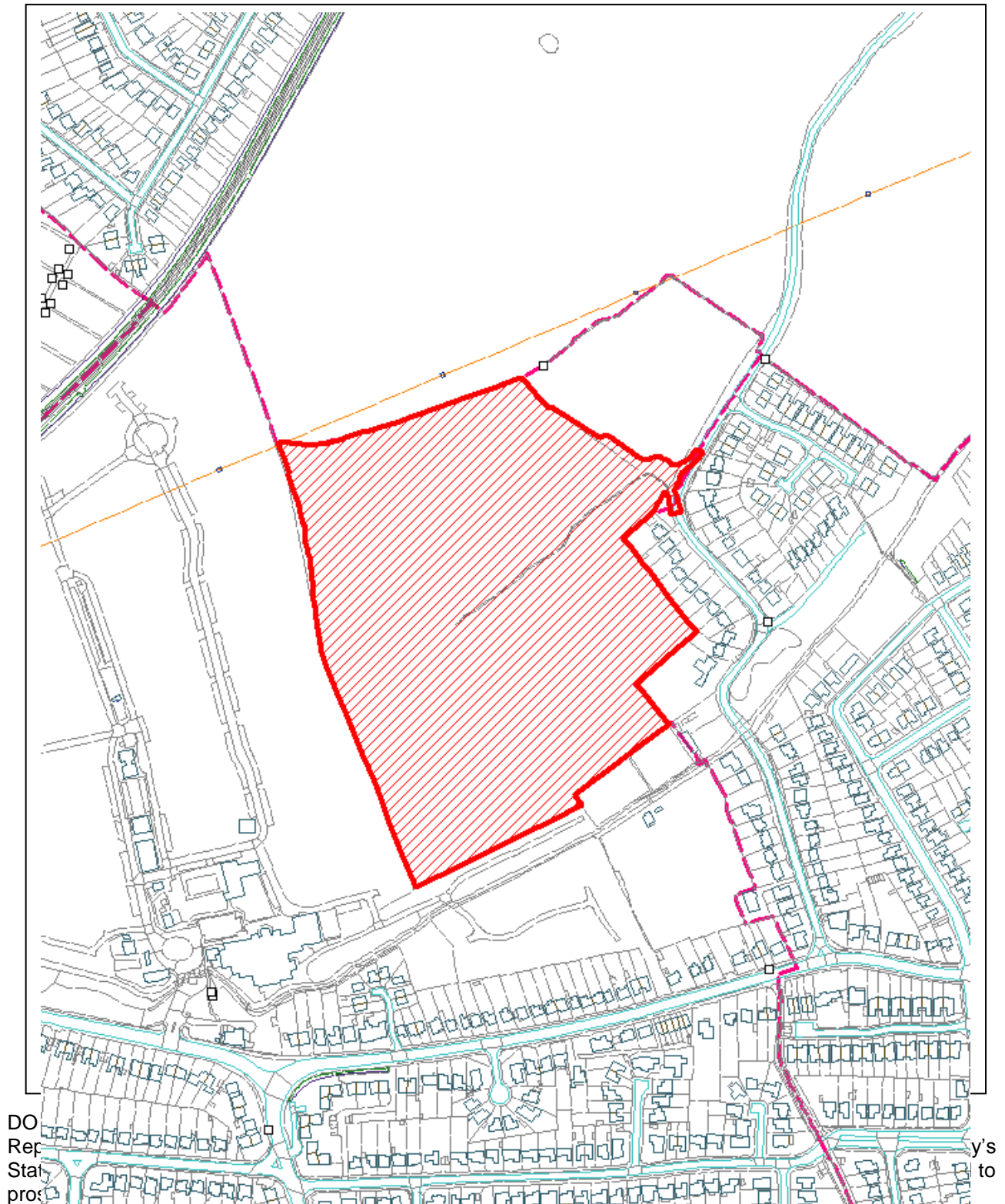


PLANNING COMMITTEE

9 AUGUST 2016

REPORT OF THE HEAD OF PLANNING

**A.1 PLANNING APPLICATION – 15/01351/OUT – LAND NORTHWEST OF  
SLADBURY'S LANE, CLACTON ON SEA, CO15 6NU**



<b>Application:</b>	15/01351/OUT	<b>Town / Parish:</b> Clacton - unparished
<b>Applicant:</b>	One Property Group UK Ltd	
<b>Address:</b>	Land Northwest of Sladburys Lane, Clacton On Sea, Essex CO15 6NU	
<b>Development:</b>	Outline planning application for residential development up to 132 dwellings and open space, including provision for a sports field and a new vehicular access via Sladbury's Lane.	

## 1. Executive Summary

- 1.1 The application was received on 11<sup>th</sup> September 2015 and was due for determination by 11<sup>th</sup> December 2015 but determination has been delayed whilst certain matters, mainly relating to surface water drainage and ecological surveys, have been resolved. The applicant has agreed to extend the determination date until 31<sup>st</sup> August 2016.
- 1.2 As an outline application, approval is being sought only for the principle of developing up to 132 dwellings with open space including a sports field and access via Sladburys Lane with all other matters reserved for approval through detailed applications at a later date. The applicant has however submitted an indicative site plan that demonstrates how a layout of 132 dwellings (comprising 12 two bed; 64 three bed and 56 four bed houses) can be achieved with a roundabout access from Sladburys Lane.
- 1.3 The site comprises 8.6 hectares of agricultural farmland (a mix of grade 3a and 3b) located off Sladburys Lane to the east of Valley Farm Holiday Park.
- 1.4 The site lies outside of the settlement development boundary in the adopted Local Plan and forms part of the designated 'Local Green Gap'. In the emerging Local Plan, the Local Green Gap designation has been provisionally removed from the area of the site where built development is proposed to go, but the site still remains entirely outside of the settlement development boundaries. The proposal is therefore contrary to both the adopted and emerging Local Plans.
- 1.5 However, because the adopted Local Plan is substantially out of date in terms of housing supply and the Council is currently unable to identify a five-year supply of deliverable housing sites as required by national planning policy, the application has to be considered on its merits in line with the government's 'presumption in favour of sustainable development'. This requires that applications are approved without delay unless the adverse impacts would significantly and demonstrably outweigh the benefits.
- 1.6 Historically, the prospect of any development on land off Sladburys Lane has been the cause of significant public interest – particularly when it was put forward for consultation in 2010 as a potential Local Plan allocation for a much larger residential development, resulting in hundreds of objections and a petition signed by approximately 5,000 residents. The key planning-related concerns about development in this location have generally revolved around the impact on highway capacity and safety in Sladburys Lane, the impact on local health services in an area with an ageing population and the impact on surface water drainage in an area where flooding around Pickers Ditch does occur.
- 1.7 The level of public reaction (in the form of written objections) to this specific, smaller planning application, is less but the same concerns about highways, health and surface water flooding remain.

- 1.8 In considering the proposal on its merits, your Officers, in line with national policy, have attached significant weight to the projected need for housing in Tendring and the shortage of available sites and consider that, on a balanced judgement, the adverse impacts of development are not significant and demonstrable enough to outweigh the social benefit of delivering up to 132 dwellings and associated economic and environmental gains.
- 1.9 In addition, Clacton on Sea is the district's largest town with the highest projected need for housing and is the settlement served by the greatest range of shops, services, facilities and infrastructure, where a proportionate level of housing development can be accommodated, subject to addressing relevant technical matters such as highways, landscape and visual impact and infrastructure capacity. As set out in the main body of the report, Officers are of the view that these technical matters can be suitably addressed and there are no outstanding objections from any of the statutory consultees or other technical bodies.
- 1.10 Officers consider that the proposal satisfies the three dimensions of 'sustainable development' as set out in national planning policy (economic, social and environmental) and the application is therefore recommended for approval subject to the satisfactory completion of a Section 106 planning obligation to secure affordable housing, public open space, play provision and financial contributions toward educational facilities and health provision to make the development acceptable, as well as a number of planning conditions.

