



PLANNING COMMITTEE

DATE: Wednesday 30 November 2016
TIME: 6.00 pm
VENUE: Council Chamber, Council Offices,
Thorpe Road, Weeley, CO16 9AJ

MEMBERSHIP:

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

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

For further details and general enquiries about this meeting, contact Katie Sullivan on 01255 686585

DATE OF PUBLICATION: MONDAY 21 NOVEMBER 2016

AGENDA

1 Apologies for Absence and Substitutions

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

2 Minutes of the Last Meeting (Pages 1 - 8)

To confirm and sign as a correct record, the minutes of the meeting of the Committee, held on 1 November 2016.

3 Declarations of Interest

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

4 A.1 - Planning Application - 16/01169/OUT - Land East of Landermere Road, Thorpe-le-Soken, CO16 0NF (Pages 9 - 28)

Outline Application for the construction of up to 98 dwellings, public open space and supporting site infrastructure with all matters reserved apart from access.

5 A.2 - Planning Application - 16/01250/OUT - Brook Park West, Clacton-on-Sea, CO15 3TP (Pages 29 - 64)

Hybrid planning application comprising:

- Detailed application for foodstore (A1), hotel (C1), family public house (A3/A4), restaurants (A1/A3/A5), retail warehouse units (A1), picker's ditch major open space and associated access, landscaping, car parking and associated works.

- Outline application for residential (C3) and employment development (B1 (a), (b), (c)) and associated access, landscaping, car parking and associated works (all matters reserved except access).

6 A.3 - Planning Application - 15/01810/OUT - Land North of Stourview Avenue, Mistley, CO11 1LT (Pages 65 - 94)

Proposed new access road and the erection of up to 70 dwellings and associated works.

7 A.4 - Planning Application - 16/00920/FUL - 32-37 Brooklands, Jaywick, CO15 2JS (Pages 95 - 110)

Demolition of existing detached bungalows and erection of four storey block of flats, comprising of car parking and storage to ground floor and first, second and third floor residential with associated amenity.

8 A.5 - Planning Application - 16/00921/FUL - 23-27 Brooklands, Jaywick, CO15 2JS (Pages 111 - 126)

Demolition of existing detached bungalows and erection of four storey block of flats, comprising of car parking and storage to ground floor and first, second and third floor residential with associated amenity.

9 A.6 - Planning Application - 16/00878/FUL - Ardleigh Squash and Leisure Club, Dedham Road, Ardleigh, CO7 7NH (Pages 127 - 142)

Demolition of existing building and construction of 7 No. 4 bedroom detached houses and associated garages and diversion of existing footpath public right of way.

10 A.7 - Planning Application - 16/01165/OUT - Land Adj. 43 Mill Lane, Weeley, CO16 9BZ (Pages 143 - 154)

The construction of 6 No dwellings with associated garages and parking.

11 A.8 - Planning Application - 16/01391/OUT - Land Off Connaught Road, Weeley, CO16 9EL (Pages 155 - 164)

Residential development of 0.5 ha of land to create up to eight detached bungalows.

12 A.9 - Planning Application - 16/00618/FUL - Lawford House, Bromley Road, Lawford, CO11 2JD (Pages 165 - 188)

Erection of 9 No. detached dwellings and garages and formation of new access.

13 A.10 - Planning Application - 16/01615/FUL - Garages at Pound Farm Drive, Dovercourt, CO12 4LB (Pages 189 - 192)

Proposed replacement garage block.

14 A.11 - Urgent Item - Planning Appeals - Land North of Rush Green Road, Clacton-on-Sea (Pages 193 - 194)

Following legal advice to the Council, the Committee is asked to formally confirm the withdrawal of reasons for refusal 2, 3 and 4 in respect of planning application 15/00904/OUT, prior to the scheduled Public Inquiry.

15 A.12 - Urgent Item - Planning Application - 16/00677/FUL - Kidbys Nurseries, Clacton Road, Weeley Heath, Clacton-on-Sea, CO16 9EF (Pages 195 - 196)

To avoid any ambiguity or risk of challenge on procedural grounds, and to enable the Section 106 legal agreement to be completed and for planning permission to be issued, the Planning Committee is asked to confirm that it is happy for the Section 106 legal agreement to secure the transfer of one gifted unit to the Council for use as Council Housing/Affordable Housing.

Date of the Next Scheduled Meeting

The next scheduled meeting of the Planning Committee is to be held in the Council Chamber - Chamber at 6.00 pm on Tuesday, 3 January 2017.

Information for Visitors

FIRE EVACUATION PROCEDURE

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**MINUTES OF THE MEETING OF THE PLANNING COMMITTEE,
HELD ON TUESDAY 1 NOVEMBER 2016 AT 6.00 PM
IN THE COUNCIL CHAMBER, COUNCIL OFFICES, THORPE ROAD, WEELEY**

Present:	Councillors White (Chairman), Baker, Bennison, Fairley, Fowler, Hones, Hughes, V E Guglielmi and Nicholls
Also Present:	Councillors G V Guglielmi (except items 64-67), Land (except items 68-74) and Steady (except items 72-74)
In Attendance:	Lisa Hastings (Head of Governance and Legal Services), Cath Bicknell (Head of Planning), Susanne Ennos (Senior Planning Officer) and Katie Sullivan (Committee Services Officer)

64. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

Apologies for absence were received from Councillors Everett, Gray, Heaney (with Councillor Nicholls substituting) and McWilliams (with Councillor V E Guglielmi substituting).

The Chairman informed the Committee that, in the absence of the Vice-Chairman (Councillor Heaney), Councillor Fairley would be informally acting as his Vice-Chairman for this meeting.

65. MINUTES OF THE LAST MEETING

The minutes of the last meeting of the Committee, held on Tuesday 18 October 2016, were approved as a correct record and signed by the Chairman, subject to it being noted that there had been an error with the audio equipment and, as a result, the meeting had not been recorded.

66. DECLARATIONS OF INTEREST

Councillor V E Guglielmi declared a Non-Pecuniary Interest in relation to Planning Applications 16/01370/OUT and 16/01373/OUT by virtue of the fact she was a member of a committee of a charitable housing company on which Mr Rose (the applicant) was also a member, but that the applications were nothing to do with that committee.

The Council's Head of Governance and Legal Services (Lisa Hastings) asked Councillor V E Guglielmi to confirm that her judgement was not prejudiced in any way as she knew the applicant. Councillor V E Guglielmi confirmed that she was not prejudiced in any way and that her decision would be based on the applications before her.

Councillor Nicholls declared a Non-Pecuniary Interest in relation to Planning Applications 16/01370/OUT and 16/01373/OUT by virtue of the fact he was a member of a committee of a charitable housing company on which Mr Rose (the applicant) was also a member, but that the applications were nothing to do with that committee.

Councillor Fairley declared a Non-Pecuniary Interest in relation to Planning Application 16/00871/DETAIL by virtue of the fact she was the local Ward Member.

Later on in the meeting, as recorded below in minute 69, Councillor G V Guglielmi, present in the public gallery, declared a Non-Pecuniary Interest in relation to Planning Applications 16/01370/OUT and 16/01373/OUT by virtue of the fact he was a Director of a charitable housing company in which Mr Rose (the applicant) was also a Director.

67. **A.1 - PLANNING APPLICATION - 16/00838/OUT - LAND TO SOUTH OF FRINTON ROAD, THORPE-LE-SOKEN, CO16 0JF**

It was reported that this application was before the Committee as it was a departure from the Local Plan and it had also been referred to the Committee at the request of Councillor Land, the local Ward Member.

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

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

An update sheet was circulated to the Committee prior to the meeting with details of an objection submitted by Councillor Bucke.

Sue Parker, a local resident, spoke against the application.

Parish Councillor Carpenter, representing Thorpe-le-Soken Parish Council, spoke against the application, being contrary to the Parish Council's previous submission.

Councillor Land, the local Ward Member, spoke against the application.

Tim Snow, the agent for the applicant, spoke in support of the application.

Questions were raised in regards to the views of Thorpe-le-Soken Parish Council which Officers responded to.

Following discussion by the Committee, and consideration of further advice provided by Officers at the meeting with regards to defending potential reasons for refusal, in particular evidence to justify any impact on highways, it was moved by Councillor Hughes, seconded by Councillor Bennison and **RESOLVED** that contrary to the Officers' recommendation of approval, the Head of Planning (or equivalent authorised officer) be authorised to refuse planning permission for the development for the following reasons:

- Adverse impact on heritage assets;
- Adverse impact on wildlife/protected species; and
- Adverse impact on highways.

68. **A.2 - PLANNING APPLICATION - 16/01137/FUL - SITE WEST OF EDWARDS DRIVE, THORRINGTON, CO7 8JN**

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

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

Tim Snow, the agent on behalf of the applicant, spoke in support of the application.

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

a) Within six months of the date of the Committee's resolution to approve, the completion of a legal agreement under the provisions of Section 106 of the Town and Country Planning Act 1990 dealing with the following matters (where relevant):

- On-site Council Housing/Affordable Housing;
- On-site or off-site open space/play equipment.

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

(i) Conditions:

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

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

69. A.3 - PLANNING APPLICATION - 16/01370/OUT - LAND ADJACENT 6 MANNINGTREE ROAD, LITTLE BENTLEY, CO7 8SP

Councillor V E Guglielmi had earlier declared a Non-Pecuniary Interest in relation to Planning Applications 16/01370/OUT and 16/01373/OUT by virtue of the fact she was a member of a committee of a charitable housing company on which Mr Rose (the applicant) was also a member.

The Council's Head of Governance and Legal Services (Lisa Hastings) had earlier asked Councillor V E Guglielmi to confirm that her judgement was not prejudiced in any way as she knew the applicant. Councillor V E Guglielmi had confirmed that she was not prejudiced in any way and that her decision would be based on the applications before her.

Councillor Nicholls had earlier declared a Non-Pecuniary Interest in relation to Planning Applications 16/01370/OUT and 16/01373/OUT by virtue of the fact he was a member of a committee of a charitable housing company on which Mr Rose (the applicant) was also a member.

Councillor G V Guglielmi, present in the public gallery, declared a Non-Pecuniary Interest in relation to Planning Applications 16/01370/OUT and 16/01373/OUT by virtue of the fact he was a Director of a charitable housing company in which Mr Rose (the applicant) was also a Director. Councillor Guglielmi also confirmed that the company did not have any connection to the applications before the committee.

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

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

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

An update sheet was circulated to the Committee prior to the meeting with details of comments which had been received from Little Bentley Parish Council supporting the application.

Parish Councillor Dyson, representing Little Bentley Parish Council, spoke in support of the application.

Councillor G V Guglielmi, a local Ward Member, spoke in support of the application.

Steven Rose, the applicant, spoke in support of the application.

Following discussion by the Committee, and consideration of further advice provided by Officers at the meeting in regards to the inclusion of standard conditions, it was moved by Councillor Nicholls, seconded by Councillor Baker and unanimously **RESOLVED** that contrary to the Officers' recommendation of refusal, the Head of Planning (or equivalent authorised officer) be authorised to approve planning permission for the development, subject to:

- a) Standard outline application conditions being applied; and
- b) Any reserved matters application for this development being submitted to the Committee for its consideration.

70. A.4 - PLANNING APPLICATION - 16/01373/OUT - CARBRIA, TENDRING ROAD, LITTLE BENTLEY, CO7 8SH

Councillor V E Guglielmi had earlier declared a Non-Pecuniary Interest in relation to Planning Applications 16/01370/OUT and 16/01373/OUT by virtue of the fact she was a member of a committee of a charitable housing company on which Mr Rose (the applicant) was also a member.

The Council's Head of Governance and Legal Services (Lisa Hastings) had earlier asked Councillor V E Guglielmi to confirm that her judgement was not prejudiced in any

way as she knew the applicant. Councillor V E Guglielmi had confirmed that she was not prejudiced in any way and that her decision would be based on the applications before her.

Councillor Nicholls had earlier declared a Non-Pecuniary Interest in relation to Planning Applications 16/01370/OUT and 16/01373/OUT by virtue of the fact he was a member of a committee of a charitable housing company on which Mr Rose (the applicant) was also a member.

Councillor G V Guglielmi, present in the public gallery, had earlier declared a Non-Pecuniary Interest in relation to Planning Applications 16/01370/OUT and 16/01373/OUT by virtue of the fact he was a Director of a charitable housing company on which Mr Rose (the applicant) was also a Director.

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

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

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

An update sheet was circulated to the Committee prior to the meeting with details of comments which had been received from Little Bentley Parish Council supporting the application.

Parish Councillor Dyson, representing Little Bentley Parish Council, spoke in support of the application.

Councillor G V Guglielmi, a local Ward Member, spoke in support of the application.

Steven Rose, the applicant, spoke in support of the application.

Following discussion by the Committee, it was moved by Councillor Nicholls, seconded by Councillor Bennison and unanimously **RESOLVED** that contrary to the Officers' recommendation of refusal, the Head of Planning (or equivalent authorised officer) be authorised to approve planning permission for the development, subject to:

- a) Standard outline application conditions being applied; and
- b) Any reserved matters application for this development being submitted to the Committee for its consideration.

71. **A.5 - PLANNING APPLICATION - 16/01385/FUL - HOMEFIELD, CHURCH ROAD, BRIGHTLINGSEA, CO7 0QT**

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

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

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

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

- (1) One additional letter of objection;
- (2) Additional photographs of the site received from Councillor Chapman; and
- (3) An email received from the agent.

Elizabeth Artindale, a local resident, spoke against the application.

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

Tim Snow, the agent on behalf of the applicant, spoke in support of the application.

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

- Back land development;
- Harmful to the character of the area; and
- Impact of access on neighbours' amenities.

72. A.6 - PLANNING APPLICATION - 16/01400/OUT - LAND ADJACENT HOLLYOAK, PORK LANE, GREAT HOLLAND, CO13 0JE

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

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

Members were informed that since the update sheet had been published a further letter of objection had been received.

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

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

- 1) Time Limit – Outline;
- 2) Time Limit – Submission of Reserved Matters;
- 3) No Development until Reserved Matters (access, appearance, layout, landscaping and scale) submitted;
- 4) Materials;
- 5) Boundary treatments;
- 6) Submission of hard/soft landscaping scheme;
- 7) Implementation of landscaping scheme;
- 8) A suitably constructed access measuring no less than 5.5m in width and providing a parallel visibility band of 2m deep across the site frontage;

- 9) No unbound materials in first 6m of access;
- 10) Off-street parking in accordance with current parking standards;
- 11) Garages being set back 6m from highway; and
- 12) Boundary hedge being setback 1m from highway and 1m behind visibility splays.

73. A.7 - PLANNING APPLICATION - 16/00871/DETAIL - LAND REAR OF WHITE HART, HARWICH ROAD, WIX, CO11 2SA

Councillor Fairley had earlier declared a Non-Pecuniary Interest in relation to Planning Application 16/00871/DETAIL by virtue of the fact she was the local Ward Member.

Members were reminded that, in 2011, full planning permission had been granted for a 36 bedroom motel on the site following previous planning permission for an 18 bedroom motel and a 36 bedroom motel on the site. The 2011 planning permission had been implemented thereby securing that planning permission in perpetuity. In April 2013 Planning Permission had been subsequently granted (under planning reference 12/01135/OUT) following Committee approval for the site to be re-developed for 10 dwellings.

The outline application had required matters of landscaping and appearance to be determined by reserved matters which were the subject of this application. The application also included details relating to the discharge of conditions relating to site levels, bicycle storage, on-site parking/loading and wheel and underbody cleaning facilities (during site development).

In accordance with Members' request the current application was before the Committee to seek consent with regard to the reserved matters of landscaping and appearance.

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

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

Following discussion by the Committee, it was moved by Councillor Nicholls, seconded by Councillor V E Guglielmi and unanimously **RESOLVED** that the Head of Planning (or equivalent authorised officer) be authorised to approve the reserved matters and condition details, subject to the following Condition:

1. Approved Plans.

Informative:

That the applicant be reminded that those conditions attached to outline planning permission 12/01135/OUT remain extant and of effect.

74. A.8 - PLANNING APPLICATION - 16/01441/FUL - 36 HARWICH ROAD, LITTLE OAKLEY, CO12 5JF

It was reported that this application had been referred to the Planning Committee as the applicant was Tendring District Council.

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

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

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

1. Time Limit; and
2. Approved Plans.

The meeting was declared closed at 9.28 pm

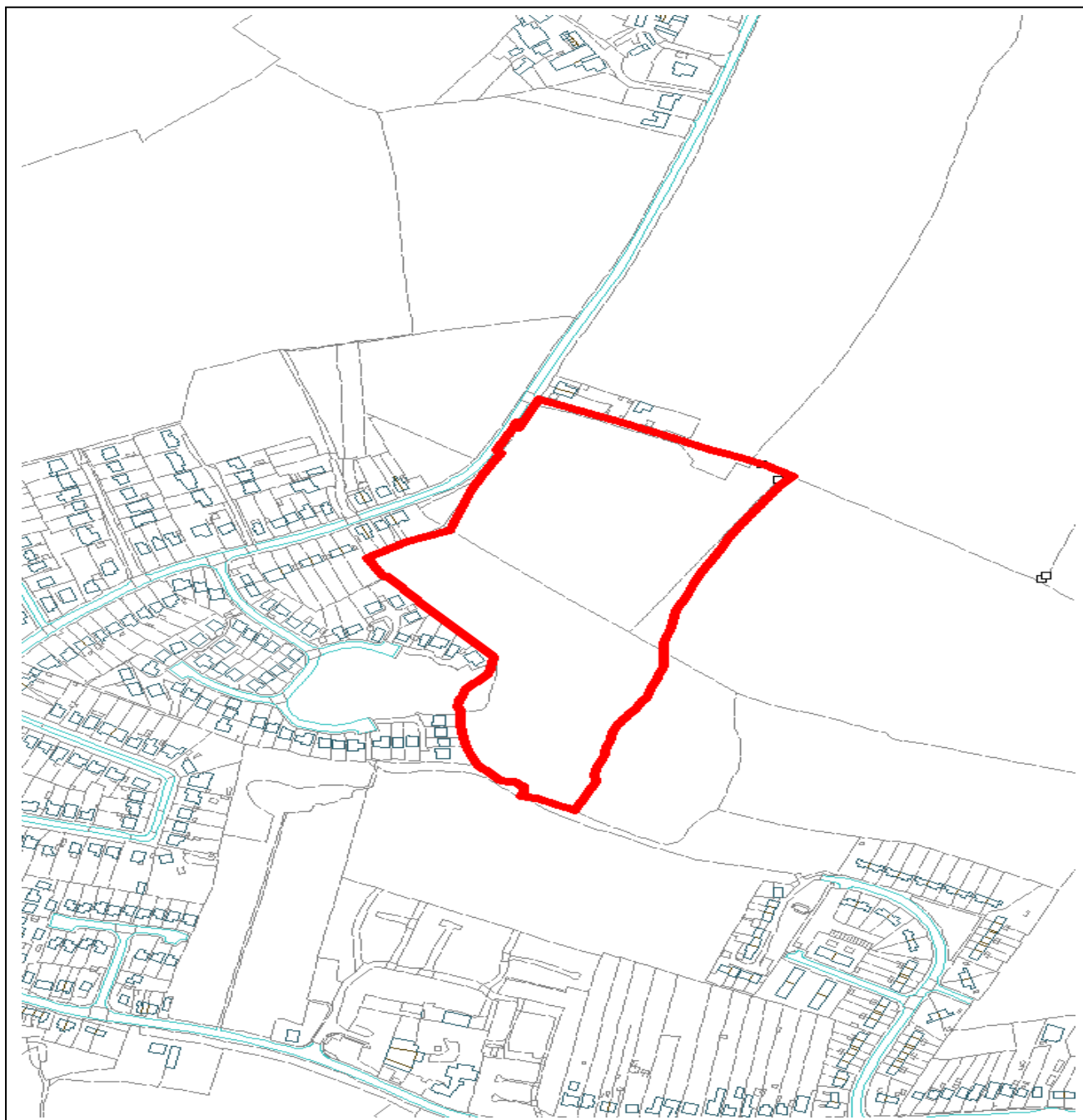
Chairman

PLANNING COMMITTEE

30 NOVEMBER 2016

REPORT OF THE HEAD OF PLANNING

A.1 PLANNING APPLICATION – 16/01169/OUT - LAND EAST OF LANDERMERE ROAD, THORPE-LE-SOKEN, CO16 0NF



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Application:	16/01169/OUT	Town / Parish: Thorpe Le Soken Parish Council
Applicant:	Mr Rob Scott	
Address:	Land East Side of Landermere Road, Thorpe Le Soken, CO16 0NF	
Development:	Outline Application for the construction of up to 98 dwellings, public open space and supporting site infrastructure with all matters reserved apart from access.	

1. Executive Summary

- 1.1 This is an outline planning application seeking approval for the principle of developing up to 98 dwellings with all other matters, with the exception of access, reserved for approval through a detailed application at a later date. As a departure from the Local Plan, this application is before the Committee for a decision.
- 1.2 The application site measures some 5.60 hectares in area and lies outside of the defined settlement development boundary for Thorpe Le Soken in the adopted Local Plan, but does form part of an allocation for residential development in the Preferred Options Consultation Document July, 2016. The site immediately joins the north east boundary of Thorpe Le Soken on the east side of Landermere Road. The site is located a relatively short distance from the centre of the village, which is identified as one of six 'Rural Service Centres' in the new draft Local Plan, that contain a relatively good range of local services and facilities with potential for limited growth in homes and jobs.
- 1.3 Whilst the position is improving, the Council is still, at the time of writing, unable to demonstrate a 5 year supply of deliverable housing sites and the National Planning Policy Framework (NPPF) therefore imposes a presumption in favour of sustainable development whether a site forms part of the Local Plan or not. It requires that planning permission be granted unless any adverse effects of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF as a whole. As noted this site does form a new allocation in the emerging Local Plan and therefore some weight can be given in policy terms to development of the site for housing. When weighing the planning balance, Officers are recommending that the scheme does meet the requirements of the NPPF and can be approved.

Recommendation: Approve Outline Planning Permission

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

- a) Within 6 months of the date of the Committee's resolution to approve, the completion of a legal agreement under the provisions of section 106 of the Town and Country Planning Act 1990 dealing with the following matters (where required):
- Council/affordable housing;
 - Education contributions;
 - Public open space and play and its transfer and maintenance.
 - NHS contribution.
- b) Planning conditions in accordance with those set out in (i) below (but with such amendments and additions, if any, to the detailed wording thereof as the Head of Planning

(or the equivalent authorised officer) in their discretion considers appropriate).

- (i) Conditions:
1. Standard 3 year time limit for submission of reserved matters application;
 2. Standard 2 year limit for commencement of development following approval of reserved matters;
 3. Details of layout, appearance, scale and landscaping (the reserved matters);
 4. Development in accordance with submitted indicative plans;
 5. Development to contain up to (but no more than) 98 dwellings;
 6. Highways conditions (as recommended by the Highway Authority);
 7. SUDS and drainage conditions as requested by Essex County Council;
 8. Hard and soft landscaping plan/implementation;
 9. Ecological mitigation - wildlife/tree protection measures;
 10. Construction methods plan;
 11. Details of lighting, materials and refuse storage/collection points; and
 12. Archaeological investigation and report works;
 13. Site lighting strategy, and;
 14. Broadband.
 15. Noise assessment
- c) That the Head of Planning be authorised to refuse planning permission in the event that such legal agreement has not been completed within the period of 6 (six) months, as the requirements necessary to make the development acceptable in planning terms had not been secured through a s106 planning obligation.

2. **Planning Policy**

National Policy:

NPPF National Planning Policy Framework (2012)

- 2.1 The National Planning Policy Framework (March 2012) sets out the Government's planning policies and how these are expected to be applied at the local level.
- 2.2 Planning law requires that applications for planning permission be determined in accordance with the 'development plan' unless material considerations indicate otherwise. The NPPF does not change the statutory status of the development plan as the starting point for decision taking. Where proposed development accords with an up to date Local Plan it should be approved and where it does not it should be refused – unless other material considerations indicate otherwise. An important material consideration is the NPPF's 'presumption in favour of sustainable development'. The NPPF defines 'sustainable development' as having three dimensions:
- an economic role;
 - a social role, and;
 - an environmental role.
- 2.3 These dimensions have to be considered together and not in isolation. The NPPF requires Local Planning Authorities to positively seek opportunities to meet the development needs of their area whilst allowing sufficient flexibility to adapt to change. Where relevant policies in Local Plans are either absent or out of date, there is an expectation for Councils to approve planning applications, without delay, unless the adverse impacts would significantly and demonstrably outweigh the benefits.

- 2.4 Section 6 of the NPPF relates to delivering a wide choice of quality new homes. It requires Councils to boost significantly the supply of housing to meet objectively assessed future housing needs in full. In any one year, Councils must be able to identify five years worth of deliverable housing land against their projected housing requirements (plus a 5% or 20% buffer to ensure choice and competition in the market for land). If this is not possible, housing policies are to be considered out of date and the presumption in favour of sustainable development is engaged with applications for housing development needing to be assessed on their merits, whether sites are allocated for development in the Local Plan or not.
- 2.5 Paragraph 187 of the NPPF states “*Local planning authorities should look for solutions rather than problems, and decision-takers at every level should seek to approve applications for sustainable development where possible. Local planning authorities should work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area*”.

Local Plan Policy:

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

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

QL1: Spatial Strategy: Directs most new development toward urban areas and seeks to concentrate development within settlement development boundaries. The policy defines Thorpe Le Soken as a village.

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

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

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

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

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

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

HG1: Housing Provision

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

HG3: Residential Development Within Defined Settlements

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

HG3a: Mixed Communities

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

HG4: Affordable Housing in New Developments

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

HG6: Dwellings Size and Type

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

HG7: Residential Densities

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

HG9: Private Amenity Space

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

COM2: Community Safety

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

COM6: Provision of Recreational Open Space for New Residential Developments

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

COM21: Light Pollution

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

COM23: General Pollution

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

COM26: Contributions to Education Provision

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

COM29: Utilities

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

COM31a: Sewerage and Sewage Disposal

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

EN1: Landscape Character

Requires new developments to conserve key features of the landscape that contribute toward local distinctiveness, including listed parks and gardens.

EN4: Protection of the Best and Most Versatile Agricultural Land

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

EN6: Biodiversity

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

EN6a: Protected Species

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

EN6b: Habitat Creation

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

EN12: Design and Access Statements

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

EN13: Sustainable Drainage Systems

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

EN29: Archaeology

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

TR1a: Development Affecting Highways

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

TR3a: Provision for Walking

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

TR4: Safeguarding and Improving Public Rights of Way

Encourages opportunities to expand the public right of way network.

TR5: Provision for Cycling

Requires all major developments to provide appropriate facilities for cyclists.

TR6: Provision for Public Transport Use

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

TR7: Vehicle Parking at New Development

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

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

Relevant policies include:

SP1: Presumption in Favour of Sustainable Development

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

SP4: Infrastructure and Connectivity

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

SP5: Place Shaping Principles

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

SPL1: Managing Growth

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

SPL2: Settlement Development Boundaries

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

SPL3: Sustainable Design

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

HP1: Improving Health and Wellbeing

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

HP4: Open Space, Sports and Recreation Facilities

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

LP1: Housing Supply

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

LP2: Housing Choice

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

LP3: Housing Density

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

LP4: Housing Layout

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

LP5: Affordable and Council Housing

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

PP12: Improving Education and Skills

Requires the impacts of development on education provision to be addressed at a developer's costs and also requires applicants to enter into an Employment and Skills

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

PPL1: Development and Flood Risk

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

PPL3: The Rural Landscape

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

PPL4: Biodiversity and Geodiversity

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

PPL5: Water Conservation, Drainage and Sewerage

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

PPL7: Archaeology

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

CP1: Sustainable Transport and Accessibility

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

CP3: Improving the Telecommunications Network

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

Other Guidance

Essex Design Guide

Essex County Council Car Parking Standards - Design and Good Practice

3. Relevant Planning History

16/30189/PRE APP	EIA Screening Opinion for erection of 98 dwellings.	Decided	06/10/2016
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4. Consultations

TDC Principal Tree & Landscape Officer	The application site is on agricultural land which has established boundary hedgerows on some of its boundaries with occasional trees. The existing boundary features help to screen the land. In the south western corner of the application site there is a group of 10 Oaks that are afforded formal legal protection by Tree Preservation Order 95/03 Land off The Spennells, Thorpe le Soken.
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The indicative site layout shows that the proposed positions of dwellings will be set back from the site boundaries. The land adjacent to the boundary is shown on the indicative site layout plan as public open space. If this is the case then the trees including the protected trees and the boundary hedgerows will not be adversely affected by the development proposal.

The development proposal shows the removal of a hedge that bisects the site centrally running from east to west. The hedge comprises a single species; Cupressocyparis Leylandii and does not fall within the scope of the Hedgerow regulations 1997. Its removal will not have an adverse impact on the landscape.

The application site appears to straddle the boundary of The Clacton and the Sokens Clay Plateau and The Hamford Coastal Slopes Landscape Character Areas (LCAs) as defined in the Tendring District Council Landscape Character Assessment. The Clacton and the Sokens Clay Plateau is typified by undulating agricultural plateau that is drained by the Holland Brook Valley System to the south east of the district. Thorpe le Soken is recognised for its importance in medieval times and for its historic buildings. The Hamford Coastal Slopes LCA is characterised by gently sloping land encircling, and forming a setting to, the open marshes of Hamford Water providing panoramic views over Hamford Water.

The overall strategy for The Clacton and the Sokens Clay Plateau is to conserve the low density settlement pattern in rural areas, maintaining the distinctive identity of individual settlement and enhancing the character of the urban fringe. Special attention is drawn to the sensitivity of the plateau edges to built development as they often form a skyline or setting for low lying areas. The overall strategy for The Hamford Coastal Slopes is to maintain the area as a rural landscape forming the setting to Hamford Water as the highly visible slope crests and skyline are particularly sensitive to further built development.

In terms of the potential impact of the development proposal on the character and appearance of the countryside the development has the potential to cause harm to the local landscape character especially in regard to its impact when viewed from the land around Hamford Water. In order to show the degree of harm likely to arise as a result of the development of the land the applicant has submitted a Landscape and Visual Impact Assessment (LVIA) that has been carried out in accordance with Guidelines for Landscape and Visual Impact Assessment (3rd edition).

In terms of the impact of the development proposal on the area the LVIA provides a genuine and accurate description of the landscape and visual effects. It recognises that harm will be caused to the landscape and visual amenity of the area to a greater or lesser extent depending on the particular physical viewpoint from which the site is seen. In Section 12 of the LVIA entitled Summary and Conclusions it is concluded that, subject to adequate soft landscaping and good quality design of the built element of the development; the development would not cause undue harm to the landscape or visual amenity of the locality.

The LVIA provides an accurate description of the baseline qualities of the landscape and describes the likely impact of the development proposal on

the landscape and visual amenity of the local environs. However in terms of the conclusions drawn in Section 12, referred to above it is considered that insufficient weight has given to the impact of the gradual spread of the Thorpe le Soken settlement and the consequent urbanisation of the important coastal ridge. It is considered that the development would cause harm to the character and qualities of the landscape.

Should consent be likely to be granted then a condition should be attached to secure details of soft landscaping (including forest scale tree planting as referred to in the LVIA) to screen and enhance the appearance of the development. Special attention should be given to the creation of a dense planting belt for the full length of the northern and possibly north eastern boundary to mitigate the harm caused to views of the development from land to the north and north-east (Hamford Water).

TDC Open Space and Play Note that open space provision and play equipment will be provided on site. A commuted sum would be payable by the developer should they wish the open space to be adopted by the Council.

TDC Housing Note there is a very high demand for affordable housing in Thorpe Le Soken with 9 households on the housing register who have Thorpe Le Soken as their preferred are for rehousing. The Housing team have agreed that the applicant will gift seven of the properties consisting 4 x 1 bed, 2 x 2 bed and 1 x 3 bed dwellings.

TDC Environmental Health Request conditions regarding air quality assessment and a full construction method statement.

ECC Highways The proposal is acceptable to the Highway Authority subject to conditions relating to a construction management plan and provision of the junction onto Landermere Road.

ECC Schools There is an identified need for early years and childcare provision within the Beaumont and Thorpe ward. Based on demand generated by this development a developer contribution of £122,863 is sought. In terms of Primary school need the Little Clacton forecast planning group have forecast a deficit of 41 places by the school year 2019/20. A contribution of £359,209 at £12,218 per place is sought from this development. With regard to Secondary schooling a deficit of 223 places is forecast by the school year 2019-20. A contribution of £363,796 at £18,561 per place is requested from this development. A total contribution of £845,868 is therefore sought overall.

Anglian Water Assets affected: AWA note some of their assets are affected within the site and this should be taken into account in the final site design.

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

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

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

- Natural England Natural England raises no specific objection but notes the requirement to take into account impact on wildlife and protected species. NE also note the opportunity to enhance the character and local distinctiveness of the locality particularly through new green space provision and access to the wider countryside.
- Essex County Council Flood Authority Having reviewed the Flood Risk Assessment and the associated documents which accompanied the planning application, no objection is raised to the granting of permission subject to necessary planning conditions.
- Essex County Council Archaeology The Essex Historic and Built Environment Manager notes that the site lies within an area of archaeological interest. A number of cropmark features have been recorded in the area and the locality has the potential for the survival of archaeological remains relating to its medieval settlement and possible earlier occupation and activity. Planning conditions requiring trial trenching followed by Open Area Excavation are requested.
- NHS England The development would give rise to a need for improvements to capacity by way of extension, refurbishment, reconfiguration or relocation at Thorpe Surgery (including its branch, The Surgery, Frinton Road); a proportion of the cost would need to be met by the developer. A developer contribution of £29,620 should be made before the development commences.

5. Representations

- 5.1 Thorpe Le Soken Parish Council raise no objection to the application.
- 5.2 74 objections have been submitted in response to this planning application which include the following concerns:
- Highway impact/dangers.
 - Lack of infrastructure and impact on existing services.
 - Landscape impact.
 - Unsustainable location.
 - Prematurity.
 - Adverse environmental impact.
 - Need for smaller affordable homes.
 - Impact on existing residents adjoining the site.
 - Impact on existing water table.

6. Assessment

- 6.1 The main planning considerations are:
- Site Context;
 - Proposal;
 - Principle of Development;
 - Housing Density and Mix;
 - Layout;
 - Residential Amenity;

- Traffic, access and highway safety;
- Ecology;
- Arboriculture/Landscaping;
- Drainage and Flood Risk; and,
- Other Material Considerations (including Section 106 Obligations).

Site Context

- 6.2 The site lies to the north east of the centre of Thorpe Le Soken on the edge of the village and extends to 5.60 hectares in area. The site is in a prominent location and slopes away from Landermere Road and Rolph Close to the east. The site consists mainly of agricultural land and contains some existing hedgerow and tree planting. A group of trees next to the south west site boundary are protected by a Tree Preservation Order.
- 6.3 Vehicular access to the site is provided via a newly formed access direct from Landermere Road with a main feeder road leading across the site with smaller spur roads serving remaining parts of the site.
- 6.4 Landermere Road is characterised by a mix of housing styles with older housing merging with more recent development. The Spennels, Rolph Close and Beldams Close located immediately to the east of the application site consist of a relatively recent housing estate development.

Proposal

- 6.5 The application has been submitted in outline form with all matters, apart from access, reserved for later consideration. The scheme proposes the erection of up to 98 dwellings, public open space and supporting site infrastructure.

Principle of Development

- 6.6 In line with Section 38(6) of the Planning and Compulsory Purchase Act 2014, planning decisions must be taken in accordance with the 'development plan' unless material considerations indicate otherwise. The requirements of the National Planning Policy Framework (NPPF) are a material consideration in this regard.
- 6.7 The 'development plan' for Tendring is the 2007 'adopted' Local Plan, despite some of its policies being out of date. Paragraph 215 of the NPPF allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF. Paragraph 216 of the NPPF also allows weight to be given to policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency with national policy. As of 14th July 2016, the emerging Local Plan for Tendring is the Tendring District Local Plan 2013-2033 and Beyond Preferred Options Consultation Document. As this plan is currently at an early stage of preparation, some of its policies can only be given limited weight in the determination of planning applications, but the weight to be given to emerging policies will increase as the plan progresses through the later stages of the process. Where emerging policies are particularly relevant to a planning application and can be given some weight in line with the principles set out in paragraph 216 of the NPPF, they will be considered and, where appropriate, referred to in planning decisions. In general terms however, more weight will be given to policies in the NPPF and the adopted Local Plan.
- 6.8 The application site is located immediately to the north east of the existing built form of Thorpe Le Soken and is adjacent to but outside the village's settlement development boundary as defined within the adopted Local Plan. However the site is set within land

identified for inclusion within the Preferred Options Consultation Document, although due to the relatively early stage of the Local Plan process only limited weight can be given to this.

- 6.9 Because the site is outside of the settlement development boundary and is not allocated for development in the adopted Local Plan, as noted above, only limited weight can be attributed to its inclusion within the Preferred Options document. However, paragraph 47 of the NPPF also requires local planning authorities to boost significantly the supply of housing by identifying and updating annually a supply of specific deliverable sites sufficient to provide five years worth of housing against their housing requirements. In areas where there has been persistent under delivery of housing, an additional 20% 'buffer' is also required to provide a realistic prospect of achieving the planned supply and to ensure choice and competition in the market for land.
- 6.10 For Tendring, the housing requirement is 550 dwellings per annum, as based on the evidence contained within the 'Objectively Assessed Housing Needs Study' (July 2015) and supplementary evidence that was presented to the Local Plan Committee on 21st January 2015. At the time of writing, and despite the publication of the new draft Local Plan, the Council are still only able to identify an approximate 4.5 year supply and thus there still remains considerable (albeit quickly reducing) shortfall. Paragraph 49 of the NPPF states that relevant policies for the supply of housing should not be considered 'up to date' if it is not possible to demonstrate a five year supply of deliverable housing sites and, in such cases, the 'presumption in favour of sustainable development' set out in paragraph 14 of the NPPF is engaged.
- 6.11 'Sustainable Development', as far as the NPPF is concerned, is development that contributes positively to the economy, society and the environment and under the 'presumption in favour of sustainable development', authorities are expected to grant permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole; or specific policies in the NPPF indicate development should be restricted.
- 6.12 Due to the lack of a five-year supply of housing sites and the subsequent engagement of the presumption in favour of sustainable development, the Council would not be justified in refusing planning permission purely on the basis of the application site being outside of the settlement development boundaries as defined in the adopted Local Plan. The application must therefore be judged on its merits against the NPPF, although some limited weight can also be given to the emerging Local Plan which clearly identifies this site as a sustainable location for new development.
- 6.13 One of the NPPF's core planning principles is to "actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable".
- 6.14 With this in mind, the emerging Local Plan includes a 'settlement hierarchy' aimed at categorising the district's towns and villages and providing a framework for directing development toward the most sustainable locations. Thorpe Le Soken is categorised in emerging Policy SPL1, along with six other villages, as a 'Rural Service Centre' in recognition of its size and reasonable range of services and facilities, particularly when compared against many of the district's smaller rural villages. Rural Service Centres are the next most sustainable category of settlement following 'strategic urban settlements', 'smaller urban settlements' and 'expanded settlements' (of which Weeley is the only one). Therefore, a level of housing development for Thorpe Le Soken could have the potential to be considered sustainable so long as detailed matters such as infrastructure provision and environmental impacts are considered and addressed.

Housing Density and Mix

- 6.15 One of the key issues in determining this outline application is whether the site can reasonably accommodate the level of development proposed in an acceptable manner and whether the density of the site is appropriate to the site and its surroundings. Policy LP3 of the draft Local Plan requires new residential development to achieve an appropriate housing density that has regard to various factors, including the character of development in the immediate area. The density of this proposal is relatively low and equates to approximately 17 dwellings per hectare, which allows a significant amount of open space to be provided. This is indicated as being placed around the periphery of the development. Taking into account the location of the site on the edge of the village a lower density is considered appropriate.
- 6.16 As this is an outline application with some matters reserved including scale and appearance the exact housing mix would not be finalised until the reserved matters stage. However a mix of dwelling sizes would be expected to be provided.

Layout, Scale and Design

- 6.17 In support of the overarching aims and objectives of the NPPF the policies in both the adopted and emerging Local Plans set out the Council's commitment to sustainable development and good quality design. This planning application is submitted in an outline form with all matters, except access, reserved for later consideration by the Council. The development's detailed design is one of the matters to be considered at 'reserved matters' stage.
- 6.18 The NPPF requires new development to have good connections with the existing built environment. In this regard the development is well served by existing footpaths leading along Landermere Road with the centre of the village only a short distance away. The site is considered to be in a very sustainable location.
- 6.19 With regards to scale, the applicants have indicated that proposed development would be a mix of bungalows and two storey dwellings but this detail is a reserved matter consideration.
- 6.20 All dwellings shown on the indicative site plan will have their own private amenity space with garage and parking space. In addition 0.91 hectares of land is reserved for informal, managed recreational space within the development. A further area is set aside for a surface water attenuation lagoon. Trees around the site will be predominantly retained although additional landscape areas will be formed to further soften the impact of the development. This detail will be secured by condition. The indicative site layout is therefore considered acceptable and appropriate for this prominent location.

Residential Amenity

- 6.21 The NPPF, in paragraph 17 states that planning should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings. In addition, Policy QL11 of the Tendring District Local Plan (2007) states that amongst other criteria, 'development will only be permitted if the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties'. Policy SPL3 in the emerging Local Plan supports these objectives and states that 'the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties'.
- 6.22 The proposed layout has been carefully considered and as noted above the careful placing of new open space areas provides some separation between existing and proposed

dwellings. It is therefore unlikely that the development would cause any adverse impact on neighbouring property. At detail stage the appearance and position of fenestration will be considered but it is clear from the indicative layout plan that this can be achieved without causing adverse impacts on existing amenity.

- 6.23 Clearly there will be some impact to neighbours during the construction period, particularly due to noise arising from the construction site, but conditions would be applied to the development to minimise impacts if the Committee is mindful to approve the application.

Traffic, Access and Highway Safety

- 6.24 Paragraph 32 of the NPPF relates to transport and requires Councils, when making decisions, to take account of whether:
- the opportunities for sustainable transport modes have been taken up depending on the nature and location of the site, to reduce the need for major transport infrastructure;
 - safe a suitable access to the site can be achieved for all people, and ;
 - improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.
- 6.25 Policy QL10 of the Saved Plan states that planning permission will only be granted, if amongst other things, access to the site is practicable and the highway network will be able to safely accommodate the additional traffic the proposal will generate.
- 6.26 The current application has been submitted in outline form although access does form part of the current application to be considered. In order to gain a full understanding of the likely impacts of the current proposal on the highway network the applicants have submitted a Transport Statement in support of the application. This document considers the proposed access points into the site from Landermere Road as well as highway safety and capacity in the wider area.
- 6.27 As noted a new access point will be provided from Landermere Road providing a feeder road into the site. The Highway Authority have stated that the proposal is acceptable subject to necessary conditions relating to a construction management plan and to ensure provision of the new junction onto Landermere Road prior to occupation of any dwellings.
- 6.28 Officers note the concerns raised by local residents in terms of additional traffic movements but the Highway Authority is satisfied that there is existing highway capacity to serve the proposed scheme.
- 6.29 Officers conclude that the development, subject to the proposed conditions, would meet the requirements of Policy TR1a of the adopted Local Plan and the element of Policy CP1 in the emerging Local Plan relating to highway capacity and safety. It would also meet paragraph 32 of the NPPF which states that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

Impact on Heritage Assets

- 6.30 The enduring physical presence of the historic environment contributes significantly to the character and 'sense of place' of rural and urban environments. Some of this resource lies hidden and often unrecognised beneath the ground in the form of archaeological deposits, but other heritage assets are more visible. Policy PPL7 of the draft Local Plan requires

archaeological evaluation to be undertaken for schemes affecting sites that do or might contain archaeological remains.

- 6.31 The NPPF is clear that when determining applications, Local Planning Authorities (LPA's) should require the applicant to describe the significance of a heritage asset affected, including any contribution made by their setting. The level of detail should be proportionate to the asset's importance and no more than is sufficient to understand the potential impact of the proposal on their significance.
- 6.32 The NPPF further states that where a site includes or has the potential to include heritage assets with archaeological interest, LPA's should require developers to submit an appropriate desk-based assessment and where necessary a field evaluation. In this instance the County Council Historic and Built Environment Manager has requested that if members are minded to approve the application then a condition is applied requiring a programme of trial trenching followed by open area excavation.
- 6.33 Based on the above assessment it is considered that the development of this site can be achieved without harm to the identified heritage assets, in keeping with the aims and objectives of National and Local Plan Policies as set out above.

Ecology

- 6.34 Policies within Chapter 6 of the adopted Local Plan and Policy PPL4 of the emerging Local Plan seek to ensure that where development is likely to harm nature conservation or geo-diversity interests, planning permission will only be granted in exceptional circumstances, where the benefits of the development clearly outweigh the harm caused and where appropriate mitigation measures must be incorporated into the development to the satisfaction of Natural England and other appropriate authorities.
- 6.35 No part of the development site or any land that it abuts has any type of statutory or non-statutory nature conservation designations and Natural England have indicated that the proposal is unlikely to affect any statutorily protected sites or landscapes.
- 6.36 A Preliminary Ecological Appraisal, followed by full Bat and Reptile surveys have been undertaken for the site. A survey was also undertaken for Great Crested Newts but none were found on the site. Smooth Newts were identified but it is considered that the landscape enhancement works within the site will provide sufficient mitigation in this case. With regard to Bats, Reptiles and Breeding Birds the following findings were noted:

Bats

- 6.37 The Bat Survey noted the presence of three species of Bat which were found present in the hedgerows and mature trees along the southern site boundaries, in hedging adjoining a ditch across the site and along a Leylandii tree line. It is concluded that the addition of new planting as part of the proposed landscape scheme will counter any loss of existing foraging sites.

Reptiles

- 6.38 The submitted Reptile Survey concludes that the existing site habitats contain a low population of common lizard. Again it is concluded that the areas of retained open space and new landscape planting, including trees, will mitigate the loss of existing green space and retain sufficient land for the lizard population.

Breeding Birds

- 6.39 A total of 20 bird species were recorded on the site during survey work. It is considered that the mature trees, scrub and hedgerow bordering the site provide adequate nesting opportunities. The majority of hedgerow habitat will be retained and it is recommended a wildlife buffer strip is placed along the southern boundary which would reduce the impact from the development.
- 6.40 Given the site's edge of village location in proximity to the wider countryside, and in accordance with paragraph 118 of the NPPF, this application provides opportunities to incorporate features into the design which are beneficial to wildlife, such as the incorporation of roosting opportunities for bats or the installation of bird nest boxes. Such ecological enhancement opportunities could be secured by condition.

Arboriculture/Landscaping

- 6.41 The proposals have been assessed by the Council's Tree and Landscape Officer who has concluded that, having assessed the Landscape and Visual Landscape Assessment, the proposed development will have an impact on what is the exposed coastal ridge and will be visible on approaches to the village from the north east. The need for a significant landscape belt to the site boundaries is therefore paramount in being able to soften the impact of the development and provide adequate mitigation. This detail forms one of the reserved matters for later consideration. The majority of existing trees and hedgerow within the site will be retained.

Drainage and Flood Risk

- 6.42 Paragraph 103 of the NPPF requires Councils, when determining planning applications, to ensure flood risk is not increased elsewhere. Although the site is in Flood Zone 1 (low risk), the NPPF, Policy QL3 in the adopted Local Plan and Policy PLA1 in the emerging Local Plan still require any development proposal on site larger than 1 hectare to be accompanied by a site-specific Flood Risk Assessment (FRA). This is to assess the potential risk of all potential sources of flooding, including surface water flooding, that might arise as a result of development.
- 6.43 The applicant has submitted a Flood Risk Assessment which has been considered by Essex County Council as the authority for sustainable drainage. Following submission of additional detailing the County Council now supports the grant of outline planning permission subject to conditions relating to the submission and subsequent approval of a detailed Surface Water Drainage Scheme before development can take place.
- 6.44 The applicant has demonstrated through their Flood Risk Assessment and supplementary information that development can, in principle, be achieved without increasing flood risk elsewhere. With the planning conditions suggested by ECC, the scheme should comply with the NPPF and Policies QL3 and PPL1 of the adopted and emerging Local Plans (respectively) and therefore addresses the flood risk element of the environmental dimension of sustainable development.
- 6.45 In addition, Anglian Water has commented upon the application, and confirms the foul drainage from the development is in the catchment of the Clacton Holland Haven Water Recycling Centre that will have available capacity for these flows. Furthermore, the sewerage system at present has available capacity for these flows. Based on the details contained within the FRA and Drainage Report, it is considered that the application site could be developed in the manner proposed without any risk of flooding from or to the proposed development compliant with the aims and objectives of the NPPF as well as Local Plan Policies set out above.

Other Material Considerations (including Section 106 Obligations)

Open Space and Play

- 6.46 Policy COM6 in the adopted Local Plan and Policy HP4 of the emerging Local Plan require large residential developments to provide at least 10% of land as public open space or otherwise make financial contributions toward off-site provision. The Council's Open Space Team has commented on the application and has noted that both open space and play equipment will be provided by the applicant on site. Should the applicant wish to transfer the open space to Tendring District Council for future maintenance, an additional financial contribution towards maintenance will also need to be secured through a s106 legal agreement. If the Committee is minded to approve this application, Officers will engage in negotiations with the applicant to agree the necessary requirements in line with the guidance contained within the Council's Supplementary Planning Document on Open Space.

Affordable Housing/Affordable Housing

- 6.47 Adopted Policy HG4 requires up to 40% of dwellings to be affordable housing on sites of 15 or more dwellings in urban settlements (with a population of 3,000 or more) and on sites of 5 or more dwellings in rural settlements (with a population less than 3,000). The National Planning Policy Framework requires Councils to consider economic viability when it applies its policies and the Council's own 2013 viability evidence in support of the Local Plan demonstrates that 40% affordable housing is unlikely to be viable in Tendring and that between 10% and 30% (as contained within emerging Policy LP5) is more realistic. The thresholds under adopted Policy HG4 will therefore be applied but the percentage will be between 10% and 30% as detailed under emerging Policy LP5.
- 6.48 The Council's Housing Needs team has commented on the application and advised that there is a need for affordable housing in Thorpe Le Soken based on evidence from the local housing register. In this case the Housing department have met with the applicant and agreed that the applicant will gift 7 properties to Tendring District Council consisting 4 x 1 bed, 2 x 2bed and 1 x 3 bed units. If the Committee is minded to approve this application, Officers will secure the affordable units through a s106 legal agreement.

