



PLANNING COMMITTEE

DATE: Wednesday 7 September 2016
TIME: 6.00 pm
VENUE: Council Chamber, Weeley

MEMBERSHIP:

Councillor White (Chairman)	Councillor Fowler
Councillor Heaney (Vice-Chairman)	Councillor Gray
Councillor Baker	Councillor Hones
Councillor Bennison	Councillor Hughes
Councillor Everett	Councillor McWilliams
Councillor Fairley	

Most Council meetings are open to the public and press.

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Meeting papers can be provided, on request, in large print, in Braille, or on disc, tape, or in other languages.

For further details and general enquiries about this meeting, contact Katie Sullivan on 01255 686 585

DATE OF PUBLICATION: TUESDAY 30 AUGUST 2016

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 - 6)

To confirm and sign as a correct record, the minutes of the meeting of the Committee, held on 9 August 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 A.1 - PLANNING APPLICATION - 16/00870/OUT - LAND WEST OF HECKFORDS ROAD, GREAT BENTLEY, CO7 8RR (Pages 7 - 36)

Erection of up to 50 dwellings together with open space, landscaping, sustainable drainage and vehicular/pedestrian accesses from Heckfords Road.

5 A.2 - PLANNING APPLICATION - 15/01787/FUL - SITE TO SOUTH OF POUND CORNER, HARWICH ROAD, MISTLEY, CO11 2DA (Pages 37 - 64)

Proposed development of 25 two and three bedroom bungalows.

6 A.3 - PLANNING APPLICATION - 16/00782/OUT - PARK 2 LAND AT BADLEY HALL FARM, BADLEY HALL ROAD, GREAT BROMLEY, CO7 7HU (Pages 65 - 80)

Outline application with all matters reserved for the erection of 24 new dwellings, including affordable housing and the provision of additional church and school overflow parking within the new site for approximately 30 no private cars.

7 A.4 - PLANNING APPLICATION - 16/00597/FUL - LAND ADJACENT CHARTFIELD COTTAGE, CHARTFIELD DRIVE, KIRBY-LE-SOKEN, CO13 0DB (Pages 81 - 88)

Detached dwelling with detached garage.

Date of the Next Scheduled Meeting

The next scheduled meeting of the Planning Committee is to be held in the Council Chamber, Weeley at 6.00 pm on Tuesday 4 October 2016.

Information for Visitors

FIRE EVACUATION PROCEDURE

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**MINUTES OF THE MEETING OF THE PLANNING COMMITTEE, HELD ON
TUESDAY 9 AUGUST 2016, AT 6.00 PM
IN THE PRINCES THEATRE, TOWN HALL, CLACTON-ON-SEA**

Present: Councillors White (Chairman), Heaney (Vice-Chairman), Baker, Davis, Everett, Fairley, Fowler, Gray, Hones and McWilliams

Also Present: Councillors Broderick (except minutes 44-46), Cossens (except minute 46), King (except minutes 44-46), Newton (except minutes 44-46), Parsons, Watling (except minute 46), Whitmore (except minute 46) and Winfield (except minute 46)

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

39. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

There were apologies for absence received from Councillors Bennison (with Councillor Davis substituting) and Hughes (with no substitute).

40. MINUTES OF THE LAST MEETING

The minutes of the last meeting of the Committee, held on 12 July and continued on 14 July 2016, were approved as a correct record and signed by the Chairman.

41. DECLARATIONS OF INTEREST

Councillor Watling, present in the public gallery, declared an interest in relation to Planning Application 16/00880/FUL by virtue of the fact he was a resident of Frinton-on-Sea and a local Ward Member.

Councillor Davis declared an interest in relation to Planning Application 16/00880/FUL by virtue of the fact she was a local Ward Member for an adjacent Ward.

Councillor Cossens, present in the public gallery, declared an interest in relation to Planning Application 16/00880/FUL by virtue of the fact he was a local Ward Member for an adjacent Ward.

Councillor Parsons, present in the public gallery, declared an interest in relation to Planning Application 15/01351/OUT by virtue of the fact he was a local Ward Member.

Frinton and Walton Town Councillor Andrea Cossens, present in the public gallery, declared an interest in Planning Application 16/00880/FUL.

Councillors Broderick, King and Winfield, present in the public gallery, each declared that they were members of the Holland Residents' Association and, that therefore each had an interest in relation to Planning Application 15/01351/OUT.

Councillor Everett declared an interest in relation to Planning Application 16/00880/FUL by virtue of the fact he was a resident of Frinton-on-Sea and a patient of the Dental Surgery.

County Councillor Colin Sargeant, present in the public gallery, also declared an interest in relation to Planning Application 15/01351/OUT

42. CHAIRMAN'S UPDATE – PLANNING APPLICATION NO. 16/00546/OUT - RED BARN FARM, RED BARN LANE, GREAT OAKLEY, CO12 5BE (AGENDA ITEM 7)

The Chairman announced that, prior to conducting the formal business on the agenda he had agreed to defer this matter until the September meeting, given that it had been brought to his attention that additional information was required in line with the Conservation of Habitat and Species Regulations 2010.

The Chairman apologised for the lateness of the decision to defer the matter and gave any members of the public who had come along to hear that matter being considered, the opportunity to leave the meeting.

43. PLANNING APPLICATION -15/01351/OUT - LAND NORTHWEST OF SLADBURYS LANE, CLACTON-ON-SEA, CO12 6NU

Councillor Parsons, present in the public gallery, had earlier declared an interest in relation to Planning Application 15/01351/OUT by virtue of the fact he was a local Ward Member.

County Councillor Colin Sargeant, present in the public gallery, had also earlier declared an interest in relation to Planning Application 15/01351/OUT

Councillors Broderick, King and Winfield, present in the public gallery, had earlier declared that they were members of the Holland Residents Association and had an interest in this application.

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) Eight further letters of objection;
- (2) An objection received from Councillor Colin Sargeant (County Councillor for the Clacton East Division); and
- (3) An update on Consultations.

During her presentation the Council's Head of Planning also informed the Committee that a further 15 letters of objection had been received since the update sheet was published; these dealt with the same issues as already summarised on the update sheet.

David Emmerson, a local resident, spoke against the application.

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

Councillor Winfield, a local Ward Member for the adjacent St Bartholomews Ward, spoke against the application.

Richard Bray, on behalf of the applicant, spoke in support of the application.

Following discussion by the Committee, and consideration of further advice provided by Officers at the meeting with regards to defending potential reasons for refusal, it was moved by Councillor Gray, seconded by Councillor Hones and **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:

- Loss of local Green Gap
- Impact on local character

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

It was reported that this application had been referred to the Planning Committee at the request of Councillor Whitmore, 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 refusal.

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) Information about a Bat and Barn Owl Survey Report;
- (2) An amendment to the proposed reason for refusal number 2; and
- (3) Information in regards to recent correspondence from the applicant.

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

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

Following discussion by the Committee, it was moved by Councillor Hones, seconded by Councillor Fowler and **RESOLVED** that the Head of Planning (or equivalent authorised officer) be authorised to refuse outline planning permission for the development, for the following reasons:

1. Whilst the site had been considered to be a socially sustainable location for new dwellings and the proposal would have brought some economic benefits, it had been considered that the proposal failed to meet the definition of sustainable development as set out in paragraph 7 of the NPPF as it was considered that that the site would have been 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 have been 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 had not been provided prior to the determination of the application. The proposal had therefore failed to make the necessary provision towards open space, 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.

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

Councillor Davis had earlier declared an interest in relation to Planning Application 16/00880/FUL by virtue of the fact she was a local Ward Member for an adjacent Ward.

Councillor Davis withdrew from the Committee and sat in the public gallery, whilst the Committee considered this item and reached its decision.

Councillor Watling, present in the public gallery, had earlier declared an interest in relation to Planning Application 16/00880/FUL by virtue of the fact he was a resident of Frinton-on-Sea and a local Ward Member.

Councillor Cossens, present in the public gallery, had earlier declared an interest in relation to Planning Application 16/00880/FUL by virtue of the fact he was a local Ward Member for an adjacent Ward.

Frinton and Walton Town Councillor Andrea Cossens, present in the public gallery, had earlier declared an interest in this application.

Councillor Everett had earlier declared an interest in relation to Planning Application 16/00880/FUL by virtue of the fact he was a resident of Frinton-on-Sea and a patient of the Dental Surgery.

It was reported that this application had been referred to the Planning Committee at the request of Councillor Cossens, a local Ward Member for the adjacent Holland and Kirby 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 refusal.

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

Allan Eldret, representing Frinton Residents Association and also as a local resident, spoke in support of the application.

Town Councillor Andrea Cossens, representing Frinton and Walton Town Council, spoke in support of the application.

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

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

Councillor Davis, a local Ward Member for the adjacent Hamford Ward, spoke in support of the application.

Siobhan Thurlow-Williams, the Practice Manager of the Dental Surgery, spoke in support of the application.

Following discussion by the Committee, it was moved by Councillor Fowler, seconded by Councillor Heaney and **RESOLVED** that, contrary to the Officer's recommendation of refusal, the Head of Planning (or equivalent authorised officer) be authorised to grant permission for the change of use to a dental studio but subject to the standard Conditions relating to time implementation of the development and a Condition to restrict use of the property to a Dental Surgery only (no other uses within class D1 to be permitted).

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

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.

Carol Bannister, a local resident, spoke in support of the application.

Edward Gittins, the agent, on behalf of the applicant, spoke in support of the application.

Following discussion by the Committee, it was moved by Councillor McWilliams, seconded by Councillor Everett and unanimously **RESOLVED** that the Head of Planning (or equivalent authorised officer) be authorised to grant 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 (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 six months, as the requirements necessary to make the development acceptable in planning terms had not been secured through a Section 106 planning obligation.

The meeting was declared closed at 9.15 pm.

Chairman

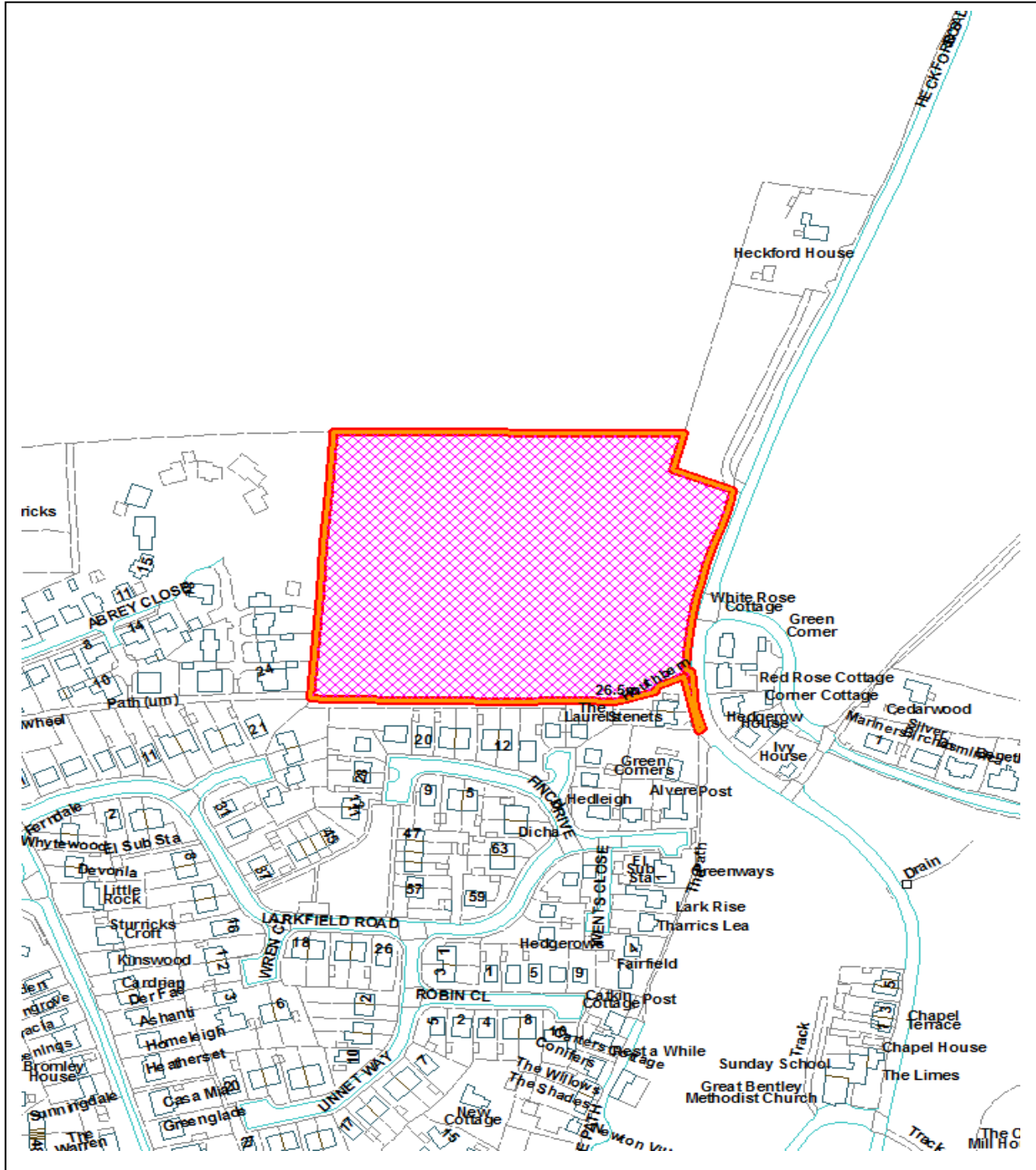
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PLANNING COMMITTEE

7 SEPTEMBER 2016

REPORT OF THE HEAD OF PLANNING

A.1 PLANNING APPLICATION – 16/00870/OUT - LAND WEST OF HECKFORDS ROAD, GREAT BENTLEY, CO7 8RR



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Application:	16/00870/OUT	Town / Parish: Great Bentley Parish Council
Applicant:	Welbeck Strategic Land II LLP & M MacDonald, R MacDonald and R L MacDonald	
Address:	Land West of Heckfords Road, Great Bentley, CO7 8RR	
Development:	Erection of up to 50 dwellings together with open space, landscaping, sustainable drainage and vehicular/pedestrian accesses from Heckfords Road.	

1. Executive Summary

- 1.1 The is an outline planning application seeking approval for the principle of developing up to 50 dwellings with all other matters, with the exception of access, reserved for approval through a detailed application at a later date. As a departure from the Local Plan, this application is before the Committee for a decision but Councillor McWilliams, as the Ward Councillor for Great Bentley, has also specifically requested that the application be determined by the Committee.
- 1.2 The Committee will already be familiar with this proposal as it is a re-submission of earlier application 15/01820/OUT which was considered by the Committee at its meeting on 22nd March 2016, deferred for further consideration and an on-site meeting with a highway engineer from Essex County Council, but then refused planning permission at the meeting of 19th April 2016.
- 1.3 That earlier application was refused because the proposed pedestrian footway from the site along Heckfords Road providing a connection back into the village green would include a section measuring no more than 1.2 metres in width. Notwithstanding there being no objection from the highway authority, the Committee was concerned that the development would introduce an increased risk of pedestrians having to step out into the carriageway on the outside of the bend where visibility around the bend is limited. There was a particular concern that the distance between the narrowest pinch point and the point at which it would become visible to drivers travelling along Heckfords Road would be well within the reasonable stopping distance for a vehicle travelling at the legal speed limit.
- 1.4 From the meeting of 19th April 2016, the Committee will also recall another outline proposal 16/00133/OUT for up to 50 dwellings on land at Admirals Farm on the opposite side of Heckfords Road. That proposal similarly required a footway along the western side of Heckfords Road to connect with the village green, but the applicants for that scheme had submitted information to show how a large part of the footway could be widened to 1.4 metres through the acquisition of third party land. With this additional width, the Committee was content to grant planning permission subject to a s106 legal agreement and conditions.
- 1.5 The applicants for the refused scheme west of Heckfords Road have since appealed to the Secretary of State although no dates, at the time of writing, had been confirmed by the Planning Inspectorate. However, in light of the Admirals Farm decision, the applicants have also submitted this new application, with a commitment not to occupy any of the new dwellings unless the minimum 1.4 metre width along the said section of footway (as accepted by the Committee for the neighbouring scheme) is achieved. By imposing a planning condition to require the above, the Committee's reason for refusing the earlier scheme can be addressed and the new application is therefore recommended for approval.

- 1.6 The 2.4 hectare site lies outside of the defined settlement development boundary of Great Bentley as set out both the Council's adopted and new emerging Local Plans. Great Bentley has been identified as one of six 'Rural Service Centres' in the new draft Local Plan that contain a relatively good range of local services and facilities with potential for limited growth in homes and jobs. The site lies between land that has recently been developed for a scheme of 32 homes to the west and the above-mentioned land with approval for up to 50 dwellings to the east.
- 1.7 Whilst the position is improving, the Council is still, at the time of writing, unable to demonstrate a 5 year supply of deliverable housing sites and the National Planning Policy Framework (NPPF) therefore imposes a presumption in favour of sustainable development whether a site forms part of the Local Plan or not. It requires that planning permission be granted unless any adverse effects of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF as a whole. Under previous consideration of this proposal, the only issue of contention was the width of the proposed footway connection and concerns about pedestrian safety. If this matter can now be addressed to the Committee's satisfaction, Officers have to recommend that the scheme does meet the requirements of the NPPF and can be approved.

Recommendation: Approve

That the Head of Planning (or equivalent authorised officer) be authorised to grant planning permission for the development subject to:-

- a) Within 6 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 required):
- Council/affordable housing;
 - Education contributions;
 - Healthcare contributions;
 - Public open space and play and its transfer and maintenance; and
 - Highway Improvement Works.
- 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 (or the equivalent authorised officer) in their 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 (the reserved matters);
 4. Development in broad accordance with submitted indicative framework plans;
 5. Development to contain up to (but no more than) 50 dwellings;
 6. Highways conditions (as recommended by the Highway Authority);
 7. SUDS and drainage conditions as requested by Essex County Council;
 8. Hard and soft landscaping plan/implementation;
 9. Ecological mitigation/tree protection measures;
 10. Construction methods plan;
 11. Details of lighting, materials and refuse storage/collection points; and
 12. Archaeological investigation and report works;
 13. Site lighting strategy, and;
 14. Broadband.

- 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.

2. Planning Policy

National Policy:

NPPF National Planning Policy Framework (2012)

- 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 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 Policy:

- 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.

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).

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.

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.

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.

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 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.

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.

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 (Published July 2016)

Relevant policies include:

SP1: Presumption in Favour of Sustainable Development

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

SP4: Infrastructure and Connectivity

Requires the provision of infrastructure, services and facilities that are identified to serve the needs arising from new development.

SP5: Place Shaping Principles

Requires the highest standards of built and urban design and sets out the key principles that will apply to all new developments.

SPL1: Managing Growth

Identifies Great Bentley as a 'rural service centre' within a hierarchy of settlements designed to direct future growth to the most sustainable locations.

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 Wellbeing

Requires a Health Impact Assessment on all development sites deliver 50 or more dwellings and financial contributions towards new or enhanced health facilities where new housing development would result in a shortfall or worsening of health provision.

HP4: Open Space, Sports and Recreation Facilities

Requires new developments to contribute to the district's provision of playing pitches and outdoor sports facilities and also requires larger residential developments to provide land as open space with financial contributions toward off-site provision required from smaller sites.

