



PLANNING COMMITTEE

DATE: Tuesday 28 February 2017
TIME: 6.00 pm
VENUE: Council Chamber, Council Offices,
Thorpe Road, Weeley, CO16 9AJ

MEMBERSHIP:

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

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

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

DATE OF PUBLICATION: FRIDAY 17 FEBRUARY 2017

AGENDA

1 Apologies for Absence and Substitutions

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

2 Minutes of the Last Meeting (Pages 1 - 6)

To confirm and sign as a correct record, the minutes of the meeting of the Committee, held on 31 January 2017.

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 - 15/00876/OUT - Land East of Bromley Road, Lawford, CO11 2HS (Pages 7 - 56)

The erection of 360 houses (including Lawford Enterprise Trust Housing), with associated garages on 22.76ha with two vehicular access points, site roads, pedestrian and cycle routes, a new primary school access with off-road pickup and drop-off parking, a community building with public access toilets, a junior camping field, village green, public open space, structural landscaping and playground.

5 A.2 - Planning Application - 16/01520/FUL - 82 Jaywick Lane, Clacton-on-Sea, CO16 8BB (Pages 57 - 76)

Erection of 21 bungalows and 48 supported living apartments, together with associated access, surface water drainage and other associated development.

6 A.3 - Planning Application - 16/01994/DETAIL - Land Off Clacton Road, Elmstead, CO7 7DE (Pages 77 - 92)

Residential development of up to 32 dwellings, (incorporating 25% affordable housing) with associated open space and infrastructure.

7 A.4 - Planning Application - 16/01873/FUL - The New Bell Inn, Outpart Eastward, Harwich, CO12 3EN (Pages 93 - 100)

Continued Use of part of the carpark as outside seating area.

8 A.5 - Planning Application - 16/01925/FUL - Land South of Mill Lane, Weeley Heath, CO16 9BG (Pages 101 - 112)

Proposed development of 6 no. 3 bedroom detached bungalows all with single detached garages.

9 A.6 - Report of the Management and Members' Support Manager - Corporate Enforcement Strategy (Pages 113 - 148)

To consult with the Committee on the draft Corporate Enforcement Strategy.

Date of the Next Scheduled Meeting

The next scheduled meeting of the Planning Committee is to be held in the Council Chamber at 6.00 pm on Wednesday 29 March 2017.

Information for Visitors

FIRE EVACUATION PROCEDURE

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**MINUTES OF THE MEETING OF THE PLANNING COMMITTEE,
HELD ON TUESDAY, 31ST JANUARY, 2017 AT 6.00 PM
IN THE COUNCIL CHAMBER, COUNCIL OFFICES, THORPE ROAD, WEELEY,
CO16 9AJ**

Present:	Councillors White (Chairman), Heaney (Vice-Chair), Baker, Bennison, Everett, Fairley (except item 108), Fowler, Gray, Hones and McWilliams
Also Present:	Councillor M Brown (except items 108 and 109)
In Attendance:	Gary Guiver (Planning Manager), Ian Ford (Committee Services Manager), Nigel Brown (Communications Manager), Charlotte Parker (Solicitor (Property, Planning and Governance)) and Susanne Ennos (Planning Team Leader)

102. TRIBUTE TO THE LATE COUNCILLOR JOHN HUGHES

The Chairman of the Committee expressed his sadness at the death of Councillor John Hughes and placed on record the Committee's appreciation of his contribution as a member of the Committee.

All persons present stood in silent tribute to the memory of John Hughes.

103. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

There were no apologies for absence received from Councillors on this occasion and there were no substitutions.

104. MINUTES OF THE LAST MEETING

The minutes of the last meeting of the Committee, held on Wednesday 4 January 2017, were approved as a correct record and signed by the Chairman.

105. DECLARATIONS OF INTEREST

Councillor Fairley declared a non-pecuniary interest in relation to Planning Application 16/01084/FUL by virtue of the fact that she was the local Ward Member and by virtue of the fact that she was pre-determined.

Councillor Fowler declared a non-pecuniary interest in relation to Planning Application 16/01946/FUL by virtue of the fact that she was a local Ward Member.

Councillor M Brown, present in the public gallery, declared a non-pecuniary interest in relation to Planning Applications 15/01750/FUL and 16/01456/DETAIL.

106. A.1 - PLANNING APPLICATION - 15/01750/FUL - LAND AT ST. ANDREWS ROAD, WEELEY, CO16 9HR

Councillor M Brown, present in the public gallery, had earlier declared a non-pecuniary interest in relation to Planning Application 15/01750/FUL by virtue of the fact that he was a local Ward Member.

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

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

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

- (1) Section 106 Planning Obligations; and
- (2) Dispute over ownership of part of the site.

Sally Piper, a local resident, spoke against the application.

Councillor M Brown, a local Ward Member, spoke against the application.

Richard Sykes-Popham, the agent on behalf of the applicant, spoke in support of the application.

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

- a) Within six months of the date of the Committee's resolution to approve, the completion of a legal agreement under the provisions of Section 106 of the Town and Country Planning Act 1990 dealing with the following matters (where relevant):
 - Open space contribution and/or other parish projects; and
 - A potential review of viability at a later stage.
- 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. Environmental Health conditions;
 5. Ecological mitigation/enhancement;
 6. Surface water drainage scheme;
 7. SuDS maintenance/monitoring plan;
 8. Archaeology;

9. Hard and soft landscaping plan/implementation;
 10. Details of lighting, materials and refuse storage/collection points;
 11. Broadband connection;
 12. Local employment arrangements;
 13. Removal of permitted development rights for extensions and conversion of roof space;
 14. Update to Ecological Survey; and
 15. Other necessary ecological mitigation measures (including avoiding bird nesting season)
- 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.

107. A.2 - PLANNING APPLICATION - 16/01456/DETAIL - LAND ADJACENT WILLOW FARM, MILL LANE, WEELEY HEATH, CO16 9BZ

Councillor M Brown, present in the public gallery, had earlier declared a non-pecuniary interest in relation to Planning Application 16/01456/DETAIL by virtue of the fact that he was a local Ward Member.

Members were informed that the reserved matters application sought their approval of detailed plans for 46 dwellings on the pig farm site in Weeley Heath. This had followed on from the approval of outline planning permission 15/00541/OUT on 18 March 2016 in line with the Committee's resolution of 22 September 2015.

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

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

John Crisp, the agent on behalf of the applicant, spoke in support of the application.

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

1. Accordance with approved plans.

108. A.3 - PLANNING APPLICATION - 16/01084/FUL - STRANGERS HOME, THE STREET, BRADFIELD, MANNINGTREE, CO11 2US

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

Councillor Fairley had earlier declared a non-pecuniary interest in relation to Planning Application 16/01084/FUL by virtue of the fact that she was the local Ward Member and by virtue of the fact that she was pre-determined.

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

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

Councillor Fairley, in her capacity as the local Ward Member, spoke against the application. She then withdrew from the meeting, on the grounds of pre-determination, whilst the Committee considered the application and reached its decision.

Parish Councillor Sue Cunningham, representing Bradfield Parish Council, spoke against the application.

After discussion, it was moved by Councillor Everett and seconded by Councillor Bennison that the application be refused, with reasons provided.

Having received advice from the Council's Solicitor (CP), Councillors Everett and Bennison withdrew the motion.

Following further discussion by the Committee, it was moved by Councillor Baker, seconded by Councillor McWilliams and unanimously **RESOLVED** that consideration of Planning Application 16/01084/FUL be deferred to enable the applicant to:

- Demonstrate a compelling functional need (to comply with Policy EN3 – Coastal Protection Belt Policy);
- Explore alternative location within the site to minimise harm to amenity, the listed buildings and the Conservation Area;
- Provide details of Materials; and
- Provide details of how refuse will be removed from the building.

109. A.4 - PLANNING APPLICATION - 16/01946/FUL - CHURCHILL COURT, PARKESTON ROAD, DOVERCOURT, CO12 4NU

Councillor Fowler had earlier declared a non-pecuniary interest in relation to Planning Application 16/01946/FUL by virtue of the fact that she was a local Ward Member.

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

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

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

Following discussion by the Committee, it was moved by Councillor Gray, seconded by Councillor Bennison 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;
2. Approved Plans; and
3. Restrict Working Hours.

The Meeting was declared closed at 8.20 pm

Chairman

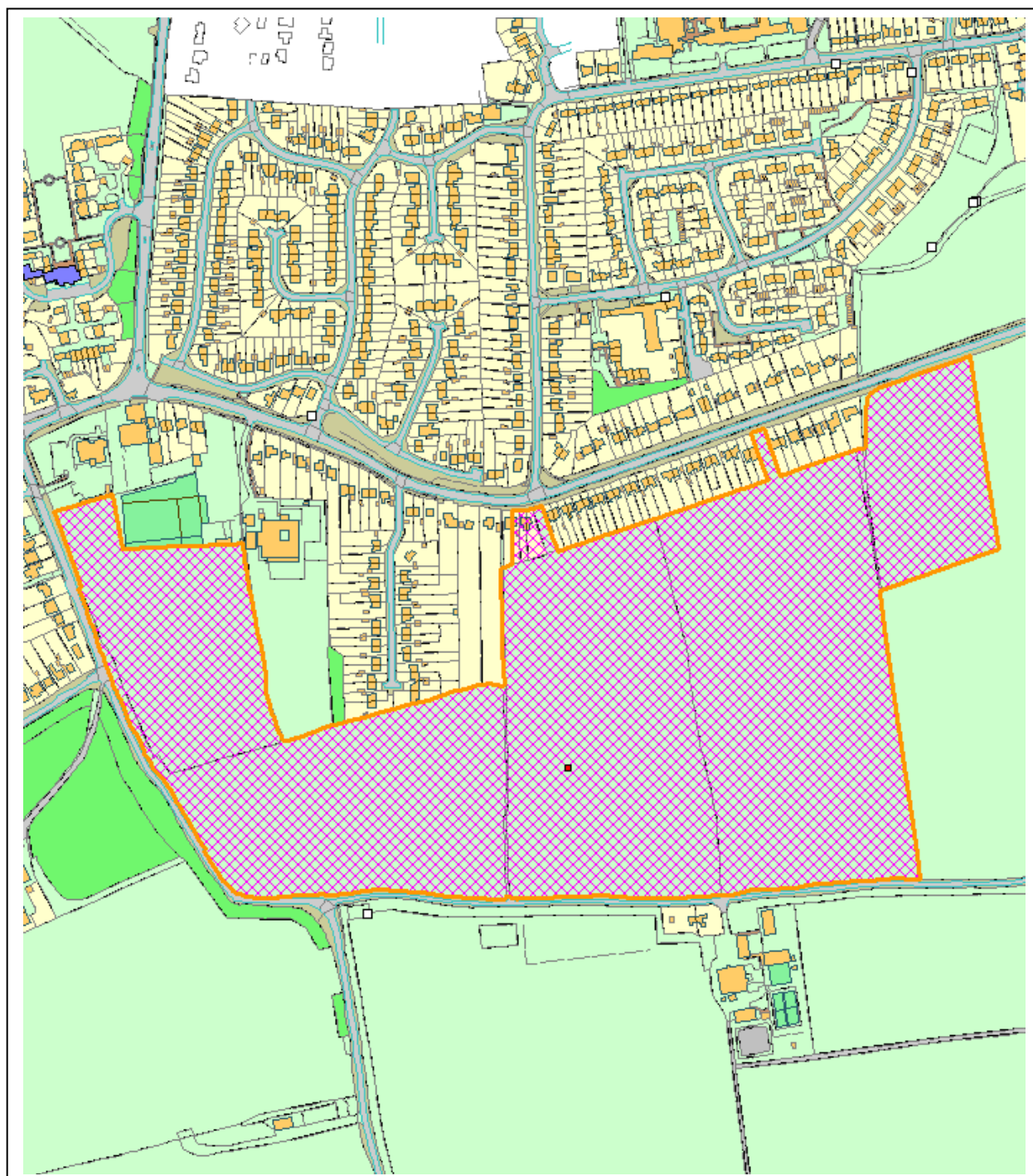
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PLANNING COMMITTEE

28 FEBRUARY 2017

REPORT OF THE HEAD OF PLANNING

A.1 PLANNING APPLICATION – 15/00876/OUT – LAND EAST OF BROMLEY ROAD LAWFORD CO11 2HS



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Application: 15/00876/OUT **Town / Parish:** Lawford/Mistley

Applicant: Rose Builders (Properties) Ltd

Address: Land east of Bromley Road Lawford CO11 2HS

Development: The erection of 360 houses (including Lawford Enterprise Trust Housing), with associated garages on 22.76ha with two vehicular access points, site roads, pedestrian and cycle routes, a new primary school access with off-road pickup and drop-off parking, a community building with public access toilets, a junior camping field, village green, public open space, structural landscaping and playground.

This application has been referred to Planning Committee previously - on 14th June 2016. The Planning Committee resolved to grant outline planning permission subject to the completion of a Section 106 legal agreement within six months of the date of the Committee's resolution to approve (the latest date was 14th December 2016) and subject to conditions; otherwise the Head of Planning had Authority to refuse if necessary. Any reserved matters application was to be referred to the Planning Committee.

Since the date of the previous resolutions discussions regarding the completion of the Section 106 legal agreement have been ongoing. The agreement is now very close to completion. The Head of Planning seeks the Committee's agreement to an extension of time until 28th April 2017 in order to complete the legal agreement. The agreement should be completed before this date but an extension until 28th April 2017 is sought to ensure that the deadline can be met on this occasion. The original Officer's report is reproduced in full below for information only with the revisions to the recommendation highlighted in **bold text and underlined**.

1. **Executive Summary**

- 1.1 This is one of a number of major residential-led planning applications under consideration for the Manningtree, Lawford, Mistley and Brantham area. This particular application was received in June 2015 but determination has been delayed whilst Officers have been working with the applicants, Babergh District Council, Essex and Suffolk County Councils, the NHS and Anglian Water to ensure that in the absence of an up to date Local Plan, both the individual and cumulative impact of these major developments on infrastructure are properly understood and, through appropriate mitigation, can be adequately addressed. Determination has also been delayed whilst further assessments of potential ecological impacts on the Stour Estuary and on the local bat population have been undertaken.
- 1.2 The site comprises just under 23 hectares of undeveloped greenfield agricultural land on the southern edge of Lawford, immediately east of Bromley Road, north of Dead Lane and south of properties in Long Road and Milton Road. This is an outline application for which approval is sought only for the principle of developing 360 houses with two access points off Bromley Road and Long Road alongside a number of community benefits that have been identified in consultation with the community. These include a new point of access and a pick-up and drop-off area for the neighbouring primary school, a community building with publicly accessible toilets, a junior camping field, a village green, public open space and a playground. Approval is also being sought for details of access but other matters of design, layout, appearance and landscaping are reserved for approval through detailed applications at a later date. The applicant has however submitted supporting information to demonstrate, in broad terms, how the proposed uses could reasonably be accommodated on the site which is a sufficient level of detail at outline stage.

- 1.3 The site lies outside of the settlement development boundaries in the Council's adopted Local Plan but is partly allocated for residential and mixed-use development in the emerging Local Plan with a specific policy requiring the development to deliver certain benefits. For information purposes only, the Local Plan Committee proposes that this site be included for housing and mixed-use development in the new Local Plan to be published for consultation later in the year.
- 1.4 Because both the adopted and current draft Local Plans are deficient in respect of meeting projected housing need and the Council is currently 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.
- 1.5 Lawford Parish Council has raised no objections in principle to this outline application subject to proper consideration, by this Council, of the concerns raised by residents; reserving further comments for the detailed proposals if or when they are submitted at a later stage. Neighbouring Mistley Parish Council also raises no objection to this application in principle. Manningtree Town Council objects however over concerns about the increase in traffic and around 200 individual letters and e-mails and a petition signed by more than 200 residents have been submitted in objection to the proposal with a small number of residents in support. The main issues of local concern relate to the principle of developing on greenfield land, the impact of additional cars and people on the busy highway network, the impact on the character of the local area and the impact on local services and infrastructure. To comply with government requirements, Officers have approached the application with a view to positively addressing, as far as possible, technical issues and other matters raised by consultees and residents.
- 1.6 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.
- 1.7 With a number of major applications under consideration in the same area, Officers have carefully considered both the individual and cumulative impacts. The most significant 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 development can be approved with a section 106 legal agreement to secure a financial contribution towards the implementation of traffic management measures at the railway crossing.
- 1.8 Ecological impacts have been carefully considered and following the submission of additional information at the request of Natural England, Officers are now satisfied that the development would not result in significant recreational disturbance to habitats at the internationally important Stour Estuary. The majority of the site itself is of limited value in ecological terms, but the presence of bats roosting and foraging in trees along the boundaries of the site has required further survey work which has identified the most sensitive parts of the site. The layout and lighting arrangements in these parts of the site, at the detailed stage, will need to give careful regard to the presence of bats to ensure the habitat is protected and where possible enhanced, but the Council does have sufficient information to be able to grant outline planning permission.
- 1.9 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 and the material submitted by the applicant demonstrates that a scheme containing 360 dwellings and the other proposed uses could be accommodated on the site in an appropriate manner.

- 1.10 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 a s106 agreement to secure affordable housing, open space, community facilities and financial contributions towards health and education, off-site traffic calming measures and monitoring arrangements at the Stour Estuary.

Recommendation: Approval

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

- a) **By no later than 28th April 2017** 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 and/or land for school expansion;
 - Health contribution;
 - Community facilities;
 - Completion and transfer of public open space;
 - Contribution towards off-site traffic management measures at the A137 railway crossing; and
 - Contribution towards monitoring impacts on the Stour Estuary.
- 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).

Conditions:

- 1) Standard 3 year time limit for submission of reserved matters application.
 - 2) Standard 2 year limit for commencement of development following approval of reserved matters.
 - 3) Details of appearance, access, layout, scale and landscaping (the reserved matters).
 - 4) Layout and phasing plan/programme.
 - 5) Development in accordance with submitted land use audit..
 - 6) Development to contain up to (but no more than) 360 dwellings.
 - 7) Highways conditions (as recommended by the Highway Authority).
 - 8) Surface water drainage scheme.
 - 9) Foul water drainage scheme.
 - 10) Hard and soft landscaping plan/implementation.
 - 11) Ecological mitigation/tree protection measures (including bat protection measures).
 - 12) Archaeological assessment/trial trenching.
 - 13) Details of lighting, materials and refuse storage/collection points.
 - 14) Construction methods statement.
 - 15) Broadband connection.
 - 16) Local employment arrangements.
 - 17) Details of water, energy and resource efficiency measures.
- 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 **by 28th April 2017**, 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.

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.

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.

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).

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

SD1: Presumption in Favour of Sustainable Development

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

SD2: Urban Settlements

Identifies Manningtree, Lawford and Mistley together as a 'Urban Settlement' and one of the district's more sustainable locations for future growth.

SD5: Managing Growth

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

SD7: Securing Facilities and Infrastructure

Requires developments to address their individual or cumulative infrastructure impacts and states that the Council will use planning obligations and/or CIL (when it is in place), where necessary, to ensure this happens.

SD8: Transport and Accessibility

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

SD9: Design of New Development

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

SD10: Sustainable Construction

Requires development to maximise measures to reduce energy consumption and reduce carbon emissions and other forms of pollution both during construction and during use.

PRO1: Improving the Strategic Road Network

Sets out the Council's intention to work with partners to secure improvements to key sections of the district's road network, which includes the A137 and the railway crossing at Manningtree Station.

PRO2: 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.

PRO3: Improving Education and Skills

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

PEO1: Housing Supply

Sets out the proposed growth in new housing for the district, but is subject to considerable change to ensure compliance with the NPPF, as being overseen by the new Local Plan Committee.

PEO3: 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.

PEO4: Standards for New Housing

Sets out proposed minimum standards for the internal floor area and gardens for new homes. Internal floor standards have however now been superseded by national standards to be imposed through building regulations.

PEO5: Housing Layout in Tendring

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.

PEO7: Housing Choice

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

PEO9: Family Housing

Promotes the construction of family homes within new housing developments.

PEO10: Council Housing

Requires up to 25% of new homes on large development sites to be made available to the Council, at a discounted price, for use as Council Housing.

PEO19: Green Infrastructure

Requires new developments to contribute, where possible, toward the district's green infrastructure network.

PEO20: Playing Pitches and Outdoor Sports Facilities

Requires new developments to contribute where possible to the district's provision of playing pitches and outdoor sports facilities.

PEO22: Green Infrastructure in New Residential Developments

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.

PEO23: Children's Play Areas

Requires new children's play areas as an integral part of residential and mixed-use developments.

PLA1: 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.

PLA3: 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.

PLA4: Nature Conservation and Geo-Diversity

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

PLA5: The Countryside 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. The policy includes reference to the Dedham Vale Area of Outstanding Natural Beauty.

PLA6: The Historic Environment

Sets out the Council's approach to understanding, protecting and enhancing the district's historic environment, in line with the NPPF.

PLA8: Listed Buildings

Guards against developments that would have an adverse impact on Listed Buildings, including their setting.

MLM5: Development East of Bromley Road, Lawford

Allocates the western portion of the site for a mix of residential development (approximately 100 homes), new community facilities and open space and sets out specific criteria for how the site should be developed. It includes requirements to provide access from Bromley Road, a community building, a junior camping field for the Venture Centre, a minimum 1 hectare of open space, a new access point and pick up/drop off area for the existing primary school, a children's play area, safe pedestrian footpaths, protection for the setting of the Listed Lawford House and a landscaping buffer around the southern and south-western edge of the site.

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

15/30021/PREAPP Screening Opinion request for mixed use development including community building, school access with drop off and pick up area, village green, parking and residential development (360 dwellings). 06.02.2015

4. Consultations

Babergh District Council

Holding objection until the potential cumulative impact of developments upon the highway network are properly understood and appropriate mitigation measures are identified. Without this, development could jeopardise the delivery of the Brantham regeneration project (matter now resolved).

TDC Environmental Health

These conditions should be applied to minimise any nuisance complaints and to protect the existing amenity:

- The use of barriers to mitigate the impact of noisy operations should be used where possible.
- The applicant needs to provide a full contaminated land survey as recommended in the provided desk-top study. This would need to be approved in writing by this department before development commences.
- Hours of construction should be limited to 7am to 7pm Monday to Friday, 8am to 1pm Saturday with no Sunday or Bank Holiday working.
- No vehicle connected with the works to arrive on site before 06:30 or leave after 19:30 (except in the case of emergency).
- The selection and use of machinery to operate on the site, and working practices to be adopted will, as a minimum requirement, be compliant with the standards laid out in British Standard 5228: 1984.
- Mobile plant to be resident on site during extended works shall be fitted with non-audible reversing alarms (subject to HSE agreement).
- Prior to the commencement of any piling works which may be necessary, a full method statement shall be agreed in writing with the Planning Authority (in consultation with Pollution and Environmental Control). This 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.
- 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 Pollution and Environmental Control prior to the commencement of works.
- All waste arising from any demolition process, ground clearance and construction processes to be recycled or removed from the site subject to agreement with the Local Planning Authority and other relevant agencies.
- No materials produced as a result of the site development or clearance shall be burned on site.
- 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.
- All bulky carrying vehicles accessing the site shall be suitably sheeted to prevent nuisance from dust in transit.

TDC Building Control

No comments at this time with the information available.

TDC Principal Tree & Landscape Officer

The main body of the application site is currently in agricultural use. The most significant trees and hedgerows are situated on the perimeter of the land. There are two 'gappy' hedgerows running north to south marking field boundaries and these contain a few trees. The most complete hedgerow containing significant trees is adjacent to the existing Public Right of Way; the other hedgerow being further to the east.

In order to show the extent of the constraint that the trees are on the development of the land and to identify the works that will be necessary in order to implement the consent 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.

Recommendations: Information contained in the report shows that the development proposal could be implemented without causing harm to retained trees. As the application is in an outline form it is not possible to state that a satisfactory juxtaposition of trees and buildings can be achieved although the proposed housing density indicates that this is achievable.

Two areas where it is clear that trees and hedgerows will be affected are the new access points to the land. The proposed access from Long Road shows the removal of two short sections of hedgerow (H22 and H23) and the pollarding of a mature Sweet Chestnut. The harm caused by the removal of the hedgerows can be relatively easily mitigated by replacement planting. This will replicate the existing level of screening and combined with new tree planting will adequately compensate for the vegetation that would be removed in order to facilitate the development proposal. The Sweet Chestnut (T70) is in poor condition and needs to be pollarded regardless of the development proposal.

The creation of a new access from Bromley Road will necessitate works to and felling of trees and a section of hedgerow. The removal of hedgerow and trees contained in (A4) is not desirable however the harm caused can be relatively easily mitigated against and compensated for by new planting that will, within a reasonable period of time replicate and improve on the existing level of screening and benefits to wildlife.

Proposed works to 'Crown Lift' and 'Root Prune' a Lime (T73) and a group of Cherry (G5) will not affect their appearance or viability.

It would appear that the removal of the Lime (T74) is required to implement alterations to the access to The Venture Centre – it would be desirable to investigate alternative routes for the pedestrian access path to ascertain whether the tree can be retained. A path set back from the access road between retained trees may be achievable. Details of soft landscaping as indicated on the Opportunities and Constrains Plan should also be secured as a reserved matter.

It will also be necessary to consider the potential impact of the development proposal on the nearby Areas of Outstanding Natural Beauty (AONB's) – both Dedham Vale and the proposed extension to the Suffolk Coast and

Heaths. Whilst the development proposal is unlikely to have a direct visual impact on the AONB's or their setting it would be likely to bring about an increase in the pedestrian and vehicular movements through the areas and consequently have an adverse impact on their character and their nationally recognised value as wildlife habitat.

In order to ease the likely additional pressures on the AONB's the proposal should seek to secure high quality, attractive green space within the development site itself to provide for daily recreational opportunities, dog walking and other informal recreation. Play areas and other informal recreational facilities should be provided on the development site.

To enable free and easy low impact movements into and out of the development it will be important to secure links to the existing Public Right of Way network.

Consideration should be given to the opportunity to increase facilities for pedestrians and cyclists to access the Railway Station, Manningtree Town Centre and local facilities such as Schools, Recreation Grounds and Play Areas.

TDC Housing

There is a high demand for housing in the Lawford area. On the housing register there are 134 households seeking a 1 bedroom property, 62 seeking a 2 bedroom property, 27 seeking a 3 bedroom property and 9 seeking a 4 bedroom property. It is noted that 14 properties will be gifted to the Lawford Enterprise Housing trust and the Department is supportive of this measure.

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 Colchester Road, 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.

It is noted that open space and the provision of a new on-site play area has been incorporated within the design. Should the developer wish to transfer the open space and play facilities to the Council upon completion, a commuted sum will be required, calculated in accordance with Appendix 4, Supplemental Planning Document, Provision of Recreational Open Space for New Development dated May 2008.

ECC Highways

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

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

Reason: To protect highway efficiency of movement and safety.

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

- a) A priority junction with right turn lane (with two pedestrian refuge islands) in Long Road to provide access to the proposal site. Priority junction shall have minimum 10.5 metre kerbed radii with dropped kerbs/tactile paving crossing points, a minimum 6.75 metre access road carriageway with two 3 metre footway/cycleways, pedestrian/cycle refuge island and a minimum 109 x 2.4 x 120 metre clear to ground visibility splay
- b) A priority junction off Bromley Road to provide access to the proposal site. Priority junction shall have minimum 10.5 metre kerbed radii with dropped kerbs/tactile paving crossing points, a minimum 6.75 metre access road carriageway with one 2 metre footway and a minimum 90 x 2.4 x 90 metre clear to ground visibility splay
- c) A £45,000 contribution (index linked) towards improvements at the A137 railway crossing
- d) Improvements at the A137 Cods Hill/Long Road/Wignall Street mini roundabout as shown in principle on the planning application drawing
- e) Upgrading to current Essex County Council specification of the two bus stops which would best serve the proposal site (either Long Road and/or Wignall Street) (details shall be agreed with the Local Planning Authority prior to commencement of the development)
- f) Provision of two new bus stops in Bromley Road to current Essex County Council specification (details shall be agreed with the Local Planning Authority prior to commencement of the development)
- g) A minimum 3 metre wide footway/cycleway along the proposal site's Long Road frontage
- h) A minimum 2 metre wide footway along the north-east side of the Bromley Road carriageway between the proposal site access and existing footway
- i) Upgrade to the Public Right of Way which runs through the proposal site between Long Road and Dead Lane (details shall be agreed with the Local Planning Authority prior to commencement of the development)
- j) Residential Travel Information Packs

Reason: To protect highway efficiency of movement and safety and to ensure the proposal site is accessible by more sustainable modes of transport such as public transport, cycling and walking.

ECC Schools

On the basis of 360 houses, the proposal would generate a need for 32 Early Years and Childcare (EY&C), 108 primary school and 72 secondary school places.