**Recommendation: Approval**

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

- a) Within 6 (six) months of the date of the Committee's resolution to approve, the completion of a legal agreement under the provisions of section 106 of the Town and Country Planning Act 1990 dealing with the following matters:
- On-site Council Housing/Affordable Housing;
  - Education contribution;
  - Health contribution;
  - Off-site public open space contribution
  - If on site public open space and sports field are transferred to the Council - a commuted sum for future maintenance
- b) Planning conditions in accordance with those set out in (i) below (but with such amendments and additions, if any, to the detailed wording thereof as the Head of Planning in her discretion considers appropriate).

**(i) Conditions:**

1. Standard 3 year time limit for 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 – to show those trees to be retained including (but not restricted to) those trees protected by a Tree Preservation Order (the reserved matters).
4. Development to be in general conformity with indicative parameters/layout plan.
5. Development to contain up to (but no more than) 132 dwellings.
6. Highways conditions (as recommended by the Highway Authority) and including a Construction Management Plan and HGV route.
7. Foul water strategy.
8. Surface water drainage strategy and future management and maintenance conditions

(as recommended by ECC SUDS)

9. Landscape Implementation and Management Plan
  10. Site levels
  11. Completion of public open space/sports field and Management Plan (if not transferred to the Council)
  12. Tree/Root Protection Plan
  13. Ecological mitigation as recommended by ecological reports/surveys
  14. Details of lighting, materials and refuse storage/collection points.
  15. Broadband connection.
  16. Local recruitment strategy.
- 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 contrary to Policy QL12 of the Tendring Local Plan 2007..

## **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 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 4 deals with sustainable transport and requires all developments that will generate significant amounts of movement to be supported by a Transport Assessment. Opportunities for sustainable transport modes must be taken up; safe and suitable access for all people must be achieved; and improvements to the highway network that address the impacts of the development must be undertaken. A key tool to facilitate sustainable transport modes will be in the form of a Travel Plan. Development should only be prevented or refused on transport grounds where the residual cumulative impacts are severe.
- 2.5 Section 5 supports high quality communications infrastructure. Advanced, high quality communications infrastructure is essential for sustainable economic growth. The development of high speed broadband technology and other communications networks also

plays a vital role in enhancing the provision of local community facilities and services. In preparing Local Plans, local planning authorities should support the expansion of electronic communications networks, including telecommunications and high speed broadband.

- 2.6 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.
- 2.7 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”*.
- 2.8 Section 7 relates to good design. Whilst the NPPF says that planning decisions should not impose architectural styles or particular tastes that would serve to stifle originality, it is proper to seek to promote local distinctiveness. Design also needs to address the connections between people and places and the integration of new development into the natural, built and historic environment.
- 2.9 Section 8 relates to the promotion of healthy communities – it talks about safe and accessible environments containing clear and legible pedestrian routes and high quality public space. It recognises that access to high quality open spaces and opportunities for sports and recreation make an important contribution to the health and well-being of communities. Paragraph 77 in particular refers to the designation of Local Green Space designations and the criteria for when such designations would be appropriate.
- 2.10 Section 10 considers the challenge of climate change. New developments should take account of landform, layout, building orientation, massing and landscaping to minimise energy consumption. Developments should take account of flood risk and where appropriate be accompanied by Flood Risk Assessments.
- 2.11 Section 11 deals with conserving and enhancing the natural environment. New development should take account of air, water, and noise pollution. The best and most versatile agricultural land should be protected. Opportunities to incorporate biodiversity in and around developments should be encouraged.
- 2.12 Section 12 relates to the conservation and enhancement of the historic environment (including archaeology).

### **Local Plan**

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

#### 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.

#### HG7: Residential Densities

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

#### COM1: Access For All

Requires developments and buildings within them to be accessible by a range of transport modes and by people of all abilities.

#### COM2: Community Safety

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

#### COM6: Provision of Recreational Open Space for New Residential Developments

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

#### COM21: Light Pollution

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

COM22: Noise Pollution

Requires that 'noise sensitive' developments including housing are located away from sources of noise and that any noise pollution is mitigated wherever possible.

COM23: General Pollution

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

COM26: Contributions to Education Provision

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

COM29: Utilities

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

COM31a: Sewerage and Sewage Disposal

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

EN1: Landscape Character

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

EN2: Local Green Gaps

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

EN4: Protection of the Best and Most Versatile Agricultural Land

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

EN6: Biodiversity

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

EN6a: Protected Species

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

EN6b: Habitat Creation

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

EN12: Design and Access Statements

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

EN13: Sustainable Drainage Systems

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

TR1a: Development Affecting Highways

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

TR1: Transport Assessment

Requires Transport Assessments to be undertaken for major developments and requires materially adverse impacts on the transport system to be reduced to an acceptable level.

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

Requires developments to incorporate the definitive alignment of public rights of way and encourages the improvement of existing routes and the creation of new links to the public 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 (July 2016).**

- 2.14 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 14<sup>th</sup> July 2016, the emerging Local Plan for Tendring is the Tendring District Local Plan 2013 – 2033 and Beyond Preferred Options Consultations 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.

Relevant policies include:

SP1: Presumption in Favour of Sustainable Development

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

SP2 Meeting Housing Needs

The Council will identify sufficient deliverable sites for the respective plan period and will maintain a supply to provide at least five years worth of housing. For Tendring this equates to 550 net additional dwellings per annum.



#### SP4 Infrastructure and Connectivity

Development must be supported by provision of infrastructure, services and facilities that are identified to serve the needs arising from the new development.

#### SP5 Place Shaping Principles

All new development must meet the highest standards of built and urban design.

#### SP6 Spatial Strategy for North Essex

Existing settlements will be the principal focus for additional growth across North Essex. Development will be accommodated within or adjoining settlements according to their scale, sustainability and existing role in the district and strategically.

#### SPL1: Managing Growth

Identifies Clacton as one of three strategic urban settlements in the district. These settlements have a larger population and a wide range of existing facilities and infrastructure, making it them the district's most sustainable locations for growth.

#### SPL2: Settlement Development Boundaries

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

#### SPL3: Sustainable Design

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

#### HP1 Improving Health and Well Being

The Council will work with partners, including the NHS, to improve the health and well being of residents by, amongst other things, ensuring that developments contribute towards improved health facilities.

#### HP3 Green Infrastructure

All new development must be designed to protect and enhance existing Green Infrastructure in the local area.

#### HP4: Open Space, Sports and Recreation Facilities

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

#### LP1: Housing Supply

Sets out how the Council will meet objectively assessed housing needs over the next 15-20 years and in which parts of the district. It identifies Clacton as providing 2780 homes until 31<sup>st</sup> March 2032.

#### 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.

#### 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 or council housing.

#### PP12: Improving Education and Skills

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

#### PPL1: Development and Flood Risk

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

#### PPL3: The Rural Landscape

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

#### PPL4: Biodiversity and Geo-Diversity

Gives protection to internal, European and nationally important wildlife sites and requires existing biodiversity and geodiversity on any site to be protected and enhanced with compensation measures put in place where development will cause harm.

#### PPL5: Water Conservation, Drainage and Sewerage

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

#### PPL 6 Strategic Green Gaps

Within Strategic Green Gaps the Council will not permit development which would result in the joining of settlements or neighbourhoods or which would erode their separate identities. Planning permission may be granted if the applicant can demonstrate that, amongst other things, the development would not compromise the open setting between settlements or neighbourhoods.

#### PPL7: Archaeology

Requires that where development that might affect archaeological remains, studies and works are undertaken to identify, recover and record such remains.

#### CP1: Sustainable Transport and Accessibility

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

#### CP2 Improving the Transport Network

Proposals for new development that contribute to the provision of a safe and efficient transport network will be supported. Proposals that have adverse transport impacts will be refused unless these can be resolved by specific mitigation measures.