Education provision

- 6.49 Essex County Council as the Local Education Authority has been consulted on the planning application and has made representations. Based on ECC's formula for calculating the number of additional places likely to be required as a result of the development, this scheme of up to 98 dwellings will generate a requirement for early years, primary and secondary school provision. The total contribution sought for this development is £845,868 and will be secured by s106 agreement.

Health provision

- 6.50 NHS England have prepared a Healthcare Impact Assessment (HIA) for the proposed development which concludes that the development would give rise to a need for improvements to capacity by way of extension, refurbishment, reconfiguration or relocation at Thorpe Surgery (including its branch The Surgery, Frinton Road) and has requested a developer contribution of £29,620. This would be secured by s106 agreement.
- 6.51 In conclusion, the impacts on local infrastructure arising from this development can either be addressed by way of developer contribution (in the case of affordable housing, education, NHS funding and open space) or are otherwise not considered to be significant

or demonstrable enough to justify the refusal of planning permission when applying the presumption in favour of sustainable development.

- 6.52 The applicant has indicated a willingness to enter into a planning agreement to secure any financial contributions required by the development. Members are therefore requested that if there is a resolution to grant planning permission, that the Head of Planning (or equivalent authorised officer) be authorised to grant planning permission for the development subject to within 6 months of the date of the Committee's resolution, the completion of a legal agreement under the provisions of section 106 of the Town and Country Planning Act 1990 dealing with the matters of affordable housing provision; education provision; on-site public play space provision; NHS funding.

Overall Planning Balance

- 6.53 Because the Council's adopted Local Plan is out of date, the emerging plan can only carry a limited degree of weight at this time and a five-year supply of deliverable housing sites cannot currently be identified, the National Planning Policy Framework (NPPF) requires that development be approved unless the adverse impacts would significantly and demonstrably outweigh the benefits, or if specific policies within the NPPF suggest development should be refused. The NPPF in this regard applies a 'presumption in favour of sustainable development' for which sustainable development addresses economic, social and environmental considerations.
- 6.54 Economic: Whilst the scheme is residential with no commercial premises provided, up to 98 dwellings would generate additional expenditure in the local economy which has to be classed as an economic benefit. There will also be temporary jobs in construction whilst the homes are being built. .
- 6.55 Social: The provision of up to 98 dwellings toward meeting projected housing need, at a time when the Council is unable to identify a five-year supply, is a significant social benefit which carries a high level of weight in the overall planning balance – particularly as government policy is to boost housing supply. The impacts on Open Space, schools and health provision will be mitigated through financial contributions to be secured through a s106 agreement, if the application is approved.
- 6.56 Environmental: The environmental impacts of the proposal have required very careful consideration. As noted the development is located in a prominent locality and is partially visible from approaches from the north and east of the village boundary. Although the development will be set against the existing urban boundary of the village it will be essential for a comprehensive landscape scheme to be provided to assist in softening the impact of the development. Impacts on both protected and other wildlife have been fully considered and the presence of certain species in the locality is not considered a barrier to development in this case.
- 6.57 In the overall planning balance, Officers consider that the adverse impacts do not significantly and demonstrably outweigh the benefits and the application is therefore recommended for approval subject to a s106 legal agreement and a range of planning conditions.

Background Papers

None.

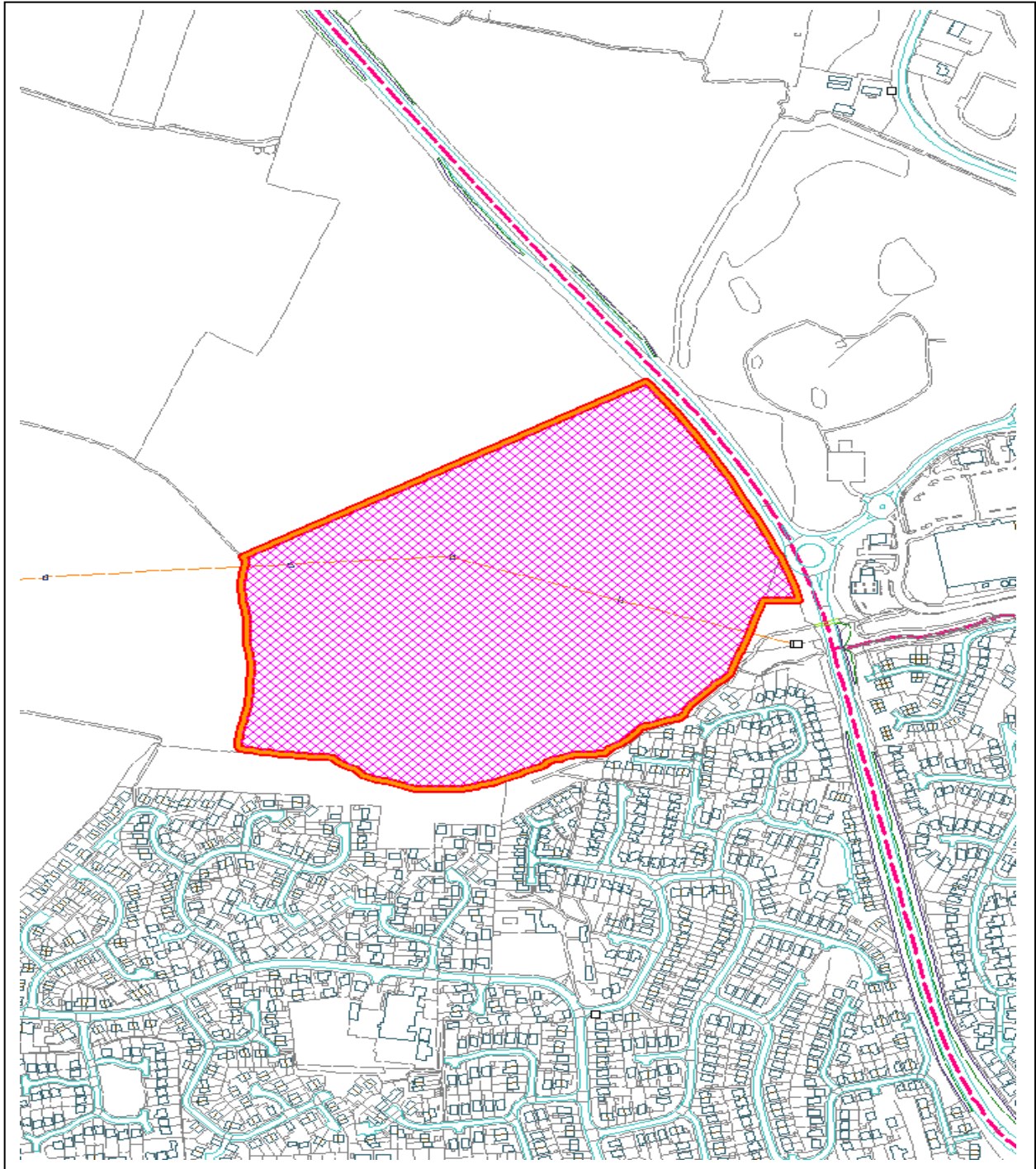
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PLANNING COMMITTEE

30 NOVEMBER 2016

REPORT OF THE HEAD OF PLANNING

A.2 PLANNING APPLICATION – 16/01250/OUT – BROOK PARK WEST, LAND WEST OF A133 BROOK PARK WEST ROUNDABOUT, CLACTON-ON-SEA CO15 3TP



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Application:	16/01250/OUT	Town / Parish: Clacton unparished area
Applicant:	Mr Kevin Britton	
Address:	Brook Park West, Land West of A133 Brook Park West Roundabout, Clacton On Sea, CO15 3TP	
Development:	Hybrid planning application comprising: <ul style="list-style-type: none"> - Detailed application for foodstore (A1), hotel (C1), family public house (A3/A4), restaurants (A1/A3/A5), retail warehouse units (A1), picker's ditch major open space and associated access, landscaping, car parking and associated works. - Outline application for residential (C3) and employment development (B1 (a), (b), (c)) and associated access, landscaping, car parking and associated works (all matters reserved except access). 	

1. Executive Summary

- 1.1 This proposal is a major mixed-use development on flat agricultural land north of Clacton-on-Sea, on the opposite side of the A133 from the Brook Retail Park. The proposal includes:
- A Foodstore;
 - A 39-bed Hotel
 - A family pub;
 - Three non-food retail warehouse units;
 - Two drive-through café/restaurants;
 - Expansion of the Pickers Ditch Walkway;
 - Approximately 1 hectare of land for business use; and
 - Up to 200 dwellings.
- 1.2 Detailed approval is being sought for the foodstore, hotel, pub, non-food retail units and the Pickers Ditch Walkway with relevant parking and highways arrangements whereas outline approval (with details to follow through a later application) is being sought for the housing and business units.
- 1.3 The site lies outside of the settlement boundary in the adopted Local Plan and within the Local Green Gap between Clacton and Little Clacton. In the emerging Local Plan however, the site is included in the settlement development boundary and is partly allocated for some employment use. The site forms part of an area of land that is expected to be surrounded by the major 'Hartley Gardens' strategic development around north-west Clacton.
- 1.4 The issue that has required the most careful consideration has been the potential impact of the proposed out of town retail and leisure uses on the vitality and viability of Clacton Town Centre. A retail assessment has been submitted and independently appraised by expert consultants. The independent advice suggests that the development, as proposed, is unlikely to have any severe detrimental impacts on the vitality and viability of the town centre so long as certain restrictions are put in place to minimise potential competition with town centre businesses.

- 1.5 The site is in a highly accessible location within a relatively short distance of the existing retail park and other community facilities and with existing bus services easy able to access the site. The proposed Hartley Gardens development that is expected to surround the development in the longer term will contain new community facilities including primary school and healthcare provision – but there is no objection from either Essex County Council or the NHS to the proposed 200 houses being served by existing facilities subject to financial contributions towards their expansion, as necessary. The Highway Authority has considered the transport implications of the development and has no objections subject to conditions to secure certain improvements to the existing network.
- 1.6 Ecological impacts are expected to be low and the expansion of the Pickers Ditch Walkway presents the opportunity for significant ecological enhancement as well as improvements for the security of existing properties on the neighbouring housing estate. The proposal has attracted limited public interest with only a small number of local objections.
- 1.7 Because the Council does not have an up to date Local Plan and is currently unable to identify a five-year supply of deliverable housing sites as required by government planning policy, the residential element of this application has been considered in line with the government's 'presumption in favour of sustainable development'. Although the site lies outside of the settlement development boundaries and within the Local Green Gap of the adopted Local Plan, to comply with government requirements Officers have needed to approach the application with a view to positively addressing, as far as possible, technical issues and other matters raised by consultees and residents. The NPPF is particularly supportive of developments that deliver employment opportunities and housing.
- 1.8 Officers consider that this development complies with the requirements of the National Planning Policy Framework and the recommendation is approval subject to a s106 agreement to secure affordable housing, open space, and financial contributions towards health and education – subject to the testing of viability. Planning conditions would include restrictions to the use of the retail units in the interest of protecting the vitality and viability of the town centre.

Recommendation: Approval

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

- a) Within 6 (six) months of the date of the Committee's resolution to approve, the completion of a legal agreement under the provisions of section 106 of the Town and Country Planning Act 1990 dealing with the following matters (where relevant):
- Council Housing/Affordable Housing (subject to viability);
 - Primary school contribution;
 - Early Years and Childcare contribution (subject to viability);
 - Health contribution; and
 - Completion and transfer of public open space (including the proposed Pickers Ditch Walkway extension) and layout/maintenance contribution/arrangements.
- b) Planning conditions in accordance with those set out in (i) below (but with such amendments and additions, if any, to the detailed wording thereof as the Head of Planning (or the equivalent authorised officer) in their discretion considers appropriate).
- (i) Conditions:**
1. Standard 3 year limit for commencement of areas of development approved in full;
 2. Standard 3 year time limit for submission of reserved matters application for outline

elements.

3. Standard 2 year limit for commencement of development following approval of reserved matters.
 4. Accordance with approved plans (for the elements approved in full);
 5. General conformity with the illustrative layout diagram.
 6. Details of appearance, access, layout, scale and landscaping.
 7. Layout and phasing plan/programme.
 8. Development to contain up to (but no more than) 200 dwellings;
 9. Development to include a minimum 1.3ha of land for business use;
 10. Highways conditions (as recommended by the Highway Authority or subsequently amended – see relevant section of the report);
 11. Conditions to restrict retail and leisure uses on the site (in line with the advice of retail consultants WYG);
 12. Improvements to the A133 subway (appearance, security and safety);
 13. Archeologic trial trenching and assessment.
 14. Ecological mitigation/enhancement plan.
 15. Foul water strategy.
 16. Surface water drainage scheme for construction and occupation phases.
 17. SuDS maintenance/monitoring plan.
 18. Hard and soft landscaping plan/implementation.
 19. Details of lighting, materials and refuse storage/collection points.
 20. Broadband connection.
 21. Local employment arrangements.
- c) That the Head of Planning (or the equivalent authorised officer) be authorised to refuse planning permission in the event that such legal agreement has not been completed within the period of 6 (six) months, as the requirements necessary to make the development acceptable in planning terms had not been secured through a s106 planning obligation.

2. **Planning Policy**

National Planning Policy Framework (NPPF)

- 2.1 The National Planning Policy Framework (March 2012) sets out the Government's planning policies and how these are expected to be applied at the local level.
- 2.2 Planning law requires that applications for planning permission be determined in accordance with the 'development plan' unless material considerations indicate otherwise. The NPPF doesn't change the statutory status of the development plan as the starting point for decision taking. Where proposed development accords with an up to date Local Plan it should be approved and where it does not it should be refused – unless other material considerations indicate otherwise. An important material consideration is the NPPF's 'presumption in favour of sustainable development'. The NPPF defines 'sustainable development' as having three dimensions:
 - an economic role;
 - a social role; and
 - an environmental role.
- 2.3 These dimensions have to be considered together and not in isolation. The NPPF requires Local Planning Authorities to positively seek opportunities to meet the development needs of their area whilst allowing sufficient flexibility to adapt to change. Where relevant policies in Local Plans are either absent or out of date, there is an expectation for Councils to

approve planning applications, without delay, unless the adverse impacts would significantly and demonstrably outweigh the benefits.

2.4 The NPPF, in Section 1, seeks to foster the conditions for a strong, competitive economy. It encourages local authorities to plan proactively to meet the development needs of business and seek to address potential barriers to investment, including a poor environment or any lack of infrastructure, services of infrastructure. It requires that Local Plan policies should be flexible enough to accommodate business needs not anticipated in the plan period and to allow a rapid response to changes in economic circumstances.

2.5 The NPPF seeks to ensure the vitality of town centres. To this end Section 2 of the NPPF requires Councils to prioritise the use of sites within and on the edge of town centres for retail, leisure and office developments, over out of town locations – requiring a ‘sequential test’ to be undertaken when considering planning applications. It also requires applicants to demonstrate that development proposals that are over 2,500 square metres in gross floor area will not have a significant adverse impact on existing, committed and planned public/private investment in the town centre or centres of the catchment area of the proposal and that the sequential test has been fully addressed.

2.6 Paragraphs 24 to 27 of the NPPF are of relevance to the proposal and are reproduced in full as follows:

“24. Local planning authorities should apply a sequential test to planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up-to-date Local Plan. They should require applications for main town centre uses to be located in town centres, then in edge of centre locations and only if suitable sites are not available should out of centre sites be considered. When considering edge of centre and out of centre proposals, preference should be given to accessible sites that are well connected to the town centre. Applicants and local planning authorities should demonstrate flexibility on issues such as format and scale.

25. This sequential approach should not be applied to applications for small scale rural offices or other small scale rural development.

26. When assessing applications for retail, leisure and office development outside of town centres, which are not in accordance with an up-to-date Local Plan, local planning authorities should require an impact assessment if the development is over a proportionate, locally set floor space threshold (if there is no locally set threshold, the default threshold is 2,500 sq m). This should include assessment of:

- *the impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and*

- *the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and wider area, up to five years from the time the application is made. For major schemes where the full impact will not be realised in five years, the impact should also be assessed up to ten years from the time the application is made.*

27. Where an application fails to satisfy the sequential test or is likely to have significant adverse impact on one or more of the above factors, it should be refused.”

2.7 Section 4 of the NPPF deals with sustainable transport and requires all developments that will generate significant amounts of movement to be supported by a Transport Assessment. Opportunities for sustainable transport modes must be taken up; safe and suitable access for all people must be achieved; and improvements to the highway network that address the

impacts of the development must be undertaken. A key tool to facilitate sustainable transport modes will be in the form of a Travel Plan. Development should only be prevented or refused on transport grounds where the residual cumulative impacts are 'severe'.

- 2.8 Section 6 of the NPPF relates to delivering a wide choice of quality new homes. It requires Councils to boost significantly the supply of housing to meet objectively assessed future housing needs in full. In any one year, Councils must be able to identify five years worth of deliverable housing land against their projected housing requirements (plus a 5% or 20% buffer to ensure choice and competition in the market for land). If this is not possible, housing policies are to be considered out of date and the presumption in favour of sustainable development is engaged with applications for housing development needing to be assessed on their merits, whether sites are allocated for development in the Local Plan or not.
- 2.9 Paragraph 187 of the NPPF states "*Local planning authorities should look for solutions rather than problems, and decision-takers at every level should seek to approve applications for sustainable development where possible. Local planning authorities should work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area*".

National Planning Policy Guidance (March 2014)

Ensuring the Vitality of Town Centres

- 2.10 This guidance supports the NPPF. It provides advice on how Local Planning Authorities should make policies and determine applications for planning permission that relate to town centre uses.
- 2.11 The NPPF sets out two key tests that should be applied when planning for town centre uses which are not in existing centres and do not accord with an up to date local plan. These are the sequential test and the impact test. These tests are only required to be applied where the gross floor area of the proposal exceeds 2,500 square metres. The guidance makes it clear that it is for the applicant to demonstrate compliance with the sequential test and that failure to undertake a sequential assessment could in itself constitute a reason for refusing planning permission.
- 2.12 The guidance states that the following considerations should be taken into account in determining whether a proposal complies with the sequential test:
- *With due regard to the requirement to demonstrate flexibility, has the suitability of more central sites to accommodate the proposal been considered? Where the proposal would be located in edge of centre or out of centre location, preference should also be given to accessible sites that are well connected to the town centre. Any associated reasoning should be set out clearly.*
 - *Is there scope for flexibility in the format and/or scale of the proposal? It is not necessary to demonstrate that a potential town centre or edge of centre site can accommodate precisely the scale and form of development being proposed but rather to consider what contribution more central sites are able to make individually to accommodate the proposal.*
 - *If there are no suitable sequentially preferable locations the sequential test is passed.*

In line with paragraph 27 of the NPPF where a proposal fails to meet the sequential test, it should be refused."

Local Plan

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

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

QL1: Spatial Strategy: Directs most new development toward urban areas like Clacton and seeks to concentrate development within settlement development boundaries.

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

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

QL8: Mixed-Uses: Promotes mixed-use developments, particularly in town centre locations but also elsewhere where they are not harmful to the amenity, function or character of the local area or vitality and viability of any nearby centre.

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

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

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

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

ER7: Business, Industrial Warehouse Proposals: Requires proposals to be appropriate in terms of their relationship to adjacent uses, impacts on amenity and pollution, vehicular access, mains services and storage facilities.

ER25: New Hotels and Guest Houses: Supports proposals for new hotels and guest houses where they are appropriate in terms of the suitability and previous use of the site, the character of the surrounding area, parking and highway considerations and design implications.

ER31: Town Centre Hierarchy and Uses: Requires all options for 'town centre uses' to be located within defined town, district or local centres to be thoroughly assessed before out of centre sites are considered.

ER32: Town Centre Uses Outside Existing Town Centres: Requires proposals for town centre uses outside of defined centres to be of an appropriate scale, not materially harm the vitality and viability of existing defined centres, be accessible by a range of transport modes and not prejudice the provision of employment land, housing, recreation or tourism facilities.

HG1: Housing Provision: Sets out the strategy for delivering new homes to meet the need up to 2011 (which is now out of date and needs replacing through the new Local Plan).

HG3: Residential Development Within Defined Settlements: Supports appropriate residential developments within the settlement development boundaries of the district's towns and villages.

HG3a: Mixed Communities: Promotes a mix of housing types, sizes and tenures to meet the needs of all sectors of housing demand.

HG4: Affordable Housing in New Developments: Seeks up to 40% of dwellings on large housing sites to be secured as affordable housing for people who are unable to afford to buy or rent market housing.

HG6: Dwellings Size and Type: Requires a mix of housing types, sizes and tenures on developments of 10 or more dwellings.

HG7: Residential Densities: Requires residential developments to achieve an appropriate density. This policy refers to minimum densities from government guidance that have long since been superseded by the NPPF.

HG9: Private Amenity Space: Requires a minimum level of private amenity space (garden space) for new homes depending on how many bedrooms they have.

COM1: Access for All: Requires publically accessible buildings and spaces to be accessible to people of all abilities.

COM2: Community Safety: Requires developments to contribute toward a safe and secure environment and minimise the opportunities for crime and anti-social behaviour.

COM6: Provision of Recreational Open Space for New Residential Developments: Requires residential developments on sites of 1.5 hectares or more to provide 10% of the site area as public open space.

COM8a: Proposed New Recreational Open Space: Identifies the Pickers Ditch Walkway as a proposal for additional recreational open space.

COM21: Light Pollution: Requires external lighting for new development to avoid unacceptable impacts on the landscape, wildlife or highway and pedestrian safety.

COM23: General Pollution: States that permission will be refused for developments that have a significant adverse effect through the release of pollutants.

COM26: Contributions to Education Provision: Requires residential developments of 12 or more dwellings to make a financial contribution, if necessary, toward the provision of additional school places.

COM29: Utilities: Seeks to ensure that new development on large sites is or can be supported by the necessary infrastructure.

COM31a: Sewerage and Sewage Disposal: Seeks to ensure that new development is able to deal with waste water and effluent.

EN1: Landscape Character: Requires new developments to conserve key features of the landscape that contribute toward local distinctiveness.

EN2: Local Green Gaps: Seeks to keep areas designated as Local Green Gaps open and essentially free of development in order to prevent the coalescence of settlements and to protect their rural setting.

EN4: Protection of the Best and Most Versatile Agricultural Land: Seeks to ensure that where agricultural land is needed for development, poorer quality land is used as priority over higher quality land.

EN6: Biodiversity: Requires existing biodiversity and geodiversity to be protected and enhanced with compensation measures put in place where development will cause harm.

EN6a: Protected Species: Ensures protected species including badgers and bats are not adversely impacted by new development.

EN6b: Habitat Creation: Encourages the creation of new wildlife habitats in new developments, subject to suitable management arrangements and public access.

EN12: Design and Access Statements: Requires Design and Access Statements to be submitted with most planning applications.

EN13: Sustainable Drainage Systems: Requires developments to incorporate sustainable drainage systems to manage surface water run-off.

EN29: Archaeology: Requires the archaeological value of a location to be assessed, recorded and, if necessary, safeguarded when considering development proposals.

TR1a: Development Affecting Highways: Requires developments affecting highways to aim to reduce and prevent hazards and inconvenience to traffic.

TR1: Transport Assessment: Requires transport assessments for all major developments.

TR2: Travel Plans: Requires travel plans for developments likely to have significant transport implications including major developments.

TR3a: Provision for Walking: Seeks to maximise opportunities to link development with existing footpaths and rights of way and provide convenient, safe attractive and direct routes for walking.

TR4: Safeguarding and Improving Public Rights of Way: Encourages opportunities to expand the public right of way network.

TR5: Provision for Cycling: Requires all major developments to provide appropriate facilities for cyclists.

TR6: Provision for Public Transport Use: Requires developments to make provision for bus and/or rail where transport assessment identifies a need.

TR7: Vehicle Parking at New Development: Refers to the adopted Essex County Council parking standards which will be applied to all non-residential development.

CL7: New Town Centre and Retail and Mixed-Use Development: Identifies sites within Clacton Town Centre for potential retail and mixed-use development. These need to be considered as part of the 'sequential test' when considering an out-of-town retail scheme.

CL10: Extension to the Waterglade Centre: Allocates the former gas works site for the expansion of the Waterglade Retail Park. This also needs to be considered as part of the 'sequential test' when considering an out-of-town retail scheme.

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

Relevant policies include:

SP1: Presumption in Favour of Sustainable Development: Follows the Planning Inspectorate's standard wording to ensure compliance with the NPPF.

SP4: Infrastructure and Connectivity: Requires the provision of infrastructure, services and facilities that are identified to serve the needs arising from new development.

SP5: Place Shaping Principles: Requires the highest standards of built and urban design and sets out the key principles that will apply to all new developments.

SPL1: Managing Growth: Identifies Clacton-on-Sea as a 'strategic urban settlement' within a hierarchy of settlements designed to direct future growth to the most sustainable locations. Strategic urban settlements are considered to be the most sustainable locations for major development.

SPL2: Settlement Development Boundaries: Seeks to direct new development to sites within settlement development boundaries.

SPL3: Sustainable Design: Sets out the criteria against which the design of new development will be judged.

HP1: Improving Health and Wellbeing: Requires a Health Impact Assessment on all development sites deliver 50 or more dwellings and financial contributions towards new or enhanced health facilities where new housing development would result in a shortfall or worsening of health provision.

HP2: Community Facilities: Requires developments to either provide on-site or contribute towards new or enhanced community facilities to meet needs arising from the proposed development.

HP4: Open Space, Sports and Recreation Facilities: Requires new developments to contribute to the district's provision of playing pitches and outdoor sports facilities and also requires larger residential developments to provide land as open space with financial contributions toward off-site provision required from smaller sites.

LP1: Housing Supply: Sets out the broad location of where new housing is proposed to be built to over the next 15-20 years to meet objectively assessed needs.

LP2: Housing Choice: Promotes a range of house size, type and tenure on large housing developments to reflect the projected needs of the housing market.

LP3: Housing Density: Policy requires the density of new housing development to reflect accessibility to local services, minimum floor space requirements, the need for a mix of housing, the character of surrounding development and on-site infrastructure requirements.

LP4: Housing Layout: Policy seeks to ensure large housing developments achieve a layout that, amongst other requirements, promotes health and wellbeing; minimises opportunities

for crime and anti-social behaviour; ensures safe movement for large vehicles including emergency services and waste collection; and ensures sufficient off-street parking.

LP5: Affordable and Council Housing: Requires up to 30% of new homes on large development sites to be made available to the Council or a nominated partner, at a discounted price, for use as Affordable Housing or Council Housing.

PP1: New Retail Development: Seeks to direct new retail development to town centre locations in line with NPPF policy and identifies a need for between 980 and 1,850 sqm of additional convenience goods floorspace and between 11,880 and 19,800 sqm of comparison goods floorspace in Tendring by 2032. The policy acknowledges a particular need for convenience and comparison floorspace in Clacton, based on the findings of the Council's own Retail Study.

PP2: Retail Hierarchy: Sets out the hierarchy of town centres and district centres which should be the focus for new town centre uses including retail, leisure, commercial, office, tourism and cultural, community and residential development. The vitality and viability of Clacton Town Centre (a 'Major Town Centre') is of particular relevance to the consideration of this planning application.

PP4: Local Impact Threshold: Requires an 'impact assessment' with any application for retail, leisure or office development that is outside of a town centre and, for Clacton, would create more than 929 sqm of additional floorspace.

PP7: Employment Allocations: Seeks to secure between 5 and 10 hectares of new employment land for B1 (business), B2 (general industry) and B8 (storage or distribution) in the Hartley Gardens/Clacton Gateway area of Clacton. The application site falls within the Clacton Gateway area.

PP9: Hotels and Guesthouses: Gives support to proposals for new hotels and guesthouses on allocated mixed-use development sites where such accommodation is proposed as part of the mix of uses.

PP12: Improving Education and Skills: Requires the impacts of development on education provision to be addressed at a developer's costs and also requires applicants to enter into an Employment and Skills Charter or Local Labour Agreement to ensure local contractors are employed to implement the development and that any temporary or permanent employment vacancies (including apprenticeships) are advertised through agreed channels.

PPL1: Development and Flood Risk: Seeks to direct development away from land at a high risk of flooding and requires a Flood Risk Assessment for developments in Flood Zone 1 on sites of 1 hectare or more.

PPL3: The Rural Landscape: Requires developments to conserve, where possible, key features that contribute toward the local distinctiveness of the landscape and include suitable measures for landscape conservation and enhancement.

PPL4: Biodiversity and Geodiversity: Requires existing biodiversity and geodiversity to be protected and enhanced with compensation measures put in place where development will cause harm.

PPL5: Water Conservation, Drainage and Sewerage: Requires developments to incorporate sustainable drainage systems to manage surface water run-off and ensure that new development is able to deal with waste water and effluent.

PPL7: Archaeology: Where developments might affect archaeological remains, this policy requires proper surveys, investigation and recording to be undertaken.

CP1: Sustainable Transport and Accessibility: Requires the transport implications of development to be considered and appropriately addressed.

CP2: Improving the Transport Network: States that major growth in Clacton will require provision of new road infrastructure and requires mitigation measures to address adverse transport impacts.

CP3: Improving the Telecommunications Network: Requires new development to be served by a superfast broadband (fibre optic) connection installed on an open access basis and that can be directly accessed from the nearest British Telecom exchange and threaded through resistant tubing to enable easy access for future repair, replacement or upgrading.

Other Guidance

Essex County Council Car Parking Standards – Design and Good Practice

Essex Design Guide for Residential and Mixed-Use Areas.

3. Relevant Planning History

3.1 The site has the following planning history:

13/30003/PRE APP	EIA Screening Opinion request - Development comprising of food store, six screen cinema, three A3 units, petrol filling station and landscape enhancements.		11.09.2013
13/30077/PRE APP	Cinema complex (6 screen cinema and three A3 units), foodstore (c 7432m2 gross), petrol filling station, car parking, landscape enhancements and country park expansion.		27.12.2013
14/00107/FUL	Full planning permission for a cinema complex (including restaurants), superstore, petrol filling station, extension to Picker's Ditch walkway and associated parkland together with an extension to the existing Brook Country Park.		22.05.2014
14/00730/FUL	Full planning application for cinema complex (including restaurants), superstore, petrol filling station, extension to the Picker's Ditch walkway and associated parkland together with an extension to the existing Brook Country Park (duplicate application).	Withdrawn	30.08.2016
15/30323/PRE APP	EIA Screening Opinion for development comprising of A1, A3, A3/A4, C1. C3 (up to 300 dwellings) and D1 uses, together with landscape enhancements.		22.12.2015
16/30004/PRE APP	Pre application for hybrid, major mixed use development comprising: - Food store, 39 bedroom hotel, 3 no. restaurants and pickers ditch recreational open		24.02.2016

space (to be submitted as full application)
 - Up to 300 dwellings (to be submitted as outline application)

16/01250/OUT Hybrid planning application comprising: Current
 - Detailed application for foodstore (A1), hotel (C1), family public house (A3/A4), restaurants (A1/A3/A5), retail warehouse units (A1), picker's ditch major open space and associated access, landscaping, car parking and associated works.
 - Outline application for residential (C3) and employment development (B1 (a), (b), (c)) and associated access, landscaping, car parking and associated works (all matters reserved except access).

16/30246/PRE EIA Screening Opinion request - Development 06.10.2016
 APP comprising of foodstore (A1), hotel (C1), family public house (A3/A4), restaurants (A1/A3/A5), retail warehouse units (A1), picker's ditch major open space and associated access, landscaping, car parking and associated works and 200 dwellings residential (C3) and employment development (B1 (a), (b), (c)) and associated access, landscaping, car parking and associated works (all matters reserved except access).

4. Consultations

TDC Regeneration Although there are quite a few A1 Retail units included in the application, the Regeneration Team generally supports this development and they do not believe it will have a major impact on Clacton town centre, as long as adequate restrictions are imposed, including ensuring that the non-food retail floor space is limited to bulky comparison goods occupiers. The development will also provide up to 200 new jobs in both the retail and hospitality sectors which will be another boost for the town. The inclusion of the commercial Business units (approx 3,000sq m) in the applicants 'outline application' is also supported by the Regeneration Team, as not only will these provide the opportunity for further job creation, it will also see the provision of an alternative site for some much needed commercial units.

TDC Principal Trees and Landscape Officer In order to establish the degree to which the trees are a constraint on the development potential of the land the applicant has provided a Tree Survey and Report. The report is in accordance with BS5837: 2012 Trees in relation to design, demolition and construction. The report accurately describes the general health and condition of the trees on the application site and accurately shows the extent to which they affect the development potential of the land. The trees on the application site are not threatened by the development proposal.

The indicative site layout shows the creation of a new public open space adjacent to the existing Pickers Ditch Walk. The proposed layout will improve the users experience of the area by way of the increase in the width of the land next to Pickers Ditch.

In order to show the potential impact of the development proposal on the character and appearance of the local landscape the applicant has submitted a Landscape and Visual Impact Assessment (LVIA). The LVIA establishes that the site lies within the Clacton and the Sokens Clay Plateau and as defined in the Tendring District Council Landscape Character Assessment. The information contained in the LVIA provides a genuine description of the existing landscape character and demonstrates the degree to which the proposed change of use of land and associated development will impact on the qualities of the landscape.

The LVIA contains information relating to views of the development proposal from 11 locations. This gives a good indication of its potential impact on the appearance of the countryside and demonstrates that only low level and short term harm will be caused to the local landscape character.

Whilst it is clear that the development will result in the loss of agricultural land and bring about a significant change to the area: in landscape terms the development appears to be reasonably well associated with the existing residential development to the south and the retail area to the east.

Part of the application is in outline form and this is shown by broad areas identified for residential use. For the areas covered by the detailed application the applicant has provided a site layout plan showing the positions of the buildings and detailed soft landscaping plans. The integral soft landscaping is sufficient to soften and enhance the appearance of the development. The plans also, indicatively, show strong boundary planting to help screen and assimilate the development into its setting. Further information relating to the soft landscaping of the site boundaries will need to be secured as part of the planning process.

TDC Building Control

Agent should demonstrate that there is sufficient fire fighting access to comply with B5 of Approved Document B, Volume 2.

TDC Housing

Clacton is the area of highest demand on the housing register and there are currently 420 households seeking a 1 bedroom property, 195 seeking a 2 bedroom property, 105 seeking a 3 bedroom property and 49 seeking a 4 bedroom property. The Council should therefore seek the maximum number of properties as affordable housing and would prefer that another registered provider be sought to take on the affordable properties on this site. In the event that another provider cannot be found, the Council would consider other delivery options such as gifted properties or a financial contribution.

TDC Open Space and Play

There is currently a deficit of 41.08 hectares of play in the Clacton/Holland area. Any additional development in Clacton will increase demand on already stretched facilities. It is noted that the site is larger than 1.5ha and open space and play provision is being provided on site. Therefore no off-site contribution should be sought in relation to this application.

ECC Highways

The Highway Authority has assessed the highway and transportation impact of the proposal and raises no objections subject to planning conditions to secure the follow:

- the approval of a construction management plan including details of when cleaning facilities;

- signals at two arms of St. John's Roundabout;
- improved existing and/or new bus services to the site;
- new bus stops on the site;
- new and/or improved off-site bus stops;
- on-site bus turn round and/or layover facilities;
- fourth arm to the A133/Britton Way roundabout to provide access;
- upgrading of the pelican crossing in St. John's Road (Pathfields Road) to a toucan crossing;
- travel plan; and
- electric car charging points.

ECC Schools

A development of this size can be expected to generate the need for up to 18 early years and childcare places, 60 primary school places, and 40 secondary school places. In addition to this there is the employment element to consider, the formula for calculating early years and childcare for employment is based on the number of employees x 0.04.

Early Years and Childcare (EY&C): The proposed development is located within the St. Mary's Ward and there are only two EY&C providers in the area. There are no unfilled places recorded in this ward and as there is no capacity in the area, new provision will be needed and a project to expand provision/provide a new facility in the area is proposed. The estimated cost of the project is £250,740 based on £13,930 per place for 18 places.

Primary Schools: The proposed development is located within the Clacton forecast planning group which has an overall capacity of 4,202 places, of which 133 are in temporary accommodation. This group of schools is expected to have deficit of 186 permanent places by the school year 2019/20. The estimated cost of mitigating this development's impact on local school provision is £733,080 based on £12,218 per place for 60 places.

Secondary Schools: The proposed development is located within the Clacton secondary schools forecast planning group which has an overall capacity of 5,365 places and is forecast to have a deficit of 223 places by the school year 2019/20. The estimated costs of secondary school expansion to mitigate the impact of this development is £742,440 based on £18,561 per place for 40 places.

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

Youth Facilities: ECC's Youth Service have asked that larger developments deliver commensurate social opportunities for older children that have outgrown the facilities commonly found in local and neighbourhood equipped play areas. There are a range of possible facilities that a development can deliver to address this need including multiple use games areas and skate board facilities.

In view of the above ECC requests that any permission for this development is granted subject to a s106 agreement to mitigate its impact on EY&C, Primary and Secondary School provision. If minded to turn down the application, the lack of such provision can be noted as an

additional reason for refusal.

NHS England This development is likely to have an impact on the services of four main GP practices in the locality (Great Clacton Medical Practice, Crusader Surgery, Old Road Medical Practice and Nayland Drive Surgery including its main surgery Green Elms). These GP practices do not have capacity for the additional growth as a result of this development. Therefore a Health Impact Assessment has been prepared by NHS England to provide the basis for a developer contribution toward capital funding to increase capacity within the GP Catchment Area.

There is a capacity deficit in the catchment practice and a developer contribution of £69,391 is required to mitigate the 'capital cost' to NHS England for the provision of additional healthcare services arising directly as a result of the development proposal. NHS England requests that this sum be secured through a planning obligation linked to any grant of planning permission, in the form of a Section 106 agreement. The funding is most likely, depending on specific timescales, to go towards relocation costs for Great Clacton Medical Practice.

Natural England Natural England has no comments to make on this application.

Essex County Council Flood Authority Having reviewed the Flood Risk Assessment and further information submitted by the applicant in October 2016, we do not object to the granting of planning permission subject to conditions relating to the following:

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

Essex County Council Archaeology The desk-based assessment submitted with the application highlights the potential for the survival of Medieval occupation evidence within the development area. The development site contains cropmark evidence for archaeological features that are likely to be agricultural in origin and may be medieval in origin. The assessment has considered the evidence from the Essex Historic Environmental Record and the Tendring Historic Environmental Characterisation Report and the recommendations are for an archaeological evaluation to assess the potential impact of the development. Conditions are recommended to secure the following:

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

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

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

Foul Sewerage Network: Development will lead to an unacceptable risk of flooding downstream. A drainage strategy will need to be prepared in consultation with Anglian Water to determine mitigation measures. We request a condition requiring the drainage strategy covering the issue(s) to be agreed. Suggested wording is as follows: *“No development shall commence until a foul water strategy has been submitted to and approved in writing by the Local Planning Authority. No dwellings shall be occupied until the works have been carried out in accordance with the foul water strategy so approved unless otherwise approved in writing by the Local Planning Authority”*.

Surface Water Disposal: From the details submitted to support the planning application, the proposed method of surface water management does not relate to Anglian Water operated assets. As such, we are unable to provide comments on the suitability of the surface water management. The Local Planning Authority should seek the advice of the Lead Local Flood Authority or the Internal Drainage Board. The Environment Agency should be consulted if the drainage system directly or indirectly involves the discharge of water into a watercourse.

Trade Effluent: This planning application includes employment/commercial use. To discharge trade effluent from trade premises to a public sewer vested in Anglian Water requires our consent. It is an offence under section 118 of the Water Industry Act 1991 to discharge trade effluent to sewer without consent. Anglian Water would ask that text [provided in Anglian Water’s letter] with advice to this effect be included within the notice should permission be granted.

5. Representations

- 5.1 The Council has received only 3 objections to the proposal from residents raising the following concerns:
- The proposal is contrary to the adopted Local Plan;
 - The trend for online shopping means that bulky goods retail units are no longer needed;
 - An out of town hotel will encourage tourists to drive into the town centre rather than walk;
 - The pub will take trade from other pubs established in the area;
 - The drive-thru restaurants will increase nuisance and increase rubbish;
 - Object to one of the drive-thru restaurants being open 24 hours;
 - The town has enough retail units;
 - The proposal fails the sequential test of the NPPF;
 - The development will lead to significant light and noise pollution;
 - Congestion on the A133;
 - Impact of additional homes on health services;
 - Will destroy more green belt land with no benefits to the local area;
 - McDonalds and Cost Coffee are already well established elsewhere in Clacton;
 - More effort should be spent developing the town centre and the new ASDA site;
 - The existing Brook Park is poorly managed with rubbish everywhere;
 - It will be used as a race track during the night;
 - Impact on residents views over open fields; and
 - Impact of additional homes on school provision.
- 5.2 The applicant has submitted a Statement of Community Involvement which sets out the stakeholder and public consultation that had been undertaken up to the submission of the application, as well as the ongoing community engagement that will continue into the future.

The statement explains that pre-application advice was sought and that was discussions both with the Council and other authorities. In response to the pre-application engagement with the Council, the scheme has been revised to include more employment land, keep residential development away from the A133, include more bus stops and cycle ways and provide more information on the attenuation basis and their ecological benefits. Since the submission of the application, the applicants have sought to speak to local residents and will continue to do so at the different stages of the application process.

- 5.3 The Council has also received an objection from AEGON UK Property Fund whose interest is in Clacton Factory Outlet. They raise concern about the applicants retail impact assessment and also conflicts between the proposal and the Councils adopted and emerging planning policies. Their concerns are essentially retail impact, conflicts with policies on the location of hotels and the impact of vehicular movements.

6. Assessment

The Site

- 6.1 The application site comprises just under 16 hectares of very flat grade 3-4 agricultural land to the west of the A133 on the opposite side of the road from the established Brook Retail Park and its roundabout entrance. The land lies immediately north of Pickers Ditch and the associated boundary trees and walkway that extends around the north of the established housing estate. The residential properties closest to the site, where the walkway is at its narrowest, are in Dunthorpe Road and Sillett Close. Properties in Reigate Avenue, Turner Close (a more recent development), Chipstead Walk, Dorking Crescent and Abinger Close also close to the southern edge of the site but separated by a wider and more substantial portion of the Pickers Ditch Walkway. The site forms part of a larger agricultural field of some 27 hectares which extends further north along the A133. The western boundary of the site is formed by another part of Pickers Ditch and associated boundary trees. There is a hedge along the eastern boundary abutting the A133.
- 6.2 Apart from trees and hedges around the boundaries, the site itself contains no other natural features. An overhead power line does extend west to east across the site, suspended via three large pylons. The walkway to the south east of the site is very narrow and is close to existing properties, passes an area of woodland and connects to the established Brook Retail Park and properties in Raycliff Avenue via an underpass beneath the A133 which has been vandalised with graffiti. On the Planning Officers' site visit, parts of the walkway and the ditch had been the subject of fly tipping and littering.
- 6.3 The predominant style of property on the housing estate to the south is of mixed size and type in typical brick-built 1980s/1990s style with the properties in Turner Close which face onto the existing walkway being more recent and of more neo-traditional style – having been the development in the grounds of the Listed Cann Hall.

The Proposal

- 6.4 This is a hybrid planning application for major mixed development which seeks detailed (full) approval for some elements and outline approval (with details to follow at a later stage) for others.
- 6.5 Detailed (full) planning permission is sought for:
- One **discount food store** of 2,538 sqm floor area designed to the specification of retailer Lidl (who are understood to be the proposed occupier) with 141 car parking spaces. This store would be located on the eastern part of the site, accessed via the new access road.

- three **large retail units** totalling 5,167 sqm of floorspace with 200 car parking spaces. Two proposed occupiers are understood to be Wicks and Pets at Home with no occupier yet confirmed for the third unit.
- One **family pub/restaurant** designed to the specification of chain-company Marston's along with 92 car parking spaces to be shared with the associated hotel.
- One **39-bed hotel** with two meeting rooms, designed to the specification of chain-company Marston's
- Two **drive-thru café/restaurants** to the specification of Costa Coffee (located with the retail units) and McDonalds (located separately to the south-eastern corner of the site with 45 parking spaces).
- The **expansion of Pickers Ditch Walkway** around the southern part of the site (2.46 hectares) which will contain new landscaping, pedestrian/cycle connections and sustainable drainage features. Proposals to enhance and improve the security and appearance of the subway beneath the A133 are also proposed.
- The **access road** to be connected to the A133 through a fourth arm to the existing Brook Park (Britton Way) roundabout with internal roundabouts and junctions to serve different sections and uses of the development.

6.6 Outline planning permission is sought for:

- **Business units** – shown to occupy approximately 1.3 hectares of land to the north of the proposed food store and retail units with an estimated 3,000 sqm of floorspace..
- Up to **200 dwellings** and associated open space to occupy approximately, based on the indicative drawing, around 6.8 hectares of the western half of the site at densities ranging from 20-25 dwellings per hectare around the periphery and from 25-30 dwellings per hectare in central parts.

Architectural Drawings

- 1525/PA 01 Site Location Plan (based on Survey Drawing BH-SUR-01B)
- 1525/PA 02 Existing Site Plan based on Survey Drawing BH-SUR-01B
- 1525/PA 03 Parameters Plan
- 1525/PA 04 Proposed Indicative Masterplan
- 1525/Pa 05 Rev A Indicative Site Sections As Existing & As Proposed
- 1525/PA 06 Proposed retail Floor Plan, Mezzanine Plan and Roof Plan
- 1525/PA 07 Rev A Proposed Retail Elevations
- 1525/PA 08 Proposed Retail Site Plan
- JBC/5113/0000/01 Britton Way & Surrounding Land Topographical Survey (6 plans)
- 10819/CO/100 Rev A Proposed Costa Drive Thru – Plans and Elevations
- 5-1517/00F Proposed Site Plan – Lidl
- 5-1517/011b Proposed Elevations – Lidl
- 5-1517/009a Proposed Ground Floor Plan – Lidl
- 5-1517/010a Proposed First Floor Plan – Lidl

- 15-1517/012 Proposed Roof Plan – Lidl
- LD-SG-06 High Level Window Sections and Elevations
-
- 7138-SA-8470-P002 C Block Plan - McDonalds
- 7138-SA-8470-P004 C Proposed Site Layout Plan – McDonalds
- 7138-SA-8470-P006 A Proposed Ground Floor and Roof Plans – McDonalds
- 7138-SA-8470-P005 A Proposed Elevations & Section - McDonalds
- 7138-SA-8470-P022 B Proposed Site Layout Plan: Drive Totem – McDonalds
- 7138-SA-8470-P008 B Proposed Site Layout Plan: Site Signage – McDonalds
- 7138-SA-8470-P009 A Signage Elevations – McDonalds
- 7138-SA-8470-P012 A Play Frame Elevations – McDonalds

- H8702/55 Rev D Site Plan – Marston’s Pub and Hotel
- H8702/54 Proposed Elevations – Marston’s Pub
- H8702/51 Ground Floor Layout – Marston’s Pub
- H8702/52 First Floor Layout – Marston’s Pub
- H8702/53 Proposed Roof Plan – Marston’s Pub
- H8702/57 Proposed Section – Marston’s Pub
- H8702/61 Rev B Proposed Ground & First Floor Plan – Marston’s Hotel
- H8702/63 Rev B Proposed Roof Plan – Marston’s Hotel
- H8702/64 Rev B Proposed Elevations – Marston’s Hotel
- H8702/66 Rev B Proposed Soft Landscaping Plan – Marston’s Hotel
- H8702/58 Rev A Soft Landscaping Scheme – Marston’s Pub and Hotel
- H8702/59 Rev A Auto Tracking – Marston’s Pub and Hotel

Reports and Technical Information

- Design and Access Statement
- Ecological Appraisal
- Flood Risk Assessment
- Heritage Assessment
- Statement of Community Involvement
- Arboricultural Impact Assessment
- Planning, Retail and Leisure Assessment
- Noise Assessment
- Framework Travel Plan
- Landscape and Visual Impact Assessment
- Utility Report

Main Planning Considerations

6.7 The main planning considerations are:

- Principle of development;
- Impact on the Town Centre;
- Local Green Gap;
- Highways, transport and accessibility;
- Landscape, visual impact and trees;
- Flood risk and drainage;
- Ecology;
- Archaeology;
- Education provision;
- Healthcare provision;

- Utilities;
- Open space;
- Council Housing/Affordable Housing;
- Design, layout and impact on residents
- Pollution; and,
- Overall planning balance.

Principle of development

- 6.8 In line with Section 38(6) of the Planning and Compulsory Purchase Act 2014, planning decisions must be taken in accordance with the 'development plan' unless material considerations indicate otherwise. The requirements of the National Planning Policy Framework (NPPF) are a material consideration in this regard.
- 6.9 The 'development plan' for Tendring is the 2007 'adopted' Local Plan, despite some of its policies being out of date. Paragraph 215 of the NPPF allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF. Paragraph 216 of the NPPF also allows weight to be given to policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency with national policy. As of 14th July 2016, the emerging Local Plan for Tendring is the Tendring District Local Plan 2013-2033 and Beyond Preferred Options Consultation Document. As this plan is currently at an early stage of preparation, some of its policies can only be given limited weight in the determination of planning applications, but the weight to be given to emerging policies will increase as the plan progresses through the later stages of the process. Where emerging policies are particularly relevant to a planning application and can be given some weight in line with the principles set out in paragraph 216 of the NPPF, they will be considered and, where appropriate, referred to in planning decisions. In general terms however, more weight will be given to policies in the NPPF and the adopted Local Plan.
- 6.10 The site is not allocated for housing or mixed use development in the Council's adopted Local Plan and falls outside of the settlement development boundary. It also forms part of the designated Local Green Gap which seeks to maintain physical separation between the edge of Clacton urban area and the separate village of Little Clacton. In the emerging Local Plan however, the Local Green Gap designation has not been carried forward in this location and the site is effectively enveloped by the proposed Hartley Gardens strategic development proposal that is expected to deliver 2,500 homes in the longer term. In the emerging Local Plan the application site itself is not specifically zoned for a particular use, but it is included within the settlement development boundary and is indicated as a location where some land is to be used for employment. Between 5 and 10 hectares of employment land in this general location is suggested in Policy PP7 of the emerging plan.
- 6.11 Because the site lies outside of the settlement development boundary and is not allocated for development in the adopted Local Plan, it is technically contrary to adopted policy and the proposed development would be a departure from that plan. However, the adopted Local Plan is out of date in respect of future retail, employment and housing needs and the NPPF requires Councils to consider proposals on their merits against the economic, social and environmental dimensions of sustainable development.
- 6.12 'Sustainable Development', as far as the NPPF is concerned, is development that contributes positively to the economy, society and the environment and under the 'presumption in favour of sustainable development', authorities are expected to grant permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole; or specific policies in the NPPF indicate development should be restricted. Relevant to this

particular development proposal, the NPPF is very supportive, in principle, of developments that deliver economic growth and housing.

