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Our Ref: PC/KS/19.04.2016
Please ask for: Katie Sullivan

29 July 2016

Dear Councillor

PLANNING COMMITTEE

A meeting of the Planning Committee is to be held on **Tuesday, 9th August, 2016, commencing at 6.00 pm in the Princes Theatre, Town Hall, Station Road, Clacton-on-Sea, CO15 1SE**

The Agenda is set out over the page.

Yours faithfully

Katie R Sullivan
Democratic Services Officer

To: The Councillors below, being the Members of the Planning Committee of Tendring District Council:

Councillor White
Councillor Heaney
Councillor Bennison
Councillor Baker
Councillor Everett
Councillor Fairley
Councillor Fowler
Councillor Hones
Councillor Hughes
Councillor Gray
Councillor McWilliams

AGENDA

1 Apologies for Absence and Substitutions

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

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

To confirm and sign as a correct record, the minutes of the meeting of the Committee, held on 12 July and continued on 14 July 2016.

3 Declarations of Interest

Councillors are invited to declare any Disclosable Pecuniary Interests or other interest, and nature of it, in relation to any item on the agenda.

4 Planning Application 15/01351/OUT - Land northwest of Sladburys Lane, Clacton-on-Sea, CO15 6NU (Pages 11 - 44)

Outline planning application for residential development up to 132 dwellings and open space, including provision for a sports field and a new vehicular access via Sladburys Lane.

5 Planning Application 16/00740/OUT - Elm Farm, Little Clacton Road, Clacton-on-Sea (Pages 45 - 60)

Outline planning application with all matters reserved for residential development of 14 dwellings.

6 Planning Application 16/00880/FUL - 18 Connaught Avenue, Frinton-on-Sea (Pages 61 - 66)

Change of use of 18 Connaught Avenue from vacant retail unit (A1) to dental studio (D1) and associated works to create two units.

7 Planning Application 16/00546/OUT - Red Barn Farm, Red Barn Lane, Great Oakley (Pages 67 - 78)

Construction of 4 no. dwellings following the demolition of existing barns and outbuildings.

8 Planning Application 16/00677/FUL - Kidbys Nurseries, Clacton Road, Weeley Heath, Clacton-on-Sea, CO16 9EF (Pages 79 - 98)

Full application for 22 dwellings on former nursery site.

9 Information for Public

MEETING OVERRUN DATE

In the event that all business is not concluded, the meeting will reconvene on Wednesday 10 August 2016 at 6.00 p.m. in the Council Chamber, Council Offices, Thorpe Road, Weeley to consider any remaining agenda items.

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**MINUTES OF THE MEETING OF THE PLANNING COMMITTEE, HELD ON
TUESDAY 12 JULY 2016, AT 6.00 PM
IN THE COUNCIL CHAMBER, COUNCIL OFFICES, WEELEY**

Present: Councillors White (Chairman), Heaney (Vice-Chairman), Baker, Bennison, Everett, Fairley, Fowler, Gray, Hones and McWilliams (except minute 32)

Also Present: Councillors Bucke (except minutes 27–31), Cossens, Davis, Miles, Parsons and Turner

In Attendance: Head of Planning (Cath Bicknell), Head of Governance and Legal Services (Lisa Hastings), Planning Manager (Gary Guiver), Senior Planning Officer (Susanne Ennos), Solicitor (Charlotte Parker-Smith) and Committee Services Officer (Katie Sullivan)

27. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

There were apologies for absence received from Councillor Hughes (with no substitute).

28. MINUTES OF THE LAST MEETING

The minutes of the last meeting of the Committee, held on 14 June 2016, were approved as a correct record and signed by the Chairman.

29. DECLARATIONS OF INTEREST

Councillor McWilliams declared an interest in relation to Planning Application 14/01750/OUT by virtue of the fact she was the local Ward Member and also by virtue of the fact that she was pre-determined.

Councillor Heaney declared an interest in relation to Planning Application 16/00219/OUT by virtue of the fact she was a local Ward Member.

Councillor Turner, present in the public gallery, declared an interest in relation to Planning Applications 16/00031/OUT and 16/00369/FUL by virtue of the fact he was a Frinton and Walton Town Councillor.

Councillor Cossens, present in the public gallery, declared an interest in relation to Planning Application 16/00031/OUT by virtue of the fact he was a local Ward Member for the adjacent Ward.

Councillor Parsons, present in the public gallery, declared an interest in relation to Planning Application 15/01413/FUL by virtue of the fact he was a local Ward Member.

Councillor Davis, present in the public gallery, declared an interest in relation to Planning Application 16/00031/OUT by virtue of the fact she was a local Ward Member.

30. PLANNING APPLICATION - 15/00987/OUT - LAND TO NORTH OF BREAK OF DAY AND NEWLANDS, BEAUMONT ROAD, GREAT OAKLEY, CO12 5BD

Members recalled that this application comprising of a proposal for 18 dwellings with garages, parking and associated works had been originally considered at Planning Committee on 15 December 2015. Members had deferred the application to enable Officers to clarify with the applicant issues relating to any trees to be lost; requirements of a related Section 106 agreement; access arrangements and a Phase 1 Habitat Survey. Since the deferral of the application amended plans had been received together with an updated Tree

Survey and a Phase 1 Habitat Survey. The amended plans had now shown the number of dwellings reduced from 18 to 17 and the access had been relocated.

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

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

An update sheet was circulated to the Committee prior to the meeting with details of a letter which had been received from a neighbouring resident, Mr Adams.

The Chairman reminded the Committee that only those Members who had considered the application at the meeting held on 15 December 2015 were eligible to consider and decide on the application at this meeting. This was confirmed by the Council's Solicitor (Charlotte Parker-Smith) who then stated the names of those Councillors.

Following discussion by the Committee, it was moved by Councillor Fairley, seconded by Councillor McWilliams and unanimously **RESOLVED** that the Head of Planning (or equivalent authorised officer) be authorised to grant outline planning permission for the development, subject to:

- a) Within six months of the date of the Committee's resolution to approve, 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:
 - Affordable Housing on-site, and;
 - Public open space and play facilities on-site.
- b) Planning conditions in accordance with those set out in (i) below (but with such amendments and additions, if any, to the detailed wording thereof as the Head of Planning in their discretion considers appropriate):
 - (i) Conditions:
 1. Details of the appearance, access, layout, scale and landscaping (the reserved matters).
 2. Application for approval of the reserved matters to be made within three years.
 3. The development hereby permitted shall begin no later than two years from the date of approval of the last of the reserved matters.
 4. Details of materials.
 5. Hard and soft landscaping.
 6. All hard and soft landscaping implementation.
 7. Development in accordance with the Tree Survey and Tree Protection measures.
 8. Landscaping – Five year clause.
 9. Development in accordance with recommendations of Bat Survey.
 10. Details of boundary treatments.
 11. Construction Method Statement, including details of hours of operation during construction.
 12. Parking in accordance with adopted Parking Standards.
 13. Details of bellmouth junction with Beaumont Road.
 14. Vehicular visibility splays along Beaumont Road.
 15. Details any necessary bridging or piping of the drainage ditch/watercourse.
 16. Visibility splays for each internal estate road junction.
 17. Details of vehicular turning facilities.
 18. Provision and Implementation of Residential Travel Information Packs.

19. No unbound materials shall be used in the surface treatment of the proposed residential vehicular accesses within 6m of the highway boundary or proposed highway boundary.
 20. Width and details of each individual vehicular access.
 21. Width of carriageways.
 22. Width of footways.
 23. Garages to be sited a minimum of 6 metres from highway boundary.
 24. Details of provision for the storage of bicycles for each dwelling.
 25. Details of a surface water drainage scheme.
 26. Development to contain no more than 17 dwellings.
- c) That the Head of Planning be authorised to refuse outline planning permission in the event that such legal agreement has not been completed within the period of six months, as the requirements necessary to make the development acceptable in planning terms had not been secured through Section 106 planning obligation, contrary to saved policies HG4, COM6, COM26 and QL12 of the Tendring District Local Plan (2007) and draft policies SD7, PEO22 and PEO10 of the Tendring District Local Plan Proposed Submission Draft (2012) as amended by the Tendring District Local Plan: Pre-Submission Focussed Changes (2014).

31. PLANNING APPLICATION – 15/01413/FUL – CLAY HALL, WYNDHAM CRESCENT, CLACTON-ON-SEA, CO15 6LG

Councillor Parsons, present in the public gallery, had earlier declared an interest in relation to Planning Application 15/01413/FUL by virtue of the fact he was a local Ward Member.

Members recalled that this application had been withdrawn from the Planning Committee agenda on 2 February 2016 by the Chairman of the Planning Committee, in consultation with the Head of Planning, in order to address the late submission of objections relating to biodiversity issues.

Members were reminded that this application had been referred to the Planning Committee in accordance with the Council's Constitution as the proposed development was "in respect of Council owned land".

It was reported that, since the deferral of the application on 2 February 2016, the applicant had submitted a Preliminary Ecological Appraisal on 7 March 2016; an Interim Bat Survey Report on 1 June 2016; and a Final Bat Survey Report on 12 June 2016.

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 (CB) in respect of the application.

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

- (1) An email submission from Heritage England; and
- (2) An email submission from Councillor Colin Sargeant (County Councillor for Clacton East Division).

John Ratford, a local resident, spoke against the application.

Councillor Parsons, a local Ward Member, spoke against the application.

Peter LeGrys the agent, on behalf of the applicant, spoke in support of the application.

The Head of Governance and Legal Services (Lisa Hastings) responded to points raised in public speaking and discussed the 'Planning Code and Protocol'.

Members were informed by Mrs Hastings that the Council's Solicitor (Charlotte Parker-Smith) who usually advised at Planning Committee meetings would not participate for this particular item as she had worked on the 'Contract of Sale' for Clay Hall.

Following discussion by the Committee, it was moved by Councillor Hones, seconded by Councillor McWilliams and **RESOLVED** (a) that the Head of Planning (or equivalent authorised officer) be authorised to grant planning permission for the development, subject to:

(i) Conditions:

1. Standard time limit of three years to commence development.
2. Provision of the carriageway and footway connection between the proposed development site and Wyndham Crescent in accordance with Drawing Numbered 1303 01.
3. Provision of a turning facility.
4. Construction of vehicular access to a minimum width of 5.5. metres.
5. Provision of communal recycling/bin/refuse collection point within 25m of the highway boundary or adjacent to the highway boundary.
6. All off street car parking in accordance the details contained within the current Parking Standards.
7. The public's rights and ease of passage over Public Footpath No.36 (Gt Clacton) shall be maintained free and unobstructed at all times and a scheme for the surfacing of the path shall be submitted for approval.
8. Submission of Construction Method Statement.
9. Submission of Arboricultural Method Statement and Tree/Root Protection Plan.
10. Submission of Tree Management Plan.
11. Implementation of biodiversity mitigation measures as recommended by the ecological reports – to protect the potential for foraging bats and nesting birds.
12. Implementation of landscape proposals and submission of a Landscape Management Plan.
13. Submission of external lighting; external facing, roofing and hard surfacing materials to be agreed.
14. Submission of boundary treatments to be agreed.
15. Removal of permitted development rights for roof conversions.
16. Submission of detailed surface water strategy.

(b) That an Informative be sent to the applicant informing them that the boundary features should be a wall, not a fence, in line with the Tree Officer's suggestion in the Officer's report.

NOTE: Shortly after the Committee began to discuss the application, a power cut occurred in the village of Weeley that affected the Council Offices. The Committee continued to discuss the application and made their decision. The Chairman then announced that there would be a ten minute break to see if the power would be restored.

Following on from that ten minute break the Chairman announced that as there was a requirement for the Council to submit evidence by 19 July 2016 to the Planning Inspectorate for the purpose of a Public Inquiry for item A.6 this item would be discussed next and if after that item had been dealt with there was still no power the meeting would stand adjourned until 6.00p.m. on Thursday 14 July 2016.

32. PLANNING APPLICATION - 14/01750/OUT – LAND AT STATION FIELD, PLOUGH ROAD, GREAT BENTLEY, CO7 8LG

Councillor McWilliams had earlier declared an interest in relation to Planning Application 14/01750/OUT by virtue of the fact she was the local Ward Member and also by virtue of the fact that she was pre-determined. Councillor McWilliams therefore withdrew from the meeting, whilst the Committee considered this item and reached its decision.

Members recalled that this application had been considered by the Planning Committee on 20 October 2015 when it had been resolved to refuse planning permission. In refusing the application the following reasons were given by the Committee:

- 1) Disproportionate scale of development;
- 2) Increased pedestrian movements across the level crossing with no agreed solution;
- 3) Diminishing level of public transport provision (in particular bus services);
- 4) Impact on education provision; and
- 5) Impact on health provision.

It was reported that the refused application was currently the subject of an on-going appeal which was due to be heard at Public Inquiry on 9 August 2016.

On the advice of the Barrister appointed to represent the Council at the Public Inquiry, the Committee's agreement was being sought to withdraw some of the reasons for refusal from the Council's case but to continue to contest the appeal on the remaining reasons.

An addendum report from the Head of Planning had been issued to Members of the Planning Committee prior to the meeting to enable them to consider Counsel's advice on defending the appeal.

At the meeting, an oral presentation was made by the Council's Planning Manager (GG) in respect of this matter.

An update sheet was circulated to the Committee prior to the meeting with details of an extension of time for proofs of evidence.

Following discussion by the Committee, it was moved by Councillor Heaney, seconded by Councillor Hones and unanimously **RESOLVED** that:

1. The Planning Committee notes the summary of legal advice received from external Counsel;
2. In light of the clear legal advice, the Planning Committee confirms that it does not wish to continue defending Reasons for Refusal 3, 4 and 5 as set out above, nor the aspects of Reason for Refusal 1 that refer specifically to a sustainable, fair and proportionate approach to growth and the 50-dwelling limit on residential developments in Key Rural Service Centres; and
3. That Officers are instructed to work with Counsel to defend the planning appeal on the 'urbanisation' aspect of Reason for Refusal 1 along with the full grounds of Reason for Refusal 2 that relate to the safety of pedestrians crossing the railway line.

NOTE: The Chairman announced that as there was still no power the meeting would stand adjourned until 6.00 p.m. on Thursday 14 July 2016.

The meeting was declared closed at 7.48 pm.

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**MINUTES OF THE CONTINUED MEETING OF THE PLANNING COMMITTEE, HELD ON
THURSDAY 14 JULY 2016, AT 6.05 PM
IN THE COUNCIL CHAMBER, COUNCIL OFFICES, WEELEY**

Present: Councillors White (Chairman), Heaney (Vice-Chairman), Baker, Bennison, Everett, Fairley, Fowler, Gray (except minutes 33-35), Hones and McWilliams

Also Present: Councillors Bucke, Cossens, Davis, Miles (except minutes 33-35), Nicholls (except minute 38), Parsons (except minutes 33-35 and 37-38) and Turner

In Attendance: Head of Planning (Cath Bicknell), Planning Manager (Gary Guiver), Solicitor (Charlotte Parker-Smith) and Committee Services Officer (Katie Sullivan)

33. RESUMPTION OF MEETING

Following the adjournment of the meeting on Tuesday 12 July 2016, which had been adjourned due to a power cut affecting the Council Offices, the meeting resumed and considered the following matters:

34. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

There was an apology received from Councillor Hughes (with no substitute).

The Chairman apologised on behalf of Councillor Gray who had been delayed, but who was due to arrive imminently.

35. DECLARATIONS OF INTEREST

Members had declared their interests at the meeting on Tuesday 12 July 2016. There were no further interests to be declared at this time. Though Councillor Bucke later declared an interest as detailed under minute 36 below.

36. PLANNING APPLICATION – 16/00031/OUT – TURPINS FARM, ELM TREE AVENUE, KIRBY-LE-SOKEN, CO13 0DA

Councillor Turner, present in the public gallery, had previously declared an interest in relation to Planning Application 16/00031/OUT by virtue of the fact he was a Frinton and Walton Town Councillor.

Councillor Cossens, present in the public gallery, had previously declared an interest in relation to Planning Application 16/00031/OUT by virtue of the fact he was a local Ward Member for the adjacent Ward.

Councillor Davis, present in the public gallery, had previously declared an interest in relation to Planning Application 16/00031/OUT by virtue of the fact she was a local Ward Member.

Councillor Bucke, present in the public gallery, declared an interest in relation to Planning Application 16/00031/OUT by virtue of the fact he was a local Ward Member for the adjacent Ward.

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 Manager (GG) in respect of the application.

A further update sheet had been circulated to the Committee prior to the meeting with details of corrections to the Officer's report.

Alan Eldret, a local resident, spoke against the application.

Town Councillor Nick Turner, representing Frinton and Walton Town Council, spoke against the application.

Councillor Davis, a local Ward Member, spoke against the application.

Councillor Cossens, a local Ward Member for the adjacent Holland and Kirby Ward, spoke against the application.

Val Coleby, the agent on behalf of the applicant, spoke in support of the application.

Following discussion, it was moved by Councillor Heaney and seconded by Councillor Hones that the application be refused due to the total housing numbers being too high, which motion on being put to the vote was declared **LOST**.

It was then moved by Councillor Everett, seconded by Councillor Fairley and **RESOLVED** that consideration of this application be deferred to enable negotiations to take place with the developer, to reduce the total housing numbers and the density on the basis that the current proposal was too high and not appropriate for this site.

37. PLANNING APPLICATION - 16/00219/OUT - LAND TO THE EAST OF TYE ROAD, ELMSTEAD, CO7 7BB

It was reported that this application had been referred to the Planning Committee as it represented a departure from the Development Plan (being located outside the Settlement Development Boundary) and at the request of Councillor Heaney.

Councillor Heaney, had previously declared an interest in relation to Planning Application 16/00219/OUT by virtue of the fact she was a local Ward Member.

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 (CB) in respect of the application.

A further update sheet was circulated to the Committee prior to the meeting with details of:

- (1) An amendment to Condition number 25;
- (2) Correspondence from the adjoining landowner;
- (3) An additional Condition;
- (4) An updated email submission from the adjoining landowner; and
- (5) An email submission from the applicants.

David Payne, a local resident, spoke for the application.

Parish Councillor Rob Redding, representing Elmstead Parish Council, spoke against the application.

Councillor Nicholls, a local Ward Member, spoke against the application.

Emma Walker, the agent on behalf of the applicant, spoke in support of the application.

Following discussion by the Committee, it was moved by Councillor Everett, seconded by Councillor Hones and unanimously **RESOLVED** that contrary to the Officer's recommendation of approval, the Head of Planning (or equivalent authorised officer) be authorised to refuse planning permission for the development for the following reasons:

- Impact on the character, shape and form of the settlement;
- Illogical intrusion into countryside; and
- Visual impact.

38. PLANNING APPLICATION - 16/00369/FUL - FORMER MARTELLO CARAVAN PARK, KIRBY ROAD, WALTON-ON-THE-NAZE, CO14 8QP

It was reported that this application had been referred to Planning Committee at the request of Councillor Miles, a local Ward Member.

Councillor Turner, present in the public gallery, had previously declared an interest in relation to Planning Application 16/00369/FUL by virtue of the fact he was a Frinton and Walton Town Councillor.

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 Manager (GG) in respect of the application.

Councillor Miles, a local Ward Member, spoke against the application.

Jack Goulde, a representative of the applicant, spoke in support of the application.

Following discussion by the Committee, it was moved by Councillor Baker, seconded by Councillor McWilliams and unanimously **RESOLVED** that the Head of Planning (or equivalent authorised officer) be authorised to grant planning permission for the development, subject to:

(i) Conditions:

1. Standard 3 year time limit.
2. In accordance with submitted details.
3. Archaeology.
4. Hard and soft landscaping plan/implementation.
5. CCTV / Lighting.
6. Surface water drainage scheme.
7. Foul water strategy.
8. Highways conditions (as recommended by the Highway Authority).
9. Contamination.
10. Car park implementation.
11. Restriction to C2 use.

The meeting was declared closed at 9.00 pm.

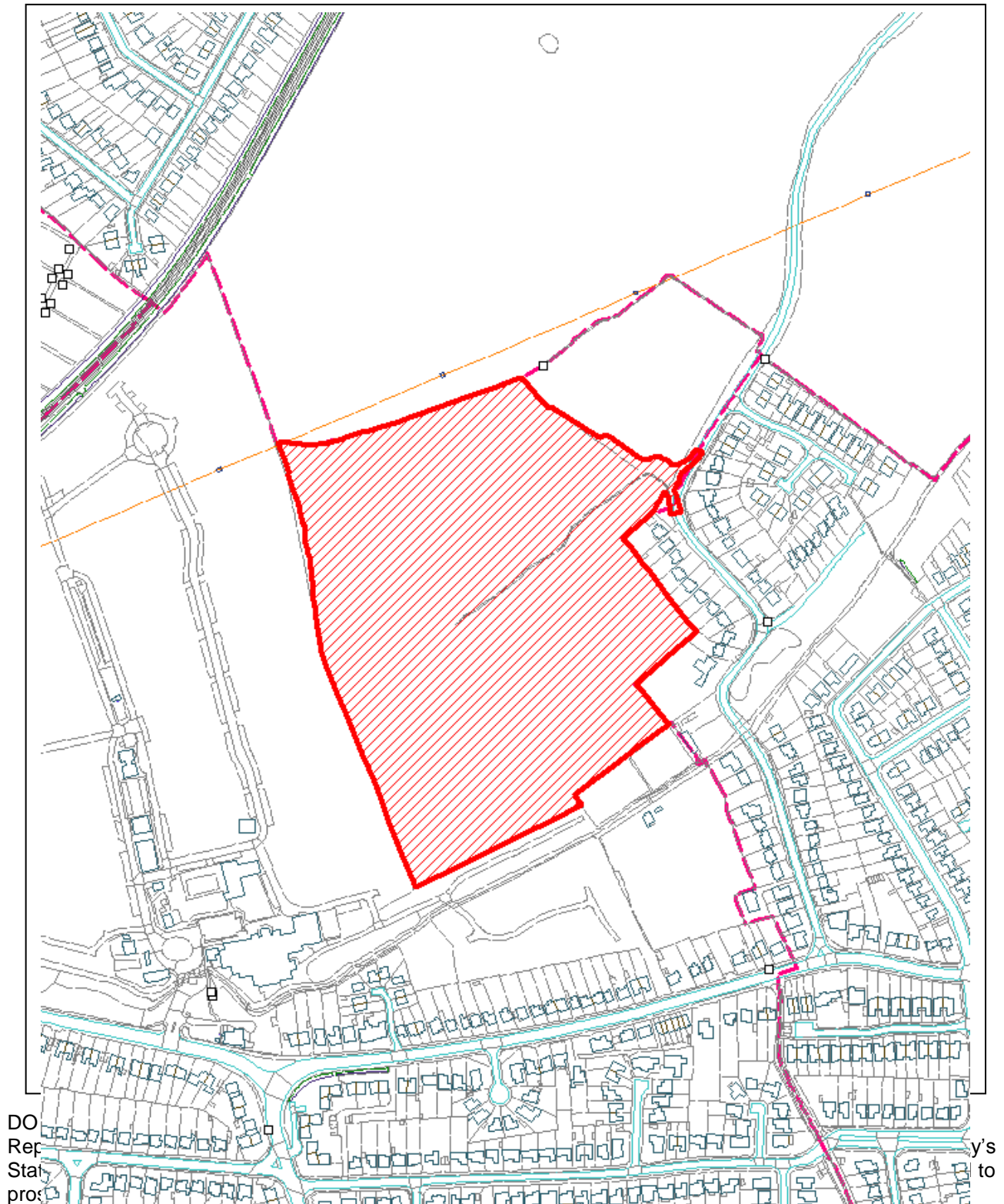
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PLANNING COMMITTEE

9 AUGUST 2016

REPORT OF THE HEAD OF PLANNING

A.1 PLANNING APPLICATION – 15/01351/OUT – LAND NORTHWEST OF SLADBURY'S LANE, CLACTON ON SEA, CO15 6NU



Application:	15/01351/OUT	Town / Parish: Clacton - unparished
Applicant:	One Property Group UK Ltd	
Address:	Land Northwest of Sladburys Lane, Clacton On Sea, Essex CO15 6NU	
Development:	Outline planning application for residential development up to 132 dwellings and open space, including provision for a sports field and a new vehicular access via Sladbury's Lane.	