The proposed development falls in the Manningtree, Mistley, Little Bentley and Tendring ward. Within this ward there are four childcare providers (1 afterschool club, 1 holiday club, 1 childminder and 1 pre-school), 2 of which are rated as good or outstanding by Ofsted and are running at over 80% occupancy. There are no free entitlement (FEEE) vacancies within this ward. We are also advised by the EY&C Community Development Officer responsible for Tendring that adjoining wards do not have capacity to accommodate a development of this size. Based on the formula set out in Essex County Council's Developers' Guide, 32 additional places would suggest a contribution of up to £444,096 (index linked to April 2015 costs). However, it is unclear at this stage whether existing provision can be expanded and, in addition to this development, outline applications have also been submitted for 300 dwellings on land south of Long Road (TEN 15/00781/OUT) and for 75 dwellings on land off Trinity Road, Mistley. A more cost effective solution to adding sufficient provision to serve the area may thereby be the construction of a new facility. As the largest of the three current proposals, it may be appropriate that land is set aside on this development to facilitate this solution.

The proposed development is located within reasonable travelling distance of Mistley Norman CE Primary School, Bradfield Primary School, Highfields Primary School and Lawford CE Primary School. These schools have a combined overall capacity of 750 places and are forecast to have a combined deficit of 5 places by the school year 2018-19. Feasibility work will need to be undertaken on the primary schools serving this area to ascertain whether they can be given the capacity to accommodate the level of growth in pupil numbers that may be required to accommodate the additional pupils that could be generated from the proposed housing developments 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 will be required. By way of indication, if an existing primary school can be extended, the formula set out in Essex County Council's Developers' Guide would suggest a contribution of up to £1,314,576 (index linked to April 2015 costs) from a development of this size.

The priority admissions area secondary school for the proposed development would be Manningtree High. The school has a capacity of 870 places and is forecast to have a surplus of 38 places by the school year 2018-19. The school could not, however, accommodate all of the pupils that would be generated by this development. A contribution for additional secondary school places, should, therefore, be sought to mitigate the impact of this development. Any surplus capacity, after allowing for normal fluctuations in demand and individual cohort sizes, will need to be shared between the developments in the area if permitted. In the event 72 additional secondary school places are needed, the formula set out in Essex County Council's Developers' Guide would suggest a contribution of up to £1,331,352 (index linked to April 2015 costs) from a development of this size.

If your Council was minded to turn down the application, we would be grateful if the lack of education and transport provision in the area can be noted as an additional reason for refusal and that we are automatically consulted on any appeal or further application relating to this site.

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 Manningtree Water Recycling Centre that will have available capacity for these flows. 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.

Surface water disposal: The surface water strategy/flood risk assessment submitted with the planning application is not relevant to Anglian Water as the Flood Risk Assessment states to soakaway and a watercourse. The proposed surface water disposal is therefore outside our jurisdiction comment. We recommend the Planning Authority seek the views of the Environment Agency. We request that the agreed strategy is conditioned in the planning approval.

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 the following text be included within your Notice should permission be granted.

“An application to discharge trade effluent must be made to Anglian Water and must have been obtained before any discharge of trade effluent can be made to the public sewer.

Anglian Water recommends that petrol/oil interceptors be fitted in all car parking/washing/repair facilities. Failure to enforce the effective use of such facilities could result in pollution of the local watercourse and may constitute an offence.

Anglian Water also recommends the installation of properly maintained fat traps on all catering establishments. Failure to do so may result in this and other properties suffering blocked drains, sewage flooding and consequential environmental and amenity impact and may also constitute an offence under section 111 of the Water Industry Act 1991.”

Suggested planning conditions: Anglian Water would recommend the following planning condition if the Local Planning Authority is mindful to grant planning approval:

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.

Reason: To prevent environmental and amenity problems arising from flooding.

NHS England

This development is likely to have an impact on the services of the Lawford Surgery. 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 £108,620 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

Original comments received in July 2015 raised objection to the proposal with the following concerns:

- Insufficient information had been provided to enable the Council to understand the potential impact (both individually and in-combination with other projects) of recreational disturbance on the Stour and Orwell Estuaries Special Protection Area (SPA);
- Insufficient information on the potential presence of bats on the site had been submitted; and
- The agricultural classification of the land and the potential to use sites of lower agricultural quality in line with paragraph 112 of the NPPF.

Following the preparation of a Habitats Regulation Assessment and a bat roost survey by the applicants, Natural England made the following (summarised) comments in May 2015:

- The HRA report suggests that the in-combination effects of the development on the Stour Estuary are not significant and Natural England generally agrees with this conclusion;
- The HRA report could however be improved to include consideration of parking at Manningtree station, a fuller consideration of the Brantham development, consideration of high tide bird data and reconsideration of the assumptions made about levels of walking amongst adults – this information could also assist the Council's work on the Local Plan; and
- The bat roost survey suggests that no bat roosts are likely to be affected by the development and more detailed surveys would be needed to inform the layout and lighting strategy at the detailed stage and, in these circumstances, it would be appropriate to secure these detailed surveys through planning conditions.

Environment Agency

This application falls outside of the scope of matters for which the Environment Agency is a statutory consultee. Essex County Council, as the Lead Local Flood Authority, is now the statutory consultee for providing advice on the adequacy of surface water management proposals for major development.

Essex County Council Flood Authority

A surface water drainage scheme has been proposed which demonstrates that surface water management is achievable in principle, without causing flooding on site or elsewhere. The scheme will be able to prioritise infiltration as a means of controlling run-off from the development. Outline planning permission could be granted to the proposed development if the following planning condition is included as set out below:

No development approved by this planning permission shall take place until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development has been submitted to and approved in writing by the local planning authority. The scheme shall subsequently be implemented in accordance with the approved details in the Flood Risk Assessment referenced 2015700 Rev P2, Canham Consulting Ltd, March 2015, 29 April 2015.

Reason: To prevent flooding on the proposed site and the local area by

ensuring the satisfactory storage of/disposal of surface water in a range of rainfall events and ensure the system operates as designed for the lifetime of the development.

ECC Archaeology

The preliminary archaeological desk based assessment that has been submitted with the planning application does not meet the requirements of the NPPF. It is noted that the assessment was undertaken in 2010, and is neither up to date nor comprehensive enough to meet the requirement for an 'appropriate desk-based assessment' in paragraph 128 of the NPPF. The applicant should be required to re-submit a full archaeological desk based assessment before this application is considered further.

Essex Bridleways Association

We note that no new bridleways are proposed. We are of the opinion this development provides an ideal opportunity to improve the public rights of way network in accordance with the NPPF by creating bridleways in circular routes around the development, to link to the tracks which are already used by horses to the east of the development.

There are virtually no bridleways in the area, resulting in horse riders having no choice but to use dangerous roads, thereby putting their lives at risk. This development creates an ideal opportunity to provide some bridleways in the district.

The new bridleways would become important strategic links in the bridleway network and would provide safe routes for horses and other vulnerable users, so they can avoid using local roads.

The creation of new bridleways would be in accordance with Government Policy as set out in the NPPF and other documents.

Dedham Vale AONB and Stour Valley Project

The proposed development site is a short distance from the Dedham Vale AONB and Suffolk Coast and Heaths AONB, and therefore the proposal has potential to have an impact on the setting of these nationally protected landscape. We would expect development within the AONB or potentially affecting the AONB to take account of the Suffolk Coast and Heaths AONB Management Plan and Dedham Vale AONB Management Plan and the Stour & Orwell Estuaries Management Strategy, to which Tendring District Council is a signatory.

The proposed development site appears to be within the Impact Risk Zone identified by Natural England to assess planning applications for likely impacts on SSSIs, SACs, SPAs and Ramsar sites. In this location, the site is within the risk zone for the Stour Estuary which is designated as of national and European importance for birds through the SSSI, SPA and Ramsar designations. A development of this scale, and the residual impacts associated with it could have a negative impact on the purposes of the designation, i.e. birds and protected habitat interest such as inadvertent disturbance. The local planning authority will need to be satisfied that the potential impacts have been fully assessed and that mitigation proposals are sufficient and likely to be effective. Cumulative impacts should also be addressed given the other potential or proposed major developments within the same estuary zone. If the application is successful, a package of measures will be required to ensure that mitigation is effective now and into the future, with facilitation for off-site mitigation where required. The national importance of the estuary will need to be understood and as such, information for potential new inhabitants will be required.

The proposal should seek to secure high quality, attractive green space

within the development site itself to provide for daily recreational facilities outside of the development site, (e.g. improved footpaths etc).

From the information provided in the Ecological Assessment, there is a recommendation for further bat and bird surveys, but no survey data has been included in the application. Without information to identify and understand the impact that this proposal could have on bats and other protected species at this site, we consider that the Local Planning Authority is not able to demonstrate compliance with Habitats Regulations. We recommend further guidance is sought on this matter from the County Ecologist or Natural England.

Particularly, but not exclusively, along the B1070 for access to the A12 as well as minor roads leading to and through Dedham to the A12 should be fully assessed. This should include potential for loss of tranquillity, reduced road safety for vulnerable road users and impact on local communities.

If the application is approved, as a minimum, a dedicated cycle path (preferably off-carriageway) should be provided from the site facilitate safe access for cyclists to Manningtree Train Station. This facility should connect with any new provision along the A137 from Brantham (as proposed as part of the proposed Brantham Regeneration Scheme) as well as facilities to the town centre of Manningtree. Improved provision for cyclists and pedestrians should also seek to address safety under the railway bridge near Manningtree Station. It is hoped that collaboration between neighbouring Local Planning and Highway Authorities can assess the needs and opportunities for improved cycle/pedestrian infrastructure as a result of this and other nearby proposed housing developments in order to secure appropriate provision.

There are also opportunities to secure and improve the Public Rights of Way network within and surrounding the development. We would stress the importance of ensuring that the network provides good connectivity through the development and out into the wider countryside. Where new paths are proposed, opportunities should also be taken to improve ecological networks and enhance local landscape character.

If the Local Plan Authority is minded to approve the application, a number of conditions will of course be required. These conditions should demonstrably minimise adverse impacts on ecology, visual amenity, the dark skies, character of the countryside and local landscape and should contribute to a high quality of design for the project.

UK Power Networks

As stated in the Utility Impact Report, included with this application, there are electricity distribution overhead lines and underground cables crossing the site. The diversion or retention of the lines, which are an important part of the electricity distribution network in this area, will need to be considered in the proposed design should this application be granted. There is also a 132,000 volt underground cable adjacent to the site in Bromley Road.

National Grid

National Grid has identified that it has apparatus in the vicinity of the site which may be affected by the activities specified. National Grid should be informed, as soon as possible, of the decision your authority is likely to make regarding this application. The apparatus affected includes high or intermediate pressure gas pipelines and associated equipment as well as low or medium pressure gas pipes and associated equipment. The enquiry has therefore been referred to the Gas Distribution Pipelines Team. National Grid Pipelines does not object to this proposal.

Local Sustrans Ranger

The following conditions should form part of outline approval:

- Creation of a continuous shared use link from Clacton Road to Colchester Road providing a 3m shared use path either along Long Road or within the proposed development behind (but not directly) existing properties.
- Any proposed crossing on Long Road should include use by cyclists (Toucan) or the new permitted cycleable zebra crossings.
- The design of the access to Long Road needs to take into account cyclists, especially those crossing the access to continue along Long Road or access shared use ways within the development.
- The internal link road should provide shared access on both sides to encourage cycling through the development. This link road, for non-motorised vehicles only, should be connected to the proposed development to the East and hence through to Dead Lane/Chequers Road. This will provide access to the countryside and can form part of a strategic North/South cycle route across Tendring using Highways England's proposed cycle crossings and Pellens Corner and Hare Green on the A120.
- Grange Road is a popular route for cyclists as it already links Manningtree to Colchester using lanes and quiet roads. The junction with Bromley Road needs to take into account the needs of cyclists to cross from this development to Grange Road.
- The use of ASLs should be considered or segregated crossings using now permitted cycle zebra crossings. The proposed open spaces should be accessible for cyclists with suitable infrastructure to lock cycles. Suitable storage for cyclists should be provided for each dwelling.

5. Representations

5.1 This planning application has attracted a high level of public interest with 190 individual representations in objection to the proposal along with a petition signed by 217 people. There were also a small number of representations either in support of the application or making general comments or suggestions. The comments that were received are summarised as follows:

5.2 Comments in objection

Principle of development

- No-one in the area wants this development;
- New housing will not benefit the area, it will only benefit the developer;
- The area's infrastructure is not sufficient to support this new development;
- It is wrong to build on high-grade greenfield arable land when it will be needed for future food production;
- The government is opposed to development in 'Green Belt' areas;
- The development is contrary to policies and proposals in the Local Plan;
- The increase of homes on the site from the 100 units suggested in the draft Local Plan has not been justified;
- The development would not comply with the economic, social and environmental requirements of the National Planning Policy Framework's definition of sustainable development;
- This development and others in the area should not be considered until the Council's new Local Plan, which will address cumulative infrastructure requirements, has been put in place;

- The cumulative affects of all development proposals in Manningtree, Lawford, Mistley, Brantham and East Bergholt have not been properly taken into account;
- No further development in the area should be considered until the 150 houses at Summers Park have been occupied;
- Developments in the area are being proposed without due consideration of the concerns of current residents and the problems that will arise;
- There are other more appropriate development sites in the area including land north of Long Road which has limited agricultural value as well as the redundant Railex/Tesco site which is a brownfield site in a better location and an eyesore at the entry to the town centre that would benefit from being tidied up;
- This development and others are inappropriate and disproportionate in scale for this area;
- Unacceptable that more of our village green areas are to be built on
- The planning application does not provide sufficient detail of what is proposed, and;
- The benefits of the development do not outweigh the harm.

Need for the development

- There is no shortage of homes the area and more than enough housing is already either planned or under construction;
- The need for housing in the area is lower cost housing for younger people which is not what this development proposes;
- There is no need for a community hub;
- A new village green not needed as the recreation ground is nearby;
- The small number of Lawford Enterprise Trust homes will not meet the needs of Lawford people and they could end up remaining on the housing waiting list for years;
- The junior camping area would only provide an artificial experience of camping because it will adjoining a housing estate as opposed to a proper rich and stimulating outdoor experience of the countryside;
- The developer is only offering unnecessary, cheap and diversionary 'sweeteners' in order to gain planning permission for housing development;
- There are thousands of empty houses in the London area that should be sufficient to meet UK housing need;
- There is already an under-utilised police station in Mistley that could be employed for community uses;
- Community building is not necessary when the meeting room at Ogilvie Hall can be rented at a reasonable cost, and;
- The proposal for public toilets, play area, camping area and Parish Council Offices are beyond ridicule.

Impact on the character of the area

- Manningtree would lose its status as Britain's smallest town status if this development and others in the area go ahead;
- Villages like Lawford should be kept rural and not developed into commuter towns;
- The village will be transformed into a concrete jungle;
- Development will destroy the area's appeal as an attractive place to live;
- Many people will consider leaving the area if this development takes place, and;
- Development would be out of character with the existing village and will change the area beyond recognition.

Impact on the transport network and highway safety

- The roads in the area cannot cope with current levels of traffic and additional people and cars will make the situation a lot worse;
- Both day time and night time traffic would increase to an unacceptable level;

- Congestion at the railway bridge is a particular problem that would be worsened by this and other developments in the area;
- Trains are already overcrowded and there is insufficient parking at the station which leads to on-street parking in Station Road and surrounding residential areas;
- The A12 is not of sufficient standard or capacity to cope with increased traffic movements that would result from this and other proposed developments;
- Traffic is particularly overwhelming when the A12 is blocked due to an accident;
- The increase of traffic on Bromley Road would be unacceptable and would lead to increased vehicular movements through the village of Little Bromley from people travelling to and from the A120;
- The necessary traffic management measures would not address, and would worsen, traffic problems on Long Road;
- The site is too far from existing key services and facilities to promote walking, cycling and public transport use and will therefore only succeed in encouraging increased traffic;
- The new car park and picking up/dropping off area for the primary school will only succeed in encouraging parents to drive their children to school, adding further to local traffic problems and increasing the danger to pedestrians and children, and;
- Had the Local Plan not been delayed the traffic problem at the bridge would have been resolved.

Impact on education services

- Local schools do not have the capacity to accommodate such a large increase in the local population and they do not have the space to expand;
- New families will take up places in the local schools forcing local people to send their children to schools outside of the catchment area;
- No provision had been made on this site, or any of the other sites, for new schools;
- The new Primary School access road appears to run through the designated outdoor area used by the Little Pumpkins CIC, and;
- Concerns security and safeguarding of the setting of the Little Pumpkins Pre-School.

Impact on health and emergency services

- Doctors and dentist would be unable to cope with extra influx of patients;
- No provision has been made on this site, or any of the other sites, for new surgeries;
- Colchester hospital would need to expand in order to cope with the increase of patient numbers;
- Local people will have to travel out of the area for NHS services;
- Police services will be unable to deal with further crime and emergencies arising from additional homes, and;
- Mistley Police Station is due to close completely from its already poor opening times surely there more of case for it to remain open with the additional homes.

Employment

- There are limited employment opportunities in the area so the majority of new residents will be commuters to Colchester, Ipswich and elsewhere;
- New homes would not be matched with new jobs and the development itself does not include any employment uses or permanent job opportunities;
- The biggest local employers have gone and these jobs have not been replaced;
- Construction jobs resulting from the development will only provide temporary employment, and;
- The economic benefit of this development to the district would be negligible.

Impact on the environment

- The Council should require a full Environmental Impact Assessment (EIA) for this development, particularly when considered cumulatively with other developments proposed for the area;
- The Council must require the developer to undertake a detailed bat survey to comply with Natural England standing advice;
- The development would require the loss of valuable hedgerows;
- The Council must consider the impact on local wildlife due to loss of agricultural land;
- We have a responsibility to preserve precious agricultural land for future generations;
- The environmental impact on the flora and fauna has not been properly considered;
- There will be a loss of biodiversity in an area where bats, dormice, stag beetles have been observed;
- Development is partly within the Local Green Gap in the adopted Local Plan;
- The development is close to the Dedham Vale Area of Outstanding Natural Beauty (AONB) and would have detrimental impact on that area, and;
- Development on open farmland on the edge of the village would harm the surrounding countryside.

Impact on residents

- Lots of people will consider leaving if development goes ahead;
- Increase in output by the power station, which will have a detrimental effect on residents
- There would be an increase in community tension and loss of social capital;
- If development goes ahead the quiet enjoyment of my property will be further eroded;
- Lorries passing cottages in Wignall Street cause the buildings to shake;
- Destruction of semi rural life;
- This development will have a negative impact on the value of existing properties;
- Inadequate infrastructure and the detrimental impact on the life of local residents
- Local people attach considerable importance to individual character of their village
- The loss of green space will impact on the well being of the population of Lawford;
- There is already one development causing asthma suffers issues due to the dust and further development will worsen this issue;
- Not enough leisure facilities or soft play areas for children, and;
- Development will lead to a drop in water pressure.

Other concerns

- Wignall Street suffers with regular water/sewerage problems at the Anglian Water pumping station which cause traffic problems that will only be worsened if this development goes ahead;
- The development will lead to an unacceptable level of flooding downstream;
- The area only has the co-op and a tesco express for food shopping;
- Manningtree lacks the retail required for the size of the population and due to lack of parking, causes people to shop elsewhere;
- Concerns regarding whether there is sufficient water supply and sewage facilities to serve the new development;
- The Public Consultation was held over a very short time and I believe a further venue attended by Council Officers should have been made available;
- The consultation venue was a biased towards the developer;
- The consultation questionnaire design was biased;
- Misleading information regarding the Parish and District Councils' involvement;
- New development will increase noise and potential nuisance which inevitably comes with new development;
- Safety and noise pollution would arise from the Emergency Hub Centre;
- New housing should only be allowed if when it can be proved to be of greater benefit to the community and not to the politicians;

- Expect that there will be a constant smell of sewage when the project is completed;
- The responses collected as part of the consultation cannot be used to justify the development, and;
- There has been a lack opportunity for people to oppose the plans.

General comments and suggestions

- Sports facilities need to be upgraded the outdoor swimming pool at Manningtree sports centre is uncovered and unheated this should be improved or provision for a new local pool;
- The school drop off/pick up points should be separated from the access to housing to reduce traffic flow near venerable pedestrian access;
- All the proposed houses should have parking for 4 cars;
- Before any permission is granted it is vital that the railway bridge is rebuilt;
- If planning permission is given it should be contingent on the developer extending the station car park for at another 200 cars;
- Development would result in 1,200 additional residents;
- Issue of people doing shopping out the local area and not supporting the local shop so they close down;
- The Centre of Manningtree requires improvements and development so that it remains a thriving small town;
- Junctions in some roads will need to be upgraded;
- There is no mention of a much needed zebra crossing for the village;
- Speed Limits should be more prominent on Cox's Hill;
- Increased traffic will result in Colchester Road rather than Cox's Hill being used as the main thoroughfare into Manningtree;
- Footpaths at the bottom of Colchester Road are too narrow;
- Cycle paths need to be created on Bromley Road, Long Road and Wignall Street before any further development;
- Impact of heavy construction trucks and later delivery van and private cars to and from the Colchester direction;
- Serious consideration be given to the blocking off the east end of School Lane at junction with Grange Road making it a Cul-de-sac;
- It would make more sense to increase school places;
- Access to the housing should be off Bromley Road with perhaps a mini roundabout;
- It's better to work with the builders to get the type of development we would like;
- It is inevitable that the village will need to expand to a small town – one step at a time;
- In 20 years time the same number of new homes will be required for the next generation, and;
- The railway bridge would have to be rebuilt in conjunction with the developers and Network Rail as a condition on the planning permission in order to alleviate traffic flows.

5.3 Comments in support

- If more housing is needed then this location is ideal. It enables each of Lawford, Manningtree and Mistley to retain their separation and identity;
- This is the best option if there is a need for development;
- I fully support this development which is properly planned and allocated in the Local Plan;
- A good plan for the area that offers significant benefits compared with developing south of Long Road;
- Not against the controlled, sustainable building development to meet current shortages of homes in the UK;
- I totally support this application, there are no houses for the next generation to live in this area;

- This proposal will provide significant benefit in terms of public facilities, and;
- This development provides an ideal opportunity to improve the public rights of way network in accordance with national planning policy.

5.4 Town/Parish Council comments

Lawford Parish Council has raised a number of concerns relating to the local infrastructure and the effects of population growth but does not to oppose the proposal at this stage as this location has been identified for development in the emerging Local Plan. The Parish Council intends however to address matters of concern if and when a final plan is presented at detailed stage. The concerns raised by the Parish Council are as follows:

- a) The bridge at the station on the A137: This is a bottleneck at peak times and the roundabout, bridge and station approach must be assessed as one complete area for improvement. As single file traffic under the bridge is the main problem, the long term aim is to arrive at a position where two cars can pass at this spot. A filter lane off the roundabout into station approach is desirable. A new junction scheme at this point, to assist with traffic flow, needs to be developed. This is desperately needed as congestion at peak times will only get worse. This has been a problem area for decades and the expected increase in traffic will make matters worse. A complete review and new road scheme is badly needed, There have been a few smaller schemes suggested to alleviate this problem and they may be adopted in the meantime, but these are really only temporary measures and this area needs a complete overhaul to enable traffic to flow easier, whether into or away from the station, parking at the station and coming and going from Essex to Suffolk.
- b) As there is a proposal for a new car park for Lawford Primary School, the road junction at Bromley Road/Wignall Street must be assessed to see if improvements are needed with the increased number of cars going into this car park. As the parking at present in Long Road outside this school is chaotic during term times, parking restrictions must be put in place to ensure people use the new car park.
- c) Rat runs: Methods must be put in place to stop smaller roads i.e. Dead Lane (very narrow lane), Grange Road and School Lane becoming shortcuts for drivers avoiding the main junctions.
- d) Doctors surgeries: An assessment must be made into whether improvements to the local surgeries are needed and any forthcoming money must be used to enhance the local facilities.
- e) Sewerage: An assessment must be made into the effect this development will have in relation to the present size of the sewerage works site and whether it can cope, or whether it needs to be enlarged. The underground pipework must also be assessed to ensure this will take the potential increase in volume of waste.
- f) Schools: Assessments must be done to ensure there are adequate places at all schools in the area and whether their buildings can cope with an increase in children.
- g) Surface water: The spot opposite Bromley Road in Wignall Street floods badly during and after heavy rain, often causing cars to cross the central lines to avoid this large area of surface water. The bend in Bromley Road towards Dead Lane floods if it rains and the bank turns into mud which comes onto the road. As more housing will result in less areas for water to escape, this problem will get worse, so an adequate scheme to get rid of this surface water must be in place.
- h) Electricity: An assurance must be gained that the local network can cope with the increase in demand that can be expected from this development.

5.5 **Mistley Parish Council** also does not oppose the planning application but makes the following comments:

- 1) Minimum environmental and green wedge impact;
- 2) Visual impact mitigated by existing development along Long Road.

Mistley Parish Council also has concerns about the following:

- 1) Increase in traffic for Cox's Hill, Wignall Street, Bromley Road and the railway roundabout;
- 2) Increase in traffic to the High Street in Manningtree, and;
- 3) Provision must be made to ameliorate the impact on local health services and schools.

5.6 **Manningtree Town Council** objects to this planning application on the grounds that there are concerns about the impact on Cox's Hill, Manningtree Station and the road infrastructure.

Community Involvement

5.7 The applicant has undertaken public consultation in Lawford both for the purposes of their Local Plan proposals in December 2012 and this planning application on 16th May 2015. The applicants have endeavoured to take into account the views of local people and local stakeholders including the Parish Council and head teachers of local schools.

6. Assessment

The Site

- 6.1 The application site comprises 22.7 hectares of relatively flat undeveloped agricultural land adjoining the existing built-up area of Lawford east of Bromley Road, north of Dead Lane and south of the Lawford Venture Centre, Hearts Delight Garden Centre, Lawford Primary School, properties 30 and 37 Milton Road and properties 80 to 152 Long Road. The very eastern part of the site fronts directly onto Long Road although the eastern edge of the site adjoins further undeveloped countryside, albeit land that is the subject of a separate outline planning application for major development (ref: 15/00761/OUT) which is the subject of an appeal against non-determination that will not longer be contested by the Council following the Committee's resolution on 18th May 2016.
- 6.2 The site contains five individual fields and adjoins 50 residential properties, mainly in Long Road but some also in Bromley Road, Milton Road and Dead Lane. Undeveloped strips of land between 142 and 146 Long Road and land between 92 and 96 Long Road form part of the site and provide a direct connection from Long Road to the main area of the site.
- 6.3 Most of the site's frontage onto Bromley Road contains some substantial mature trees and hedges which form a strong boundary restricting views over the open land but the belt of trees and hedges finish at the south-western corner of the site on the approach to Dead Lane along which the vegetation is more sparse, offering more open visibility and glimpses across the majority of the site. The internal field boundaries contain a mixture of managed trees and hedges and there is an overhead cables crossing the site from east to west.
- 6.4 Bromley Road connects Lawford with Little Bromley and the A120 to the south and is a relatively unbusy road of reasonable width and construction and Long Road is the main road connecting Lawford and Mistley and is much busier. Dead Lane in contrast is narrow, far more rural in its character and essentially provides access to farmers and a small number of dwellings.

The Proposal

- 6.5 This outline planning application seeks the approval for the principle of:
- 360 houses and associated garages;
 - Two vehicular access points (one from Bromley Road and one from Long Road);
 - A new primary school access with off-road pick-up and drop-off parking;
 - A community building with publicly accessible toilets;
 - A junior camping field;
 - A village green;
 - Public open space;
 - Structural landscaping, and;
 - A playground.
- 6.6 The application also seeks detailed approval for two points of vehicular access onto Bromley Road and Long Road respectively, for which detailed plans have been provided. The access from Bromley Road takes the form of a simple junction positioned opposite house nos. 22 and 23 at a point where the belt of trees is less dense and contains fewer mature specimens. At least two, possibly three trees would be removed to create this access and to ensure necessary visibility splays. The access onto Long Road will require the creation of a right turn lane and the position of the junction will be at a similar point to the existing field access with the removal of some of the hedge necessary to ensure visibility splays meet the required standards. It is proposed that the speed limit sign be moved further east along Long Road to bring the site within the 30mph zone.
- 6.7 Whilst all other matters of detail including design, layout, appearance and landscaping are reserved for later consideration, a Design and Access Statement and a Land Use Audit Plan have been submitted which explain how the applicant envisages the scheme will be delivered. Key concepts within the scheme include:
- Area 1: 'Village Hub' located at the western end of the site off Bromley Road containing the proposed community hall, car park, playground and green space with new school access.
- Area 2: 'Central Link Road' through the centre of the site with its own distinct character enabling traffic impacts to be dissipated equally between Bromley Road and Long Road and providing access to all phases of the development
- Area 3: Housing located off the link road with different character to give the phases of development individuality and distinctiveness.
- Area 4: Sensitive rural boundaries along Bromley Road and Dead Lane enhanced through strategic planting and sensitively designed low-density housing that would fit with a rural landscape.
- 6.8 The Land Use Audit plan submitted to the Council in January 2016, provides any additional level of detail showing the location of footpath/cycleway links to Long Road, green corridors around and through the site and proposed location of the community facilities and different residential character areas.

