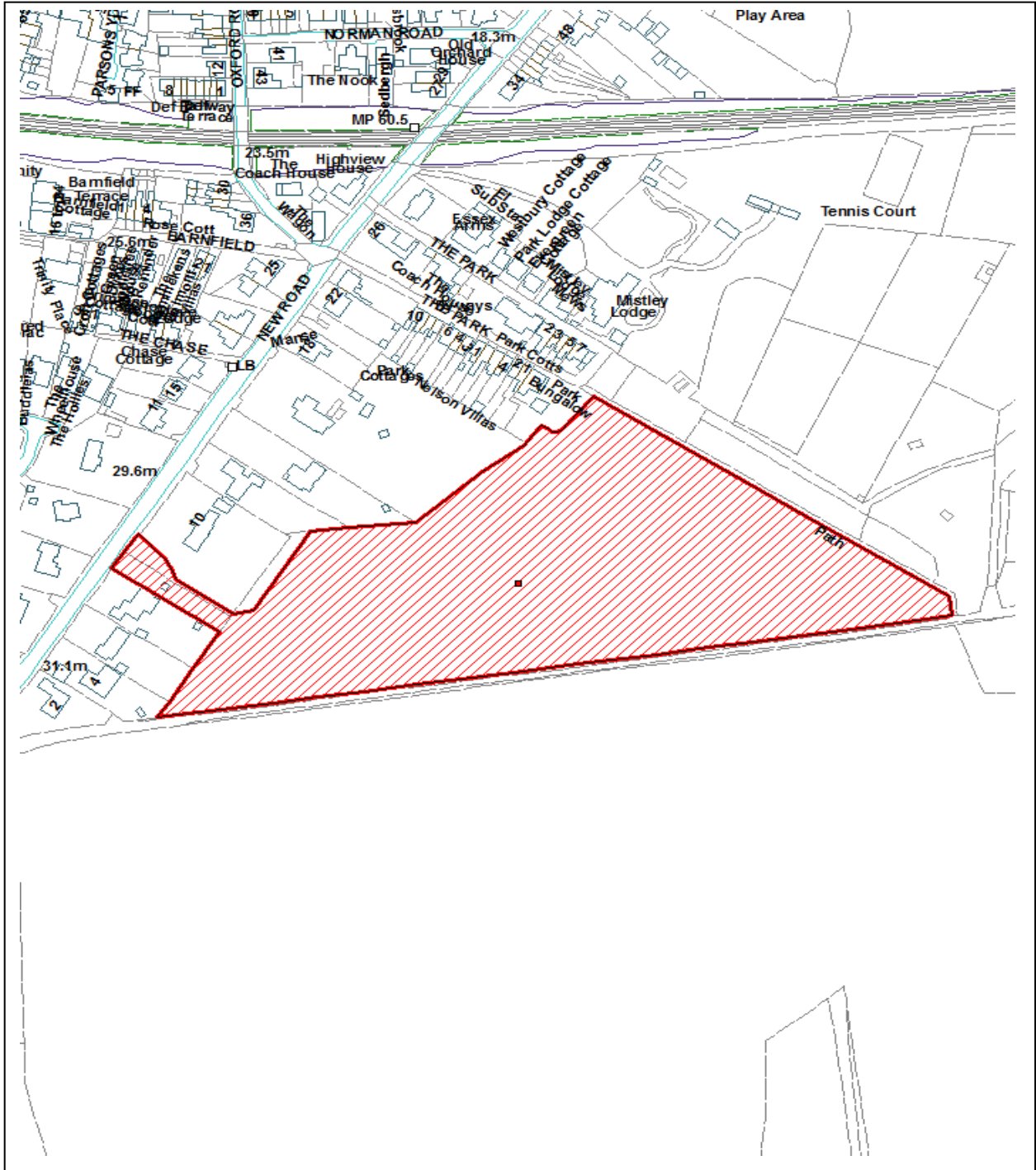


PLANNING COMMITTEE

9 APRIL 2019

REPORT OF THE HEAD OF PLANNING

**A.2 PLANNING APPLICATION - 18/01767/OUT - LAND EAST OF NEW ROAD, MISTLEY CO11 2AG**



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<b>Application:</b>	18/01767/OUT	<b>Town / Parish:</b> Mistley Parish Council
<b>Applicant:</b>	CALA Homes (North Home Counties)	
<b>Address:</b>	Land East of New Road Mistley	
<b>Development:</b>	Variation of Condition 4 approved plans 0964-F01 rev D, and 1628 URB XX XX GA 90 001 Rev H) of APP/P1560/W/17/3176089, to provide a re-worked layout to provide wider roads to improve emergency access and to incorporate a mix of housing types including detached dwellings, semi-detached properties and apartments.	

