



## **SPECIAL MEETING OF THE PLANNING COMMITTEE**

<b>DATE:</b>	<b>Wednesday, 19 March 2025</b>
<b>TIME:</b>	<b>5.00 pm</b>
<b>VENUE:</b>	<b>Committee Room - Town Hall, Station Road, Clacton-on-Sea, CO15 1SE</b>

**MEMBERSHIP:**

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

**Councillor Goldman**  
**Councillor Smith**  
**Councillor Sudra**  
**Councillor Wiggins**

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

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

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DATE OF PUBLICATION: Tuesday, 11 March 2025

## AGENDA

### **1 Apologies for Absence and Substitutions**

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

### **2 Minutes of the Last Meeting (Pages 9 - 22)**

To confirm and sign as a correct record, the minutes of the meeting of the Committee, held on Tuesday, 4 March 2025.

### **3 Declarations of Interest**

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

### **4 Questions on Notice pursuant to Council Procedure Rule 38**

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

### **5 Report of the Director (Planning & Communities) - A.1 - 24/01507/FUL - Land adjacent to 55 Church Road, Elmstead, CO7 7AW (Pages 23 - 64)**

The erection of six self-build bungalows and associated infrastructure.

### **6 Report of the Director (Planning & Communities) - A.2 - 24/01915/VOC - Land at Connaught Road, Weeley, CO16 9EL (Pages 65 - 78)**

Application under Section 73 of the Town and Country Planning Act for Variation of Condition 2 (Approved Plans) of application 21/02014/FUL, approved at appeal APP/P1560/W/22/3291996, to enable changes to the floor plans and roof elevations.

### **7 Report of the Director (Planning & Communities) - A.3 - 24/01910/FUL - Rear of 140 Point Clear Road, St Osyth, CO16 8JA (Pages 79 - 98)**

Erection of two detached self-build bungalows.

### **8 Report of the Director (Planning & Communities) - A.4 - 25/00061/FUL - Clacton Rugby Club Valley Road, Clacton-on-Sea, CO15 6NA (Pages 99 - 110)**

Proposed extension and alterations to provide further changing area, toilets and showers for teams.

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

*The next scheduled meeting of the Planning Committee is to be held in the Town Hall, Station Road, Clacton-on-Sea, CO15 1SE at 5.00 pm on Tuesday, 1 April 2025.*

# **INFORMATION FOR VISITORS**

## **PUBLIC ATTENDANCE AT PLANNING COMMITTEE MEETINGS**

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

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

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

### **Rights of members of the public to film and record meetings**

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

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

The Council will provide reasonable facilities to facilitate reporting.

### **Public Behaviour**

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

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

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

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

Filming by the Council This meeting will be filmed by the Council for live and/or subsequent broadcast on the Council's website. The whole of the meeting will be filmed, except where there are confidential or exempt items, and the footage will be on the website for up to four years (the Council retains three full years of recordings and the relevant proportion of the

current Municipal Year). The Council will seek to avoid/minimise footage of members of the public in attendance at, or participating in, the meeting.

# *Tendring* District Council



## **PLANNING COMMITTEE MEETINGS PUBLIC SPEAKING SCHEME March 2021**

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

### **TO WHICH MEETINGS DOES THIS SCHEME APPLY?**

Public meeting of the Council's Planning Committee are normally held every 4 weeks at 5.00 pm in the Committee Room at the Town Hall, Station Road, Clacton-on-Sea CO15 1SE.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

You can:-

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

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

## **OR**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



**MINUTES OF THE MEETING OF THE PLANNING COMMITTEE,  
HELD ON TUESDAY, 4TH MARCH, 2025 AT 5.00 PM  
IN THE COMMITTEE ROOM, AT THE TOWN HALL, STATION ROAD, CLACTON-  
ON-SEA, CO15 1SE**

<b>Present:</b>	Councillors Fowler (Chairman), White (Vice-Chairman), Alexander (except item 58), Everett, Goldman, Smith (except item 58), Sudra and Wiggins
<b>Also Present:</b>	Councillor Scott (except items 60 – 63)
<b>In Attendance:</b>	Gary Guiver (Director (Planning & Communities)), John Pateman-Gee (Head of Planning & Building Control), Ian Ford (Committee Services Manager), Joanne Fisher (Planning Solicitor), Michael Pingram (Senior Planning Officer), Oliver Ashford (Planning Officer) and Katie Koppenaar (Committee Services Officer)
<b>Also in Attendance</b>	Michael Carran (Assistant Director (Economic Growth, Culture & Leisure)) (items 54 – 58 only), Andy White (Assistant Director (Building and Public Realm)), Emma Twine (Project Manager (Levelling Up)) (items 54 – 58 only)

**54. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

There were no apologies for absence submitted nor substitutions on this occasion.

**55. MINUTES OF THE LAST MEETING**

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

**RESOLVED** that the minutes of the meeting of the Committee, held on Tuesday 4 February 2025, be approved as a correct record and be signed by the Chairman.

**56. DECLARATIONS OF INTEREST**

In relation to Agenda Item 5 (report A.1 – Planning Application 24/01890/FUL – Land at High Street Car Park, Carnarvon Road, Clacton-on-Sea), Councillors Alexander and Smith both declared an Interest and both informed the Committee that they would withdraw from the meeting and leave the room whilst the Committee deliberated on this application and reached its decision.

In relation to Agenda Item 6 (report A.2 – Planning Application 24/00937/FUL – Elmtree Garage, Colchester Road, Elmstead), Councillor Wiggins declared for the public record that she was one of the local Ward Members. Councillor Wiggins stated that she was not pre-determined on this application and she therefore would remain in the meeting and take part in the deliberations and decision making.

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

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

58. **REPORT OF THE DIRECTOR (PLANNING & COMMUNITIES) - A.1. - 24/01890/FUL - LAND AT HIGH STREET CAR PARK, CARNARVON ROAD, CLACTON-ON-SEA**

Earlier on in the meeting, as detailed under Minute 56 above, Councillors Alexander and Smith had both declared an Interest in this application. They thereupon withdrew from the meeting and left the room whilst the Committee deliberated on this application and reached its decision.

Members were told that this application was before the Planning Committee on the basis that the applicant and owner of the site was Tendring District Council.

Officers made Members aware that the application sought the demolition of the existing multi-story car park and all other structures, to be replaced by a new multi-story car park providing 301 spaces, the erection of 28 affordable residential units and the erection of 1,330sqm of flexible commercial floorspace. Given that the site fell within the Settlement Development Boundary for Clacton-on-Sea, and was also an area prioritised for regeneration, the principle of development was acceptable. The proposed commercial uses might not necessarily be main town centre uses, but Officers believed that they would still be a boost to the commercial offering in the surrounding area.

The Committee was informed that Officers considered that the design, scale and layout was an acceptable response to the character and appearance of the area, and whilst there would be a degree of harm to the amenities of Number 39 Carnarvon Road, on balance that was not considered so significant that it warranted recommending a refusal. The residential units all met the technical housing space standards and provided for enough private amenity space, and Essex Highways Authority had raised no objections subject to conditions. The parking provision was also considered to be of an acceptable level.

Members were made aware that the proposed development would result in the loss of a Copper Beech tree, however, whilst unfortunate it would not have been feasible to retain it without significant revisions to the wider scheme. Furthermore, the proposed development included a significant increase of soft landscaping, and therefore on balance the wider benefits of the scheme were considered to outweigh the harm of the loss of that tree.

The Committee was also told that taking all the above into consideration, Officers had concluded that, whilst there were some minor harms as a result of the development, they were significantly outweighed by the benefits the scheme would generate.

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

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

There was no update circulated to Members prior to the meeting in relation to this application.

Mike Carran, representing the applicant, spoke in support of this application.

<b>Matters raised by Members of the Committee:-</b>	<b>Officer's response thereto:-</b>
<i>Has some of the affordable housing been reserved for Essential Workers? If not, could it be looked into and encouraged?</i>	<i>40% of the housing provision is for affordable housing. A housing allocation for Essential Workers does not form part of this application. TDC's affordable housing definition follows that within the NPPF. As there is not an Essential Worker Policy within the Local Plan there is not a basis on which to insist upon it via a condition. Going forward, the landowner can make such a provision but it falls beyond the scope of this application.</i>
<i>With the current car park there seems to be very little use of the upper floors. How can we ensure that, going forward, people do not park in the open spaces given that most users of the High Street Multi Storey car park currently park in the open on the ground floor.</i>	<i>The open spaces you mention will be inaccessible to vehicles. Cars will only be able to access the new multi-story car park and will have no choice but to park within.</i>
<i>There is Japanese knot weed on the site. What provision can TDC make to deal with this problem in a safe manner.</i>	<i>The Environment Agency (EA) would need to be involved in any matter regarding this knot weed and a permit from the EA would be required to treat or remove the knot weed. Therefore, it is outside of the Council's remit to impose a planning condition.</i>
<i>The height of the proposed new multi-storey car park will be five storeys. The present car park is three storeys. How will the impact of this be managed?</i>	<i>The separation distance from the site of the proposed new multi-storey car park to buildings the other side of Carnarvon Road is 20m and therefore this will not be an issue. The new car park will affect the residential units adjacent to it. However, the relocation of the car park site further away from the backs of buildings in Station Road will be a significant positive outcome.</i>
<i>Are there parking spaces at the very top of the site?</i>	<i>No – this area is allocated for public seating and a community space.</i>
<i>Can you confirm that you are satisfied that there is no conflict of interest given that ECC Place Services have been involved in both the Green Infrastructure and the Ecology assessments?</i>	<i>Yes, we are satisfied that there is no such conflict of interest. ECC took steps to ensure that there was no crossover of the Officers involved in those assessments.</i>
<i>Is there any parking provision for invalids? Will lifts be provided within the multi-storey? Can there be such parking adjacent to the High Street?</i>	<i>21 invalid parking spaces will be provided on the ground floor. There will be two lifts providing access to the higher storeys. Disabled facilities will also be provided adjacent to those lifts.</i>
<i>Will there be any electric vehicle charging points provided?</i>	<i>36 EV charging points will be provided. There is currently only one provided</i>

	<i>within the existing car park.</i>
<i>Will the new buildings be coloured grey?</i>	<i>Both the residential and mixed-use buildings will likely be "light blue". However, Condition 10 will secure such details.</i>

It was moved by Councillor Goldman, seconded by Councillor Sudra and:-

**RESOLVED** that:-

- (1) on appropriate terms as summarised below and those as may be deemed necessary to the satisfaction of the Head of Planning and Building Control to secure the completion of a legal agreement under the provisions of Section 106 of the Town and Country Planning Act 1990 dealing with the following matters:
  - Affordable Housing provision; and
  - Biodiversity Net Gain (Unless the applicant opts to deal with this under the planning condition)
- (2) the Head of Planning and Building Control be authorised to grant planning subject to the agreed Section 106 agreement and conditions as stated at paragraph 10.2, or varied as is necessary to ensure the wording is enforceable, precise, and reasonable in all other respects, including appropriate updates, so long as the principle of the conditions as referenced is retained;
- (3) the sending of any informative notes to the applicant as may be deemed necessary; and
- (4) in any event of the Planning obligations or requirements referred to in Resolution (1) above not being secured and/or not secured within 12 months from the date of this meeting that the Head of Planning and Building Control be authorised to refuse the application on appropriate grounds at their discretion.

**59. REPORT OF THE DIRECTOR (PLANNING & COMMUNITIES) - A.2. - 24/00937/FUL - ELMTREE GARAGE, COLCHESTER ROAD, ELMSTEAD, CO7 7EE**

Earlier on in the meeting, as detailed under Minute 56 above, Councillor Wiggins had declared for the public record that she was one of the local Ward Members. Councillor Wiggins had also stated that she was not pre-determined on this application. She therefore remained in the meeting and took part in the deliberations and decision making.

The Committee heard that this application was before Members as the application had been called in by Councillor Scott due to his perceived impact of the proposals on traffic, noise and light pollution.

Members were told that the application sought full planning permission for the "Demolition of existing buildings, removal of existing canopy, pump islands and underground tanks. Construction of new sales building with 'Food to Go' offer and ATM, installation of new canopy, pump islands and forecourt, installation of 2 x 60 KL underground fuel tanks, creation of new Electric Vehicle Charging (EVC) hub and

associated infrastructure, jet wash bays and associated plant room, bin store, car parking, car care facilities and all other associated works.”

Officers told Members that the existing commercial building (office/storage), sales building and forecourt would be demolished and replaced by a larger sales building and forecourt. The new forecourt would provide refuelling for 16 vehicles. The new sales building would be located along the northern boundary of the site with a GIA of 380sqm, larger than the 289sqm. The sales area would provide two new ‘Food to Go’ uses including a bakery and a hot food takeaway. It would also feature staff area, three customer toilets and a new ATM and pay at night window.

The proposed EVC hub would be comprised of eight bays with canopies above located along the western boundary with a height of 2.8m. A new canopy would also cover the existing fuel pumps in the same location at the existing but covering a larger area. That would be a similar height to the existing.

Further, the Committee was told that new customer car parking of 15 spaces and 1 accessible bay, four new jet wash bays, new underground fuel tanks and associated infrastructure were all proposed.

Members also heard that the proposed development was considered by Officers to be an upgrade of existing facilities in accordance with the existing use on site.

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

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

An Officer Update Sheet had been circulated to Members prior to the meeting which covered the following matters:-

*“Environment Agency – Additional Consultee Response 24.01.2025 – Holding objection removed*

*“We have reviewed the documents as submitted and we consider that planning permission could be granted to the proposed development as submitted if the following planning conditions are included as set out below. Without these conditions, the proposed development on this site poses an unacceptable risk to the environment and we would maintain our objection to the application.*

*We ask to be consulted on the details submitted for approval to your Authority to discharge these conditions and on any subsequent amendments/alterations.*

*Environmental setting*

*The site is underlain by superficial Cover Sand Deposits designated as a Secondary B Aquifer. The site is located within a Groundwater Source Protection Zone (SPZ), namely SPZ 3. The site is located over a EU WFD groundwater body. Shallow groundwater may also be present at the site. The location of the site is therefore considered to be of moderate/high environmental sensitivity.*

*Condition 1 The development hereby permitted shall not be commenced until such time as a scheme to install the underground tanks have been submitted to, and approved in writing by, the local planning authority. The scheme shall include the full structural details of the installation, including details of excavation, the tank(s), tank surround, additional containment, associated pipework, monitoring system schedule and maintenance schedule. The scheme shall be fully implemented subsequently maintained, in accordance with the scheme, or any changes subsequently be agreed, in writing, by the local planning authority.*

*Reasons - To protect and prevent the pollution of controlled waters (particularly the Secondary B aquifer, Source Protection Zone 3) from potential pollutants associated with current and previous land uses in line with National Planning Policy Framework (NPPF 2024; paragraphs 187,196 and 197), EU Water Framework Directive, and Environment Agency Groundwater Protection Position Statements (2018) D2 and D3.*

*Condition 2 Prior to commencement, no development shall take place until a scheme that includes the following components to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the local planning authority: 1) A preliminary risk assessment which has identified: All previous uses potential contaminants associated with those uses a conceptual model of the site indicating sources, pathways and receptors potentially unacceptable risks arising from contamination at the site. 2) A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site. 3) The results of the site investigation and detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken. 4) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action. Any changes to these components require the express written consent of the local planning authority.*

*Condition 3 No occupation shall take place until a verification report demonstrating completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a "long-term monitoring and maintenance plan") for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan. The long-term monitoring and maintenance plan shall be implemented as approved.*

*Condition 4 No development should take place until a long-term monitoring and maintenance plan in respect of contamination including a timetable of monitoring and submission of reports to the Local Planning Authority, shall be submitted to and approved in writing by the Local Planning Authority. Reports as specified in the approved plan, including details of any necessary contingency action arising from the monitoring, shall be submitted to and approved in writing by the Local Planning Authority. Any necessary contingency measures shall be carried out in accordance with the details in the approved reports. On completion of the monitoring specified in the plan a final report demonstrating that all long-term remediation works have been carried out*

and confirming that remedial targets have been achieved shall be submitted to and approved in writing by the Local Planning Authority.

Condition 5 If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted a remediation strategy to the local planning authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the local planning authority. The remediation strategy shall be implemented as approved. Reasons To protect and prevent the pollution of the water environment (particularly the Secondary B aquifer, Source Protection Zone 3) from potential pollutants associated with current and previous land uses in line with National Planning Policy Framework(NPPF 2024; paragraphs 187,196 and 197), EU Water Framework Directive, River Basin Management Plan and Environment Agency Groundwater Protection Position Statements (2017) A4 – A6, J1 – J7 and N7.

Condition 6 Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details.

Reasons Piling or other penetrative ground improvement methods can increase the risk to the water environment by introducing preferential pathways for the movement of contamination into the underlying aquifer and/or impacting surface water quality. For development involving piling or other penetrative ground improvement methods on a site potentially affected by contamination or where groundwater is present at a shallow depth, a suitable Foundation Works Risk Assessment based on the results of the site investigation and any remediation should be undertaken. This assessment should underpin the choice of founding technique, and any mitigation measures employed, to ensure the process does not cause, or create preferential pathways for, the movement of contamination into the underlying aquifer, or impacting surface water quality.”

**Officer Response – Having considered all of the above consultee’s response, Officers consider that recommended Condition 6 should be carried forward and added to any approval. The other recommended conditions do not meet the 6 tests within the NPPF and are not recommended to be carried forward.**

Elmstead Parish Council Additional Comments – Received 25.02.25

“On the public access portal, the Parish Council’s comment was labelled as neutral – this is incorrect. As stated at the end of paragraph 3 of our response, “Elmstead Parish Council must object to this application’.

There seems to have been further misunderstandings in the officer’s reported response to our concerns we’d like to clarify as we feel the summary misrepresents our position.

We’d question the assertion that a significantly expanded petrol station facility, with additional food service provision, will not cause additional traffic. Why would the site need four times as many staff if there was not a substantial increase in customers – who, given its location next to a busy A road, and primary purpose as a fuel station, will overwhelmingly be travelling by motor vehicle? Logically this must cause significantly increased traffic flow.

*While we would suggest the expanded food service provision will in fact increase noise throughout the 24-hour period, our main concern has not been recognized in the report. The new site layout will absolutely move existing and new sources of noise significantly closer to neighboring residential properties and noise sensitive businesses (the adjacent pet shop).*

*Of special concern is the impact of the multiple pressure washing bays – which the report into our objection fails to mention.*

*Finally, if the committee has visited the site today, we'd like to again emphasize our concerns about the complexities of 2 entrances/exits for vehicular traffic to the westbound A133 with an increase of traffic both to and from the site, and the roads rapidly increasing throughput.”*

Harry Capstick, the applicant’s agent, spoke in support of the application.

Luke Worsfold, a member of the public, spoke against the application.

Councillor Gary Scott, caller-in and a local Ward Member, spoke against the application.

<b>Matters raised by Members of the Committee:-</b>	<b>Officer’s response thereto:-</b>
<i>Why have five out of the six proposed additional planning conditions submitted by the Environment Agency (EA) been turned down by Officers?</i>	<i>Officers feel that it is not down to the Local Planning Authority to duplicate existing legislation that can be enforced by other bodies. However, Officers would be content to add them as an Informative Note to the applicant or add them as extra conditions if that it was what the Committee resolves.</i>
<i>If Councillor Scott had not called-in this application, would it have been brought before the Committee?</i>	<i>No. It would have fallen to Officers to process under delegated powers.</i>
<i>Can you confirm if there is any parking provision for bikes and/or motorbikes?</i>	<i>It would appear so from the plan but cannot be certain. This can be covered by an additional condition.</i>
<i>Can you confirm that the site lighting proposed will be of the modern, less intrusive kind?</i>	<i>This is covered by one of the proposed conditions.</i>
<i>Can you confirm that the site cannot be accessed from Dale Close?</i>	<i>Yes, I can confirm that.</i>
<i>Any current noise pollution is generated from the front of the site. Now with this redevelopment potentially the whole of the site will be a source of noise and will likely affect more residents in the vicinity. What can be done about this?</i>	<i>Environmental Health are satisfied that an adequate noise assessment survey has been carried out and they were happy with the results.</i>
<i>The Car Wash facility will be a noisy facility. Is there a time limit on its use? How near would it be to the nearest neighbour?</i>	<i>The application indicates that it will be operational from 7am to 7pm. However, this can be set via an additional condition.</i>
<i>Can this proposed facility be relocated further up the A133 nearer the Garden</i>	<i>The Committee has to consider the application before it.</i>



<i>Community site?</i>	
<i>Are the proposed new fuel tanks larger than the existing?</i>	<i>The new fuel tanks will be slightly larger.</i>
<i>Can you confirm that there will be no negative impact on the local water courses?</i>	<i>I can't give any guarantees but there are other bodies such as the Environment Agency that can impose site licence conditions and enforce them.</i>
<i>Why is there no provision for hydrogen powered vehicles?</i>	<i>This was the choice of the applicant who did not include it as part of their application.</i>
<i>Has the Environment Agency been made aware that Officers are recommending that 5 out of 6 of their conditions should not go forward? If not, then should this matter be deferred until they have been made aware and have had a further opportunity to respond?</i>	<i>The EA representation was received only yesterday and so they have not been so informed. Any such deferral would be the decision of Members. These are only recommendations; the Committee is at liberty to not follow them e.g. the Committee could resolve to add the EA's proposed conditions as extra conditions to the approval of this planning application.</i>
<i>EV charging can be a slow process so where will customers go whilst waiting?</i>	<i>That would be down to the individual concerned. They could remain in the car; go into a food outlet; or go for a walk. It would be entirely their choice.</i>
<i>How long has this site been a petrol station?</i>	<i>Only part of the site has been a petrol station. Cannot give an exact figure in years but it is likely to have been several decades.</i>

It was moved by Councillor Everett, seconded by Councillor Sudra and:-

**RESOLVED** that:-

- 1) the Head of Planning and Building Control be authorised to grant full planning permission subject to the conditions stated at paragraph 10.2 of the Officer report (A.2), together with the extra conditions proposed by the Environment Agency (as detailed in the Update Sheet), a condition to secure the jet wash operation hours as 7am to 7pm and a condition for the provision of two wheeled parking, or varied as is necessary to ensure the wording is enforceable, precise, and reasonable in all other respects, including appropriate updates, so long as the principle of the conditions as referenced is retained; and
- 2) the sending of any informative notes to the applicant as may be deemed necessary.

**60. REPORT OF THE DIRECTOR (PLANNING & COMMUNITIES) - A.3. - 24/01643/FUL - GUNFLEET SAILING CLUB, MARINE PARADE EAST, CLACTON-ON-SEA**

The Committee heard that this application was before Members as Tendring District Council was the landowner.

It was reported that the application sought full planning permission for a small extension to the sailing club clubhouse to accommodate an entrance lobby and race officer box.

Members were told that the site was located within the settlement development boundary, within Clacton Greensward Safeguarded Open Space and within Flood Zone 2.

The Committee was informed that the proposed development was not considered by Officers to cause any material harm to visual or residential amenity, highway safety, biodiversity, or flood risk.

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

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

An Officer Update Sheet had been circulated to Members prior to the meeting setting out changes to the Approved Plans Condition as follows:-

*“Addition of two plans; existing and proposed northwestern elevation and existing and proposed south western elevation and the addition of the ‘North Eastern and South Eastern’ as shown below:*

#### 1. COMPLIANCE: APPROVED PLANS & DOCUMENTS

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

- Existing and Proposed North Eastern Elevation – Received 26.11.2024
- Existing and Proposed South Eastern Elevation – Received 26.11.2024
- Proposed Floor Plan – Received 26.11.2024
- Existing and proposed North Western elevation – Received 26 February 2026
- Existing and proposed South Western elevation – received 26 February 2026

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

There were no public speakers on this occasion.

There were no questions from the Committee to Officers on this occasion.

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

**RESOLVED** that:-

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

**61. REPORT OF THE DIRECTOR (PLANNING & COMMUNITIES) - A.4. - 24/01592/FUL - UPPER PROMENADE, MARINE PARADE WEST, CLACTON-ON-SEA**

Members were told that this application was before the Committee as Tendring District Council was the landowner and applicant.

Members were reminded that the application sought full planning permission for the erection of 2no. CCTV and supporting columns on the back edge of the public footway, along the Upper Promenade, off Marine Parade West, Clacton-on-Sea.

Officers made Members aware that the application proposed two 9-metre-high column poles, which included the 1-metre-high swan neck adaptor and dome camera fitted to the top providing a 360-degree view along Marine Parade West and into Alton Road and the second positioned to look down Penfold Road. Both were supplemented by a proposed fixed camera giving a 180 degree view up Alton Road from its junction with Marine Parade West and Penfold Road and its junction with Marine Parade West.

Members were informed that the proposed columns were of a similar height and appearance as existing street light columns and would be viewed in the context of the existing tall lighting columns. The development would not appear prominent, out of character or visually harmful within the street scene.

