in perpetuity and that the applicant also has the necessary permissions to make a vehicular connection to Amerells Road.
3. The detailed proposals for the development should include:
 - a) A straight section of carriageway to be provided from the entrance junction for a minimum distance of 6 metres.
 - b) Combined pedestrian and vehicular surface width of 6 metres.
 - c) No unbound material shall be used in the surface treatment of the private driveway throughout.
 - d) There shall be no discharge of surface water onto the Highway.
 - e) Each private vehicular access shall be constructed at right angles to the carriageway. The width of the access at its junction with the highway shall not be less than 3.6 metres

(equivalent to 4 drop kerbs), shall be retained at that width for a minimum distance of 6 metres within the site and shall be provided with an appropriate dropped kerb vehicular crossing.

- f) The repair and/or resurfacing of the private road including the reconstruction of the kerbing on the south side between nos. 31 -34 to be agreed with the Local Planning Authority.
 - g) Each vehicular parking space shall have minimum dimensions of 2.9 metres x 5.5 metres.
 - h) For those dwellings without a garage, a cycle / powered two-wheeler parking shall be provided in accordance with the EPOA Parking Standards.
4. On the completion of the Development, all roads, footways/paths, cycle ways, covers, gratings, fences, barriers, grass verges, trees, and any other street furniture within the Site and in the area, it covers, and any neighbouring areas affected by it, must be left in a fully functional repaired/renovated state to a standard accepted by the appropriate statutory authority.
5. The Highway Authority cannot accept any liability for costs associated with a developer's improvement. This includes 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

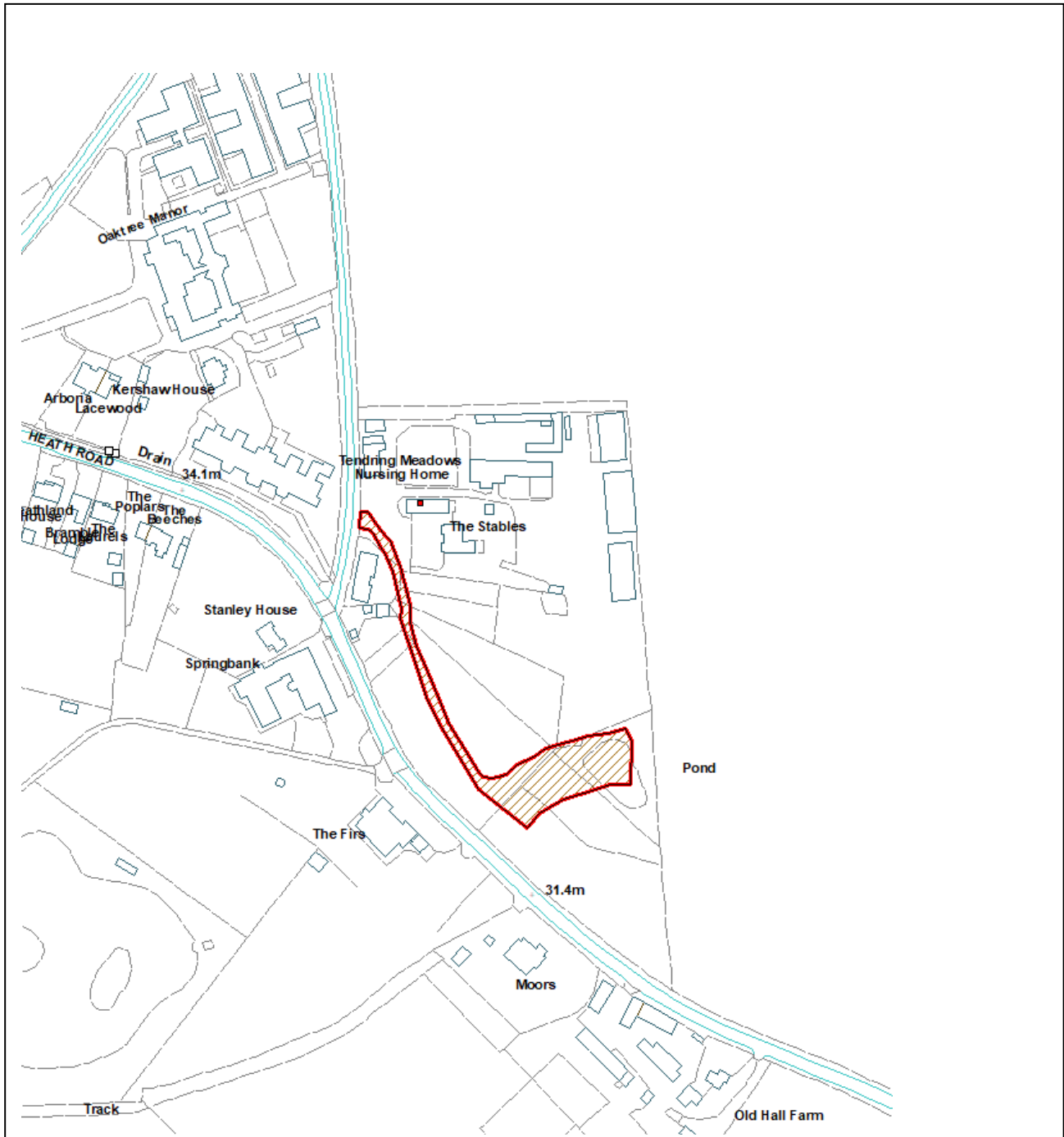
- 12.1 In making this recommendation, officers have considered all plans, documents, reports and supporting information submitted with the application together with any amended documentation. Additional information considered relevant to the assessment of the application (as referenced within the report)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