## 1. Executive Summary

- 1.1 The application site comprises a triangular area of open land situated on the east side of New Road behind the frontage properties and including an undeveloped plot of land through the frontage housing which provides the access into the proposed development from New Road. The site extends to 2.93 hectares in size and is situated within the Mistley Conservation Area.
- 1.2 Outline planning permission was allowed at appeal on 19 February 2018 for the 'erection of 67 dwellings together with the formation of an access'. The principle of housing development on the site is therefore established. Only access and layout were approved at appeal stage.
- 1.3 This Section 73 application seeks to vary Condition 4 attached to the aforementioned outline planning permission to amend the approved layout. The supporting documents state that it has become necessary to amend the approved layout to improve the proposed road network, thereby allowing sufficient access to the site for all emergency vehicles and servicing vehicles and to alter the housing types to include detached dwellings, semi-detached properties and apartments.
- 1.4 Officers consider the revisions represent an improved layout over that approved previously on appeal which will enable emergency and servicing vehicles to adequately access and manoeuvre across the site, whilst proposing a more spacious appearing development allowing for better spacing between properties and larger private gardens for future residents.
- 1.5 Subject to the applicant entering into a deed of variation to update the existing Section 106 agreement to cover the provision of affordable housing and education contributions, the proposal is considered to be acceptable with no material harm to visual or residential amenity, heritage assets, or highway safety, and the application is therefore recommended for approval.

### **Recommendation: Approve**

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

**a) Within 6 (six) months of the date of the Committee's resolution to approve, the completion of a legal agreement under the provisions of section 106 of the Town and Country Planning Act 1990 dealing with the following matters (where relevant):**

- **Affordable housing – 30%**
- **Financial Contribution towards RAMS**
- **Education Contribution**

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

**Conditions:**

- **Reserved Matters (Appearance, Landscaping, Scale).**
- **Standard 3 year time limit for submission of reserved matters application.**
- **Standard 2 year limit for commencement of development following approval of reserved matters.**
- **Approved Plans (Access and Layout only)**
- **Submission of an open space management/maintenance plan along with play area details**
- **All areas of hardstanding to be permeable.**
- **Compliance with Tree protection measures.**
- **Lighting scheme.**
- **Ecological enhancement scheme.**
- **No goods to be stacked, machinery operated or works shall take place within the limits of the spread of any existing trees.**
- **Submission of a biodiversity management plan.**
- **Submission of construction method statement.**
- **Visibility splays of 2.4 x 43m to the site access onto New Road.**
- **Details of estate roads and footways construction (layout, gradients, surfacing, water drainage).**
- **Parking and turning areas to be provided prior to occupation and retained thereafter.**
- **All garages and parking bays of a size commensurate with the current parking standards.**
- **Provision of Residential Travel Information Packs.**
- **Upgrade of 2 nearest bus stops to the site.**
- **No vehicular access from Green Lane.**
- **Bin stores for the apartments within 15m of carriageway.**
- **Bicycle storage details.**
- **Limit scale to no higher than two-storey.**
- **Submission of an Archaeological Evaluation.**
- **Submission of an Archaeological Mitigation Strategy.**
- **Submission of an Archaeological Written Post Excavation Assessment.**
- **Surface Water Drainage Strategy.**
- **Scheme to minimise off-site flooding and pollution during construction works.**
- **Details of a surface water drainage maintenance plan.**
- **Submission of yearly maintenance logs for sustainable drainage system.**