LP1: Housing Supply

Sets out the broad location of where new housing is proposed to be built to over the next 15-20 years to meet objectively assessed needs. This application site falls within one of the areas proposed for residential and mixed use development.

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

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 Housing or Council Housing.

PP12: Improving Education and Skills

Requires the impacts of development on education provision to be addressed at a developer's costs and also 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 Geodiversity

Requires existing biodiversity and geodiversity 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

Where developments might affect archaeological remains, this policy requires proper surveys, investigation and recording to be undertaken.

CP1: Sustainable Transport and Accessibility

Requires the transport implications of development to be considered and appropriately addressed.

CP3: Improving the Telecommunications Network

Requires new development to be served by a superfast broadband (fibre optic) connection installed on an open access basis and that can be directly accessed from the nearest British Telecom exchange and threaded through resistant tubing to enable easy access for future repair, replacement or upgrading.

Other Guidance

Essex Design Guide

Essex County Council Car Parking Standards - Design and Good Practice

3. Relevant Planning History

15/01820/OUT	Erection of up to 50 dwellings together with open space, landscaping, sustainable drainage and vehicular/pedestrian accesses from Heckfords Road.	Refused	24.05.2016
16/00870/OUT	Erection of up to 50 dwellings together with open space, landscaping, sustainable drainage and vehicular/pedestrian accesses from Heckfords Road.	Current	

- 3.1 Application 15/01820/OUT was considered by the Committee at its meeting on 22nd March 2016 but a decision was deferred to enable further consideration and an on-site meeting with a highway engineer from Essex County Council. Planning permission was then refused at the meeting of 19th April 2016 over concerns about pedestrian safety and the narrow width of the footway along Heckfords Road that would connect the development with the village green.

4. Consultations

TDC Principal Tree & Landscape Officer	The main body of the application site is in agricultural use and support a crop of Maize. There are no trees or any significant vegetation in the main body of the land. There are established hedgerows on the western and eastern boundaries and the eastern boundary contains a single Oak that has been regularly reduced as it is situated beneath overhead power cables. The southern boundary is marked with a few bushes and a Holly that appear to be situated within the curtilage of adjacent dwellings gardens.
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None of the existing vegetation meets the criteria under which it merits protection by means of a Tree preservation Order nevertheless it would be desirable to retain existing vegetation for its screening value. It would however be desirable to retain as much as possible of the existing vegetation, including trees, for their softening and screening impact.

In order to quantify the impact of the development proposal on the appearance of the local landscape character the applicant has submitted a document that broadly fits the purpose of a Landscape and Visual Impact Assessment (LVIA).

The document describes the impact of the proposed change of use of the land on the character of the area and establishes the measures required to mitigate the harm likely to be caused by the development. It goes on to assess the impact of the development during construction, upon completion and after 15 years.

It would appear that the development proposal could be implemented without causing harm to retained trees or to the overall character and appearance of the countryside.

In order to ensure that the development site is assimilated into its setting soft landscaping should be secured by a condition attached to any planning permission that may be granted to secure details of the indicative landscaping shown on the site layout forming part of the arboricultural Assessment. Soft landscaping will need to address the screening and enhancement of the appearance of the development.

TDC
Regeneration

The regeneration team have no specific comments, but would request that if this application were to be approved, the developer ensures that superfast fibre broadband is commenced to the site as per the requirements of draft Policy CP3 to ensure the development is adequately served.

TDC Open
Space and Play

There is currently a deficit of 1.73 hectares of equipped play in Great Bentley. However there is more than adequate provision in terms of formal open space.

Due to the limited play provision in Great Bentley, any further development in the area will increase the current deficit and put greater demand on already stretched facilities.

Due to the size of the site it is recommended that at least 10% is laid out as open space. It is noted that the site includes play provision which should be to a LEAP standard. Should the developer wish to transfer ownership and maintenance responsibilities for the open space and play area, a commuted sum equal to ten years maintenance costs will be required.

TDC Housing

There is a high demand for housing in the Great Bentley area and there are currently 152 households on the housing register seeking a 1 bedroom property, 71 seeking a 2 bedroom property, 35 seeking a 3 bedroom property and 20 seeking a 4 bedroom property.

The department would prefer affordable housing to be delivered on site. Policy LP5 in the emerging Local Plan states that on sites with 11 or more

dwellings, 30% of the dwellings should be provided as affordable housing. On this site, this would equate to 15 properties. The Council would prefer that another registered housing provider be sought to take on the affordable rented homes on this site. In the event that another registered housing provider cannot be sought, the department would be happy to explore other deliver options e.g. gifted properties or a financial contribution.

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

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

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

a) A priority junction off Heckfords Road to provide access to the proposal site as shown in principle on planning application drawing number 5153.008 Rev A with the exception of the kerbed radii which shall be 6 metres

b) Widening of Heckfords Road at its junction with the A133 and 2no. traffic islands with bollards and high level beacons at the right turn lane as shown in principle on planning application drawing number 5153.002 Rev D

c) Two new bus stops adjacent the proposal site access off Heckfords Road OR upgrading of existing bus stops with the highest frequency of services which would serve the proposal site. For either option, stops shall be provided or upgraded to current Essex County Council specification (details shall be agreed with the Local Planning Authority prior to commencement of the development)

d) A footway along Heckfords Road between the proposal site access and the Village Green as shown in principle on planning application drawing number 5153.008 Rev A with the exception of the section of footway north and south of the priority junction which shall be immediately adjacent the Heckfords Road carriageway

e) Improvements to the Public Right of Way which runs along the southern boundary of the proposal site (details shall be agreed with the Local Planning Authority prior to commencement of the development)

f) Residential Travel Information Packs

ECC Schools A development of this size can be expected to generate the need for up to 4.5 Early Years and Childcare (EY&C) places, 15 primary school places and 10 secondary school places.

According to the latest information available to Essex County Council's early years and childcare team, it is likely that there is sufficient provision

within the area to accommodate children from this development.

This proposed development is located within the Tendring primary forecast planning group (Brightlingsea/Elmstead). The forecast planning group has an overall capacity of 1,310 places, of which 30 places are in temporary accommodation. This forecast planning group is forecast to have a deficit of 61 permanent places by the school year 2019-20. A contribution for additional primary school places is requested to fund the replacement of 15 places currently in temporary accommodation. The estimated cost of the project is £183,270 – i.e. £12,218 per place.

The proposed development is located within the priority admissions area for Colne Community School which has a capacity of 1,488 places. The school is forecast to have surplus of 47 places by the school year 2019-20 so no contributions for additional secondary school places will be requested. However, the nearest secondary school is in excess of the statutory walking distance from the proposed development and a contribution towards school transport of £42,180 is sought.

Anglian Water

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

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

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 and subsequent submitted information 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.

Essex County Council Archaeology

The Essex Historic Environment Record and Tendring Historic Environment Characterisation Report demonstrate that the proposed development lies within an area of archaeological interest and on the edge of Great Bentley Conservation Area.

A number of cropmark complexes in the surrounding area attest to the

archeological potential of the area and the proposed development. These include ring-ditches of probably Bronze Age date, settlement enclosures and trackways of later prehistoric or Roman date and probably medieval field boundaries. Any surviving below ground heritage assets would be damaged or destroyed by the proposed development. Some excavation of the cropmark features nearby has revealed direct evidence for Bronze Age activity including a ploughed out barrow and a medieval landscape of agriculture and industrial activities.

Planning conditions should be imposed on approval of planning permission to secure, prior to commencement of development:

- a programme of trial trenching and a subsequent summary report and mitigation strategy to be submitted for the Council's consideration;
- archaeological fieldwork in any areas of the site considered to contain archaeological deposits; and
- a post excavation assessment with the full site archive and report to be deposited at the local museum.

NHS England This development is likely to have an impact on the services of the Great Bentley Surgery (The Hollies). This GP practice does not have capacity for the additional growth as a result of this development. Therefore a Health Impact Assessment has been prepared by NHS England to provide the basis for a developer contribution toward capital funding to increase capacity within the GP Catchment Area.

There is a capacity deficit in the catchment practice and a developer contribution of £15,080 is required to mitigate the 'capital cost' to NHS England for the provision of additional healthcare services arising directly as a result of the development proposal. NHS England requests that this sum be secured through a planning obligation linked to any grant of planning permission, in the form of a Section 106 agreement.

5. Representations

5.1 Great Bentley Parish Council has objected to the application for the following reasons:

- a) The cumulative impact of vehicles on three road junctions in close proximity to a sharp bend in Heckfords Road that is already a serious road safety hazard. One of the junctions we refer to is the proposed new junction on the east side of Heckfords Road to access the proposed new development (16/00133/OUT) of 50 dwellings on land known as Admiral's Farm.
- b) Pedestrians from the development walking to and from the village would be put in danger. This development would compound an already dangerous situation.
- c) There is a great concern locally about the highway safety implications on Heckford's Road and the development proposal shows the inclusion of no traffic calming initiative(s).

The Parish Council also reiterates its comments on the previous planning application 15/01820/OUT which are set out as follows:

1. Development Boundary

As was the case for both Plough Road and Admirals Farm, this application is not on a site allocated for development in either the Council's adopted Local Plan or the

emerging Local Plan and also falls outside of the settlement development boundaries as defined in both plans.

2. School & Doctors

As was the case for both Plough Road and Admirals Farm, in respect of both the primary school and the doctors surgery, the adverse social impact caused by the development would significantly and demonstrably outweigh any social, economic or environmental benefits of the proposal. The development would fail against the social role set out in Paragraph 7 of the National Planning Policy Framework and would not therefore constitute sustainable development.

3. Travel Choice

According to the NPPF, all new development proposals should be located and designed to avoid reliance on the use of the private car and promote travel choice other than in exceptional circumstances. Permission will not be granted for development if it is not accessible by a choice of means of transport. As recognised by the Committee in respect of Plough Road, Great Bentleys frequency of bus and rail services is limited and they do not therefore provide a viable alternative to the private car for everyday travel.

4. Pedestrian Safety

In common with the Admirals Farm application, this site requires pedestrians to walk to the village facilities and public transport links via a particularly dangerous corner on Heckfords Road. This footpath will create an unacceptable pinch point which we believe endangers the safety of residents. As local residents we are familiar with this corner and the danger it poses and cannot support development which would put people at risk in this way. Furthermore, the ongoing route in to the village comprises large sections which are subject to surface water (along The Path) and unlit (across the central Green). This development would not therefore meet TDC policy requirements of providing convenient, safe and direct routes for walking and would further encourage use of the private car.

5. Urbanisation

TDC Policy requires that new development does not have an urbanising effect on the rural character of the village(s) concerned. This development would have a considerable urbanising impact on the Northern entrance to the village and conservation area. It would extend development in to what is currently an area of uncontained open countryside to the North, posing considerable risk of further add-on developments in the future. This development would contradict Policy SD2 of the emerging Local Plan which identifies urban settlements as being the focus for the majority of the district's growth.

6. Conservation Area

The Great Bentley conservation area will suffer significant detriment in respect of the long view impact from its Northern edge, an area specifically mentioned in 2006 TDC Conservation area review as requiring protecting.

7. Traffic impact

The applicant comments that there were no specific transport or highway comments from the Parish. The Parish Council believes that there are considerable issues in

respect of the traffic impact from this development on the surrounding rural roads and the village itself, and that these points were raised at the consultation.

5.2 23 individual objections have been submitted in response to this planning application which include the following concerns and suggestions:

- Site lies outside of the settlement boundary for Great Bentley;
- Loss of productive Grade 2 agricultural farmland;
- The field is a habitat for ecology including buzzards, pheasants, bats, birds, butterflies and moths;
- Speed of traffic coming round the corner makes this location dangerous;
- The roads and lanes around Great Bentley are narrow, rural in nature and not capable of accommodating a significant increase in traffic;
- Proposed footpath is not wide enough for pedestrians to pass safely and is on a blind bend;
- Development will not benefit villagers looking for starter homes or sheltered accommodation;
- The cumulative effect of a number of developments on the road network and other infrastructure should be taken into account;
- Limited job opportunities in the village will mean commuting will be encouraged;
- Developments will impact upon schools and doctors;
- The primary school does not have any room to expand;
- Increased expenditure for local shops will be limited because many shop outside of Great Bentley or shop online;
- A decision should be deferred until we know the outcome of the appeal for the development at Station Field, Plough Road is known;
- Too much of a focus on development at the northern end of the village, when most of the services and facilities are to the south;
- Great Bentley has already met its quota for the Local Plan until 2033;
- Parking in the centre of the village is impossible;
- The junction of Heckfords Road with the A133 is a major safety issue;
- The railway service is very limited;
- Development on this site would have an adverse impact on the setting of the Great Bentley Conservation Area;
- The site is not on any bus routes;
- The village will become a town if this application goes through;
- The development will increase the frequency of power cuts and place strain on drainage and internet services;
- The development will bring light pollution;
- Noise and disturbance for existing residents during the construction phase;
- Developments that have taken place in Brightlingsea and St. Osyth all lead to increased movement through the village;
- New development should be focussed on the larger urban areas to aid their regeneration; and
- Loss of views.

5.3 Members of the Committee will however recall that the earlier application 15/01820/OUT attracted 47 objections along with a petition containing 182 signatures, raising many of the concerns listed above.

6. **Assessment**

6.1 The main planning considerations are:

- Site Context;
- Proposal;
- Principle of Development;
- Pedestrian Safety;
- Cumulative impacts;
- Housing Density and Mix;
- Layout, Scale and Design;
- Residential Amenity;
- Traffic, access and highway safety;
- Impact on Heritage Assets;
- Ecology;
- Arboriculture/Landscaping;
- Drainage and Flood Risk; and,
- Other Material Considerations (including Section 106 Obligations).

Site Context

- 6.2 The site lies to the north of the village of Great Bentley and extends to around 2.42 hectares with the majority of the site being relatively flat. The site forms part of a larger arable agricultural field and possesses strong eastern, southern and western boundaries.
- 6.3 The western boundary is a combination of a fence and a 4 metre high hedge beyond which is Sturrick Farm where a residential development of 32 dwellings is being constructed (known as Bentley Grange) and is nearing completion. The southern boundary is delineated by a mature hedge up to 5 metres in height beyond which is a public right of way bounded by a variety of fences enclosing residential properties fronting Finch Drive.
- 6.4 Parallel to the public right of way and to the north of the above referenced hedgerow is an informal footpath. The eastern boundary is delineated by a hedge of which fronts Heckford's Road.
- 6.5 Opposite the site the road is partially fronted by a recent housing scheme.

Proposal

- 6.6 The application has been submitted in outline form with all matters apart from access reserved for later consideration. The scheme proposes the erection of up to 50 dwellings together with open space, landscaping, sustainable drainage and vehicular/pedestrian accesses from Heckford's Road.

Principle of Development

- 6.7 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.
- 6.8 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.

- 6.9 The application site is located immediately to the north of existing residential development in Great Bentley. The site is adjacent to but outside the village's settlement development boundary as defined within both the adopted and emerging Local Plans. The boundary aims to restrict new development to the most sustainable sites and outside of the boundary the Local Plan generally seeks to conserve and enhance the countryside for its own sake by not allowing new housing unless it is consistent with countryside policies.
- 6.10 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 clearly contrary to local planning policy. However, 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.
- 6.11 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. At the time of writing, and despite the publication of the new draft Local Plan, the Council was still only able to identify an approximate 3.8 year supply and thus there still remains considerable (albeit quickly reducing) 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.
- 6.12 '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.
- 6.13 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. The application must therefore be judged on its merits against the NPPF.
- 6.14 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".
- 6.15 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. Great Bentley is categorised in

emerging Policy SPL1, along with six other villages, as a 'Rural Service Centre' in recognition of its size and reasonable range of services and facilities, particularly when compared against many of the district's smaller rural villages. Rural Service Centres are the next most sustainable category of settlement following 'strategic urban settlements', 'smaller urban settlements' and 'expanded settlements' (of which Weeley is the only one). Therefore, a level of housing development for Great Bentley could have the potential to be considered sustainable so long as detailed matters such as infrastructure provision and environmental impacts are considered and addressed.

Pedestrian Safety

- 6.16 The sole reason that the previous application 15/01820/OUT was refused by the Planning Committee relates to pedestrian safety, specifically the footway connection between the development and the village green. This concern had been raised initially by the Committee at the meeting of 22nd March 2016 where it was resolved to defer a decision until Members had been able to meet a highway engineer from Essex County Council on site. That meeting took place on 19th April 2016, but notwithstanding the highway engineer's advice the Committee remained concerned about pedestrian safety and resolved, accordingly, to refuse permission that evening.
- 6.17 Based on the Committee's resolution, planning permission was refused on 24th May 2016 with the following wording included on the decision notice:

"The definition of sustainable transport modes contained within the glossary of the National Planning Policy Framework describes an efficient, safe and accessible means of transport with overall low impacts on the environment which includes walking and cycling. Paragraph 32 of the Framework specifically requires safe and suitable access to development sites for all people and that development should be refused on transport grounds where the residual cumulative impacts of development are severe. Policy TR3a of the Tendring District Local Plan (2007) (the adopted Local Plan) requires, where practical, that developments link with existing footpath and public rights of way networks and provide convenient, safe and direct routes for walking. The policy also requires, where appropriate, that development improves links between pedestrian routes and public transport facilities, and supports pedestrian priority measures.

The proposed development site is located on the northern outskirts of Great Bentley on the opposite side of the Village Green to Great Bentley Railway Station and many of the village's main facilities and services. In order for residents of the proposed development to access these services on foot, it is proposed to create a pedestrian footway from the site along Heckfords Road that will connect with the village green. A section of the new pedestrian link would extend along the frontages of existing residential properties in Heckfords Road resulting in a pinch point where the footway narrows to 1.2m in width for a stretch of approximately 27 metres.

The development will introduce an increased risk of pedestrians being tempted, inclined or needing to step out into the carriageway temporarily. In the event of two pedestrians travelling in opposite directions meeting one another at this pinch point, particularly if accompanied by a wheelchair, trolley or pram. The pinch point is located on the outside of a bend in the highway where visibility around the bend is limited for drivers travelling at the legal speed limit. The distance between the pinch point and the point at which it would become visible to drivers travelling along Heckfords Road is well within the reasonable stopping distance for a vehicle travelling at the legal speed limit. There is consequently a genuine risk to pedestrians passing through the pinch point in the event of stepping into the carriageway at a time when cars are heading towards that bend.

Insufficient evidence has been submitted with the application to demonstrate, to the Council's satisfaction, that the risk to pedestrian safety resulting from the development and the proposed footway will be anything less than severe. The proposal is therefore contrary to paragraph 32 of the National Planning Policy Framework and the requirements of Policy TRA3a in the adopted Local Plan by failing to provide convenient, safe, attractive and direct routes for walking.”