16 APRIL 2024

REPORT OF THE DIRECTOR OF PLANNING

A.3 PLANNING APPLICATION – 23/01280/FUL – THE STABLES HEATH ROAD TENDRING CO16 0BX



DO NOT SCALE

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Application:	23/01280/FUL	Expiry Date:	26th December 2023
Case Officer:	Michael Pingram	EOT Date:	8th January 2024
Town/ Parish:	Tendring Parish Council		
Applicant:	Mr and Mrs Wallis		
Address:	The Stables Heath Road Tendring, CO16 0BX		
Development:	Change of use of land for siting of five lodges to be occupied for holiday purposes only.		

1. Executive Summary

- 1.1 This application is before the Planning Committee at the discretion of the Head of Planning, and seeks permission for the change of use of the land to tourism and including the erection of five lodges for holiday purposes.#
- 1.2 The site is outside of a Settlement Development Boundary and policies contained within the Local Plan do not specifically mention holiday lets in the types of tourism opportunities to be promoted within the district, and overall are not clear whether a small-scale proposal such as this represents a departure. A recent appeal decision allowed the conversion of a stable block into two holiday units, and while this differs from the current application it does add some weight to the acceptability of the current scheme. Further, the proposal is considered to result in a small boost to the tourism offering within the District, and is also not within an isolated and unsustainable location.
- 1.3 If it is considered that the development represents a departure from the Local Plan, planning harm has not been identified as no objections are raised in regard to the impact to the character of the area or to the impacts to neighbouring amenities, and ECC Highways raise no objections. Whilst ECC Ecology initially had concerns, additional information provided by the agent for the application has since addressed this.

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, or varied as is necessary to ensure the wording is enforceable, precise, and reasonable in all other respects, including appropriate updates, so long as the principle of the conditions as referenced is retained; and,
- 2) The informative notes as may be deemed necessary.

2. Status of the Local Plan

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

(<https://www.tendringdc.uk/content/evidence-base>) together with any neighbourhood plans that have been brought into force.

3. **Neighbourhood Plans**

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

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

SP5 Employment

SP7 Place Shaping Principles

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

SPL1 Managing Growth

SPL3 Sustainable Design

PP8 Tourism

PP10 Camping and Touring Caravan Sites

PP11 Holiday Parks

PP13 The Rural Economy

PPL3 The Rural Landscape

PPL4 Biodiversity and Geodiversity

PPL5 Water Conservation, Drainage and Sewerage

PPL10 Renewable Energy Generation and Energy Efficiency Measures

CP1 Sustainable Transport and Accessibility

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

Essex Design Guide (2005)

5. **Relevant Planning History**

N/A

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/>.

Essex County Council Ecology

22.11.2023 (initial comments)

Thank you for consulting Place Services on the above application.

Holding objection due to insufficient ecological information on European Protected Species (Great Crested Newts).

Summary

We have reviewed the documents supplied by the applicant, relating to the likely impacts of development on designated sites, protected & Priority species and habitats and identification of proportionate mitigation.

We are not satisfied that there is sufficient ecological information available for determination of this application. This is because no ecological information has been submitted to support this application and we note that a potentially suitable pond is present adjacent to the site. Furthermore, the site lays within an Amber Risk Zone for Great Crested Newt as shown on the Great Crested Newt Risk Zones (Essex) | GCN Risk Zones (Essex) | Natural England Open Data Geoportal (arcgis.com) and a further two potentially suitable waterbodies present within 250m. As a result, the LPA does not have certainty of the likely impacts of these European Protected Species.

