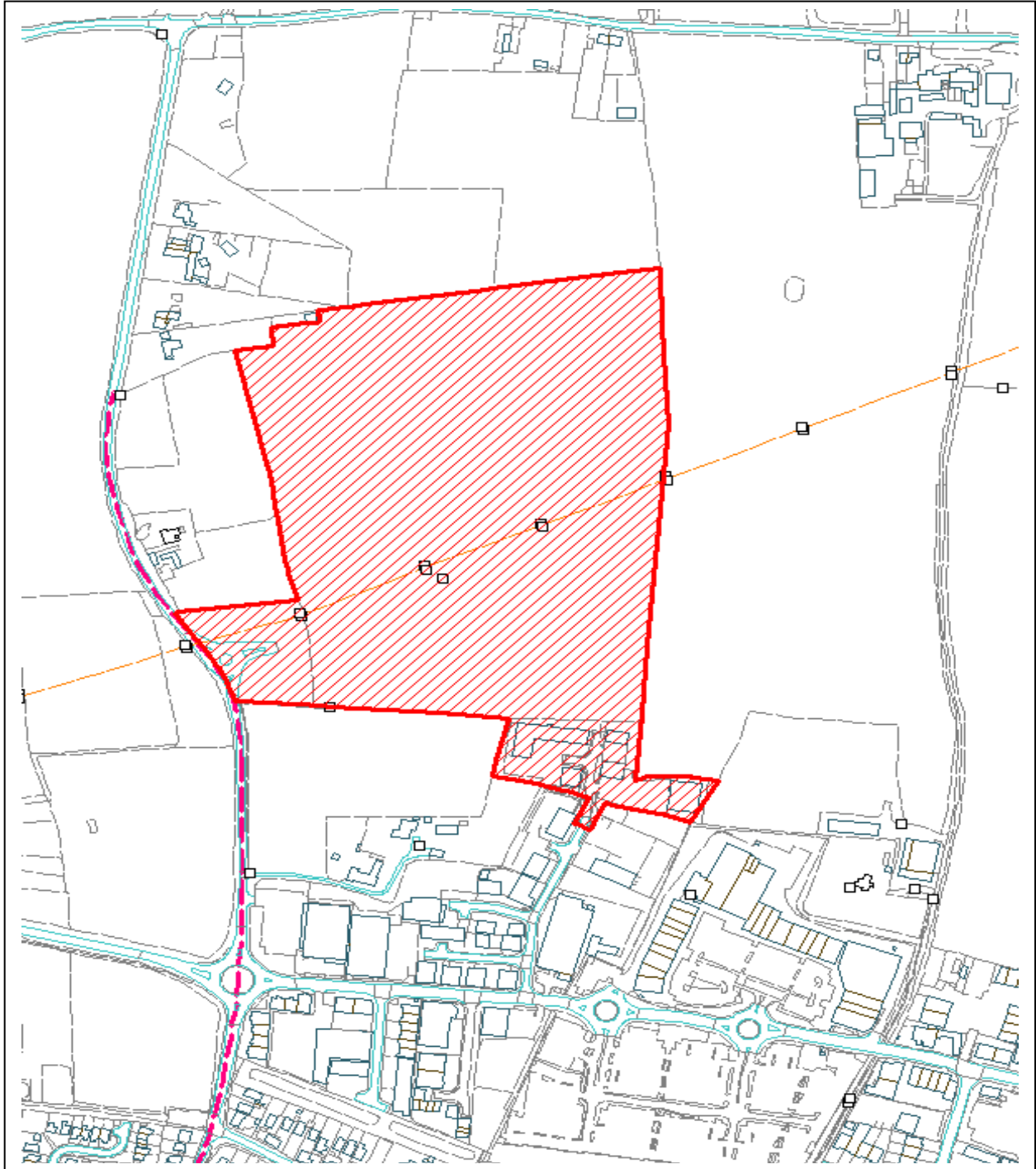


PLANNING COMMITTEE

2 JULY 2019

REPORT OF THE HEAD OF PLANNING

**A.2 PLANNING APPLICATION – 18/01800/DETAIL – OAKWOOD PARK, LAND TO THE EAST OF THORPE ROAD, CLACTON-ON-SEA, CO15 4TL**



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**Application:** 18/01800/DETAIL

**Town / Parish:** Clacton Non Parished

**Applicant:** Persimmon Homes Ltd & Britton Developments Ltd

**Address:** Oakwood Park Land to The East of Thorpe Road Clacton On Sea CO15 4TL

**Development:** Approval of reserved matters (relating to appearance, access, landscaping, layout and scale) for 250 dwellings pursuant to Condition 1 of planning permission 12/01262/OUT (as varied by planning permission 15/01781/OUT).