1. Executive Summary

- 1.1 The application was received on 11th September 2015 and was due for determination by 11th December 2015 but determination has been delayed whilst certain matters, mainly relating to surface water drainage and ecological surveys, have been resolved. The applicant has agreed to extend the determination date until 31st August 2016.
- 1.2 As an outline application, approval is being sought only for the principle of developing up to 132 dwellings with open space including a sports field and access via Sladburys Lane with all other matters reserved for approval through detailed applications at a later date. The applicant has however submitted an indicative site plan that demonstrates how a layout of 132 dwellings (comprising 12 two bed; 64 three bed and 56 four bed houses) can be achieved with a roundabout access from Sladburys Lane.
- 1.3 The site comprises 8.6 hectares of agricultural farmland (a mix of grade 3a and 3b) located off Sladburys Lane to the east of Valley Farm Holiday Park.
- 1.4 The site lies outside of the settlement development boundary in the adopted Local Plan and forms part of the designated 'Local Green Gap'. In the emerging Local Plan, the Local Green Gap designation has been provisionally removed from the area of the site where built development is proposed to go, but the site still remains entirely outside of the settlement development boundaries. The proposal is therefore contrary to both the adopted and emerging Local Plans.
- 1.5 However, because the adopted Local Plan is substantially out of date in terms of housing supply and the Council is currently unable to identify a five-year supply of deliverable housing sites as required by national planning policy, the application has to be considered on its merits in line with the government's 'presumption in favour of sustainable development'. This requires that applications are approved without delay unless the adverse impacts would significantly and demonstrably outweigh the benefits.
- 1.6 Historically, the prospect of any development on land off Sladburys Lane has been the cause of significant public interest – particularly when it was put forward for consultation in 2010 as a potential Local Plan allocation for a much larger residential development, resulting in hundreds of objections and a petition signed by approximately 5,000 residents. The key planning-related concerns about development in this location have generally revolved around the impact on highway capacity and safety in Sladburys Lane, the impact on local health services in an area with an ageing population and the impact on surface water drainage in an area where flooding around Pickers Ditch does occur.
- 1.7 The level of public reaction (in the form of written objections) to this specific, smaller planning application, is less but the same concerns about highways, health and surface water flooding remain.

- 1.8 In considering the proposal on its merits, your Officers, in line with national policy, have attached significant weight to the projected need for housing in Tendring and the shortage of available sites and consider that, on a balanced judgement, the adverse impacts of development are not significant and demonstrable enough to outweigh the social benefit of delivering up to 132 dwellings and associated economic and environmental gains.
- 1.9 In addition, Clacton on Sea is the district's largest town with the highest projected need for housing and is the settlement served by the greatest range of shops, services, facilities and infrastructure, where a proportionate level of housing development can be accommodated, subject to addressing relevant technical matters such as highways, landscape and visual impact and infrastructure capacity. As set out in the main body of the report, Officers are of the view that these technical matters can be suitably addressed and there are no outstanding objections from any of the statutory consultees or other technical bodies.
- 1.10 Officers consider that the proposal satisfies the three dimensions of 'sustainable development' as set out in national planning policy (economic, social and environmental) and the application is therefore recommended for approval subject to the satisfactory completion of a Section 106 planning obligation to secure affordable housing, public open space, play provision and financial contributions toward educational facilities and health provision to make the development acceptable, as well as a number of planning conditions.

Recommendation: Approval

That the Head of Planning be authorised to grant planning permission for the development subject to:-

- a) Within 6 (six) months of the date of the Committee's resolution to approve, 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:
 - On-site Council Housing/Affordable Housing;
 - Education contribution;
 - Health contribution;
 - Off-site public open space contribution
 - If on site public open space and sports field are transferred to the Council - a commuted sum for future maintenance
- b) Planning conditions in accordance with those set out in (i) below (but with such amendments and additions, if any, to the detailed wording thereof as the Head of Planning in her discretion considers appropriate).
 - (i) **Conditions:**
 1. Standard 3 year time limit for submission of reserved matters application.
 2. Standard 2 year limit for commencement of development following approval of reserved matters.
 3. Details of appearance, access, layout, scale and landscaping – to show those trees to be retained including (but not restricted to) those trees protected by a Tree Preservation Order (the reserved matters).
 4. Development to be in general conformity with indicative parameters/layout plan.
 5. Development to contain up to (but no more than) 132 dwellings.
 6. Highways conditions (as recommended by the Highway Authority) and including a Construction Management Plan and HGV route.
 7. Foul water strategy.
 8. Surface water drainage strategy and future management and maintenance conditions

(as recommended by ECC SUDS)

9. Landscape Implementation and Management Plan
 10. Site levels
 11. Completion of public open space/sports field and Management Plan (if not transferred to the Council)
 12. Tree/Root Protection Plan
 13. Ecological mitigation as recommended by ecological reports/surveys
 14. Details of lighting, materials and refuse storage/collection points.
 15. Broadband connection.
 16. Local recruitment strategy.
- c) That the Head of Planning be authorised to refuse planning permission in the event that such legal agreement has not been completed within the period of 6 (six) months, as the requirements necessary to make the development acceptable in planning terms had not been secured through a s106 planning obligation contrary to Policy QL12 of the Tendring Local Plan 2007..

2. Planning Policy

National Planning Policy Framework (NPPF)

- 2.1 The National Planning Policy Framework (March 2012) sets out the Government's planning policies and how these are expected to be applied at the local level.
- 2.2 Planning law requires that applications for planning permission be determined in accordance with the 'development plan' unless material considerations indicate otherwise. The NPPF does not change the statutory status of the development plan as the starting point for decision taking. Where proposed development accords with an up to date Local Plan it should be approved and where it does not it should be refused – unless other material considerations indicate otherwise. An important material consideration is the NPPF's 'presumption in favour of sustainable development'. The NPPF defines 'sustainable development' as having three dimensions:
- an economic role;
 - a social role; and
 - an environmental role.
- 2.3 These dimensions have to be considered together and not in isolation. The NPPF requires Local Planning Authorities to positively seek opportunities to meet the development needs of their area whilst allowing sufficient flexibility to adapt to change. Where relevant policies in Local Plans are either absent or out of date, there is an expectation for Councils to approve planning applications, without delay, unless the adverse impacts would significantly and demonstrably outweigh the benefits.
- 2.4 Section 4 deals with sustainable transport and requires all developments that will generate significant amounts of movement to be supported by a Transport Assessment. Opportunities for sustainable transport modes must be taken up; safe and suitable access for all people must be achieved; and improvements to the highway network that address the impacts of the development must be undertaken. A key tool to facilitate sustainable transport modes will be in the form of a Travel Plan. Development should only be prevented or refused on transport grounds where the residual cumulative impacts are severe.
- 2.5 Section 5 supports high quality communications infrastructure. Advanced, high quality communications infrastructure is essential for sustainable economic growth. The development of high speed broadband technology and other communications networks also

plays a vital role in enhancing the provision of local community facilities and services. In preparing Local Plans, local planning authorities should support the expansion of electronic communications networks, including telecommunications and high speed broadband.

- 2.6 Section 6 of the NPPF relates to delivering a wide choice of quality new homes. It requires Councils to boost significantly the supply of housing to meet objectively assessed future housing needs in full. In any one year, Councils must be able to identify five years worth of deliverable housing land against their projected housing requirements (plus a 5% or 20% buffer to ensure choice and competition in the market for land). If this is not possible, housing policies are to be considered out of date and the presumption in favour of sustainable development is engaged with applications for housing development needing to be assessed on their merits, whether sites are allocated for development in the Local Plan or not.
- 2.7 Paragraph 187 of the NPPF states *“Local planning authorities should look for solutions rather than problems, and decision-takers at every level should seek to approve applications for sustainable development where possible. Local planning authorities should work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area”*.
- 2.8 Section 7 relates to good design. Whilst the NPPF says that planning decisions should not impose architectural styles or particular tastes that would serve to stifle originality, it is proper to seek to promote local distinctiveness. Design also needs to address the connections between people and places and the integration of new development into the natural, built and historic environment.
- 2.9 Section 8 relates to the promotion of healthy communities – it talks about safe and accessible environments containing clear and legible pedestrian routes and high quality public space. It recognises that access to high quality open spaces and opportunities for sports and recreation make an important contribution to the health and well-being of communities. Paragraph 77 in particular refers to the designation of Local Green Space designations and the criteria for when such designations would be appropriate.
- 2.10 Section 10 considers the challenge of climate change. New developments should take account of landform, layout, building orientation, massing and landscaping to minimise energy consumption. Developments should take account of flood risk and where appropriate be accompanied by Flood Risk Assessments.
- 2.11 Section 11 deals with conserving and enhancing the natural environment. New development should take account of air, water, and noise pollution. The best and most versatile agricultural land should be protected. Opportunities to incorporate biodiversity in and around developments should be encouraged.
- 2.12 Section 12 relates to the conservation and enhancement of the historic environment (including archaeology).

Local Plan

- 2.13 Section 38(6) of the Planning Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the ‘development plan’ unless material considerations indicate otherwise. In the case of Tendring the development plan consists of the following:

Tendring District Local Plan (Adopted November 2007) – as ‘saved’ through a Direction from the Secretary of State. Relevant policies include:

QL1: Spatial Strategy

Directs most new development toward urban areas and seeks to concentrate development within settlement development boundaries.

QL2: Promoting Transport Choice

Requires developments to be located and designed to avoid reliance on the use of the private car.

QL3: Minimising and Managing Flood Risk

Seeks to direct development away from land at a high risk of flooding and requires a Flood Risk Assessment for developments in Flood Zone 1 on sites of 1 hectare or more.

QL9: Design of New Development

Provides general criteria against which the design of new development will be judged.

QL10: Designing New Development to Meet Functional Needs

Requires development to meet functional requirements relating to access, community safety and infrastructure provision.

QL11: Environmental Impacts

Requires new development to be compatible with its surrounding land uses and to minimise adverse environmental impacts.

QL12: Planning Obligations

States that the Council will use planning obligations to secure infrastructure to make developments acceptable, amongst other things.

HG1: Housing Provision

Sets out the strategy for delivering new homes to meet the need up to 2011 (which is now out of date and needs replacing through the new Local Plan).

HG4: Affordable Housing in New Developments

Seeks up to 40% of dwellings on large housing sites to be secured as affordable housing for people who are unable to afford to buy or rent market housing.

HG7: Residential Densities

Requires residential developments to achieve an appropriate density, although this policy refers to minimum densities from government guidance that have long since been superseded by the NPPF.

COM1: Access For All

Requires developments and buildings within them to be accessible by a range of transport modes and by people of all abilities.

COM2: Community Safety

Requires developments to contribute toward a safe and secure environment and minimise the opportunities for crime and anti-social behaviour.

COM6: Provision of Recreational Open Space for New Residential Developments

Requires residential developments on sites of 1.5 hectares or more to provide 10% of the site area as public open space.

COM21: Light Pollution

Requires external lighting for new development to avoid unacceptable impacts on the landscape, wildlife or highway and pedestrian safety.

COM22: Noise Pollution

Requires that 'noise sensitive' developments including housing are located away from sources of noise and that any noise pollution is mitigated wherever possible.

COM23: General Pollution

States that permission will be refused for developments that have a significant adverse effect through the release of pollutants.

COM26: Contributions to Education Provision

Requires residential developments of 12 or more dwellings to make a financial contribution, if necessary, toward the provision of additional school places.

COM29: Utilities

Seeks to ensure that new development on large sites is or can be supported by the necessary infrastructure.

COM31a: Sewerage and Sewage Disposal

Seeks to ensure that new development is able to deal with waste water and effluent.

EN1: Landscape Character

Requires new developments to conserve key features of the landscape that contribute toward local distinctiveness.

EN2: Local Green Gaps

Seeks to keep areas designated as Local Green Gaps open and essentially free of development in order to prevent the coalescence of settlements and to protect their rural setting.

EN4: Protection of the Best and Most Versatile Agricultural Land

Seeks to ensure that where agricultural land is needed for development, poorer quality land is used as priority over higher quality land.

EN6: Biodiversity

Requires existing biodiversity and geodiversity to be protected and enhanced with compensation measures put in place where development will cause harm.

EN6a: Protected Species

Ensures protected species including badgers and bats are not adversely impacted by new development.

EN6b: Habitat Creation

Encourages the creation of new wildlife habitats in new developments, subject to suitable management arrangements and public access.

EN12: Design and Access Statements

Requires Design and Access Statements to be submitted with most planning applications.

EN13: Sustainable Drainage Systems

Requires developments to incorporate sustainable drainage systems to manage surface water run-off.

TR1a: Development Affecting Highways

Requires developments affecting highways to aim to reduce and prevent hazards and inconvenience to traffic.

TR1: Transport Assessment

Requires Transport Assessments to be undertaken for major developments and requires materially adverse impacts on the transport system to be reduced to an acceptable level.

TR3a: Provision for Walking

Seeks to maximise opportunities to link development with existing footpaths and rights of way and provide convenient, safe attractive and direct routes for walking.

TR4: Safeguarding and Improving Public Rights of Way

Requires developments to incorporate the definitive alignment of public rights of way and encourages the improvement of existing routes and the creation of new links to the public network.

TR5: Provision for Cycling

Requires all major developments to provide appropriate facilities for cyclists.

TR6: Provision for Public Transport Use

Requires developments to make provision for bus and/or rail where transport assessment identifies a need.

TR7: Vehicle Parking at New Development

Refers to the adopted Essex County Council parking standards which will be applied to all non-residential development.

Tendring District Local Plan: 2013-2033 and Beyond Preferred Options Consultation Document (July 2016).

- 2.14 The 'development plan' for Tendring is the 2007 'adopted' Local Plan, despite some of its policies being out of date. Paragraph 215 of the NPPF allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF. Paragraph 216 of the NPPF also allows weight to be given to policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency with national policy. As of 14th July 2016, the emerging Local Plan for Tendring is the Tendring District Local Plan 2013 – 2033 and Beyond Preferred Options Consultations Document. As this plan is currently at an early stage of preparation, some of its policies can only be given limited weight in the determination of planning applications, but the weight to be given to emerging policies will increase as the plan progresses through the later stages of the process. Where emerging policies are particularly relevant to a planning application and can be given some weight in line with the principles set out in paragraph 216 of the NPPF, they will be considered and, where appropriate, referred to in decision notices. In general terms however, more weight will be given to policies in the NPPF and the adopted Local Plan.

Relevant policies include:

SP1: Presumption in Favour of Sustainable Development

Follows the Planning Inspectorate's standard wording to ensure compliance with the NPPF.

SP2 Meeting Housing Needs

The Council will identify sufficient deliverable sites for the respective plan period and will maintain a supply to provide at least five years worth of housing. For Tendring this equates to 550 net additional dwellings per annum.

SP4 Infrastructure and Connectivity

Development must be supported by provision of infrastructure, services and facilities that are identified to serve the needs arising from the new development.

SP5 Place Shaping Principles

All new development must meet the highest standards of built and urban design.

SP6 Spatial Strategy for North Essex

Existing settlements will be the principal focus for additional growth across North Essex. Development will be accommodated within or adjoining settlements according to their scale, sustainability and existing role in the district and strategically.

SPL1: Managing Growth

Identifies Clacton as one of three strategic urban settlements in the district. These settlements have a larger population and a wide range of existing facilities and infrastructure, making it them the district's most sustainable locations for growth.

SPL2: Settlement Development Boundaries

Seeks to direct new development to sites within settlement development boundaries.

SPL3: Sustainable Design

Sets out the criteria against which the design of new development will be judged.

HP1 Improving Health and Well Being

The Council will work with partners, including the NHS, to improve the health and well being of residents by, amongst other things, ensuring that developments contribute towards improved health facilities.

HP3 Green Infrastructure

All new development must be designed to protect and enhance existing Green Infrastructure in the local area.

HP4: Open Space, Sports and Recreation Facilities

Requires larger residential developments to provide a minimum 10% of land as open space with financial contributions toward off-site provision required from smaller sites.

LP1: Housing Supply

Sets out how the Council will meet objectively assessed housing needs over the next 15-20 years and in which parts of the district. It identifies Clacton as providing 2780 homes until 31st March 2032.

LP2: Housing Choice

Promotes a range of house size, type and tenure on large housing developments to reflect the projected needs of the housing market.

LP3: Housing Density and Standards

Policy requires the density of new housing development to reflect accessibility to local services, minimum floor space requirements, the need for a mix of housing, the character of surrounding development and on-site infrastructure requirements.

LP4: Housing Layout

Policy seeks to ensure large housing developments achieve a layout that, amongst other requirements, promotes health and wellbeing; minimises opportunities for crime and anti-social behaviour; ensures safe movement for large vehicles including emergency services and waste collection; and ensures sufficient off-street parking.

LP5: Affordable and Council Housing

Requires up to 30% of new homes on large development sites to be made available to the Council or a nominated partner, at a discounted price, for use as affordable or council housing.

PP12: Improving Education and Skills

Requires applicants to enter into an Employment and Skills Charter or Local Labour Agreement to ensure local contractors are employed to implement the development and that any temporary or permanent employment vacancies (including apprenticeships) are advertised through agreed channels.

PPL1: Development and Flood Risk

Seeks to direct development away from land at a high risk of flooding and requires a Flood Risk Assessment for developments in Flood Zone 1 on sites of 1 hectare or more.

PPL3: The Rural Landscape

Requires developments to conserve, where possible, key features that contribute toward the local distinctiveness of the landscape and include suitable measures for landscape conservation and enhancement.

PPL4: Biodiversity and Geo-Diversity

Gives protection to internal, European and nationally important wildlife sites and requires existing biodiversity and geodiversity on any site to be protected and enhanced with compensation measures put in place where development will cause harm.

PPL5: Water Conservation, Drainage and Sewerage

Requires developments to incorporate sustainable drainage systems to manage surface water run-off and ensure that new development is able to deal with waste water and effluent.

PPL 6 Strategic Green Gaps

Within Strategic Green Gaps the Council will not permit development which would result in the joining of settlements or neighbourhoods or which would erode their separate identities. Planning permission may be granted if the applicant can demonstrate that, amongst other things, the development would not compromise the open setting between settlements or neighbourhoods.

PPL7: Archaeology

Requires that where development that might affect archaeological remains, studies and works are undertaken to identify, recover and record such remains.

CP1: Sustainable Transport and Accessibility

Requires developments to include and encourage opportunities for access to sustainable modes of transport, including walking, cycling and public transport.

CP2 Improving the Transport Network

Proposals for new development that contribute to the provision of a safe and efficient transport network will be supported. Proposals that have adverse transport impacts will be refused unless these can be resolved by specific mitigation measures.

CP3: Improving the Telecommunications Network

Requires that new developments be served by superfast or ultrafast broadband.

Other Guidance

Essex County Council Car Parking Standards – Design and Good Practice

3. Relevant Planning History

- 3.1 Whilst not the subject of a specific planning application until now, the land off Sladbury's Lane has been promoted over many years, by its owners, for inclusion as a residential development site in the Local Plan.
- 3.2 In 2010, the Council published a 'Core Strategy and Development Policies Document' for public consultation which was intended to be the first part of a new 'Local Development Framework' (LDF) for Tendring, in line with the requirements of the last Labour government. In that document, the Council identified a broad location to the east of Clacton, which would have included land off Sladbury's Lane, as a 'Neighbourhood Development' that would have delivered around 700 new homes and associated facilities and infrastructure. It was proposed that the East Clacton Neighbourhood Development would have been a joint venture between the landowners and Valley Farm Holiday Park with access from Valley Road (avoiding access from Sladbury's Lane or Burrs Road) and the remodelling and upgrading of the holiday park.
- 3.3 However, the public reaction to this initial concept was so overwhelmingly negative that the Council chose to abandon the LDF and, following the publication of the NPPF, moved towards producing a new-style Local Plan in line with the (then) new coalition government's requirements, minus any proposals for development in Sladbury's Lane. Holland Residents Association was particularly resistant to the original concept and spearheaded a local campaign that resulted in hundreds of objections and a 5,000 name petition being submitted.
- 3.4 Much of the reaction to the East Clacton Neighbourhood Development concept was borne out of a general fear as to the kinds of people that might occupy the area in the future and the lack of employment, but there were also very specific planning concerns about the potential impact on highways, health provision and surface water flooding in this location.
- 3.5 More recently a planning application has been refused to the immediate southern boundary of the current application site. Application 16/00387/OUT, for the erection of three bungalows, was refused on 23rd May 2016 because the site is within Flood Zone 3 and was therefore contrary to national and local planning policy that seeks to direct development to those areas at least risk of flooding. The main differences between this refused application and the current application is that the proposed developable area was in the highest risk Flood Zone and was on such a small scale that any benefits of the proposal were not outweighed by the harm that would be caused. The current application does not propose any development in the Flood Zone and is on a much larger scale where the benefits that can be derived from the development (including adding to the Council's five year housing land supply) outweigh any negatives.

4. Consultations

TDC Environmental Health	No comments received.
TDC Building Control	No comments at this stage. Would welcome further details for fire fighting access when available.
TDC Regeneration	No comments received.

TDC
Principal Tree &
Landscape
Officer

The land is currently in agricultural use. Most of the trees and established countryside hedgerows are situated on the perimeter of the application site although a hedgerow with established Oaks runs from a mid-point on the western boundary south-west to the north eastern boundary. There are two other high value trees on the north eastern boundary.

In order to show the potential impact of the development proposal on the trees and hedgerows on the land the applicant has provided a tree report and survey that has been carried out in accordance with BS5837: 2012 Trees in relation to design, demolition and construction - Recommendations.

The tree report accurately describes the condition of the trees on the land.

Although at an outline stage the development proposal identifies the removal of several trees that make a positive contribution to the character and appearance of the local landscape.

On the western boundary abutting the adjacent caravan park there is an established hedgerow containing several mature trees. These are attractive features in the countryside although their position is such that they have relatively low visual amenity value. Whilst it would be desirable to pollard and retain them; the trees identified for removal on this boundary: G3 ' 2 Oaks, G5 ' 1 Oak, and G6 ' 2 Oaks, do not merit protection by means of a Tree Preservation Order.

The 2 trees situated on the north eastern boundary and 5 others situated on the ditch bisecting the site have high visual amenity value and a long safe useful life expectancy. As the development proposal threatens the removal of three of the trees and brings the others into conflict with proposed dwellings, by way of the proximity of the dwelling to the trees, it is considered expedient to make them the subject of a new Tree Preservation Order (TPO).

Therefore TPO/15/14 has been made to give protection to 7 Oaks numbered T5, 7, 45, 46, 47, 48, 49, in the tree report submitted with the application.

The purpose of the TPO is not to prevent development of the land but to help shape the layout to ensure that trees with high visual amenity value are retained and a satisfactory juxtaposition is achieved between trees and built development.

Should planning permission be likely to be granted then details of soft landscaping for both the residential part of the site and the open spaces should be secured as a reserved matter. The opportunity to secure new tree planting on the proposed open space should be maximised whilst retaining sufficient space for informal recreation and play.

TDC Housing

Request that 9 (nine) properties are gifted to the Council. Clacton is the area of highest demand for households seeking housing on the housing register. There are currently 400 households seeking a 1 bedroom property; 188 seeking a 2 bedroomed property; 87 seeking a 3 bedroomed property and 43 seeking a 4 bedroomed property.

The transfer of housing is not thought to be feasible given the proposed legislation that will make it difficult to fund the discounted purchase price and it is not thought appropriate on this occasion to request an off-site contribution.

TDC Open Space and Play

There is currently a deficit of 41.08 hectares of play in the Clacton/Holland area. This is broken down as follows:

	Local Plan Requirement	Local Provision
Play Areas	44.76	3.68
Formal Open Space	89.52	112.92
	<hr/> 134.28	<hr/> 116.00

Any additional development in Clacton will increase demand on already stretched facilities.

The nearest play area to the proposed development is located at Eastcliff Recreation ground. The play area is classified as a Local Equipped Area for Play. This play area would struggle to cope with the increased use of any additional development.

It is noted that the Planning Statement that an open space will be incorporated within the development and the provision of new on site play areas should be incorporated within the design to at least LEAP standards.

Should the developer wish to transfer the ownership of the open space and play facilities to the Council upon completion in accordance with the draft heads of agreement a commuted sum calculated in accordance with Appendix 4, Supplemental Planning Document, 'Provision of Recreational Open Space for New Development' dated May 2008 would be required to provide for the sites future maintenance.

ECC Highways

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

1. The submission of a construction management plan containing details of wheel cleaning facilities and other measures to minimise impacts on the highway during construction.
2. The provision of a roundabout onto Sladbury's Lane designed to specific dimensions;
3. The upgrading of two bus stops in Holland Road;
4. A 2 metre wide footway along Sladbury's Lane between the development and Holland Road;
5. Provision of residential travel information packs to the new residents to encourage walking, cycling and the use of public transport; and
6. Development to be served by a spine road from the new roundabout with a minimum carriageway width of 6.75m and associated 2m footways and 3m footway/cycleways.