Therefore, we recommend that a Preliminary Ecological Appraisal should be prepared by the applicant's ecologist to provide adequate assessment of the proposal to inform the need for any further surveys and, if necessary, mitigation & compensation for impacts from this application. Any surveys must be undertaken by suitably qualified ecologists, at the appropriate time of year, using standard methodologies, and professional judgement should be used to come to reasoned conclusions as to the likelihood of species being present and affected by the proposed development.

To fully assess the impacts of the proposal the LPA need ecological information for the site, particularly for Great Crested Newts (GCN), European Protected Species. These surveys are required prior to determination because Government Standing Advice indicates that you should "Survey for great crested newts if there's a pond within 500 metres of the development, even if it only holds water some of the year".

The results of these surveys are required prior to determination because paragraph 99 of the ODPM Circular 06/2005 highlights that: "It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision."

This information is therefore required to provide the LPA with certainty of impacts on legally protected species and be able to secure appropriate mitigation either by a mitigation licence from Natural England or a condition of any consent. This will enable the LPA to demonstrate compliance with its statutory duties, including its biodiversity duty under s40 NERC Act 2006 and prevent wildlife crime under s17 Crime and Disorder Act 1998.

The applicant may be interested to know that Natural England's District Level Licensing for GCN is now available in Essex- see <https://www.gov.uk/government/publications/great-crested-newts-district-level-licensing-schemes> - where sites can be registered to be covered by

this strategic mitigation scheme. Guidance for developers and registration forms to join the scheme are available and the LPA will need an Impact Assessment and Conservation Payment Certificate (IACPC) document countersigned by Natural England as evidence of site registration prior to determination where this European Protected Species is likely to be present and affected by development.

Additionally, no biodiversity enhancement measures are identified in the documents provided. We recommend that, to secure net gains for biodiversity, as outlined under Paragraph 174d and 180d of the National Planning Policy Framework 2023, reasonable biodiversity enhancement measures will need to be provided.

The site falls within the evidenced recreational Zone of Influence (ZOI) of Essex Coast RAMS. Therefore, given the tourist 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.

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

We look forward to working with the LPA and the applicant to receive the additional information required to support a lawful decision and overcome our holding objection.

Natural England

22.02.2024

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

DESIGNATED SITES [EUROPEAN] - NO OBJECTION SUBJECT TO SECURING APPROPRIATE MITIGATION

This advice relates to proposed developments that falls within the 'zone of influence' (ZOI) for one or more European designated sites, such as Essex Coast RAMS. It is anticipated that new residential development within this ZOI is 'likely to have a significant effect', when considered either alone or in combination, upon the qualifying features of the European Site due to the risk of increased recreational pressure that could be caused by that development. On this basis the development will require an appropriate assessment.

Your authority has measures in place to manage these potential impacts in the form of a strategic solution Natural England has advised that this solution will (in our view) be reliable and effective in preventing adverse effects on the integrity of those European Site(s) falling within the ZOI from the recreational impacts associated with this residential development.

This advice should be taken as Natural England's formal representation on appropriate assessment given under regulation 63(3) of the Conservation of Habitats and Species Regulations 2017 (as amended). You are entitled to have regard to this representation.

Natural England advises that the specific measures (including financial contributions) identified in the strategic solution can prevent harmful effects from increased recreational pressure on those European Site within the ZOI.

Natural England is of the view that if these measures are implemented, they will be effective and sufficiently certain to prevent an adverse impact on the integrity of those European Site(s) within the ZOI for the duration of the proposed development.

The appropriate assessment concludes that the proposal will not result in adverse effects on the integrity of any of the sites as highlighted above (in view of its conservation objectives) with regards to recreational disturbance, on the basis that the strategic solution will be implemented by way of mitigation.

Having considered the assessment, and the measures proposed to mitigate for all identified adverse effects likely to occur as a result of the proposal, Natural England advises that we concur with the assessment conclusions. If all mitigation measures are appropriately secured, we are satisfied that there will be no adverse impact on the sites from recreational pressure.

If the Habitats Regulations Assessment (HRA) has not been produced by your authority, but by the applicant, it is your responsibility (as the competent authority) to produce the HRA and be accountable for its conclusions. We provide the advice enclosed on the assumption that your authority intends to adopt this HRA to fulfil your duty as competent authority.

Natural England should continue to be consulted on all proposals where provision of site specific SANGS (Suitable Alternative Natural Green Space) or other bespoke mitigation for recreational impacts that falls outside of the strategic solution is included as part of the proposal. We would also strongly recommend that applicants proposing site specific infrastructure including SANGs seek pre application advice from Natural England through its Discretionary Advice Service. If your consultation is regarding bespoke site-specific mitigation, please reconsult Natural England putting 'Bespoke Mitigation' in the email header.

