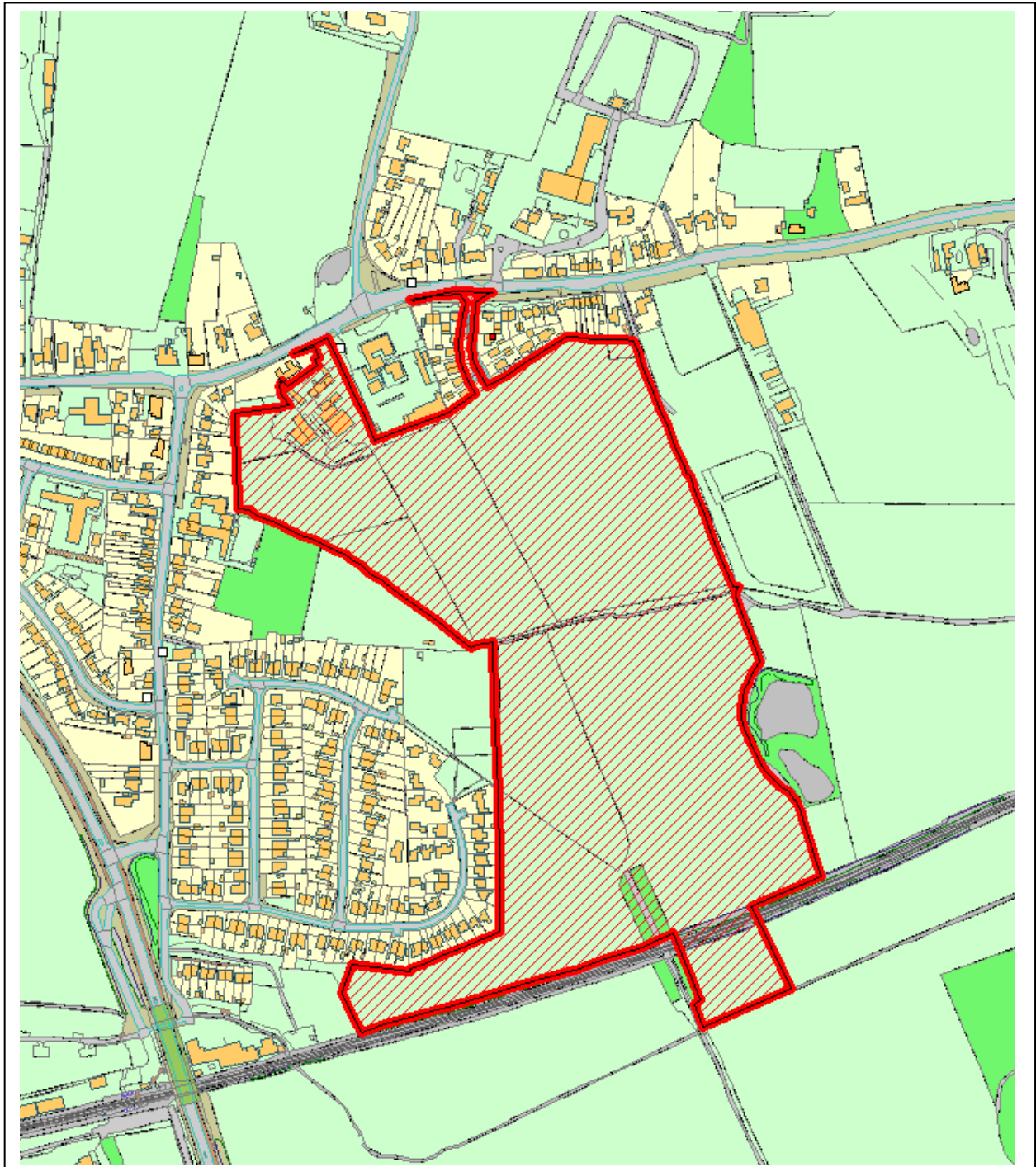


PLANNING COMMITTEE

21 August 2018

REPORT OF THE HEAD OF PLANNING

**A.3 PLANNING APPLICATIONS – 17/02162/OUT - LAND TO THE SOUTH OF THORPE ROAD, WEELEY, CO16 9AJ**



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<b>Application:</b>	17/02162/OUT	<b>Town / Parish:</b> Weeley
<b>Applicant:</b>	Mr & Mrs Lumber & Weeley	
<b>Address:</b>	Land to the South of Thorpe Road, Weeley, CO16 9AJ	
<b>Development:</b>	Outline planning application with all matters reserved, except for access, for 280 dwellings, a 2 Form of Entry primary school, 56 place early years nursery, up to 3000 sqm of office (B1) buildings on 1 hectare and associated ancillary buildings, drainage systems, boundary treatments and hard surfacing as well as public open space, vehicular access from Thorpe Road a pedestrian footbridge and the closure of existing level crossing and formal diversion of public footpath No 5 - Weeley, over the new railway bridge.	

## 1 Executive Summary

- 1.1 **The proposal is referred back to Planning Committee, following its decision to defer the application on 21 August 2018 until the outcome of the Section 2 examination of the Council's emerging Local Plan. The applicant has sought legal advice and has requested that the Council determine the application now, on the grounds that to defer for an indeterminate period of time would amount to unreasonable behaviour, which would potentially have significant financial implications for the public purse through the costs regime of the appeal process. As with this paragraph, updates since the report was previously published can be found in bold text.**
- 1.2 The application site comprises 17.90 hectares of agricultural land that is situated to the south of the B1033 Thorpe Road, Weeley. This land is allocated for a major residential and mixed-use development in the Council's emerging Local Plan. Outline planning permission is now being sought for 280 dwellings, a 2 Form of Entry primary school, 56 place early years nursery, up to 3000 sqm of office (B1) buildings on 1 hectare and associated ancillary buildings, drainage systems, boundary treatments and hard surfacing as well as public open space, vehicular access from Thorpe Road a pedestrian footbridge and the closure of existing level crossing and formal diversion of public footpath No 5 - Weeley, over the new railway bridge.
- 1.3 The site lies outside of the settlement development boundary for Weeley within the adopted Local Plan, but in the emerging Local Plan it is specifically allocated through Policy SAMU5 for a mix of residential development, employment land, primary school and public open space. The emerging plan has reached a relatively advanced stage of the plan-making process, the site allocation is the subject of a number of unresolved objections, but the Council relies on this to assist in boosting the supply of housing in line with government planning policy and to maintain a five year supply of deliverable housing land. It is therefore considered that the allocation of this land for residential and mixed use development in the emerging Local Plan should carry some weight in the decision making process.
- 1.4 This is an application for outline planning permission with all matters reserved with the exception of access. Other matters including appearance, landscaping, layout and scale are reserved for approval at a later date and therefore this application seeks only to establish the principle of residential and mixed-use development of the site and the arrangements for access. The applicant has provided details of how they propose to access the site off Thorpe Road and the Highway Authority, having modelled the impacts of this development on the highway network as part of the Local Plan process, has no objections

in principle to the proposed arrangements, subject to conditions requiring the approval of further details and certain off-site highway improvements.

- 1.5 Officers are content that subject to the imposition of reasonable planning conditions and S106 planning obligations that the general principle of this level of development on the site is acceptable. It is in keeping with both the site's location on the edge of the village and along with the need to facilitate on site strategic landscaping, open space and the retention of existing landscape features and curtilage listed buildings. Furthermore, the proposal would ensure that the living conditions of existing and future residents would be protected from any materially detrimental impacts whilst significantly boosting housing supply within the district in line with the Council's own emerging Local Plan.
- 1.6 The recommendation is therefore to approve outline planning permission subject to the completion of a legal obligation under Section 106 of the Town and Country Planning Act 1990 and a number of controlling conditions.

**Recommendation:** That the Head of Planning is authorised to grant outline planning permission for the development subject to:-

- a) The completion of a legal agreement under the provisions of Section 106 of the Town and Country Planning Act 1990 (as amended) within 6 months of the date of the Committee's resolution to approve, dealing with the following matters:
1. Affordable Housing – specific tenure and mix to be agreed at the reserved matter/s stage/s;
  2. Education - 2.1ha of land to accommodate a 2 form entry primary school and commensurate nursery; along with financial contributions towards: Early Years & Childcare for 15.2 places; Primary Education for 84 places; Secondary Education School Transport for 56 places;
  3. Healthcare – Financial contribution towards relocation costs for Thorpe Surgery (including its branch surgery at Kirby Cross);
  4. Public Open Space, equipped play areas and Ecology Land (for Slow Worms) - To be transferred to management company and laid out before transfer;
  5. Ecology (off site) - Financial contributions towards off-site ecological mitigation - to improve access within Weeleyhall Wood SSSI;
  6. Highways and Transport – A financial contribution towards the proposed improvements at the A133/B1033/ services and Frating roundabouts as identified in the Tendring Local Plan Highways and Transportation Modelling work;
  7. Public Rights of Way (PRoW) – Footbridge to be constructed over the railway line and transferred to Network Rail on completion with a commuted sum for future maintenance, PRoW 5 to be diverted away from existing level crossing via footbridge on completion;
- b) Planning conditions in accordance with those set out in (i) below (but with such amendments and additions, if any, to the detailed wording thereof as the Head of Planning (or the equivalent authorised officer) in their discretion considers appropriate).

**(i) Conditions:**

1. Standard 3 year time limit for submission of first reserved matters application (which can

thereafter be submitted in phases to reflect the phasing of the development.

2. Standard 2 year limit for commencement of development following approval of reserved matters.
3. Details of appearance, layout, scale and landscaping (the reserved matters).
4. Layout and phasing plan/programme - to be submitted for approval prior to submission of first Reserved Matters application and to include details of market and affordable housing provision, employment provision (including the re-use of buildings at Ash Farm); and a phasing plan.
5. Development to provide for up to 280 dwellings, a 2 Form of Entry primary school, 56 place early years nursery, up to 3000 sqm of office (B1) buildings on 1 hectare and associated ancillary buildings, drainage systems, boundary treatments and hard surfacing as well as public open space, vehicular access from Thorpe Road a pedestrian footbridge and the closure of existing level crossing and formal diversion of public footpath No 5 - Weeley, over the new railway bridge and to demonstrate compliance with the approved Access and Land Use Layout Plans.
6. Residential Travel Information Pack for sustainable transport to be provided for each dwelling on occupation.
7. Car parking spaces and garages to meet ECC standards.
8. No discharge of surface water onto the highway;
9. Construction Method Statement and Traffic Management Plan to be submitted and be adhered to throughout the construction period, to provide for:
  - i. Safe access to/from the site
  - ii. The parking and turning of vehicles of site operatives and visitors
  - iii. Loading and unloading of plant and materials
  - iv. Storage of plant and materials used in constructing the development
  - v. Wheel and underbody washing facilities
  - vi. The safeguarding of Public Rights of Way during construction
  - vii. The erection and maintenance of security hoarding
  - viii. Measures to control the emission of dust and dirt during construction
  - ix. A scheme for recycling/disposing of waste resulting from construction
  - x. Delivery and construction working hours
  - xi. Temporary traffic management/signage
10. Submission and implementation of a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context prior to the commencement of the development of each phase.
11. Submission and implementation of a scheme to minimise the risk of offsite flooding caused by surface water run-off and groundwater during construction works and prevent pollution prior to the commencement of the development of each phase.
12. Submission and implementation of 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 prior to the commencement of the development of each phase.
13. Submission and implementation of a foul water strategy prior to commencement of

**Commented [a1]:** Include within this condition or add a separate condition requiring the development to be broadly in accordance with the parameter plans.