- 6.18 The applicants have appealed to the Secretary of State against the Council's decision although at the time of writing the Planning Inspectorate had yet to confirm a date for the hearing.
- 6.19 At the Planning Committee meeting of 19th April 2016, another outline planning application for residential development in Great Bentley was also considered. Planning application 16/00133/OUT for up to 50 dwellings on land at Admirals Farm on the opposite side of Heckfords Road proposed a similar footway connection along the western side of the road between the development and the village green for which pedestrians would need to cross over the road to access the footway. Prior to the Committee meeting, the applicants had provided updated information to confirm that they had secured an option to acquire third party land across the front of the residential property 'Heathbern' which would enable a footway of 1.8 metres in width to be achieved along that property's frontage – substantially reducing the length of footway that would otherwise have been restricted to 1.2 metres.
- 6.20 Having received this updated information, the Planning Committee resolved to approve planning permission for the Admirals Farm development subject to a s106 legal agreement and a series of planning conditions – one of which would require the footway to be constructed in accordance with the updated details. At the time of writing the s106 agreement was nearing completion and the Council was in a position to be able to grant planning permission imminently.
- 6.21 Whilst the applicants for the land west of Heckfords Road have appealed against the refusal of their earlier application, they have submitted the current application – in effect a re-submission of the earlier scheme but with revised footway drawings that achieve the same width proposed by the approved Admiral's Farm development. If this application is improved, a planning condition will require the footway to be delivered in line with the approved drawings, or else none of the dwellings can be occupied.
- 6.22 Because the applicant would be held to the footway dimensions that the Committee considered acceptable for the Admirals Farm scheme, it follows that the original reason for refusal has been addressed. Officers therefore consider that continuing to refuse this application on pedestrian safety grounds is likely to prove very difficult to defend on appeal without very exceptional justification and evidence.

Cumulative Impacts

- 6.23 A number of objections have raised a concern about the cumulative impacts of numerous residential developments taking place in Great Bentley both upon traffic and other infrastructure provision such as schools and health.
- 6.24 The construction of 32 dwellings on the adjoining Sturicks Farm development (which was allowed on appeal) has been the first significant residential development in the village for many years and the development that has been approved at Admirals Farm (subject to a s106 agreement) on land to the east of Heckfords Road is expected to deliver another 50 dwellings. Taking into account smaller schemes that have been constructed or approved in Great Bentley in recent years, around 100 dwellings are already effectively 'committed' for the village. The two other major developments that are under consideration in Great Bentley are this application for up to 50 dwellings west of Heckfords Road and the possible

development of land at 'Station Field' to the east of Plough Road at the southern end of the village.

- 6.25 The Station Field proposal 14/01750/OUT is for up to 150 dwellings and an area of employment land. That application was refused by the Planning Committee in October 2015 and was subsequently appealed by the applicants. A Public Inquiry was held in August 2016 with the result expected in the next few weeks. If the Inspector chooses to allow the appeal, against the Council's wishes, a s106 legal agreement has been put in place to ensure that financial contributions towards health and education are made by the developer to mitigate the impact of the development. The landowners at Station Field have also submitted an alternative development proposal including just 50 dwellings which has yet to be determined.
- 6.26 If the Heckfords Road application is approved and a further 50 dwellings are added to the village, the increase in housing stock of around 150 dwellings will represent an approximate 22% increase in the size of the village. If the larger Station Field scheme including 150 is subsequently allowed on appeal, a total housing stock increase closer to 300 would represent a 44% increase in the size of the village – a significant increase. However, the Council now knows from appeal decisions at Tokely Road, Frating and Cockaynes Lane, Alresford that a large or disproportionate percentage increase in dwelling stock is not sufficient reason under the NPPF to refuse planning permission, especially if the impacts on health and education can be mitigated to the satisfaction of the NHS and the education authority through s106 financial contributions.
- 6.27 For the current application, financial contributions have been requested by NHS England and the local education authority and the highways authority has deemed, in full knowledge of the other schemes under consideration in the village, that the impacts would be acceptable. The previous application for this site was not refused over concerns about cumulative impacts and Officers do not consider that such a reason for refusal could be upheld now. It is noted that some objectors have suggested that any decision on this application be deferred until the result of the Station Field appeal is known. However, even if the Station Field scheme is allowed, Officers do not consider that the recommendation for this proposal would change – unless the housing supply position improves dramatically to the extent that a five year supply is achieved.

Housing Density and Mix

- 6.28 One of the key issues in determining this outline application is whether the site can reasonably accommodate the level of development proposed in an acceptable manner and whether the density of the site is appropriate to the site and its surroundings. Policy LP3 of the draft Local Plan requires new residential development to achieve an appropriate housing density that has regard to various factors, including the character of development in the immediate area. The density of this proposal, allowing for on-site open space requirements, equates to approximately 25 dwellings per hectare which is higher than the density on the adjoining Bentley Grange site but not inappropriate in this location, when considered in the context of development in the area.
- 6.29 As this is an outline application with all matters reserved the above mix of housing size, type and tenure would be determined at reserved matters stage. The applicants have however indicated that it would be the intention to provide a mix of housing sizes, types and tenures to meet the needs of the local community for both market and affordable housing. It is suggested that the size of the market dwellings could range from 2 bedroom to 5 bedroom 'aspirational' properties.

Layout, Scale and Design

- 6.30 In support of the overarching aims and objectives of the NPPF the policies in both the adopted and emerging Local Plans set out the Council's commitment to sustainable development and good quality design. This planning application is submitted in an outline form with all matters, except access, reserved for later consideration by the Council. The development's detailed design is one of these matters to be considered at 'reserved matters' stage.
- 6.31 The submitted details show that the development site covers an area of approximately 2.42 hectares. The development would therefore result in an average housing density of 25 dwellings per hectare, which is considered to be acceptable in this location, and would integrate the development into the grain of existing development.
- 6.32 Paragraph 61 of the NPPF states that although visual appearance and the architecture of individual buildings are very important factors, securing high quality and inclusive design goes beyond aesthetic considerations and therefore planning decisions should address the connections between people and the places and the integration of new development into the built environment. With regards to this application, two proposed pedestrian linkages are provided onto the existing footpath to the south of the development to provide permeability of the site, and greater connectivity to the surrounding built form, village green to the east, and wider countryside beyond via the bridleway to the west.
- 6.33 With regards to scale, the applicants have indicated that proposed development would be mainly two-storey in height but this is a reserved matter consideration.
- 6.34 This being said, the applicant has provided an illustrative Framework Plan which whilst only indicative demonstrates to officers that a suitable layout could be achieved on site. Officers are of the view that the locations of the built forms of development, open spaces and structural planting as set out in the Layout Plan represents the most natural extension of the existing pattern of development.
- 6.35 In order to secure a degree of certainty with regard to the layout and appearance of the current scheme officers have included conditions requiring the submission of material samples at reserved matters stage while it is also required that the principles of the Framework Plan are adhered to.

Residential Amenity

- 6.36 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 in the emerging Local Plan 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'.
- 6.37 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.
- 6.38 It is noted that bedrooms and living rooms are deemed to be habitable rooms by the Essex Design Guide, and therefore great care is required to ensure new developments do not

impinge adversely on existing amenities by requiring the careful placement of such new windows. The Essex Design Guide states that for the rear-facing habitable rooms, the rear faces of opposite houses where approximately parallel, a minimum of 25 metres between the backs of houses is usually acceptable, and usually 15 metres away from the boundary of adjacent properties.

- 6.39 In this instance, it is considered that the site is capable of accommodating up to 50 dwellings in a way that can accord with the above standards and would not result in any adverse impact on the amenities of neighbouring properties.
- 6.40 Concerns have been raised about the noise, disturbance and pollution that the development would cause both during the construction period but also in the longer-term once the development is established. Conditions would be applied to the development to minimise impacts if the Committee was mindful to approve the application.

Traffic, Access and Highway Safety

- 6.41 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 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.
- 6.42 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.
- 6.43 The current application has been submitted in outline form with access to the site the only matter that has not been reserved and will be considered in full as part of the current scheme. In order to gain a full understanding of the likely impacts of the current proposal on the highway network the applicants have submitted a Traffic Assessment (TA) in support of the application. This document considers the proposed access points into the site from Heckfords Road as well as highway safety and capacity in the wider area.
- 6.44 The site will be assessed via a new priority T-junction from Heckford's Road while footways are also proposed to connect with the surrounding footway network (explained in more detail earlier in the report).
- 6.45 The applicants have undertaken a Road Safety Audit with regard to the suitability of this main access into the site and the Traffic Assessment indicates that it would be safe and appropriate for the scale of development proposed. In addition, Essex County Council Highways considered the content and findings of the TA and concluded that there would be no significant safety concerns with regard to the proposed access point from Heckford's Road.
- 6.46 A number of representations from residents indicate serious concerns about the wider effects of additional vehicle movements on local traffic, highway capacity, pedestrian safety and access for larger vehicles (including the emergency services).
- 6.47 The TA concluded that junction improvements at the A133, Colchester Road/Heckford's Road junction are required to help mitigate the development proposals. These

improvements are to be secured through either a planning condition or section 106 legal agreement if the Committee is minded to approve.

- 6.48 Officers conclude that the development, subject to the proposed conditions, would meet the requirements of Policy TR1a of the adopted Local Plan and the element of Policy CP1 in the emerging Local Plan relating to highway capacity and safety. It would also meet paragraph 32 of the NPPF which states that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

Impact on Heritage Assets

- 6.49 The enduring physical presence of the historic environment contributes significantly to the character and 'sense of place' of rural and urban environments. Some of this resource lies hidden and often unrecognised beneath the ground in the form of archaeological deposits, but other heritage assets are more visible. Policy PPL7 of the draft Local Plan requires archaeological evaluation to be undertaken for schemes affecting sites that do or might contain archaeological remains. Policy PPL8 of the emerging Local Plan requires development affecting the setting of a Conservation Area to only permitted where they have regard to the desirability of preserving or enhancing the special character and appearance of the area.
- 6.50 The NPPF is clear that when determining applications, Local Planning Authorities (LPA's) should require the applicant to describe the significance of a heritage asset affected, including any contribution made by their setting. The level of detail should be proportionate to the asset's importance and no more than is sufficient to understand the potential impact of the proposal on their significance.
- 6.51 The NPPF further states that where a site includes or has the potential to include heritage assets with archaeological interest, LPA's should require developers to submit an appropriate desk-based assessment and where necessary a field evaluation. In this instance the applicant has submitted a desk based assessment of the archaeological remains around Heckfords Road.
- 6.52 With regards to the archaeological consequences of this proposed development, the report concludes that there are no archaeological sites or other heritage assets within the proposed site, although there are a number of heritage assets identified within a search area of approx 1km. These include listed buildings groups, a standing monument, an excavated and surveyed archaeological site, cropmark sites and a windmill site.
- 6.53 The report states that none of these heritage assets would suffer significant harm as a result of the proposed development. Officers are in agreement.
- 6.54 The report further concludes that the immediate area around the application site contains some archaeological landscape features and officers therefore consider that it is likely that archaeological work will be required prior to development. It is however unlikely that any archaeological sites or finds would be a constraint on development, with the exception of the requirement for trial-trenching and excavation at the applicants cost.
- 6.55 With regards to these points, the Senior Historic Environment Consultant at Essex County Council has been consulted and has advised a programme of trial trenching followed by open area excavation to be imposed as a condition if planning permission is granted.
- 6.56 Whilst the is outside the Great Bentley Conservation Area, the north west corner of the Conservation Area does abut the south east corner of the application site. It is noted that

the Admiral's Farm development on the other side of Heckford's Road was refused over concerns about its impact on the setting of the Conservation Area.

- 6.57 The Conservation Area Character Appraisal, adopted by the Council in March 2006, summarises the character and appearance of the Conservation Area as: *“Great Bentley derives most of its special qualities from its immense green. The village contains relatively few listed buildings, and few others could be regarded as of great historic or architectural interest. However, many share a family relationship in their scale, colouring and the use of local materials: they group together to make attractive sequences, and their positive relationship with The Green produces a quite distinct character and appearance. A subsidiary part of the Area relates to development southwards to join The Green with the railway station: further distinctive streets are the result, again created by the attractive grouping of buildings not otherwise of great individual value.”*
- 6.58 The Appraisal identifies ‘Important views’ associated with the Conservation Area. These are:
- views north into the countryside from beyond the Conservation Area boundary;
 - a view into The Green from the within the Conservation Area at its northern entrance;
 - a view into the Conservation Area from entrance points on the east and west edges;
 - views south-west from the centre of The Green;
 - views north from the southern edge of The Green, and;
 - views south towards the railway.
- 6.59 Officers consider that the proposed development would not significantly affect the last five points as they face away from the development, or it would be screened in the views by existing buildings.
- 6.60 With regard to the views towards the north into the countryside officers note that ‘The Green’ and the areas on its western and southern edges are the primary historic elements and includes a number of listed buildings, of which St Mary’s Church is Grade I with the other buildings being Grade II. From within ‘The Green’ the proposed development would only be visible from the northern part near to the entrance / exit point on Heckford’s Road.
- 6.61 Whilst it is acknowledged that the proposed development would have some affect on the ‘Important View’ identified in the appraisal from beyond the conservation area facing north officers are of the opinion that this is not a view from within the Conservation Area and in addition it is constrained by the development underway to the west and the vegetation associated with Heckford House on Heckford’s Road to the north. The view further to the west towards the Grade II listed Sturrick Farm is now hidden by the previously approved development that is currently being constructed.
- 6.62 Consequently officers consider that the impact caused by the proposed development on the significance of the Conservation Area is predicted to be low adverse. Based on the above it is considered that the development of this site can be achieved without harm to the identified heritage assets, in keeping with the aims and objectives of National and Local Plan Policies as set out above.

Ecology

- 6.63 Policies within Chapter 6 of the adopted Local Plan and Policy PPL4 of the emerging Local Plan seek to ensure that where development is likely to harm nature conservation or geo-diversity interests, planning permission will only be granted in exceptional circumstances, where the benefits of the development clearly outweigh the harm caused and where appropriate mitigation measures must be incorporated into the development to the satisfaction of Natural England and other appropriate authorities.

- 6.64 No part of the development site or any land that it abuts has any type of statutory or non-statutory conservation designations and Natural England have indicated that they have no comments to make on the proposed development.
- 6.65 An extended Phase 1 Habitat Survey and Protected Species Survey have been undertaken and the findings are reported in detail in the Ecological Assessment. It is noted that Natural England indicated that they had no comment to make on the application.
- 6.66 Whilst it has been identified that bats do not roost on the site, the existing boundary features, particularly the western and southern hedges, provide some foraging and commuting habitats for bats. In this regard it is noted that with the exception of the proposed vehicular access, these foraging and commuting habitats are to be retained while any minor gaps within the hedges would be filled with new planting. These features and additional planting proposed would be secured by a planning condition requiring the submission of a detailed landscaping scheme. Having considered the details as set out in the Ecological Assessment officers conclude that the implications of the proposed development on various species can be summarised as follows:

Badger

- 6.67 The report acknowledges that Badgers are located approximately 1km from the site and whilst this species could travel up to 1km from the main sett in search of food the application site lies at the edge of this range. Officers consider that the site also provides no greater foraging opportunities than the similar habitat situated between the site and known badger sett.
- 6.68 No badger setts were identified within the development site boundary or within close proximity to the site and on this basis officers are of the view that they do not form a statutory constraint to the proposed development.

Bats

- 6.69 No trees were identified within the site boundary as containing any bat roosting potential and no buildings were on site.
- 6.70 The Ecological Assessment identifies certain areas that would have the potential to support bats. Officers note that all the areas identified would be sufficiently distant from street lighting for any disturbance to occur whilst all the areas would also be retained as part of the proposed development and would continue to be provided a degree of connectivity to suitable bat foraging habitats in the wider area to the east and west including; woodland habitat, mature hedgerows, waterbodies and Bentley Brook.
- 6.71 Barbastelles roost under peeling bark mainly on oak trees and are one of the rarest mammals in the UK with a limited distribution over southern and central England and southern Wales. Its rare status is also reflected in its listing as an Annex II species of The Habitats Directive.
- 6.72 In this regard the Ecological Assessment identified the boundary hedgerow to the west of the site as the only on-site habitat of some use to bats. Officers note that this boundary hedgerow would be retained as part of the current proposal and incorporated within the green infrastructure of the development. On this basis officers are of the opinion that the development is unlikely to affect the conservation status of the barbastelle population, especially given the more optimal habitat in the surrounding landscape.

- 6.73 The existing boundary features which provide some foraging and commuting habitat for bats will be retained and protected as part of the development proposal. Officers note that the entire length of the hedgerow along the eastern site boundary will be lost as part of the current proposal. The applicants have however indicated that to compensate for the loss of this eastern hedgerow new native species hedgerows will be created along the western boundary of the public open space as well as along the northern site boundary. In officers opinion these landscape features would result in gains for biodiversity within the context of the site.
- 6.74 In addition to the above enhancements the Ecological Assessment also identifies a number of management principles to mitigate possible impacts from the development. These measures will be secured through condition attached to any approval that might be forthcoming. Overall, given the habitats of greatest value on site are to be retained and in many cases enhanced, the development is currently unlikely to significantly affect the local population of bats.

Great Crested Newt

- 6.75 With reference to this species the Ecological Assessment clearly sets out that an aquatic presence/absence survey was undertaken on the single pond identified within 500m of the site boundary. This survey returned a zero result for Great Crested Newts. It is further noted that no further amphibian species were recorded.

Reptiles

- 6.76 In this regard the Ecological Assessment concluded that the site does not provide suitable habitat for reptiles as it mainly comprises intensively managed arable land. In addition it was found that the grassland margins lacked extensive tussocks or a dense under-thatch associated with suitable habitats for reptiles while there was also limited opportunities for reptiles to bask and forage.
- 6.77 Officers agree with the conclusions of the Ecological Assessment with relation to reptiles and a condition will be attached to any approval to ensure that the removal of vegetation is managed in a manner that would be compliant with the Wildlife & Countryside Act 1981 (as amended).

Breeding Birds

- 6.78 Officers are of the opinion that based on the fact that boundary features such as hedgerows will be retained there will be limited opportunity for harm to birds whilst breeding and will further contribute to the maintenance of the site for breeding birds post-development.
- 6.79 A soft landscaping condition will further secure additional bird nesting habitat.
- 6.80 Given the site's edge of village location in proximity to the wider countryside, and in accordance with paragraph 118 of the NPPF, this application provides opportunities to incorporate features into the design which are beneficial to wildlife, such as the incorporation of roosting opportunities for bats or the installation of bird nest boxes. Such ecological enhancement opportunities could be secured by condition.

Arboriculture/Landscaping

- 6.81 The proposals have been assessed by the Council's Tree and Landscape Officer who has concluded that development of the site in the manner proposed can be achieved without significant harm to established existing trees and hedgerows around the site, including

those which are protected outside but in close proximity the site, in keeping with the aims and objectives of National and Local Plan Policies.

Drainage and Flood Risk

- 6.82 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 PLA1 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.
- 6.83 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 responded to the objection with further information requested and the objection has now been addressed. ECC now 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.
- 6.84 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 PPL1 of the adopted and emerging Local Plans (respectively) and therefore addresses the flood risk element of the environmental dimension of sustainable development.
- 6.85 In addition, Anglian Water has commented upon the application, and confirm the foul drainage from the development is in the catchment of Thorrington Water Recycling Centre that will have available capacity for these flows. Furthermore, the sewerage system at present has available capacity for these flows. Based on the details contained within the FRA and Drainage Report, it is considered that the application site could be developed in the manner proposed without any risk of flooding from or to the proposed development compliant with the aims and objectives of the NPPF as well as Local Plan Policies set out above.

Other Material Considerations (including Section 106 Obligations)

Open Space and Play

- 6.86 Policy COM6 in the adopted Local Plan and Policy HP4 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 Council's Open Space Team has commented on the application and has identified a deficiency of equipped play areas in Great Bentley that would be exacerbated by additional residential development. Due to the size of the site it is recommended that at least 10% of the site is laid out as open space and the site includes play provision to a LEAP standard.
- 6.87 If the on-site open space is to be transferred to Tendring District Council for future maintenance, an additional financial contribution towards maintenance will also need to be secured through a s106 legal agreement. If the Committee is minded to approve this application, Officers will engage in negotiations with the applicant to agree the necessary requirements in line with the guidance contained within the Council's Supplementary Planning Document on Open Space.