## 1. **Executive Summary**

- 1.1 This application is referred to Planning Committee at the request of Members in resolving to grant the outline planning permission 12/01262/OUT at the Planning Committee meeting on 25<sup>th</sup> August 2015.
- 1.2 The application site extends to an area of 10.53ha hectares of unfarmed agricultural land which forms part of a wider development site (and includes completed and occupied employment units to the south which are accessed via Fowler Road). It lies to the north of Clacton on Sea within the settlement development boundary of the Draft Local Plan, but outside within the adopted 2007 Local Plan. The site is bounded by Oakwood Business Park, residential properties and Stephenson Road West to the south, Thorpe Road and Oak House Farm (Grade II Listed) to the west, and agricultural/development land and residential properties to the north and east. SAMU3 Oakwood Park allocation in the emerging Local Plan lies on land to the immediate east.
- 1.3 The application seeks the approval of Reserved Matters (relating to appearance, access, landscaping, layout and scale) for 250 dwellings following grant of outline planning permission 12/01262/OUT, later varied by outline planning permission 15/01781/OUT.
- 1.4 From a highway and transportation perspective the impact of the proposal is now deemed acceptable to the Highway Authority subject to the imposition of conditions. The development would be laid out in a manner that adheres to the parking standards in terms of quantum and pays regard to the need to plan for sustainable access for all; with a network of footpath and cycleways connecting this scheme to future surrounding developments, as well as to services and community facilities.
- 1.5 It is considered that the scale, layout, density, height and massing of the proposed dwellings and overall elevation designs would be in broad harmony with the character and appearance of the surrounding area. Furthermore, the proposal would provide for acceptable living conditions for future residents, and as such their amenities would not be harmed. In addition, following amendments to the scheme, it is considered that the landscaping of the site would be appropriate and with regard to ecology, mitigation measures to enable increasing the relevant Europeans sites' resilience to recreational pressure would be in line with the aspirations of the emerging RAMS.

**Recommendation:**

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

**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 matter:**

- **Financial Contribution of £122.30 per new dwelling towards RAMS.**

Subject to the conditions stated in section 8.2.

## 2. Planning Policy

### National Policy

#### *National Planning Policy Framework 2019 (NPPF)*

- 2.1 The NPPF sets out the Government's planning policies and how these are expected to be applied at the local level.
- 2.2 Planning law requires that applications for planning permission be determined in accordance with the 'development plan' unless material considerations indicate otherwise. The NPPF doesn't change the statutory status of the development plan as the starting point for decision taking. Where proposed development accords with an up to date Local Plan it should be approved and where it does not it should be refused – unless other material considerations indicate otherwise. An important material consideration is the NPPF's 'presumption in favour of sustainable development'. The NPPF defines 'sustainable development' as having three dimensions:
  - an economic role;
  - a social role; and
  - an environmental role.
- 2.3 These dimensions have to be considered together and not in isolation. The NPPF requires Local Planning Authorities to positively seek opportunities to meet the development needs of their area whilst allowing sufficient flexibility to adapt to change. Where relevant policies in Local Plans are either absent or out of date, there is an expectation for Councils to approve planning applications, without delay, unless the adverse impacts would significantly and demonstrably outweigh the benefits.
- 2.4 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."

#### *National Planning Practice Guidance (PPG)*

- 2.5 The PPG provides additional planning guidance from Central Government on a range of issues, including, but not limited to: Air Quality; Climate Change; Design, Flood risk and

coastal change; Light Pollution; Natural Environment; Noise; and Travel Plans, Transport Assessments and Statements.

#### Status of the Local Plan

- 2.6 The 'development plan' for Tendring is the 2007 'adopted' Local Plan. Paragraph 213 of the NPPF (2019) 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.
- 2.7 Section 1 of the emerging 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.
- 2.8 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.
- 2.9 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 emerging 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.
- 2.10 The following Local and National Planning Policies are relevant to this planning application:

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

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.

QL9: Design of New Development: Provides general criteria against which the design of new development will be judged.