- 6.13 For housing, paragraph 47 of the NPPF also requires local planning authorities to boost significantly the supply of housing by identifying and updating annually a supply of specific deliverable sites sufficient to provide five years worth of housing against their housing requirements. In areas where there has been persistent under delivery of housing, an additional 20% 'buffer' is also required to provide a realistic prospect of achieving the planned supply and to ensure choice and competition in the market for land. For Tendring, the housing requirement is 550 dwellings per annum, as based on the evidence contained within the 'Objectively Assessed Housing Needs Study' (July 2015) and supplementary evidence that was presented to the Local Plan Committee on 21st January 2015. At the time of writing, and despite the publication of the new draft Local Plan, the Council was still only able to identify an approximate 4.5 year supply and thus there still remains considerable (albeit quickly reducing) shortfall. Paragraph 49 of the NPPF states that relevant policies for the supply of housing should not be considered 'up to date' if it is not possible to demonstrate a five year supply of deliverable housing sites and, in such cases, the 'presumption in favour of sustainable development' set out in paragraph 14 of the NPPF is engaged.
- 6.14 Due to the lack of a five-year supply of housing sites and the subsequent engagement of the presumption in favour of sustainable development, the Council would not be justified in refusing planning permission purely on the basis of the application site being outside of the settlement development boundaries in the adopted Local Plan. The application must therefore be judged on its merits against the NPPF.
- 6.15 For the development of 'town centre uses' including retail on land in an out of town location, as proposed here, the NPPF and policies both adopted and emerging Local Plans set out specific requirements aimed at safeguarding the vitality and viability of town centres and these are explained in more detail elsewhere in this report.
- 6.16 One of the NPPF's core planning principles is to "actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable".
- 6.17 With this in mind, the emerging Local Plan includes a 'settlement hierarchy' aimed at categorising the district's towns and villages and providing a framework for directing development toward the most sustainable locations. In the adopted Local Plan, Clacton on Sea is categorised as a 'town' in the adopted Local Plan and a 'strategic urban settlement, in the emerging Local Plan in recognition of its size and range of services and facilities and as a location where sustainable development on a larger scale can be achieved. In comparison, 'smaller urban settlements', 'villages', 'rural service centres' and 'smaller rural settlements' are considered to offer lesser sustainable locations for major development.
- 6.18 Because the Council's adopted Local Plan is out of date in respect of retail, employment and housing needs, there is a current housing land shortfall, the site adjoins an urban settlement where sustainable development on a larger scale can be achieved and most of the land is provisionally included within the settlement development boundary of the emerging Local Plan, Officers consider that the principle of residential development on the application site is acceptable – subject to assessing the impacts on the vitality and viability of Clacton Town Centre.

Impact on the Town Centre

- 6.19 The retail and leisure uses proposed for the site would, in themselves, generate considerable economic growth, widen customer choice and provide additional employment

opportunities for the people in the Clacton area and surrounding villages. This should be seen as a positive so long as the development does not result in an adverse impact upon the vitality and viability of Clacton Town Centre.

- 6.20 Any development of retail and leisure uses in an 'out of centre' location such as this therefore requires careful detailed assessment to ensure it does not detract from the vitality and viability of existing town centres. Paragraph 24 of the NPPF requires Councils to apply a 'sequential test' to such proposals, requiring the use of town centre sites or, failing that, 'edge of centre' sites, as a priority over out of centre locations. Where, following the sequential test, an out of centre location is considered to be justified, paragraph 26 of the NPPF requires Councils to request an 'impact assessment' for any development involving the creation of 2,500 square metres or more of new floorspace unless specific local thresholds have been adopted. For Clacton, the emerging Local Plan in Policy PP4 sets a lower threshold of 929 sqm. The assessment must consider the impact of the proposal on town centre investments and on the vitality and viability of town centres. Where applications fail to satisfy the sequential test or the development is likely to have a significant adverse impact on established town centres, paragraph 27 of the NPPF says that applications should be refused.
- 6.21 The applicant has submitted a 'Planning, Retail and Leisure Assessment' with the application which suggests that there should be no significant adverse impact on town centre vitality and viability and that the proposal will deliver a significant enhancement to the retail offer in the Clacton area which is current losing a customer trade to locations further afield. The applicant's Retail Statement has been independently tested, on the Council's instruction, by consultants WYG – the same consultants that undertook the Retail Study for the Local Plan.
- 6.22 For the sequential test, WYG suggests that the applicant's assessment could have gone further to explore the potential to accommodate the proposed retail and leisure development on smaller 'sequentially-preferable sites' within or closer to the town centres, if necessary being more flexible in terms of the scale and format of the proposal. The assessment of alternative sites has focussed almost exclusively on the proposed extension to the Waterglade Retail Park, which is a specific proposal in the adopted Local Plan. However, WYG consider that other smaller sites could have also been included in the assessment including land at Jackson Road, the potential 'Civic Quarter' around the Library and the Station Gateway land next to Clacton Railway Station. Because of this, WYG suggest that the applicant's assessment does not accord fully with the requirements of the sequential test set out in the NPPF and in the Local Plan.
- 6.23 That said, Officers have considered whether or not including those smaller sites in the assessment would have made any significant difference bearing in mind their current use and likelihood of development. For example, whilst there is a reasonable prospect of the land adjoining the Waterglade Retail Park being developed following the removal, by the National Grid, of the gas holders, the future of the other sites is less certain. The Jackson Road site is effectively the NCP Car Park and whilst the Council would support an appropriate mixed-use development that would enhance the town centre, there has been little indication from NCP of any desire to progress such a development. The Civic Quarter concept for land around the library, Town Hall and High Street Car Park is very dependent on co-location of public services and the redevelopment of a popular and well located multi-storey car park. It's deliverability in the short to medium term is therefore very uncertain. The Station Gateway comprises land currently used by Fullers Yard, the Sadds Yard industrial area and the railway station car park – all viable existing uses where there has been no strong expression from the owners to support redevelopment. With this in mind, whilst WYG have raised legitimate concerns, Officers are satisfied that the inclusion of additional smaller sites in the sequential test is unlikely to alter the overall conclusions of the assessment.

- 6.24 Turning to impacts, WYG has assessed both convenience (i.e. the Lidl foodstore) and comparison (i.e. the Wicks, Pets at Home and one other) to determine whether or not there is likely to be a significant adverse impact on the town centre which might justify the refusal of planning permission in line with the NPPF. For the foodstore, WYG conclude that another Lidl store is unlikely to have a significant adverse impact on the vitality or viability of either Clacton, Frinton or Walton town centres. To safeguard against the proposed store changing in nature and leading to adverse impacts in the future, WYG suggest that consideration be given to restricting the use of the store, through planning conditions, so that it can only be occupied by a discount food retailer such as Lidl or Aldi. WYG does however suggest that there could be an adverse impact on the District Centre of Old Road, particularly the existing Lidl and Aldi supermarkets located at the very northern end of Pier Avenue, and that Officers need to consider whether such harm would outweigh the benefits in the overall planning balance.
- 6.25 For comparison (non-food) goods, WYG considers it highly unlikely that the scheme would result in a significant adverse impact on either Frinton or Walton town centres, but for Clacton Town Centre there could be potential for a significant adverse impact due to overlap with and diversion of trade from existing businesses unless restrictions are put in place, through planning conditions, to ensure goods are limited to 'bulky comparison goods'.
- 6.26 For the other town centre uses such as the hotel, family pub and drive-thru restaurants, WYG suggest that the drive-thru facilities are unlikely to compete with, or draw trade from other eating establishments in the area because they are in-effect ancillary to the use of the proposed retail park, drawing upon shoppers and those passing the site by vehicle. The pub is likely to cater for the new residential communities being established in north-west Clacton as much as it will for existing residents so there is unlikely to be a significant adverse impact. For the hotel, whilst some competition with town centre and seafront hotels is acknowledged, its relatively limited scale is not considered likely to give rise to significant adverse impacts. .
- 6.27 In conclusion, WYG advises that if the Council was minded to approve the development, it will be important that the proposal trades in the manner in which it has been tested as part of the applicant's assessments. Therefore, WYG suggests specific planning conditions be applied that will ensure the following (summarised):
- No more than 214 sqm of the foodstore (Lidl) is used for comparison goods and the store is restricted to use as a 'discount foodstore' and cannot sell certain goods or provide certain services such as tobacco, staffed fresh meat, fish or deli, pharmacy, dry cleaning, photo-shop, post office or café.
 - Total sales area within the non-food comparison units (Wicks, Pets at Home and another) is limited, including any mezzanine space.
 - External sales area must be linked to the adjoining (Wicks) retail unit so it does not trade separately.
 - Limits to the range of goods that can be sold in the non-food retail units.
 - Limits to the total floor area of the proposed pub/restaurant, drive thru units and hotel.
- 6.28 The applicants have suggested that the restrictions contained within WYG's conditions go too far in restricting the use of the development and have suggested an alternative form of wording – however Officers would be inclined to impose WYG's wording through any

conditions if the Committee is minded to approve. The applicants could apply separately to have the conditions amended, but Officers are keen to follow WYG's independent advice.

- 6.29 On this advice, Officers are satisfied that the requirements of the NPPF have been addressed and that refusal of planning permission over concerns about the impact on the vitality and viability of the town centre is not justified, so long as the above controls are put in place. If the Committee is minded to approve this application in line with the Officer recommendation, these conditions will be imposed in order to guard against any significant adverse impacts on the town centre.

Local Green Gap

- 6.30 The site falls within a 'Local Green Gap' as identified in the Council's adopted Local Plan which, in this location, is designed to:

- Safeguard the separate identity, character and openness of the setting of Little Clacton, particularly by protecting the undeveloped land either side of Centenary Way;
- Preserve and where possible enhance views from the settlements;
- Prevent further ribbon development in the London Road area between Clacton-on-Sea and Little Clacton; and
- Safeguard the open character of the land wither side of the Little Clacton bypass.

- 6.31 Policy EN2 of the adopted Local Plan aims to keep Local Green Gaps essentially free of development within the plan period which, for the adopted Local Plan, was up to 2011. However, with the need for additional land for housing to meet longer-term requirements, there is an acceptance that it might not be possible to carry forward Local Green Gaps in all parts of the district into the next version of the Local Plan. So in the emerging Local Plan, many of the Local Green Gaps, including this one, have been redrawn to allow some development.

- 6.32 In recent months, the Planning Committee has resolved to refuse a number of planning applications for being contrary to adopted Local Green Gap policy including 15/01234/OUT for 240 dwellings off Halstead Road, Kirby Cross; 15/00904/OUT, 16/00208/OUT & 16/00209/OUT for 240, 220 and 276 dwellings (respectively) off Rush Green Road, Clacton; 15/01720/OUT for 175 dwellings off Centenary Way, Clacton; 15/00964/OUT for 71 dwellings off Mayes Lane, Ramsey; and 15/01710/OUT for 110 dwellings off Thorpe Road, Kirby Cross. Two of these sites (namely Rush Green Road and Mayes Lane) are specifically allocated for housing in the emerging Local Plan, as is the application site. Applications 15/01234/OUT for Halstead Road, Kirby Cross and 15/01710/OUT for Thorpe Road, Kirby Cross have however since been allowed on appeal.

- 6.33 The Council had previously received two appeal decisions for Local Green Gap sites. The first relates to an outline planning application for up to 60 dwellings on land north of Harwich Road, Little Oakley (Ref: 14/00995/OUT) and the second relates to an outline application for up to 75 dwellings on land east of Halstead Road, Kirby-le-Soken (Ref: 15/00928/OUT). Both appeals were dismissed with both Planning Inspectors concluded that the emerging Local Plan should carry only limited weight and that, critically, Policy EN2 in the adopted Local Plan is not a housing policy and should carry 'full weight'. The Inspector stated "*this policy aims to keep Local Green Gaps open and free of development, to prevent the coalescence of settlements and to protect their rural settings. This is compatible with the aim of the Framework, as set out in paragraph 17, to recognise the intrinsic character and beauty of the countryside and to protect valued landscapes. Consequently I have attached full weight to LP Policy EN2 in determining this appeal*".

- 6.34 However, there has since been a decision by the Court of Appeal (Cheshire East Borough Council v Secretary of State for Communities and Local Government & Anr. Case Number:

C1/2015/0894) in which three judges overturned an earlier High Court decision which had determined that green gap policies are not housing policies and should not be considered out of date if a Council cannot identify a sufficient supply of housing land. In overturning the High Court's decision, the Court of Appeal judges concluded that the concept of 'policies for the supply of housing' should not be confined to policies in the development plan that provide positively for the delivery of new housing in terms of numbers and distribution or the allocation of sites. They concluded that this concept extends to policies whose effect it is to influence the supply of housing land by restricting the locations where new housing may be developed – including, for example, policies for the green belt, policies for the general protection of the countryside, policies for conserving the landscape of Areas of Outstanding Natural Beauty and National Parks, policies for the conservation of wildlife or cultural heritage, and various policies whose purpose is to protect the local environment in one way or another by preventing or limiting development.

- 6.35 Notwithstanding the appeal decisions at Little Oakley and Kirby-le-Soken, the implication of this legal ruling is that the Council cannot simply refuse planning permission for development within Local Green Gaps on the basis that the Local Green Gap policy should carry 'full weight'. Instead, the Council must apply the key test within the NPPF to determine whether or not the adverse impacts of development would significantly and demonstrably outweigh the benefits – weighing up the presence of the Local Green Gap policy in the overall planning balance. This flexibility was exercised by the Inspectors dealing with the Kirby Cross appeals in allowing the grant of planning permission.
- 6.36 Given the proposed inclusion of this site within the redrawn settlement development boundaries in the emerging Local Plan and the proposed removal of the Local Green Gap in this area to enable the Hartley Gardens development, Officers consider that the loss of this part of the adopted Local Green Gap would not significantly and demonstrably outweigh the benefits of the development.
- 6.37 Because the weight to be given to the Local Green Gap designation alongside the benefit of the development is a matter of judgement, if the Committee was to take an alternative view to Officers and concludes that the adverse impact of losing the Local Green Gap significantly and demonstrably outweighs all economic, social and environmental benefits of the development, refusal against Policy EN2 of the adopted Local Plan would at least be a legitimate reason for refusal. On this particular occasion however, the economic, social and environmental benefits of this development are significant and the emerging Local Plan establishes a desire to see major development in this general location. Officers consider that a successful defence of an appeal against refusal on Local Green Grounds would be unlikely.

Highways, transport and accessibility

- 6.38 Paragraph 32 of the NPPF relates to transport and requires Councils, when making decisions, to take account of whether:
- the opportunities for sustainable transport modes have been taken up depending on the nature and location of the site, to reduce the need for major transport infrastructure;
 - safe a suitable access to the site can be achieved for all people; and
 - improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

- 6.39 Policy QL2 in the adopted Local Plan and Policy CP1 in the emerging Local Plan seek to ensure that developments maximise the opportunities for access to sustainable transport including walking, cycling and public transport. The application site is on the edge of the district's largest and most sustainable urban settlement. The new commercial uses on the site would be accessible to existing residents by foot and cycle via the expanded Pickers Ditch Walkway and by bus and car via the new access road. The new homes proposed as part of the development will naturally benefit from being located within walking distance of the new retail, leisure and employment uses and of the facilities at the existing Brook Retail Park. The homes would be some distance from existing medical facilities and schools (the nearest being Cann Hall Primary School) but they are accessible by cycle, bus and car. In the longer term new facilities are expected to be delivered as part of the wider Hartley Gardens development which could also be accessed by residents of this development.
- 6.40 The development will be accessed by a new fourth arm onto the current Brook Park (A133/Britton Way) roundabout and the spine road from the roundabout will then provide access to the different land-use elements of the scheme. It is proposed that a bus stop/layby be incorporated into the access road which will allow existing bus services to access and stop at the new development with minimal diversion. The bus services that currently operate in the area should easily be able to incorporate the development into their routes. In the longer-term as the residential element of the scheme is constructed, there is potential for bus services to be directed through, and around the residential area to serve the new residents.
- 6.41 Policy TRA1a in the adopted Local Plan requires that development affecting highways be considered in relation to reducing and preventing hazards and inconvenience to traffic including the capacity of the road network. The Highway Authority has considered the applicant's transport assessment and has resolved to make no objections subject to conditions – the most notable of which include off-site works to secure the upgrading of the existing pelican crossing to a toucan crossing on St. John's Road/Pathfields Road and for signals to be installed on two arms of St. John's Roundabout. The applicants have questioned whether the latter is required and a response from ECC Highways is, at the time of writing, yet to be received. It is therefore proposed that a planning condition requiring a plan for improvements to St. Johns Roundabout to be approved by the Council before development can commence be imposed. This will allow more time for ECC to consider and confirm the scale and nature of such improvements.
- 6.42 Whilst not the subject of specific written representations, Officers are also aware of some local concerns that the development might jeopardise the opportunity for the future dualling of the A133 to meet increased traffic demands in the future. It has also been suggested to Officers that the scheme might be better served by two separate roundabouts to cater for commercial and residential traffic separately. Whilst ECC Highways has not raised this as a concern, the applicants have been asked their highways consultants to consider this matter and their response is summarised below.
- 6.43 Firstly, the Council's own transport modelling work, to date, in support of the emerging Local Plan does not identify the need for dualling of the A133. Secondly, the fourth arm onto the A133/Britton Way roundabout has been designed to meet the required standards and involves some widening to both the north and the south of the roundabout and that with reasonable small changes to the roundabout, the dualling of the A133 in this location, if ever necessary in the future, could still be achieved. There will also be sufficient land around the roundabout for it to be enlarged to meet dual carriageway standards in the future, if necessary. In conclusion, the proposed Brook Park West development and associated access arrangements would not prejudice the ability to dual the A133 should this ultimately be required to cater for new housing development, or indeed other factors such as general traffic growth. This conclusion has been based on pragmatic engineering judgement.

- 6.44 In response to the suggestion of a second roundabout access to the site, the development would not prevent the option of a second roundabout to access future phases of development in this location above and beyond the current proposal. A new 3-arm roundabout could be delivered within the highway boundary and land under the control of the applicant. However, for the purposes of the current proposal, the fourth arm onto the current roundabout has been shown to be sufficient – as has been confirmed by ECC Highways. The applicants highways consultants suggest that the current roundabout could accommodate more traffic movements than are currently expected as a result of the proposed development.
- 6.45 Concern has been raised about the internal workings of the proposed road layout and potential conflicts between residential and commercial traffic. The applicant's highway consultants have advised that the internal layout has been designed to be attractive to residents and to those accessing the commercial developments alike and includes a well landscaped dual carriageway section from the main roundabout to the internal roundabout. They confirm that the proposed internal roundabout has substantially greater capacity than the predicted traffic demands of the development.
- 6.46 From a highways, transport and accessibility perspective, Officers consider that whilst there is some dispute over the nature of off-site works that would be required, the development – subject to the appropriate conditions, meets the requirements of the NPPF and the Local Plan and refusal on these grounds would not be justified.

Landscape, visual impact and trees

- 6.47 Policy QL9 in the adopted Local Plan and Policy SPL3 in the emerging Local Plan still requires developments to respect and enhance views, skylines, landmarks, existing street patterns, open spaces and other locally important features. Policy EN1 of the adopted Local Plan and Policy PPL3 in the emerging Local Plan seek to protect and, wherever possible, enhance the quality of the district's landscape; requiring developments to conserve natural and man-made features that contribute toward local distinctiveness and, where necessary, requiring suitable measures for landscape conservation and enhancement. Policies QL9 and SPL3 also require developments to incorporate important existing site features of landscape, ecological or amenity value such as trees, hedges, water features, buffer zones, walls and buildings.
- 6.48 The site is located on very flat, featureless land to the north of the existing built up area. The applicants have submitted a Landscape and Visual Impact Assessment to assess the landscape value of the site and to consider the impact of the development. This assessment has been considered by the Council's Principal Trees and Landscape Officer whose advice is that the site lies within the Clacton and the Sokens Clay Plateau and as defined in the Tendring District Council Landscape Character Assessment. The information contained in the applicant's assessment provides a genuine description of the existing landscape character and demonstrates the degree to which the proposed change of use of land and associated development will impact on the qualities of the landscape. The assessment demonstrates that only low level and short term harm will be caused to the local landscape character. Officers concur with this conclusion.
- 6.49 In landscape terms the development appears to be reasonably well associated with the existing residential development to the south and the retail area to the east. For the areas covered by the detailed application the applicant has provided a site layout plan showing the positions of the buildings and detailed soft landscaping plans. The integral soft landscaping is sufficient to soften and enhance the appearance of the development. The plans also, indicatively, show strong boundary planting to help screen and assimilate the

development into its setting. Further information relating to the soft landscaping of the site boundaries will need to be secured as part of the planning process, via planning conditions.

- 6.50 For Trees, the applicants have provided a Tree Survey and Report and the Council's Principal Trees and Landscape Officer has confirmed that the trees on the application site are not threatened by the development proposal. The indicative site layout shows the creation of a new public open space adjacent to the existing Pickers Ditch Walk. The proposed layout will improve the users experience of the area by way of the increase in the width of the land next to Pickers Ditch.

Flood risk and drainage

- 6.51 Paragraph 103 of the NPPF requires Councils, when determining planning applications, to ensure flood risk is not increased elsewhere. Although the site is in Flood Zone 1 (low risk), the NPPF, Policy QL3 in the adopted Local Plan and Policy PLA1 in the emerging Local Plan still require any development proposal on site larger than 1 hectare to be accompanied by a site-specific Flood Risk Assessment (FRA). This is to assess the potential risk of all potential sources of flooding, including surface water flooding, that might arise as a result of development.
- 6.52 The applicant has submitted a Flood Risk Assessment which has been considered by Essex County Council as the authority for sustainable drainage. Initially, ECC issued a 'holding objection' and required further work to be undertaken to ensure compliance with the guidelines set out in the relevant National Planning Practice Guidance. The applicant responded to the objection with further information requested and the objection has now been addressed. ECC now supports the grant of outline planning permission subject to conditions relating to the submission and subsequent approval of a detailed Surface Water Drainage Scheme before development can take place. It is noted that the expanded Pickers Ditch Walkway is proposed to contain attenuation features.
- 6.53 In conclusion, the applicant has demonstrated through their Flood Risk Assessment and supplementary information that development can, in principle, be achieved without increasing flood risk elsewhere. With the planning condition suggested by ECC, the scheme should comply with the NPPF and Policies QL3 and PLA1 of the adopted and emerging Local Plans (respectively) and therefore addresses the flood risk element of the environmental dimension of sustainable development.

Ecology

- 6.54 Paragraph 118 of the NPPF requires Councils, when determining planning applications, to aim to conserve and enhance biodiversity. Where significant harm to biodiversity cannot be avoided, mitigated or, as a last resort, compensated for, Councils should refuse planning permission. Policy EN6 of the adopted Local Plan and Policy PPL4 of the emerging Local Plan give special protection to designated sites of international, national or local importance to nature conservation but for non-designated sites still require impacts on biodiversity to be considered and thereafter minimised, mitigated or compensated for.
- 6.55 Under Regulations 61 and 62 of the Habitats Regulations, local planning authorities as the 'competent authority' must have regard for any potential impact that a plan or project might have on European designated sites. The application site is not, itself, designated as site of international, national or local importance to nature conservation and is considerable distance from any designated sites. Officers consider that there will be no significant impacts on any designated sites and Natural England have written with no comment on the application. Officers are satisfied therefore that no further 'appropriate assessment' is required.

- 6.56 The applicant has prepared and submitted a Phase 1 Extended Habitat Survey to assess the ecological value of the site and immediate area itself and the potential impact of the development. Being in predominantly agricultural use, the ecological value of the site was expected to be low but consideration still needs to be given to any habitats potentially occupying the boundaries of the site. The survey covered all of the different parts of the site including the arable field, arable field margins, rough grassland with tree planting, hedgerows and ditches. The assessment looked at a range of flora and fauna and the findings are summarised below:
- 6.57 Bats: The survey identifies that a number of young to mature trees are present on the edge of the site and these were assessed for their potential to support roosting bats. A mature Oak tree was found to have a rot hole and split limb which might have had potential for roosting bats, but these were found to either be an inappropriate size for bats or to be used by nesting birds. A semi-mature Willow on the site was found to have large split on a downwards-arching limb that might have had bat potential, but this was assessed as being too exposed to the weather and therefore unlikely to be used. For foraging bats, some of the hedgerows around the site were considered to have some potential due to the presence of numerous trees but that with the majority of the site in intensive arable use, the site was assessed of being of relatively low ecological potential and that further survey work would unlikely to yield any useful data. This is particularly as the features most likely to be used by bats will be retained and enhanced as part of the proposal. It is recommended that any lighting scheme be sensitively designed to reduce night-time illumination of the relevant trees.
- 6.58 Badgers: No Badger setts or other signs of use by Badgers were identified on the site, although it is anticipated that Badgers might pass through the site following the line of the hedgerows which afford some limited foraging potential. To safeguard against any potential adverse impact on Badgers, the report recommends a number of measures that could be secured through a mitigation plan that would be required by planning condition if the proposal is approved.
- 6.59 Other Mammals: There are records for Hedgehogs and Harvest Mouse using the local area but the ditch was considered to be unsuitable for Water Voles, with no records of this species being identified in desk-top survey information. The rough grassland and field margins around the site were considered to have some limited potential for Field Vole and Shrews but on balance the site was considered to be of no more than low ecological value and the measures recommended to safeguard reptiles would equally serve to protect these species.
- 6.60 Amphibians: No ponds were recording within the site, with the nearest sqm 0.5km to the north of the main field, separated from the site by open arable land with no direct commuting routes. The ditch was considered to be unsuitable for Great Crested Newts, being heavily overshadowed with steep sided banks and only occasional localised patches of shallow water. Whilst the field margins and hedgerows might afford some potential for foraging and shelter, the habitats are largely suboptimal for Great Crested Newts, with the majority of the site being dominated by arable land. However, specific mitigation measures are proposed to guard against any potential adverse impacts on Newts and other species.
- 6.61 Reptiles: Whilst there are records for Slow-worm and Common Lizard in the general area, the potential for such species to be present on the site itself is reduced by the intensive arable use of the land – although the hedgerows and field margins might afford some potential to support common reptiles. No specific evidence of such species was identified as part of the survey. Precautionary measures to ground clearance are however proposed to safeguard reptiles in the unlikely event that they are found to be present.

- 6.62 Birds: Birds seen within the site included Common Gull, Blue Tit, House Sparrow and Robin; but there are records of other common species using the site including Great Tit and Woodpigeon. The loss of some hedgerow which might affect these common species will be compensated for through new hedgerow planting and the creation of swathes of wildflower grassland. This will not only enhance the habitat for birds, but also invertebrates. Development should avoid disturbance of birds during the breeding season.
- 6.63 Invertebrates: Wasps and Spiders were seen on the site during the survey, but records show that Butterflies use the field margins. The site is dominated by cereal crop which lacks diversity and is therefore unlikely to attract varied invertebrate assemblages. There is no evidence of the presence of any rare or notable invertebrates and the value of the site is considered to be low or negligible.
- 6.64 Recommended enhancements for the site include woodland edge planting, new native hedgerow planting, bolstering of hedgerows, wildflower grassland, new tree planting, attenuation ponds, bat boxes and bird boxes which can all be secured through an ecological mitigation plan. The report also suggested management arrangements which can form part of such a mitigation plan.
- 6.65 Officers concur with the findings of the report and consider that the ecological value of the site is generally low with the potential to secure significant enhancements through the development. A condition is suggested to secure an ecological mitigation plan that will detail the protection and enhancement measures that will need to be agreed by the Council prior to the commencement of the development.

Archaeology

- 6.66 The applicants have also considered the archaeological value of the site and there is evidence that some archaeological remains of historical significance could potentially be beneath the soil. In line with the recommendation within the applicants' assessment and the general approach advocated by Essex County Council's Archaeologist, a condition will be applied if the Committee is minded to approve, to ensure trial trenching and recording is undertaken prior to any development to ascertain, in more detail, what archaeological remains might be present.

Education provision

- 6.67 Policy QL12 in the adopted Local Plan and Policy PP12 in the emerging Local Plan require that new development is supported by the necessary infrastructure which includes education provision. A large number of local residents have expressed concern that local schools will not be able to cope with the expected increase in population arising from the 200 new homes, particularly when considered alongside other proposals for major residential development under consideration in the wider area.
- 6.68 Essex County Council as the Local Education Authority has been consulted on the planning application and has made representations. ECC has requested a £250,740 contribution towards early years and childcare provision, a £733,080 contribution towards primary provision and a contribution towards secondary provision of £742,440. The requested contribution towards secondary education has been queried with ECC because it runs contrary to previous advice in respect of development in Rush Green Road (a proposal subject of an appeal against refusal) where the advice was that a deficit in secondary provision arose as a result of the decision taken to close the Tendring Enterprise Studio School and that, under these circumstances it would have been inappropriate to request a contribution for additional secondary school places. Whilst, at the time of writing, Officers had not received a response from ECC to this point, it would appear unreasonable to

expect this development to contribute financially towards secondary provision when school in Jaywick Lane could be reopened, if necessary, to meet future demands.

- 6.69 The applicants have indicated a willingness to pay the primary school contribution but they do not agree with contributing towards early years and childcare provision as it is not a statutory educational requirement and, in their view, would be contrary to the regulations that control what can reasonably and legally be secured through s106 legal agreements. Officers do not accept this in principal stance as policies allow for securing EY&C contributions and it is common practice throughout Essex for these to be secured through s106 agreements on major developments. However, if the ability for the scheme to make financial contributions is limited by economic viability (discussed below), then it would be reasonable to expect that contributions towards primary school provision would take priority over those for EY&C provision.

Health provision

- 6.70 The requirement of the NPPF to promote the creation of high quality environments with accessible local services that reflect the community's needs also extends to health provision, another matter of considerable concern amongst local residents. Again through Policy QL12 in adopted Local Plan and Policy HP1 in the emerging Local Plan, new development needs to be supported by the necessary infrastructure, including health provision. As this the case across most parts of the district, local health services are operating either at, close to or above capacity in catering for the needs of the current population. One of the roles of the Local Plan is to ensure that major residential developments are planned alongside agreed investment in an area's infrastructure to accommodate anticipated increases in population. For health provision, this could mean the expansion of existing facilities or through the provision of new ones.
- 6.71 At pre-application stage, Officers encouraged dialogue between the applicants and the NHS to explore the possibility of establishing a new purpose-built medical facility on this site as part of the mix of uses – given the growing health needs of Clacton and the site's highly accessible location off the A133 in an area that is expected to accommodate significant longer-term housing growth. The applicants have been carried out such discussions, but the NHS is still in the process of reviewing its plans for future investment and has been unable to commit to any proposal to create a facility on this site. Instead, NHS England has provided its standard Health Impact Assessment for the development proposal and has requested a financial contribution of just over £69,000 is requested to mitigate the capital cost to the NHS for the provision of additional healthcare services. The funding is most likely, depending on specific timescales, to go towards relocation costs for Great Clacton Medical Practice.
- 6.72 Subject to viability (covered below), this contribution will be secured through the s106 legal agreement if the Committee was minded to approve planning permission.

Utilities

- 6.73 With regard to sewage capacity, Anglian Water has advised that there is sufficient capacity in the foul sewerage network to deal with the levels of effluent expected from this scheme of and has made no objections to the proposal subject to conditions to require a surface water management strategy and a foul water strategy being submitted and agreed.

Open space/Pickers Ditch Walkway

- 6.74 One of the key elements of this proposal is the substantial expansion of the Pickers Ditch Walkway along the northern edge of the existing built up area. It has long been the goal of the Council to create a continuous green corridor along Pickers Ditch providing a link for

walkers and cyclists from the west of the town all the way through to Holland Haven in the east. Over many years, sections of the walkway have been completed and Policy COM8a in the adopted Local Plan clearly sets out the aspiration to deliver a further 52 hectares of green space along the route of Pickers Ditch in the future.

- 6.75 This development provides the opportunity to expand upon and significantly enhance this particular section of the walkway which, in parts is extremely narrow, has poor surveillance and where there is evidence of vandalism and misuse. The expansion of the walkway by some 2.5 hectares will enable the creation of enhanced and safer walkways, greater security, habitat creation and sustainable drainage features. It will also ensure the retention of important trees around the site and will act as a buffer between the dwellings closest to the site and the new development that is proposed. Measures to improve the appearance, security and safety of the existing A133 subway/underpass will also be secured.
- 6.76 The applicant has suggested the transfer of the land to the Council with a financial contribution towards its layout and future maintenance. Another option could be for the open space to be laid out prior to its transfer to the Council, but these are matters that can be negotiated through a s106 agreement. Essex County Council's request for a multi-use games area and skate board facilities are noted and consideration will be given to the practicality, viability and appropriateness of such a facility in this location but the priority will be the creation of an informal open space for walkers and cyclists.
- 6.77 Policy COM6 in the adopted Local Plan and Policy PEO22 of the emerging Local Plan require large residential developments to provide at least 10% of land as public open space or otherwise make financial contributions toward off-site provision. For the residential element of the scheme for which outline approval is being sought, there will be some incidental open space within the scheme but the additional land at Pickers Ditch Walkway will be substantially greater than the normal 10% requirement.

Council Housing/Affordable Housing

- 6.78 Policy HG4 in the adopted Local Plan requires large residential developments to provide 40% of new dwellings as affordable housing for people who cannot otherwise afford to buy or rent on the open market. Policy LP6 in the emerging Local Plan, which is based on more up to date evidence on viability, requires 30% of new dwellings on large sites to be made available to the Council to acquire at a discounted value for use as Council Housing. The policy does allow flexibility to accept as low as 10% of dwellings on site, with a financial contribution toward the construction or acquisition of property for use as Council Housing (either on the site or elsewhere in the district) equivalent to delivering the remainder of the 30% requirement.
- 6.79 The Council's Housing Needs team has commented on the application and advised that there is a significant need for affordable housing in the area based on evidence from the local housing register. Therefore, if possible, the scheme is expected to deliver the full 30% affordable housing requirement and the housing team has suggested that a registered provider other than the Council may be better placed to acquire these dwellings at a discounted value. If the Committee is minded to approve this application, Officers will negotiate and agree an appropriate level of Council Housing to be secured through a s106 legal agreement – however, economic viability may have a bearing on the level secured. .

Economic Viability

- 6.80 Paragraph 173 in the NPPF states that pursuing sustainable development requires careful attention to viability and cost in both plan-making and decision-taking. The applicant has submitted, on a commercially confidential basis, an assessment of economic viability which suggests that the scheme would be unable to afford the provision of affordable or Council

housing within the scheme. If the Committee is minded to approve this application, Officers will have the viability assessment independently reviewed.

- 6.81 The applicant has also submitted draft 'heads of terms' for a s106 legal agreement which propose the following:
- 12 'shared ownership' homes or a financial contribution in the event that no registered provider is interested in acquiring the properties;
 - The primary school contribution of £733,080 as requested by ECC, but no contribution to early years and childcare or secondary provision;
 - The transfer of the Pickers Ditch Walkway land to the Council with a financial contribution for its planting, laying out and future maintenance.
- 6.82 The Council's preference would naturally be the full 30% social rented or intermediate housing, the full contributions towards education, the health contribution and the transfer of Pickers Ditch land to the Council with necessary contributions. However, if an independent assessment of viability confirms that there is a limit to what can realistically be secured, these contributions will need to be prioritised and an appropriate s106 agreement will need to be negotiated. It is likely that the Pickers Ditch Walkway and the contribution towards primary school places will be the highest priorities.

Design, layout and impact on residents

- 6.83 As a hybrid application, detailed design and layout drawings have only been submitted for the retail units, pub/restaurant, hotel, drive-thru restaurants and the Pickers Ditch open space. The residential and business uses are in outline at this stage, with details being reserved for future consideration.
- 6.84 The overall layout of the scheme comprises the expansion of Pickers Ditch Walkway to the south which will ensure a significant area of separation between the new buildings and existing dwellings on the adjoining housing estate – there are consequently no concerns over any overlooking or unacceptable residential amenity impacts – subject to appropriate lighting and landscaping. The retail and commercial uses are located on the eastern half of the site to ensure the most direct access for vehicles and commercial vehicles and to reflect the presence of commercial activity on the opposite side of the A133. The residential and associated amenity space would be located within the western part of the site which responds appropriately to the provisional allocation of land to the west for long-term residential growth.
- 6.85 Turning to the designs of the buildings for which detailed approval is sought, the designs are generally standard format designs for the proposed occupiers and there is no surrounding context or style of development that indicates the requirement for bespoke design. Indeed the buildings on the existing Brook Park Retail Park are of standard format design.
- 6.86 For the food store, the building is designed to the standard specification of retailers Lidl. The store is single storey with staff mezzanine floor and topped with a mono-pitch roof. The mono-pitch roof drops in height west to east, with full height glazing in the southern elevation to enable natural light penetration of the sales floor inside. The other elevations comprise white-finish render and aluminium cladding. Given the context of the site on the opposite side of the A133 to a retail park utilising basic and standard functional designs, Officers are content with the proposed quality and appearance of the proposed Lidl building.
- 6.87 For the Family Public House and the Lodge Hotel are designed to the specification of Marston's. The buildings will be separate, but linked commercially. The architectural design of the proposed pub restaurant building has been developed as a series of building

elements focussed around a central core, aimed at reducing the perceived mass of the building. The hotel adopts a simpler use of materials and roof-scale that will be sympathetic to the scale of the associated pub. Materials will comprise cream render, red facing brickwork, grey-pointed timber cladding and contrast coloured roof tiles. The complex will include a fenced children's external play area. Officers are satisfied that in this location, the design of build would be acceptable.

- 6.88 For the MacDonalds Drive Thru, the building is designed to meet operational requirements. It has a footprint of 442 sqm. The proposed building has a distinctive glazed customer area orientated to address the main frontage of the site. It would be a single-storey building utilising materials that will mainly reflect the brand image. Wall elevations are treated using a mixture of walnut effect solid core laminate panels, with contemporary grey block below. Subject to appropriate screening and assimilation with the expanded Pickers Ditch Walkway, Officers are satisfied that this standard design would be acceptable in this location.
- 6.89 For the second Drive-Thru, the building is designed to the specification of Costa Coffee. It is a single storey drive thru coffee shop totalling 190 sqm of floorspace. It would be a simple contemporary building. The main body will consist of thru coloured render in white, with contrasting horizontally laid timber cladding.
- 6.90 Only outline consent is sought for the residential and employment development shown, on the indicative masterplan, to occupy around 6.8 hectares and 1.3 of land respectively. The average net density of the housing would be around 29 dwellings per hectare which is slightly above that of the neighbouring housing estate. To achieve this average density, there will be variations in density throughout the site and the indicative diagrams show lower density housing around the outside of the site with higher density elements within the centre.

Overall Planning Balance

- 6.91 Because the Council's adopted Local Plan is out of date in respect of retail, employment and housing needs and a five-year supply of deliverable housing sites cannot currently be identified, the National Planning Policy Framework (NPPF) requires that development be approved unless the adverse impacts would significantly and demonstrably outweigh the benefits, or if specific policies within the NPPF suggest development should be refused. The NPPF in this regard applies a 'presumption in favour of sustainable development' for which sustainable development addresses economic, social and environmental considerations.
- 6.92 Economic: The proposal carries significant economic benefits and opportunities for job creation (around 200 jobs estimated) across a range of sectors and the proposal has been independently assessed to confirm that, subject to imposing certain planning conditions, there is unlikely to be a significant adverse impact on the vitality and viability of Clacton Town Centre. The economic benefits carry significant weight in the overall planning balance.
- 6.93 Social: The provision of up to 200 dwellings toward meeting projected housing need, at a time when the Council is unable to identify a five-year supply, is a significant social benefit which again carries a high level of weight in the overall planning balance – particularly as government policy is to boost housing supply. Additional social benefits include the proposed expansion of the Pickers Ditch walkway which will help minimise visual impacts for residents of the existing housing and improve use, surveillance and security in this location. The impacts of health and schools provision will be mitigated through financial contributions to be secured through a s106 agreement, if the application is approved. As a site located on the edge of the district's largest town, the proposal performs well in respect

of social sustainability and will serve the expanding population of Clacton if the wider Hartley Gardens development takes place in the longer term.

- 6.94 Environmental: The site is not particularly sensitive in terms of its landscape character and ecological value and the expansion of Pickers Ditch Walkway offers the potential for a significant environmental enhancement in the area. The development will result in a loss of a large area of agricultural land, but this is the inevitable cost of meeting future development needs in a district with a limited supply of previously developed brownfield land. The loss of this section of the Local Green Gap is not considered to be a significant adverse impact given the proposals in the emerging Local Plan for this area to accommodate long-term strategic growth.
- 6.95 In the overall planning balance, Officers consider that the adverse impacts do not significantly and demonstrably outweigh the benefits and, on this occasion, the benefits are considerable. The application is therefore recommended for approval subject to a s106 legal agreement and a range of planning conditions – including those required to restrict the use of the retail units in the interest of safeguarding the vitality and viability of Clacton Town centre.

Background Papers

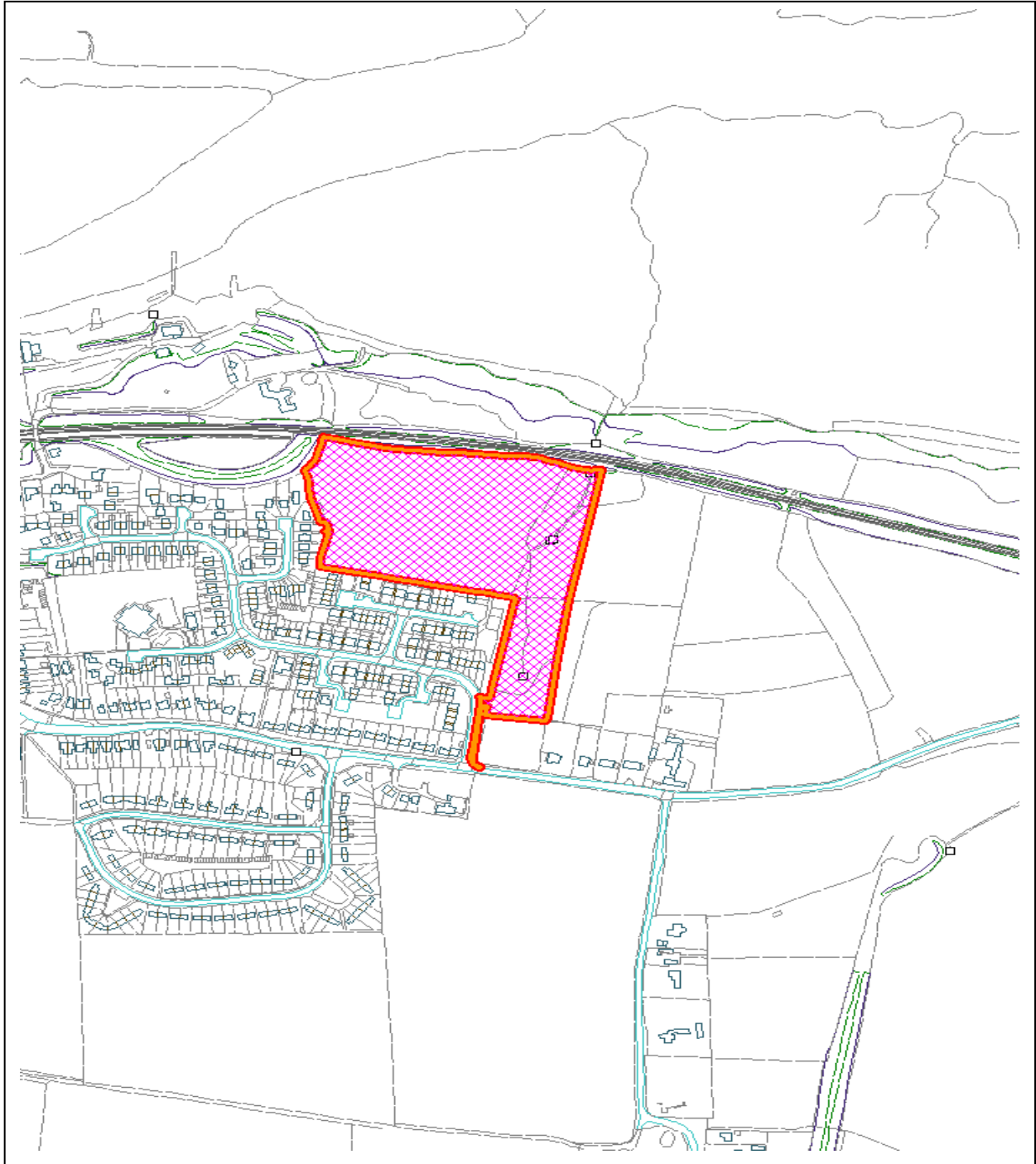
None.

PLANNING COMMITTEE

30 NOVEMBER 2016

REPORT OF THE HEAD OF PLANNING

A.3 PLANNING APPLICATION – 15/01810/OUT – LAND NORTH OF STOURVIEW AVENUE, MISTLEY, CO11 1LT



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Application:	15/01810/OUT	Town / Parish: Mistley
Applicant:	Rose Builders (Properties Ltd)	
Address:	Land north of Stourview Avenue, Mistley, CO11 1LT	
Development:	Proposed new access road and the erection of up to 70 dwellings and associated works.	

1. Executive Summary

- 1.1 This is an outline planning application seeking approval for the principle of up to 70 new homes with a new access road on undeveloped land off Stourview Avenue, Mistley. The application was submitted in November 2015 but determination has been delayed whilst additional information has been prepared to address the requirements of European Habitat Regulations, assess the ecological value of the site and whilst the cumulative impacts of other large-scale development proposals in the Manningtree, Lawford and Mistley area have been properly assessed. Around 1,500 new homes are already expected to be built in the Manningtree, Lawford, Mistley and Brantham area following resolution to grant planning permission for a number of major schemes, subject to s106 legal agreements to provide appropriate mitigation for the individual and cumulative impacts on health, education and highways.
- 1.2 Historically, this site was Mistley Parish Council's preferred location for inclusion in the new Local Plan for housing. However, following the grant of outline planning permission for schemes of up to 300 dwellings off Long Road, 135 dwellings off Harwich Road and 25 dwellings off Pound Corner, and having considered concerns raised by residents, development on the application site is no longer supported by the Parish Council. There are also 9 local objections and 1 representation of support.
- 1.3 The site is located within an area proposed for inclusion within an extension to the Suffolk Coast and Heaths Area of Outstanding Natural Beauty. It also lies outside of the settlement development boundary and within the Coastal Protection Belt, as defined in the Council's adopted Local Plan. In the new merging Local Plan however, the settlement development boundary extends around the majority of the site and the Coastal Protection Belt has been adjusted to exclude the land in question – indicating an expectation that the site could be developed. The site's location close to the Stour Estuary and associated Area of Outstanding Natural Beauty does however mean that any development would have to be undertaken in a sensitive manner that respects landscape and visual considerations and the natural beauty of the area.
- 1.4 Because the Council is still currently unable to identify a five-year supply of deliverable housing sites as required by government planning policy (albeit the situation is improving rapidly), this application has been considered in line with the government's 'presumption in favour of sustainable development'. Although the development would be contrary to the adopted Local Plan, to comply with government requirements Officers have needed to approach the application with a view to positively addressing, as far as possible, technical issues and other matters raised by consultees and residents.
- 1.5 Because Mistley forms part of the wider Manningtree, Lawford and Mistley urban settlement as defined in the Local Plan, residential development in this location has the potential to be sustainable with reasonable access to a range of local job opportunities, shops, services, facilities and public transport compared with more remote rural villages.

- 1.6 With a number of major developments already approved in the area, Officers have carefully considered both the individual and cumulative impacts to assist the Committee in making an informed judgement. The most significant planning issue in this regard has been Highways and the potential impact of multiple developments on highway capacity and safety, in particular the A137 at the busy railway crossing at Manningtree Station. Following lengthy and careful consideration, Essex County Council as the Highways Authority has advised that this particular development will not add significantly to traffic at the railway crossing and that it is acceptable in highways terms, subject to conditions relating mainly to the access and footpath arrangements.
- 1.7 Essex County Council as the Education Authority and NHS England have requested financial contributions towards addressing the impact of the development on local education and health services and Anglian Water has indicated that the development could be accommodated by the local sewage system. Ecological, flood risk and heritage impacts have been addressed to the satisfaction Officers. Whilst no indicative drawings have been provided in support of the application at this stage, Officers are content that a scheme of 70 dwellings with suitable open space and landscaping could be accommodated on the site in an acceptable manner – with the details of layout and design being reserved for consideration at a later stage.
- 1.8 Officers consider that this development complies with the requirements of the National Planning Policy Framework and the recommendation is approval subject to a s106 agreement to secure affordable housing, open space and allotments, and financial contributions towards health and education.

Recommendation: Approval

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

- a) Within 6 (six) months of the date of the Committee's resolution to approve, the completion of a legal agreement under the provisions of section 106 of the Town and Country Planning Act 1990 dealing with the following matters (where relevant):
- On-site Council Housing/Affordable Housing;
 - Education contribution;
 - Health contribution;
 - Contribution towards ecological mitigation; and
 - Completion and transfer of public open space + maintenance contribution.
- b) Planning conditions in accordance with those set out in (i) below (but with such amendments and additions, if any, to the detailed wording thereof as the Head of Planning (or the equivalent authorised officer) in their discretion considers appropriate).
- (i) Conditions:**
1. Standard 3 year time limit for submission of reserved matters application.
 2. Standard 2 year limit for commencement of development following approval of reserved matters.
 3. Details of appearance, layout, scale and landscaping (the reserved matters).
 4. Layout and phasing plan/programme.
 5. Development to contain up to (but no more than) 70 dwellings.
 6. Highways conditions (as recommended by the Highway Authority).
 7. Archeologic trial trenching.

8. Ecological mitigation/enhancement plan.
9. Foul water strategy.
10. Surface water drainage scheme.
11. SuDS maintenance/monitoring plan.
12. Hard and soft landscaping plan/implementation.
13. Details of lighting, materials and refuse storage/collection points.
14. Broadband connection.
15. Local employment arrangements.

- c) That the Head of Planning (or the equivalent authorised officer) be authorised to refuse planning permission in the event that such legal agreement has not been completed within the period of 6 (six) months, as the requirements necessary to make the development acceptable in planning terms had not been secured through a s106 planning obligation.

