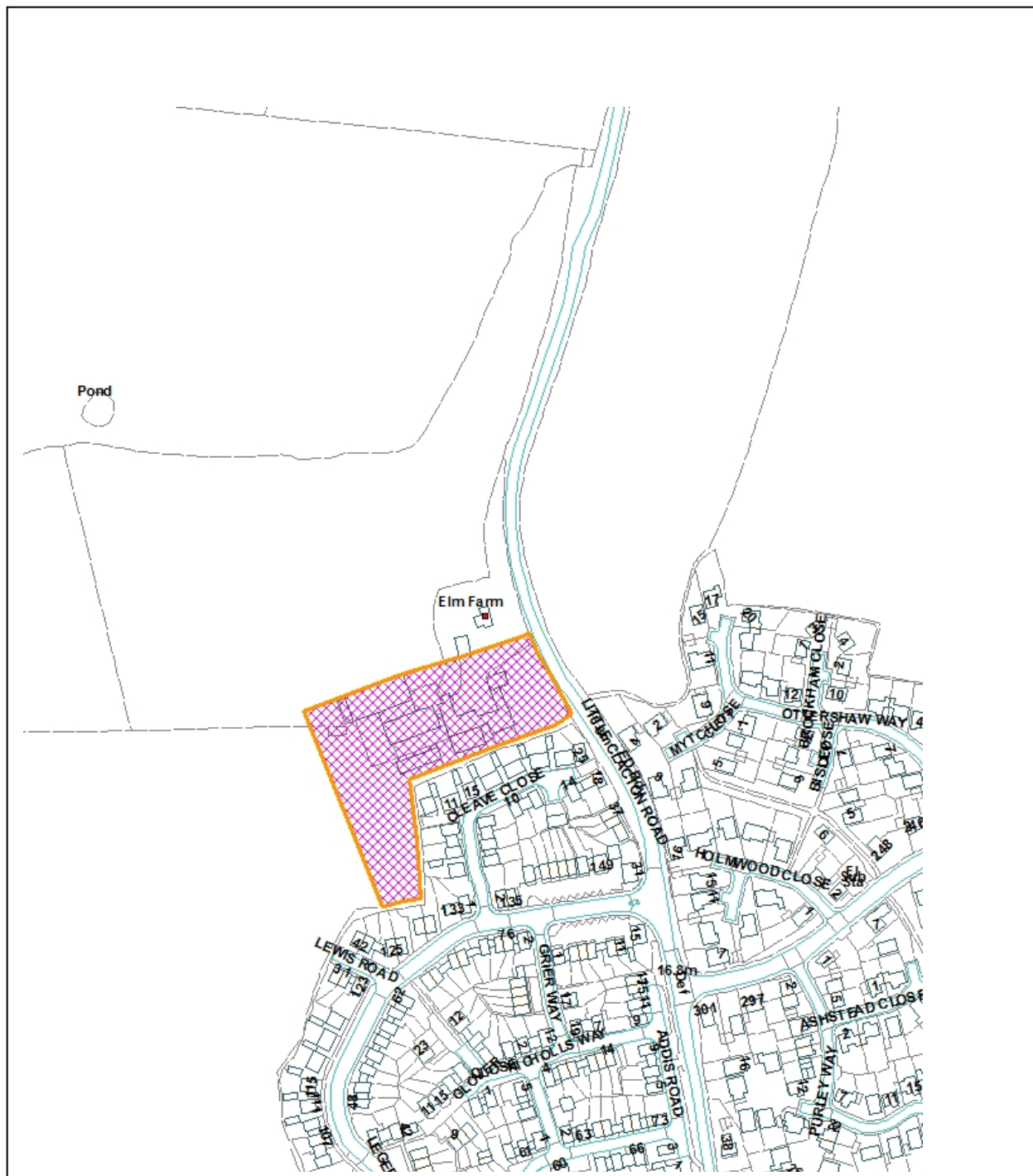


PLANNING COMMITTEE

9 AUGUST 2016

REPORT OF THE HEAD OF PLANNING

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



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

1. **Executive Summary**

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

Recommendation: Refuse

Reason for Refusal

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

2. Planning Policy

NPPF National Planning Policy Framework

National Planning Practice Guidance

Tendring District Local Plan 2007

QL1 Spatial Strategy

QL2 Promoting Transport Choice

QL9 Design of New Development

QL10 Designing New Development to Meet Functional Needs

QL11 Environmental Impacts and Compatibility of Uses

ER3 Protection of Employment Land

HG1 Housing Provision

HG6 Dwelling Size and Type

HG7 Residential Densities

HG9 Private Amenity Space

COM6 Provision of Recreational Open Space for New Residential Development

EN1 Landscape Character

EN2 Local Green Gaps

EN6 Biodiversity

EN6A Protected Species

EN6B Habitat Creation

TR1A Development Affecting Highways

TR3A Provision for Walking

TR7 Vehicle Parking at New Development

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

SP1 Presumption in Favour of Sustainable Development

SP2 Meeting Housing Needs

SP4 Infrastructure and Connectivity

SP5 Place Shaping Principles

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

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

Status of the Local Plan

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

3. Relevant Planning History

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

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

4. **Consultations**

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

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

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

Anglian Water Services
Ltd

No response received

ECC Highways Dept

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Informative:

1. There should be no vehicular access over any radius kerbs.
2. The new carriageways should be provided with a centreline bend radius of 13.6m together with adequate forward visibility.
3. Any trees provided within the adoptable highway will attract a commuted sum of no less than £750 per tree.
4. The applicant should be requested to consider the provision and location of street lighting columns, particularly at road junctions, these should be within the adoptable areas.
5. Refuse freighters are unlikely to manoeuvre over Private Drives.
6. All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works. The Highway Authority cannot accept any liability for costs associated with a developer's improvement. This includes design check safety audits, site supervision, commuted sums for maintenance and any potential

claims under Part 1 and Part 2 of the Land Compensation Act 1973. To protect the Highway Authority against such compensation claims a cash deposit or bond may be required.

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

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

5. **Representations**

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

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

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

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

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

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

6. Assessment

The main planning considerations are:

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

Proposal

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

Site Context

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

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

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

Planning History

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

Principle of Development

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

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

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

Residential Amenity

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

Highway Safety

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

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

Surface Water Drainage

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

Biodiversity

Protected Species

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

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

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

Trees

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

Legal Agreement

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

Loss of Employment

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

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

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

Other Issues

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

Conclusion

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

Background papers

None.