Architectural Drawings

- 981S. L. 001 Location Plan
- 981S. L. 002 Existing Site Plan
- 981S. L. 003 Access Key Plan
- 4592-D1 Tree Survey/Tree Plan (existing and proposed)
- K925-002 Potential ghost island right turn priority junction at Long Road
- K294-003 Proposed site access at Bromley Road

- 4592-D2 Proposed site overview
- Land Use Audit – January 2016

Reports and Technical Information

- Design and Access Statement
- Transport Assessment
- Ecological Assessment
- Bat Roost Assessment
- Bat Activity Survey – Interim Report
- Flood Risk Assessment
- Tree Survey and Arboricultural Impact Assessment
- Contamination Study
- Archaeology Report
- Utility Impact Report
- Habitat Regulation Assessment Report

Main Planning Considerations

6.9 The main planning considerations are:

- Principle of development;
- Other developments under consideration in the area;
- Policy MLM5 in the 2012/14 Draft Local Plan;
- Highways, transport and accessibility;
- Local Green Gap;
- Dedham Vale Area of Outstanding Natural Beauty;
- Landscape and visual impact and trees;
- Flood risk and drainage;
- Ecology;
- Heritage and archaeology;
- Education provision;
- Health provision;
- Utilities;
- Open space;
- Council Housing/Affordable Housing;
- Layout and density;
- Other matters, and;
- Overall planning balance.

Principle of development

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

6.11 The 'development plan' for Tendring is the 2007 'adopted' Local Plan, despite some of its policies being out of date. Paragraph 215 of the NPPF allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF. Paragraph 216 of the NPPF also allows weight to be given to policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency with national policy. The 2012 Local Plan: Proposed Submission Draft, as amended by the 2014 Local Plan: Pre-Submission Focussed Changes, is the Council's 'emerging' Local Plan.

- 6.12 On 25th March 2014, the Council decided that further substantial revisions to the emerging plan will be required before it is submitted to the Secretary of State to be examined by a government-appointed Planning Inspector. These revisions will aim to ensure conformity with both the NPPF and the legal 'duty to cooperate' relating mainly to issues around housing supply. The separate Local Plan Committee is overseeing this work with a view to a new version of the plan being published for consultation in summer 2016.
- 6.13 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'. Approximately 8 hectares of the very western portion of the site is also designated as a 'Local Green Gap' which, for this area, is designed primarily to safeguard the open character of important breaks between separate neighbourhoods and maintain their individual character. On its frontage with Long Road, approximately 0.3 hectares of the land is allocated through Policy LMM2 of adopted Local Plan for a new fire station.
- 6.14 In the emerging Local Plan, the western part of the site, comprising the same 8 hectares referred to above, is allocated for mixed-use development and has been included within the revised settlement development boundary. The Local Green Gap designation for this area is not carried forward into the emerging Local Plan. The allocated area is the subject of Policy MLM5 in the emerging local Plan which is explained below. The remaining 15 hectares of the site east of 154 Long Road remains outside of the settlement development boundary in the emerging Local Plans and is not allocated for development. Part of the site's frontage onto Long Road, east of 80 Long Road is designated as part of a 'Strategic Green Gap' and is separated, by Long Road, from the Manningtree and Mistley Conservation Area which was extended in October 2010 to include the land north of Long Road. The allocation of land for a new fire station in this location does not feature in the emerging Local Plan.
- 6.15 On 12th April 2016, the Local Plan Committee gave provisional agreement to the sites to be included for housing and mixed-use development in the new version of the Local Plan to allow consultation on preferred options. On 9th June 2016, the Local Plan Committee will have considered more details of the new consultation draft with a view to its approval by Full Council on 5th July.
- 6.16 The application site is proposed for inclusion in the Local Plan in its entirety with an indicative dwelling capacity of 360 dwellings, which corresponds with the proposal in this outline application. The Local Plan Committee's resolution and the provisional inclusion of the site in the new Local Plan carry no material weight as a planning consideration until the new plan is formally published for consultation, at which point it will replace the emerging plan described above. However, it indicates an intention for this site to contribute towards meeting the district's future housing need and if this application were to be refused on matters of principle, alternative provision would need to be made through the Local Plan.
- 6.17 Because the site lies outside of the settlement development boundary as defined in the adopted Local Plan, it is technically contrary to local policy. However the adopted and emerging Local Plans fall significantly short in identifying sufficient land to meet the 'objectively assessed' future need for housing which is a key requirement of the NPPF. As a result, the Council is also currently unable to identify a five-year supply of deliverable housing sites, plus a 5-20% buffer, as required by paragraph 47 of the NPPF.
- 6.18 Based on the evidence contained within the 'Objectively Assessed Housing Needs Study (July 2015) for Braintree, Chelmsford, Colchester and Tendring, the projected need for housing in Tendring is 550 dwellings per annum. Whilst this figure is still the subject of continued scrutiny by the Local Plan Committee and could change, it currently provides the most up to date evidence on which to base the calculation of housing land supply. In applying the requirements of NPPF paragraph 47 to this requirement, the Council is currently only able to identify an approximate 3.2 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.

- 6.19 '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.
- 6.20 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.
- 6.21 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', 'key rural service centres' and 'smaller rural settlements' are considered to offer lesser sustainable locations for major development.

Other developments under consideration in the area

- 6.22 This application is one of many major residential-led developments proposals either approved, under construction or still under consideration in the Manningtree, Lawford, Mistley and wider Brantham (Babergh District Council) area for which both the individual and cumulative impacts need to be considered. These applications include:
- A) B/15/00263 - Brantham Industrial Estate, Factory Lane, Brantham, Suffolk:** 320 dwellings and 55,000 sqm of commercial floor space (approved by Babergh District Council subject to the completion of a s106 legal agreement).
 - B) 15/00876/OUT – Land East of Bromley Road, Lawford, Essex:** 360 dwellings and community facilities (this application).
 - C) 15/00761/OUT – Land South of Long Road and West of Clacton Road, Mistley, Essex: 300 dwellings and 2 hectares of employment land** (recommended for approval – see separate report).
 - D) 14/01050/DETAIL – Land at Dale Hall, Coxs Hill, Lawford, Essex (Summers Park):** 150 dwellings and 700 sqm of business use (under construction).
 - E) 15/01520/OUT – Land South of Harwich Road, Mistley, Essex:** 135 dwellings including flexible building and allotments (approved subject to the completion of a s106 legal agreement).
 - F) 11/00532/OUT – Land off Trinity Road, Mistley, Essex: 75 dwellings** (application yet to be determined with further information from the applicants expected).
 - G) 15/01810/OUT – Land North of Stourview Avenue, Mistley, Essex:** 70 dwellings (application still under consideration).

- H) 12/00427/FUL – Thorn Quay Warehouse, High Street, Mistley, Essex:** 45 dwellings, quay level warehouse floorspace, office floorspace and car parking provision (permission granted in 2014).
- I) 12/00109/FUL – Crown Building, Former Secret Bunker, Shrubland Road, Mistley, Essex:** 31 dwellings (permission granted in 2013).
- J) 15/01787/FUL - Site to South of Pound Corner, Harwich Road, Mistley, Essex:** 25 dwellings (deferred by Committee to require changes to the application).
- K) 11/00530/OUT - Land off Colchester Road, Lawford, Essex: 15 dwellings** (application yet to be determined with further information from the applicants expected).

6.23 In total, these applications have the potential to deliver more than 1,500 dwellings of which almost 700 have either already received planning permission, have been approved subject to a s106 agreement or are under construction. Importantly, application 15/00761/OUT for up to 300 dwellings and 2 hectares of employment land immediately east of the application site (off Long Road, Mistley) is the subject of an appeal against non-determination but will no longer be contested by the Council following the Committee's resolution on 18th May 2016. This is because the cumulative impact of this and other developments in the area have now been properly assessed and appropriate mitigation can be achieved. In a separate report, that application is now recommended for approval.

Policy MLM5 in the 2012/14 Draft Local Plan

- 6.24 The western 8 hectares of the site allocated for residential and mixed use development in the emerging Local Plan is the subject of Policy MLM5 in the emerging Local Plan (2012/14 Draft). Whilst that emerging policy can only be afforded limited weight in the determination of this application, the applicant has sought to comply with the requirements of that policy; requirements that had been informed by the applicant's previous community consultation efforts. Whilst Policy MLM5 applied to what was envisaged to be a smaller development including around 100 dwellings, Officers have assessed whether the current application complies with spirit of that policy.
- 6.25 Criterion a) of Policy MLM5 requires that the only point of vehicular access shall be from Bromley Road. Clearly the application does not comply with this requirement as it proposes a second access point onto Low Road, but within the portion of the site allocated in the emerging plan only the one access is proposed. The intention behind this requirement was to avoid access points from Dead Lane and on this basis Officers conclude that the application complies with the spirit of criterion a).
- 6.26 Criterion b) of Policy MLM5 requires that a community building be delivered as part of the development with the specification to be agreed with Lawford Parish Council. The application does provide for a community building, the detail of which would be the subject of a later reserved matters application. It is noted that that Lawford Parish Council offers no objection at this outline stage and reserves the right to comment on the later detailed application, if outline permission is to be granted. Officers conclude that the application complies with the spirit of criterion b).
- 6.27 Criterion c) of Policy MLM5 requires the development to set aside an area of land for the provision of a junior camping field for the Venture Centre. Provision for a junior camping field is made within the outline application. It would most likely form part of a larger open space to be managed by either the District or Parish Council and leased or rented, as appropriate, to the Scouts. The size and location and size of the junior camping field will be need to be determined through a later reserved matters application if outline permission is to be granted. Officers conclude that the application therefore complies with the spirit of criterion c).

- 6.28 Criterion d) of Policy MMLM5 requires 1 hectare of land to be set aside for new public open space in addition to the new camping field. The development envisaged in the emerging Local Plan was for around 100 dwellings on a site covering just under 8 hectares of land for 10% would be just under 1 hectare. However, a site of 23 hectares would have a 2.3 hectare open space requirement. Subject to the appropriate area of land being identified through a later reserved matters application and secured through a s106 legal agreement and transferred to an appropriate body, with a commuted payment towards ongoing maintenance, Officers conclude that the application, based on the material provided at this outline stage, complies with the spirit of criterion d).
- 6.29 Criterion e) of Policy MLM5 requires a new access point and dedicated pick up and drop off area, off Bromley Road, to serve Lawford Church of England Primary School. This is proposed as part of the outline application and the location, size, layout and access arrangements will be determined through a later reserved matters application. Officers conclude therefore that the application, at this outline stage, also complies with the spirit of criterion e).
- 6.30 Criterion f) of Policy MLM5 requires a new children's play area. This is also proposed as one of the land uses for which outline permission is being sought. Again, Officers conclude that the application complies with the spirit of criterion f) and that the size, location and details of the facility will be determined through a later reserved matters application.
- 6.31 Criterion g) of Policy MLM5 requires a safe pedestrian footpath to enable movement between the development and the established built-up area in Wignall Street. One of the planning conditions recommended by the Highway Authority is to provide a minimum 2 metre wide footway along the north-east side of the Bromley Road carriageway between the proposal site access and existing footway. In complying with this planning condition, the scheme will achieve the desired pedestrian footpath and thus comply with criterion g).
- 6.32 Criterion h) of Policy MLM5 requires that the development be designed in a way that ensures the protection and enhancement of the setting of Grade II Listed Lawford House, located to the west on the opposite side of Bromley Road. The detailed layout, design and appearance of the development are matters for determination through a later reserved matters application but in principle Officers consider that an appropriate design should be comfortably achievable within the area of land under consideration. Subject to such details being acceptable to the Council, the proposal complies with criterion h).
- 6.33 Criterion i) of Policy MLM5 requires a minimum 20 metre landscaping buffer along the south and south western edges of the site including the use of appropriate species of vegetation native to the area. No details have been submitted at this stage to demonstrate how this requirement will be achieved but this would need to be determined through a later reserved matters application but given the area of the site under consideration, Officers consider that the scheme has the potential to comply with the spirit and the objective of criterion i) which is to secure an appropriate visual relationship between the built development and the wider open countryside.
- 6.34 In conclusion, whilst matters of detail will be for determination through a later reserved matters application, Officers consider that the proposal has the potential to comply with the spirit of Policy MLM5 in the emerging Local Plan and refusal of outline permission against any of its criteria would not be justified, particularly given the limited weight that can legitimately be afforded to that policy whilst the new Local Plan is still at an early stage of preparation and the policy, or a future equivalent, is yet to be formally examined.
- 6.35 In principle, Officers are content that the proposal complies with the thrust of national, local and emerging policy and subject to specific or detailed matters being properly addressed, there should be a presumption in favour of granting outline planning permission.

Highways, transport and accessibility

- 6.36 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.

Accessibility

- 6.37 Policy QL2 in the adopted Local Plan and Policy SD8 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 immediately adjoining Lawford Church of England Primary School for which a new alternative point of access, via the development is proposed. It also immediately adjoins the Venture Centre.
- 6.38 The site is located between 800 metres and 1 kilometre (depending on which part of the site homes are located) of Lawford Surgery in Colchester Road and between 900 metres and 1.5 kilometres of the Manningtree High School. It is also between 2 and 2.5 kilometres of the mainline railway station and it is a similar distance to Manningtree Town Centre and Lawford Dale Industrial Estate.
- 6.39 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 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.
- 6.40 When compared with many greenfield sites across the Tendring district, the location of this site represents a relatively good level of accessibility which is reflected in Manningtree, Lawford and Mistley's categorisation in the adopted and emerging Local Plans as a town or an urban settlement. Subject to details of pedestrian, cycleway and highway connections being acceptable, the site's reasonable accessibility to job opportunities, services and facilities in the area considered alongside the additional facilities proposed as an integral part of the development, in Officers' view, supports a presumption, in principle, in favour of granting outline planning permission.

Highway safety and capacity

- 6.41 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. 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.
- 6.42 Highway capacity is a significant matter in the Manningtree, Lawford and Mistley (and Branham) area and the A137 in particular is known to be the subject of regular queuing congestion during peak periods, as highlighted by the majority of residents that have

objected to this planning application. Queuing at the railway crossing is a known problem in the area which is identified in Policy PRO1 in the Council's emerging Local Plan as a key priority for action. In support of the planning application, the applicant submitted a Transport Assessment that sought to demonstrate how the additional vehicular movements resulting from the development could be accommodated on the highway network. However, because this was one of a number of planning applications for major development under consideration in the area, the cumulative impacts required further collaborative assessment under the direction of Essex and Suffolk County Council as the relevant local Highway Authorities. This additional assessment has led to a long delay in determining this application.

- 6.43 Having considered the applicant's transport assessment and the potential cumulative impacts on traffic, the Highway Authority has concluded that this development is one of three that, together, could have a severe impact on traffic and queuing at the railway crossing that might need to be mitigated. The three developments in question are this application, the Brantham development (now approved subject to a s106 legal agreement) and the Long Road application (subject of an appeal that will no longer be contested).
- 6.44 To resolve cumulative traffic concerns, Essex and Suffolk County Councils have agreed that all three developments will need to make a proportionate financial contribution towards a £150,000 fund that will be used by ECC Highways to implement traffic management measures at the railway crossing if ongoing monitoring shows them to be necessary. The measures could include but would not be limited to, signalised controls and/or reversing the priority in favour of Suffolk-bound traffic. Bridge widening or other more radical solutions to the queuing problems in this location, as suggested by some residents, are considered to be cost-prohibitive and unlikely to be deliverable without significant public funding.
- 6.45 The financial contribution from the Bromley Road development would be £45,000 and this will be secured through a s106 legal agreement if the Committee is minded to approve this application. The applicants have indicated that they are willing to make this contribution. For information, the contributions sought from the Brantham and Long Road developments are £90,000 and £16,000 respectively. The apportionment of the contributions is based on the anticipated traffic increases arising from each development as derived from their transport assessments.

Duty to cooperate

- 6.46 Section 33A of the Planning and Compulsory Purchase Act 2004, as amended by Section 110 of the Localism Act 2011 places a duty upon local authorities and other public bodies to cooperate on strategic matters of cross-boundary significance. Babergh District Council had raised an objection to this planning application on the basis of the potential impact on the development of a site in Brantham which is formally allocated in Babergh's adopted Core Strategy (part of its Local Plan) which is seen as a key regeneration scheme for the area and which is the subject of a planning application in its own right. Babergh District Council was concerned that the cumulative effects of various developments in the area on the highway network, in particular the A137 and the railway crossing, had not been fully considered and addressed and might therefore jeopardise the timely delivery of the regeneration scheme.
- 6.47 Now that Essex County Council and Suffolk County Council as neighbouring Highway Authorities have assessed the cumulative impact and have agreed with the solution explained above, Babergh District Council's concerns have been addressed, it has been able to approve the Brantham development scheme (subject to a s106 legal agreement), and there are no longer any concerns about failure to comply with the legal duty to cooperate.

Vehicular access

- 6.48 The application proposes two points of vehicular access for which detailed approval is being sought. The proposed junction onto Bromley Road is a traditional standard road junction and the junction onto Long Road would include a dedicated right turn lane. These arrangements are considered acceptable to the Highway Authority and conditions are recommended to ensure they are constructed to specified dimensions.

The School picking up/dropping off area

- 6.49 Part of this outline proposal is to create a new access to Lawford Church of England Primary School, through the development via Bromley Road, with a dedicated parking, picking up and dropping off area that will negate the need for parents to pick up and drop off their children at the current access point in Wignall Street. The current arrangements are of great local concern, contributing toward queuing during peak periods and increasing the risk to pedestrians including children. The proposed arrangements are a key element of the applicant's proposal and have been included following many years of discussion and consultation with the Parish Council and staff at the school.
- 6.50 Whilst a number of local objectors have raised concern that the proposed new access and picking up and dropping off area will only succeed making car usage more convenient and therefore promoting additional traffic, in this case the potential to improve pedestrian safety and ease traffic issues along the main road is of considerable benefit and weighs heavily in favour of the development. Furthermore, by having a large amount of Lawford's future residential development in a location immediately adjoining the school with direct access, it should help to promote walking and cycling to the school and, subject to sufficient school places being created in the future (which is covered elsewhere in this report) should, over time, reduce the need to travel long distances for schooling and ensure, as far as possible, that children can attend a primary school within their local catchment area. Details of the size, location and access arrangements of this facility will be for agreement through a future reserved matters application.

Local Green Gap

- 6.51 The western section of the site extending from Bromley Road, beyond Milton Road is designated, in the adopted Local Plan, as a 'Local Green Gap' where Policy EN2 aims to keep Local Green Gaps essentially free of development. The objective of this specific green gap, as set out in the text of the Local Plan, is to safeguard the open character of the important breaks between these settlements and (in this case) between separate neighbourhoods and to maintain the individual character of the settlements and neighbourhoods.
- 6.52 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 current version of the emerging Local Plan, many of the Local Green Gaps, including this one, are proposed to be removed following a review of the policy. The whole of the site shown as Local Green Gap in the adopted Local Plan is specifically allocated for development in the emerging plan.
- 6.53 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 for 240 dwellings off Rush Green Road, Clacton; 15/00964/OUT for 71 dwellings off Mayes Lane, Ramsey; 15/01710/OUT for 110 dwellings off Thorpe Road, Kirby Cross; and 15/01550/OUT for 98 dwellings off The Street, Little Clacton. Two of these sites (namely Rush Green Road and Mayes Lane) are, like this application site, specifically allocated for housing in the emerging Local Plan.
- 6.54 The Council has also now received two appeal decisions for Local Green Gap sites. The first relates to an outline planning application for up to 60 dwellings on land north of Harwich

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

- 6.55 However, there has since been a decision by the Court of Appeal (Cheshire East Borough Council v Secretary of State for Communities and Local Government & Anr. Case Number: C1/2015/0894) in which three judges overturned an earlier High Court decision which had determined that green gap policies are not housing policies and should not be considered out of date if a Council cannot identify a sufficient supply of housing land. In overturning the High Court's decision, the Court of Appeal judges concluded that the concept of 'policies for the supply of housing' should not be confined to policies in the development plan that provide positively for the delivery of new housing in terms of numbers and distribution or the allocation of sites. They concluded that this concept extends to policies whose effect it is to influence the supply of housing land by restricting the locations where new housing may be developed – including, for example, policies for the green belt, policies for the general protection of the countryside, policies for conserving the landscape of Areas of Outstanding Natural Beauty and National Parks, policies for the conservation of wildlife or cultural heritage, and various policies whose purpose is to protect the local environment in one way or another by preventing or limiting development.
- 6.56 Notwithstanding the appeal decisions at Little Oakley and Kirby-le-Soken, the implication of this legal ruling is that the Council cannot simply refuse planning permission for development within Local Green Gaps on the basis that the Local Green Gap policy should carry 'full weight'. Instead, the Council must apply the key test within the NPPF to determine whether or not the adverse impacts of development would significantly and demonstrably outweigh the benefits – weighing up the presence of the Local Green Gap policy in the overall planning balance.
- 6.57 For this application, 1) the Local Green Gap designation in this location can no longer carry 'full weight' in the determination of applications, 2) the designation is proposed for removal altogether in the emerging Local Plan, 3) the Council is still unable to identify a 5-year supply of deliverable housing sites and 4) the applicant's intention is to locate the community hub containing open space within the green gap area which will maintain a sense of openness and separation. It is Officers opinion, that the significant benefits associated with this development clearly outweigh any concerns about loss of green gap in this location and a recommendation of refusal would not be justified in this instance.

Dedham Vale Area of Outstanding Natural Beauty

- 6.58 The Dedham Vale Area of Outstanding Natural Beauty (AONB) is located to the north west 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. Natural England, the Dedham Vale and Stour Valley Project and the Council's own Principal Trees and Landscapes Officer have commented to remind the Council of this requirement.
- 6.59 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.

- 6.60 The Council's Principal Trees and Landscapes Officer has 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. He has also made it clear however that AONB designation is not intended to prohibit development but to ensure that care is taken so that any development does not cause harm to the character, qualities and setting of the AONB.
- 6.61 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 the AONB, 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.
- 6.62 Because the site is separated from the AONB by existing built development and as it intended that the community hub and open space will be located at the site's most north westerly corner, closest to the AONB, 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 or Policy EN5 of the adopted Local Plan.

Landscape, visual impact and trees

- 6.63 Whilst Officers have concluded that the site's location within the Local Green Gap and within a short distance of the Dedham Vale Area of Outstanding Natural Beauty do not justify the refusal of planning permission on a matter of principle, Policy QL9 in the adopted Local Plan and Policy SD9 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 PLA5 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 SD9 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.
- 6.64 The applicant has undertaken a Landscape and Visual Appraisal which considers important elements of the landscape and the potential visual impact of the proposed development from different viewpoints around the site. The assessment takes into account the Council's own Landscape Character Assessment and Historic Environment Characterisation Reports for Tendring as well as a 2009 Landscape Impact Assessment prepared for the Council as evidence in support of the emerging Local Plan, which assessed the application site. In the Council's own assessment, the land was rated as having low to medium landscape quality and value; low to medium physical sensitivity; low to medium visual sensitivity; and low to medium capacity to accept change.
- 6.65 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. For landscape impacts, the assessment concludes that there will naturally be a change in character resulting from the development but that with careful layout, design, appropriate planting and mitigation, the significance of any impacts could be reduced. For visual impacts, the assessment concludes that because the development would be set against the context of existing road infrastructure, woodland planting and the existing settlement edge,

the impacts would not significant and again, with careful layout, design and appropriate planting and mitigation, the visual effects would be reduced and help integrate the development into its context. In addition, the likely approval of application 15/00761/OUT for 300 dwellings and 2ha of employment land off Long Road and Clacton Road, Mistley further reinforces the view that development will take place against a context of other development and infrastructure.

- 6.66 The Council's Principal Trees and Landscapes Officer advises that if consent were to be granted, the soft landscaping of the whole site would be crucial to the successful integration of the built development into the local environment. Special attention will need to be given to boundary treatments and trees shrubs and hedges will need to be an integral part of the design and layout of the development. The proposal may provide the opportunity to improve the juxtaposition of the built environment with the adjacent countryside by securing strong boundary landscaping. Such details would be required at reserved matters stage.
- 6.67 The applicant's assessment is consistent with that of the Council's reports and the advice of the Principal Trees and Landscapes Officer, so Officers concur that the landscape and visual impacts would not significantly or demonstrably outweigh the benefits of the development. The Landscape and Visual Appraisal then goes on to make a series of recommendations to be followed in the detailed design which will be considered at reserved matters stage if the Committee is minded to approve.
- 6.68 In terms of impact on any trees, the Principal Trees and Landscapes Officer confirms that the main body of the land is in agricultural use and that the most significant trees and hedgerows are situated on the perimeter of the land. A tree survey has been submitted by the applicants which meets British standards and the Officers are satisfied that the development could be implemented without causing harm to retained trees, particularly given the land available for the development to provide open spaces and housing at a comfortable density.
- 6.69 Trees will be affected by the proposed access points. The access onto Long Road will require the removal of two short sections of hedgerow and the pollarding of a mature Sweet Chestnut tree but the Council's Principal Trees and Landscapes Officer is content that any harm can be easily mitigated through replacement planting. The Bromley Road access will require the removal of some trees and a section of hedgerow but again it is felt that the harm can be easily mitigated and compensated for by new planting.
- 6.70 The Trees Officer has suggested that the suggested removal of Lime to enable alterations to the access to the Venture Centre be avoided if possible with such details of alternative arrangements to be considered at the reserved matters stage.
- 6.71 In conclusion, Officers consider that from a landscape, visual impact and trees perspective, any adverse impacts would not outweigh the overall benefits of the development and any harm caused by the loss of particular trees or areas of hedgerow can be easily mitigated and compensated for. With the addition of new trees and landscaping throughout the site, the overall impact in terms of diversity within the scheme has the potential to be positive.

Flood risk and drainage

- 6.72 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.

- 6.73 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 PLA1 of the adopted and emerging Local Plans (respectively) and therefore addresses the flood risk element of the environmental dimension of sustainable development.

Ecology

- 6.74 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.
- 6.75 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.
- 6.76 In July 2015, Natural England wrote 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. 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 (a more detailed 'phase 2' assessment of significant impacts) under the Birds or Habitats Directives is being considered, planned or determined.
- 6.77 Notwithstanding the distance of the development from the designated area and the intention to include significant areas of open space within the development for recreational use, Natural England and other bodies were concerned that insufficient information had been provided by the applicant to enable the Council to make a sound assessment of whether or not there would be a significant indirect impact arising from recreational disturbance. On the advice of Officers, the applicants have since undertaken a Habitat Regulation Assessment that considers both the potential impacts arising from the proposed development and the 'in-combination' affects when considered alongside other proposals planned for the area. Natural England has been consulted on this assessment and, in May 2016, confirmed that the information provided suggests that there would not be a significant impact and therefore a further 'Appropriate Assessment' will not be necessary.
- 6.78 Natural England did however highlight a number of areas where the applicant's report could be improved and their ecologist has since submitted additional information to address these

areas. The assessment recommends that to mitigate potential impacts on the Stour Estuary, informal recreation areas within the application site are designed and maintained to be attractive for dog walkers and that publicity is provided to create awareness of these areas as well as the Public Rights of Way within the vicinity of the site. A financial contribution toward the ongoing monitoring of activity along the western section of the SPA/Ramsar site is also suggested.