ECC Schools	<p>It is anticipated that the development will generate a demand for up to 12 early years and childcare places; 40 primary and 26 secondary school places.</p> <p>There is sufficient early years and childcare spaces in the area to accommodate the development and so a contribution to pre school places should not be requested.</p> <p>There is a deficit of primary school places and therefore a contribution should be requested.</p> <p>There will be a surplus of secondary school places and so no contribution should be requested.</p> <p>Due to the proximity of the site to its catchment primary and secondary schools a contribution towards school transport should not be requested.</p> <p>The primary school contribution should be £482,011.00 index linked and will be used towards the replacement of temporary accommodation at Holland Park Primary School.</p>
NHS England	<p>The development is likely to impact on five GP surgeries. Four of these practices do not have capacity for the additional growth resulting from this development. The aim of NHS England is to promote Primary Healthcare Hubs with co ordinated mixed professionals. New development will have an impact on the NHS funding programme for the delivery of primary healthcare and particularly within the catchment of this development.</p> <p>The development would generate approximately 290 residents and place extra demand on services. The healthcare services that would be impacted include:</p> <ul style="list-style-type: none"> • Great Clacton Medical Partnership • Frinton Road Medical centre • Old Road Medical Centre • Epping Close Surgery • Crusader Surgery <p>The development would give rise to a need for improvements to capacity of the first four healthcare services listed above. A total of £31 840.00 is requested to be secured by way of Section 106 Legal Agreement.</p>
Natural England	<p><u>Letter dated 9 October 2015</u></p> <p>Statutory nature conservation sites - no objection. The development will not damage or destroy any of the interest features that the Holland Marshes SSSI was designated for.</p> <p>Protected species – standing advice should be applied as a material</p>

consideration.

Local sites – if on or near to a local site the LPA should ensure it has sufficient information to fully understand the impact of the proposal
Biodiversity enhancements – the development may provide opportunities to incorporate features into the design which are beneficial to wildlife.

Landscape enhancements – the development may provide opportunities to enhance the character and local distinctiveness of the surrounding built and natural environment.

Letter dated 7 July 2016 following receipt of Ecological Addendum

Statutory nature conservation sites - no objection. The development will not damage or destroy any of the interest features that the Holland Marshes SSSI was designated for.

Protected species – standing advice should be applied as a material consideration.

Local sites – if on or near to a local site the LPA should ensure it has sufficient information to fully understand the impact of the proposal
Biodiversity enhancements – the development may provide opportunities to incorporate features into the design which are beneficial to wildlife.

Landscape enhancements – the development may provide opportunities to enhance the character and local distinctiveness of the surrounding built and natural environment.

Essex Wildlife
Trust

No comments received.

Environment
Agency

It appears that all development will be in Flood Zone 1 with only open space in flood zones 3 and 2. As such we will not be commenting as the component in flood zone 3 is low risk.

ECC SUDS

EEC SuDs Team letter dated 12 October 2015

Holding objection for the following reasons:

- The restriction of surface water run off is calculated at 42 litres per second which is too high and the storage features (including the pond) will not be large enough
- Surface water discharge is proposed to a combined sewer and this has not been justified in preference to SuDs
- Outline evidence of the necessary treatment stages to improve water quality has not been provided
- The effect of urban creep has not been provided
- Preliminary details of an adoption and maintenance scheme have not been provided

ECC SuDs Team letter dated 22 April 2016 following receipt of revised Flood Risk Assessment

Having reviewed the revised Flood Risk Assessment and the associated documents which accompanied the planning application, we consider that a surface water drainage scheme has been proposed which demonstrates that surface water management is achievable in principle, without causing flooding on site or elsewhere.

The proposed development will only meet the requirements of the National Planning Policy Framework if the following measure(s) outlined in the Flood Risk Assessment, dated April 2016, Ardent Consulting Engineers (on behalf of Sammi Developments Ltd) submitted with this application are implemented and secured by way of a planning condition on any planning permission.

Condition 1

No works shall take place until a Detailed Surface Water Drainage Scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme shall subsequently be implemented prior to occupation. In particular the scheme should provide for the following mitigation measures outlined in the Flood Risk Assessment:

1. Control all the surface water run-off generated within the development for all events up to and including the 1 in 100 year event plus 30% climate change.
2. Provide a detailed hydraulic model with the entire SuDS features, including the pond and the pipe network cascaded together showing the combined effect of the design in meeting both the water quantity and water quality criteria.
3. The sizing of the SuDS features should be based on limiting the runoff from the development to the 1 in 1 greenfield rate, and should be based on the area contributing to SuDS, any open spaces not contributing to SuDS should be discounted in the runoff calculations.
4. Run-off management within the site must prioritise the use of SuDS both as a means of water conveyance and to provide source control, water quality treatment and bio-diversity enhancement.
5. Provide evidence of water quality treatment from the development using the risk based approach as outlined in the CIRIA SuDS manual C753.
6. Provide a plan showing the final exceedance flow paths, these should be away from any buildings.
7. Provide details of the adoption and routine maintenance of the SuDS features including the maintenance of the outfall to the ditch downstream of the pond.

The mitigation measures shall be fully implemented prior to occupation

and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

Reason

1. To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site.
2. To ensure the effective operation of SUDS features over the lifetime of the development.
3. To reduce the risk of flooding from overloading the surface water pipe network.
4. To mitigate environmental damage caused by runoff during a rainfall event.

Condition 2

Prior to commencement of the development the applicant must submit a Maintenance Plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies.

Reason

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

Condition 3

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

Reason

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

Anglian Water

Anglian Water has assets close to or crossing the site. The site layout should take this into account and accommodate those assets. If this is not possible sewers will need to be diverted at the developer's cost.

The foul drainage from this site is within the catchment of Clacton Holland Haven Water Recycling Centre which has available capacity for these flows.

The surface water strategy should preferably be to SuDS system rather than to a sewer. The submitted surface water strategy is not acceptable as run off rates are too high from a greenfield site to a combined sewer. A

condition to agree the surface water management strategy is requested.

Network Rail	After reviewing the information relating to the application Network Rail has no objection or further comments to make on this occasion.
National Grid	No comments received.
EDF Network Planner	No comments received.
Police Architectural Liaison Officer	No comments received.

5. Representations

- 5.1 The application was advertised as a major application and a departure from the local plan in the press on 25 September 2015; site notices posted on 16 October 2015; and 84 individual neighbour notification letters..
- 5.2 The overwhelming level of public objection to historic local plan proposals for development of 700 dwellings on land off Sladbury's Lane (resulting in hundreds of Local Plan objections and a 5,000 name petition) is explained under the planning history section above. In response to this specific application, which affects only a portion of the land that was previously proposed for development, a reasonable level of objection has been received with 20 letters.
- 5.3 20 letters of objection have been received from local residents. The main points are as summarised:
- Proposals for housing have already been refused
 - The application refers to Burrs Road but the access and impact would be on Sladburys Lane which is a country lane
 - Sladburys Lane is not wide enough for two construction vehicles to pass safely and would be dangerous to pedestrians if the road was wet or icy
 - Sladburys Lane; Burrs Road and Holland Road are not suitable for the additional traffic that the development would generate or heavy vehicles and would result in congestion
 - The application states that the site is on the A133 and this is not correct – it brings into question how accurate the rest of the application is including the 30 vehicles estimated to come to and from the site at the peak hour
 - The character of the lane will change and once the agricultural land is built on it will be lost forever
 - The area floods as a result of surface water not draining easily
 - The bridge on Sladburys Lane is weak and is not suitable for construction traffic; the weight limit is 7.5 tonnes and not suitable for construction traffic
 - Surface water would increase and cause flooding
 - An additional playing field is not needed
 - The doctors' surgery and local schools are over subscribed
 - The previous petition of 5000 signatures to prevent residential development of this site several years ago should be taken into account
 - Previous proposals have been unsuccessful and nothing has changed since then. Developers should not be allowed to make repeat applications
 - The site was rejected previously as a housing allocation in the draft local plan and determined that it should not be considered for development until post 2031 and that

without a comprehensive redevelopment of the adjacent holiday park then vehicular access is unlikely be achieved

- The plans have in small print reference to Phase 1 – will there be more housing in the future
- The proposal would result in inappropriate piecemeal development – an overall development plan is needed
- A buffer zone must be created between the proposed development and the holiday park otherwise it is likely to lead to the loss of two black polar trees that are currently on the site boundary and to disturbance to the new residents
- The open space would be better used as a village green with houses over looking it
- There is no pedestrian entrance to the open space to encourage its use
- The overall effect on biodiversity is likely to be negative
- The development will prejudice the longer term delivery of the Pickers Ditch Walkway
- The development does not consider walking and cycling journeys

5.4 A letter of objection on behalf of Park Resorts Ltd (the owner and operator of Valley Farm Holiday Park). The contents of the letter are as summarised:

- Disappointed that the applicant did not consult with the Park owners before submitting the application that is recognised as good practice by NPPF and NPPG
- The Park generates large amounts of visitors and expenditure and provides jobs directly and indirectly. The proposal will impact on the Park as it will detract from its rural setting and countryside outlook. Visitors will be lost to other parks/Districts
- The layout plan is illustrative but it shows built development right up to the boundary with the Park. This is likely to occur unless controlled at the outline stage
- Holiday guests and residential dwellings are not compatible neighbours. Holiday guests tend to spend more time outside and at later hours and may result in noise disturbance to the occupants of residential properties
- If the Council is minded to approve, and to avoid future noise complaints a 15 metre landscape buffer should be conditioned along the boundary with the Park
- If the Council is minded to approve, and to ensure that the countryside outlook for the Park is retained; beyond the 15 metre landscape buffer the proposed open space should be included and should be conditioned

5.5 An objection has been received from Cllr Mick Skeels Jr. Cllr Skeels objects to the application on the basis that the road is too small to take anymore traffic; the area floods and makes the road difficult to navigate; the Highway Authority objected to the last proposal for this reason; and it will result in the permanent loss of farmland.

5.6 Several objections have also been received from Cllr Joy Broderick. Two objections are submitted on behalf of the Holland on Sea Residents' Association. The objections, amongst other things, relate to flooding problems in the locality and one of the objections includes a set of photos to demonstrate past flood events. The other objections relate to inadequate highways access; traffic gridlock; lack of GP's; schools; loss of green gap; weight limit on Sladburys Lane; local people won't be able to afford the housing on this development and added danger to a busy and unmanned railway crossing

5.7 Further objections have also been received from Cllr Joy Broderick; Cllr Colin Winfield; and Cllr Kanagasundaram Thevakumar King. These relate to flooding problems in the locality and include a set of photos to demonstrate a previous flood event in August 2015.

5.8 An objection has been received from Mr John Ashley Mooney. Mr Mooney was formerly a District Councillor for the St Pauls Ward where the application site is located. Mr Mooney objects on the basis that the local highway network is inadequate to cater for the proposed development; it places further pressure on local healthcare and schooling; it impinges on

green space separating Holland on Sea from Clacton on Sea; a petition of 5000 signatures was previously submitted in connection with a proposed residential allocation in the local plan; it represents the first phase of a larger plan for 2700 dwellings in the vicinity; and the site will never be able to provide a suitable access.

6. Assessment

The Site

- 6.1 The application site comprises 8.6 hectares of agricultural land (a mix of Grade 3a; 3b – good to moderate and Grade 4 - poor) to the west of Sladburys Lane. It lies outside of the settlement boundary identified within both the adopted and emerging local plan. In the adopted local plan it lies within a Local Green Gap designation. In the emerging local plan it lies outside of but in close proximity to a Strategic Green Gap to the east of Sladburys Lane. The southern extremity of the site lies within Flood Risk Zones 2 and 3. Further to the east is the Holland Marshes SSSI and the route of Pickers Ditch that is designated as protected public open space.
- 6.2 The site is located on the north eastern edge of Clacton, approximately 3km from the town centre. It is approximately 1.5km from Gorse Lane Industrial Estate to the north. The town centre has a wide range of shops for both everyday/convenience and comparison shopping needs. It also has three secondary schools and a number of primary schools, including Holland Park, which is about an 800m (10-minute) walk from the site. In addition the town has employment opportunities and local leisure and community facilities. It is identified as an urban settlement in the adopted local plan and a strategic urban settlement in the emerging local plan where development should be focussed.
- 6.3 The site currently comprises farmland and consists of two arable fields which spilt the site in two, one to the north and one to the south. The field to the south of the site is separated from that to the north by a hedgerow, ditch and with some mature trees set amongst it. Around the perimeter of the fields are further lengths of additional hedging, fencing and trees.
- 6.4 The site lies immediately adjacent to the Valley Farm Holiday Park (a protected caravan site) to the west. Sladbury's Lane runs off to the south and east. To the north, beyond an adjoining agricultural field is the Colchester to Clacton railway line. A line of electricity pylons crosses east/west beyond the northernmost boundary. The topography of the site is a general slope in a north to south direction, from approximately 11m AOD to 2.5m AOD towards the southern boundary.
- 6.5 Sladbury's Lane is an unclassified road which forms part of a link between the B1033 (which links the A133 with Frinton) and the B1032 on the eastern edge of Clacton, running along the site frontage and the built up part of Sladbury's Lane opposite the site before leaving the urban area and after approximately adjoining the B1032 Holland Road/Frinton Road. Within the built up area the carriageway is of sufficient width for two vehicles to pass although a vehicle weight limit of 7.5 tonnes is imposed across the Pickers Ditch. Further to the northeast is the junction with Burrs Road, an unclassified road which runs northwest from Sladbury's Lane, which it joins as the minor arm of a priority T-junction approximately 0.5km north east of the site. Burrs Road then passes over the Colchester to Clacton railway line on a barrier controlled level crossing into the Burrsville area.
- 6.6 To the east of a point about 80m east of the junction with Keswick Avenue, Sladbury's Lane is unlit with no footways and derestricted (i.e. subject to the national speed limit of 60mph for single carriageway roads); to the west of here it is lit and subject to a 30mph limit. The 30mph limit commences about 150m north east of the eastern boundary of the application site. West of Keswick Avenue it is fronted by houses on the south side only with in-curtilage

parking to which it provides direct vehicle access and is lit with a footway on the developed side. South of the first right angle bend there are houses (again with in-curtilage parking to which it provides direct vehicle access) and footways on both sides.

The Proposal

- 6.7 This outline planning application seeks the approval for the principle of up to 132 dwellings and includes provision of approximately 4.6ha of public open space. New pedestrian and vehicular access is proposed to be provided from Sladbury's Lane in the form of a new roundabout. All matters including access (together with appearance, landscaping, layout and scale) are reserved matters.
- 6.8 The proposal shows a variety of indicative house types comprising 2, 3 and 4 bedroom dwellings with a mix of terrace, detached and semi-detached dwellings, each with individual parking and garage provision. In total approximately 400 parking spaces are shown to be provided across the site.
- 6.9 The indicative elevations reflect local vernacular including a collective palate of appropriate materials for the area although these are provided for illustrative purposes at this outline stage.
- 6.10 Open space provision is illustrated to include landscaped amenity space within the housing area and also includes a large area of open recreational land to include space for formal sports pitches together with adjacent runoff areas and more informal areas. This is shown located to the southern part of the site.
- 6.11 The application is supported by the following documents:

Architectural Drawings

- Indicative Proposed Site Plan dwg.no 256.200.00 by DAPA;
- Indicative House Type Layouts and Elevation dwg.no 256.201-211.00;
- Indicative Street Scene Elevations dwg.no 256.212.00;
- Proposed Parameters Plan dwg.no.256.213.00; and
- Survey Plans by SurvaTec 01217-001/02 Sheets 1-15;

Reports and Technical Information

- Design and Access Statement by David A Plant Architecture (DAPA);
- Planning Statement May 2015 by Phase 2 Planning;
- Transport Assessment April 2015 by Ardent Consulting Engineers (ACE);
- Noise Survey May 2015 by ACE;
- Flood Risk and Wastewater Assessment May 2015 and Revised Flood Risk and Wastewater Assessment April 2016 by ACE;
- Ecology Appraisal December 2013 and Ecological Addendum June 2016 by CSa Ecology;
- Arboricultural Impact Assessment by Haydens.
- Utilities Statement May 2015

Main Planning Considerations

- 6.12 The main planning considerations include the specific issues raised by local residents in their objections and other material planning factors. These are:
- The Principle of Development and Settlement Development Boundaries
 - Green Gap
 - Agricultural Land
 - Surface Water Drainage
 - Highways and Transportation
 - Landscape, Visual Impact and Trees;
 - Ecology;
 - Other Considerations
 - Section 106 Obligations

The Principle of Development and Settlement Development Boundaries

- 6.13 One of the principal concerns raised by some of the objectors to the application relates to the site's location outside of the Local Plan's settlement development boundary and the fact that the area has not been included or allocated for residential development by the Council within the revised boundaries of the emerging Local Plan.
- 6.14 It is correct that the site is not allocated for housing or mixed use development in either the Council's adopted or emerging Local Plan and the site lies completely outside of the 'settlement development boundary' as shown in the adopted Local Plan and the emerging Local Plan. Because the site lies outside of the settlement development boundary and is not allocated for development in either the adopted or emerging Local Plans, this proposal for residential development is contrary to local planning policy.
- 6.15 Policy QL1 in the adopted Local Plan states that development will be concentrated within settlement development boundaries and outside of these, only development which is consistent with countryside policies will be permitted. Policy SPL2 in the emerging Local Plan states that outside of settlement development boundaries the Council will refuse planning permission unless the site is specifically allocated for a particular form of development or the applicant or developer can demonstrate that the proposed development meets a set of exceptional criteria.
- 6.16 However, paragraph 47 of the National Planning Policy Framework (NPPF) requires Councils to ensure their Local Plan meets the full, objectively assessed needs for market and affordable housing and both adopted and emerging Local Plans currently fall significantly short of this requirement. Paragraph 47 of the NPPF also requires local planning authorities to boost significantly the supply of housing by identifying and updating annually a supply of specific deliverable sites sufficient to provide five years worth of housing against their housing requirements. In areas where there has been persistent under delivery of housing, an additional 20% 'buffer' is also required to provide a realistic prospect of achieving the planned supply and to ensure choice and competition in the market for land.
- 6.17 For Tendring, the housing requirement is 550 dwellings per annum, as based on the evidence contained within the 'Objectively Assessed Housing Needs Study' (July 2015) and supplementary evidence that was presented to the Local Plan Committee on 21st January 2015. This represents a rate of development is significantly higher than what has been achieved in the district in recent years. At the time of writing, it was only able to identify a 3.8 year supply and thus there is a considerable shortfall. Paragraph 49 of the NPPF states that relevant policies for the supply of housing should not be considered 'up to date' if it is

not possible to demonstrate a five year supply of deliverable housing sites and, in such cases, the 'presumption in favour of sustainable development' set out in paragraph 14 of the NPPF is engaged.

- 6.18 'Sustainable Development', as far as the NPPF is concerned, is development that contributes positively to the economy, society and the environment and under the 'presumption in favour of sustainable development', authorities are expected to grant permission unless:
- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole; or
 - specific policies in the NPPF indicate development should be restricted.
- 6.19 Due to the lack of a five-year supply of housing sites and the subsequent engagement of the presumption in favour of sustainable development, the Council would not be justified in refusing planning permission purely on the basis of the application site being outside of the settlement development boundaries and not being allocated for development, notwithstanding the matters of principle raised by objectors to the proposal.
- 6.20 On this basis and having regard to paragraphs 14 and 49 of the NPPF, the presumption in favour of sustainable development carries significant weight. As a result the current scheme falls to be considered against the 3 dimensions of 'sustainable development',
- economic,
 - social and
 - environmental roles.
- 6.21 The sustainability of the application site is therefore of particular importance. In assessing sustainability, it is not necessary for the applicant to show why the proposed development could not be located within the development boundary.

Economic

- 6.22 Officers consider that the proposal would contribute economically to the area, for example by providing employment during the construction of the development and from future occupants utilising local services, and so meets the economic arm of sustainable development.

Social

- 6.23 In terms of the social role, the site is within close proximity to schools, community and recreational facilities and the town centre as well as the local amenities within the District Centres of Frinton Road, Holland and North Road, Great Clacton. The site is also well served by existing bus services and is approx. 1.6 miles from Clacton train station.
- 6.24 One of the NPPF's core planning principles in this regard is to "actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable".
- 6.25 With this in mind, the emerging Local Plan includes a 'settlement hierarchy' aimed at categorising the district's towns and villages and providing a framework for directing development toward the most sustainable locations. Clacton is categorised in the adopted local plan as an urban settlement and in emerging Policy SPL1 as one of three strategic urban settlements in the district. These settlements have a larger population and a wide

range of existing facilities and infrastructure, making them the district's most sustainable locations for growth and therefore a primary focus for development.

- 6.26 Overall therefore officers consider that the application site performs very well in terms of the social role within the definition of sustainability.

Environmental

- 6.27 In terms of settlement shape and form, development in this location will not have a significantly detrimental impact (subject to consideration against other Local Plan policies) as the site is located immediately adjacent to the settlement development boundary as defined in the saved Tendring District Local Plan (2007) and in the draft local plan, with a number of residential dwellings sited to the east and south of the site and Valley Farm Holiday Park to the west. The site is enveloped by development and will not result in an unacceptable intrusion into the open countryside. The applicant has also demonstrated that the proposal will not have an adverse impact on the nearby SSSI or on protected species.
- 6.28 The environmental role is about contributing to protecting and enhancing the natural built and historic environment and Officers consider that the proposed development would not compromise or prejudice these aims.

Green Gap

- 6.29 Objectors to the proposal have correctly identified that the site falls within a 'Local Green Gap' as identified in the Council's adopted Local Plan which, in their view, should be maintained to avoid the general urbanisation of the area.
- 6.30 Policy EN2 of the adopted Local Plan aims to keep Local Green Gaps essentially free of development within the plan period which, for the adopted Local Plan, was up to 2011. The adopted Local Plan is now out of date, particularly in respect of housing supply. The designation of this area as a Local Green Gap now has to be considered as out of date in accordance with recent case law that confirms that such policies are relevant to housing land supply (Court of Appeal 17 March 2016 – case no. C1/2015/0583 and 0894).
- 6.31 With the need for additional land for housing to meet longer-term requirements, there is an acceptance that it might not be possible to carry forward Local Green Gaps in all parts of the district. So in the emerging Local Plan, many of the Local Green Gaps, including this one, are proposed to be removed/revised following a review of the policy.
- 6.32 Officers consider that the Local Green Gap policy should only be given limited weight in the determination of the application and that refusing permission against this policy would not, in itself, have been justified. It was recognised however that the attributes and features of this area that supported its designation as a Local Green Gap are still an important consideration in assessing the impact of development on the landscape and on the character of the village.
- 6.33 It should be noted, however, that the Committee has resolved to refuse a number of planning applications for being contrary to adopted Local Green Gap policy including 15/01234/OUT for 240 dwellings off Halstead Road, Kirby Cross; 15/00904/OUT for 240 dwellings off Rush Green Road, Clacton; and 15/00964/OUT for 71 dwellings off Mayes Lane, Ramsey. Two of these sites are specifically allocated for housing in the emerging Local Plan.
- 6.34 In addition, the Council received an appeal decision in relation to an outline planning (14/00995/OUT) which lies within a Local Green Gap as designated in the adopted Local Plan. The Inspector, in dismissing the appeal, concluded that the emerging Local Plan

should carry only limited weight and that, critically, Policy EN2 in the adopted Local Plan is not a housing policy and should carry 'full weight'. The Inspector stated *"this policy aims to keep Local Green Gaps open and free of development, to prevent the coalescence of settlements and to protect their rural settings. This is compatible with the aim of the Framework, as set out in paragraph 17, to recognise the intrinsic character and beauty of the countryside and to protect valued landscapes. Consequently I have attached full weight to LP Policy EN2 in determining this appeal"*.

- 6.35 Following recent Committee decisions and the above appeal decision, Officers have given greater weight to the value of the Local Green Gap designation in some situations. In applying the presumption in favour of sustainable development, the adverse impacts resulting from the loss of the Local Green Gap still need to be weighed in the balance against the benefits of the development and only if the adverse impacts are significant and demonstrable should permission be refused.
- 6.36 For the application site, the loss of Local Green Gap would not result in the coalescence of settlements with different character and would not result in an adverse impact on the intrinsic beauty of the countryside unlike in some of the cases mentioned above.
- 6.37 Officers agree that the loss of a large area of the Local Green Gap represents an adverse impact. However, in determining whether or not the impact is 'significant and demonstrable', Officers are of the view that as the site is 'enveloped' by existing development, the development of the site would not result in an unacceptable intrusion into the open countryside. The extent of the housing land shortfall, the valuable contribution that this site could make to housing supply in the absence of an up to date Local Plan and the applicants' efforts to provide open space within and around the development all weigh heavily in favour of the application proposal.
- 6.38 Officers consider that the adverse impact of losing the Local Green Gap does not significantly and demonstrably outweigh all economic, social and environmental benefits of the development. Refusal against Policy EN2 of the adopted Local Plan would not be a legitimate and defensible reason for refusal on this occasion..

Agricultural Land

- 6.39 Some residents have objected to the loss of agricultural land as a result of the proposed development and the affect that this could have on future food production. The Agricultural Land Classification Map shows the application site to be a mix of Grade 3a/3b and 4. These classifications are defined as follows:

Grade 3 - good to moderate quality agricultural land

Land with moderate limitations which affect the choice of crops, timing and type of cultivation, harvesting or the level of yield. Where more demanding crops are grown yields are generally lower or more variable than on land in Grades 1 and 2.