2. **Planning Policy**

National Planning Policy Framework (NPPF)

- 2.1 The National Planning Policy Framework (March 2012) sets out the Government's planning policies and how these are expected to be applied at the local level.
- 2.2 Planning law requires that applications for planning permission be determined in accordance with the 'development plan' unless material considerations indicate otherwise. The NPPF doesn't change the statutory status of the development plan as the starting point for decision taking. Where proposed development accords with an up to date Local Plan it should be approved and where it does not it should be refused – unless other material considerations indicate otherwise. An important material consideration is the NPPF's 'presumption in favour of sustainable development'. The NPPF defines 'sustainable development' as having three dimensions:
- an economic role;
 - a social role; and
 - an environmental role.
- 2.3 These dimensions have to be considered together and not in isolation. The NPPF requires Local Planning Authorities to positively seek opportunities to meet the development needs of their area whilst allowing sufficient flexibility to adapt to change. Where relevant policies in Local Plans are either absent or out of date, there is an expectation for Councils to approve planning applications, without delay, unless the adverse impacts would significantly and demonstrably outweigh the benefits.
- 2.4 Section 6 of the NPPF relates to delivering a wide choice of quality new homes. It requires Councils to boost significantly the supply of housing to meet objectively assessed future housing needs in full. In any one year, Councils must be able to identify five years worth of deliverable housing land against their projected housing requirements (plus a 5% or 20% buffer to ensure choice and competition in the market for land). If this is not possible, housing policies are to be considered out of date and the presumption in favour of sustainable development is engaged with applications for housing development needing to be assessed on their merits, whether sites are allocated for development in the Local Plan or not.
- 2.5 Paragraph 187 of the NPPF states "*Local planning authorities should look for solutions rather than problems, and decision-takers at every level should seek to approve applications for sustainable development where possible. Local planning authorities should*

work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area”.

Local Plan

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

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

QL1: Spatial Strategy: Directs most new development toward urban areas and seeks to concentrate development within settlement development boundaries.

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

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

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

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

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

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

HG1: Housing Provision

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

HG3: Residential Development Within Defined Settlements

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

HG3a: Mixed Communities

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

HG4: Affordable Housing in New Developments

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

HG6: Dwellings Size and Type

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

HG7: Residential Densities

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

HG9: Private Amenity Space

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

COM2: Community Safety

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

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

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

COM6: Provision of Recreational Open Space for New Residential Developments

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

COM21: Light Pollution

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

COM23: General Pollution

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

COM26: Contributions to Education Provision

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

COM29: Utilities

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

COM31a: Sewerage and Sewage Disposal

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

EN1: Landscape Character

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

EN3: Coastal Protection Belt

Resists development in the Coastal Protection Belt to safeguard the character of the undeveloped coast.

EN4: Protection of the Best and Most Versatile Agricultural Land

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

EN5a: Area proposed as an Extension to the Suffolk Coast and Heaths AONB

In this area, the Council will seek to protect the natural beauty of the landscape and views towards it, having regard to the Suffolk Coast and Heaths Strategy.

EN6: Biodiversity

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

EN6a: Protected Species

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

EN6b: Habitat Creation

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

EN11a: Protection of International Sites

Guards against development that would have an adverse impact on wildlife habitats of international importance which includes the Stour Estuary.

EN11b: Protection of National Sites

Guards against development that would have an adverse impact on wildlife habitats of national importance such as Sites of Scientific Interest (SSSI) and National Nature Reserves (NNR).

EN11c: Protection of Local Sites

Guards against development that would have an adverse impact on wildlife habitats of local importance including Local Wildlife Sites (LoWS).

EN12: Design and Access Statements

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

EN13: Sustainable Drainage Systems

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

EN29: Archaeology

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

TR1a: Development Affecting Highways

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

TR3a: Provision for Walking

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

TR4: Safeguarding and Improving Public Rights of Way

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

TR5: Provision for Cycling

Requires all major developments to provide appropriate facilities for cyclists.

TR6: Provision for Public Transport Use

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

TR7: Vehicle Parking at New Development

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

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

Relevant policies include:

SP1: Presumption in Favour of Sustainable Development

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

SP4: Infrastructure and Connectivity

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

SP5: Place Shaping Principles

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

SPL1: Managing Growth

Identifies Manningtree, Lawford and Mistley as a 'smaller urban settlement' within a hierarchy of settlements designed to direct future growth to the most sustainable locations.

SPL2: Settlement Development Boundaries

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

SPL3: Sustainable Design

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

HP1: Improving Health and Wellbeing

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

HP4: Open Space, Sports and Recreation Facilities

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

LP1: Housing Supply

Sets out the broad location of where new housing is proposed to be built to over the next 15-20 years to meet objectively assessed needs.

LP2: Housing Choice

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

LP3: Housing Density

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

LP4: Housing Layout

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

LP5: Affordable and Council Housing

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

PP12: Improving Education and Skills

Requires the impacts of development on education provision to be addressed at a developer's costs and also requires applicants to enter into an Employment and Skills Charter or Local Labour Agreement to ensure local contractors are employed to implement the development and that any temporary or permanent employment vacancies (including apprenticeships) are advertised through agreed channels.

PPL1: Development and Flood Risk

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

PPL3: The Rural Landscape

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

PPL4: Biodiversity and Geodiversity

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

PPL5: Water Conservation, Drainage and Sewerage

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

PPL7: Archaeology

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

CP1: Sustainable Transport and Accessibility

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

CP3: Improving the Telecommunications Network

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

Other Guidance

Essex County Council Car Parking Standards – Design and Good Practice

Essex Design Guide for Residential and Mixed-Use Areas.

3. Relevant Planning History

3.1 None.

4. Consultations

TDC Building Control Unable to comment at this time due to a lack of design drawings.

TDC Principal Tree & Landscape Officer The application site is situated the Stour Valley System Landscape Character Area (LCA) directly adjacent to the northernmost part of the Bromley Heathland Plateau LCA as defined in the Tendring District Council Landscape Character Assessment . One of the key characteristics of the Stour valley System is; as defined in the document the southern slopes and scenic tributary valleys of the Stour, form a setting to one of the most important wildlife estuaries in Europe and a setting to the Suffolk Coast and Heaths AONB. It is therefore vitally important that planning permission is not granted unless it can be demonstrated that significant harm will not be caused to either the scenic beauty or wildlife value of the area.

The companion document for the above Landscape Character Assessment entitled Guidance for the Built Environment emphasises the importance of protecting the landscape for its value the rural backdrop and setting for the Suffolk Coast and Heaths AONB.

In order to show the condition of the trees on the land and to ascertain the extent of the constraint that they are development potential of the application site the applicant has submitted a detailed tree survey and report. The information provided is in accordance with BS5837: 2012 Trees in relation to design, demolition and construction. Recommendations.

In the main the tree report accurately describes the health and condition of the trees although it does not identify those that may be at risk as a result of the development proposal as the application is in outline form and no indicative layout or zoning information has been provided.

In addition to this there appear to be trees in the north eastern corner (to the north of T4) that have not been included in the report.

To enable an assessment of the impact of the development proposal on the trees on the land to be made it will be necessary for the applicant to provide a zoning plan showing areas allocated for housing, open spaces and soft landscaping. This information should be provided prior to the determination of the application.

The application site comprises two fields divided by a scrubby hedgerow and watercourse running south to north towards the Stour Estuary. Both appear to be in agricultural use. There are no trees in the main body of the land to the west of the hedgerow adjacent to the watercourse although there are established trees, scrubby growth and hedgerows on the perimeter of this part of the site. On the part of the application site to the east of the watercourse and extending from Harwich Road to the railway track there are several trees with reasonable visual amenity value.

Without details of the proposed layout for the development proposals it is not possible to determine whether or not vegetation would be removed in order for the development to take place.

It would be reasonable, however, to assume that development could occur, on the treeless part of the land that would incorporate the retention of the perimeter trees and hedgerows as well as making provision for new planting. From the information made available by the applicant it is not possible to establish the degree to which development on this part of the land would cause harm to the appearance of the area.

In terms of the impact of the development proposal on the local landscape character it is important to recognise that the land in question is situated close to the Suffolk Coast and Heaths Area of Outstanding Natural Beauty (SC&H - AONB) and is included in the wider project area.

The land is in the proposed extension to the AONB which is currently being assessed by Natural England by way of a technical analysis of the natural beauty of the area. The formal designation of the land on the southern shore of the River Stour has been the long term aim of both Essex County Council and Tendring District Council and the commitment to this is set out in both the existing and draft Tendring District Council Local Plans.

It is possible that the development of this land would have a significantly detrimental impact on the character and appearance of the AONB when viewed from the northern bank of the Stour and also when viewed from within the proposed extension to the AONB on the southern bank of the Stour.

No information has been provided relating to the impact of the development proposal on the local landscape character or the AONB. In order to show the potential impact of the development on the local landscape character and the AONB the applicant should provide a Landscape and Visual Impact Assessment (LVIA) prior to the determination of this application. Without this information it will not be possible to ascertain the degree of harm to the character and appearance of the countryside that will be caused by the development of the land.

In terms of the Stour Estuary as habitat for wildlife as wildlife the applicant will also need to demonstrate that the development will not significantly affect species for which the river is designated as a Site of Special Scientific Interest.

In conclusion it is felt that it has not been demonstrated that the development of this land would not adversely affect the setting of the AONB, the local landscape character or the wildlife in the Stour Estuary.

Notwithstanding previous comments the additional information demonstrates that, in terms of its impact on trees, the development proposal could be implemented without causing harm to the majority of the trees on the land. Part of H1 and G1 would need to be removed to facilitate access and an internal road linked land either side of the watercourse that bisects the land.

In order to show the potential impact of the development on the local

landscape character and the AONB the applicant has provided a Landscape and Visual Impact Assessment (LVIA).

The document accurately describes the character and quality of the landscape and the impact that the development proposal would have on it. It recognises that harm would be caused by the change of use of the land. The LVIA addresses the impact of the development on the landscape in the immediate vicinity of the site itself and the wider landscape when viewed from the points identified in the LVIA.

Section 7.1.3 sets out the measures that can be taken to mitigate potential harm and ensure that the development sits relatively comfortably in its setting. These almost exclusively relate to soft landscaping to soften, screen and enhance the appearance of the development.

If this strategy is to be successful it will require a comprehensive soft landscaping scheme to be provided to achieve the objective set out in the LVIA.

In terms of density of dwellings and tree planting opportunities the LVIA states, in section 8.1.3, that lower density housing is proposed in the parts of the application site described as Character Area 1 to facilitate additional tree planting to enhance, screen and generally improve the appearance of the development.

This objective is desirable however it should be noted that those areas described as Character Area 1 area on the northern part of the application site which is lower than the southern part and already benefits from screening provided by tree situated on land forming part of the railway embankment. It may be prudent to re-consider this proposal as a decreased density in the central or southern part of the application site and the associated tree planting that would result may bring about the greatest benefit.

TDC Housing	There is a high demand for housing in Mistley on the housing register and there are currently 144 households seeking a 1 bedroom property, 65 seeking a 2 bedroom property, 28 seeking a 3 bedroom property and 9 seeking a 4 bedroom property or larger. The Council is not in a position to purchase up to 25% of the properties on the site for affordable housing (17 units) and would therefore prefer to be gifted 5 properties as an alternative (5 being 30% of 17 units).
TDC Open Space and Play	There is currently a deficit of 3.00 hectares of equipped play/formal open space in Mistley. No indicative layout has been provided as part of this application and it should be noted that due to the size of the development site, provision for open space and play should be provided for on site, and not by way of an off-site contribution.
ECC Highways	From a highway and transportation perspective the impact of the proposal is acceptable to Highway Authority subject to conditions in respect of the following: <ul style="list-style-type: none">• A construction management plan including details of wheel cleaning facilities;• The creation of a priority junction off Stourview Avenue to provide access;• Upgrading two bus stops in Harwich Road to current Essex County

Council specification;

- A minimum 2 metre wide footway along the eastern side of Stourview Avenue carriageway between the proposed site access and Harwich Road with dropped kerbs/tactile paving crossing points in Stourview Avenue immediately north of its junction with Harwich Road; and
- Residential Travel Information Packs.

ECC Schools

A development of this size can be expected to generate the need for up to 6.3 Early Years and Childcare (EY&C) places and 21 primary school, and 14 secondary school places.

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

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

This proposed development is located within the priority admissions area for Manningtree High School. The school has a capacity of 870 places. The school is forecast to have a surplus of 70 places by the school year 2019-20. As the school could accommodate all of the pupils that would be generated by this development, no contribution under normal circumstances would be requested for additional school places. However, the County Council is aware of the proposals for Bromley Road, Lawford (15/00876/OUT) for 360 dwellings Long Road, Mistley (15/00761/OUT) for 300 dwellings and Harwich Road, Mistley (15/01520/OUT) for 135 dwellings.

The County Council is aware of the potential cumulative impact on primary and secondary school places if this development is granted planning permission and one, both or all of the other developments are also granted planning permission. Under these circumstances it is suggested that the Council should share the costs of providing the additional primary and secondary school places pro-rata between the two, three or four sites. The cost at April 2015 is £12,172 per primary place and £18,491 per secondary place, index linked to April 2015.

Feasibility work will need to be undertaken on the primary schools listed above to ascertain whether they have the capacity to accommodate the growth in pupil numbers that could be generated from this proposed housing development and others proposed in the area. If it is not possible to accommodate the growth on existing school sites in the area, then additional land or a new primary school site may be required.

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

Anglian Water

Assets affected: There are assets owned by Anglian Water or those subject to an adoption agreement within or close to the development

boundary that may affect the layout of the site. Anglian Water would ask that an informative be included within your notice should permission be granted requiring this to be taken into account in any detailed scheme.

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

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

Surface Water Disposal: From the details submitted to support the planning application, the proposed method of surface water management does not relate to Anglian Water operated assets. As such, we are unable to provide comments on the suitability of the surface water management. The local planning authority should seek the advice of the lead local flood authority of the internal drainage board. The Environment Agency should be consulted if the drainage system directly or indirectly involves the discharge of water into a watercourse. Should the proposed method of surface water management change to include interaction with Anglian Water operated assets, we would wish to be re-consulted to ensure that an effective surface water drainage strategy is prepared and implemented.

NHS England

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

There is a capacity deficit in the catchment practice and a developer contribution of £21,120 is required to mitigate the 'capital cost' to NHS England for the provision of additional healthcare services arising directly as a result of the development proposal. NHS England requests that this sum be secured through a planning obligation linked to any grant of planning permission, in the form of a Section 106 agreement.

Natural England

The application site is within or in close proximity to the Stour and Orwell Special Protection Area (SPA) which is also listed as a Ramsar site and a Site of Special Scientific Interest. The Council, as the competent authority under the Habitat Regulations, should have regard to any potential impacts that the development might have.

There are currently concerns for the impact of recreational pressure arising from housing development around the Stour Estuary, in particular the disturbance of birds for which the above sites are in part designated. In our previous letter, we advised that further consideration of recreational disturbance was required before impacts arising from the proposal, in combination with other plans and projects, could be ruled out. This was on the basis that there are areas of sensitive and accessible estuary within 8 km driving distance of the development site which residents would be likely to visit due to the unique draw of estuarine sites for recreation. We therefore advised that further consideration of off-site mitigation measures

(e.g. access and/or visitor management) at the identified locations was required in addition to the proposed on-site open space.

However, Ipswich Borough Council, Suffolk Coastal District Council and Babergh District Council are in the process of jointly producing a Recreational Avoidance and Mitigation Strategy which will be in place by March 2017. Once approved, this Strategy will specify requirements for developer contributions to an agreed and costed scheme of measures to help avoid and mitigate recreational disturbance impacts to designated sites, including the Stour and Orwell Estuary SPA, over the respective plan periods. We understand that your authority will also be involved in the formation of this Strategy and advise that it would therefore be appropriate, in this case, to collect proportionate financial contributions towards this emerging Strategy on the basis that these can then be used to fund strategic measures across the Stour and Orwell Estuary SPA. The amount collected, may, however, need to be revised once the specific detail of the Strategy has been finalised.

With regards the proposed on-site open space, we note that a substantial proportion of the site (approx. 30 %) has been set aside for this use. We welcome that the HRA report (pg. 18) acknowledges that, in order to help reduce the frequency of visits to sensitive parts of the estuary, such open space must be designed to be attractive for dog walking (i.e. to include dog waste bins etc.). As proposed, the inclusion of further on-site measures such as signage, information boards, guides and public rights of way (PRoW) maps will further help mitigate impacts. It should be ensured that the maintenance and management of these on-site measures are secured in perpetuity.

The maximum likely distance for a regular dog walk is a 2.6 km round trip² and so a circular walk of this length should ideally be provided within on-site open space, including a 'dogs-off-lead' area where possible. However, we appreciate that the limited size of the development site in this case means that this is not realistic. We therefore advise that, in order to fulfil this function, links with surrounding PRoW and open space should be explored further within the reserved matters.

In conclusion, we have no objection to this development subject to the above requirements in terms of a financial contribution to the emerging Recreational Avoidance and Mitigation Strategy and the design and management of on-site public open space being secured via suitably worded planning conditions.

RSPB

We object to this proposal as insufficient information has been provided to allow the Council, as the competent authority, to assess whether there will be any likely significant effect on the adjacent Stour and Orwell Estuaries Special Protection Area/Ramsar Site and Stour Estuary Site of Special Scientific Interest (SSSI).

Dedham Vale
and Stour
Estuary Project

The proposal site is within the setting of the Suffolk Coast and Heaths AONB, and visible from the northern side of the Stour Estuary. The land on the northern side of the river is nationally designated as AONB and the Council should ensure that the purpose of this designation is not compromised by the proposed development. The site is also within the 'candidate area' for potential expansion of the Suffolk Coast & Heaths AONB which is indicative only and is currently under investigation by

Natural England. To assess the impact on the setting of the AONB, a Landscape and Visual Impact Assessment is necessary along with an assessment of the potential adverse impacts on the Stour Estuary in ecological terms. [Both of which have since been provided].

Essex County
Council Flood
Authority

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

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

Babergh District
Council

Babergh District Council wishes to formally object to this application due to the potential impact upon a strategic allocation site at Brantham within the Babergh Core Strategy (2014). The basis for this objection relates to the potential cumulative impact upon the local highway network and in particular the need to give due account to relevant adopted allocations or sites with planning permission within the 'baseline' scenario. There are known transport constraints around the area which are cross boundary in nature and include impacts upon the A137 railway crossing.

This application may cause material prejudice to the outcome of delivering the Brantham strategic allocation scheme, which has already been through a statutory framework (Core Strategy Examination in public) and resolved suitable for allocation in the adopted plan. Full weight and regard should be given to the Brantham scheme when determining the suitability of further growth in the Manningtree, Lawford and Mistleley area. The Council reserves the right to hold this objection until matters are clarified and satisfactory solutions can be found.

5. Representations

5.1 The Council has received 9 objections to the proposal from residents including some lengthy and very well articulated letters raising the following concerns:

- The proposal is particularly vague with very little detail;
- The application includes a larger area of land that was originally envisaged in the Council's Local Plan studies which encroaches greatly on the Coastal Protection Belt;
- The proposed number of dwellings is greater than indicated in both the Council's previous version of the draft Local Plan and its Strategic Housing Land Availability Assessment (SHLAA);
- The proposed access road would open up the possibility of further development to the east;
- The valley has been included in the site area but this is valuable in wildlife and landscape character terms – it is also a habitat for Turtle Doves;
- Access could be achieved via the existing housing estate without the need to create a new access via the valley;
- The valley is part of the Coastal Protection Belt;
- Increases in vehicles and further impact on the crossing at Manningtree Station;
- Air pollution;
- Road/pedestrian safety;

- Cumulative impacts of several developments on education, health and the character of the area;
- Impact on amenities and utilities;
- Limited shopping and employment opportunities locally, leading to reliance on cars;
- Concern about how New Homes Bonus, Community Infrastructure Levy or s106 contributions will be used;
- The Council has a financial interest in the land;
- The agricultural grading of the land should be tested by Natural England;
- Loss of set-aside agricultural land;
- Development is not in accordance with the development plan;
- Destruction of views and enjoyment of the area for existing residents;
- Increases in parked cars;
- The Manningtree, Lawford and Mistley area is being targeted by 'get rich quick' developers;
- Increased risk of flooding; and
- Impact on the proposed AONB.

5.2 Mistley Parish Council has also objected to the application following a public meeting held on 5th January 2016. The reasons for the objection are the size of the size of the development, its density and highway safety, with concerns that the proposed access will significantly increase volume of vehicles and subsequent traffic to Stourview Avenue, Harwich Road, High Street, New Road and The Walls.

5.3 There is also an objection from Welbeck Strategy Land II LLP who are the applicants for the development of up to 135 homes on land off Harwich Road, Mistley that has since obtained planning permission. Their objection raised several concerns about the suitability of the site in planning terms and was submitted before planning permission was granted for their development.

5.4 One letter of support has also been received, pointing out a number of reasons why the site was historically supported by the Parish Council for inclusion in the Local Plan, including that it is of poor agricultural value and could accommodate natural growth within the parish.

6. Assessment

The Site

6.1 The application site comprises just over 4.7 hectares of undeveloped greenfield land on the edge of Mistley. The site comprises two parcels of land which are very different in appearance and character. The main body of the site upon which new homes are expected to be built lies north of existing Council properties and the playground in Stourview Close, east of properties in Seaford Avenue and south of the Harwich to Manningtree railway line – beyond which is the Stour Estuary. The land comprises managed grassland with a small area of woodland to the north and north west and overgrowth to the south immediately abutting the existing housing estate. The topography of the site is unusual – generally sloping downwards towards the railway line and to the north east, but undulating significantly within the site with a distinct high point in the centre of site.

6.2 The eastern parcel of land, through which it is proposed to create the new access road appears very separate from the main body of the site and contains a significant number of trees both along its western boundary (adjoining the main body of the site) and in a cluster through the centre of a site on lower ground around a spring which runs through the land. The topography of this area of land is more dramatic, sloping either side of the valley around the spring. To the front part of the eastern parcel, the land immediately fronting Harwich Road has outline planning permission (Ref: 14/01462/OUT) for 4 dwellings. The red line site includes part of the highway along the edge of Stour view Avenue.

The Proposal

- 6.3 This outline planning application with all matters reserved seeks approval for the principle of up to 70 dwellings with a new access road off Stourview Avenue on the eastern part of the site. The proposal is not supported by any illustrative drawings, but it is intended (as set out in the Design and Access Statement) that the main body of the site will contain the houses and the land to the east will accommodate the new access road which, itself, will connect the development from Stourview Avenue.

Architectural Drawings

- 1126.L.001 Site Location Plan
- 1026.L.002(A) Existing Site Plan

Reports and Technical Information

- Design and Access Statement
- Landscape and Visual Assessment
- Habitat Regulation Assessment
- Ecology Report
- Geological Survey
- Highway Access Statement
- Heritage Statement
- Flood Risk Assessment
- Arboricultural Impact Assessment
- Tree Survey and Constraints Plan
- Utility Report
- Desk Based Risk Assessment

Main Planning Considerations

- 6.4 The main planning considerations are:
- Principle of development;
 - Highways, transport and accessibility;
 - Coastal Protection Belt;
 - Areas of Outstanding Natural Beauty;
 - Landscape, visual impact and trees;
 - Flood risk and drainage;
 - Ecology;
 - Education provision;
 - Healthcare provision;
 - Utilities;
 - Open space;
 - Council Housing/Affordable Housing;
 - Potential layout and density;
 - Council-owned land; and,
 - Overall planning balance.

Principle of development

- 6.5 In line with Section 38(6) of the Planning and Compulsory Purchase Act 2014, planning decisions must be taken in accordance with the 'development plan' unless material

considerations indicate otherwise. The requirements of the National Planning Policy Framework (NPPF) are a material consideration in this regard.

- 6.6 The 'development plan' for Tendring is the 2007 'adopted' Local Plan, despite some of its policies being out of date. Paragraph 215 of the NPPF allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF. Paragraph 216 of the NPPF also allows weight to be given to policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency with national policy. As of 14th July 2016, the emerging Local Plan for Tendring is the Tendring District Local Plan 2013-2033 and Beyond Preferred Options Consultation Document. As this plan is currently at an early stage of preparation, some of its policies can only be given limited weight in the determination of planning applications, but the weight to be given to emerging policies will increase as the plan progresses through the later stages of the process. Where emerging policies are particularly relevant to a planning application and can be given some weight in line with the principles set out in paragraph 216 of the NPPF, they will be considered and, where appropriate, referred to in planning decisions. In general terms however, more weight will be given to policies in the NPPF and the adopted Local Plan.
- 6.7 The application site is located immediately adjoining residential development in Mistley. The site is adjacent to but outside the village's settlement development boundary as defined within the adopted Local Plan. The boundary aims to restrict new development to the most sustainable sites and outside of the boundary the Local Plan generally seeks to conserve and enhance the countryside for its own sake by not allowing new housing unless it is consistent with countryside policies. In the emerging Local Plan however, the majority of the site has been included within the revised settlement boundary as depicted in the new emerging Local Plan, indicating a general acceptance that development on the land could, in principle, be accepted in the future.
- 6.8 Because the site lies outside of the settlement development boundary and is not allocated for development in the adopted Local Plan, it is technically contrary to adopted policy and the proposed development would be a departure from that plan. However, paragraph 47 of the NPPF also requires local planning authorities to boost significantly the supply of housing by identifying and updating annually a supply of specific deliverable sites sufficient to provide five years worth of housing against their housing requirements. In areas where there has been persistent under delivery of housing, an additional 20% 'buffer' is also required to provide a realistic prospect of achieving the planned supply and to ensure choice and competition in the market for land.
- 6.9 For Tendring, the housing requirement is 550 dwellings per annum, as based on the evidence contained within the 'Objectively Assessed Housing Needs Study' (July 2015) and supplementary evidence that was presented to the Local Plan Committee on 21st January 2015. At the time of writing, and despite the publication of the new draft Local Plan, the Council was still only able to identify an approximate 4.5 year supply and thus there still remains considerable (albeit quickly reducing) shortfall. Paragraph 49 of the NPPF states that relevant policies for the supply of housing should not be considered 'up to date' if it is not possible to demonstrate a five year supply of deliverable housing sites and, in such cases, the 'presumption in favour of sustainable development' set out in paragraph 14 of the NPPF is engaged.
- 6.10 'Sustainable Development', as far as the NPPF is concerned, is development that contributes positively to the economy, society and the environment and under the 'presumption in favour of sustainable development', authorities are expected to grant permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole; or specific policies in the NPPF indicate development should be restricted.

- 6.11 Due to the lack of a five-year supply of housing sites and the subsequent engagement of the presumption in favour of sustainable development, the Council would not be justified in refusing planning permission purely on the basis of the application site being outside of the settlement development boundaries in the adopted Local Plan. The application must therefore be judged on its merits against the NPPF.
- 6.12 One of the NPPF's core planning principles is to "actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable".
- 6.13 With this in mind, the emerging Local Plan includes a 'settlement hierarchy' aimed at categorising the district's towns and villages and providing a framework for directing development toward the most sustainable locations. In the adopted Local Plan, Manningtree, Lawford and Mistley are together categorised as a 'town' and in the emerging Local Plan, they are categorised as a 'smaller urban settlement' in recognition of their collective size and range of services and facilities and as a location where sustainable development on a larger scale can be achieved. In comparison, 'villages', 'rural service centres' and 'smaller rural settlements' are considered to offer lesser sustainable locations for major development.
- 6.14 Because the Council has a housing land shortfall, the site adjoins an urban settlement where sustainable development on a larger scale can be achieved and most of the land is provisionally included within the settlement development boundary of the emerging Local Plan, Officers consider that the principle of residential development on the application site is acceptable.

Highways, transport and accessibility

- 6.15 Paragraph 32 of the NPPF relates to transport and requires Councils, when making decisions, to take account of whether:
- the opportunities for sustainable transport modes have been taken up depending on the nature and location of the site, to reduce the need for major transport infrastructure;
 - safe and suitable access to the site can be achieved for all people; and
 - improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.
- 6.16 Policy QL2 in the adopted Local Plan and Policy CP1 in the emerging Local Plan seek to ensure that developments maximise the opportunities for access to sustainable transport including walking, cycling and public transport. The application site is within 400 metres walking distance of Mistley Norman Primary School, within 900 metres of Mistley Village Hall, within 500 metres of a local convenience shop, within 1.2 kilometres of Mistley railway station and Mistley High Street. The site is also within 500 metres of a bus stop on a bus route with services between Colchester and Harwich and to and from Clacton. The site offers a reasonable level of accessibility which is reflected in Manningtree, Lawford and Mistley's categorisation as a smaller urban settlement in the emerging Local Plan.
- 6.17 Policy TRA1a in the adopted Local Plan requires that development affecting highways be considered in relation to reducing and preventing hazards and inconvenience to traffic including the capacity of the road network. Policy SD8 in the emerging Local Plan 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.

- 6.18 Highway capacity is a significant matter in the Manningtree, Lawford and Mistley (and Brantham) area and the A137 in particular is known to be the subject of regular queuing and congestion during peak periods, as highlighted by some residents that had objected to this planning application along with Babergh District Council. Queuing at the railway crossing is a known problem in the area. Because this is one of a number of major development proposals in the pipeline for the area, the cumulative impacts have required collaborative assessment under the direction of Essex and Suffolk County Council as the relevant local Highway Authorities. This additional assessment has led, in part, to a delay in determining this application.
- 6.19 Having considered the application and the potential cumulative impacts on traffic, the Highway Authority has concluded that this particular development will not have a severe impact on highway capacity and safety and that no mitigation towards improvements at the A137 railway crossing will be requested from this development. Mitigation measures, in the form of contributions towards a £150,000 fund towards traffic calming measures at the railway crossing are however being secured, through s106 legal agreements for some of the larger developments proposed on land further west, closer to the railway crossing, including the major developments in Brantham and Lawford and off Long Road, Mistley. These measures address the concern raised by Babergh District Council in its representation and there are consequently no outstanding concerns about complying with the legal duty to cooperate.
- 6.20 The Highway Authority is satisfied that this development in Mistley can be supported, subject to some specific conditions relating mainly to the vehicular access arrangements, construction traffic and footpath/cycleways.
- 6.21 In conclusion, the site is reasonably accessible, by foot and cycle, to local services and facilities and public transport and the vehicular access and highways matters have been considered and deemed acceptable by the Highway Authority. The transport impacts of the development are not considered to be severe and, from this perspective, Officers consider the proposal to be acceptable.

Coastal Protection Belt

- 6.22 The whole application site falls within the Coastal Protection Belt as shown in the adopted Local Plan. The purpose of the Coastal Protection Belt, as set out in paragraph 6.14 in support of Policy EN3 in the adopted Local Plan, is to protect the unique and irreplaceable character of the Essex coastline from inappropriate forms of development. It goes on to say that open coastal areas are particularly vulnerable to visual intrusion due to the high visibility of any development on the foreshore, on the skyline and affecting vistas along the stretches of undeveloped coast.
- 6.23 The Coastal Protection Belt was originally drawn in 1984 and was a key strategic policy in Essex County Council's 2001 Replacement Structure Plan which was superseded by the East of England Plan in 2008 and subsequently abolished in 2012 with the introduction of the NPPF. The NPPF does however state, in paragraph 114 that local planning authorities should maintain the character of the undeveloped coast, protecting and enhancing its distinctive landscapes, particularly in areas defined as Heritage Coast, and improve public access to and enjoyment of the coast.
- 6.24 Policy EN3 states that new development which does not have a compelling functional need to be located in the Coastal Protection Belt will not be permitted. It requires applicants to

demonstrate such a need by showing that by reason of its critical operational requirements of the development cannot be located outside of the designated area. Then, even if the compelling need is demonstrated, the policy requires that significant harm to the landscape character and quality of the undeveloped coastline should be avoided.

- 6.25 However, in the emerging Local Plan, following the abolition of the Coastal Protection Belt Policy at county and regional level, the Council decided that the designation should be kept but that the boundary be rationalised to ensure it relates only to areas that are genuinely coastal and where development is likely to have a genuine impact on the character and appearance of the coastline. Included in the numerous amendments to the designation was the removal of the application site.
- 6.26 The status to be given to local 'countryside protection' policies such as Coastal Protection Belt and Local Green Gaps has been clarified recently by a decision of the Court of Appeal (Cheshire East Borough Council v Secretary of State for Communities and Local Government & Anr. Case Number: C1/2015/0894) in which three judges overturned an earlier High Court decision which had determined that such countryside protection policies are not housing policies and should not be considered out of date if a Council cannot identify a sufficient supply of housing land. In overturning the High Court's decision, the Court of Appeal judges concluded that the concept of 'policies for the supply of housing' should not be confined to policies in the development plan that provide positively for the delivery of new housing in terms of numbers and distribution or the allocation of sites. They concluded that this concept extends to policies whose effect it is to influence the supply of housing land by restricting the locations where new housing may be developed – including, for example, policies for the green belt, policies for the general protection of the countryside, policies for conserving the landscape of Areas of Outstanding Natural Beauty and National Parks, policies for the conservation of wildlife or cultural heritage, and various policies whose purpose is to protect the local environment in one way or another by preventing or limiting development.
- 6.27 Whilst the emerging Local Plan only carries limited weight, the abolition of the Coastal Protection Belt policy at county, regional or national level also limits the amount of weight that can be applied to the adopted policy. From the ground, the site is relatively well contained by landscaping and physical features and views over the Estuary are limited. On the basis that development in this location and on this site is unlikely to have a severe detrimental impact on the character of the undeveloped coastline, Officers have applied limited weight to the Coastal Protection Belt policy and consider that refusing planning permission against this policy would be difficult to defend on appeal.

Areas of Outstanding Natural Beauty

- 6.28 The proposed area of extension to the Suffolk Coast and Heaths Area of Outstanding Natural Beauty (AONB) includes application site. Policy EN5a in the adopted Local Plan seeks to ensure that, in determining planning applications, the natural beauty of the landscape within the area, and views towards it are protected – having regard to the Suffolk Coast and Heaths Strategy.
- 6.29 Representatives of the Dedham Vale and Stour Estuary Project have written to highlight that the site is visible from the northern side of the Stour Estuary – the area that is part of the established AONB. They urge that the purpose of this designation is not compromised by the proposed development and that the findings of a Landscape and Visual Impact Assessment are key to determining this.
- 6.30 The Council's Principal Trees and Landscapes Officer has also commented on the application to highlight the importance of the Suffolk Coast and Heaths Area of Outstanding Natural Beauty and the need to ensure that its setting is appropriately safeguarded. Initially,

he suggested that development of this land would have a significantly detrimental impact on the character and appearance of the AONB when viewed from the northern bank of the Stour and also when viewed from within the proposed extension to the AONB on the southern bank of the Stour. However, following the submission of a Landscape and Visual Impact Assessment, it is accepted that adverse impacts could be mitigated through the appropriate use of landscaping.

- 6.31 Because the Local Plan is out of date and the Council cannot identify sufficient land to meet projected housing needs, Officers must refer back to the NPPF. Paragraph 115 states that great weight should be given to conserving landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to landscape and scenic beauty. Paragraph 116 goes to state that planning permission should be refused for major development in these designated areas except in exceptional circumstances and where it can be demonstrated they are in the public interest. Because the application site is not within a formally designated AONB at the moment, refusal purely on a point of principle would not be justified and landscape and visual impacts need to be weighed up alongside the benefits of development.

Landscape, visual impact and trees

- 6.32 Whilst Officers have concluded that the site's location within the Coastal Protection Belt and the proposed extension to the Suffolk Coast and Heaths AONB cannot justify the refusal of planning permission on a matter of principle, Policy QL9 in the adopted Local Plan and Policy SPL3 in the emerging Local Plan still require developments to respect and enhance views, skylines, landmarks, existing street patterns, open spaces and other locally important features. Policy EN1 of the adopted Local Plan and Policy PPL3 in the emerging Local Plan seek to protect and, wherever possible, enhance the quality of the district's landscape; requiring developments to conserve natural and man-made features that contribute toward local distinctiveness and, where necessary, requiring suitable measures for landscape conservation and enhancement. Policies QL9 and SPL3 also require developments to incorporate important existing site features of landscape, ecological or amenity value such as trees, hedges, water features, buffer zones, walls and buildings.
- 6.33 The Council's Principal Trees and Landscapes Officer identifies that the site is situated on the Stour Valley System Landscape Character area, directly adjacent to the northernmost part of the Bromley Heathland Plateau, as identified in the Council's own Landscape Character Assessment. In this area, particular regard has to be given to the setting of the Stour Estuary. Although the site is on the coastal slopes and is currently an undeveloped part of the open countryside, views from the site out towards the Stour Estuary and the wider countryside are very limited as a result of the existing trees and landscaping around the perimeter of the site with the best filtered views from the central high point of the site looking in a north easterly direction.
- 6.34 The applicant's Landscape and Visual Impact Assessment considers important elements of the landscape and the potential visual impact of the proposed development from different viewpoints around the site, including from the north of the Stour Estuary. The assessment then takes the value of the particular view, its sensitivity to change and the likely impact of development to measure the severity of any landscape and visual impacts. The assessment concludes that harm would be caused by the change of use in the land but sets out measures that could be taken to mitigate the harm and ensure the development sits relatively comfortably in its setting. These measures relative to soft landscaping to soften, screen and enhance the appearance of the development. The Tree and Landscape Officer has made observations on the proposed measures and has suggested ways in which they could be improved to minimise adverse impacts given the topography of the site. Subject to the approval of a suitable layout at reserved matters stage along with a

comprehensive soft landscaping scheme, development could be achieved in a sympathetic manner.

- 6.35 Turning to trees, there are none in the main body of the land to the west of the hedgerow adjacent to the watercourse although there are established trees, scrubby growth and hedgerows on the perimeter of this part of the site. On the part of the application site to the east of the watercourse and extending from Harwich Road to the railway track there are several trees with reasonable visual amenity value as advised by the Council's Principal Tree and Landscape Officer which are clearly visible on the site. Initially, the Tree Officer raised concern that, in the absence of details of the proposed layout, it was not possible to determine whether or not vegetation would be removed in order for the development to take place. However, following the submission of more information, he is satisfied that the development proposal could be implemented without causing harm to the majority of the trees on the land – accepting that some trees would need to be removed to facilitate access and an internal road linked land either side of the watercourse that bisects the land.
- 6.36 The key test for the Council is whether or not adverse impacts would significantly and demonstrably outweigh the benefits of the development and whether the impact could be reduced or mitigated through landscaping and careful design. On the basis that adverse landscape impacts on the immediate area are generally unavoidable when it comes to greenfield settlement expansion, important views from the wider area including the AONB can be minimised and landscaping and good design has the potential to reduce and mitigate most impacts, Officers consider that the adverse impacts would not outweigh the benefits of development and a recommendation of refusal in this instance would not be justified.
- 6.37 Because this is a matter that has required balanced judgement, if the Committee chooses to take a contrary view, landscape and visual impact is at least a material planning consideration that could be argued as a reason for refusal, if necessary, at appeal – but your Officers' advice is that the harm is not significant and demonstrably enough to justify the refusal of this application given the remaining housing land shortfall.

Flood risk and drainage

- 6.38 Paragraph 103 of the NPPF requires Councils, when determining planning applications, to ensure flood risk is not increased elsewhere. Although the site is in Flood Zone 1 (low risk), the NPPF, Policy QL3 in the adopted Local Plan and Policy PLA1 in the emerging Local Plan still require any development proposal on site larger than 1 hectare to be accompanied by a site-specific Flood Risk Assessment (FRA). This is to assess the potential risk of all potential sources of flooding, including surface water flooding, that might arise as a result of development.
- 6.39 The applicant has submitted a Flood Risk Assessment which has been considered by Essex County Council as the authority for sustainable drainage. Initially, ECC issued a 'holding objection' and required further work to be undertaken to ensure compliance with the guidelines set out in the relevant National Planning Practice Guidance. The applicant responded to the objection with further information requested and the objection has now been addressed. ECC now supports the grant of outline planning permission subject to conditions relating to the submission and subsequent approval of a detailed Surface Water Drainage Scheme before development can take place.
- 6.40 In conclusion, the applicant has demonstrated through their Flood Risk Assessment and supplementary information that development can, in principle, be achieved without increasing flood risk elsewhere. With the planning condition suggested by ECC, the scheme should comply with the NPPF and Policies QL3 and PLA1 of the adopted and emerging

Local Plans (respectively) and therefore addresses the flood risk element of the environmental dimension of sustainable development.

Ecology

- 6.41 Paragraph 118 of the NPPF requires Councils, when determining planning applications, to aim to conserve and enhance biodiversity. Where significant harm to biodiversity cannot be avoided, mitigated or, as a last resort, compensated for, Councils should refuse planning permission. Policy EN6 of the adopted Local Plan and Policy PPL4 of the emerging Local Plan give special protection to designated sites of international, national or local importance to nature conservation but for non-designated sites still require impacts on biodiversity to be considered and thereafter minimised, mitigated or compensated for.
- 6.42 Under Regulations 61 and 62 of the Habitats Regulations, local planning authorities as the 'competent authority' must have regard for any potential impact that a plan or project might have on European designated sites. The application site is not, itself, designated as site of international, national or local importance to nature conservation but the urban area of Manningtree, Lawford and Mistley does abut the Stour Estuary which is designated as a Special Protection Area (SPA), a Ramsar Site and a Site of Special Scientific Interest (SSSI). Whilst the application site is located more than 400 metres from the Stour Estuary and separated by the railway line which prevents any direct disturbance, consideration still needs to be given to potential indirect effects on the designated area that might result from the proposed development.
- 6.43 Natural England has written to remind the Council of its statutory duty and to highlight specific concerns about the potential for 'recreational disturbance' to the protected habitat that might arise from the development and the associated increase in population and activity. Recreational disturbance is a significant problem for such habitats and can have a disastrous effect, in particular, on rare populations of breeding and nesting birds. Notable concerns include increased marine activity (boating, jet skiing etc) and people walking their dogs either within or close to the protected areas. Both activities can easily frighten birds that are breeding and nesting and can have an extremely detrimental impact on their numbers.
- 6.44 Importantly, paragraph 119 of the NPPF states very clearly that the presumption in favour of sustainable development does not apply where development requiring appropriate assessment under the Birds or Habitats Directives is being considered, planned or determined. The applicant has undertaken a Habitat Regulation Assessment and Natural England has advised that the assessments provided with the application and the fact that a considerable amount of recreational and informal open space would be secured as part of the development means that there would be no significant detrimental impact on the designated areas. A financial contribution towards implementation of a Recreational Avoidance and Mitigation Strategy being undertaken jointly by Ipswich Borough Council, Suffolk Coastal District Council and Babergh District Council has also been requested as part of the mitigation. The RSPB (Royal Society for the Protection of Birds) made an objection on the basis that insufficient information had been provided to the Council to demonstrate that there would not be a significant effect, particularly when considered 'in combination' with other plans and projects in the area. This has now been addressed.
- 6.45 It is Officers' view that appropriate assessment in this instance is not required given the position of the site, the limited opportunities to access the Estuary due to the barrier provided by the railway line and the level of open space that would be secured, and the fact that the in-combination effects resulting from other developments in the area have already been carefully considered by Natural England and Officers.

- 6.46 The ecological value of the site itself is of considerable concern to a number of local objectors. The applicant had prepared and submitted a Phase 1 Ecological Assessment to assess the ecological value of the site and immediate area itself and the potential impact of the development. For the main body of the site where the residential development will take place, the assessment notes that the land is open grassland managed, probably by an annual hay cut or simple topping regime. For the eastern part of the site through which the access road is proposed, the phase 1 assessment suggested that further phase 2 surveys would be required. On Officers advice, these have been undertaken for the whole site by professional ecologists on behalf of the applicants and the findings are summarised below:
- 6.47 Woodland: There is a very small section of Biological Action Plan Priority Habitat designated deciduous woodland adjacent to the very northern boundary of the proposed development site. This will not be reduced in size or conservation value by the proposed development, its conservation and biodiversity value could be enhanced through suitable management as part of the wider site development.
- 6.48 Badgers: Field signs were noted as part of the survey, but setts were found within the site boundary.
- 6.49 Bats: The pocket of woodland in the north eastern corner of the site has moderate potential to support bat roosts, with a single mature tree identified as having high potential. All other trees present have negligible potential to support bat roosts. The trees with roost potential will remain in place and will be unaffected by the proposed development. The majority of the foraging activity was noted along the central hedgerow and in the small area of woodland to the north east of the site and these features were confirmed to be in use by common species of bat including Common Pipistrelle and Soprano Pipistrelle.
- 6.50 Reptiles: The grassland on the site was confirmed suitable for reptiles during the survey with Common Lizard, Slow-worm and Grass Snake using the site.
- 6.51 Invertebrates: Main species found are widespread in grassland habitats. Few species were recorded within the woodland, but a number of scrub edge specialists were recorded and also species associated with bark and sapwood decay, as specialist dead wood habitats. With three species of conservation concern, the site is considered to be of District level value for invertebrates.
- 6.52 Breeding Birds: The site was found to support a relatively high diversity and number of breeding bird species. Most of the species are common and widespread, but seven bird species of conservation concern were recorded. Key habitats used by breeding birds included the scrub and trees present along the boundary of the site, which are considered important on a site scale. The impact assessment concludes that the site will have a negligible impact upon all designated and non-designated sites for nature conservation present in the local area.
- 6.53 Mitigation and Enhancement: To mitigate any harm and bring about an overall enhancement for ecology, the assessment recommends measures that could be secured through planning conditions:
- Five bat bricks should be included within the scheme. Alternatively, bat boxes could be placed, however these tend to be less robust than bat bricks;
 - Inclusion of mini log piles or log pyramids for invertebrates;
 - Shrub and tree species to be included should be considered beneficial to wildlife. Species to be avoided include Birches, (other than Silver Birch (*Betula pendula*)) and non-native evergreen shrubs;
 - Inclusion of bug hotels. Inclusion of hibernacula and log piles for reptiles;
 - Inclusion of a Hedgehog house; and
 - Inclusion of five bird boxes suitable for Starling and House Sparrow.

- 6.54 Officers note the findings of the report and welcome the potential to deliver an enhanced wildlife habitat in the location off the back of the development. The recommended mitigation measures/enhancement measures can be secured through a planning condition requiring an ecological plan to be agreed by the Council prior to the commencement of the development.

Education provision

- 6.55 Policy QL12 in the adopted Local Plan and Policy PP12 in the emerging Local Plan require that new development is supported by the necessary infrastructure which includes education provision. A large number of local residents have expressed concern that local schools will not be able to cope with the expected increase in population arising from the 70 new homes, particularly when considered alongside other proposals for major residential development either approved or under consideration in the wider area.
- 6.56 Essex County Council as the Local Education Authority has been consulted on the planning application and has made representations. ECC's advice was submitted in response to this application in isolation however the cumulative effect of other potential developments has also been taken into account. ECC advised that, based on its standard formula, a development of this size can be expected to generate the need for up to 6.3 Early Years and Childcare (EY&C) places, 21 primary school places, and 14 secondary school places.
- 6.57 ECC is satisfied that there would be sufficient provision of Early Years and Childcare facilities and primary school places in the area to address the needs of the development. However, this advice pre-dated the approval of the development for up to 135 dwellings on land south of Harwich Road (15/01520/OUT). If additional places are required, a sum of £12,172 per place would be needed – a maximum of £255,612. Updated advice has been sought from ECC as to the financial contributions now required, but at the time of writing this had yet to be received and Officers suggest that the Council reserves the right to secure any necessary funds through a s106 legal agreement..
- 6.58 For secondary school provision, ECC advised that the additional pupils expected from the scheme on its own could be accommodated within existing capacity at Manningtree High School, however ECC was mindful the potential impacts of other developments under consideration in the area – namely the 360 homes off Bromley Road, Lawford (15/00876/OUT) which has a Committee resolution to approve subject to a s106 legal agreement; the 300 homes off Long Road, Mistley (15/00761/OUT) which now has outline planning permission; and the 135 homes off Harwich Road (15/01520/OUT) which also has planning permission. At the time of ECC's advice, it was suggested that the cost of providing additional secondary school places be shared by the four development sites if the Stourview Avenue scheme were to be approved. The cost would be £18,491 per place – a maximum of £258,874. Updated advice has been sought from ECC as to the precise financial contributions are required, but at the time of writing this had yet to be received and Officers suggest that the Council reserves the right to secure any necessary funds through a s106 legal agreement.

Health provision

- 6.59 The requirement of the NPPF to promote the creation of high quality environments with accessible local services that reflect the community's needs also extends to health provision, another matter of considerable concern amongst local residents. Again through Policy QL12 in adopted Local Plan and Policy HP1 in the emerging Local Plan, new development needs to be supported by the necessary infrastructure, including health provision.

- 6.60 As this the case across most parts of the district, local health services are operating either at, close to or above capacity in catering for the needs of the current population. One of the roles of the Local Plan is to ensure that major residential developments are planned alongside agreed investment in an area's infrastructure to accommodate anticipated increases in population. For health provision, this could mean the expansion of existing facilities or through the provision of new ones.
- 6.61 However, because the Council's Local Plan is out of date and it cannot identify sufficient land to meet projected housing needs, applications must be considered on their merits against the government's presumption in favour of sustainable development and Officers have needed to liaise with NHS England (with a strategic overview of health provision in our area) to calculate what investment will be required to mitigate the impact of this development and others proposed in the Manningtree, Lawford and Mistley area. Through adopted Policy QL12 and emerging Policy HP1, the Council can require developers to address infrastructure requirements likely to arise from their developments by either building new facilities or making financial contributions towards the creation of additional capacity. It is noted that there is local scepticism about how this will work in practice, but in the absence of an up to date Local Plan, this is an approach that has been accepted by Planning Inspectors.
- 6.62 As with highways and education, Officers have considered both the individual impact of this development on health provision as well as the cumulative impact that might arise if the other major developments are to be allowed. The Council working with NHS England can, through the planning system, put measures in place to mitigate the impact of population growth arising from major residential developments on local infrastructure. Whilst it is the NHS' responsibility to ensure that health centres and local surgeries are adequately resourced and staffed, the Council can secure either new buildings or financial contributions towards expanding existing buildings to ensure there is at least sufficient space for additional doctors, nurses and other medical professions to provide their services.
- 6.63 NHS England has undertaken a Health Impact Assessment of the development proposal and has identified that the local surgeries will not have the capacity to serve the additional residents that would result from the development. A developer contribution of £21,120 is requested to mitigate the capital cost to the NHS for the provision of additional healthcare services. NHS England has confirmed that there are already plans in the pipeline to expand the Riverside Health Centre and that such moneys could be used to help fund this investment.

Utilities

- 6.64 With regard to sewage capacity, Anglian Water has advised that there is sufficient capacity in the foul sewerage network to deal with the levels of effluent expected from this scheme of and has made no objections to the proposal subject to conditions to require a surface water management strategy and a foul water strategy being submitted and agreed.

Open space

- 6.65 Policy COM6 in the adopted Local Plan and Policy HP3 of the emerging Local Plan require large residential developments to provide at least 10% of land as public open space or otherwise make financial contributions toward off-site provision. To comply with these policies, a minimum of approximately 0.5ha of the land needs to be provided as green infrastructure – much of which is expected to be provided along the northern part of the site to assist in minimising visual impacts on the Stour Estuary. A larger area than this will, in reality be secured because much of the eastern parcel of land is unsuitable for development and more space is needed to mitigate any concerns about recreational

disturbance at the Stour Estuary. The detailed dimensions of the open space would be confirmed at reserved matters stage.