**Commented [CT2]:** Hi Susanne, from what I can see the Land Use Layout Plan is effectively a parameter plan.

development.

14. A Programme of Archaeological and geoarchaeological evaluation.
15. Acoustic measures to be implemented to minimise noise disturbance to future occupants from the railway line.
16. Contaminated land investigation and remediation for ground gases and contamination hotspots.
17. No piling to be undertaken without prior written agreement.
18. Each reserved matters application to be accompanied by an external lighting scheme, to minimise light pollution and impact upon bats.
19. Each reserved matters application to be accompanied by details of location and design of refuse and recycling bins/storage.
20. Landscaping scheme for each reserved matters application to incorporate detailed specification of hard and soft landscaping works.
21. All trees and hedgerows to be retained to be protected in accordance with BS5837, unless otherwise agreed.
22. Submission of a Construction Environmental Management Plan, to manage the effects of site clearance and construction operations on the natural environment.
23. Protected species mitigation in accordance with: Barn Owl Mitigation report; Bat Activity Survey; Breeding Bird Survey; Reptile Survey and Outline Mitigation Strategy; and Ecological Impact Assessment.
24. Submission of a Landscape and Ecology Management Plan to specify how areas of green space to be managed, including measures to create new habitats, as well as general biodiversity enhancement and safeguarding protected species.
25. Provision of Suitable Alternative Natural Green Space (SANGS) for dog walking.
26. Details and samples of all external roof and wall materials to be submitted with reserved matters applications for each phase.
27. Details of all boundary treatments materials to be submitted with reserved matters application for each phase.
28. Each reserved matters application to be accompanied by details of existing and proposed site levels and finished floor levels – identifying areas of cut and fill and the import or export of materials.
29. Adherence to Secured by Design Principles and certification.
30. Details of conversion of redundant agricultural curtilage listed buildings and demolition of non-curtilage listed buildings to be submitted in accordance with submission of first reserved matters.
31. Highway works as shown in principle on drawing no. 161890-002 Rev A, dated October 2017 to be carried out prior to occupation:
  - Widening of the Barleyfields carriageway;
  - Right-turn lane into Barleyfields to be provided;

- A pedestrian refuge island to be provided to the west of Barleyfields access road;
  - The existing footway along the site frontage to be widened;
  - Adjustments to carriageway width to the east of Crow Lane and removal of the layby;
  - Provision of a right-turn lane into Crow Lane approaching from the east;
  - Homestead access to be constructed with appropriate kerb radii;
  - Right-turn lane into Homestead on approach from the east.
32. The provision of two new bus stops located to the east of Barleyfield's access on both sides of Thorpe Road.
33. The provision of new gateway traffic calming features to be provided on the approaches to Weeley in both directions on the B1033 to enhance the existing 30mph speed limits.

## 2 **Planning Policy**

### National Policy

#### *National Planning Policy Framework 2018 (NPPF)*

- 1.7 The NPPF sets out the Government's planning policies and how these are expected to be applied at the local level.
- 1.8 Planning law requires that applications for planning permission be determined in accordance with the 'development plan' unless material considerations indicate otherwise. The NPPF doesn't change the statutory status of the development plan as the starting point for decision taking. Where proposed development accords with an up to date Local Plan it should be approved and where it does not it should be refused – unless other material considerations indicate otherwise. An important material consideration is the NPPF's 'presumption in favour of sustainable development'. The NPPF defines 'sustainable development' as having three dimensions:
- an economic role;
  - a social role; and
  - an environmental role.
- 1.9 The NPPF sets out the Government's planning policies and how these are expected to be applied at the local level.
- 1.10 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.
- 1.11 Section 5 of the NPPF relates to delivering a sufficient supply of homes. It requires Councils to boost significantly the supply of housing informed by a local housing need assessment. In any one year, Councils must be able to identify five years' worth of deliverable housing land against their projected housing requirements including a 5%, 10% or 20% buffer: to ensure choice and competition in the market for land; where the LPA wishes to demonstrate a five year supply of deliverable sites through an annual position statement to account for any fluctuations in the market during that year; or where there has been significant under delivery of housing over the previous three years, to improve the prospect

of achieving the planned supply respectively. (NPPF para. 73). 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.

1.12 Paragraph 38 of the NPPF states *“Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available,... and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.”*

1.13 **In paragraph 47, the NPPF also states that decisions on applications should be made as quickly as possible, within the statutory timescales unless a longer period has been agreed by the applicant in writing.**

*National Planning Practice Guidance (PPG)*

1.14 The PPG provides additional planning guidance from Central Government on a range of issues, including, but not limited to: Air Quality; **Appeals**, Climate Change; Design, Flood risk and coastal change; Light Pollution; Natural Environment; Noise; and Travel Plans, Transport Assessments and Statements.

1.15 The ‘development plan’ for Tendring is the 2007 ‘adopted’ Local Plan, despite some of its policies being out of date. Paragraph 213 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 48 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.

1.16 As of 16<sup>th</sup> June 2017, the emerging Local Plan for Tendring is the Tendring District Local Plan 2013-2033 and Beyond Publication Draft. Section 1 of the Local Plan (which sets out the strategy for growth across North Essex including Tendring, Colchester and Braintree) was examined in January and May 2018 and the Inspector’s initial findings were published in June 2018. They raised concerns, very specifically, about the three ‘Garden Communities’ proposed in north Essex along the A120 designed to deliver longer-term sustainable growth in the latter half of the plan period and beyond 2033. Further work is required to address the Inspector’s concerns and the North Essex Authorities are considering how best to proceed.

1.17 With more work required to demonstrate the soundness of the Local Plan, its policies cannot yet carry the full weight of adopted policy, however they can carry some weight in the determination of planning applications. The examination of Section 2 of the Local Plan will progress once matters in relation to Section 1 have been resolved. 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 48 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.

1.18 **Paragraph 49 of the NPPF states that in context of the Framework, and in particular the presumption in favour of sustainable development, arguments that an application is premature are unlikely to justify a refusal of planning permission other than in the limited circumstances where both:**

a) the development proposed is so substantial, or its cumulative effect would be so significant, that to grant permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development that are central to an emerging plan; and

b) the emerging plan is at an advanced stage, but is not yet formally part of the development plan for the area.

- 1.19 **Furthermore, in paragraph 50, the NPPF states that refusal of planning permission on grounds of prematurity will seldom be justified even where a draft plan has yet to be submitted for examination. Where planning permission is refused on grounds of prematurity, the local planning authority will need to indicate clearly how granting permission for the development concerned would prejudice the outcome of the plan-making process.**
- 1.20 In relation to housing supply, the NPPF 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 an appropriate buffer to ensure choice and competition in the market for land, account for any fluctuations in the market or to improve the prospect of achieving the planned supply). If this is not possible, or housing delivery over the previous three years has been substantially below (less than 75%) the housing requirement, paragraph 11 d) of the NPPF requires applications for housing development needing to be assessed on their merits, whether sites are allocated for development in the Local Plan or not.
- 1.21 At the time of this decision, the Council is able to demonstrate a robust five year supply of deliverable housing sites (as confirmed in recent appeal decisions) and housing delivery over the previous three years has been comfortably above 75% of the requirement.

*Tendring District Local Plan (2007)* – as 'saved' through a Direction from the Secretary of State.

Relevant policies include:

QL1: Spatial Strategy: Directs most new development towards 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.

QL8: Mixed-Uses: Encourages a mix of complementary and compatible uses within town, district and local centres and urban regeneration areas.

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.

ER3: Protection of Employment Land: States that the Council will ensure that land in employment use will normally be retained for that purpose.

ER7: Business, Industrial and Warehouse Proposals: In considering proposals for the establishment, expansion or change of use to business, industrial or warehousing sites the Council will need to be satisfied that as number of criteria are met covering: the scale and nature of the proposal; impacts upon amenity in terms of appearance, noise, smell, dirt or other pollution; vehicular access and adequate car parking is provided; mains water together with mains sewerage and/or adequate waste water and trade effluent treatment facilities can be made available; the site has acceptable storage facilities; in relation to a change of use, that the existing premises are suitable for the purpose; in relation to new sites, the need for a comprehensive Design Brief, including a landscaping scheme has been considered and where necessary prepared; and opportunities for promoting the movement of freight by rail or through the district's ports are in no way compromised by the development proposed. It goes onto state that in rural locations permission may exceptionally be granted for extensions to existing businesses where new employment opportunities would be generated providing the criteria above can be met and the proposals can be accommodated without an adverse impact on the landscape character of the countryside.

Policy ER10: Small Scale Employment Sites in Villages: Small scale employment development including small enterprise centres will be permitted in villages provided they can meet the criteria set out in Policy ER7.

Policy ER11: Conversion and Re-Use of Rural Buildings: The re-use or conversion of rural buildings for business purposes will be permitted subject to the acceptability of: the type and scale of activity proposed and its compatibility with the character of the surrounding area; the suitability of the building for the use proposed; the level of traffic generated; the effect on the external appearance of the building; the scale and visual impact of any open storage areas associated with the proposed use; the location of the building in relation to other buildings, the landscape and the highway network; the impact on local amenity; and the impact on the historical value of the building. Proposals for the replacement of existing rural buildings which are or have been in lawful business/employment use will be subject to the same criteria.

HG1: Housing Provision: Sets out the strategy for delivering new homes to meet the need up to 2011.

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

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

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

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

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

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

COM1: Access for All: Requires publically accessible buildings to provide safe and convenient access for visitors, customers and employees 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.

COM4: New Community Facilities (including Built Sports and Recreation Facilities): Supports the creation of new community facilities where they are acceptable in terms of accessibility to local people, impact on local character, parking and traffic and other planning considerations.

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

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

COM22: Noise Pollution: Requires noise-sensitive developments including houses and schools to be either located away from, or protected from (through mitigation measures) existing sources of noise.

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

COM24: Health Care Provision: Supports developments for new and improved health care facilities that are in close proximity to the communities they intend to serve, acceptable in highways terms, accessible by a variety of transport modes and provide sufficient car parking.

COM26: Contributions to Education Provision: Requires residential developments of 12 or more dwellings to make a financial contribution, if necessary, towards 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.

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 a priority over higher quality land.

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

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

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

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

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

EN23: Development within the Proximity of a Listed Building: Guards against developments that would have an adverse impact on the setting of Listed Buildings.

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

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

TR1: Transport Assessment: Requires major developments to be supported by a 'Transport Assessment' and states that developments that would have materially adverse impacts on the transport system will be refused unless adequate mitigation measures are put in place.

TR2: Travel Plans: Requires 'Travel Plans' for developments likely to have significant transport implications.

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

TR4: Safeguarding and Improving Public Rights of Way: Encourages opportunities to expand the public right of way network. Requires developments affecting an existing public right of way to accommodate the definitive alignment of the path or, where necessary, seek a formal diversion.