QL10: Designing New Development to Meet Functional Needs: Requires development to meet functional requirements relating to access, community safety and infrastructure provision.

QL11: Environmental Impacts: Requires new development to be compatible with its surrounding land uses and to minimise adverse environmental impacts.

QL12: Planning Obligations: States that the Council will use planning obligations to secure infrastructure to make developments acceptable, amongst other things.

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

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.

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.

*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.

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 Clacton-on-Sea as a 'Strategic Urban Settlement'.

SPL2: Settlement Development Boundaries: Seeks to direct new development to sites within settlement development boundaries. The boundary for Clacton-on-Sea extends to include the application site, and is adjacent to the SAMU3 Oakwood Park site allocation.

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 towards 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.

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.

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.

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.

*Supplementary Guidance*

Essex Design Guide for Mixed Use and Residential Areas (2018)

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

**3. Relevant Planning History**

97/00626/OUT	Extension to Oakwood Business Park for Class B1, B2 and B8 uses, creation of new access from Thorpe Road, associated estate roads, extension of spur roads from Stephenson Road West into site and boundary landscaping	Approved	13.03.2003
06/00438/DETAIL	Extension to Oakwood Business park for class B1, B2, and B8 uses, creation of new access from Thorpe Road, associated estate roads, extension of spur roads from Stephenson Road West into site and boundary landscaping.	Approved	01.06.2006
12/01262/OUT	Residential development of up to 250 dwellings, 2,273m <sup>2</sup> (gross) B1c floorspace and open space, with access from Thorpe Road (residential) and from Fowler Road (employment), with all matters reserved.	Approved	04.11.2015
15/01181/FUL	Erection of building for B1 (c) use and ancillary car parking.	Approved	28.09.2015
15/01781/OUT	Variation of condition 22 of planning permission 12/01262/OUT to change the wording of the condition to read: The North-South and East-West aligned roads shown generally on	Approved	23.03.2016

the Indicative Site plan (Drawing Number 6213/1101 Rev X received 2 September 2014) and described as "West Boulevard" and "South Boulevard" shall be provided in accordance with the Phasing Plan required under condition 6 above and shall be 6.75m wide.

15/01873/DISCON	Discharge of condition 27 i) (details of Thorpe Road roundabout) of planning permission 12/01262/OUT.	Approved	12.02.2016
18/01797/DISCON	Discharge of Conditions 6 (Strategic Phasing Plan), 11 (Boundary Walls and Fence), 12 (Refuse and Recycling Storage and Collection), 15 (Sustainability Report), 17 (Play Space and Amenity Open Space), 24 (Vehicle Restraint Measures), 26 (Location of Bus Stops) and 27(part 1 only; Footway/Cycleway) of application 15/01781/OUT.	Current	

#### 4. Consultations

Anglian Water

The foul drainage from this development is in the catchment of Clacton-Holland Haven Water Recycling Centre that will have available capacity for these flows.

However, they have reviewed the applicant's submitted foul drainage strategy documentation and consider that the impact on the public foul sewerage network has not been adequately addressed at this stage. Anglian Water have found that this proposal may result in a increased risk of flooding in the downstream network. They note that the developer is in correspondence with them to determine a feasible drainage strategy. They recommend the imposition of a condition that stipulates that no development takes place until a foul water strategy has been submitted to and approved in writing by the Local Planning Authority.

*OFFICER NOTE - condition 20 of 15/01781/OUT requires details of a Foul Water Strategy to be submitted to TDC prior to commencement of development.*

ECC Highways

Stipulate that from a highway and transportation perspective the impact of the proposal is acceptable to Highway Authority subject to mitigation and conditions covering the following:

- 1) Prior to the occupation of any of the proposed development the internal road and footway layout shall be provided in accordance with submitted highway drawings;
- 2) Prior to the commencement of development, details

of the estate roads and footways (including layout, levels, gradients, surfacing and means of surface water drainage) to be submitted to and approved in writing by the Local Planning Authority;

3) No dwelling to be occupied until such time as car parking and turning areas have been provided in accordance with current Parking Standards;

4) Each tandem vehicular parking space shall have minimum dimensions of 2.9 metres x 11 metres to accommodate two vehicles;

5) Cycle parking to be provided in accordance with the EPOA Parking Standards;

6) Prior to occupation of the proposed dwellings, the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack for sustainable transport, approved by Essex County Council, to include six one day travel vouchers for use with the relevant local public transport operator;

*OFFICER NOTE - These requirements are covered by condition 27 imposed upon 15/01781/OUT.*

7) No development shall take place, including any ground works or demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority.