Reserved Matters applications, and in some cases the discharge/removal/variation of conditions, where the permission was granted prior to the introduction of the Strategic Solution, should also be subject to the requirements of the Habitats Regulations and our advice above applies.

Further general advice on the consideration of protected species and other natural environment issues is provided at Annex A.

ECC Highways Dept

10.11.2023

The information submitted with the application has been assessed by the Highway Authority and conclusions have been drawn from a desktop study with the observations below based on submitted material. A site visit was undertaken in conjunction with another planning application. It is noted that no new or altered means of vehicular access is proposed for this application and the proposal will utilise an existing, well established, access, which not only serves the agricultural unit and respective farm house but also the farm shop and attendant visitor parking via Tendring Road. The Highway Authority did not raise an objection in relation to the farm shop application in 2018 (reference 18/01609/FUL). It is also noted that a significant area for parking and turning of vehicles is available within site entrance, while adequate parking is being provided for each holiday lodge. It is not considered that this proposal, which will be seasonal, 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. 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.

2. The proposed development shall not be occupied until such time as the single-track

driveway has been constructed of loose permeable material to service each lodge and the vehicle parking area indicated on the approved plans, for each holiday lodge, has been completed in a loose permeable material. 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 satisfactory access is provided for the safety of residents and the public, in the interests of highway safety and that appropriate parking is provided in accordance with Policy DM8.

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

Informative:

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

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

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

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

Tree & Landscape Officer

10.11.2023

The main body of the application site is set to grass and does not contain any trees or other significant vegetation.

The application site is contained by existing field boundaries that are demarcated by established countryside hedgerows. The hedgerows currently provide a good level of screening.

The scale and extent of the proposed development is such that it is unlikely to have a significant adverse impact on the local landscape character.

Taking into account the benefits provided by existing vegetation there appears to be little public benefit to be gained by additional soft landscaping associated with the development proposal. However, the Block Plan shows screening between the proposed units by way on soft landscaping and it would be desirable to ensure that appropriate species are used for this purpose.

Therefore, should planning permission be likely to be granted then details of soft landscaping should be secured by a planning condition.

Environmental Protection

13.11.2023

With reference to the above application, I can advise the EP Team have the following comments to make, along with a query of which we would like confirmation on before finalising our comments:

Construction Method Statement: I can advise we are satisfied with the submitted CMS and have no adverse comments to make.

*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). 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.

QUERY: Section 5.1 of the submitted planning statement outlines that the units "benefit from electricity and water from a local source". The EP Team are requesting confirmation of the source of the water in relation to this proposal to establish whether water that is distributed to the units is sourced from a nearby private water supply or if it will be provided by the local Water Authority.

Once we have received confirmation of the source, we will be able to provide an informed response to this proposal.

Essex County Council Ecology

30.01.2024 (additional comments)

No objection subject to securing:

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

Summary

Further to our comments on the 22nd November 2023, we have reviewed the Photos sent by the agent (Stanfords, January 2023) and Email from Stanfords (2nd January 2024) 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 holiday element of this development is relevant, 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 now satisfied that there is sufficient ecological information available for determination of this application.

We note that the Photos sent by the agent (Stanfords, January 2023) and Email from Stanfords (2nd January 2024) explains that the pond adjacent to the site has been recently

dredged and reprofiled. However, the adjacent waterbody still appears that it could be potentially suitable for Great Crested Newt, a European Protected Species. Furthermore, we also note that the site lays within an Amber Risk Zone for Great Crested Newt as shown on the Great Crested Newt Risk Zones (Essex) | GCN Risk Zones (Essex) | Natural England Open Data Geoportal (arcgis.com) and a further two potentially suitable waterbodies present within 250m. However, it is also noted that little suitable terrestrial habitat is likely present onsite with potentially suitable habitat present to the south of the pond. Therefore, due to the type of development and area impacted, we recommend that potential impacts upon GCN are managed under a precautionary non-licenced method statement for GCN, including storage of materials. This precautionary non-licenced method statement should be prepared by a suitably qualified ecologist and secured by condition of consent.

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

We also support reasonable biodiversity enhancements, which are recommended 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.

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. PRIOR TO COMMENCEMENT: NON-LICENCED GREAT CRESTED NEWT METHOD STATEMENT

"A Great Crested Newt 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 Great Crested Newt 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).

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) 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).

7. Representations

- 7.1 Tendring Parish Council neither support nor object to the application, but highlight that the protection of wildlife must be a priority and also note concerns relating to visibility splays due to the fencing associated with a neighbouring property.
- 7.2 There have been no further letters of representation received.