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

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

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

TR8: 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 Publication Draft (June 2017)*

Relevant policies include:

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

SP2: Spatial Strategy for North Essex: Existing settlements will be the principal focus for additional growth across North Essex within the Local Plan period. Development will be accommodated within or adjoining settlements according to their scale, sustainability and existing role both within each individual district and, where relevant, across the wider strategic area. Future growth will be planned to ensure settlements maintain their distinctive character and role. Re-use of previously-developed land within settlements is an important objective, although this will be assessed within the broader context of sustainable development principles, particularly to ensure that development locations are accessible by a choice of means of travel.

SP3: Meeting Housing Needs: The local planning authorities will identify sufficient deliverable sites or broad locations for their respective plan period, against the requirement in the table below.

SP4: Providing for Employment and Retail: A strong, sustainable and diverse economy will be promoted across North Essex with the Councils pursuing a flexible approach to economic sectors showing growth potential across the Plan period.

SP5: Infrastructure and Connectivity: Requires the provision of infrastructure, services and facilities that are identified to serve the needs arising from new development.

SP6: Place Shaping Principles: Requires the highest standards of built and urban design and sets out the key principles that will apply to all new developments.

SPL1: Managing Growth: Identifies Weeley as a 'Rural Service Centre'.

SPL2: Settlement Development Boundaries: Seeks to direct new development to sites within settlement development boundaries. The boundary for Weeley extends to include the application site.

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

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

HP2: Community Facilities: Requires development to support and enhance community facilities where appropriate, including by providing new facilities on site or contributing towards enhanced community facilities elsewhere to meet needs arising from the proposed development.

HP3: Green Infrastructure: Will be used as a way of adapting to, and mitigating the effects of, climate change, through the management and enhancement of existing spaces and habitats and the creation of new spaces and habitats, helping to provide shade during higher temperatures, flood mitigation and benefits to biodiversity, along with increased access.

HP5: Open Space, Sports and Recreation Facilities: Requires new developments to contribute to the district's provision of playing pitches and outdoor sports facilities and also requires larger residential developments to provide land as open space with financial contributions toward off-site provision required from smaller sites.

LP1: Housing Supply: Sets out the sources of new housing that will contribute towards meeting objectively assessed housing needs in the period up to 2033. The application site is one of the 'Strategic Allocations' for mixed-use development expected to deliver a large proportion of Tendring's new housing.

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

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

LP4: Housing Layout: Policy seeks to ensure large housing developments achieve a layout that, amongst other requirements, promotes health and wellbeing; minimises opportunities for crime and anti-social behaviour; ensures safe movement for large vehicles including emergency services and waste collection; and ensures sufficient off-street parking.

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

PP7: Employment Allocations: New Employment allocations are needed to provide job opportunities for residents in Tendring District and to support the growth aspirations for the towns. To achieve this objective, at least 20 hectares of new employment land is provided for through the allocation of sites, including the application site and defined on the Policies Map, to provide for B1 (Business and Office Use).

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

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

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

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

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

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

PPL9: Listed Buildings: Says that proposals for new development affecting a listed building or its setting will only be permitted where they will protect its special architectural or historic interest, its character, appearance and fabric.

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

CP2: Improving the Transport Network: States that proposals which would have any adverse transport impacts will not be granted planning permission unless these are able to be resolved and the development made acceptable by specific mitigation measures which are guaranteed to be implemented.

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

SAMU5: Development South of Thorpe Road, Weeley: Specifically allocates the application site for a mix of residential development, employment, a Primary School and public open space. The policy contains specific requirements in relation to housing numbers, educational facilities, healthcare provision, highways and open space.

*Supplementary Guidance*

Essex Design Guide for Mixed Use and Residential Areas (2005)

Essex County Council Car Parking Standards – Design and Good Practice (2009)

**2 Relevant Planning History**

14/00082/OUT and 14/01841/DETAIL for Erection of 20 dwellings with associated garages and single access point to Thorpe Road at Barleyfield Drive adjacent - Approved 20 June 2014 and 14 April 2015 respectively.

**3 Consultations**

**Building Control and Access Officer**

No comments at this stage.

**Environmental Protection**

They have looked at the noise assessment and have no comments to make at this stage.

**Housing**

**There is a high demand for housing in Weeley and there are currently 165 households on the housing register seeking a 1 bedroom property, 111 seeking a 2 bedroom property, 99 seeking a 3 bedroom property and 32 seeking a 4 bedroom property.**

**It is noted on the application that the applicant has accounted for 30% of the properties on the development to be affordable housing (84 units). The department would prefer that another registered provider is sought to purchase the affordable homes on the site. In the event another provider cannot be identified, the Council will consider other delivery options.**

**Principal Tree and Landscape Officer**

Most of the application site is in agricultural use with a small area of land close to Ash Farm comprising agricultural buildings. There are several established hedgerows containing trees on the land and one or two small groups of trees that are important landscape features.

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

As the application is in outline form it is not possible to assess the direct impact of the development on specific trees, hedgerows or

other vegetation as the site layout has yet to be determined. Within the Design and Access Statement Figure 2 entitled Land Use Layout gives an indication of the shape of the development, but without sufficient detail to gauge the potential impact on existing trees and other vegetation. The tree report identifies the most important trees and hedgerows and should be used to shape the development layout

Should planning permission be likely to be granted then details of soft landscaping should be secured as a reserved matter.

In terms of the impact of the development on the local landscape character the applicant has submitted a Landscape and Visual Appraisal to assess the likely effect on the character and visual qualities of the landscape.

The Landscape and Visual Impact Assessment has been carried out in accordance with Landscape Institute and Institute of Environmental Management and Assessment guidance contained in the Guidelines for Landscape and Visual Impact Assessment Third Edition 2013.

It addresses the nature of the impact and effect on the local landscape character and refers to the Tendring District Council Landscape Character Assessment (LCA) to describe the local landscape character types. This document accurately describes existing landscape character types and their relationship with one another.

It recognises that harm will be caused to the existing landscape character and sets out the steps that will need to be taken to mitigate the harm. In terms of the visual impact the LVIA sets out the potential benefits of creating a softer edge to the developed land juxtaposed with the adjacent countryside.

In terms of its assimilation into the local landscape the development has clear strengths and weaknesses. It has the potential to 'sit well' in the landscape as it is directly adjacent to existing developed land. Conversely it has the potential to have an adverse impact on the wider landscape as it is situated on sloping land falling from the Clacton and the Sokens Clay Plateau into the Holland Brook Clay Valley. The application site is clearly visible from the Public Right of Way network to the south.

The key to the successful integration of the development into the local landscape character will be to secure strong soft landscaping on the complete boundary of the application site and to ensure that new soft landscaping forms an integral part of the residential part of the development.

In essence the development will have a negative and detrimental impact on both the character and visual qualities of the local landscape character. The degree to which this is a factor is reasonably accurately described in the LVIA which also describes the potential benefits, which in landscape terms, is primarily the creation of a softer edge to the developed land.

## **Waste Management**

No comments at this stage.



**Anglian Water**

The foul drainage from this development is in the catchment of Clacton Holland Haven Water Recycling Centre, which currently does not have capacity to treat the flows from the development site. Anglian Water are obligated to accept the foul flows from the development with the benefit of planning consent and would therefore take the necessary steps to ensure that there is sufficient treatment capacity should the planning authority grant planning permission.

Development will lead to an unacceptable risk of flooding downstream. A drainage strategy will need to be prepared in consultation with Anglian Water to determine mitigation measures and they request a condition requiring the drainage strategy covering the issue(s) to be agreed.

**Essex County Council (ECC) Archaeology**

A Heritage Assessment submitted with the application recognises the potential of the development area to contain multi-period archaeological remains associated with the findings from the adjacent site at St Andrews Road and from other sources of evidence. The evidence for Palaeolithic remains within the area is strong and the potential for Pleistocene deposits with Palaeolithic potential to be present within the development site will need to be established through specialist consultation and, if required, fieldwork investigations. The Heritage assessment notes that no evidence of the Napoleonic barracks known to have been sited at Weeley has been found in the archaeological investigations in the surrounding area, however these were small scale and limited in their extent. Conditions securing a Programme of Archaeological and geo archaeological evaluation are recommended.

**ECC Economic Growth and Development (Education)**

Based upon the development of 280 homes, the proposal would produce the need for 15.2 Early Years and Childcare (EY&C), 84 primary places and 56 Secondary school places. 2.1Ha of land to be provided for the primary school and nursery should be delivered and transferred to ECC at no cost.

The likely financial contributions are:

Early Years & Childcare: £220,668.80; Primary Education: £1,069,656; Secondary Education: £1,083,320 and £196,224 for School Transport;

**ECC Flood and Water Management**

Having reviewed the Flood Risk Assessment and the associated documents which accompanied the planning application, they do not object to the granting of planning permission subject to the imposition of conditions.

**ECC Highways**

Their assessment of the application and Transport Assessment was undertaken with reference to the National Planning Policy Framework and in particular the following aspects were considered: access and safety; capacity; the opportunities for sustainable transport; and highway mitigation measures.

The Transport Assessment accompanying the planning application has been considered in detail and the Highway Authority is satisfied that, at peak times, the number of trips generated by the proposal

would not have a severe impact and could be accommodated safely and efficiently on the local highway network, subject to a number of requirements which could be secured by way of planning conditions and obligations, namely:

- Provision of a Construction Traffic Management Plan;
- Securing of a diversion of the existing definitive right of way;
- Widening of the Barleyfields carriageway;
- Right-turn lane into Barleyfields to be provided;
- A pedestrian refuge island to be provided to the west of Barleyfields access road;
- The existing footway along the site frontage to be widened;
- Adjustments to carriageway width to the east of Crow Lane and removal of the layby;
- Provision of a right-turn lane into Crow Lane approaching from the east;
- Homestead access to be constructed with appropriate kerb radii;
- Right-turn lane into Homestead on approach from the east;
- Provision of a financial contribution towards the proposed improvements at the A133/B1033/ services and Frating roundabouts as identified in the Tending Local Plan Highways and Transportation Modelling work;
- The provision of two new bus stops located to the east of Barleyfield's access on both sides of Thorpe Road;
- Provision of new gateway traffic calming features to be provided on the approaches to Weeley in both directions on the B1033 to enhance the existing 30mph speed limits; and
- Provision and implementation of a Residential Travel Information Pack per dwelling.

#### **Essex Police**

The published documents have been studied and, unfortunately, do not provide sufficient detail to allow an informed decision to be made as to whether the appropriate consideration of Sections 58 & 69 of the National Planning Policy Framework has been achieved.

Essex Police, in supporting the ethos of Sections 58 & 69 of the NPPF, provide a free, impartial advice service to any applicant who request their service. The intended outcome of the service is to promote Crime Prevention Through Environmental Design, a key enabler being encouraging and supporting applicants to achieve certification to an appropriate level under the nationally acknowledged and police recommended Secured by Design award system.

#### **Essex Wildlife Trust**

Weeleyhall Wood nature is already experiencing an increase in negative impacts following the completion and occupation of a new housing estate in the village. This is a fairly wet woodland which becomes very muddy in the winter. There has been a very noticeable widening of the trampled area of rides and footpaths, plus increasing creation of informal detours around particularly wet areas. This is inevitably damaging the valuable ground flora. Suitable mitigation measures to offset the impacts of even more visitors related to the proposed building of 280 additional houses should be focused on the provision of high-quality surfacing for the main rides, a section of which needs to be wide enough to allow access for their vehicle, to

enable them to carry out essential management works. Additionally, there are a couple of very wet sections of footpath which would benefit from having boardwalks installed to protect rare plants, prevent informal detours and improve access for visitors. In terms of improved interpretation on site, a lockable, glazed noticeboard positioned by the site entrance would be a valuable addition to our current signage and would allow them to keep visitors informed and up to date with site management works, notable wildlife sightings and events such as guided walks..