Subgrade 3a - good quality agricultural land

Land capable of consistently producing moderate to high yields of a narrow range of arable crops, especially cereals, or moderate yields of a wide range of crops including cereals, grass, oilseed rape, potatoes, sugar beet and the less demanding horticultural crops.

Subgrade 3b - moderate quality agricultural land

Land capable of producing moderate yields of a narrow range of crops, principally cereals and grass or lower yields of a wider range of crops or high yields of grass which can be grazed or harvested over most of the year.

Grade 4 - poor quality agricultural land

Land with severe limitations which significantly restrict the range of crops and/or level of yields. It is mainly suited to grass with occasional arable crops (e.g. cereals and forage crops) the yields of which are variable. In moist climates, yields of grass may be moderate to high but there may be difficulties in utilisation. The grade also includes very droughty arable land.

- 6.40 The site has not been specifically tested and the Classification Map is not accurate enough to identify the split between Class 3a and Class 3b grades. At best the site is Grade 3a – ‘Good Quality’ which is at the lower end of what is considered to be the ‘best and most versatile’ agricultural land which is what national and local plan policy seeks to protect. The need for agricultural land has to be weighed alongside the projected need for housing and it is inevitable that the agricultural land will be lost to make way for housing, whether it is on this site or anywhere else in the district. For this reason it would not be justified to refuse the application on a point of principle simply because it would result in the loss of agricultural land.

Surface Water Drainage

- 6.41 Many residents have raised concern about the potential increase in surface water flooding that might arise as a result of the proposed development. It has been highlighted that when there are high levels of rainfall, Sladburys Lane and Keswick Avenue are regularly flooded and the drainage system struggles to take the water away with properties in the vicinity of Picker’s Ditch being particularly affected.
- 6.42 Paragraph 103 of the NPPF requires Councils, when determining planning applications, to ensure flood risk is not increased elsewhere. Although the site is predominantly in Flood Zone 1 (low risk) where the development is proposed for the housing, parts of the site are in Flood Zone 2 and 3. The NPPF, Policy QL3 in the adopted Local Plan and Policy PLA1 in the emerging Local Plan still require any development proposal on a site larger than 1 hectare to be accompanied by a site-specific Flood Risk Assessment (FRA). This is to assess the potential risk of all potential sources of flooding, including surface water flooding that might arise as a result of development.
- 6.43 The applicant has submitted a Flood Risk Assessment which has been considered by Essex County Council as the authority for sustainable drainage. Initially, ECC issued a ‘holding objection’ and required further work to be undertaken to ensure compliance with the guidelines set out in the relevant National Planning Practice Guidance. The applicant has responded to ECC’s initial objection with further information as requested and the objection has now been addressed. ECC now supports the grant of outline planning permission (as detailed in their comments earlier in this report) subject to conditions relating to the submission and subsequent approval of a detailed Surface Water Drainage Scheme before development can take place.
- 6.44 Detailed hydraulic modelling has been carried out which demonstrates that the SuDS/surface water drainage system can withstand the impact of a 1:100 year rainfall event (including an additional 30% as an allowance for climate change), thus complying with the requirements of the NPPF. The surface water run-off will be restricted to 10.3 litres/sec and will be attenuated within a proposed surface basin towards the southeastern part of the site. ECC have agreed this approach subject to the imposition of controlling conditions, including management of maintenance of the SUDs system into the future.
- 6.45 Anglian Water has confirmed that the local Sewage Treatment Works and public sewer network have sufficient spare capacity to accept the peak foul water flows from the development scheme without requiring any off-site reinforcement/improvement upgrade works.

- 6.46 Cllr Broderick has submitted further objections on behalf of local residents following heavy rainfall in June of this year that caused localised flooding of the roads. In these objections Cllr Broderick queries whether the Council can have confidence that the SUDs arrangements proposed by the applicant can be capable of accommodating the flows anticipated from the development and whether the management and maintenance to the ditch will be undertaken in order to ensure that surface water can be effectively managed from the site. The ECC SUDs Team has responded that they are satisfied that the FRA proposals have demonstrated that the development is capable of accommodating and discharging its surface water drainage in an acceptable manner and that conditions to require future maintenance are enforceable and are ultimately the responsibility of the landowner.. On this basis, ECC do not wish to change their recommendation of approval.
- 6.47 In conclusion, the applicant has demonstrated through their Flood Risk Assessment and supplementary information that development can, in principle, be achieved without increasing flood risk elsewhere. With the planning condition suggested by ECC, the scheme should comply with the NPPF and Policies QL3 and therefore addresses the flood risk element of the environmental dimension of sustainable development.

Highways and Transportation

- 6.48 The application is accompanied by a Transport Statement undertaken by Ardent Consulting Engineers (ACE) who have considered the existing and post development impact in highways and traffic terms. As a result of their investigations and liaison with Essex County Council Highways the proposals allow for a number of highway improvements and enhancements, including for pedestrian and vehicular users.
- 6.49 Access to the development is proposed by means of a new 3-arm compact roundabout on Sladbury's Lane which has been demonstrated to have ample capacity to accommodate predicted traffic flows. As requested by ECC, the applicant has assessed the operation of both off-site junctions and the level crossing in a future assessment year of 2020, allowing for projected background traffic growth, and found that the additional vehicle trips associated with the proposed development would have a minimal impact on their operation.
- 6.50 ACE have identified the predicted traffic resulting from the proposed development using the TRICS database. This is estimated to result in an increase of just over 30 peak time vehicle movements on Sladbury's Lane, including through the junctions with Burrs Road and the B1032 Holland Road/Frinton Road. However the increase in traffic on Burrs Road and over the level crossing is below the identified acceptable threshold set out in Department for Transport and related guidance for assessing impact and is not therefore predicted to result in any adverse impact in highway terms. Network Rail were consulted by the Council and specifically asked to comment on this point as a result of a concern expressed by Cllr Broderick on behalf of local residents that the development would result in increased danger at the unmanned, level crossing. The response was of no objection with no further observations.
- 6.51 In May of this year Cllr Broderick submitted representations that the Transport Assessment contained numerous errors and that it should be reviewed and the errors explained and corrected. The errors referred to include that the Transport Assessment considered a much larger site area than the application site; at paras 3.9 and 3.10 the Assessment states that only a development of 500 – 1000 houses would justify provision of a new bus service; the report states that the road network is inadequate to permit a bus service and that to upgrade the roads would incur significant cost and so the proposed site would therefore never benefit from a bus service; and the traffic survey information is over 3 years old. Cllr Broderick advises that the residents are undertaking/commissioning a traffic survey of their own and has asked that the application is deferred until this has been completed and ECC has been asked to review its comment of no objection. The survey information has not been

received to date and it would not be reasonable to defer a decision when the Highway Authority agreed the scope and the outcome of the Transport Assessment.

6.52 The applicant and ECC were asked for further comment as a result of the concerns regarding the robustness of the Transport Assessment. ECC did not respond but the applicant commented as summarised:

- the Transport Assessment considers the impact of 133 houses accessed from Sladburys Lane on the wider highway network
- the scope was agreed in advance with ECC Highway Authority
- the exact location of the site is to a certain extent irrelevant because the Assessment looks at the volume of traffic on the local highway network and this would be the same for this level of development wherever it were to be positioned on Sladburys Lane. The Plan to accompany the Assessment was to show the general location of the development and has no bearing on the findings set out in the report
- the minimum number of dwellings to support a new bus service is 500-1000 (providing Public Transport in Developments – Institution of Highways and Transportation) anything smaller would not generate sufficient custom to make the service viable
- the existing carriageway along Sladburys Lane would need to be widened for a bus service to reach the site. The cost of this could not be supported by the scheme
- the scheme has been designed internally and ECC have imposed a condition that the estate road in the site is capable of accommodating a bus route should this be needed in the future
- nearby bus stops will be upgraded as part of the current scheme

6.53 Parking is illustrated for residential units, including visitor spaces and community uses on the basis of two or three spaces per dwelling. Overall the impacts in traffic and transport terms are considered to be acceptable and are therefore in accordance with relevant policy including emerging Policy QL2 (Promoting Transport Choice) and TR1A (Development Affecting Highways) of the 2007 District Local Plan and the NPPF.

Landscape Visual Impact and Trees

6.54 Policy QL9 in the adopted Local Plan requires developments to respect and enhance views, skylines, landmarks, existing street patterns, open spaces and other locally important features. Policy EN1 of the adopted Local Plan seeks to protect and, wherever possible, enhance the quality of the district's landscape; requiring developments to conserve natural and man-made features that contribute toward local distinctiveness and, where necessary, requiring suitable measures for landscape conservation and enhancement. Policy QL9 and also requires developments to incorporate important existing site features of landscape, ecological or amenity value such as trees, hedges, water features, buffer zones, walls and buildings.

6.55 Despite being an undeveloped site on the edge of the town/urban area, the site is extremely well contained within its wider landscape and is barely visible from most viewpoints. The line of hedges and trees along the boundaries, the screening provided by adjoining, developed and the context provided by the substantial residential development to the south of the site means that development can be achieved without having a materially negative landscape and visual impact.

6.56 The Council's Principal Trees and Landscapes Officer has considered the proposal and is satisfied that the development can be implemented without harm being caused to any important trees in or surrounding the site. In order to ensure the retention and protection of

the most important trees a Tree Preservation Order has been served on seven individual oak trees within the site. The existing hedgerows act as a good screen that is desirable to retain. A condition has been requested to secure soft landscaping proposals for the site and it is proposed that such a condition be applied to the grant of planning permission.

- 6.57 In conclusion, the landscape and visual impact of the development is expected to be low and enhancements through additional soft landscaping can be secured through planning conditions. Officers are satisfied that, subject to the landscaping being agreed and implemented, the visual and landscape impacts will be acceptable and the scheme can perform well against the environmental dimension of sustainable development.

Ecology

- 6.58 Paragraph 118 of the NPPF requires Councils, when determining planning applications, to aim to conserve and enhance biodiversity. Where significant harm to biodiversity cannot be avoided, mitigated or, as a last resort, compensated for, Councils should refuse planning permission. Policy EN6 of the adopted Local Plan gives special protection to designated sites of international, national or local importance to nature conservation but for non-designated sites still require impacts on biodiversity to be considered and thereafter minimises, mitigated or compensated for. Policy EN6b in the adopted Local Plan supports the creation of new habitats within developments subject to appropriate management and public access arrangements. Policy EN6a in the adopted Local Plan refers specifically to protected species including badgers and bats.
- 6.59 The application site is not designated as site of international, national or local importance to nature conservation and Natural England has offered no objection, in principle, to the proposed development. Objectors have in the past stated that the site offers a habitat for a range of species.
- 6.60 The applicant has prepared and submitted a Phase 1 Ecological Report, that concludes that there are features of the site which may provide foraging, breeding and roosting habitat for protected species. This includes the site's trees and hedges, some of which are considered suitable for roosting and foraging bats and a nesting habitat for breeding birds.
- 6.61 CSA Environmental was instructed by the applicant to undertake additional ecological survey work in relation to the site, as recommended in the Ecological Appraisal (December 2013).
- 6.62 The following field survey work was undertaken to confirm the presence/likely absence of potential ecological features at the site including:
- Bats - Preliminary ground level roost assessment: trees (April 2016); Remote monitoring of bat activity (May & June 2016)
 - Badger survey (April 2016)
 - Reptile survey (May 2016)
 - Great crested newt survey (May 2016)
 - Arable plant survey (May & June 2016)
 - Anecdotal recording of birds and 'other' mammals (April & May 2016).
- 6.63 The findings of the above are presented in The Ecological Addendum and identifies any likely significant effects. Mitigation measures have therefore been proposed for reptiles (slow worm and common lizard) and bats (in respect of lighting). Based on successful implementation of the mitigation and enhancement measures detailed in the report, no significant adverse effects are predicted. It is proposed that mitigation and enhancement measures proposed be secured via appropriately worded planning condition.

- 6.64 The applicant has prepared a tree survey and has demonstrated through their indicative layout how important trees be retained within a development.

Other Considerations

- 6.65 Residential amenity - Policy QL11 in the adopted Local Plan requires that the health, safety or amenity of any occupants or users of a proposed development are not materially harmed by any pollution from an existing or committed use. In this case, the operator of the Holiday Park next door is concerned about noise impacts from its customers causing a nuisance to future occupants of the application site and the applicant is concerned about rail and road noise.
- 6.66 The applicant's have submitted a Noise Assessment as part of the planning application submission. The maximum noise levels experienced externally at the nearest proposed property, during a train pass event, were calculated using the highest experienced L_{Amax} and propagation distance from the line. A worst case train pass when experienced at the nearest proposed property would be 67.9dB L_{Amax} . However, the report concluded that the development is situated at an appropriate distance from the railway line and no further buffer distance is required within the site boundary. Similarly there would be no adverse impacts from the proximity to the road subject to compliance with building regulation requirements. There is no direct data in relation to potential noise from the Holiday Park but it is considered that the impact of the development on neighbours is likely to be low and that, subject to detailed consideration of reserved matters (such as design, landscaping and layout at a later stage), the development will be acceptable.

Section 106 Agreement

- 6.67 Policy QL12 in the adopted Local Plan requires development to be supported by the necessary infrastructure. Objectors have raised concern about the impact of the cumulative impact of additional homes on local infrastructure including local schools, healthcare provision, emergency services and transport.
- 6.68 Essex County Council as the Local Education Authority has been consulted on the planning application and has made representations. ECC advises that early years and childcare facilities and secondary schools in the catchment should be able to accommodate the number of children expected to be generated from the development. For primary schools however, are operating at 100% capacity and a contribution towards temporary accommodation at Holland Park is requested in this respect.
- 6.69 For health, many residents are concerned that additional housing and the associated population increase will put unacceptable strain on already overstretched health facilities. A financial contribution toward health provision has been requested by NHS England which could go towards its capital programme and which would address some of the objections raised about the impact of 132 dwellings on local services.
- 6.70 On transport, Paragraph 32 of the NPPF requires Councils, when making decisions, to take account of whether:
- the opportunities for sustainable transport modes have been taken up depending on the nature and location of the site, to reduce the need for major transport infrastructure;
 - safe a suitable access to the site can be achieved for all people; and

- improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

- 6.71 Policy QL2 in the adopted Local Plan seeks to ensure that developments maximise the opportunities for access to sustainable transport including walking, cycling and public transport. Policy TRA1a in the adopted Local Plan requires that development affecting highways be considered in relation to reducing and preventing hazards and inconvenience to traffic including the capacity of the road network.
- 6.72 Essex County Council, in its capacity as the Local Highways Authority, has however considered the proposal and concluded that it would be acceptable from a highways perspective subject to a number of conditions. These include upgrades to the nearest bus stops and the creation of footpaths, amongst other things, all of which can suitably be controlled by condition.
- 6.73 Policy COM6 in the adopted Local Plan requires large residential developments to provide at least 10% of land as public open space or otherwise make financial contributions toward off-site provision. The indicative drawings in support of the planning application show the provision of a number of areas of open space with a potential surface water balancing pond in the south of the site. In total the public open space amounts to 50% of the total site area. The provision of this area would over comply with the Council's policy and would offer the opportunity to achieve an attractive transition between the development and the countryside beyond whilst incorporating landscaping features and sustainable drainage facilities.
- 6.74 The Council's Open Space and Bereavement Service Manager has commented on the application and has identified a deficiency of equipped play areas and formal open space in the area and has asked for an off site contribution; a future maintenance sum and the on site provision to be to LEAP standards. If the Committee is minded to approve this application, Officers will engage in negotiations with the applicant to agree the necessary contribution in line with the guidance contained within the Council's Supplementary Planning Document on Open Space.
- 6.75 Policy HG4 in the adopted Local Plan requires large residential developments to provide 40% of new dwellings as affordable housing for people who cannot otherwise afford to buy or rent on the open market. Local Plan evidence, based on more up to date evidence on housing need and viability, requires 30% of new dwellings on large sites to be made available to the Council or a nominated partner to acquire at a discounted value for use as affordable or council housing. The policy does allow flexibility to accept as low as 10% of dwellings on site, with a financial contribution toward the construction or acquisition of property for use as affordable or council housing (either on the site or elsewhere in the district) equivalent to delivering the remainder of the 30% requirement. If the Committee is minded to approve this application, Officers will negotiate and agree an appropriate level of affordable or Council Housing to be secured through a Section 106 legal agreement.

Conclusion

- 6.76 The application has been assessed in relation to the policies of the NPPF and relevant adopted Local Plan and emerging Local Plan in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2014. The application has been assessed in relation to the following issues and potential impacts, most of which were highlighted by local residents as matters of concern:
- The Principle of Development and Settlement Development Boundaries
 - Green Gap

- Agricultural Land
- Surface Water Drainage
- Highways and Transportation
- Landscape, Visual Impact and Trees;
- Ecology;
- Other Considerations
- Section 106 Obligations

6.77 In summary the main considerations and conclusions are:

- The application is for 'outline' consent seeking approval only for the principle of up to 132 dwellings.
- The site is undeveloped grade 3/4 agricultural land on the urban edge of Clacton where national and local plan policy says development should be focussed.
- Unlike the local plan allocation that was previously proposed, the current application has attracted a lower level of public objection.
- The development is contrary to both the adopted and emerging Local Plans but because the Council's housing policies are out of date and a five-year supply of deliverable housing sites (plus a 20% buffer) cannot currently be identified, the proposal has to be considered on its merits in line with the government's 'presumption in favour of sustainable development'.
- Clacton is identified as an urban settlement where development should be focussed in recognition of its wide range of shops, services, facilities and infrastructure.
- Given the projected level of housing needed in the district, this development, when considered individually or even cumulatively alongside other developments in the pipeline for the town would not constitute a disproportionate or excessive increase in housing stock.
- The site in question is within walking distance, of services and facilities in the town and district centres and bus services to and from neighbouring towns. Highways impacts have been considered and the Highway Authority has no objection, subject to its suggested planning conditions being applied.
- The impacts of the new housing development on schools and surgeries can be addressed through financial contributions, as requested by Essex County Council and NHS England.
- A Flood Risk Assessment has been submitted with the application which demonstrates that surface water flooding resulting from development on the site can be managed through the use of sustainable drainage systems and conditions are proposed requiring the submission of detailed drainage strategy for the Council's approval, in liaison with Essex County Council, before development takes place.
- The landscape, visual and ecological impacts of the scheme have been considered and, subject to conditions requiring landscaping and other mitigation measures, the impacts are considered to be acceptable, with the potential for net environmental enhancement.
- The development is not expected to have an unacceptable impact on neighbours or future occupants and the proximity of the site to commercial activities and roads and the

rail line and potential exposure to noise is not considered to be significant enough factors to justify the refusal of outline planning permission.

- 6.78 In conclusion, in applying the NPPF 'presumption in favour of sustainable development' the proposal addresses the three dimensions of sustainable development. The economic impact of the development would be positive both in terms of temporary construction jobs and the increased demand for goods and services that arises from population growth; the social impacts would be positive in terms of the contribution toward meeting projected housing need and providing public open spaces; and the environmental impacts would be neutral with the potential for them to be positive subject to securing successful approaches to landscaping, drainage and habitat creation.
- 6.79 The main adverse impact of the development would be the urbanisation of an area of undeveloped agricultural land that is designated as a Local Green Gap in the adopted Local Plan. Officers consider that the loss of this greenfield land would not significantly or demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole. Regard must also be had to the fact that recent case law suggests that such policies like the green gap protection must also be regarded as out of date when the Council cannot demonstrate a five year land supply and the NPPF balance must be implemented where it has to be demonstrated that any negative impacts outweigh the positives.
- 6.80 In line with paragraph 14 of the NPPF, Officers recommend the approval of outline planning permission subject to the completion of a s106 legal agreement to secure a financial contribution toward education and health provision, an appropriate level of on-site Council/Affordable Housing; and an appropriate level of open space with necessary arrangements for long-term maintenance. There are also a number of conditions that would apply to the grant of planning permission, as outlined at the head of this report.

Background Papers

None.

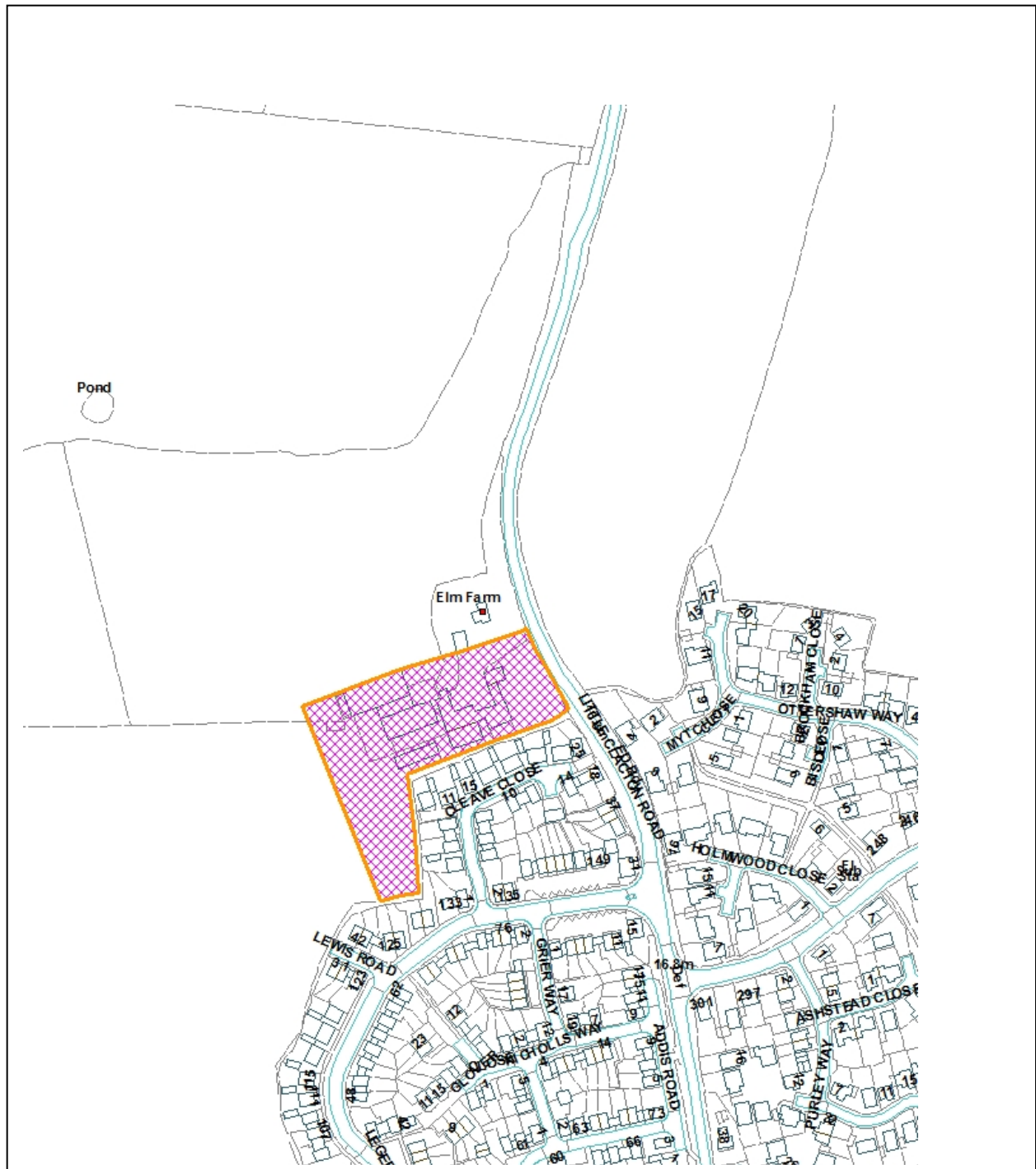
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PLANNING COMMITTEE

9 AUGUST 2016

REPORT OF THE HEAD OF PLANNING

A.2 PLANNING APPLICATION - 16/00740/OUT - ELM FARM, LITTLE CLACTON ROAD, CLACTON ON SEA, CO16 8DZ



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Application:	16/00740/OUT	Town / Parish: Clacton Non Parished
Applicant:	Robinson & Hall LLP	
Address:	Elm Farm, Little Clacton Road, Clacton-on-Sea	
Development:	Outline planning application with all matters reserved for residential development of 14 dwellings.	

1. **Executive Summary**

- 1.1 This application has been referred to Planning Committee for a decision at the request of Cllr. Whitmore.
- 1.2 This application seeks outline planning permission for the erection of 14 dwellings at Elm Farm, Little Clacton Road, Clacton. The application is in outline form, all matters of detail such as access, appearance, landscaping, layout and scale are reserved for a future application. The proposed layout plan is indicative only; however, it shows detached dwellings accessed from a single point from Little Clacton Road either side of the access road. The indicative plan also shows a screen planting belt along the eastern boundary of the site.
- 1.3 Whilst this site is considered to be a socially sustainable location for new dwellings and the proposal would bring some economic benefits, it is considered that the proposal fails to meet the definition of sustainable development as set out in paragraph 7 of the NPPF as it is considered that that the site would be an unplanned advance of urbanisation into the countryside blurring the distinction between urban and rural land use to the detriment of the character of its rural surroundings. Therefore the proposal would be harmful to the character of the surrounding countryside. Furthermore, the required S106 agreement has not been finalised which results in the proposal failing to make provision for open space. Accordingly the application is recommended for refusal.