*OFFICER NOTE - These requirements are covered by conditions 16 and 21 imposed upon 15/01781/OUT.*

ECC Lead Local Flood Authority (LLFA)

Happy for the holding objection to the consultation to be removed. The site should still be subject to the agreed outline planning application conditions and Information relating to changes from the outline planning application drainage strategy which should be submitted as part of the discharge of conditions application.

*OFFICER NOTE - These requirements are covered by conditions 18, 19 and 20 imposed upon 15/01781/OUT.*

Natural England

It has been identified that this development site falls within the 'Zone of Influence' (Zol) of one or more of the European designated sites scoped into the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS).

As you will be aware, the Essex Coast RAMS is a large-scale strategic project which involves a number of Essex authorities, including Tendring working together to mitigate the recreational impacts that may occur on the interest features of the coastal European designated sites in Essex as a result of new residential development within reach of them; the European designated sites scoped into the RAMS are notified for features which are considered sensitive to increased levels of recreation (e.g. walking, dog walking, water sports etc.) which can

negatively impact on their condition (e.g. through disturbance birds, trampling of vegetation, erosion of habitats from boat wash etc.). For further information on these sites, please see the Conservation Objectives and Information Sheets on Ramsar Wetlands which explain how each site should be restored and/or maintained.

In the context of your duty as competent authority under the provisions of the Habitats Regulations, it is therefore anticipated that, without mitigation, new residential development in this location is 'likely to have a significant effect' on one or more European designated sites, through increased recreational pressure, either when considered 'alone' or 'in combination' with other plans and projects.

We understand that you have screened this proposed development and consider that it falls within scope of the Essex Coast RAMS. You are therefore required to undertake a Habitats Regulations Assessment (HRA) (Stage 2: Appropriate Assessment) to secure any necessary recreational disturbance mitigation and record this decision within your planning documentation. We previously provided you with a suggested HRA Record template and associated guidance to help with this process where recreational disturbance to European sites is the sole HRA issue as appears to be the case in this instance (our ref: 244199, dated 16th August 2018, template and guidance shown within APPENDIX 1 of this letter); the use of this template is not mandatory but we provided it in an attempt to streamline the process and make it as straightforward and consistent as possible for the authorities involved in the RAMS.

We therefore welcome that you have completed your HRA (Stage 2: Appropriate Assessment) using our suggested HRA Record template, but advise that we are unable to provide bespoke review at this time. However, we are satisfied that, provided the mitigation you have secured is in line with the guidance given in our detailed strategic-level advice (i.e. that outlined on page 7 of this letter within APPENDIX 1), an 'adverse effect on the integrity' (AEOI) of the European sites included within the Essex Coast RAMS from increased recreational disturbance can be ruled out. In summary, this mitigation should include:

- Open space/green infrastructure provision of sufficient quality;
- A financial contribution in line with the Essex Coast RAMS, secured by appropriate planning condition or s106 legal agreement

## **5. Representations**

- 5.1 No letters of representation have been received by the Council to either the original submission or the amended plans.