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

## **2. Planning Policy**

### **National Policy:**

The National Planning Policy Framework  
National Planning Policy Guidance

### **Local Policy:**

#### **Tendring District Local Plan 2007**

QL1 Spatial Strategy  
QL2 Promoting Transport Choice  
QL3 Minimising and Managing Flood Risk  
QL9 Design of New Development  
QL10 Designing New Development to Meet Functional Needs  
QL11 Environmental Impacts and Compatibility of Uses  
QL12 Planning Obligations  
HG1 Housing Provision  
HG3A Mixed Communities  
HG4 Affordable Housing in New Developments  
HG6 Dwelling Size and Type  
HG7 Residential Densities  
HG9 Private Amenity Space  
COM2 Community Safety  
COM6 Provision of Recreational Open Space for New Residential Development  
COM21 Light Pollution  
COM23 General Pollution  
COM24 Health Care Provision  
COM26 Contributions to Education Provision  
COM29 Utilities  
COM30 Electricity Supply  
COM31A Sewerage and Sewage Disposal  
EN1 Landscape Character  
EN2 Local Green Gaps  
EN3 Coastal Protection Belt  
EN6 Biodiversity  
EN6A Protected Species  
EN6B Habitat Creation  
EN11A Protection of International Sites: European Sites and RAMSAR Sites  
EN12 Design and Access Statements  
EN13 Sustainable Drainage Systems  
EN17 Conservation Areas  
EN23 Development Within the Proximity of a Listed Building  
EN29 Archaeology  
TR1A Development Affecting Highways  
TR1 Transport Assessment  
TR2 Travel Plans  
TR3A Provision for Walking  
TR5 Provision for Cycling  
TR6 Provision for Public Transport Use  
TR7 Vehicle Parking at New Development

#### **Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017)**

SPL1 Managing Growth

SPL2 Settlement Development Boundaries  
SPL3 Sustainable Design  
HP2 Community Facilities  
HP3 Green Infrastructure  
HP4 Safeguarded Local Greenspace  
HP5 Open Space, Sports & Recreation Facilities  
LP1 Housing Supply  
LP2 Housing Choice  
LP3 Housing Density and Standards  
LP4 Housing Layout  
LP5 Affordable and Council Housing  
PPL1 Development and Flood Risk  
PPL3 The Rural Landscape  
PPL4 Biodiversity and Geodiversity  
PPL5 Water Conservation, Drainage and Sewerage  
PPL7 Archaeology  
PPL8 Conservation Areas  
PPL9 Listed Buildings  
CP1 Sustainable Transport and Accessibility  
CP3 Improving the Telecommunications Network

### **Local Planning Guidance**

Essex County Council Car Parking Standards - Design and Good Practice  
Essex Design Guide

### **Status of the Local Plan**

The 'development plan' for Tendring is the 2007 'adopted' Local Plan. Paragraph 213 of the NPPF (2018) 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 16th 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.

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.

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. At the time of this decision, the supply of deliverable housing sites that the Council can demonstrate falls below 5 years and so the NPPF says that planning permission should be granted for development unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework as a whole. Determining planning applications therefore entails weighing up the various material considerations. The housing land supply shortfall is relatively modest when calculated using the standard method prescribed by the NPPF. In addition, the actual need for housing was found to be much less than the figure produced by the standard method when tested at the recent Examination In Public of the Local plan. Therefore, the justification for reducing the weight attributed to Local Plan policies is reduced as is the weight to be given to the delivery of new housing to help with the deficit.

### 3. Relevant Planning History

17/00004/OUT	Erection of 67 dwellings together with formation of access.	Refused <b>(Allowed on Appeal)</b>	07.04.2017
18/01767/OUT	Variation of Condition 4 approved plans 0964-F01 rev D, and 1628 URB XX XX GA 90 001 Rev H) of APP/P1560/W/17/3176089, to provide a re-worked layout to provide wider roads to improve emergency access and to incorporate a mix of housing types including detached dwellings, semi-detached properties and apartments.	Current	

### 4. Consultations

Environmental Protection      No comments to make.

Essex Bridleways Association      No comments received

ECC SuDS Consultee      Lead Local Flood Authority position

Having reviewed the planning application and the associated documents which accompanied the planning application, we have identified that this application seeks minor material amendments and does not currently relate to surface water drainage. As the outline application has already been approved, we have no comments at this stage.

The following recommendations are made in line with the Department for Communities and Local Government National Planning Policy Framework:

RECOMMENDATION: A Programme of Archaeological evaluation

1. No development or preliminary ground-works can commence until a programme of archaeological evaluation has been secured and undertaken in accordance with a Written Scheme of Investigation, which has been submitted by the applicant, and approved by the planning authority. Following the completion of this initial phase of archaeological work, a summary report will be prepared and a mitigation strategy detailing the approach to further archaeological excavation and/or preservation in situ, shall be submitted to the local planning authority.
2. No development or preliminary groundwork can commence on those areas of the development site containing archaeological deposits, until the satisfactory completion of archaeological fieldwork, as detailed in the mitigation strategy, which has been signed off by the local planning authority.
3. Following completion of the archaeological fieldwork, the applicant will submit to the local planning authority a post-excavation assessment (within six months of the completion date, unless otherwise agreed in advance with the planning authority), which will result in the completion of post-excavation analysis, preparation of a full site archive and report ready for deposition at the local museum, and submission of a publication report.