## **Natural England**

Based on the information provided in support of the application, and with the inclusion of conditions, it is Natural England's view that the proposal is unlikely to lead to adverse effects on Hamford Water Special Protection Area (SPA), Ramsar site and Site of Special Scientific Interest (SSSI), the Essex Estuaries Special Area of Conservation (SAC), the Colne Estuary SPA, Ramsar site and SSSI, the Stour and Orwell Estuaries SPA, Ramsar site and SSSI or Weeleyhall Wood SSSI.

They therefore have no objections, subject to the inclusion of planning conditions to secure the mitigation measures covering High-quality, informal, semi-natural areas; Circular dog walking routes of >2.7 km<sup>2</sup> and/or with links to surrounding public rights of way (PRoW); Dedicated 'dogs-off-lead' areas; Signage/leaflets to householders to promote these areas for recreation; Dog waste bins etc; Developer contributions towards the implementation of the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) in respect of the Colne Estuary; and a proportional financial contribution from the developer towards the costs of the recreational disturbance mitigation works for Weeleyhall Wood SSSI, to be agreed with Natural England and the Essex Wildlife Trust.

## **NHS England**

The proposed development is likely to have an impact on the services of 2 GP practices operating within the vicinity of the application site. The 2 GP practices do not have capacity for the additional growth resulting from this development. The proposed development would therefore likely to have an impact on the NHS funding programme for the delivery of primary healthcare provision within the area and specifically within the health catchment of the development. NHS North East Essex CCG would therefore expect these impacts to be fully assessed and mitigated.

The development would give rise to a need for improvements to capacity, in line with emerging CCG Estates Strategy, by way of extension, reconfiguration, refurbishment, improved Information Technology (IT) infrastructure, or potential relocation from the existing practices, a proportion of the cost of which would need to be met by the developer. Most likely in this instance, depending on specific timescales, a contribution to the relocation costs for Thorpe Surgery (including its branch surgery Kirby Cross).

NHS England calculates the level of contribution required, in this instance to be £97,152. Payment should be made before the development commences.

## **Network Rail**

Due to the potential impact that the proposed development would

have on the usage, safety and operation of Church Lane (COC) FPW footpath crossing, Network Rail believes that the closure of the crossing is necessary to make the development acceptable. (Please note that this position was detailed within Network Rail's consultation response (dated 2 August 2017) relating to Policy SAMU5 of the Tendring District Council Publication Draft Local Plan.) It is positive that the Applicant recognises the potential impact that the proposed development would have on safety at Church Lane (COC) FPW footpath crossing and that the closure of the crossing, through the construction of a new pedestrian/cycle bridge over the railway line, will be required. Network Rail is supportive of the proposed closure of the crossing and the construction of a new bridge. It is recommended that the existing footpath is diverted over the footbridge through the Town and Country Planning Act 1990.

In summary, Policy SAMU5 is welcomed by Network Rail. However, the trigger figure for construction of a bridge should be reviewed to take into account the current application and its impact on Church Lane (COC) FPW footpath crossing. Network Rail recommends the bridge should be constructed on completion of the 25th Dwelling. This figure is based on current data and recent fatality at the Level Crossing. The Bridge Design has been accepted by Network Rail's Asset Protection Team (ASPRO) and therefore there is no objection to the design. Ownership of the bridge will be handed to Network Rail once completed and a commuted sum will be provided by the developer to cover maintenance.

#### **4 Representations**

- 4.1 Thorpe Le Soken Parish Council object on the grounds of unwanted expansion into the countryside, impact of local listed sites of interest and inadequate highway access.
- 4.2 Weeley Parish Council objects strongly to this application, they state: the traffic levels are already at saturation levels in this area and it is difficult to see how the additional levels of road traffic could be accommodated, particularly in holiday season; the public transport infrastructure is poor; this site is susceptible to flooding; the proposed pedestrian footbridge is highly unattractive and unnecessary and does not have access for pushchairs or wheelchairs; and the five year housing supply numbers have already been achieved without this large and unpopular development.
- 4.3 **39** letters of objection and one letter of support were received by the Council from local residents. The letters of objection raise the following concerns:

##### Principle of Development

- Concern over consideration of the application before the emerging Local Plan is subjected to public examination
- Concern 17/02162/OUT has not been properly and adequately presented to the public
- The proposal does not accord to the written document Local Plan Publication
- Concern development is for profit only, not the local community
- Weeley has already provided its quota for new houses
- More suitable location at Horsley Cross
- Tendring is more suited to the retired, little to stimulate children and teenagers

- This development would be hazardous to, contravene and conflict with several Local Plan criteria
- TDC can demonstrate 6.2 years supply of housing without this development

#### Access (Highway, public transport, cycling and walking)

- Already excessive traffic through village and on keys roads – B1033, B1441
- Proposed one road access into such a large development is dangerous
- Volume of traffic being a reason cited for closure of Christmas Wonderland
- The proposed development entry from B1033 would add further traffic
- Poor rail service with no parking facilities at station
- Poor bus service
- Poor quality roads
- Loss of a well-used foot path leading up to Barracks Hill
- One road, B1033, is inadequate to serve the proposed development
- The proposed footbridge is inaccessible to those with pushchairs or wheelchairs **and would be unsightly.**

#### Landscape and Ecology

- Concern this development would irreparably damage village landscape
- Negative impact on local wildlife and already threatened species
- Loss of good agricultural land
- Threat to ancient woodland
- Loss of green space

#### Living Conditions/Residential Amenities

- Residents will be negatively impacted by increase in traffic fumes
- Loss of views

#### Community Infrastructure

- Lack of secondary school provision
- Little to no real employment opportunities in the local area
- Concern that the local infrastructure such as GP's, schools, roads, sewage and electric etc struggles to cope already, without the extra load from the proposed development
- GP's surgeries already full to capacity
- Train station is not fully accessible to wheelchair users
- No additional infrastructure proposed
- Local emergency services cannot cope

#### Heritage/Setting of Listed Buildings

- Loss of historic village heritage

#### Flooding

- The proposed site is regularly waterlogged in autumn/winter

- Poor sewage systems
- Proposed site liable to flooding

#### 4.4 The letter of support states:

- The support of the application is assuming that the bridge over the railway will be constructed. A bridge over the railway can only be beneficial to walkers as it would provide a safe crossing and prevent future closure of this rail crossing, by Network Rail. They can only assume from the plan that the footpath would remain on the current route as there does not appear to be any mention of a diversion and would also expect this PROW to remain open and usable during construction.

## 5 Assessment

### Site Context

- 5.1 The application site comprises 17.90 hectares of agricultural land that is situated to the south of the B1033 Thorpe Road, Weeley. The northern boundary of the site is shared with a range of land uses, including Ash Farmhouse, a grade II listed building with its farm yard that is in commercial use forming part of the application site, the Tendring District Council offices, the recently completed residential estate of 20no dwellings known as Barleyfield Drive and more established dwellings, including 1-6 Thorpe Road and a bungalow known as Emma-Dawn.
- 5.2 To the east of the site is the Tendring Hundred Riding Club showground, a pair of ponds and open farmland beyond, to the south is the railway line, with houses fronting Second Avenue and The Street beyond the western boundary. Also halfway along the western boundary is a new development under construction for 14no houses, garages, access, public open space and landscaping on land at the end of St Andrews Road, pursuant to 15/01750/FUL.
- 5.3 The site is relatively flat semi-improved grassland, but does slope gently towards the south and surrounding it are hedgerows with standard trees, some previously managed as coppice and pollards. To the south of the site is small copse/woodland (through which a Public Right of Way passes down to the railway line) with evidence of previous coppicing, within the site are occasional aged trees, some with veteran associations.
- 5.4 Weeley benefits from a range of existing local services which include a primary school, a holiday park, the Black Boy pub, a bakery and a convenience shop and post office. Furthermore Weeley Heath is located nearby to the south with additional services and facilities. In recognition of these services and other factors, Weeley is designated as a Rural Service Centre in the draft Local Plan.
- 5.5 The application site is served by several bus services that link to nearby settlements **including 97 and 105/107** to Colchester, **2/76/X76/100** to Clacton, **as well as schools services: 87C** to Brightlingsea, **115** Thorpe-le-Soken, and **702** to Frinton, with the village also having a railway station that provides a service from Clacton/Walton to Colchester and beyond to London.

### Proposal

- 5.6 As set out at the head of this report, outline planning permission is sought for 280 dwellings, a 2 Form of Entry primary school, 56 place early years nursery, up to 3000 sqm of office (B1) buildings on 1 hectare and associated ancillary buildings, drainage systems, boundary treatments and hard surfacing as well as public open space, vehicular access from Thorpe

Road a pedestrian footbridge and the closure of existing level crossing and formal diversion of public footpath No 5 - Weeley, over the new railway bridge.

- 5.7 This is an application for Outline Planning permission, with all matters reserved with the exception of access. The applicant has provided details of how they propose to access the site off Thorpe Road, via Barley Field Drive with the creation of a footway/cycleway along the existing Ash Farm entrance which itself would be retained for the residential and agricultural use of Ash Farm. All other matters (Appearance; Landscaping; Layout; and Scale) are reserved and it can therefore be said that the application seeks to establish the principle of residential development of the site.
- 5.8 The application is supported by a wide suite of technical drawings and documents, these include:
- Site Location Plan;
  - Existing Site Plan;
  - Land Use Audit/Illustrative Master Plan;
  - Proposed Access Arrangement Plan;
  - Additional Pedestrian/Cycle Access Plan;
  - Footpath Diversion Plan;
  - Proposed Footbridge, General Arrangement Plan;
  - Topographical Survey Plans;
  - Acoustic Assessment;
  - Air Quality Assessment;
  - Barn Owl Mitigation report;
  - Bat Activity Survey;
  - Breeding Bird Survey;
  - Design and Access Statement;
  - Ecological Impact Assessment;
  - Flood Risk Assessment;
  - Heritage Assessment;
  - Junctions report for right turn lane;
  - Landscape and Visual Impact Assessment;
  - Phase 1 Desk Study and Risk Assessment
  - Planning Statement;
  - Preliminary Ecological Appraisal;
  - Reptile Survey and Outline Mitigation Strategy;
  - Road Safety Audit Stage 1;
  - School Land compliance study and Knotweed Survey;
  - Statement of Community Involvement;
  - Transport Assessment;
  - Tree Constraints Assessment; and
  - Underground utilities search report.
- 5.9 Additional information has also been submitted in the form of emails and letters dealing with points raised within consultation responses, covering ecological mitigation in respect of international wildlife sites and Weeleyhall Woods SSSI.
- 5.10 With the exception of the formation of the access into the site, details of the appearance, landscaping, layout and scale are all reserved matters which means that approval is not

sought for these at this stage and details are therefore not currently required. If the outline application were to be granted the applicant, or any successors in title, would need to submit reserved matters applications to the Local Planning Authority, in addition to discharging planning conditions before development could commence.