- 6.66 The Council's Open Space and Bereavement Service Manager has commented on the application and has identified a deficiency of open space in the Mistley area and has advised that if the on-site open space is to be transferred to Tendring District Council for future maintenance, an additional financial contribution towards maintenance will also need to be secured through a s106 legal agreement. If the Committee is minded to approve this application, Officers will engage in negotiations with the applicant to agree the necessary contribution in line with the guidance contained within the Council's Supplementary Planning Document on Open Space.

Council Housing/Affordable Housing

- 6.67 Policy HG4 in the adopted Local Plan requires large residential developments to provide 40% of new dwellings as affordable housing for people who cannot otherwise afford to buy or rent on the open market. Policy LP5 in the emerging Local Plan, which is based on more up to date evidence on viability, requires 30% of new dwellings on large sites to be made available for affordable or Council Housing. The policy does allow flexibility to accept as low as 10% of dwellings on site, with a financial contribution toward the construction or acquisition of property for use as Council Housing (either on the site or elsewhere in the district) equivalent to delivering the remainder of the 30% requirement.
- 6.68 The Council's Housing Needs team has commented on the application and advised that there is a significant need for affordable housing in the Mistley area based on evidence from the local housing register. It has been suggested that, as an alternative to transferring 30% of properties to the Council (up to 21 dwellings) at a discounted value, the Council would be prepared to accept 5 properties 'gifted' (i.e. transferred to the Council or a nominated partner or trust at zero cost).
- 6.69 If the Committee is minded to approve this application, Officers will negotiate and agree an appropriate level of Council Housing to be secured through a s106 legal agreement.

Potential layout and density

- 6.70 As an outline planning application, detailed design and layout is a reserved matter for future consideration but the Council needs to be satisfied that an appropriate scheme of up to 70 dwellings, access road and open space can be accommodated on the site in an appropriate manner. The applicant has not provided an indicative layout, so Officers have needed to consider the land available, the constraints affecting the site and the potential density.
- 6.71 Whilst the eastern parcel of land is expected to accommodate the proposed access road (carefully located to minimise the loss of trees), it is the main body of the site to the west that is expected to accommodate up to 70 dwellings. This parcel of land measures approximately 3 hectares and therefore the gross density of development could be as high as 23 dwellings per hectare. Assuming that, as an absolute minimum, 0.3 hectares is used for open space, the net density would be around 26 dwellings per hectare. The more open space secured, the higher the density could be. The residential density of the adjoining housing estate, for context, is approximately 35 dwellings per hectare.

Council-owned land

- 6.72 Some objectors to the application have queried why the name of the Council's Chief Executive appears on the planning application forms – concerned that he has a personal and prejudicial interest in the land. Our Chief Executive does not have any personal interest in the land, but his name is on the form because Tendring District Council owns some of the

land at Stourview Avenue that would be required to create the proposed access road. Through a separate process, the disposal of this land has been provisionally agreed – but this should not be seen as a green-light for the development to obtain planning permission. The Planning Committee should make that decision on planning grounds, irrespective of any interest that the Council, as landowner, has in the site.

Overall planning balance

- 6.73 Because the Council's Local Plan is out of date and a five-year supply of deliverable housing sites cannot currently be identified, the National Planning Policy Framework (NPPF) requires that development be approved unless the adverse impacts would significantly and demonstrably outweigh the benefits, or if specific policies within the NPPF suggest development should be refused. The NPPF in this regard applies a 'presumption in favour of sustainable development' for which sustainable development addresses economic, social and environmental considerations.
- 6.74 Economic: Whilst the scheme is totally residential with no commercial premises provided, up to 70 dwellings would generate additional expenditure in the local economy which has to be classed as an economic benefit. There will also be temporary jobs in construction whilst the homes are being built.
- 6.75 Social: The provision of up to 70 dwellings toward meeting projected housing need, at a time when the Council is unable to identify a five-year supply, is a significant social benefit which carries a high level of weight in the overall planning balance – particularly as government policy is to boost housing supply. Additional social benefits include the proposed open spaces that will be secured. The impacts of health and schools provision will be mitigated through appropriate financial contributions to be secured through a s106 agreement, if the application is approved.
- 6.76 Environmental: The environmental impacts of the proposal have required very careful consideration. The site is within the Coastal Protection Belt and forms part of the area under consideration for inclusion in an expanded Area of Outstanding Natural Beauty. Officers consider that these factors should not preclude the potential for development in principle but the visual impacts need to be weighed up against the benefits. In this instance, the visual impacts are not expected to be severe and through landscaping can be softened or mitigated. Ecological impacts, both indirect in terms of recreational disturbance at the Stour Estuary and direct in terms of protected species on the site have been carefully assessed and mitigation measures that could lead to an overall enhancement are suggested.
- 6.77 In the overall planning balance, Officers consider that the adverse impacts do not significantly and demonstrably outweigh the benefits and the application is therefore recommended for approval subject to a s106 legal agreement and a range of planning conditions.

Background Papers

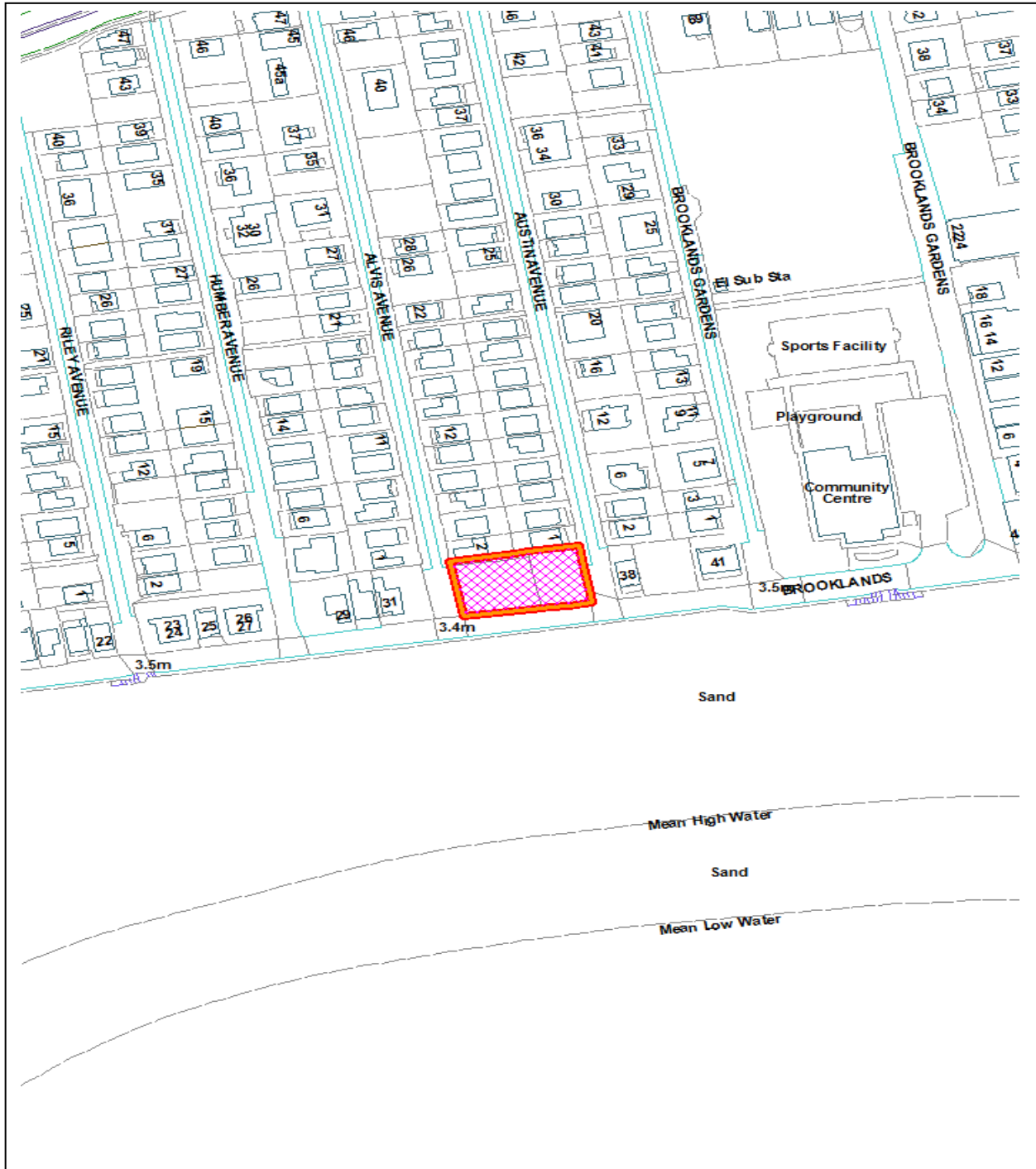
None.

PLANNING COMMITTEE

30 NOVEMBER 2016

REPORT OF THE HEAD OF PLANNING

A.4 PLANNING APPLICATION – 16/00920/FUL – 32-37 BROOKLANDS, JAYWICK, CO15 2JS



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Application:	16/00920/FUL	Town / Parish: Clacton Non-Parished area
Applicant:	Mr. P. Seager	
Address:	32-37 Brooklands, Jaywick, Essex CO15 2JS	
Development:	Demolition of existing detached bungalows and erection of four storey block of flats, comprising of car parking and storage to ground floor and first, second and third floor residential with associated amenity.	

1. Executive Summary

- 1.1 This is a full planning application to build a four storey block of flats containing 13 residential units with car parking and storage on the ground floor. The site once contained five residential bungalows which have been removed and replaced with a public garden. This part of Jaywick is one of the most deprived areas in the country and many of the existing properties were originally built as holiday homes but have gradually reverted to residential use. Most properties are substandard by modern day expectations and are within the tidal flood zone where the risk of flooding is set to increase with the effects of climate change.
- 1.2 The regeneration of Jaywick is one of the Council's top long-term objectives and the Council has been leading a multi-agency project to explore and deliver improvements in the area to better the quality of life for residents and secure a long-term sustainable future for the community. Part of the strategy for regenerating Jaywick is to actively encourage the redevelopment of the poorest and most vulnerable properties in the area and to introduce a new benchmark for built design that addresses flood risk concerns, improves the quality of accommodation, maximises the enjoyment of Jaywick's assets (particularly the beach) and inspires property owners and developers to redevelop and remodel other parts of the area.
- 1.3 This proposal for 32-37 Brooklands, along with that subject of separate application 16/00921/FUL for 23-27 Brooklands (see Report AX), represent the first significant proposals for redevelopment in the area in line with the Council's aspirations for the area. These four-storey blocks of flats are of high-quality contemporary design, would be in prime location overlooking Jaywick beach and by including only storage and parking on the ground floor would bring about a net improvement in flood safety. Whilst they are radically different from the single-storey bungalows that currently dominate the area are out of character, the regeneration of Jaywick requires a bold approach that seeks to secure a long-term future for the area and in weighing up the advantages of the developments against the disadvantages, your Officers consider that the advantages are greater.
- 1.4 The recommendation is approval but no s106 financial contributions are proposed in the interest of economic viability and ensuring deliverability of the scheme.

Recommendation: Approval

That the Head of Planning be authorised to grant planning permission for the development subject to planning conditions as follows:

1. Standard 3 year time limit for commencement.
2. Accordance with approved plans.
3. Highways conditions (as recommended by the Highway Authority).
4. Flood evacuation plan.

5. Minimum floor levels.
6. Contaminated Land Assessment.
7. Details of materials.
8. Details of external lighting.
9. Detailed drainage arrangements.

2. **Planning Policy**

National Planning Policy Framework (NPPF)

- 2.1 The National Planning Policy Framework (March 2012) sets out the Government's planning policies and how these are expected to be applied at the local level.
- 2.2 Planning law requires that applications for planning permission be determined in accordance with the 'development plan' unless material considerations indicate otherwise. The NPPF doesn't change the statutory status of the development plan as the starting point for decision taking. Where proposed development accords with an up to date Local Plan it should be approved and where it does not it should be refused – unless other material considerations indicate otherwise. An important material consideration is the NPPF's 'presumption in favour of sustainable development'. The NPPF defines 'sustainable development' as having three dimensions:
 - an economic role;
 - a social role; and
 - an environmental role.
- 2.3 These dimensions have to be considered together and not in isolation. The NPPF requires Local Planning Authorities to positively seek opportunities to meet the development needs of their area whilst allowing sufficient flexibility to adapt to change. Where relevant policies in Local Plans are either absent or out of date, there is an expectation for Councils to approve planning applications, without delay, unless the adverse impacts would significantly and demonstrably outweigh the benefits.
- 2.4 Section 10 of the NPPF sets out the government's policies in respect of meeting the challenge of climate change, flooding and coastal change. Paragraph 94 states "*Local planning authorities should adopt proactive strategies to mitigate and adapt to climate change, taking full account of flood risk, coastal change and water supply and demand considerations*". Paragraph 103 sets out the approach that Councils should take when considering planning applications for development in areas of flood risk. This requires a 'sequential approach' that seeks to direct development away from high risk flood areas and to only allow a contrary approach in exceptional circumstances where there are overriding reasons. In any event, developments need to be appropriately flood resilient, including safe access and escape routes where required, and that any residual risk can be safely managed, including by emergency planning.
- 2.5 Paragraph 187 of the NPPF states "*Local planning authorities should look for solutions rather than problems, and decision-takers at every level should seek to approve applications for sustainable development where possible. Local planning authorities should work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area*".

Local Plan

- 2.6 Section 38(6) of the Planning Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the 'development plan' unless material

considerations indicate otherwise. In the case of Tendring the development plan consist of the following:

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

QL1: Spatial Strategy: Directs most new development toward urban areas and seeks to concentrate development within settlement development boundaries. The policy categorises Jaywick as part of the Clacton on Sea urban area.

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

QL3: Minimising and Managing Flood Risk: Seeks to direct development away from land at a high risk of flooding. It refers to the sequential and exception tests from government policy.

QL6: Urban Regeneration Areas: Identifies Jaywick as an Urban Regeneration Area.

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

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

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

HG1: Housing Provision

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

HG3: Residential Development Within Defined Settlements

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

HG3a: Mixed Communities

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

HG6: Dwellings Size and Type

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

HG7: Residential Densities

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

HG9: Private Amenity Space

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

COM2: Community Safety

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

COM6: Provision of Recreational Open Space for New Residential Developments

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

COM21: Light Pollution

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

COM23: General Pollution

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

COM29: Utilities

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

COM31a: Sewerage and Sewage Disposal

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

EN12: Design and Access Statements

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

EN13: Sustainable Drainage Systems

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

TR1a: Development Affecting Highways

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

TR3a: Provision for Walking

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

TR4: Safeguarding and Improving Public Rights of Way

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

TR5: Provision for Cycling

Requires all major developments to provide appropriate facilities for cyclists.

TR6: Provision for Public Transport Use

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

TR7: Vehicle Parking at New Development

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

CL15: Residential Development in Jaywick

Sets out strict requirements for new development in Jaywick which have since been found to be ineffective in achieving positive development.

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

Relevant policies include:

SP1: Presumption in Favour of Sustainable Development

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

SPL1: Managing Growth

Identifies Clacton and Jaywick as a smaller rural settlement where smaller scale development is envisaged as part of a sustainable strategy for growth.

SPL2: Settlement Development Boundaries

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

SPL3: Sustainable Design

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

HP4: Open Space, Sports and Recreation Facilities

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

LP1: Housing Supply

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

LP2: Housing Choice

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

LP3: Housing Density and Standards

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

LP4: Housing Layout

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

PPL1: Development and Flood Risk

Seeks to direct development away from land at a high risk of flooding.

PPL3: The Rural Landscape

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

PPL5: Water Conservation, Drainage and Sewerage

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

CP1: Sustainable Transport and Accessibility

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

CP3: Improving the Telecommunications Network

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

Other Guidance

Essex County Council Car Parking Standards – Design and Good Practice

Essex Design Guide for Residential and Mixed-Use Areas.

Jaywick Strategic Flood Risk Assessment

3. Relevant Planning History

3.1 The site has no relevant planning history.

4. Consultations

TDC Open Space and Play No contribution required.

TDC Environmental Health There is concern of the historical use of asbestos on the original structures there and fires have also been on site. We would therefore like to request a contaminated land assessment:

No development shall take place until the ground conditions on the site have been subject to a detailed investigation to establish their suitability for the proposed end use. A historical investigation, sampling and analysis of current soils, site assessment and action plan to remedy any contamination must be agreed by the local planning authority in writing and carried out prior to the commencement of any other works in relation to any development on the site.

Reason: Due to the nature of the construction of the current buildings and surrounding buildings

Can we also ask for further information pertaining to the proposed external lighting scheme for the site?

TDC Housing The Housing Department is supportive of this application as it will assist in the regeneration of Jaywick but we accept that any contribution, be it on site provision of a financial contribution, will threaten the viability of the development. Therefore no contribution is required.

ECC Highways The Highway Authority originally raised an objection to this application on the grounds that the parking facilities proposed were not in accordance with current policy standards. Experience has demonstrated that under normal circumstances this will create a problem in the highway due to

additional vehicles being left off-site, additional braking and turning movements conflicting with current highway users, and therefore and increased risk of collisions.

However, since submitting the initial recommendation, we have been provided with further details regarding vehicle ownership levels typically experienced in this vicinity and notes that this is far lower than average. We are now content that the proposals will not create a highway safety or efficiency issue and is happy to remove the previous objection subject to the following:

- Prior to occupation of the development the vehicular parking facility, as shown on the submitted plan shall be constructed, surfaced and maintained free from obstruction within the site at all times for that sole purpose.
- No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary.
- At no point shall gates be provided at the vehicular access. The access shall remain open and free for use in perpetuity.
- Any vehicular hardstanding shall have minimum dimensions of 2.9 metres x 5.5 metres for individual parking space, retained in perpetuity.
- Prior to the commencement of the development the details of the number, location and design of cycle parking facilities shall be submitted to and approved in writing by the Local Planning Authority. The approved facility shall be secure, convenient and covered and provided prior to occupation and retained at all times.
- No works shall commence until a detailed sustainable transport mitigation package has been submitted to and agreed, in writing, by the Local Planning Authority. This package will provide information on how the applicant proposes to mitigate any increase in private vehicular use associated with the development and will include appropriate information on all sustainable transport modes including bus and rail travel, cycling, walking and community transport in the vicinity of the site. The package shall thereafter be implemented as a greed for each individual dwelling and/or premises within 14 days of the first beneficial use or occupation of that unit.

ECC
Archaeology

The proposed development lies within a region of high potential for both Palaeolithic archaeological remains and early prehistoric archaeological remains. Sediments from a former river channel laid down by the ancestral Thames before it was diverted have yielded internationally significant Palaeolithic remains and Pleistocene faunal remains within the area. In addition findspots from along the foreshore have yielded Mesolithic and Neolithic remains which suggest early prehistoric settlement and activity within the immediate area. There is the potential for significant Pleistocene sediments to be present below the surface geology which may contain Palaeolithic archaeological remains as well as buried prehistoric landsurfaces which may be impacted by the proposed development.

If the Council is minded to grant planning permission, the following condition is requested: *"No development or preliminary ground-works can commence until a programme of archaeological and geoarchaeological evaluation has been secured and undertaken in accordance with a Written Scheme of Investigation, which has been submitted by the applicant, and approved by the planning authority. Following the completion of this initial*

phase of archaeological work, a summary report will be prepared and a mitigation strategy detailing the approach to further geoarchaeological investigation and/or preservation in situ through re-design of the development, shall be submitted to the local planning authority.”

Essex County
Council Flood
Authority

The site will not introduce a significant amount of new impermeable areas, we consider the scale of this development to be minor and do not provide any specific comments on the drainage strategy for the site. However, we note that the site is located in Flood Zone 3 and the Council should consult the Environment Agency. The Council has a responsibility to consider:

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

Anglian Water

Assets affected: There are assets owned by Anglian Water or those subject to an adoption agreement within or close to the development boundary that may affect the layout of the site. We would ask that the following text be included within your notice should permission be granted: *“Anglian Water has assets close to or crossing this site or there are assets subject to an adoption agreement. Therefore the site layout should take this into account and accommodate those assets within either prospectively adoptable highway or public open space. If this is not practicable then the sewers will need to be diverted at the developer’s costs under Section 185 of the Water Industry Act 1991; or, in the case of apparatus under an adoption agreement, liaise with the owners of the apparatus. It should be noted that the diversion works should normally be completed before development can commence.”*

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

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

Surface Water Disposal: The preferred method of surface water disposal would be to a sustainable drainage system (SuDS) with connection to sewer seen as the last option. Building Regulations (part H) on Drainage and Waste Disposal for England includes a surface water drainage hierarchy, with infiltration on site as the preferred disposal option, followed by discharge to watercourse and then connection to a sewer.

The surface water strategy/flood risk assessment submitted with the planning application relevant to Anglian Water is unacceptable. We would therefore recommend that the applicant needs to consult with Anglian Water and the Lead Local Flood Authority (LLFA). We request a condition requiring a drainage strategy covering the issue(s) to be agreed: *“No drainage works shall commence until a surface water management*

strategy has been submitted to and approved in writing by the Local Planning Authority. No hard-standing areas to be constructed until the works have been carried out in accordance with the surface water strategy so approved unless otherwise agreed in writing by the Local Planning Authority.”

Environment
Agency

The site lies within tidal Flood Zone 3a, defined as having a high probability of flooding. The proposal is for the demolition of existing detached bungalows and erection of a four story block of flats, which is classified as ‘more vulnerable’ development in the Planning Practice Guidance. To comply with national policy, the application needs to pass the Sequential and Exception Tests, and be supported by a site specific Flood Risk Assessment (FRA). We are satisfied that FRA provides you with the information necessary to make an informed decision.

5. Representations

5.1 The Council has received representations from one resident who supports the proposal and the investment in Jaywick in principle but has made the following (summarised) observations, criticisms and suggestions:

- The garages will detract from the coastal path and national cycle route and are an ugly incongruous addition;
- The garages will be un-overlooked and will create opportunities for crime;
- CIL contributions should be secured to by and refurbish the café;
- The applicant refers to Art-Deco style being of the 1950s, when in fact it hails from the 1920s and 1930s;
- It would be preferable to have living space such as a kitchen on the ground floor as this will reduce the overpowering scale and height of the development;
- This is a wonderful opportunity for Jaywick, work with the community, resubmit and amended application and get it right.

6. Assessment

The Site

6.1 The application site comprises 0.05 hectares of land that on Brooklands, fronting the seafront and located between the parallel site streets of Alvis Avenue and Austin Avenue. The site was once occupied by five single-storey bungalows that have been demolished and the land has since been laid out into a public garden.

The Proposal

6.2 As a full application, the Planning Committee is being asked to approve a detailed proposal for a four-storey block of 13 flats containing 8 parking spaces on the ground floor. The first and second floors would each contain 3 x 1-bed flats and 2 x 2-bed flats and the third floor would contain 2 x 3-bed flats and 1 x 2-bed flat. The 1-bed flats measure 50sqm, the 2-bed flats measure 62sqm and the 3-bed flats measure 79sqm and 84 sqm floor area. The flats fronting Brooklands will have balconies and flats on the top floor will all benefit from an outside terraced area. Small communal garden areas are to be provided to the rear of the building. The block of flats would be 12 metres high and of flat-roofed contemporary design, rendered finish and with a vertical emphasis and use of windows reminiscent of art-deco and ‘Moderne’ movement architecture popular in coastal areas in the 1920s and 1930s.

Main Planning Considerations

6.3 The main planning considerations are:

- Principle of development;
- Jaywick Regeneration Policies;
- Flood risk issues;
- Highways, transport and accessibility;
- Environmental Impacts;
- S106 planning obligations;
- Design and layout; and,
- Overall planning balance.

Principle of development

6.4 In line with Section 38(6) of the Planning and Compulsory Purchase Act 2014, planning decisions must be taken in accordance with the 'development plan' unless material considerations indicate otherwise. The requirements of the National Planning Policy Framework (NPPF) are a material consideration in this regard.

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

6.6 The site comprises existing development well within the settlement development boundary for Jaywick which forms part of the 'town' of Clacton (as defined in Policy QL1 of the adopted Local Plan) and the 'strategic urban settlement' of Clacton-on-Sea (as defined in Policy SPL1 of the emerging Local Plan). As the site lies within the settlement development boundary in both adopted and emerging Local Plans, there is a general presumption in favour of development in principle.

6.7 However, this part of Jaywick falls within Flood Zone 3a and notwithstanding its location within the settlement development boundary, the Council is still required to give special consideration to flood risk issues and the requirements of the NPPF i.e. the 'sequential' and 'exceptions' tests. These are considered in more detail later in this report.

6.8 The Brooklands, Grasslands and Village areas of Jaywick are also defined as an 'urban regeneration area' in Policy QL6 of the adopted Local Plan and a 'Priority Area for Regeneration' in Policy PP14 of the emerging Local Plan'. Such areas will be a focus for investment in social, economic and physical infrastructure and initiatives to improve vitality, environmental quality, social inclusion, economic prospects, education, health, community safety and accessibility. The policy supports proposals for development that are consistent with achieving these regeneration aims.

Jaywick Regeneration Policies

- 6.9 In the adopted Local Plan, Policy CL15 sets out specific requirements for development in Jaywick which are:
- i) Any new residential development should take the form of single dwellings on combined plots, the desirable width and depth of resulting plots to be at least 18 metres and 15 metres respectively. The minimum width and depth of resulting plots to be 15 metres and 15 metres respectively;
 - ii) Only three storey development that excludes habitable rooms on the ground floor will be allowed;
 - iii) Direct road frontage access should be available to each plot;
 - iv) A minimum of 5 metres deep rear yard/amenity area shall be provided;
 - v) a minimum one metre space between side boundaries and any detached, semi-detached or end terraced dwelling, or a minimum distance of 2 metres between the flank walls of any two such dwellings will be required;
 - vi) Any off street car parking should be provided within the ground floor of each dwelling;
 - vii) The front building line to be 2 metres from the highway;
 - viii) Subsequent extensions to new dwellings will not be allowed if they contain living accommodation on the ground floor in the form of habitable rooms;
 - ix) No development will be allowed within four metres of the ditch to the rear of Brooklands and Grasslands to allow for the passage of Maintenance Plant;
 - x) Development along the Brooklands Frontage will need to be set back 2 metres to allow for the expansion of the road and minimum 1.2 metre-wide foot path.
- 6.10 The policy then says the approval of any new dwelling will be subject to a contribution through s106 legal agreement towards the continued wider regeneration of Jaywick.
- 6.11 However, this policy aimed at strictly controlling development to facilitate a phased programme of redevelopment has failed to bring about any positive changes in the area. Since the NPPF has given Councils more freedom to apply planning policies to better reflect local circumstances the Council, the Environment Agency and other partners have agreed that lifting some of the planning restrictions and moving towards flexible policies aimed at encouraging developers to provide high-quality, resilient and innovative new homes in the area is a better approach. The Council's 2012 Draft Local Plan included a far more positive policy which sought to encourage appropriate development rather than restrict innovation. Whilst this policy does not feature verbatim within the 2016 Preferred Options Draft, the principles have been applied in the consideration of this application.

Flood risk issues

- 6.12 The site, and the rest of this part of Jaywick, is in Flood Zone 3 – the highest area of risk due to its low-lying position on the coast. The NPPF, as supported by relevant policies in the adopted and emerging Local Plans, requires a 'sequential approach' to the location of new development which seeks to direct new development to the locations at lowest risk. In Tendring, there are clearly many locations of lower risk where a block of 13 flats could be located but in Jaywick an exceptional approach is justified where new development can assist in the regeneration of the area and helping to reduce the risk of flooding to life and property overall.
- 6.13 The NPPF and Local Plan policies refer to the 'Exception Test' which must apply if a development in a higher risk area is being considered having undertaken the sequential test. Paragraph 103 of the NPPF requires such developments to be informed by site-specific flood risk assessment and to demonstrate that:

- Within the site, the most vulnerable development is located in areas of lowest flood risk unless there are overriding reasons to prefer a different location; and
- Development is appropriately flood resilient and resistant, including safe access and escape routes where required, and that any residual risk can be safely managed, including by emergency planning; and it gives priority to the use of sustainable drainage systems.

6.14 The application is accompanied by a site-specific flood risk assessment which, as advised by the Environment Agency, provides sufficient information for the Council to make an informed decision. The conclusions and recommendations in the assessment are summarised as follows:

- The site is in Flood Zone 3 'High Risk' with the primary source of flooding being tidal flooding from the North Sea;
- The existing sea defences protect the area to a 1 in 1,000 year tidal event standard but the site is at risk of overtopping of the sea defences for tidal events in the future;
- Compared with other parts of Jaywick, and based on the findings of the Council's own Strategic Flood Risk Assessment, the site is not currently located in a 'hazard area' but this is expected to change in the future;
- In the event of a flood, the site could flood to between 1 and 2 metres;
- The design of the development with only parking, bin storage and communal garden on the ground floor will ensure the dwellings (with minimum finished floor level of 5.595m AOD) would remain safe and dry throughout the lifetime of the development;
- It is recommended that residents remain in their homes during a breach or overtopping flood event and only leave the premises once the tide recedes or the emergency services can attempt a rescue.
- It is recommended that residents subscribe to the EA Flood Warning service, and that a Flood Warning and Evacuation Plan is prepared and distributed among residents, to make them aware of the risk to the premises.

6.15 The minimum floor level and the evacuation plan can be secured through planning condition if the Committee is minded to approve. Overall, Officers consider that the development will meet with the NPPF Exceptions Test if these conditions are imposed.

6.16 Having no living accommodation on the ground floor is key to the flood resilience of this scheme. Although the local objector has suggested that the garages would be unsightly and that kitchens could be included on the ground floor to reduce the overall height, this is something that could not be acceptable in flood risk terms in taking this exceptional approach.

Highways, transport and accessibility

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

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

prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

- 6.18 Policy QL2 in the adopted Local Plan and Policy CP1 in the emerging Local Plan seek to ensure that developments maximise the opportunities for access to sustainable transport including walking, cycling and public transport. Located in the heart of Jaywick on a bus route and public footpath, Officers are content that this is a sustainable location for development in transport and accessibility terms.
- 6.19 Initially the Highway Authority issued an objection over the minimal amount of car parking and this possibly leading to on-street parking (a concern raised in local representations). However this objection has since been withdrawn having considered further details regarding vehicle ownership levels typically experienced in this vicinity and notes that this is far lower than average. ECC is now content that the proposals will not create a highway safety or efficiency issue and is happy to remove the previous objection subject to conditions.
- 6.20 With only 8 spaces provided to serve 13 flats, an exceptional approach is again required. A balance needs to be struck between the opportunity to facilitate the regeneration of Jaywick through an economically viable development scheme and the physical limitations of the site that only allow a certain number of spaces to be provided.

Environmental impacts

- 6.21 As a site formerly occupied by bungalows and now laid out as a public garden, the site is not of any significant ecological value. The development would have a radical impact on landscape character, particularly when viewed from the seafront – but Officers consider that a seafront location with prime views over the sea is an appropriate location for taller development of contemporary design. The County Council Archaeologist has suggested a condition to secure an archaeological assessment and this would be applied if the development is approved. The Council's Environmental Health Team has requested a Contaminated Land Assessment and details of external lighting to be secured through condition.

S106 planning obligations

- 6.22 The number of units proposed are below the threshold that would normally require financial contributions towards education or health provision. Whilst the scheme would still be liable for financial contributions towards open space, this is an area of low property values where economic viability is a genuine issue. In the interest of facilitating the regeneration of Jaywick and ensuring a scheme has maximum chance of actually being delivered, it is proposed that no financial contributions be sought through a s106 legal agreement (including any contributions towards refurbishing the local café as suggested by the resident that has commented). It is also considered that tying a proportion of the dwellings into being provided as affordable housing in perpetuity through a s106 might have a detrimental impact on the scheme's viability.

Design and Layout

- 6.23 The contemporary take on art-deco and Modern design, in general terms, is appropriate for a coastal location overlooking the sea but is radically different from existing development in the area which generally consists of single-storey bungalows, many of which are of sub-standard condition. At 12 metres in height, this development would be more than double the ridge height of neighbouring properties and three times the eaves height. The development would be entirely out of keeping and out of character and would give rise to concerns over overlooking and some loss of light for existing properties, particularly those located in Alvis

Avenue and Austin Avenue to the rear. The rear boundary of the development would be close to the side boundaries of the existing properties.

- 6.24 In any other location, Officers would advise that such a development is inappropriate in planning terms for being so radically out of character with the wider area and giving rise to neighbouring amenity concerns. However, this part of Jaywick is a priority area for regeneration and an area where the current standard of residential property places residents at a high risk of flooding – particularly if climate change results in rising sea levels as projected by the Environment Agency and in poor residential conditions. Because this development contains no living accommodation on the ground floor the risk to residents in the event of a flood is kept to a minimum.
- 6.25 With this in mind, Officers are advising the Committee to consider whether an exceptional approach is justified and to set aside normal planning concerns in order to facilitate a development that could help set the tone for the future regeneration of the area. If the Committee agrees that an exceptional approach is needed, this development provides an opportunity to inspire other property owners to consider redevelopment to a more resilient, lower flood risk form of development. If the Committee feels that the harm to the character of the area and to the amenities of neighbouring residents is not outweighed by the potential benefits, then refusal would be justified in planning terms – but an alternative strategy for regenerating Jaywick would be needed.

Overall Planning Balance

- 6.26 The NPPF applies a ‘presumption in favour of sustainable development’ for which sustainable development addresses economic, social and environmental considerations. These are weighed in the balance as follows:
- 6.27 Economic: Whilst the development would be totally residential, it provides an opportunity to introduce a new standard of design and flood resilience into the area which could inspire other property owners to follow suit – thus helping to facilitate long-term regeneration of this deprived area. There would also be indirect economic benefits associated with increasing expenditure in the local economy and providing temporary construction jobs.
- 6.28 Social: The provision of 13 dwellings will help to meet housing needs and will introduce a better, more resilient form of accommodation into the area that might inspire the owners of other sub-standard properties to follow suit in the interest of regenerating Jaywick. In the longer-term, such an approach could bring about a significant improvement in the safety, health and employment prospects of future residents.
- 6.29 Environmental: The ecological and landscape impacts of this development will be negligible. The main environmental benefit will be introducing a form of development that is flood resilient and that could inspire other property owners of unsafe and sub-standard dwellings to follow suit. The disadvantage of this development is that it will be radically different from and very much out character with the form of dwellings that are currently present, but this needs to be weighed up with the opportunity to inspire the longer-term regeneration of Jaywick.
- 6.30 In the overall planning balance, Officers consider that this a prime opportunity to facilitate regeneration in Jaywick and whilst under normal circumstances such a development would not be acceptable, the Committee needs to consider what alternative means of regenerating the area might be available. The recommendation is approval subject to a set of standard conditions, but if the Committee feels that the radical appearance of the development and its impact on neighbours outweigh the potential benefits, then refusal would be a legitimate course of action – but this would raise the question of how future regeneration is ever going to be achieved.

Background Papers

None.

PLANNING COMMITTEE

30TH NOVEMBER 2016

REPORT OF THE HEAD OF PLANNING

A.5 PLANNING APPLICATION – 16/00921/FUL – 23-27 BROOKLANDS, JAYWICK, CO15 2JS



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Application:	16/00921/FUL	Town / Parish: Clacton Non-Parished area
Applicant:	Mr. P. Seager	
Address:	23-27 Brooklands, Jaywick, Essex CO15 2JS	
Development:	Demolition of existing detached bungalows and erection of four storey block of flats, comprising of car parking and storage to ground floor and first, second and third floor residential with associated amenity.	

1. Executive Summary

- 1.1 This is a full planning application to build a four storey block of flats containing 15 residential units with car parking and storage on the ground floor. The site contains four residential bungalows which are vacant and, at the time of writing, were in the process of being demolished. This part of Jaywick is one of the most deprived areas in the country and many of the existing properties were originally built as holiday homes but have gradually reverted to residential use. Most properties are substandard by modern day expectations and are within the tidal flood zone where the risk of flooding is set to increase with the effects of climate change.
- 1.2 The regeneration of Jaywick is one of the Council's top long-term objectives and the Council has been leading a multi-agency project to explore and deliver improvements in the area to better the quality of life for residents and secure a long-term sustainable future for the community. Part of the strategy for regenerating Jaywick is to actively encourage the redevelopment of the poorest and most vulnerable properties in the area and to introduce a new benchmark for built design that addresses flood risk concerns, improves the quality of accommodation, maximises the enjoyment of Jaywick's assets (particularly the beach) and inspires property owners and developers to redevelop and remodel other parts of the area.
- 1.3 This proposal for 23-27 Brooklands, along with that subject of separate application 16/00920/FUL for 32-37 Brooklands (see Report AX), represent the first significant proposals for redevelopment in the area in line with the Council's aspirations for the area. These four-storey blocks of flats are of high-quality contemporary design, would be in prime location overlooking Jaywick beach and by including only storage and parking on the ground floor would bring about a net improvement in flood safety. Whilst they are radically different from the single-storey bungalows that currently dominate the area are out of character, the regeneration of Jaywick requires a bold approach that seeks to secure a long-term future for the area and in weighing up the advantages of the developments against the disadvantages, your Officers consider that the advantages are greater.
- 1.4 The recommendation is approval but no s106 financial contributions are proposed in the interest of economic viability and ensuring deliverability of the scheme.

Recommendation: Approval

That the Head of Planning be authorised to grant planning permission for the development subject to planning conditions as follows:

1. Standard 3 year time limit for commencement.
2. Accordance with approved plans.
3. Highways conditions (as recommended by the Highway Authority).
4. Flood evacuation plan.

5. Minimum floor levels.
6. Contaminated Land Assessment.
7. Details of materials.
8. Details of external lighting.
9. Detailed drainage arrangements.

2. **Planning Policy**

National Planning Policy Framework (NPPF)

- 2.1 The National Planning Policy Framework (March 2012) sets out the Government's planning policies and how these are expected to be applied at the local level.
- 2.2 Planning law requires that applications for planning permission be determined in accordance with the 'development plan' unless material considerations indicate otherwise. The NPPF doesn't change the statutory status of the development plan as the starting point for decision taking. Where proposed development accords with an up to date Local Plan it should be approved and where it does not it should be refused – unless other material considerations indicate otherwise. An important material consideration is the NPPF's 'presumption in favour of sustainable development'. The NPPF defines 'sustainable development' as having three dimensions:
 - an economic role;
 - a social role; and
 - an environmental role.
- 2.3 These dimensions have to be considered together and not in isolation. The NPPF requires Local Planning Authorities to positively seek opportunities to meet the development needs of their area whilst allowing sufficient flexibility to adapt to change. Where relevant policies in Local Plans are either absent or out of date, there is an expectation for Councils to approve planning applications, without delay, unless the adverse impacts would significantly and demonstrably outweigh the benefits.
- 2.4 Section 10 of the NPPF sets out the government's policies in respect of meeting the challenge of climate change, flooding and coastal change. Paragraph 94 states "*Local planning authorities should adopt proactive strategies to mitigate and adapt to climate change, taking full account of flood risk, coastal change and water supply and demand considerations*". Paragraph 103 sets out the approach that Councils should take when considering planning applications for development in areas of flood risk. This requires a 'sequential approach' that seeks to direct development away from high risk flood areas and to only allow a contrary approach in exceptional circumstances where there are overriding reasons. In any event, developments need to be appropriately flood resilient, including safe access and escape routes where required, and that any residual risk can be safely managed, including by emergency planning.
- 2.5 Paragraph 187 of the NPPF states "*Local planning authorities should look for solutions rather than problems, and decision-takers at every level should seek to approve applications for sustainable development where possible. Local planning authorities should work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area*".

Local Plan

- 2.6 Section 38(6) of the Planning Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the 'development plan' unless material

considerations indicate otherwise. In the case of Tendring the development plan consist of the following:

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

QL1: Spatial Strategy: Directs most new development toward urban areas and seeks to concentrate development within settlement development boundaries. The policy categorises Jaywick as part of the Clacton on Sea urban area.

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

QL3: Minimising and Managing Flood Risk: Seeks to direct development away from land at a high risk of flooding. It refers to the sequential and exception tests from government policy.

QL6: Urban Regeneration Areas: Identifies Jaywick as an Urban Regeneration Area.

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

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

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

HG1: Housing Provision

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

HG3: Residential Development Within Defined Settlements

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

HG3a: Mixed Communities

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

HG6: Dwellings Size and Type

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

HG7: Residential Densities

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

HG9: Private Amenity Space

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

COM2: Community Safety

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

COM6: Provision of Recreational Open Space for New Residential Developments

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

COM21: Light Pollution

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

COM23: General Pollution

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

COM29: Utilities

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

COM31a: Sewerage and Sewage Disposal

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

EN12: Design and Access Statements

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

EN13: Sustainable Drainage Systems

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

TR1a: Development Affecting Highways

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

TR3a: Provision for Walking

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

TR4: Safeguarding and Improving Public Rights of Way

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

TR5: Provision for Cycling

Requires all major developments to provide appropriate facilities for cyclists.

TR6: Provision for Public Transport Use

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

TR7: Vehicle Parking at New Development

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

CL15: Residential Development in Jaywick

Sets out strict requirements for new development in Jaywick which have since been found to be ineffective in achieving positive development.

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

Relevant policies include:

SP1: Presumption in Favour of Sustainable Development

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

SPL1: Managing Growth

Identifies Clacton and Jaywick as a smaller rural settlement where smaller scale development is envisaged as part of a sustainable strategy for growth.

SPL2: Settlement Development Boundaries

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

SPL3: Sustainable Design

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

HP4: Open Space, Sports and Recreation Facilities

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

LP1: Housing Supply

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

LP2: Housing Choice

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

LP3: Housing Density and Standards

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

LP4: Housing Layout

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

PPL1: Development and Flood Risk

Seeks to direct development away from land at a high risk of flooding.

PPL3: The Rural Landscape

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

PPL5: Water Conservation, Drainage and Sewerage

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

CP1: Sustainable Transport and Accessibility

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

CP3: Improving the Telecommunications Network

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

Other Guidance

Essex County Council Car Parking Standards – Design and Good Practice

Essex Design Guide for Residential and Mixed-Use Areas.

Jaywick Strategic Flood Risk Assessment

3. Relevant Planning History

3.1 The site has no relevant planning history.

4. Consultations

TDC Open
Space and Play

No contribution required.

EDC
Environmental
Health

There is concern of the historical use of asbestos on the original structures there and fires have also been on site. We would therefore like to request a contaminated land assessment:

No development shall take place until the ground conditions on the site have been subject to a detailed investigation to establish their suitability for the proposed end use. A historical investigation, sampling and analysis of current soils, site assessment and action plan to remedy any contamination must be agreed by the local planning authority in writing and carried out prior to the commencement of any other works in relation to any development on the site.

Reason: Due to the nature of the construction of the current buildings and surrounding buildings

Can we also ask for further information pertaining to the proposed external lighting scheme for the site?

TDC Housing

The Housing Department is supportive of this application as it will assist in the regeneration of Jaywick but we accept that any contribution, be it on site provision of a financial contribution, will threaten the viability of the development. Therefore no contribution is required.

ECC Highways

The Highway Authority originally raised an objection to this application on the grounds that the parking facilities proposed were not in accordance with current policy standards. Experience has demonstrated that under normal circumstances this will create a problem in the highway due to

additional vehicles being left off-site, additional braking and turning movements conflicting with current highway users, and therefore and increased risk of collisions.

However, since submitting the initial recommendation, we have been provided with further details regarding vehicle ownership levels typically experienced in this vicinity and notes that this is far lower than average. We are now content that the proposals will not create a highway safety or efficiency issue and is happy to remove the previous objection subject to the following:

- Prior to occupation of the development the vehicular parking facility, as shown on the submitted plan shall be constructed, surfaced and maintained free from obstruction within the site at all times for that sole purpose.
- No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary.
- At no point shall gates be provided at the vehicular access. The access shall remain open and free for use in perpetuity.
- Any vehicular hardstanding shall have minimum dimensions of 2.9 metres x 5.5 metres for individual parking space, retained in perpetuity.
- Prior to the commencement of the development the details of the number, location and design of cycle parking facilities shall be submitted to and approved in writing by the Local Planning Authority. The approved facility shall be secure, convenient and covered and provided prior to occupation and retained at all times.
- No works shall commence until a detailed sustainable transport mitigation package has been submitted to and agreed, in writing, by the Local Planning Authority. This package will provide information on how the applicant proposes to mitigate any increase in private vehicular use associated with the development and will include appropriate information on all sustainable transport modes including bus and rail travel, cycling, walking and community transport in the vicinity of the site. The package shall thereafter be implemented as a greed for each individual dwelling and/or premises within 14 days of the first beneficial use or occupation of that unit.

ECC
Archaeology

The proposed development lies within a region of high potential for both Palaeolithic archaeological remains and early prehistoric archaeological remains. Sediments from a former river channel laid down by the ancestral Thames before it was diverted have yielded internationally significant Palaeolithic remains and Pleistocene faunal remains within the area. In addition findspots from along the foreshore have yielded Mesolithic and Neolithic remains which suggest early prehistoric settlement and activity within the immediate area. There is the potential for significant Pleistocene sediments to be present below the surface geology which may contain Palaeolithic archaeological remains as well as buried prehistoric landsurfaces which may be impacted by the proposed development.

If the Council is minded to grant planning permission, the following condition is requested: *"No development or preliminary ground-works can commence until a programme of archaeological and geoarchaeological evaluation has been secured and undertaken in accordance with a Written Scheme of Investigation, which has been submitted by the applicant, and approved by the planning authority. Following the completion of this initial*

phase of archaeological work, a summary report will be prepared and a mitigation strategy detailing the approach to further geoarchaeological investigation and/or preservation in situ through re-design of the development, shall be submitted to the local planning authority.”

Essex County
Council Flood
Authority

The site will not introduce a significant amount of new impermeable areas, we consider the scale of this development to be minor and do not provide any specific comments on the drainage strategy for the site. However, we note that the site is located in Flood Zone 3 and the Council should consult the Environment Agency. The Council has a responsibility to consider:

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

Anglian Water

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

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

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

Surface Water Disposal: The preferred method of surface water disposal would be to a sustainable drainage system (SuDS) with connection to sewer seen as the last option. Building Regulations (part H) on Drainage and Waste Disposal for England includes a surface water drainage hierarchy, with infiltration on site as the preferred disposal option, followed by discharge to watercourse and then connection to a sewer.

The surface water strategy/flood risk assessment submitted with the planning application relevant to Anglian Water is unacceptable. We would therefore recommend that the applicant needs to consult with Anglian Water and the Lead Local Flood Authority (LLFA). We request a condition requiring a drainage strategy covering the issue(s) to be agreed: *“No drainage works shall commence until a surface water management strategy has been submitted to and approved in writing by the Local Planning Authority. No hard-standing areas to be constructed until the works have been carried out in accordance with the surface water strategy so approved unless otherwise agreed in writing by the Local Planning Authority.”*

Environment
Agency

The site lies within tidal Flood Zone 3a, defined as having a high probability of flooding. The proposal is for the demolition of existing detached bungalows and erection of a four story block of flats, which is classified as ‘more vulnerable’ development in the Planning Practice

Guidance. To comply with national policy, the application needs to pass the Sequential and Exception Tests, and be supported by a site specific Flood Risk Assessment (FRA). We are satisfied that FRA provides you with the information necessary to make an informed decision.

5. Representations

5.1 The Council has received representations from one resident who supports the proposal and the investment in Jaywick in principle but has made the following (summarised) observations, criticisms and suggestions:

- The garages will detract from the coastal path and national cycle route and are an ugly incongruous addition;
- The garages will be un-overlooked and will create opportunities for crime;
- CIL contributions should be secured to by and refurbish the café;
- The applicant refers to Art-Deco style being of the 1950s, when in fact it hails from the 1920s and 1930s;
- It would be preferable to have living space such as a kitchen on the ground floor as this will reduce the overpowering scale and height of the development;
- This is a wonderful opportunity for Jaywick, work with the community, resubmit and amended application and get it right.

6. Assessment

The Site

6.1 The application site comprises 0.06 hectares of land on Brooklands, fronting the seafront and located between the parallel site streets of Riley Avenue and Humber Avenue. At the time of site visit, site contained five vacant single-storey bungalows that were in the process of being demolished.

The Proposal

6.2 As a full application, the Planning Committee is being asked to approve a detailed proposal for a four-storey block of 15 flats containing 15 parking spaces and cycle storage on the ground floor. The first and second floors would each contain 5 x 1-bed flats and 1 x 2-bed flats and the third floor would contain 2 x 3-bed flats and 1 x 2-bed flat. The 1-bed flats measure between 40 and 51sqm, the 2-bed flats measure between 62 and 67 sqm and the 3-bed flats measure 75sqm and 86 sqm floor area. The flats fronting Brooklands will have balconies and flats on the top floor (and one on the second floor) will benefit from an outside terraced area. A communal garden area is to be provided to the rear of the building. The block of flats would be 12 metres high and of flat-roofed contemporary design, rendered finish and with a vertical emphasis and use of windows reminiscent of art-deco and 'Moderne' movement architecture popular in coastal areas in the 1920s and 1930s.

Main Planning Considerations

6.3 The main planning considerations are:

- Principle of development;
- Jaywick Regeneration Policies;
- Flood risk issues;
- Highways, transport and accessibility;
- Environmental Impacts;
- S106 planning obligations;

- Design and layout; and,
- Overall planning balance.

Principle of development

- 6.4 In line with Section 38(6) of the Planning and Compulsory Purchase Act 2014, planning decisions must be taken in accordance with the 'development plan' unless material considerations indicate otherwise. The requirements of the National Planning Policy Framework (NPPF) are a material consideration in this regard.
- 6.5 The 'development plan' for Tendring is the 2007 'adopted' Local Plan, despite some of its policies being out of date. Paragraph 215 of the NPPF allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF. Paragraph 216 of the NPPF also allows weight to be given to policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency with national policy. As of 14th July 2016, the emerging Local Plan for Tendring is the Tendring District Local Plan 2013-2033 and Beyond Preferred Options Consultation Document. As this plan is currently at an early stage of preparation, some of its policies can only be given limited weight in the determination of planning applications, but the weight to be given to emerging policies will increase as the plan progresses through the later stages of the process. Where emerging policies are particularly relevant to a planning application and can be given some weight in line with the principles set out in paragraph 216 of the NPPF, they will be considered and, where appropriate, referred to in planning decisions. In general terms however, more weight will be given to policies in the NPPF and the adopted Local Plan.
- 6.6 The site comprises existing development well within the settlement development boundary for Jaywick which forms part of the 'town' of Clacton (as defined in Policy QL1 of the adopted Local Plan) and the 'strategic urban settlement' of Clacton-on-Sea (as defined in Policy SPL1 of the emerging Local Plan). As the site lies within the settlement development boundary in both adopted and emerging Local Plans, there is a general presumption in favour of development in principle.
- 6.7 However, this part of Jaywick falls within Flood Zone 3a and notwithstanding its location within the settlement development boundary, the Council is still required to give special consideration to flood risk issues and the requirements of the NPPF i.e. the 'sequential' and 'exceptions' tests. These are considered in more detail later in this report.
- 6.8 The Brooklands, Grasslands and Village areas of Jaywick are also defined as an 'urban regeneration area' in Policy QL6 of the adopted Local Plan and a 'Priority Area for Regeneration' in Policy PP14 of the emerging Local Plan'. Such areas will be a focus for investment in social, economic and physical infrastructure and initiatives to improve vitality, environmental quality, social inclusion, economic prospects, education, health, community safety and accessibility. The policy supports proposals for development that are consistent with achieving these regeneration aims.