#### CP3: Improving the Telecommunications Network

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

#### **Other Guidance**

Essex County Council Car Parking Standards – Design and Good Practice

### **3. Relevant Planning History**

- 3.1 Whilst not the subject of a specific planning application until now, the land off Sladbury's Lane has been promoted over many years, by its owners, for inclusion as a residential development site in the Local Plan.
- 3.2 In 2010, the Council published a 'Core Strategy and Development Policies Document' for public consultation which was intended to be the first part of a new 'Local Development Framework' (LDF) for Tendring, in line with the requirements of the last Labour government. In that document, the Council identified a broad location to the east of Clacton, which would have included land off Sladbury's Lane, as a 'Neighbourhood Development' that would have delivered around 700 new homes and associated facilities and infrastructure. It was proposed that the East Clacton Neighbourhood Development would have been a joint venture between the landowners and Valley Farm Holiday Park with access from Valley Road (avoiding access from Sladbury's Lane or Burrs Road) and the remodelling and upgrading of the holiday park.
- 3.3 However, the public reaction to this initial concept was so overwhelmingly negative that the Council chose to abandon the LDF and, following the publication of the NPPF, moved towards producing a new-style Local Plan in line with the (then) new coalition government's requirements, minus any proposals for development in Sladbury's Lane. Holland Residents Association was particularly resistant to the original concept and spearheaded a local campaign that resulted in hundreds of objections and a 5,000 name petition being submitted.
- 3.4 Much of the reaction to the East Clacton Neighbourhood Development concept was borne out of a general fear as to the kinds of people that might occupy the area in the future and the lack of employment, but there were also very specific planning concerns about the potential impact on highways, health provision and surface water flooding in this location.
- 3.5 More recently a planning application has been refused to the immediate southern boundary of the current application site. Application 16/00387/OUT, for the erection of three bungalows, was refused on 23<sup>rd</sup> May 2016 because the site is within Flood Zone 3 and was therefore contrary to national and local planning policy that seeks to direct development to those areas at least risk of flooding. The main differences between this refused application and the current application is that the proposed developable area was in the highest risk Flood Zone and was on such a small scale that any benefits of the proposal were not outweighed by the harm that would be caused. The current application does not propose any development in the Flood Zone and is on a much larger scale where the benefits that can be derived from the development (including adding to the Council's five year housing land supply) outweigh any negatives.

### **4. Consultations**

TDC Environmental Health	No comments received.
TDC Building Control	No comments at this stage. Would welcome further details for fire fighting access when available.
TDC Regeneration	No comments received.

TDC  
Principal Tree &  
Landscape  
Officer

The land is currently in agricultural use. Most of the trees and established countryside hedgerows are situated on the perimeter of the application site although a hedgerow with established Oaks runs from a mid-point on the western boundary south-west to the north eastern boundary. There are two other high value trees on the north eastern boundary.

In order to show the potential impact of the development proposal on the trees and hedgerows on the land the applicant has provided a tree report and survey that has been carried out in accordance with BS5837: 2012 Trees in relation to design, demolition and construction - Recommendations.

The tree report accurately describes the condition of the trees on the land.

Although at an outline stage the development proposal identifies the removal of several trees that make a positive contribution to the character and appearance of the local landscape.

On the western boundary abutting the adjacent caravan park there is an established hedgerow containing several mature trees. These are attractive features in the countryside although their position is such that they have relatively low visual amenity value. Whilst it would be desirable to pollard and retain them; the trees identified for removal on this boundary: G3 ' 2 Oaks, G5 ' 1 Oak, and G6 ' 2 Oaks, do not merit protection by means of a Tree Preservation Order.

The 2 trees situated on the north eastern boundary and 5 others situated on the ditch bisecting the site have high visual amenity value and a long safe useful life expectancy. As the development proposal threatens the removal of three of the trees and brings the others into conflict with proposed dwellings, by way of the proximity of the dwelling to the trees, it is considered expedient to make them the subject of a new Tree Preservation Order (TPO).

Therefore TPO/15/14 has been made to give protection to 7 Oaks numbered T5, 7, 45, 46, 47, 48, 49, in the tree report submitted with the application.

The purpose of the TPO is not to prevent development of the land but to help shape the layout to ensure that trees with high visual amenity value are retained and a satisfactory juxtaposition is achieved between trees and built development.

Should planning permission be likely to be granted then details of soft landscaping for both the residential part of the site and the open spaces should be secured as a reserved matter. The opportunity to secure new tree planting on the proposed open space should be maximised whilst retaining sufficient space for informal recreation and play.

TDC Housing

Request that 9 (nine) properties are gifted to the Council. Clacton is the area of highest demand for households seeking housing on the housing register. There are currently 400 households seeking a 1 bedroom property; 188 seeking a 2 bedroomed property; 87 seeking a 3 bedroomed property and 43 seeking a 4 bedroomed property.

The transfer of housing is not thought to be feasible given the proposed legislation that will make it difficult to fund the discounted purchase price and it is not thought appropriate on this occasion to request an off-site contribution.

#### TDC Open Space and Play

There is currently a deficit of 41.08 hectares of play in the Clacton/Holland area. This is broken down as follows:

	Local Plan Requirement	Local Provision
Play Areas	44.76	3.68
Formal Open Space	89.52	112.92
	<hr/> 134.28	<hr/> 116.00

Any additional development in Clacton will increase demand on already stretched facilities.

The nearest play area to the proposed development is located at Eastcliff Recreation ground. The play area is classified as a Local Equipped Area for Play. This play area would struggle to cope with the increased use of any additional development.

It is noted that the Planning Statement that an open space will be incorporated within the development and the provision of new on site play areas should be incorporated within the design to at least LEAP standards.

Should the developer wish to transfer the ownership of the open space and play facilities to the Council upon completion in accordance with the draft heads of agreement a commuted sum calculated in accordance with Appendix 4, Supplemental Planning Document, 'Provision of Recreational Open Space for New Development' dated May 2008 would be required to provide for the sites future maintenance.

#### ECC Highways

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

1. The submission of a construction management plan containing details of wheel cleaning facilities and other measures to minimise impacts on the highway during construction.
2. The provision of a roundabout onto Sladbury's Lane designed to specific dimensions;
3. The upgrading of two bus stops in Holland Road;
4. A 2 metre wide footway along Sladbury's Lane between the development and Holland Road;
5. Provision of residential travel information packs to the new residents to encourage walking, cycling and the use of public transport; and
6. Development to be served by a spine road from the new roundabout with a minimum carriageway width of 6.75m and associated 2m footways and 3m footway/cycleways.

ECC Schools	<p>It is anticipated that the development will generate a demand for up to 12 early years and childcare places; 40 primary and 26 secondary school places.</p> <p>There is sufficient early years and childcare spaces in the area to accommodate the development and so a contribution to pre school places should not be requested.</p> <p>There is a deficit of primary school places and therefore a contribution should be requested.</p> <p>There will be a surplus of secondary school places and so no contribution should be requested.</p> <p>Due to the proximity of the site to its catchment primary and secondary schools a contribution towards school transport should not be requested.</p> <p>The primary school contribution should be £482,011.00 index linked and will be used towards the replacement of temporary accommodation at Holland Park Primary School.</p>
NHS England	<p>The development is likely to impact on five GP surgeries. Four of these practices do not have capacity for the additional growth resulting from this development. The aim of NHS England is to promote Primary Healthcare Hubs with co ordinated mixed professionals. New development will have an impact on the NHS funding programme for the delivery of primary healthcare and particularly within the catchment of this development.</p> <p>The development would generate approximately 290 residents and place extra demand on services. The healthcare services that would be impacted include:</p> <ul style="list-style-type: none"> <li>• Great Clacton Medical Partnership</li> <li>• Frinton Road Medical centre</li> <li>• Old Road Medical Centre</li> <li>• Epping Close Surgery</li> <li>• Crusader Surgery</li> </ul> <p>The development would give rise to a need for improvements to capacity of the first four healthcare services listed above. A total of £31 840.00 is requested to be secured by way of Section 106 Legal Agreement.</p>
Natural England	<p><u>Letter dated 9 October 2015</u></p> <p>Statutory nature conservation sites - no objection. The development will not damage or destroy any of the interest features that the Holland Marshes SSSI was designated for.</p> <p>Protected species – standing advice should be applied as a material</p>

consideration.

Local sites – if on or near to a local site the LPA should ensure it has sufficient information to fully understand the impact of the proposal  
Biodiversity enhancements – the development may provide opportunities to incorporate features into the design which are beneficial to wildlife.

Landscape enhancements – the development may provide opportunities to enhance the character and local distinctiveness of the surrounding built and natural environment.

Letter dated 7 July 2016 following receipt of Ecological Addendum

Statutory nature conservation sites - no objection. The development will not damage or destroy any of the interest features that the Holland Marshes SSSI was designated for.