Further Recommendations:

A professional team of archaeologists should undertake the archaeological work. In the first instance a programme of trial trenching investigation will be required. A brief outlining the level of archaeological investigation will be issued from this office on request. Tendring District Council should inform the applicant of the recommendation and its financial implications.

AMENDED DRAWINGS NUMBERED AA7718-20123 REV 03.

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

- 1 All carriageways should be provided at 5.5m between kerbed footways or 6.0m where vehicular access is taken but without kerbing.
- 2 All footways should be provided at no less than 2.0m in width.
- 3 Prior to the commencement of development, details of the estate roads and footways (including layout, levels, gradients, surfacing and means of surface water drainage) shall be submitted to and approved in writing by the Local Planning Authority.
- 4 All off street car parking shall be provided in precise accord with the

details contained within the current Parking Standards being provided within the site which shall be maintained free from obstruction and retained thereafter.

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

6 No development shall take place, including any ground works or works of demolition, until a Construction Method Statement (CMS) has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- i. the parking of vehicles of site operatives and visitors
- ii. loading and unloading of plant and materials
- iii. storage of plant and materials used in constructing the development
- iv. wheel and under body washing facilities

7 Prior to occupation of the proposed development, the Developer shall be responsible for the provision and implementation of Residential Travel Information Packs for sustainable transport sufficient for the occupants of each dwelling, approved by the Local Planning Authority.

8 Prior to first occupation of the proposed apartment blocks, communal recycling/bin/refuse collection points shall be provided within 15m of the carriageways or adjacent to the carriageways and additionally clear of all visibility splays at accesses and retained thereafter.

9 Prior to the occupation of the proposed dwellings details of the provision for the storage of bicycles sufficient for all occupants of that dwelling of a design that shall be approved in writing with the Local Planning Authority. The approved facility shall be secure, convenient, covered and provided prior to the first occupation of the proposed development hereby permitted within the site which shall be maintained free from obstruction and retained thereafter.

10 Prior to occupation of the development, the road junction at its centre line shall be provided with a clear to ground visibility splay with dimensions of 2.4 metres by 43 metres in both directions, as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the road junction is first used by vehicular traffic and retained free of any obstruction at all times.

11 No works in connection with the proposed development shall commence until such time as the two nearest bus stops to the site have been upgraded and improved as appropriate. These works provided entirely at the Developer's expense.

Building Control and  
Access Officer

No comments at this time.



Natural England

Natural England currently has no comment to make on the variation of condition 4 (approved plans).

Tree & Landscape Officer

**Original Comments**

In terms of the impact of the development proposal on the local landscape character it is considered that the proposed changes to the approved layout will be harmful to the local environment.

The primary reason for the harm to local landscape character is the reduction of the width and overall size of the open space on the southern boundary of the application site.

Whilst the existing hedgerow on the southern boundary is shown as retained the reduction of the width of the adjacent open space will limit the degree to which new soft landscaping can be carried out to screen the development.

Without a substantial screening belt on its southern boundary the development will be visible from the heavily used Public Right of Way (PROW) along Green Lane and from other viewpoints on the PROW network to the south from which the development will be plainly seen.

**Additional Comments**

The Tree Protection Plan included in the amended Arboricultural Survey shows the potential impact of the amended layout on retained trees on the application site itself and on adjacent land. The information provided is in accordance with BS5837: 2012 Trees in relation to design, demolition and construction – Recommendations. The report contains details of the way that retained trees would be physically protected for the duration of the construction phase of any development for which planning permission may be granted.

As a result of the position of the apartment close to the northern boundary and the re-positioned Attenuation Pond there will be a minimal incursion into the Root Protection Areas (RPA's) of the trees to the north of the application site that are covered by Tendring District Council Tree Preservation Order 87/07/TPO Mistley Lodge, New Road, Mistley.

The protected trees are situated on land separated from the application site by a well-trodden Public Right of Way (PROW) and there is some overhang of branches onto the application site.

Taking into account the separation distance, the compaction and consequent barrier to root activity caused by the location of the footpath and the minimal incursion into the RPA's of the protected trees it is considered that the development proposal would not result in harm being caused to the trees and would not compromise their long term viability.