Affordable Housing/Affordable Housing

- 6.88 Adopted Policy HG4 requires up to 40% of dwellings to be affordable housing on sites of 15 or more dwellings in urban settlements (with a population of 3,000 or more) and on sites of 5 or more dwellings in rural settlements (with a population less than 3,000). The National Planning Policy Framework requires Councils to consider economic viability when it applies its policies and the Council's own 2013 viability evidence in support of the Local Plan demonstrates that 40% affordable housing is unlikely to be viable in Tendring and that between 10% and 30% (as contained within emerging Policy LP5) is more realistic. The thresholds under adopted Policy HG4 will therefore be applied but the percentage will be between 10% and 30% as detailed under emerging Policy LP5.
- 6.89 The Council's Housing Needs team has commented on the application and advised that there is a need for affordable housing in Great Bentley based on evidence from the local housing register. It has been suggested that another registered provider, other than the Council, be approached to take on the appropriate number of new properties. If this is not possible, then either a smaller number of gifted units or a financial contribution could be secured. If the Committee is minded to approve this application, Officers will negotiate and agree an appropriate level of affordable housing to be secured through a s106 legal agreement.

Education provision

- 6.90 Essex County Council as the Local Education Authority has been consulted on the planning application and has made representations. Based on ECC's formula for calculating the number of additional places likely to be required as a result of the development, this scheme of up to 50 dwellings could generate a need for 4.5 additional early years and childcare places, 15 primary school places and 10 secondary school places. No contributions have been requested towards early years and childcare provision or secondary school places, but up to £183,270 for primary school facilities and £42,180 towards secondary school transport costs has been requested and it is proposed that these contributions be secured through a s106 legal agreement.

Sewage

- 6.91 With regard to sewage capacity, Anglian Water has advised that there is sufficient capacity in the foul sewerage network to deal with the levels of effluent expected from this scheme of 50 dwellings and has made no objections to the proposal, nor has it requested any conditions.

Health provision

- 6.92 The NHS was consulted as part of the application process as it was considered that the proposed application had the potential to increase pressure on local GP services. The NHS confirmed that the proposed development would impact on the services of the practice in Great Bentley. In this regard the NHS indicated through a Healthcare Impact Assessment that capital funding of £15,080 would be required to mitigate the capital cost of the impacts on local healthcare services brought about by the proposed development.
- 6.93 In conclusion, the impacts on local infrastructure arising from this development can either be addressed by way of developer contribution (in the case of education) or are otherwise not considered to be significant or demonstrable enough to justify the refusal of planning permission when applying the presumption in favour of sustainable development.
- 6.94 The applicant has indicated a willingness to enter into a planning agreement to secure any financial contributions required by the development. Members are therefore requested that

if there is a resolution to grant planning permission, that the Head of Planning (or equivalent authorised officer) be authorised to grant planning permission for the development subject to within 6 months of the date of the Committee's resolution, the completion of a legal agreement under the provisions of section 106 of the Town and Country Planning Act 1990 dealing with the matters of off-site affordable housing provision; education provision; and off-site public play space provision.

Overall Planning Balance

- 6.95 Because the Council's adopted Local Plan is out of date, the emerging plan can only carry a limited degree of weight at this time 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.
- 6.96 Economic: Whilst the scheme is residential with no commercial premises provided, up to 50 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. Whilst objectors suggest the economic benefit is likely to be minimal, it is still however positive.
- 6.97 Social: The provision of up to 50 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. The impacts of health and schools provision will be mitigated through financial contributions to be secured through a s106 agreement, if the application is approved. The previous concerns about pedestrian safety can be addressed through the imposition of a planning condition if the Committee is minded to approve.
- 6.98 Environmental: The environmental impacts of the proposal have required very careful consideration. For a village edge site, the land is relatively well enclosed and development can take place with a relatively low visual impact both on the open countryside and on the setting of the Conservation Area. Whilst there would be a loss of higher grade agricultural land, the loss of greenfield land is somewhat unavoidable when such a high housing need needs to be met in the absence of sufficient brownfield land and this concern is not sufficient to justify refusal. The ecological impact of development on the site will be low.
- 6.99 In the overall planning balance, Officers consider that the adverse impacts do not significantly and demonstrably outweigh the benefits and is therefore recommended for approval subject to a s106 legal agreement and a range of planning conditions.
- 6.100 The Committee is reminded that it refused the earlier application 15/01820/OUT solely over concerns about pedestrian safety and the inadequate width of the proposed footway connection from the site to the village green. This therefore ought to be the only matter of contention and if the Committee is satisfied that securing the greater width of footway via planning condition (as was accepted for the neighbouring Admirals Farm scheme) addresses those concerns, approval is the only reasonable course of action.

Background Papers

None.

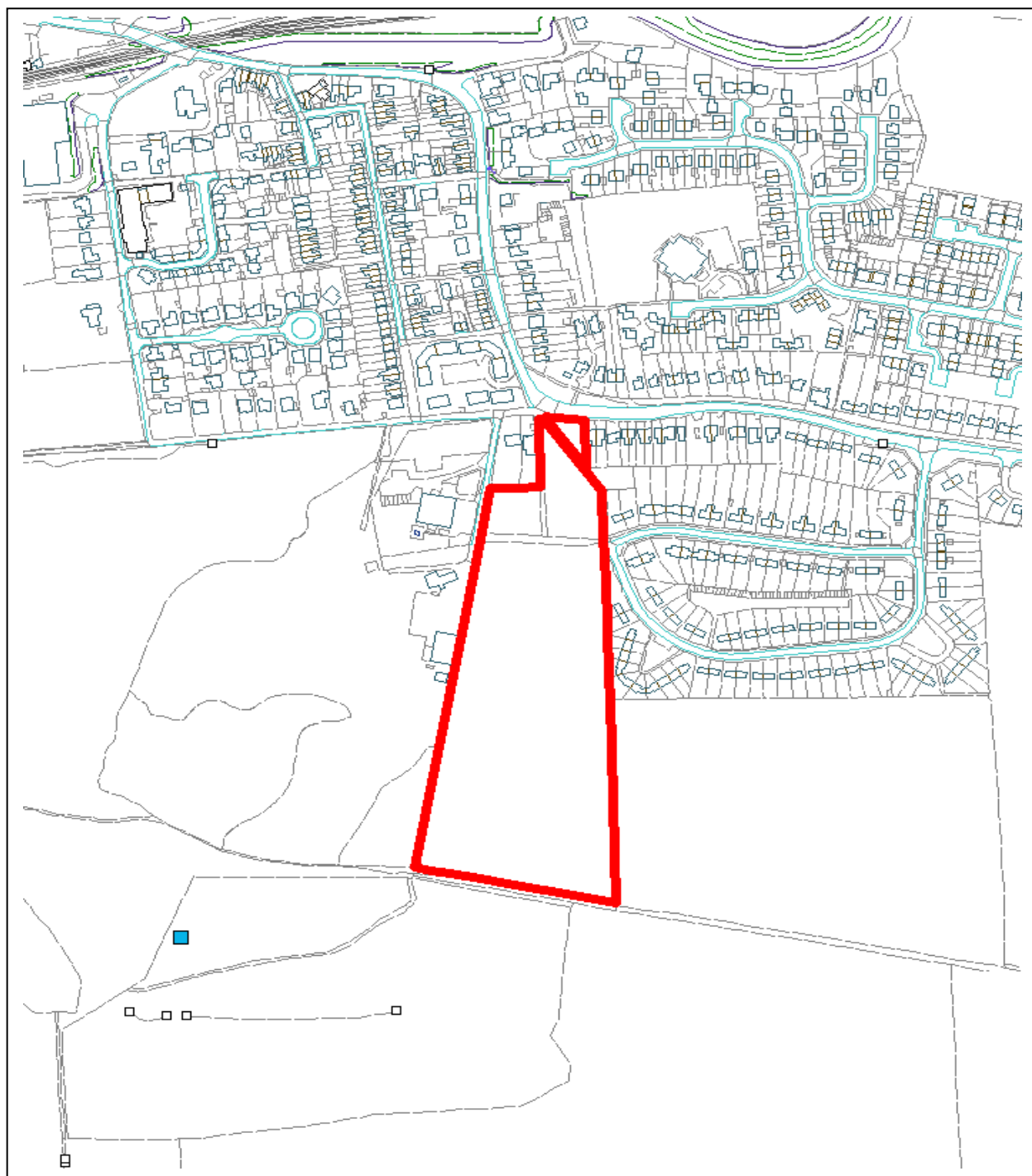
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PLANNING COMMITTEE

7 SEPTEMBER 2016

REPORT OF THE HEAD OF PLANNING

A.2 PLANNING APPLICATIONS – 15/01787/FUL - SITE TO SOUTH OF POUND CORNER HARWICH ROAD, MISTLEY, CO11 2DA



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Application:	15/01787/FUL	Town / Parish: Mistley Parish Council
Applicant:	Mr Sharer and Glausiusz	
Address:	Site to South of Pound Corner, Harwich Road, Mistley, CO11 2DA	
Development:	Proposed development of 25 two and three bedroom bungalows.	

Report Update

Background

This planning application was reported to the Planning Committee on 19 April 2016. The committee resolved that the application be deferred to enable negotiations to take place with the applicant about the removal of or alteration to the proposed northern access road to/from Harwich Road.

Amendments

An amended layout plan was submitted on 25 July 2016 which amends the northern access road and makes consequential changes to the layout and design of plots 1 and 2.

The amended layout moves the access road approximately 20 metres to the east of its previously proposed position, away from the property to the west of the entrance to the site and away from the bend in Harwich Road. The road is proposed to be 5.5m wide for the first 6m into the site and then 4.8m wide. The existing footpath across the site is proposed to be realigned as a 2m wide footpath alongside the proposed access road for about 35m; and then it continues on its current alignment in addition to the continuation of a 2m path alongside the new access road.

The footpath running alongside the access road would be a minimum of 6m away from the house to the east of the site and landscaping is proposed between the highway and the boundary of the site with this property.

The realignment of the access necessitates the repositioning of the bungalow proposed at Plot 2 to the east of its previous position. This also requires a change from plots 1 and 2 being semi-detached to them being detached dwellings and plot 2 is a handed version of the previous proposal.

Consultee and neighbour comments

ECC highways have been consulted on the amended layout and have responded to confirm that they have no objection subject to the imposition of conditions.

Mistley Parish Council makes no objection to the amended plan, but comments that the access road should be full width for two-way traffic and also include pedestrian access.

Neighbour comments

The occupiers of 86 Pound Corner which is adjacent to the site have objected to the proposed new access road which exits on to the Harwich Road. Their concerns relate to the relationship of the proposed access to other access points in the area and issues on Harwich Road as well as requesting that the boundary screening to their property does not shade their south facing garden.

The Mistley Allotment and Leisure Gardeners Association have requested that the land to be gifted as allotments is transferred within 3 months of the planning decision.

Planning considerations

Highways

The amended layout responds to the Planning Committee's resolution of 19 April 2016 by moving the proposed access road approximately 20 metres to the east of its previously proposed position. This adjustment takes the access away from the property to the west of the entrance and away from the bend in Harwich Road.

The County Council has confirmed that it has no objection to this layout and maintains its recommendation that conditions are attached to the grant of planning permission. One neighbour has raised concerns about the relationship of the proposed access to other access points in the area.

It is considered that the amended access would provide a safe access to the proposed development and the concerns expressed by the neighbour would not be sufficient to refuse planning permission.

Neighbouring amenity

The realigned access road would be further away from the residential property to the west of the site entrance and closer to the property to the east of the entrance than the previous layout. The occupiers of the dwelling to the east have requested that screening of the access road does not shade their south facing garden. It is recommended that the means of enclosure and the landscaping along this boundary are controlled by condition to ensure that a satisfactory relationship is achieved between the site and its neighbours.

Allotments

The local allotment association has requested that the land for allotments is transferred within 3 months of the planning decision in order that the land can be prepared for its intended use. Such a requirement would not meet the tests for conditions/legal agreements; the trigger for release should be related to the development of the land rather than the grant of planning permission. However, the association's desire to commence preparation work can be borne in mind when drafting the S106 agreement.

Recommendation: Approve

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;
- Transfer of land for allotments and extension to playing fields
- New bus stop (westbound) in the vicinity of the junction with Harwich Road
- New bus stop (eastbound) in the vicinity of the junction with Harwich Road

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. Standard time limit
2. Development in accordance with submitted plans
3. Retention of existing hedges and trees
4. External facing and roofing materials
5. Works to be carried out outside bird breeding season
6. Screen walls/fences.
7. Full method statement for approval by Pollution and Environmental Control.
8. Hard and soft landscaping
9. Landscape planting period
10. Landscape management plan
11. Existing and proposed site levels
12. Construction of carriageway of estate roads
13. All off-street parking provided in accordance with adopted standards
14. Residential Travel Plans
15. Removal of Permitted Development Rights for dormer windows and rooflights.
16. Driveways and parking areas constructed of porous materials, or provision made to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the dwellings
17. Highways conditions (as recommended by the Highway Authority);
18. SUDS conditions as requested by Essex County Council;
19. Ecological mitigation as set out in Bat Activity and Reptile Survey by Geosphere Environmental dated 2nd September 2015
20. Tree protection measures;
21. Environmental Health conditions;

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.

REPORT TO 19 APRIL 2016 PLANNING COMMITTEE:

1. Executive Summary

- 1.1 This application is for the construction of 25 bungalows on land to the south of Harwich Road, Mistley and includes the retention of existing allotment land and the provision of a new playing field.
- 1.2 The site comprises a total area of 4 hectares of which approximately 0.6 hectares is allotment land immediately south of Harwich Road and 3.4 hectares of greenfield agricultural land beyond the allotments to the south. The current application proposes to develop the 1.3 hectares to the northern part of the site which abuts the existing built up area.
- 1.3 The site lies completely outside but adjacent to the 'settlement development boundary' in both the adopted and emerging Local Plans. Therefore residential development in this location is contrary to local planning policy aimed at directing the majority of development toward sites within the defined boundary as a means of promoting a sustainable pattern of development across the district.
- 1.4 In both the adopted and emerging plans, Manningtree, Lawford and Mistley are together categorised as a 'town' or 'urban settlement' in recognition of their collective size and range of services and facilities and as a location where sustainable development on a larger scale can be achieved.

- 1.5 The proposal has attracted some objection from individual members of the public while Mistley Parish Council has written in objection to highlight a number of concerns relating mainly to highway safety, cumulative impact as well as the fact that the development is contrary to Local Plan Policy. There are no outstanding objections from any of the statutory consultees or other technical bodies.
- 1.6 The Highways Authority has no objection to the scheme subject to conditions and the Education Authority have indicated that no contributions would be requested for early years and child care, primary or secondary school places. In addition Anglian Water has no objection to the scheme and Essex County Council SuDS also has no objection subject to conditions being attached to any approval. TDC Officers advising on open space, housing, environmental health and trees and landscapes have commented on the application and have no objections to the proposal subject to appropriate conditions or legal agreements being put in place to secure an appropriate level of Council/affordable housing, to secure open space provision and to retain and enhance important trees and landscape features.
- 1.7 The application site is also located within a 'Local Green Gap' and within the Coastal Protection Belt as defined within the 2007 adopted Plan. This impact upon a defined gap must be weighted up against the significant lack of housing land within the District, emerging policy and the potential benefits such a scheme could deliver.
- 1.8 It is accepted that the Council cannot demonstrate a deliverable 5 year housing land supply. The National Planning Policy Framework (NPPF) 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.
- 1.9 Given the above, the current application should therefore be considered under the presumption in favour of "sustainable development". The NPPF requires the decision maker to grant planning permission, unless there are (a) adverse impacts and (b) such impacts would 'significantly and demonstrably' outweigh the benefits of the proposal.
- 1.10 The Officers are of the view that current scheme would deliver benefits especially in addressing the Councils housing shortfall while also contributing to investment and regeneration in the area.
- 1.11 Notwithstanding the benefits of the scheme the balanced approach promoted by the NPPF also requires consideration of any potential harm as a result of development proposals. In this instance officers consider that the extent of potential harm would be limited to the impacts on the Green Gap designation, character of the area, impact on neighbouring amenities, impacts on surface water flooding and impacts on ecology. However in officer's opinion the applicant has provided compelling evidence as part of their submission which indicates that the proposal would not result in any adverse impacts that would significantly or demonstrably outweigh the benefits.
- 1.12 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 a financial contribution toward educational facilities to make the development acceptable, as well as a number of planning conditions.

Recommendation: Approve

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;
- Transfer of land for allotments and extension to playing fields
- New bus stop (westbound) in the vicinity of the junction with Harwich Road
- New bus stop (eastbound) in the vicinity of the junction with Harwich Road

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. Standard time limit
2. Development in accordance with submitted plans
3. Retention of existing hedges and trees
4. External facing and roofing materials
5. Works to be carried out outside bird breeding season
6. Screen walls/fences.
7. Full method statement for approval by Pollution and Environmental Control.
8. Hard and soft landscaping
9. Landscape planting period
10. Landscape management plan
11. Existing and proposed site levels
12. Construction of carriageway of estate roads
13. All off-street parking provided in accordance with adopted standards
14. Residential Travel Plans
15. Removal of Permitted Development Rights for dormer windows and rooflights.
16. Driveways and parking areas constructed of porous materials, or provision made to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the dwellings
17. Highways conditions (as recommended by the Highway Authority);
18. SUDS conditions as requested by Essex County Council;
19. Ecological mitigation as set out in Bat Activity and Reptile Survey by Geosphere Environmental dated 2nd September 2015
20. Tree protection measures;
21. Environmental Health conditions;

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.

2. Planning Policy

National Policy:

The National Planning Policy Framework (NPPF) (2012):

- 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.

Local Plan

- 2.5 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

QL3 – Minimising and Managing Flood Risk

QL9 – Design of New Development

QL10 – Designing New Development to Meet Functional Needs

QL11 – Environmental Impacts and Compatibility of Use

HG1 – Housing Provision

HG4 – Affordable Housing in New Development

HG7 – Residential Densities

HG9 – Private Amenity Space

COM6 – Provision of Recreational Open Space for New Residential Development

COM19 – Contaminated Land

COM20 – Air Pollution/Air Quality

COM21 – Light Pollution

COM22 – Noise Pollution

COM23 – General Pollution

COM26 – Contributions to Education Provision

EN1 – Landscape Character

EN2 – Local Green Gaps

EN6 – Biodiversity

EN13 – Sustainable Drainage Systems

EN23 – Development Within the Proximity of a Listed Building

EN29 – Archaeology

TR1a – Development Affecting Highways

TR1 – Transport Assessment

TR2 – Travel Plans

TR3a – Provision for Walking

TR4 – Safeguarding and Improving Public Rights of Way

TR5 – Provision for Cycling

TR6 – Provision for Public Transport Use

TR7 – Vehicle Parking at New Development

Tendring District Local Plan Proposed Submission Draft (November 2012), as amended by the Tendring District Local Plan Pre-Submission Focussed Changes (January 2014).