Protected species – standing advice should be applied as a material consideration.

Local sites – if on or near to a local site the LPA should ensure it has sufficient information to fully understand the impact of the proposal  
Biodiversity enhancements – the development may provide opportunities to incorporate features into the design which are beneficial to wildlife.

Landscape enhancements – the development may provide opportunities to enhance the character and local distinctiveness of the surrounding built and natural environment.

Essex Wildlife  
Trust

No comments received.

Environment  
Agency

It appears that all development will be in Flood Zone 1 with only open space in flood zones 3 and 2. As such we will not be commenting as the component in flood zone 3 is low risk.

ECC SUDS

EEC SuDs Team letter dated 12 October 2015

Holding objection for the following reasons:

- The restriction of surface water run off is calculated at 42 litres per second which is too high and the storage features (including the pond) will not be large enough
- Surface water discharge is proposed to a combined sewer and this has not been justified in preference to SuDs
- Outline evidence of the necessary treatment stages to improve water quality has not been provided
- The effect of urban creep has not been provided
- Preliminary details of an adoption and maintenance scheme have not been provided

ECC SuDs Team letter dated 22 April 2016 following receipt of revised Flood Risk Assessment

Having reviewed the revised Flood Risk Assessment and the associated documents which accompanied the planning application, we consider that 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 proposed development will only meet the requirements of the National Planning Policy Framework if the following measure(s) outlined in the Flood Risk Assessment, dated April 2016, Ardent Consulting Engineers (on behalf of Sammi Developments Ltd) submitted with this application are implemented and secured by way of a planning condition on any planning permission.

**Condition 1**

No works shall take place until a Detailed Surface Water Drainage Scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme shall subsequently be implemented prior to occupation. In particular the scheme should provide for the following mitigation measures outlined in the Flood Risk Assessment:

1. Control all the surface water run-off generated within the development for all events up to and including the 1 in 100 year event plus 30% climate change.
2. Provide a detailed hydraulic model with the entire SuDS features, including the pond and the pipe network cascaded together showing the combined effect of the design in meeting both the water quantity and water quality criteria.
3. The sizing of the SuDS features should be based on limiting the runoff from the development to the 1 in 1 greenfield rate, and should be based on the area contributing to SuDS, any open spaces not contributing to SuDS should be discounted in the runoff calculations.
4. Run-off management within the site must prioritise the use of SuDS both as a means of water conveyance and to provide source control, water quality treatment and bio-diversity enhancement.
5. Provide evidence of water quality treatment from the development using the risk based approach as outlined in the CIRIA SuDS manual C753.
6. Provide a plan showing the final exceedance flow paths, these should be away from any buildings.
7. Provide details of the adoption and routine maintenance of the SuDS features including the maintenance of the outfall to the ditch downstream of the pond.

The mitigation measures shall be fully implemented prior to occupation



and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

### **Reason**

1. To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site.
2. To ensure the effective operation of SUDS features over the lifetime of the development.
3. To reduce the risk of flooding from overloading the surface water pipe network.
4. To mitigate environmental damage caused by runoff during a rainfall event.

### **Condition 2**

Prior to commencement of the development the applicant must submit a Maintenance Plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies.

### **Reason**

To ensure appropriate maintenance arrangements are put in place to enable the surface water drainage system to function as intended to ensure mitigation against flood risk.

### **Condition 3**

The applicant must maintain yearly Maintenance Logs of maintenance which should be carried out in accordance with any approved Maintenance Plan. These must be available for inspection upon a request by the Local Planning Authority.

### **Reason**

To ensure the SuDS are maintained for the lifetime of the development as outlined in any approved Maintenance Plan so that they continue to function as intended to ensure mitigation against flood risk.

Anglian Water

Anglian Water has assets close to or crossing the site. The site layout should take this into account and accommodate those assets. If this is not possible sewers will need to be diverted at the developer's cost.

The foul drainage from this site is within the catchment of Clacton Holland Haven Water Recycling Centre which has available capacity for these flows.

The surface water strategy should preferably be to SuDS system rather than to a sewer. The submitted surface water strategy is not acceptable as run off rates are too high from a greenfield site to a combined sewer. A

condition to agree the surface water management strategy is requested.

Network Rail	After reviewing the information relating to the application Network Rail has no objection or further comments to make on this occasion.
National Grid	No comments received.
EDF Network Planner	No comments received.
Police Architectural Liaison Officer	No comments received.

## **5. Representations**

- 5.1 The application was advertised as a major application and a departure from the local plan in the press on 25 September 2015; site notices posted on 16 October 2015; and 84 individual neighbour notification letters..
- 5.2 The overwhelming level of public objection to historic local plan proposals for development of 700 dwellings on land off Sladbury's Lane (resulting in hundreds of Local Plan objections and a 5,000 name petition) is explained under the planning history section above. In response to this specific application, which affects only a portion of the land that was previously proposed for development, a reasonable level of objection has been received with 20 letters.
- 5.3 20 letters of objection have been received from local residents. The main points are as summarised:
- Proposals for housing have already been refused
  - The application refers to Burrs Road but the access and impact would be on Sladburys Lane which is a country lane
  - Sladburys Lane is not wide enough for two construction vehicles to pass safely and would be dangerous to pedestrians if the road was wet or icy
  - Sladburys Lane; Burrs Road and Holland Road are not suitable for the additional traffic that the development would generate or heavy vehicles and would result in congestion
  - The application states that the site is on the A133 and this is not correct – it brings into question how accurate the rest of the application is including the 30 vehicles estimated to come to and from the site at the peak hour
  - The character of the lane will change and once the agricultural land is built on it will be lost forever
  - The area floods as a result of surface water not draining easily
  - The bridge on Sladburys Lane is weak and is not suitable for construction traffic; the weight limit is 7.5 tonnes and not suitable for construction traffic
  - Surface water would increase and cause flooding
  - An additional playing field is not needed
  - The doctors' surgery and local schools are over subscribed
  - The previous petition of 5000 signatures to prevent residential development of this site several years ago should be taken into account
  - Previous proposals have been unsuccessful and nothing has changed since then. Developers should not be allowed to make repeat applications
  - The site was rejected previously as a housing allocation in the draft local plan and determined that it should not be considered for development until post 2031 and that

without a comprehensive redevelopment of the adjacent holiday park then vehicular access is unlikely be achieved

- The plans have in small print reference to Phase 1 – will there be more housing in the future
- The proposal would result in inappropriate piecemeal development – an overall development plan is needed
- A buffer zone must be created between the proposed development and the holiday park otherwise it is likely to lead to the loss of two black polar trees that are currently on the site boundary and to disturbance to the new residents
- The open space would be better used as a village green with houses over looking it
- There is no pedestrian entrance to the open space to encourage its use
- The overall effect on biodiversity is likely to be negative
- The development will prejudice the longer term delivery of the Pickers Ditch Walkway
- The development does not consider walking and cycling journeys

5.4 A letter of objection on behalf of Park Resorts Ltd (the owner and operator of Valley Farm Holiday Park). The contents of the letter are as summarised:

- Disappointed that the applicant did not consult with the Park owners before submitting the application that is recognised as good practice by NPPF and NPPG
- The Park generates large amounts of visitors and expenditure and provides jobs directly and indirectly. The proposal will impact on the Park as it will detract from its rural setting and countryside outlook. Visitors will be lost to other parks/Districts
- The layout plan is illustrative but it shows built development right up to the boundary with the Park. This is likely to occur unless controlled at the outline stage
- Holiday guests and residential dwellings are not compatible neighbours. Holiday guests tend to spend more time outside and at later hours and may result in noise disturbance to the occupants of residential properties
- If the Council is minded to approve, and to avoid future noise complaints a 15 metre landscape buffer should be conditioned along the boundary with the Park
- If the Council is minded to approve, and to ensure that the countryside outlook for the Park is retained; beyond the 15 metre landscape buffer the proposed open space should be included and should be conditioned

5.5 An objection has been received from Cllr Mick Skeels Jr. Cllr Skeels objects to the application on the basis that the road is too small to take anymore traffic; the area floods and makes the road difficult to navigate; the Highway Authority objected to the last proposal for this reason; and it will result in the permanent loss of farmland.