## 5. Representations

- 5.1 Mistley Parish Council objects to this planning application for the following reasons: (1) the approved layout had measures which protected the open nature of Green Lane and these new changes to the plans have reduced them; (2) the addition of the apartments changes the appearance and makes the character of the area oppressive, particularly as these apartments are on the boundary overlooking a public footpath; and (3) these changes were submitted allegedly to improve the access to the development but are being used to change the overall appearance of the site.
- 5.2 Cllr Coley has called in the application for the following reasons (it must be noted that these comments were made prior to revised plans/documents being received);
- The area of Public Open Space reduces from approx. 0.89 hectares to 0.65 hectares which is a reduction of approximately 25%.
  - The new layout shows pinch points where houses encroach even closer on Green Lane. The consented layout is about 12m at its closest point. The revised layout is about 9.5m, this is a reduction of about 20%.
  - The revised scheme includes apartments. Such dwelling type is not typical of the surroundings nor the Conservation Area.
  - The proposed apartments are sited very close to The Park, public footpath. This would be overbearing and urbanise the character of the public footpath and this part of the Conservation Area.
  - No private amenity space is being proposed for the apartments.
  - The apartments would be served by frontage parking, which is unattractive and out of keeping.
  - The Arboreal Impact Assessment is dated 14 November 2015. This is now entirely out of date and should not be relied upon.
  - Whilst controlled by planning condition, the proposed location of an attenuation pond would conflict with existing Root Protection Areas in the eastern corner.
- 5.3 89 letters of objection have been received. A large majority of these objections refer to the principle of residential development on this site, which has been already been established through the granting of outline planning permission by the planning inspectorate. The main areas of concern highlighted by objectors are as follows;
- Proposed changes are focussed more on profit than care for the local area.
  - Flats are not in keeping with the character of the local area.
  - Backland development is out of keeping in this location.
  - No private amenity space is provided for the flats element.
  - Reduction in open space from previous appeal.
  - New dwellings would result in more strain on local infrastructure.
  - Reason for revisions, including access for emergency vehicles, should have been properly considered at appeal stage.
  - Revisions represent an encroachment towards Green Lane and the footpath to the north-east of the site. Significant narrowing of the green buffer in both locations.
  - Frontage parking to apartments is unattractive.
  - Against the principle of developing the land for residential purposes.
  - Development changes would result in a rural footpath becoming an urban one.
  - Layout and apartments are out of character with the conservation area setting.
  - Adverse impacts on wildlife.
  - Larger detached homes proposed which will have an additional impact on the setting.
  - Affordable housing should be pepper potted throughout the development.

## 6. Assessment

The main planning considerations are:

- Site Context
- Development Proposal
- Layout Changes
- Landscape Impact/Tree Considerations
- Residential Amenity
- Heritage Assets
- Highway Safety
- Ecology
- Drainage
- Legal Obligations

### Site Context

- 6.1 The application site comprises a triangular area of open land situated on the east side of New Road behind the frontage properties and including an undeveloped plot of land through the frontage housing which provides the access into the proposed development from New Road. The site extends to 2.93 hectares in size and is situated within the Mistley Conservation Area.
- 6.2 There is residential development to the north and west of the site, which is divided from the wider countryside to the south by an access road/public footpath, Green Lane. To the north east is an area of grassland and wooded areas, comprised of the gardens associated with private dwellings and recreational areas, beyond which is the line of the railway.
- 6.3 The site is bounded by a hedge with small trees along the boundary with Green Lane, and by a hedge with large trees and groups of trees which border a pathway along the northeast boundary. To the northwest, the boundary is formed by the rear boundaries of the houses along New Road, with a mixture of timber fences, hedges and trees.
- 6.4 There are several heritage assets, or groups of heritage assets in the vicinity. The Lodge, listed grade II, is located at the corner of New Road and Green Lane, in a garden of a residence, with one wall facing directly onto Green Lane and there are three grade II listed houses along New Road, 100 metres from the site. There are also three listed structures to the south of the proposal site, accessed off Clacton Road all listed grade II: Mistley Hall, Walled Garden and Gardener's Shed. To the east of the site are Old Hall and Garden Wall which are also grade II listed structures. Further to the south-east off Green Lane is Diary Cottage which contains a cluster of listed buildings.