Furthermore, the CCTV columns, as identified by the Council's heritage consultants, would have some harm in terms of 'less than substantial' harm upon the significance and setting of the historic lampposts, however, the public benefit for the installation of the CCTV cameras to provide security in public areas was considered to outweigh that level of harm and the proposed development was considered to preserve the character and appearance of the Clacton Seafront Conservation Area.

Members heard that the proposed development formed part of the Safer Streets Programme aiming to combat place-based crime through situational crime prevention. The proposed were supported by the Office of the Police, Fire and Crime Commissioner by provision of funding to deliver the intended works.

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

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

There had been no updates circulated to Members prior to the meeting in relation to this application.

Andrew White, representing the applicant, spoke in favour of the application.

<b>Matters raised by Members of the Committee:-</b>	<b>Officer's response thereto:-</b>
<i>Can you confirm that the CCTV poles will be painted black and could be made to mimic the existing Victorian streetlight columns?</i>	<i>It is one of the proposed conditions that the CCTV poles be finished in black. It would be difficult to get a modern CCTV pole to mimic a Victorian era column. It could look overly false and dilute the historical aspects of the genuine columns. This aspect is also not part of the submitted application.</i>
<i>Will these CCTV poles carry the required warning signs about filming?</i>	<i>This is not a planning consideration as it does not form part of the planning application. If such signs are found to require advertisement consent then that would be processed via a further planning application.</i>

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

**RESOLVED** that:-

- 1) the Head of Planning and Building Control be authorised to grant full planning permission subject to the conditions as stated at paragraph 9.2 of the Officer report (A.4), or varied as is necessary to ensure the wording is enforceable, precise, and reasonable in all other respects, including appropriate updates, so long as the principle of the conditions as referenced is retained; and
- 2) the sending of any informative notes to the applicant as may be deemed necessary.

**62. EXCLUSION OF PRESS AND PUBLIC**

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

**RESOLVED** that, under Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting during consideration of Agenda Item 10 on the grounds that it involved the likely disclosure of exempt information as defined in paragraphs 6a and 6b of Part 1 of Schedule 12A, as amended, of the Act.

**63. EXEMPT MINUTE**

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

**RESOLVED** that the Exempt Minute of the meeting of the Committee, held on Tuesday, 3 December 2024, be approved as a correct record and be signed by the Chairman.

NOTE: Councillors Everett and Smith did not vote because they had not been present when the matter was originally heard.

The meeting was declared closed at 7.16 pm

**Chairman**

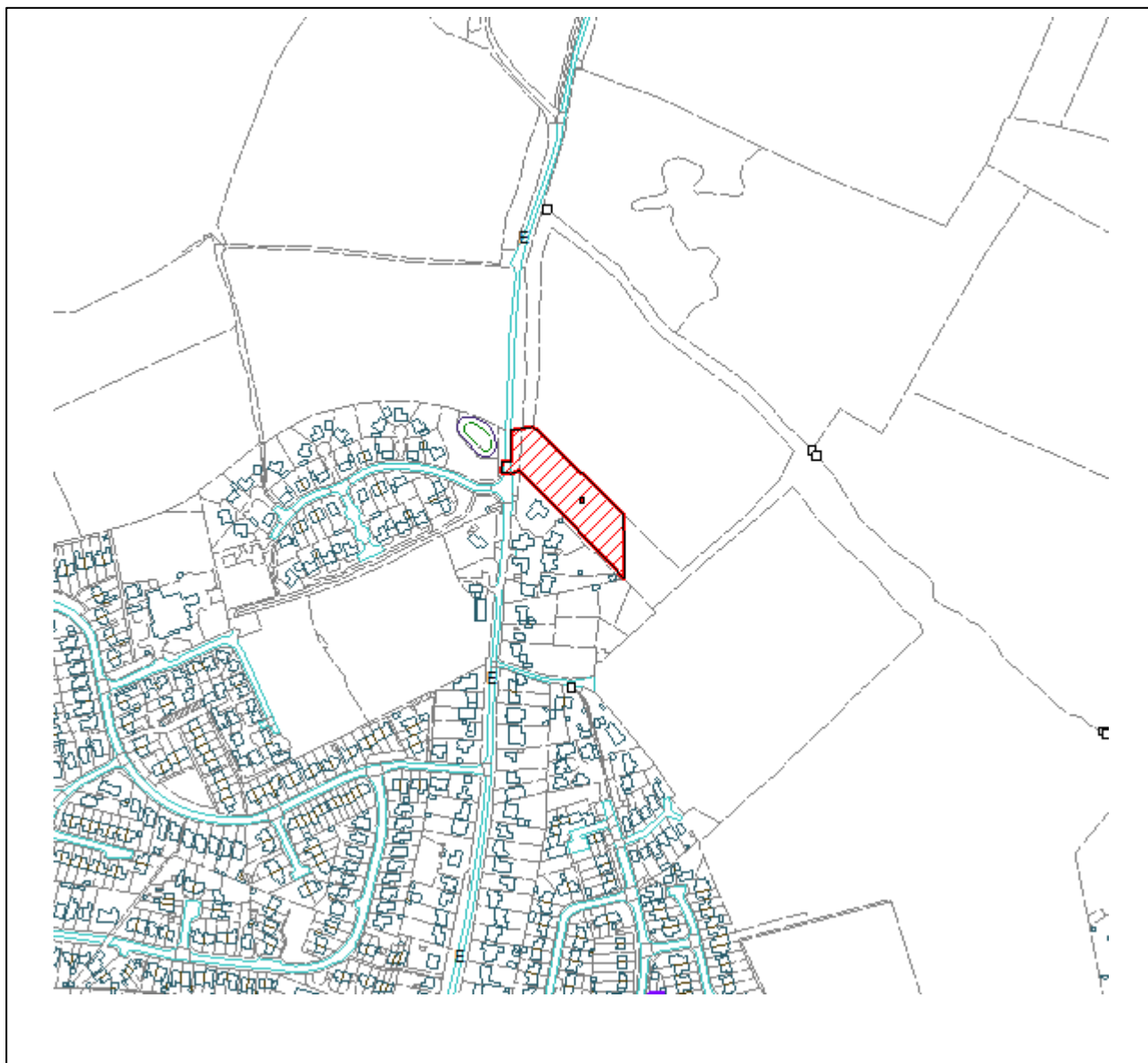
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## PLANNING COMMITTEE

19 March 2025

### REPORT OF THE DIRECTOR OF PLANNING

#### **A.1 PLANNING APPLICATION – 24/01507/FUL – LAND ADJACENT TO 55 CHURCH ROAD ELMSTEAD CO7 7AW**



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<b>Application:</b>	24/01507/FUL
<b>Case Officer:</b>	Amy Lang
<b>Town/ Parish:</b>	Elmstead Market Parish Council
<b>Applicant:</b>	Mr Massink, Miles and Chantry
<b>Address:</b>	Land adjacent to 55 Church Road Elmstead CO7 7AW
<b>Development:</b>	Planning Application - The erection of six self-build bungalows and associated infrastructure.

## 1. Executive Summary

- 1.1 The application is before Members at the request of Councillor Scott.
- 1.2 The site lies directly adjacent to the defined Settlement Development Boundary of Elmstead and meets the requirements of adopted Local Plan Policy LP7 for Self-Build dwellings. The scale, layout and appearance of the proposed dwellings are considered acceptable and will not result in any overriding harm to visual amenity, landscape character or the overall character of the area having regard to the context of the site directly adjacent to existing dwellings and the recent development at Pavillion View opposite.
- 1.3 The application has been assessed against the policies contained within the adopted Elmstead Market Neighbourhood Plan and is not considered to result in any material conflict that warrants refusal of planning permission in this regard.
- 1.4 Subject to an acceptable reptile survey and security of any necessary mitigation measures, the application is recommended for approval subject to conditions (including RAMS).

### **Recommendation:** Approval

- 1) That the Head of Planning and Building Control be authorised to grant full planning permission subject to the submission and assessment of an acceptable reptile survey setting out sufficient mitigation measures, and receipt of 'no objection' from Essex County Council Place Services Ecology;
- 2) The conditions as stated at paragraph 10.2 (including any additional conditions recommended as part of the consultation with Essex County Council Place Services Ecology following consultation on the reptile survey) or varied as is necessary to ensure the wording is enforceable, precise, and reasonable in all other respects, including appropriate updates, so long as the principle of the conditions as referenced is retained; and,
- 3) The informative notes as may be deemed necessary.

### **Or: -**

- 4) That in the event of the requirements referred to in Resolution (1) above not being secured within 12 months of the date of the committee, that the Head of Planning and Building Control be authorised to refuse the application on appropriate grounds at their discretion.



## **2. Status of the Local Plan**

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

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

In relation to housing supply:

The Framework requires Councils to significantly boost the supply of homes to meet the District's housing need. Paragraph 78 states that local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against their housing requirement set out in adopted strategic policies, or against their local housing need where the strategic policies are more than five years old. The supply of specific deliverable sites should in addition include a buffer (moved forward from later in the plan period) of 5% to ensure choice and competition in the market for land, unless the Housing Delivery Test (HDT) demonstrates significant under delivery of housing over the previous 3 years - in which case a higher buffer is required.

On 12th December 2024 the Government published the Housing Delivery Test: 2023 measurement. Against a requirement for 1,466 homes for 2020-2023, the total number of homes delivered was 2,343. The Council's HDT 2023 measurement was therefore 160%, and a buffer of 5% is to be used when calculating the Council's five year land supply position.

The Council demonstrates its supply of specific deliverable sites within the Strategic Housing Land Availability Assessment (SHLAA), which is published annually. The most recent SHLAA was published by the Council in July 2024, and demonstrates a 6.26-year supply of deliverable housing sites against the annual requirement of 550 dwellings per annum set out within the adopted Local Plan, plus a 5% buffer. The SHLAA can be viewed on the Council's website: <https://www.tendringdc.gov.uk/content/monitoring-and-shlaa>

As a result, the 'titled balance' at paragraph 11 d) of the Framework does not apply to decisions relating to new housing development.

## **3. Neighbourhood Plans**

### **Neighbourhood Plan Overview**

A neighbourhood plan introduced by the Localism Act that can be prepared by the local community and gives communities the power to develop a shared vision for their area. Neighbourhood plans can shape, direct and help to deliver sustainable development, by influencing local planning

decisions as part of the statutory development plan to promote development and uphold the strategic policies as part of the Development Plan alongside the Local Plan. Relevant policies are considered in the assessment. Further information on our Neighbourhood Plans and their progress can be found via our website <https://www.tendringdc.uk/content/neighbourhood-plans>

### **Elmstead Neighbourhood Plan**

The site is located within the parish of Elmstead, and the fully adopted Elmstead Neighbourhood Plan is therefore relevant. Any relevant policies are included in the list at Section 4 below and are addressed within the assessment section of the report.

## **4. Planning Policy**

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

### **National:**

National Planning Policy Framework December 2024 ([NPPF](#))

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

### **Local:**

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

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

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

- SPL1 Managing Growth
- SPL2 Settlement Development Boundaries
- SPL3 Sustainable Design
- LP1 Housing Supply
- LP2 Housing Choice
- LP3 Housing Density and Standards
- LP4 Housing Layout
- LP5 Affordable Housing
- PPL1 Development and Flood Risk
- PPL3 The Rural Landscape
- PPL4 Biodiversity and Geodiversity
- PPL5 Water Conservation, Drainage and Sewerage
- PPL7 Archaeology
- PPL10 Renewable Energy Generation and Energy efficiency Measures
- CP1 Sustainable Transport and Accessibility
- DI1 Infrastructure Delivery and Impact Mitigation

### Neighbourhood Plan

- ELM1 Settlement Development Boundaries
- ELM5 Affordable Housing
- ELM6 First Homes
- ELM7 Housing Mix
- ELM9 Design Codes (inc. Elmstead Design Guidance and Codes Final Report June 2022)
- ELM10 Important Views
- ELM16 Nature Recovery

Supplementary Planning Documents

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

Essex Design Guide

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

Local Planning Guidance

Essex Parking Guidance Part 1: Parking Standards Design and Good Practice September 2024

**5. Relevant Planning History**

Site-specific Planning History

No site-specific planning history.

Nearby Planning History – ‘Pavillion View’

14/01292/OUT	Outline planning application (all matters reserved) for residential development, a community hall, green infrastructure open space including land for a sports field and allotments together with new vehicular and pedestrian accesses, parking, servicing, landscaping and utilities infrastructure.	Approved	12.12.2016
18/01884/FUL	Erection of 41 no. residential dwellings, open space, allotments, parking, access and landscaping.	Approved	28.05.2020

**6. Consultations**

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

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

**ECC Highways Dept - NO OBJECTION**

**15.11.2024**

The information provided with the application has been assessed by the Highway Authority and conclusions reached from a desktop study based on the submitted material and google maps and in conjunction with a site visit. Church Road is classified as a local road within the County’s Route Hierarchy and is subject to a 30-mph speed limit. Most of the development will be served by a new private access while plot 1 will be accessed directly from Church Road. It is not envisaged that the proposal will result in a material change in the character of the traffic in the vicinity of the site, considering these factors:

From a highway and transportation perspective the impact of the proposal is acceptable to Highway Authority subject to mitigation and conditions securing a priority junction, visibility splays, turning areas and a construction method statement.

**Environmental Protection - NO OBJECTION****22.10.2024**

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

Contaminated Land - Given the proposal sites proximity to historic and current agricultural land and consideration for the scale of the proposed development, the EP Team are requesting a Watching Brief to be applied to any approval: We are requesting that the LPA are contacted in the event of unexpected ground conditions being encountered during construction and that the below minimum precautions are undertaken until such time as the LPA responds to the notification. I would also advise that the developer is made aware that the responsibility for the safe development of the site lies with them.

Construction Method Statement: In order to minimise potential nuisance to nearby existing residents caused by construction and demolition works, Pollution and Environmental Control ask that a CMS be submitted for approval.

**Essex County Council Archaeology - NO OBJECTION****05.11.2024**

The development has been identified by the Historic Environment Advisor to Tendring District Council as having archaeological implications.

The Essex Historic Environment Record shows that the development site lies within an area which has substantial archaeological evidence as recorded by aerial photography and seen in cropmark features in the adjacent fields. These include settlement enclosures of probable prehistoric date, a Bronze Age barrow cemetery, isolated ring-ditches, multi-period trackways and field-systems and possible Roman farmsteads. It is likely that similar activity may extend into the proposed development site and may be damaged or destroyed by the proposed development. The site lies adjacent to a postulated Roman road leading to Elmstead Market, recent excavation to the south has shown significant Late Iron Age and Roman activity including settlement and industry in the area. To the east, investigations at Lodge Farm have recovered pottery and flints suggesting activity nearby in the prehistoric period.

Archaeological remains related to the presence of the Roman road and nearby cropmark features may be present within the proposed development site and may be negatively impacted by the groundworks associated with the proposed development.

In view of the above, this office recommends that the conditions are placed on any consent, in line with the National Planning Policy Framework, paragraph 211 to secure a programme of archaeological investigation and recording.

**Tree & Landscape Officer - NO OBJECTION****28.11.2024**

The main body of the application site is set to rough grassland and does not contain any trees or other significant vegetation. The boundary with the highway is demarcated by an established countryside hedgerow comprising indigenous species. It contains several Holly trees and 4 No mature Oaks. The Hollies currently provide a good level of screening, and the oaks make a significant positive contribution to both the character and appearance of the area.

On land adjacent to the southwestern boundary of the application site there are several trees that are afforded formal legal protection by Tendring District Council Tree Preservation Order TPO/05/04 Old Glebe House, Church Road, Elmstead.

To show the extent to which trees on the application site and on adjacent land are on the development potential of the land the applicant has provided a Tree Survey and Arboricultural

Impact Assessment (AIA). This information is in accordance with BS5837 2012 Trees in relation to design demolition and construction. Recommendations.

The AIA shows that the development proposal can be implemented without causing harm to the trees covered by the above TPO as there will be only a minor incursion into the Root Protection Area (RPA) of T8 Maple that will not cause any harm to the long-term health, retention or viability of the tree.

In relation to the trees situated on the boundary with the highway. Although Section 4.1.1 of the AIA entitled 'Access' states that the installation of the access road serving plots 2-6 is unencumbered by any RPA the drawing entitled Preliminary AIA shows the position of the proposed new footway clearly within the RPA of T2. In this regard the creation of the proposed new access road/footway will be within the RPA the Oak (T2) on the boundary with the highway.

Additionally, and as stated in the AIA a separate vehicular serving a dwelling to the north of the new road will be within the RPA of T3.

The incursion into the RPAs of these trees has the potential to cause harm to the roots of both Oak trees. As the trees may not have been plotted sufficiently accurately (Section 3.2 of the AIA) it will be necessary to ensure that they are plotted, on a plan, in the correct positions to accurately assess the impact of the construction works relating to access on the trees

Therefore, the applicant will need to provide an Arboricultural Method Statement (AMS) and Tree Protection Plan (TPP) with the trees accurately plotted. This information is required to fully determine the potential impact of the proposed development on important trees

Considering the health, condition and amenity value of the oaks and the potential adverse impact on their RPAs and consequently their overall health and viability a new Tree Preservation Order has been made in respect of the four trees (T1 to T4 of the AIA) on the boundary of the application site with Church Road.

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

**ECC Place Services Ecology - HOLDING OBJECTION**

**20.01.2025**

Holding objection due to insufficient ecological information on protected species (reptiles)

We have reviewed the submitted documents, including the Preliminary Ecological Appraisal (PEA) (Hybrid Ecology Ltd, December 2024) relating to the likely impacts of development on designated sites, protected & Priority species and habitats and identification of proportionate mitigation.

We are still not satisfied that there is sufficient ecological information available for determination of this application.

This is because the Preliminary Ecological Appraisal (PEA) (Hybrid Ecology Ltd, December 2024) indicates the site has the potential to support populations of common and widespread reptile species such as common lizard, slow worm, grass snake, and to a lesser degree, adder. As a result, a reptile presence / absence survey should be carried out prior to any works within the site. The survey should comprise a minimum of seven visits between April and September, with at least four occurring during April to June, during suitable weather conditions.

If a moderate population of reptiles is present a suitable receptor site location should also be outlined prior to determination of this scheme, to ensure that the LPA has certainty of impacts for reptiles and the deliverability of the proposed mitigation measures.

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

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

### **Additional comments**

In addition, we note that the site is situated within the 22km Zone of Influence (ZOI) for the Blackwater Estuary SPA & Ramsar site. Therefore, Natural England's advice (see below) should be followed to ensure that predicted recreational impacts are minimised to the coastal Habitats sites from new residential development. The LPA is therefore advised that a financial contribution should be sought in line with the Essex coast RAMS per dwelling tariff, from the developer of this residential development.

This contribution will need to be secured by a legal agreement and we note that the LPA has prepared a HRA Appropriate Assessment Record (24 October 2024) to consider adverse effect on site integrity and secure the developer contribution for delivery of visitor management at the Blackwater Estuary SPA and Ramsar site and Essex Estuaries SAC.

In addition, it is highlighted that as of 2nd April 2024, all minor development, as defined under Article 2 Town and Country Planning (Development Management Procedure) (England) Order 2015, are required to deliver a mandatory 10% measurable biodiversity net gain, unless exempt under paragraph 17 of Schedule 7A of the Town and Country Planning Act 1990 and the Biodiversity Gain Requirements (Exemptions) Regulations 2024. Biodiversity net gains is a statutory requirement set out under Schedule 7A (Biodiversity Gain in England) of the Town and Country Planning Act 1990. As a result, we have reviewed the submitted details and note the applicant has advised they are exempt as the application is for six self-build dwellings. However, we note the application site is greater than 0.5ha. Therefore, we recommend the Planning Officer should confirm whether they agree with the exemption.

Therefore, further information on reptiles is required to enable the LPA to demonstrate its compliance with its statutory duties including its biodiversity duty under s40 NERC Act 2006 (as amended)

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

## **7. Representations**

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

Elmstead Market Parish Council raise an objection to the development. The objections raised are included below (points raised are addressed in the main assessment section of the report):

**Elmstead Parish Council objects to this application for the reasons below.**

With specific reference to Elmstead Neighbourhood Plan's policies:

ELM1 - The site is outside of the settlement development boundary and is contrary to the Local Plan's vision of conserving and enhancing undeveloped countryside and its commitment to protect and enhance the countryside. It will have an adverse impact on the landscape. ELM 1 also says that schemes adjoining the defined settlement boundary should provide defensible barriers to create a definitive settlement edge, which we would say the turning head in its current location does not do.

ELM5, 6 and 7 - Council confirmed at its meeting on 7th November that the NP policies apply to all builds including self builds. Therefore these policies for affordable homes, first homes and housing mix do apply. We reiterate that it was the intention for the policies to apply to self-builds. The key thing here is that the applicant has chosen to apply for a development of 6 or more houses, therefore triggering ELM 5 and should recognise the need to provide affordable housing over and above the 6 houses that are required for friends and family, rather than arguing that they will lose some of the 6 that are needed for themselves.

ELM 9 - There is a lack of rural soft integration along the boundaries. The 1.2m high fence along the eastern boundary doesn't meet our design code SD3 of providing a soft transition from built environment to the surrounding countryside and avoiding rear garden fences facing the countryside. For the rest of the boundaries SD3 recommends that there should be transitional landscape between the hard edges of the development, in this application the road, railings and fences.

ELM10 - This will have a significant adverse effect on the views on along Church Road and the vistas on both sides (view 15). The bungalows do not blend in with the countryside with the removal of the hedgerow, known to have been growing here for at least 75 years, and white UPVC fasciae. Choice of white cladding causes a harsh contrast to open agricultural settings and makes the houses visible for a far greater distance.

ELM16 - The nature recovery network plan shows a green corridor to the east of Church Road at the location of the site. The removal of the reinforced hedgerow for driveways and uncertainty over the hedge between the driveways creates a break in the green infrastructure identified in this policy. The site is adjacent to and could impact upon an area of potential riparian woodland recovery identified in that policy. The Neighbourhood Plan paragraph 5.70 requires that development does not undermine the integrity of connecting spaces and habitats. There is known wildlife at this site including owls, bats, deer, foxes, lizards and woodpeckers to name but a few.

In addition to the policy comments above:

It's unnecessary to have two entrances onto highway in rapid succession with the Pavilion view entrance also further along. Plot 1 has its own driveway, causing more of a break to the green corridor.

The drive entrance for plot 1 is in close proximity to the established tree and we are concerned that root protection zone is insufficient for this mature oak tree. The root protection zones for all the retained trees on the site frontage look too small for the size of the trees.

The extended footway on the opposite side of the road does not extend as far as plot 1.

We are concerned as to why the site plan shows the application perimeter including the verge to the south outside neighbouring building.

We are concerned about the effects of cumulative traffic increase on the crossroads at the south end of Church Road where it meets the A133 and School Road.

## 7.2 Neighbour / Local Representations

7 individual letters of representation have been received (more than 1 from a single objector / address). The concerns raised can be summarised as follows (points raised are addressed in the main assessment section of the report):

- No further housing needed.
- Outside development boundary and NP boundary.
- Self-build arguments are not justified.
- Self-build delivery does not outweigh the harm from development in this location.
- Contrary to Local Plan policies.
- Contrary to Neighbourhood Plan policies.
- Harm to countryside and character.
- The scale of development should be retained as single storey.
- Harm to neighbouring amenities – overlooking, noise, disturbance, outlook.
- Environmental concerns (contaminated land).
- Harm to protected species and wildlife from destruction of habitat.

## 7.3 Planning Committee Referral:

Councillor Scott has requested that the application be referred to Planning Committee if officers are minded to approve the application for the following reasons (points raised are addressed in the main assessment section of the report):

- ELM1 - The site is outside of the settlement development boundary and is contrary to the Local Plan's vision of conserving and enhancing undeveloped countryside and its commitment to protect and enhance the countryside. It will have an adverse impact on the landscape. ELM1 also says that schemes adjoining the defined settlement boundary should provide defensible barriers to create a definitive settlement edge, which we would say the turning head in its current location does not do.
- ELM5, 6 and 7 - Council (Parish) confirmed at its meeting on 7th November that the NP policies apply to all builds including self builds. Therefore, these policies for affordable homes, first homes and housing mix do apply. We reiterate that it was the intention for the policies to apply to self-builds. The key thing here is that the applicant has chosen to apply for a development of 6 or more houses, therefore triggering ELM 5 and should recognise the need to provide affordable housing over and above the 6 houses that are required for friends and family, rather than arguing that they will lose some of the 6 that are needed for themselves.
- ELM10 – This will have a significant adverse effect on the views on along Church Road and the vistas on both sides (view 15). The bungalows do not blend in with the countryside with the removal of the hedgerow, known to have been growing here for at least 75 years, and white UPVC fasciae. Choice of white cladding causes a harsh contrast to open agricultural settings and makes the houses visible for a far greater distance.
- ELM16 – The nature recovery network plan shows a green corridor to the east of Church Road at the location of the site. The removal of the reinforced hedgerow for driveways and uncertainty over the hedge between the driveways creates a break in the green infrastructure identified in this policy. The site is adjacent to, and could impact upon an area of potential riparian woodland recovery identified in that policy. The Neighbourhood Plan paragraph 5.70 requires that development does not undermine the integrity of connecting spaces and habitats. There is known wildlife at this site including owls, bats, deer, foxes, lizards.