Recommendation: Refuse

Reason for Refusal

1. Whilst this site is considered to be a socially sustainable location for new dwellings and the proposal would bring some economic benefits, it is considered that the proposal fails to meet the definition of sustainable development as set out in paragraph 7 of the NPPF as it is considered that that the site would be an unplanned and premature advance of urbanisation into the countryside blurring the distinction between urban and rural land use to the detriment of the character of its rural surroundings. Therefore the proposal would be harmful to the character of the surrounding countryside, contrary not only to the NPPF but also to Policy EN1 of the Tendring District Local Plan 2007.
2. A completed Section 106 has not been provided prior to the determination of the application. The proposal therefore fails to make the necessary provision towards open space, education needs and affordable housing, contrary to Policies COM6 of the Tendring District Local Plan 2007 and Policy HP of the Tendring District Local Plan 2013-2033 and Beyond: Preferred Options Consultation Document.

2. Planning Policy

NPPF National Planning Policy Framework

National Planning Practice Guidance

Tendring District Local Plan 2007

QL1 Spatial Strategy

QL2 Promoting Transport Choice

QL9 Design of New Development

QL10 Designing New Development to Meet Functional Needs

QL11 Environmental Impacts and Compatibility of Uses

ER3 Protection of Employment Land

HG1 Housing Provision

HG6 Dwelling Size and Type

HG7 Residential Densities

HG9 Private Amenity Space

COM6 Provision of Recreational Open Space for New Residential Development

EN1 Landscape Character

EN2 Local Green Gaps

EN6 Biodiversity

EN6A Protected Species

EN6B Habitat Creation

TR1A Development Affecting Highways

TR3A Provision for Walking

TR7 Vehicle Parking at New Development

Tendring District Local Plan 2013-2033 and Beyond: Preferred Options Consultation Document

SP1 Presumption in Favour of Sustainable Development

SP2 Meeting Housing Needs

SP4 Infrastructure and Connectivity

SP5 Place Shaping Principles

- SPL1 Managing Growth
- SPL2 Settlement Development Boundaries
- SPL3 Sustainable Design
- HP4 Open Space, Sports and Recreation Facilities
- LP1 Housing Supply
- LP2 Housing Choice
- LP3 Housing Density and Standards
- LP4 Housing Layout
- LP5 Affordable and Council Housing
- PP6 Employment Sites

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

Status of the Local Plan

The 'development plan' for Tendring is the 2007 'adopted' Local Plan, despite some of its policies being out of date. Paragraph 215 of the NPPF allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF. Paragraph 216 of the NPPF also allows weight to be given to policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency with national policy. As of 14th July 2016, the emerging Local Plan for Tendring is the Tendring District Local Plan 2013-2033 and Beyond Preferred Options Consultation Document. As this plan is currently at an early stage of preparation, some of its policies can only be given limited weight in the determination of planning applications, but the weight to be given to emerging policies will increase as the plan progresses through the later stages of the process. Where emerging policies are particularly relevant to a planning application and can be given some weight in line with the principles set out in paragraph 216 of the NPPF, they will be considered and, where appropriate, referred to in decision notices. In general terms however, more weight will be given to policies in the NPPF and the adopted Local Plan.

3. Relevant Planning History

95/00399/FUL	(Elm Farm, Little Clacton Road, Bockings Elm, Clacton on Sea) Proposed extension to existing dwelling	Approved	11.04.1995
98/01254/FUL	Establishment of horse livery yard. Change of use from dairy holding to livery centre plus grazing and hay production for horses	Approved	11.11.1998

09/00086/FUL	Change of use for part of barn from agricultural use to storage for scaffolding equipment plus parking for lorry used in movement of scaffolding equipment.	Refused	27.04.2009
10/00017/FUL	Retention of the change of use for part of barn from agricultural use to storage for scaffolding equipment plus parking for lorry used in this operation and alterations to existing access.	Approved	02.03.2010
13/01179/OUT	Outline planning application with all matters reserved for residential development.	Refused & Dismissed at Appeal	14.01.2014
15/01687/OUT	Outline planning application with all matters reserved for residential development of 14 dwellings.	Withdrawn	25.04.2016

4. **Consultations**

Environmental Health	Request that the standard construction and demolition condition is applied.
Regeneration	The Regeneration Team object to the loss of this employment site. No information has been provided regarding the relocation of the existing scaffolding business or provision of marketing details proving that the site is inherently unsuitable for employment use, therefore, it is contrary to Policy ER3 of the Adopted Local Plan.
UU Housing Consultation	No comment received, the proposed development is below the threshold for which affordable housing is a requirement.
UU - Open Space Consultation	Due to the significant lack of play facilities in the area it is felt that a contribution towards play is justified and relevant to the planning application and that this money would be spent at the closest play area being Bocking Elm Play Area at the rear of 445 and 462 St Johns Road, Clacton.
Principal Tree & Landscape Officer	<p>At present the application site is reasonably well screened from the highway by existing vegetation adjacent to Little Clacton Road comprising primarily Hawthorn, Bramble and Elder. There is an early mature Horse Chestnut that adds some height to the screen.</p> <p>On the boundary of the application site with the rear gardens of the new dwellings in Cleave Close there are the remnants of a countryside hedgerow comprising mainly elm and Elder. The vegetation is sparse and much of the Elm is dying because of Dutch elm disease.</p> <p>Elsewhere on the site there are one or two isolated pockets of scrubby regeneration.</p>

None of the trees on the land merit protection by means of a tree preservation order.

Should consent be likely to be granted then a soft landscaping scheme should be secured as a reserved matter. The landscaping should address the need to both partially screen the development and to enhance its appearance. This could be by the retention of some of the existing vegetation on the boundary with the Little Clacton Road but will be achieved primarily by new tree, hedgerow and shrub planting.

Anglian Water Services
Ltd

No response received

ECC Highways Dept

All housing developments in Essex which would result in the creation of a new street (more than five dwelling units communally served by a single all purpose access) will be subject to the Advance Payments Code, Highways Act, 1980. The Developer will be served with an appropriate notice within 6 weeks of building regulations approval being granted and prior to the commencement of any development must provide guaranteed deposits which will ensure that the new street is constructed in accordance with acceptable specification sufficient to ensure future maintenance as a public highway by the ECC

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

1 Prior to the commencement of the proposed development the applicant's shall provide detailed plans (Topographical survey) drawn to an engineering scale of the proposed means of access and to include the achievable vehicular visibility splays to the site accompanied by a Stage 1 Road Safety Audit (RSA) and the designers responses detailing any mitigation measures as found necessary, which shall be approved in writing by the Highway Authority.

Reason: To ensure that vehicles using the site access do so in a controlled manner, in the interests of highway safety and in accordance with Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

2 Prior to the first occupation of the development, the proposed estate road, at its bellmouth junction with Little Clacton Road shall be provided with 10.5m radius kerbs returned to an access road carriageway width of 5.5m and flanking footways 2m in width returned around the radius kerbs and connecting to the existing footways. The new road junction shall be constructed at least to binder course prior to the commencement of any other development including the delivery of materials.

Reason: To ensure that all vehicular traffic using the junction may do so in a controlled manner and to provide adequate segregated pedestrian access, in the interests of highway safety and in accordance with Policy DM 1 and 6 of the Highway Authority's Development Management Policies February 2011.

3 All off street parking facilities including garages and car ports shall be provided in precise accord with current Parking Standards.

Reason: To ensure that on-street parking of vehicles in the adjoining streets does not occur, in the interests of highway safety and in accordance with Policy DM 1 and 8 of the Highway Authority's Development Management Policies February 2011.

4 Any garage provided with its vehicular door facing the highway or proposed highway shall be sited a minimum of 6m from the highway boundary.

Reason: To ensure that the vehicle to be garaged may be left standing clear of the highway whilst the garage door is opened and closed, in the interests of highway safety and in accordance with Policy DM 1 and 8 of the Highway Authority's Development Management Policies February 2011.

5 Prior to commencement of the proposed development, a vehicular turning facility for service and delivery vehicles of at least size 3 dimensions and of a design which shall be approved in writing by the Local Planning Authority, shall be provided within the site and shall be maintained free from obstruction at all times for that sole purpose.

Reason: To ensure that vehicles using the site access may enter and leave the highway in a forward gear, in the interests of highway safety and in accordance with Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

6 Prior to the proposed means of access(s) being brought into use, details of the construction and future maintenance of the necessary bridging or piping of the drainage ditch/watercourse shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To prevent or reduce the risk of flooding of the adjoining highway, in the interests of highway safety and in accordance with Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

7 Each internal estate road junction shall be provided with a clear to ground level visibility splay with dimensions of 25m by 2.4m by 25m on both sides. Such visibility splays shall be provided before the road is first used by vehicular traffic and shall be retained free from obstruction at all times.

Reason: To ensure a reasonable degree of intervisibility between drivers of vehicles at and approaching the road junction, in the interests of highway safety and in accordance with Policy DM 1 and 6 of the Highway Authority's Development Management Policies February 2011.

8 Prior to occupation of the proposed development, the Developer shall be responsible for the provision and implementation of a Residential Travel Plan including the initial commitments; and amended and supplemented under the provisions of a yearly report. The Residential Travel Plan to include a commitment to provide a Travel Plan co-ordinator within the residential sales office to give advice to the new residents of the development.

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

Management Policies, adopted as County Council Supplementary Guidance in February 2011.

9 All carriageways should be provided at 5.5m between kerbs or 6.0m where vehicular access is taken but without kerbing.

Reason: To ensure that roads and footways are constructed to an acceptable standard, in the interests of highway safety and in accordance with Policy DM 1 and 6 of the Highway Authority's Development Management Policies February 2011.

10 Prior to first occupation of the proposed development, each individual proposed vehicular access shall be constructed at right angles to the highway boundary and to a width of 3.7m and each shared vehicular access shall be constructed at right angles to the highway boundary and to a width of 5.5m and shall be provided with an appropriate dropped kerb vehicular crossing of the footway/highway verge to the specifications of the Highway Authority.

Reason: To ensure that vehicles using the site access do so in a controlled manner, in the interests of highway safety and in accordance with Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

11 All footways should be provided at no less than 2.0m in width.

Reason: To ensure that roads and footways are constructed to an acceptable standard, in the interests of highway safety and in accordance with Policy DM 1 and 6 of the Highway Authority's Development Management Policies February 2011.

12 Prior to commencement of the proposed development, details of the provision for the storage of bicycles for each dwelling, of a design this shall be approved in writing with the Local Planning Authority. The approved facility shall be secure, convenient, covered and provided prior to the first occupation of the proposed development hereby permitted and shall be maintained free from obstruction at all times for that sole purpose in perpetuity.

Reason: To promote the use of sustainable means of transport in accordance with Policy DM 1 and 9 of the Highway Authority's Development Management Policies February 2011.

Informative:

1. There should be no vehicular access over any radius kerbs.
2. The new carriageways should be provided with a centreline bend radius of 13.6m together with adequate forward visibility.
3. Any trees provided within the adoptable highway will attract a commuted sum of no less than £750 per tree.
4. The applicant should be requested to consider the provision and location of street lighting columns, particularly at road junctions, these should be within the adoptable areas.
5. Refuse freighters are unlikely to manoeuvre over Private Drives.
6. 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 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.

7. Under Section 23 of the Land Drainage Act 1991, prior written consent from the Lead Local Flood Authority (Essex County Council) is required to construct any culvert (pipe) or structure (such as a dam or weir) to control, or alter the flow of water within an ordinary watercourse. Ordinary watercourses include ditches, drains and any other networks of water which are not classed as Main River. If you believe you need to apply for consent, further information and the required application forms can be found at www.essex.gov.uk/flooding. Alternatively you can email any queries to Essex County Council via watercourse.regulation@essex.gov.uk or by 'phone on 0845 603 7631. Planning permission does not negate the requirement for consent, and full details of the work you propose will be required at least two months before you intend to start.

Essex Wildlife Trust	No response received
Natural England	Have no comments to make. This does not imply that there are no impacts on the natural environment, but only that the application is not likely to result in significant impacts on statutory designated nature conservation sites or landscapes.
ECC Schools Service	No comments received the proposal is below the threshold when financial contributions are sought.
ECC SuDS Consultee	In the absence of a surface water drainage strategy, they object to the application and recommend refusal of planning permission until a satisfactory one has been submitted.

5. **Representations**

Councillor Whitmore requested that this application be brought to Planning Committee for the following reasons:

- Erosion of Countryside.
- Highway Safety issues due to access being on a bend with fast moving traffic.
- The turning point in the cul de sac area looks to be insufficient to manoeuvre a vehicle (especially delivery vehicles).
- The proposal will fundamentally alter the character of the area.

It was also stated that part of the request to Committee is to allow the applicant the opportunity to speak.

10 letters of objection have been received which raise the following concerns:

- Nothing has changed since the previous refusal
- Accidents have occurred in the near vicinity; another access is not safe
- Impact on wildlife

- Will create boundary disputes as the fences erected for the neighbouring dwellings are not on the boundary, due to the natural ditch.
- Lack of health services in the area
- Not enough school places
- The plan attached does not show the on-going planned development of up to 800 houses across the field, which is misleading.
- Loss of privacy and light to residents on Legerton Drive and Cleave Close
- Represents overdevelopment of the site
- The local roads cannot accommodate additional traffic
- No provision has been made for pedestrian access to and from the proposed development along
- Little Clacton Road, this will make it impossible for any elderly or disabled people and extremely difficult and dangerous for to access public transport, local shops, schools and the new community centre when travelling on foot.

6. Assessment

The main planning considerations are:

- Principle of Development
- Residential Amenity
- Highway Safety
- Surface Water Drainage
- Biodiversity – Protected Species & Trees
- Legal Agreement
- Loss of Employment Land

Proposal

- 6.1 This application seeks outline planning permission for the erection of 14 dwellings at Elm Farm, Little Clacton Road, Clacton. The application is in outline form, all matters of detail such as access, appearance, landscaping, layout and scale are reserved for a future application.
- 6.2 The proposed layout plan is indicative only; however, it shows detached dwellings accessed from a single point from Little Clacton Road either side of the access road. The indicative plan also shows a screen planting belt along the eastern boundary of the site.

Site Context

- 6.3 The site measures 0.8 hectares and is located on the western side of Little Clacton Road, with an existing access around 500m north its junction with St Johns Road, which is also the nearest bus route. The frontage to Little Clacton Road is on a narrow, winding section of the road, with no footways or lighting and just beyond the 30mph limit designation to the south.
- 6.4 The site itself has a group of agricultural and former agricultural barns and buildings of various ages, some now used for storage, occupying just over half its area. Beyond, at

roughly a right angle, the site turns south, the remainder forming an undifferentiated part of a large arable field lying mainly to the west and south.

- 6.5 Abutting the northern boundary of the site are the house at Elm Farm and its immediate garden, with most of the remaining 'outer' boundary abutted by a grassed paddock, the remainder of the field to the west, and further arable fields and open countryside to the north, west and east. To the south of the site is the northern extremity of the housing development running north from St Johns Road (by Bloor Homes).

Planning History

- 6.6 Under Application No. 13/01179/FUL planning permission was refused for up to 25 dwellings on the site. This decision was taken to appeal where it was dismissed. The Inspector concluded that the development of the site would be an unplanned advance of urbanisation into the countryside blurring the distinction between urban and rural land use to the detriment of the character of its rural surroundings. Therefore the proposal would be harmful to the character of the surrounding countryside. Furthermore, that the proposal has not made appropriate provision in respect of additional educational and open spaces facilities that would be necessitated by the development.
- 6.7 Following this appeal decision, an application for 14 dwellings was submitted (15/01687/OUT). This was subsequently withdrawn.

Principle of Development

- 6.8 The site lies outside of the Settlement Development Boundary and within the designated Green Gap of the Saved Local Plan (Tendring District Local Plan 2007), but within an area allocated for mixed uses development in the Tendring District Local Plan 2013-2033 and Beyond: Preferred Options Consultation Document. However, as set out above this document can only be given limited weight; it is therefore considered that in accordance with the Saved Local Plan the site lies outside any defined Settlement Boundary, within the Green Gap and is contrary to local planning policy.
- 6.9 However, the Council accepts that both the adopted and emerging Local Plans fall significantly short in identifying sufficient land to meet the objectively assessed future need for housing and cannot identify a deliverable five year supply of housing sites toward meeting that requirement. Therefore, in accordance with paragraph 49 of the NPPF, relevant development policies for the supply of housing should not be considered as up to date and the 'presumption in favour of sustainable development' as set out in the NPPF should apply to housing proposals.
- 6.10 Paragraph 7 of the NPPF states that there are three dimensions to sustainable development; economic, social and environmental and that these roles should not be undertaken in isolation, because they are mutually dependent. Therefore, to achieve sustainable development, economic, social and environmental gains should be sought jointly and simultaneously through the planning system.
- 6.11 Economically, the construction and habitation of 14 no. new dwellings would be of economic benefit through the construction of new housing and the local benefit that new residents could bring to the local economy.
- 6.12 Socially it is necessary to consider the proximity of the site to destinations such as convenience shopping, education, healthcare, community halls and jobs. Within the letters of objection, concerns are raised over the safety of accessing local facilities. In the previous appeal decision, the Inspector stated that 'future occupants would, to all intents and purposes, enjoy the same benefits as their neighbours to the south, including a public

hall and health and retail facilities'. The Inspector also considered that buses into Clacton are available a few minutes walk from the site subject to improvement of pedestrian access along Little Clacton Road north of Legerton Drive. Overall he concluded that 'the site cannot be considered to be in an unsustainable location'. There has been no significant change in the relationship of the site to local facilities since the appeal decision in January 2015. On this basis, given the appeal decision is a material planning consideration, there is no reason to take an alternative view.

- 6.13 Environmentally, it is necessary to consider the impact on the character and appearance of the countryside. In dismissing the previous appeal the Inspector concluded that the proposal would cause harm through its effect on the character of its countryside surroundings. In reaching this conclusion, the Inspector stated that the proposal would be an unplanned advance of urbanisation into the countryside, blurring the distinction between urban and rural land use to the detriment of the character of its rural surroundings. Since this appeal decision a number of changes to the proposal have been made, such as reducing the number of dwellings proposed from 25 to 14, providing an indicative layout and a landscape buffer. Whilst these amendments represent an improvement to the proposal, it is considered that they do not overcome the previous objections to the development of this site. It is considered that the Inspector raised a fundamental objection to the residential development of this site, which cannot be overcome.
- 6.14 It is accepted that, since this appeal decision, the site (together with surrounding land) have been allocated for mixed use development in the Tendring District Local Plan 2013-2033 and Beyond: Preferred Options Consultation Document. However, as set out above, this has not yet been formally adopted and cannot at this stage be given significant weight. It is therefore considered that this application must be considered in light of the adopted 2007 local plan and, more particularly, against the tests of sustainable development promoted by the NPPF.
- 6.15 Whilst the proposal is economically and socially sustainable, it is not considered to be environmentally sustainable and therefore fails to meet the criteria set out in paragraph 7 of the NPPF.

Residential Amenity

- 6.16 The NPPF, at paragraph 17 states that planning should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings. In addition, Policy QL11 of the Saved Plan states that amongst other criteria, 'development will only be permitted if the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties'.
- 6.17 The appearance of the proposed dwellings (and therefore the position of habitable room windows, for example) is not included within this application, so it is not possible at this stage to fully assess the impact on neighbour's amenities. However, it is considered that the site can be developed, without resulting in any adverse impact on the amenities of the neighbouring residents, subject to the siting, height, scale of the dwellings and position of windows in the proposed dwellings.
- 6.18 It is accepted that the development will result in a loss of a view across open fields for the residents of Cleave Close, but this is not a material planning consideration.

Highway Safety

- 6.19 Policy QL10 of the Saved Plan states that planning permission will only be granted, if amongst other things, access to the site is practicable and the highway network will be able to safely accommodate the additional traffic the proposal will generate.

- 6.20 The application is in outline form so details of the access and layout are for consideration as part of a future application. However, the consultation response from Essex County Council Highways demonstrates that a suitable access can be provided to serve the proposed development subject to the requirements set out above.
- 6.21 Concerns have been raised with regard to the implications to proposed access may have on highway safety due to the bend in the road and speed of traffic. Whilst these concerns are noted in the absence of any objection from Essex County Council Highways, there is no evidence to substantiate a refusal on these grounds.

Surface Water Drainage

- 6.22 Policy EN13 of the Saved Local Plan requires that all new development, excluding householder development, to incorporate Sustainable Drainage Systems (SuDS) as a means of reducing flood risk, improving water quality, enhancing the green infrastructure network and providing amenity benefit. Justification must be given for not using SuDS.
- 6.23 In this regard officers consulted with Essex County Council Flood and Water Management. Responding to this consultation they stated that the submitted documents do not provide any details on the flood risk or the surface water drainage strategy to be implemented on the development and recommended refusal on this basis.
- 6.24 Whilst the above comments are noted, this is an outline application with all matters reserved so we are being asked to determine the principle of development. The details of the application are reserved for future applications. Furthermore, the site is less than 1 hectare in size and therefore does not require a Flood Risk Assessment. Further information on surface water drainage is required; however, it is considered that this could be secured by condition were the application to be approved..

Biodiversity

Protected Species

- 6.25 As part of the previous appeal documentation a Phase I Habitat Survey was submitted. This concluded the following:
- The semi-improved grassland and scrub area is likely to be of low to moderate value for invertebrates. There are mosaics of habitat of friable bare ground, grassland and marginal species. This provides a more complex structured habitat and as a result may create 'hotspots' of invertebrate habitat.
 - The scrub habitat and semi-improved grassland provide suitable terrestrial habitats for sheltering and foraging amphibians. The areas of disturbed bare ground and buildings were considered to be unsuitable for amphibians.
 - The long, tussocky semi-improved grassland habitat is favourable for reptile species. Other habitat features on site are suitable for hibernating and sheltering reptiles such as the dense scrub, tyre piles and vegetated earth mound.
 - The buildings, trees and scrub on site provide suitable nesting habitat for common bird species.
 - The buildings across the site are considered to have negligible potential for roosting bats. There are no mature trees on site suitable for roosting bats.

- No evidence of badgers was found in accessible survey areas or within the immediate vicinity.
- Dormice are unlikely to use the small section of hedgerow on-site to commute between suitable habitats.

6.26 Following this survey and, as part of this current application, a Great Crested Newt Survey and Reptile Survey has been carried out. These surveys conclude that there is no evidence that Great Crested Newts are present on site and no reptiles were discovered during the surveys. A population of common toad were discovered on site. Common toads are listed under Section 41 of the Natural Environment and Rural Communities Act (NERC) 2006. In order to prevent harm to the toads, it is recommended that the small area of semi-improved grassland is cleared by hand and with care. If the application were acceptable in all other respects this matter could be dealt with via condition.

Trees

- 6.27 At present the application site is reasonably well screened from the highway by existing vegetation adjacent to Little Clacton Road comprising primarily Hawthorn, Bramble and Elder. There is an early mature Horse Chestnut that adds some height to the screen.
- 6.28 On the boundary of the application site with the rear gardens of the new dwellings in Cleave Close there are the remnants of a countryside hedgerow comprising mainly elm and Elder. The vegetation is sparse and much of the Elm is dying because of Dutch elm disease.
- 6.29 Elsewhere on the site there are one or two isolated pockets of scrubby vegetation.
- 6.30 None of the trees on the land merit protection by means of a tree preservation order.
- 6.31 The landscaping of the site would be dealt with as part of a reserved matters application. It is considered that any landscaping scheme should address the need to both partially screen the development and to enhance its appearance. This could be by the retention of some of the existing vegetation on the boundary with the Little Clacton Road but will be achieved primarily by new tree, hedgerow and shrub planting.

Legal Agreement

- 6.32 One of the issues raised in the previous appeal decision was that the proposal did not make appropriate provision in respect of additional educational and open space facilities. Since this appeal decision the number of dwellings proposed has been reduced from 25 to 14. The reduction removes the need for any additional educational provision as it is below the threshold of 20 dwellings.
- 6.33 There is still a requirement for the open space contribution to be spent at the closest play area, Bockings Elm Play Area at the rear of 445 and 462 St Johns Road, Clacton. No legal agreement has been completed in connection with this matter. As such, this forms a reason for refusal. If a legal agreement is completed this reason for refusal can be withdrawn.
- 6.34 The previous application included the provision of affordable housing. This is no longer a requirement due to the reduction in the number of dwellings proposed.