Relevant policies include:

SD1 – Presumption in Favour of Sustainable Development

SD2 – Urban Settlements

SD6 – Managing Growth

SD7 – Securing Facilities and Infrastructure

SD8 – Transport and Accessibility

SD9 – Design of New Development

SD10 – Sustainable Construction

PRO2 – Improving the Telecommunications Network

PRO3 – Improving Education and Skills

PEO1 – Housing Supply

PEO3 – Housing Density

PEO4 – Standards for New Housing

PEO5 – Housing Layout in Tending

PEO7 – Housing Choice

PEO10 – Council Housing

PEO16 – Residential Institutions and Care

PEO18 – Community Facilities

PEO22 – Green Infrastructure in New Residential Development

PEO23 – Children's Play Areas

PLA1 – Development and Flood Risk

PLA3 – Water Conservation, Drainage and Sewerage

PLA5 – The Countryside Landscape

Other Guidance

Essex County Council Car Parking Standards - Design and Good Practice (2009)

Essex Design Guide for Residential and Mixed-Use Areas (2005)

Urban Place Settlement (2007)

3. Relevant Planning History

14/30031/PREAPP	Construction of approximately 28 bungalows.	Refused	21.08.2014
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15/00518/ACV	Nominated and recorded on the List of Assets of Community Value held and maintained by Tendring District Council.	10.02.2015
15/01787/FUL	Proposed development of 25 two and three bedroom bungalows.	Current

4. **Consultations**

Natural England

4.1 Natural England has no comments to make regarding this application.

Anglian Water

4.2 The foul drainage from this development is in the catchment of Manningtree Water Recycling Centre that will have available capacity of these flows. The sewerage system at present has available capacity flows. If the developer wishes to connect to our sewerage network they should serve notice under Section 106 of the Water Industry Act 1991.

ECC Highways

4.3 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:

- Vehicular turning facility for delivery vehicles
- Details of internal estate road junction and visibility splays
- recycling/bin/refuse collection point
- Details of individual proposed vehicular access points
- Pedestrian visibility splay
- No unbound materials
- Details of the estate roads and footways
- Details of off street car parking
- Details for the storage of bicycles
- Construction Method Statement
- Residential Travel Information Pack
- New bus stop (westbound) in the vicinity of the junction with Harwich Road
- New bus stop (eastbound) in the vicinity of the junction with Harwich Road

ECC Schools

4.4 To support bungalows, assuming that all of the units have 2 bedrooms or more. A development of this size can be expected to generate the need for up to 1.1 early years and childcare (EY&C) places, 3.7 primary school, and 2.5 secondary school places.

The proposed development is located within the Manningtree, Mistley, Little Bentley and Tendring Ward. According to Essex County Council's childcare sufficiency data, published in July 2015, there are 3 providers of early years and childcare in the area. Of these 2 are child minders and 1 is a sessional pre-school. Overall a total of 10 unfilled places were recorded. As there is capacity within the area, a contribution would not be requested.

The proposed development is located within reasonable safe travelling distance of Mistley Norman CE Primary School, Highfields Primary School and Lawford CE Primary School. These schools have a combined overall capacity of 630 places and overall are forecast to have a surplus of 8 places by the school year 2019-20.

This proposed development is located within the secondary education priority admissions area for Manningtree High School. The school has a capacity of 870 places. The school is forecast to have a surplus of 70 places by the school year 2019-20.

All of the primary and secondary pupils that would be generated by this development could be accommodated.

However, the County Council is aware that, in addition to this site, outline planning applications have also been submitted for four significant sites in this area:

- 'Bromley Road (Land east of) Lawford - TEN/15/00876/0UT for up to 360 dwellings.
- 'Long Road (land south of) TEN 15/00761/0UT for up to 300 dwellings.
- 'Harwich Road - 15/01520/0UT for up to 135 dwellings
- 'Stourview Close (Land off) - TEN/15/01810/0UT for up to 70 dwellings.

The County Council is aware of the potential cumulative impact on primary and secondary school places in the area if this development is granted planning permission and one, two, three or all of the other developments are also granted planning permission.

Prior to the implementation of the revised Community Infrastructure Levy Regulations on the 6th April 2015 the County Council might have sought a developer contribution from this proposed development for additional primary and secondary school places. However, the implementation of the revised Regulations now restrict the pooling of contributions for a specific item of infrastructure, such as the expansion of a school, to contributions from five separate planning obligations. Under these changed circumstances the County Council has decided not to request a contribution for the provision of additional primary or secondary school places from this proposed development. This is because the scale of this development is relatively small and the impact on pupil places is limited. Seeking a contribution from a small development might, in the future, preclude the County Council from seeking contributions from larger developments in the area.

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.

ECC SuDS

4.5 Having reviewed the Flood Risk Assessment and the associated documents which accompanied the planning application, we support the granting of planning permission. The proposed development will only meet the requirements of the National Planning Policy Framework if the following measures as detailed in the FRA and the above mentioned documents submitted with this application are implemented and secured by way of a planning condition on any planning permission. The proposed conditions require:

- A detailed surface water drainage scheme for the site;
- A scheme to minimise the risk of offsite flooding caused by surface water run-off and groundwater during construction works;
- Maintenance Plan containing the arrangements for maintaining the surface water drainage system; and
- Annual monitoring of maintenance.

TDC Principal Tree & Landscape Officer

- 4.6 The northern part of the application site is land that was formerly used as allotments with the remainder currently being in agricultural use. Historically the southern part of the application site was set to grass for use as two football pitches.

The site is not well populated with trees. On the western boundary adjacent to the access road to the recreation ground there is a large conifer, probably Cupressocyparis 'Castlewellan'. The tree is a prominent feature and makes a positive contribution to the appearance of the area; there is significant dieback in the growing point and the tree does not merit formal protection by means of a tree preservation order. The tree is situated on the part of the land proposed as public open space and is not threatened by the development proposal.

On the eastern boundary adjacent to the footpath link between Harwich Road and Middlefield Road there is a loosely cohesive group of 3 trees comprising 2 Larch and a single Sycamore. These trees are also situated on the part of the land proposed for public open space and are not threatened by the development proposal. There is also an established hedgerow comprised of an eclectic mix of plant species probably planted by those using the allotments in the past. This feature is not threatened by the development proposal.

There is an attractive and well-established hedgerow, comprising primarily Myrobalan plum, on the boundary of the old allotment land adjacent to the existing informal pedestrian route from Middlefield Road to the access road to the recreation ground. The amenity value provided by this feature could be relatively easily replicated by new planting. The western part of the hedge is shown as retained.

Whilst it may not be necessary for the applicant to submit a full tree survey and report they should provide information to show how retained trees will be physically protected for the duration of the construction phase of any consent that may be granted. This information should be in accordance with BS5837: 2012 Trees in relation to design, demolition and construction, Recommendations.

It would appear that the development proposal could be implemented without causing harm to retained trees.

It will also be necessary for the applicant to recognise the potential impact of the development proposal on the nearby Suffolk Coast and Heaths Area of Outstanding Natural Beauty (AONB) and perhaps more namely the proposed extension to the AONB. Whilst the development proposal is unlikely to have a direct visual impact on the setting of the existing AONB it will be important to ensure that the development does not have such an adverse impact on the local landscape that it compromises the Councils aspiration to secure the proposed extension. Therefore it will be important to ensure that the development is designed and built to a high standard and sits comfortably in its setting.

If the indicative soft landscaping shown on the site layout plan is implemented it would appear that the development could be enhanced and screened by new planting so that it is assimilated into its setting.

Soft landscaping should be secured by a condition attached to any consent that may be granted and will need to address the screening and treatment of the southern boundary, the layout and planting of the proposed open space to the north of the site and planting that forms an integral part of the design and layout of the development.

TDC Housing

- 4.7 There is a high demand for housing in Mistley. There are currently 65 households seeking a 2 bedroom property and 28 seeking a 3 bedroom property. It is also stated that there is a chronic shortage of 3 bedroom bungalows in the entire district.

The Housing Department is currently deciding its development acquisition priorities and may not be able at this stage to commit to purchase 25% of the provision on this site. As an alternative, the Department would be happy to accept 1 gifted properties (this being 20% of the 25% provision) in order to meet some of the housing demand in this area.

TDC Open Space

- 4.8 There is currently a deficit of 3 hectares of equipped play/formal open space in Mistley.

Due to the size of the site it is recommended that the site includes play provision to a LEAP standard. Should the developer wish to transfer ownership and maintenance responsibilities for the open space and play area a commuted sum equal to ten years maintenance costs will be required.

Environmental Health

- 4.9 No objections subject to a condition requiring the submission of a Construction and Demolition of Sites report.

5. Representations

- 5.1 This application has generated some public interest with 7 letters of objection and 2 letters of support being submitted.
- 5.2 The key issues raised in support and objection to the application are summarised below:

Support

- Gifting of land for allotments and playing fields to the Parish Council

Objection

- Impact on amenities of new access road into the site
- Uncontrolled access to part of site would result in unsociable behaviour
- Impact on character of the area
- Loss of agricultural land
- Impact on trees
- Outside of settlement boundaries
- Highway safety concerns
- The existing infrastructure including the school, doctors surgery and utilities are already at full capacity and will not be able to function with additional housing growth;
- Lack of affordable housing

- 5.3 Mistley Parish Council despite welcoming the public benefits of the gift of allotment land and playing field area has written in objection to the application. The Parish Council objected to the planning application for the following reasons:

(1) Highway Safety- proposed access to and from the site particularly the point on the western junction of Middlefield Road and Rigby Avenue where evidence of difficulties in manoeuvring larger vehicles is shown by damaged kerbs and verges.

(2) Cumulative Impact - of traffic on busy junction of Pound Comer with Harwicb Road and Shrub land Road. The narrow track from the proposed development to the north is unnecessary and would cause considerable congestion and danger to other traffic emerging from Shrubland Road (Village Hall, Secret Bunker, and Shrub land Road residents) as well as from Swan Court. Opposite there is a development of four houses in the grounds of 35 Harwich Road. Under existing plans approved for the Secret Bunker site (12/001 09/FUL) a pedestrian refuge island is shown on that bend which would prevent traffic turning right out of the road.

(3) Planning Policies - This site is outside the village envelope and is not in the development area.

6. Assessment

Site location

- 6.1 The site in total has an area of 4 hectares. It is proposed to develop the 1.3 hectares to the northern part of the site which abuts the exiting built up area. The east of the site abuts properties in Middlefield Road and Rigby Avenue. Middlefield Road itself reaching the boundary of this site appears to have been originally arranged to allow an extension into this site.
- 6.2 Middlefield Road and Rigby Avenue is characterised by a mixture of houses and bungalows mostly semi-detached with brick walls under clay tile roofs.
- 6.3 Harwich Road to the north of the site is the 81352 between Mistley and Manningtree to the west. This road serves as a main bus route and is characterised by residential dwellings on either side.
- 6.4 To the south of the site is open countryside and to the west the Village Hall and the former 'Secret Bunker' site.
- 6.5 The site abuts the settlement boundary and is within walking distance of local Shops and the primary school. Mistley Railway Station is about 500m away.
- 6.6 There is a footpath crossing the site which is retained as part of this proposal and are included within the proposed layout. The existing footpath running north/south to the east of the site is not affected by the current proposal.

The Proposal

- 6.7 This application is for the construction of 25 bungalows with associated open space and infrastructure on land to the south of Harwich Road, Mistley including the retention of existing allotment land and the provision of a new playing field. The site was subject of a Pre-Application submission 14/30031/PREAPP.
- 6.8 A Design and Access Statement and detailed drawings have been submitted which demonstrate the layout of the current proposal whilst also providing details of the bungalows being proposed.
- 6.9 The main planning considerations are as follows:
 - Principle of development;
 - Design and density
 - Neighbouring amenity
 - Landscape and visual impact

- Traffic, Access and Highway Safety
- Biodiversity
- Drainage and Flood Risk
- Education
- Affordable housing
- Conclusion

Principle of residential development

- 6.10 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.
- 6.11 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. The 2012 Local Plan: Proposed Submission Draft, as amended by the 2014 Local Plan: Pre-Submission Focussed Changes, is the Council's 'emerging' Local Plan.
- 6.12 On 25th March 2014, the Council decided that further substantial revisions to the emerging plan will be required before it is submitted to the Secretary of State to be examined by a Planning Inspector. These revisions will aim to ensure conformity with both the NPPF and the legal 'duty to cooperate' relating mainly to issues around housing supply. The separate Local Plan Committee is overseeing this work with a view to a new version of the plan being published for consultation in 2016.
- 6.13 The site is not allocated for housing or mixed use development in either the adopted or emerging Local Plans. The site lies adjacent to the 'settlement development boundary' in both the adopted and emerging Local Plans.
- 6.14 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 policy. However, as it stands, both the adopted and emerging Local Plans fall significantly short in identifying sufficient land to meet the objectively assessed need for housing and, as a result, the Council is unable to identify a five-year supply of deliverable housing sites as required by paragraph 47 of the NPPF. In line with paragraph 49 of the NPPF, housing policies are considered to be 'out-of-date' and therefore the government's 'presumption in favour of sustainable development' is engaged. The Council would not be justified therefore in refusing this planning application, at this time, purely on the basis that it lies outside of the settlement development boundary.
- 6.15 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. This view has also been supported by the Planning Inspectorate in a number of recent appeal decisions for similar outline schemes.
- 6.16 On this basis members should be aware that in the absence of up-to-date policies and a 5 year supply of housing land, development proposals cannot be refused solely on the basis that a site is outside the development boundary. Paragraph 14 of the NPPF 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.

- 6.17 Based on the above and having regard to paragraphs 14 and 49 of the NPPF, the presumption in favour of sustainable development carries significant weight and the current scheme falls to be considered against the 3 dimensions of 'sustainable development',
- economic,
 - social; and;
 - environmental roles.

Economic Sustainability

- 6.18 Officers consider that the proposal would contribute economically to the area, for example by providing custom for services such as shops and public houses within Mistley. It is also considered that the current scheme if approved would benefit employment locally through the utilisation of local services and tradesmen. It is therefore considered that the scheme could reasonably be considered to meet the economic arm of sustainable development.

Social Sustainability

- 6.19 In terms of the social role it is noted that the site is not only well served by bus and rail services, but is also in close proximity to a primary school and playing fields. Further, Mistley includes a number of local facilities including convenience stores, pharmacy, petrol filling station, employment area, garden centre and take-away food stores.
- 6.20 Within the wider area are other facilities such as a secondary school, healthcare facilities and supermarkets. As already noted, the bus and rail services provide ready access to the further services and employment opportunities. Overall, this site has good access to services, facilities and public transport.
- 6.21 It is noted that Manningtree, Lawford and Mistley are together categorised as a 'town' or 'urban settlement' in recognition of their collective size and range of services and facilities and as a location where sustainable development on a larger scale can be achieved.
- 6.22 Approximately 0.4 hectares of land at the northern end of the site is shown in the 2007 adopted Local Plan as protected allotments where Policy COM9 only allows the loss of all or part of an allotment site to development if:
- a) the allotments are replaced by the provision of new allotments at least equal in quality and size and accessible to the community, which the existing allotments serve;
 - b) it is demonstrated that there is no longer a demand for the existing allotments;
 - c) the site is not appropriate for other open space functions; and
 - d) the development of the allotments would not result in the loss of an area important to visual amenity.
- 6.23 Officers understand that there is local demand for allotments in this area and there have been continued representations to the Local Plan from allotment holders requesting the site's continued protection from development. This issue was raised with the applicant at pre-application stage and as a consequence there is a commitment from the applicant to transfer land to the Parish Council for the use as allotments as well as playing fields. These would make a contribution to the local community which is seen as a benefit in terms of the social aspect of sustainable development.
- 6.24 Overall officers consider that the application site performs well in terms of the social role within the definition of sustainability.

Environmental Sustainability

- 6.25 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 adjacent to the Settlement Development Boundary in the adopted 2007 Plan.
- 6.26 Given the site's partial containment within the landscape, its edge of settlement location and the number of properties suggested, the density proposed for the application site is acceptable for this location and, as shown through the detailed plans provided, can be achieved through the acceptable layout proposed.
- 6.27 With regard to landscape impact it is noted that the northern part of the application site is land that was formerly used as allotments with the remainder currently being in agricultural use. Historically the southern part of the application site was set to grass for use as two football pitches as a consequence the site is not well populated with trees.
- 6.28 The Council's Principle Tree and Landscape Officer was consulted on the content of the details submitted in support of the application. The officer indicated that the proposal has the potential to impact on the nearby Suffolk Coast and Heaths Area of Outstanding Natural Beauty (AONB) and perhaps more namely the proposed extension to the AONB. Whilst the development proposal is unlikely to have a direct visual impact on the setting of the existing AONB it will be important to ensure that the development does not have such an adverse impact on the local landscape that it compromises the Council's aspiration to secure the proposed extension. As a result it would be imperative to ensure that the development is designed and built to a high standard and sits comfortably in its setting.
- 6.29 The Principle Tree and Landscape Officer concluded that if the indicative soft landscaping shown on the site layout plan is implemented the development could be enhanced and screened by new planting so that it is assimilated into its setting and would not result in material harm to the landscape character of the area. As stated previously a condition to this effect will be attached to any approval.
- 6.30 In addition to the AONB the site is also located within the Coastal Protection Belt. In this regard officers note that this designation has been consolidated in the emerging plan and now excludes the application site.
- 6.31 The applicants have indicated that where feasible the development will provide enhancements for biodiversity within the scheme through the provision of species rich grassland and native species planting.
- 6.32 Based on the above it is considered that the development would be comparable with existing development in the locality without detracting from the AONB or the proposed extension to the AONB. Officers conclude that a more positive approach is justified in this instance to development, as the development of this site can be achieved in keeping with the aims and objectives of National Planning Policy Framework.
- 6.33 The detailed impact upon the Green Gap designation is considered elsewhere in this report.

Design and Density

- 6.34 The Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, indivisible from good planning, and should contribute positively to making places better for people. One of the core planning principles of The Framework as stated at paragraph 17 is to always seek to secure high quality design.

- 6.35 Policies QL9, QL10 and QL11 of the Saved Plan to ensure that all new development makes a positive contribution to the quality of the local environment, relates well to its site and surroundings particularly in relation to its form and design and does not have a materially damaging impact on the amenities of occupiers of nearby properties. Policy SD9 of the Draft Plan, whilst of limited weight carries forward the sentiments of these saved policies stating that all new development must make a positive contribution to the quality of the local environment and protect or enhance local character.
- 6.36 The development is for 100% bungalows which would be contrary to the Council's policy in the emerging Local Plan (PE014) which only allows single-storey housing on developments of 10 or more dwellings on selective development plots immediately adjoining the curtilage of existing bungalows where taller properties would raise concerns about overlooking and loss of light or if the form part of a retirement village or extra-care housing scheme.
- 6.37 However, it is acknowledged that this policy is subject to objections and does not reflect the advice in the NPPF to deliver a range of housing to meet identified needs. Given the limited weight that can be attributed to this policy, the Councils identified housing shortfall as well as the Council's Housing Departments indication that there is critical shortfall in the number of bungalows across the district officers conclude that a reason for refusal based on the failure to comply with Policy PEO14 could not be substantiated in this instance.
- 6.38 There is also a small area for other highway infrastructure for the connections to and between the development areas.
- 6.39 The design of the new bungalows reflects some of the architectural characteristics typical of the area with proposed materials reflecting similar materials used in the immediate vicinity. Specific details in this regard will be secured by condition attached to any approval.
- 6.40 The proposed dwellings have been set back from the road which allows for the planting of trees and landscaped areas along the frontage which would serve to enhance the character and appearance of the development whilst also reflecting the edge of settlement location of the site. Details of the landscaping as presented within the application will be secured through a planning condition ensuring the delivery of a high quality development that reflects and contributes to the character and appearance of the area.
- 6.41 With regard to the amenities of future residents it is noted that the spacing between dwellings would reflect the local context whilst garden sizes are in excess of the Council's adopted policy requirements under Saved Policy HG9. In addition the residential density proposed would be 19 units per hectare which would further reflect the character of the area.