- 5.11 The application proposes one main vehicular access point into the site through Barleyfield Drive. In order to facilitate this, a dedicated right turn lane, with carriageway realignment within the public highway would be carried out as shown on the proposed access arrangement plans. It is also proposed to install a 3.5m wide footway/cycleway along the existing access that serves the dwelling and farm buildings at Ash Farm.
- 5.12 The submitted illustrative Masterplan shows that the principal site access from Barleyfield Drive would likely run in a southerly direction through the heart of the site, thereby creating a central spine road off of which secondary vehicular access routes, including to the employment area and school land would be created. The illustrative Masterplan also identifies the existing public footpaths that pass through the site, as well as new potential pedestrian and cycle routes. The exact location of the proposed new routes through the site would be refined through the Reserved Matters process.
- 5.13 Whilst a reserved matter, the indicative Masterplan and Land Use Parameter Plan identify the potential layout of the site, which is intended to give some certainty to the general location of development and ultimately be used to inform the Reserved Matters stage/s. This would be a predominantly housing-led scheme for up to 280 units and whilst the precise mix of dwelling types is unknown, the applicants state that they intend to provide a broad range of residential accommodation and would include both affordable and market housing, likely to be 2-5 bedrooms.
- 5.14 The design of the housing would likely follow the design cues from the adjacent Barleyfield Drive development, which was recently completed by the applicant, and is of a traditional design with a high level of detailing such as bargeboards, finials, string courses, stone cills, segmented brick lintels and oversized eaves. The proposed residential buildings would likely be a mixture of 1, 1½ and 2 storey homes and would be of a mixture of detached, semi-detached and terraced housing; The roofscape would include a mixture of half dormers and gables that present to the side and/or the front.
- 5.15 The site and policy context gives rise to three main character areas. As the site abuts the countryside, an 'edge' typology/character area would be used to help transition from open countryside to built form. This would likely have a combination of large detached houses as well as some small cottages. The main body of the site would have a more suburban feel based around a broad avenue, lined with street trees. The third of the main character areas would be around the community hub focused on the school, employment land and the existing Council offices (which are outside of the application site). These buildings would have a civic and community focus to create a communal and public space in and around this area.
- 5.16 The main planning considerations are:
- Principle of Development;
  - Transport & Access;
  - Reserved Matters - Appearance, Landscaping, Layout and Scale;
  - Landscape & Visual Impact;
  - Ecology and Nature Conservation;
  - Archaeology and Cultural Heritage;
  - Hydrology, Flood Risk & Drainage;
  - Ground Conditions and Contamination;
  - Air quality and Noise;



- Living Conditions; and
- Planning Obligations.

#### Principle of Development

- 5.17 In line with Section 38(6) of the Planning and Compulsory Purchase Act 2014, planning decisions must be taken in accordance with the 'development plan' unless material considerations indicate otherwise. The requirements of the National Planning Policy Framework (NPPF) are a significant material consideration in this regard.
- 5.18 The 'development plan' for Tendring is the 2007 'adopted' Local Plan. Paragraph 213 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 48 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 16<sup>th</sup> June 2017, the emerging Local Plan for Tendring is the Tendring District Local Plan 2013-2033 and Beyond Publication Draft.
- 5.19 As of 16<sup>th</sup> June 2017, the emerging Local Plan for Tendring is the Tendring District Local Plan 2013-2033 and Beyond Publication Draft. Section 1 of the Local Plan (which sets out the strategy for growth across North Essex including Tendring, Colchester and Braintree) was examined in January and May 2018 and the Inspector's initial findings were published in June 2018. They raise concerns, very specifically, about the three 'Garden Communities' proposed in north Essex along the A120 designed to deliver longer-term sustainable growth in the latter half of the plan period and beyond 2033. Further work is required to address the Inspector's concerns and the North Essex Authorities are considering how best to proceed.
- 5.20 With more work required to demonstrate the soundness of the Local Plan, its policies cannot yet carry the full weight of adopted policy, however they can carry some weight in the determination of planning applications. The examination of Section 2 of the Local Plan will progress once matters in relation to Section 1 have been resolved. 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 48 of the NPPF, they will be considered and, where appropriate, referred to in decision notices.
- 5.21 The application site is not allocated for development in the adopted Local Plan and it lies outside (albeit adjacent to) the 'settlement development boundary' for Weeley. In the emerging Local Plan, the site is however specifically allocated through Policy SAMU5 for a mix of residential development, employment, a Primary School and public open space. The policy contains specific requirements in relation to housing numbers, educational facilities, healthcare provision, highways and open space.
- 5.22 Draft Policy SAMU5 states: *"Land south of Thorpe Road, Weeley, shown on the Map SAMU5, is allocated for mixed use development as follows:*
- at least 280 new homes of a mixed size and type to include affordable housing as per the Council's requirements;*
  - 1 hectare of land for employment (potentially utilising buildings at Ash Farm);*
  - 1 hectare of public open space;*
  - 2.1 hectares of land for a new primary school with co-located 56 places commensurate early years and childcare facility (D1 use) as required by the Local Education Authority through Section 106 Planning Obligations;*

*Proposals must accord with the following:*

- e. the principal point of vehicular access will be off Thorpe Road;*
- f. capacity and/or safety enhancements to the local highway network where necessary;*
- g. where necessary, enhancements to public transport ,cycle and pedestrian infrastructure;*
- h. provision of a pedestrian/cycle bridge over the railway line, as a replacement for the existing level crossing prior to the occupation of the one-hundredth dwelling;*
- i. the design and layout of the development must have regard to the surrounding landscape, seeking to minimise visual impacts through the inclusion of mitigation measures;*
- j. delivery of opportunities for the protection and enhancement of the historic environment including the built and archaeological environment;*
- k. early engagement with Anglian Water to secure upgrades to both treatment infrastructure and network and to formulate a water and drainage strategy to serve the new development;*
- l. a financial contribution to early years and childcare, primary and secondary education provision, as required by the Local Education Authority through Section 106 Planning Obligations;*
- m. financial contributions towards other community facilities such as health provision as required by the NHS/CCG either through the Community Infrastructure Levy or Section 106 Planning Obligations.”*

5.23 The application is for 280 dwellings with 1 hectare proposed for employment and public open space each, in addition to 2.1 hectares identified for a new primary school, in accordance with the Council's requirements. The principal point of vehicular access is shown to be off Thorpe Road; and enhancements to the local highway network and public transport, cycle and pedestrian infrastructure including the provision of a pedestrian/cycle bridge over the railway line, as a replacement for the existing level crossing prior to the occupation, are also proposed, and will be discussed in greater detail below, along with the other requirements of the policy.

5.24 The allocation of this site for residential and mixed use development in the Publication Draft of the emerging Local Plan and the requirements of Policy SAMU5 attracted 26 objections from residents and other stakeholders. The objection comments raised are summarised below, these along with the local objections received in response to this planning application specifically are addressed throughout this report:

- Policy SAMU5 and the formal site allocation on the Policies Map should be deleted; and amendments made to the proposed spatial distribution of housing growth and employment development across the district;
- The development of the site for 280 dwellings would be oversized and spoil the village;
- Would not want to see the public footpath (no5) and the proposed railway footbridge be upgraded to a Bridleway due to health and safety concerns and potential conflicts between users and farm machinery;
- The village would have building works for years to come which would lead to residents' lives being disrupted with noise, traffic and unsuitable vehicles on small roads, including HGVs;

- Inadequate social and highway infrastructure to serve the development;
- The land is full of wildlife, including barn owls, bats, grass snakes, hedgehogs and herons;
- There are more suitable areas in Weeley for this development which would not blight so many of the residents;
- Plans for such massive over-development would also be contrary to the requirements of Section 7 of the NPPF as in no way would it be 'contributing to protecting and enhancing Weeley's natural, built and historic environment'.

- 5.25 In applying the guidance within paragraph 48 of the NPPF, the Local Plan has reached a **relatively** advanced stage of the plan-making process; the objections to Policy SAMU5 are noted, although Officers are of the view that the proposal is in line with the policies in the NPPF to boost the supply of housing and achieve a balance between economic, social and environmental factors. On this assessment, Policy SAMU5 and the allocation of the site for mixed-use development can carry a reasonable level of weight in the determination of this planning application.
- 5.26 Furthermore, the Council's ability to demonstrate an ongoing five year supply of deliverable housing sites, in line with paragraph 73 of the NPPF relies on some of the sites allocated for development in the emerging Local Plan obtaining outline planning permission in the short-term, in order for them to progress to the detailed planning stages and to start delivering new homes from the middle part of the plan period. In fact, the Council's evidence to demonstrate a five year supply relies on the housing trajectory contained within its latest Strategic Housing Land Availability Assessment' (April 2018) (SHLAA) which anticipates the grant of outline planning permission in 2018/19, reserved matters approval in 2019/20, discharge of conditions and commencement in 2020/21 with first completions in 2021/22. The estimated building rate is 40 dwelling completions per annum.
- 5.27 The SHLAA recognises that this proposal is the subject of a fair number of objections both to the allocation in the local plan and to the planning application, but that all issues raised in objections are resolvable.
- 5.28 **As highlighted above within the executive summary, the proposal is referred back to Planning Committee, following its decision to defer the application on 21 August 2018 until the outcome of the Part 2 examination of the Council's emerging Local Plan. The applicant has sought legal advice and has requested that the Council determine the application now, on the grounds that to defer for an indeterminate period of time would amount to unreasonable behaviour, which would potentially have significant financial implications for the public purse though the costs regime of the appeal process.**
- 5.29 **The applicant's Solicitor highlights that Parliament, through the Town & Country Planning Act 1990 has given the Council the legal right to determine planning applications. An applicant for planning permission can therefore expect their application to be determined which must be approved or rejected, and if the latter, good planning reasons given ie. the Council must act, and pursuant to NPPF paragraph 47 the decision should be made as quickly as possible.**
- 5.30 **Paragraphs 2.12 and 2.13 of this report above, stipulate that Paragraph 49 of the NPPF states that in context of the Framework, and in particular the presumption in favour of sustainable development, arguments that an application is premature are unlikely to justify a refusal of planning permission other than in the limited circumstances where both:**
- a) the development proposed is so substantial, or its cumulative effect would be so significant, that to grant permission would undermine the plan-making process by**

**predetermining decisions about the scale, location or phasing of new development that are central to an emerging plan; and**

**b) the emerging plan is at an advanced stage, but is not yet formally part of the development plan for the area.**

**In addition, the NPPF in paragraph 50 states that refusal of planning permission on grounds of prematurity will seldom be justified even where a draft plan has yet to be submitted for examination. Where planning permission is refused on grounds of prematurity, the local planning authority will need to indicate clearly how granting permission for the development concerned would prejudice the outcome of the plan-making process.**

**5.31 Whilst it is acknowledged that the proposal the subject of this outline is for a major form of development which would impact upon the character of Weeley, nonetheless it would constitute part of the settlement's evolution, as is the case with the majority of the larger settlements within the district where new development is planned. Consequently, Officers consider that by permitting the construction of 280 dwellings (where approximately 11,000 dwellings are required to be built between 2013 and 2033 at 550 dwellings per annum), the proposal would not be so substantial that to grant permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development that are central to the emerging plan. This is particularly due to the fact that the site is allocated within the emerging Local Plan, which is a material consideration that should be given some weight in itself in the determination of this application.**