Loss of Employment

- 6.35 The storage use operating in one of the former barns is an employment use, the loss of which falls for consideration. The Regeneration Team concerns are noted on displacement of a commercial operation, with no information regarding the relocation of the business or

provision or marketing details proving that the site is inherently unsuitable for employment use.

- 6.36 The employment use was granted by the Council in 2010 (reference 10/00017/FUL) for the storage of scaffolding only and amounts to approximately 250 square metres of the existing agricultural barn. The storage at this site is stated as not directly employing staff and therefore the loss of this storage area is not considered to directly result in the loss of jobs.
- 6.37 This issue did not form part of the reason for refusal of the previous application (13/01179/OUT) and since there has been no change in circumstances it would be unreasonable to include it at this stage. Furthermore, the Inspector did not dismiss the appeal on these grounds.

Other Issues

- 6.38 The indicative site plan indicated that 14 dwellings can be accommodated on the site with adequate amenity space and parking provision. It is therefore considered that the proposal does not represent overdevelopment.
- 6.39 Concern has been raised regarding the lack of healthcare facilities. NHS England have advised that they only wish to be consulted on applications for 50 or more dwellings. Therefore no comments have been received with regard to the health facilities and no financial contribution has been requested.

Conclusion

- 6.40 Whilst this site is considered to be a socially sustainable location for new dwellings and the proposal would bring some economic benefits, it is considered that the proposal fails to meet the definition of sustainable development as set out in paragraph 7 of the NPPF as it is considered that the site would be an unplanned advance of urbanisation into the countryside blurring the distinction between urban and rural land use to the detriment of the character of its rural surroundings. Therefore the proposal would be harmful to the character of the surrounding countryside. Furthermore, the required S106 agreement has not been finalised which results in the proposal failing to make provision for open space. Accordingly the application is recommended for refusal.

Background papers

None.

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PLANNING COMMITTEE

9 AUGUST 2016

REPORT OF THE HEAD OF PLANNING

A.3 PLANNING APPLICATION - 16/00880/FUL – SPAR, 18 CONNAUGHT AVENUE, FRINTON ON SEA, CO13 9PW



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Application:	16/00880/FUL	Town / Parish: Frinton & Walton Town Council
Applicant:	Southern Dental Ltd	
Address:	18 Connaught Avenue, Frinton-on-Sea, CO13 9PW	
Development:	Change of use of 18 Connaught Avenue from vacant retail unit (A1) to dental studio (D1) and associated works to create two units.	

1. **Executive Summary**

- 1.1 This application has been referred to Planning Committee at the request of Councillor M Cossens due to strong public support where your Officer's view is that the application should be refused because it is contrary to adopted local plan policy as it represents an unacceptable non retail development in an area designated as Primary Shopping Frontage in Connaught Avenue.
- 1.2 The site is located within the Town Centre Boundary of Frinton on Sea in the heart of the main shopping area along Connaught Avenue.
- 1.3 The proposed change of use does not accord with the criteria and objectives of Local Plan Policy ER33 by introducing a non-retail use in a Primary Shopping Frontage and is contrary to the aims of the National Planning Policy Framework. The application proposal is therefore recommended for refusal.

Recommendation: Refuse

Reason for Refusal:

One of the Core planning principles of the National Planning Policy is to proactively drive and support sustainable economic development to deliver business and thriving local places that the country needs. Every effort should be made objectively to identify and then meet the business and other development needs of an area, and respond positively to wider opportunities for growth.

It is recognised that the proposal will bring a vacant unit back into use and continue to provide employment for the area. Saved Appendix 3a of the adopted Tendring District Local Plan (2007) sets out the requirements for marketing a premises to demonstrate that it is no longer viable for the existing or defined use. The marketing campaign does not demonstrate that all options have been explored and advertised accordingly. No evidence has been provided to suggest that a retail use could not be achieved in this unit.

Moreover, the site lies within the Primary Shopping Area defined by the Tendring District Local Plan 2007. Policy ER33 of the Tendring District Local Plan (2007) states that proposals for non-retail development at ground floor level within defined Primary Shopping Areas will not be permitted.

The proposed change of use does not accord with the criteria and objectives of Local Plan Policy ER33 by introducing a non-retail use in a Primary Shopping Frontage and is contrary to the aims of the National Planning Policy Framework.

2. **Planning Policy**

NPPF National Planning Policy Framework

Tendring District Local Plan 2007

QL9 Design of New Development

QL10 Designing New Development to Meet Functional Needs

QL11 Environmental Impacts and Compatibility of Uses

EN17 Conservation Areas

ER31 Town Centre Hierarchy and Uses

Policy ER33 Non retail uses within Primary Shopping Frontages

TR1A - Development Affecting Highways

Tendring District Local Plan 2013-2033 and Beyond Preferred Options Consultation Document (July 2016)

Policy SPL2 Settlement Development Boundaries

Policy SPL3 Sustainable Design

Policy PP5 Town Centre Uses

Policy PPL8 Conservation Areas

Policy PPL12 The Avenues of Special Character, Frinton on Sea

3. **Relevant Planning History**

15/01835/FUL	Change of use from vacant retail unit (A1) to dental studio (D1) and associated works to create two units.	Refused	21.04.2016
16/00358/FUL	Sub-division of 18-20 Connaught Avenue to two retail units, single storey rear extension and re-location of external staircase.	Approved	05.05.2016
16/00880/FUL	Change of use of 18 Connaught Avenue from vacant retail unit (A1) to dental studio (D1) and associated works to create two units.	Current	

4. **Consultations**

Regeneration Team
(TDC)

The Regeneration Team strongly object to this application for a change of use from A1 to D2 as this specific unit is in the protected primary shopping frontage of Connaught Avenue, and the number of non A1 units already exceeds the percentage permitted in both the draft and adopted local plan. We have no objection to splitting the unit into two smaller shops, and as such, we supported the previous application for this purpose. Although the property has remained vacant for a considerable amount of time, a new marketing campaign has not been undertaken to market the two individual retail units since planning permission was given to split the unit into two in early May 2016. We would therefore expect to see this property marketed for a further period of 6 months as two separate retail units as we believe that these will appeal to a different type of business. We are aware of an offer from an independent retailer for the smaller unit and if the second unit were to be marketed appropriately, we are confident it would not be long before this was also let. We are also aware of interest from a national retailer in the whole site, proving that there is substantial demand from retailers for sites in Connaught Avenue and thus providing additional justification for refusing the change of use of this unit.

5. **Representations**

- The Frinton and Walton Parish Council submits an approval for this application.
- Councillor Cossens has brought this application to committee due to it being contrary to Local Policy and the strong public support for it as it would be in the interests of public health and well being, the development would be making a positive contribution in the area.
- A petition signed by 162 people have been received for the relocation of the dentists to 18 Connaught Avenue; the majority of comments are positive with the location of the dentists at ground floor level more suitable for accessibility to older residents.
- One separate letter for support has been received

6. **Assessment**

The main planning considerations are:

- Site Context
- Proposal
- Planning History
- Principle of development
- Design
- Marketing
- Other issues
- Conclusion

Site Context

- 6.1 The application site is located within the Town Centre Boundary of Frinton on Sea in the heart of the main shopping area along Connaught Avenue. The street scene here is uniform in appearance with terraced buildings consisting predominantly of retail, restaurant and café use (Class A1 to A5) predominantly at ground floor level. The rear of the property can be accessed via Harold Way; here the property begins with an elongated flat roofed single

storey element with an existing metal stair case along the side elevation that accesses the first floor flats of the connecting two storey element, this is the main facade facing Connaught Avenue. The sea front and the 'Avenues of Special Character' are located in close proximity.

Proposal

- 6.2 This Proposal seeks to change the use of 18 Connaught Avenue from vacant retail unit (A1) to dental studio (D1) and associated works to create two units. Separation of the unit from number 20 has already been approved under 16/00358/FUL. The only external changes included will be the introduction of a refuse bin and compressor at the rear of the property.

Planning History

- 6.3 Planning permission was refused under 15/01835/FUL in April 2015 for the change of use from vacant retail unit (A1) to dental studio (D1) and associated works to create two units. The reason for refusal was again the proposal was contrary to National and Local Policy in introducing a D1 dental studio into an area of Primary Retail Frontage, an approval could not be sustained.
- 6.4 Planning permission was approved under 16/00358/FUL for the sub division of 18-20 Connaught Avenue to two retail units along with a single storey rear extension and re-location of external staircase. This application was acceptable as it simply proposed the sub-division of the premises which has for many years been used as one retail unit and was granted in May 2016.

Principle of development

- 6.5 The National Planning Policy Framework (NPPF) states that local authorities should define areas within their town centres as primary shopping areas. These areas comprise the parts of the town centre where retail development is concentrated. It is the primary shopping areas of the town centres which are the preferred location for new retail development. According to the NPPF, the primary shopping area should contain the primary shopping frontages and secondary shopping frontages which are adjacent, and closely related to, the primary shopping frontages. Connaught Avenue is considered a Primary Shopping Frontage as designated within the Local Plan (2007).
- 6.6 Local Plan Policy (2007) ER33 clearly states that non-retail uses within Primary Shopping Frontages in District Town Centres will not be permitted at ground floor level. The Council is recommended under Government Guidance and retail consultants to retain a high proportion of A1 uses within identified shopping frontages. Allowing a number of non-retail uses in close proximity to one another within Primary Shopping Frontages will have the effect of breaking up the coherence of centres, undermining the vitality and viability of centres.
- 6.7 Policy PP5 of the Preferred Options Consultation Document carries forward the sentiments of this saved Policy reiterating that developments within Primary Shopping Frontages will be permitted provided that they encourage the vitality and viability of a town centre and are for main town centre uses, specifically A1. This plan is however at an early stage and so only limited weight can be applied to the emerging policy.
- 6.8 The development is contrary to Local Policy ER33 in that it specifically allocates retail uses within areas designated as Primary Shopping Frontages. 18 Connaught Avenue is within a Primary Shopping Frontage and therefore in line with the policy criteria no non-retail uses will be permitted at ground floor level, which this development is proposing. The large volume of representations received from the public petition in support of the proposal does

not outweigh the identified harm as highlighted within Local Policy which should strongly inform an officers decision for a proposal.

Design

- 6.9 No major internal or external changes are proposed that would create a significant material change to the premises or the wider conservation area. There will be an inclusion of a refuse bin and compressor to the rear of the property adjacent to Harold Way, these offer no significant alterations. Overall design wise no significant changes are proposed therefore the application is acceptable.

Marketing

- 6.10 One of the Core planning principles of the National Planning Policy is to proactively drive and support sustainable economic development to deliver business and thriving local places that the country needs. Every effort should be made objectively to identify and then meet the business and other development needs of an area, and respond positively to wider opportunities for growth.
- 6.11 Whilst it is recognised that the proposal is for a non-retail use, the use will bring a vacant unit back into use and continue to provide employment for the area. Appendix 3a of the Saved Plan sets out the requirements for marketing a unit to demonstrate that it is no longer viable for the existing or defined use.
- 6.12 The original marketing campaign (as set out in the supporting information provided by Fenn Wright within 15/01835/FUL) advertised the premises 18-20 as a whole unit. It was not until recently with the submission of 16/00358/FUL that part of the marketing campaign was amended to include the sub-division of the property though it is still strongly marketed as a whole unit even though it has permission for two (this is again highlighted within the submission for this application).
- 6.13 The marketing campaign does not demonstrate that all options have been explored and advertised accordingly. No evidence has been provided to suggest that a retail use could not be achieved in this unit. Evidence suggests otherwise and the Council are confident that if the unit was advertised properly then it could be occupied by a retailer as highlighted by the Regeneration Team which has shown there is interest from other retailers in the letting of number 18 the larger of the two properties and if a sustained six month marketing campaign was applied then it would be right to assume a suitable retailer could be found based on evidence.

Conclusion

- 6.14 The site is located within the Town Centre Boundary of Frinton on Sea in the heart of the main shopping area along Connaught Avenue.
- 6.15 The proposed change of use does not accord with the criteria and objectives of Local Plan Policy ER33 by introducing a non-retail use in a Primary Shopping Frontage and is contrary to the aims of the National Planning Policy Framework. The application proposal is therefore recommended for refusal.

Background papers

None

Application:	16/00546/OUT	Town / Parish: Great Oakley Parish Council
Applicant:	Mr Rose - Rose Builders Ltd	
Address:	Red Barn Farm, Red Barn Lane, Great Oakley	
Development:	Construction of 4 no. dwellings following the demolition of existing barns and outbuildings.	

1. **Executive Summary**

- 1.1 This application has been referred to Planning Committee at the request of Cllr Howard.
- 1.2 This application seeks outline planning permission with all matters reserved for the construction of 4 no. dwellings with associated parking and garaging following the demolition of the existing barns and outbuildings.
- 1.3 The application site is situated on the southern side of Red Barn Lane outside of, but opposite to, the defined settlement development boundary of Great Oakley as set out in the Tendring District Local Plan (2007); but wholly within the boundary in the Tendring District Local Plan 2013-2033 and Beyond Preferred Options Consultation Document (July 2016).
- 1.4 The National Planning Policy Framework however sets out that housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.
- 1.5 It is accepted that the Council cannot demonstrate a deliverable 5 year housing land supply and as a result officers considered that Tendring District Local Plan (2007) Policy QL1, cannot be considered up-to-date as set out in paragraph 49 of the NPPF and as a result the proposed development cannot be refused solely on the basis that a site is outside the development boundary.
- 1.6 On this basis and having regard to paragraphs 14 and 49 of the NPPF, the presumption in favour of sustainable development carries significant weight.
- 1.7 The site is considered to be located in a socially sustainable location and would meet the economic strand of sustainability. In respect of the environmental impact, subject to the detailed design being acceptable, it is considered that the site could be developed without raising any objections in respect of; the character and appearance of the area, residential amenity, highway safety and biodiversity considerations.

Recommendation: Approve

Conditions:

- 1) Time Limit – Outline
- 2) Time Limit – Submission of Reserved Matters
- 3) No Development until Reserved Matters (access, appearance, layout, landscaping and scale) are submitted
- 4) Materials
- 5) Boundary treatments
- 6) One all purpose access to a width of 5.5m with appropriate crossing
- 7) No unbound materials in first 6m of access
- 8) Vehicular visibility splays of 43m by 2.4m by 43m to access

- 9) Vehicular turning head of size 3 dimensions provided within the site
- 10) Communal bin/refuse collection point provision
- 11) All off-street parking in accord with current parking standards
- 12) Lighting Scheme details
- 13) Compliance with bat mitigation plan and biodiversity enhancement provision
- 14) Removal of PD rights for fencing, walls and means of enclosure on the southern boundary of the site
- 15) Removal of PD rights for extensions/outbuildings

2. Planning Policy

National Policy

National Planning Policy Framework (2012)

National Planning Practice Guidance (2014)

Local Plan Policy

Tendring District Local Plan 2007

QL1 Spatial Strategy

QL2 Promoting Transport Choice

QL9 Design of New Development

QL10 Designing New Development to Meet Functional Needs

QL11 Environmental Impacts and Compatibility of Uses

HG1 Housing Provision

HG4 Affordable Housing in New Developments

HG6 Dwelling Size and Type

HG9 Private Amenity Space

HG14 Side Isolation

COM6 Provision of Recreational Open Space for New Residential Development

EN1 Landscape Character

EN6 Biodiversity

EN6a Protected Species

TR1A Development Affecting Highways

TR7 Vehicle Parking at New Development

Tendring District Local Plan 2013-2033 and Beyond Preferred Options Consultation Document (July 2016)

SPL1 Managing Growth

SPL2 Settlement Development Boundaries

SPL3 Sustainable Design

LP3 Housing Density and Standards

LP4 Housing Layout

PPL3 The Rural Landscape

PPL4 Biodiversity and Geodiversity

CP1 Sustainable Transport and Accessibility

HP4 Open Space, Sports and Recreation Facilities

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

3. **Relevant Planning History**

16/00546/OUT	Construction of 4 no. dwellings following the demolition of existing barns and outbuildings.	Current
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4. **Consultations**

ECC Highways Dept	From a highway and transportation perspective the impact of the proposal is acceptable to Highway Authority subject to the following mitigation and conditions:
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1 Prior to the first occupation of the proposed dwellings, one all purpose vehicular access for all the dwellings shall be constructed to a width of 5.5m and shall be provided with an appropriate dropped kerb vehicular crossing of the footway/highway verge to the specifications of the Highway Authority.

2 No unbound materials shall be used in the surface treatment of the proposed vehicular access within 6m of the highway boundary.

3 Prior to the proposed access being brought into use, vehicular visibility splays of 43m by 2.4m by 43m as measured along, from and along the nearside edge of the carriageway, shall be provided on both sides of the centre line of the access and shall be maintained in perpetuity free from obstruction clear to ground.

4 Prior to commencement of the proposed development, a vehicular turning facility for service and delivery vehicles of at least size 3 dimensions and of a design which shall be approved in writing by the Local Planning Authority, shall be provided within the site and shall be maintained free from obstruction in perpetuity.

5 Prior to first occupation of the proposed development, a (communal) recycling/bin/refuse collection point shall be provided adjacent to the highway boundary and additionally clear of all visibility splays at accesses.

6 All off street car parking shall be in precise accord with the details contained within the current Parking Standards.

7 Prior to commencement of the proposed development, details of the provision for the storage of bicycles for each dwelling, of a design this shall be approved in writing with the Local Planning Authority. The approved facility shall be secure, convenient, covered and provided prior to the first occupation of the proposed development hereby permitted and shall be maintained free from obstruction at all times for that sole purpose in perpetuity.

Essex Wildlife Trust

No comments received

Natural England

No comments to make upon the application.

5. Representations

5.1 This planning application has been referred to the Planning Committee on the request of Cllr Tom Howard. Cllr Howard objects to the development for the following reasons;

- The development would generate a significant increase in vehicle movements to and from the site along a single track part of Red Barn Lane and also via The Avenue and the Stones Green Road. The development would generate additional traffic at a complex junction which includes a blind single track corner which already has regular accidents amplified by flooding on the corner;
- Over-development of the site. If development is to proceed should be limited to two dwellings at the roadside. The backland element creates over-development;
- Development is contrary to rural nature of this location and detracts from open nature of that side of Red Barn Lane;
- Risk of adverse impact to bats within the existing barns and the potential for the presence of Great Crested Newts due to proximity of nearby water sources;
- Site not identified in emerging local plan. Site not within the housing sites identified in the emerging local plan and as such there is evidence to suggest that the application site is not required to meet the District's objectively assessed housing need;
- Great Oakley is identified in the emerging local plan as a smaller rural settlement and therefore should only take 10 dwellings in the lifetime of the emerging local plan. Great Oakley has already had a significant site approved of over 50 dwellings. Any further development is over-development of a smaller rural settlement and inappropriate and unsustainable;
- Bus services are infrequent and have limited weight to justify sustainability.

5.2 Great Oakley Parish Council objects;

- Site was not included in the local plan consultation, in excess of properties required in the village, poor access on a dangerous corner and over-development of the site.

5.3 2 letters of objection have been received. The points raised are summarised below:

- Increase of traffic on busy narrow lane with no pedestrian pavement. Increasing the risk of accidents;
- Lane has speed limit of 40mph which is regularly exceeded. More houses and building work would make living conditions intolerable and dangerous;
- Application running in tandem with other housing developments in Great Oakley, which combined make a total of 74 houses. The environmental impact through additional car traffic and noise pollution, loss of trees/hedges and wildlife habitats would be substantial;
- Lack of local infrastructure in terms of school and doctor's surgery places;
- Lack of demand due to lack of commuting links.

6. Assessment

The main planning considerations are:

- Site Context
- Proposal
- Local Plan Status
- Principle of Development
- Character and Appearance
- Neighbouring Amenity
- Highway Considerations
- Biodiversity
- Legal Obligations

Site Context

- 6.1 The application site is located on the southern side of Red Barn Lane within the settlement of Great Oakley. The site currently comprises of a barn and other general storage buildings previously used for agricultural purposes. The barn is located adjacent to the highway with various storage buildings in various state of repair set behind. The site benefits from an existing vehicular access onto Red Barn Lane at its western end. The site has a frontage of 47m to Red Barn Lane and a depth of 48m. The site frontage is largely open and the site rises slightly towards its rear.
- 6.2 Opposite the site is a row of semi-detached properties dating from the post war period. Further to the west is more modern development comprising of bungalows and houses that form part of a more comprehensive development on the northern side of Red Barn Lane. Directly to the west of the site is a large agricultural building and to the east is a detached dwelling.
- 6.3 The application site lies outside of, but opposite to, the defined settlement development boundary of Great Oakley as set out in the Tendring District Local Plan (2007); but within in the Emerging Plan (Tendring District Local Plan 2013-2033 and Beyond Preferred Options Consultation Document (July 2016)).

Proposal

- 6.4 The current application seeks outline consent with all matters reserved for the construction of 4 properties on the plot with associated garaging and parking. The indicative plan shows the provision of 2 no. chalet style cottages to the front with 2 no. bungalow to the rear.
- 6.5 The applicant has indicated that whilst all matters are reserved for later consideration, an indicative drawing has been submitted to indicate how development could be achieved within the application site. The indicative drawing shows one central vehicular access serving the two properties to the rear with the frontage cottages retaining their own access from Red Barn Lane.
- 6.6 These properties are indicated as accommodating a minimum of 100 square metres of private amenity space.

Local Plan Status

- 6.7 The 'development plan' for Tendring is the 2007 'adopted' Local Plan, despite some of its policies being out of date. Paragraph 215 of the NPPF allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF. Paragraph 216 of the NPPF also allows weight to be given to policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency with national policy. As of 14th July 2016, the emerging Local Plan for Tendring is the Tendring District Local Plan 2013-2033 and Beyond Preferred Options Consultation Document. As this plan

is currently at an early stage of preparation, some of its policies can only be given limited weight in the determination of planning applications, but the weight to be given to emerging policies will increase as the plan progresses through the later stages of the process. Where emerging policies are particularly relevant to a planning application and can be given some weight in line with the principles set out in paragraph 216 of the NPPF, they will be considered and, where appropriate, referred to in decision notices. In general terms however, more weight will be given to policies in the NPPF and the adopted Local Plan.

Principle of Development

- 6.8 The application site is located outside of the defined settlement boundary as defined within the Tendring District Local Plan, 2007 which aims to direct new development to the most sustainable sites. Outside development boundaries, the Local Plan seeks to conserve and enhance the countryside for its own sake by not allowing new housing unless it is consistent with countryside policies.
- 6.9 Great Oakley is identified as a village within Policy QL1 of the Tendring District Local Plan (2007) and on this basis it is considered that a modest amount of growth can be supported. Saved Tendring District Local Plan (2007) Policy QL1 sets out that development should be focussed towards the larger urban areas and to within development boundaries as defined within the Local Plan.
- 6.10 Great Oakley is identified within Policy SPL1 of the Tendring District Local Plan 2013-2033 and Beyond Preferred Options Consultation Document (July 2016) as a Smaller Rural Settlement, where some small scale development which is sympathetic to the rural character may assist younger people to continue to live in the area and keep local shops and services viable.
- 6.11 Given the limited weight that can be applied to the draft Local Plan, and the status of policy QL1, assessment of the principle of development falls to be considered under the NPPF.
- 6.12 Chapter 6 of the National Planning Policy Framework (NPPF) has as an objective for the delivery of a wide choice of high quality homes. In order to facilitate this objective paragraph 49 of the NPPF sets out housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.
- 6.13 It is accepted that the Council cannot demonstrate a deliverable 5 year housing land supply and as a result officers consider that Tendring District Local Plan (2007) Policy QL1, cannot be considered up-to-date as set out in paragraph 49 of the NPPF.
- 6.14 Based on the above it is considered that, in the absence of up-to-date policies, development proposals cannot be refused solely on the basis that a site is outside the development boundary. Paragraph 14 of the NPPF supports this view when it sets out that where relevant policies are out-of-date planning permission should be granted unless any adverse effects of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole.
- 6.15 On this basis and having regard to paragraphs 14 and 49 of the NPPF, the presumption in favour of sustainable development carries significant weight. As a result the current scheme falls to be considered against the 3 dimensions of 'sustainable development',
- economic,
 - social and
 - environmental roles.

- 6.16 The sustainability of the application site is therefore of particular importance. In assessing sustainability, it is not necessary for the applicant to show why the proposed development could not be located within the development boundary.

Economic

- 6.17 Officers consider that the proposal would contribute economically to the area, for example by providing employment during the construction of the development and from future occupants utilising local services, and so meets the economic arm of sustainable development.