Jaywick Regeneration Policies

- 6.9 In the adopted Local Plan, Policy CL15 sets out specific requirements for development in Jaywick which are:
- i) Any new residential development should take the form of single dwellings on combined plots, the desirable width and depth of resulting plots to be at least 18 metres and 15 metres respectively. The minimum width and depth of resulting plots to be 15 metres and 15 metres respectively;

- ii) Only three storey development that excludes habitable rooms on the ground floor will be allowed;
- iii) Direct road frontage access should be available to each plot;
- iv) A minimum of 5 metres deep rear yard/amenity area shall be provided;
- v) a minimum one metre space between side boundaries and any detached, semi-detached or end terraced dwelling, or a minimum distance of 2 metres between the flank walls of any two such dwellings will be required;
- vi) Any off street car parking should be provided within the ground floor of each dwelling;
- vii) The front building line to be 2 metres from the highway;
- viii) Subsequent extensions to new dwellings will not be allowed if they contain living accommodation on the ground floor in the form of habitable rooms;
- ix) No development will be allowed within four metres of the ditch to the rear of Brooklands and Grasslands to allow for the passage of Maintenance Plant;
- x) Development along the Brooklands Frontage will need to be set back 2 metres to allow for the expansion of the road and minimum 1.2 metre-wide foot path.

6.10 The policy then says the approval of any new dwelling will be subject to a contribution through s106 legal agreement towards the continued wider regeneration of Jaywick.

6.11 However, this policy aimed at strictly controlling development to facilitate a phased programme of redevelopment has failed to bring about any positive changes in the area. Since the NPPF has given Councils more freedom to apply planning policies to better reflect local circumstances the Council, the Environment Agency and other partners have agreed that lifting some of the planning restrictions and moving towards flexible policies aimed at encouraging developers to provide high-quality, resilient and innovative new homes in the area is a better approach. The Council's 2012 Draft Local Plan included a far more positive policy which sought to encourage appropriate development rather than restrict innovation. Whilst this policy does not feature verbatim within the 2016 Preferred Options Draft, the principles have been applied in the consideration of this application.

Flood risk issues

6.12 The site, and the rest of this part of Jaywick, is in Flood Zone 3 – the highest area of risk due to its low-lying position on the coast. The NPPF, as supported by relevant policies in the adopted and emerging Local Plans, requires a 'sequential approach' to the location of new development which seeks to direct new development to the locations at lowest risk. In Tendring, there are clearly many locations of lower risk where a block of 15 flats could be located but in Jaywick an exceptional approach is justified where new development can assist in the regeneration of the area and helping to reduce the risk of flooding to life and property overall.

6.13 The NPPF and Local Plan policies refer to the 'Exception Test' which must apply if a development in a higher risk area is being considered having undertaken the sequential test. Paragraph 103 of the NPPF requires such developments to be informed by site-specific flood risk assessment and to demonstrate that:

- Within the site, the most vulnerable development is located in areas of lowest flood risk unless there are overriding reasons to prefer a different location; and
- Development is appropriately flood resilient and resistant, including safe access and escape routes where required, and that any residual risk can be safely managed, including by emergency planning; and it gives priority to the use of sustainable drainage systems.

6.14 The application is accompanied by a site-specific flood risk assessment which, as advised by the Environment Agency, provides sufficient information for the Council to make an

informed decision. The conclusions and recommendations in the assessment are summarised as follows:

- The site is in Flood Zone 3 'High Risk' with the primary source of flooding being tidal flooding from the North Sea;
- The existing sea defences protect the area to a 1 in 1,000 year tidal event standard but the site is at risk of overtopping of the sea defences for tidal events in the future;
- Compared with other parts of Jaywick, and based on the findings of the Council's own Strategic Flood Risk Assessment, the site is not currently located in a 'hazard area' but this is expected to change in the future;
- In the event of a flood, the site could flood to between 1 and 2 metres;
- The design of the development with only parking, bin storage and communal garden on the ground floor will ensure the dwellings (with minimum finished floor level of 5.605m AOD) would remain safe and dry throughout the lifetime of the development;
- It is recommended that residents remain in their homes during a breach or overtopping flood event and only leave the premises once the tide recedes or the emergency services can attempt a rescue.
- It is recommended that residents subscribe to the EA Flood Warning service, and that a Flood Warning and Evacuation Plan is prepared and distributed among residents, to make them aware of the risk to the premises.

6.15 The minimum floor level and the evacuation plan can be secured through planning condition if the Committee is minded to approve. Overall, Officers consider that the development will meet with the NPPF Exceptions Test if these conditions are imposed.

6.16 Having no living accommodation on the ground floor is key to the flood resilience of this scheme. Although the local objector has suggested that the garages would be unsightly and that kitchens could be included on the ground floor to reduce the overall height, this is something that could not be acceptable in flood risk terms in taking this exceptional approach.

Highways, transport and accessibility

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

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

6.18 Policy QL2 in the adopted Local Plan and Policy CP1 in the emerging Local Plan seek to ensure that developments maximise the opportunities for access to sustainable transport including walking, cycling and public transport. Located in the heart of Jaywick on a bus route and public footpath, Officers are content that this is a sustainable location for development in transport and accessibility terms.

6.19 Initially the Highway Authority issued an objection over the minimal amount of car parking and this possibly leading to on-street parking (a concern raised in local representations).

However this objection has since been withdrawn having considered further details regarding vehicle ownership levels typically experienced in this vicinity and notes that this is far lower than average. ECC is now content that the proposals will not create a highway safety or efficiency issue and is happy to remove the previous objection subject to conditions.

- 6.20 With only 15 spaces to serve 15 flats (as opposed to 24 that would normally be required in accordance with ECC standards), an exceptional approach is again required. A balance needs to be struck between the opportunity to facilitate the regeneration of Jaywick through an economically viable development scheme and the physical limitations of the site that only allow a certain number of spaces to be provided.

Environmental impacts

- 6.21 As site occupied by derelict bungalows in the process of demolition, the site is not of any significant ecological value. The development would have a radical impact on landscape character, particularly when viewed from the seafront – but Officers consider that a seafront location with prime views over the sea is an appropriate location for taller development of contemporary design. The County Council Archaeologist has suggested a condition to secure an archaeological assessment and this would be applied if the development is approved. The Council's Environmental Health Team has requested a Contaminated Land Assessment and details of external lighting to be secured through condition.

S106 planning obligations

- 6.22 The number of units proposed are below the threshold that would normally require financial contributions towards education or health provision. Whilst the scheme would still be liable for financial contributions towards open space, this is an area of low property values where economic viability is a genuine issue. In the interest of facilitating the regeneration of Jaywick and ensuring a scheme has maximum chance of actually being delivered, it is proposed that no financial contributions be sought through a s106 legal agreement (including any contributions towards refurbishing the local café as suggested by the resident that has commented). It is also considered that tying a proportion of the dwellings into being provided as affordable housing in perpetuity through a s106 might have a detrimental impact on the scheme's viability.

Design and Layout

- 6.23 The contemporary take on art-deco and Moderne design, in general terms, is appropriate for a coastal location overlooking the sea but is radically different from existing development in the area which generally consists of single-storey bungalows, many of which are of sub-standard condition. At 12 metres in height, this development would be more than double the ridge height of neighbouring properties and three times the eaves height. The development would be entirely out of keeping and out of character and would give rise to concerns over overlooking and some loss of light for existing properties, particularly those located in Riley Avenue and Humber Avenue to the rear. The rear boundary of the development would be close to the side boundaries of the existing properties.
- 6.24 In any other location, Officers would advise that such a development is inappropriate in planning terms for being so radically out of character with the wider area and giving rise to neighbouring amenity concerns. However, this part of Jaywick is a priority area for regeneration and an area where the current standard of residential property places residents at a high risk of flooding – particularly if climate change results in rising sea levels as projected by the Environment Agency and in poor residential conditions. Because this development contains no living accommodation on the ground floor the risk to residents in the event of a flood is kept to a minimum.

- 6.25 With this in mind, Officers are advising the Committee to consider whether an exceptional approach is justified and to set aside normal planning concerns in order to facilitate a development that could help set the tone for the future regeneration of the area. If the Committee agrees that an exceptional approach is needed, this development provides an opportunity to inspire other property owners to consider redevelopment to a more resilient, lower flood risk form of development. If the Committee feels that the harm to the character of the area and to the amenities of neighbouring residents is not outweighed by the potential benefits, then refusal would be justified in planning terms – but an alternative strategy for regenerating Jaywick would be needed.

Overall Planning Balance

- 6.26 The NPPF applies a 'presumption in favour of sustainable development' for which sustainable development addresses economic, social and environmental considerations. These are weighed in the balance as follows:
- 6.27 Economic: Whilst the development would be totally residential, it provides an opportunity to introduce a new standard of design and flood resilience into the area which could inspire other property owners to follow suit – thus helping to facilitate long-term regeneration of this deprived area. There would also be indirect economic benefits associated with increasing expenditure in the local economy and providing temporary construction jobs.
- 6.28 Social: The provision of 15 dwellings will help to meet housing needs and will introduce a better, more resilient form of accommodation into the area that might inspire the owners of other sub-standard properties to follow suit in the interest of regenerating Jaywick. In the longer-term, such an approach could bring about a significant improvement in the safety, health and employment prospects of future residents.
- 6.29 Environmental: The ecological and landscape impacts of this development will be negligible. The main environmental benefit will be introducing a form of development that is flood resilient and that could inspire other property owners of unsafe and sub-standard dwellings to follow suit. The disadvantage of this development is that it will be radically different from and very much out character with the form of dwellings that are currently present, but this needs to be weighed up with the opportunity to inspire the longer-term regeneration of Jaywick.
- 6.30 In the overall planning balance, Officers consider that this a prime opportunity to facilitate regeneration in Jaywick and whilst under normal circumstances such a development would not be acceptable, the Committee needs to consider what alternative means of regenerating the area might be available. The recommendation is approval subject to a set of standard conditions, but if the Committee feels that the radical appearance of the development and its impact on neighbours outweigh the potential benefits, then refusal would be a legitimate course of action – but this would raise the question of how future regeneration is ever going to be achieved.

Background Papers

None.

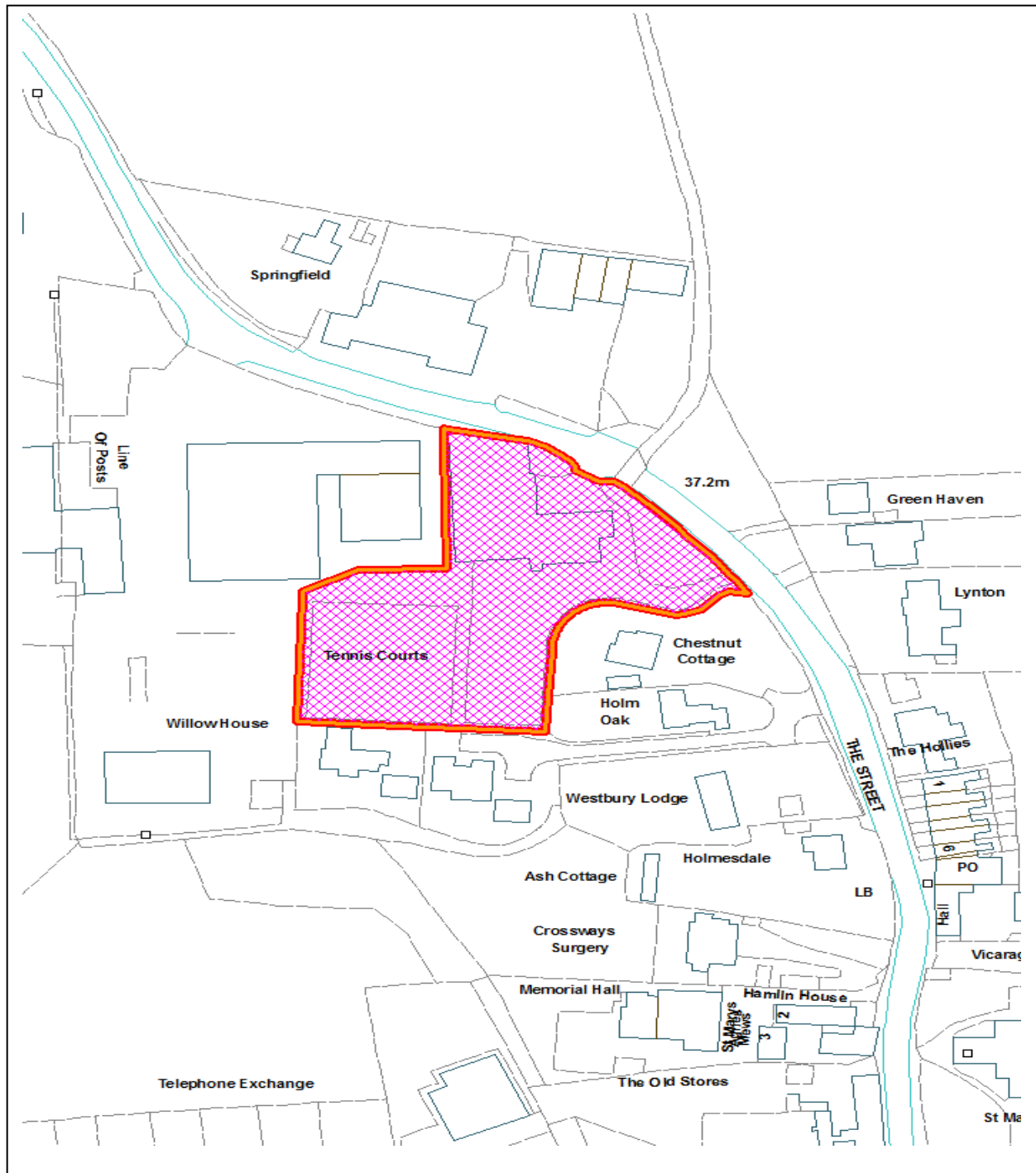
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PLANNING COMMITTEE

30 NOVEMBER 2016

REPORT OF THE HEAD OF PLANNING

A.6 PLANNING APPLICATIONS - 16/00878/FUL - ARDLEIGH SQUASH AND LEISURE CLUB, DEDHAM ROAD, ARDLEIGH, CO7 7NH



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Application:	16/00878/FUL	Town / Parish: Ardleigh Parish Council
Applicant:	Ardleigh Hall LLP	
Address:	Ardleigh Squash and Leisure Club Dedham Road Ardleigh CO7 7NH	
Development:	Demolition of existing building and construction of 7 No. 4 bedroom detached houses and associated garages and diversion of existing footpath public right of way.	

1. Executive Summary

- 1.1 The application site has been designated within the Proposals Map of the Local Plan as protected existing recreational open space, linked to the Ardleigh Hall Leisure Club, and therefore protected by policies COM7 and COM7a of the Local Plan. As a result, this application is presented to committee as a departure from the Local Plan.
- 1.2 The application site amounts to approx 0.45 hectares. The site is of an irregular shape and contains a number of trees, including some which have been protected by a Tree Preservation Order (TPO). The site currently accommodates a group of buildings which form part of the now vacant leisure club along with associated parking areas and outdoor tennis courts. The application site lies within the Ardleigh Conservation Area and is set within the defined settlement boundary of the village.
- 1.3 The application proposes 7 no. dwellings and garages along with the demolition of the majority of the buildings on the site. The properties would comprise of two-stories and accommodate 4 bedrooms.
- 1.4 The application site falls within the development boundary for the village of Ardleigh. Development in Tendring is focussed towards the larger urban settlements of Clacton and Harwich and the smaller towns and villages including Ardleigh. As the site falls within the settlement boundary, its development would be acceptable in principle, subject to other policies in the Local Plan.
- 1.5 Policies COM7 and COM7a seek to protect land from development which leads to their loss, either fully or in part, particularly where the land concerned fulfils an ongoing recreational or open space function. Saved Policy COM10 concerns the protection of Built Sport Facilities and states that proposals involving the loss of or change-of-use of built sports facilities will only be permitted provided that one of the following conditions is met:
 - replacement facilities of an equal or enhanced standard are provided, which are readily accessible to current users; or
 - an assessment has been undertaken, which clearly shows that the facilities are surplus to requirements.
- 1.6 From the information provided it is concluded that, on balance, there is no reasonable prospect of a leisure use returning to the site. A sustained and ultimately unsuccessful marketing campaign has been undertaken and clear evidence of the losses accrued by the previous operators has been submitted. This information is considered to be robust and, when having regard to the policy criteria for the loss of recreational facilities and green infrastructure, is considered to adequately demonstrate that there is no longer a local need for a leisure use in this location.

- 1.7 Furthermore, Officers consider that the development, if granted, would not have an adverse impact on the character and appearance of the conservation area, would not be detrimental to protected trees, and is acceptable in terms of highway safety and residential amenity.
- 1.8 It is therefore recommended that planning permission is granted subject to conditions.

Recommendation: Approve

Conditions:

1. Time Limit for commencement – 3 years
2. Development in accordance with the plans
3. Permeable surfacing
4. Materials
5. Hard and Soft Landscaping
6. Landscaping Implementation
7. Tree protection measures
8. Boundary treatments prior to occupation
9. Refuse storage areas to be provided prior to occupation
10. Surface water drainage in accordance with submitted details
11. As per key recommendations in extended phase 1 habitat survey
12. No development until an Order securing the diversion of the existing definitive right of way to a route has been agreed
13. Estate roads to be provided with kerbing and to a width of 5.5m for at least first 10m served by 2m wide footways.
14. Vehicular visibility splays of 43m by 2.4m by 43m afforded to both accesses
15. Removal/closure of any redundant parts of accesses
16. Details of a vehicular turning facility for large vans and service and delivery vehicles
17. No unbound materials within 6m of the highway boundary or proposed highway.
18. Individual accesses constructed to width of 3.7m wide and shared accesses 5.5m wide.
19. Details of estate roads and footways to be provided
20. Submission of Construction Method Statement
21. Provision of 2m wide footway and crossing points

2. Planning Policy

National Policy:

National Planning Policy Framework
National Planning Policy Guidance

Local Plan Policy:

Tendring District Local Plan (2007)

QL9	Design of New Development
QL10	Designing New Development to Meet Functional Needs
QL11	Environmental Impacts and Compatibility of Uses
HG1	Housing Provision
HG3	Residential Development within Defined Settlements
HG9	Private Amenity Space
HG13	Backland Residential Development
EN6	Biodiversity
EN6a	Protected Species

EN17	Conservation Areas
COM3	Protection of Existing Local Services and Facilities
COM7	Protection of Existing Recreational Open Space including Children's Play Areas and Pitch and Non-Pitch Sports Facilities
COM7a	Protection of Existing Playing Fields, including School Playing Fields
COM10	Built Sports and Recreational Facilities
TR1a	Development Affecting Highways
TR7	Vehicle Parking at New Development
RA4	Housing Development within Defined Villages

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

SPL1	Managing Growth
SPL2	Settlement Development Boundaries
SPL3	Sustainable Design
HP2	Community Facilities
HP3	Green Infrastructure
HP4	Open Space, Sports and Recreation Facilities
LP1	Housing Supply
LP3	Housing Density and Standards
LP4	Housing Layout
LP8	Backland Development
PPL3	The Rural Landscape
PPL4	Biodiversity and Geodiversity
PPL5	Water Conservation, Drainage and Sewerage
PPL8	Conservation Areas
CP1	Sustainable Transport and Accessibility

Supplementary Planning Guidance:

Parking Standards Design and Good Practice Guide (2009)
 Essex Design Guide (2005)
 Ardleigh Village Design Statement (2011)
 Ardleigh Conservation Area Appraisal

Status of the Local Plan

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

3. Relevant Planning History

- | | | |
|--------------|--|------------|
| 15/00516/ACV | Nominated and recorded on the List of Assets of Community Value help and maintained by Tendring District Council. | 10.02.2015 |
| 16/00878/FUL | Demolition of existing building and construction of 7 No. 4 bedroom detached houses and associated garages and diversion of existing footpath public right of way. | Current |

4. Consultations

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

- No development shall be permitted to commence on site including any ground or demolition works until such time as an Order securing the diversion of the existing definitive right of way to a route to be agreed in writing by the Local Planning Authority.
- Prior to the first occupation of the development, both of the proposed estate roads, at their bellmouth junction with Dedham Road/Street shall be provided with 6.0m radius kerbs returned to an access road carriageway width of 5.5m for at least the first 10m within the site and flanking footways 2m in width returned around the radius kerbs which shall connect to the existing footways. The new road junction shall be constructed at least to binder course prior to the commencement of any other development including the delivery of materials.
- Prior to the proposed accesses to Dedham Road being brought into use, vehicular visibility splays of 43m by 2.4m by 43m as measured along, from and along the nearside edge of the carriageway, shall be provided on both sides of the centre line of the access
- The existing access or any part of an access (dropped kerb) rendered redundant or unnecessary by this development shall be suitably and permanently closed
- Prior to commencement of the proposed development, a vehicular turning facility for large vans and service and delivery vehicles of a design which shall be approved in writing by the Local Planning Authority, shall be provided within the site and shall be maintained free from obstruction in perpetuity.
- No unbound materials shall be used in the surface treatment of any of the proposed vehicular accesses within 6m of the highway boundary or proposed highway.
- Prior to first occupation of the proposed development, a (communal) recycling/bin/refuse collection point shall be provided.

- Prior to the first occupation of each dwelling on the proposed development, the individual proposed vehicular access for that dwelling shall be constructed at right angles to the highway boundary and to a width of 3.7m and each shared vehicular access shall be constructed at right angles to the highway boundary and to a width of 5.5m and shall be provided with an appropriate dropped kerb vehicular crossing of the footway/highway verge.
- Prior to the commencement of development, details of the estate roads and footways (including layout, levels, gradients, surfacing and means of surface water drainage) shall be submitted.
- All off street car parking shall be in precise accord with the details contained within the current Parking Standards.
- No development shall take place, including any ground works or works of demolition, until a Construction Method Statement (CMS) has been submitted.
- Prior to the occupation of any of the proposed dwellings, the existing footway from the southern boundary of the site to the southern inner tangent of the northern vehicular access shall be extended to a minimum of 2.0m in width and a new footway continuing at 1.8m in width from the northern inner tangent of that bellmouth junction to the northern site boundary and terminating with a pram crossing being provided entirely at the Applicant/Developer's expense including new kerbing, surfacing, drainage, any adjustments in levels and any accommodation works to the footway and carriageway channel and making an appropriate connection in both directions to the existing footway to the specifications of the Highway Authority.

Trees & Landscape
Officer

There are a number of trees on the boundary of the application site with the highway and established conifer hedges within the main body of the site and on the perimeter of the land.

All trees on the land with a stem diameter greater than 75mm, measured at a point 1.5m from ground level, are afforded formal legal protection because they are situated within the Ardleigh Conservation Area.

The indicative site layout shows the retention of some of the trees on the boundary, the removal of some and the reduction of other parts of the coniferous hedges.

On balance the information provided by the applicant demonstrates that the viable trees with the greatest amenity value will be retained and only those with low visual amenity value or significant structural defects will be removed.

At the request of local residents special attention and consideration was given to the inspection of T10 ' Holm Oak (as identified in the tree report). Local residents have expressed a desire to see this tree retained for its amenity value and for the screening benefit that it

provides.

A condition should be attached to any planning permission that may be granted to ensure that the measures identified in the tree report are complied with and that protective fencing is erected and maintained for the construction phase of the development. As soft landscaping of the site will be a key element in achieving a desirable layout a condition should be attached to secure such details.

Regeneration

The Regeneration Team acknowledge the marketing campaign undertaken by the agents and the interest shown to date, but would comment that the Policy requirement is to market for all commercial uses, rather than restricting the potential use solely to leisure prior to considering change of use to residential.

As a result, we would have to object to this application and would request a further period of marketing for a minimum period of 6 months to ascertain demand from other uses.

We would also note that this site is registered as an Asset of Community Value and feel that every effort should be made to find a suitable alternative use which would offer community, leisure or commercial benefit to the village.

Leisure Services

Sports participation rates in the Tendring District are significantly below the national average and it would be difficult to establish an argument for any reduction in existing facilities. If provision is preserved through a Section 106 contribution towards Squash facilities in the local area, it is unlikely that a newly developed stand alone facility would be a realistic proposition, due to high capital costs and the lack of a strong business case for a single use sport facility. If consideration was given to a Section 106 agreement to develop an 'existing site' the two nearest established facilities to the proposed development in Tendring District Council's portfolio are owned by High Schools and operated through 'Joint Use Agreements' with the Council. If this was considered a realistic proposal, consultation would need to take place with the appropriate High Schools to establish interest and whether development is feasible. There would subsequently need to be an options analysis undertaken to establish the cost and implications of development and as such, is likely to be a time consuming process.

Environmental Health

Pollution and Environmental Control would also ask that the following is conditioned:

Condition for Construction and Demolition Sites

Prior to the commencement of any demolition works, the applicant (or their contractors) shall submit a full method statement to, and receive written approval from, the Pollution and Environmental Control.

Natural England

No comments – refer to standing advice.

Anglian Water Services Ltd

No comments received as development is for under 10 dwellings.

The Ramblers Association No comments received.

Sport England Sport England considers that the proposal conflicts with our national policy on the loss of sports facilities. Should redevelopment be unavoidable, an equivalent (or better) replacement facility should be provided in a suitable location or a financial contribution made towards the improvement of existing facilities.

In light of the above and the lack of evidence of any exceptional circumstances Sport England objects to the application.

England Squash It is clear that there is a growing demand for squash in Colchester and Tendring, with the potential for further demand from new housing developments. It is a shame for squash that Ardleigh Hall closed in 2014, for many years it had been a very successful squash club and was an important facility for the community. Solely from a squash perspective, replacing it with a like-for-like facility would be preferable however, this appears unlikely and it may be more realistic to look at making improvements to other neighbouring facilities. The Squash needs assessment looked at facilities within a 20 minute travel time and although this is reasonable for experienced adult players and keen juniors looking for high quality coaching, we feel it is likely to be too long a journey for more recreational players and will mean that some new players will be put off trying squash for the first time.

A sensible compromise may be to improve facilities at a number of sites around Ardleigh, perhaps concentrating on those in the poorest condition where a renovation could have a significant impact and also improving sites with established participation that also have the potential to grow further with the right investment. This approach would provide a larger catchment and therefore benefit a higher number of current and potential players.

5. Representations

5.1 Ardleigh Parish Council strongly objects to the application for the following reasons;

- Significant local opposition and the Parish Council fully support the opposition.
- Site is designated in the Saved and Emerging Local Plans as 'Safeguarded Local Green Space'.
- Development completely destroys areas of Green Infrastructure and as such should be refused.
- Compromises integrity of overall Green Infrastructure Networks.
- Ardleigh has significant deficit of open space.
- Development represents over-development of a small site.
- Site is not sustainable as no places at local primary school or at the doctor's surgery. Nor are there any employment opportunities in the village.
- Marketing of the club has not been sustained. No details of the sale on the agent's website and no consultation with the Parish Council to assist in finding a purchaser.
- Two interested parties who produced viable business plans were turned down.
- Development proposals do not need meet the requirements of the NPPF in respect of the protection of recreational facilities.
- Development does not comply with the Ardleigh Village Design Statement as it does not protect or enhance the local character or make a positive contribution to the local environment.

5.2 A total of 69 objections have been received. The comments received are summarised below:

- Area designated for recreational use/open space.
- Land contaminated.
- Loss of recreational facility not to be encouraged.
- Further development will increase traffic and parking problems.
- New draft Local Plan includes land as protected green space.
- Lack of use of facility is a reflection on current management, doesn't mean it is no longer a valuable asset to the village.
- Application appears as a piecemeal development with no respect of the character of the conservation area.
- Loss of trees on site would harm the conservation area.
- Grave reservations about the impact of even more traffic in The Street.
- The club has provided a leisure facility for around 40 years and has been successful in producing a number of national and international sports men and women.
- A consortium is interested in acquiring the club which will invest and make improvements to the facilities.
- Marketing campaign was not communicated widely and previous club failed due to lost of interest from tenants. Club was poorly run and allowed to deteriorate.
- Should remain as a sports and leisure facility serving the whole community and surrounding area.
- Two firm offers were made and were rejected on unsubstantiated grounds.
- Local school and doctor's surgery are full.
- Health and well-being will be affected.

6. **Assessment**

6.1 The main planning considerations are:

- Site Context;
- Proposal;
- Policy Context;
- Loss of Recreational Facility;
- Design and Layout of Proposal;
- Impact on Conservation Area;
- Residential Amenities;
- Biodiversity;
- Trees Considerations;
- Impact on Highways/Public Right of Way/Parking Provision; and,
- Other Issues.

Context and Background

6.2 The application site amounts to approx 0.45 hectares and lies to the west of The Street, Ardleigh. The site is of an irregular shape and contains a number of trees, including some which have been protected by a Tree Preservation Order (TPO).

6.3 The site currently accommodates a group of buildings which form part of the now vacant leisure club along with associated parking areas and outdoor tennis courts. The buildings take the form of a 1970's flat roofed structure, the remnants of what is believed to be a coach house that served Ardleigh Hall and a single storey former agricultural building that sits on the northern frontage of the site. Ardleigh Hall once stood on the site but was destroyed in a fire in the late 1970's.

- 6.4 To the south of the site is a recent housing development of 4 detached properties that were built on land once belonging to the leisure club. To the north and west are commercial uses. To the east as The Street bends round to the south residential properties are located.
- 6.5 The application site lies within the Ardleigh Conservation Area and is set within the defined settlement boundary of the village. A Public Right of Way (no.158) currently passes through the application running east to west.

Proposals

- 6.6 This planning application proposes the demolition of the majority of the buildings on the site and the erection of 7 no. detached 4 bedroom dwellings. The dwellings would comprise of two storeys and each would be served by a single garage and parking bay to the front.
- 6.7 The dwellings would be of traditional design and largely replicate the design of the properties recently constructed to the south. Proposed materials include clay plain tiles, smooth render, facing brick and timber weatherboarding.
- 6.8 The development would utilise the two existing vehicular accesses resulting in a small mews style development comprising of 3 no. dwellings at the northern end of the site and 4 no. dwellings to the south accessed via a kerbed private road.
- 6.9 The application also proposed a slight diversion of the existing Public Right of Way.

Policy Context

- 6.10 National planning policy is provided within the National Planning Policy Framework (NPPF). The NPPF promotes the principles of sustainable development and seeks to significantly boost housing supply, particularly in sustainable locations. Such proposals should ensure high standards of design and respond to local character, whilst being visually attractive as a result of good architecture and appropriate landscape design. As a result, the proposed development sits comfortably with the overarching sentiments of the NPPF.
- 6.11 The application site falls within the development boundary for the village of Ardleigh. Development in Tendring is focussed towards the larger urban settlements of Clacton and Harwich and the smaller towns and villages including Ardleigh. As the site falls within the settlement boundary, its development would be acceptable in principle, subject to other policies in the Local Plan.
- 6.12 Two such policies are Saved Policies COM7 and COM7a, which seek to protect such land from development, which leads to their loss, either fully or in part, particularly where the land concerned fulfils an ongoing recreational or open space function. Saved Policy COM10 concerns the protection of Built Sport Facilities and states that proposals involving the loss of or change-of-use of built sports facilities will only be permitted provided that one of the following conditions is met:
- replacement facilities of an equal or enhanced standard are provided, which are readily accessible to current users; or
 - an assessment has been undertaken, which clearly shows that the facilities are surplus to requirements.

These policies will be considered further below.

- 6.13 Other policies of note include saved policy EN17, which requires new development in conservation areas to preserve or enhance the character or appearance of the conservation area. This policy will be considered below.

Loss of Recreational Facility

- 6.14 The application site has been designated within the Proposals Map of the Local Plan as protected existing recreational open space, linked to the Ardleigh Hall Leisure Club, and therefore protected by saved policies COM7 and COM7a of the Tendring District Local Plan (2007) and draft policy HP4 Tendring District Local Plan 2013-2033 and Beyond Preferred Options and Consultation Document (July 2016). These policies seek to protect land from development which leads to their loss, either fully or in part, particularly where the land concerned fulfils an ongoing recreational or open space function.
- 6.15 The Ardleigh Squash and Leisure Club has also been placed on the List of Assets of Community Value, which protects the buildings from certain permitted development rights. In respect of the protection of Built Sport Facilities saved policy COM10 is relevant. This policy seeks to ensure that the redevelopment or change of use facilities will only be permitted where a like for like replacement has been provided or it can be proven that the facility is surplus to requirements and no longer economically viable.
- 6.16 Paragraphs 70 and 74 of the NPPF support these policies. Paragraph 70 seeks to protect existing community facilities and guard against their loss. Paragraph 74 requires an assessment that shows the facility to be surplus to requirements; or the loss is being replaced; or the development is for an alternative community facility.
- 6.17 The policies and Government Guidance outlined above looks first to secure a replacement of the facility being lost and if that is not possible it has to be proven that the facility is no longer viable and there is no longer a demonstrated need. It is important to note at this stage that the matter to assess is the loss of overall leisure facility and not the previous activity or use that took place within the buildings in question. In this case the Squash Club use ceased in August 2014.
- 6.18 In respect of the policy criteria stated above, it is clear that the application proposals do not provide for a replacement of the facilities being lost. The low number of residential units proposed would mean that any like for like replacement of the facilities would render the scheme financially unviable. Consequently, the applicants have provided information to demonstrate that the leisure facility is no longer viable, no longer needed in this location and efforts have been made to find a suitable buyer for the premises.
- 6.19 As stated above the facility closed in August 2014 and has therefore been vacant for over 2 years. Whilst this go some way to demonstrate a reduction in the need for a leisure facility in this location, further information is required to adequately show that the use is no longer viable. In view of this the applicant has submitted a detailed financial statement and a marketing report prepared by agents Morley, Riches and Ablewhite.
- 6.20 The financial statement provides evidence of the former business's accounts over the last years of its activity. The report shows that the club sustained the following losses;
- 2009 (- £36,613)
2010 (- £11007)
2011 (- £6119)
2012 (- £10447)
2013 (- £27954)
- 6.21 The report cites a significant fall in membership partly due to the onset of greater competition from leisure facilities in nearby larger settlements and on-going and increasing running costs as reasons for the losses sustained. The information provided also states that the applicants and the owners of the club site assisted the club operators, by reducing rents

and for a period took no rent, however for financial reasons this could not continue indefinitely.

- 6.22 Once the facility closed a marketing campaign commenced to find a new purchaser or operator of the leisure facility. To this end a marketing report has been provided by the appointed agents. The report confirms that the marketing campaign did yield interest (19 enquires and 7 viewings) ranging from former club members, gym businesses and private individuals engaged in other sport provision elsewhere. The report explains that, due to previous concerns, the applicants were purposely seeking operators, who were not only able to meet a market rent, but could demonstrate that they were in possession of a sound and viable business plan.
- 6.23 Serious interest was received and progressed through further viewings. However, for several reasons outlined in the marketing report, including concerns regarding potential operator's business plans, offers below the asking price and lack of follow up interest, it is evident that the applicant's have not been able to find an operator who could at least demonstrate that their proposals for the site were based on viable business principles.
- 6.24 In respect of need, the applicants have commissioned a Squash Needs Survey which does conclude that there remains a demand for such facilities in the locality, although it was found that in the most part, the former Ardleigh Hall Members have found alternative facilities. The survey also suggests that a financial contribution could be sought from the developers to go towards improving squash facilities in the area. However, there is not a policy mechanism in place to request such a contribution. The policy either requires a like for like replacement or proof that the facility is no longer viable.
- 6.25 Therefore from the information provided it is concluded that, on balance, there is no reasonable prospect of a leisure use returning to the site. A sustained and ultimately unsuccessful marketing campaign has been undertaken and clear evidence of the losses accrued by the previous operators has been submitted. This information is considered to be robust and, when having regard to the policy criteria for the loss of recreational facilities and green infrastructure, is considered to adequately demonstrate that there is no longer a local need for a leisure use in this location and therefore attempts to find a new purchaser/operator have been found to be financially unviable.
- 6.26 Therefore on the basis of the information provided it is considered on balance that the re-development of the site for residential purposes would be acceptable in principle. Matters therefore now turn to the detailed design aspects of the development.

Design and Layout of Proposal

- 6.27 The site is located within the Ardleigh Conservation Area. In terms of its character, The Street at its southern end is characterised by smaller scale residential development, which is predominantly two storey and set close to the back of the footway. This character terminates just before the application site and the land opens up on the west side, and becomes the remnants of the parkland associated with Ardleigh Hall. Directly to the south of the development, is a recently constructed two-storey residential development. At this point, trees line the edge of The Street (west) and soften views. The proposed dwellings are set behind these trees to maintain their contribution to the street scene. It is considered the trees will equally soften the proposed housing in the views and provide a mature setting, within which new planting is proposed and will assist further in settling the new development into this important location within the conservation area.
- 6.28 The development would consist of two pockets of development utilising both the existing vehicular accesses. The northern element of comprise of three dwellings set in a mews style arrangement and to the south four dwellings are proposed in a more formal

arrangement accessed via a private access served by a pedestrian footpath. The proposed dwellings would sit comfortably within their respective plots and retain sufficient side isolation as to not appear cramped within their setting. Each dwelling would be served by a suitably subservient garage building which would comprise of pitched roofs and complementary traditional materials.

- 6.29 In terms of the house types, these are considered to be acceptable, and provide a mixture of traditional materials which preserve the character of the conservation area. The development largely follows the same design ethos as the recent housing development set to the south.
- 6.30 New metal railings are proposed to The Street frontage, with a new hedgerow set behind, to match existing railings to the recent development to the south of the application site. This boundary treatment is considered to be acceptable. Careful consideration has been given to the provision of boundary treatment afforded to the boundaries of the most southerly private access. The use of 'Wottle' fencing panels and traditional brick walls supplemented by hedgerows would retain future resident's privacy whilst retaining the traditional appearance of the proposed development.
- 6.31 It is considered that the development, if granted, would preserve the character and appearance of the conservation area, and would comply with saved policy EN17 of the Local Plan.
- 6.32 Furthermore, the proposed development is considered to accord with the Ardleigh Village Design Guide. This states that all new development will be encouraged provided the development is well designed and in keeping with the existing character of the Parish. Moreover, the Ardleigh VDS encourages good design and seek to protect or enhance the existing character of the parish, discourages uniformity of design and materials for new housing, and places trees as an important contribution to the character of the village.

Impact upon the Conservation Area

- 6.33 Saved Policy EN17 states development will be refused where it would prejudice the setting and surroundings of a conservation area or harm the inward or outward views. Draft Policy PPL8 states permission will not be granted unless the proposed is of a design and/or scale that preserves or enhances the special character or appearance of the area and is compatible with neighbouring buildings and spaces.
- 6.34 In addition, Saved Policy EN20 (Demolition in Conservation Areas) and Draft Policy PPL8 state that demolition within a conservation area will only be permitted where the removal of the structure would result in a material visual improvement to the appearance of the area and if the existing structure is beyond economic repair, incapable of beneficial use or is itself harmful to the character of the conservation area.
- 6.35 Neither of the buildings to be demolished are listed buildings. However, as the site is within a conservation area an assessment as to the impact of the loss of the buildings upon the character and appearance of the conservation area is required.
- 6.36 The applicant's have provided a Heritage Statement which assesses the value of the buildings to the conservation area setting and attempts to justify their demolition. The statement confirms that one of the buildings to be demolished (the half timbered block dated 1883) formed one of the more recent outbuildings that served the historic Ardleigh Hall, which was located to the west of the site and was destroyed in a fire in 1979. The statement asserts that this building was thought to be part of a coach house attached to a more historic single storey store building. Whilst the ground floor element may be original the first floor, due to the regularity of the timber frames and modern windows and cupola, is

most likely more recent and possibly renovated during the fire in 1979. As such there is little remaining that is original and evidence has been provided to show that this element is much altered and consists of largely modern materials which have been inserted to accommodate a former health and fitness suite.

6.37 The Ardleigh Conservation Area Appraisal is also particularly relevant. The appraisal states;

'On the west side of the outer end of The Street stands Ardleigh Hall. A health & fitness suite is housed in the outbuildings to the former Hall, the single storey northern extension of which is an important element in the approach to the village from the north. The main entrance is in a half-timbered block dated 1883 with a substantial clay tiled roof and cupola'.

6.38 The appraisal therefore confirms that the single storey store building present on The Street frontage provides an important historic feature as you approach Ardleigh from the north. In view of this, this important historic element is to be retained and incorporated into the development by accommodating a day room and dining area to dwelling proposed to plot 6.

6.39 Overall it is concluded that the buildings to be demolished are either of little historic significance (the modern flat roofed building accommodating the Squash Courts) or in the case of the coach house remnants, which have been much altered using modern materials, make a neutral contribution to the conservation area setting. The one positive feature, identified in the Ardleigh Conservation Area Appraisal, is to be retained as part of the development proposals.

6.40 The loss of these buildings would therefore not result in material harm to the significance of the conservation area setting. The proposed housing development would retain a traditional appearance using vernacular materials and the most valuable trees are to be retained. The development would therefore preserve the character and appearance of the Ardleigh Conservation Area.

Residential Amenities

6.41 The application site is sited directly to the north of the residential properties recently constructed to the south of site. The dwellings proposed on plots 1-4 within the southern element of the proposed development are sited adjacent to these dwellings and therefore careful consideration in the design to retain existing resident's privacy and outlook.

6.42 However, it is considered that the proposed development would not have an adverse impact on the amenities of neighbouring residential dwellings. The dwellings on plots 2 and 3 have been sited between 9m and 12m away from the front elevations of 'Willow House' and 'Copperfields' to the south suitably retaining existing residents outlook and privacy. Plot 1 has been designed to face north without any first floor windows in its east facing flank, ensuring the privacy of the residents of 'Chestnut Cottage' is retained. The back to back distance of the dwelling on plot 2 to the rear of 'Holm Oak' is 36m which accords with the guidance contained in the Essex Design Guide to protect resident's privacy.

6.43 It is concluded that the proposed development will not have an adverse impact on the residential amenities of neighbouring residential properties.

Biodiversity

6.44 An extended phase 1 habitat survey and bat survey has been undertaken and submitted as part of the application. The survey found the following;

- the scattered trees were of nesting bird potential;

- the small area of unkempt amenity grassland was suitable for reptile species, however as the habitat is small and surrounded by hardstanding it is isolated and therefore unlikely to be utilised by reptilian species;
- the buildings to be demolished were classified as having a high bat roosting potential, however subsequent bat surveys have confirmed that no bats were observed emerging from or re-entering the buildings on site. Also no evidence of roosting bats were found during the internal inspections.

6.45 In view of the findings the surveys recommend the following precautionary/mitigation methods;

- the small areas of amenity grassland be studded to 20cm using hand held tools and then to ground level during April to September when the temperature is over 10 degrees;
- the log and rubble pile within the grassland areas should be dismantled by hand;
- demolition of the pitched roof buildings should take place during October – April (inclusive);
- any vegetation removal should take place during October – February (inclusive) to avoid bird nesting season.

6.46 Given that the key recommendations of the phase 1 habitat survey are carried out (as above), it is concluded that the proposed development will not have an adverse impact on the nature conservation interests of the area.

Tree Considerations

6.47 There are a number of trees on the boundary of the application site with the highway and established conifer hedges within the main body of the site and on the perimeter of the land. All trees on the land with a stem diameter greater than 75mm, measured at a point 1.5m from ground level, are afforded formal legal protection because they are situated within the Ardleigh Conservation Area. The indicative site layout shows the retention of some of the trees on the boundary, the removal of some and the reduction of other parts of the coniferous hedges.

6.48 In order to ascertain the extent of the constraint that these trees are on the development potential of the land and the way that retained trees will be protected during the construction phase of any development that may be granted planning permission the applicant has provided a tree survey and report.

6.49 On balance the information provided by the applicant demonstrates that the viable trees with the greatest amenity value will be retained and only those with low visual amenity value or significant structural defects will be removed.

6.50 At the request of local residents special attention and consideration was given to the inspection of T10 (as identified in the tree report). Local residents have expressed a desire to see this tree retained for its amenity value and for the screening benefit that it provides. As such an amended tree report has been received which shows the retention of this tree.

6.51 A condition will be attached to any planning permission to ensure that the measures identified in the tree report are complied with and that protective fencing is erected and maintained for the construction phase of the development. As soft landscaping of the site will be a key element in achieving a desirable layout a condition will also be attached to secure such details.

Impact on Highways/Public Right of Way/Parking Provision

- 6.52 The layout of the proposed development has been arranged to utilise the two existing vehicular accesses. Essex County Council Highways have no objections to this but have requested that certain improvements are made including widening these accesses and providing kerbs, footways and crossing points. All these requirements will be secured through standard highways conditions.
- 6.53 Through the centre of the site runs a Public Right of Way. At present this PROW runs from the northern access southwards past the buildings and off westwards to the north of the tennis courts. The layout of the development would require a short re-routing of the PROW along the proposed southern private drive. The required re-routing of this right of way would not result in a diminished experience for users of PROW and is the subject of a separate approval process. Again Essex County Council Highways have been involved in this matter and have raised no objections.
- 6.54 In respect of parking provision, all the dwellings would be served by two parking spaces through a single garage with a parking space in front. These spaces would accord with the dimensions specified in the Council's current parking standards.

Other Considerations

- 6.55 Concerns have been raised with regards to surface water drainage. The development proposes to dispose of surface water to soakaways. The ground conditions are understood to be compatible for good permeable ground soakaways, and such matters will be dealt with at the building regulations stage, however a drainage strategy has been provided showing the arrangement of the soakaways and permeable paving, sewer network and exceedance pathways to ensure that the development does not increase the flood risk on or off site.

Background Papers

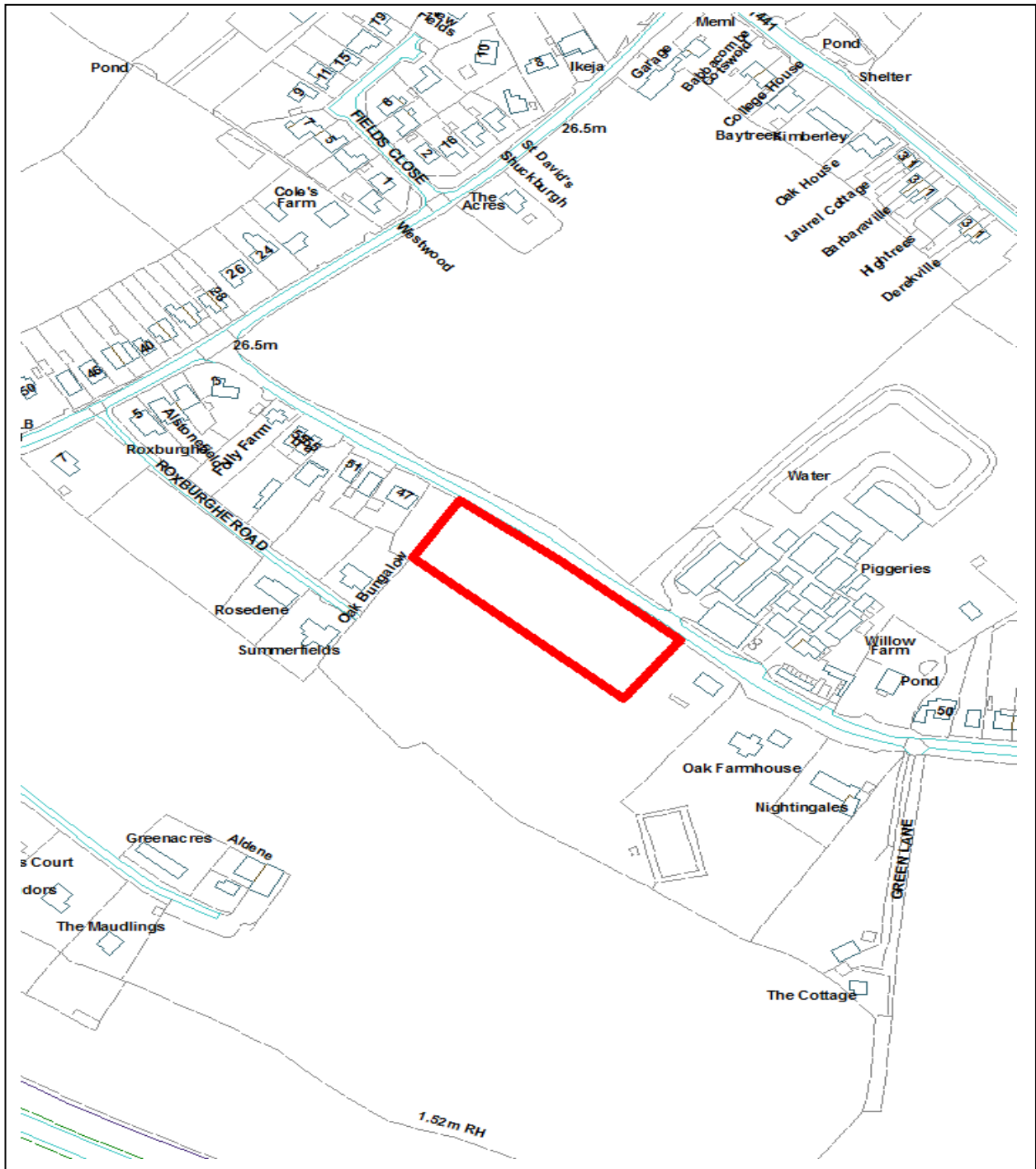
None.

PLANNING COMMITTEE

30 NOVEMBER 2016

REPORT OF THE HEAD OF PLANNING

A.7 PLANNING APPLICATIONS - 16/01165/OUT - LAND ADJACENT 43 MILL LANE, WEELEY HEATH, CO16 9BZ



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Application:	16/01165/OUT	Town / Parish: Weeley Parish Council
Applicant:	Mr Partridge	
Address:	Land adjacent 43 Mill Lane, Weeley Heath, CO16 9BZ	
Development:	The construction of 6 No dwellings with associated garages and parking.	