## 6. Assessment

### Site Context

- 6.1 The application site extends to an area of 10.53ha hectares of unfarmed agricultural land which forms part of a wider development site (and includes completed and occupied employment units to the south which are accessed via Fowler Road). It lies to the north of Clacton on Sea within the settlement development boundary of the Draft Local Plan, but outside within the adopted 2007 Local Plan. The site is bounded by Oakwood Business Park, residential properties and Stephenson Road West to the south, Thorpe Road and Oak House Farm (Grade II Listed) to the west, and agricultural/development land and residential properties to the north and east. Also to the north and south are two development sites at pursuant to 16/00421/FUL and 16/02107/FUL & 18/00735/FUL for the construction of 81 predominantly single storey retirement dwellings and erection of 47 no. bungalows and 2 no. houses respectively.
- 6.2 The land is largely flat, sloping gently south-westwards. Hedgerows with trees and scrub of varying structure, condition and quality border the site. Those hedgerows on the eastern boundary have some, albeit limited, botanical interests, forming a feature of the local landscape and character of the area. Part of the Thorpe Road frontage is open and includes a constructed roundabout forming the principal (sole vehicular) access into the site from the existing public highway network.
- 6.3 The outline permission allows for up to 250 homes within the 12.2ha Residential Area detailed on its approved plan MRPP1, pursuant to condition 4 of 12/01262/OUT and 15/01781/OUT. This equates to a gross density of 20.4 dwellings per hectare (dph), equating approximately to 31 net dph. With this reserved matters the application covers an area of 10.53ha, the development proposed would be at a slightly higher gross density of 23.7ha with a net density remaining at 31dph. This density is aligned to that of Adopted Local Plan Policy HG7 (which recommends a range of 30-50 dph) and that sought on the emerging residential allocation for Oakwood Park to the east, which stipulates a requirement for an average of 30 dph. This also accords with the need to make more efficient use of land, particularly for housing. Paragraph 123 of the NPPF states where there is an existing or anticipated shortage of land for meeting identified housing needs homes should not be built at low density. The land outside this reserved matters submission is to the eastern side of the site of the wider outline. This ensures that this land can be readily developed in a manner and siting that would be transparent to the future occupiers of this reserved matters scheme. Any future development of this land would have to be subject to a separate planning permission and any associated S106 or other requirements directly related to that new proposal. The Planning Agent states the landowner, who is one of the joint applicants, is at an advanced stage towards executing an agreement which provides full rights of access in exchange for a contribution to the cost of the connecting roads. A full application for residential development on this remaining area of the site will be submitted shortly.

### Proposal

- 6.4 The submitted application seeks the approval of Reserved Matters (relating to appearance, access, landscaping, layout and scale) for 250 dwellings pursuant to condition 1 of planning permission ref: 12/01262/OUT (as varied by planning permission ref: 15/01781/OUT).
- 6.5 Conditions 6 and 15 of the operative outline permission 15/01781/OUT require a Strategic Phasing Plan and Sustainability Report to be submitted in conjunction with the submission of the first reserved matters. An accompanying discharge of conditions application (18/01797/DISCON) has been submitted to the Council which seeks to discharge these

matters, as well as comprising the submission of details pursuant to conditions 11 (Boundary Walls and Fences), 12 (Refuse and Recycling Storage and Collection), 17 (Play Space and Amenity Open Space), 24 (Vehicle Restraint Measures), 26 (Location of Bus Stops) and 27 (part 1 only; Footway/Cycleway). This will be determined by Officers under delegated powers after the determination of this reserved matters application by Members.

6.6 Following discussions between the applicant and Officers, revisions have been made to the application as originally submitted, and include amended drawings as well as additional/revised documents, in totality the application submission comprises:

- Planning application forms;
- Masterplan;
- Detailed Layout plan;
- Character Areas plan;
- Materials Layout;
- Storey Heights plan;
- Context Plan;
- Street scene drawings;
- Strategic Phasing plans;
- Open/Play space plan;
- Highways infrastructure plan;
- Utilities plan;
- Drainage plan;
- Tenure plan;
- Vehicle Restraint plan (emergency & pedestrian/cycle access only to/from Fowler Road);
- Highway Visibility plan;
- Highways Vehicle Tracking plan;
- Temporary Bus route plan (until SAMU3 Oakwood Park is developed);
- Elevations and Floor Plans for each house type;
- Landscape Masterplan and Hard and Soft Landscape drawings;
- Planning Compliance Statement;
- Design and Access Statement, and addendum;
- Sustainability Report;
- Utility Statement;
- Arboricultural Implications Assessment – Addendum;
- Shadow Habitat Regulations Assessment.

6.7 The revisions to the original submission are summarised below:

- Amended boundary treatment adjacent to plots 130/131 to brick wall and piers with timber fencing rather than close boarded fencing;
- Introduction of landscaping within parking court adjacent to plots 130/131;
- Omission of frontage parking to plots 198, 199 and 200 and reconfiguration of the cul-de-sac layout;
- Revision to the layout and landscaping of plots 218-227 and 196-198, including a reduction in frontage parking;
- Additional landscaping has been included with respect of plots 94-100 to reduce the visual impact of parking in that location;
- Amendment to provide the principal east-west road as the priority road;
- Amendment to include a (temporary) bus turnaround rather than the bus complete a loop around the internal roads of the site;

- Reduction in lay-by parking in the south-eastern corner of the site, but ensuring the amount of visitor parking provided is policy compliant;
- Extension of the footway/cycleway network along the east of the site;
- Revision of the location of surface material changes/ speed reduction measures;
- Provision of a shallow detention basin to the south of the access from Thorpe Road;
- Inclusion of a green link along the northern and western boundaries of the site as part of a circular dog walking route;
- Minor amendments to the boulevard to provide a more uniform building line and to introduce street trees; and
- A reduction in the length of a number of driveways in order to address the Highway Authority's comments with respect to on-plot tandem parking.