- 6.79 To establish the ecological value of the application site itself, the applicant has prepared and submitted a Phase 1 Ecological Assessment. Being in predominantly agricultural use, the ecological value of the site was generally expected to be low but consideration still needs to be given to any habitats potentially occupying the boundaries of the site. The assessment identifies that the field boundaries and hedge-lines within the site vary considerably in their structure and their ecological conservation value with some of insufficient value to be identified as priority habitats but others with potential to provide dispersal and foraging routes for a variety of bat species and a habitat for nesting birds. The Phase 1 assessment therefore recommended further species-specific survey work be undertaken in order to inform the planning process at the detailed stage.
- 6.80 The Council, in determining planning applications, must have sufficient information available to them to be able to make an informed assessment of the potential impact of development on protected species and the potential for any harm to be avoided, mitigated or compensated – even at outline stage. Officers therefore requested more detailed bat surveys.
- 6.81 The applicants undertook a Bat Roost Survey which assessed all trees in and around the site and its boundaries for their potential as possible bat roost sites, with particular attention being paid to any tree or group of trees that might be affected by the development. The survey, undertaken by a qualified licensed and experienced bat ecologist, identified that the internal hedge-lines and most field boundaries contained very few trees with the potential for bat roosts and that hedge connectivity between most trees was fragmented and unsuitable for bat dispersal routes. The survey concludes that there are no trees on the site with any potential bat roost and no further surveys will be required to confirm bat roost presence or absence.
- 6.82 The survey did however identify that the trees along the Bromley Road frontage opposite Lawford House, an area that is currently unlit, forms a dark corridor that may be used as a flight line by commuting (as opposed to roosting) bats. It was therefore recommended that no tree or removal works be undertaken in this section of the site until summer bat activity surveys have been conducted to determine bat activity along this road. To confirm whether or not that this level of information was sufficient for the Council to be able to approve outline planning permission and still comply with its legal obligations, Officers consulted Natural England on the content of the survey. Natural England has advised that because the survey confirms that no bat roosts are likely to be affected by the development, it would be acceptable in this case to approve outline permission with further detailed activity surveys to inform the detailed design, layout and lighting arrangements being secured through planning condition.
- 6.83 Notwithstanding this, the applicant has already instructed ecologists to undertake bat activity surveys, the first of which has already been carried out – confirming the presence of common pipistrelle pipistrellus pipistrellus and soprano pipistrelle pipistrellus pygmaeus bats along the southern boundary of the site including hedgerows dissecting the site, but with levels of activity being low. No bat activity has been noted at the proposed access point to the site where the removal of trees will be required. The likely mitigations measures that will need to be secured at the detailed stage will include minimising lighting levels during construction and operation phase, restrictions to lighting times, planting of trees and hedges and erection of bat boxes, with the potential to bring about an overall improvement to the bat environment. More surveys are scheduled to be carried out over this summer and these will inform the detailed design, layout and mitigation package for the scheme.

- 6.84 All of the necessary mitigation measures and additional surveys shall be secured through planning conditions should the Committee be minded to approve outline permission.

Heritage and archeology

- 6.85 The application site lies outside of the Manningtree and Mistley Conservation Area and there are no listed structures on the site that would be affected directly by the development however consideration still needs to be given to the potential impact on the setting of any designated heritage assets. 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.

- 6.86 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 PLA8 in the emerging Local Plan only allows development affecting a listed building or its setting where it meets a set of criteria.
- 6.87 For this application, the most significant and most directly affected heritage asset, as identified in the applicants' archaeological report, is the 17th Century Garde II Listed Lawford House off Bromley Road. However, views to and from the listed building are substantially screened by the trees and vegetation both within its grounds and the thick belt of trees along both sides of Bromley Road in this location. In Officers' view the impact of development on the setting of this listed building is likely to be negligible and would be 'less than substantial' in NPPF terms. In weighing harm against public benefits in line with paragraph 134 of the NPPF, the development would be acceptable. Indeed criterion h) of Policy MLM5 requires the detailed design and layout to respect the setting of the listed building and Officers are content that there is plenty of scope for this to be achieved.
- 6.88 The applicants archaeological assessment also provides a preliminary archaeological desk based assessment of potential archaeological remains beneath the ground. It notes that archaeological finds have been unearthed on the neighbouring housing estate to the north and elsewhere in the wider Manningtree area with archaeological cropmarks affecting part of the site in its south eastern corner. However, the archaeologist at Essex County Council is concerned that the assessment does not meet the requirements of the NPPF, having been undertaken back in 2010, and not providing comprehensive enough coverage to meet the requirement for an 'appropriate desk-based assessment' in paragraph 128 of the NPPF. The archaeologist has suggested that a revised and updated archaeological desk based assessment be provided before this application is considered further.
- 6.89 Because the potential presence of archaeological finds is not likely to prevent development from taking place in principle, Officers are satisfied that a more comprehensive archaeological survey along with trial trenching can be secured by condition to inform the detailed stage. Notwithstanding ECC's objection, Officers recommend conditions to ensure the necessary assessments are undertaken.

Education provision

- 6.90 Policy QL12 in the adopted Local Plan and Policy SD7 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 360 new homes, particularly when considered alongside other proposals for major residential development under consideration in the wider area.
- 6.91 Essex County Council acting as the Local Authority with responsibility for ensuring there are sufficient school places in the county has been consulted on the planning application and has made representations. ECC's initial advice was submitted in response to this application in isolation however the cumulative effect of other potential developments in the area has also been taken into account. The developments that will have the most significant impact on education provision are this proposal for up to 360 homes off Bromley Road, the application for up to 300 dwellings on the adjoining land off Long Road, Mistley and the Brantham development which includes 320 homes.
- 6.92 The educational needs of the Brantham development are being addressed by Suffolk County Council which has advised that the development will generate the need for 78 primary school places and 67 secondary school places. The catchment schools for the development are Brantham Brooklands Primary School and East Bergholt High School. The secondary school has the capacity to accommodate the additional pupils expected from the development, but the primary school is expected to have a deficit of places and SCC has therefore requested a contribution of just over £950,000 from the Brantham development toward the creation of the additional places needed at Brantham Brooklands. The other large development at Harwich Road, Mistley for up to 135 dwellings was given approval by the Planning Committee on 19th April 2016 subject to a s106 agreement to secure contributions, as necessary, for primary and secondary provision.
- 6.93 The key consideration for this Council in determining this application therefore is the need for school places arising from the potential 360 homes on the application site and the cumulative need that might arise from this site in combination with the potential 300 homes on the neighbouring Long Road site (subject of a separate report). On the basis of the 360 homes on the Bromley Road site the proposal would generate a need for 32 Early Years and Childcare places, 108 primary and 72 secondary school places. In the event that the Long Road site is approved as recommended, ECC has advised that on the basis of 300 houses, the proposal on its own would generate a need for 27 Early Years and Childcare (EY&C) places, 90 primary school and 60 secondary school places. For 660 houses (in the event that both the Bromley Road and Long Road developments take place), there would be a need for 59 EY&C places, 198 primary places and 132 secondary places. These figures will continue to be monitored over time and could change by the time any development actually takes place – but they provide a robust basis upon which to consider the likely educational impacts of these developments.

Early Years and Childcare

- 6.94 For EY&C provision, ECC has advised that providers within the area and adjoining wards do not have capacity to accommodate children arising from a development of this size, so to create the 32 additional places that would be needed, a financial contribution of just under £440,500 is sought. ECC has also suggested that because it is unclear at this stage whether existing facilities can be expanded, particularly with other major development proposals also under consideration, a more cost effective solution might be the construction of a new facility as an integral part of the development, for which land should be set aside.
- 6.95 For the neighbouring Long Road development, ECC has requested just under £375,000, so if both developments were to succeed in gaining planning permission, a fund of up to

£800,000 could be secured, through s106 agreements, to address the cumulative demands for EY&C provision, with the possible need for land from one of the developments upon which a new facility could be constructed.

Primary School Provision

- 6.96 For primary school provision, Lawford Church of England Primary School, Highfields Primary School and Mistley Norman Church of England Primary School have a combined capacity of 630 places with a small surplus of places forecast by 2020 which will not be sufficient to accommodate all of the additional pupils arising from the developments either individually or cumulatively.
- 6.97 To create the additional primary school places that would be required, there are a number of different options. The minimum size for a new primary school is 210 places which equates to a 'single form of entry' (1FE) but schools can be expanded to double, or even triple forms of entry (2FE or 3FE) if the relevant school provider is willing and physically able to accommodate growth within the land constraints of their site. To address the needs arising from the Bromley Road development an additional half form of entry would be required which could be delivered either through the expansion of Lawford CofE Primary School or Highfields Primary School. The expansion of Highfields Primary School is likely to require either the acquisition of an the area of land adjoining the school which is owned by Tendring District Council or a long term extension to the existing leasing arrangement for this piece of land which is currently used as an extension to the school's playing field. Alternatively, an all-weather pitch could provide the additional playing field required.
- 6.98 To address the cumulative needs arising from both the Bromley Road and Long Road developments, if necessary, a full additional form of entry (210-places) would need to be created. This could be achieved by either expanding both Lawford CofE and Highfields Primary Schools by a half form of entry; expanding Lawford CofE by a whole form of entry (for which a small additional piece of land would need to be secured from the Bromley Road development through a s106 agreement); or by commissioning a brand new primary school and securing the necessary land from either the Bromley Road or Long Road developments through a s106 legal agreement. ECC favours the expansion of an existing primary school, or schools, rather than the provision of a new 1 form of entry primary school.
- 6.99 In either scenario, financial contributions are requested by ECC towards the provision of the additional places. For the Bromley Road development alone, the contribution would be around £1.3million and for the Long Road development the contribution could be up to £1.1million – or up to £2.4million in total.

Secondary school provision

- 6.100 For secondary school provision, Manningtree High School has a capacity of 870 places and is forecast to have a small surplus of places by 2020. Again, this will not be sufficient to accommodate additional pupils arising from the developments either individually or cumulatively. Expansion at the High School by either half or a full form of entry would need to be delivered through financial contributions being sought. For the Bromley Road development alone, the contribution would again be up to £1.3million with an additional £1.1million from the Long Road development if both schemes proceed – again up to £2.4million.

Health provision

- 6.101 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 SD7 in the emerging Local Plan, new

development needs to be supported by the necessary infrastructure, including health provision.

- 6.102 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.
- 6.103 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 SD7, 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.
- 6.104 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. In terms of secondary hospital provision, the NHS is responsible for investment that will ensure the growing population is properly served. The Council cannot refuse planning permission for major residential developments in response to local concerns about facilities at Colchester General Hospital, particularly as house building is a key government objective alongside the modernisation of the NHS.
- 6.105 For local primary healthcare provision however, 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.
- 6.106 The Manningtree, Lawford and Mistley area is served by two doctors surgeries, the Riverside Health Centre in Station Road and Lawford Surgery in Colchester Road. NHS England has identified that the proposed developments are likely to have an impact on the NHS funding programme for the delivery of primary healthcare provision within this area and specifically within the health catchment of the development. NHS England would therefore expect these impacts to be fully assessed and mitigated by way of a developer contribution secured through a s106 agreement.
- 6.107 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 £108,620 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, or future expansion at Lawford Surgery.
- 6.108 For this development on its own, NHS England requests a financial contribution of £108,620 to be secured through a s106 legal agreement. For information, the neighbouring Long Road development would also be required to make a proportionate contribution of £90,520 – almost £200,000 in total from the two schemes. The applicants for both schemes

have indicated that they are willing to enter into a s106 legal agreement to provide the contribution that has been requested.

Utilities

- 6.109 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.
- 6.110 UK Power Networks and National Grid have also commented on the application in terms of its impact on the electricity and gas networks. Because of overhead and underground power cables crossing the site, the detailed design will need to take this into account and the diversion of undergrounding/diversion of these power lines may be required – but there is no objection to development in principle. For gas, there is a gas pipeline close to the boundary of the site and the National Grid has asked to be informed of the Council's decision so it can make necessary arrangements with the developers to ensure the pipeline is not adversely affected by the development; but again there is no objection to the development in principle.

Open space

- 6.111 Policy COM6 in the adopted Local Plan and Policy PEO22 of the emerging Local Plan require large residential developments to provide at least 10% of land as public open space or otherwise make financial contributions toward off-site provision. The land use audit drawings submitted in support of the planning application show the proposed location of open spaces and other green areas and corridors. They indicate 10% of the overall site (2.3 hectares) being provided as community space including the proposed community building, primary school access, community building, junior camping field, village green, public open space and playground. It also makes provision, within the remaining 18.6 hectares to be developed for housing, for 15% of that land to be made up of green corridors, and landscape/ecological features. At this outline stage, Officers are content that the development can comply with Policies COM6 and PEO22 and, as explained earlier in this report, the spirit of draft Policy MLM5.
- 6.112 The Council's Open Space and Bereavement Service Manager had commented on the application and had identified a deficiency equipped play/formal open space in Lawford so any additional development in the Lawford area will increase demand on already stretched facilities. It is also noted that existing play sites are spread widely across the village with the nearest play area located a short distance from the development along Colchester Road. The development will need to provide additional play opportunities to ensure that existing deficiencies are not increased and that the existing play area is not over-used as a result of the additional homes. As the development includes the provision of a play area, this should not be an issue.
- 6.113 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.
- 6.114 It is 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

- 6.115 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 PEO10 in the emerging Local Plan, which is based on more up to date evidence on viability, requires 25% 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 25% requirement.
- 6.116 For this application it is proposed, as an alternative to the above approach, that 14 dwellings will be transferred or 'gifted' at nil cost to the Lawford Enterprise Housing Trust – a body that was set up off the back of the Summers Park development in Cox's Hill to provide affordable housing for local people. The Council's Housing Needs team has commented on this approach and has indicated its support.
- 6.117 If the Committee is minded to approve this application, Officers will seek to secure the necessary affordable housing through a s106 legal agreement.

Layout and density

- 6.118 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 including up to 360 dwellings plus all of the community benefits proposed can reasonably be accommodated on the application site in an appropriate manner. The applicant has not submitted any indicative diagrams showing how the development could be laid out and this is not a requirement at outline stage. They have however produced a broad-brush 'land use audit' which indicates how much land is expected to be used for housing, community facilities and open spaces and where, broadly, they are expected to be located on the site.
- 6.119 In order to assess whether or not the development has a reasonable prospect of being accommodated on the site in an appropriate manner, Officers have needed to consider the requirements of emerging Policy MLM5, the likely land-take of the various proposed uses, land required for open space and strategic landscaping and the residential density that might be appropriate for a development on this site and in this location.
- 6.120 The site has a total area of just under 23 hectares upon which is proposed to accommodate 360 dwellings on approximately 18.6 hectares with 15% of the residential area being taken up by green corridors and ecological/landscape areas. The net developable residential area would therefore be approximately 15.8 hectares and the average net density of development arising from 360 homes would be 23 dwellings per hectare. The net density of residential development in the immediate area ranges between 20 and 40 dwellings per hectare (dph). Examples include 24dph in Milton Road, 27dph in Long Road, 31dph in Cavendish Drive and 40dph in Hunter Drive. A proposed residential density of around 23 dwellings per hectare would therefore be appropriate for this location would provide scope for lower-density plots around the peripheral areas of the site in line with the applicant's 'sensitive rural boundaries' concept. Officers are satisfied that the scale of development proposed can be accommodated on the site in a reasonable manner.

Other matters

- 6.121 Most of the concerns raised by local objectors to the proposal are addressed in the report above, but here is a response to some of the other matters that were raised.

Principle of development

- 6.122 Whilst it is acknowledged that a large number of current residents do not wish to see this development take place, the report above explains the Council's legal obligations in respect of housing supply and meeting projected housing needs through the planning system. The main concern appears to be the individual and cumulative impact on local infrastructure including roads, schools, health facilities and utilities – all of which are addressed, from a technical planning perspective, above.

Use of greenfield agricultural land

- 6.123 Many people are concerned about the principle of developing on greenfield agricultural land. Whilst it is always the preference to use previously developed 'brownfield' sites as a priority, the Council's work on the new Local Plan demonstrates that there is simply not enough brownfield land in the Tendring district to meet projected housing requirements and there needs to be an acceptance that the majority of new housing over the next 15-20 years will have to take place on greenfield land. Paragraph 112 in the NPPF says that Councils should take into account the economic and other benefits of the best and most versatile agricultural land. Where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality. Through the Local Plan process, this along with other planning considerations has been taken into account and the Local Plan Committee has resolved that this is one of the greenfield agricultural sites, amongst others, that should be allocated for development in the new plan.

Proportionate housing stock increase

- 6.124 Objectors have suggested that this development, particularly when considered alongside others, is disproportionate in scale for this area. If approved, this development of 360 dwellings would represent an approximate 10% increase in the dwelling stock of Manningtree, Lawford and Mistley as an urban settlement. With all developments under consideration in Manningtree, Lawford and Mistley (listed under paragraph 6.22 in the report above), excluding the Brantham development, the percentage increase would be closer to 32%. However, as a designated urban settlement (as opposed to a lower order 'Key Rural Service Centre' or 'Smaller Rural Settlement') there is an expectation that the Manningtree, Lawford and Mistley area, along with other urban areas including Clacton, Harwich and Frinton/Walton will accommodate a larger proportion of the district's growth. So long as the cumulative infrastructure and environmental demands of the developments can be addressed through appropriate mitigation measures, there is not reason in principle why a 32% increase in housing stock cannot be accommodated – although not all of the proposed developments will necessarily succeed in obtaining planning permission.

Need for the development

- 6.125 Whilst some objectors question the need for housing, government policy dictates that Council's must make provision to meet objectively assessed housing needs and the Council's own evidence, which has been prepared by expert consultants in partnership with other neighbouring authorities, shows a significant projected need for new homes over the next 15-20 years. Some objectors have also questioned the need for some of the community facilities proposed as part of the development including the community hub, the village green, the junior camping field, toilets and Parish Council building – suggesting that these are diversionary 'sweeteners' in order to gain planning permission for the housing. Officers emphasise that the need for these facilities has been identified by the developer through their active consultation and cooperation with local stakeholders over a number of years and it is to the developer's credit that these form part of the proposed development package.

Employment

- 6.126 A number of objectors have raised concern about the lack of employment opportunities in the area and the likelihood that many residents will probably end up being commuters. Employment is a matter to be addressed through the Local Plan and indeed the Council's own Economic Development Strategy (2013) recommends housebuilding as a means of generating demand for goods and services and thereby supporting economic growth and job creation. The provision of community facilities and the expansion of local schools and surgeries would, if delivered, provide some local employment opportunities and there would also be temporary jobs in construction and other supply-chain industries throughout the course of the development. The sites location within reasonable proximity of mainline rail services to London makes it an ideal location for commuters who will ultimately have a positive impact on the economy by increasing local expenditure. With these factors in mind, the Council would not be justified in refusing this particular planning application due to a lack of employment in the area.
- 6.127 It should also be noted that the development proposed for the adjoining land off Long Road (15/00761/OUT) which is recommended for approval in a separate report, makes provision for up to 2 hectares of employment land which, if developed, will provide additional employment opportunities in the future.

Environmental Impact Assessment

- 6.128 A range of environmental matters including ecology, landscape impact and flooding are considered in detail elsewhere in this report. The Council had considered the need for Environmental Impact Assessment (EIA) for this development and issued a screening opinion to indicate that the environmental impacts were not significant enough to require EIA; however to address Natural England's concerns about potential recreational disturbance on the internationally important habitats at the Stour Estuary (both individually and in combination with other plans and projects), the applicant has produced a Habitat Regulations Assessment report which confirms that the environmental impacts would not be significant and that a further 'appropriate assessment' will not be required. Even in taking the cumulative impacts of the Bromley Road, Long Road and other proposed developments into account, the Council remains satisfied that full Environmental Impact Assessment is not required and that impacts have been adequately assessed through the reports submitted in support of the various applications.

Impact on residents

- 6.129 Many residents are understandably concerned about the impact of development on their quality of life. In terms of disturbance during the construction phase, the developer would be required, through planning conditions, to submit a comprehensive construction methods statement for the Council's approval before any development can commence. This will be scrutinised by the Council's Environmental Health Officers before it is approved to ensure pollution and disturbance is kept to a minimum.
- 6.130 Impacts on the value of existing property and losses of views are not material planning considerations that can carry weight in the determination of the planning application and the suggestion that lots of people will leave the area if the development goes ahead is simply not something Council can legitimately take into account.

Overall Planning Balance

- 6.131 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.

- 6.132 Economic: Whilst, with the exception of the proposed community building, the scheme is predominantly residential with no commercial premises provided, up to 360 dwellings would generate significant additional expenditure in the local economy which has to be classed as a strong economic benefit. There will also be temporary jobs in construction whilst the homes are being built. It is noted that the applicant is a local developer based in Lawford who employs locally.
- 6.133 Social: The provision of up to 360 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, community facilities and new dropping off/picking up area for the local primary school which have been identified in consultation with local stakeholders and the community. 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.
- 6.134 Environmental: The environmental impacts of the proposal have required very careful consideration. The potential for increased recreational disturbance to the Stour Estuary has been given careful consideration and it is considered that the impact will not be significant, subject to the creation of open space within the site and information to encourage the use of these open spaces and the local public right of way network. The impact on the setting of nearby listed buildings is expected to be low. The ecological impact of development on the site and surrounding area itself, in particular the local bat population, has been carefully assessed and there is potential, overall, to improve conditions for bats. The loss of a small area of designated Local Green Gap is not considered to outweigh the benefits of the development, particularly in light of recent appeal court judgements and the applicant's intention to maintain a sense of openness in this area with the creation of open space.
- 6.135 In the overall planning balance, Officers consider that the adverse impacts are limited and 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.

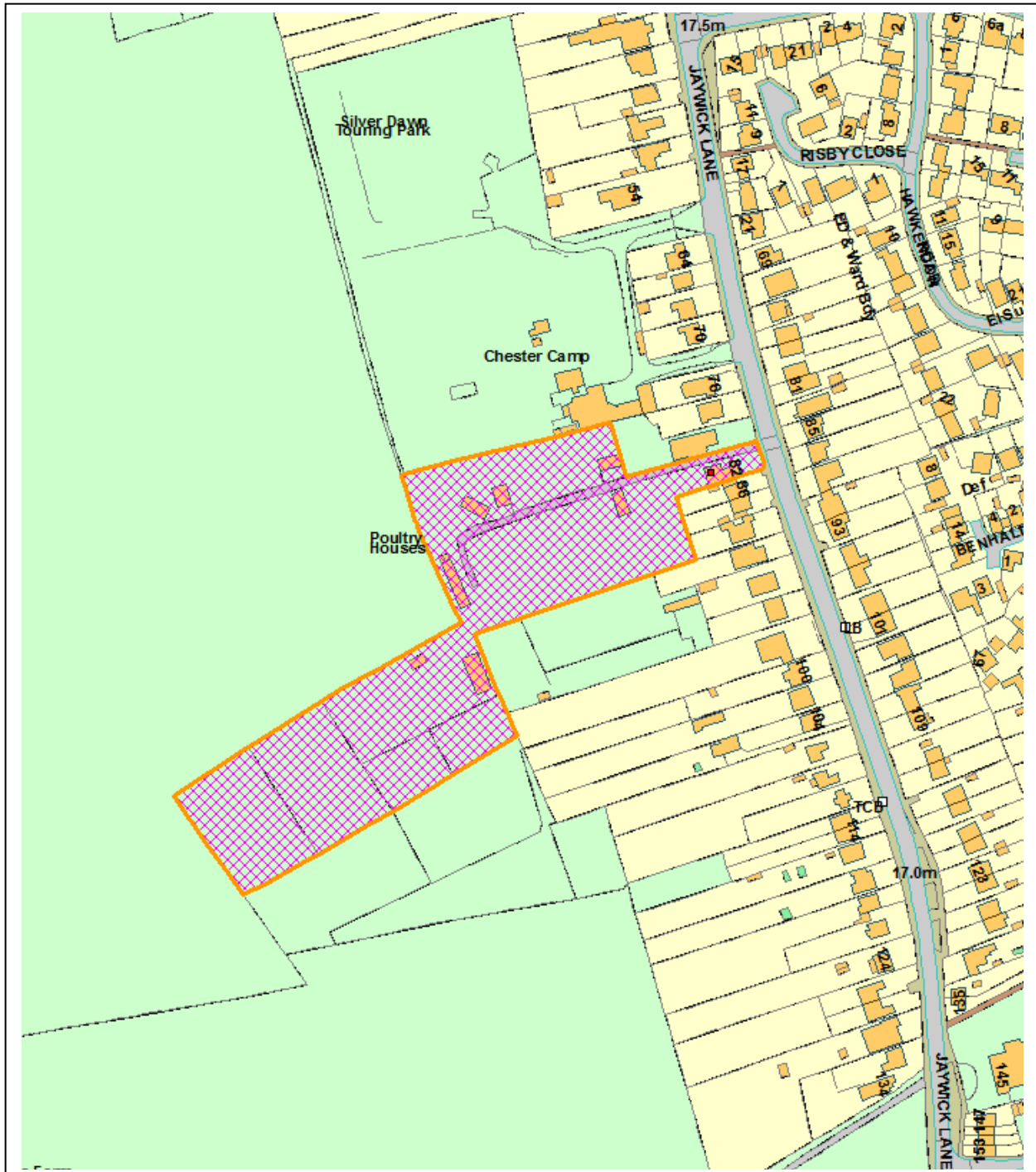
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PLANNING COMMITTEE

28 FEBRUARY 2017

REPORT OF THE HEAD OF PLANNING

A.2 PLANNING APPLICATION - 16/01520/FUL - 82 JAYWICK LANE CLACTON ON SEA CO16 8BB



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Application:	16/01520/FUL	Town / Parish: Clacton Non Parished
Applicant:	Mr David Thompson - Willow Park Group	
Address:	82 Jaywick Lane Clacton On Sea CO16 8BB	
Development:	Erection of 21 bungalows and 48 supported living apartments, together with associated access, surface water drainage and other associated development.	

1. Executive Summary

- 1.1 This is a full planning application seeking approval for the erection of 21 bungalows (market housing) and 48 supported living apartments (Use Class C2 – Institutional Use), together with associated access, surface water drainage and associated development. As a departure from the Local Plan, this application is before the Committee for a decision.
- 1.2 The application site measures some 1.78 hectares in area and apart from a small section of the access road into the site, lies outside of the defined settlement development boundary for Clacton in the adopted Local Plan. However it does fall within an area of land to the west of Jaywick Lane identified for an urban extension within the Preferred Options Consultation Document July, 2016. The site adjoins existing residential development which fronts Jaywick Lane. Access to the site requires the demolition of 82 Jaywick Lane and formation of a new adoptable road serving the site.
- 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. This site does form part of an allocation for mixed use/urban extension in the emerging Local Plan and therefore some weight can be given in policy terms to development of the site for the proposed uses. When weighing the planning balance, Officers are recommending that the scheme does meet the requirements of the NPPF and can be approved.

Recommendation: Approve Full Planning Permission

That the Head of Planning 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 and subject to viability):
 - Public open space 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 in her discretion considers appropriate).

Conditions:

- 1) Standard 3 year time limit;
 - 2) Restriction on use of C2 element for the purpose of supported living apartments only.
 - 3) Highways conditions (as recommended by the Highway Authority);
 - 4) SUDS and drainage (surface water and foul drainage) conditions.
 - 5) Hard and soft landscaping plan/implementation;
 - 6) Ecological mitigation - wildlife/tree protection measures;
 - 7) Construction methods plan;
 - 8) Details of lighting, materials and refuse storage/collection points; and
 - 9) Archaeological investigation and report works;
 - 10) Site lighting strategy, and;
 - 11) Broadband.
 - 12) 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 Clacton as a town.

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.

COM5: Residential Institutional Uses

Supported outside the control of Residential Institutional Uses Areas subject to being close to or within development boundaries, would not lead to clustering of such uses, would not adversely affect public safety and control over permitted changes of use.

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 Clacton as a town 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.

LP10: Care and Assisted Living

C2 uses will be supported in sustainable locations and in particular within 800 metres of the edge of the settlement development boundary of one of the District's 'strategic urban settlements' (including Clacton).

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

Economic Development Strategy 2013

2.7 The overarching objectives of the Economic Development Strategy are to:

- Target growth locations, especially Harwich, Clacton and the West of Tendring;
- Target growth sectors, especially Offshore Energy and Care and Assisted Living;
- Ensure residents have the skills and information to participate;
- Support modernisation, diversification and growth within the business base, and;
- Facilitate population growth where this supports economic objectives.

2.8 The vision in the Economic Strategy emphasises the need to grow the population to support service sector industries and the town centre economies, maximise the potential leisure and tourism offer, particularly along the seafronts, and support growth in educational facilities, potentially linked to the Care and Assisted Living sector.

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

00/02159/FUL	Replacing existing out-buildings to be used as garage, hay store and cart lodge	Approved	06.02.2001
01/00889/FUL	Resiting of cart lodge and hay store approved under application no. 00/02159/FUL	Approved	25.07.2001
97/00771/FUL	(Land rear of 80/82 Jaywick Lane, Clacton on Sea) Change of use of agricultural land to form part of riding school. Retention of chicken shed, menage and formation of barn	Approved	18.11.1997
99/00735/OUT	Demolition of bungalow and change of use from riding school and stables to form residential development	Refused	29.06.1999
15/30128/PREAPP	Redevelopment of site comprising of: Area A - 20 no. detached 3-bed bungalows Area B - 60 bed two storey care home and 15 no. 2 bedroom assisting living apartments or 60-80 apartments for people with learning disabilities.	Refused	29.09.2015
15/30347/PREAPP	EIA Screening Opinion for approx. 25 dwellings, 60-80 assisted living apartments, landscaping, private amenity space and associated parking.		27.01.2016

4. Consultations

Building Control and Access Officer

Please ensure that satisfactory fire fighting access is provided in accordance with approved Document B.

Anglian Water Services Ltd

Note that the site is served by the Jaywick Water Recycling Centre but note requirement to upgrade capacity should permission be granted. Require foul drainage disposal strategy to be secured by condition. Note surface water strategy/flood risk assessment is considered acceptable.