## **8. Assessment**

### Site Description

- 8.1 The application relates to a parcel of land approximately 0.5 hectares in size located on the eastern side of Church Road, on the northern edge of the settlement of Elmstead Market.
- 8.2 The site comprises grassland with an average width of approximately 40 metres and a depth of approximately 155 metres. The application site opens out along the site frontage and crosses Church Road incorporating the grass verge opposite the site.
- 8.3 The development of 41 dwellings (Pavilion View – Newell Homes) lies opposite on the western side of Church Road. There are residential dwellings to the south and open countryside to the north. The site lies outside, but directly adjacent to the Elmstead Market Settlement Development Boundary as defined within the adopted Tendring District Local Plan 2013-2033 and Beyond.
- 8.4 On land adjacent to the southwestern boundary of the application site there are several trees subject of Tree Preservation Order TPO/05/04 (Old Glebe House, 53 Church Road, Elmstead). A new Tree Preservation Order has been made in respect of the four trees on the boundary of the application site with Church Road.

### Description of Development

- 8.5 The application seeks full planning permission for the erection of 6 no. 3-bedroom self-build bungalows and associated infrastructure.
- 8.6 The application is made by three extended families, all consisting of two households each, seeking to self-build 6 dwellings to meet their identified needs. Mr Massink, Mr Miles and Mr Chantry have a desire to build two dwellings each: one for themselves and their household and a dwelling each for their parents, in a cul-de-sac arrangement.

### Principle of Development (including Self-Build)

- 8.7 The site lies outside, but directly adjacent to, the Settlement Development Boundary (SDB) for Elmstead as defined within the adopted Tendring District Local Plan 2013-2033 and Beyond and accompanying Policy Maps (TDLP). In policy terms, land outside of the Settlement Development Boundary is countryside.
- 8.8 TDLP Section 1 (TDLP1) Policy SP3 states that existing settlements will be the principal focus for additional growth across the North Essex Authorities area within the Local Plan period, adding that development will be accommodated within or adjoining settlements according to their scale, sustainability and existing role within the wider strategic area. Similarly, TDLP Section 2 (TDLP2) Policy SPL2 seeks to steer development to within existing SDB's to encourage sustainable patterns of growth and to control urban sprawl. SPL2 goes onto say that the Council will consider any development outside SDB's in relation to the pattern of growth promoted through the Settlement Hierarchy as set out in TDLP2 Policy SPL1, and against any other relevant policies in the adopted local plan.
- 8.9 The Settlement Hierarchy set out in TDLP2 Policy SPL1 categorises Elmstead Market as a Rural Service Centre.
- 8.10 Elmstead Market Neighbourhood Plan Policy ELM1 Part C states that, proposals for development outside the settlement boundaries will only be supported if they accord with development plan policies managing development in the countryside.

- 8.11 In this instance, the development proposes Self-Build homes outside the SDB and TDLP2 Policy LP7 is key. TDLP2 Policy LP7 sets out the circumstances under which self-build homes could be built outside of settlement development boundaries but within a reasonable proximity of the District's more sustainable urban settlements and rural service centres, thus being a policy that manages development in the countryside (as covered by NP Policy ELM1).
- 8.12 Policy LP7 states that, the Council will also consider, on their merits, proposals for small developments of new Self-Build and Custom-Built Homes on land outside of, but within a reasonable proximity to, settlement development boundaries, where they will still support a sustainable pattern of growth in the District and are brought forward by individuals or associates of individuals who will occupy those homes. All new dwellings on such developments must either:
- a. be safely accessible on foot within 600 metres of the edge of the settlement development boundary of one of the District's 'strategic urban settlements', or 'smaller urban settlements';
  - b. be safely accessible on foot within 400 metres of the edge of the settlement development boundary of one of the District's 'rural service centres'; or
  - c. involve the redevelopment of vacant or redundant previously developed land that can be shown, with evidence, to be unviable for employment use.
- 8.13 The latter part of Policy LP7 also states, the proposal shall have no significant material adverse impact on the landscape, residential amenity, highway safety, or the form and character of nearby settlements and shall be otherwise appropriate in scale and design for their location, having regard to other policies in this Local Plan.
- 8.14 The application proposes a small development of Self-Build homes on a site that abuts the defined SDB categorised as a Rural Service Centre, in compliance with Policy LP7 b (location of site in relation to the SDB is illustrated on the map extract).

### **Self-Build Register & Meeting Our Need**

- 8.15 The [Self-build and Custom Housebuilding Act 2015](#) (the SCHA 2015) requires relevant authorities to keep a register of individuals (or associations of individuals) seeking to acquire serviced plots of land in the authority's area for their own self-build and custom housebuilding.
- 8.16 The Levelling Up and Regeneration Act 2023 (the LURA 2023) amended the SCHA 2015, tightening the requirements to grant permission in relation to the register.
- 8.17 Section 2A of the SCHA 2015 (as amended) places a duty on the authority to give development permission for the carrying out of self-build and custom housebuilding on enough serviced plots of land to meet the demand for self-build and custom housebuilding in the authority's area in respect of each base period, as evidenced by the number of entries added to the register during that period.
- 8.18 Section 5 of the SCHA 2015 and Regulation 3 of [The Self-build and Custom Housebuilding Regulations 2016](#) define a "**serviced plot of land**" as a plot of land that has access to a public highway and has connections for electricity, water, and wastewater, or can be provided with those things within the period before any development permission granted in relation to that land expires.
- 8.19 Regulation 2 of [The Self-build and Custom Housebuilding \(Time for Compliance and Fees\) Regulations 2016](#) states that the time allowed for an authority to comply with the duty is the period of **3 years** beginning immediately after the end of that base period. Section 2A of the SCHA 2015 (as amended) stipulates that any demand that arose in an earlier base period and which has not been met within the time allowed for complying forms part of the current demand – i.e. unmet demand from previous years accumulates.

### **Self-Build Need Statement – additional justification**

- 8.20 The application is accompanied by a self-build declaration and needs statement in support of the development proposal to provide adequate justification for the development as a self-build project.
- 8.21 As set out in the supporting documents (and explained above), there are three extended families, all consisting of two households each, that are seeking to self-build 6 dwellings to meet their identified needs. Mr Massink, Mr Miles and Mr Chantry have a desire to build two dwellings each; one for themselves and their household and a dwelling each for their parents in a cul-de-sac arrangement. All parties have been heavily involved in the design process. They have chosen the self-build route as this will enable them to design and develop exactly what they are seeking in terms of their accommodation; a cul-de-sac arrangement of bungalows to enable them to all live in close proximity to each other as friends and family members.

### **Elmstead Neighbourhood Plan**

- 8.22 Elmstead Neighbourhood Plan (NP) is silent on Self-Build and Custom-Built Homes. On this basis, there are no specific NP Policies relevant to the assessment of the principle of this self-build development proposal.

### **Principle of Development Conclusions**

- 8.23 Through the Local Plan, the Council seeks to encourage the provision of opportunities for self-build and custom housebuilding. Policy LP7 sets out the circumstances under which self-build homes could be built outside of settlement development boundaries, but within a reasonable proximity of the District's more sustainable urban settlements and rural service centres.
- 8.24 The provisions of policy LP7 are not dependant on whether the Council is meeting the demand evidenced by the self-build register, and development proposals which meet the criteria set out in policy LP7 should generally be supported, whilst having regard to the other policies in the Local Plan. Applications for self-build development which do not satisfy the criteria of policy LP7 are contrary to the Local Plan and should not generally be supported, although this failure to meet the Council's duties under the SCHA 2015 is a material consideration in determining applications for self-build and custom housebuilding development.
- 8.25 The category of the settlement and the site's relationship with the defined settlement boundary therefore supports the proposed development for self-build homes. Having regard to the above, the principle of development on this site for 6 self-build dwellings is considered acceptable, subject to the detailed considerations below.
- 8.26 Furthermore, considering the amendments introduced by the LURA 2023, the Council can no longer demonstrate that it is meeting its duties under the SCHA 2015. The benefits of delivering 6 self-build dwellings can be given marginally more weight in the overall planning balance.
- 8.27 A condition is included within the recommendation to secure the development as self-build dwellings.

### **Affordable Housing Requirements**

- 8.28 The Elmstead Market Neighbourhood Plan does not provide a definition of affordable housing and is therefore reliant on the adopted Local Plan and NPPF definition at the time of writing.
- 8.29 The current adopted Local Plan glossary states (in full):

*Affordable Housing: Homes provided in perpetuity to meet the housing needs of people who cannot afford to buy or rent property on the open market. Affordable housing can include Council Housing, social rented accommodation, intermediate housing and shared ownership.*

8.30 As set out in Annex 2: Glossary, the current NPPF 2024 definition provides (in full):

*Affordable housing: housing for sale or rent, for those whose needs are not met by the market (including housing that provides a subsidised route to home ownership and/or is for essential local workers); and which complies with one or more of the following definitions:*

- a) **Social Rent:** *meets all of the following conditions:(a) the rent is set in accordance with the Government’s rent policy for Social Rent; (b) the landlord is a registered provider; and (c) it includes provisions to remain at an affordable price for future eligible households, or for the subsidy to be recycled for alternative affordable housing provision.*
- b) **Other affordable housing for rent:** *meets all of the following conditions: (a) the rent is set in accordance with the Government’s rent policy for affordable Rent, or is at least 20% below local market rents (including service charges where applicable); (b) the landlord is a registered provider, except where it is included as part of a Build to Rent scheme (in which case the landlord need not be a registered provider); and (c) it includes provisions to remain at an affordable price for future eligible households, or for the subsidy to be recycled for alternative affordable housing provision. For Build to Rent schemes affordable housing for rent is expected to be the normal form of affordable housing provision (and, in this context, is known as Affordable Private Rent).*
- c) **Discounted market sales housing:** *is that sold at a discount of at least 20% below local market value. Eligibility is determined with regard to local incomes and local house prices. Provisions should be in place to ensure housing remains at a discount for future eligible households.*
- d) **Other affordable routes to home ownership:** *is housing provided for sale that provides a route to ownership for those who could not achieve home ownership through the market. It includes shared ownership, relevant equity loans, other low-cost homes for sale (at a price equivalent to at least 20% below local market value) and rent to buy (which includes a period of intermediate rent). Where public grant funding is provided, there should be provisions for the homes to remain at an affordable price for future eligible households, or for any receipts to be recycled for alternative affordable housing provision or refunded to Government or the relevant authority specified in the funding agreement.*

8.31 The NPPF goes on to separate Self Building with its own definition as follows (in full):

**Self-build and custom-build housing:** *Housing built by an individual, a group of individuals, or persons working with or for them, to be occupied by that individual. Such housing can be either market or affordable housing. A legal definition, for the purpose of applying the Self-build and Custom Housebuilding Act 2015 (as amended), is contained in section 1(A1) and (A2) of that Act.*

8.32 The NPPG (Paragraph: 020 Reference ID: 57-020-20210508) on Self Build provides:

*Authorities should be aware that self-build and custom build can provide a route to affordable home ownership for those on low incomes and so will need to take this into consideration if introducing a financial solvency test.*

8.33 While this refers to a test, it provides an additional consideration that Self Build can, in themselves, be considered as affordable housing.

8.34 The NPPG (Paragraph: 014 Reference ID: 57-014-20210508) also provides a further connection for consideration:

***(ii) Housing***

*Local housing authorities will need to consider the evidence of demand for self-build and custom housebuilding from the registers when carrying out their housing functions. This includes preparing their local housing strategies, delivery of affordable housing, supporting community-led housing and in developing plans for new housing on land owned by the local housing authority. Authorities are encouraged to work closely with local delivery partners to ensure that self-build and custom housebuilding is an integral part of their housing delivery strategy.*

8.35 In terms of the District Local Plan, a clear provision on Self-Build is provided as part of its local housing strategy and Policy LP7 on self-build applies. The Elmstead NP is silent on Self Build and therefore relies on the District Local Plan for that policy provision.

8.36 A self-build dwelling would not be an open market home at the point of first build and first occupation by those who build it. Therefore, this does not allow for the dwelling to be controlled as affordable housing from open market homes, as it is controlled first and foremost as a self-build in law, and as such secured by planning condition not to be open market until after first occupation.

8.37 Adopted Local Plan Policy LP5 (as well as the glossary to the local plan) recognises this difference in the first paragraph:

*To promote a mix of housing tenure in the District and address the housing needs of people and families with lower incomes who cannot afford to buy or rent housing on the open market, the Council will work with the development industry to provide new affordable housing.*

8.38 As such Policy LP5 seeking affordable housing is not considered to apply to self-build units. Self-build are not open market homes and are secured as alternative, self-build. In any case, Local Plan Policy LP5 only applies to the criteria of being 11 or more dwellings.

8.39 Turning the specifics of the NP Policy itself, ELM5 states:

*Development proposals outside of the Tendring/Colchester Borders Garden Community, involving the creation of 6 or more (net) homes, will be required to provide 30% of the new dwellings as affordable housing on-site unless it can be demonstrated that it is more appropriate to make a financial contribution towards the provision of affordable housing elsewhere in the Village within the Plan period.*

8.40 The background text states there is no conflict with the Local Plan Policy LP5 as this policy seeks primarily to reduce the trigger threshold only. On this basis a proposal for 6 open market dwellings would be caught. However, to be in line with the provisions of Local Plan Policy LP5, dwellings that are not open market are not considered caught and so equally means it is considered that Policy ELM5 cannot be applied to self-build dwellings (as Policy LP5 does not).

8.41 If there was any intention for proposals of 6 or more self-build dwellings to be caught by other affordable housing provision, the neighbourhood plan does not define this, and to require this would be unsupported in policy to the extent of being undefendable. Parts B and C of Policy ELM5 do not apply as part A does not apply.

8.42 For the reasons set out above, the local plan and neighbourhood plan policies regarding affordable housing provision do not apply to self-build dwellings and are not applicable to this application.

Housing Mix

8.43 Elmstead Neighbourhood Plan Policy ELM6 provides:

*The Neighbourhood Plan establishes the requirement for First Homes, outside of the Tendring Colchester Borders Garden Community, to be secured with a minimum 40% discount from full open market value.*

8.44 Elmstead Neighbourhood Plan Policy ELM7 provides:

*New residential development, outside of the Tendring/Colchester Borders Garden Community, will be expected to include in their housing mix a majority of 1-bedroom and 2-bedroom dwellings.*

8.45 These apply to all residential development, including self-build proposals such as this. Nevertheless, these require careful consideration.

8.46 The background text is clear on housing need issues for Elmstead in terms of housing mix and applies to all housing in terms of physical size/bedrooms regardless of if the development comprises affordable, open market, self-build units, as it refers to current imbalance of housing.

8.47 However, taking the 6 self-build units in this case, there needs to be an understanding of how to apply the policy. The word “majority” means in measurable terms, a minimum of 50.1% are expected to be 1 and 2 bedroom dwellings. So, this means for six units, four units may need to be 1 and 2 bedroomed as you can only deal with whole units, and to reduce to 3 units would be 50% and not a majority. Furthermore, it is assumed that the policy wording, “a majority of 1-bedroom and 2-bedroom dwellings” means that there has to be at least one 1-bedroom unit, as this wording comprises an “and” statement and not “or”. Consequently, applying the policy wording to this development proposal of 6 units, in its strictest sense, there is an expectation of 4 no. dwellings to be smaller units, of which there must be at least 1 no. one bedroomed unit (3 being 2-bedroom and the remaining 2 units being 3-bedroom or more).

8.48 In this case, three extended families (all consisting of two households each) are seeking to build 3-bedroom homes to suit their needs. 1 and 2 bedroom homes do not meet their needs. To insist upon a different or specific housing mix would be contrary to the principles of self-build housing.

8.49 A housing mix policy would be considered reasonable to a development of market dwelling(s) when the end user is not set or predetermined. However, it is considered unreasonable to apply these requirements to a self-build scheme when the end user and their specific needs are set, and the property is not part of the open market.

8.50 As the properties are not part of the open market, NP Policy ELM6 would also not apply.

8.51 NP Policy ELM7 provides flexibility in its aims by “expecting” new residential development to include smaller dwellings but does not explicitly require it.

8.52 Adopted Local Plan Policy LP2 recognises the importance of a mix of dwelling size on developments of 11 or more dwellings. The policy goes on to state that the Council will support the development of self-build and other forms of residential accommodation aimed at meeting the future needs of older residents as well as family housing.

8.53 Sufficient justification has been provided in support of the self-build development of 6 no. 3-bedroom dwellings. The development meets the needs of the applicants and their families, thus meeting the thrust of the housing need and housing mix policies.

#### Landscape & Character Impact (including Trees, Landscaping and ‘Important Views’)

8.54 The site is located outside of any defined settlement development boundary and is therefore classed as countryside in policy terms. TDLP2 Policy LP7 requires that self-build development outside of SDBs shall have no significant material adverse impact on the landscape.

8.55 TDLP1 Policy SP7 seeks high standards of design which respond positively to local character and context. TDLP2 Policy PPL3 states that the Council will protect the rural landscape and refuse planning permission for any proposed development which would cause overriding harm to its character or appearance.

### **Important Views**

8.56 NP Policy ELM10 identifies Important Views on the Policies Map and requires development proposals to preserve or enhance the local character of the landscape and should respond positively to the various Important Views through appropriate design. Development proposals which would have a significant adverse impact on an identified Important View will not be supported. Elmstead Market Parish Council have objected based on the development causing harm to View 15. However, View 15 identifies the northerly view from Church Road, away from the development site. The development site is not within, or in the direction of the identified Important View.

### **Landscape & Character Impact**

8.57 NP Policy ELM1 Part B states that, proposals for development within and adjoining the defined settlement boundaries should provide defensible boundaries to create a definitive settlement edge. NP Policy ELM9 require developments to have full regard to the design guidelines and codes set out in the Elmstead Design Guidance and Codes Report at Appendix B. Elmstead Neighbourhood Plan Design Code SD3 provides: Settlement edges should provide a soft transition from the built environment to the surrounding countryside. Desirable features for the settlement edge are transitional landscape between the hard edge of development and the countryside in the form of hedges, tree bands or meadows. New buildings should face outwards towards the countryside to create a positive outlook. When the edge is adjacent to open countryside, orientate the buildings to face out over it. Rear garden fences facing the countryside should be avoided as this creates a hard edge and a safety risk.

8.58 The site is located along the northern edge of the built-up area of Elmstead, to the eastern side of Church Road. The site lies directly adjacent to existing residential development (to the south) comprising a mix of road frontage and deep sited dwellings. On the opposite side of the road is the recent residential development 'Pavillion View'. The Pavilion View development has a curved northern boundary and extends further north than the proposed development site.

8.59 The proposed development site, with its angled site boundaries, extends back from Church Road in a south-easterly direction, essentially following the curved building line of the Pavilion View development, thus not materially extending beyond or protruding into the open countryside beyond the existing built form on the edge of the settlement.

8.60 The Pavilion View development was approved at a time when the Council did not have an up-to-date Local Plan, could not demonstrate our 5-year housing land supply, and the tilted balance set out within the NPPF applied. It was concluded that the development was sustainable, and the benefits attributed to the delivery of housing was considered to outweigh any landscape / visual impacts at that time. Pavilion View is visually open to countryside to the north with the close boarded rear garden enclosures and dwellings being visible.

8.61 The application site frontage and the eastern side of Church Road to the north of the site, is bounded by established countryside hedgerow and mature trees which screen the site and make a significant positive contribution to both the character and appearance of the area and the transition into the open countryside beyond. There are no public footpaths directly adjacent or to the north of the site. The site is well screened and public views into the site from the road or adjacent fields are not currently possible. Consequently, at this northern end of Church Road, officers acknowledge the eastern side maintains a different, more-rural character than the western side.

- 8.62 The proposed development requires the removal of existing trees and hedgerow along the site frontage to facilitate the creation of 2 accesses (approximately 25m length of hedgerow and 6 dead or dying trees – see Drawing No. 11131-D-AIA). This will result in a degree of harm to the semi-rural character of the area from the reduction of vegetation and introduction of additional built form and hard standing. However, the mature protected trees will remain providing screening and softening of the development on approach from both directions. The dwellings proposed are single storey in height and are located directly adjacent and opposite existing dwellings. The roadside vegetation to the north of the site will be retained and any glimpses of the development through the vegetation will be against a backdrop of the existing dwellings beyond. Views of the development on approach from the south will be in the context of existing residential development on both sides of the road. As explained above, the development will not appear as extending beyond or protruding into the open countryside beyond the existing built form at the Pavillion View development opposite.
- 8.63 Turning to the impact of the proposed boundary treatments with the open fields to the north, the development includes new tree and hedgerow planting within the site and along its boundaries, providing some softening across the site. The angled rear garden of Plot 1 shares a portion of the northern boundary backing onto the open field beyond and has been amended from close boarded fencing to estate railings. The angled rear garden of Plot 5 also shares a portion of the northern boundary and has also been amended from close boarded fencing to estate railings. These amendments mean that the northern boundary will be enclosed by 1.2-metre-high metal railings with 4 new trees and approximately 70 metres of new hedgerow set inside. Plots 2, 3 and 4 are oriented north, fronting onto the open countryside in accordance with NP Policy ELM9, and their rear boundaries adjoin the neighbouring property to the south at no. 55 Church Road. 1.8-metre-high close boarded fencing will enclose the individual garden areas between the existing and new dwellings but will not extend forward of the front elevations of the new dwellings. The majority of the northern boundary will appear open, softened by new tree and hedgerow planting. Plots 2, 3 and 4 are set back into the site with mostly open front gardens and more new planting. This recommendation includes a condition to remove permitted development rights for boundary treatments along the northern and eastern boundaries, and forward of the front and prominent side elevations of the dwellings so the Council can ensure the open rural character is maintained.
- 8.64 Considering these factors, and in the context of the modern development adjacent, the introduction of single storey dwellings, associated hardstanding and enclosures onto the site, would not cause overriding harm to landscape character or appearance and cannot be considered contrary to TDLP2 Policy PPL3.
- 8.65 Therefore, by virtue of the screened and contained nature of the site, its close positioning to the existing dwellings (not isolated), and the single storey scale of the proposed dwellings, if approved, the development would not result in any overriding landscape harm that would warrant refusal of planning permission. Appropriately worded conditions are recommended to strengthen the landscaping proposed thus further screening, softening and enhancing the development.
- 8.66 As the single storey nature of the dwellings and openness of the boundaries are key factors in the acceptability of the development on this edge of settlement location, the recommendation also includes a condition removing permitted development rights for rooflights, dormer window additions and additional fencing and enclosures, to allow the Local Planning Authority to retain control due to the potential impact on the character of the area.

### **Trees and Landscaping**

- 8.67 Paragraph 136 of the NPPF 2024 sets out the importance of trees and the contribution they make to the character and quality of environments. It states that planning policies and decisions should ensure that opportunities are taken to incorporate trees in developments and that existing trees are retained wherever possible.



- 8.68 TDLPS2 Policy LP4 relates to housing layout and states; to ensure a positive contribution towards the District's 'sense of place', the design and layout of new residential developments will be expected to incorporate and maximise the use of green infrastructure, verges, trees and other vegetation.
- 8.69 As explained above, the established countryside hedgerow, Holly trees and mature Oaks make a significant positive contribution to both the character and appearance of the area.
- 8.70 On land adjacent to the southwestern boundary of the application site there are several trees that are afforded formal legal protection by the Council. In addition to these, during the course of the application, a new Tree Preservation Order has been made in respect of the four Oak trees across the site frontage.
- 8.71 To show the extent to which trees on the application site and on adjacent land are a constraint to the development potential of the land the applicant has provided a Tree Survey and Arboricultural Impact Assessment (AIA). The applicant has provided an addendum to the AIA confirming that the trees have been plotted accurately by way of a topographical survey.
- 8.72 In summary the AIA and addendum provide (officer comment in italics):
- A minor incursion into the Root Protection Area (RPA) of T8 Maple.  
***However, this will not cause any harm to the long-term health, retention or viability of the tree.***
  - The site layout shows only a minor incursion into the Root Protection Areas of the Preserved Oak. Specialist construction techniques are proposed to further minimise potential damage to tree roots.  
***For these reasons, the development proposal could be implemented without causing harm to preserved trees.***
- 8.73 The recommendation includes a condition to secure a detailed Arboricultural Method Statement and Tree Protection Plan prior to commencement, in accordance with section 1.1.3 and 4.6.1 of the Tree Survey & AIA, together with details of hard and soft landscaping and compliance with the specialist construction techniques set out in the AIA.
- 8.74 As explained above, the development includes new tree and hedgerow planting within the site and along its boundaries. The protected trees will be preserved, and a condition securing the submission and approval of a detailed landscaping scheme will provide screening and softening of the development and will contribute positively to the overall quality and design of the scheme.