5.6 Several objections have also been received from Cllr Joy Broderick. Two objections are submitted on behalf of the Holland on Sea Residents' Association. The objections, amongst other things, relate to flooding problems in the locality and one of the objections includes a set of photos to demonstrate past flood events. The other objections relate to inadequate highways access; traffic gridlock; lack of GP's; schools; loss of green gap; weight limit on Sladburys Lane; local people won't be able to afford the housing on this development and added danger to a busy and unmanned railway crossing

5.7 Further objections have also been received from Cllr Joy Broderick; Cllr Colin Winfield; and Cllr Kanagasundaram Thevakumar King. These relate to flooding problems in the locality and include a set of photos to demonstrate a previous flood event in August 2015.

5.8 An objection has been received from Mr John Ashley Mooney. Mr Mooney was formerly a District Councillor for the St Pauls Ward where the application site is located. Mr Mooney objects on the basis that the local highway network is inadequate to cater for the proposed development; it places further pressure on local healthcare and schooling; it impinges on

green space separating Holland on Sea from Clacton on Sea; a petition of 5000 signatures was previously submitted in connection with a proposed residential allocation in the local plan; it represents the first phase of a larger plan for 2700 dwellings in the vicinity; and the site will never be able to provide a suitable access.

## **6. Assessment**

### **The Site**

- 6.1 The application site comprises 8.6 hectares of agricultural land (a mix of Grade 3a; 3b – good to moderate and Grade 4 - poor) to the west of Sladburys Lane. It lies outside of the settlement boundary identified within both the adopted and emerging local plan. In the adopted local plan it lies within a Local Green Gap designation. In the emerging local plan it lies outside of but in close proximity to a Strategic Green Gap to the east of Sladburys Lane. The southern extremity of the site lies within Flood Risk Zones 2 and 3. Further to the east is the Holland Marshes SSSI and the route of Pickers Ditch that is designated as protected public open space.
- 6.2 The site is located on the north eastern edge of Clacton, approximately 3km from the town centre. It is approximately 1.5km from Gorse Lane Industrial Estate to the north. The town centre has a wide range of shops for both everyday/convenience and comparison shopping needs. It also has three secondary schools and a number of primary schools, including Holland Park, which is about an 800m (10-minute) walk from the site. In addition the town has employment opportunities and local leisure and community facilities. It is identified as an urban settlement in the adopted local plan and a strategic urban settlement in the emerging local plan where development should be focussed.
- 6.3 The site currently comprises farmland and consists of two arable fields which spilt the site in two, one to the north and one to the south. The field to the south of the site is separated from that to the north by a hedgerow, ditch and with some mature trees set amongst it. Around the perimeter of the fields are further lengths of additional hedging, fencing and trees.
- 6.4 The site lies immediately adjacent to the Valley Farm Holiday Park (a protected caravan site) to the west. Sladbury's Lane runs off to the south and east. To the north, beyond an adjoining agricultural field is the Colchester to Clacton railway line. A line of electricity pylons crosses east/west beyond the northernmost boundary. The topography of the site is a general slope in a north to south direction, from approximately 11m AOD to 2.5m AOD towards the southern boundary.
- 6.5 Sladbury's Lane is an unclassified road which forms part of a link between the B1033 (which links the A133 with Frinton) and the B1032 on the eastern edge of Clacton, running along the site frontage and the built up part of Sladbury's Lane opposite the site before leaving the urban area and after approximately adjoining the B1032 Holland Road/Frinton Road. Within the built up area the carriageway is of sufficient width for two vehicles to pass although a vehicle weight limit of 7.5 tonnes is imposed across the Pickers Ditch. Further to the northeast is the junction with Burrs Road, an unclassified road which runs northwest from Sladbury's Lane, which it joins as the minor arm of a priority T-junction approximately 0.5km north east of the site. Burrs Road then passes over the Colchester to Clacton railway line on a barrier controlled level crossing into the Burrsville area.
- 6.6 To the east of a point about 80m east of the junction with Keswick Avenue, Sladbury's Lane is unlit with no footways and derestricted (i.e. subject to the national speed limit of 60mph for single carriageway roads); to the west of here it is lit and subject to a 30mph limit. The 30mph limit commences about 150m north east of the eastern boundary of the application site. West of Keswick Avenue it is fronted by houses on the south side only with in-curtilage

parking to which it provides direct vehicle access and is lit with a footway on the developed side. South of the first right angle bend there are houses (again with in-curtilage parking to which it provides direct vehicle access) and footways on both sides.

### **The Proposal**

- 6.7 This outline planning application seeks the approval for the principle of up to 132 dwellings and includes provision of approximately 4.6ha of public open space. New pedestrian and vehicular access is proposed to be provided from Sladbury's Lane in the form of a new roundabout. All matters including access (together with appearance, landscaping, layout and scale) are reserved matters.
- 6.8 The proposal shows a variety of indicative house types comprising 2, 3 and 4 bedroom dwellings with a mix of terrace, detached and semi-detached dwellings, each with individual parking and garage provision. In total approximately 400 parking spaces are shown to be provided across the site.
- 6.9 The indicative elevations reflect local vernacular including a collective palate of appropriate materials for the area although these are provided for illustrative purposes at this outline stage.
- 6.10 Open space provision is illustrated to include landscaped amenity space within the housing area and also includes a large area of open recreational land to include space for formal sports pitches together with adjacent runoff areas and more informal areas. This is shown located to the southern part of the site.
- 6.11 The application is supported by the following documents:

### **Architectural Drawings**

- Indicative Proposed Site Plan dwg.no 256.200.00 by DAPA;
- Indicative House Type Layouts and Elevation dwg.no 256.201-211.00;
- Indicative Street Scene Elevations dwg.no 256.212.00;
- Proposed Parameters Plan dwg.no.256.213.00; and
- Survey Plans by SurvaTec 01217-001/02 Sheets 1-15;

### **Reports and Technical Information**

- Design and Access Statement by David A Plant Architecture (DAPA);
- Planning Statement May 2015 by Phase 2 Planning;
- Transport Assessment April 2015 by Ardent Consulting Engineers (ACE);
- Noise Survey May 2015 by ACE;
- Flood Risk and Wastewater Assessment May 2015 and Revised Flood Risk and Wastewater Assessment April 2016 by ACE;
- Ecology Appraisal December 2013 and Ecological Addendum June 2016 by CSa Ecology;
- Arboricultural Impact Assessment by Haydens.
- Utilities Statement May 2015

## **Main Planning Considerations**

- 6.12 The main planning considerations include the specific issues raised by local residents in their objections and other material planning factors. These are:
- The Principle of Development and Settlement Development Boundaries
  - Green Gap
  - Agricultural Land
  - Surface Water Drainage
  - Highways and Transportation
  - Landscape, Visual Impact and Trees;
  - Ecology;
  - Other Considerations
  - Section 106 Obligations

## **The Principle of Development and Settlement Development Boundaries**

- 6.13 One of the principal concerns raised by some of the objectors to the application relates to the site's location outside of the Local Plan's settlement development boundary and the fact that the area has not been included or allocated for residential development by the Council within the revised boundaries of the emerging Local Plan.
- 6.14 It is correct that the site is not allocated for housing or mixed use development in either the Council's adopted or emerging Local Plan and the site lies completely outside of the 'settlement development boundary' as shown in the adopted Local Plan and the emerging Local Plan. Because the site lies outside of the settlement development boundary and is not allocated for development in either the adopted or emerging Local Plans, this proposal for residential development is contrary to local planning policy.
- 6.15 Policy QL1 in the adopted Local Plan states that development will be concentrated within settlement development boundaries and outside of these, only development which is consistent with countryside policies will be permitted. Policy SPL2 in the emerging Local Plan states that outside of settlement development boundaries the Council will refuse planning permission unless the site is specifically allocated for a particular form of development or the applicant or developer can demonstrate that the proposed development meets a set of exceptional criteria.
- 6.16 However, paragraph 47 of the National Planning Policy Framework (NPPF) requires Councils to ensure their Local Plan meets the full, objectively assessed needs for market and affordable housing and both adopted and emerging Local Plans currently fall significantly short of this requirement. 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.
- 6.17 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 21<sup>st</sup> January 2015. This represents a rate of development is significantly higher than what has been achieved in the district in recent years. At the time of writing, it was only able to identify a 3.8 year supply and thus there is a considerable 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.