ECC Highways Dept	No objection raised subject to appropriate conditions.
Policy Section	Consider that the proposed scheme meets the requirements for sustainable development in terms of the economic and social dimensions identified in the NPPF. However as the scheme encroaches into what is currently open countryside careful consideration should be given to the environmental effects of the development.
Natural England	No comments.
ECC Schools Service	Advised that no contributions required for this development.
ECC SuDS Consultee	Raise objection in that the Surface Water Drainage Strategy is considered inadequate as it does not provide a suds scheme for the proposed adoptable highway. This matter is discussed in the assessment below.
Tree & Landscape Officer	<p>The main body of the application site is currently being used for the keeping of horses. There are no important trees or other significant vegetation on the application site. None of the trees on the land merit retention or protection by means of a tree preservation order.</p> <p>The application site currently extends into the open countryside to the west of the existing properties in Jaywick Lane and the development has the potential to cause harm to the character of the area. However as the land around the application site is included in the Local Plan Preferred Options document for development the potential harm that may arise from this development will not materialise.</p> <p>In terms of the appearance of the development it is important to note that the Design and Access Statement refers to the need to carry out soft landscaping as part of the development of the land. Whilst the layout of the supported housing element of the development appears to provide space for soft landscaping the residential element appears cramped and provides little opportunity to create a pleasant and attractive area of public realm. In essence the proposed dwellings are too close to the highway creating a corridor effect for users of the highway. Simply in terms of soft landscaping and design of the public realm the housing density should be decreased in order to achieve a satisfactory layout</p> <p>If planning permission is likely to be granted then a condition should be attached to secure details of soft landscaping, including new tree planting.</p>
Essex County Council Archaeology	Requires a programme of trial trenching followed by open area excavation to be secured by condition.
Open Space Consultation	Contribution of £22,530 towards improvement to play area at Rush Green Recreation Ground.

5. Representations

- 5.1 Councillor Whitmore has called the application into Planning Committee raising concern that the development is outside the development boundary, design is out of character with

other buildings in locality, in combination with other developments sewage and surface water cannot cope, existing speeding and traffic congestion would be exacerbated.

5.2 Nine objections have been received from members of the public raising the following concerns:

- Detrimental increase in traffic and highway safety problems
- Adverse impact on nearby holiday park
- Loss of green gap
- Adverse impact on wildlife
- Inadequate local services
- Impact on existing foul drainage system
- Gas and water services inadequate
- Surface water issues
- Out of character with locality
- Increase in noise
- Loss of privacy
- Precedent.

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 immediately to the west of Jaywick Lane with access provided immediately to the north of number 86 Jaywick Lane, which includes demolition of an existing bungalow. The site extends to 1.78 hectares in area. The site is predominantly located outside the Settlement Development Boundary and is set to the rear of a number of existing bungalows fronting Jaywick Lane. The site is in an area primarily used for agriculture and tourism although the site itself is in current use as paddocks and stables.

6.3 As noted the site is accessed directly from Jaywick Lane with a main feeder road serving minor access roads and a private drive. The main road into the site will be built for adoption by Essex County Council.

6.4 Jaywick Lane is characterised by primarily residential development in a mix of styles although mainly bungalows in the locality of the site. A caravan park is located to the north of the site. The landscape beyond the site is open and gently sloping north to south. There is little tree cover in the locality.

Proposal

- 6.5 The application has been submitted as a full planning application. The scheme proposes the erection of 21 bungalows (open market housing) and 48 supported living apartments (C2 – institutional use), together with associated access, surface water drainage and other associated development.

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 outside but immediately to west of the 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 as an urban extension to Clacton, 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. Clacton is categorised in the emerging Policy SPL1 as a strategic urban settlement in recognition of its size and the wide range of infrastructure and available facilities. The principle of developing in this location is therefore considered acceptable.

Housing Density and Mix

- 6.15 One of the key issues in determining this planning 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 approximately 38 dwellings per hectare, which is considered an acceptable density taking into account that the majority of dwellings will take the form of a single apartment block.
- 6.16 The proposed mix of dwellings includes 17 x 3 bed bungalows, 4 x 2 bed bungalows and a two storey block for supported living comprising 48 x 2 bed apartments.

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 as a full application with all design details submitted.
- 6.18 As previously noted the site is accessed by an adoptable road with a new junction formed with Jaywick Lane which partially utilises an existing access track but also requires demolition of 82 Jaywick Lane. The new access road serves two minor access roads and a private drive. Initially the road serves the proposed bungalow development and terminates in the car parking area serving the supported living accommodation. Each bungalow is provided with parking and garage space. The supported living apartments are two storey in height and served by 75 car parking spaces with additional visitor parking space provided. Landscaped gardens are provided to the southern part of the site to serve

the supported living apartments. Swales to assist with sustainable surface water drainage are also provided in this location.

- 6.19 In terms of design the proposed bungalows are of traditional design incorporating red and buff facing brick, concrete interlocking tiles with white upvc fenestration. The supported living apartments are built as a single two storey block utilising similar materials. The material pallet is used in a manner which breaks up the extensive front and rear elevations. A central entrance point is proposed. Boundary details and landscape detail will be secured by condition.
- 6.20 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 Jaywick Lane with local services only a short distance away. The site is served by regular bus services. The site is considered to be in a very sustainable 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 does result in the new road access passing between nos 80 and 86 Jaywick Lane although the actual highway is set at least 3.5 metres from the boundaries with those properties. It may be considered appropriate to provide acoustic boundary fencing in these locations.
- 6.23 It is not considered that the proposed scheme would adversely affect neighbouring dwellings however 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 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 point into the site from Jaywick Lane as well as highway safety and capacity in the wider area.
- 6.27 As noted a new access point will be provided from Jaywick Lane providing the main site access. The Highway Authority have stated that the proposal is acceptable subject to necessary conditions.
- 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 not raised any adverse comments.
- 6.36 A Preliminary Ecological Appraisal of the site has been undertaken by the applicant which concluded that taking into account the existing use of the site it is unlikely that Bats, Reptiles or other protected species are present at the site. It is recommended that opportunities to encourage wildlife are provided within any future landscape scheme.

Arboriculture/Landscaping

- 6.37 The proposals have been assessed by the Council's Tree and Landscape Officer who has concluded that although the scheme does extend into what is currently open countryside the emerging Local Plan designation should also be taken into account. It is recommended a condition is attached to secure a soft landscaping and tree planting scheme.

Drainage and Flood Risk

- 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. Concern has been raised that the proposed scheme does not provide for the whole site to fall under a SuDS scheme although the main buildings on the site will be served by soakaways or swales. In particular the proposed highway drainage is shown to discharge to an existing surface water sewer rather than an alternative SuDS scheme. However the Local Highway Authority do not adopt SuDS mechanisms even though the highway authority will adopt the highway. The applicant contends that it is therefore unreasonable for the Essex Flood and Water team to expect a SuDS designed scheme for the highway to be provided when the SuDS scheme would not then be adopted by the Highway Authority. A further comment on this point is awaited from the Essex Flood and Water team at time of preparing this report and a further update will be provided at Committee.
- 6.40 Subject to the above point regarding the use of SuDS for the highway it is considered that the applicant has demonstrated through their Flood Risk Assessment and supplementary information that development can, in principle, be achieved without increasing flood risk elsewhere. A detailed surface water drainage scheme will be secured by condition. The scheme is therefore expected to 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.
- 6.41 In addition, Anglian Water has commented upon the application, and confirms the foul drainage from the development is in the catchment of the Jaywick Water Recycling Centre which although not currently having capacity AWA will take necessary steps to ensure that capacity is provided. 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

- 6.42 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 requested that a contribution of £22,530 is sought for the improvement of the Rush Green Recreation Ground. 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

- 6.43 Normally 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 are therefore normally applied but the percentage will be between 10% and 30% as detailed under emerging Policy LP5.
- 6.48 However in this case the applicant has submitted a detailed viability assessment demonstrating that the supported living apartments element of the development is partly funded by the open market bungalow element of the scheme. The rents for the 48 care units will be paid from Housing Services benefits and are capped at a significantly lower level than market rates. In effect the apartments are being provided at a loss. To provide any additional affordable housing either within the site or elsewhere would result in the scheme being non-viable. In this case taking into account that the new apartments are to be operated by the Willow Park Group charity for the care of children and adults it is not considered appropriate to request an affordable housing contribution in this instance.

Education and Health provision

- 6.49 Both Essex County Council as the Local Education Authority and NHS England have been consulted on the planning application and have indicated that no contribution is required in this instance.
- 6.50 In conclusion, the impacts on local infrastructure arising from this development can either be addressed by way of developer contribution (in the case of 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.
- 6.51 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 public play space provision.

Overall Planning Balance

- 6.52 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.
- 6.53 Economic: Whilst the scheme is residential with no commercial premises provided, up to 69 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.
- 6.54 Social: The provision of up to 69 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. As noted part of the scheme is to provide supported living accommodation for vulnerable children and adults and will make an important contribution to that sector of the community.
- 6.55 Environmental: The environmental impacts of the proposal have required very careful consideration. As noted the development is located in a prominent locality extending into open countryside to the west of Jaywick Lane. However this must be set against policy contained within the emerging Local Plan which identifies this area as a major urban extension. The scale and extent of the site would not prejudice future development of the urban extension. However 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.
- 6.56 In the overall planning balance, Officers consider that the adverse impacts of the development 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.

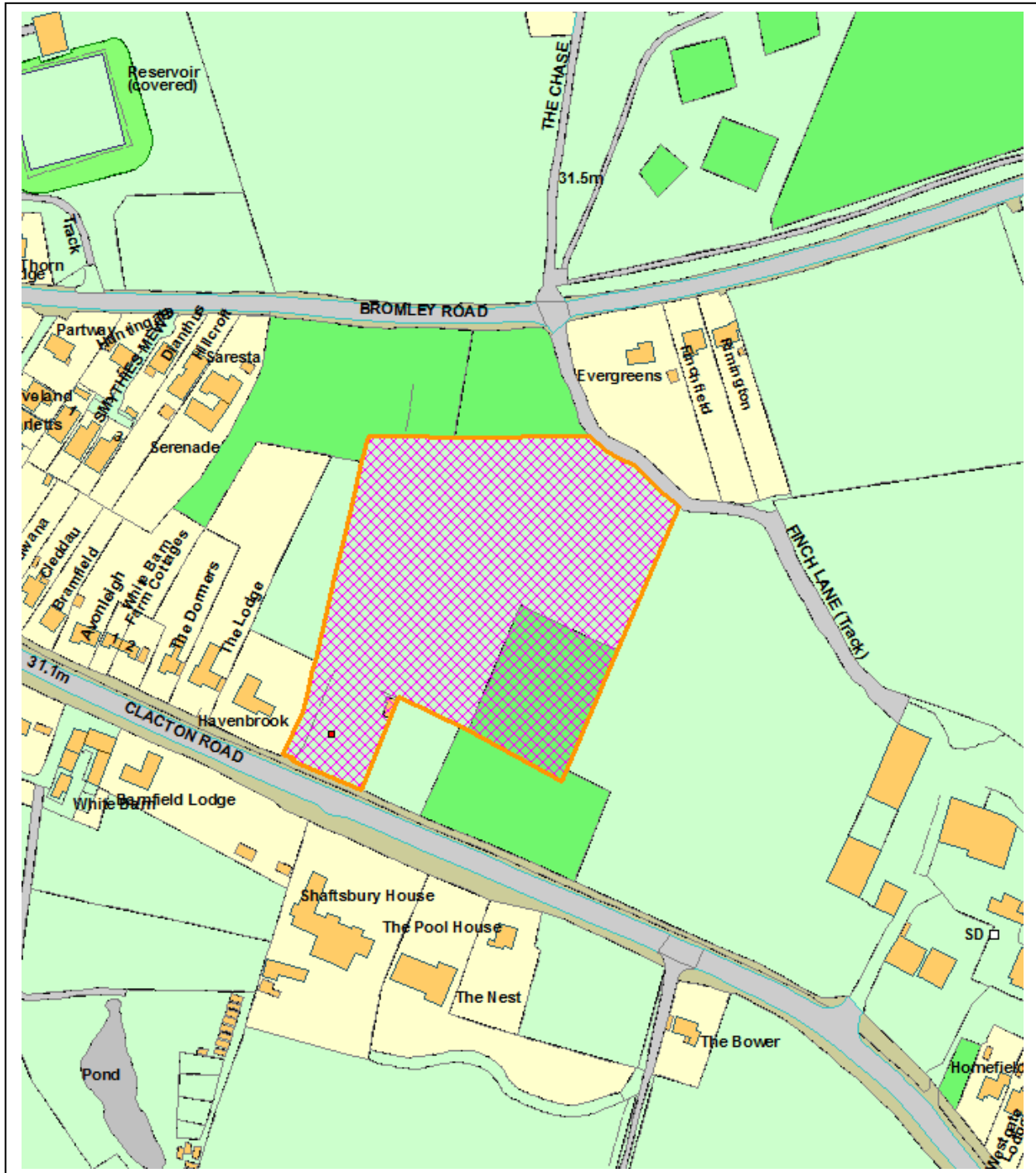
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PLANNING COMMITTEE

28 FEBRUARY 2017

REPORT OF THE HEAD OF PLANNING

A.3 PLANNING APPLICATION – 16/01994/DETAIL – LAND OFF CLACTON ROAD ELMSTEAD CO7 7DE



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Application:	16/01994/DETAIL	Town / Parish: Elmstead Market
Applicant:	Mr. Oliver Hookway – Go Homes Ltd	
Address:	Land off Clacton Road Elmstead Essex CO7 7DE	
Development:	Residential development of up to 32 dwellings, (incorporating 25% affordable housing) with associated open space and infrastructure.	

1. Executive Summary

- 1.1 This is a reserved matters application seeking approval of detailed plans for 32 dwellings on land north of Clacton road, on the eastern edge of Elmstead Market. This follows on from the approval, on 2nd February 2016, of outline planning permission 15/00675/OUT on appeal. The application had been refused by resolution of the Planning Committee on 28th July 2015 but it was requested that, in the event of the appeal being allowed by the Planning Inspectorate, that any reserved matters application be referred back to the Committee for a decision.
- 1.2 The Planning Inspector granted planning permission subject to a legal agreement and 19 planning conditions. The legal agreement was a ‘unilateral undertaking’ which would provide for education contributions, open space and affordable housing. Elmstead Market Parish Council has requested the provision of a multi-use games area (MUGA) but this would go beyond the scope of the legal agreement and the Council cannot compel the developer to make such provision. The proposal has not attracted any objections from individual members of the public.
- 1.3 The design and layout of the development is considered by Officers to be acceptable, it follows secured-by-design principles and would provide a good quality of residential environment. The properties generally meet and exceed the Council’s standards for quality, garden sizes and parking. Accordingly, the application is recommended for approval.

Recommendation: Approval

Conditions:

- 1) Accordance with approved plans.

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 7 of the NPPF relates to design. Paragraph 56 states that government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.
- 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:

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.

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.

HG9: Private Amenity Space

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

HG14: Side Isolation

Requires a minimum distance between detached properties.

COM2: Community Safety

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

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.

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.

TR5: Provision for Cycling

Requires all major developments to provide appropriate facilities for cyclists.

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

Relevant policies include:

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.

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 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.

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.

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

91/01285/FUL	General purpose agricultural building.	Approved	04.02.1992
14/30411/PREAPP	Proposal for 20 no. dwellings and public open space.	Refused	19.12.2014
15/00675/OUT	Residential development of up to 32 dwellings (incorporating 25% affordable housing) with associated open space and infrastructure.	Allowed on appeal	05.08.2015
16/01994/DETAIL	Residential development of up to 32 dwellings (incorporating 25% affordable housing) with associated open space and infrastructure.	Current	

4. Consultations

TDC Principal Tree & Landscape Officer

The main body of the application site is set to rough grass. There are no trees or other significant vegetation in the main body of the land.

The north eastern corner of the application site abuts Finch Lane which is a Public Right of Way albeit virtually unpassable at the present time.

Several of the trees either side of Finch lane are the subjects of Tendring District Council Tree Preservation Order TPO/11/39 Finch Lane. The information contained in the further documents provided by the applicants adequately demonstrates that the protected trees will not be harmed by the development of the land.

In terms of soft landscaping the information provided on the James Blake Associates drawing entitled Detailed Soft Landscape Proposals is sufficient to show that a good level of new planting will be carried out.

TDC Building Control

No comments at this time.

ECC Highways

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:

- 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 215 metres to the east and west, as measured from and along the nearside edge of the carriageway. 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.
- Prior to occupation of the development the vehicular parking and turning facilities, 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.
- Prior to occupation of the development the vehicular access shall be constructed at right angles to the highway boundary and to the existing carriageway. The width of the access at its junction with the highway shall not be less than 5.5 metres and shall be retained at that width within the site.
- The internal road will be provided with 2x 2m footways and 10.5m kerbed radii where the road joins Clacton Road.
- Prior to commencement of the development details showing the means to prevent the discharge of surface water from the development onto the highway shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be carried out in its entirety prior to the access becoming operational and shall be retained at all times.
- Prior to commencement of the proposed development details of a wheel cleaning facility within the site and adjacent to the egress onto the highway shall be submitted to and approved in writing by the Local Planning Authority. The wheel cleaning facility shall be provided at the commencement of the development and maintained during the period of construction / in perpetuity.
- The carriageway(s) of the proposed estate road(s) shall be constructed up to and including at least road base level, prior to the commencement of the erection of any dwelling intended to take access from that road(s). The carriageways and footways shall be constructed up to and including base course surfacing to ensure that each dwelling prior to occupation has a properly consolidated and surfaced carriageway and footway, between the dwelling and the existing highway. Until final surfacing is completed, the footway base course shall be provided in a manner to avoid any upstands to gullies, covers, kerbs or other such obstructions within or bordering the footway. The carriageways, footways and footpaths in front of each dwelling shall be completed with final surfacing within twelve months (or three months in the case of a shared surface road or a mews) from the occupation of such dwelling.

- Each internal estate road junction shall be provided with a clear to ground level visibility splay with dimensions of 2.4 metres by 33 metres as measured from and along the nearside edge of the carriageway. Such visibility splays shall be provided before the road is first used by vehicular traffic and retained free of any obstruction in perpetuity.
- Any vehicular hardstanding shall have minimum dimensions of 2.9 metres x 5.5 metres for each individual parking space, retained in perpetuity.
- Any single garages should have a minimum internal measurement of 7m x 3m
- Any double garages should have a minimum internal measurement of 7m x 6m
- 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
- Prior to occupation of the proposed development, the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack for sustainable transport approved by Essex County Council, to include six one day travel vouchers for use with the relevant local public transport operator.
- No works in connection with the proposed development shall commence until such time as a right turn lane has been provided on Clacton Road entirely at the Developers expense.

Natural England

Natural England has no comments to make on this application.

Essex County Council Flood Authority

Letter dated 22 December 2016

In the absence of an updated surface water drainage strategy, we object to this application and recommend refusal of planning permission until a satisfactory one has been submitted.

Letter dated 15 February 2017 following receipt of amended drainage strategy.

No objection subject to conditions.

N.B. The appeal decision granted outline planning permission subject to a condition that the details of surface water drainage arrangements were to be agreed prior to commencement of development. It is not necessary to repeat this condition on a Reserved Matters approval.

ECC Schools

Financial contributions of £62,685 for early years and childcare provision, £183,270 for primary school provision, £185,610 for secondary school provision and £42,180 for school transport are requested to mitigate the impact of the development on education provision.

5. Representations

- 5.1 Elmstead Parish Council has requested that the developers provide a multi-use games area (MUGA) with financial assistance towards the first 10 years of maintenance. It also observes that as the developer is proposing 1 gifted affordable housing unit instead of 8 discounted units in line with the affordable housing policy, the development should be able to make provision for a much needed village amenity. Due to the limitations of the s106 legal agreement that was accepted by the Inspector when the appeal was allowed, the Council is unable to compel the developer to provide such a facility and the reasons are explained in more detail later in this report.
- 5.2 There are no comments from individual members of the public or any other third parties.

6. Assessment

The Site

- 6.1 The application site comprises just under 2 hectares of predominantly undeveloped shrubland located at the eastern end of the village of Elmstead Market, north of Clacton Road adjoining the property 'Havenbrook'. The site is flat and is very well contained within the landscape, barely visible from most medium-long distance public view-points, mainly due to the strong line of trees and hedges along Clacton Road, the overgrown land to the north off Bromley Road and the vegetation formed around the boundaries of the site itself. The southern part of the site close to Clacton Road, contains a number of structures including an apparently derelict timber-framed stable block and shed.
- 6.2 The site is irregular in shape and whilst it adjoins the built up area at one point, the majority of the site is physically separate from other built property. Approximately 90 metres of the site fronts the highway at Clacton Road to the south but the remaining 160 metres of the southern boundary is set back some 90 metres from the highway. The western boundary is almost entirely formed by the substantial residential property Havenbrook and associated open land to the rear which extends some 300 metres. No other residential properties abut the site directly.
- 6.3 The northern boundary excludes undeveloped land immediately fronting Bromley Road and, as a consequence, is set back some 100 metres from the highway, screened by the vegetation along its own borders as well as the substantial vegetation within the adjoining land. The north eastern tip of the site runs close to a property which is run as Catkins Cattery in Bromley Road but is separated from that property by Finch Lane and associated trees and vegetation.
- 6.4 The eastern boundary of the site is more open with sparse trees and hedging which adjoins an undeveloped field which extends some 260 metres to substantial agricultural cow sheds and Whiting's vehicle salvage and hire business at Bottles Hall which form a prominent hub of agricultural and commercial development out on the fringes of the village.

The Proposal

- 6.5 The proposal is the development of 32 two-storey houses and an area of public open space arranged around a new access road taken from Clacton Road. The proposed housing mix is as follows:
- 11 x 5-bed houses
 - 6 x 4-bed houses
 - 14 x 3-bed houses
 - 1 x 3 bed affordable house (gifted)

- 6.6 The scheme provides for a mix of dwelling sizes and types in line with the Council's adopted and emerging planning policies.

Architectural Drawings

- 2015-489-001 Location Plan
- 2015-489-002 Proposed Site Layout

- 2016-489-010 Type A1 – Floor Plans
- 2016-489-011 Type A1 – Elevations
- 2016-489-012 Type A2 – Floor Plans
- 2016-489-013 Type A2 – Elevations
- 2016-489-014 Type B1 – Floor Plans
- 2016-489-015 Type B1 – Elevations
- 2016-489-016 Type C1 – Floor Plans
- 2016-489-017 Type C1 – Elevations
- 2016-489-018 Type C2 – Floor Plans
- 2016-489-019 Type C2 – Elevations
- 2016-489-020 Type C3 – Floor Plans
- 2016-489-021 Type C3 – Elevations
- 2016-489-022 HA Unit – Plans
- 2016-489-023 HA Unit – Elevations

- 2016-489-024 Garage Type A
- 2016-489-025 Garage Type B
- 2016-489-026 Garage Type C
- 2016-489-027 Garage Type D

- 2015-489-030 Proposed Street Scenes
- 2015-489-003 Materials Key Plan

- JBA16/231-01 Details of Landscaping
- JBA16/231-02 Details of Landscaping

Matters under consideration

- 6.7 The principle of development has already been established through the grant of outline planning permission by the Planning Inspectorate on 17th February 2016.
- 6.8 The report to Planning Committee on 28th July 2015 had considered the following matters:
- The principle of residential development;
 - Highways, transport and accessibility;
 - Flood risk and drainage;
 - Infrastructure Impact;
 - Landscape, visual impact and trees;
 - Open space;
 - Ecology;
 - Impact upon neighbours;
 - Council Housing/Affordable Housing; and,
 - Indicative design and layout.

6.9 Whilst the Committee resolved to refuse the application with concerns over sustainability, the number of dwellings proposed and the physical relationship of the site to the established settlement, the subsequent appeal was allowed. The Planning Inspector concluded that the development would not cause harm to the character and appearance of the area and the detailed design to be submitted as a reserved matter would be able to accord with Development Plan policies and national guidance on good design. With the lack of a five year supply of housing land, the Inspector considered that the adverse effects of the development would not significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.

6.10 The reserved matters under consideration as part of this detailed application are:

- Layout;
- Landscape;
- Scale, and;
- Appearance.

Access was approved as part of the outline planning permission and is directly from Clacton Road.

Layout

6.11 The proposed layout of the scheme involves 32 dwellings accessed via a new access drive from Clacton Road. The access road forms a 'P' shaped loop with 23 of the dwellings backing onto the undeveloped land to the north, east and south. The other 9 dwellings are in the central part of the site in their own perimeter block either fronting other dwellings to the east or fronting the proposed open space to the west.

6.12 Plots 1, to 3 are closest to the entry to the site and are west facing. Plots 4 to 9 are north facing onto the loop road. Plots 10 to 16 at the eastern end of the site are west facing onto the back straight of the loop road with the larger plots 25 to 29 directly opposite. Plots 17 to 23 run along the northern edge of the site, are south facing with plots 22 and 23 overlooking the 0.2 ha public open space provided as part of the development. Finally plots 24 and 30 to 32 are west facing, accessed via private drives and overlook the open space with a direct frontage onto the open space.

6.13 A pumping station is to be installed in the north eastern corner of the site with easement for access and maintenance. An electricity sub-station is to be provided to the rear of plot 1 at the very southern end of the site. The loop road is to be constructed to adoptable standards with a traditional carriageway and footway arrangement. It also provides for a raised table on the return of the loop as a traffic calming feature.

6.14 Policy HG9 in the adopted Local Plan sets minimum private amenity standards for new dwellings which require a minimum of 100 square metres for any house of 3 or more bedrooms, 75 square metres for any 2 bed house and 50 square metres for any 1 bed house. All of the plots on this development achieve these minimum requirements.

6.15 For dwelling sizes, neither the adopted Local Plan nor the emerging plan contains specific standards as these are to be required at a national level through the building regulations.

However, the properties proposed have gross internal floor areas (GIA) all in excess of the minimum requirements that were being promoted by the Council, in line with the London Design Guide, in the earlier iteration of the draft Local Plan. The affordable housing unit has a GIA of 93.4 sqm, the 3-bed houses have a 113.6 sqm GIA, the 4-bed houses measure 149.6sqm with the larger 5-bed properties at 194.6 sqm.

Conclusions on layout

- 6.16 Officers consider that the proposed layout is acceptable for this location, that the development is well related to the proposed open space and would not have any adverse effects on neighbouring properties. The layout seeks to follow well established 'secured-by-design' principles and would be well contained within the rural landscape at the village edge. The proposed open space meets with the Council's requirements in terms of size and is well located to provide an attractive entrance into the development. There are no objections from any party to the proposed layout.

Landscape

- 6.17 The applicants have submitted a landscaping proposal for the development. This shows the provision of trees and hedges for individual properties as well as trees and planting associated with the open space and the site boundaries. The landscaping proposal is required as a condition of the original outline planning permission and the Council's Principal Tree and Landscape Officer has considered the proposal in detail and is satisfied that it represents an acceptable approach.

Scale

- 6.18 The proposed height of properties throughout the site, at two-storeys, is acceptable for the area with very few neighbouring properties affected by the development. When the original outline planning application was considered by the Planning Committee, some Members were concerned about the prospect of two-and-a-half storey or town house style development being out of character with the rural feel of the village. The applicant has deliberately omitted any such properties from the scheme, having thought about the Committee's comments. All of the properties are therefore two-storey and Officers are satisfied that this scale is appropriate for the site. There have been no objections to the scale of the proposal.

Appearance

- 6.19 Eight of the properties (plots 1, 8, 9, 16, 17, 22, 31 and 32) are to be design Type A1 which is a grand traditional-looking property with decorative porch, mock sash windows and a hipped roof with five bedrooms (two of which have en-suite bath/shower facilities). The materials will be cream brick with a grey slate roof. The Type A2 properties, of which there will be three (plots 2, 15 and 23) are similar to Type A1 but with more windows on the side elevations and the use of white render.
- 6.20 Six of the properties (plots 3, 10, 24, 25, 29 and 30) are to be design Type B1, a four-bed detached house again with decorative porch feature, grand dimensions and a hipped roof. This design will utilise a combination of cream brick, light grey board and grey slate.

- 6.21 Plots 4, 6, 11, 13, 26 and 28 will be design Type C1 which is a three-bed detached house with a front gable and straight pitched roof utilising cream brick and grey slate. Plots 5, 12 and 20 is of similar design C2 but incorporates a hipped element to the roof and utilises different materials i.e. red brick, white render and charcoal grey roof tiles. Design Type C3 is for plots 7, 14, 19, 21 and 27 and offers a slight variation on Type C1 and will use cream brick and grey slate.
- 6.22 The single affordable housing unit is a 3-bed detached house at plot 18 at the northern part of the site and includes a pyramidal pitched roof, a bay window and a porch feature. The materials will be red brick and charcoal grey roof tiles.
- 6.23 The design of the properties themselves are considered by Officers to be of an acceptable quality and appearance and given the lack of context with the site being somewhat contained within itself, there are no issues with being sympathetic with local character. It is noted that the Council has received no objections from any party about the proposed appearance of the properties.