#### Layout, Scale and Detailed Design

- 8.75 Paragraph 135 of the NPPF 2024 requires that developments will function well and add to the overall quality of the area, are visually attractive as a result of good architecture, layout and appropriate and effective landscaping, are sympathetic to local character and history, maintain a strong sense of place and create places that are safe, inclusive and accessible.
- 8.76 Section 1 Policy SP7 of the adopted Local Plan seeks high standards of urban and architectural design, which responds positively to local character and context. Local Plan Section 2 Policies SPL3 and LP4 also require, amongst other things, that developments deliver new dwellings that are designed to high standards and which, together with a well-considered site layout, create a unique sense of place.
- 8.77 When considering the impact of a self-build development, Section 2 Policy LP7 requires that the proposal shall have no significant material adverse impact on the form and character of nearby settlements and shall be otherwise appropriate in scale and design for their location, having regard to other policies in this Local Plan.

- 8.78 The scale, appearance and layout of the proposed 6 detached bungalows is considered acceptable. The detailed design and indicative materials of the dwellings provides variation in the street scene, whilst retaining a cohesive design overall. The scale, appearance and materials finish of existing surrounding dwellings varies greatly, and the development will not appear out of keeping in this mixed character context. Number 55 Church Road is a single storey bungalow, and the development will relate appropriately to its immediate neighbour in terms of scale and appearance.
- 8.79 Each plot appears well spaced and is served by sufficient parking and private garden. The open frontages, estate railings and soft landscaping proposed will contribute positively to the overall appearance and quality of the development. The recommendation includes a condition removing permitted development rights for additional fences or enclosures to the boundaries or forward of the proposed dwellings, in the interests of visual amenity and the design quality of the development.
- 8.80 Objections are raised based on a lack of rural soft integration along the boundaries, the removal of hedgerow, and use of UPVC and cladding being harmful to its setting and resulting in a significant adverse effect on the long-distance views along Church Road.
- 8.81 As explained above, officers acknowledge a degree of harm will result from the introduction of additional built form and reduction in vegetation along the Church Road frontage. However, the retained mature trees and remainder of the hedgerow along the Church Road boundary will continue to provide screening and softening of the development on approach from the north. With the amended boundary treatments and additional soft landscaping, the soft integration along the boundaries is considered acceptable. As explained above, the area is characterised by a mixture of designs and materials including UPVC windows and cladding and the proposed development cannot be considered harmful in this context.

#### Access, Parking and Highway Safety

- 8.82 Paragraph 115 of the NPPF 2024 requires Councils, when making decisions to ensure:
- appropriate opportunities to promote sustainable transport modes can be, or have been, taken up, given the type of development and its location;
  - safe and suitable access to the site can be achieved for all users; and
  - any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.
- 8.83 Paragraph 116 goes on to say, development should only be prevented or refused on highways rounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network, following mitigation, would be severe, taking into account all reasonable future scenarios.
- 8.84 Paragraph 109 requires that streets, parking and other transport considerations are integral to the design of schemes and contribute to making high quality places.
- 8.85 TDLP2 Policy CP1 states that developments will only be acceptable if the additional vehicular movements likely to result from the development can be accommodated within the capacity of the existing or improved highway network or would not lead to an unacceptable increase in congestion. TDLP2 Policy SPL3 Part B seeks to ensure that access to a new development site is practicable, and the highway network will be able to safely accommodate the additional traffic the proposal will generate.
- 8.86 The [Essex Parking Standards](#) set out the parking requirements for new development.

- 8.87 The parking standards defines Elmstead Market as 'Low Connectivity' and the development proposes 6 no. 3 bed dwellings. The development is required to provide 2 parking spaces per dwelling plus 0.25 unallocated visitor spaces per dwelling (amounting to 1.5 unallocated visitor spaces). Overall, the development is required to provide 13.5 spaces to comply with the parking standards. The development provides 2 parking bays for Plot 1, a garage and 2 parking bays for Plots 2, 3, 4 and 6, and a garage and 4 parking bays for Plot 5 amounting to 19 spaces overall (14 excluding the garages), therefore exceeding the standards when taken as a whole. A condition is recommended to retain the garages and parking bays as proposed, to ensure the development retains ample resident and visitor parking to avoid parking within the private drive, obstruction to the turning areas, and avoid parking on the adjoining roads.
- 8.88 Consultation has been undertaken with Essex County Council Highway Authority who advise that it is unlikely that the proposal will result in a material change in the character of the traffic in the vicinity of the site and that access, visibility, parking and manoeuvrability to serve the development are achievable subject to recommended conditions.
- 8.89 Officers have considered the requirements and wording of the recommended conditions against the '6 tests' set out in National Planning Policy Framework and Guidance. The Highway Authority's recommended conditions are summarised and addressed below (officer comment in italics):
1. The road junction and private vehicular access to Plot 1 shall be provided with a minimum clear to ground visibility splay dimensions of 2.4 metres by 43 metres in both directions.  
***The accompanying existing and proposed tree plan (drawing no. 11131-D-AIA) demonstrates the visibility splay provision is achievable. This condition would be reasonable, in the interests of highway and pedestrian safety.***
  2. Prior to occupation of the development a Size 3 and 5 vehicular turning facility, shall be constructed as shown on drawing number: MAS/761/1 Rev. B and maintained.  
***This is considered necessary to ensure safe manoeuvrability, in the interests of highway safety.***
  3. No occupation of the development shall take place until the following have been provided or completed:
    - a) A priority junction off Church Road.
    - b) The proposed private access shall be constructed to a width of 5.5 metres for at least the first 6 metres from the back of carriageway.
    - c) Widening of Church Road carriageway north of Pavilion Way to a minimum width of 5.5 metres up to and including the access into the development.
    - d) A minimum 2 -metre-wide footway opposite the site extending southwards to tie in with the existing footway with Pavilion Way junction, including the provision of pedestrian drop kerbs and tactile paving at each crossing point.***Whilst these features are mostly included on the proposed plans, the timing of the provision and their retention are required to be controlled by condition, in the interests of highway and pedestrian safety.***
  4. Any new boundary planting shall be planted a minimum of 1 metre back.  
***This can be secured and controlled via the approval of a landscaping scheme and is not necessary as a separate condition.***
  5. Vehicle parking areas provided prior to occupation and retained.  
***This is considered necessary to ensure sufficient parking provision and to avoid on-street parking, in the interests of highway safety.***
  6. All single garages should have a minimum internal measurement of 7m x 3m.  
***This can be secured and controlled via the approved plans condition and is not necessary as a separate condition.***

7. Provision of Residential Travel Information Pack per dwelling, prior occupation.  
***This is not considered necessary or reasonable for a development of this size.***
8. Submission and approval of a Construction Management Plan prior to commencement.  
***This is considered necessary in the interests of residential amenity and highway safety and would be imposed in accordance with the recommendations of ECC Highways and the Council's standard conditions.***

8.90 Officers are content that the necessary requirements can be secured via suitably worded conditions, ensuring the development would be acceptable in terms of highway safety, accessibility and parking provision. The necessary, precise and enforceable conditions form part of the recommendation.

8.91 Additionally, a condition securing details of the refuse collection point(s) for the development also forms part of the recommendation. This is mentioned within the informatives of ECC Highways comments but has been re-worded to form a condition.

#### Habitats and Protected Species (including BNG & RAMS)

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

8.92 Natural Environment and Rural Communities Act 2006 amended by the Environment Act 2021 provides under Section 40 the general duty to conserve and enhance biodiversity. Section 40 A1 states "For the purposes of this section "the general biodiversity objective" is the conservation and enhancement of biodiversity in England through the exercise of functions in relation to England".

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

8.94 This development is subject to the general duty outlined in the Natural Environment and Rural Communities Act 2006, as amended by the Environment Act 2021 and is designed to actively contribute to the enhancement and conservation of local ecosystems.

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

8.95 The statutory framework for Biodiversity net gain (BNG) applies. This involves the imposition (automatically applied as a deemed condition) of a planning condition on approvals to ensure the objective of at least 10% net gain over 30 years. The determination of the Biodiversity Gain Plan (BGP) under this planning condition is the mechanism to confirm whether the development meets the biodiversity gain objective. Development may not be begun until the BGP, via planning condition discharge, is approved.

8.96 Given this position, the government strictly provides it would generally be inappropriate for decision makers to refuse an application on the grounds that the biodiversity gain objective will not be met. It is considered logical to confirm this closer to commencement of development, given the potential number of options available. This further supports the position that the biodiversity gain objective can always be met in some form.

8.97 The application claims exemption from BNG due to the self-build nature of the application. To qualify for an exemption as a self-build or custom build development, all the following conditions must be met:

1. consist of no more than 9 dwellings
2. be on a site that has an area no larger than 0.5 hectares
3. consist exclusively of dwellings that are self-build or custom housebuilding as defined in [section 1\(A1\) of the Self-build and Custom Housebuilding Act 2015](#)

8.98 The development comprises 6 no. dwellings, consisting exclusively of dwellings that are self-build. The development site measures 0.5 hectares. The development therefore complies with the above Self-build exemptions. Mandatory BNG is therefore applicable to this application.

### **Protected Designated Habitats – RAMS**

8.99 Under the Habitats Regulations, a development which is likely to have a significant effect or an adverse effect (alone or in combination) on a European designated site must provide mitigation or otherwise must satisfy the tests of demonstrating 'no alternatives' and 'reasons of overriding public interest'. There is no precedent for a residential development meeting those tests, which means that all residential development must provide mitigation. Mitigation measures must be secured prior to occupation and are achieved through a financial contribution of £163.86 per dwelling.

8.100 This residential development lies within the Zone of Influence. The site is not within or directly adjacent to one of the European designated sites but is approximately 4.4km from the Colne Estuary Ramsar Site and Essex Estuaries Special Areas of Conservation (SAC).

8.101 To comply with the adopted Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS), Local Plan Policies SP2 and PPL4, and Regulation 63 of the Conservation of Habitats and Species Regulations 2017, any grant of planning permission would be subject of an appropriately worded condition to secure the completion of a Unilateral Undertaking, securing the payment of the required financial contribution prior to the occupation of the development.

### **Protected Species**

8.102 In accordance with Natural England's standing advice the application site and surrounding habitat have been assessed for potential impacts on protected species.

8.103 TDLPS2 Policy PPL4 states that proposals for new development should be supported by appropriate ecological assessments and, where relevant, provide appropriate mitigation and biodiversity enhancements to ensure a net gain.

8.104 The application is accompanied by the following:

- Preliminary Ecological Appraisal (PEA) (Hybrid Ecology Ltd, December 2024)

The PEA provides (secured via a Biodiversity Enhancement and Mitigation Scheme condition as set out in the recommendation):

### **Bats**

8.105 The site could be used by foraging bats, primarily along its boundaries. These arboreal habitats are largely being retained and enhanced under the proposals. The inclusion of native tree, shrub, and hedge will ensure that foraging opportunities are at the least maintained, if not improved. The inclusion of bat boxes on retained trees on the western boundary, along with integrated bat roost

features in each of the new houses and garages (i.e. bat access tiles, bat bricks, and/or soffit boxes) will significantly increase roosting opportunities for bats.

### ***Birds***

- 8.106 The trees, shrubs, and scrub habitats can all be used by a wide variety of common and widespread nesting bird species. The unmanaged grassland could be used by ground-nesting species such as skylark and pheasant. Any vegetation clearance work should be undertaken outside the main breeding season, which runs from March to September, or immediately after an ecologist has confirmed the absence of active nests in the work area. The unmanaged grassland is likely to support populations of small mammals like mice and voles, which in turn could be predated upon by species such as barn owl. An off-site oak pollard approximately 40m east of the site could potentially be used by roosting owls. A section of unmanaged grassland between the tree and the site is being retained. This, coupled with extensive areas of similar habitat to the north (albeit with lines of small trees) will ensure that there is still abundant owl foraging habitat in the local area post development. A landscape scheme and nest boxes on buildings will likely provide enhanced nesting and foraging habitat for most bird species post development.

### ***Badger***

- 8.107 No setts were identified on the site or within 30 metres of the site boundaries, although it was not possible to inspect the private residential gardens to the south. No latrines, hairs, prints, or snuffle holes were found. Multiple mammal pathways were recorded through the grassland, which could be partly attributed to badgers, along with other large mammals such as fox and deer. The site and the surrounding landscape are suitable for sett creation, foraging, and dispersal. As such, it is recommended that precautionary construction methods are employed to minimise the potential risk of harm to badgers, if populations persist in the local area.

### ***Hedgehog***

- 8.108 Five records for hedgehog were returned from the data search, the most recent from 2013 and the nearest within 0.7km of the site. To maintain a suitable environment and to reduce road casualties, it is recommended that boundary fences in and around new developments are made permeable to wildlife, by creating gaps at ground level. This means gardens are connected and reduces the requirement for hedgehog to disperse onto roads.

### ***Reptiles***

- 8.109 The PEA also indicates the site has the potential to support populations of common and widespread reptile species such as common lizard, slow worm, grass snake, and to a lesser degree, adder. As a result, a reptile presence / absence survey should be carried out prior to any works within the site. The survey should comprise a minimum of seven visits between April and September, with at least four occurring during April to June, during suitable weather conditions.
- 8.110 If a moderate population of reptiles is present a suitable receptor site location should be outlined prior to determination of this scheme, to ensure that the LPA has certainty of impacts for reptiles and the deliverability of the proposed mitigation measures.

### **Conclusion**

- 8.111 Consultation has been undertaken with ECC Place Services Ecology Advisors (Ecology) on the above duties and requirements. The PEA (Hybrid Ecology Ltd, December 2024) highlights the need for further reptile surveys in order to fully comply with best practice, policy, and legislation requirements in consideration of the impacts on ecology interests, as outlined above.
- 8.112 Initial comments from Ecology confirm the need for:

1. A proportionate financial contribution towards Essex Coast RAMS
2. Biodiversity mitigation and enhancement measures, including mandatory biodiversity net gains.

These can be satisfactorily secured via conditions and form part of the recommendation.

- 8.113 The recommendation also includes conditions to secure a Biodiversity Enhancement Strategy that the development is carried out in accordance with the recommendations set out in the PEA.
- 8.114 Subject to the submission and assessment of an acceptable reptile survey setting out sufficient mitigation measures, and receipt of 'no objection' from Essex County Council Place Services Ecology, officers are satisfied this development could be delivered without resulting in any harm to protected sites or protected species and could actively contribute to the conservation and enhancement of biodiversity as set out above thus aligning with the statutory framework.

#### Residential Amenities & Living Conditions

- 8.115 Paragraph 135 of the National Planning Policy Framework (2024) confirms planning policies and decisions should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.
- 8.116 Policy SP7 of Section 1 of the 2013-33 Local Plan requires that the amenity of existing and future residents is protected. Section 2 Policy SPL 3 (Part C) seeks to ensure that development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties.
- 8.117 Furthermore, Policy LP4 j. states that new development must provide for private amenity space of a size and configuration that meets the needs and expectations of residents, and which is commensurate to the size of dwelling and the character of the area.
- 8.118 In addition, the Technical housing standards – nationally described space standard (2015) deals with internal space within new dwellings to ensure appropriate living conditions for future occupants.
- 8.119 The proposal provides for a good standard of living, garden and parking space for the applicants and their families. The spacing between the dwellings, the layout and single storey scale means that each occupant will benefit from a good standard of outlook, sunlight, daylight and privacy.
- 8.120 The proposal includes an extension to the footway and crossing on Church Road ensuring the site is accessible on-foot. Each property is provided with a garage or shed and a large private garden area allowing for secure cycle storage and bin / recycling storage areas, meeting practical needs.
- 8.121 Turning to the impact of the development on the residential amenities of the existing residents, the closest neighbouring properties are those to the south and include no.'s 55 Church Road (bungalow), and 53 (2-storey), 51A (2-storey) and 51 (2-storey) Church Gardens / Church Road, all sharing a side or rear boundary with the site, alongside proposed Plots 2, 3, 4 and 6.
- 8.122 Plot 2 is located to the front portion of the site, with its rear elevation positioned approximately 25 metres from the front elevation of no. 55 Church Road. Plot 2 has a fully hipped roof arrangement with an overall ridge height of 5.7 metres. At its highest point, Plot 2 is approximately 30 metres from no. 55.
- 8.123 Plot 3 is positioned to the side of no. 55 Church Road retaining approximately 20 metres between the rear elevation of the proposed dwelling and the side elevation of no. 55. Plot 3 also has a fully hipped roof arrangement with an overall ridge height of 5.9 metres. At its highest point, Plot 3 is approximately 25 metres from no. 55.

- 8.124 Plot 4 is positioned almost centrally within the development site, sharing its rear boundary with the side boundary of no. 55 and part of the rear boundary of no. 53. The position of Plot 4 retains approximately 8 metres to the shared boundaries and has an overall ridge height of 5.8 metres. At its highest point, Plot 4 is over 14 metres from the boundary of no. 55 and no. 53. Plot 4 retains over 14 metres to the facing flank of no. 55 and over 20 metres to the facing flank of no. 53.
- 8.125 Plot 6 is to the rear, southern corner of the development site and shares its side boundary with the rear boundaries of no.'s 53 and 51A. These properties benefit from long rear gardens bounded by dense, mature trees and vegetation, and the proposed dwelling at Plot 6 is a considerable distance from the rear elevations of these neighbouring properties. Plot 6 has an overall hipped roof height of 5.3 metres.
- 8.126 The single storey height of the dwellings, their fully hipped roof arrangements, the distance retained to neighbouring boundaries and dwellings, and the mature trees and hedgerow along the boundary (including several trees subject of Tree Preservation Order TPO/05/04) all contribute to ensuring that the development will not have a materially harmful impact on the residential amenities of the occupants of neighbouring dwellings.
- 8.127 Given that the single storey height of the dwellings is a key factor in the acceptability of the development, and their overall height has the potential to provide rooms within the roof, the recommendation includes a condition removing permitted development (PD) rights for rooflights and dormer window additions. Although Plots 1 and 5 are located away from neighbouring dwellings, the removal of PD rights for these plots is also considered reasonable in the interests of visual amenity and character impact as addressed above.
- 8.128 In terms of noise from traffic associated with the development, the site access lies beyond the access to Pavilion View and proposes 6 dwellings only. The new road through the development is positioned along its northern side away from neighbouring properties and screened by the dwellings themselves. The additional traffic movements will be negligible and cannot be considered harmful.

### Archaeology

- 8.129 The National Planning Policy Framework 2024 explains that where a site on which development is proposed includes, or has the potential to include, heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation (Para 207). Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal taking account of the available evidence and any necessary expertise. They should take this into account when considering the impact of a proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset's conservation and any aspect of the proposal (Para 208). Regard should be given to the importance of their retention in situ and, where appropriate, explaining their historic and social context rather than removal (Para 211).
- 8.130 Policy PPL7 states that, proposals for new development affecting a heritage asset of archaeological importance or its setting will only be permitted where it will protect or where appropriate enhance the significance of the asset. Where a proposal will cause harm to the asset, the relevant paragraphs of the NPPF should be applied dependent on the level of the harm caused.
- 8.131 Essex County Council Archaeology have provided comments on the application explaining that the development site lies within an area which has substantial archaeological evidence as recorded by aerial photography and seen in cropmark features in the adjacent fields. Archaeological remains related to the presence of the Roman road and nearby cropmark features may be present within the proposed development site and be negatively impacted by the groundworks associated with the proposed development.



- 8.132 On this basis, conditions are included to secure a programme of archaeological evaluation and to ensure full compliance with the above-mentioned policies and NPPF paragraph.

#### Environmental Protection – Contamination & Construction Management

- 8.133 Paragraph 187 of the NPPF 2024 states that planning policies and decisions should contribute to and enhance the natural and local environment by preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality.
- 8.134 Consultation has been undertaken with the Council's Environmental Protection Team (EPT). Following their assessment of the site and development, it is necessary to secure the following via appropriately worded conditions:
- Contaminated Land Watching Brief, and;
  - Submission and approval of a Construction Method Statement.

#### Drainage and Foul Sewage Disposal

- 8.135 Paragraph 187(e) of the NPPF 2024 states that planning policies and decisions should contribute to and enhance the natural and local environment by preventing new development from contributing to unacceptable levels of water pollution. Furthermore, Paragraph 198 of the NPPF states that planning policies and decisions should also ensure that new development is appropriate for its location considering the likely effects of pollution on the natural environment.
- 8.136 Adopted Policy PPL5 of Section 2 of the Adopted Local Plan states that all new development must make adequate provision for drainage and sewerage. Connection to the mains is the preferred option having regard to the drainage hierarchy and building regulations requirements.
- 8.137 Additional information confirms the development will be served by a connection to the existing mains system, in compliance with the above.

#### Sustainable Construction & Energy Efficiency

- 8.138 TDLP2 Policy SPL3 states that all new development should incorporate climate change adaptation measures and technology from the outset including reduction of emissions, renewable and low carbon energy production, passive design, and through green infrastructure techniques, where appropriate. Under TDLP2 Policy PPL10, there is a requirement for all development proposals to demonstrate how renewable energy solutions, appropriate to the building(s) site, and location have been included in the scheme and for new buildings.
- 8.139 The delivery of energy efficiency measures for the development are secured through an appropriately worded condition.

### **9. Conclusion**

- 9.1 The application is made by three extended families, all consisting of two households each, seeking to self-build 6 dwellings to meet their identified needs. The application is accompanied by a self-build declaration and needs statement in support of the development proposal to provide adequate justification for the development as a self-build project.
- 9.2 The site lies directly adjacent to the defined Settlement Development Boundary of Elmstead and meets the requirements of adopted Local Plan Policy LP7 for Self-Build dwellings in terms of location and the settlement hierarchy.

- 9.3 There are no concerns in relation to the detailed design of the proposed dwellings, the impact on ecology and biodiversity, highway safety or residential amenities. These demonstrate policy compliance therefore being neutral factors in the overall planning balance.
- 9.4 The development will result in a degree of harm to the semi-rural character of the area from the removal of trees and hedgerow and the introduction of additional built form and hard standing. However, the development will not appear as extending beyond or protruding into the open countryside beyond the existing built form at the Pavillion View development opposite. The retention of mature hedgerow and trees will provide screening and softening of the development on approach from both directions. The scale, layout and appearance of the proposed dwellings are considered acceptable and will not result in any overriding harm to visual amenity, landscape character or the overall character of the area. For these reasons, the development is not considered contrary to the Elmstead Market Neighbourhood Plan.
- 9.5 Weighing in favour of the application are the economic benefits during construction and from the subsequent spend of future occupants in the local economy.
- 9.6 Additionally, the development will deliver 6 self-build dwellings contributing towards the Council's duties under the Self-build and Custom Housebuilding Act 2015 (SCHA). This benefit is afforded some additional weight as the Council are currently unable to demonstrate compliance with its duties under the SCHA.
- 9.7 Considering these factors in the overall planning balance, the benefits of the scheme are not outweighed by the harm identified. The application is therefore recommended for approval subject to conditions.

## **10. Recommendation**

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

### **10.2 Conditions and Reasons**

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

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

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

NOTE/S FOR CONDITION:

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

#### **2. COMPLIANCE: PLANS AND SUPPORTING DOCUMENTS**

CONDITION: The development hereby permitted shall be carried out in accordance with the drawings/documents listed below (including materials details and block paving details) and/or such other drawings/documents as may be approved by the local planning authority in writing pursuant to other conditions of this permission or such drawings/documents as may

subsequently be approved in writing by the local planning authority as a non-material amendment following an application in that regard.

- Amended Site Plan V4 - received 06.03.2025
- 11131-D-AIA Existing and Proposed Tree Plan - received 11.10.2024
- MAS/761/1 C Proposed Site Layout Plan - received 11.10.2024
- MAS/761/2 Plot 1 Floor Plans and Elevations - received 11.10.2024
- MAS/761/3 Plot 2 Floor Plans and Elevations - received 11.10.2024
- MAS/761/4 Plot 3 Floor Plans and Elevations - received 11.10.2024
- MAS/761/5 Plot 4 Floor Plans and Elevations - received 11.10.2024
- MAS/761/6 Plot 5 Floor Plans And Elevations - received 11.10.2024
- MAS/761/7 Plot 6 Floor Plans And Elevations - received 11.10.2024
- Mains Drainage Confirmation - received 25.10.24
- Self-Build Form - received 11.10.2024
- Tree Survey and Arboricultural Impact Assessment & Appendices - received 11.10.2024
- Tree Report Addendum - received 20.11.24
- Additional Justification - Self-build Need Statement
- Preliminary Ecological Appraisal (PEA) December 2024 V1 – received 17.12.2024

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

NOTE/S FOR CONDITION:

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

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

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

3. COMPLIANCE: SPECIALIST CONSTRUCTION TECHNIQUES FOR TREES

CONDITION: All hard surface areas or development within the root protection area of the retained and protected trees, as identified within the approved Tree Survey and Arboricultural Impact Assessment and accompanying Appendices received 11.10.2024 and the Tree Report Addendum received 20.11.24, shall be constructed using the specialist construction techniques.

REASON: To ensure the longevity of the retained and protected trees, in the interests of visual amenity, the impact on the character of the area and the overall quality of the development.