8. Assessment

- 8.1 The application site is land located on the northern side of Heath Road within the Parish of Tendring. The application site benefits from an existing access off Heath Road that serves the adjoining land and stables which is also in the applicant's name. The site currently accommodates a grassed bund forming the boundary to the north, a stable block, a ménage/holding pen, pig pens, poultry sheds, a multipurpose hay barn, a cow barn, a farm shop, and a dwelling associated with the agricultural use of the site. The western boundary of the site is marked by mature hedgerow that screens views into the site from the highway.
- 8.2 The surrounding area is predominantly rural in character, with large areas of agricultural land to the north and east; however there are examples of built form to the west and south. The site is not situated within a recognised Settlement Development Boundary within the adopted Local Plan 2013-2033.
- 8.3 The specific area of the wider site relating to this application is the southern section, which is largely open with a pond located centrally. To the eastern and southern boundaries are bunding.

Planning History

- 8.4 The wider application site (notably to the north of the current application site) has numerous recent planning permissions to facilitate the expansion of the business. Notably, under planning permissions 11/00423/FUL and 12/00192/FUL multi-purpose hay barns, under 15/00599/FUL, 15/01871/FUL and 16/00280/FUL the erection of cow sheds, under 17/01309/OUT and 18/00130/DETAIL the erection of a rural worker dwelling, and under 18/01609/FUL the erection of a farm shop.

Description of Proposal

- 8.5 This application seeks planning permission for the change of use of land for holiday purposes, and the erection of five detached lodges, which are all to be sited to the north of the existing pond and finished in black timber boarding and clay pantiles. Each lodge will be served by one bedroom, a bathroom and kitchen/living room area, as well as a decking area, with the five combined lodges to have a total floorspace of 221sqm.

8.6 The lodges are static caravans and not buildings in planning terms by reason of their size, ability to be constructed off site in one or two parts and placement on the site. Therefore, the application is for the change of use of the land for C3 residential use for the placement of the caravan/lodges. The use of the land is residential C3 use but proposed to be restricted to only allow occupation by those on holiday and not using the site as a main home. On this basis the proposal is for residential use in the countryside, but with a material consideration that it may support tourism interests.

Tourism

8.7 The site lies outside the Settlement Development Boundary (SDB) for Tendring as shown in the adopted Tendring District Local Plan 2013-2033 and Beyond and is therefore located within the countryside for the purposes of applying adopted plan policy. Overarchingly, Policies SP1, SP3, SPL1 and SPL2 of the adopted Local Plan seek to direct growth to existing settlements in favour of the presumption of sustainable development. Specific to this development proposal, the relevant part of Policy SPL 2 states 'outside of Settlement Development Boundaries, the Council will consider any planning application in relation to the pattern and scales of growth promoted through the Settlement Hierarchy in Policy SPL1 and any other relevant policies in this plan'.

8.8 The NPPF (2023) promotes a strong, competitive economy stating that planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt, whereby paragraph 85 of the Framework states that significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development. In terms of supporting a prosperous rural economy, paragraph 88 states that planning policies and decisions should enable (a) the sustainable growth and expansion of all type of business in rural areas both through the conversion of existing buildings and well-designed new buildings, (b) the development and diversification of agricultural and other land-based rural businesses and (c) sustainable rural tourism...which respect the character of the countryside. Paragraph 89 adds that, "Planning policies and decisions should recognise that sites to meet business...needs in rural areas may have to be found adjacent or beyond existing settlements, and in locations that are not well served by public transport", adding that it will be important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable, concluding that the use of previously developed land and sites that are physically well-related to existing settlements should be encouraged where suitable opportunities exist.

8.9 Policy SP5, Section 1 of the adopted Local Plan seeks to support a strong, sustainable and diverse economy across North Essex with the relevant local planning authorities pursuing a flexible approach to economic sectors showing growth potential across the Plan period.

8.10 Policy PP8, Section 2 seeks to promote tourism within Tendring District whereby the policy states that the Council will generally support proposals that would help to improve the tourism appeal of the district to visitors subject to other relevant policies in the Local Plan. Policy PP8 also states 'to maintain and deliver a range of accommodation that meets the varying needs, demands and expectations of potential visitors to the Tendring District, proposals that involve the creation of visitor accommodation will be assessed based on policies set out in this Local Plan'. However, the policies of the local plan regarding residential accommodation directs this mainly to settlement boundaries and so it is not clear if the policy should be interpreted as allowing an exception for accommodation if restricted to holiday let, or not.