Neighbouring Amenity

- 6.42 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 SD9 of the Tendring District Local Plan Proposed Submission Draft (2012) 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'.
- 6.43 The residential scheme proposed would in places back onto the existing properties facing onto Rigby Avenue. It is considered that, given the garden depths and separation distances proposed in combination with the overall scale, bulk and massing of the

residential dwellings, there would be no harmful loss of amenity to any of the adjoining neighbours as a result of overbearing development or loss of light.

- 6.44 In addition it is noted that the roof spaces of the individual properties have been designed to allow storage but no provision is being made for conversion of these spaces to living accommodation. Any conversion of these areas will be controlled by planning condition in order to manage any potential issues with overlooking in the future.
- 6.45 The landscaping details submitted as part of the application shows significant landscaping along the boundaries of the site would further serve to screen the proposed development from the adjoining residential dwellings reducing potential impacts on amenity.
- 6.46 Concerns have been raised with regard to the noise and disturbance that could be generated by the new access road in close proximity to the residential dwelling at Pound Corner. Whilst it is accepted that there would be some level of noise and disturbance generated it is noted that there is an existing gated access into the site in a similar location as being proposed as part of the current scheme.
- 6.47 Officers note the proposed development would share traffic between two access points which could reduce the frequency with which each of these accesses are used. In addition it is considered that the proposed development for 25 bungalows would only generate traffic peaks over a short period during the peak hours.
- 6.48 Finally, there would be the possibility to secure further landscaping or suitable boundary treatments along the boundary with the property at Pound Corner to further reduce any potential noise generated by the new access road.
- 6.49 Given the above officers conclude that on balance the new access whilst resulting in some noise and disturbance, would due to the factors highlighted above, not result in levels of noise and disturbance that would be materially harmful to the amenities of the occupiers of the property at Pound Corner.

Landscape Impact & Visual Impact

- 6.50 The application site is not located in or close to any area of land defined as local, national or international protected sites, however there are some site specific characteristics to be considered.

Local Green Gap, AONB and Coastal Protection Belt

- 6.51 The site is located within the Green Gap, and outside of the defined settlement limits of the village, as depicted in both adopted and emerging Local Plans. Policy EN2 of the Adopted Local Plan (2007) states that the primary purpose and function of the Green Gap is to maintain physical separation between different settlements or neighbourhoods and avoid developments that would result in them merging together and losing their individual identities.
- 6.52 These gaps have been carefully defined in specific locations where there is a genuine risk, due to the close proximity of settlements or neighbourhoods, that any development approved could undermine (in whole or in part) the remaining undeveloped gap and jeopardise those settlements individual identities.
- 6.53 The Planning 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; 15/00964/OUT for 71 dwellings off Mayes Lane, Ramsey; and 15/01710/OUT for

110 dwellings off Thorpe Road, Kirby Cross.

- 6.54 The Council has also now received two appeal decisions for Local Green Gap sites. The first relates to an outline planning application for up to 60 dwellings on land north of Harwich Road, Little Oakley (Ref: 14/00995/OUT) and the second relates to an outline application for up to 75 dwellings on land east of Halstead Road, Kirby-le-Soken (Ref: 15/00928/OUT). Both appeals were dismissed with both Planning Inspectors 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"*.
- 6.55 However, there has since been a decision by the Court of Appeal (Cheshire East Borough Council v Secretary of State for Communities and Local Government & Anr. Case Number: C1/2015/0894) in which three judges overturned an earlier High Court decision which had determined that green gap policies are not housing policies and should not be considered out of date if a Council cannot identify a sufficient supply of housing land. In overturning the High Court's decision, the Court of Appeal judges concluded that the concept of 'policies for the supply of housing' should not be confined to policies in the development plan that provide positively for the delivery of new housing in terms of numbers and distribution or the allocation of sites. They concluded that this concept extends to policies whose effect it is to influence the supply of housing land by restricting the locations where new housing may be developed – including, for example, policies for the green belt, policies for the general protection of the countryside, policies for conserving the landscape of Areas of Outstanding Natural Beauty and National Parks, policies for the conservation of wildlife or cultural heritage, and various policies whose purpose is to protect the local environment in one way or another by preventing or limiting development.
- 6.56 Notwithstanding the appeal decisions at Little Oakley and Kirby-le-Soken, the implication of this legal ruling is that the Council cannot simply refuse planning permission for development within Local Green Gaps on the basis that the Local Green Gap policy should carry 'full weight'. Instead, the Council must apply the key test within the NPPF to determine whether or not the adverse impacts of development would significantly and demonstrably outweigh the benefits – weighing up the presence of the Local Green Gap policy in the overall planning balance.
- 6.57 Applying this balanced approach to the current scheme officers consider that the site is bounded to the east, west and north by existing urban development which forms a natural buffer that will limit further incremental expansion. Consequently officers are of the opinion that the proposed development in this instance would not result in the coalescence of settlements or neighbourhoods that could result in them losing their individual identities. A significant physical gap can still be maintained to the south and further to the west beyond the existing playing fields.
- 6.58 The land in question in officers opinion does not contribute toward the intrinsic beauty of the open countryside in the same way that many green gap sites do and, on balance, officers conclude that the adverse impact of losing this area of land to development would not undermine the function of the Local Green Gap policy and would significantly or demonstrably outweigh the benefits of the development in terms of housing supply.
- 6.59 With regard to the potential impact on the proposed Suffolk Coast and Heaths AONB extension, the Council's Principle Tree and Landscape Officer indicated that if the indicative soft landscaping shown on the site layout plan is implemented it would appear

that the development could be enhanced and screened by new planting so that it is assimilated into its setting.

- 6.60 Should members be minded to approve the current scheme a condition will be attached to secure the levels of soft landscaping as indicated on the plans submitted in support of the application.
- 6.61 In addition the application site falls within the Coastal Protection Belt as shown in the adopted Local Plan. The purpose of the Coastal Protection Belt, as set out in paragraph 6.14 in support of Policy EN3 in the adopted Local Plan, is to protect the unique and irreplaceable character of the Essex coastline from inappropriate forms of development. It goes on to say that open coastal areas are particularly vulnerable to visual intrusion due to the high visibility of any development on the foreshore, on the skyline and affecting vistas along the stretches of undeveloped coast.
- 6.62 The Coastal Protection Belt was originally drawn in 1984 and was a key strategic policy in Essex County Council's 2001 Replacement Structure Plan which was superseded by the East of England Plan in 2008 and subsequently abolished in 2012 with the introduction of the NPPF. The NPPF does however state, in paragraph 114 that local planning authorities should maintain the character of the undeveloped coast, protecting and enhancing its distinctive landscapes, particularly in areas defined as Heritage Coast, and improve public access to and enjoyment of the coast.
- 6.63 Policy EN3 states that new development which does not have a compelling functional need to be located in the Coastal Protection Belt will not be permitted. It requires applicants to demonstrate such a need by showing that by reason of its critical operational requirements of the development cannot be located outside of the designated area. Then, even if the compelling need is demonstrated, the policy requires that significant harm to the landscape character and quality of the undeveloped coastline should be avoided.
- 6.64 However, in the emerging Local Plan, following the abolition of the Coastal Protection Belt Policy at county and regional level, the Council decided that the designation should be kept but that the boundary be rationalised to ensure it relates only to areas that are genuinely coastal and where development is likely to have a genuine impact on the character and appearance of the coastline. Included in the numerous amendments to the designation was the removal of the application site and other land south of Harwich Road.
- 6.65 The status to be given to local 'countryside protection' policies such as Coastal Protection Belt and Local Green Gaps has been clarified recently by a decision of the Court of Appeal (Cheshire East Borough Council v Secretary of State for Communities and Local Government & Anr. Case Number: C1/2015/0894) in which three judges overturned an earlier High Court decision which had determined that such countryside protection policies are not housing policies and should not be considered out of date if a Council cannot identify a sufficient supply of housing land. In overturning the High Court's decision, the Court of Appeal judges concluded that the concept of 'policies for the supply of housing' should not be confined to policies in the development plan that provide positively for the delivery of new housing in terms of numbers and distribution or the allocation of sites. They concluded that this concept extends to policies whose effect it is to influence the supply of housing land by restricting the locations where new housing may be developed – including, for example, policies for the green belt, policies for the general protection of the countryside, policies for conserving the landscape of Areas of Outstanding Natural Beauty and National Parks, policies for the conservation of wildlife or cultural heritage, and various policies whose purpose is to protect the local environment in one way or another by preventing or limiting development.
- 6.66 Whilst the emerging Local Plan only carries limited weight, the abolition of the Coastal

Protection Belt policy at county, regional or national level also limits the amount of weight that can be applied to the adopted policy. The site is separated from the exposed undeveloped coast by the existing development in Mistley, including at Rigby Avenue and the properties north of Harwich Road. On the basis that development in this location and on this site is unlikely to have a detrimental impact, Officers have applied limited weight to the Coastal Protection Belt policy and consider that refusing planning permission against this policy would be difficult to defend on appeal.

Traffic, access and highway safety

- 6.67 The proposed development would be served by two access points. The first access would be a 5.8m wide shared surface from Harwich Road and would follow a similar route as an existing access track. The second access would be from Middlefield Road and would be 5.6m in width with 2m wide footpaths on either side.
- 6.68 Essex County Council Highways were consulted on the details submitted in support of the application. Their response indicated no objection to the access points identified for the current proposal subject to a number of controlling conditions. It was also suggested that two new bus stops should be provided along the eastern and western sides of Harwich Road. These stops will be secured through a section 106 agreement should members be minded to approve the proposed development.
- 6.69 Some representations from residents indicate concerns about the wider effects of additional vehicle movements on local traffic, highway capacity and pedestrian safety.
- 6.70 Paragraph 4 of the NPPF sets out the criteria for promoting sustainable transport and in this regard stipulates in Paragraphs 34 to 36 how this should be approached. The overall aims and objectives of the NPPF are supported by Policies contained within Chapter 7 of the Tendring District Local Plan (2007) as well as by Policies SD8 and PEO4 of the draft Local Plan.
- 6.71 Paragraph 34 indicates that decisions should ensure developments that generate significant movement are located where the need to travel will be minimised and the use of sustainable transport modes can be maximised.
- 6.72 Paragraph 35 further requires that plans should protect and exploit opportunities for the use of sustainable transport modes for the movement of goods or people. Therefore, developments should be located and designed where practical to:
- accommodate the efficient delivery of goods and supplies;
 - give priority to pedestrian and cycle movements, and have access to high quality public transport facilities;
 - create safe and secure layouts which minimise conflicts between traffic and cyclists or pedestrians, avoiding street clutter and where appropriate establishing home zones;
 - incorporate facilities for charging plug-in and other ultra-low emission vehicles; and,
 - consider the needs of people with disabilities by all modes of transport.
- 6.73 Paragraph 37 stipulates that there should be a balance of land uses within the area so that people can be encouraged to minimise journey lengths for employment, shopping, leisure, education and other activities.
- 6.74 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. This requirement is also carried forward to Policy SD9 of the draft Local Plan.

- 6.75 Having considered the details submitted and the comments received from Essex County Council Highways officers conclude that the development, subject to the proposed conditions, would meet the requirements of Policy TR1a of the adopted Local Plan and the element of Policy SD8 in the emerging Local Plan relating to highway capacity and safety. It would also meet paragraph 32 of the NPPF which states that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.
- 6.76 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 garage, if being relied on to provide a parking space should measure 7 metres by 3 metres internally. The applicants have indicated that the proposed development complies with these standards.
- 6.77 Based on the above it is considered that the proposed development can provide safe and adequate means of access to the site whilst the scheme could also comply with the aims and objectives of the NPPF as well as Local Plan Policies with regard to highway safety and parking requirements.

Biodiversity

- 6.78 Some representations raised concerns about the potential impacts on wildlife resulting from the proposed development.
- 6.79 Policies within Chapter 6 of the Tendring District Local Plan (2007) and Policy PLA4 of the Tendring District Local Plan Proposed Submission Draft (2012) as amended seek to ensure that where development is likely to harm nature conservation or geo-diversity interests, planning permission will only be granted in exceptional circumstances. The benefits of the development should clearly outweigh the harm caused and where appropriate mitigation measures must be incorporated into the development to the satisfaction of Natural England and other relevant Authorities

Ecological Designations

- 6.80 The nearest designated site is the Stour and Orwell Estuary which is designated as a RAMSAR, Site of Special Scientific Interest (SSSI) and Special Protection Area(SPA) located 500m north of the site.
- 6.81 The Ecological Appraisal completed in support of the application concluded that the RAMSAR, SSSI and SPA is separated from the application site by residential development and roads, and is not in direct habitat connectivity with the site. As a result the development will not impact upon these designated sites.
- 6.82 It is considered unlikely, given the distance from the scale of the proposed development that the sites with non-statutory protection will be directly affected by the proposed construction activity and development on the surveyed area.
- 6.83 Natural England raised no objection to the scheme.

Habitats

- 6.84 The site mainly consists of former allotments to the north of the site which are now overgrown with semi-improved grassland and sporadic patches of tall ruderal vegetation and scattered scrub. A species-rich hedge borders the western boundary as well as cutting across the site from west to east. This separates the former allotments from the arable field to the south of the site.

- 6.85 A strip of semi-improved grassland also borders the arable field.
- 6.86 Small rubble piles are present within the northern semi-improved field margin. Common Lizard were noted to be using these piles.
- 6.87 Scattered trees are present.
- 6.88 The applicants have indicated that where feasible the development will provide enhancements for biodiversity within the scheme through the provision of species rich grassland and native species planting.

Protected Species

- 6.89 The site was not found to be suitable for Great Crested Newt, Water Voles, Otters, Dormice or assemblages of invertebrates of conservation concern.
- 6.90 No setts or field signs were noted on site as part of this survey.
- 6.91 The Preliminary Ecological Survey indicated that there are suitable features, within the area to be affected by the proposed development, which may provide foraging and breeding habitat for protected species, in particular:
- The hedgerows and trees provide suitable nesting habitat for breeding birds during the breeding season;
 - The habitats on site are considered suitable foraging habitat for bats;
 - The grassland appears highly suitable for reptiles with four Common Lizard noted within the walkover alone.
- 6.92 In response to the above the preliminary survey suggested that further surveys would be required with regard to bats and reptiles. In response the applicants commissioned a further Bat Activity and Reptile Survey.

Bat Survey

- 6.93 The bat foraging assessment was carried out in order to establish the current status of bats in habitats to be affected by proposed development at the site.
- 6.94 This included a transect survey which was undertaken on two separate dusk surveys between 22 July and 3 August 2015, during which three species of bat were encountered on the site. The main areas of activity included the southern boundary connecting to adjacent woodland and the western boundary hedgerows.
- 6.95 The species assemblage and numbers observed are considered to be of site importance only.
- 6.96 Given the findings of the survey it is being recommended that as much habitat for bats as possible, is retained in the final development. This should include the retention of the hedgerow along the western boundary, and replacement of any hedgerows to be lost. In addition any future lighting for the scheme should be designed to minimise the potential impacts on bats.

Reptiles

- 6.97 With regard to reptiles a survey was carried out in order to establish the status of reptiles in habitats to be affected by proposed development at the site.

- 6.98 Common Lizard were found on site on 9 out of the 10 days, mostly under the mats along the western hedgerow. The maximum reptile count was 10 adults during one survey, which indicates a good population of local importance.
- 6.99 Based upon these numbers it is estimated that the site supports a medium population of Common Lizard across the entire site. However the land to be developed for residential purposes would likely support a low population of Common Lizard based on the lower number of adults noted within this area during the survey. The southern half of the site which is to be gifted to the council, would still support a medium population of Common Lizard.
- 6.100 Given the findings of this survey it is concluded that a full detailed mitigation strategy should be prepared and submitted to the Local Planning Authority for agreement.
- 6.101 The recommendations of the Bat Activity and Reptile Survey prepared by Geosphere Environmental Ltd and dated 2nd September 2015 will be secured by planning condition should Members be minded to approve the application.
- 6.102 Given the site's previous use and proximity to the wider countryside to the north, and in accordance with paragraph 118 of the NPPF, this application provides opportunities to incorporate features into the design which are beneficial to wildlife. Such ecological enhancement opportunities will be secured by condition.

Drainage and Flood Risk

- 6.103 The National Planning Policy Framework makes it clear that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, it should be made safe without increasing flood risk elsewhere. Accordingly, Policy QL3 of the Tendring District Local Plan (2007) and PLA1 of the Tendring District Local Plan Proposed Submission Draft (2012) have been informed by these national policy requirements, the findings of Strategic Flood Risk Assessments (SFRA) and advice from the Environment Agency.
- 6.104 The applicants have submitted a Flood Risk Assessment as part of the application which highlights the fact that with reference to the Environment Agency Flood Maps indicate that the site is located within Flood Zone 1.
- 6.105 Anglian water in their consultation response indicated that the foul drainage from this development is in the catchment of Walton on the Naze Water Recycling Centre that will have available capacity for these flows.
- 6.106 With regard to surface water disposal Anglian Water indicated that the proposed method of surface water management does not relate to Anglian Water operated assets. It was suggested that the Council should seek the advice of the Lead Local Flood Authority. In response to their consultation Essex County Council SUDS Authority have stated that the updated Flood Risk Assessment and associated documents which accompanied the planning application is acceptable and that this body has no objection to the current scheme. It was further suggested that a number of conditions be attached to any approval to ensure that the proposed development meets the requirements of the National Planning Policy Framework. These can be summarised as follows:
- Detailed surface water drainage scheme for the site, based on the revised FRA and Drainage strategy
 - Scheme to minimise the risk of offsite flooding caused by surface water run-off and groundwater during construction works
 - Maintenance Plan detailing the maintenance arrangements with regard to surface water drainage system

- Responsible body for maintenance of the surface water drainage system must record yearly logs of maintenance in accordance with approved Maintenance Plan.

6.107 With regard surface water flooding Essex County Council SuDS indicated that the proposed development will meet the requirements of the National Planning Policy Framework if the measures as detailed in the FRA and associated documents submitted in support of the application implemented. On this basis officers have attached a number of conditions to secure these submitted details.

6.108 Based on the details contained within the FRA and Drainage Strategy it is considered that the application site could be developed in the manner proposed without any risk of flooding from or to the proposed development compliant with the aims and objectives of the NPPF as well as Local Plan Policies set out above.

Education

6.109 Local Plan Policies QL12 of the Tendring District Local Plan (2007) and SD7 of the Tendring District Local Plan Proposed Submission Draft (2012) sets out that the Council will seek planning obligations wherever they are fairly and reasonably related in scale and kind to the proposed development.

6.110 To support bungalows, assuming that all of the units have 2 bedrooms or more. A development of this size can be expected to generate the need for up to 1.1 early years and childcare (EY&C) places, 3.7 primary school, and 2.5 secondary school places.

6.111 The proposed development is located within the Manningtree, Mistley, Little Bentley and Tendring Ward. According to Essex County Council's childcare sufficiency data, published in July 2015, there are 3 providers of early years and childcare in the area. Of these 2 are child minders and 1 is a sessional pre-school. Overall a total of 10 unfilled places were recorded. As there is capacity within the area, a contribution would not be requested.