- 6.18 '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.
- 6.19 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 and not being allocated for development, notwithstanding the matters of principle raised by objectors to the proposal.
- 6.20 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.
- 6.21 The sustainability of the application site is therefore of particular importance. In assessing sustainability, it is not necessary for the applicant to show why the proposed development could not be located within the development boundary.

#### Economic

- 6.22 Officers consider that the proposal would contribute economically to the area, for example by providing employment during the construction of the development and from future occupants utilising local services, and so meets the economic arm of sustainable development.

#### Social

- 6.23 In terms of the social role, the site is within close proximity to schools, community and recreational facilities and the town centre as well as the local amenities within the District Centres of Frinton Road, Holland and North Road, Great Clacton. The site is also well served by existing bus services and is approx. 1.6 miles from Clacton train station.
- 6.24 One of the NPPF's core planning principles in this regard 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".
- 6.25 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 adopted local plan as an urban settlement and in emerging Policy SPL1 as one of three strategic urban settlements in the district. These settlements have a larger population and a wide

range of existing facilities and infrastructure, making them the district's most sustainable locations for growth and therefore a primary focus for development.

- 6.26 Overall therefore officers consider that the application site performs very well in terms of the social role within the definition of sustainability.

### Environmental

- 6.27 In terms of settlement shape and form, development in this location will not have a significantly detrimental impact (subject to consideration against other Local Plan policies) as the site is located immediately adjacent to the settlement development boundary as defined in the saved Tendring District Local Plan (2007) and in the draft local plan, with a number of residential dwellings sited to the east and south of the site and Valley Farm Holiday Park to the west. The site is enveloped by development and will not result in an unacceptable intrusion into the open countryside. The applicant has also demonstrated that the proposal will not have an adverse impact on the nearby SSSI or on protected species.
- 6.28 The environmental role is about contributing to protecting and enhancing the natural built and historic environment and Officers consider that the proposed development would not compromise or prejudice these aims.

### Green Gap

- 6.29 Objectors to the proposal have correctly identified that the site falls within a 'Local Green Gap' as identified in the Council's adopted Local Plan which, in their view, should be maintained to avoid the general urbanisation of the area.
- 6.30 Policy EN2 of the adopted Local Plan aims to keep Local Green Gaps essentially free of development within the plan period which, for the adopted Local Plan, was up to 2011. The adopted Local Plan is now out of date, particularly in respect of housing supply. The designation of this area as a Local Green Gap now has to be considered as out of date in accordance with recent case law that confirms that such policies are relevant to housing land supply (Court of Appeal 17 March 2016 – case no. C1/2015/0583 and 0894).
- 6.31 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. So in the emerging Local Plan, many of the Local Green Gaps, including this one, are proposed to be removed/revised following a review of the policy.
- 6.32 Officers consider that the Local Green Gap policy should only be given limited weight in the determination of the application and that refusing permission against this policy would not, in itself, have been justified. It was recognised however that the attributes and features of this area that supported its designation as a Local Green Gap are still an important consideration in assessing the impact of development on the landscape and on the character of the village.
- 6.33 It should be noted, however, that the 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; and 15/00964/OUT for 71 dwellings off Mayes Lane, Ramsey. Two of these sites are specifically allocated for housing in the emerging Local Plan.
- 6.34 In addition, the Council received an appeal decision in relation to an outline planning (14/00995/OUT) which lies within a Local Green Gap as designated in the adopted Local Plan. The Inspector, in dismissing the appeal, 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*".

- 6.35 Following recent Committee decisions and the above appeal decision, Officers have given greater weight to the value of the Local Green Gap designation in some situations. In applying the presumption in favour of sustainable development, the adverse impacts resulting from the loss of the Local Green Gap still need to be weighed in the balance against the benefits of the development and only if the adverse impacts are significant and demonstrable should permission be refused.
- 6.36 For the application site, the loss of Local Green Gap would not result in the coalescence of settlements with different character and would not result in an adverse impact on the intrinsic beauty of the countryside unlike in some of the cases mentioned above.
- 6.37 Officers agree that the loss of a large area of the Local Green Gap represents an adverse impact. However, in determining whether or not the impact is 'significant and demonstrable', Officers are of the view that as the site is 'enveloped' by existing development, the development of the site would not result in an unacceptable intrusion into the open countryside. The extent of the housing land shortfall, the valuable contribution that this site could make to housing supply in the absence of an up to date Local Plan and the applicants' efforts to provide open space within and around the development all weigh heavily in favour of the application proposal.
- 6.38 Officers consider that the adverse impact of losing the Local Green Gap does not significantly and demonstrably outweigh all economic, social and environmental benefits of the development. Refusal against Policy EN2 of the adopted Local Plan would not be a legitimate and defensible reason for refusal on this occasion..

### **Agricultural Land**

- 6.39 Some residents have objected to the loss of agricultural land as a result of the proposed development and the affect that this could have on future food production. The Agricultural Land Classification Map shows the application site to be a mix of Grade 3a/3b and 4. These classifications are defined as follows:

#### **Grade 3 - good to moderate quality agricultural land**

Land with moderate limitations which affect the choice of crops, timing and type of cultivation, harvesting or the level of yield. Where more demanding crops are grown yields are generally lower or more variable than on land in Grades 1 and 2.

#### **Subgrade 3a - good quality agricultural land**

Land capable of consistently producing moderate to high yields of a narrow range of arable crops, especially cereals, or moderate yields of a wide range of crops including cereals, grass, oilseed rape, potatoes, sugar beet and the less demanding horticultural crops.

#### **Subgrade 3b - moderate quality agricultural land**

Land capable of producing moderate yields of a narrow range of crops, principally cereals and grass or lower yields of a wider range of crops or high yields of grass which can be grazed or harvested over most of the year.

#### **Grade 4 - poor quality agricultural land**

Land with severe limitations which significantly restrict the range of crops and/or level of yields. It is mainly suited to grass with occasional arable crops (e.g. cereals and forage crops) the yields of which are variable. In moist climates, yields of grass may be moderate to high but there may be difficulties in utilisation. The grade also includes very droughty arable land.

- 6.40 The site has not been specifically tested and the Classification Map is not accurate enough to identify the split between Class 3a and Class 3b grades. At best the site is Grade 3a – ‘Good Quality’ which is at the lower end of what is considered to be the ‘best and most versatile’ agricultural land which is what national and local plan policy seeks to protect. The need for agricultural land has to be weighed alongside the projected need for housing and it is inevitable that the agricultural land will be lost to make way for housing, whether it is on this site or anywhere else in the district. For this reason it would not be justified to refuse the application on a point of principle simply because it would result in the loss of agricultural land.

### **Surface Water Drainage**

- 6.41 Many residents have raised concern about the potential increase in surface water flooding that might arise as a result of the proposed development. It has been highlighted that when there are high levels of rainfall, Sladburys Lane and Keswick Avenue are regularly flooded and the drainage system struggles to take the water away with properties in the vicinity of Picker’s Ditch being particularly affected.
- 6.42 Paragraph 103 of the NPPF requires Councils, when determining planning applications, to ensure flood risk is not increased elsewhere. Although the site is predominantly in Flood Zone 1 (low risk) where the development is proposed for the housing, parts of the site are in Flood Zone 2 and 3. The NPPF, Policy QL3 in the adopted Local Plan and Policy PLA1 in the emerging Local Plan still require any development proposal on a site larger than 1 hectare to be accompanied by a site-specific Flood Risk Assessment (FRA). This is to assess the potential risk of all potential sources of flooding, including surface water flooding that might arise as a result of development.
- 6.43 The applicant has submitted a Flood Risk Assessment which has been considered by Essex County Council as the authority for sustainable drainage. Initially, ECC issued a ‘holding objection’ and required further work to be undertaken to ensure compliance with the guidelines set out in the relevant National Planning Practice Guidance. The applicant has responded to ECC’s initial objection with further information as requested and the objection has now been addressed. ECC now supports the grant of outline planning permission (as detailed in their comments earlier in this report) subject to conditions relating to the submission and subsequent approval of a detailed Surface Water Drainage Scheme before development can take place.
- 6.44 Detailed hydraulic modelling has been carried out which demonstrates that the SuDS/surface water drainage system can withstand the impact of a 1:100 year rainfall event (including an additional 30% as an allowance for climate change), thus complying with the requirements of the NPPF. The surface water run-off will be restricted to 10.3 litres/sec and will be attenuated within a proposed surface basin towards the southeastern part of the site. ECC have agreed this approach subject to the imposition of controlling conditions, including management of maintenance of the SUDs system into the future.
- 6.45 Anglian Water has confirmed that the local Sewage Treatment Works and public sewer network have sufficient spare capacity to accept the peak foul water flows from the development scheme without requiring any off-site reinforcement/improvement upgrade works.