**5.32 Therefore, pursuant to NPPF paragraph 50, refusal of planning permission on grounds of prematurity will seldom be justified and it is quite likely that the Council would be deemed to have acted unreasonably at appeal should either the application fail to be determined, or is refused on spurious grounds.**

**5.33 In addition, the applicant's Solicitor highlights that a Local Planning Authority has a legal duty to apply consistency when determining similar planning applications (*North Wiltshire District Council v Secretary of State for the Environment and others [1992] 3plr 113*). The Council has approved or resolved to approve planning permission on the following sites, some of which are larger than this one, which are also included within the emerging Local Plan: Rouses Farm, Clacton (17/01229/OUT) for 950 dwellings; Brook Park West, Clacton (16/01250/OUT) for 200 dwellings; Robinson Road, Brightlingsea (17/01318/FUL) for 115 dwellings; and Low Road, Dovercourt application (17/02168/OUT) for 300 dwellings.**

**5.34 Consequently, having considered the application site's status within the emerging Local Plan, the imperative to deliver new homes and to maintain a five year supply of deliverable housing sites, as well as the need to make planning decisions in a consistent manner, Officers consider that the principle of a major residential and mixed-use development on the site is acceptable, subject to its consideration against other relevant policies, including draft Policy SAMU5.**

#### Highways, Transport & Access

**5.35 Where concerning the promotion of sustainable transport, the NPPF in para. 103 states that the Government recognises that different policies and measures will be required in different communities and opportunities to maximise sustainable transport solutions will vary from urban to rural areas. Para. 111 of the NPPF stipulates that all development that could generate significant amounts of vehicle movements should be supported by a Transport Assessment, this is to ensure, amongst other things, that suitable access to the site can be achieved and that opportunities for sustainable transport modes are explored to reduce the**

need for major transport infrastructure. Development should only be prevented where the residual cumulative impacts are likely to be severe.

- 5.36 On this subject, the PPG goes into more detail into the overarching principles on Transport Assessments, with Requirements e.-h. of Policy SAMU5 requiring the principal point of vehicular access into the site off Thorpe Road; with capacity and/or safety enhancements to the local highway network and to public transport, cycle and pedestrian infrastructure, where necessary; as well as the provision of a pedestrian/cycle bridge over the railway line, as a replacement for the existing level crossing.
- 5.37 A full audit of the highway network surrounding the application site has been undertaken by the applicant, with the proposal fulfilling the above requirements. ECC Highways have assessed the highway and transportation impact of the proposal, including full assessment of the Transport Assessment, examination of all documents submitted, and undertaken a site visit and do not wish to raise an objection subject to the imposition of reasonable planning conditions and obligations, the subject of which, as highlighted within the summary of their response are included at the head of this report.
- 5.38 Therefore it is considered that the proposal, during either the construction or operational phases would not have a detrimental effect upon the highway network or the general accessibility of the surrounding area with sustainable mitigation measures proposed and to be secured by the appropriate means.

#### Reserved Matters - Appearance, Landscaping, Layout and Scale

- 5.39 Paragraph 124 of the NPPF states that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Being clear about design expectations, and how these will be tested, is essential for achieving this. So too is effective engagement between applicants, communities, local planning authorities and other interests throughout the process.
- 5.40 The current application is an outline application with all matters reserved except access. The applicant has submitted an indicative masterplan drawing, setting out their vision for developing the site, which along with the Design and Access Statement demonstrate one way in which the site could be developed. As referred to above, detailed access drawings have also been submitted which identify the proposed main vehicular and pedestrian/cycle access points onto Thorpe Road.
- 5.41 The applicant states that it is intended that the proposal would take cues from the adjacent Barleyfield Drive and the Essex Design Guide, and Officers consider that the proposal has the potential to respond positively to local character, provide buildings that exhibit individual architectural quality and a mix of densities and house-types with well-defined public and private spaces. The public realm through additional landscaping, street furniture and other distinctive features would assist in creating a sense of place, and provide streets and spaces that are overlooked and active, promoting natural surveillance and inclusive access, as well as including parking facilities that are well integrated as part of the overall design.
- 5.42 Although appearance, landscaping, layout and scale are reserved matters, the general principle of this level of development on the site is considered acceptable; and is in keeping with both the site's location on the edge of the village and along with the need to facilitate on site strategic landscaping, open space and the retention of existing landscape features.
- 5.43 Due to the scale of the development proposed, and in order to minimise disturbance to existing residents, as well as ensuring that the mix of housing meets the requirements of the Council's Strategic Market Housing Assessment, it is recommended that by way of the

imposition of a condition, a Layout and phasing plan/programme be submitted for approval prior to the submission of the first Reserved Matters application. This should also include details of market and affordable housing provision; and a phasing plan.

#### Landscape & Visual Impact

- 5.44 NPPF para. 170 stipulates that the planning system should contribute to and enhance the natural and local environment by, amongst other things, protecting and enhancing valued landscapes. The Planning Practice Guidance (PPG) states where appropriate, Landscape Character Assessments should be prepared to complement Natural England's National Character Area profiles. Landscape Character Assessment is a tool to help understand the character and local distinctiveness of the landscape and identify the features that give it a sense of place.
- 5.45 In response to this, the applicant has submitted a Landscape and Visual Impact Assessment (LVIA) which highlights that the application site is situated within two character areas, 8B, Clacton and The Sokens Clay Plateau and 6D Holland Valley System. In this respect the development of the land has the potential to cause harm to a wider landscape area, although the site is not covered by any specific landscape designation and the Tree and Landscape Officer acknowledges that the information submitted in support of the application provides a genuine and accurate description of the landscape and visual effects.
- 5.46 The application site comprises relatively flat (albeit sloping towards to the railway line on the southern end) agricultural land with landscape features within the site and to its boundaries which include mature and established hedgerows and small tree groups. As it lies on the eastern edge of Weeley, with existing development situated along the northern and western boundary, the locality is therefore already partly residential in character.
- 5.47 Quite clearly, the proposed development would see a permanent change of land use (and therefore character) from farmland to residential/mixed use, and would inevitably result in a permanent significant effect upon the landscape. However, whilst only in outline, the planning application demonstrates that the scheme could be designed to minimise landscape and visual effects, through the creation of a positively designed settlement edge to Weeley.
- 5.48 As part of the landscape design it is proposed that existing trees and hedgerows on the site would be retained and enhanced by new native planting and a substantial landscape buffer to the southern boundary created which would incorporate the public open space and land to be designated for ecological purposes/the translocation of Slow Worms from elsewhere on the site.
- 5.49 The Tree and Landscape Officer states that the key to the successful integration of the development into the local landscape character would be to secure strong soft landscaping on the complete boundary of the application site and to ensure that new soft landscaping forms an integral part of the residential part of the development.
- 5.50 As the application is in outline form it is not possible to assess the direct impact of the development on specific trees, hedgerows or other vegetation as the site layout has yet to be determined. Within the Design and Access Statement Figure 2 entitled Land Use Layout gives an indication of the shape of the development, but without sufficient detail to gauge the potential impact on existing trees and other vegetation. The tree report identifies the most important trees and hedgerows and should be used to shape the development layout, which has been carried out in accordance with BS5837: 2012 Trees in relation to design, demolition and construction - Recommendations.

- 5.51 In conclusion on this matter, and pursuant to requirement i. of Policy SAMU5, it is considered that the proposal would not give rise to significant adverse effects upon the surrounding landscape, subject to mitigation measures which could be secured through the submission of reserved matters and the imposition of appropriate conditions.

#### Ecology and Nature Conservation

- 5.52 One aim of sustainable development should be to conserve and enhance the habitats and species on site. This is reflected within NPPF paragraph 170 which recognises that the planning system should contribute to and enhance the natural and local environment by, amongst other things: protecting and enhancing sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan); recognising the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland; and minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.
- 5.53 The PPG highlights that section 40 of the Natural Environment and Rural Communities Act 2006, which places a duty on all public authorities in England and Wales to have regard, in the exercise of their functions, to the purpose of conserving biodiversity. A key purpose of this duty is to embed consideration of biodiversity as an integral part of decision making throughout the public sector, which should be seeking to make a significant contribution to the achievement of the commitments made by government in its Biodiversity 2020 strategy.
- 5.54 With respect to Green infrastructure, the PPG defines this as a network of multifunctional green space, urban and rural, which is capable of delivering a wide range of environmental and quality of life benefits for local communities. Green infrastructure is not simply an alternative description for conventional open space. As a network it includes parks, open spaces, playing fields, woodlands, but also street trees, allotments and private gardens. It can also include streams, canals and other water bodies and features such as green roofs and walls.
- 5.55 The Preliminary Ecological Appraisal (PEA) submitted with the application recommended that Barn Owl, Bat, Bird and Reptile surveys be carried out, consequently the following reports have been submitted: Barn Owl Mitigation report; Bat Activity Survey; Breeding Bird Survey; and Reptile Survey and Outline Mitigation Strategy, with an Ecological Impact Assessment (EIA), the aim of which is to set out mitigation measures required to ensure compliance with nature conservation legislation and to address any potentially significant ecological effects.
- 5.56 Building 4 (a hay barn) located on Ash farm has confirmed breeding Barn Owls in a Barn Owl box located within this building, with the presence of 3 Barn Owl chicks at the time that the survey was carried out.
- 5.57 With regard to Bats, the majority of the foraging activity was noted in the southern arable field, along the external boundary hedgerows, the hedgerow east to west across the centre of the site and in the small areas of woodland to the south of the site adjacent the railway line. These features were confirmed to be mainly in use by common species of bat, including Common Pipistrelle and Soprano Pipistrelle. Two passes of a Nathusius' Pipistrelle and Leisler's bat were recorded during the first period of static monitoring close to the railway line.
- 5.58 The site was found to support 24 species of bird, 17 of which are thought to be using the site for breeding. Most of the species encountered are common and widespread in Essex and the UK in general. The majority of the species using the site are not listed as birds of conservation concern, (BoCC), or are UK Biodiversity Action Plan (UKBAP) or Local

Biodiversity Action Plan (LBAP) or listed as Species of Principal Importance under NERC s41 with the exception of: Skylark (Red/UKBAP/LBAP/NERC), Tree Sparrow, and Yellowhammer, (red status/UK BAP/NERC). Mallard, Dunnock and Common Gull are listed as Amber, of which only Tree Sparrow, Skylark, Dunnock and Yellowhammer are considered to be breeding on site. Key habitats used by breeding birds included the hedgerows, scrub and trees present along the boundaries of the site, which are considered important on a site scale.