8.11 Residential use restricted to holiday lets are not specifically mentioned in the types of tourism opportunities which are mentioned in the pre-ambles to Policy PP8 to be promoted within the district, unlike hotels and self-catering accommodation (where Policy PP9 states that the Council will support proposals for new hotels and guesthouses within defined centres and along seafronts)

- 8.12 Policy PP10 refers to touring caravans and camping, but not static caravans and so is not applicable. PP11 does refer to Holiday Parks and provides that proposals for new static caravan/chalet parks will only be permitted where it can be demonstrated by the applicant how the proposal would help strengthen and diversify the district's tourist economy or that they are being specifically created for the relocation of an existing site away from flood risk areas. To ensure that new caravan and chalet developments are not used for permanent residential dwellings, the Council will impose holiday occupancy conditions and limit use to certain periods of the year. For the proposed development of lodges (static caravans) this appears to provide some potential support, but five lodges without supporting facilities and services may not be considered as a Holiday Park attraction; at the scale and layout proposed it is simply a base to stay to visit other attractions in the area. The policy is not clear on the definition of holiday park to be certain this could apply. If it does apply, the planning authority needs to be certain that five units would help and diversify the tourist economy.
- 8.13 Other material planning considerations include a recent appeal decision (reference APP/P1560/W/23/3321142 – Land adj Willowell, Spring Valley Lane, Ardleigh – 8th January 2024) that has allowed the conversion of a stable block into two holiday units. While the two schemes differ in that the appeal decision relates to the conversion/re-use of an existing building as opposed to new built form, the Inspector in reaching their conclusion was clear that Policy PP13 “*supports growth in the rural economy and allows certain types of development in the countryside outside the defined Settlement Development Boundaries*” and that “*a condition restricting occupancy of the units would ensure that they are used only as holiday lets and not mainstream housing*”, before concluding that the development would support economic growth, including sustainable rural tourism and the growth of rural businesses.
- 8.14 While this was for conversion of a building and that would have been weighted in the balance, this appeal links holiday accommodation to be regarded as tourism despite PP13 not specifically stating holiday accommodation being acceptable or in the policy. A similar approach may be potentially taken with other policies in the local plan. In light of this recent appeal decision, as well as the uncertainty around the definition of holiday park or the understanding of PP8 and visitor accommodation placement, officers consider that the local plan is unclear and it is difficult to assess if this small scale proposal is a departure.
- 8.15 The proposed development of five holiday lodges would result in a small boost to the tourism offering within the District, thereby supporting economic growth and tourism. Furthermore, the site is adjacent to a bus route and there is also a farm shop on the wider site to the north. If considered to be a development that support the principles of tourism that aligns with the local plan as a whole that seeks to support allowing residential development in a form of holiday accommodation in various forms, it may be considered not to be a departure. However, if considered to be a departure the merits of the proposal as explored further in this report below do not result in planning harm that officers feel should warrant refusal, providing the use is restricted to holiday let use only to avoid unsustainable permanent residential use.

Impact to Character of Area

- 8.16 Paragraph 135 of the National Planning Policy Framework (NPPF) (2023) states that developments are visually attractive as a result of good architecture, are sympathetic to local character, and establish or maintain a strong sense of place. Paragraph 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.
- 8.17 Adopted Policy SP7 of the 2013-33 Local Plan seeks high standards of urban and architectural design, which responds positively to local character and context. Adopted Policy SPL3 Part A (b) requires that development relates well to its site and surroundings, particularly in relation to its siting, height, scale, massing, form, design and materials.

- 8.18 Adopted Policy PPL3 confirms 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.
- 8.19 The proposed development is sited to the southern section of the wider site, to the north of Heath Road. On this occasion, Officers acknowledge that the site is currently well screened by existing field boundaries that are demarcated by established countryside hedgerows, and the development itself is of a low-key nature that would not be particularly visible from any views beyond the confines of the site. Furthermore, the design of the lodges is such that it would assimilate well within the rural surrounds, with the black timber boarding and clay pantile materials also in-keeping with the existing built form within the wider site and is also what would be expected in such a location. Officers, therefore, raise no objections in relation to the design and impact to the character of the area, although do recommend conditions to secure full details of soft landscaping.

Impact on Residential Amenity

- 8.20 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.
- 8.21 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.
- 8.22 The application is well contained and is set a significant separation distance apart from the residential properties located to the south and west of the site. Therefore, the only neighbouring property potentially impacted upon is that to the north, which is owned and occupied by the applicant. That notwithstanding, the development is sited approximately 125 metres apart and is low-key in nature; given this, Officers do not consider there to be significant harm in respect of the development appearing overbearing or resulting in a significant level of overlooking or loss of daylight/sunlight. It is noted the proposal would generate some vehicular movements that could generate a degree of noise pollution, but this is not considered to be to such a level that it would warrant recommending a reason for refusal.