- 6.46 Cllr Broderick has submitted further objections on behalf of local residents following heavy rainfall in June of this year that caused localised flooding of the roads. In these objections Cllr Broderick queries whether the Council can have confidence that the SUDs arrangements proposed by the applicant can be capable of accommodating the flows anticipated from the development and whether the management and maintenance to the ditch will be undertaken in order to ensure that surface water can be effectively managed from the site. The ECC SUDs Team has responded that they are satisfied that the FRA proposals have demonstrated that the development is capable of accommodating and discharging its surface water drainage in an acceptable manner and that conditions to require future maintenance are enforceable and are ultimately the responsibility of the landowner.. On this basis, ECC do not wish to change their recommendation of approval.
- 6.47 In conclusion, the applicant has demonstrated through their Flood Risk Assessment and supplementary information that development can, in principle, be achieved without increasing flood risk elsewhere. With the planning condition suggested by ECC, the scheme should comply with the NPPF and Policies QL3 and therefore addresses the flood risk element of the environmental dimension of sustainable development.

### **Highways and Transportation**

- 6.48 The application is accompanied by a Transport Statement undertaken by Ardent Consulting Engineers (ACE) who have considered the existing and post development impact in highways and traffic terms. As a result of their investigations and liaison with Essex County Council Highways the proposals allow for a number of highway improvements and enhancements, including for pedestrian and vehicular users.
- 6.49 Access to the development is proposed by means of a new 3-arm compact roundabout on Sladbury's Lane which has been demonstrated to have ample capacity to accommodate predicted traffic flows. As requested by ECC, the applicant has assessed the operation of both off-site junctions and the level crossing in a future assessment year of 2020, allowing for projected background traffic growth, and found that the additional vehicle trips associated with the proposed development would have a minimal impact on their operation.
- 6.50 ACE have identified the predicted traffic resulting from the proposed development using the TRICS database. This is estimated to result in an increase of just over 30 peak time vehicle movements on Sladbury's Lane, including through the junctions with Burrs Road and the B1032 Holland Road/Frinton Road. However the increase in traffic on Burrs Road and over the level crossing is below the identified acceptable threshold set out in Department for Transport and related guidance for assessing impact and is not therefore predicted to result in any adverse impact in highway terms. Network Rail were consulted by the Council and specifically asked to comment on this point as a result of a concern expressed by Cllr Broderick on behalf of local residents that the development would result in increased danger at the unmanned, level crossing. The response was of no objection with no further observations.
- 6.51 In May of this year Cllr Broderick submitted representations that the Transport Assessment contained numerous errors and that it should be reviewed and the errors explained and corrected. The errors referred to include that the Transport Assessment considered a much larger site area than the application site; at paras 3.9 and 3.10 the Assessment states that only a development of 500 – 1000 houses would justify provision of a new bus service; the report states that the road network is inadequate to permit a bus service and that to upgrade the roads would incur significant cost and so the proposed site would therefore never benefit from a bus service; and the traffic survey information is over 3 years old. Cllr Broderick advises that the residents are undertaking/commissioning a traffic survey of their own and has asked that the application is deferred until this has been completed and ECC has been asked to review its comment of no objection. The survey information has not been

received to date and it would not be reasonable to defer a decision when the Highway Authority agreed the scope and the outcome of the Transport Assessment.

6.52 The applicant and ECC were asked for further comment as a result of the concerns regarding the robustness of the Transport Assessment. ECC did not respond but the applicant commented as summarised:

- the Transport Assessment considers the impact of 133 houses accessed from Sladburys Lane on the wider highway network
- the scope was agreed in advance with ECC Highway Authority
- the exact location of the site is to a certain extent irrelevant because the Assessment looks at the volume of traffic on the local highway network and this would be the same for this level of development wherever it were to be positioned on Sladburys Lane. The Plan to accompany the Assessment was to show the general location of the development and has no bearing on the findings set out in the report
- the minimum number of dwellings to support a new bus service is 500-1000 (providing Public Transport in Developments – Institution of Highways and Transportation) anything smaller would not generate sufficient custom to make the service viable
- the existing carriageway along Sladburys Lane would need to be widened for a bus service to reach the site. The cost of this could not be supported by the scheme
- the scheme has been designed internally and ECC have imposed a condition that the estate road in the site is capable of accommodating a bus route should this be needed in the future
- nearby bus stops will be upgraded as part of the current scheme

6.53 Parking is illustrated for residential units, including visitor spaces and community uses on the basis of two or three spaces per dwelling. Overall the impacts in traffic and transport terms are considered to be acceptable and are therefore in accordance with relevant policy including emerging Policy QL2 (Promoting Transport Choice) and TR1A (Development Affecting Highways) of the 2007 District Local Plan and the NPPF.

### **Landscape Visual Impact and Trees**

6.54 Policy QL9 in the adopted Local Plan 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 seeks 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. Policy QL9 and also requires developments to incorporate important existing site features of landscape, ecological or amenity value such as trees, hedges, water features, buffer zones, walls and buildings.

6.55 Despite being an undeveloped site on the edge of the town/urban area, the site is extremely well contained within its wider landscape and is barely visible from most viewpoints. The line of hedges and trees along the boundaries, the screening provided by adjoining, developed and the context provided by the substantial residential development to the south of the site means that development can be achieved without having a materially negative landscape and visual impact.

6.56 The Council's Principal Trees and Landscapes Officer has considered the proposal and is satisfied that the development can be implemented without harm being caused to any important trees in or surrounding the site. In order to ensure the retention and protection of

the most important trees a Tree Preservation Order has been served on seven individual oak trees within the site. The existing hedgerows act as a good screen that is desirable to retain. A condition has been requested to secure soft landscaping proposals for the site and it is proposed that such a condition be applied to the grant of planning permission.

- 6.57 In conclusion, the landscape and visual impact of the development is expected to be low and enhancements through additional soft landscaping can be secured through planning conditions. Officers are satisfied that, subject to the landscaping being agreed and implemented, the visual and landscape impacts will be acceptable and the scheme can perform well against the environmental dimension of sustainable development.

### **Ecology**

- 6.58 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 gives 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 minimises, mitigated or compensated for. Policy EN6b in the adopted Local Plan supports the creation of new habitats within developments subject to appropriate management and public access arrangements. Policy EN6a in the adopted Local Plan refers specifically to protected species including badgers and bats.
- 6.59 The application site is not designated as site of international, national or local importance to nature conservation and Natural England has offered no objection, in principle, to the proposed development. Objectors have in the past stated that the site offers a habitat for a range of species.
- 6.60 The applicant has prepared and submitted a Phase 1 Ecological Report, that concludes that there are features of the site which may provide foraging, breeding and roosting habitat for protected species. This includes the site's trees and hedges, some of which are considered suitable for roosting and foraging bats and a nesting habitat for breeding birds.
- 6.61 CSA Environmental was instructed by the applicant to undertake additional ecological survey work in relation to the site, as recommended in the Ecological Appraisal (December 2013).
- 6.62 The following field survey work was undertaken to confirm the presence/likely absence of potential ecological features at the site including:
- Bats - Preliminary ground level roost assessment: trees (April 2016); Remote monitoring of bat activity (May & June 2016)
  - Badger survey (April 2016)
  - Reptile survey (May 2016)
  - Great crested newt survey (May 2016)
  - Arable plant survey (May & June 2016)
  - Anecdotal recording of birds and 'other' mammals (April & May 2016).
- 6.63 The findings of the above are presented in The Ecological Addendum and identifies any likely significant effects. Mitigation measures have therefore been proposed for reptiles (slow worm and common lizard) and bats (in respect of lighting). Based on successful implementation of the mitigation and enhancement measures detailed in the report, no significant adverse effects are predicted. It is proposed that mitigation and enhancement measures proposed be secured via appropriately worded planning condition.