### Development Proposal

- 6.5 Outline planning permission was allowed at appeal on 19 February 2018 for the 'erection of 67 dwellings together with the formation of an access'. The principle of housing development on the site is therefore established.
- 6.6 In determining the appeal, the Planning Inspector attached Condition 4 to the appeal decision which states:
- 'The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan: Drawing No. 0964-F01 rev D - Access Plan and Drawing No. 1628 URB XX XX GA 90 001 Rev H – Site Layout.'***
- 6.7 This Section 73 application seeks to vary Condition 4 attached to the aforementioned outline planning permission to amend the approved layout. The supporting documents state that it has

become necessary to amend the approved layout to improve the proposed road network, thereby allowing sufficient access to the site for all emergency vehicles and servicing vehicles and to alter the housing types to include detached dwellings, semi-detached properties and apartments.

6.8 Since submitting the application amended plans have been received securing the following changes;

- Plot 3 has been relocated (now adjacent to Plot 15) allowing for a greater distance from the rear of the dwellings and Green Lane. This area has been replaced with landscaping and open space. The overall quantum of housing remains at 67 dwelling, as approved.
- The sub-station has been relocated away from the easement to the south of the site and a footpath has now been integrated into the open space.
- Plots 26 and 27 have been rotated slightly and repositioned to increase the amount of soft landscape frontage to Green Lane.
- Plots 16 - 19 have been reconfigured to create a linear/terraced form which reflects the grain of development for the existing housing on The Park.
- Plots 37 and 38 have been amended to better address the street frontage.
- The gardens to Plots 53 - 55 and 39 - 44 have been increased in accordance with the Essex Design Guide.
- A small parking court has been incorporated between the apartment building and Plot 19. This has allowed for further soft landscaping on the corner at this part of the site and removed what was, previously on-street parking. This also allows for better views from The Park into the site.
- The parking arrangements for the flats have been amended to remove on-street parking.

#### Impact of Layout Changes

6.9 The layout previously approved at appeal showed the majority of the development being formed of terrace blocks of dwellings with properties set in close proximity to the carriageways. The easternmost housing blocks were to be arranged around central parking courts with the properties facing outwards. A large number of the properties were indicated to have private amenity spaces below the required policy standard and aside from the access into the site the development was to comprise of shared surface style access roads. At the southern end of the site a landscape buffer to Green Lane was proposed measuring a minimum of 12m at its narrowest point. A drainage attenuation area was to be located in the south-eastern corner of the land.

6.10 The revised layout illustrates a more logical urban form comprising of wider carriageways served partly by footways and a variety of detached, semi-terraced and apartment style properties. The parking courts have been removed and replaced by on-plot parking provided via open parking bays, under-crofts and garages. The majority of the dwellings are now served by sufficient private amenity space provision to accord with policy requirements and the spacing between properties has been improved which will enhance future resident's privacy levels and outlook.

6.11 The proposed layout has still been designed to allow for successful integration with the surrounding landscape and area. This includes providing the sufficient setback of units from Green Lane, enhancing the green infrastructure along the edges of the site and the provision of public open space to the south of the site. Whilst the built form has encroached closer to Green Lane at its closet point the gap retained is 9m and this is at the western end of the site where the development would be viewed against the backdrop of existing properties on New Road. As the development extends eastwards the landscaped buffer to Green Lane becomes wider and at its widest point measures approximately 50m, which is considered to be sufficient to ensure that Green Lane, with the implementation of a robust landscaping scheme, retains its semi-rural character.

- 6.12 It must also be noted that Saved policy COM6 of the adopted Local Plan and the emerging District Local Plan requires at least 10% of gross area of the site to remain as open space provision. The provision of open space within the site comprises 0.81ha within an overall site area of 2.93ha. This equates to 27.6% of the site being open space and therefore the open space provision is comfortably in accordance with Saved policy COM6.
- 6.13 The eastern end of the development contains higher density development including the provision of apartment style properties which will front onto a footpath leading from The Path south-easterly towards Green Lane. The apartments comprise of two blocks separated by a landscaped parking area. Each block is proposed to contain 6 units and the indicative drawings provided show that the buildings are intended to be of a style commensurate with the terraced form of dwellings on The Park to the north-west with dark timber clad gables, plain tiled roofs and red brick linked elements. Whilst illustrative, the plans show that the apartments are intended to be of a form, scale and materiality that relates appropriately to the character and appearance of this section of the conservation area. The green gap to the footpath running to the north-east has been reduced in size from the previously approved scheme. However, the mature hedgerow present on the shared boundary will be retained ensuring that views of the development from the footpath in question will be limited.
- 6.14 The communal spaces around the apartment buildings along with the proximity of the large area of on-site public open space are sufficient to meet the amenity requirements of future residents of these units.
- 6.15 Overall the proposed changes to the layout result in a more open appearing development that would suitably complement the existing character and pattern of development in the vicinity. The higher density development at the eastern end of the site relates appropriately to the terraced form of properties on The Park to the north-west and the detached larger properties towards the western element of the site are more in keeping with the lower density character of New Road. The removal of the parking courts and their replacement with on-plot parking is considered to represent an improvement and the relationship between the dwellings has improved which will result in better privacy levels for future residents and larger private garden areas. The parking areas serving the apartments are to be suitably softened by planting and with the use of sympathetic surface materials, which can be secured at reserved matters stage, the visual impact can be adequately mitigated.