Impact on Highway Safety

- 8.23 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.
- 8.24 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.
- 8.25 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.
- 8.26 ECC Highways, upon consultation, have confirmed that from a highway and transportation perspective, the impact of the proposal is acceptable subject to a condition relating to the single-track driveway being laid with permeable material.

8.27 Furthermore, the proposal allows for a total of ten parking spaces (two for each lodge), sited adjacent to each lodge. Officers are content that the parking provision is sufficient so do not object on these grounds.

Impact on Protected Species

8.28 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. Paragraph 186(a) of the NPPF confirms that in assessing planning applications where significant harm to biodiversity as a result of a development cannot be avoided, adequately mitigated or, as a last resort, compensated for, then planning permission should be refused.

8.29 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.

8.30 Adopted Policy PPL4 states that proposals for new development should be supported by an appropriate ecological assessment, and where new development would harm biodiversity or geodiversity, planning permission will only be granted in exceptional circumstances, where the benefits of the development demonstrably outweigh the harm caused and where adequate mitigation or, as a last resort, compensation measures are included, to ensure a net gain, in biodiversity.

8.31 ECC Place Services (Ecology) have been consulted on the application, and initially raised a holding objection on the grounds that the application contains insufficient information for the local planning authority to determine the application. Specifically, they requested the submission of a Preliminary Ecological Appraisal to provide adequate assessment of the proposal to inform the need for any further surveys and, if necessary, mitigation and compensation for impacts from this application. However, despite this being requested by Officers, the agent for the application has not provided this, instead highlighting that the pond adjacent to the proposed lodges has recently been dredged and remodelled prior to the submission of the application, with no sign of any Great Crested Newts or other suitable habitat being evident.

8.32 Following this, ECC Place Services (Ecology) were again consulted following the additional comments provided, and they have confirmed that following receipt of this additional information they are satisfied that there is sufficient ecological information available for the determination of the application, and they raise no objections. They have, however, recommended a condition requesting a Great Crested Newt Method Statement given that the adjacent pond could be potentially suitable for Great Crested Newt. A further condition requesting a Biodiversity Enhancement Strategy is also requested.

Foul Drainage

8.33 Paragraph 174 of the Framework states that planning policies and decisions should contribute to and enhance the natural and local environment by preventing new development from contributing to unacceptable levels of water pollution. Furthermore, Paragraph 185 of the Framework states that planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects of pollution on the natural environment.

8.34 Policy PPL5 of Section 2 of the adopted Local Plan states that all new development must make adequate provision for drainage and sewerage. Private sewage treatment facilities will not be permitted if there is an accessible public foul sewer. Where private sewage treatment facilities are the only practical option for sewage disposal, they will only be permitted where there would be no harm to the environment, having regard to preventing pollution of groundwater and any watercourses and odour.

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

Renewable Energy

8.36 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.

8.37 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.

8.38 The proposal includes for a development that has the potential to incorporate renewable energy features, albeit to a reduced extent given the nature of proposal. The submission is accompanied with details outlining EV charging points, and while there are no other details that accompany the planning application, on this occasion officers are content that this information is sufficient. A condition requesting details of this is therefore not suggested.

Legal Obligation – RAMS

8.39 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.

8.40 The application scheme proposes a residential use on a site that lies within the Zone of Influence (ZoI) being approximately 5.7 kilometres from Hamford Water SPA and RAMSAR. New housing development within the ZoI would be likely to increase the number of recreational visitors to these sites and in combination with other developments it is likely that the proposal would have significant effects on the designated site. Mitigation measures must therefore be secured prior to occupation.

8.41 A unilateral undertaking has been prepared to secure this legal obligation. This will ensure that the development would not adversely affect the integrity of European Designated Sites in accordance with Section 1 Policy SP2 and Section 2 Policy PPL4 of the Tendring District Local Plan 2013-2033 and Regulation 63 of the Conservation of Habitat and Species Regulations 2017.

9. Conclusion

9.1 The application proposes the erection of five holiday lodges on a site outside of a Settlement Development Boundary. Policies contained within the Local Plan do not specifically mention holiday lets in the types of tourism opportunities to be promoted within the district, and overall are not clear whether a small-scale proposal such as this represents a departure. A recent appeal decision allowed the conversion of a stable block into two holiday units, and while this differs from the current application it does add some weight to the acceptability of the scheme. Further, the proposal is considered to result in a small boost to the tourism offering within the District, and is also not within an isolated and unsustainable location.