- 6.64 The applicant has prepared a tree survey and has demonstrated through their indicative layout how important trees be retained within a development.

### **Other Considerations**

- 6.65 Residential amenity - Policy QL11 in the adopted Local Plan requires that the health, safety or amenity of any occupants or users of a proposed development are not materially harmed by any pollution from an existing or committed use. In this case, the operator of the Holiday Park next door is concerned about noise impacts from its customers causing a nuisance to future occupants of the application site and the applicant is concerned about rail and road noise.
- 6.66 The applicant's have submitted a Noise Assessment as part of the planning application submission. The maximum noise levels experienced externally at the nearest proposed property, during a train pass event, were calculated using the highest experienced L<sub>Amax</sub> and propagation distance from the line. A worst case train pass when experienced at the nearest proposed property would be 67.9dB L<sub>Amax</sub> . However, the report concluded that the development is situated at an appropriate distance from the railway line and no further buffer distance is required within the site boundary. Similarly there would be no adverse impacts from the proximity to the road subject to compliance with building regulation requirements. There is no direct data in relation to potential noise from the Holiday Park but it is considered that the impact of the development on neighbours is likely to be low and that, subject to detailed consideration of reserved matters (such as design, landscaping and layout at a later stage), the development will be acceptable.

### **Section 106 Agreement**

- 6.67 Policy QL12 in the adopted Local Plan requires development to be supported by the necessary infrastructure. Objectors have raised concern about the impact of the cumulative impact of additional homes on local infrastructure including local schools, healthcare provision, emergency services and transport.
- 6.68 Essex County Council as the Local Education Authority has been consulted on the planning application and has made representations. ECC advises that early years and childcare facilities and secondary schools in the catchment should be able to accommodate the number of children expected to be generated from the development. For primary schools however, are operating at 100% capacity and a contribution towards temporary accommodation at Holland Park is requested in this respect.
- 6.69 For health, many residents are concerned that additional housing and the associated population increase will put unacceptable strain on already overstretched health facilities. A financial contribution toward health provision has been requested by NHS England which could go towards its capital programme and which would address some of the objections raised about the impact of 132 dwellings on local services.
- 6.70 On transport, Paragraph 32 of the NPPF 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.

- 6.71 Policy QL2 in the adopted Local Plan seeks to ensure that developments maximise the opportunities for access to sustainable transport including walking, cycling and public transport. Policy TRA1a in the adopted Local Plan requires that development affecting highways be considered in relation to reducing and preventing hazards and inconvenience to traffic including the capacity of the road network.
- 6.72 Essex County Council, in its capacity as the Local Highways Authority, has however considered the proposal and concluded that it would be acceptable from a highways perspective subject to a number of conditions. These include upgrades to the nearest bus stops and the creation of footpaths, amongst other things, all of which can suitably be controlled by condition.
- 6.73 Policy COM6 in the adopted Local Plan requires large residential developments to provide at least 10% of land as public open space or otherwise make financial contributions toward off-site provision. The indicative drawings in support of the planning application show the provision of a number of areas of open space with a potential surface water balancing pond in the south of the site. In total the public open space amounts to 50% of the total site area. The provision of this area would over comply with the Council's policy and would offer the opportunity to achieve an attractive transition between the development and the countryside beyond whilst incorporating landscaping features and sustainable drainage facilities.
- 6.74 The Council's Open Space and Bereavement Service Manager has commented on the application and has identified a deficiency of equipped play areas and formal open space in the area and has asked for an off site contribution; a future maintenance sum and the on site provision to be to LEAP standards. 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.
- 6.75 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. Local Plan evidence, based on more up to date evidence on housing need and viability, requires 30% of new dwellings on large sites to be made available to the Council or a nominated partner to acquire at a discounted value for use as affordable or council housing. The policy does allow flexibility to accept as low as 10% of dwellings on site, with a financial contribution toward the construction or acquisition of property for use as affordable or council housing (either on the site or elsewhere in the district) equivalent to delivering the remainder of the 30% requirement. If the Committee is minded to approve this application, Officers will negotiate and agree an appropriate level of affordable or Council Housing to be secured through a Section 106 legal agreement.

### **Conclusion**

- 6.76 The application has been assessed in relation to the policies of the NPPF and relevant adopted Local Plan and emerging Local Plan in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2014. The application has been assessed in relation to the following issues and potential impacts, most of which were highlighted by local residents as matters of concern:
- The Principle of Development and Settlement Development Boundaries
  - Green Gap

- Agricultural Land
- Surface Water Drainage
- Highways and Transportation
- Landscape, Visual Impact and Trees;
- Ecology;
- Other Considerations
- Section 106 Obligations

6.77 In summary the main considerations and conclusions are:

- The application is for 'outline' consent seeking approval only for the principle of up to 132 dwellings.
- The site is undeveloped grade 3/4 agricultural land on the urban edge of Clacton where national and local plan policy says development should be focussed.
- Unlike the local plan allocation that was previously proposed, the current application has attracted a lower level of public objection.
- The development is contrary to both the adopted and emerging Local Plans but because the Council's housing policies are out of date and a five-year supply of deliverable housing sites (plus a 20% buffer) cannot currently be identified, the proposal has to be considered on its merits in line with the government's 'presumption in favour of sustainable development'.
- Clacton is identified as an urban settlement where development should be focussed in recognition of its wide range of shops, services, facilities and infrastructure.
- Given the projected level of housing needed in the district, this development, when considered individually or even cumulatively alongside other developments in the pipeline for the town would not constitute a disproportionate or excessive increase in housing stock.
- The site in question is within walking distance, of services and facilities in the town and district centres and bus services to and from neighbouring towns. Highways impacts have been considered and the Highway Authority has no objection, subject to its suggested planning conditions being applied.
- The impacts of the new housing development on schools and surgeries can be addressed through financial contributions, as requested by Essex County Council and NHS England.
- A Flood Risk Assessment has been submitted with the application which demonstrates that surface water flooding resulting from development on the site can be managed through the use of sustainable drainage systems and conditions are proposed requiring the submission of detailed drainage strategy for the Council's approval, in liaison with Essex County Council, before development takes place.
- The landscape, visual and ecological impacts of the scheme have been considered and, subject to conditions requiring landscaping and other mitigation measures, the impacts are considered to be acceptable, with the potential for net environmental enhancement.
- The development is not expected to have an unacceptable impact on neighbours or future occupants and the proximity of the site to commercial activities and roads and the



rail line and potential exposure to noise is not considered to be significant enough factors to justify the refusal of outline planning permission.

- 6.78 In conclusion, in applying the NPPF 'presumption in favour of sustainable development' the proposal addresses the three dimensions of sustainable development. The economic impact of the development would be positive both in terms of temporary construction jobs and the increased demand for goods and services that arises from population growth; the social impacts would be positive in terms of the contribution toward meeting projected housing need and providing public open spaces; and the environmental impacts would be neutral with the potential for them to be positive subject to securing successful approaches to landscaping, drainage and habitat creation.
- 6.79 The main adverse impact of the development would be the urbanisation of an area of undeveloped agricultural land that is designated as a Local Green Gap in the adopted Local Plan. Officers consider that the loss of this greenfield land would not significantly or demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole. Regard must also be had to the fact that recent case law suggests that such policies like the green gap protection must also be regarded as out of date when the Council cannot demonstrate a five year land supply and the NPPF balance must be implemented where it has to be demonstrated that any negative impacts outweigh the positives.
- 6.80 In line with paragraph 14 of the NPPF, Officers recommend the approval of outline planning permission subject to the completion of a s106 legal agreement to secure a financial contribution toward education and health provision, an appropriate level of on-site Council/Affordable Housing; and an appropriate level of open space with necessary arrangements for long-term maintenance. There are also a number of conditions that would apply to the grant of planning permission, as outlined at the head of this report.

#### Background Papers

None.