4. FURTHER APPROVAL: ARBORICULTURAL METHOD STATEMENT AND TREE PROTECTION PLAN

CONDITION: Prior to the commencement of development, an Arboricultural Method Statement and Tree Protection Plan in accordance with section 1.1.3 and 4.6.1 of the Tree Survey and Arboricultural Impact Assessment received on 11.10.2024 shall be submitted and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and the approved protective fencing shall be erected and remain in situ for the duration of construction.

No alterations or variations to the approved works or tree protection schemes shall be made without prior written consent of the Local Planning Authority.

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

5. FURTHER APPROVAL: HARD AND SOFT LANDSCAPING SCHEME

CONDITION: Prior to the commencement of any above ground works, a scheme of hard and soft landscaping for the site shall be submitted to and approved, in writing, by the Local Planning Authority. The scheme shall include any proposed changes in ground levels, accurately identify spread, girth and species of all existing trees, shrubs and hedgerows on the site and indicate any to be retained, together with the agreed measures for their protection set out within the AIA and in compliance with the recommendations set out in the British Standards Institute publication "BS 5837: 2012 Trees in relation to design, demolition and construction". The scheme shall be in general conformity with the indicative landscape details shown on the approved Drawing PA-100 Proposed Block Plan, subject to any new boundary planting being planted a minimum of 1 metre back from the highway boundary and any visibility splay and retained free of obstruction above 600mm at all times.

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

6. COMPLIANCE: IMPLEMENTATION OF LANDSCAPING SCHEME

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

REASON: To ensure that the approved landscaping scheme is implemented in accordance with the approved scheme and has sufficient time to establish, in the interests of visual amenity and the quality of the development.

#### 7. FURTHER APPROVAL: AGREEMENT OF MATERIALS

CONDITION: No development/works shall be commenced above slab level until precise details of the manufacturer and types and colours of the external facing and roofing materials to be used in construction have been submitted to and approved, in writing, by the Local Planning Authority. Such materials as may be agreed shall be those used in the development and fully applied prior to the first use/occupation.

REASON: In the interests of the quality and appearance of the development and the character and appearance of the area, as insufficient information has been provided with the application ('to be agreed' shown annotated on the accompanying plans).

#### NOTE/S FOR CONDITION:

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

While this condition does not detail in what form the materials sought shall be detailed to the Local Planning Authority, it is suggested that a plan is submitted with the details to show where the materials will be located and the extent of coverage.

#### 8. PRE-COMMENCEMENT CONDITION: MITIGATION TO BE AGREED, RAMS

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

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

#### NOTE/S FOR CONDITION:

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

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

if there are other obligations needed for this development, for example to secure monitoring and maintenance of a Biodiversity Net Gain Plan, you may wish to combine these together as one agreement. Furthermore, please also note a legal agreement will include legal fees and may require obligations to secure monitoring and associated fees.

#### 9. SPECIFIC RESTRICTION ON DEVELOPMENT: SELF-BUILD AND CUSTOM-BUILD

CONDITION: The dwellings approved by this permission shall be occupied only by persons who have built or commissioned the building of the dwellings for their own occupation and use as a self-build project in accordance with the Self-build and Custom Housebuilding Act 2015 for a minimum of 24 hours from first occupation by said persons.

Furthermore, the following scheduled actions shall be undertaken.

- Prior to commencement of the development, details of the (a) individuals, (b) associations of individuals, or (c) persons working with or for individuals or associations of individuals, both building the development and who are to occupy the dwelling/s if different shall be confirmed in writing to the local planning authority. Should there be any changes to these details during construction, these shall be updated in writing to the local planning authority.
- On first occupation details of the first occupier of the dwellings shall be confirmed in writing to the local planning authority and subsequently the Local Planning Authority shall be informed of if and when that occupier changes within the first year of occupation.

REASON: The dwellings approved by this permission shall be occupied only by persons who have built or commissioned the building of the dwellings for their own occupation and use as a self-build project in accordance with the Self-build and Custom Housebuilding Act 2015 (as amended) and to accord with provisions of the Local Plan and NPPF.

#### 10. FURTHER APPROVAL: SUSTAINABILITY & ENERGY EFFICIENCY

CONDITION: No development shall commence above slab level until full details of the sustainability and energy efficiency measures to be used in the development shall be submitted to and approved in writing by The Local Planning Authority. The detailed scheme shall include as a minimum:-

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

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

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

NOTES FOR CONDITION:

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

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

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

11. ACTION REQUIRED: IN THE EVENT OF UNEXPECTED GROUND CONDITIONS

CONDITION: The development hereby permitted shall be monitored throughout demolition and construction phase for unexpected contamination. The Local Planning Authority shall be contacted in the event of unexpected ground conditions being encountered during construction and the below minimum precautions shall be undertaken immediately.

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

1. All site works at the position of the suspected contamination will stop and the Local Planning Authority and Environmental Health Department will be notified as a matter of urgency.
2. A suitably trained geo-environmental engineer should assess the visual and olfactory observations of the ground and the extent of contamination, and the Client and the Local Authority should be informed of the discovery.
3. The suspected contaminated material will be investigated and tested appropriately in accordance with assessed risks. The investigation works will be carried out in the presence of a suitably qualified geo-environmental engineer. The investigation works will involve the collection of solid samples for testing and, using visual and olfactory observations of the ground, delineate the area over which contaminated materials are present.
4. The unexpected, contaminated material will either be left in situ or be stockpiled (except if suspected to be asbestos) whilst testing is carried out and suitable assessments completed to determine whether the material can be re-used on site or requires disposal as appropriate.
5. The testing suite will be determined by the independent geo-environmental specialist based on visual and olfactory observations.
6. Test results will be compared against current assessment criteria suitable for the future use of the area of the site affected.
7. Where the material is left in situ awaiting results, it will either be reburied or covered with plastic sheeting.
8. Where the potentially contaminated material is to be temporarily stockpiled, it will be placed either on a prepared surface of clay, or on 2000-gauge Visqueen sheeting (or other impermeable surface) and covered to prevent dust and odour emissions.

9. Any areas where unexpected visual or olfactory ground contamination is identified will be surveyed and testing results incorporated into a Verification Report.
10. A photographic record will be made of relevant observations.
11. The results of the investigation and testing of any suspect unexpected contamination will be used to determine the relevant actions.
12. After consultation with the Local Planning Authority, materials should either be: re-used in areas where test results indicate that it meets compliance targets so it can be re-used without treatment; or treatment of material on site to meet compliance targets so it can be re-used; or removal from site to a suitably licensed landfill or permitted treatment facility.
13. A Verification Report shall be submitted to and approved in writing by the Local Planning Authority before development can proceed.

REASON: It is the responsibility of the developer to ensure the safe development of the site and to carry out any appropriate land contamination investigation and remediation works. The condition is to ensure the risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

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

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

- a) Confirmation of the hours of operation on the site. No vehicle connected with the works to arrive on site before 07:30 or leave after 19:00 (except in the case of emergency). Working hours to be restricted between 08:00 and 18:00 Monday to Saturday (finishing at 13:00 on Saturday) with no working of any kind permitted on Sundays or any Public/Bank Holidays.
- b) Details of the loading/unloading/storage of construction materials on site, including details of their siting and maximum storage height.
- c) Details of how construction and worker traffic and parking shall be managed. This shall include routing of all traffic and any directional signs to be installed and where.
- d) Details of wheel and underbody washing facilities to be provided and used at the site.
- e) Details of any protection measures for footpaths and trees surrounding the site.
- f) Details of any means of access to the site during construction.
- g) Details of the scheduled timing/phasing of development for the overall construction period.
- h) Details of measures to control the emission of dust and dirt during construction and including details of any wheel washing to be undertaken, management and location it is intended to take place.
- i) Details of the siting of any on site compounds and portaloos.
- j) Details of the method of any demolition to take place, including the recycling and disposal of said materials resulting from demolition.
- k) Site waste management plan (that shall include reuse and recycling of materials) and the prohibition of the burning of materials on the site.
- l) Scheme for sustainable construction management to ensure effective water and energy use.
- m) A scheme to control noise and vibration during the construction phase, including details of any piling operations. If piling is to be carried out on the site a rationale for the piling method chosen and details of the techniques to be employed which minimise noise and vibration to nearby residents shall be provided.
- n) Scheme of review of complaints from neighbours.
- o) Registration and details of a Considerate Constructors Scheme.

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



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

13. FURTHER APPROVAL: ARCHAEOLOGICAL WORKS 1

CONDITION: No development shall take place until a scheme of archaeological evaluation of the site, including timetable, has been submitted to and approved in writing by the Local Planning Authority (including any demolition needing to be carried out as necessary in order to carry out the evaluation). The evaluation shall be carried out in its entirety as may be agreed.

REASON: To safeguard archaeological assets within the approved development boundary from impacts relating to any groundworks associated with the development scheme and to ensure the proper and timely investigation, recording, reporting and presentation of archaeological assets affected by this development. This condition is required to be agreed prior to the commencement of any development to ensure matters of archaeological importance are preserved and secured early to ensure avoidance of damage or loss due to the development and/or its construction. If agreement was sought at any later stage as there is an unacceptable risk of loss and damage to archaeological and historic assets.

14. FURTHER APPROVAL: ARCHAEOLOGICAL WORKS 2

CONDITION: No development shall take place until a written report on the results of the archaeology evaluation of the site has been submitted to the Local Planning Authority and that confirmation by the Local Planning Authority has been provided that no further investigation work is required in writing.

Should the Local Planning Authority require further investigation and works, no development shall take place on site until the implementation of a full programme of archaeological work has been secured, in accordance with a Written Scheme of Investigation which has been submitted to and approved in writing by the Local Planning Authority.

The scheme of investigation shall include an assessment of significance and research questions; and:

- a. The programme and methodology of site investigation and recording.
- b. The programme for post investigation assessment.
- c. Details of the provision to be made for analysis of the site investigation and recording.
- d. Details of the provision to be made for publication and dissemination of the analysis and records of the site investigation.
- e. Details of the provision to be made for archive deposition of the analysis and records of the site investigation; and
- f. Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.

The written scheme of investigation shall be carried out in its entirety prior to any other development taking place, or in such other phased arrangement including a phasing plan as may be previously approved in writing by the Local Planning Authority.

REASON: To safeguard archaeological assets within the approved development boundary from impacts relating to any groundworks associated with the development scheme and to ensure the proper and timely investigation, recording, reporting and presentation of archaeological assets affected by this development. This condition is required to be agreed prior to the

commencement of any development to ensure features of archaeological importance are identified, preserved and secured to avoid damage or loss resulting from the development and/or its construction. If agreement was sought at any later stage, there is an unacceptable risk of loss and damage to archaeological and historic assets.

15. FURTHER APPROVAL: ARCHAEOLOGICAL WORKS 3

CONDITION: No building shall be occupied until the archaeology evaluation, and if required the Written Scheme of Investigation, have been completed, submitted to and approved, in writing, by the Local Planning Authority. Furthermore, no building shall be occupied until analysis, publication and dissemination of results and archive deposition from the archaeology investigations as agreed under the Written Scheme of Investigation has taken place, unless an alternative agreed timetable or phasing for the provision of results is agreed in writing by the Local Planning Authority.

REASON: To safeguard archaeological assets within the approved development boundary from impacts relating to any groundworks associated with the development scheme and to ensure the proper and timely investigation, recording, reporting and presentation of archaeological assets affected by this development.

16. COMPLIANCE: VISIBILITY SPLAYS

CONDITION: Prior to occupation of the development, the road junction and private vehicular access to Plot 1 shall be provided with a minimum clear to ground visibility splay dimensions of 2.4 metres by 43 metres in both directions with no obstructions above 600mm in height in the visibility splay, as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the road junction / access is first used by vehicular traffic and retained free of any obstruction at all times. Any site boundary fence/wall/vegetation shall be located outside of the visibility splays.

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

17. COMPLIANCE: TURNING AREA PROVIDED PRIOR TO OCCUPATION

CONDITION: Prior to occupation of the development, the Size 3 and 5 vehicular turning facilities shown on drawing number: MAS/761/1 Rev. B shall be constructed and maintained free from obstruction within the site at all times for that sole purpose.

REASON: To ensure safe manoeuvrability, in the interests of highway safety.

18. COMPLIANCE: HIGHWAY WORKS PRIOR TO OCCUPATION

CONDITION: Notwithstanding the submitted details and prior to any above slab level works, a scheme of highway improvements shall be submitted in writing to the local planning authority for written approval that shall comprise of the following and include a timetable for implementation:

1. A priority junction off Church Road.
2. The proposed private access shall be constructed to a width of 5.5 metres for at least the first 6 metres from the back of carriageway.
3. Widening of Church Road carriageway north of Pavilion Way to a minimum width of 5.5 metres up to and including the access into the development.
4. A minimum 2 metre wide footway opposite the site extending southwards to tie in with the existing footway with Pavilion Way junction, including the provision of pedestrian drop kerbs and tactile paving at each crossing point.

The improvements as may be agreed shall be implemented as approved in accordance with the timetable provided and completed in their entirety prior to first occupation.

REASON: To ensure the access is in accordance with current policy standards, to protect highway efficiency of movement and safety, and to ensure the proposal site is accessible by more sustainable modes of transport such as public transport, and walking.

#### NOTE/S FOR CONDITION

Highways Approval:

- Prior to any works taking place in the highway the developer should enter into a S278 agreement with the Highway Authority under the Highways Act 1980 or Minor Works Authorisation to regulate the construction of the highway works.
- All highway related details should be agreed with the Highway Authority.
- The proposed junction layout, carriageway widening, and footway proposals will require an initial Stage 1 Road Safety Audit.

Discharge of Condition Application:

- This condition will require a formal discharge of condition application to be submitted and approved by the local planning authority in consultation with the Highway Authority. All necessary highway agreements should be in place prior to the submission of any related discharge of condition application. Failure to submit a discharge of condition application with evidence of the necessary highways permits in place, may result in a refusal of the discharge application.

#### 19. COMPLIANCE: PARKING PROVIDED PRIOR TO OCCUPATION

CONDITION: Prior to the occupation of the dwellings hereby approved, the garages and vehicle parking areas indicated on the approved plans, shall be constructed, surfaced and made available for use. The vehicle parking areas, garages and associated turning areas shall not be used for any purpose other than the parking of vehicles that are related to the use of the development and shall be retained in this approved form at all times, unless otherwise agreed in writing with the Local Planning Authority.

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

#### 20. ACTION AND DISCHARGE REQUIRED: REFUSE BINS AND COLLECTION AREAS

CONDITION: Notwithstanding the submitted details, prior to the first use/occupation of the development, details of the storage for refuse/recycling bins and any collection areas shall be submitted to and approved, in writing, by the Local Planning Authority. The approved areas shall be provided prior to first occupation/ use and thereafter retained as approved.

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

NOTE/S FOR CONDITION:

It is an OFFENCE to carry out works within the public highway, which includes a Public Right of Way, without the permission of the ECC Highway Authority. Any conditions which involve work within the limits of the public highway do not give the applicant permission to carry them out.

Unless otherwise agreed in writing all works within the public highway shall be carried out by Essex County Council or its agents at the applicant's expense.

21. SPECIFIC RESTRICTION ON DEVELOPMENT: REMOVAL OF PD FOR ENCLOSURES

CONDITION: Notwithstanding Section 55 (2)(a)(ii) of the Town and Country Planning Act 1990 as amended and the provisions of the Town and Country Planning (General Permitted Development) Order 2015, Schedule 2, Part 2 Minor operations, Class A (or any Order revoking and re-enacting that Order with or without modification), no fence, gate, wall or any other means of enclosure, shall be erected forward of any front or side elevation of the dwellings fronting the private drive / highway, or along the western, northern and eastern boundaries of the site, except pursuant to the grant of planning permission on an application made in that regard.

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

22. SPECIFIC RESTRICTION ON DEVELOPMENT: REMOVAL OF PD FOR ROOF ADDITIONS

CONDITION: Notwithstanding Section 55 (2)(a)(ii) of the Town and Country Planning Act 1990 as amended and the provisions of the Town and Country Planning (General Permitted Development) Order 2015, (or any Order revoking and re-enacting that Order with or without modification) Schedule 2, Part 1 Development Within the curtilage of a dwellinghouse, Class B and C, there shall be no extensions, alterations or additions to the roofs of the dwellings except pursuant to the grant of planning permission on an application made in that regard.

REASON: To enable the Local Planning Authority to retain control over the development in the interests of the visual amenity and the quality of the development, and residential amenities.

23. FURTHER APPROVAL: BIODIVERSITY ENHANCEMENT STRATEGY

CONDITION: Prior to any above ground works, a Biodiversity Enhancement Strategy for protected and Priority species shall be submitted to and approved in writing by the local planning authority. The content of the Biodiversity Enhancement Strategy shall incorporate all mitigation measures contained within the Preliminary Ecological Appraisal (PEA) December 2024 V1 – received 17.12.2024 accompanying the application and include the following:

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

This may include the appointment of an appropriately competent person e.g. an ecological clerk of works (ECoW) to provide on-site ecological expertise during construction. The works shall be implemented in accordance with the approved details prior to occupation in accordance with the approved details and shall be retained in that manner thereafter.

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

24. FURTHER APPROVAL: CONSTRUCTION ENVIRONMENTAL MANAGEMENT PLAN

CONDITION: Prior to the commencement of any demolition or construction, a construction environmental management plan (CEMP: Biodiversity) shall be submitted to and approved in writing by the local planning authority. The CEMP (Biodiversity) shall include the following:

- a) Risk assessment of potentially damaging construction activities.
- b) Identification of "biodiversity protection zones".
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements) including Precautionary Working Method statements for Bats in trees, Great Crested Newts and Reptiles.
- d) The location and timing of sensitive works to avoid harm to biodiversity features.
- e) The times during construction when specialist ecologists need to be present on site to oversee works.
- f) Responsible persons and lines of communication.
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
- h) Use of protective fences, exclusion barriers and warning signs.

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

REASON: To conserve protected and Priority species and allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 (as amended) and s40 of the NERC Act 2006 (as amended). This condition is required to be agreed prior to the commencement of any development to ensure the protection and safeguarding of protected or priority species prior to the removal or displacement of any habitat or habitat rich features.

## 25. FURTHER APPROVAL: WILDLIFE SENSITIVE LIGHTING SCHEME

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

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

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

### **TOGETHER WITH: -**

Any additional ecology conditions required following consultation on the reptile survey report and mitigation.

## 10.3 Informatives

## Positive and Proactive Statement

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

## Highways Informatives

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

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

2. On the completion of the Development, all roads, footways/paths, cycle ways, covers, gratings, fences, barriers, grass verges, trees, and any other street furniture within the Site and in the area, it covers, and any neighbouring areas affected by it, must be left in a fully functional repaired/renovated state to a standard accepted by the appropriate statutory authority.
3. Under Section 23 of the Land Drainage Act 1991, prior written consent from the Environment Agency is required to build any culvert (pipe) or structure (such as a dam or weir) to control or alter the flow of water within an ordinary watercourse (existing ditch). Ordinary watercourses include ditches, drains and any other networks of water which are not classed as Main River.
4. If you believe you need to apply for consent, please contact the Environment Agency as soon as possible to discuss your plans. Planning permission does not negate the requirement for consent, and full details of the work you propose will be required at least two months before you intend to start. Once preliminary details have been agreed, you will be asked you to fill in an application form, which must be returned with the appropriate fee.
5. Please call the Environment Agency on 08708 506 506 and ask for the Essex Development and Flood Risk Team to discuss this requirement further.
6. All housing developments in Essex which would result in the creation of a new street (more than five dwelling units communally served by a single all-purpose access) will be subject to The Advance Payments Code, Highways Act, 1980. The Developer will be served with an appropriate Notice within 6 weeks of building regulations approval being granted and prior to the commencement of any development must provide guaranteed deposits which will ensure that the new street is constructed in accordance with acceptable specification sufficient to ensure future maintenance as a public highway.
7. The Highway Authority cannot accept any liability for costs associated with a developer's improvement. This includes design check safety audits, site supervision, commuted sums for maintenance and any potential claims under Part 1 and Part 2 of the Land Compensation Act 1973. To protect the Highway Authority against such compensation claims a cash deposit or bond may be required.
8. Mitigating and adapting to a changing climate is a national and Essex County Council priority. The Climate Change Act 2008 (amended in 2019) commits the UK to achieving net-zero by 2050. In Essex, the Essex Climate Action Commission proposed 160+ recommendations for climate action. Essex County Council is working with partners to achieve specific goals by 2030, including net zero carbon development. All those active in the development sector should have regard to these goals and applicants are invited to sign up to the Essex

Developers' Group Climate Charter [2022] and to view the advice contained in the Essex Design Guide. Climate Action Advice guides for residents, businesses and schools are also available.

## 11. Additional Considerations

### Equality Impact Assessment

- 11.1 In making this recommendation/decision regard must be had to the public sector equality duty (PSED) under section 149 of the Equality Act 2010 (as amended). This means that the Council must have due regard to the need in discharging its functions that in summary include A) Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act; B. Advance equality of opportunity between people who share a protected characteristic\* (See Table) and those who do not; C. Foster good relations between people who share a protected characteristic\* and those who do not, including tackling prejudice and promoting understanding.
- 11.2 It is vital to note that the PSED and associated legislation are a significant consideration and material planning consideration in the decision-making process. This is applicable to all planning decisions including prior approvals, outline, full, adverts, listed buildings etc. It does not impose an obligation to achieve the outcomes outlined in Section 149. Section 149 represents just one of several factors to be weighed against other pertinent considerations.
- 11.3 In the present context, it has been carefully evaluated that the recommendation articulated in this report and the consequent decision are not expected to disproportionately affect any protected characteristic\* adversely. The PSED has been duly considered and given the necessary regard, as expounded below.

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

### Human Rights

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

### Finance Implications

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

## **12. Declaration of Interest**

- 12.1 Please refer to the minutes of this meeting, which are typically available on the Council's website which will be published in due course following conclusion of this meeting.

## **13. Background Papers**

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

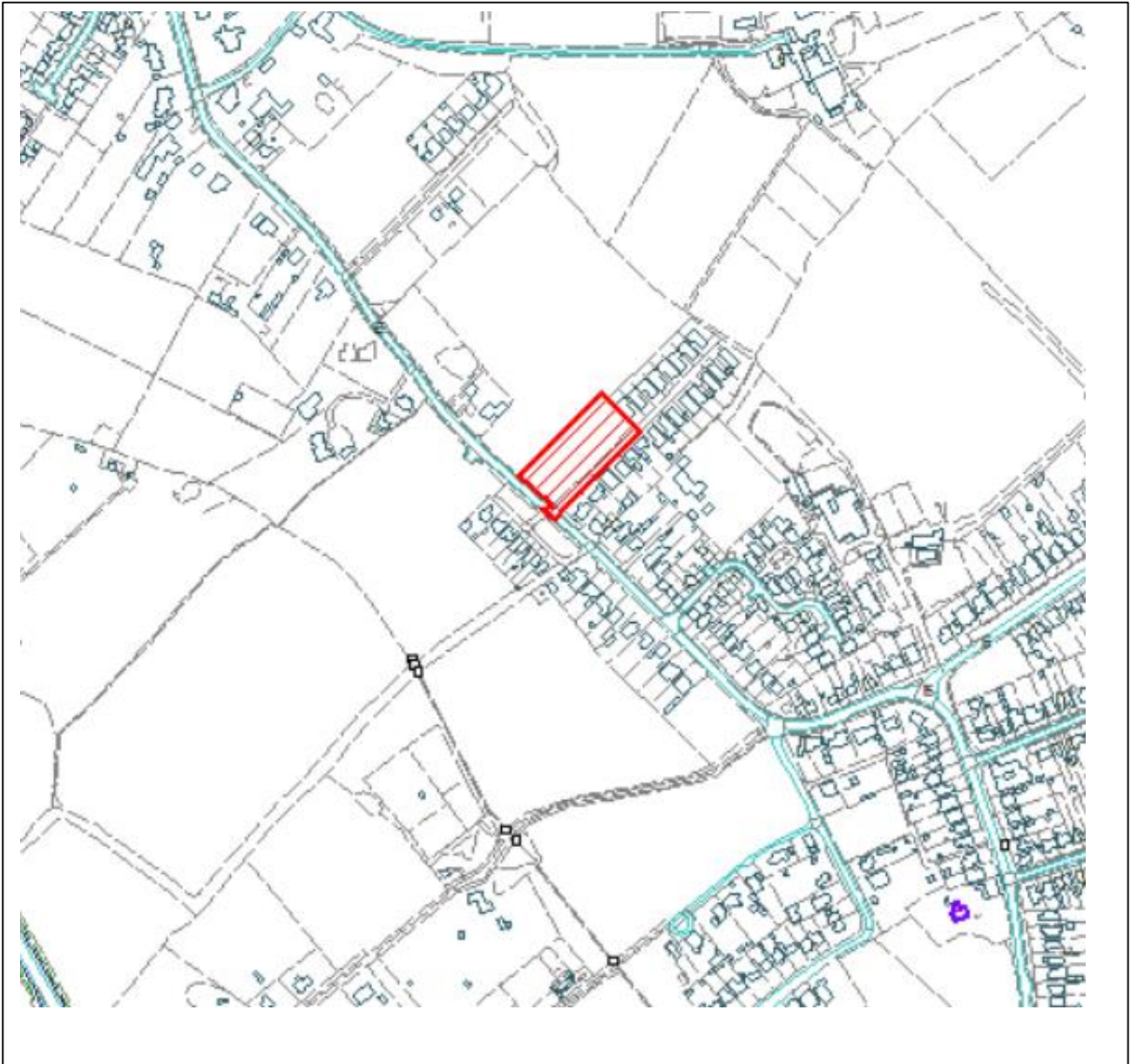


## PLANNING COMMITTEE

19 MARCH 2025

### REPORT OF THE DIRECTOR OF PLANNING

#### A.2 PLANNING APPLICATION – 24/01915/VOC – LAND AT CONNAUGHT ROAD WEELEY CO16 9EL



DO NOT SCALE

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<b>Application:</b>	24/01915/VOC	<b>Expiry Date:</b>	4th March 2025
<b>Case Officer:</b>	Amy Lang		
<b>Town/ Parish:</b>	Weeley Parish Council		
<b>Applicant:</b>	Mr Sam Kent - Kents Construction and Development		
<b>Address:</b>	Land at Connaught Road Weeley CO16 9EL		
<b>Development:</b>	Application under Section 73 of the Town and Country Planning Act for Variation of Condition 2 (Approved Plans) of application 21/02014/FUL, approved at appeal APP/P1560/W/22/3291996, to enable changes to the floor plans and roof elevations.		