- 5.59 The grassland on site was confirmed suitable for reptiles during the reptile survey with a good population of Slow Worm recorded across the site, and which would need to be translocated to a dedicated part of the site where they can reside undisturbed i.e through the fencing off of an area separate from the Public Open Space. Detailed mitigation measures and recommendations for the enhancement of biodiversity are included within the EclA and which should be secured by way of planning condition/s. These measures would ensure the effective protection of protected species and other wildlife, including hedgehogs.
- 5.60 As has been highlighted above, based on the information provided in support of the application, and with the inclusion of conditions, it is Natural England's view that the proposal would unlikely lead to adverse effects on Hamford Water Special Protection Area (SPA), Ramsar site and Site of Special Scientific Interest (SSSI), the Essex Estuaries Special Area of Conservation (SAC), the Colne Estuary SPA, Ramsar site and SSSI, the Stour and Orwell Estuaries SPA, Ramsar site and SSSI or Weeleyhall Wood SSSI. With regard to the latter Essex Wildlife Trust have expressed concerns with regard to the impacts that an increase in visitors is already having upon Weeleyhall Wood and have costed work to improve rides and install boardwalks at around £55,000. Clearly the proposal would likely add to the pressures and therefore it is considered appropriate to seek a proportionate contribution, especially as the use of Weeleyhall Wood would in part mitigate the use of the international wildlife sites by future residents.
- 5.61 In addition, it is recommended that a planning condition be imposed which seeks to secure mitigation measures to provide high-quality, informal, semi-natural areas within the site; Circular dog walking routes of >2.7 km<sup>2</sup> and/or with links to surrounding public rights of way (PRoW); and Dedicated 'dogs-off-lead' areas; in addition to signage/leaflets to householders to promote these areas for recreation; Dog waste bins etc.
- 5.62 Therefore, in conclusion on this issue, it is considered that the proposal would not give rise to significant adverse effects upon ecology and nature conservation subject to the mitigation measures proposed which could be secured through the submission of reserved matters and the imposition of appropriate conditions.

#### Archaeology and Cultural Heritage

- 5.63 Paragraph 184 of the NPPF states that heritage assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations. In determining planning applications, NPPF para. 189 states that in determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance. Furthermore, para. 192 of the NPPF states that in determining applications, local planning authorities should take account of:
- a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;



- b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
  - c) the desirability of new development making a positive contribution to local character and distinctiveness.
- 5.64 Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 stipulates that in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
- 5.65 There is one listed building in close proximity to the application site, which is Ash Farmhouse, a grade II listed building which is located immediately beyond the north western corner of the site. The listing description for this is: *Grade II listed 15th/16th century house with later alterations and additions. Timber-framed and plastered. Red plain-tiled roofs. Two red brick chimney stacks to left range, right stack to central range. 2 storeys. Left crosswing, jettied central range and right crosswing, this with 2 brackets. Single storey lean-to extension to left return.*
- 5.66 There are a number of farm buildings to the south of the farmhouse, these were built during the Victorian period and consisted of an enclosed rectangular farmyard and therefore can be deemed to be curtilage listed. This layout survived until 1923, but from 1958, there was very considerable change involving the construction of very large modern barns to the south, these would likely be demolished prior to building out the commercial element of the scheme (subject to the relevant consents), with the curtilage listed buildings converted to offices which would require an application for listed building consent.
- 5.67 The submitted heritage statement highlights that the curtilage listed buildings have undergone some change, and do not have as much 'heritage value' as the listed farmhouse. Nevertheless, the proposed changes to the farm and its farmyard should take into account the curtilage listing, and should treat sympathetically those structures within the curtilage listing. Officers concur with this view, and the fact that the curtilage listed buildings act as a 'buffer' to the farmhouse it is considered that these designated heritage assets and their settings would not be harmed by the proposal.
- 5.68 In its glossary, the NPPF highlights that *"There will be archaeological interest in a heritage asset if it holds, or potentially may hold, evidence of past human activity worthy of expert investigation at some point."*
- 5.69 As highlighted by ECC Archaeology, the heritage statement recognises the potential of the development area to contain multi-period archaeological remains associated with the findings from the adjacent site at St Andrews Road and from other sources of evidence. The evidence for Palaeolithic remains within the area is strong and the potential for Pleistocene deposits with Palaeolithic potential to be present within the development site will need to be established through specialist consultation and, if required, fieldwork investigations. The assessment notes that no evidence of the Napoleonic barracks known to have been sited at Weeley has been found in the archaeological investigations in the surrounding area, however these were small scale and limited in their extent. Conditions securing a Programme of Archaeological and geo archaeological evaluation are therefore recommended.
- 5.70 Subject to the above measures, it is considered that the proposal would not give rise to detrimental effects upon Cultural Heritage or Archaeology; and Requirement j. of Policy SAMU5 would be met i.e. the delivery of opportunities for the protection and enhancement of the historic environment including the built and archaeological environment.

### Hydrology, Flood Risk & Drainage

- 5.71 Part 14 of the NPPF sets out the Government's stance on climate change, flooding and coastal change, recognising that planning plays a key role in, amongst other things, providing resilience to the impacts of climate change. Inappropriate development in areas at risk of flooding should be avoided.
- 5.72 The site is currently greenfield land and forms part of the natural catchment of Weeley Brook which is located for much of its part, to the south of the railway line. A ditch runs from west to east approximately through the centre of the site, from here ultimately discharges to Holland Brook, close to where it joins Weeley Brook, to the east of the site. There are ditches running southwards, either side of the track that aligns with the railway crossing point. The ditches continue to the south of the railway and it has been proven that a filter drain drains from the site into the railway land. A pipe can be seen discharging to the continuation of the ditch to the south of the railway. The site is located within Flood Zone 1 and is therefore at low risk from tidal/fluviial flooding. Construction would also be managed and controlled to ensure no contamination of groundwater is caused during the construction phase.
- 5.73 Having reviewed the proposals and associated documents which accompanied the planning application, ECC Flood and Water Management confirm that, subject to the imposition of reasonable planning conditions, the proposal would provide appropriate measures to manage surface water through the implementations of SUDS and other engineered hydrological measures.
- 5.74 Requirement k) of Policy SAMU5 is for early engagement with Anglian Water to secure upgrades to both treatment infrastructure and network and to formulate a water and drainage strategy to serve the new development. In response to the application Anglian Water state that the foul drainage from this development is in the catchment of Clacton Holland Haven Water Recycling Centre, which currently does not have capacity to treat the flows from your development site. Anglian Water are obligated to accept the foul flows from the development with the benefit of planning permission and would therefore take the necessary steps to ensure that there is sufficient treatment capacity should the planning authority grant planning permission.
- 5.75 Anglian Water state that the development would lead to an unacceptable risk of flooding downstream, therefore a drainage strategy would need to be prepared in consultation with them to determine mitigation measures. They request that a condition requiring the drainage strategy covering the issue is imposed. From this basis it is considered that the Council could not substantiate reasons for refusal of planning permission in respect of sewerage capacity; and the proposal would not give rise to flood risk emanating from surface water generated by the proposal.
- 5.76 Overall no significant adverse or cumulative effects on water resource receptors have been identified during the construction and operational phases of the proposed development; therefore it would be compliant with legislation and planning policy.

### Ground Conditions and Contamination

- 5.77 Section 15 of the NPPF states that to prevent unacceptable risks from pollution and land instability, planning decisions should ensure that new development is appropriate for its location. The effects (including cumulative effects) of pollution on health, the natural environment or general amenity, and the potential sensitivity of the area or proposed development to adverse effects from pollution, should be taken into account. Where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.

- 5.78 Historically the site has predominately been used for agriculture and has not been developed with the exception of the farmyard in its north west corner which could have hot spots of contamination from chemical, fuel or oil spillages. The submitted report on a Phase 1 Desk Study and Risk Assessment states that a historical landfill is listed associated with a former gravel pit some 80m to the south-east of the site and which was licensed to take commercial and household waste between 1958 and 1966. This historical landfill could be a source of ground gases which could influence the eastern, central and south eastern parts of the site.
- 5.79 In addition, the Envirocheck Report which is appended to the Phase 1 Desk Study report indicates a number of areas of potentially infilled land which in addition to the historical landfill identifies an area close to the south western corner which corresponds with the brick and tile works noted on the historical maps. It should be noted that this area has been redeveloped for housing (the estate which includes First and Second Avenue, and the streets leading from them), however, it is possible that the former brick and tile works could also be a potential source of ground gases.
- 5.80 Therefore it is recommended that an appropriately worded condition be imposed that requires further investigation to assess the potential for ground gases/vapours and establishing the concentrations of potential contaminants in particular areas of the site.

#### Air quality

- 5.81 NPPF paragraph 170 states that the planning system should contribute to and enhance the natural and local environment by, amongst other things, preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of air pollution. The PPG provides more detailed advice on air quality.
- 5.82 As confirmed in the submitted Air Quality report a qualitative construction dust risk assessment has been carried out based on the IAQM guidance 'Guidance on the Assessment of Dust from Demolition and Construction 1.1'. The dust emission magnitude for all activities: demolition, earthworks, construction and trackout, were considered. The sensitivity of the area to dust soiling effects and human health impact were also considered. An overall risk of the dust impact for each of the activities was derived. The risk for dust soiling impact for all activities is considered to be 'Medium' to 'High', and the risk of impact to human health impact is considered to be 'Negligible' to 'Low Risk'.
- 5.83 The Environmental and Sustainability Management Plan (EMP) – PEP Part 3 indicates that construction activities related to the development would cause some nuisance to local population, however with appropriate mitigation measures recommended within the EMP and IAQM the resulting residual dust impacts during the construction phase would be 'insignificant'. Based on the air quality data available from the nearest non-automatic monitoring site (triplicate site 14/15/16, A133 Bypass) and background concentrations from DEFRA and non-automatic triplicate (11/12/13) site at Town Hall, a qualitative assessment of air quality impacts during the operational phase of the development has been carried out and it is considered that the operational phase impacts would also be 'Insignificant'. Therefore, based on available information the overall local air quality is unlikely to be an issue at the site; and furthermore, it is considered that future receptors (residential dwellings, staff and students at the school), once in operation, would be exposed to pollutant concentrations below the National Air Quality Objectives (NAQOs) and the locations are considered suitable for the proposed use.
- 5.84 In the absence of significant operational effects and taking into consideration the low background air pollutant levels, the site is considered to be suitable for development in air quality terms. Therefore it is considered that the proposal, during either the

demolition/construction or operational phases would not have a detrimental effect upon the air quality of the surrounding area.

### Noise & Vibration

- 5.85 As previously referred to in this report, NPPF paragraph 170 states that the planning system should contribute to and enhance the natural and local environment, in this case by, *inter alia*, preventing both new and existing development from contributing to or being put at unacceptable risk from noise pollution. Para. 180 of the NPPF stipulates that planning decisions should aim to avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development; and mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through the use of conditions.
- 5.86 The PPG states that noise needs to be considered when new developments may create additional noise and when taking decisions about new development, there may also be opportunities to consider improvements to the acoustic environment. It goes on to say that decision taking should take account of the acoustic environment and in doing so consider:
- whether or not a significant adverse effect is occurring or likely to occur;
  - whether or not an adverse effect is occurring or likely to occur; and
  - whether or not a good standard of amenity can be achieved.
- 5.87 A baseline noise survey has been undertaken and measurements taken over a representative time period. The noise levels have then been used to determine noise sources, such as the railway line and levels affecting the proposed development. Noise from additional road traffic associated with the scheme is unlikely to have a significant effect; and any impact of noise and vibration associated with construction activity would be managed through controls on the hours of construction and piling. All new dwellings would be designed to ensure that an acceptable living environment can be achieved.
- 5.88 Environmental Protection confirm that they are satisfied with the content of the acoustic report and require no further information or have no adverse comments at this time. Therefore, the proposed development has been assessed and it has been identified that with appropriate mitigation measures in place, there would be no significant effect to new or existing noise sensitive receptors.