#### Landscape Impact/Tree Considerations

- 6.16 As to visual impact, the greatest effect would be experienced in the direct, albeit, limited views from Green Lane and the public footpath on the north-eastern boundary. However, given the density and maturity of the boundary hedges, the opportunities to retain and reinforce these boundaries and the proposed setback from the southern boundary, the minor to moderate adverse effect in terms of visual impact would be mitigated. In medium to long distance views, the effect on landscape character and visual impact would be significantly diminished and overall the effects would be negligible.
- 6.17 Whilst a detailed landscaping scheme will be provided at detail stage the submitted landscape strategy confirms that the following principles will be applied;
- Management of the existing species rich hedgerow along the north-eastern boundary of the site with opportunities to infill gaps along the hedgerow with appropriate native species planting.
  - Lime trees or similar to be planted in the south-eastern corner of the site that would supplement and create continuity with the existing partial lime avenue along Green Lane.
  - Public open space within the south-eastern corner of the site, to include a play area and seating.

- Community orchard within the open space to the south of the development.
- A new native species hedgerow along the southern edge of the housing, including small trees planted within the hedgerow where appropriate.

6.18 In regard to the impact of the changes upon trees an updated tree survey and report has been provided. The Council's Trees and Landscaping has reviewed this information and confirms that taking into account the separation distance, the compaction and consequent barrier to root activity caused by the location of the footpath and the minimal incursion into the RPA's of the protected trees it is considered that the development proposal would not result in harm being caused to the trees and would not compromise their long term viability.

#### Residential Amenity

6.19 The NPPF (2019) at paragraph 127 states that planning should secure developments with a high standard of amenity for existing and future users. Saved Policy QL11 of the Tendring District Local Plan (2007) states that amongst other criteria development will only be permitted if the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties.

6.20 The proposed layout has been carefully considered and although Officers note the concerns raised by residents living in close proximity to the site, the revised layout will retain sufficient spacing to existing properties to the west on New Road and to the north on The Park not to cause any adverse impacts in respect of loss of light, outlook or privacy.

6.21 At detail stage the appearance and position of fenestration will be considered but it is clear from the submitted layout plan that this can be achieved without having adverse impacts on existing and future amenity.

#### Heritage Impact

6.22 The Mistley Conservation Area Review (2006) identifies Green Lane as an entrance into the parkland associated with the former Mistley Hall which retains one surviving Adam gate lodge at the New Road junction. Reference is made to fine views over open countryside to the south, with more limited views to the north because of the mature hedge and specimen trees.

6.23 Within the appeal decision the planning inspector concluded that the application site, given its enclosed and discrete nature and the fact that it does not form part of or inform the significant views of the designed parkland indicated, does not contribute to the historical significance of Green Lane as a key access to the former Mistley Hall. Consequently, the planning inspector agreed that the site does not contribute to the aesthetic or historical significance of the Mistley Conservation Area and as such development on this site would preserve the character and appearance of the conservation area as a whole.

6.24 The proposal site does not contribute to the setting of the listed buildings in the vicinity. The proposal site is physically separated from each of the listed structures, and there is only a low level of intervisibility from some distance, over hedges and through some trees, with the side elevation of Mistley Hall. Due to topography, hedges, trees, woodland and intervening structures, the proposal site does not contribute to the experience of any of these listed structures.

6.25 The updated site layout does not alter the conclusions of the planning inspector, that the location, siting, form and appearance of the proposed development will have a neutral impact on the setting of the sixteen heritage assets near the proposed development site. Furthermore, it is considered that the revised layout reflects densities in the wider area and the proposed development will preserve the conservation area setting by making a positive contribution to local character and distinctiveness.