Schedule of accommodation

Plot	Size/Type	Gross internal area (sqm)	Garden size (sqm) approx.	Parking	Policy compliant?
Plot 1	5-bed (Type A1)	194.6 sqm	320	4	Yes
Plot 2	5-bed (Type A2)	194.6 sqm	206	6	Yes
Plot 3	4-bed (Type B1)	149.6 sqm	150	3	Yes
Plot 4	3-bed (Type C1)	113.6 sqm	122	3	Yes
Plot 5	3-bed (Type C2)	113.6 sqm	100	3	Yes
Plot 6	3-bed (Type C1)	113.6 sqm	100	3	Yes
Plot 7	3-bed (Type C3)	113.6 sqm	120	3	Yes
Plot 8	5-bed (Type A1)	194.6 sqm	120	3	Yes
Plot 9	5-bed (Type A1)	194.6 sqm	230	6	Yes
Plot 10	4-bed (Type B1)	149.6 sqm	170	3	Yes
Plot 11	3-bed (Type C1)	113.6 sqm	104	3	Yes
Plot 12	3-bed (Type C2)	113.6 sqm	104	3	Yes
Plot 13	3-bed (Type C1)	113.6 sqm	104	3	Yes
Plot 14	3-bed (Type C3)	113.6 sqm	104	3	Yes
Plot 15	5-bed (Type A2)	194.6 sqm	400	6	Yes
Plot 16	5-bed (Type A1)	194.6 sqm	400	6	Yes
Plot 17	5-bed (Type A1)	194.6 sqm	400	4	Yes
Plot 18	3-bed (HA)	93.4 sqm	100	2	Yes
Plot 19	3-bed (Type C3)	113.6 sqm	100	3	Yes
Plot 20	3-bed (Type C2)	113.6 sqm	100	3	Yes
Plot 21	3-bed (Type C3)	113.6 sqm	216	3	Yes
Plot 22	5-bed (Type A1)	194.6 sqm	110	6	Yes
Plot 23	5-bed (Type A2)	194.6 sqm	110	6	Yes
Plot 24	4-bed (Type B1)	149.6 sqm	217	3	Yes
Plot 25	4-bed (Type B1)	149.6 sqm	170	3	Yes
Plot 26	3-bed (Type C1)	113.6 sqm	104	3	Yes

Plot 27	3-bed (Type C3)	113.6 sqm	117	3	Yes
Plot 28	3-bed (Type C1)	113.6 sqm	131	3	Yes
Plot 29	4-bed (Type B1)	149.6 sqm	170	3	Yes
Plot 30	4-bed (Type B1)	149.6 sqm	155	3	Yes
Plot 31	5-bed (Type A1)	194.6 sqm	195	4	Yes
Plot 32	5-bed (Type A1)	194.6 sqm	224	4	Yes

Planning obligations

- 6.24 Outline planning permission was granted by the Planning Inspector subject to planning obligations contained within a 'unilateral undertaking' that was submitted by the applicants as part of the appeal. The obligations within that document, to which the applicant is bound, relate to education contributions, open space and affordable housing. These obligations are summarised below.

Schedule 1 – Early Years & Childcare and the Primary School Contribution

- 6.25 Schedule 1 requires a £40,000 contribution towards early years and childcare provision and a £117,000 contribution towards the creation of primary school places. The money has to be paid to Essex County Council before the development can commence and ECC has 10 years to spend the money otherwise any unspent funds should be returned to the developer.

Schedule 2 – Open Space

- 6.26 Schedule 2 requires the on-site open space to be laid out before 80% of the dwellings are occupied (i.e. no more than 25 dwellings) and transferred to a private management company for future maintenance.
- 6.27 The request from the Parish Council to deliver a multi-use games area (MUGA) within the development are over and above what the unilateral undertaking provides for and the Council could not require the developer to provide such a facility.

Schedule 3 – Affordable Housing

- 6.28 Schedule 3 requires 25% of the dwellings (i.e. 8) to be provided as affordable housing before 75% if the market dwellings (i.e. 18) can be occupied unless the Council indicates a preference to receive one dwelling to be gifted – in which case, this dwelling needs to be transferred to the Council before 50% (i.e. 16) of the total dwellings are occupied. The development has been designed to make provision for the 1 gifted dwellings, as was the housing department's preference when it made comments on the original planning application.
- 6.29 Officers note the Parish Council's suggestion that in providing one 'gifted' unit in preference to the 8 discounted properties, the development should make provision for alternative community benefits in lieu. Again, the unilateral undertaking does not require any wider benefits in lieu and the Council cannot compel the developer to provide any. It should however be noted that in providing one gifted unit instead of 8 discounted units, the

financial cost to the developer will be comparable so the developer will not achieve a significant surplus profit that might have been spent on other community facilities.

Conclusions

- 6.30 The principle of development has already been established through the grant of outline planning permission on appeal land the reserved matters proposal is considered by Officers to be acceptable. The recommendation is therefore approval.

Background Papers

None.

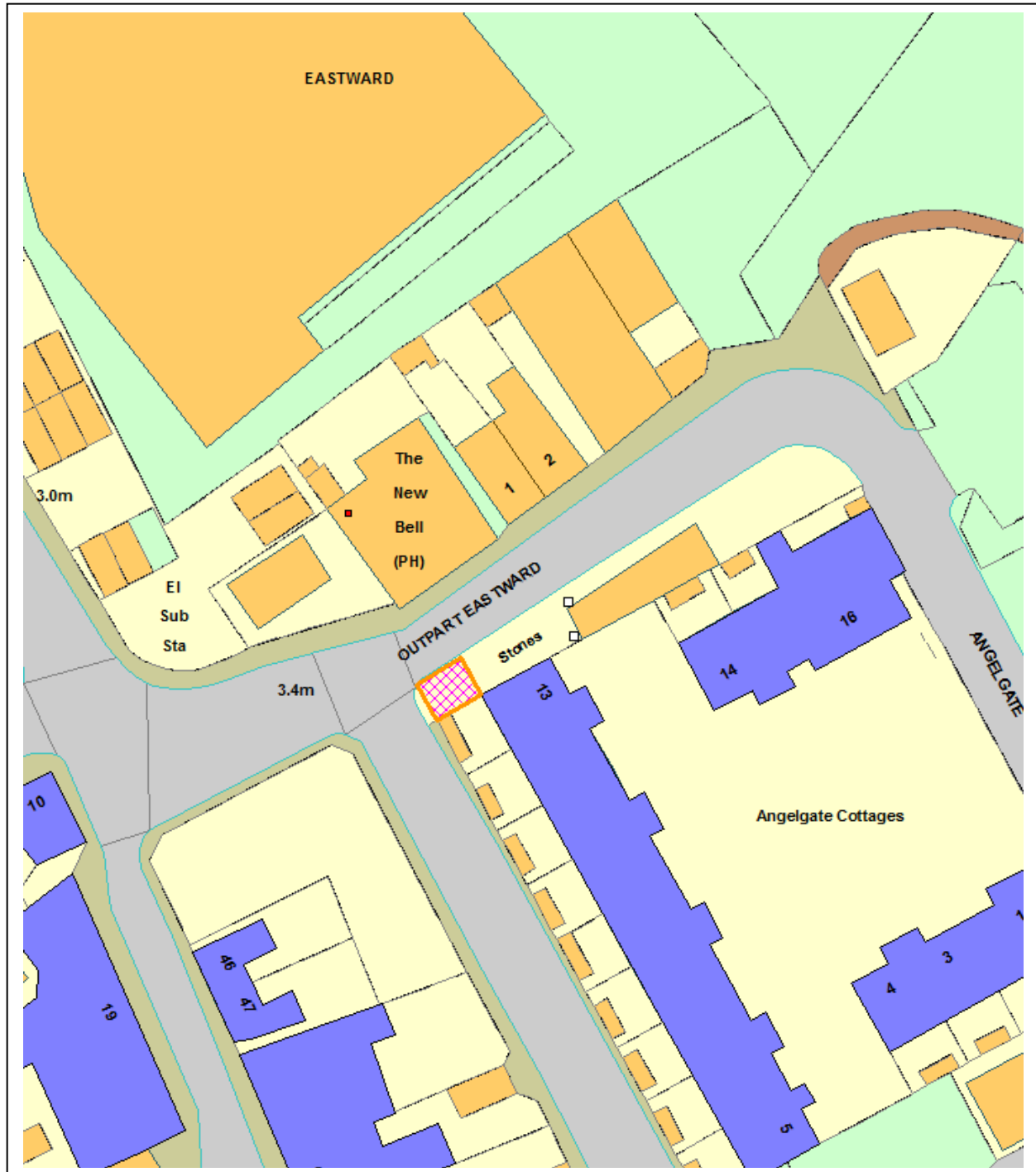
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PLANNING COMMITTEE

28 February 2017

REPORT OF THE HEAD OF PLANNING

A.4 PLANNING APPLICATION - 16/01873/FUL - THE NEW BELL INN OUTPART EASTWARD HARWICH CO12 3EN



DO NOT SCALE

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Application:	16/01873/FUL	Town / Parish: Harwich Town Council
Applicant:	Ms Pamela Walsh - The New Bell Inn	
Address:	The New Bell Inn Outpart Eastward Harwich CO12 3EN	
Development:	Continued Use of part of the carpark as outside seating area.	

1. Executive Summary

- 1.1 The application is referred to Planning Committee as the land is owned by T.D.C and leased to the applicant.
- 1.2 The land was a former car-parking area adjacent to the high boundary wall of the adjacent cottages, and the use was changed last year to an outdoor seating area similar to a beer garden, in association with the New Bell Inn P.H opposite.
- 1.3 The site lies with the defined settlement boundary of the saved Local Plan and within a mixed area close to the Town Centre, but with nearby residential property.
- 1.4 The site provides a useful addition to the public house which the applicant indicates is essential to their business, and adds to the vitality of the town centre and boosts tourism.
- 1.5 The design, siting and scale of the modest seating area is considered acceptable with no material harm to visual or residential amenity, the character/setting of Heritage Assets, or highway safety. The application is therefore recommended for approval.

Recommendation: Approve

Conditions:

- 1) Development in Accordance with Approved Plans
- 2) Opening times (09.30 – 20.00hrs in any one day) and no live or amplified music within seating area
- 3) External seating, tables and other paraphernalia to be removed when not in use

2. Planning Policy

NPPF National Planning Policy Framework

National Planning Practice Guidance

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

ER7 Business, Industrial and Warehouse Proposals

ER13 Employment Use in Residential Areas

ER16 Tourism and Leisure Uses

EN17 Conservation Areas

EN23 Development Within the Proximity of a Listed Building

EN30 Historic Towns

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

SPL2 Settlement Development Boundaries

SPL3 Sustainable Design

PP8 Tourism

PPL8 Conservation Areas

PPL9 Listed Buildings

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

N/A

4. Consultations

Building Control and Access Officer	No adverse comments at this time.
Environmental Health	No adverse comments to make on this application.
Regeneration	The Regeneration Team supports this application as not only will it provide a further full time job with the addition of the outside seating area, they are confident it will also further enhance a pleasant ambiance for their customers.

5. Representations

5.1 Harwich Town Council has no objection to this application, and a petition of 121 names has been submitted, supporting the proposal. The petition indicates that noise from the summer seating on the patio would be minimal, and no-where near as noisy as Church Street on a Friday/Saturday night.

5.2 One individual letter of support states:-

- I live immediately opposite the area in question, which is in direct line of sight from my kitchen (ground floor) and office (first floor) windows. During the time the area was in use I rarely observed more than three or four people at a time using the area, and certainly did not notice much noise
- On the rare occasions that loud noise (such as live music) from the pub has caused any distress we have raised our concerns with the management and our complaints have always been accepted and taken seriously
- I have no doubt that the management will comply with any reasonable restrictions and deal properly with any justified complaints raised by neighbours
- I support the application - the area needs more facilities to encourage visitors to stay and enjoy the town (and spend their money).

5.3 One individual letter of objection has been received from the adjacent resident which states:-

- I live next door and have been working for months to get the tables/chairs removed due to the negative impact they have, ever since they appeared in April 2016 work locally and start at 4am, and walk to work as there is no public transport at that time
- I also work weekends, and have been unable to sleep due to people drinking and talking nearby
- The outside seating results in the front door of the public house being used frequently as people go back and forth across the road, and when live music is played in the pub, the noise level is intolerable
- When I return from work, I am unable to sit outside in my outside area due to the cigarette smoke that comes over the wall, and the loud talking from people sitting outside
- The people using the area forget that there is traffic to the harbour and sailing club, and road safety is a concern as there have been accidents in the past
- People sitting, standing and crossing this road needs careful scrutiny.

6. Assessment

6.1 The main planning considerations are:

- The Principle of the Use;

- The Impact on Heritage Assets;
- Highway Safety, and;
- The Impact on Neighbouring Amenities.

Site Location

- 6.2 The application site is situated on the southern side of Outpart Eastbound - a narrow road at the Quayside in Harwich, and it is related to, and opposite the New Bell Inn P.H which is on the northern side of the road.
- 6.3 The land is situated within the conservation area, in an area containing numerous listed buildings, and is directly adjacent to the Grade II listed Angelgate Cottages. The cottages are unusual in that they face inwards, and their outbuildings and gardens face towards the highway and are enclosed with a boundary wall some 2.5 m in height.
- 6.4 The application site - formally part of a car-parking area - lies adjacent to the gable wall of No 13 Angelgate Cottages, the end terraced property.
- 6.5 The site is owned by Tendring District Council, and leased to the owner of the public house.
- 6.6 The site is roughly rectangular in shape is approximately 20sqm and is block paved, with a low fence separating the land from the remaining car-parking spaces.

Proposal

- 6.7 The development has already occurred over the summer months, but ceased when the applicant realised that planning permission was required, and the application proposes that the land continues in use as an outdoor seating area - akin to a beer garden - associated with the New Bell Inn P.H opposite the site.
- 6.8 The applicant provides small tables and chairs with seating for around 10-12 customers.
- 6.9 The applicant has indicated as additional information, the following matters:
- We took over the New Bell Inn a year ago, and struggled and needed to expand and increase revenue
 - We approached Tendring DC to rent part of the car-park as a seating are, and have been granted a licence, but was withdrawn as we did not have planning permission
 - In its 5 months usage, the footfall and revenue increased and we were able to take on an employee, install C.C.T.V and provide flower-beds to the area
 - The tables and chairs are put away at 8.00pm or earlier, and we carefully monitor the use of the area, as it is visible from the bar and our upstairs accommodation
 - There is no noise or nuisance, and we received only one complaint, and checking the C.C.T.V footage, the stated incident did not occur
 - When the licence was rescinded, we attracted a 150 name petition - including some close neighbours - supporting the use
 - The pub is located out-of-sight of the main streets and the seating area helps identify our existence, increasing the passing trade
 - It is an attraction that customers enjoy, and apart from The Pier Hotel, there is no other such facility in Old Harwich
 - We hope to increase trade and take on more staff
 - We will abide by any restrictions that are imposed in the interest of local residents, and ensure that the area is monitored by the C.C.T.V

The Principle of the Use

- 6.10 The site falls just outside of the central area of Old Harwich, and is a tourist-related facility that is encouraged by Local Plan policies, and the N.P.P.F is generally supportive of schemes to bring forward employment generating uses that will boost the economy, and it seeks to ensure that the vitality of centres is maintained and enhanced.
- 6.11 As the site falls close to the recognised town centre, and is related to an existing business facility, the proposal raises no other policy concerns.

The Impact on Heritage Assets

- 6.12 The site lies within the boundary of policy EN30 - Historic Towns - which requires an appropriate archaeological investigation before development takes place, however in this instance, the development relates to a use of land, where tables/chairs are brought to, and removed from the site, and as no excavation is involved, any archaeology will be unaffected.
- 6.13 The use falls within the conservation area and adjacent to listed buildings, although the modest nature of the development and the transient nature of the seating/tables would not harm the character of the conservation area or the setting of listed buildings, to any appreciable amount, and the site formerly housed vehicles.
- 6.14 The character and setting of the conservation area/listed buildings would therefore be unharmed and therefore preserved as required by the Act.

Highway Safety

- 6.15 The development is located directly opposite the public house, and whilst there would be some crossing of the highway by customers, this would not be frequent, and traffic movements in the locality are slow-moving and it is a lightly trafficked area.
- 6.16 It is considered that no appreciable highway safety issues would arise as a result of the development.

The Impact on Neighbouring Amenities.

- 6.17 The impact on neighbouring amenity is an important consideration and is assessed in detail below in order to establish the acceptability of the proposal.
- 6.18 The introduction of seating will inevitably generate some visitors with attendant noise and disturbance, however the area is a modest one and the amenity areas of neighbours are situated behind a particularly high and robust wall.
- 6.19 It is unlikely that use would generate any significant noise or disturbance, and the applicant indicates that the seating/tables would be removed after 8.00pm, thereby avoiding any impact on amenity at unsociable hours, and being close to the town centre, such hours of operation are not unreasonable, and the Environmental Health Officer has raised no objections.
- 6.20 The issue of noise/disturbance has been discussed above, and with the substantial boundary wall, and with the suggested conditions it is not considered that any appreciable amenity issues would arise.
- 6.21 The scale of the development and the manner that it would be operated is such that no appreciable loss of amenity would result for the occupants of neighbouring property to the extent that a refusal of permission could be justified.

Background Papers

None.

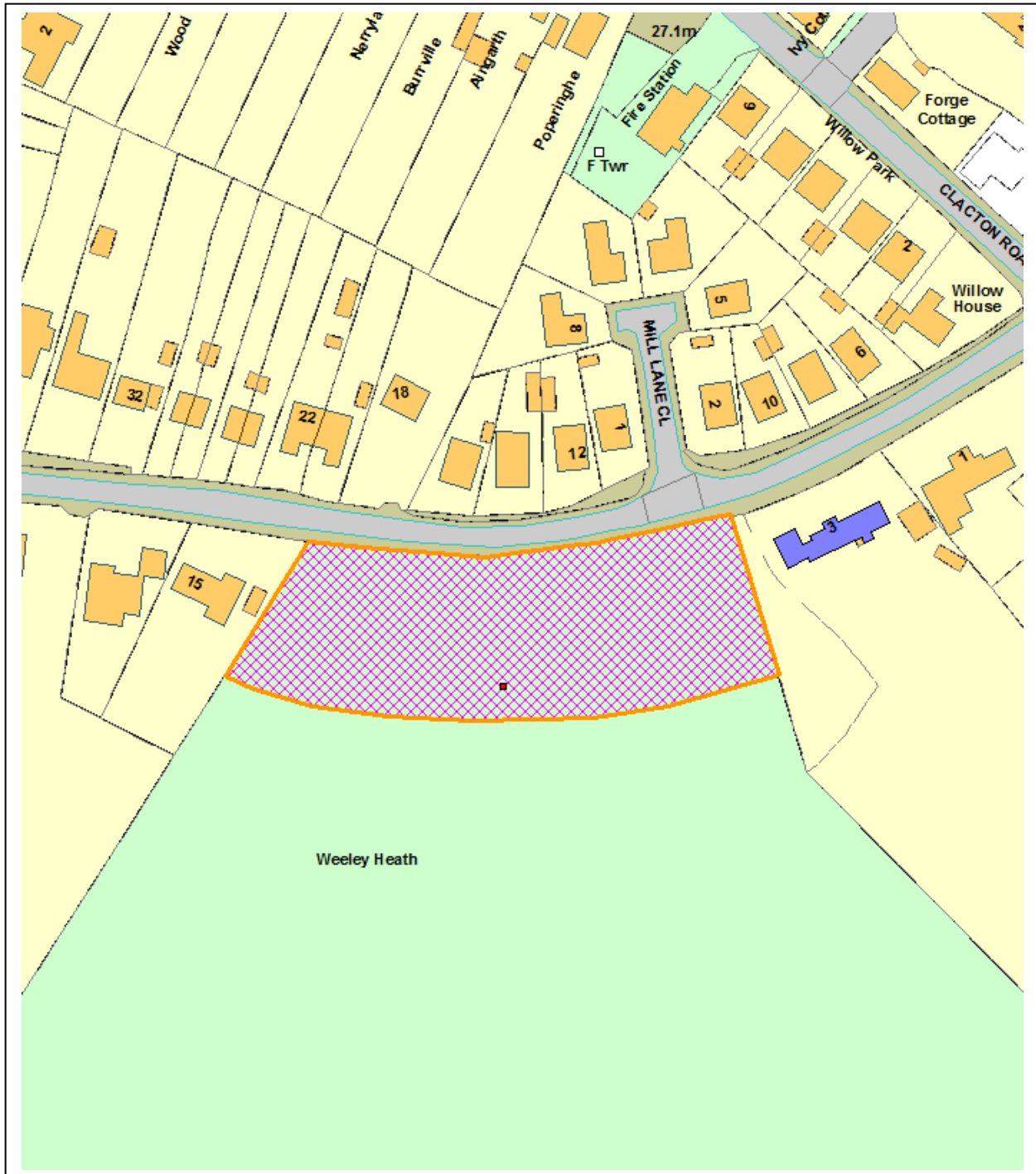
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PLANNING COMMITTEE

28 February 2017

REPORT OF THE HEAD OF PLANNING

A.5 PLANNING APPLICATION - 16/01925/FUL - LAND SOUTH OF MILL LANE WEELEY HEATH CO16 9BG



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Application:	16/01925/FUL	Town / Parish: Weeley Parish Council
Applicant:	Rusden Ltd	
Address:	Land South of Mill Lane Weeley Heath CO16 9BG	
Development:	Proposed development of 6 no. 3 bedroom detached bungalows all with single detached garages.	

1. Executive Summary

- 1.1 Outline application 16/00185/OUT for residential development of up to 6 dwellings on this site was approved at Planning Committee on 18th May 2016 at which time it was requested that the reserved matters be brought back to the committee for determination. This application follows on from the previous outline but seeks full planning permission. Officers' consider it appropriate that this application be determined by the Planning Committee.
- 1.2 This application seeks full planning permission for the erection of 6 no. 3 bedroom detached bungalows each with a single detached garage with two access points from Mill Lane serving 3 properties each.
- 1.3 The application site is situated on the southern side of Mill Lane outside of, but opposite to, the defined settlement development boundary of Weeley Heath as set out in the Tendring District Local Plan (2007) and the draft Tendring District Local Plan 2013-2033 and Beyond Preferred Options Consultation Document July 2016.
- 1.4 As established through the granting of outline application 16/00185/OUT, the principle of residential development for up to 6 dwellings on this site is accepted.
- 1.5 This full application satisfies design and appearance (including the impact on the adjacent heritage asset), highways, trees and landscaping, biodiversity and residential amenity considerations and is recommended for approval.

Recommendation: Approve

Conditions:

- 1) Time Limit
- 2) Approved Plans
- 3) Submission and agreement of external facing and roofing materials
- 4) Hard and Soft Landscaping Scheme
- 5) Implementation of landscaping scheme
- 6) Visibility splays prior to accesses being brought into use
- 7) Parking and turning facilities made available prior to occupation and retained
- 8) No unbound materials in first 6m of access
- 9) Timing of vegetation clearance
- 10) Lighting details
- 11) Biodiversity mitigation and enhancement provision
- 12) Accordance with tree/hedge protection plan
- 13) Removal of PD rights for fencing, walls and means of enclosure on the southern boundary of the site
- 14) Hours of working

2. Planning Policy

NPPF National Planning Policy Framework

National Planning Practice Guidance

Tendring District Local Plan 2007

QL1 Spatial Strategy

QL2 Promoting Transport Choice

QL9 Design of New Development

QL10 Designing New Development to Meet Functional Needs

QL11 Environmental Impacts and Compatibility of Uses

HG1 Housing Provision

HG6 Dwelling Size and Type

HG9 Private Amenity Space

HG14 Side Isolation

EN1 Landscape Character

EN6 Biodiversity

TR1A Development Affecting Highways

TR7 Vehicle Parking at New Development

EN23 Development within the Proximity of Listed Building

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

SPL1 Managing Growth

SPL3 Sustainable Design

LP1 Housing Supply

LP4 Housing Layout

PPL3 The Rural Landscape

PPL9 Listed Buildings

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

Status of the Local Plan

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

3. Relevant Planning History

16/00185/OUT	Residential development comprising up to 6 dwellings.	Approved	20.05.2016
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4. Consultations

Building Control and Access Officer No adverse comments at this time.

Tree & Landscape Officer In order to show the extent to which the trees and hedgerows on the application site, and on land adjacent to the application site, 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 planning application will not result in the removal of any trees and would result in new tree and hedgerow planting ' albeit set against the urbanising impact of the development proposal on the existing landscape character ' some sections of scrubby hedgerow have been identified for removal.

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 Mill Lane. However the plan does not provide sufficient details relating to the species and specification of the trees, shrubs and hedgerows to be incorporated into the soft landscaping scheme.

The applicant will need to provide details of the plant species as well as number of plants to be planted as well as their size (at time of planting). Trees should be 10-12cm girth, shrubs and hedgerow species should be provided as 'bare rooted plants' or in containers of

at least 2 litres.

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

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:

1. Prior to occupation of the development, the accesses at their centre lines shall be provided with a clear to ground visibility splay with dimensions of 2.4 metres by 33 metres to the east and west, as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the accesses are first used by vehicular traffic and retained free of any obstruction at all times.

Reason: To provide adequate inter-visibility between vehicles using the accesses 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.

2. 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.

3. 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.

4. 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.

5. Any single garages should have a minimum internal measurement of 7m x 3m
Any double garages should have a minimum internal

measurement of 7m x 6m

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

6. 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.

Natural England

No comments to make on this application.

5. Representations

- 5.1 Weeley Parish Council does not object to this application but would request that the ditch is piped along the whole frontage of the development in order to make maintenance of the boundary easier.
- 5.2 No other letters of representation have been received.

6. Assessment

- 6.1 The main planning considerations are:
 - Site Context;
 - Proposal;
 - Principle of Development;
 - Character, Appearance and Landscaping;
 - Neighbouring Amenity;
 - Highway Considerations, and;
 - Biodiversity.

Site Context

- 6.2 The site is located within the southern part of the village of Weeley Heath and is broadly rectangular in shape, with access from Mill Lane. The site currently forms a gap between property numbers 3 and 15. The site is approximately 0.67 hectares in size and is relatively flat. It is currently in agricultural use. The property immediately to the east, no. 3 Mill Lane, is a Grade II Listed Cottage.
- 6.3 The northern frontage of the site onto Mill Lane is marked by a sporadic hedgerow and drainage ditch with a large mature Oak tree along the eastern boundary. The site is bounded to the north, east and west by residential dwellings of mainly detached bungalows and houses which front Mill Lane. The southern boundary is open in character and forms part of the agricultural field.
- 6.4 The application site is situated on the southern side of Mill Lane outside of, but opposite to, the defined settlement development boundary of Weeley as set out in the Tendring District Local Plan (2007) and the draft Tendring District Local Plan 2013-2033 and Beyond Preferred Options Consultation Document July 2016.

Proposal

- 6.5 The current application seeks full planning permission for the erection of 6 no. 3 bedroom detached bungalows with a single detached garage serving each dwelling.
- 6.6 The development will be served by 2 new vehicular accesses from Mill Lane each serving 3 dwellings via a small internal access road.
- 6.7 All 6 properties will be served by a private garden area in excess of the minimum 100 square metres required by Saved Policy HG9 of the adopted Tendring District Local Plan (2007).
- 6.8 All 6 properties will be served by 2 parking spaces in the form of a single detached garage and parking space in front in line with the current Parking Standards.

- 6.9 The proposed site layout plan shows that there would be scope to provide substantial landscape planting around the perimeter of the site, including new tree planting, which would make a positive contribution to the bio-diversity of the site.

Principle of Development

- 6.10 As established through the granting of outline application 16/00185/OUT, the principle of residential development for up to 6 dwellings on this site is accepted. As this application now seeks full planning permission, the sustainability credentials and principle of residential development on the site must be re-considered.
- 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 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 Weeley is identified within draft Policy SPL1 of the Tendring District Local Plan 2013-2033 and Beyond Preferred Options Consultation Document July 2016 as an Expanded Settlement. The supporting text for this policy states that Weeley will be the focus for a strategic residential-led development because of its strategic location at the heart of the District with good transport connections and relatively unconstrained land.
- 6.14 Chapter 6 of the 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. Therefore, 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 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.
- 6.17 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 demonstrate 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 strand of sustainable development.