### Living Conditions

- 5.89 Paragraph 117 of the NPPF states that planning decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions.
- 5.90 Whilst matters of layout and scale are reserved for future determination, with regard to privacy, the Essex Design Guide states that *“with rear-facing habitable rooms, the rear faces of opposite houses approximately parallel, and an intervening fence or other visual barrier which is above eye level from the potential vantage point, a minimum of 25 metres between the backs of houses may be acceptable”*. It goes on to state that *“where new development backs on to the rear of existing housings, existing residents are entitled to a greater degree of privacy to their rear garden boundary, and therefore where the rear faces of the new houses may not encroach any closer than 15 metres to an existing rear boundary, even though with a closer encroachment 25 metres between the backs of houses would still be achieved”*.
- 5.91 The distances between new and existing dwellings could be well in excess of those required by the Essex Design Guide and Officers consider that there are no reasonable grounds for refusal in terms of the relationship between existing dwellings in the locality and

the proposed development. Consequently, adherence to these standards would ensure that the living conditions of existing residents would be protected from overlooking; and a loss of outlook and daylight/sunlight.

- 5.92 Furthermore, the submission indicates how landscaping could be retained and enhanced within the application site, so as to further mitigate the effects of the development. Officers consider that a detailed layout could be designed which achieves an appropriate relationship with the existing dwellings and which would also be sympathetic to the character of the surrounding area and the wider landscape. All in all it is considered that the above measures would ensure that the living conditions of existing and future residents would be protected from any materially detrimental impacts.

#### Planning Obligations

- 5.93 For the avoidance of doubt and duplication, the socio-economic impacts that would be mitigated through planning obligations (in addition to any previously cited within this report) secured through S106 of the Town and Country Planning Act 1990, and the policy basis for requiring them, are included in this section of the report. Ultimately, para. 54 of the NPPF states that local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition.
- 5.94 Consequently, this section also outlines the manner in which planning obligations would satisfy the tests set out in the Community Infrastructure Levy Regulations 2010 (CIL Regs) and paragraph 56 of the NPPF, which states that obligations should only be sought where they meet all of the following tests:
- necessary to make the development acceptable in planning terms;
  - directly related to the development; and
  - fairly and reasonably related in scale and kind to the development.
- 5.95 Section 8 of the NPPF requires the planning system to take account of and support local strategies to improve health, social and cultural wellbeing for all, and deliver sufficient community and cultural facilities and services to meet local needs.

#### *Affordable Housing*

- 5.96 Para. 62 of the NPPF requires, inter alia, LPAs where they have identified that affordable housing is needed, to set policies for meeting this need on site, unless off-site provision or a financial contribution of broadly equivalent value can be robustly justified and the agreed approach contributes to the objective of creating mixed and balanced communities.
- 5.97 Adopted Policy HG4 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, whereas draft Policy LP5 requires up to 30% of new homes on large development sites to be made available to the Council or a nominated partner, at a discounted price, for use as Affordable Housing or Council Housing, subject to viability testing. This is in compliance with the requirements of requirement a. of draft Policy SAMU5 that specifies that the proposal should be for at least 280 new homes of a mixed size and type to include affordable housing as per the Council's requirements.

#### *Education*

- 5.98 NPPF paragraph 94 states that the Government attaches great importance to ensuring that a sufficient choice of school places is available to meet the needs of existing and new

communities. Local planning authorities should take a proactive, positive and collaborative approach to meeting this requirement, and to development that will widen choice in education. They should: Give great weight to the need to create, expand or alter schools; and work with schools promoters to identify and resolve key planning issues before applications are submitted.

- 5.99 In accordance with requirement d) of draft Policy SAMU5, a new 2 form entry primary school with co-located 56 place early years and childcare facility (D1) use on 2.1 hectares of land is proposed to be provided as required by the Local Education Authority (LEA). The application makes provision for this requirement and the applicant has liaised directly with Essex County Council to determine where and how this would be delivered.
- 5.100 Furthermore, requirement l) of draft Policy SAMU5 is for a financial contribution to early years and childcare and secondary education provision. The financial contributions, index linked from April 2017 and based on the projected future population of the scheme have been summarised thus from the consultation response from ECC Education:
- Early Years & Childcare: £220,668.80;
  - Primary Education: £1,069,656; and
  - Secondary Education: £1,083,320 plus £196,224 for School Transport;

#### *Healthcare*

- 5.101 NPPF paragraphs 91 and 92, amongst other things, state that the planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. Planning decisions, in turn, should aim to achieve places which promote opportunities for meetings between members of the community, by planning positively for the provision and use of shared space, community facilities.
- 5.102 Requirement m. of draft Policy SAMU5 is for financial contributions towards facilities such as health provision as required by the NHS/CCG either through the Community Infrastructure Levy or Section 106 Planning Obligations to be made. The NHS have stipulated that a financial contribution of £97,152 towards the relocation costs for Thorpe Surgery (including its branch surgery Kirby Cross) is required.

#### *Public Open Space*

- 5.103 NPPF paras. 91 and 92, amongst other things, state that access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and well-being of communities; and requirement c) of Policy SAMU5 is for 1 hectare of Public Open Space (POS) to be provided within the development
- 5.104 As highlighted above, the landscape scheme at the Reserved Matters stage would include an area of POS of 1ha, which the illustrative masterplan identifies as predominantly being in two parcels: between the secondary road proposed to serve the employment land and the school site; and along the northern edge of the railway line, including the copse through which PRoW 5 currently passes.
- 5.105 It would also be necessary to set aside a dedicated area with restricted access as a reserve for Slow Worms in addition to the POS, the precise location and area of which would be determined prior to the submission of the first reserved matters applications. All of the above would be managed by a Management Company specifically set up to look after the green areas of the site, amongst other things.

### *Ecology (off site)*

- 5.106 As highlighted above both Essex Wildlife Trust and Natural England have expressed concerns with regard to the impacts that an increase in visitors is already having upon Weeleyhall Wood and have costed work to improve rides and install boardwalks at around £55,000. Clearly the proposal would likely add to these pressures and therefore it is considered appropriate to seek a proportionate contribution, especially as the use of Weeleyhall Wood would in part mitigate the use of the international wildlife sites by future residents.

### *Highways and Transport*

- 5.107 ECC Highways state that they have assessed the highway and transportation impact of the proposal including full assessment of the Transport Assessment, examination of all documents submitted, and undertaken a site visit and do not wish to raise an objection subject to the imposition of reasonable planning conditions and obligations. It is considered that the majority of the required works can be covered by planning condition, with the exception of the provision of a financial contribution towards the proposed improvements at the A133/B1033/ services and Frating roundabouts, which would need to be covered by a planning obligation.
- 5.108 It is considered that the proposal, during either the construction or operational phases would not have a detrimental effect upon the highway network or the general accessibility of the surrounding area with sustainable mitigation measures proposed and to be secured by the appropriate means, in accordance with requirements e.g. of Policy SAMU5 requiring the principal point of vehicular access into the site off Thorpe Road; with capacity and/or safety enhancements to the local highway network and to public transport, cycle and pedestrian infrastructure, where necessary.

### *Public Rights of Way*

- 5.109 Requirement h. of draft Policy SAMU5 is for the provision of a footbridge bridge over the railway line, as a replacement for the existing level crossing. Once constructed this would be transferred to Network Rail with a commuted sum (currently undetermined) for future maintenance. As part of this, PRow 5 would be diverted away from its existing alignment over the level crossing via footbridge on completion.
- 5.110 The above obligations are summarised here and overall, it is considered that they satisfy the tests for planning obligations set out in the CIL Regulations, which are necessary to: make the development acceptable in planning terms; directly relate to the development; and fairly and reasonable related to the development in scale and kind:
- **Affordable Housing** – 30%, specific tenure and mix to be agreed at the reserved matter/s stage/s;
  - **Education** - 2.1ha of land to accommodate a 2-form entry primary school and commensurate nursery; Early Years & Childcare: £220,668.80 towards a 56 place nursery; Primary Education: £1,069,656; towards the new primary school; Secondary Education: £1,083,320 plus £196,224 for School Transport;
  - **Healthcare** - Financial contribution of £97,152 towards relocation costs for Thorpe Surgery (including its branch surgery Kirby Cross);
  - **Public Open Space** - Public Open Space, equipped play areas and Ecology Land (for Slow Worms) - To be transferred to management company and laid out before transfer;

- **Ecology (off site)** - Financial contributions towards off-site ecological mitigation - to improve access within Weeleyhall Wood SSSI;
- **Highways and Transport** – The provision of a financial contribution towards the proposed improvements at the A133/B1033/ services and Frating roundabouts as identified in the Tending Local Plan Highways and Transportation Modelling work.
- **Public Rights of Way (PRoW)** – Footbridge to be constructed over the railway line and transferred to Network Rail on completion with a commuted sum for future maintenance, PRoW 5 to be diverted away from existing level crossing via footbridge on completion.

#### Planning Balance/Conclusion

- 5.111 This is an application for Outline Planning permission, with all matters reserved with the exception of access. The applicant has provided details of how they propose to access the site off Thorpe Road; and the Local Highway Authority has no objection to the proposed arrangements. All other matters (Appearance; Landscaping; Layout; and Scale) are reserved and it can therefore be said that the application seeks to establish the principle of residential development of the site.
- 5.112 NPPF paragraph 10 stipulates that at its heart is a presumption in favour of sustainable development. For decision-taking (NPPF para. 11) this means approving development proposals that accord with the development plan without delay; but where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless: any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole; or specific policies in the Framework indicate development should be restricted.
- 5.113 It has been acknowledged that the site is currently situated outside a defined settlement boundary, and therefore for all intents and purposes rural policies of restraint apply. However, the site is specifically allocated through Policy SAMU5 for a mix of residential development, community facilities and public open space in the emerging Local Plan. This can be afforded some weight in the decision making process due to it being at the Publication Draft stage, and is a material consideration in the determination of this planning application. **The proposal is referred back to Planning Committee, following its decision to defer the application on 21 August 2018 until the outcome of the Section 2 examination of the Council’s emerging Local Plan. The applicant has sought legal advice and has requested that the Council determine the application now, on the grounds that to defer for an indeterminate period of time, when other similar sites have been granted or resolved to be granted planning permission, would amount to unreasonable behaviour, which would potentially have significant financial implications for the public purse though the costs regime of the appeal process.**
- 5.114 **As has been found above, refusal of planning permission on grounds of prematurity will seldom be justified, therefore if not minded to approve the development, Members are respectfully requested to either outline the council’s case for defending an appeal against non-determination of the application, or set out reasonable reasons for refusal of planning permission.**
- 5.115 **Such a decision must however be made within the context that** the application is accompanied by a suite of technical drawings and documents supporting the proposal and all in all Officers consider that no significant adverse or cumulative effects on the local environment or population would be caused, with it being deemed to be compliant with legislation and national planning policy.



5.116 In addition, whilst outline in form, Officers are content that subject to the imposition of reasonable planning conditions and obligations that the general principle of this level of development on the site is considered acceptable; and is in keeping with both the site's location on the edge of the village, along with the need to facilitate on site strategic landscaping, open space and the retention of existing landscape features. Furthermore, the proposal would ensure that the living conditions of existing and future residents would be protected from any materially detrimental impacts whilst providing much needed housing within the District.

Background Papers

None.