1. Executive Summary

- 1.1 This application has been referred to Planning Committee at the request of Councillor Bray.
- 1.2 This application seeks outline planning permission with all matters reserved for the construction of 6 no. dwellings with associated parking and garaging.
- 1.3 The application site is a rectangular area of land lying to the south west side of Mill Lane between Bentley Road and Rectory Road within the settlement of Weeley Heath. The site measures 0.55 hectares in size; it is relatively flat and is currently in agricultural use.
- 1.4 The application site lies outside of but abuts the defined settlement boundary relating to the Bentley Road settlement to the north-west and lies adjacent to the boundary relating to the Rectory Road settlement as defined within the Tendring District Local Plan (2007) and the Tendring District Local Plan 2013-2033 and Beyond Preferred Options Consultation Document (July 2016). The settlement boundary within the draft plan has been amended to now include Willow Farm opposite and extends along Clacton Road joining the Bentley Road and Rectory Road settlements but the application site still lies outside.
- 1.5 The National Planning Policy Framework however sets out that housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.
- 1.6 It is accepted that the Council cannot demonstrate a deliverable 5 year housing land supply and as a result officers considered that Tendring District Local Plan (2007) Policy QL1, cannot be considered up-to-date as set out in paragraph 49 of the NPPF and as a result the proposed development cannot be refused solely on the basis that a site is outside the development boundary.
- 1.7 On this basis and having regard to paragraphs 14 and 49 of the NPPF, the presumption in favour of sustainable development carries significant weight.
- 1.8 The site is considered to be located in a socially sustainable location and would meet the economic strand of sustainability. In respect of the environmental impact, subject to the detailed design being acceptable, it is considered that the site could be developed without raising any objections in respect of; the character and appearance of the area, residential amenity, highway safety and biodiversity considerations.

Recommendation: Approve

Conditions:

- 1) Time Limit – Outline
- 2) Time Limit – Submission of Reserved Matters
- 3) No Development until Reserved Matters (access, appearance, layout, landscaping and scale) submitted
- 4) Materials
- 5) Boundary treatments
- 6) Submission of hard/soft landscaping scheme
- 7) Implementation of landscaping scheme
- 8) Visibility splays of site maximum by 2.4m by site maximum
- 9) Provision of parking and turning prior to occupation.
- 10) No unbound materials in first 6m of access
- 11) Any gates set 6m back from highway
- 12) Off-street parking in accordance with current parking standards
- 13) Garages being set back 6m from highway
- 14) Details of communal refuse store provided
- 15) Timing of vegetation clearance
- 16) Lighting details
- 17) Biodiversity mitigation and enhancement provision

2. Planning Policy

National Policy

National Planning Policy Framework (2012)
National Planning Practice Guidance (2014)

Local Plan Policy

Tendring District Local Plan 2007

QL1 Spatial Strategy
QL9 Design of New Development
QL10 Designing New Development to Meet Functional Needs
QL11 Environmental Impacts and Compatibility of Uses
HG1 Housing Provision
HG6 Dwelling Size and Type
HG9 Private Amenity Space
HG14 Side Isolation
EN1 Landscape Character
TR1A Development Affecting Highways
TR7 Vehicle Parking at New Development

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

SP1 Presumption in Favour of Sustainable Development
SPL1 Managing Growth
SPL3 Sustainable Design
LP1 Housing Supply
LP4 Housing Layout
PPL3 The Rural Landscape
CP2 Improving the Transport Network

3. Relevant Planning History

None.

4. Consultations

Tree & Landscape Officer In order to show the extent to which the trees and hedgerows on the application site, and on land adjacent, are a constraint on the development of the land, and to identify the way that retained trees would be physically protected should planning permission for development be granted the applicant has provided a Tree Survey and Report. The report has been completed in accordance with BS5837: 2012 Trees in relation to design, demolition and construction ' Recommendations and accurately describes the health and condition of trees and hedgerows on the land.

The land adjacent to the application site, 43 Mill Lane, is affected by Tree Preservation Order TPO/09/04. Whilst this has not been mentioned in the Tree Report the Tree Constraints Plan shows that the protected trees on the adjacent land will not be harmed by the implementation of the development proposal.

The planning application will not result in the removal of any trees, on the site itself, although a short section of hedgerow would need to be removed to improve the existing access. The application would, if approved, result in new tree and hedgerow planting ' albeit set against the urbanising impact of the development proposal on the existing landscape character

Should consent be likely to be granted then a condition should be attached to secure details of soft landscaping and boundary treatment.

The indicative site layout shows new tree planting and provision for a new hedgerow and tree planting on the southern boundary and on the boundary with the adjacent countryside. The trees and hedgerow should comprise of indigenous species and the boundaries should be marked by a simple post and rail fences to minimise the adverse impact of the development proposal when viewed from the open countryside.

ECC Highways Dept
ORIGINAL COMMENTS

This Authority has assessed the highway and transportation impact of the proposal and would wish to raise an objection to the above application for the following reasons:

The site is remote from all major services and more sustainable forms of transportation and as such all trips associated with the development would be by private vehicle.

Mill Lane is a very narrow rural lane covered by a 40mph speed limit. In order to provide appropriate vehicle visibility splays of 2.4m x 120m the applicant would need to remove a large section of hedging. This would be detrimental to the character of the highway.

The intensification in vehicular traffic along this lane will increase the risk of collisions and be detrimental to highway safety and efficiency.

The proposal is therefore contrary to the relevant policies contained within the County Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011;

A) Safety - Policy DM1 of the Highway Authority's Development Management Policies February 2011

B) Accessibility - Policy DM9 of the Highway Authority's Development Management Policies February 2011

**ECC Highways Dept
REVISED COMMENTS**

This Authority originally recommended this application be refused for a number of reasons. However, since the submission of the initial recommendation, the applicant has provided additional information regarding the proposal and, following further investigation and site attendance, this Authority is content that the proposal will not create a major highway safety or efficiency issue. In this regard the previous recommendation is now withdrawn.

This Authority has assessed the highway and transportation impact of the proposal and does not wish to raise an objection to the above application subject to the following:

o Prior to occupation of the development, the access at its centre line shall be provided with a clear to ground visibility splay with dimensions of 2.4 metres by the site maximum in both directions. Such vehicular visibility splays shall be provided before the access is first used by vehicular traffic and retained free of any obstruction at all times.

Reason: To provide adequate inter-visibility between vehicles using the access and those in the existing public highway in the interest of highway safety in accordance with policy DM1 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

o Prior to occupation of the development the vehicular parking and turning facility, as shown on the submitted plan shall be constructed, surfaced and maintained free from obstruction within the site at all times for that sole purpose.

Reason: To ensure that vehicles can enter and leave the highway in a forward gear in the interest of highway safety in accordance with policy DM1 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

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

Reason: To avoid displacement of loose material onto the highway in the interests of highway safety in accordance with policy DM1 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

- o Any vehicular hardstanding shall have minimum dimensions of 2.9 metres x 5.5 metres for each individual parking space, retained in perpetuity.

Reason: To ensure adequate space for parking off the highway is provided in the interest of highway safety in accordance with Policy DM8 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

- o Any single garages should have a minimum internal measurement of 7m x 3m
- o Any double garages should have a minimum internal measurement of 7m x 6m
- o Any tandem garages should have minimum internal measurements of 12m x 3m

All garages shall be retained for the purposes of vehicle parking in perpetuity

Reason: To encourage the use of garages for their intended purpose and to discourage on-street parking, in the interests of highway safety and in accordance with Policy DM8 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011

- o No works shall commence until a detailed sustainable transport mitigation package has been submitted to and agreed, in writing by, the Local Planning Authority. This package will provide information on how the applicant proposes to mitigate any increase in private vehicular use associated with the development and will include appropriate information on all sustainable transport modes including bus and rail travel, cycling, walking (including the local Public Rights of Way network), taxi travel, car sharing and community transport in the vicinity of the site. The package shall thereafter be implemented as agreed for each individual dwelling and/or premises within 14 days of the first beneficial use or occupation of that unit.

Reason: In the interests of mitigating the impact of the approved development by seeking to reduce the need to travel by private car through the promotion of sustainable transport choices.

Note: Essex County Council as Highway Authority can assist in the production of appropriate material as packs of information are available for purchase by the developer. Contact the Sustainable Travel Planning team on 01245 436135 or email travelplanteam@essex.gov.uk for more information.

INF01 Highway Works - All work within or affecting the highway is to be laid out and constructed by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority, details to be agreed before the commencement of works.

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

Essex Highways, Colchester Highways Depot, 653 The Crescent, Colchester, CO4 9YQ.

INF02 Cost of Works - The Highway Authority cannot accept any liability for costs associated with a developer's improvement. This includes design check safety audits, site supervision, commuted sums for maintenance and any potential claims under Part 1 and Part 2 of the Land Compensation Act 1973. To protect the Highway Authority against such compensation claims a cash deposit or bond may be required.

INF03 Site Workers - Steps should be taken to ensure that the Developer provides sufficient turning and off loading facilities for delivery vehicles, within the limits of the site together with an adequate parking area for those employed in developing the site.

5. Representations

5.1 Weeley Parish Council objects;

- The site is outside the village envelope.
- The site is opposite another site which has been already given planning approval and the increased traffic would be unacceptable.
- The loss of mature hedgerow to provide an acceptable visibility splay is not acceptable in this rural landscape.

5.2 3 letters of objection have been received.

The points raised are summarised below:

- The lane is too narrow for even more housing.
- At the access point the lane is only wide enough for one vehicle.
- Outside of the development boundary, both adopted and draft.
- No pavements.
- Use of car is essential as bus service too infrequent.
- Train station only has hourly train, nothing on Sundays, no ticket office and no disabled access.
- Floods after heavy rainfall.
- No places at local primary school.
- No doctors or chemist in Weeley.
- There is a request before Local Highways Panel for Mill Lane to be designated a quiet lane.
- 30mph limit not 40mph.

6. Assessment

6.1 The main planning considerations are:

- Site Context;
- Proposal;
- Principle of Development;
- Character and Appearance;
- Neighbouring Amenity;

- Highway Considerations;
- Biodiversity; and,
- Trees and Landscaping.

Site Context

- 6.2 The application site is a rectangular area of land lying to the south west side of Mill Lane between Bentley Road and Rectory Road within the settlement of Weeley Heath. The site measures 0.55 hectares in size; it is relatively flat and is currently in agricultural use.
- 6.3 The site is bordered to the north-west by close boarded fencing serving the rear garden of 43 Mill Lane with vegetation beyond that separates the site from the residential properties in Roxburghe Road just behind. The north east frontage on to Mill Lane is marked by and established hedgerow containing a number of mature trees. A small area land is open on the south east boundary and there are two detached properties beyond before reaching Green Lane. The south west boundary is open in character and forms part of the agricultural field.
- 6.4 To the east of the application site on the opposite side of Mill Lane is Willow Farm with a large collection of agricultural buildings subject of planning permission for 10 dwellings with access from Mill Lane and 36 with access from Clacton Road (ref. 15/00541/OUT and 16/01456/DETAIL). Beyond Green Lane, also on the southern side, planning permission has been granted for the construction of 6 no. detached houses between Green Lane and Rectory Road (ref. 16/00183/OUT).
- 6.5 These properties include a mixture of detached and semi-detached bungalows and chalet type houses.
- 6.6 The application site lies outside of but abuts the defined settlement boundary relating to the Bentley Road settlement to the north-west and lies adjacent to the boundary relating to the Rectory Road settlement as defined within the Tendring District Local Plan (2007) and the Tendring District Local Plan 2013-2033 and Beyond Preferred Options Consultation Document (July 2016). The settlement boundary within the draft plan has been amended to now include Willow Farm opposite and extends along Clacton Road joining the Bentley Road and Rectory Road settlements but the application site still lies outside.

Proposal

- 6.7 The application seeks outline consent with all matters reserved for the construction of 6 no. dwellings (indicative drawing shows 1 no. 5 bedroom property; 4 no. 4 bedroom properties and 1 no. 3 bedroom property) with associated detached garaging and parking.
- 6.8 The applicant has indicated that whilst all matters are reserved for later consideration, an indicative drawing has been submitted to indicate how development could be achieved within the application site. The indicative drawing shows one vehicular access off Bentley Road with 6 residential properties situated off an internal access road.
- 6.9 These properties are indicated as accommodating in excess of 200 square metres of private amenity space being in excess of the minimum of 100 square metres required by adopted policy standards.
- 6.10 The landscaping shown on the illustrative drawing shows the retention of the existing hedge and trees with the provision of additional planting along the south west boundary and it is considered that this will make a positive contribution to biodiversity on the site.

Principle of Development

- 6.11 The application site is located outside of the defined settlement boundary as defined within the Tendring District Local Plan, 2007 which aims to direct new development to the most sustainable sites. Outside development boundaries, the Local Plan seeks to conserve and enhance the countryside for its own sake by not allowing new housing unless it is consistent with countryside policies.
- 6.12 Weeley/Weeley Heath is identified as a village within Policy QL1 of the Tendring District Local Plan (2007) and on this basis it is considered that a modest amount of growth can be supported. Saved Tendring District Local Plan (2007) Policy QL1 sets out that development should be focussed towards the larger urban areas and to within development boundaries as defined within the Local Plan.
- 6.13 Given the limited weight that can be applied to the draft Local Plan, and the status of policy QL1, assessment of the principle of development falls to be considered under the NPPF.
- 6.14 Chapter 6 of the National Planning Policy Framework (NPPF) has as an objective for the delivery of a wide choice of high quality homes. In order to facilitate this objective paragraph 49 of the NPPF sets out housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.
- 6.15 It is accepted that the Council cannot demonstrate a deliverable 5 year housing land supply and as a result officers consider that Tendring District Local Plan (2007) Policy QL1, cannot be considered up-to-date as set out in paragraph 49 of the NPPF.
- 6.16 Based on the above it is considered that, in the absence of up-to-date policies, development proposals cannot be refused solely on the basis that a site is outside the development boundary. Paragraph 14 of the NPPF supports this view when it sets out that where relevant policies are out-of-date planning permission should be granted unless any adverse effects of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole.
- 6.17 On this basis and having regard to paragraphs 14 and 49 of the NPPF, the presumption in favour of sustainable development carries significant weight. As a result the current scheme falls to be considered against the 3 dimensions of 'sustainable development',
- economic,
 - social and
 - environmental roles.
- 6.18 The sustainability of the application site is therefore of particular importance. In assessing sustainability, it is not necessary for the applicant to show why the proposed development could not be located within the development boundary.

Economic

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

Social

- 6.20 In terms of the social role, the site is within reasonable proximity of the local amenities within Weeley village that includes a village convenience store, post office and bakery within walking distance of the site. The site is also within walking and cycling distance of the local primary school and recreation ground. Weeley / Weeley Heath is also on a bus route with a bus stop within walking distance, situated in Clacton Road to the north east of the site, with services to Clacton, Frinton and Colchester.
- 6.21 In addition Weeley Railway Station is within walking distance of the site which connects to Frinton and Walton, Clacton, Colchester and through to London. These facilities go some way to illustrate the sustainability credentials for the village.
- 6.22 Although there is no footpath along Mill Lane both Rectory Road and Bentley Road are served by footpath that lead into Weeley.
- 6.23 Overall officers consider that the application site performs reasonably well in terms of the social role within the definition of sustainability.

Environmental

- 6.24 It is acknowledged that, in terms of settlement shape and form, development in this location is unlikely to have a significantly detrimental impact (subject to consideration against other Local Plan policies) as the site is located immediately adjacent to the settlement development boundary as defined in the saved Tendring District Local Plan (2007) and will infill existing development between Mill Lane.
- 6.25 The environmental role is about contributing to protecting and enhancing the natural built and historic environment which is considered below under the heading Character and Appearance.

Character and Appearance

- 6.26 The site is located in-between existing residential development that runs along this side of and fronts Mill Lane with existing dwellings on the opposite side to the south-east with future development at the Willow Farm site approved.
- 6.27 There is a mixture of single storey, two storey and chalet style dwellings in the vicinity with the most immediate neighbours at either end of the site being 2 storey to the south and a chalet style to the north.
- 6.28 The development proposed of 6 no. dwellings fronting onto Mill Lane in a linear arrangement therefore represents an appropriate response to the pattern of built development in the vicinity. The presence of built form at either end of the site and residential development on the opposite side of Mill Lane ensures that the infill of this site would not adversely impact upon the character of this part of Weeley Heath.
- 6.29 Whilst scale is a reserved matter the details submitted show that the dwellings would be two-storey in height served by single storey garages located in a set back position. The area comprises of a mixture of bungalows, chalet style dwellings and two-storey properties. Against this backdrop the siting of 6.no two-storey properties on the site would not appear out of character or prominent in this location.

- 6.30 The indicative layout provided shows that the dwellings would be served by a single access point off Mill Lane utilising the existing field access and set behind an internal access road and the existing hedgerow. This arrangement would reduce the visual impact of the development and respect the semi-rural character of the locality.
- 6.31 Therefore taking into consideration the residential character of the surrounding area and the vegetation present on and around the site, it is considered that the proposed development would have a neutral impact upon the environment and would as a result satisfy the environmental strand of sustainability as defined within the NPPF.

Neighbouring Amenity

- 6.32 The NPPF, in paragraph 17 states that planning should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings. In addition, Policy QL11 of the Tendring District Local Plan (2007) states that amongst other criteria, 'development will only be permitted if the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties'. Policy SD9 of the Tendring District Local Plan Proposed Submission Draft (2012) supports these objectives and states that 'the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties'.
- 6.33 The application is in outline form with all matters reserved and officers consider that sufficient space is available on site to provide a development that, through the submission of a reserved matters application, could achieve an internal layout and separation distances that would not detract from the amenities of nearby properties or the future occupiers of the proposed dwellings.

Flooding

- 6.34 The site is not within a defined flood zone. The development will be required to include permeable or porous hard surfacing which will be dealt with at the reserved matters stages of the development. The proposed development cannot be considered as contributing to or exacerbating the existing flooding problems from the adjacent ditch.

Local Amenities

- 6.35 This is a smaller scale development where contributions towards healthcare and school provisions are not required.

Highway Considerations

- 6.36 Essex County Council as the Highway Authority has been consulted on the application (see above for details). Following additional information provided by the Applicant, they raise no objection to the principle of the development and are content that the proposal will not create a major highway safety or efficiency issue subject to conditions.
- 6.37 It is noted that objections have been received with regards to highway safety concerns, however as stated the Highway Authority have not raised any concerns from a highway safety aspect, and therefore Officers consider a refusal on this issue could not be substantiated.
- 6.38 The Council's Adopted Parking Standards require that for dwellings with 2 or more bedrooms that a minimum of 2 parking spaces is required. Parking spaces should measure 5.5 metres by 2.9 metres and garages, if being relied on to provide a parking space, should measure 7 metres by 3 metres internally. It is considered that the site is capable of accommodating this level of parking and the submitted indicative plan demonstrates this.

Biodiversity

6.39 A reptile survey and mitigation strategy report has been submitted together with a bat detector survey. The findings of these reports are summarised below.

Reptile Survey

6.40 A single adult Common Lizard was noted on site during one survey visit. No other reptile species were recorded during the survey. Based on the onsite peak adult count of one, the population of reptiles on site is considered to be a very low transient population. The only reptile found on site was a single Common Lizard noted along the north eastern boundary hedgerow. It is considered likely that this is a transient population using the hedgerow as a corridor.

6.41 The hedgerow along the western boundary is being retained within the final development ensuring connectivity along the boundary of the field is maintained. It is considered unlikely that the removal of small sections along the northern boundary hedgerow to facilitate access will have a negative effect on the population status of reptiles in the local area.

6.42 Providing the grassland is maintained to a low sward height, this will ensure that the site does not become more suitable for Common Lizard prior to development commencing and will reduce the risk of direct harm during pre-construction ground works.

Bat Detector Survey

6.43 Activity from Common Pipistrelle and Soprano Pipistrelle was recorded throughout the manual and static surveys, suggesting that the northern and southern hedgerows are being used to forage, as well as commute. Bat foraging and commuting was also recorded off site, along the southern field boundary hedgerow and around the residential property to the east.

6.44 Apart from a small access point in the northern boundary hedgerow, the remainder of the northern hedgerow and all mature trees will be retained in the development.

6.45 Providing the lighting recommendations within Section 7 of this report are adhered to, foraging and commuting bats will not be a material consideration for this site.

6.46 Biodiversity enhancements should include;

- A minimum of four Bat boxes should be placed on retained mature trees on site. Alternatively bat bricks could be incorporated into the design of the buildings onsite.
- Any hedgerow or trees to be removed should be replaced elsewhere on site, with shrub and tree species considered beneficial to wildlife.

Conclusion

6.47 As such the proposed development, subject to the recommended mitigation measures and the retention of the trees and hedgerows as specified, is not considered to adversely affect any nearby ecological designations, or protected species.

Background Papers

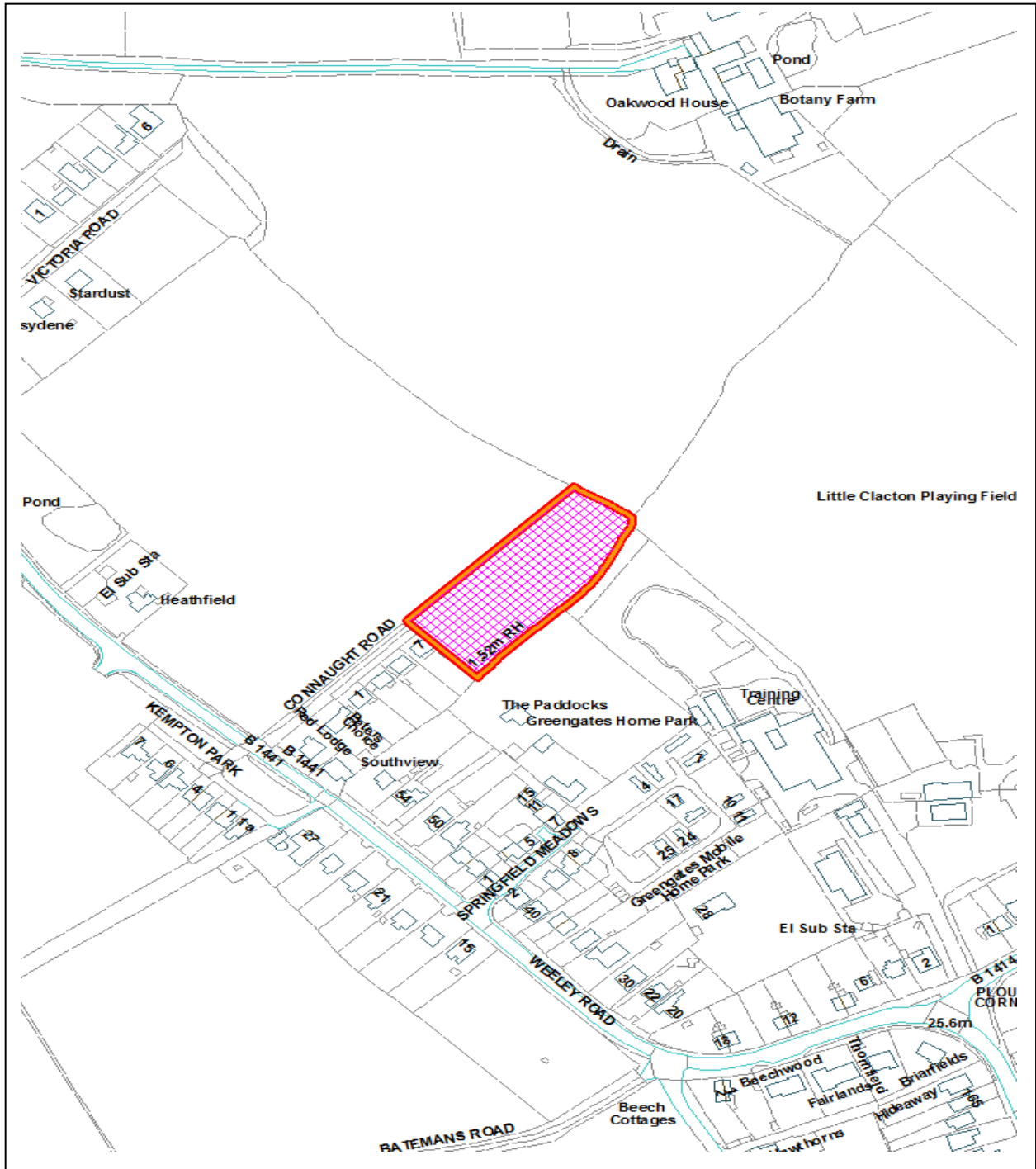
None.

PLANNING COMMITTEE

30TH NOVEMBER 2016

REPORT OF THE HEAD OF PLANNING

A.8 PLANNING APPLICATIONS - 16/01391/OUT - LAND OFF CONNAUGHT ROAD, WEELEY, CO16 9EL



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Application:	16/01391/OUT	Town / Parish: Weeley Parish Council
Applicant:	Robinson & Hall LLP	
Address:	Land off Connaught Road Weeley CO16 9EL	
Development:	Residential development of 0.5 ha of land to create up to eight detached bungalows.	

1. Executive Summary

- 1.1 This application has been referred to Planning Committee at the request of Councillor Bray.
- 1.2 This application seeks outline planning permission with all matters reserved for the residential development of 0.5 ha of land to create up to eight detached bungalows.
- 1.3 The site is situated at the northern end of Connaught Road a small unmade private road to the eastern side of Clacton Road/Weeley Road serving 6 dwellings. The application site currently forms the corner of an agricultural field which extends to the north-west across the opposite side of Connaught Road.
- 1.4 The site falls within the Parish of Weeley but is adjacent to Little Clacton to the south-east. The site lies outside of any development boundary but is directly adjacent to the defined Settlement Development Boundary of Little Clacton as set out in both the Tendring District Local Plan (2007) and the Tendring District Local Plan 2013-2033 and Beyond Preferred Options Consultation Document (July 2016).
- 1.5 The National Planning Policy Framework sets out that applications for housing development should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.
- 1.6 It is accepted that the Council cannot demonstrate a deliverable 5 year housing land supply and as a result officers considered that Tendring District Local Plan (2007) Policy QL1, cannot be considered up-to-date as set out in paragraph 49 of the NPPF and as a result the proposed development cannot be refused solely on the basis that a site is outside the development boundary.
- 1.7 On this basis and having regard to paragraphs 14 and 49 of the NPPF, the presumption in favour of sustainable development carries significant weight.
- 1.8 The site is considered to be located in a socially sustainable location and would meet the economic strand of sustainability. In respect of the environmental impact, subject to the detailed design being acceptable, it is considered that the site could be developed without raising any objections in respect of; the character and appearance of the area, residential amenity and highway safety considerations.

Recommendation: Approve

Conditions:

- 1) Time Limit – Outline
- 2) Time Limit – Submission of Reserved Matters
- 3) No Development until Reserved Matters (access, appearance, layout, landscaping and scale) submitted
- 4) Materials
- 5) Boundary treatments
- 6) Submission of hard/soft landscaping scheme
- 7) Implementation of landscaping scheme
- 8) No unbound materials in first 6m of access
- 9) Any hardsurfacing shall be porous/permeable.
- 10) Footways being minimum of 2m in width
- 11) Off-street parking in accordance with current parking standards
- 12) Garages being set back 6m from highway
- 13) Details of communal refuse store provided

2. **Planning Policy**

National Policy

National Planning Policy Framework (2012)
National Planning Practice Guidance (2014)

Local Plan Policy

Tendring District Local Plan 2007

QL1 Spatial Strategy
QL9 Design of New Development
QL10 Designing New Development to Meet Functional Needs
QL11 Environmental Impacts and Compatibility of Uses
HG1 Housing Provision
HG6 Dwelling Size and Type
HG9 Private Amenity Space
HG14 Side Isolation
EN1 Landscape Character
TR1A Development Affecting Highways
TR7 Vehicle Parking at New Development

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

SP1 Presumption in Favour of Sustainable Development
SPL1 Managing Growth
SPL3 Sustainable Design
LP1 Housing Supply
LP4 Housing Layout
PPL3 The Rural Landscape
CP2 Improving the Transport Network

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

3. **Relevant Planning History**

None.

4. Consultations

Essex County Council
Highways

Connaught Road is a private road and as such The Highway Authority would not necessarily get involved with the actual site.

However, we would be concerned with whether the additional traffic would be a hindrance to safety or efficiency where the additional traffic accessed the highway; i.e. the nearest junction the site where highway rights start.

This junction does appear to provide visibility splays, and there are bus stops nearby.

On this basis, The Highway Authority does not wish to make a formal recommendation.

Principle Tree and
Landscaping Officer

The application currently is in agricultural use and there are no trees or other significant vegetation on the main body of the land.

The boundary of the application site with the existing private road is planted with an established Goat Willow, Beech and Flowering Cherry. Whilst these trees are attractive features in their setting their condition and the contribution that they make to the appearance of the area are not so significant that they merit retention or protection by means of tree preservation order.

The south eastern boundary of the application site is demarcated by an established hedgerow containing medium sized trees. The northern boundary of the land appears to contain a few established hedgerow Oaks.

Given that the planning application is in outline form and that the proposal is for 'up to 8' dwellings it is not considered necessary for the applicant to provide a tree survey prior to the determination of the application.

However if planning permission is likely to be granted then a condition should be attached to secure the provision of a detailed tree survey and report to be provided by the applicant. The report should be in accordance with BS5837 2012 Trees in relation to design, demolition and construction: Recommendations. The report will show the extent to which the boundary trees are a constraint on the development potential of the land and will inform the measures that may need to be put in place to physically protect them during any approved development.

Should planning permission be likely to be granted then a condition should be attached to secure details of the indicative soft landscaping shown on the site layout plan and referred to in the Planning Statement submitted in support of the application.

5. Representations

5.1 Weeley Parish Council objects;

- Connaught Road is a private road with a small number of houses leading to farmland. The site is outside the village envelope and the development would lead to an unacceptable level of traffic accessing Clacton Road at this junction.

5.2 3 letters of objection have been received together with a petition containing 8 signatories.

The points raised are summarised below:

- Site is not viable for development.
- Unmade track unsuitable for more dwellings.
- Part of road privately owned with remainder being too narrow to accommodate the development access.
- Too narrow for 2 cars to pass.
- Low electric supply cables would impede higher vehicles entering the site.
- The sewer pipe serving the existing dwellings was paid for the owners and any connection to this by any other property would be opposed.
- Connaught Road is prone to flooding from the adjacent ditch overflowing.
- Local amenities are not close by being at least 20 minutes walk.
- Buses only run every hour.
- Little Clacton already developed and the school is oversubscribed.
- Noise and disturbance to existing dwellings from increased traffic movements.
- Private Road – needs permission from existing residents.
- Object to removal of hedgerow and trees at end of lane.
- Disturbance to wildlife from loss of vegetation.
- Loss of light and privacy to adjacent dwellings.
- Land is still being farmed successfully.

6. **Assessment**

6.1 The main planning considerations are:

- Site Context;
- Proposal;
- Principle of Development;
- Character and Appearance;
- Neighbouring Amenity;
- Highway Considerations;
- Biodiversity; and,
- Trees and Landscaping.

Site Context

6.2 The site measures approximately 0.5 hectares in size and is situated at the northern end of Connaught Road, a small unmade private road to the eastern side of Clacton Road/Weeley Road serving 6 dwellings (2 houses and 4 bungalows). The application site currently forms the corner of an agricultural field which extends to the north-west across the opposite side of Connaught Road to the front of the existing dwellings.

6.3 The application site adjoins the side boundary of number 7 Connaught Road. To the rear of the site is a large plot serving The Paddocks to which access is obtained direct from Weeley Road via a private drive. Adjoining this property and to the rear of the application site is The Venture Centre which is accessed from Harwich Road via Plough Corner Recreation Ground.

6.4 The site is bordered to the south-east and north-east by a row of mature trees marking the overall field boundaries. The front of site to the north-west is open to the remainder of the

field. To the southern end of the site, adjacent to number 7 Connaught Road there is a small cluster of trees and hedgerow which continues across the opposite side of Connaught Road defining the boundary with the remainder of the open field opposite.

- 6.5 The site falls within the Parish of Weeley but is adjacent to Little Clacton to the south-east. The site lies outside of any development boundary but is directly adjacent to the defined Settlement Development Boundary of Little Clacton as set out in both the Tendring District Local Plan (2007) and the Tendring District Local Plan 2013-2033 and Beyond Preferred Options Consultation Document (July 2016).
- 6.6 In terms of relationship to any settlement, the proposed dwellings are considered to relate to the facilities within the village of Little Clacton.

Proposal

- 6.7 The current application seeks outline consent with all matters reserved for the residential development of 0.5 ha of land to create up to eight detached bungalows with associated off street parking and garages.
- 6.8 Whilst all matters are reserved for later consideration, the indicative layout drawing has been submitted to indicate how development could be achieved within the application site. The indicative drawing shows a continuation of Connaught Road with the 8 bungalows in a linear pattern.
- 6.9 These properties are indicated as accommodating a minimum of 100 square metres of private amenity space per dwelling.
- 6.10 The indicative plan shows that there would be sufficient scope to provide ample landscape planting around the perimeter of the site which would make a positive contribution to the biodiversity of the site.

Principle of Development

- 6.11 The application site is located outside of the defined settlement boundary as defined within the Tendring District Local Plan (2007) which aims to direct new development to the most sustainable sites. Outside development boundaries, the Local Plan seeks to conserve and enhance the countryside for its own sake by not allowing new housing unless it is consistent with countryside policies.
- 6.12 Little Clacton is identified as a village within Policy QL1 of the Tendring District Local Plan (2007) and on this basis it is considered that a modest amount of growth can be supported. Saved Tendring District Local Plan (2007) Policy QL1 sets out that development should be focussed towards the larger urban areas and to within development boundaries as defined within the Local Plan.
- 6.13 Draft Policy SPL1 of the Tendring District Local Plan 2013-2033 and Beyond Preferred Options Consultation Document (July 2016) identifies Little Clacton as a Rural Service Centre having opportunity for smaller-scale growth.
- 6.14 Given the limited weight that can be applied to the draft Local Plan, and the status of policy QL1, assessment of the principle of development falls to be considered under the NPPF.
- 6.15 Chapter 6 of the National Planning Policy Framework (NPPF) has as an objective for the delivery of a wide choice of high quality homes. In order to facilitate this objective paragraph 49 of the NPPF sets out housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of

housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.

- 6.16 It is accepted that the Council cannot demonstrate a deliverable 5 year housing land supply and as a result officers consider that Tendring District Local Plan (2007) Policy QL1, cannot be considered up-to-date as set out in paragraph 49 of the NPPF.
- 6.17 Based on the above it is considered that, in the absence of up-to-date policies, development proposals cannot be refused solely on the basis that a site is outside the development boundary. Paragraph 14 of the NPPF supports this view when it sets out that where relevant policies are out-of-date planning permission should be granted unless any adverse effects of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole.
- 6.18 On this basis and having regard to paragraphs 14 and 49 of the NPPF, the presumption in favour of sustainable development carries significant weight. As a result the current scheme falls to be considered against the 3 dimensions of 'sustainable development',
- economic,
 - social and
 - environmental roles.
- 6.19 The sustainability of the application site is therefore of particular importance. In assessing sustainability, it is not necessary for the applicant to show why the proposed development could not be located within the development boundary.

Economic

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

Social

- 6.21 In terms of the social role, the site is within walking distance of the convenience store on Harwich Road approximately 600 metres away with further shops, a post office and public house in the centre of Little Clacton. The site is also within walking and cycling distance of Little Clacton Primary School and recreational area.
- 6.22 Weeley Road is also on a bus route and there is a bus stop located opposite Connaught Road with services to Mistley, Tendring and Colchester. These facilities go some way to illustrate the sustainability credentials for the village.
- 6.23 Overall officers consider that the application site performs reasonably well in terms of the social role within the definition of sustainability

Environmental

- 6.24 It is acknowledged that, in terms of settlement shape and form, development in this location is unlikely to have a significantly detrimental impact (subject to consideration against other Local Plan policies) as the site is located immediately adjacent to the Settlement Development Boundary of Little Clacton as set out in both the Tendring District Local Plan (2007) and the Tendring District Local Plan 2013-2033 and Beyond Preferred Options Consultation Document (July 2016) with a number of existing dwellings sited to the south-east and south-west of the site.

- 6.25 The environmental role is about contributing to protecting and enhancing the natural built and historic environment which is considered below under the heading Character and Appearance.

Character and Appearance

- 6.26 The site is located to the north of consolidated residential development that runs along Weeley Road, Harwich Road and The Street with further dwellings to the other side of the agricultural field to the west of the site along Clacton Road and Victoria Road. In addition to Connaught Road, there are examples of other spur roads such as Springfield Meadows and Barnfields in close proximity. To the rear of the site are existing dwellings accessed from Weeley Road and fronting The Street and the Plough Corner Recreational Ground and The Venture Centre.
- 6.27 Whilst there is a mixture of single and two-storey dwellings in this location however, bungalows dominate and inform the overall character of this part of Weeley Road.
- 6.28 The continuation of Connaught Road to provide 8 no. bungalows in a linear arrangement therefore represents an appropriate response to the pattern of built development in the vicinity. The development would not adversely impact upon the character of this part of Weeley Heath or Little Clacton.
- 6.29 Whilst scale is a reserved matter, the application description states that the dwellings would be bungalows served by single storey garages located in a set back position. This is considered the most appropriate approach alongside the existing bungalows numbers' 1, 3, 5 and 7 Connaught Road and reduces their prominence in the landscape.
- 6.30 The indicative layout provided shows that the dwellings would be served by an extension to Connaught Road, be set behind an internal access road with scope for new planting on the opposite side. This new planting along the front boundary of the site enclosing the remainder of the agricultural field would respect the semi-rural character of the locality. The new planting would also screen views of the development on the approach to Little Clacton from the north-west along Clacton Road. Any oblique views of the dwellings would be seen against a backdrop of the existing built form to the rear. The development would read as an extension to the existing Connaught Road dwellings and would not appear intrusive into the open countryside beyond.
- 6.31 Therefore taking into consideration the residential character of the surrounding area and opportunity for new planting, it is considered that the proposed development would have a neutral impact upon the environment and would as a result satisfy the environmental strand of sustainability as defined within the NPPF.

Neighbouring Amenity

- 6.32 The NPPF, in paragraph 17 states that planning should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings. In addition, Policy QL11 of the Tendring District Local Plan (2007) states that amongst other criteria, 'development will only be permitted if the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties'. Policy SD9 of the Tendring District Local Plan Proposed Submission Draft (2012) supports these objectives and states that 'the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties'.
- 6.33 The application is in outline form with all matters reserved and officers consider that sufficient space is available on site to provide a development that, through the submission

of a reserved matters application, could achieve an internal layout and separation distances that would not detract from the amenities of nearby properties or the future occupiers of the proposed dwellings as set out below.

Light and Privacy

- 6.34 Having regard to the single storey scale of the proposed development together with the north-west facing orientation of the existing dwellings, officers consider that a satisfactory scheme could be achieved that would not result in a material loss of light and sunlight to number 7 Connaught Road. Ample distance is retained to the remainder of nearby dwellings that will ensure no material loss of light will result from the development.
- 6.35 Again, the distance retained to neighbouring dwellings and the single storey scale of the development minimises any impact on privacy. Number 7 Connaught Road directly adjoins the application site and the development will therefore have some impact in that it will introduce built form to this side of their property. However, number 7 is not isolated and already has neighbouring dwellings to the south-east and south-west. Any impact on their amenities cannot be considered materially harmful.

Noise and Disturbance from Traffic Movements

- 6.36 Connaught Road runs along the frontages of the existing dwellings. The proposed development will be served by a continuation of Connaught Road. Traffic movements to serve the new dwellings will not be excessive for up to eight dwellings only. Access to these dwellings will run along the frontages of the existing dwellings and will not cause noise and disturbance to their private amenity spaces. Furthermore, the nature of the road means that traffic will be moving slowly further minimising any impact. For these reasons, any harm cannot be considered significantly harmful.

Flooding

- 6.37 The site is not within a defined flood zone. The development will be required to include permeable or porous hard surfacing which will be dealt with at the reserved matters stages of the development. The proposed development cannot be considered as contributing to or exacerbating the existing flooding problems from the adjacent ditch.

Local Amenities

- 6.38 This is a smaller scale development where contributions towards healthcare and school provisions are not required.

Other Issues

- 6.39 Issues have been raised regarding the low electric supply cables impeding higher vehicles entering the site and any connection to the sewer pipe serving the existing dwellings being opposed by the occupiers. These are not material planning considerations.

Highway Considerations

- 6.40 The National Planning Policy Framework (2012) in paragraph 35 states that development should create safe and secure layouts which minimise conflict between traffic and cyclists or pedestrians. The adopted Tendring District Local Plan (2007) Saved Policy TR1a states that development affecting highways should seek to reduce and prevent hazards and inconvenience to traffic. Furthermore, Saved Policy QL10 of the Saved Plan states that planning permission will only be granted where access to the site is practicable and the

highway network will be able to safely accommodate the additional traffic the proposal will generate.

- 6.41 Essex County Council as the Highway Authority has been consulted on the application (see above for details) and do not wish to make a formal recommendation on the application as the dwellings will be served by a Private Road. As Connaught Road is served by sufficient visibility splays the development cannot be considered materially harmful to Highway Safety.
- 6.42 As the road is private, any issues relating to the upkeep and use of the road would be a legal matter and not a material planning consideration. The road type is not a planning reason for refusal.
- 6.43 The Council's Adopted Parking Standards require that for dwellings with 2 or more bedrooms that a minimum of 2 parking spaces is required. Parking spaces should measure 5.5 metres by 2.9 metres and garages, if being relied on to provide a parking space, should measure 7 metres by 3 metres internally. The application is in outline form with all matters reserved. However, it is considered that the site is capable of accommodating this level of parking and the submitted indicative plan demonstrates this.
- 6.44 It is noted that objections have been received with regards to highway safety concerns, however as stated the Highway Authority have not raised any concerns from a highway safety aspect, and therefore officers consider a refusal on this issue could not be substantiated.

Biodiversity

- 6.45 To allow the continuation of Connaught Road to facilitate the development, a small area of vegetation will require removal. This existing planting to be removed is minimal and not matured.
- 6.46 The application site is devoid of any species rich habitat being a farmed agricultural field. Officers considered that a Phase 1 Habitat Survey was not necessary in this instance having regard to Natural England Standing Advice guidance.
- 6.47 As such the proposed development is not considered to adversely affect any ecological designations, or protected species. The indicative plan shows that there would be sufficient scope to provide ample landscape planting around the perimeter of the site which would make a positive contribution to the biodiversity of the site.

Trees and Landscaping

- 6.48 The Council's Principle Tree and Landscaping Officer has been consulted on the application and raises no objection subject to the submission of a satisfactory landscaping scheme in accordance with BS 5837 2012 Trees in relation to design demolition and construction, in order to show the trees on the land and to identify those that could be retained and those that would need to be removed to facilitate the development.
- 6.49 At the present time it is not considered expedient to formally protect any of the trees on the land by way of a Tree Preservation Order as they only make a moderate contribution to the visual amenities of the locality and the benefit that they provide could be easily replicated and improved by new planting and landscaping.

Background Papers

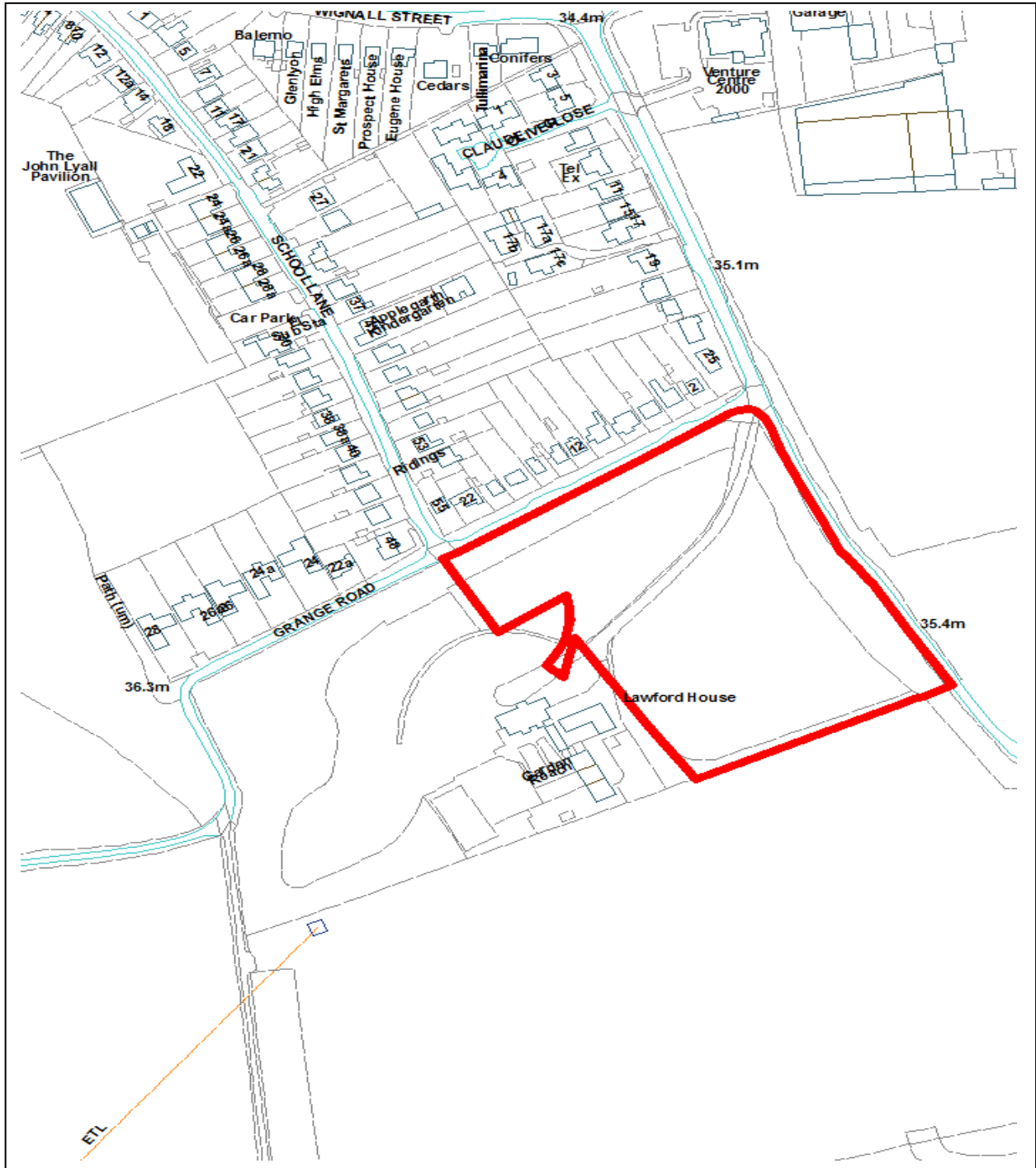
None.

PLANNING COMMITTEE

30 NOVEMBER 2016

REPORT OF THE HEAD OF PLANNING

A.9 PLANNING APPLICATION – 16/00618/FUL – LAWFORD HOUSE, BROMLEY ROAD, LAWFORD, MANNINGTREE, CO11 2JD



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Application:	16/00618/FUL	Town / Parish: Lawford
Applicant:	The Tendring Hundred Farmers' Club and Michael Howard Homes	
Address:	Lawford House, Bromley Road, Lawford, Manningtree, Essex CO11 2JD	
Development:	Erection of 9 No. detached dwellings and garages and formation of new access.	

1. Executive Summary

- 1.1 This application has been referred to the Planning Committee at the request of Councillor Val Guglielmi. The proposal is for 9 large detached dwellings within the grounds of Lawford House which is a Grade II Listed Building and the venue for the annual Tendring Hundred Show. The applicants have indicated that the funds that would be secured as a result of this development would help to sustain to secure the future use of the showgrounds for the Tendring Hundred Show, although this is only a stated benefit and not one that can be legitimately secured through a legal agreement.
- 1.2 For Officers, the two most significant planning issues are the impact that the development would have on the significance and setting on the listed building and the impact on significant trees on the site. The application was originally submitted for 10 dwellings, but having considered the impact of the development on protected trees and the setting of the listed building, Officers have negotiated the removal of one of the proposed dwellings that was judged to have the greatest potential adverse impact. The scheme before the Committee now has therefore been revised to only propose 9 dwellings.
- 1.3 The site lies outside of the settlement development boundary in both the adopted and emerging Local Plans, but in the emerging Local Plan the site adjoins the boundary which has been revised to reflect the Committee resolution to grant planning permission for up to 360 dwellings and other community benefits on the opposite side of Bromley Road. Because the Council is still unable to identify a five-year supply of deliverable housing sites as required by national planning policy, this application has had to be considered on its merits in line with the government's 'presumption in favour of sustainable development'. This requires that applications be approved without delay unless the adverse impacts would significantly and demonstrably outweigh the benefits. Because Lawford forms part of the wider Manningtree, Lawford and Mistley urban settlement as defined in the Local Plan, residential and mixed use development in this location has the potential to be sustainable with reasonable access to a range of local job opportunities, shops, services, facilities and public transport compared with more remote rural villages.
- 1.4 The applicant has produced a heritage statement that describes the significance of Lawford House and then assesses the impact upon its setting. The most important views of the listed building are towards its front elevation to which public views are currently restricted and which the development is not likely to affect. Therefore despite the proximity of the development to listed buildings, it is considered that the development will cause little or no harm to its significance or setting – particularly following the revision to remove the dwelling that would have been closest to the Lawford House's principal elevation.
- 1.5 For the trees occupying the site, the Council's Principal Trees and Landscape Officer originally assessed the site and imposed a Tree Preservation Order (TPO) upon the majority of the trees, over and above those already protected by an earlier TPO. This would have made the development impossible to implement without the loss of a large number of protected trees. However, the Principal Trees and Landscape Officer has since revoked the

new TPO having considered evidence from the applicants' Tree Consultant and the fact that many of these trees are hidden from public view and therefore add little value to the amenity and enjoyment of the area by the general public – even though the trees themselves are attractive when viewed on the site. The reversion to the original TPO which mainly affects trees around the sites boundaries means that the majority of protected trees will be retained by the development, with the exception of those needed to be removed to create access and some on the very southern boundary. On balance, it is considered that this is an acceptable level of adverse impact that is outweighed by the economic and social benefits of the development. The creation of the access will also assist in revealing views to, and the enjoyment of the Listed Building which is currently very much hidden from view.

- 1.6 Lawford Parish Council supports the application and there is a mixture of local support and a local objection. 9 dwellings is below the threshold that would require any on-site affordable housing or any financial contributions towards health, education or open space. In the absence of an up to date Local Plan and a five-year supply of deliverable housing sites, Officers consider that this development complies with the requirements of the National Planning Policy Framework and the recommendation is approval subject to planning conditions.