6.112 The proposed development is located within reasonable safe travelling distance of Mistley Norman CE Primary School, Highfields Primary School and Lawford CE Primary School. These schools have a combined overall capacity of 630 places and overall are forecast to have a surplus of 8 places by the school year 2019-20.

6.113 This proposed development is located within the secondary education priority admissions area for Manningtree High School. The school has a capacity of 870 places. The school is forecast to have a surplus of 70 places by the school year 2019-20.

6.114 All of the primary and secondary pupils that would be generated by this development could be accommodated.

6.115 However, the County Council is aware that, in addition to this site, outline planning applications have also been submitted for four significant sites in this area:

- 'Bromley Road (Land east of) Lawford - TEN/15/00876/OUT for up to 360 dwellings.
- 'Long Road (land south of) TEN 15/00761/OUT for up to 300 dwellings.
- 'Harwich Road - 15/01520/OUT for up to 135 dwellings
- 'Stourview Close (Land off) - TEN/15/01810/OUT for up to 70 dwellings.

6.116 The County Council is aware of the potential cumulative impact on primary and secondary school places in the area if this development is granted planning permission and one, two, three or all of the other developments are also granted planning permission.

6.117 Prior to the implementation of the revised Community Infrastructure Levy Regulations on the 6th April 2015 the County Council might have sought a developer contribution from this

proposed development for additional primary and secondary school places. However, the implementation of the revised Regulations now restrict the pooling of contributions for a specific item of infrastructure, such as the expansion of a school, to contributions from five separate planning obligations. Under these changed circumstances the County Council has decided not to request a contribution for the provision of additional primary or secondary school places from this proposed development. This is because the scale of this development is relatively small and the impact on pupil places is limited. Seeking a contribution from a small development might, in the future, preclude the County Council from seeking contributions from larger developments in the area.

- 6.118 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.

Affordable Housing

- 6.119 Saved Policy HG4 requires up to 40% of dwellings to be affordable housing on sites of 15 or more dwellings in urban settlements (with a population of 3,000 or more) and on sites of 5 or more dwellings in rural settlements (with a population less than 3,000). The National Planning Policy Framework requires Councils to consider economic viability when it applies its policies and the Council's own 2013 viability evidence in support of the Local Plan demonstrates that 40% affordable housing is unlikely to be viable in Tendring and that between 10% and 25% (as contained within emerging Policy PEO10) is more realistic. The thresholds under Saved Policy HG4 will therefore be applied but the percentage will be between 10% and 25% as detailed under emerging Policy PEO10.
- 6.120 There is a high demand for housing in Mistley. There are currently 65 households seeking a 2 bedroom property and 28 seeking a 3 bedroom property. It is also stated that there is a chronic shortage of 3 bedroom bungalows in the entire district.
- 6.121 The Housing Department is currently deciding its development acquisition priorities and may not be able at this stage to commit to purchase 25% of the provision on this site. As an alternative, the Department would be happy to accept 1 gifted properties (this being 20% of the 25% provision) in order to meet some of the housing demand in this area.

7 Conclusion

- 7.1 The application site is situated adjacent to the built-up area of Mistley the town or Urban Settlement of Manningtree, Lawford and Mistley which is recognised in planning policies as a location for growth. The current scheme results in a natural extension of the existing pattern of urban development.
- 7.2 Officers are of the view that current scheme would deliver notable benefits especially in addressing the Councils housing shortfall while also contributing to the provision of community facilities in the form of allotments and playing fields that are to be transferred to the Parish Council.
- 7.3 Notwithstanding the benefits of the scheme the balanced approach promoted by the NPPF also requires consideration of any potential harm as a result of development proposals. In this instance officers considered that the extent of potential harm would be limited to the impacts on the Green Gap designation, AONB, surface water flooding, impacts on the character of the area, impacts on neighbouring occupiers and highway safety matters. However in officer's opinion the applicant has provided evidence as part of their submission which indicates that the proposal would not result in any adverse impacts to the receptors identified above.

7.4 Based on the above it is concluded that there are no material conflicts with planning policy and since no material objections have been raised that outweigh the benefits of the proposed development the application is recommended for approval subject to a Section 106 legal agreement and a number of controlling conditions.

Background Papers

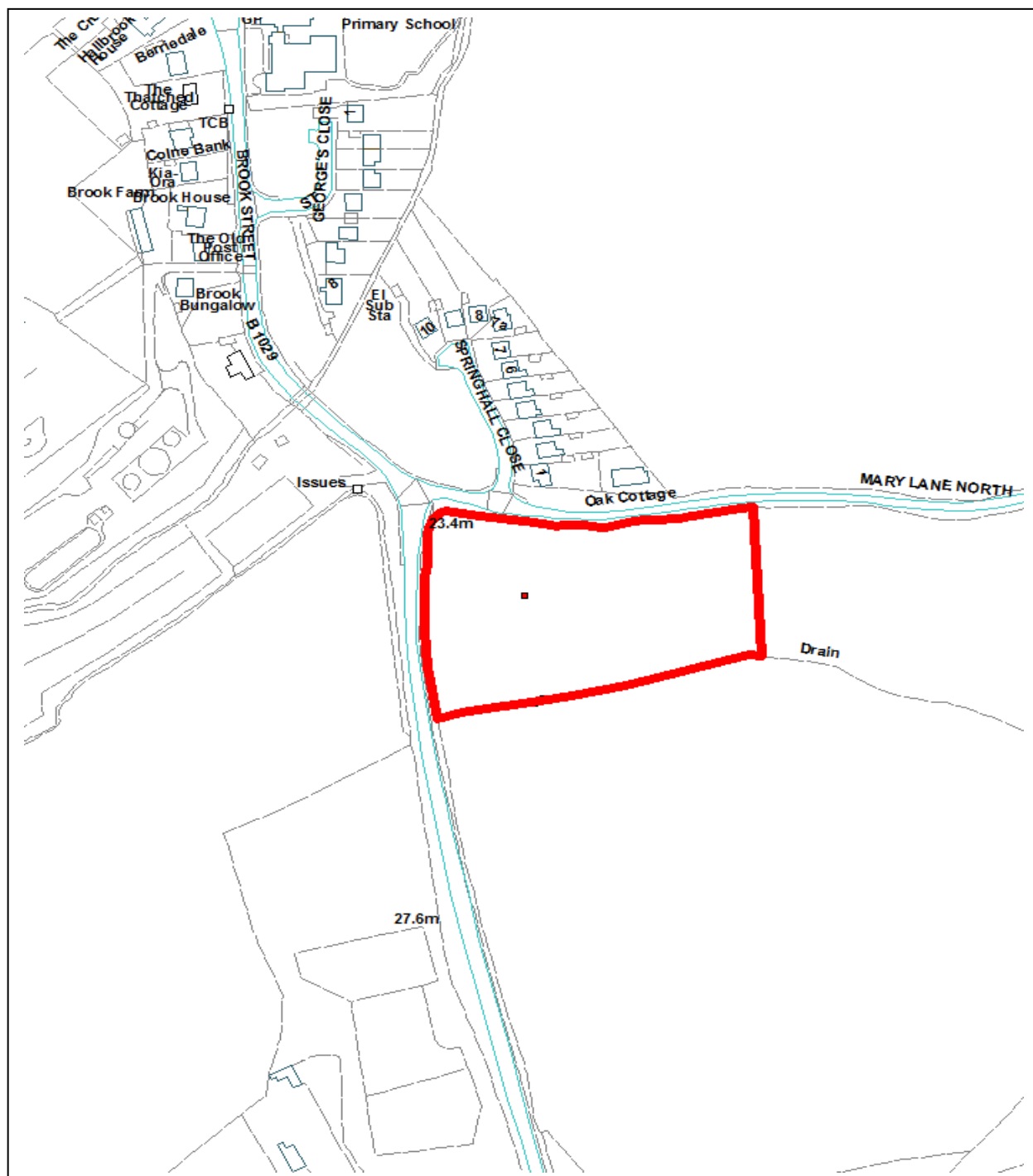
None.

PLANNING COMMITTEE

7 SEPTEMBER 2016

REPORT OF THE HEAD OF PLANNING

A.3 PLANNING APPLICATION – 16/00782/OUT – PARK 2 LAND AT BADLEY HALL FARM, BADLEY HALL ROAD, GREAT BROMLEY, CO7 7HU



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Application:	16/00782/OUT	Town / Parish: Great Bromley
Applicant:	Mr Ken Robinson	
Address:	Park 2 Land, Badley Hall Farm, Badley Hall Road, Great Bromley, Essex CO7 7HU.	
Development:	Outline application with all matters reserved for the erection of 24 new dwellings, including affordable housing and the provision of additional church and school overflow parking within the new site for approximately 30.no private cars.	

1. Executive Summary

- 1.1 This is a full planning application for 24 dwellings on a 1.3 hectare site which currently forms existing agricultural land and is part of Badley Hall Farm. Access to the site is indicated as leading directly onto Mary Lane North. The application is in Outline form only with all matters reserved and the Planning Committee is being asked to approve in principle a scheme for 8 market dwellings and 16 affordable dwellings and associated works. The scheme also includes the creation of a parking area to provide overflow car parking to serve the nearby village church and school.
- 1.2 The site is outside of the settlement development boundary in the adopted Local Plan and in the new preferred options draft local plan. However under policy LP6 of the Preferred Options Consultation document the site qualifies as a 'Rural Exception Site' where a mixed development of market and affordable housing is permissible so long as the level of market housing does not exceed one third of the dwelling total. The application contains evidence of local need for affordable housing and the scheme is supported by both the Parish Council and the Tendring Housing team.
- 1.3 The site is considered to be well related to the existing village providing a continuation of development leading out of the village and up Primrose Hill. The depth of the development mirrors that of development on the north side of Mary Lane North. Officers consider this is a suitable location for a rural exception site and approval is justified.
- 1.4 A small number of objections have been received in respect of the scheme from local residents. However no objections have been raised by any statutory agencies and no financial contributions have been requested by Essex County Council or the NHS towards education or health provision. The Highway Authority supports the scheme subject to conditions.
- 1.5 The development is located on the edge of the Alresford Valley System and close to the Bromley Heathland Plateau Landscape Character Area. In addition a number of mature trees line the existing site boundary. It is therefore essential that as many of these trees are retained and a soft landscape scheme is implemented to the east and south site boundaries to ensure that impact on the wider landscape is minimised.
- 1.6 Officers consider that this development complies with the requirements of the National Planning Policy Framework and Local Plan policy and the recommendation is approval subject to a s106 agreement to secure the affordable housing in perpetuity 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 (or the equivalent authorised officer) in their discretion considers appropriate).

(i) Conditions:

1. Standard conditions for submission of reserved matters and 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. Tree protection plan
 9. Details of lighting, materials and refuse storage/collection points.
 10. Broadband connection.
 11. Noise
 12. Emission Control
 13. Archaeology – Trial Trenching
 14. Provision of car park
- c) That the Head of Planning (or the equivalent authorised officer) 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.

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 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 for market and affordable housing 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 Section 6 also includes policy advice pertinent to affordable housing exception sites stating *"In rural areas, exercising the duty to cooperate with neighbouring authorities, local planning authorities should be responsive to local circumstances and plan housing development to reflect local needs, particularly for affordable housing, including through rural exception sites where appropriate. Local planning authorities should in particular consider whether allowing some market housing would facilitate the provision of significant additional affordable housing to meet local needs"*.
- 2.6 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

- 2.7 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 Great Bromley 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.

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).

HG3a: Mixed Communities

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

HG5: Local Needs Affordable Housing Outside Village Development Boundaries

Supports appropriate residential developments on the edge of settlements for provision of affordable 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).

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 Great Bromley as a smaller rural settlement where smaller scale development is envisaged as part of a sustainable strategy for growth. However larger sites are exceptionally permitted for affordable housing exception sites where there is identified need for affordable housing or Parish Council support.

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.

LP6: Rural Exception Sites

Council Housing and other forms of affordable housing may be permitted on sites adjoining the settlement Development Boundaries of 'Rural Service Centres' or 'Smaller Rural Settlements' subject to evidence of local need. A maximum of one in three dwellings in the overall development can be provided for sale or rent on the open market.

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.

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 no relevant planning history.

4. Consultations

TDC Principal Tree & Landscape Officer	<p>Notes that a Tree survey has been submitted as part of the application and that some of the trees are protected by TPOs. Under Reserved Matters a Tree Constraint Plan should be provided to demonstrate impact to trees and identify necessary protection.</p> <p>Notes site is on the very edge of the Alresford Valley System and close to the Bromley Heathlands Plateau Landscape Character Area. A soft landscaping scheme should be implemented to minimise impact on landscape with as many existing trees retained as possible.</p>
TDC Open Space and Play	<p>Request financial contribution for improvements to play area at Hare Green, Harwich Road, Great Bromley in line with policy PE022.</p>
ECC Highways	<p>The proposal is acceptable to the Highway Authority subject to conditions relating to access design, visibility splays, estate road detail, carriageway detail, footway design, parking and garage provision, bike storage detail, refuse collection point and car park access detail. In addition the Highway Authority has requested that prior to the occupation of any dwellings the footway from Mary Lane North along Brook Street north and north westerly over the junction with St Georges Close upto the pedestrian gate at St Georges School shall be extended wherever possible to a minimum 2.5m in width and secondly prior to the occupation of any dwellings 2 x new bus stops shall be provided in the vicinity to St Georges school.</p>
ECC Schools	<p>The site falls under the threshold where contributions are required.</p>
Anglian Water	<p><u>Assets affected:</u> There are no assets owned by Anglian Water or those subject to an adoption agreement within development boundary.</p> <p><u>Wastewater treatment:</u> The foul drainage from this development is in the catchment of Great Bromley Water Recycling Centre that will have available capacity for these flows.</p> <p><u>Foul Sewerage Network:</u> Drainage strategy required to be secured by condition.</p> <p><u>Surface Water Disposal:</u> 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.</p>
Natural England	<p>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.</p>
Essex County Council Flood Authority	<p>Having reviewed the Flood Risk Assessment and associated documents ECC do not object to the granting of Planning Permission.</p>
TDC Housing	<p>The Housing department is supportive of this application. A housing needs survey has been provided and the proposed affordable housing will be taken on by another registered provider.</p>

TDC Regeneration	No objection but request superfast fibre broadband be connected to the site in accordance with Policy CP3.
Pollution and Environmental Control	Request conditions relating to site works noise and emissions control.
ECC Archaeology	Require condition for a programme of trial trenching prior to development commencing.

5. **Representations**

- 5.1 Great Bromley Parish Council fully supports the application.
- 5.2 The Council has received 6 objections to the proposal.
- 5.3 The objections highlight concerns relating to:
- the increase in traffic along Mary Land North, already too much traffic using Mary Land North.
 - the junction with Parsons Hill/Brook Street has restricted visibility and the junction at the A120/Park Road is a well known black spot.
 - Loss of viable agricultural land
 - Not sustainable – no shops, post office, doctors surgeries over prescribed, infrequent bus services.
 - Disruption during construction process.
 - Potential flooding
 - Concerns regarding existing sewerage system.
 - Development out of character with locality.
 - Questions need for overflow car park.

6. **Assessment**

The Proposal

- 6.1 The application site comprises 1.3 hectares of existing agricultural land known as 'Park 2 land' forming part of Badley Hall Farm at Great Bromley. The proposed scheme is submitted as a rural exception site consisting of a mix of 16 affordable units and 8 market units. This is an Outline application with all matters reserved and the Planning Committee is being asked to approve an 'in principle' scheme. The applicant has indicated that based on the recent Housing Needs survey there is a need within the locality for the level of affordable housing being proposed, bedroom numbers per dwelling are not known at this stage but the housing mix for the affordable units is indicated as being 8 flats/maisonettes and 8 houses.
- 6.2 The applicant has submitted an indicative layout which shows a single estate style road entering the site from Mary Lane North and then serving all 24 dwellings as well as the proposed overflow car park for the church and school. A small area of shared surface for both pedestrians and car parking is shown to the end of the proposed highway. Submitted documentation includes:

Architectural Drawings

- LP/OP/01A - Location Plan
- PD/03A – Indicative Site Layout Plan
- GEO/MLGB/01A - Land Survey/Access Options
- GEO/MLGB/01A – Existing Ground Level Survey

- GEO/MLGB/02A – Existing ground Level Survey
- SK/01 - Concept Perspectives
- 1/1/1 – Land Holding Plan

Reports and Technical Information

- Planning Statement
- Design and Access Statement
- Ecological Appraisal
- Flood Risk Assessment
- Highways Access Statement
- Reptile Survey
- Bat Survey
- Infiltration Test report
- Highways Access review
- Housing needs Survey

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; and,
- 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 '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.
- 6.7 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.
- 6.8 Great Bromley 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 sensible sites both within and on the edge of the villages defined as small rural settlements 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).
- 6.9 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.
- 6.10 As this site is predominantly for affordable housing and adjoins the existing settlement development boundary, in line with the exceptions policy, officers consider that the proposed development meets existing and emerging planning policy and will also make a valuable contribution to meeting the five year housing land supply target.

Highways, transport and accessibility

- 6.11 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 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.

- 6.12 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. Although the site is located in one of the district's smaller rural settlements that have limited access to jobs, shops, services and facilities, the location benefits from having easy access to the A120, the village is served by an existing bus service and there are existing footpaths which link the site to the centre of the village. The village primary school and church are just a few hundred metres from the site.
- 6.13 As noted the site is served by a single access from Mary Lane North with a single feeder road serving the development. The Highway Authority have not raised objection subject to the imposition of a number of detailed planning conditions which include the requirement for improvements to the existing pedestrian footpath leading to St Georges school and provision of two additional bus stops in Brook Street adjacent to and in the vicinity of St Georges School.
- 6.14 In conclusion, although the site has limited accessibility to jobs, shops, services and facilities, it is considered that safe access can be gained to existing village services and to public transport facilities. Officers note the concerns raised by residents in respect of traffic impact generated by the development but consider that a suitably designed access can be provided which will not adversely affect highway safety.

Landscape, visual impact and trees

- 6.15 The site is a currently a greenfield site used for agriculture with a number of the trees located on the site boundary which are protected by a Tree Preservation Order. The site slopes slightly uphill away from the road frontage and is quite prominent in the street scene. It is therefore important to ensure that the development is acceptable in landscape and visual impact terms and properly takes into account any trees that might be affected.
- 6.16 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.
- 6.17 The application is in outline form with all matters reserved. It is therefore recommended that planning conditions are imposed which will require provision and implementation of a detailed landscape scheme which demonstrates that the majority of protected trees will be retained and additionally that a landscape buffer is provided to the east and south boundaries mitigating the impact of the development on the wider landscape.

Flood risk and drainage

- 6.18 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 sites 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 have reviewed the FRA and do not object to the grant of outline planning permission subject to conditions. These relate to the submission and subsequent approval

of a detailed Surface Water Drainage Scheme before development can take place, control of surface water during the construction phase, maintenance of the surface water drainage system and retention of annual logs detailing maintenance undertaken in accordance with the maintenance plan.

Ecology

- 6.19 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.
- 6.20 Natural England has not raised any objection to the application. The development would not have any significant direct or indirect effects 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 and flora used by nesting birds and it is recommended that works to these features are avoided in the bird nesting period. Bat and Reptile surveys have been undertaken for the site. No evidence of reptiles was encountered during the survey work – it is concluded that reptiles will not be a negative constraint to development. In respect of the Bat survey evidence of foraging by Pipistrelle Bats within the mature hedgerows and trees was noted. It is recommended therefore that the existing hedgerows and trees are retained, making allowance for the site access requirements. The development is considered unlikely to have a negative impact on Badgers, Water Voles, Otters or Dormice.