Social

6.21 In terms of the social role, the site is within reasonable proximity of the local amenities within Weeley village such as 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 recreational area. Weeley/Weeley Heath is also on a bus route and there is a bus stop located approximately 350m away on Clacton Road to the north-east of the site with services to Clacton, Frinton and Colchester.

6.22 In addition it is noted that Weeley Railway Station is within walking distance of the site, which connects Weeley to Frinton/Walton and Clacton (via Thorpe-le-Soken), and further afield into Colchester and London. These facilities go some way to illustrate the sustainability credentials for the village. Whilst there is not a footpath present on Mill Lane Rectory Road directly to the east of the site is served by a pedestrian footpath that leads into Weeley to the north-west.

6.23 As stated above, Weeley is identified within draft Policy SPL1 of the Tendring District Local Plan 2013-2033 and Beyond Preferred Options Consultation Document July 2016 as an Expanded Settlement because of its strategic location at the heart of the District with good transport connections and relatively unconstrained land. Whilst the policy has limited weight at this stage, it goes some way to illustrate the sustainability credentials for the village and the site.

6.24 Overall officers consider that the application site performs reasonably well in terms of the social role within the definition of sustainability.

Environmental

6.25 It is acknowledged that, in terms of settlement shape and form, development in this location is unlikely to have a significantly detrimental impact as the site is located immediately opposite the settlement development boundary as defined in both the saved Tendring District Local Plan (2007) and draft Local Plan (2016), with a number of residential dwellings sited to the east, west and north of the site.

6.26 The environmental role is about contributing to protecting and enhancing the natural built and historic environment (including the Grade II listed building to the east of the site) which is considered below under the heading Character and Appearance.

Character, Appearance and Landscaping

- 6.27 The site is surrounded by existing residential development; on the opposite side of the road to the north and to both the east and west of the site all fronting Mill Lane. The development would be between numbers 3 and 15 Mill Lane representing the infill of the existing linear residential development present.
- 6.28 The development proposes 6 no. detached bungalows fronting onto Mill Lane in a linear arrangement therefore representing an appropriate response to the pattern of built development in the vicinity. The presence of residential development at either end of the site and 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. The retention of the majority of the frontage hedgerow, together with additional tree and hedgerow planting along all boundaries of the site ensures that the development would be sympathetic to the semi-rural character of the locality.
- 6.29 The area comprises of a mixture of bungalows, chalet style dwellings and two-storey properties. Therefore, the siting of 6 no. bungalows on the site would not appear out of character or unduly prominent. The single storey approach responds to the preferred dwelling height set out by officers within the committee report for application 16/00185/OUT and the informatives agreed by members included within the approval decision notice.
- 6.30 The dwellings will be served by 2 access points off Mill Lane set behind an internal access road serving 3 dwellings each (outline application indicated a single access serving all 6). Whilst this would result in the removal of two areas of hedgerow this is not considered excessive or harmful to the semi-rural character of the area due to the additional tree and hedgerow planting secured by the development.
- 6.31 The front boundary fencing is to be a post and rail design also respecting the semi-rural character of the area. The close boarded fencing enclosing the rear private gardens for each dwelling are well set back and will not be prominent within the street scene and are also screened by additional proposed planting.
- 6.32 The garages serving the properties are set back and to the side of the bungalows and will not visually dominate the development.
- 6.33 The bungalows are sited in a curved formation following the curved highway and sited no further forward than the existing residential properties either side of the site. The set back from the highway and spacing between the dwellings and their plots ensure that the development does not appear cramped or out of keeping within the street scene.
- 6.34 The external facing and roofing materials have not been specified and a condition will be imposed for their subsequent approval.
- 6.35 Therefore taking into consideration the current use of the site, the residential character of the surrounding area and the vegetation present on and around the site, it is considered that the proposed development would have a neutral impact upon the environment and would as a result satisfy the environmental strand of sustainability as defined within the NPPF. A condition requiring a hard and soft landscaping scheme will be imposed in order to secure the additional tree and hedgerow planting softening the impact of the development.

Impact on Heritage Asset

- 6.36 One of the core planning principles of the NPPF is to conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations. Paragraph 134 of the Framework adds that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the

proposal, including securing its optimum viable use. Policy EN23 of the adopted Tendring District Local Plan (2007) states that proposal for development that would adversely affect the setting of a Listed Building, including group value or long distance views will not be permitted. Draft Policy PPL9 of the Tendring District Local Plan 2013-2033 and Beyond Preferred Options Consultation Document July 2016 supports these objectives.

- 6.37 There are no designated heritage assets on the site. However, there are a range of assets around the wider area. The Church of St Andrew, Church Lane is Grade II* listed building and there are an additional twenty Grade II listed buildings within the local area.
- 6.38 The closest of these designated heritage assets to the site is the Grade II listed 'Ferncroft' 3 Mill Lane, a seventeenth/eighteenth century weatherboard cottage with thatched roof, located to the east of the site. The impact of the development on the setting of 'Ferncroft' is therefore a consideration in this instance. 'Ferncroft' has been extended to the side, closest to the proposed development. The extension is higher than the original thatched cottage element of the building with a conflicting roof form and materials somewhat diminishing the original character and architectural value of the cottage. This extension divides the listed building from the development site and is well-screened by the existing hedgerow planting along the eastern boundary including the mature Oak tree. For these reasons the proposed development is not considered to be significantly harmful to the setting of the listed building. Any affects on the setting of the listed building would be significantly outweighed by the benefits.

Neighbouring Amenity

- 6.39 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'. Draft Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Preferred Options Consultation Document July 2016 supports these objectives supports these objectives.
- 6.40 The single storey nature of the proposed dwellings together with the spacing retained between the existing residential properties to the east and west of the site ensure that there will be no material loss of light, outlook or privacy as a result of the development.

Highway Considerations

- 6.41 Essex County Council as the Highway Authority has been consulted on the application (see above for details). They raise no objection to the development and the creation of 2 access points from Mill Lane subject to a number of conditions as set out above which will be imposed as necessary.
- 6.42 The Council's Adopted Parking Standards require that for dwellings with 3 bedrooms, a minimum of 2 parking spaces are 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. Each property is served by a garage with a parking space in front in line with these requirements. 2 visitor parking spaces are also provided.

Biodiversity

- 6.43 The site consists predominantly of arable farmland with boundary hedgerows, and some small areas of improved grassland. As a result a phase 1 habitat survey has been submitted that encompassed the site area and the remainder of the field.

- 6.44 The survey concluded that the majority of the habitats are likely to be of low biodiversity value, but most of the field boundary hedgerow has the potential to be of value to several protected species as well as being of general biodiversity value themselves. However, as the proposed development is within the small northern section of the whole area surveyed, with the appropriate mitigation methods, no significant impacts upon protected species/habitats are predicted.
- 6.45 Therefore the inclusion of conditions relating to the timing of vegetation clearance and the use of sensitive lighting will help to ensure any impact upon nesting birds and foraging bats is minimal. Furthermore, there is an opportunity to increase the ecological value of the site, which is currently low, via wildlife friendly landscaping and the provision of bat and bird boxes.
- 6.46 As such the proposed development is not considered to adversely affect any nearby ecological designations, or protected species.

Background Papers

None.

PLANNING COMMITTEE

28 FEBRUARY 2017

REPORT OF MANAGEMENT AND MEMBERS' SUPPORT MANAGER

A.6 CORPORATE ENFORCEMENT STRATEGY

(Report prepared by Karen Neath)

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

To consult with the Committee on the draft Corporate Enforcement Strategy.

EXECUTIVE SUMMARY

- At Cabinet on 16th December 2016, the draft Corporate Enforcement Strategy was agreed for consultation. Within the Council, it was agreed that the Strategy be considered by the Planning, Licensing and Community Leadership and Partnerships Committees.
- The purpose of this Corporate Enforcement Strategy is to set out the overarching “umbrella” principles to apply to all service departments and its officers within the Council which undertake enforcement functions.
- The Council’s enforcement responsibilities and powers cover a wide range of legislation with a variety of formal and informal sanctions, which aim to protect the interests and rights of people in relation to the environment that they use. The enforcement of regulatory legislation enables the Council to achieve its’ priorities contained within the Corporate Plan and fits with national policy, codes and guidance.
- It is important that these enforcement functions are carried out in an equitable, practical and consistent manner, and that both those subject to regulation and those on whose behalf enforcement is carried out can understand the approach we take. The purpose of this Corporate Enforcement Strategy is to explain clearly and publicly summarise Tendring District Council's intended approach towards enforcement and dealing with non-compliance.
- It is important to note that the Licensing and Registration and Planning Committees retain the legal responsibility and power with regards to enforcement decisions including the proposed adoption of a corporate Harm Risk Assessment Checklist and Template however, it is intended that some general principles can be agreed across the Council to form a corporate approach.
- The draft Strategy is attached at Appendix A and includes the following sections on how we will deal with enforcement:-
 - Openness & Transparency
 - Helpfulness
 - Consistency
 - Proportionality

- Targeting resources on higher risk; and
- Accountability.
- The outcome of the consultation will be reported back to Cabinet in early 2017 for consideration in the adoption of the final document.

RECOMMENDATION(S)

That Members of the Committee determine whether they have any comments on the draft Corporate Enforcement Strategy as attached at Appendix A.

PART 2 – IMPLICATIONS OF THE DECISION

DELIVERING PRIORITIES

Council enforcement services across the Council have a key role to play in helping to deliver an ethos of open for business whilst addressing issues adversely affecting our residents. It underpins Tendring Council's ethos and objectives to deliver high quality affordable services, engaging with the community and effective partnership working to promote healthier lifestyles and well-being in the district. It is important to ensure that enforcement solutions are developed to meet local needs and through engagement with local stakeholders.

Adopting a Corporate Enforcement Strategy will provide a means for engaging with the community to explain to how its enforcement services will be targeted and delivered following harm and risk assessments, encouraging compliance through communication and partnership working.

Adopting Principles of Good Regulation demonstrates good governance through openness & transparency, helpfulness, consistency, proportionality, targeting resources on higher risk and accountability.

FINANCE, OTHER RESOURCES AND RISK

Finance and other resources

The introduction of the draft Corporate Enforcement Strategy for further consultation does not in itself have any financial implications, however, there may be resource implications in delivering the principles of Good Regulation although, at this stage it is anticipated that these will be covered by existing budgets and resources.

Risk

The introduction of the draft Corporate Enforcement Strategy and associated Service Standards will summarise Tendring District Council's intended approach towards enforcement and dealing with non-compliance. It is intended that adherence to the Principles will increase public confidence, awareness and understanding of the factors taken into consideration and consequently, reduce adverse criticism of enforcement activity.

LEGAL

Local authority regulators whose functions are specified by order under section 24(2) of the Legislative and Regulatory Reform Act 2006 are bound to have regard to the Regulators' Code when developing policies and operational procedures that guide regulatory activities.

The Government have stated that they will monitor published policies and standards of regulators subject to the Code, and challenge local authorities where there is evidence that

policies and standards are not in line with the Code or are not followed.

The draft Strategy accords with the government's 'Better Regulation Agenda'. Specifically, it implements good practice recommended by the Cabinet Office Enforcement Concordat, the Regulators' Code; and the regulatory principles required under the Legislative and Regulatory Reform Act 2006 ("the 2006 Act"), including the duty to have regard to economic growth ('the Growth Duty'). The provisions of Section 6 of the 2006 Act include an expectation that local authorities will publish a clear set of service standards, setting out what those they regulate should expect from them.

"Enforcement" includes any action taken by officers aimed at ensuring that individuals or businesses comply with the law. The term "enforcement" therefore has a wide meaning and applies to all dealings between the Council and those upon whom the law places responsibilities. It is not limited to formal enforcement action such as prosecution, but can include a range of interventions that seek to achieve compliance with the law.

Regulatory activities within Licensing, Registration and Planning are non-executive functions and therefore consultation is required with the relevant committees before approval by Cabinet, this is particularly relevant to the suggested use of a corporate Harm Risk Assessment Checklist/Template across all council services. It will still remain the responsibility of the relevant enforcement Committee to adopt a corporate checklist and template and they will have the power to suggest and make changes appropriate to their specialised area.

OTHER IMPLICATIONS

Consideration has been given to the implications of the proposed decision in respect of the following and any significant issues are set out below.

Crime and Disorder

The Regulators' Code and Draft Corporate Enforcement Strategy contributes to the Council's duty to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area.

Equality and Diversity

An assessment of the impact of the recommendations in this report has been undertaken and no potential for discrimination or adverse impact has been identified and all opportunities to promote equality have been taken.

Consultation / Public Engagement

Internal consultation has been undertaken in formulating the draft Corporate Enforcement Strategy and further consultation will be carried out with external partnership bodies, key stakeholders and relevant committees and reported back to Cabinet for consideration in the adoption of the final document.

PART 3 – SUPPORTING INFORMATION

BACKGROUND

The [Regulators' Code](#), published by BRDO in July 2013, came into force on April 6th 2014. The Better Regulation Delivery Officer (BDRO) sits within the Department of Business, Energy and Industrial Strategy (BEIS).

Nearly all non-economic regulators, including local authorities and fire and rescue authorities, must have regard to this code when developing standards, policies or procedures that either guide their regulatory activities with business or apply to other regulators.

Section 6 of the Regulators' Code sets out Government's expectation that local authorities will ensure that their approach to regulatory activities is transparent. The provisions of section 6 include an expectation that local authorities will publish a clear set of service standards, setting out what those they regulate should expect from them. This includes their enforcement policy, explaining how they respond to non-compliance.

The Regulators' Code contains details of how enforcement activity should be approached and specifically requires that Regulators:

- Carry out activities in a way that supports those that are regulated to comply and grow;
- Provide simple and straightforward ways to engage with those that are regulated and hear their views
- Base their regulatory activities on risk
- Share information and compliance and risk
- Ensure clear information, guidance and advice is available to help those regulated to meet their responsibilities to comply
- Ensure that their approach to regulatory activities is transparent.

Published service standards serve to bring the provisions of the Regulators' Code to life for each regulator and are important for regulators in meeting their responsibility under the statutory principles of good regulation to be accountable and transparent about their activities.

The Regulators' Code requires that published service standards should be accessible, clearly signposted, and kept up-to-date, but does not set out a single required approach to service standards. It is for each authority to determine an approach which works best for those it regulates and itself. The Code expects that local authorities will engage with those they regulate in relation to the development of their service standards. To date each service undertaking enforcement activity has focused on their individual enforcement policies and standards and to ensure consistency it is recommended that the BRDO's toolkit mentioned below is considered.

The BRDO has worked with a number of groups, including the Local Authority Reference Panel, Pathfinder LEPs and others, to explore the content of service standards and how the local authority can ensure that businesses find them. From this work, a toolkit was produced by the BRDO presenting examples of how a local authority might choose to approach:

- Developing or reviewing its service standards; and
- Developing or reviewing its enforcement policy.

The Council's services have been informally working together on corporate operational enforcement matters for some time however, it has been identified that a more consistent joined up approach would be beneficial and review of its working practices and procedures has commenced. Adopting a Corporate Enforcement Strategy would assist and provide a directional steer in this process.

The Community Safety Hub in Tendring already engenders the ethos of partnership working and holds regular hub tasking meetings to consider multi- agency enforcement issues. The principles set out in the Corporate Enforcement Strategy can also be applied to the hub to strengthen the good practice already in place.

DRAFT CORPORATE ENFORCEMENT STRATEGY

The Council's enforcement services seek to ensure that advice and information is available to individuals and local businesses about their responsibilities and duties and, when appropriate, uses its powers to make sure that those who disregard the law are held to account for their behaviour. The Council will approach enforcement decisions by ensuring that they will comply with this Strategy and information on individual services Enforcement Policies may be obtained from the relevant department and the Council's website.

Initial proactive engagement is encouraged to discuss issues, in a positive manner. If initial approaches are unsuccessful then a firm but fair stance will be adopted which will address issues quickly and transparently, whilst protecting members of the community and the environment.

We want to engage with residents who are often unaware that they require certain permissions to help them through processes; however if they are unwilling to engage then we take appropriate action. With new businesses, we want to encourage them to open and expand in Tendring and identify what are the blockages for them, rather than our first contact being one of enforcement; but we are prepared to take a proactive approach to enforcement if required.

The Council shares the Government's view that effective and well-targeted regulation is essential in promoting fairness and protection from harm and that as regulators we should adopt a positive and proactive approach towards ensuring compliance by:

- helping and encouraging regulated entities to understand and meet regulatory requirements more easily; and
- responding proportionately to regulatory breaches

Where possible, the Council will reward good compliant businesses by lighter touch, fewer or no visits, alternative interventions, and/or other incentives. However, adopting a risk based approach, we will not hesitate to take all necessary enforcement action against those who, e.g. commit serious breaches, flout the law, and refuse to work with us to seek compliance or commit offences which are prevalent in the district. It is intended that a corporate Harm Risk Assessment Checklist/Template is adopted for use across council services.

Whilst it is acknowledged that the Regulators' Code relates principally to the Council's activities for Environmental Health and Licensing, the principles outlined are considered to be equally relevant to other council services undertaking enforcement functions. It was felt appropriate to have a single Strategy to cover all of these areas therefore, the scope of the Strategy is intended to include:

- Building Control and Dangerous Structures
- Community Safety and Anti-Social Behaviour
- Environmental Health (including food hygiene, health & safety, housing,

- pollution control and smoking)
- Housing
- Licensing (including alcohol, animal establishments, gambling, public entertainment and taxis) (some of these activities are also subject to specific policies on the application of legislation adopted by Full Council)
- Parks, Open Spaces and the Seafront (including Bylaws, Trespass and unauthorised encampments)
- Planning; and
- Street Care (including dog fouling, fly tipping, fly posting, littering, trade & domestic waste);

In achieving compliance, the Council will exercise our regulatory activities in a way which delivers the following Principles of Good Regulation:

- The Council is committed to following good enforcement practice in accordance with current legislation, guidance, codes of practice that influence policy listed within the draft Corporate Enforcement Strategy as set out in Appendix A.
- We aim to carry out our activities in a robust but fair way that supports those we regulate to comply without creating unnecessary business burdens.
- We will exercise our regulatory activities in a way which delivers:
 - (i) Openness & Transparency
 - (ii) Helpfulness
 - (iii) Consistency
 - (iv) Proportionality
 - (v) Targeting resources on higher risk; and
 - (vi) Accountability
- We will assess whether similar social, environmental and economic outcomes to achieved by less burdensome means.

The Draft Strategy also includes a section on a ward councillor's role in relation to enforcement matters and a Data Sharing Statement. The statement aims to provide a common understanding of the data that can be shared between public bodies undertaking enforcement activities and includes Councils (all tiers), Police and Fire Authorities, Central Government agencies and Statutory Undertakers.

The sharing of personal data between delivery bodies involved in the enforcement of legislation is subject to the requirements of the Data Protection Act 1998 (DPA). This statement aims to clarify how such data should be handled to ensure openness, transparency and consistency in compliance with the DPA and any other applicable legislation. It also promotes best practice to encourage effective working relations.

BACKGROUND PAPERS FOR THE DECISION

- Department for Business Innovation and Skills – Better Regulation Delivery Officer Regulators' Code April 2014
- Department for Business Innovation and Skills – Better Regulation Delivery Officer Regulators' Code Section 6: Local Authority Toolkit March 2014

APPENDICES

Appendix A: Draft Corporate Enforcement Strategy for consultation

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Tendring
District Council



Corporate Enforcement Strategy

Draft for consultation

December 2016

Foreword

Tendring District Council's Enforcement Ethos

Encouraging businesses to come to Tendring and keeping a clean and safe district is critical for our residents, visitors and businesses. Our Council recognises the strong link between quality of the environment and people's health, safety and quality of life.

Council enforcement services across the Council have a key role to play in helping to deliver an ethos of open for business whilst addressing issues adversely affecting our residents. It underpins Tendring Council's ethos and objectives to deliver high quality affordable services, engaging with the community and effective partnership working to promote healthier lifestyles and well-being in the district. It is important to ensure that enforcement solutions are developed to meet local needs and to engage with local stakeholders in the development of local action planning.

Our enforcement services seek to ensure that advice and information is available to individuals and local businesses about their responsibilities and duties and, when appropriate, uses its powers to make sure that those who disregard the law are held to account for their behaviour. Our approach to enforcement and the decisions that we make will be set out within our enforcement policies. Information on services individual Enforcement Policies may be obtained from the relevant department and the Council's website at *[address and link to be inserted]*.

Our approach to enforcement will be one of an initial proactive engagement, to discuss issues, in a positive manner. If initial approaches are unsuccessful then a firm but fair stance will be adopted which will address issues quickly and transparently, whilst protecting members of the community and the environment.

We want to engage with residents who are often unaware that they require certain permissions to help them through processes; however if they are unwilling to engage then we take appropriate action. With new businesses, we want to encourage them to open and expand in Tendring and identify what are the blockages for them, rather than our first contact being one of enforcement; but we are prepared to take a proactive approach to enforcement if required.

The Council shares the Government's view that effective and well-targeted regulation is essential in promoting fairness and protection from harm and that as regulators we should adopt a positive and proactive approach towards ensuring compliance by:

- helping and encouraging regulated entities to understand and meet regulatory requirements more easily; and
- responding proportionately to regulatory breaches

Where possible, the Council will reward good compliant businesses by lighter touch, fewer or no visits, alternative interventions, and/or other incentives. However, adopting a risk based approach, we will not hesitate to take all necessary enforcement action against those who, e.g. commit serious breaches, flout the law, and refuse to work with us to seek compliance or commit offences which are prevalent in the district.

The Council will work with local ward members on the approach to enforcement where appropriate. The Council approach will be proportionate to the outcome achievable and will seek to not undertake effort disproportionate to the outcome achievable.



Cabinet Member for Enforcement and Community Safety

Councillor Giancarlo Guglielmi

Details will be included of where copies of the strategy can be obtained, accessibility statement, how the Policy has been approved and issue date.

1. Introduction

- 1.1 The purpose of this Corporate Enforcement Strategy is to set out the overarching “umbrella” principles to apply to all service departments and its officers within the Council which undertake enforcement functions. The Council’s enforcement responsibilities and powers cover a wide range of legislation with a variety of formal and informal sanctions, which aim to protect the interests and rights of people in relation to the environment that they use. The enforcement of regulatory legislation enables the Council to achieve its’ priorities contained within the Corporate Plan and fits with national policy, codes and guidance.
- 1.2 It is important that these enforcement functions are carried out in an equitable, practical and consistent manner, and that both those subject to regulation and those on whose behalf enforcement is carried out can understand the approach we take. The purpose of this Corporate Enforcement Strategy is to explain clearly and publicly summarise Tendring District Council's intended approach towards enforcement and dealing with non-compliance.
- 1.3 All authorised officers when making enforcement decisions shall abide by this Strategy, and the supporting documented procedures, both within the appendices and departmental processes.
- 1.4 This Strategy will be/has been developed through external consultation with our partners in the Community Safety Hub and internally with elected members across political parties sitting on the following Committees:
 - Licensing and Registration
 - Planning
 - Community, Leadership and Partnership

2. Principles of Good Regulation:

- The Council is committed to following good enforcement practice in accordance with current legislation, guidance, codes of practice that influence policy listed at Appendix A.
- We aim to carry out our activities in a robust but fair way that supports those we regulate to comply without creating unnecessary business burdens.
- We will exercise our regulatory activities in a way which delivers:
 - (i) openness & transparency
 - (ii) helpfulness

- (iii) consistency
 - (iv) proportionality
 - (v) targeting resources on higher risk; and
 - (vi) accountability
- We will assess whether similar social, environmental and economic outcomes to achieved by less burdensome means.
 - The Strategy accords with the government’s ‘Better Regulation Agenda’. Specifically, it implements good practice recommended by the Cabinet Office Enforcement Concordat, the Regulators’ Code; and the regulatory principles required under the Legislative and Regulatory Reform Act 2006 (“the 2006 Act”), including the duty to have regard to economic growth (‘the Growth Duty’). The provisions of Section 6 of the 2006 Act include an expectation that local authorities will publish a clear set of service standards, setting out what those they regulate should expect from them. These Service Standards we be included within Annex A to this document and available on the Council’s website through *(insert link)*.

3. Scope and interpretation

- 3.1 “Enforcement” includes any action taken by officers aimed at ensuring that individuals or businesses comply with the law. The term “enforcement” therefore has a wide meaning and applies to all dealings between the Council and those upon whom the law places responsibilities. It is not limited to formal enforcement action such as prosecution, but can include a range of interventions that seek to achieve compliance with the law.
- 3.2 Whilst it is acknowledged that the Regulators Code relates principally to the Council activities for Environmental Health and Licensing, the principles outlined are considered to be equally relevant to other Council services undertaking enforcement functions. The scope of the Strategy is therefore intended to include:
- Building Control and Dangerous structures
 - Community Safety and Anti-Social Behaviour
 - Environmental Health (including food hygiene, health & safety, housing, pollution control and smoking)
 - Housing
 - Licensing (including alcohol, animal establishments, gambling, public entertainment and taxis) (some of these activities are also subject to specific policies on the application of legislation adopted by Full Council)
 - Parks, Open Spaces and the Seafront (including Bylaws, Trespass and unauthorised encampments)
 - Planning; and
 - Street Care (including dog fouling, fly tipping, fly posting, littering, trade & domestic waste);

3.3 In many instances, enforcement activity relates to businesses, and accordingly this Strategy generally makes reference to 'business' and 'business premises' throughout. But sometimes - for example within planning enforcement work, issues of public nuisance, or public carriage driver licensing - the enforcement activity relates not to a business but to a private individual.

3.4 Clearly not all aspects of this Strategy are appropriate to circumstances involving private individuals, but wherever they are appropriate - for example in the approaches used to determine whether serious enforcement action should be taken - this Strategy should be read as applying to such private individuals in the same way as it applies to businesses.

4. Our approach to dealing with non-compliance

4.1 A range of activities will be undertaken to ensure compliance with legislation. Advice and guidance will be provided; proportionate, targeted, programmed and intelligence-led inspections will be undertaken and, where necessary, inspections will be undertaken in response to complaints from third parties. Some enforcement services will also have officers patrolling the streets.

4.2 In achieving compliance, we will work within the principles of good enforcement and exercise our regulatory activities in a way which delivers:

(i) Openness & Transparency:

- We will ensure that those we regulate are able to understand what is expected of them and what they can anticipate in return.
- Provide information and advice in a timely manner and in plain language on the rules that we apply and any action to be taken. This may be provided either verbally, by telephone, by personal visit where appropriate, or in writing.
- Be open about our work, including any charges that are set.
- Discuss general issues, specific compliance failures or problems with anyone experiencing difficulties.
- Make it clear what should be expected from the Council as an Enforcement Authority.
- Respond to requests for information under the Freedom of Information Act 2000 or Environmental Information Regulations, within 20 working days.
- Our document retention policy will detail our commitment to records management.

- Make a record of decisions accessible, in full or partially, to the public to ensure openness and transparency of the criteria by which we will judge whether to take action or not. Information will only be withheld from the public, if there is a statutory reason to do so (for example personal information to third parties or exemptions under Freedom of Information or Environmental Information Regulations).

(ii) Helpfulness:

Formal enforcement action should be taken as a last resort and the Council believes that communication and conciliatory involvement are key to successful positive compliance outcomes. We will actively work with individuals and businesses to ensure that advice and information about their responsibilities and duties is available.

- We encourage compliance by providing guidance and liaising with stakeholders on how this can best be presented and disseminated – a request for advice will not directly trigger enforcement action where there is a willingness to resolve any non-compliance which may be identified.
- Our staff will identify themselves and provide a courteous and efficient service.
- We will provide a contact point and telephone number to encourage individuals and businesses to seek advice/information from us.
- Applications for approval of applications, licensing, registration, or authorisation will be dealt with efficiently and promptly.

(iii) Consistent:

We will carry out our duties in a fair, equitable and consistent manner, and

- Our officers are expected to exercise judgement in individual cases but we will endeavour to ensure that a similar approach is taken in similar circumstances.
- Our officers will use corporate systems consistently to maximise efficient use of resources and data management in accordance with the Fair Processing Data Statement. Where possible standardised templates and proformas will be developed and used across service areas. Decisions taken will be recorded with reasons.
- The Council will adopt a cross service enforcement operational team approach seeking joint problem solving of complaints across the District. Communication and efficiency will be strengthened as well as effective use of powers available. A lead officer will be allocated an overarching role to coordinate the team approach.

- Will take account of advice offered to us through bodies such as the Local Government Association (LGA), Food Standards Agency (FSA), Health and Safety Executive (HSE), Government Departments such as the Departments for Communities and Local Government (DCLG) and for Business, Energy and Industrial Strategy (BEIS) and Local Government Ombudsman (LGO).
- Where a Primary Authority Partnership (*) exists, officers will engage with and consider advice previously issued by the Primary Authority when considering the most appropriate course of action. Where, after further liaison with the Primary Authority, officers consider that formal action is still appropriate; the statutory notification process will be followed. This Scheme does not preclude officers from taking immediate action in the event of serious or imminent risks to health or safety.