Social

- 6.18 In terms of the social role, the site is within close proximity of the local amenities within Great Oakley village such as a village convenience store, primary school and GP. These services are located approximately 1km to the north-east of the site along a pedestrian footpath accessed from Beaumont Road 80m to the east of the site. A bus stop is also located a short distance from the application site approximately 140m to the east on Beaumont Road. The bus stop is served by an hourly bus service that operates between the larger settlements of Harwich and Clacton. These facilities go some way to illustrate the sustainability credentials for the village.
- 6.19 The Framework, at paragraph 29, acknowledges that sustainable transport solutions will vary between urban and rural areas. Furthermore, the PPG notes that all settlements can play a role in delivering sustainable development in rural areas and that blanket policies restricting housing development in some settlements should be avoided unless supported by robust evidence. In this case, the proposal would result in a net gain of 4 dwellings and, as such, any increase in car generated trips would be modest. Furthermore, the village benefits from a bus service and the facilities mentioned above. Consequently, by rural standards, a range of transport options and facilities are available. Where residents do use the car, larger towns and villages, such as Harwich, and the services available within them are a short distance away such that residents would not be reliant upon lengthy car journeys.
- 6.20 Therefore, the limited range of services within the village does not dictate that the development should be resisted, taking account of saved policy HG3 and the requirements of the Framework and PPG. A range of transport options would be available for future residents, commensurate with the location of the site. In terms of the three dimensions of sustainable development, identified at paragraph 7 of the Framework, the proposal would not lead to any significant environmental harm as a result of future travel patterns.
- 6.21 Overall therefore officers consider that the application site performs reasonably well in terms of the social role within the definition of sustainability.

Environmental

- 6.22 It is acknowledged that, in terms of settlement shape and form, development in this location is unlikely to have a significantly detrimental impact (subject to consideration against other Local Plan policies) as the site is located immediately opposite the settlement development boundary as defined in the saved Tendring District Local Plan (2007) and within the settlement development boundary in the draft local plan, with a number of residential dwellings sited to the east, north and south of the site.
- 6.23 The environmental role is about contributing to protecting and enhancing the natural built and historic environment which is considered below under the heading Character and Appearance.

Character and Appearance

- 6.24 The site is located opposite to consolidated residential development that runs along the northern side of Red Barn Lane a further 200m to the west of the application site. Directly opposite the site are several semi-detached post war dwellings and to the west are 1980's style detached bungalows and houses. The site itself is enclosed at both ends by built development, namely a large agricultural building to the west and a two storey dwelling to the east. As stated above the site itself currently contains several large storage buildings and a barn to its frontage.
- 6.25 The development proposed of 4 no. properties arranged with 2 no. chalet cottage style dwellings fronting onto Red Barn Lane with 2 no. bungalows to the rear is considered to represent an appropriate response to the pattern of built development in the vicinity. The presence of built form at either end of the site and residential development on the opposite side of Red Barn Lane ensures that the re-development of this site would not adversely impact upon the character and appearance of the locality. The built form would not extend out beyond that currently existing on the plot and would not project further into open countryside than the large agricultural building to the west. As such the development would not materially harm the semi-rural character of the area. The inclusion of planting to the perimeters of the site will assist in softening its appearance and help to assimilate it into its surroundings.
- 6.26 Whilst scale is a reserved matter the details submitted show that the dwellings would be between 1 and half and 1 storey in height served by single storey garages. As confirmed above the area comprises of a mixture of bungalows, chalet style dwellings and two-storey properties. Against this backdrop the siting of 4.no properties of the chalet cottage style and bungalow variety on the site would not appear out of character or prominent in this location.
- 6.27 Therefore taking into consideration the current buildings on the site, the residential character of the surrounding area and the vegetation present on and around the site, it is considered that the proposed development would have a neutral impact upon the environment and would as a result satisfy the environmental strand of sustainability as defined within the NPPF.

Neighbouring Amenity

- 6.28 The NPPF, in paragraph 17 states that planning should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings. In addition, Policy QL11 of the Tendring District Local Plan (2007) states that amongst other criteria, 'development will only be permitted if the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties'. Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Preferred Options Consultation Document (July 2016) supports these objectives and states that 'the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties'.
- 6.29 The application is in outline form with all matters reserved and Officers consider that sufficient space is available on site to provide a development that, through the submission of a reserved matters application, 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. The indicative layout shows that sufficient space could be left to the existing residential property to the east not to cause any adverse impact on the resident's amenity. Furthermore, the siting of bungalows to the rear assists in preserving the privacy of the future residents residing to the frontage plots.

Highway Considerations

- 6.30 Essex County Council as the Highway Authority has been consulted on the application (see above for details). They raise no objection to the principle of the development and the

alterations proposed to the vehicular access from Red Barn Lane in this location. It is noted that objections have been received with regards to highway safety concerns, however as stated the Highway Authority have not raised any concerns from a highway safety aspect, and therefore Officers consider a refusal on this issue could not be substantiated.

- 6.31 The Council's Adopted Parking Standards require that for dwellings with 2 or more bedrooms that a minimum of 2 parking spaces is required. Parking spaces should measure 5.5 metres by 2.9 metres and garages, if being relied on to provide a parking space, should measure 7 metres by 3 metres internally. It is considered that the site is capable of accommodating this level of parking and the submitted indicative plan demonstrates this.

Biodiversity

- 6.32 A Phase One Habitat Survey has been carried out which confirms there are suitable features, within the area to be affected by the proposed development, which may provide foraging, nesting, breeding and roosting habitat for Bats, Great Crested Newts, Reptiles and Birds. In particular:

- Roosting Bats: Bats were confirmed to be present in Building 1, with live bats being found during the scoping survey, giving it High potential to support a permanent roost. Buildings 2 and 3 have Moderate and Low potential respectively;
- Birds: The areas of scrub and hedgerows, as well as the buildings within the site, provide suitable nesting habitat for breeding birds during the breeding season;
- Reptiles: The site and the surrounding habitat appear highly suitable for reptiles;
- Foraging/Communing Bats: The hedgerows provide suitable foraging and commuting habitat;
- Great Crested Newts: Pond 1 located immediately adjacent to the site has a HIS score of average. Given the score and suitable terrestrial habitat for this species on site, further surveys are required to confirm presence.

- 6.33 Due to the findings of the Phase One Habitat Survey specie specific surveys have been carried out in respect of Bats, Great Crested Newts and Amphibians and Reptiles. The surveys conclude the following;

Bat Survey

- 6.34 In respect of the frontage barn and attached store buildings to rear Common Pipistrelles were seen to be entering the building on all three surveys. Brown Long-eared bats were visible in the rafters of the barn and were seen during the activity survey, however these were not picked up on the detectors.
- 6.35 No bats were seen entering or egressing from the other store buildings on site.
- 6.36 Due to the presence of bats within the barn, the survey concludes that a mitigation strategy should include the following;
- Temporary roost structures, (bat boxes), will be put in place elsewhere on site prior to works commencing;
 - The demolition works will need to be undertaken when bats are unlikely to be present, (November to January inclusive);
 - It is recommended that a 'soft strip' of roof tiles, cladding and ivy be undertaken under the supervision of a licenced ecologist;
 - A permanent roost structure will be incorporated into the proposed buildings including a bat loft and bat bricks to provide suitable roosting for both Brown Long-eared and Pipistrelle species.
- 6.37 These mitigation measures will be secured via condition. It must also be noted that the applicant will need to obtain A Bat Mitigation Licence from Natural England prior to works taking place to the barn due to it being active roost site. Subject to these details being

secured the development would not adversely harm the bats currently utilising the buildings for roosting activities.

Reptile Survey

- 6.38 No reptiles were encountered on site during the survey. As such, there will be no negative impact on the local population status of reptiles in the area. Reptiles will not be a material constraint to development.

Great Crested Newts Survey

- 6.39 No Great Crested Newts were confirmed present during the survey works. As a result no mitigation licenses are required for the development.

Legal Obligations

- 6.40 Following the decision by the Court of Appeal in West Berkshire District Council and Reading Borough Council v. Secretary of State for Communities and Local Government [2016] EWCA Civ 441 the National Planning Practice Guidance (NPPG) has now been amended so as to prohibit LPA's from enforcing levies on certain development schemes.

This amendment now means that affordable housing or tariff contributions will no longer be imposed on development schemes of 10 or less dwellings.

Background papers

None.

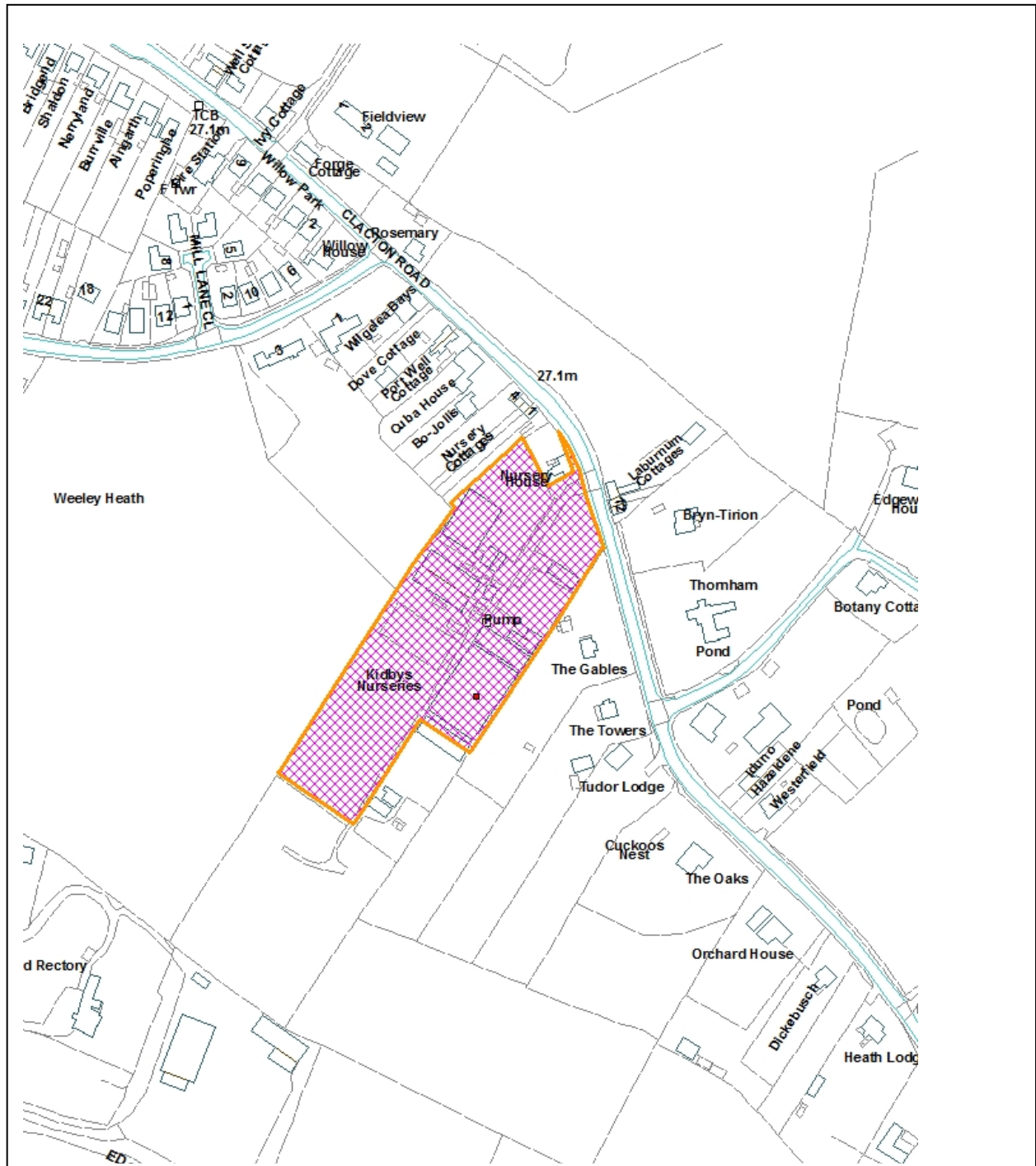
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PLANNING COMMITTEE

9 AUGUST 2016

REPORT OF THE HEAD OF PLANNING

A.5 PLANNING APPLICATION – 16/00677/FUL – KIDBYS NURSERIES, CLACTON ROAD, WEELEY HEATH, CLACTON ON SEA, CO16 9EF



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Application:	16/00677/FUL	Town / Parish: Weeley
Applicant:	Barkley Projects LLP = Mr. K. O'Brien	
Address:	Kidbys Nurseries, Clacton Road, Weeley Heath, Clacton-on-Sea, CO16 9EF	
Development:	Full application for 22 dwellings on former nursery site.	

1. **Executive Summary**

- 1.1 This is a full planning application for 22 dwellings on a 1.4 hectare previously developed and now redundant nursery site in Weeley Heath off Clacton Road, the main road passing through the village. As a full application, the Planning Committee is being asked to approve a detailed scheme including detached and semi-detached houses and detached bungalows. The properties would be served by a new access road from Clacton Road with most properties having direct road frontage and, at the end of which, will be a play area and an attenuation basin to deal with surface water flood risk. The properties are proposed to be of traditional style and appropriate for the location.
- 1.2 The site is outside of the settlement development boundary in the adopted Local Plan, but in the new preferred options draft the site has been included. Because the Council does not have an up to date Local Plan and is currently unable to identify a five-year supply of deliverable housing sites as required by government planning policy, this application has been considered in line with the government's 'presumption in favour of sustainable development'. Officers have needed to approach the application with a view to positively addressing, as far as possible, technical issues and other matters raised by consultees and residents.
- 1.3 Although Weeley Heath is now categorised as a 'smaller rural settlement' in the emerging Local Plan where only small scale developments are envisaged, this proposal is a good opportunity to make efficient use of a redundant brownfield site and, on balance, Officers consider that approval is justified.
- 1.4 The development has attracted very little public interest with a small number of comments in both objection and support. There are no objections from any statutory agencies and no financial contributions have been requested by Essex County Council or the NHS towards education or health provision. The highways arrangements have been amended at the request of the Highway Authority which now supports the scheme subject to conditions.
- 1.5 The development is considered to have limited impacts on the landscape, ecology and the nearest listed building. The most important trees, which are on the boundary of the site, will be retained.
- 1.6 Officers consider that this development complies with the requirements of the National Planning Policy Framework and the recommendation is one of approval subject to a Section 106 agreement to secure affordable housing and open space/play facilities.

Recommendation: Approval

That the Head of Planning be authorised to grant planning permission for the development subject to:-

- a) Within 6 (six) months of the date of the Committee's resolution to approve, 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 (where relevant):
- On-site Council Housing/Affordable Housing;
 - On site or off-site open space/play equipment.

- b) Planning conditions in accordance with those set out in (i) below (but with such amendments and additions, if any, to the detailed wording thereof as the Head of Planning in her discretion considers appropriate).

(i) Conditions:

1. Standard 3 year time limit for commencement.
2. Accordance with approved plans.
3. Highways conditions (as recommended by the Highway Authority).
4. Ecological mitigation/enhancement plan.
5. Surface water drainage/foul drainage scheme.
6. SuDS maintenance/monitoring plan.
7. Hard and soft landscaping plan/implementation.
8. Details of lighting, materials and refuse storage/collection points.
9. Broadband connection.
10. Local employment arrangements.
11. Contamination Remediation

- c) That the Head of Planning be authorised to refuse planning permission in the event that such legal agreement has not been completed within the period of 6 (six) months, as the requirements necessary to make the development acceptable in planning terms had not been secured through a Section 106 planning obligation.

2.0 Planning Policy

National Planning Policy Framework (NPPF)

- 2.1 The National Planning Policy Framework (March 2012) sets out the Government's planning policies and how these are expected to be applied at the local level.

- 2.2 Planning law requires that applications for planning permission be determined in accordance with the 'development plan' unless material considerations indicate otherwise. The NPPF doesn't change the statutory status of the development plan as the starting point for decision taking. Where proposed development accords with an up to date Local Plan it should be approved and where it does not it should be refused – unless other material considerations indicate otherwise. An important material consideration is the NPPF's 'presumption in favour of sustainable development'. The NPPF defines 'sustainable development' as having three dimensions:

- an economic role;
- a social role; and
- an environmental role.

- 2.3 These dimensions have to be considered together and not in isolation. The NPPF requires Local Planning Authorities to positively seek opportunities to meet the development needs of their area whilst allowing sufficient flexibility to adapt to change. Where relevant policies in Local Plans are either absent or out of date, there is an expectation for Councils to approve planning applications, without delay, unless the adverse impacts would significantly and demonstrably outweigh the benefits.
- 2.4 Section 6 of the NPPF relates to delivering a wide choice of quality new homes. It requires Councils to boost significantly the supply of housing to meet objectively assessed future housing needs in full. In any one year, Councils must be able to identify five years worth of deliverable housing land against their projected housing requirements (plus a 5% or 20% buffer to ensure choice and competition in the market for land). If this is not possible, housing policies are to be considered out of date and the presumption in favour of sustainable development is engaged with applications for housing development needing to be assessed on their merits, whether sites are allocated for development in the Local Plan or not.
- 2.5 Paragraph 187 of the NPPF states *“Local planning authorities should look for solutions rather than problems, and decision-takers at every level should seek to approve applications for sustainable development where possible. Local planning authorities should work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area”*.

Local Plan

- 2.6 Section 38(6) of the Planning Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the ‘development plan’ unless material considerations indicate otherwise. In the case of Tendring the development plan consist of the following:

Tendring District Local Plan (Adopted November 2007) – as ‘saved’ through a Direction from the Secretary of State. Relevant policies include:

QL1: Spatial Strategy: Directs most new development toward urban areas and seeks to concentrate development within settlement development boundaries. The policy categorises Weeley Heath as a village.

QL2: Promoting Transport Choice: Requires developments to be located and designed to avoid reliance on the use of the private car.

QL3: Minimising and Managing Flood Risk: Seeks to direct development away from land at a high risk of flooding and requires a Flood Risk Assessment for developments in Flood Zone 1 on sites of 1 hectare or more.

QL9: Design of New Development: Provides general criteria against which the design of new development will be judged.

QL10: Designing New Development to Meet Functional Needs: Requires development to meet functional requirements relating to access, community safety and infrastructure provision.

QL11: Environmental Impacts: Requires new development to be compatible with its surrounding land uses and to minimise adverse environmental impacts.

QL12: Planning Obligations: States that the Council will use planning obligations to secure infrastructure to make developments acceptable, amongst other things.

ER3: Protection of Employment Land

Seeks to prevent the unnecessary loss of land in, or last used for employment purposes.

HG1: Housing Provision

Sets out the strategy for delivering new homes to meet the need up to 2011 (which is now out of date and needs replacing through the new Local Plan).

HG3: Residential Development Within Defined Settlements

Supports appropriate residential developments within the settlement development boundaries of the district's towns and villages.

HG3a: Mixed Communities

Promotes a mix of housing types, sizes and tenures to meet the needs of all sectors of housing demand.

HG4: Affordable Housing in New Developments

Seeks up to 40% of dwellings on large housing sites to be secured as affordable housing for people who are unable to afford to buy or rent market housing.

HG6: Dwellings Size and Type

Requires a mix of housing types, sizes and tenures on developments of 10 or more dwellings.

HG7: Residential Densities

Requires residential developments to achieve an appropriate density. This policy refers to minimum densities from government guidance that have long since been superseded by the NPPF.

HG9: Private Amenity Space

Requires a minimum level of private amenity space (garden space) for new homes depending on how many bedrooms they have.

HG14: Side Isolation

Requires a minimum distance between detached properties.

COM2: Community Safety

Requires developments to contribute toward a safe and secure environment and minimise the opportunities for crime and anti-social behaviour.

COM4: New Community Facilities (including Built Sports and Recreation Facilities)

Supports the creation of new community facilities where they are acceptable in terms of accessibility to local people, impact on local character, parking and traffic and other planning considerations.

COM6: Provision of Recreational Open Space for New Residential Developments

Requires residential developments on sites of 1.5 hectares or more to provide 10% of the site area as public open space, or a financial contribution from smaller developments.

COM21: Light Pollution

Requires external lighting for new development to avoid unacceptable impacts on the landscape, wildlife or highway and pedestrian safety.

COM23: General Pollution

States that permission will be refused for developments that have a significant adverse effect through the release of pollutants.

COM26: Contributions to Education Provision

Requires residential developments of 12 or more dwellings to make a financial contribution, if necessary, toward the provision of additional school places.

COM29: Utilities

Seeks to ensure that new development on large sites is or can be supported by the necessary infrastructure.

COM31a: Sewerage and Sewage Disposal

Seeks to ensure that new development is able to deal with waste water and effluent.

EN1: Landscape Character

Requires new developments to conserve key features of the landscape that contribute toward local distinctiveness.

EN6: Biodiversity

Requires existing biodiversity and geodiversity to be protected and enhanced with compensation measures put in place where development will cause harm.

EN6a: Protected Species

Ensures protected species including badgers are not adversely impacted by new development.

EN6b: Habitat Creation

Encourages the creation of new wildlife habitats in new developments, subject to suitable management arrangements and public access.

EN12: Design and Access Statements

Requires Design and Access Statements to be submitted with most planning applications.

EN13: Sustainable Drainage Systems

Requires developments to incorporate sustainable drainage systems to manage surface water run-off.

EN23: Development within the Proximity of a Listed Building

Guards against developments that would have an adverse impact on the setting of Listed Buildings.

EN29: Archaeology

Requires the archaeological value of a location to be assessed, recorded and, if necessary, safeguarded when considering development proposals.

TR1a: Development Affecting Highways

Requires developments affecting highways to aim to reduce and prevent hazards and inconvenience to traffic.

TR3a: Provision for Walking

Seeks to maximise opportunities to link development with existing footpaths and rights of way and provide convenient, safe attractive and direct routes for walking.

TR4: Safeguarding and Improving Public Rights of Way

Encourages opportunities to expand the public right of way network. Requires that developments affecting an existing public right of way accommodate the definitive alignment of the path or, where necessary, seek a formal diversion.

TR5: Provision for Cycling

Requires all major developments to provide appropriate facilities for cyclists.

TR6: Provision for Public Transport Use

Requires developments to make provision for bus and/or rail where transport assessment identifies a need.

TR7: Vehicle Parking at New Development

Refers to the adopted Essex County Council parking standards which will be applied to all non-residential development.

Tendring District Local Plan: 2013-2033 and Beyond Preferred Options Consultation Document (July 2016).

The 'development plan' for Tendring is the 2007 'adopted' Local Plan, despite some of its policies being out of date. Paragraph 215 of the NPPF allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF. Paragraph 216 of the NPPF also allows weight to be given to policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency with national policy. As of 14th July 2016, the emerging Local Plan for Tendring is the Tendring District Local Plan 2013 – 2033 and Beyond Preferred Options Consultations Document. As this plan is currently at an early stage of preparation, some of its policies can only be given limited weight in the determination of planning applications, but the weight to be given to emerging policies will increase as the plan progresses through the later stages of the process. Where emerging policies are particularly relevant to a planning application and can be given some weight in line with the principles set out in paragraph 216 of the NPPF, they will be considered and, where appropriate, referred to in decision notices. In general terms however, more weight will be given to policies in the NPPF and the adopted Local Plan.

Relevant policies include:

SP1: Presumption in Favour of Sustainable Development

Follows the Planning Inspectorate's standard wording to ensure compliance with the NPPF.

SPL1: Managing Growth

Identifies Weeley Heath as a smaller rural settlement where smaller scale development is envisaged as part of a sustainable strategy for growth.

SPL2: Settlement Development Boundaries

Seeks to direct new development to sites within settlement development boundaries.

SPL3: Sustainable Design

Sets out the criteria against which the design of new development will be judged.

HP4: Open Space, Sports and Recreation Facilities

Requires larger residential developments to provide a minimum 10% of land as open space with financial contributions toward off-site provision required from smaller sites.

LP1: Housing Supply

Sets out how the Council will meet objectively assessed housing needs over the next 15-20 years and in which parts of the district.

LP2: Housing Choice

Promotes a range of house size, type and tenure on large housing developments to reflect the projected needs of the housing market.

LP3: Housing Density and Standards

Policy requires the density of new housing development to reflect accessibility to local services, minimum floor space requirements, the need for a mix of housing, the character of surrounding development and on-site infrastructure requirements.

LP4: Housing Layout

Policy seeks to ensure large housing developments achieve a layout that, amongst other requirements, promotes health and wellbeing; minimises opportunities for crime and anti-social behaviour; ensures safe movement for large vehicles including emergency services and waste collection; and ensures sufficient off-street parking.

LP5: Affordable and Council Housing

Requires up to 30% of new homes on large development sites to be made available to the Council or a nominated partner, at a discounted price, for use as affordable or council housing.

PP12: Improving Education and Skills

Requires applicants to enter into an Employment and Skills Charter or Local Labour Agreement to ensure local contractors are employed to implement the development and that any temporary or permanent employment vacancies (including apprenticeships) are advertised through agreed channels.

PPL1: Development and Flood Risk

Seeks to direct development away from land at a high risk of flooding and requires a Flood Risk Assessment for developments in Flood Zone 1 on sites of 1 hectare or more.

PPL3: The Rural Landscape

Requires developments to conserve, where possible, key features that contribute toward the local distinctiveness of the landscape and include suitable measures for landscape conservation and enhancement.