**1. Executive Summary**

- 1.1 The application is before Members at the request of Councillor Harris.
- 1.2 The application site is located on the eastern side of Weeley Road/Clacton Road, to the north of the existing Connaught Road, within the Parish of Weeley. Development of 7 bungalows is currently under construction (allowed on appeal - planning ref. 21/02014/FUL and appeal ref. APP/P1560/W/22/3291996).
- 1.3 This application seeks to vary the approved plans of application 21/02014/FUL to enable changes to the floor plans and elevations, including insertion of 4 no. high level rooflights to facilitate the creation of two additional rooms and a central storage area within the roof space.
- 1.4 The proposed variations will not materially alter the overall appearance of the development or result in any visual harm or harm to the character of the area.
- 1.5 The revised development meets parking requirements and will not result in any material harm to residential amenities.
- 1.6 For these reasons, the application is recommended for approval.

<p><b>Recommendation:</b> Approval</p> <ul style="list-style-type: none"> <li>1) That the Head of Planning and Building Control be authorised to grant planning permission subject to the conditions as stated at paragraph 10.2, or varied as is necessary to ensure the wording is enforceable, precise, and reasonable in all other respects, including appropriate updates, so long as the principle of the conditions as referenced is retained; and,</li> <li>2) The informative notes as may be deemed necessary.</li> </ul>
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**2. Status of the Local Plan**

Planning law requires that decisions on applications must be taken in accordance with the development plan unless there are material considerations that indicate otherwise (Section 70(2) of the 1990 Town and Country Planning Act and Section 38(6) of the Planning and Compulsory Purchase Act 2004). This is set out in Paragraph 2 of the National Planning Policy Framework (the Framework). The ‘development plan’ for Tendring comprises, in part, Sections 1 and 2 of the

Tendring District Local Plan 2013-33 and Beyond (adopted January 2021 and January 2022, respectively), supported by our suite of evidence base core documents (<https://www.tendringdc.uk/content/evidence-base>) together with any Neighbourhood Plans that have been made and the Minerals and Waste Local Plans adopted by Essex County Council.

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

### **3. Neighbourhood Plans**

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

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

### **4. Planning Policy**

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

##### **National:**

National Planning Policy Framework December 2024 ([NPPF](#))

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

##### **Local:**

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

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

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

- SPL1 Managing Growth
- SPL2 Settlement Development Boundaries
- SPL3 Sustainable Design
- LP1 Housing Supply
- LP2 Housing Choice
- LP3 Housing Density and Standards
- LP4 Housing Layout
- PPL1 Development and Flood Risk
- PPL10 Renewable Energy Generation and Energy efficiency Measures
- DI1 Infrastructure Delivery and Impact Mitigation

Supplementary Planning Documents

Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy SPD 2020 (RAMS)  
[Essex Design Guide](#)  
[Technical housing standards](#): nationally described space standard Published 27 March 2015

[Local Planning Guidance](#)  
[Essex Parking Guidance Part 1](#): Parking Standards Design and Good Practice September 2024

## 5. Relevant Planning History

21/02014/FUL	Proposed erection of seven dwellings and three garage buildings.	Refused	19.01.2022
<b>Allowed on appeal</b>	<b>APP/P1560/W/22/3291996</b>		<b>23.10.2023</b>
24/01112/DISCON	Discharge of conditions application for 21/02014/FUL (allowed on appeal APP/P1560/W/22/3291996) - Condition 4 (Construction Method Statement); Condition 6 (Landscaping); Condition 7 (Landscape Maintenance); Condition 8 (Biodiversity Enhancement Strategy).	Approved	08.10.2024
24/01172/DISCON	Discharge of conditions application for (21/02014/FUL allowed on appeal) - Condition 11 (surface water drainage).	Approved	08.10.2024

## 6. Consultations

6.1 No consultations were required for the assessment of this application.

## 7. Representations

### 7.1 Parish / Town Council

Weeley Parish Council object to the application on the following grounds (points raised are addressed in the main assessment section of the report):

- It would appear to be an application to add 2 extra bedrooms to each bungalow without applying for 5-bedroom properties. This is not in keeping with the local area which contains 3-bedroom bungalows currently. This increase in bedrooms would result in an increase in parking needs as this road is narrow and could not accommodate roadside parking and there is no allowance for this in the application to extend the area of the bungalow by creating new rooms.
- In Tendring District, parking standards for new residential developments are outlined in the Essex County Council Parking Standards: Design and Good Practice (2009), which Tendring District Council has adopted. According to these standards, the recommended parking provision for a 5-bedroom house is: 5-bedroom dwelling: Minimum of 3 car parking spaces.
- These standards aim to ensure that new developments provide sufficient off-street parking, thereby reducing on-street parking congestion and maintaining the safety and convenience of local roads.

### 7.2 Neighbour / Local Representations

4 individual letters of representation have been received. The concerns raised can be summarised as follows (points raised are addressed in the main assessment section of the report or shown in italics below):

- Will increase the number occupants in each dwelling leading to an increase in vehicles.
- Increase in vehicles and vehicular movements in this narrow road will be harmful to highway and pedestrian amenity.
- Insufficient parking for 5-bedroom dwellings resulting in hazardous parking on the road.
- Enlargement of dwellings is not in keeping with the road.
- Dwellings not being built in accordance with the approved plans – sited further forward.  
***This has been investigated and resolved through the Council's Enforcement Team. The dwellings are being built in accordance with the plans.***
- Great concern over drainage infrastructure both for wastewater and for storm drain provision.  
***This has been dealt with under the original permission.***

### 7.3 Planning Committee Referral:

Councillor Harris has requested that the application be referred to Planning Committee if officers are minded to approve the application, due to the concerns raised by Weeley Parish Council (points raised are addressed in the main assessment section of the report).

## 8. Assessment

### Site Context

- 8.1 The application site is located on the eastern side of Weeley Road/Clacton Road, to the north of the existing Connaught Road.
- 8.2 The site falls within the Parish of Weeley but abuts the Settlement Boundary of Little Clacton.
- 8.3 The site lies outside of the Settlement Development Boundary (SDB) for both Weeley and Little Clacton as defined within the Tendring District Local Plan 2013-2033 but is subject to the approved development of 7 bungalows allowed on appeal (planning ref. 21/02014/FUL and appeal ref. APP/P1560/W/22/3291996).
- 8.4 The approved development is currently under construction.
- 8.5 On the opposite side of Connaught Road, directly opposite the site, are a mixture of bungalows and chalet style properties dating from the 1950's onwards. A number of recently constructed bungalows continue to the eastern end of Connaught Road on both sides of the road.

### Proposal

- 8.6 This application is made under Section 73 of the Town and Country Planning Act and seeks a Variation of Condition 2 (Approved Plans) of application 21/02014/FUL allowed on appeal APP/P1560/W/22/3291996, to enable changes to the floor plans and elevations.
- 8.7 The changes proposed include:
  - Minor alterations to the windows and doors to side and rear elevations
  - Changes to the interior layout, including the addition of a staircase
  - Loft conversion to create 2 rooms and a central storage area
  - Minor changes to the materials finish
  - Insertion of 4 no high level rooflights

### Scope of a S73 Application

- 8.8 An application made under section 73 of the Town and Country Planning Act 1990 can be used to make a material amendment by varying or removing conditions associated with a planning permission. There is no statutory limit on the degree of change permissible to conditions under section 73, but the change must only relate to conditions and not to the operative part of the permission.
- 8.9 Permission granted under section 73 takes effect as a new, independent permission to carry out the same development as previously permitted subject to new or amended conditions. The new permission sits alongside the original permission, which remains intact and unamended. It is open to the applicant to decide whether to implement the new permission or the one originally granted.
- 8.10 A decision notice describing the new permission should clearly express that it is made under section 73. It should set out all of the conditions imposed on the new permission, and, for the purpose of clarity restate the conditions imposed on earlier permissions that continue to have effect. Further information about conditions can be found in the guidance for use of planning conditions.
- 8.11 As a section 73 application cannot be used to vary the time limit for implementation, this condition must remain unchanged from the original permission. If the original permission was subject to a planning obligation, then this may need to be the subject of a deed of variation.

### Principle of Development

- 8.12 The principle of development has been established by the granting of application 21/02014/FUL allowed on appeal APP/P1560/W/22/3291996. Development has commenced and this application seeks alterations to the approved plans condition only.
- 8.13 The approved development has commenced. Whilst permission granted under s73 results in a fresh, new permission, the only considerations relevant to the assessment of the application are the changes proposed to the approved plans and any resultant impacts. There is no scope to re-assess all material planning considerations again, such as principle.

### Scale, Layout & Appearance

- 8.14 Paragraph 135 of the NPPF 2024 requires that developments will function well and add to the overall quality of the area, are visually attractive as a result of good architecture, layout and appropriate and effective landscaping, are sympathetic to local character and history, maintain a strong sense of place and create places that are safe, inclusive and accessible.
- 8.15 Section 1 Policy SP7 of the adopted Local Plan seeks high standards of urban and architectural design, which responds positively to local character and context. Local Plan Section 2 Policies SPL3 and LP4 also require, amongst other things, that developments deliver new dwellings that are designed to high standards and which, together with a well-considered site layout, create a unique sense of place.
- 8.16 The amendments proposed include minor alterations to the fenestration and materials details of the dwellings. There is also a minor change to the roof arrangement to Plot 1 (gable to hip). These are minor, will be visually negligible and will not materially alter the overall appearance of the development.
- 8.17 The layout, position of the dwellings, position of the garages and boundary treatments will remain as approved.
- 8.18 Whilst still minor, the main external change is the amendments to the rooflights. As approved, each dwelling includes 2 no. large, low level rooflights (internal vaulted ceiling in the main living area). The

proposal will alter the approved plans to include 4 no. high level rooflights. Internally, the rooflights will facilitate 2 no. additional rooms within the roof space, served by a new staircase.

- 8.19 The intended use of the rooms is not annotated on the plans, but each has an internal floor area of approximately 16.5 sqm and is a useable space each with 2 rooflights providing natural light. Whether these are to be used as bedrooms, office space or an alternative residential use, this is not fundamental to the assessment of the application in so far as the scale, layout and appearance impacts are concerned.
- 8.20 The original approval included rooflights. The recent development directly adjacent and other dwellings in the locality include rooflights. For these reasons, the 4 no. high level roof lights proposed will not be visually prominent or harmful to the character or appearance of the area.

#### Residential Amenities & Living Conditions

- 8.21 Paragraph 135 of the National Planning Policy Framework (2024) confirms planning policies and decisions should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.
- 8.22 Policy SP7 of Section 1 of the 2013-33 Local Plan requires that the amenity of existing and future residents is protected. Section 2 Policy SPL 3 (Part C) seeks to ensure that development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties.
- 8.23 Furthermore, Policy LP4 j. states that new development must provide for private amenity space of a size and configuration that meets the needs and expectations of residents, and which is commensurate to the size of dwelling and the character of the area.
- 8.24 In addition, the Technical housing standards – nationally described space standard (2015) deals with internal space within new dwellings to ensure appropriate living conditions for future occupants.
- 8.25 As explained above, each loft room has an internal floor area of approximately 16.5 sqm and is a useable space, each with 2 rooflights providing natural light.
- 8.26 The rooflights are positioned at a high level and will not result in any harmful overlooking or loss of privacy between the new dwellings or to neighbouring dwellings adjacent.
- 8.27 Sufficient private amenity space is provided to serve the dwellings with the additional accommodation proposed.

#### Highway Safety/Parking

- 8.28 Paragraph 115 of the NPPF 2024 requires Councils, when making decisions, to ensure safe and suitable access to the site can be achieved for all users. Paragraph 116 goes on to say, development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network, following mitigation, would be severe, taking into account all reasonable future scenarios. Paragraph 109 requires that streets, parking and other transport considerations are integral to the design of schemes and contribute to making high quality places.
- 8.29 TDLP2 Policy CP1 states that developments will only be acceptable if the additional vehicular movements likely to result from the development can be accommodated within the capacity of the existing network or would not lead to an unacceptable increase in congestion.
- 8.30 The [Essex Parking Standards](#) set out the parking requirements for new development.

- 8.31 The development, as approved, provides a garage and driveway for each plot. Each driveway measures approximately 16 metres depth providing ample space for the parking of 2 or more vehicles. Overall, each property is provided with 3 parking spaces, amounting to 21 spaces overall. At the time of the original approval, the EPOA Parking Standards 2009 applied. Under these standards, the development required 2 parking spaces per dwelling. Since the original approval, the Parking Standards have been amended.
- 8.32 The Essex Parking Guidance 2024 Part 1 is the up-to-date guidance for parking standards for new development. The parking standards defines Weeley and Little Clacton as 'Low Connectivity' where a dwelling with 4 or more bedrooms requires 3 spaces and 0.25 visitor spaces per dwelling, amounting to a requirement of 22.75 spaces overall.
- 8.33 The garage, plus the depth of the driveways provides 4 spaces per dwelling amounting to 28 spaces overall thus exceeding new parking standards.

### Habitats, Protected Species and Biodiversity Enhancement

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

- 8.34 The Natural Environment and Rural Communities Act 2006 amended by the Environment Act 2021 provides under Section 40 the general duty to conserve and enhance biodiversity: "For the purposes of this section "the general biodiversity objective" is the conservation and enhancement of biodiversity in England through the exercise of functions in relation to England." Section 40 states authorities must consider what actions they can take to further the general biodiversity objective and determine policies and specific objectives to achieve this goal. The actions mentioned include conserving, restoring, or enhancing populations of particular species and habitats. In conclusion for decision making, it is considered that the Local Planning Authority must be satisfied that the development would conserve and enhance.
- 8.35 This development is subject to the general duty outlined above.

#### **Biodiversity net gain**

- 8.36 Biodiversity net gain (BNG) is an approach that aims to leave the natural environment in a measurably better state than it was beforehand. The minimum requirement is for a 10% net gain in biodiversity value achieved on a range of development proposals (excluding Listed Building Consent, Advert Consent, Reserved Matters, Prior Approvals, Lawful Certificates, householders, self builds, and other types of application which are below the threshold i.e. does not impact a priority habitat and impacts less than 25 sqm of habitat, or 5m of linear habitats such as hedgerow).
- 8.37 In this instance, as the application has been made under s73 of the Town and Country Planning Act 1990, mandatory biodiversity net gain is not applicable as the original application was made prior to BNG legislation.

#### **Protected Designated Habitats & Sites**

- 8.38 The site falls within the recreational Zone of Influence (ZOI) of the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). Under the Habitats Regulations, a development which is likely to have a significant effect or an adverse effect (alone or in combination) on a European designated site must provide mitigation or otherwise must satisfy the tests of demonstrating 'no alternatives' and 'reasons of overriding public interest'. There is no precedent for a residential development meeting those tests, which means that all residential development must provide mitigation.
- 8.39 The necessary financial contribution for RAMS has been secured via the original application and payment was received on 27.08.2024. The development accords with Section 1 Policy SP2, Section



2 Policy PPL4 of the Tendring District Local Plan 2013-2033, and Regulation 63 of the Conservation of Habitat and Species Regulations 2017 and would not adversely affect the integrity of European Designated Sites.

### Planning and Appeal History

8.40 The approved development planning ref. 21/02014/FUL and appeal ref. APP/P1560/W/22/3291996 is subject to several conditions, one removing the permitted development rights for extensions and alterations to the dwellings, including alterations to their roofs.

8.41 As set out in the appeal decision, Condition 15 specifies:

- 15) Notwithstanding the provisions of Article 3, Schedule 2 Part 1 Classes A, B, C and E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), there shall be no additions or alterations to any of the dwellings hereby permitted, including to their roofs, nor shall any buildings or enclosures be erected in the rear gardens of the dwellings.

8.42 As contained within the appeal decision, when providing commentary on the need for the conditions, the Inspector concludes:

46. The removal of permitted development rights for extensions, roof alterations and ancillary structures at the rear of the dwellings is also justified, since these would be visually exposed given the relationship between the rear boundaries of the residential plots and the adjacent field. Therefore, maintaining planning control over future additions would be justified, in order to maintain the character and appearance of the area.

8.43 For clarity, the condition removes the following permitted development rights for development within the curtilage of a dwellinghouse:

- Class A - The enlargement, improvement or other alteration of a dwellinghouse
- Class B - Additions etc to the roof of a dwellinghouse
- Class C - Any other alteration to the roof of a dwellinghouse
- Class E - Outbuildings etc incidental to the enjoyment of a dwellinghouse

8.44 The Inspector concluded that the condition was required 'in order to maintain the character and appearance of the area'.

8.45 Should the development be built out as approved and occupied, householder permitted development rights would apply. Internal alterations, including the subdivision of rooms or the conversion of the loft space, would not require planning permission.

8.46 The rooflights associated with the loft conversion works proposed under this application, would require planning permission because permitted development rights for Class B (dormer windows) and Class C (other alterations to the roof) have been removed. Nevertheless, consideration of an application in this regard would be considered against the reason for the condition, namely "the character and appearance of the area". No control over the increase in accommodation through internal changes is restricted. For the reasons set out above, the proposed rooflights would not result in any harm to the character and appearance of the area, in compliance with the reason for the condition.

8.47 Therefore, this constitutes a fall-back position of significant weight as the internal works proposed would not require planning permission once occupied and the rooflights would not conflict with the reason for the condition.

#### Other Matters – Open Space Financial Contribution

8.48 The planning obligations secured as part of the original permission (Open Space and RAMS) have been paid upon commencement of the development.

8.49 Since the original application, open space contributions are no longer being sought on minor applications.

8.50 This application does not require a new legal agreement.

### **9. Conclusion**

9.1 The principle of development for the construction of 7 bungalows (including rooflights) has been established and is under construction. The amendments to the fenestration and materials are minor and will not materially alter the overall appearance of the development.

9.2 The amended development maintains acceptable parking and private garden provision and will not result in any harm to residential amenities.

9.3 Should the development be built out as approved, once occupied, householder permitted development rights would apply, and internal alterations could be undertaken without permission. The rooflights associated with the loft rooms would not result in any harm to the character and appearance of the area, in compliance with the reason for the condition.

9.4 For these reasons, the amended application is recommended for approval, subject to the necessary conditions carried forward from the original consent (appeal decision). As the development has commenced, a time limit for commencement condition is not required.

### **10. Recommendation**

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

#### **10.2 Conditions and Reasons**

##### **1. COMPLIANCE: APPROVED PLANS & DOCUMENTS**

CONDITION: The development hereby permitted shall be carried out in accordance with the drawings/documents listed below and/or such other drawings/documents as may be approved by the Local planning authority in writing pursuant to other conditions of this permission or such drawings/documents as may subsequently be approved in writing by the Local planning authority as a non-material amendment following an application in that regard.

- 1763 P07B Ordnance Survey (1:1250 Location Plan)
- 2402-TP-02-B Amended Plots 2, 4 and 6 - Proposed Floor Plans and Elevations (including materials details)
- 2402-TP-03-B Amended Plots 3, 5 and 7 - Proposed Floor Plans And Elevations (including materials details)
- 2402-TP-01-B Amended Plot 1 - Proposed Floor Plans and Elevations (including materials details)
- 1763 P04B Garage Elevations

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

2. COMPLIANCE: APPROVED CONSTRUCTION MANAGEMENT PLAN

CONDITION: The Construction Method Statement approved under Discharge of Condition Application reference 24/01112/DISCON shall be adhered to throughout the construction phase for the development, unless otherwise agreed in writing by the Local Planning Authority.

REASON: To minimise detriment to nearby residential and general amenity by controlling the construction process to achieve the approved development.

3. COMPLIANCE: CONSTRUCTION WORKING HOURS

CONDITION: Construction works shall take place only between the hours of 08:00 to 18:00 on Mondays to Fridays and 08:00 to 13:00 on Saturdays and shall not take place at any time on Sundays or on Bank or Public Holidays. No vehicle connected with the works shall arrive on site before 07:30 or leave after 19:00 (except in the case of emergency), unless otherwise agreed in writing by the Local Planning Authority.

REASON: To minimise detriment to nearby residential and general amenity by controlling the construction process to achieve the approved development.

4. COMPLIANCE: IMPLEMENTATION OF LANDSCAPING PRIOR TO OCCUPATION

CONDITION: Prior to occupation of the approved dwellings, the development shall be carried out in full accordance with the hard and soft landscaping scheme approved under Discharge of Condition Application reference 24/01112/DISCON, unless otherwise agreed in writing by the Local Planning Authority.

REASON: REASON: To ensure that the approved landscaping scheme is implemented in accordance with the approved scheme and has sufficient time to establish, in the interests of visual amenity and the quality of the development.

5. ONGOING COMPLIANCE: MAINTENANCE OF APPROVED LANDSCAPING

CONDITION: Following the full implementation of the approved landscaping scheme, the landscape maintenance approved under Discharge of Condition Application reference 24/01112/DISCON shall thereafter be carried out in accordance with the approved schedule, unless otherwise agreed in writing by the Local Planning Authority.

REASON: To ensure that the approved landscaping scheme is maintained to ensure its longevity, in the interests of visual amenity and the quality of the development.

6. COMPLIANCE: BIODIVERSITY ENHANCEMENT STRATEGY

CONDITION: The development shall be carried out in accordance with the surface water drainage strategy approved under Discharge of Condition Application reference 24/01112/DISCON, unless otherwise agreed in writing by the Local Planning Authority.

The development shall proceed in accordance with the approved details and the approved biodiversity enhancement measures shall be retained for the lifetime of the development.

REASON: To enhance protected and Priority species and habitats.

7. COMPLIANCE: NO DISCHARGE OF SURFACE WATER

CONDITION: The development shall be carried out in accordance with the surface water drainage strategy approved under Discharge of Condition Application reference 24/01172/DISCON, unless otherwise agreed in writing by the Local Planning Authority.

REASON: In the interests of maintaining highway safety for the lifetime of the development.

8. SPECIFIC RESTRICTION ON DEVELOPMENT: NO GATES

CONDITION: At no point shall gates be provided obstructing vehicular access into the site from Clacton Road (B1441). The access shall remain open and free for use thereafter.

REASON: In the interests of maintaining highway safety for the lifetime of the development.

9. COMPLIANCE: PARKING PROVIDED PRIOR TO OCCUPATION AND RETAINED

CONDITION: The development shall not be occupied until such time as the driveways and garages have been provided in accordance with the approved plans and shall be retained in this approved form thereafter.

REASON: To ensure that adequate parking is available clear of the highway, In the interests of maintaining highway safety for the lifetime of the development.

10. SPECIFIC RESTRICTION ON DEVELOPMENT: REMOVAL OF PD FOR ENCLOSURES

CONDITION: Notwithstanding the provisions of Article 3, Schedule 2 Part 2 Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), no fences, walls or other means of enclosure shall be erected along the rear (northwest) boundaries of Plots 1 to 7 other than any means of enclosure and boundary treatments forming part of the approved landscaping scheme.

REASON: The subsequent introduction of alternative means of enclosure along the boundary with the adjacent field could undermine the effectiveness of the approved landscaping scheme and harm the character and appearance of the area.

11. SPECIFIC RESTRICTION ON DEVELOPMENT: REMOVAL OF PD EXTENSIONS, ALTERATIONS AND OUTBUILDINGS

CONDITION: Notwithstanding the provisions of Article 3, Schedule 2 Part 1 Classes A, B, C and E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), there shall be no additions or alterations to any of the dwellings hereby permitted, including to their roofs, nor shall any buildings or enclosures be erected in the rear gardens of the dwellings.

REASON: These would be visually exposed given the relationship between the rear boundaries of the residential plots and the adjacent field. Therefore, maintaining planning control over future additions would be justified, in order to maintain the character and appearance of the area.