## Highway Safety

- 6.26 Paragraph 108 of the NPPF (2019) requires Councils to, when making decisions, take account of whether;
- a) appropriate opportunities to promote sustainable transport modes can be, or have been, taken up, given the type of development and its location;
  - b) safe and suitable access to the site can be achieved for all users; and
  - c) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.
- 6.27 Saved Policy QL10 states that planning permission will only be granted, if amongst other things, access to the site is practicable and the highway network will be able to safely accommodate the additional traffic the proposal will generate.
- 6.28 The current application represents a variation to an outline scheme where the access into the site formed part of the application to be considered. The access remains unchanged and is therefore still proposed via a new opening set between 8 and 10 New Road. As a consequence the Highway Authority are satisfied that there is existing highway capacity to serve the proposed scheme and have not raised an objection subject to the inclusion of the conditions outlined in the Officer's recommendation above. Several of the conditions required by the Highway Authority are reflected on the submitted layout plan. All other conditions included by the planning inspector are re-instated.
- 6.29 The submitted layout plan shows that ample parking provision will be provided on site through driveway parking for the dwellings (some in excess of 2 spaces) and parking areas for the apartments. Visitor's parking is provided at certain points throughout the development and will also be absorbed by the longer driveways serving the larger dwellings.

## Ecology

- 6.30 An updated Phase 1 survey has been provided which confirms that the habitats on site and potential for protected species has not changed significantly since the previous survey dated November 2016. Consequently, the recommendations of the previous report remain pertinent, these being;
- Lighting should be considered at the site to ensure that dark corridors are created or maintained at the site to ensure that commuting and foraging routes are maintained.
  - 20 bat roosting features should be created at the site.
  - Any vegetation clearance at the site should be undertaken outside of breeding bird season (March – August inclusive).
  - 30 bird boxes are installed at the site.
  - Sward height within the improved grassland field should be maintained at a low level until the commencement of site clearance and construction activities.
  - The open space created within the proposal should include some areas of rough grassland as to improve the areas for reptiles in the future.
  - Creation of wildflower meadows and a pond will enhance the site for invertebrates.

These recommendations will be secured via conditions.

- 6.31 Legal advice has been sought to confirm that Tendring District Council should now seek financial contributions in accordance with the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). A Habitat Regulations Assessment (HRA) has been carried out to confirm that the mitigation will be the RAMS contribution as recommended

by Natural England. It is therefore considered that this contribution is sufficient to mitigate against any adverse impact the proposal may have on European Designated Sites. The recommendation seeks to secure this within six months of a committee resolution to approve, otherwise planning permission would be refused in its absence on the grounds that there is no certainty that the development would not adversely affect the integrity of Habitats sites. Natural England has been consulted and confirms that they have no further comments on the matter.

- 6.32 Notwithstanding this point, the creation of a large area of open space in the south of the site will provide recreational space for dog walkers who are more likely to use the onsite open space than the SPA for regular dog walks.

#### Drainage

- 6.33 The absence of an adequate surface water drainage scheme formed one of the reasons for refusal on the original outline application. However, during the appeal process a suitable scheme was provided through discussions with ECC-SuDs. The planning inspector then included a condition on the appeal decision to secure this scheme.
- 6.34 The scheme submitted shows that surface water run-off from the proposed development will be discharged via infiltration. The majority of run-off will be conveyed to dedicated SuDS features in the eastern corner of the site, including an infiltration basin (which will also provide water quality, amenity and biodiversity benefits) and an underground soakaway
- 6.35 ECC-SUDs have confirmed no objections to this application and a condition securing the scheme is included within the recommendation.

#### Legal Obligations

- 6.36 As this application seeks to vary the outline permission granted on appeal it follows that the legal agreement secured at appeal stage will need to be the subject of a deed of variation to refer to the details of the new planning permission. Consequently, a deed of variation has been prepared by the applicant that stipulates the following obligations, namely;
- 30% affordable housing provision
  - RAMS Contribution; and
  - Education contributions.
- 6.37 These obligations remain the same as previously secured at the appeal stage.

#### Conclusion

- 6.38 In conclusion the scheme represents an improved layout over that approved previously on appeal which will enable emergency and servicing vehicles to adequately access and manoeuvre across the site, whilst proposing a more spacious appearing development allowing for better spacing between properties and larger private gardens for future residents. The layout also seeks to respond to the existing adjoining residential dwellings thereby presenting a more logical urban form.
- 6.39 It is considered that the proposal meets the requirements set out within local and national policy and subject to the recommended conditions and completion of a S106 agreement the application is recommended for approval.

#### Background Papers

None.