PPL4: Biodiversity and Geo-Diversity

Gives protection to internal, European and nationally important wildlife sites and requires existing biodiversity and geodiversity on any site to be protected and enhanced with compensation measures put in place where development will cause harm.

PPL5: Water Conservation, Drainage and Sewerage

Requires developments to incorporate sustainable drainage systems to manage surface water run-off and ensure that new development is able to deal with waste water and effluent.

PPL7: Archaeology

Requires that where development that might affect archaeological remains, studies and works are undertaken to identify, recover and record such remains.

PPL9: Listed Buildings

Requires developments affecting listed buildings or their setting to protect their special architectural or historical interest, character, appearance and fabric.

CP1: Sustainable Transport and Accessibility

Requires developments to include and encourage opportunities for access to sustainable modes of transport, including walking, cycling and public transport.

CP3: Improving the Telecommunications Network

Requires that new developments be served by superfast or ultrafast broadband.

Other Guidance

Essex County Council Car Parking Standards – Design and Good Practice

Essex Design Guide for Residential and Mixed-Use Areas.

3. Relevant Planning History

The site has the following planning history:

96/01152/FUL	(Kidby's Nurseries, Clacton Road, Weeley) Erection of 25 metre lattice tower, equipment cabinet, fencing and gates as base station for mobile telephone network	Refused	03.12.1996
97/00032/FUL	Erection of 20 metre high narrow monopole telecommunication	Withdrawn	06.06.1997

equipment cabinet, ancillary
fencing and gates as base
station for mobile telephone
network

15/30078/PREAPP Erection of 24 houses.

4. Consultations

TDC
Principal Tree &
Landscape
Officer

There are no trees in the main body of the application site except for a self sown group of Sycamore and Goat Willow growing through the derelict glasshouse in the area on the plan marked as plots 9, 10 and 11. These trees do not merit retention or protection by means of a Tree preservation Order.

The site layout plan shows 3 large oaks on the western boundary of the application site that feature prominently in the landscape and make a positive contribution to the character and appearance of the local environs.

The trees are mature healthy specimens that make a positive contribution to the character and appearance of the area. The removal of the trees is not directly threatened by the development proposal however steps will need to be taken to ensure that they are not harmed during the construction phase of any development that may be granted permission: Therefore tree preservation order has been made to afford them formal legal protection. The trees are now protected by Tree Preservation Order TPO/16/06 Former Kidbys Nursery, Clacton Rd, Weeley Heath.

It is not considered necessary for the applicant to provide a detailed Tree Survey and Report to establish the extent of the constraint that the trees are on the development potential of the land; however it will be necessary for them to provide information in accordance with BS5837: 2012 Trees in relation to design, demolition and construction; Recommendations to show the Root Protection Areas (RPA's) of retained trees to ensure that they are not harmed by the implementation of any development which may be granted permission.

As the trees are on the western boundary it may also be necessary for the developer to demonstrate that a satisfactory juxtaposition between the trees and the proposed dwellings can be achieved. The applicant will need to show the degree to which the trees have an impact on the private amenity spaces of the proposed dwellings: potential impact issues include - leaf litter, debris, shading and future resident's perceptions of the trees.

The applicant has provided a detailed soft landscaping plan, including tree planting that is sufficient to demonstrate an adequate level of new planting.

TDC Open
Space and Play

There is currently a deficit of 2.18 hectares of equipped play and formal open space in Weeley. There are two play areas in Weeley, one located along Clacton Road and one off Hilltop Crescent – both of which are classified as Local Equipped Areas for Play (LEAP).

Due to the limited provision in Weeley in terms of both play and formal open space, it would be necessary to increase provision in the area should further development take place. To account for additional need and to prevent the current deficit from going, Weeley Parish Council has plans in place to increase the amount of open space provision at the Clacton Road site.

Due to the lack of provision in the area a contribution is justified and relevant to the planning application and this money would be spent to provide additional teenage play equipment at Clacton Road, Weeley.

- ECC Highways From a highway and transportation perspective the impact of the proposal is acceptable to Highway Authority subject to mitigation and conditions relating to the following:
- Accordance with the details shown on the plans;
 - Visibility splays for the site entrance;
 - Details of footways to be approved in writing;
 - Complying with current parking standards;
 - Dimensions of the vehicular turning facility;
 - No unbound materials to be used within 6m of the highway boundary;
 - Dimensions and specification of individual accesses;
 - Visibility splays for each dwelling;
 - Bicycle storage facilities;
 - Construction methods statement;
 - Travel information packs;
 - Boundary hedges to be set back a minimum 1 metre from the highway;
 - Bus stops to be upgraded; and
 - Closure of existing dropped kerb.

ECC Schools A development of this size can be expected to generate the need for up to 2 Early Years and Childcare (EY&C) places, 6.6 primary school places and 4.4 secondary school places.

According to the latest information available to Essex County Council early years and childcare team, there is sufficient provision within the area to accommodate children from this development.

This proposed development is located within the priority admissions area for Weeley St. Andrews Church of England Primary School and Tendring Technology College. The County Council will have normally sought a financial contribution from this development towards the creation of additional school places. However, due to the restrictions imposed by the Community Infrastructure Levy Regulations which limit the use of s106 agreements, the County Council will not be requesting a contribution from this development.

Having reviewed the proximity of the site to the nearest primary and secondary schools, Essex County Council will not be seeking a school transport contribution. However the developer should ensure that safe and direct walking/cycling routes are available to the nearest schools.

Anglian Water Assets affected: There are assets owned by Anglian Water or those subject to an adoption agreement within or close to the development boundary that may affect the layout of the site. This should be flagged up to the developer within the decision notice should permission be granted.

Wastewater treatment: The foul drainage from this development is in the catchment of Clacton and Holland Recycling Centre that will have available capacity for the development.

Foul Sewerage Network: The sewerage system at present has available capacity for these flows. If the developer wishes to connect to our sewerage network they should serve notice under Section 106 of the Water Industry Act 1991. We will then advise them of the most suitable point of connection.

Surface Water Disposal: The proposed method of surface water management does not relate to Anglian Water operated assets. The advice of the Lead Local Flood Authority or the Internal Drainage Board should be sought.

Natural England Natural England has no comments to make on this application. It is for the local planning authority to determine whether or not this application is consistent with national and local policies on the natural environment.

Essex County Council Flood Authority Having reviewed the Flood Risk Assessment we do not object to the granting of planning permission subject to conditions relating to the following:

- a detailed surface water drainage scheme;
- a scheme for minimising offsite flooding during construction works;
- a maintenance plan for the surface water drainage scheme; and
- keeping an on-going log of maintenance.

5. Representations

5.1 The Council has received 4 objections to the proposal along with 2 representations of support.

5.2 The objections highlight concerns about:

- the disruption to the area during and after construction;
- the increase in traffic along the B1441;
- the site's proximity to the blind bend;
- the increased risk of surface water flooding;
- the impact on the character of the area, with the new properties being out of keeping;
- the number of dwellings proposed;
- the likelihood of the properties being rented and abused rather than sold and looked after;
- the overlooking of, and impact on the amenities of existing properties.

5.3 One of the objectors suggests that the site should be acquired by the Council through Compulsory Purchase Order and then turned into a children's play area and park.

5.4 Supporters of the application say that it will provide an opportunity to bring new people to the village, deliver a new play area and tidy up a currently untidy and unattractive site.

6. Assessment

The Proposal

- 6.1 The application site comprises just under 1.4 hectares of land at the now redundant Kidbys Nursery site in Clacton Road, Weeley Heath. The Nursery closed in 2012 and the outbuildings and glasshouses occupying the site have deteriorated into a dilapidated state. This is a Full application and the Planning Committee is being asked to approve a detailed scheme including:
- 8 detached 4-bed houses;
 - 6 semi-detached 3-bed houses;
 - 3 detached 3-bed houses
 - 2 semi-detached 2-bed houses;
 - 2 detached 3-bed bungalows; and
 - 1 detached 2-bed house.
- 6.2 The dwellings are arranged in linear form served by a new access road direct from Clacton Road. Submitted documentation includes:

Architectural Drawings

- 04677.00008.16.024.2 Location Plan
- 05677.00003.16.017.3 Illustration of Proposed Layout
- 04677.00008.16.014.4 Illustrative Master Plan
- 5076.001 Proposed Access Arrangements
- 5076.002 Proposed Shared Footway/Cycleway

Reports and Technical Information

- Planning Statement
- Preliminary Ecological Appraisal
- Flood Risk Assessment
- Highways Access Statement
- Phase 1 Desk Study and Phase 2 Investigation Study
- Soft Landscaping Details

Main Planning Considerations

- 6.3 The main planning considerations are:
- The principle of development;
 - Highways, transport and accessibility;
 - Landscape, visual impact and trees;
 - Flood risk and drainage;
 - Ecology;
 - Heritage;
 - Education and health provision;
 - Utilities;
 - Contamination
 - Open space and allotments;
 - Council Housing/Affordable Housing;
 - Indicative layout and connections;
 - Overall planning balance.

Principle of development

- 6.4 In line with Section 38(6) of the Planning and Compulsory Purchase Act 2014, planning decisions must be taken in accordance with the 'development plan' unless material considerations indicate otherwise. The requirements of the National Planning Policy Framework (NPPF) are a material consideration in this regard.
- 6.5 The 'development plan' for Tendring is the 2007 'adopted' Local Plan, despite some of its policies being out of date. Paragraph 215 of the NPPF allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF. Paragraph 216 of the NPPF also allows weight to be given to policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency with national policy. As of 14th July 2016, the emerging Local Plan for Tendring is the Tendring District Local Plan 2013-2033 and Beyond Preferred Options Consultation Document. As this plan is currently at an early stage of preparation, some of its policies can only be given limited weight in the determination of planning applications, but the weight to be given to emerging policies will increase as the plan progresses through the later stages of the process. Where emerging policies are particularly relevant to a planning application and can be given some weight in line with the principles set out in paragraph 216 of the NPPF, they will be considered and, where appropriate, referred to in planning decisions. In general terms however, more weight will be given to policies in the NPPF and the adopted Local Plan.
- 6.6 The site is not allocated for housing or mixed use development in the adopted Local Plan and it also falls outside of the 'settlement development boundary'. In the emerging Local Plan however, the settlement development boundary has been extended to include the portion of the application site where built development is proposed.
- 6.7 Because the site lies outside of the settlement development boundary of the adopted Local Plan, it is technically contrary to adopted policy. However the adopted Local Plan falls significantly short in identifying sufficient land to meet the 'objectively assessed' future need for housing which is a key requirement of the NPPF. As a result, the Council is also currently unable to identify a five-year supply of deliverable housing sites, plus a 5-20% buffer, as required by paragraph 47 of the NPPF – although the housing supply position is gradually improving as the Council has been approving more residential schemes in recent months.
- 6.8 Based on the evidence contained within the 'Objectively Assessed Housing Needs Study (July 2015) for Braintree, Chelmsford, Colchester and Tendring, the projected need for housing in Tendring is 550 dwellings per annum. Whilst this figure is still the subject of continued scrutiny by the Local Plan Committee and could change, it currently provides the most up to date evidence on which to base the calculation of housing land supply. In applying the requirements of NPPF paragraph 47 to this requirement, the Council is currently only able to identify an approximate 3.8 year supply. In line with paragraph 49 of the NPPF, housing policies must therefore be considered 'out-of-date' and the government's 'presumption in favour of sustainable development' is engaged. To comply with national planning policy, the Council would not, at this time, be justified in refusing this planning application purely on the basis that it lies outside of the settlement development boundary of the adopted Local Plan.
- 6.9 'Sustainable Development', as far as the NPPF is concerned, is development that contributes positively to the economy, society and the environment and under the 'presumption in favour of sustainable development', authorities are expected to grant

permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole; or specific policies in the NPPF indicate development should be restricted.

- 6.10 One of the NPPF's core planning principles is to *"actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable"*. With this in mind, Policy SPL1 in emerging Local Plan includes a 'settlement hierarchy' aimed at categorising the district's towns and villages and providing a framework for directing development toward the most sustainable locations.
- 6.11 Weeley Heath is categorised as a 'smaller rural settlement' where the emerging plan envisages a small increase in housing stock over the plan period to 2033. To allow this to happen, settlement development boundaries have been drawn flexibly, where practical, to accommodate a range of sites both within and on the edge of the villages and thus enabling them to be considered for small-scale residential 'infill' developments. The emerging plan provides that larger developments will not be permitted unless there is local support from the Town or Parish Council, an approved Neighbourhood Plan that advocates additional growth or an identified local need for affordable housing that could be addressed through a 'rural exception site' (for which there is a specific policy LP6). Paragraph 2.55 in the emerging plan suggests that developments which exceed 10 dwellings in size will not be permitted without local support from the Town or Parish Council, an approved Neighbourhood Plan that advocates additional growth or an identified local need for affordable housing that could be addressed through a rural exception site.
- 6.12 Whilst the policies in the emerging Local Plan cannot carry the full weight of adopted policy at this early stage in the plan-making process, the approach taken in the settlement hierarchy and the extent of land being allocated for housing demonstrates strong alignment with the core planning principles in the NPPF to meet objectively assessed housing needs and to actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and to focus significant development in locations which are or can be made sustainable.
- 6.13 As this site is specifically included within the proposed settlement development boundary and represents a rare area of previously developed brownfield land, Officers consider that an exception to the 10-dwelling limit is justified in this case. This is particularly as another of the core planning principles in the NPPF is to encourage the effective use of land by reusing land that has been previously developed (brownfield land), provided that it is not of high environmental value.
- 6.14 On the above reasoning, Officers consider that the development can be supported in principle and it is noted that some of the representations in support of the development indicate a desire to see the site tidied up.

Highways, transport and accessibility

- 6.15 Paragraph 32 of the NPPF relates to transport and requires Councils, when making decisions, to take account of whether:

- the opportunities for sustainable transport modes have been taken up depending on the nature and location of the site, to reduce the need for major transport infrastructure;
- safe and suitable access to the site can be achieved for all people; and
- improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

- 6.16 Policy QL2 in the adopted Local Plan and Policy CP1 in the emerging Local Plan seek to ensure that developments maximise the opportunities for access to sustainable transport including walking, cycling and public transport. Whilst the site is in one of the district's smaller rural settlements that has limited access to jobs, shops, services and facilities, it is at least served by bus services and footpaths to facilities in nearby Weeley and Little Clacton. The site's limited accessibility has been weighed up against the opportunity to make efficient use of a previously developed brownfield site and, on balance, the principle of development is supported.
- 6.17 The development includes a central spine road that takes access from a junction onto Clacton Road. Having considered the proposal alongside the applicant's highways access, the Highway Authority requested some revisions to the original submitted drawings which have now been made. The Highway Authority now raises no objection to the development subject to a series of detailed conditions.
- 6.18 In conclusion, although the site has limited accessibility to jobs, shops, services and facilities, it has reasonable and safe access, by foot and cycle to public transport and services in neighbouring villages. The benefit of utilising previously developed brownfield land for development, in Officers' consideration, outweighs any concerns over limited accessibility. The access arrangements, having been amended, are agreed by the Highway Authority, the transport impacts of the development are not considered to be severe and, from this perspective, Officers consider the proposal to be acceptable.

Landscape, visual impact and trees

- 6.19 Whilst this is a brownfield site that has in the past, and continues to host a range of buildings, there is still a need to ensure the impact of the new development in this rural area is acceptable in landscape and visual impact terms and properly takes into account trees that might be affected.
- 6.20 Policy EN1 of the adopted Local Plan and Policy PPL3 in the emerging Local Plan seek to protect and, wherever possible, enhance the quality of the district's landscape; requiring developments to conserve natural and man-made features that contribute toward local distinctiveness and, where necessary, requiring suitable measures for landscape conservation and enhancement. Policies QL9 and SPL3 also require developments to incorporate important existing site features of landscape, ecological or amenity value such as trees, hedges, water features, buffer zones, walls and buildings. Officers consider that the site is relatively well contained by the boundaries of adjoining properties and that the height and scale of development proposed would not bring about any concerns regarding landscape and visual impacts.

- 6.21 The Council's Principal Trees and Landscape Officer has assessed the proposal and has observed that no trees or hedges within the main body of the site are worthy of specific protection, but oaks along the site's western boundary have been served with Tree Preservation Orders and will be retained.

Flood risk and drainage

- 6.22 Paragraph 103 of the NPPF requires Councils, when determining planning applications, to ensure flood risk is not increased elsewhere. Although the site is in Flood Zone 1 (low risk), the NPPF, Policy QL3 in the adopted Local Plan and Policy PPL1 in the emerging Local Plan still require any development proposal on site larger than 1 hectare to be accompanied by a site-specific Flood Risk Assessment (FRA). This is to assess the potential risk of all potential sources of flooding, including surface water flooding, that might arise as a result of development. The applicant has submitted a Flood Risk Assessment which has been considered by Essex County Council as the authority for sustainable drainage. ECC supports the grant of outline planning permission subject to conditions relating to the submission and subsequent approval of a detailed Surface Water Drainage Scheme before development can take place.

Ecology

- 6.23 Paragraph 118 of the NPPF requires Councils, when determining planning applications, to aim to conserve and enhance biodiversity. Where significant harm to biodiversity cannot be avoided, mitigated or, as a last resort, compensated for, Councils should refuse planning permission. Policy EN6 of the adopted Local Plan and Policy PPL4 of the emerging Local Plan give special protection to designated sites of international, national or local importance to nature conservation but for non-designated sites still require impacts on biodiversity to be considered and thereafter minimised, mitigated or compensated for.
- 6.24 The development would not have any significant direct or indirect affects on any formally designated wildlife sites, but the ecological value of the site itself has been given consideration through a preliminary ecological assessment. The assessment identifies that development might affect nesting birds in trees, shrubs, flora and buildings used by nesting birds and it is recommended that works to these features are avoided in the bird nesting period. It was considered unlikely that bats or badgers occupied the site with no indications of activity and no further surveys recommended. Evidence of hedgehogs was found on the site and whilst the development is considered unlikely to have a negative impact on the hedgehog population, mitigation measures are suggested to prevent harm to individual animals during site clearance and works. The site was found to be generally unsuitable for dormouse, reptiles, amphibians and invertebrates and flora of any notable value was identified. Mitigation measures to ensure the development is undertaken at the right times and in a careful and sympathetic way to ensure any ecological impacts are kept to a minimum.

Heritage

- 6.25 The Planning (Listed Buildings and Conservation Areas) Act 1990 S. 66 imposes a general duty as respects listed buildings in the exercise of planning functions:

- (1) In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the

Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

- 6.26 Paragraph 128 in the NPPF requires applicants to describe the significance of any heritage asset affected by their development including any contribution made by their setting, with the level of detail being proportionate to the asset's importance and no more than is sufficient to understand the potential impact of the proposal on their significance. Paragraph 134 determines that where a development proposal will lead to 'less than substantial harm' to a heritage asset (which could include harm to its setting), this harm should be weighed against the public benefits of the proposal. Policy EN23 in the adopted Local Plan states that development that would adversely affect the setting of a Listing Building, including group value and long distance views will not be permitted. Policy PPL9 in the emerging Local Plan requires development to protect the special architectural or historic interest, character, appearance and fabric of listed buildings and their setting.
- 6.27 For this application, the most significant and most directly affected heritage asset is the listed building of Ferncroft, 3 Mill Lane which is a Grade II listed 17th/18th Century thatched and weatherboard cottage. The applicants planning statement contains an assessment of the likely impact of the development on the building and observes that, whilst the curtilage of the listed building backs onto and adjoins the site, the listed building itself is some 120-130 metres from the proposed development. With proposed landscaping and the traditional design, Officers concur with the applicant's assessment that the harm to the setting of the listed building will be negligible and easily outweighed by the benefit of the proposed homes. In Officers' view the impact would be 'less than substantial' and in weighing harm against public benefits in line with paragraph 134 of the NPPF, the development would be acceptable in heritage terms.

Contamination

- 6.28 Policy QL11 requires new developments to take into account the possibility of existing contamination or pollution and any necessary remediation strategies. The applicant has submitted a Phase 1 desk Study and Risk Assessment and a Phase 2 Ground Investigation Study. The reports conclude that no risks have been identified to end users or other identified receptors. However the presence of concrete hardstanding and existing below ground pipes may contain contamination sources not located within the testing phase. On this basis it is recommended that a contamination condition is attached to the planning permission requiring a full remediation strategy to be submitted and agreed by the local authority prior to commencement of development.

Education and Health provision

- 6.29 Policy QL12 in the adopted Local Plan and Policies HP1, HP2 and PP12 in the emerging Local Plan require that new development is supported by the necessary infrastructure which includes education and health provision. For this proposal, Essex County Council as the Local Education Authority has advised that it will not be seeking any financial contributions towards any additional school places or school transport – mainly due to the restrictions imposed by the government which prevent 5 or more financial contributions being secured towards the same infrastructure improvement. NHS England has not requested any financial contributions towards health provision and only tend to make such requests on schemes of 50 or more dwellings.

Utilities

- 6.30 Anglian Water notes the requirement for the development to take into account any of their existing assets which may be located in or near to the development site. They also note that the drainage from the development is in the catchment of Clacton Holland Water Recycling Centre that has available capacity for proposed flows as does the foul sewerage network.

Open Space and Play

- 6.31 Policy COM6 in the adopted Local Plan and Policy PEO22 of the emerging Local Plan require large residential developments to provide at least 10% of land as public open space or otherwise make financial contributions toward off-site provision. The proposed layout indicates a small area of play space located to the south west corner of the site, to be enclosed with child proof fencing.
- 6.32 The Council's open spaces team has requested that due to a shortfall in open space provision a financial contribution is secured by s106 agreement and this money would be spent to provide additional teenage play equipment at Clacton Road, Weeley.

Council Housing/Affordable Housing

- 6.33 Policy HG4 in the adopted Local Plan requires large residential developments to provide 40% of new dwellings as affordable housing for people who cannot otherwise afford to buy or rent on the open market. Policy LP5 in the emerging Local Plan, which is based on more up to date evidence on housing need and viability, requires 30% of new dwellings on large sites to be made available to the Council or a nominated partner to acquire at a discounted value for use as affordable or council housing. The policy does allow flexibility to accept as low as 10% of dwellings on site, with a financial contribution toward the construction or acquisition of property for use as affordable or council housing (either on the site or elsewhere in the district) equivalent to delivering the remainder of the 30% requirement.
- 6.34 If the Committee is minded to approve this application, Officers will negotiate and agree an appropriate level of affordable or Council Housing to be secured through a Section 106 legal agreement.

Detailed Design and Layout

- 6.35 The proposed development is served by a single access road leading directly from Clacton Road. A turning head is provided to the end of the road and a small play area and attenuation pond are provided to the south west corner of the site. The site already benefits from mature planting to the east and west boundaries. As noted a number of existing trees to the west boundary are now subject of a Tree Preservation Order.
- 6.36 The proposed housing mix provides for a mix of 2, 3 and 4 bed houses and bungalows, including some semi-detached properties. Parking space and garaging is provided for each dwelling. Garden sizes are again mixed in size but provide adequate amenity land for each dwelling.

- 6.37 Detailed design is traditional in nature, incorporating facing brick and tile finishing. Details of materials will be secured by condition.
- 6.38 Neighbour comments regarding potential overlooking are noted however the layout has been designed in a manner which minimises any impact on adjoining property. Plots 5 and 6 are sited nearest to the east boundary but window positions are deliberately placed to minimise direct overlooking. It is considered that the layout and design does not have an adverse impact on neighbouring dwellings.

Overall Planning Balance

- 6.39 Because the Council's Local Plan is out of date and a five-year supply of deliverable housing sites cannot currently be identified, the National Planning Policy Framework (NPPF) requires that development be approved unless the adverse impacts would significantly and demonstrably outweigh the benefits, or if specific policies within the NPPF suggest development should be refused. The NPPF in this regard applies a 'presumption in favour of sustainable development' for which sustainable development addresses economic, social and environmental considerations.
- 6.40 Economic: Whilst the development would replace a site with a commercial use, that use has been redundant for nearly three years with no reasonable prospect of returning. Whilst the scheme is 100% residential, the 22 dwellings would generate additional expenditure in the local economy which has to be classed as an economic benefit. There will also be temporary jobs in construction whilst the homes are being built.
- 6.41 Social: The provision of 22 dwellings toward meeting projected housing need, at a time when the Council is unable to identify a five-year supply, is a significant social benefit which carries a high level of weight in the overall planning balance – particularly as government policy is to boost housing supply.
- 6.42 Environmental: The environmental impacts of the proposal will be positive. The site would be tidied and will enhance the appearance of the area with minimal impact upon ecology, the landscape and the setting of the nearby listed building. The re-use of a brownfield site is also a significant environmental benefit.
- 6.43 In the overall planning balance, Officers consider that none of the limited adverse impacts would significantly and demonstrably outweigh the benefits and the application is therefore recommended for approval subject to a Section 106 legal agreement and a range of planning conditions.

Background papers

None.