10.3 Informatives

Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any

representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

## 11. Additional Considerations

### Equality Impact Assessment

- 11.1 In making this recommendation/decision regard must be had to the public sector equality duty (PSED) under section 149 of the Equality Act 2010 (as amended). This means that the Council must have due regard to the need in discharging its functions that in summary include A) Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act; B. Advance equality of opportunity between people who share a protected characteristic\* (See Table) and those who do not; C. Foster good relations between people who share a protected characteristic\* and those who do not, including tackling prejudice and promoting understanding.
- 11.2 It is vital to note that the PSED and associated legislation are a significant consideration and material planning consideration in the decision-making process. This is applicable to all planning decisions including prior approvals, outline, full, adverts, listed buildings etc. It does not impose an obligation to achieve the outcomes outlined in Section 149. Section 149 represents just one of several factors to be weighed against other pertinent considerations.
- 11.3 In the present context, it has been carefully evaluated that the recommendation articulated in this report and the consequent decision are not expected to disproportionately affect any protected characteristic\* adversely. The PSED has been duly considered and given the necessary regard, as expounded below.

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

### Human Rights

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

### Finance Implications

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

## **12. Declaration of Interest**

- 12.1 Please refer to the minutes of this meeting, which are typically available on the Council's website which will be published in due course following conclusion of this meeting.

## **13. Background Papers**

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

## PLANNING COMMITTEE

19<sup>th</sup> March 2025

### REPORT OF THE DIRECTOR OF PLANNING

#### A.3 PLANNING APPLICATION – 24/01910/FUL – REAR OF 140 POINT CLEAR ROAD ST OSYTH ESSEX CO16 8JA



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<b>Application:</b>	24/01910/FUL	<b>Expiry Date:</b>	14th February 2025
<b>Case Officer:</b>	Oliver Ashford	<b>EOT Date:</b>	
<b>Town/ Parish:</b>	St Osyth Parish Council		
<b>Applicant:</b>	Messrs Cook and Wicken		
<b>Address:</b>	Rear of 140 Point Clear Road St Osyth, Essex CO16 8JA		
<b>Development:</b>	Planning Application - Erection of two detached self-build bungalows.		

## 1. Executive Summary

- 1.1 The application is before Members as the proposal represents a departure from the Local Plan, proposing new residential development outside of the St Osyth Settlement Development Boundary (SDB) as defined within the adopted Tendring District Local Plan 2013 to 2033 and Beyond.
- 1.2 The proposal is concluded to represent sustainable development. The specific merits of the application and site would not set a harmful precedent for further development outside defined settlement boundary and would not prejudice the overall spatial strategy of the District with further consideration outlined below.

<p><b>Recommendation:</b> Approval subject to Conditions, as follows:</p> <p>That the Head of Planning and Building Control be authorised to grant planning permission subject to:</p> <ol style="list-style-type: none"> <li>1) The conditions stated at paragraph 10.2, or varied as is necessary to ensure the wording is enforceable, precise, and reasonable in all other respects, including appropriate updates, so long as the principle of the conditions as referenced is retained; and,</li> <li>2) The informative notes as may be deemed necessary.</li> </ol>
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## 2. Status of the Local Plan

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

Planning law requires that decisions on applications must be taken in accordance with the development plan unless there are material considerations that indicate otherwise (Section 70(2) of the 1990 Town and Country Planning Act and Section 38(6) of the Planning and Compulsory Purchase Act 2004). This is set out in Paragraph 2 of the National Planning Policy Framework (the



Framework). The 'development plan' for Tendring comprises, in part, Sections 1 and 2 of the Tendring District Local Plan 2013-33 and Beyond (adopted January 2021 and January 2022, respectively), supported by our suite of evidence base core documents (<https://www.tendringdc.uk/content/evidence-base>) together with any Neighbourhood Plans that have been made and the Minerals and Waste Local Plans adopted by Essex County Council.

In relation to housing supply:

The Framework requires Councils to significantly boost the supply of homes to meet the District's housing need. Paragraph 78 states that local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against their housing requirement set out in adopted strategic policies, or against their local housing need where the strategic policies are more than five years old. The supply of specific deliverable sites should in addition include a buffer (moved forward from later in the plan period) of 5% to ensure choice and competition in the market for land, unless the Housing Delivery Test (HDT) demonstrates significant under delivery of housing over the previous 3 years - in which case a higher buffer is required.

On 12th December 2024 the Government published the Housing Delivery Test: 2023 measurement. Against a requirement for 1,466 homes for 2020-2023, the total number of homes delivered was 2,343. The Council's HDT 2023 measurement was therefore 160%, and a buffer of 5% is to be used when calculating the Council's five year land supply position.

The Council demonstrates its supply of specific deliverable sites within the Strategic Housing Land Availability Assessment (SHLAA), which is published annually. The most recent SHLAA was published by the Council in July 2024, and demonstrates a 6.26-year supply of deliverable housing sites against the annual requirement of 550 dwellings per annum set out within the adopted Local Plan, plus a 5% buffer. The SHLAA can be viewed on the Council's website: <https://www.tendringdc.gov.uk/content/monitoring-and-shlaa>

As a result, the 'titled balance' at paragraph 11 d) of the Framework does not apply to decisions relating to new housing development.

### 3. **Neighbourhood Plans**

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

### 4. **Planning Policy**

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

**National:**

National Planning Policy Framework December 2024 (NPPF)

National Planning Practice Guidance (NPPG)

**Local:**

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

SP1 Presumption in Favour of Sustainable Development

SP2 Recreational disturbance Avoidance and Mitigation Strategy (RAMS)

SP3 Spatial Strategy for North Essex

- SP4 Meeting Housing Needs
- SP6 Infrastructure and Connectivity
- SP7 Place Shaping Principles

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

- SPL1 Managing Growth
- SPL2 Settlement Development Boundaries
- SPL3 Sustainable Design
- HP5 Open Space, Sports and Recreation Facilities
- LP1 Housing Supply
- LP2 Housing Choice
- LP3 Housing Density and Standards
- LP4 Housing Layout
- PPL1 Development and Flood Risk
- PPL2 Coastal Protection Belt
- PPL3 The Rural Landscape
- PPL4 Biodiversity and Geodiversity
- PPL5 Water Conservation, Drainage and Sewerage
- PPL10 Renewable Energy Generation
- CP1 Sustainable Transport and Accessibility
- CP2 Improving the Transport Network
- DI1 Infrastructure Delivery and Impact Mitigation

Supplementary Planning Documents

- Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy SPD 2020 (RAMS)
- Provision of Recreational Open Space for New Development May 2008 (under review)
- Essex County Council Car Parking Standards – Design and Good Practice
- Essex Design Guide
- Technical housing standards – nationally described space standard (DCLG March 2015)

Local Planning Guidance

- EPOA Essex County Council Parking Standards 2009

**5. Relevant Planning History**

98/00516/OUT	Detached Residential Bungalow	Refused 30.06.1998
13/01294/LUEX	The stationing of one mobile home and one touring caravan for occupation and use between 1st April and 30th November in each calendar year together with the ancillary use of the land beyond the mobile home and touring caravan for use as garden and for leisure purposes. – Granted 10.01.2014	
24/01148/FULHH	Householder Planning Application - Single storey flat roof rear extension and single storey flat roof side extension. – Approved 24.09.2024	

**6. Consultations**

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

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

**Environmental Protection**

**10.01.2025**

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

Construction Method Statement: I can advise the EP Team have reviewed the submitted CMS and have no adverse comments to make.

**ECC Highways Dept**

**22.01.2025**

The information submitted with the application has been thoroughly assessed and conclusions have been drawn from a desktop study with the observations below based on submitted material and google earth image.

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

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

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

Informative:

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

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

**Essex County Council Archaeology**

**16.01.2025**

The above application is for the Erection of two detached self-build bungalows.

The development has been identified from the weekly list by the Historic Environment Advisor to Tendring District Council as having archaeological implications.

The area of the proposed development lies along a gravel ridge forming the southern bank of St Osyth Creek. The gravels were laid down by a former course of the Thames and have potential to contain Palaeolithic archaeological remains.

In the surrounding areas aerial photography has recorded cropmark features indicative of prehistoric and later activity, including remains of possible ritual monuments. To the east and south multi-period archaeological remains are suggested through significant complex cropmark features.

There is high potential for archaeological remains to be present within the development area and, given the extent and density of the multi-period cropmark complexes to the south and east of this site, prehistoric ritual and settlement evidence could be present.

An archaeological evaluation is required in order to determine the nature and significance of any archaeological remains within the development area associated with the historic settlement around the heath and possible earlier activity.

NPPF paragraph 218 (Dec 2024) requires developers to record and advance understanding of the significance of any heritage assets to be lost (wholly or in part) in a manner proportionate to their importance and the impact, and to make this evidence (and any archive generated) publicly accessible.

**RECOMMENDATION:** Archaeological trial trenching and excavation

1. No development or preliminary groundworks of any kind shall take place until a programme of archaeological investigation has been secured in accordance with a written scheme of investigation which has been submitted by the applicant, and approved in writing by the local planning authority.

2. No development or preliminary groundworks of any kind shall take place until the completion of the programme of archaeological investigation identified in the WSI defined in 1 above.

3. The applicant will submit to the local planning authority a post excavation assessment (to be submitted within six months of the completion of the fieldwork, unless otherwise agreed in advance with the Planning Authority). This will result in the completion of post excavation analysis, preparation of a full site archive and report ready for deposition at the local museum, and submission of a publication report.

Further Recommendations:

A professional team of archaeologists should undertake the archaeological work. The archaeological work will comprise initial trial trenching evaluation. A brief outlining the level of archaeological investigation will be issued from this office on request. Tendring District Council should inform the applicant of the recommendation and its financial implications.

## 7. Representations

### 7.1 Parish Council

St Osyth Parish Council make observations on the application as follows:

Notwithstanding the contradiction between Policy LP 7 (Self-build and custom-built homes) which states the Council will also consider, on their merits, proposals for small developments of new Self-Build and Custom-Built Homes on land outside of, but within a reasonable proximity to, settlement development boundaries and Policy LP 8 c (Backland residential development) which states the proposal must avoid "tandem" development using a shared access, the Parish Council objects to the erection of two self-build bungalows, however, given that similar applications have been granted on appeal by the Planning Inspectorate the Parish Council would have no objections to the erection of a single dwelling, especially as access would be via a track offering single vehicle access and egress at any one time.

***Officer response: The self-build element of the proposals is considered in further detail below with Planning Inspectorate decisions also highlighted.***

### 7.2 Neighbour / Local Representations

None received.

## 8. Assessment

8.1 The main considerations relevant to the assessment of the application for the proposed development can be summarised as follows:

- Site Context
- Description of Development
- Planning History and Background
- Recent Nearby Appeal Decision
- Principle of Development
- Scale, Layout and Visual Impact
- Trees and Landscaping
- Residential Amenities
- Access, Highway Safety and Parking
- Sustainable Construction & Energy Efficiency Measures
- Drainage and Foul Sewage Disposal
- Planning Obligation – Open Space and Play Space
- Planning Obligation – Recreational Disturbance

### Site Context

- 8.2 The application relates to the rear garden of number 140 Point Clear Road, St Osyth. The site is located on the northern side of Point Clear Road, with Greenland Grove to the west and is surrounded by residential development to the east and west.
- 8.3 The donor property (a chalet bungalow) has been recently renovated and the application site forms a large portion of the rear garden of the host property, this is yet to be subdivided.
- 8.4 A mixture of bungalows and two storey dwellings are located within the vicinity of the site. The area is predominantly residential in character.
- 8.5 The site lies outside of the defined Settlement Development Boundary of St Osyth. Within the adopted Local Plan, the settlement development for Point Clear has been removed. This is covered in further detail within the assessment below.

### Description of Development

- 8.6 The application seeks full planning permission for the sub-division of the site to form two building plot, and the erection of two three bedroomed detached bungalows, including two new, vehicular access points onto Greenland Grove to serve both new dwellings.
- 8.7 The principal front elevation of the proposed dwellings would front onto Greenland Grove would be in line with the host dwelling, with a fully hipped front feature extending toward the highway.
- 8.8 Each dwelling would have a detached garage with a hardstanding and parking area. The site frontage proposes a shared hardstanding and parking area. Frontage soft landscaping treatments would be installed and each dwelling would have a private amenity space to the rear in excess of 120sqm.
- 8.9 The existing private road to the west of the site (Greenland Grove) is to be retained for use by the severed host dwellings and sporadic residential properties to the rear. A new passing place will be installed which will improve accessibility along Greenland Grove.

## Relevant Planning History and Background

- 8.10 In law it is required that decisions are accord with the development plan unless material considerations indicate otherwise. Therefore, the starting position is to understand if this in conflict with the development plan. Policy SPL2 sets out that outside of SDBs the Council will consider any planning application in relation to the pattern and scales of growth promoted through the Settlement Hierarchy in Policy SPL1 and any other relevant policies in this plan. SPL1 lists the settlements but doesn't include this location. It may be possible to compare this built-up area that surrounds this site to a comparable growth centre listed to consider pattern or scale of growth. However, the policy does not provide the provision to encourage or discourage this development should that comparison be made. There are no other policies that are considered to apply in this case to confirm the development is contrary to the development/local plan. The conclusion being this is not a development for which there is a general presumption in favour of new development in terms of the development plan.
- 8.11 Next, we turn to the material considerations and in this matter, there are neighbouring schemes of most relevance.
- 8.12 A previously refused outline application for 1 no. dwelling under reference 21/02082/OUT at 225 Point Clear Road. The application was submitted in December 2021 and refused planning permission in August 2022 for a single reason – namely due to the lack of a Unilateral Undertaking to secure the required financial contribution in accordance with the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy.
- 8.13 Application 21/02082/OUT was submitted prior to the full adoption of the new 2013-2033 Local Plan. At the time of submission, Point Clear had a defined settlement development boundary (SDB). The SDB for Point Clear was removed within the new 2013-2033 adopted Local Plan. Consequently, due to the transition period between the previous 2017 Local Plan and the full adoption of the 2013-2033 Local Plan the previous application was refused solely on the absence of a RAMS UU.
- 8.14 Given the refusal was not on grounds of principle, it should be given due regard and material weight. The site was considered sustainable in accord to the local plan at the time. While the local plan has changed, the underpinning principles of sustainable development have not, and material considerations of the position also outlined by the NPPF remain constant. However, it is not given full weight as it was a refusal, and the local plan has altered.
- 8.15 Further a second material considered is the particular appeal case as summarised below:
- |              |   |
|--------------|---|
| Appeal Ref:  | APP/P1560/W/22/3311836  |
| Site:        | Land to the Rear of 172 Point Clear Road, St Osyth CO16 8JB                     |
| Development: | Erection of a detached bungalow and associated access, parking and passing bay. |
- 8.16 The appeal decision at paragraph 9, recognises that '...Local Plan Policy SP3 refers to existing settlements being the principal focus for additional growth.', and 'Development will be accommodated within, or adjoining, settlements according to their scale, sustainability and existing role within each individual District.'
- 8.17 Paragraph 10 goes onto explain that 'The Local Plan Settlement Hierarchy report, forming part of the Local Plan's evidence base, identifies Point Clear as falling within the second tier of settlements. Despite its position in the settlement hierarchy, Point Clear is not identified in the Local Plan as a location for development because of concerns associated with previous levels of growth and traffic.'

8.18 However, the inspector concluded that:

- The site is within walking distance of a local convenience shop and bus stops, providing an alternative mode of travel to a car for future occupiers.
- The erection of a single dwelling at Point Clear would not be of a scale of development that would be disproportionate to the size of this settlement.
- For the reasons given, it is concluded that the proposed development would not cause unacceptable harm to the character and appearance of the surrounding area and, as such, it would not conflict with LP Policies SP3 and SP7.

8.19 This appeal decision holds significant weight in the consideration of this current application given the decision was made recently and with consideration of the current local plan. The Inspector focused on the Section 1 policies of the Local Plan leading to an assessment of planning harm in relation to the character, appearance, scale of development and that no outward growth of the current built up area would result. They also maintained and considered sustainable principles, including transport and accessibility that would not be available in more rural locations. On this basis it is appropriate to consider this material decision and its comparison to this site, adjusting the consideration of weight according in any differences. This planning balance has been considered by your officers and summarised under the Principle of Development below.

#### Principle of Development

8.20 The recent appeal decision at a nearby site (rear of 172 Point Clear Road) was allowed on the basis that the site is within walking distance of amenities and public transport, and the scale of development would be proportionate to the size of this settlement.

8.21 Adopted Tendring District Local Plan 2013-2033 and Beyond Section 1 (TDLPS1) Policy SP1 states that when considering development proposals, the LPA will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework.

8.22 Other than the high-level policy conflict, in regard to the location of the site outside the defined settlement development boundary, the pattern and scale of development proposed is considered compliant with the settlement hierarchy credentials promoted through Section 2 Policy SPL1.

8.23 Officers are satisfied that existing services and facilities within the settlement would be capable of supporting the development of 2 dwellings, and that these are accessible within safe walking distance of the site.

8.24 The development of the site for 2 dwellings would appear as an infill development and would not result in any harm to the street scene or character of the area.

8.25 For these reasons and with consideration of all material considerations (including areas addressed by the assessment below), the proposal is concluded to represent sustainable development. The specific merits of the application and site would not set a harmful precedent for further development outside defined settlement boundary and would not prejudice the overall spatial strategy of the District.

#### Self-Build

8.26 The application form and planning statement submitted with the application states that the scheme is a self-build scheme. The applicants are party to the Self Build register held by the Council for residential plots in Point Clear and that the applicant's family would also undertake construction works themselves. Paragraph 70b) of the NPPF states that Local Planning Authorities should seek opportunities, through policies and decisions, to support small sites to

come forward for community-led development for housing and self-build and custom-build housing.

- 8.27 Policy LP7 of the Local Plan states that the Council will encourage the provision of opportunities for constructing Self-Build and Custom-Built Homes as part of the mix of housing on large residential developments and the one-for-one replacement of an existing dwelling, of any size, in the countryside outside of settlement development boundaries with a single unit of Self-Build Housing, unless the impacts of development would conflict with other policy requirements in this Local Plan.
- 8.28 As the site is within the defined settlement development boundary and has not been safeguarded for an alternative use, with the applicants registered on the Council's Self-build register with a view to carrying out the scheme themselves, the proposals therefore accord with both National and Local Policy with regards to self-build.

#### Scale, Layout and Visual Impact

- 8.29 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. Paragraph 135 of the Framework requires that developments are visually attractive as a result of good architecture, are sympathetic to local character, and establish or maintain a strong sense of place.
- 8.30 Adopted Policy SP7 of the 2013-33 Local Plan seeks high standards of urban and architectural design, which responds positively to local character and context. Policies SPL3 and LP4 of Section 2 of the 2013-33 Local Plan also require, amongst other things, that developments deliver new dwellings that are designed to high standards and which, together with a well-considered site layout, create a unique sense of place.
- 8.31 The proposed single storey dwellings are of a scale and design that will appear as an infill plot, in keeping with the scale of residential dwellings in the locality. The plots are of an appropriate size and scale for their location and sufficient spacing is retained around the host dwelling and proposed dwellings. Overall, the development will appear well-spaced and will blend well into the street scene.
- 8.32 For these reasons, the development will not result in any harm to the character of the area or wider street scene.

#### Trees and Landscaping

- 8.33 Paragraph 136 of the NPPF sets out the importance of trees and the contribution they make to the character and quality of urban environments. It states that planning policies and decisions should ensure that opportunities are taken to incorporate trees in developments and that existing trees are retained wherever possible.
- 8.34 TDLPS2 Policy LP4 relates to housing layout and states; to ensure a positive contribution towards the District's 'sense of place', the design and layout of new residential developments will be expected to incorporate and maximise the use of green infrastructure, verges, trees and other vegetation.
- 8.35 In this instance, the proposed site layout plan shows mainly grassed and block paved areas but does include new landscaping to the west. Officers recommend a condition securing a revised, more thorough landscaping scheme to improve the quality of the development and to satisfactorily assimilate the development into its setting.



### Residential Amenities

- 8.36 Paragraph 135 (f) of the National Planning Policy Framework (2024) states that planning should always seek to secure a good standard of amenity for all existing and future occupants.
- 8.37 Section 1 Policy SP7 of the 2013-33 Local Plan requires that the amenity of existing and future residents is protected. Section 2 Policy SPL 3 Part C seeks to ensure that development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties. Furthermore, Policy LP4 seeks to ensure that new dwellings are served by a private amenity space of a size and configuration that meets the needs and expectations of residents and which is commensurate to the size of dwelling and the character of the area.
- 8.38 The size of the plot and single storey height of the proposed dwellings allows for a development that will achieve an internal layout and relationship with neighbouring dwellings, and the host dwelling, that would not result in any material harm to residential amenities in terms of loss of light, sunlight, overlooking, privacy or outlook.
- 8.39 Private amenity space of a suitable size to serve both the proposed dwelling and host dwelling will be provided.
- 8.40 One bathroom window is proposed to face the existing dwelling. However this can be conditioned to be obscure glazed. Officers consider there is sufficient separation between the existing dwelling and the proposed Plot 1 by way of existing windows to avoid any overlooking or any loss of privacy.
- 8.41 For these reasons, the proposed development will secure a good standard of amenity for existing and future residents.

### Access, Highway Safety and Parking

- 8.42 Paragraph 115 of the National Planning Policy Framework 2021 seeks to ensure that safe and suitable access to a development site can be achieved for all users. Policy SPL3 Part B of Section 2 of the Tendring District Local Plan 2013-2033 and Beyond seeks to ensure that access to a new development site is practicable and the highway network will be able to safely accommodate the additional traffic the proposal will generate and provision is made for adequate vehicle and cycle parking.
- 8.43 The EPOA Parking Standards 2009 require that for dwellings with 2 or more bedrooms, a minimum of 2 parking spaces is required. Parking spaces should measure 5.5 metres by 2.9 metres.
- 8.44 Essex County Council Highways raise no objection to the development, subject to conditions.
- 8.45 The proposed dwellings would be served by new access points onto Greenland Grove with sufficient visibility splays and widths to accommodate vehicles entering and leaving both dwellings. Greenland Grove is a private road with ECC Highways having limited controls over the highway. Further, a passing bay is shown on the proposed plans which will improve the manoeuvrability along Greenland Grove. For these reasons, the development is considered acceptable in terms of accessibility and highway safety.

### Sustainable Construction & Energy Efficiency Measures

- 8.46 Policy PPL10 of the Local Plan states that 'all development proposals should demonstrate how renewable energy solutions, appropriate to the building(s) site, and location have been included in the scheme and for new buildings, be designed to facilitate the retro-fitting of renewable energy installations'.

- 8.47 The use of electric vehicle charging points, water-butts, recycling facilities and sustainable drainage SuDS to aid the sustainability of the development should be an integral part of the design, for both the existing and proposed dwelling.
- 8.48 Should Members resolve to approve the application, these requirements can be achieved via an appropriately worded condition.

#### Drainage and Foul Sewage Disposal

- 8.49 Adopted Policy PPL5 of Section 2 of the Adopted Local Plan states that all new development must make adequate provision for drainage and sewerage. Connection to the mains is the preferred but if this is not possible, the next appropriate method as detailed within the drainage hierarchy and building regulations requirements.
- 8.50 The application confirms that the proposed dwelling will be served by a connection to the main sewer system, in accordance with Local Plan Policy PPL5.

#### Ecology and Biodiversity

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

#### Habitats, Protected Species and Biodiversity Enhancement

##### **8.52 Ecology and Biodiversity**

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

- 8.54 The Natural Environment and Rural Communities Act 2006 amended by the Environment Act 2021 provides under Section 40 the general duty to conserve and enhance biodiversity: "For the purposes of this section "the general biodiversity objective" is the conservation and enhancement of biodiversity in England through the exercise of functions in relation to England." Section 40 states authorities must consider what actions they can take to further the general biodiversity objective and determine policies and specific objectives to achieve this goal. The actions mentioned include conserving, restoring, or enhancing populations of particular species and habitats. In conclusion for decision making, it is considered that the Local Planning Authority must be satisfied that the development would conserve and enhance.

- 8.55 This development is subject to the general duty outlined above. An informative has been imposed strongly encouraging the applicant to improve the biodiversity of the application site through appropriate additional planting and wildlife friendly features. Therefore the development on balance, with consideration of the impact of the development and baseline situation on site, is considered likely to conserve and enhance biodiversity interests.

##### **8.56 Biodiversity net gain**

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

##### **8.58 Protected Species**

In accordance with Natural England's standing advice the proposed development site and surrounding habitat have been assessed for potential impacts on protected species. It is considered that the proposal is unlikely to adversely impact upon protected species or habitats.