Heritage

- 6.21 The site is not located within a Conservation Area or close to any Listed Buildings and is therefore not considered to adversely affect existing historic assets.
- 6.22 Essex County Council Archaeology Advice notes that the site does lie within an area of historic interest and may contain evidence of Roman, Bronze age or medieval origin. It is recommended that a condition is imposed requiring a programme of trial trenching followed by Open Area Excavation prior to any development works commencing.

Contamination

- 6.23 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. The reports conclude that the former use of the site (crop growing) is unlikely to result in potential contamination which would adversely impact on future occupiers of the site.

Education and Health provision

- 6.24 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 the site is below the threshold for contributions and no contribution is sought. NHS England have not requested any financial contributions towards health provision and only tend to make such requests on schemes of 50 or more dwellings.

Utilities

- 6.25 Anglian Water notes there are no assets owned by AWA within the site boundary. They do however require 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 Great Bromley Water Recycling Centre that does have capacity for the proposed flows. They have requested a foul water strategy condition to be attached to the Planning Permission to ensure flooding downstream of the site does not occur.

Open Space and Play

- 6.26 Policy COM6 in the adopted Local Plan and Policy PEO22 of the emerging Local Plan require residential developments of over 1.5 hectares to provide at least 10% of land as public open space or otherwise make financial contributions toward off-site provision. In this case the site is less than 1.5 hectares and it is more appropriate to seek an off site financial contribution.
- 6.27 The Council's open spaces team has requested that due to a shortfall in open space provision a financial contribution is to be secured by s106 agreement and this money would be spent at the closest play area being Hare Green, Harwich Road, Great Bromley.

Council Housing/Affordable Housing

- 6.28 Policy HG5 in the adopted Local Plan allows affordable housing to be located on small sites adjoining existing rural communities where such development can be demonstrated to meet a particular local need. Evidence of such need must be provided and the affordable dwellings retained in perpetuity as affordable housing. Policy LP6 in the emerging Local Plan similarly requires evidence of need but notes that as an incentive to landowners to release their land for this use a maximum of one in three dwellings in the overall development can be provided for sale or rent in the open market.
- 6.29 In this case the proposed development is considered to comply with the emerging policy providing 16 of the 24 units as affordable dwellings. The Housing department has noted that they are supportive of the development and an appropriate housing needs survey has been provided by the applicant. They note that the affordable dwellings will be taken on by another registered provider. In addition they have no objection to some market housing being provided within the site to subsidise the provision of the affordable units. If the Committee is minded to approve this application, the affordable or Council Housing will be secured through a s106 legal agreement with built in trigger points for the provision of the affordable housing element.

Design and Layout

- 6.30 The proposed development as shown on the indicative plan supplied is served by a single access road leading directly from Mary Lane North and then via an estate style road serving the proposed dwellings and overflow carpark. The plan does indicate that existing trees have been taken into account in terms of the position of the proposed access, at Reserved Matters stage the detailed scheme should demonstrate that wherever possible existing trees have been retained. A turning head is shown at the end of the road. A small area of open space is also identified to the east end of the site.
- 6.31 As noted the site has a number of mature trees to the north and west boundaries the majority of which should be retained. An additional landscape buffer will be required to soften the site boundaries to the east and south.

- 6.32 The exact housing mix has not been provided at this stage but is likely to be a mix of detached, semi-detached and terrace style properties. Each property on the indicative layout is shown as having a good size garden area with adequate space for parking and garaging. Good spacing between dwellings is provided in terms of 'back to back' distances. Site density is relatively low at just 18 dwellings per hectare although the proposed church/school overflow car park should also be taken into account.
- 6.33 Indicative perspective drawings have also been provided by the applicant which show good use of traditional materials with designs reflecting a more contemporary style which would not be inappropriate in this location where good quality design on the edge of the village is important.

Conclusion

- 6.34 The proposed development is considered to comply with policy contained within the NPPF, the adopted Local Plan and emerging Local Plan policy contained within the Preferred Options Consultation document.
- 6.35 The scheme will result in provision of 16 affordable dwellings which will meet a local need as identified by the Housing Needs Survey. In total 24 dwellings will be provided which will also contribute towards meeting the 5 year housing land supply for the District.
- 6.36 It is confirmed that safe highway access and egress to and from the site is achievable and that safe access can be provided to facilities within the village. The proposed layout will not adversely impact on adjoining dwellings or property and is a relatively low density development on the edge of the village. Protection of existing trees and the requirement for a detailed landscape to mitigate the impact of the development will be secured by condition.
- 6.37 In conclusion although acknowledging the concerns raised by nearby residents officers consider that the proposed scheme meets all technical and policy requirements and the application is therefore recommended for approval subject to a s106 legal agreement and a range of planning conditions.

Background Papers

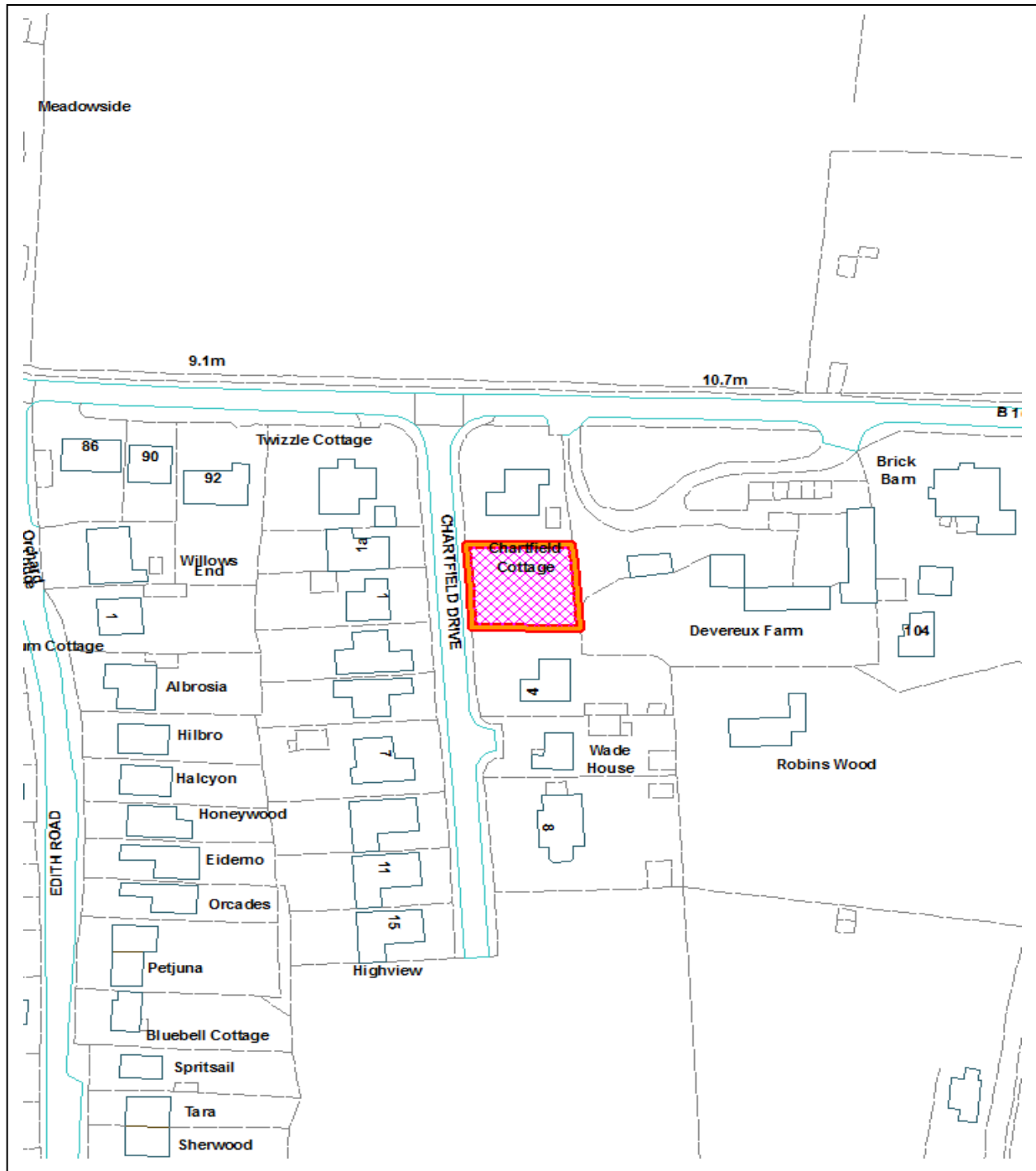
None.

PLANNING COMMITTEE

7 SEPTEMBER 2016

REPORT OF THE HEAD OF PLANNING

A.4 PLANNING APPLICATIONS - 16/00597/FUL - LAND ADJACENT CHARTFIELD COTTAGE, CHARTFIELD DRIVE, KIRBY-LE-SOKEN, CO13 0DB



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Application:	16/00597/FUL	Town / Parish: Frinton & Walton Town Council
Applicant:	Mr Gary Chisnall	
Address:	Land adjacent Chartfield Cottage Chartfield Drive Kirby Le Soken CO13 0DB	
Development:	Detached dwelling with detached garage.	

1. Executive Summary

- 1.1 This application has been referred to committee at the request of Councillor Bucke in response to strong local objection and concerns about the potential negative affects on the surrounding area. It is however Officers' opinion that the proposed development would be acceptable and that has been amended in order to minimise negative impacts on surrounding residential properties.
- 1.2 The application site is within the development boundary of Kirby le Soken located just inside its periphery.
- 1.3 Due to the number of representations received and the objection maintained by Councillor Bucke this application has been recommended to committee. It is an Officers opinion that this application should be approved as it would accord with Local Policy QL9, QL10 and QL11, no refusal can be sustained.

Recommendation: Approve

That the Head of Planning be authorised to grant planning permission for the development subject to planning conditions in accordance with those set below (but with such amendments and additions, if any, to the detailed wording thereof as the Head of Planning (or the equivalent authorised officer) in their discretion considers appropriate).

Conditions:

- 1) Time Limit (3 Years)
- 2) Compliance with approved plans
- 3) Details of materials, fencing, walls and landscaping
- 4) Access dimensions and visibility splays
- 5) No use of unbound materials for vehicular access
- 6) Inclusion of vehicle turning facility
- 7) Compliance with parking standards

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
- HG3 Residential Development Within Defined Settlements
- HG6 Dwelling Size and Type
- EN1 Landscape Character
- TR1A Development Affecting Highways

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

- SPL2 Settlement Development Boundaries
- SPL3 Sustainable Design

Status of the Local Plan

2.1 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

16/00597/FUL Detached dwelling with detached garage. Current

4. Consultations

Play and Open Space There is currently a deficit of 14.12 hectares of equipped play in Frinton, Walton & Kirby. However, there is more than adequate formal open space across the area. This is broken down as follows:

	Local Plan Requirement	Local Provision
Play Areas	15.23	1.11
Formal Open Space	<u>30.46</u>	<u>60.85</u>
	45.69	61.96

Any additional development in Kirby will increase demand on already stretched play areas. The nearest play area to the proposed development is 1 mile away in Halstead Road, Kirby. The site is well used by the local community and would struggle to cope with any additional usage.

Recommendation

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. However, Frinton, Walton and Kirby are well provided for in terms of open space and we do not consider that a contribution towards formal open space is necessary or relevant to this application.

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:

1. Prior to first occupation of the proposed development, the proposed vehicular access shall be constructed at right angles to the highway boundary and to a width of 3.7 metres 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.

2. Prior to the proposed access for any dwelling on the proposed development being brought into use, a 1.5m. x 1.5m. pedestrian visibility splay, relative to the highway boundary, shall be provided on both sides of that access and shall be maintained in perpetuity free from obstruction clear to ground. These splays must not form part of the vehicular surface of the access.

Reason: To ensure adequate intervisibility between drivers of vehicles using the proposed access and pedestrians in 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.

3. No unbound materials shall be used in the surface treatment of the proposed vehicular access throughout.

Reason: To ensure that loose materials are not brought out onto the highway, in the interests of highway safety and in accordance with Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

4. Prior to commencement of the proposed development, a vehicular turning facility for motor cars 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.

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.

5. All off street car parking shall be in precise accord with the details contained within the 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.

6. Prior to commencement of the proposed development, details of the provision for the storage of bicycles 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.

7. No development shall take place, including any ground works or works of demolition, until a Construction Method Statement (CMS) has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
 - i. the parking of vehicles of site operatives and visitors
 - ii. loading and unloading of plant and materials
 - iii. storage of plant and materials used in constructing the development
 - iv. wheel and under body washing facilities

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

Informative1: All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.

The applicants should be advised to contact the Development Management Team by email at development.management@essexhighways.org or by post to: SMO1 ' Essex Highways, Colchester Highways Depot, 653 The Crescent, Colchester, CO4 9YQ.

5. Representations

- 5.1 3 representations have been received; 8 prior to amendments to the plans and 5 following the amendments. The main points mentioned are:

Pre amendments:

- The proposed bungalow would be a dominant and oppressive feature.
- Its will be in close proximity to prosed developments of adjoining development at Brick Barns (15/00494) and contrary to requirements of Design Guide.

- Obstruction of view from development
- Soil type is not ideal for development as water would not sufficiently soakaway
- Development not in keep with general character of the area, considered overdevelopment as a two storey dwelling.

Post amendments:

- The proposed bungalow is not in line with adjacent neighbouring properties, the bungalow is positioned too far forward and out of character.
- Drainage issues of the site have not been assessed still; flooding will be a problem as site is near a hill and has inappropriate soil for drainage.
- The proposal will detract from the sense of spaciousness along the street.
- The driveway of the proposal could create issues with entering and existing as it is opposite a neighbouring drive.
- The site is too small to accommodate a dwelling and will obstruct views.

5.2 Councillor Robert Bucke has also maintained an objection to the proposed dwelling based on it representing an overdevelopment of the site as well as creating issues related to overlooking and concerns related to flood risk.

5.3 Frinton and Walton Town Council recommend refusal for this application based on overdevelopment of the site, too great a bulk and mass and garden grabbing.

6. Assessment

6.1 The main planning considerations are:

- Site Context;
- Proposal;
- Principle of development;
- Design and impact on character of the area;
- Impact on neighbour amenities;
- Highways;
- Other considerations; and,
- Conclusion.

Site description

6.2 The site is located on the eastern side of Chartfield Drive, within the Settlement Development Boundary for Kirby Le Soken. The site measures approximately 0.05 hectares and comprises part of the rear garden land associated with Chartfield Cottage; an existing detached bungalow.

6.3 To the south of the site, Chartfield Drive is lined to the east and west by detached dwellings with a range of layouts and designs. The dwellings along Chartfield Drive are set back from the road, behind landscaped gardens and parking areas. At the western corner of Chartfield Drive lies Twizzle Cottage which is a large modern two and a half storey dwelling, which fronts onto Walton Road.

Proposal

6.4 This application seeks planning permission for the erection of a detached bungalow with associated access, parking and ancillary works at Chartfield Cottage, Walton Road, Kirby Le Soken. The proposed bungalow is situated to the rear of the Chartfield Cottage, in an area currently used as garden. The proposed bungalow is set 5 metres from the front boundary of the site in line with the side elevation of Chartfield Cottage. It provides 3 bedrooms and has an integral garage, with two car parking spaces to the front. The proposed materials are brickwork with a concrete interlocking tile roof.

- 6.5 It should also be noted that an application (14/01449/FUL) had been submitted for the replacement of Chartfield Cottage, this application was refused due to scale and impact on neighbouring residents, this proposal was two stories and was clearly an overdevelopment of the site not inline with Local Policy.

Principle

- 6.6 The site is located within the Settlement Development Boundary for Kirby Le Soken. Policy HG3 of the Saved Plan states that 'within the defined development boundaries of towns and villages, development will be permitted providing it satisfies amenity, design, density, environmental, highway, local housing needs and sustainability criteria, as appropriate, and can take place without material harm to the character of the local area'.

Design and impact on character of the area

- 6.7 The Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. One of the core planning principles of the National Planning Policy Framework (NPPF) as stated at paragraph 17 is to always seek to secure high quality design.
- 6.8 Policies QL9, QL10 and QL11 of the 2007 Local Plan aims to ensure that all new development makes a positive contribution to the quality of the local environment, relates well to its site and surroundings particularly in relation to its form and design and does not have a materially damaging impact on the amenities of occupiers of nearby properties. Policy SPL3 of the Draft Plan carries forward the sentiments of these Saved Policies stating that all new development must make a positive contribution to the quality of the local environment and protect or enhance local character.
- 6.9 The proposal has undergone significant redesign to accommodate Local Policy Criteria with neighbour notifications of the amendments sent out with only three representations received in response. The first submitted plans proposed a dwelling significant in scale and form which appeared to over dominate the plot being in close proximity to neighbouring boundaries along the flank and to the rear. The agent has since addressed concerns raised and submitted an amended plan significantly reduced in scale and improved form relating well within the site.
- 6.10 The design submitted is now a bungalow style property with a hipped roof including a slightly projecting lowered hipped roof element on the principle elevation, its is approximately 6m height to ridge and occupies an area of 156 sqm with 206 sqm of rear garden amenity. The detached garage is in the same location and design. Overall the low key design, scale and form of the bungalow would address many of the design concerns, however it is still felt by some in the comments received that the dwelling is too far forward in the plot and out of sync with surrounding properties. It is an officer's opinion that the placing of the dwelling is acceptable and would not negatively impact the character of the surrounding dwellings; it is in line with the adjacent dwelling to the north which has a similar form with nearby properties also varying in design and scale.
- 6.11 Overall the amended proposal is, in Officers' opinion, acceptable design wise.

Impact on Neighbours Amenities

- 6.12 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'. Policy SPL3 of the Draft Plan carries forward the sentiments of these saved policies and states that 'the development will

not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties'.

- 6.13 The amended plans submitted have considerably lowered the height and general scale of the dwelling to a single storey bungalow therefore it is considered that the proposed dwelling is situated a sufficient distance away from existing neighbouring residents both to the rear such as 10 Walton Road (in excess of 20m) and to the sides Connemara Lodge (4m) and 15 Chartfield Drive (9m). It would not result in any material harm to amenity. The proposed dwelling also retains 206sqm of personal amenity space to its rear. Councillor Bucke has maintained an objection to the dwelling after seeing amended plans. It is Officers' opinion however that the amended dwelling would offer no material harm to neighbouring amenity and to the wider character of the area, therefore should be considered for approval within a sustainable location.

Highways

- 6.14 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. This requirement is also carried forward to Policy SPL3 of the Draft Plan.
- 6.15 The proposed dwelling provides 3 bedrooms. The Council's Adopted Parking standards require that a 3 bed dwelling has a minimum of 2 off-street parking spaces. The proposal meets these criteria; therefore it is considered that there is adequate off-street parking provision.
- 6.16 Essex County Council Highways have been consulted on the application and have raised no objections in terms of highway safety subject to controlling conditions recommended.

Other considerations

- 6.17 A number of representations have mentioned the environmental impact of a further development along the street. It is felt due to the scale of the dwelling and its sustainable location that no negative impact upon the environment, specifically drainage issues will occur and therefore it should be considered acceptable.

Conclusion

- 6.18 Overall the amended proposal has due regard to Local Policy and therefore it is Officers' opinion that it should be considered acceptable.

Background Papers

None.