9.2 If it is considered that the development represents a departure from the Local Plan, planning harm has not been identified as no objections are raised in regard to the impact to the character of the

area or to the impacts to neighbouring amenities, and ECC Highways raise no objections. Whilst ECC Ecology initially had concerns, additional information provided by the agent for the application has since addressed this.

9.3 Taking the above into consideration, the application is considered to be compliant with local and national planning policies, and is therefore 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 **CONDITION:** The development hereby permitted shall be begun not later the expiration of three years from the date of this permission.

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

NOTE/S FOR CONDITION:

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

2 **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 Number 01 Revision C, the documents titled 'Construction Method Statement', 'Electric Vehicle Charging', 'Klargester BioDisc Domestic Sewage Treatment Plant', 'Planning Statement and Tourism Appraisal', and the untitled Site Location Plan received 14th September 2023.

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

NOTE/S FOR CONDITION:

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

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

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

- 3 CONDITION: The hereby approved development shall not be occupied until such time as the single-track driveway has been constructed of loose permeable material to service each lodge and the vehicle parking area indicated on the approved plans, for each holiday lodge, has been completed in a loose permeable material. The vehicle parking area and associated turning area shall be retained in this form at all times, and 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 first having been agreed in writing by the Local Planning Authority.

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

- 4 CONDITION: Prior to first occupation of the hereby approved development, a Great Crested Newt 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 Great Crested Newt during the construction phase. The approved measures and/works shall be carried out in full 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.

- 5 CONDITION: Prior to first occupation of the hereby approved development, 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.

- 6 CONDITION: The development site hereby approved is exclusively designated for holiday purposes of the occupier/s only and shall not be utilised as a person's sole or main place of residence nor permanent residential dwelling of individuals not engaged in such holiday purpose at any time, including any other purpose in Class C3 of the Schedule to the Town and Country

Planning (Use Classes) Order 1987 as amended. Furthermore, the following restrictions shall apply:-

1. Occupation Period: The duration of occupation by any one person shall not exceed more than 100 days in any given year (Jan to Dec) and no continuous occupation period of an individual person shall exceed 28 days without a break of at least 7 days between occupation.
2. Primary Residence Prohibition: The approved development site shall only be occupied by persons who have available an alternative primary residential address, it shall not be utilised as a person's sole or main place of residence.
3. Register of Occupants: A comprehensive register containing the names, full details of permanent home addresses, and vehicle registrations (if travelling by car) of occupants shall be maintained for all periods of occupation each year. This register must be made available to the Local Planning Authority for inspection at any time in a form that can be digitally provided upon request, and all records shall be retained for a minimum of ten years.

REASON: The site of the permission is outside any area where planning permission would normally be forthcoming for residential development without either harm or conflict with planning policies. The development is expressly permitted for holiday use to contribute significantly to local tourism and the economic well-being of the area. This contribution is considered paramount, justifying the exceptional approval of this development that would otherwise be a departure of the Local Plan and unsustainable development.

NOTE FOR CONDITION: Holiday Purpose: This term refers to the usage of the development site for short-term stays, primarily for recreational or leisure purposes, individuals occupying the site are doing so for holidays and vacations. Continuous Occupation: Continuous occupation, as mentioned in the condition, indicates the uninterrupted stay of an individual on the development site. In this context, the condition restricts the continuous occupation of any individual person to no more than 28 days without a break of at least 7 days between periods of occupation. This restriction is designed to ensure that the site is not used as a permanent residence and aligns with its intended holiday purpose to generate active tourism within the District.

- 7 CONDITION: At no time shall there be any more than the hereby approved five units on site, unless having first been agreed, in writing, by the Local Planning Authority.

REASON: To ensure that the site is not expanded to the detriment of visual amenity.

- 8 CONDITION: Prior to the erection/installation of any floodlighting or other means of external lighting at the site, details to include position, height, aiming points, lighting levels and a polar luminance diagram shall be submitted to and approved, in writing, by the Local Planning Authority. The lighting shall be carried out and retained as may be approved. There shall be no other means of external lighting installed and/or operated on/at the site except that approved.

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

- 9 CONDITION: No development above slab level shall take place until there has been submitted to and approved, in writing, by the Local Planning Authority a scheme of hard, soft and boundary treatment landscaping works for the site, which shall include any proposed changes in ground levels.

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

NOTE/S FOR CONDITION:

Slab level is normally refers to the concrete slab supported on foundations or directly on the subsoil and is used to construct the ground floor of the development. In any other case, please

assume slab level to be the point before any walls and/or development can be visually above ground level or seek confirmation from the Local Planning Authority for your development.

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

- 10 **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.

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

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

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

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/>.

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