#### Planning Obligation – Open Space and Play Space

- 8.59 TDLP Section 2 Policy HP 5 states that the Council will work with partners and sports providers across the district to maintain, expand and improve the quality and accessibility of public open space, sports and recreational facilities of different types and will aim to achieve and exceed standards set out in the Council's 2017 Open Spaces Strategy or any future update. TDLP Section 2 Policy DI1 states that all new development should be supported by, and have good access to, all necessary infrastructure. Where a development proposal requires additional infrastructure capacity to be deemed acceptable, mitigation measures must be agreed with the Local Planning Authority and the appropriate infrastructure provider. Such measures may include financial contributions towards new or expanded facilities and the maintenance thereof. The proposals are for two dwellings and it is not considered reasonable or necessary to request contributions in this instance.

#### Planning Obligation – Recreational Disturbance

- 8.60 Under the Habitats Regulations, a development which is likely to have a significant effect or an adverse effect (alone or in combination) on a European designated site must provide mitigation or otherwise must satisfy the tests of demonstrating 'no alternatives' and 'reasons of overriding public interest'. There is no precedent for a residential development meeting those tests, which means that all residential development must provide mitigation. This residential development lies within the Zone of Influence of the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). The residents of new housing are therefore considered likely to regularly visit relevant designated sites for recreation. In order to avoid a likely significant effect in terms of increased recreational disturbance to coastal European designated sites (Habitats sites) mitigation measures will need to be in place prior to occupation.
- 8.61 This residential development lies within the Zone of Influence being is approximately 653 metres from Colne Estuary (Mid-Essex Coast Phase 2) SPA and Ramsar and Essex Estuaries SAC.
- 8.62 In order to ensure that the development would not adversely affect the integrity of Habitats sites in line with TDLP Section 2 Policy PPL4 and Regulation 63 of the Conservation of Habitat and Species Regulations 2017 a proportionate financial contribution in accordance with the emerging Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) is required.
- 8.63 A condition would be placed on any approved application to seek this contribution by way of Unilateral Undertaking.

### **9. Conclusion**

- 9.1 Officers are satisfied that existing services and facilities within Point Clear would be capable of supporting the development of 2 dwellings, and that these are accessible within safe walking distance of the site.
- 9.2 The proposed single storey dwellings are of a scale and design that will appear as an infill plot, in keeping with the linear pattern and scale of residential development in the locality.
- 9.3 Other than the high-level policy conflict in regard to the location of the site outside the defined settlement development boundary, the development would not result in any material harm in terms of design, impact, residential amenities or highway safety, and is acceptable in all other regards. This approach is in-line with the recent appeal decision cited in the report.

## 10. Recommendation

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

### 10.2 Conditions and Reasons

#### 1. COMPLIANCE: TIME LIMIT

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

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

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

CONDITION: The development hereby permitted shall be carried out in accordance with the drawings/documents listed below and/or such other drawings/documents as may be approved by the Local planning authority in writing pursuant to other conditions of this permission or such drawings/documents as may subsequently be approved in writing by the Local planning authority as a non-material amendment following an application in that regard.

- Site Location Plan Scale 1:1250 received 27 April 2023
- Drawing No HPCR-01 received 13 April 2023
- Materials details shown on Drawing No HPCR-01 received 13 April 2023
- 

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

#### 3. FURTHER APPROVAL: HARD AND SOFT LANDSCAPING SCHEME

CONDITION: Notwithstanding the landscaping details shown on approved Drawing No HPCR-01, prior to the commencement of any above ground works, a scheme of hard and soft landscaping shall be submitted to and approved, in writing, by the local planning authority. The scheme shall include any proposed changes in ground levels, accurately identify spread, girth and species of all existing trees, shrubs and hedgerows on the site and indicate any to be retained, together with measures for their protection which shall comply with the recommendations set out in the British Standards Institute publication "BS 5837: 2012 Trees in relation to design, demolition and construction". The proposed new boundary planting shall be planted a minimum of 1 metre back from the highway boundary and any visibility splay and retained free of obstruction above 600mm at all times. In addition to the new tree planting shown, additional planting in the form of new hedgerow planting on the garden side of the proposed low boundary wall should be included.

REASON: In order to enhance the appearance of the development, in the interests of visual amenity and the quality of the development, and in the interests of highway safety.

#### 4. COMPLIANCE WITH DETAILS AND TIMESCALE REQUIRED: LANDSCAPING SCHEME

CONDITION: All changes in ground levels, soft/hard landscaping shown on the approved landscaping details shall be carried out in full during the first planting and seeding season (October - March inclusive) following the commencement of the development, or in such other phased arrangement as may be approved, in writing, by the local planning authority up to the

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

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

5. COMPLIANCE: PERMEABLE SURFACING

CONDITION: All new parking areas and areas of hardstanding shall be made of porous materials, or provision shall be made to direct run-off water from the hard surface to a permeable or porous area within the site area.

REASON: In the interests of sustainable development and to minimise the risk of surface water flooding.

6. COMPLIANCE: CONSTRUCTION MANAGEMENT PLAN

CONDITION: The development hereby approved shall be carried out in accordance with the accompanying Construction Method Statement received 20 December 2024. The said methodology as approved shall be implemented in its entirety and shall operate as approved at all times during construction, unless otherwise agreed in writing by the local planning authority.

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

7. FURTHER APPROVAL: ARCHAEOLOGICAL WORKS 1

CONDITION: No development shall take place until a scheme of archaeological evaluation of the site, including timetable, has been submitted to and approved in writing by the Local Planning Authority (including any demolition needing to be carried out as necessary in order to carry out the evaluation). The evaluation shall be carried out in its entirety as may be agreed.

REASON: To safeguard archaeological assets within the approved development boundary from impacts relating to any groundworks associated with the development scheme and to ensure the proper and timely investigation, recording, reporting and presentation of archaeological assets affected by this development. This condition is required to be agreed prior to the commencement of any development to ensure matters of archaeological importance are preserved and secured early to ensure avoidance of damage or loss due to the development and/or its construction. If agreement was sought at any later stage as there is an unacceptable risk of loss and damage to archaeological and historic assets.

8. FURTHER APPROVAL: ARCHAEOLOGICAL WORKS 2

CONDITION: No development shall take place until a written report on the results of the archaeology evaluation of the site has been submitted to the Local Planning Authority and that confirmation by the Local Planning Authority has been provided

that no further investigation work is required in writing.

Should the Local Planning Authority require further investigation and works, no development shall take place on site until the implementation of a full programme of archaeological work has been secured, in accordance with a Written Scheme of Investigation which has been submitted to and approved in writing by the Local Planning Authority.

The scheme of investigation shall include an assessment of significance and research questions; and:

- a. The programme and methodology of site investigation and recording.
- b. The programme for post investigation assessment.
- c. Details of the provision to be made for analysis of the site investigation and recording.
- d. Details of the provision to be made for publication and dissemination of the analysis and records of the site investigation.
- e. Details of the provision to be made for archive deposition of the analysis and records of the site investigation; and
- f. Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.

The written scheme of investigation shall be carried out in its entirety prior to any other development taking place, or in such other phased arrangement including a phasing plan as may be previously approved in writing by the Local Planning Authority.

REASON: To safeguard archaeological assets within the approved development boundary from impacts relating to any groundworks associated with the development scheme and to ensure the proper and timely investigation, recording, reporting and presentation of archaeological assets affected by this development. This condition is required to be agreed prior to the commencement of any development to ensure features of archaeological importance are identified, preserved and secured to avoid damage or lost resulting from the development and/or its construction. If agreement was sought at any later stage, there is an unacceptable risk of loss and damage to archaeological and historic assets.

#### 9. FURTHER APPROVAL: ARCHAEOLOGICAL WORKS 3

CONDITION: No building shall be occupied until the archaeology evaluation, and if required the Written Scheme of Investigation, have been completed, submitted to and approved, in writing, by the Local Planning Authority. Furthermore, no building shall be occupied until analysis, publication and dissemination of results and archive deposition from the archaeology investigations as agreed under the Written Scheme of Investigation has taken place, unless an alternative agreed timetable or phasing for the provision of results is agreed in writing by the Local Planning Authority.

REASON: To safeguard archaeological assets within the approved development boundary from impacts relating to any groundworks associated with the development scheme and to ensure the proper and timely investigation, recording, reporting and presentation of archaeological assets affected by this development.

## 10. ACTION REQUIRED IN THE EVENT OF UNEXPECTED GROUND CONDITIONS

CONDITION: The Local Planning Authority shall be contacted in the event of unexpected ground conditions being encountered during construction and the below minimum precautions shall be undertaken immediately.

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

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

REASON: It is the responsibility of the developer to ensure the safe development of the site and to carry out any appropriate land contamination investigation and remediation works. The condition is to ensure the risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

11. PRE-COMMENCEMENT CONDITION: MITIGATION TO BE AGREED, RAMS

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

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

NOTE/S FOR CONDITION:

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

Typically, a contribution towards visitor management measures at the protected Habitats Site(s) may be the preferred and simplest approach to fulfil the requirements of this condition. To fulfil this requirement, you can contribute funds towards a range of mitigation projects in the protected areas. It is essential to secure this provision through a legal agreement between the District Council, Developer/Applicant, and site owners prior to commencement of development. You are strongly advised to finalise the legal agreement with the District Council before submitting any request to discharge this condition. Failure to conclude the agreement within the discharge of condition application timeframe may lead to the refusal to discharge the condition. Please note if there are other obligations needed for this development, for example to secure monitoring and maintenance of a Biodiversity Net Gain Plan, you may wish to combine these together as one agreement. Furthermore, please also note a legal agreement will include legal fees and may require obligations to secure monitoring and associated fees.

10. SPECIFIC RESTRICTION ON DEVELOPMENT: SELF-BUILD AND CUSTOM-BUILD

CONDITION: The dwelling/s approved by this permission shall be occupied only by persons who have built or commissioned the building of the dwelling/s for their own occupation and use as a self-build project in accordance with the Self-build and Custom Housebuilding Act 2015 for a minimum of 24 hours from first occupation by said persons.

Furthermore, the following scheduled actions shall be undertaken.

- Prior to commencement of the development, details of the (a) individuals, (b) associations of individuals, or (c) persons working with or for individuals or associations of individuals, both building the development and who are to occupy the dwelling/s if different shall be confirmed in writing to the local planning authority. Should there be any changes to these details during construction, these shall be updated in writing to the local planning authority.
- On first occupation details of the first occupier of the dwelling/s shall be confirmed in writing to the local planning authority and subsequently the Local Planning Authority



shall be informed of if and when that occupier changes within the first year of occupation.

REASON: The dwelling/s approved by this permission shall be occupied only by persons who have built or commissioned the building of the dwelling/s for their own occupation and use as a self-build project in accordance with the Self-build and Custom Housebuilding Act 2015 (as amended) and to accord with provisions of the Local Plan and NPPF.

11 PRIOR TO OCCUPATION CONDITION - PASSING BAY CONDITION –

Prior to the first occupation of the hereby approved development the passing bay indicated on Drawing No. CPC-102 Rev A. shall be implemented and completed in its entirety, and hereby retained thereafter .

REASON: In the interest of highway safety

10.3 Informatives

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

11. Additional Considerations

Equality Impact Assessment

- 11.1 In making this recommendation/decision regard must be had to the public sector equality duty (PSED) under section 149 of the Equality Act 2010 (as amended). This means that the Council must have due regard to the need in discharging its functions that in summary include A) Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act; B. Advance equality of opportunity between people who share a protected characteristic\* (See Table) and those who do not; C. Foster good relations between people who share a protected characteristic\* and those who do not, including tackling prejudice and promoting understanding.
- 11.2 It is vital to note that the PSED and associated legislation are a significant consideration and material planning consideration in the decision-making process. This is applicable to all planning decisions including prior approvals, outline, full, adverts, listed buildings etc. It does not impose an obligation to achieve the outcomes outlined in Section 149. Section 149 represents just one of several factors to be weighed against other pertinent considerations.
- 11.3 In the present context, it has been carefully evaluated that the recommendation articulated in this report and the consequent decision are not expected to disproportionately affect any protected characteristic\* adversely. The PSED has been duly considered and given the necessary regard, as expounded below.

Protected Characteristics *	Analysis	Impact
Age	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Disability	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Gender Reassignment	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Marriage or Civil Partnership	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral

Pregnancy and Maternity	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Race (Including colour, nationality and ethnic or national origin)	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Sexual Orientation	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Sex (gender)	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Religion or Belief	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral

### Human Rights

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

### Finance Implications

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

## **12. Declaration of Interest**

Please refer to the minutes of this meeting, which are typically available on the councils website which will be published in due course following conclusion of this meeting.

## **13. Background Papers**

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

## PLANNING COMMITTEE

19<sup>th</sup> March 2025

### REPORT OF THE DIRECTOR OF PLANNING

#### A.4 PLANNING APPLICATION – 25/00061/FUL – CLACTON RUGBY CLUB VALLEY ROAD CLACTON ON SEA CO15 6NA



DO NOT SCALE

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<b>Application:</b>	25/00061/FUL	<b>Expiry Date:</b>	17th March 2025
<b>Case Officer:</b>	Oliver Ashford	<b>EOT Date:</b>	
<b>Town/ Parish:</b>	Clacton (Non Parish)		
<b>Applicant:</b>	Brian White - Clacton Rugby Club		
<b>Address:</b>	Clacton Rugby Club Valley Road Clacton On Sea Essex CO15 6NA		
<b>Development:</b>	Planning Application - Proposed extension and alterations to provide further changing area, toilets and showers for teams.		

## 1. Executive Summary

- 1.1 This application is before the Planning Committee as the application site is owned by Tendring District Council.
- 1.2 The proposal is not considered to be harmful to the character and appearance of the area and will not result in any significant impact to neighbouring amenities. Accordingly, the application is recommended for approval subject to conditions.

<p><b>Recommendation:</b> Approval</p> <ol style="list-style-type: none"> <li>1) That the Head of Planning and Building Control be authorised to grant planning permission subject to the conditions as stated at paragraph 10.2, or varied as is necessary to ensure the wording is enforceable, precise, and reasonable in all other respects, including appropriate updates, so long as the principle of the conditions as referenced is retained; and,</li> <li>2) The informative notes as may be deemed necessary.</li> </ol>
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## 2. Status of the Local Plan

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

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

(<https://www.tendringdc.uk/content/evidence-base>) together with any Neighbourhood Plans that have been made and the Minerals and Waste Local Plans adopted by Essex County Council.

In relation to housing supply:

The Framework requires Councils to significantly boost the supply of homes to meet the District's housing need. Paragraph 78 states that local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against their housing requirement set out in adopted strategic policies, or against their local housing need where the strategic policies are more than five years old. The supply of specific deliverable sites should in addition include a buffer (moved forward from later in the plan period) of 5% to ensure choice and competition in the market for land, unless the Housing Delivery Test (HDT) demonstrates significant under delivery of housing over the previous 3 years - in which case a higher buffer is required.

On 12th December 2024 the Government published the Housing Delivery Test: 2023 measurement. Against a requirement for 1,466 homes for 2020-2023, the total number of homes delivered was 2,343. The Council's HDT 2023 measurement was therefore 160%, and a buffer of 5% is to be used when calculating the Council's five year land supply position.

The Council demonstrates its supply of specific deliverable sites within the Strategic Housing Land Availability Assessment (SHLAA), which is published annually. The most recent SHLAA was published by the Council in July 2024, and demonstrates a 6.26-year supply of deliverable housing sites against the annual requirement of 550 dwellings per annum set out within the adopted Local Plan, plus a 5% buffer. The SHLAA can be viewed on the Council's website: <https://www.tendringdc.gov.uk/content/monitoring-and-shlaa>

As a result, the 'titled balance' at paragraph 11 d) of the Framework does not apply to decisions relating to new housing development.

### **3. Neighbourhood Plans**

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

### **4. Planning Policy**

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

#### **National:**

National Planning Policy Framework December 2024 ([NPPF](#))

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

#### **Local:**

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

SP1 Presumption in Favour of Sustainable Development

SP3 Spatial Strategy for North Essex

SP7 Place Shaping Principles

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

SPL1 Managing Growth

- SPL2 Settlement Development Boundaries
- SPL3 Sustainable Design
- HP1 Improving Health and Wellbeing
- HP2 Community Facilities
- HP3 Green Infrastructure
- HP4 Safeguarded Open Space
- HP5 Open Space, Sports and Recreation Facilities
- PPL1 Development and Flood Risk
- PPL4 Biodiversity and Geodiversity
- CP1 Sustainable Transport and Accessibility

Supplementary Planning Documents

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

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

[Essex Design Guide](#)

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

Biodiversity Net Gain Supplementary Planning Document June 2023 (DRAFT)

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

**5. Relevant Planning History**

90/00278/FUL	Extension to club.	Approved	30.03.1990
95/00812/FUL	(Clacton Recreation Ground Rugby Club (Softball Pitch),) Improvements to softball pitch and facilities to include levelling of pitch/retaining wall, tiered seating, storage building and water tanks	Approved	05.09.1995
95/01317/FUL	(Recreation Ground, Valley Road, Clacton on Sea) Club house extension/alterations. Pitch improvements	Approved	30.01.1996
04/02180/FUL	Extension and alteration and training lights	Approved	16.12.2004
05/00647/FUL	Extension and alteration and training lights (revised design from app 04/02180/FUL)	Approved	11.08.2005
09/00398/FUL	Proposed changing room cabin, entrance canopy and storage containers alterations.	Refused	16.09.2009
11/00971/FUL	Phase 1, extension and alterations and additional training lights.	Withdrawn	15.08.2011
11/00976/FUL	Club house extensions and alterations and additional flood lighting.	Approved	08.12.2011

12/00704/FUL	Club house extensions and alterations and additional flood lighting (amendments to application 11/00976/FUL).	Approved	21.08.2012
24/00185/FUL	Retention of existing cabin serving as changing room and proposed cabin to extend changing room area, relocation of existing equipment storage structures and other external alterations including new 1.8m high screen fencing (part retrospective).	Approved	10.07.2024

## 6. Consultations

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

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

### Environmental Protection

06.02.2025

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

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

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

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

Should you have any queries concerning this, please do not hesitate to contact me.

## **Essex County Council Highways 04.03.2025**

The information submitted with the application has been assessed and conclusions have been drawn from a desktop study with the observations below based on the submitted material and google maps. No site visit was undertaken in conjunction with this planning application. It is noted that the proposals are like previous planning application; 24/00185/FUL that was acceptable to the Highway Authority. As per the previous application, no changes are proposed to the established vehicular access off Valley Road or to the internal car park area within the site. The proposal is set well back from the public highway, and it is not envisaged that the alterations would give rise to a significant increase in vehicle movements to and from the site or result in a material change in the character of the traffic in the vicinity of the site, considering these factors:

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

1. No development shall take place, including any ground works or demolition, until a Construction Management Plan has been submitted to, and approved in writing by, the local planning authority. The approved plan shall be adhered to throughout the construction period. The Plan shall provide for:
  - i. the parking of vehicles of site operatives and visitors,
  - ii. loading and unloading of plant and materials,
  - iii. storage of plant and materials used in constructing the development,
  - iv. wheel and underbody washing facilities.
  - v. Before and after condition survey to identify defects to highway in the vicinity of the access to the site and where necessary ensure repairs are undertaken at the developer expense when caused by the developer.

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

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

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

The above conditions are to ensure that the proposal conforms to the relevant policies contained within the Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance and National Planning Policy Framework.

### **Informative:**

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

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

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



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

## **7. Representations**

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

Clacton on Sea is non parished – No comments received.

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

None

## **8. Assessment**

### **Site Context**

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

### **Planning History**

8.2 Planning Permission was granted in 2024 for the retention of an existing storage container and an additional container to be used as changing facilities (24/00185/FUL). The later element of the permission is not implemented, but remains extant.

### **Proposal**

8.3 The application seeks planning permission for the proposed extension and alterations to provide changing area toilets and showers for female and youth teams. The extension is proposed to be permanent and constructed with timber frame and painted wood cladding to provide an expanded provision for the users of the Rugby Club which as well as male users also has a youth section with teams from 8-16 years both boys and girls running on Sundays and a new ladies team.

### **Assessment**

8.4 The Main Considerations for this application are:

- Principle of Development
- Design and Appearance
- Impact upon Neighbouring Amenities
- Highways Impacts

### Principle of Development

- 8.5 The site is within the Settlement Development Boundary and the development relates to the existing use of the Rugby Club. Policy HP2 seeks to deliver and maintain a range of new community facilities. New development should support and enhance community facilities by providing or contributing towards new or enhanced community facilities to meet needs arising from the proposed development or growth.

The proposed development, which is required to support the operation and services provided by the Rugby Club is considered to be aligned with the aims of HP2 and therefore the principle of development is supported subject to the detailed policy considerations discussed below.

### Design and Appearance

- 8.6 The Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.
- 8.7 Paragraph 135 of the NPPF requires that developments are visually attractive as a result of good architecture, are sympathetic to local character and history, including the surrounding built environment, function well and add to the overall quality of the area, and establish or maintain a strong sense of place.
- 8.8 Local Plan Policy SP7 seeks high standards of urban and architectural design, which respond to local character and context. Local Plan Policies SPL3 and LP4 also require, amongst other things, that developments deliver new dwellings that are designed to high standards and which, together with a well considered site layout that relates well to its site and surroundings.
- 8.9 The proposed extension is to be constructed with a timber frame and painted wood cladding in similar design to the original changing rooms on site. To the west, the proposals will be visible from the railway line which has a higher elevation however it is not possible to provide screening from this viewpoint. It is considered that proposed design would not result in any long-term material harm to the character and appearance of the surrounding area. For the reasons set out above, and specifically due to the proposed screening measures, officers view is that a temporary use condition is not necessary in this instance.

### Impact upon neighbouring amenities

- 8.10 Paragraph 135 of The Framework maintains that policies and decisions should result in new development that creates places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users. Policy SPL3 seeks new development that does not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties.
- 8.11 It is not considered, given the siting of the proposed extension and the separation distances from the neighbouring residential properties, coupled with the fact the existing Rugby Club provides and Recreation ground is a functioning sports facility, that the proposal would have an adverse impact on the residential amenity of the neighbouring properties

### Highways Impacts

- 8.12 Paragraph 114 of the NPPF states that in assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that safe and suitable access to the site can be achieved for all users.
- 8.13 Policy CP1 of the Local Plan states that Proposals for new development must be sustainable in terms

of transport and accessibility and therefore should include and encourage opportunities for access to sustainable modes of transport, including walking, cycling and public transport.

8.14 Essex County Council as Highway Authority have been consulted on the application and raise no objection. It is noted that no changes are proposed to the established vehicular access off Valley Road or to the internal off-street car parking area within the site. The proposal is set well back from the public highway, and it is not envisaged that the alterations would give rise to a significant increase in vehicle movements to and from the site or result in a material change in the character of the traffic in the vicinity of the site, therefore the proposals are acceptable from a highway safety point of view subject to appropriate conditions.

#### 8.15 General duty on all authorities

The Natural Environment and Rural Communities Act 2006 amended by the Environment Act 2021 provides under Section 40 the general duty to conserve and enhance biodiversity: "For the purposes of this section "the general biodiversity objective" is the conservation and enhancement of biodiversity in England through the exercise of functions in relation to England." Section 40 states authorities must consider what actions they can take to further the general biodiversity objective and determine policies and specific objectives to achieve this goal. The actions mentioned include conserving, restoring, or enhancing populations of particular species and habitats. In conclusion for decision making, it is considered that the Local Planning Authority must be satisfied that the development would conserve and enhance.

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

#### 8.16 Biodiversity net gain

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

In accordance with the overarching duty outlined above, this development is committed to actively contributing to the conservation and enhancement of biodiversity as set out above and within the planning conditions. In conclusion, this development is considered to accord to best practice, policy, and legislation requirements in consideration of the impacts on ecology interests.

### 9. Conclusion

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

### 10. Recommendation

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

## 10.2 Conditions and Reasons

### 1 COMPLIANCE REQUIRED: COMMENCEMENT TIME LIMIT

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

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

#### NOTE/S FOR CONDITION:

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

### 2 APPROVED PLANS & DOCUMENTS

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

Drawing No. 5000 25 2

Drawing No. 5000 25 3

Drawing No. 5000 25 4

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

#### NOTE/S FOR CONDITION:

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

Please note in the latest revision of the National Planning Policy Framework (NPPF) it provides that Local Planning Authorities should seek to ensure that the quality of approved development is not materially diminished between permission and completion, as a result of

changes being made to the permitted scheme (for example through changes to approved details such as the materials used). Accordingly, any future amendment of any kind will be considered in line with this paragraph, alongside the Development Plan and all other material considerations.

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

### 3. CONSTRUCTION WORKING HOURS

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

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

REASON: to protect the amenity of nearby residential premises

### 4. MATERIALS ON SITE

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

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## 10.3 Informatives

### Positive and Proactive Statement

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

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

## 11. Additional Considerations

### Public Sector Equality Duty (PSED)

- a. In making your decision you must have regard to the PSED under section 149 of the Equality Act 2010 (as amended). This means that the Council must have due regard to the need in discharging its functions to:

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

#### Human Rights

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

#### Finance Implications

- k. Local finance considerations are a matter to which local planning authorities are to have regard in determining planning applications, as far as they are material to the application. It is noted that this is Council land, but no weight is given to this matter.

## **12. Background Papers**

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