(*) Primary Authority allows businesses to be involved in their own regulation. It enables them to form a statutory partnership with one local authority or fire and rescue authority, which then provides robust and reliable advice for other local regulators to take into account when carrying out inspections or addressing non-compliance.

- Where there is a wider regulatory interest, we will liaise and co-operate with or pass information to the appropriate enforcement agency. This may include the sharing of intelligence with other Government Agencies, Police Forces, Fire Authorities, Statutory Undertakers or other Local Authorities.
- We will liaise with our colleagues in other Essex Authorities and Regulatory Services, to share information and develop a consistent approach to enforcement, e.g. through the use of common protocols. Reference to the Data Sharing Statement is included within Paragraph 5.2.
- We will consult in developing clear standards, setting out the level of service and performance the public and businesses can expect to receive.
- We will publish our standards.
- Advice from officers will be put clearly and an explanation given as to why remedial works are necessary.
- The timescales for compliance with notices will be reasonable.
- We will raise safeguarding alerts with the appropriate authorities.

(iv) Proportionate:

We will ensure our activities will reflect the level of risk to the public and enforcement action taken will relate to the seriousness of the offence; and

- Aim to minimise the cost of compliance by ensuring that any action required is proportionate to the risk and that we take proper account of the economic consequences of our actions.
- Take into account, as far as the law allows, the circumstances of the case and the attitude of the offender when considering action.
- Help to promote a thriving local economy by maintaining a fair and safe trading and working environment.
- Are committed to choosing proportionate approaches based on relevant factors such as business size and capacity.
- Committed to dealing firmly with those who deliberately or persistently fail to comply.
- Will only take action that is necessary to achieve the aims of the statutory regime being enforced, with reasons for the action being recorded using the Harm & Risk Assessment.
- When we believe there is reasonable cause that a child, young person or vulnerable adult, may be suffering or may be at risk of suffering significant harm, consideration will always be given to referring these concerns to Children's or Adults Social Care (as appropriate) and/or the Police.

(v) Targeted

We will focus our resources on significant harm and higher risk enterprises and activities, reflecting local need and national priorities, and:

- Ensure resources and regulatory activities are targeted primarily on those which give rise to the most serious risks and harm.
- Take an evidence based approach to determining the priority risks and allocate resources where they would be most effective in addressing those priority risks.
- Consider risk and harm at every stage of the decision-making processes, including choosing the most appropriate type of intervention or way of working with those regulated; targeting checks on compliance; and when taking enforcement action. Decisions with reasons will be recorded.

- Ensure that Harm and Risk Assessment Framework principles currently in use by some services are adopted across all the Council's enforcement services. The assessment framework will be reviewed regularly.
- In undertaking the assessment of risk and determining the harm, the compliance record of the business or individual will be considered together with all available and relevant data on compliance, including evidence of any relevant external or other statutory verification.
- Ensure that action is focused on the duty holders who are responsible for the risk and who are best placed to control it through the use of a graduated enforcement approach.
- Seek to ensure our resources are used with maximum effectiveness to avoid burdening businesses with the costs of unnecessary interventions.
- Where more serious non-compliances are identified, we will advise duty holders of the circumstances under which a revisit will be undertaken and the timescale for that revisit.

(vi) Accountable

Our activities will be open to public scrutiny, with clear and accessible policies, and fair and efficient complaints procedures, and:

- We will ensure that we have policies and procedures against which our work can be judged.
- We will ensure there is an effective and accessible mechanism for dealing with comments and complaints and information is provided within the Council's Service Standards and available on the website.
- Officers are responsible to elected members(*), the public and government bodies for their actions.
- Officers will provide general updates to the relevant ward councillor when requested to do so (this will not be automatic and only where the ward councillor has been involved in raising awareness of a potential non-compliance). Detailed information will not be provided if to do so would prejudice further action or involve disclosure of personal or sensitive information.
- In exceptional circumstances and only upon the agreement of the Chairman of the Licensing & Registration or Planning Committees together with the Portfolio Holder for Enforcement and Community Safety, a Case Review of a particular matter will be held with the enforcement officer and their Head of Service. The purpose of the review would be to discuss and understand the reasons for the action and decisions taken on an alleged non-compliance, taking into

consideration the principles of Good Regulation as set out in this Strategy and the harm risk assessment.

- In order to maintain the integrity and impartiality of the Council's enforcement service it is vital that the system has the trust and confidence of all concerned.

5. A ward councillor's role in relation to enforcement matters is to:

- a. Respond to residents' enquiries and representations, fairly and impartially and assist in the resolution of concerns and grievances. This may involve working directly with the community to seek positive outcomes.
- b. Effectively represent the interests of their ward and of individual residents, whereby acting fairly to understand the differences of opinions, personal circumstances and situations.
- c. Represent their communities and bring their views into the Council's decision-making process by becoming an advocate for their communities, whilst understanding and articulating the principles of good regulation and the Council's approach to non-compliance.
- d. Raise alleged non-compliance with the relevant service responsible for the enforcement activity and carefully consider the advice of the enforcement officer as to future involvement.
- e. Ensure their involvement does not compromise their position or put at risk failure to comply with their own Members' Code of Conduct and Member/Officer Relations Protocol.
- f. Understand the provisions of the Data Protection Act 1998 and to ensure confidential or personal information is not disclosed to third parties.

6. Working in Partnership with others:

- 6.1 On occasions (currently decided upon on a case by case basis) this will involve working in partnership with other enforcement agencies (includes Essex County Council, RSPCA, Natural England, Police, CPS, Health and Safety Executive, Food Safety Agency and Housing associations.

After consultation with external organisations - Include details of any requirements to consult with another organisation before taking action, including details of the statutory requirement under Primary Authority to notify proposed enforcement action.

6.2 Data Sharing Statement

A Data Sharing Statement was produced between the Community Safety Hub and Tendring District Council. This statement also applies across Tendring District Council's internal services.

The statement aims to provide a common understanding of the data that can be shared between public bodies undertaking enforcement activities and includes Councils (all tiers), Police and Fire Authorities, Central Government agencies and Statutory Undertakers.

The sharing of personal data between delivery bodies involved in the enforcement of legislation is subject to the requirements of the Data Protection Act 1998 (DPA).

This statement aims to clarify how such data should be handled to ensure openness, transparency and consistency in compliance with the DPA and any other applicable legislation. It also promotes best practice to encourage effective working relations.

The statement may be found *[insert link]*.

7. Publicity

We will consider, in all cases, drawing media attention to factual information about charges that have been laid before the courts, but will take care to avoid publicity that could prejudice a fair trial. We will also consider publicising any conviction that could serve to draw attention to the need to comply with the legal requirements or deter anyone tempted to disregard their duties.

8. Comments, compliments or complaints

Tendring District Council is committed to responsive, good quality customer services to the people of the district and would welcome comments and feedback about the Corporate Enforcement Strategy may have on local residents and/or business through our X service team.

9. How often is the Strategy Reviewed?

It is considered good practice to review Council policies and a 5 yearly review will provide a reasonable timetable for this Strategy however, a review may also be appropriate in the intervening period if there is a significant change in legislation, national codes, guidance or national or local policy.

10. ENFORCEMENT PROCEDURES AND OPTIONS

Procedures:

- 10.1 Our enforcement services will investigate alleged breaches and complaints that are reported in writing and we will only register and investigate anonymous complaints where the alleged breach is extremely serious and/or is readily apparent. In all cases we will proceed on the common law principle that the person or business under investigation is “presumed innocent until proved guilty”.
- 10.2 Only officers who are competent by training, qualification and/or experience will be authorised to take enforcement action. Officers will also have sufficient

training and understanding of this enforcement policy to ensure a consistent approach to their duties. Officers are required to show their written authorisation on demand.

- 10.3 A record of Officers authorised within services to undertake enforcement activities is contained within the Council's Scheme of Delegation within the Council's Constitution and maintained by the Monitoring Officer.
- 10.4 In coming to a decision on how to deal with non-compliance, we will have regard to the following principles which are set out in the Macrory Review. In particular our actions should:
- a) aim to change the behaviour of the offender;
 - b) aim to eliminate any financial gain or benefit from non-compliance;
 - c) be responsive and consider what is appropriate for the particular offender and regulatory issue, which can include punishment and the public stigma that should be associated with a criminal conviction;
 - d) be proportionate to the nature of the offence and the harm caused;
 - e) aim to restore the harm caused by regulatory non-compliance, where appropriate; and,
 - f) aim to deter future non-compliance.
- 10.5 All services undertaking enforcement activities undertake a Harm Risk Assessment scheme to produce indications of risks that may be broadly described as "High, Medium or Low", or similar.
- 10.6 The decision to use enforcement action will be taken on a case by case basis and, to ensure consistency of approach, in accordance with this and any other more specific policies which may be applicable. Enforcement action will include reference to Harm Risk Assessments. The action taken, which may be immediate, will be proportionate to the gravity and nature of the non-compliance.
- 10.7 Factors that may be taken into consideration include, but are not limited to:
- the risk that the non-compliance poses to the safety, health or economic welfare of the public at large or to individuals
 - the alleged offence involved a failure to comply in full or in part with the requirements of a statutory notice or order
 - there is a history of previous warnings or the commission of similar offences
 - aggravated circumstances such as obstruction of an officer or aggressive behaviour towards the public
 - the offence, although not serious itself, is widespread in the area where it is committed
 - death was a result of a breach of legislation
 - the gravity of an alleged offence, taken together with the seriousness of any actual or potential harm
 - the general record and approach of the offender

- there has been reckless disregard of health and safety requirements
- there has been a repetition of a breach that was subject to a formal caution
- false information has been supplied wilfully, or there has been an intent to deceive

10.8 Tendring District Council will balance the relevant factors carefully and fairly, considering each case on its merits and recording the outcome of the decision. The enforcement options available to the Council are summarised below but set out in more detail in Appendix C.

Options:

10.9 Where non-compliance is found, options to promote/seek compliance will include:

- undertaking pro-active education programmes
- explaining legal requirements and, where appropriate, the means to achieve compliance
- providing an opportunity to explore alternative approaches and reasonable timescales to achieve compliance including voluntary undertakings
- service of advisory letters, warnings, statutory (legal) notices or prohibitions detailing non-compliance
- enforcement actions including, but not limited to:
 - formal caution
 - fixed penalty notices
 - seizure of documents or goods
 - review/refusal/suspension/revocation of Licenses
 - closure of premises
 - prosecution and/or injunction
- Immediate, without notice, enforcement action may be taken, but only where deemed necessary, reasonable and proportionate.

Appendix A

Legal and Policy context

A. Principles of Good Regulation

The Legislative and Regulatory Reform Act 2006, Part 2, requires Tendring District Council to have regard to the Principles of Good Regulation when exercising a specified regulatory function. For local authorities, the specified functions include those carried out by our environmental health, trading standards and licensing services.

We will exercise our regulatory activities in a way which is:

- (i) Proportionate - our activities will reflect the level of risk to the public and enforcement action taken will relate to the seriousness of the offence,
- (ii) Accountable - our activities will be open to public scrutiny, with clear and accessible policies, and fair and efficient complaints procedures,
- (iii) Consistent - our advice to those we regulate will be robust and reliable and we will respect advice provided by others. Where circumstances are similar, we will endeavour to act in similar ways to other local authorities,
- (iv) Transparent - we will ensure that those we regulate are able to understand what is expected of them and what they can anticipate in return, and
- (v) Targeted - we will focus our resources on higher risk enterprises and activities, reflecting local need and national priorities.

B. Regulators' Code

Tendring District Council has had regard to the [Regulators' Code](#) in the preparation of this policy. In certain instances we may conclude that a provision in the Code is either not relevant or is outweighed by another provision. We will ensure that any decision to depart from the Code will be properly reasoned, based on material evidence and documented.

C. Human Rights Act 1998

Tendring District Council is a public authority for the purposes of the Human Rights Act 1998. We therefore apply the principles of the European Convention for the Protection of Human Rights and Fundamental Freedoms. This Strategy and all associated enforcement decisions take account of the provisions of the Human Rights Act 1998. In particular, due regard is had to the right to a fair trial and the right to respect for private and family life, home and correspondence.

D. Data Protection Act 1998

Where there is a need for Tendring District Council to share enforcement information with other agencies, we will follow the provisions of the Data Protection Act 1998.

E. The Code for Crown Prosecutors

When deciding whether to prosecute Tendring District Council has regard to the provisions of [The Code for Crown Prosecutors](#) as issued by the Director of Public Prosecutions.

The Code for Crown Prosecutors is a public document that sets out the general principles to follow when decisions are made in respect of prosecuting cases. The Code sets out two tests that must be satisfied, commonly referred to as the 'Evidential Test' and the 'Public Interest Test':

- a. Evidential Test - is there enough evidence against the defendant?

When deciding whether there is enough evidence to prosecute, Tendring District Council will consider what evidence can be used in court and is reliable. We must be satisfied there is enough evidence to provide a "realistic prospect of conviction" against each alleged offender.

- b. Public Interest Test - is it in the public interest for the case to be brought to court?

Tendring District Council will balance factors for and against prosecution carefully and fairly, considering each case on its merits. The public interest factors that we will take into account are detailed under the enforcement options available to us in Appendix B.

F. Regulatory Enforcement and Sanctions Act 2008 ('the RES Act')

The Regulatory Enforcement and Sanctions Act 2008, as amended, established the Primary Authority scheme. We will comply with the requirements of the Act when we are considering taking enforcement action against any business or organisation that has a primary authority, and will have regard to guidance issued by the Secretary of State in relation to Primary Authority.

Appendix B

Conduct on Investigations:

All investigations will be carried out under the following legislation and in accordance with any associated guidance or codes of practice, in so far as they relate to Tendring District Council:

- the Police and Criminal Evidence Act 1984
- the Criminal Procedure and Investigations Act 1996
- the Regulation of Investigatory Powers Act 2000
- the Criminal Justice and Police Act 2001
- the Human Rights Act 1998

These Acts and associated guidance control how evidence is collected and used and give a range of protections to citizens and potential defendants.

Our authorised officers will also comply with the requirements of the particular legislation under which they are acting, and with any associated guidance or codes of practice.

Appendix C

Enforcement Actions available to Tendring District Council in Respect of Criminal and Civil breaches

A. Compliance Advice, Guidance and Support

Tendring District Council uses compliance advice, guidance and support as a first response in the case of many breaches of legislation that are identified. Advice is provided, sometimes in the form of a warning letter, to assist individuals and businesses in rectifying breaches as quickly and efficiently as possible, avoiding the need for further enforcement action. A warning letter (sometimes called an 'informal caution') will set out what should be done to rectify the breach and to prevent re-occurrence. If a similar breach is identified in the future, this letter will be persuasive in considering the most appropriate enforcement action to take on that occasion. Such a letter cannot be cited in court as a previous conviction but it may be presented in evidence.

Tendring District Council recognises that where a business has entered into a partnership with a primary authority, the primary authority will provide compliance advice and support, and Tendring District Council will take such advice into account when considering the most appropriate enforcement action for it to take. It may discuss any need for compliance advice and support with the primary authority.

Where more formal enforcement action, such as a simple caution or prosecution, is taken, Tendring District Council recognises that there is likely to be an ongoing need for compliance advice and support, to prevent further breaches.

B. Voluntary Undertakings

Tendring District Council may accept voluntary undertakings that breaches will be rectified and/or recurrences prevented. Tendring District Council will take any failure to honour voluntary undertakings very seriously and enforcement action is likely to result.

C. Statutory (Legal) Notices

In respect of many breaches Tendring District Council has powers to issue statutory notices. These include: 'Stop Notices', 'Prohibition Notices', 'Emergency Prohibition Notices', and 'Improvement Notices'. Such notices are legally binding. Failure to comply with a statutory notice can be a criminal offence and may lead to prosecution and/ or, where appropriate, the carrying out of work in default.

A statutory notice will clearly set out actions which must be taken and the timescale within which they must be taken. It is likely to require that any breach is rectified and/or prevented from recurring. It may also prohibit specified activities until the breach has been rectified and/or safeguards have been put in place to prevent future breaches. Where a statutory notice is issued, an explanation of the appeals process will be provided to the recipient.

Some notices issued in respect of premises may be affixed to the premises and/or registered as local land charges.

D. Financial penalties

Tendring District Council has powers to issue fixed penalty notices in respect of some breaches. A fixed penalty notice is not a criminal fine, and does not appear on an individual's criminal record. If a fixed penalty is not paid, Tendring District Council may commence criminal proceedings or take other enforcement action in respect of the breach.

If a fixed penalty is paid in respect of a breach Tendring District Council will not take any further enforcement action in respect of that breach. Payment of a fixed penalty does not provide immunity from prosecution in respect of similar or recurrent breaches.

Tendring District Council is only able to issue fixed penalty notices where it has specific powers to do so. If fixed penalty notices are available, their issue is at Tendring District Council's discretion. In some circumstances, in particular where breaches are serious or recurrent, it may be that prosecution is more appropriate than the issue of a fixed penalty notice.

E. Injunctive Actions, Enforcement Orders etc.

In some circumstances Tendring District Council may seek a direction from the court (in the form of an order or an injunction) that a breach is rectified and/or prevented from recurring. The court may also direct that specified activities be suspended until the breach has been rectified and/or safeguards have been put in place to prevent future breaches.

Failure to comply with a court order constitutes contempt of court, a serious offence which may lead to imprisonment.

Tendring District Council is required to seek enforcement orders after issuing some enforcement notices, providing the court with an opportunity to confirm the restrictions imposed by the notice. Otherwise, Tendring District Council will usually only seek a court order if it has serious concerns about compliance with voluntary undertakings or a notice.

F. Simple Caution

Tendring District Council has the power to issue simple cautions (previously known as 'formal cautions') as an alternative to prosecution for some less serious offences, where a person admits an offence and consents to the simple caution. Where a simple caution is offered and declined, Tendring District Council is likely to consider prosecution.

A simple caution will appear on the offender's criminal record. It is likely to influence how Tendring District Council and others deal with any similar breaches in the future, and may be cited in court if the offender is subsequently prosecuted for a similar offence. If a simple caution is issued to an individual (rather than a corporation) it may have consequences if that individual seeks certain types of employment.

Simple cautions will be used in accordance with Home Office Circular 016/2008 and other relevant guidance.

G. Prosecution

Tendring District Council may prosecute in respect of serious or recurrent breaches, or where other enforcement actions, such as voluntary undertakings or statutory notices have failed to secure compliance. When deciding whether to prosecute Tendring District Council has regard to the provisions of [The Code for Crown Prosecutors](#) as issued by the Director of Public Prosecutions.

Prosecution will only be considered where Tendring District Council is satisfied that it has sufficient evidence to provide a realistic prospect of conviction against the defendant(s).

Before deciding that prosecution is appropriate, Tendring District Council will consider all relevant circumstances carefully and will have regard to the following public interest criteria:

- a) the seriousness of the offence committed?
- b) the level of culpability of the suspect?
- c) the circumstances of and the harm caused to the victim?
- d) the age of the suspect or suspects?
- e) the impact on the community?
- f) whether prosecution is a proportionate response?

This list is not an exhaustive list of the elements that will, or may be considered when deciding whether a prosecution is appropriate but helps to identify and determine the relevant public interest factors tending for and against prosecution. Not all factors may be relevant in all cases, and in some cases, it is possible that one public interest factor alone may outweigh those factors which suggest the opposite direction. The weight to be given to each factor will vary according to the facts and merits of each case.

A successful prosecution will result in a criminal record. The court may impose a fine and in respect of particularly serious breaches a prison sentence. The court may order the forfeiture and disposal of non-compliant goods and/or the confiscation of any profits which have resulted from the breach. Prosecution may also lead, in some circumstances, to the disqualification of individuals from acting as company directors.

H. Refusal/Suspension/Revocation of Licences

Tendring District Council issues a number of licences and permits. Tendring District Council also has a role to play in ensuring that appropriate standards are met in relation to licences issued by other agencies. Most licences include conditions which require the licence holder to take steps to ensure that, for example, a business is properly run. Breach of these conditions may lead to a review of the licence which may result in its revocation or amendment.

When considering future licence applications, Tendring District Council may take previous breaches and enforcement action into account.

Annex A: Example of an approach to Service Standards

What you can expect from Regulatory Services in [Local Authority]

Contents:

[Areas we regulate](#)

[How we deliver our services](#)

[Working with you](#)

[Helping you to get it right](#)

[Inspections and other compliance visits](#)

[Responding to non-compliance](#)

[Requests for our service](#)

[How to contact us](#)

[Our Team](#)

[Working with others](#)

[Having your say](#)

This document explains what you can expect of Regulatory Services in [Local Authority]. Whether you are run a business, are an employee or a member of the public, we are committed to providing you with an efficient, courteous and helpful service and this document tells you how we aim to do that and what standards we will meet.

Areas we regulate

We deliver services in a number of areas:

Environmental Protection	Planning	Food Safety
Health and safety	Licensing	Private Sector Housing
Public Health	Housing	Street Care and Waste
Building Control and Dangerous Structures	Community Safety and Anti-Social Behaviour	Parks, Open spaces and Seafront

How we deliver our services

We make a fundamental contribution to the maintenance and improvement of public health, quality of life and wellbeing. Our aims are to:

- Protect the public, businesses and the environment from harm
- Support the local economy to grow and prosper

We determine our activities by assessing the needs of local people and our business community, and considering the risks that require addressing. We do this through [*provide details of engagement with local citizens and businesses*] and through using data and other information available to us and our partners. In this way we ensure our resources are targeted appropriately, in the light of these local needs and of national priorities.

Details of our current work programme are available at [*add link*]

We are committed to being transparent in our activities. We measure what is important and we publish a range of information about our performance data so that you can see how we are doing. This is available at *[add link]*

We carry out all our activities in a way that supports those we regulate to comply and grow:

- We ensure that information, guidance and advice is available to help you to meet legal requirements (see [Helping you to get it right](#)).
- We carry out inspections and other activities to check compliance with legal requirements, and we target these checks where we believe they are most needed (see [Inspections and other compliance visits](#)).
- We deal proportionately with breaches of the law as set out in our Enforcement Policy, including taking firm enforcement action when necessary (see [Responding to non-compliance](#)).
- We provide a range of services to businesses, including *[add list eg. pest control, licences, registrations, issue of certificates]* (see [Requests for our service](#)).

Our services will be delivered in accordance with the requirements of the [Regulators' Code](#).

Working with you

In all your dealings with us you can expect, and will receive, an efficient and professional service. Our officers will:

- Be courteous and polite
- Always identify themselves by name in dealings with you, and provide you with contact details
- Seek to gain an understanding of how your business operates
- Provide details of how to discuss any concerns you may have
- Agree timescales, expectations and preferred methods of communication with you
- Ensure that you are kept informed of progress on any outstanding issues.

We recognise that your business will receive advice and inspections from other organisations, and we will do our best to work with them to ensure that you receive the best service.

Helping you to get it right

We want to work with you to help your business to be compliant and successful and it is important to us that you feel able to come to us for advice when you need it. We won't take enforcement action just because you tell us that you have a problem.

We make information and guidance on meeting legal requirements available *[add details of how information and guidance are made available, including links to relevant websites]*.

Where you need advice that is tailored to your particular needs and circumstances we will:

- Discuss with you what is required to achieve compliance
- Provide advice that supports compliance and that can be relied on
- Provide clear advice that can be easily understood and implemented
- Distinguish legal requirements from suggested good practice
- Ensure that any verbal advice you receive is confirmed in writing if requested

- Acknowledge good practice and compliance.

[Include an explanation of advice services, including Primary Authority]

[Include an explanation of the basis on which any charges are made for advice, with a link to Fees and Charges Schedule]

Inspections and other compliance visits

We monitor and support compliance in a number of different ways including through inspections, sampling visits, test purchases, advisory visits and complaint investigations. These visits will always be based on an assessment of risk – we won't visit without a reason.

We will give you notice that we intend to visit unless we have specific reason to believe that an unannounced visit is more appropriate.

When we visit you our officers will:

- Explain the reason and purpose of the visit
- Carry their identification card at all times, and present it on request when visiting your premises
- Exercise discretion in front of your customers and staff
- Have regard to your approach to compliance, and use this information to inform future interactions with you
- Provide information, guidance and advice to support you in meeting your statutory obligations, if required
- Provide a written record of the visit.

[Include an explanation of the risk framework(s) used to target visits, with links to these frameworks]

[Include an explanation of the basis on which any charges are made in relation to visits, with a link to Fees and Charges Schedule]

Responding to non-compliance

Where we identify any failure to meet legal obligations, we will respond proportionately, taking account of the circumstances, in line with our Enforcement Policy [*add link*].

We deal proportionately with breaches of the law as set out in our Enforcement Policy, available at [*add link*], including taking firm enforcement action when necessary

Where we require you to take action to remedy any failings we will:

- Explain the nature of the non-compliance
- Discuss what is required to achieve compliance, taking into account your circumstances
- Clearly explain any advice, actions required or decisions that we have taken
- Agree timescales that are acceptable to both you and us, in relation to any actions required
- Provide in writing details of how to appeal against any advice provided, actions required or decisions taken, including any statutory rights to appeal
- Explain what will happen next
- Keep in touch with you, where required, until the matter is resolved

Requests for our services

We clearly explain the services that we offer, including details of any fees and charges that apply: *[add links to further information]*

In responding to requests for our services, including requests for advice and complaints about breaches of the law, we will:

- Acknowledge your request within *[add timescale]*
- Tell you when you can expect a substantive response
- Seek to fully understand the nature of your request
- Explain what we may or may not be able to do, so that you know what to expect
- Keep you informed of progress throughout our involvement
- Inform you of the outcome as appropriate

A detailed breakdown of our response times and expected resolution times is available at *[add link]*, however, please be aware that our officers will exercise their judgment to determine whether a more prompt response is required.

How to contact us

You can contact us by:

Telephone: *[insert number]*

Email: *[insert email address]*

Web: *[insert website address]*

By post: *[insert address]*

Or in person: *[insert address and opening hours]*

We will seek to work with you in the most appropriate way to meet your individual needs. We can make information available in different formats, and have access to translation and interpretation services.

If you contact us we will ask you for your name and contact details to enable us to keep in touch with you as the matter progresses. We treat all contact with the service in confidence unless you have given us permission to share your details with others as part of the matter we are dealing with on your behalf or there is an operational reason why we need to do so. We will respond to anonymous complaints and enquiries where we judge it appropriate to do so.

Personal data will be managed in accordance with *[Local Authority]*'s Data Protection Policy. *[add link]*.

Our Team

We have a dedicated team of officers who have the appropriate qualifications, skills and experience to deliver the services provided. We have arrangements in place to ensure the ongoing professional competency of all officers.

Where specialist knowledge is required in an area outside of our expertise we have arrangements in place, with both neighbouring authorities and other regulatory organisations, to call on additional resources as necessary.

Working with others

We work closely with other council services such as Planning and Economic Development and our aim is to provide a streamlined service to you.

We are part of a much wider regulatory system in [*the Local Authority area*]. We have good working relationships with other regulators such as [*insert details*], and this enables us to deliver a more joined up and consistent service. This includes sharing information and data on compliance and risk, where the law allows, to help target regulatory resources.

Our officers are familiar with the work of our partners and can signpost you to the advice and guidance you need. We are members of the [*add details of local Regulatory Services Partnership/ Local Enterprise Partnership*] and if you have any comments or concerns regarding the way in which the local regulatory system is operating you can contact the partnership at [*insert contact details*].

Having your say

Complaints and appeals

Where we take enforcement action, there is often a statutory right to appeal. We will always tell you about this at the appropriate time.

We are always willing to discuss with you the reasons why we have acted in a particular way, or asked you to act in a particular way. You can contact [*insert named officer, other than the officer who dealt with the matter*].

We manage complaints about our service, or about the conduct of our officers, through [*Local Authority*]'s Corporate Complaints Policy. Details can be found at [*add link*] or by telephone [*insert number*]

Feedback

We value input from you to help us ensure our service is meeting your needs. We would like to hear from you whether your experience of us has been good or in need of improvement. This helps us to ensure we keep doing the right things and make changes where we need to. We use customer satisfaction surveys from time to time but we would welcome your feedback at any time. You can provide feedback in the following ways:

Telephone: [*insert number*]

Email: [*insert email address*]

Web: [*insert website address*]

By post: [*insert address*]

Or in person: [*insert address and opening hours*]

Any feedback that we receive will be acknowledged, considered and responded to.

Developing our services with you

We have a number of groups that we consult with to ensure that we are delivering our services to meet your needs. We are always happy to welcome new members to these groups. We currently work with the following:

[Include details eg. Business Panel, Residents Panel, Residential Landlords Panel, with links to further information]

If you are interested in finding out more about the work of these groups, or participating in one, please visit *[add link]* or contact us using the contact details above.

Dated: *[insert date]*

Name:

Job title:

Review Due: *[insert date]*

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