Recommendation: Approval - Full

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

(i) Conditions:

1. Time limit.
2. Accordance with approved plans.
3. Detailed landscaping scheme.
4. Tree protection and retention measures.
5. Highways conditions (as recommended by the Highway Authority).
6. Surface water drainage scheme.
7. Ecological mitigation/tree protection measures (including bat protection measures).
8. Archaeological assessment/trial trenching.
9. Details of lighting, materials and refuse storage/collection points.
10. Broadband connection.

2. Planning Policy

National Planning Policy Framework (NPPF)

- 2.1 The National Planning Policy Framework (March 2012) sets out the Government's planning policies and how these are expected to be applied at the local level.
- 2.2 Planning law requires that applications for planning permission be determined in accordance with the 'development plan' unless material considerations indicate otherwise. The NPPF doesn't change the statutory status of the development plan as the starting point for decision taking. Where proposed development accords with an up to date Local Plan it should be approved and where it does not it should be refused – unless other material considerations indicate otherwise. An important material consideration is the NPPF's 'presumption in favour of sustainable development'. The NPPF defines 'sustainable development' as having three dimensions:

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

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

Local Plan

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

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

QL1: Spatial Strategy: Directs most new development toward urban areas and seeks to concentrate development within settlement development boundaries.

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

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

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

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

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

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

HG1: Housing Provision

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

HG3: Residential Development Within Defined Settlements

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

HG3a: Mixed Communities

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

HG6: Dwellings Size and Type

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

HG7: Residential Densities

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

HG9: Private Amenity Space

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

COM2: Community Safety

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

COM6: Provision of Recreational Open Space for New Residential Developments

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

COM21: Light Pollution

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

COM23: General Pollution

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

COM29: Utilities

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

COM31a: Sewerage and Sewage Disposal

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

EN1: Landscape Character

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

EN5: Areas of Outstanding Natural Beauty

Protects the Dedham Vale Area of Outstanding Natural Beauty from developments that would harm or otherwise fail to conserve its natural beauty and landscape, including views towards it from outside.

EN6: Biodiversity

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

EN6a: Protected Species

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

EN6b: Habitat Creation

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

EN12: Design and Access Statements

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

EN13: Sustainable Drainage Systems

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

EN23: Development within the Proximity of a Listed Building

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

EN29: Archaeology

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

TR1a: Development Affecting Highways

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

TR3a: Provision for Walking

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

TR4: Safeguarding and Improving Public Rights of Way

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

TR5: Provision for Cycling

Requires all major developments to provide appropriate facilities for cyclists.

TR6: Provision for Public Transport Use

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

TR7: Vehicle Parking at New Development

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

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

Relevant policies include:

SP1: Presumption in Favour of Sustainable Development

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

SP4: Infrastructure and Connectivity

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

SP5: Place Shaping Principles

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

SPL1: Managing Growth

Identifies Manningtree, Lawford and Mistley as a 'smaller urban settlement' within a hierarchy of settlements designed to direct future growth to the most sustainable locations.

SPL2: Settlement Development Boundaries

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

SPL3: Sustainable Design

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

HP4: Open Space, Sports and Recreation Facilities

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

LP1: Housing Supply

Sets out the broad location of where new housing is proposed to be built to over the next 15-20 years to meet objectively assessed needs.

LP2: Housing Choice

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

LP3: Housing Density

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

LP4: Housing Layout

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

PP12: Improving Education and Skills

Requires the impacts of development on education provision to be addressed at a developer's costs and also requires applicants to enter into an Employment and Skills Charter or Local Labour Agreement to ensure local contractors are employed to implement

the development and that any temporary or permanent employment vacancies (including apprenticeships) are advertised through agreed channels.

PPL1: Development and Flood Risk

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

PPL3: The Rural Landscape

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

PPL4: Biodiversity and Geodiversity

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

PPL5: Water Conservation, Drainage and Sewerage

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

PPL7: Archaeology

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

PPL9: Listed Buildings

Guards against developments that would have an adverse impact on Listed Buildings, including their setting.

CP1: Sustainable Transport and Accessibility

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

CP3: Improving the Telecommunications Network

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

Other Guidance

Essex County Council Car Parking Standards – Design and Good Practice

Essex Design Guide for Residential and Mixed-Use Areas.

3. Relevant Planning History

3.1 The site has the following planning history:

TRE/97/38	Crown reduce Oak by 50-70%	Current	27.08.1997
93/01144/FUL	Temporary residential mobile home and builders unit whilst major repairs are carried out to house	Approved	22.11.1993
03/01265/TPO	Removal of dead tree T2	Approved	16.07.2003

03/01692/TPO	G2. - Fell severely decaying Lime tree	Approved	15.09.2003
03/01867/TPO	G2: Reduce Horse Chestnut by up to 50% to coincide with felling of adjacent dangerous Lime already approved	Approved	08.11.2003
07/01255/TPO	1 No. Oak - remove dangerous branch	Approved	07.09.2007
16/00618/FUL	Erection of 10 no. detached dwellings and garages and formation of new access.	Current	

4. Consultations

TDC
Environmental
Health

To minimise potential nuisance to nearby existing residents caused by construction works, the following conditions should apply. Prior to the commencement of any works, a method statement shall be submitted to and approved by the Council and we will require the following:

- 1) The use of barriers to mitigate the impact of noisy operations which may involve temporary earth bunds etc.
- 2) No vehicle connected with the works to arrive on site before 07:00 or leave after 19:00 (except in the case of emergency).
- 3) Working hours to be restricted between 07:00 and 19:00 Monday to Friday. Saturday not before 0800 finishing at 13:00 with no working of any kind permitted on Sundays or any Public/Bank Holidays.
- 4) The selection and use of machinery to operate on site, and working practices to be adopted will, as a minimum requirement, be compliant with the standards laid out in British Standard 5228:1984.
- 5) Mobile plant to be resident on site during works shall be fitted with non-audible reversing alarms (subject to HSE agreement).
- 6) Prior to the commencement of any piling works which may be necessary, a full method statement shall be agreed by the Council in writing which will contain a rationale for the piling method chosen and details of the techniques to be employed which minimise noise and vibration to nearby residents.
- 7) If there is a requirement to work outside of the recommended hours the applicant or contractor must submit a request in writing for approval by the Council prior to the commencement of works.
- 8) All waste arising from the ground clearance and construction processes to be recycled or removed from the site subject to agreement with the Council and other relevant agencies.
- 9) No materials produced as a result of the site development or clearance shall be burned on site.
- 10) All reasonable steps, including damping down site roads, shall be taken to minimise dust and litter emissions from the site whilst works of construction and demolition are in progress.

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

TDC
Principal Tree &
Landscape
Officer

Original comments: The application site comprises garden and paddock land associated with Lawford House. The garden and paddock is well populated with established specimen trees and its boundaries are marked by fairly dense hedgerows and large trees that are strong features in the landscape.

The site is well screened from view along the length of Grange Road by dense vegetation as described above. The boundary with Bromley Road contains established hedgerows and trees although gaps allow views into the main body of the land.

The Public Rights of Way network to the south of the application site allows clear views of the trees within the grounds of Lawford House as well as those on the perimeter of the land. From PROW 52: the site can be seen when walking northwards, from PROW 18: the site can be to the north of the footpath, PROW 19: views when traveling north and PROW 17: again looking generally northwards when walking the section between PROWs 18 and 19.

In terms of their amenity value collectively the trees make a significant and positive contribution to the character and appearance of the local landscape. Individually many of the trees also make a positive contribution to the amenity of the locality and also have intrinsic value. Some are already afforded formal legal protection by Tree Preservation Order 92/26/TPO.

In order to show the extent of the constraint that the trees are on the development potential of the land and the likely impact of the development on the trees the applicant has provided a detailed Tree Survey and Report. The information is in accordance with BS5837: 2012 Trees in relation to design, demolition and construction;

Recommendations: The report provides an accurate description of the trees and identifies the need to remove many of the trees on the and in order to facilitate the development of the land.

Whilst the development proposal makes provision for the retention of most of the boundary vegetation it does identify the removal of several established trees on the eastern boundary of the paddock, adjacent to Bromley Road and the majority of the trees in the main body of the land both in the garden area and the paddock. In addition to this the development is right up against the edge of the Root Protection Areas of retained trees.

Taking into account the contribution made by the trees to the amenities of the locality, and their intrinsic value it is considered appropriate to make a new TPO to reflect their current amenity value. The new TPO will cover those already covered by the existing TPO and others that have increased in size and value since the existing TPO was made in 1992.

The development proposal would if implemented, have a significant and detrimental impact on the trees that are now afforded formal legal protection by Tree Preservation Order 16/10/TPO. It is difficult to see how

the development could be implemented in its current form without causing significant harm to the trees on the land.

Whilst the tree report provides information showing those trees to be removed and those to be retained consideration will also need to be given to the juxtaposition between the retained trees and the new dwellings. Prior to the determination of the application the applicant will need to provide a shading analysis to show the likely impact on daylight and sunlight levels reaching the proposed dwellings and associated garden areas.

Should planning permission be likely to be granted then a condition should be attached to ensure that retained trees are physically protected for the duration of the construction phase of the development. A soft landscaping condition should also be attached to secure new soft landscaping to enhance the appearance of the development.

Revised comments following the revision to the scheme: As previously stated the trees on the land make a significant and positive contribution to the character and appearance of the local landscape and to the amenities of the locality. Individually some of the trees have high intrinsic value because of their age. Some were already covered by TPO/92/26 prior to the making of TPO/16/10.

The new TPO affords protection to most of the trees covered by TPO/92/26: the exception being the group of trees in the vicinity of the proposed position of Plot 2. These trees showed signs of significant defects and were no longer viable as a group.

The first of two key elements of the new TPO is the retention of the treed areas on the boundaries with Grange Road and Bromley Road. The retention of these areas as a woodland designation within the new TPO will, to a large part, secure the screening of the site from the adjacent highway.

The second key element is the retention of the trees on the land that are approaching veteran status and that are covered by TPO/92/26.

In addition to this several other trees on the southern boundary of the land are including in the new TPO for their screening value as they are situated on the perimeter of the land

The new TPO protects the trees on the land that make a positive contribution to the character and appearance of the area, that being primarily the trees in the woodlands on the perimeter of the application site and the trees with the greatest intrinsic value, which are those approaching veteran status. Those trees with only moderate or low visual amenity value have not been included in the proposed new TPO.

In terms of the changes made to the development proposal the amended site layout shows the removal of the plot that was opposite to plot 1 (on the new plan). This is desirable inasmuch as it enables the Tulip Tree covered by TPO/92/26 and carried forward in both the provisional and proposed new TPO's to be retained.

The undesirable and harmful elements of the development proposal are

the removal of T5 (Beech) of the new TPO and the clearance of parts of W2 to create garden areas for plots 6, 7 and 8. The development proposal would also result in a significant change if the setting of the oldest trees on the land. This has the potential to cause them harm but this could be mitigated by following the recommendations contained in the Tree Survey and Report.

Simply in terms of the impact of the development on trees on the land, the development proposal is undesirable. Most of the trees not covered by the TPO will need to be felled to facilitate the development the development proposal will affect some trees covered by the TPO, as described above.

In terms of landscape character the application site has no special qualities other than its value as a setting for the listed building. Nevertheless the development of the land will not enhance or otherwise improve the existing landscape character

Should planning permission be likely to be granted then a condition should be attached to ensure that retained trees are physically protected for the duration of the construction phase of the development.

A soft landscaping condition should also be attached to secure new soft landscaping to enhance the appearance of the development. This should include details of new tree and hedgerow species planting in the woodland areas to compensate for those trees identified for removal.

TDC Housing

There are currently 27 households on the housing register seeking a 3 bedroom property and 8 seeking a 4 bedroom property or larger. No on-site affordable housing is sought from this scheme, but a financial contribution towards off-site affordable housing would be preferred on this site if applicable.

TDC Open Space and Play

There is currently a deficit of 3.44 hectares of equipped play/formal open space in Lawford so any additional development in the Lawford area will increase demand on already stretched facilities.

Due to the geographical layout of the area, the play sites are spread widely across the village. The nearest play area to the site is located just a short distance from the development along in School Lane, Lawford just 0.3 miles away. This play area is designated as a Local Equipped Area for Play, providing various play opportunities. Without the provision of additional play areas it is very likely that a largest impact would be felt at this play area. To account for the proposed development and to prevent the current deficit from increasing further, additional play opportunities would need to be provided.

Due to the significant lack of facilities in the area it is felt that a contribution towards play and formal open space is justified and relevant to this application.

ECC Highways

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

1 Prior to the first occupation of any of the proposed dwellings, the proposed vehicular access shall be constructed to a width of 5.5m and shall be provided with an appropriate dropped kerb vehicular crossing of

the footway/highway verge to the specifications of the Highway Authority.

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

3 No unbound materials shall be used in the surface treatment of any of the proposed vehicular accesses within 6m of the highway boundary or proposed highway.

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

5 Prior to commencement of the proposed development, a vehicular turning facility for motor cars for each dwelling of a design which shall be approved in writing by the Local Planning Authority, shall be provided within the site and shall be maintained free from obstruction in perpetuity.

6 Prior to first occupation of the proposed development, a (communal) recycling/bin/refuse collection point shall be provided within 25m of the highway boundary or adjacent to the carriageway and additionally clear of all visibility splays at accesses.

7 The existing access at the junction of Grange Road and Bromley Road as shown on the submitted plan shall be suitably and permanently closed to the satisfaction of the Local Planning Authority, incorporating the reinstatement to full height of the highway verge/footway/kerbing to the specifications of the Highway Authority, immediately the proposed new access is brought into use.

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

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

10 No development shall take place, including any ground works or works of demolition, until a Construction Method Statement (CMS) has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- i. the parking of vehicles of site operatives and visitors
- ii. loading and unloading of plant and materials
- iii. storage of plant and materials used in constructing the development
- iv. wheel and under body washing facilities.

Anglian Water	<p><u>Assets affected:</u> Our records show that there are no assets owned by Anglian Water or those subject to an adoption agreement within the development site boundary.</p> <p><u>Wastewater treatment:</u> The foul drainage from this development is in the catchment of Manningtree Water Recycling Centre that will have available capacity for these flows.</p> <p><u>Foul Sewerage Network:</u> The sewerage system at present has available capacity for these flows. If the developer wishes to connect to our sewerage network they should serve notice under Section 106 of the Water Industry Act 1991. We will then advise them of the most suitable point of connection.</p> <p><u>Surface water disposal:</u> From the details submitted to support the planning application, the proposed method of surface water management does not relate to Anglian Water operated assets. As such, we are unable to provide comments on the suitability of the surface water management. The Local Planning Authority should seek the advice of the Lead Local Flood Authority or the Internal Drainage Board. The Environment Agency should be consulted if the drainage system directly or indirectly involves the discharge of water into a watercourse.</p> <p>Should the proposed method of surface water management change to include interaction with Anglian Water operated assets, we would wish to be re-consulted to ensure that an effective surface water drainage strategy is prepared and implemented.</p>
Natural England	<p>Based upon the information provided, Natural England advises the Council that the proposal is unlikely to affect any statutorily protected sites.</p> <p>The proposed development is for a site within or close to a nationally designated landscape, namely Dedham Vale AONB. Natural England advises the Council to use national and local policies, together with local landscape expertise and information to determine the proposal.</p> <p>For impacts on protected species, the Council should apply Natural England's standing advice.</p>
Historic England	<p>Our specialist staff have considered the information received and we do not wish to offer any comments on this occasion. The application should be determined in accordance with national and local policy guidance and on the basis of your specialist conservation advice. It is not necessary for us to be consulted again on this application.</p>
Essex County Council Flood Authority	<p>Having reviewed additional information provided by the applicant alongside the Flood Risk Assessment, we do not object to the granting of planning permission subject to conditions relating to the following:</p> <ul style="list-style-type: none"> • a detailed surface water drainage scheme; • a scheme for minimising offsite flooding during construction works; • a maintenance plan for the surface water drainage scheme; and • keeping an on-going log of maintenance.
ECC	<p>The Essex Historic Environment Record (HER) shows that the proposed</p>

Archaeology development lies within an area of potential archaeological interest. A heritage statement has been submitted with the application which has highlighted the impact of the development on the surviving landscape features associated with the historic house and site at Lawford House and identified the potential for surviving below-ground archaeological features associated with the nearby Neolithic settlement site which is a protected scheduled monument. Cropmark evidence in the surrounding area indicates the potential for further prehistoric activity and also the presence of a Roman road nearby. Due to the relatively undisturbed nature of the site any impact on surviving archaeological remains would be high.

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

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

5. Representations

5.1 This planning application has attracted both representations in support and in objection.

5.2 Seven representations of support have been received from residents with suggestions that the development has been sympathetically designed, will bring about improved access arrangements and will allow guaranteed continuation of the Tendring Hundred Show.

5.3 Three representations of objection have been received which highlight the following concerns:

- It is contrary to the 2007 adopted Local Plan;
- It requires the destruction of a large number of trees in the only small wood remaining in the area;
- The site supports a wide variety of birds and invertebrates;
- Trees are likely to be damaged as a result of this development, despite the tree preservation orders;
- Future occupiers are likely to want trees removed to improve natural light into their houses or gardens;
- The proposed access is little more than a gap in the hedge with limited visibility for vehicles pulling out into Grange Road;
- The site already has good access and the new access point is not needed;
- Concern about which access point will be used during the construction period;
- Objection to the placement of Plot 1 [which has since been removed from the scheme]; and
- Luxury houses are not the affordable ones that are required in the area.

5.4 Lawford Parish Council has written in support of the application.

6. Assessment

The Site

6.1 The application site comprises 2.5 hectares of land which form part of the grounds of Lawford House which is a Grade II Listed Building. The land is square in shape, lies to the

east of the Listed Building and is immediately south of Grange Road and immediately west of Bromley Road with the wider grounds of Lawford House extending into the open countryside to the south. The site contains a significant number of established trees and its boundaries are marked by fairly dense hedgerows which contain large trees. The hedgerow along Grange Road is particularly dense and offers limited visibility into the site although the hedgerow and trees along Bromley Road contain more gaps and it is possible to see across the land towards the Listed Building.

The Proposal

- 6.2 This full planning application seeks detailed approval for a development of 9 substantial detached houses, each served by double garages with the formation of a new access. There will be 7 x 4-bed houses and 2 x 5-bed houses. The proposed arrangement of the properties is generally to back onto the site boundaries and to face into the centre of the site and to nestle within gaps between some of the substantial trees on the site. The properties will be of grand dimensions and of traditional design and detailing. The new access road will be from Grange Road with the current access being extinguished and re-landscaped. The new road will provide access to the new properties and to Lawford House.

Architectural Drawings

- 8206 010 D00 Location Plan
- 8206 050 PO1 Proposed Masterplan
- 8206 051 PO1 House Type H Plans and Elevations (Plots 3h, 5h, 9)
- 8206 053 P01 House Type D Plans and Elevations (Plots 1, 8)
- 8206 054 PO1 House Type Q Plans and Elevations (Plots 2h, 4, 5)
- 8206 055 P01 Garage Type 1 Plans and Elevations (Plots 2 + 4)
- 8206 056 PO1 Garage Type 2 Plans and Elevations (Plots 1, 3, 5, 6, 7, & & 9)
- 8206 060 A00 External works
- 8206 080 PO1 Site Section A-A
- Perspective View

Reports and Technical Information

- Planning Statement
- Design and Access Statement
- Phase 1 Habitat Survey
- Heritage Impact Assessment
- Arboricultural Impact Assessment
- Flood Risk Assessment

Main Planning Considerations

- 6.3 The main planning considerations are:

- Principle of development;
- Impact on the setting of Lawford House;
- Impact upon trees;
- Highways, transport and accessibility;
- Dedham Vale Area of Outstanding Natural Beauty;
- Ecology;
- Flood risk and drainage;
- Ecology;
- S106 Planning Obligations;

- Utilities;
- Design and Layout; and,
- Overall planning balance.

Principle of development

- 6.4 In line with Section 38(6) of the Planning and Compulsory Purchase Act 2014, planning decisions must be taken in accordance with the 'development plan' unless material considerations indicate otherwise. The requirements of the National Planning Policy Framework (NPPF) are a significant material consideration in this regard.
- 6.5 The 'development plan' for Tendring is the 2007 'adopted' Local Plan, despite some of its policies being out of date. Paragraph 215 of the NPPF allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF. Paragraph 216 of the NPPF also allows weight to be given to policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency with national policy. As of 14th July 2016, the emerging Local Plan for Tendring is the Tendring District Local Plan 2013-2033 and Beyond Preferred Options Consultation Document. As this plan is currently at an early stage of preparation, some of its policies can only be given limited weight in the determination of planning applications, but the weight to be given to emerging policies will increase as the plan progresses through the later stages of the process. Where emerging policies are particularly relevant to a planning application and can be given some weight in line with the principles set out in paragraph 216 of the NPPF, they will be considered and, where appropriate, referred to in planning decisions. In general terms however, more weight will be given to policies in the NPPF and the adopted Local Plan.
- 6.6 The application site is not allocated for housing or mixed use development in the adopted Local Plan and lies completely outside, albeit abutting, the 'settlement development boundary' – on one site in the adopted Local Plan and on two sides in the emerging Local Plan (reflecting the major development with provisional outline planning permission on land east of Bromley Road).
- 6.7 Because the site lies outside of the settlement development boundary, it is technically contrary to local policy. However the Council is also currently unable to identify a five-year supply of deliverable housing sites, plus a 5-20% buffer, as required by paragraph 47 of the NPPF. Based on the evidence contained within the 'Objectively Assessed Housing Needs Study (July 2015) for Braintree, Chelmsford, Colchester and Tendring, the projected need for housing in Tendring is 550 dwellings per annum. In applying the requirements of NPPF paragraph 47 to this requirement, the Council is currently only able to identify an approximate 3.8 year supply. In line with paragraph 49 of the NPPF, housing policies must therefore be considered 'out-of-date' and the government's 'presumption in favour of sustainable development' is engaged. To comply with national planning policy, the Council would not, at this time, be justified in refusing this planning application purely on the basis that it lies outside of the settlement development boundary.
- 6.8 'Sustainable Development', as far as the NPPF is concerned, is development that contributes positively to the economy, society and the environment and under the 'presumption in favour of sustainable development', authorities are expected to grant permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole; or specific policies in the NPPF indicate development should be restricted.
- 6.9 One of the NPPF's core planning principles is to "*actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable*". With this in mind, the

emerging Local Plan includes a 'settlement hierarchy' aimed at categorising the district's towns and villages and providing a framework for directing development toward the most sustainable locations. In both adopted and emerging plans, Manningtree, Lawford and Mistley are together categorised as a 'town' or 'urban settlement' in recognition of their collective size and range of services and facilities and as a location where sustainable development on a larger scale can be achieved. In comparison, 'villages', 'rural service centres' and 'smaller rural settlements' are considered to offer lesser sustainable locations for major development.

- 6.10 For this particular proposal, a key consideration will be the impact of the development upon the setting of Lawford House as a listed building and a 'heritage asset' for which the NPPF contains specific policies which can override the presumption in favour of development. This matter is addressed in the following section.

Impact upon the setting of Lawford House

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

(1) In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

- 6.12 Paragraph 128 in the NPPF requires applicants to describe the significance of any heritage asset affected by their development including any contribution made by their setting, with the level of detail being proportionate to the asset's importance and no more than is sufficient to understand the potential impact of the proposal on their significance. Paragraph 134 determines that where a development proposal will lead to 'less than substantial harm' to a heritage asset (which could include harm to its setting), this harm should be weighed against the public benefits of the proposal. Policy EN23 in the adopted Local Plan states that development that would adversely affect the setting of a Listing Building, including group value and long distance views will not be permitted. Policy PPL9 in the emerging Local Plan only allows development affecting a listed building or its setting where it protects its architectural or historic interest, its character, appearance and fabric.
- 6.13 For this application, the relevant heritage asset is Lawford House which is a Grade II Listed Building and because the development is within the grounds of the building and is situated close to the building itself, there will inevitably be an impact on its setting that needs to be carefully considered. The applicant has submitted a Heritage Impact Assessment that describes the significance of Lawford House and examines the effect of the proposed development on the setting of this heritage asset. Whilst the assessment concludes that the listed building will not be affected directly by the development, it does acknowledge that it would affect its setting.
- 6.14 The assessment explains that Lawford House was built in several phases and that the oldest surviving fabric is thought to be the rear range of the house, with timbers dating from the late seventeenth century. A red brick, timber framed range from the second half of the eighteenth century appears to be encased by an early nineteenth century gault brick refronting. There are also several nineteenth and twentieth century additions mostly at the rear. The kitchen range was converted into a separate dwelling by Royal Academician Marshall Sisson in 1947. The house's value is recognised in its Grade II listing.
- 6.15 In describing Lawford House's aesthetic value, the heritage assessment states that the front elevation demonstrates clear design intention although the architect is not known. The

symmetrical façade with its central portico and moulded window surround above are typical of the earlier nineteenth century. In contrast, the rear the rear elevations have evolved piecemeal and show several different phases of design, from the very deliberate moulding around the angular bay to more organic forms. The modern lights, cabling and security alarms clutter the building's façades, especially the main front. The aesthetic value of the front façade is considered to be 'high' whereas the aesthetic value of the remaining facades is described as 'medium'. Looking at listed building, its wider setting and the heritage significance of the application site, the assessment rates the main building as of high value, the current access road and tree-lined boundaries as medium value, the land along the north of the access road as detrimental and the land south of the access road as neutral value.

- 6.16 Moving to the assessment of the development proposal, it is suggested that the proposed new dwellings are located in the north-east corner of the estate in an area that is mostly occupied by a paddock that feels separated from the gardens of the listed house by the shared drive. The assessment states that the loss of the original drive will have an adverse impact but this is mitigated by the retention of the immediate approach to Lawford House from the east, reducing the impact to 'medium adverse'. The new entrance will create a safer access to and from the site and will be located where it will have minimal impact on views from the House. With the changes to the northern boundary being kept to a minimum the new access road will have a low adverse impact on the landscape and a neutral impact on the listed building itself. The new houses will be built predominantly of traditional materials in a variety of styles that reflect the local vernacular of pitched or hipped slate roofs and walls of buff or red brick.
- 6.17 Officers were content that the impact on the Listed Building would be medium adverse, however paragraph 132 in the NPPF requires that any harm to the setting or significance of a heritage asset requires clear and convincing justification before the 'weighing up' exercise in paragraph 134 is engaged. In response to Officers concerns, the development has been revised to remove the dwelling that was closest to the front elevation of Lawford House and Officers are now content that the impact upon the setting of the building, in particular its front elevation, will be minimal. Indeed the creation of a new access will help to better reveal the significance and appreciation of this elevation which is currently hidden from view by the dense vegetation along Grange Road. Consequently, Officers are satisfied that the scheme could go ahead with little or no harm to Lawford House. However, being a matter of judgement, if the Committee was concerned that there would be an adverse impact on the setting and significance of Lawford House that was not outweighed by public benefits, refusal would be a legitimate course of action that could reasonably be defended on appeal.
- 6.18 It is noted that Historic England have offered no specific comments on this application.

Impact upon trees

- 6.19 The applicant has submitted a tree survey and report which has been considered by the Council's own Principal Tree and Landscape Officer. Many of the trees on the land are proposed to be removed in order to facilitate the development. Whilst most boundary vegetation will be retained, several established trees on the eastern boundary adjacent to Bromley Road, and the majority of the trees in the main body of the land are proposed for removal. The Tree Officer had raised concern about the impact of these trees being lost and issued a new Tree Preservation Order (TPO) to protect more of the trees than was covered under the original TPO issued in 1992. The Tree Officer had commented that cumulatively the trees make a significant and positive contribution to the character and appearance of the local landscape and that individually many of them have intrinsic value. In commenting on the development proposal, the Tree Officer suggested that the new homes would have a significant and detrimental impact upon the newly protected trees and it is difficult to see how the scheme, in its proposed form, could avoid such harm.

- 6.20 However, following the submission of further evidence from the applicants' Tree Consultant, the Tree Officer has reconsidered the position, particularly in light of the limited views of the trees from publicly accessible locations. In accepting that the character and appearance of this area is of relatively limited public value due to restricted access, the TPO has been replaced or revoked and the trees with special protection has reverted back to those covered under the 1992 TPO. The remaining protected trees (mainly around the boundaries) would be retained in any scheme with the exception of those lost to secure access from Grange Road and some close to the southern boundary. Some protected trees will be retained within the scheme although incorporated into the gardens of the new homes.
- 6.21 Under the original proposal for 10 dwellings, some protected trees would have also been lost as a result of the dwelling proposed closest to Lawford House and the new entrance from Grange Road. The scheme was therefore revised to remove this dwelling, thus safeguarding those trees and reducing the impact on the setting of the Listed Building.
- 6.22 In considering whether or not the adverse impacts significantly and demonstrably outweigh the benefit of these houses, in line with paragraph 14 of the NPPF, it is Officers view that the impact would not outweigh the benefit despite the loss of some of the protected area of trees. However, again being a matter of judgement, if the Committee was concerned that impact on the trees was not outweighed by public benefits, refusal would be a legitimate course of action that could reasonably be defended on appeal.

Highways, transport and accessibility

- 6.23 Paragraph 32 of the NPPF relates to transport and requires Councils, when making decisions, to take account of whether:
- the opportunities for sustainable transport modes have been taken up depending on the nature and location of the site, to reduce the need for major transport infrastructure;
 - safe and suitable access to the site can be achieved for all people; and
 - improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.
- 6.24 Policy QL2 in the adopted Local Plan and Policy CP1 in the emerging Local Plan seek to ensure that developments maximise the opportunities for access to sustainable transport including walking, cycling and public transport. The site is located 1.2 kilometres from Lawford Surgery in Colchester Road and 1.3 kilometres from the Manningtree High School. It is also between around 1.6 kilometres from the mainline railway station and just over 2 kilometres from Manningtree Town Centre and Lawford Dale Industrial Estate.
- 6.25 Whilst some of these services, facilities and employment opportunities are beyond what many people might consider to be reasonable walking distance, they are comfortably within reasonable cycling distance and there are bus services within walking distance providing access to a range of services and facilities within walking distance including the two-hourly service No. 2 between Clacton and Mistley, the two-hourly service 102 between Colchester and Ipswich, the half-hourly service 102, 103 and 104 between Colchester and Harwich. This relatively good level of accessibility is reflected in Manningtree, Lawford and Mistley's categorisation in the adopted and emerging Local Plans as a town or a smaller urban settlement.

- 6.26 Policy TR1a in the adopted Local Plan requires that development affecting highways be considered in relation to reducing and preventing hazards and inconvenience to traffic including the capacity of the road network. Although there are some local concerns about closing the existing access and creating a new one onto Grange Road, the Highway Authority has no objections subject to conditions.

Dedham Vale Area of Outstanding Natural Beauty

- 6.27 The Dedham Vale Area of Outstanding Natural Beauty (AONB) is located to the north of the application site, its boundary defined by Cox's Hill and Wignall Street. In the NPPF, AONBs are afforded a high level of protection and Policy EN5 in the adopted Local Plan provides that development that would harm or otherwise fail to conserve the natural beauty of the landscape of an AONB, including views towards it from outside, will not be permitted – having regard to Dedham Vale Management Strategy. The site itself does not form part of the AONB and there is a considerable amount of built development in existence between the site and the AONB which, itself, contains a significant number of homes particularly at the recent Lawford Place development. Because the site is separated from the AONB by existing built development, Officers do not consider that there is likely to be a harmful visual impact on the AONB arising from this development that would justify a refusal against paragraph 116 of the NPPF.

Flood risk and drainage

- 6.28 Paragraph 103 of the NPPF requires Councils, when determining planning applications, to ensure flood risk is not increased elsewhere. Although the site is in Flood Zone 1 (low risk), the NPPF, Policy QL3 in the adopted Local Plan and Policy PLA1 in the emerging Local Plan still require any development proposal on site larger than 1 hectare to be accompanied by a site-specific Flood Risk Assessment (FRA). This is to assess the potential risk of all potential sources of flooding, including surface water flooding that might arise as a result of development.
- 6.29 The applicant has submitted a Flood Risk Assessment which has been considered by Essex County Council as the authority for sustainable drainage. ECC supports the grant of outline planning permission subject to conditions relating to the submission and subsequent approval of a detailed Surface Water Drainage Scheme before development can take place. The applicant has demonstrated through their Flood Risk Assessment that development can, in principle, be achieved without increasing flood risk elsewhere. With the planning condition suggested by ECC, the scheme should comply with the NPPF and Policies QL3 and PPL1 of the adopted and emerging Local Plans (respectively) and therefore addresses the flood risk element of the environmental dimension of sustainable development.

Ecology

- 6.30 Paragraph 118 of the NPPF requires Councils, when determining planning applications, to aim to conserve and enhance biodiversity. Where significant harm to biodiversity cannot be avoided, mitigated or, as a last resort, compensated for, Councils should refuse planning permission. Policy EN6 of the adopted Local Plan and Policy PLA4 of the emerging Local Plan give special protection to designated sites of international, national or local importance to nature conservation but for non-designated sites still require impacts on biodiversity to be considered and thereafter minimised, mitigated or compensated for.
- 6.31 Under Regulations 61 and 62 of the Habitats Regulations, local planning authorities as the 'competent authority' must have regard for any potential impact that a plan or project might have on European designated sites. The application site is not, itself, designated as site of

international, national or local importance to nature conservation but the urban area of Manningtree, Lawford and Mistley does abut the Stour Estuary which is designated as a Special Protection Area (SPA), a Ramsar Site and a Site of Special Scientific Interest (SSSI). Whilst the application site is located more than 1 kilometre from the Stour Estuary and there will be no direct disturbance, consideration still needs to be given to potential indirect effects on the designated area that might result from the proposed development. The scale of this development is considered unlikely to give rise to any significant impacts and it is not considered necessary for a further 'Appropriate Assessment' to be undertaken.

- 6.32 To establish the ecological value of the application site itself, the applicant has prepared and submitted a Phase 1 Ecological Assessment. This identified that some trees proposed for removal supported features potentially suitable for roosting bats, such as cracks, crevices and hollows. The bat surveys failed to find bat roosts, though low to moderate numbers of bats were observed and detected foraging around the site. The trees were also considered suitable for nesting and foraging birds. Surveys, both daylight and evening surveys, failed to find any other potential for protected, priority or rare species, evidence of such species, priority habitats or other significant ecological issues or value. Further ecological surveys or mitigation were considered unnecessary. However, precautionary measures and habitat compensation for birds and bats are recommended. With precautionary measures followed as described the proposed development could proceed with a minimal risk of harm and impact to protected, priority or rare species or habitats. Biodiversity enhancement recommendations are also included in the report.
- 6.33 To prevent harm to nesting birds, any necessary clearance of shrubs and trees should be conducted outside of the main bird breeding season (March until the end of August). If this timescale is not possible then an ecologist should check the site for active bird nests before vegetation clearance. If an active bird nest was found, it would be necessary to protect the nest from harm or disturbance until the bird had finished nesting. To maintain potential for foraging on the site new proposed landscaping should include native and wildlife attracting plants only, prioritising fruit producing varieties for foraging by birds and other wildlife.
- 6.34 Lost trees should be replaced on a two-for-one basis to create a net gain and new trees should be at least 5 years old when planted. It is also recommended that boundary vegetation should be excluded from gardens of new owners to prevent significant reduction of this vegetation in the long-term. Bird boxes should also be installed on site.
- 6.35 To minimise any residual risk of impact on bats, trees proposed for removal with potential for bats should be felled under supervision by a licensed bat ecologist. The ecologist should inspect the trees for bats before felling and then should check hollows for bats once on the ground. Any proposed external lighting should be minimised. Where external lighting is required it should be low pressure sodium or LED lamps with glass glazing, rather than plastic.
- 6.36 Any external lighting should be aimed carefully, to minimise illumination of boundary habitats, retained mature and veteran trees and avoid light spillage into the sky, or horizontally out from any buildings, by using hoods or directional lighting; External security lighting should be set on short timers and be sensitive to large moving objects only, to prevent any passing bats switching them on.
- 6.37 The boundary tree belt should be excluded from new gardens by stock fencing, or similar, to prevent future damage to this habitat by new owners. New plantings around the development should include only native and/or wildlife attracting shrubs and trees.
- 6.38 To maintain potential for breeding and sheltering invertebrates the soft landscaping scheme should include large logs and log piles from removed trees to be allowed to naturally breakdown over time, providing a food and shelter resource for invertebrates.

- 6.39 The report also suggests a number of additional measures to enhance the ecological value of the site.
- 6.40 All of the necessary mitigation/enhancement measures and additional surveys shall be secured through planning conditions should the Committee be minded to approve outline permission.

S106 Planning Obligations

- 6.41 At 9 dwellings, the scale of development is below the threshold above which affordable housing or financial contributions towards education, health or open space would be sought. Therefore no s106 legal agreement is being suggested for this scheme.

Utilities

- 6.42 Anglian Water has advised that there is sufficient capacity in the foul sewerage network to deal with the levels of effluent expected from this scheme and others in the area but if the Council is minded to approve the application a condition is requested requiring a drainage strategy be secured through a planning condition to ensure necessary measures are put in place that will eliminate the risk of flooding downstream.

Design and Layout

- 6.43 The proposed development includes substantial dwellings of high-quality traditional design at a density that is very low (around 4 dwellings per hectare). From the new access onto Grange Road, the new dwellings would be arranged around two 'private' drives with open space and retained trees between the two sections of the site. The dwellings would be set upon significant plots and would each be served with a double garage. The properties themselves will each be of traditional design and of a grand scale which reflects the proximity to the substantial Lawford House complex.
- 6.44 The design and layout of the scheme has considered the position of the protected trees, the setting of the Listed Building and through its spacious nature, comfortably meets general development management requirements for garden sizes and distances between properties.

Overall Planning Balance

- 6.45 Because the Council's Local Plan is out of date and a five-year supply of deliverable housing sites cannot currently be identified, the National Planning Policy Framework (NPPF) requires that development be approved unless the adverse impacts would significantly and demonstrably outweigh the benefits, or if specific policies within the NPPF suggest development should be refused. The NPPF in this regard applies a 'presumption in favour of sustainable development' for which sustainable development addresses economic, social and environmental considerations.
- 6.46 Economic: Whilst, the scheme is predominantly residential with no commercial premises provided, even nine dwellings would generate some additional expenditure in the local economy and there will also be temporary jobs in construction whilst the homes are being built. Whilst Officers note that the applicant has stated that the development will ensure the future use of the showground for the Tendring Hundred Show, this is not a direct benefit of the development as this cannot legitimately be secured through a s106 legal agreement and is not necessary to make an otherwise unacceptable development acceptable in planning terms. Members may wish however to note this stated benefit.

- 6.47 Social: The provision of nine dwellings will make a small contribution towards meeting projected housing need, at a time when the Council is unable to identify a five-year supply.
- 6.48 Environmental: The environmental impacts of the proposal have required very careful consideration. The main impacts are on the setting of the Grade II Listed Building and on the trees that occupy the site. With the removal of one property from the scheme on Officers advice, the impact on the setting and significance of the Listed Building is considered to be low. The Tree Preservation Order for the site has been reviewed twice and whilst it is noted that some significant trees would be lost, those considered to be of greatest value will, on the whole, be retained with some loss mainly to achieve access.
- 6.49 In the overall planning balance, Officers consider that the adverse impacts have been minimised through the revisions to the scheme and do not significantly and demonstrably outweigh the benefits and the application is therefore recommended for approval subject to a range of planning conditions.

Background Papers

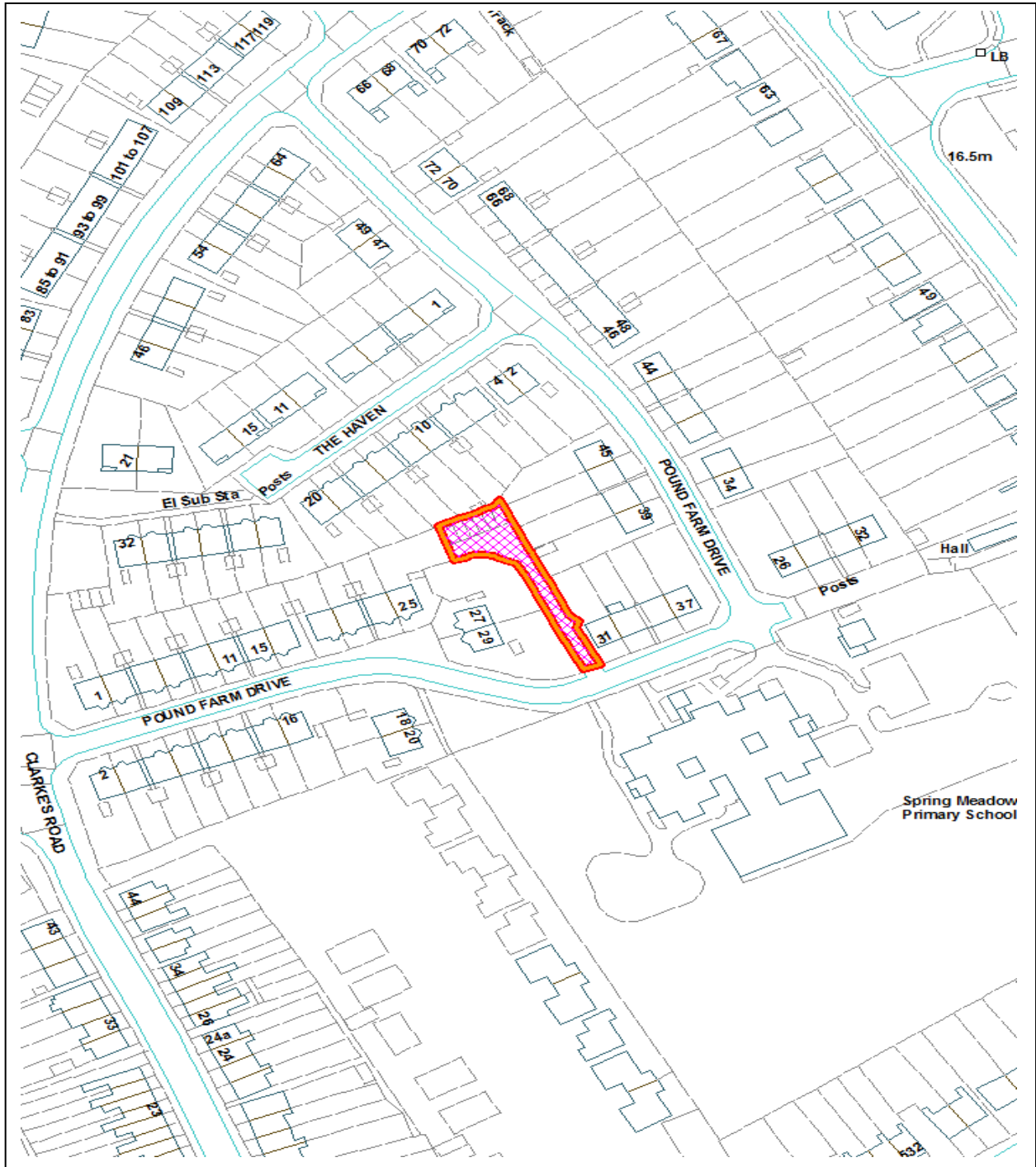
None.

PLANNING COMMITTEE

30 NOVEMBER 2016

REPORT OF THE HEAD OF PLANNING

A.10 PLANNING APPLICATION - 16/01615/FUL – GARAGES AT POUND FARM DRIVE, DOVERCOURT, CO12 4LB



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Application:	16/01615/FUL	Town / Parish: Harwich Town Council
Applicant:	Dan Mills	
Address:	Garages at Pound Farm Drive, Dovercourt, CO12 4LB	
Development:	Proposed replacement garage block	

1. Executive Summary

- 1.1 This application is referred to the Planning Committee as the applicant is Tendring District Council.
- 1.2 The application is for a proposed replacement garage block to provide vehicle accommodation.
- 1.3 The proposal will not result in any material harm to visual or residential amenity.

Recommendation: Approval.

Conditions:

1. Time Limit
2. Approved Plans

2. Planning Policy

National Policy:

National Planning Policy Framework
National Planning Practice Guidance

Local Plan Policy:

Tendring District Local Plan (2007)

QL9 Design of New Development
QL11 Environmental Impacts and Compatibility of Uses

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

SPL3 Sustainable Design

3. Relevant Planning History

16/01615/FUL Proposed replacement garage block. Current

4. Consultations

- 4.1 Not applicable.

5. Representations

- 5.1 Harwich Town Council has no objection.
- 5.2 There has been no other letters of representation received.

6. Assessment

- 6.1 The main planning considerations are:
 - Visual impact; and,
 - Impact on Neighbouring Amenities.

Visual Impact

- 6.2 The proposed development is well set back from the street scene but is slightly visible, therefore it will result in a minor impact to the areas existing character. However, due to the set back nature of the proposal and the materials being proposed; red brick, flat fibreglass roof and metal up and over doors, being an improvement on the existing design, it is considered there will be a slight improvement to the visual amenity of the surrounding area as a result of this proposal.

Impact on Neighbouring Amenities

- 6.3 The proposed development will be visible to numerous adjacent neighbours to the north, east, south and west. However, in light of the fact that the proposed measurements of 2.9 metres in height, 5.5 metres in depth and 17.2 metres in width are all of a similar size to the existing garage block, that there is sufficient distance to each neighbouring property as well as the single storey nature of the proposal, there is not considered to be a significant enough impact to warrant a recommendation of refusal.

Conclusion

- 6.4 In the absence of any material harm resulting from the development, the application is recommended for approval.

Background Papers

None.

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PLANNING COMMITTEE

30 NOVEMBER 2016

URGENT REPORT OF THE HEAD OF PLANNING

A.11 PLANNING APPEALS – LAND NORTH OF RUSH GREEN ROAD, CLACTON-ON-SEA

1. The Planning Committee will recall the refusal of the following outline planning applications for development on land north of Rush Green Road, Clacton on Sea:
 - 1) 15/00904/OUT: Outline planning application for up to 240 dwellings with areas of landscaping and open space and associated infrastructure (considered by the Committee on 20th October 2015).
 - 2) 16/00208/OUT: Outline planning application for up to 220 dwellings with areas of landscaping and open space and associated infrastructure (considered by the Committee on 14th June 2016).
 - 3) 16/00209/OUT: Outline planning application for up to 276 dwellings with areas of landscaping and open space and associated infrastructure (considered by the Committee on 14th June 2016).
2. All three applications are now the subject of a joint planning appeal for which a Public Inquiry is scheduled to commence on Tuesday 13th December 2016.
3. For the first application for up to 240 dwellings, the Committee's reasons for refusal related to the Local Green Gap, impact on school provision, impact on health provision and lack of public transport. For the second and third applications for up to 220 and 276 dwellings respectively, the sole reason for refusal related to the Local Green Gap – this followed Officers' advice that impacts on school and health provision would be adequately addressed through s106 legal agreement and that lack of public transport would not be reasonably defensible on appeal.
4. The Council has appointed a Barrister and an experienced Planning Consultant to present the Council's case at the forthcoming Public Inquiry who have prepared evidence to defend the Council's case for protecting the Local Green Gap. External solicitors have been appointed to review and advise upon the content of the s106 legal agreements that will be submitted to the Inspector and that the scheme(s) will be subject to if the Inspector resolves to allow the appeal.
5. Whilst it is implicit from the Committee's decision in respect of the second and third applications that impacts on schools and health and lack of public transport are no longer part of the Council's case (subject to an acceptable s106 legal agreement), the Council's Barrister has advised Officers to formally confirm the Committee's agreement to the withdrawal of these reasons in respect of the first application. This is to avoid any ambiguity and any risk of challenge on procedural grounds.

Recommendation: That the Planning Committee formally confirms the withdrawal of reasons for refusal 2, 3 and 4 in respect of planning application 15/00904/OUT (Outline planning application for up to 240 dwellings with areas of landscaping and open space and associated infrastructure on land north of Rush Green Road, Clacton on Sea) which related to impact on school provision, impact on health provision and lack of public transport.

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PLANNING COMMITTEE

30 NOVEMBER 2016

URGENT REPORT OF THE HEAD OF PLANNING

A.12 PLANNING APPLICATION – 16/00677/FUL – KIDBYS NURSERIES, CLACTON ROAD, WEELEY HEATH, CLACTON-ON-SEA, ESSEX, CO16 9EF

1. The Planning Committee will recall the meeting on 9th August 2016 at the Princes Theatre where it was resolved to approve planning application 16/00677/FUL for 22 dwellings at Kidbys Nurseries, Clacton Road, Weeley Heath. Following the resolution, solicitors have been preparing the s106 legal agreement for the site that will secure on-site Council Housing/Affordable Housing and on site or off-site open space/play equipment.
2. The section of the report dealing with Council Housing/Affordable Housing stated the following:

“Policy HG4 in the adopted Local Plan requires large residential developments to provide 40% of new dwellings as affordable housing for people who cannot otherwise afford to buy or rent on the open market. Policy LP5 in the emerging Local Plan, which is based on more up to date evidence on housing need and viability, requires 30% of new dwellings on large sites to be made available to the Council or a nominated partner to acquire at a discounted value for use as affordable or council housing. The policy does allow flexibility to accept as low as 10% of dwellings on site, with a financial contribution toward the construction or acquisition of property for use as affordable or council housing (either on the site or elsewhere in the district) equivalent to delivering the remainder of the 30% requirement.”

“If the Committee is minded to approve this application, Officers will negotiate and agree an appropriate level of affordable or Council Housing to be secured through a s106 legal agreement.”
3. In the process of drafting the s106 legal agreement, solicitors have identified an inconsistency between the Officer’s advice in the original report to Planning Committee, the actual proposal put forward as part of the application and the advice of the Housing Department given to the applicants at the pre-application stage – upon which the scheme has been designed.
4. The advice of the Housing Department at the pre-application stage was that they would prefer to be gifted one dwelling as an alternative to a percentage of dwellings being transferred to the Council or a registered provider at discounted value. The layout and housing mix of the development was subsequently drawn up to reflect this requirement, but this was not correctly reflected in the Officers’ report. Our colleagues in Housing have since re-affirmed that they would be happy to secure one gifted dwelling, as planned for by the applicants.
5. To avoid any ambiguity or risk of challenge on procedural grounds, and to enable the s106 legal agreement to be completed and for planning permission to be issued, the Planning Committee is asked to confirm that it is happy for the s106 legal agreement to secure the transfer of one gifted unit to the Council for use as Council Housing/Affordable Housing.

Recommendation: That the Planning Committee confirms its agreement to one gifted dwelling being transferred to the Council for use as Council Housing/Affordable Housing through the s106 legal agreement for application 16/00677/FUL for 22 dwellings at Kidbys Nurseries, Clacton Road, Weeley Heath.

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