6.8 The revisions result in inconsequential changes and improvements to the scheme as a whole, with the house types and elevations remaining the same, and therefore are considered to be non-material amendments.

6.9 In totality, the proposal comprises: Vehicle access to the residential development from the existing roundabout on Thorpe Road leading to a 6.75m wide road, which includes the location of two bus stops; Formation of pedestrian, cycle and emergency access from the northern end of Fowler Road; Construction of 250 houses including 16no two bedroom affordable housing units; The provision of public open spaces, including a children's play area; Formation of SUDs, including the construction of an attenuation basin on land to the south of the roundabout spur from Thorpe Road; Landscaping, including additional buffer planting; Associated parking, access and landscaping; and an electricity substation.

6.10 The revisions detailed above have resulted in a marginally different mix to that originally submitted. The affordable housing (for rent) mix however remains as proposed and in line with the S106 agreement. In relation to the private units, the mix increases the quantum of two bedroom houses from 42 to 50, with an associated decrease in the three and four bedroom houses. The table below details the revised mix, which is broadly in accordance with the Council's Strategic Housing Market Assessment (SHMA), bar the omission of one bedroom units. The applicant explains that this omission is due to the fact that the site is situated on the northern edge of the settlement where the wider area is generally characterised by a range of properties, with prevalence towards family housing and bungalows. Officers consider this to be acceptable, bearing in mind the largely bungalow schemes that have been permitted abutting the northern and southern boundaries of the site, in this instance.

	<b>Market</b>	<b>Affordable</b>	<b>Total</b>
2 Bed	50	16	66
3 Bed	119	0	119
4 Bed	65	0	65
<b>TOTAL</b>	<b>234</b>	<b>16</b>	<b>250</b>

6.11 In terms of design, given this site's setting on the edge of the settlement and its context, it was considered that a traditional design approach was appropriate and a series of character areas have been established. These comprise:

Rural Edge typology for those houses bounding the edges of the site, including the frontage with Thorpe Road. This part of the proposed development is characterised by larger detached and semi-detached properties. Streets are often single sided, with the houses fronting outwards towards the hedges and trees that define the edge of the site. Traditional finishes and detailing are proposed in these areas, including



use of black weather boarding and brick. Traditional canopies and stone cills to windows are also proposed;

Village Green typology where at the centre of the site is the principal area of open space fronted by houses. This area utilises a combination of white weather boarding and brick finishes, creating a distinctive area at the centre of the development whilst continuing with the traditional detailing and finishes used within the development as a whole;

Boulevard typology, whereby the site contains a linear tree lined boulevard in line with the concept of the outline permission and to adhere to its condition 22 ("The North-South and East- West aligned roads shown generally on the Indicative Site plan (Drawing Number 6213/1101/ Rev X received 2 September 2014) and described as "West Boulevard" and "South Boulevard" shall be provided in accordance with the Phasing Plan required under condition 6 above and shall be 6.75m wide."). The houses fronting the Boulevard are proposed to be predominantly finished in brick; and those on key vistas or junctions are proposed to be finished in render, in order to provide a strong contrasting finish, emphasising these buildings. It is stated that the creation of distinct buildings at key locations would assist in both place making and way finding; and traditional porch canopies and stone window cills are also proposed to be used.

6.12 The main planning considerations for this reserved matters application are:

- Access and Highways;
- Design (Layout, Scale and Appearance);
- Living Conditions;
- Landscaping and Ecology; and
- Planning Obligations.

#### Access and Highways

6.13 Where concerning the promotion of sustainable transport, the NPPF in para. 103 states that the planning system should actively manage patterns of growth; and that significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. This can help to reduce congestion and emissions, and improve air quality and public health. Policy QL2 in the adopted Local Plan and Policy CP1 in the emerging Local Plan seek to ensure that developments maximise the opportunities for access to sustainable transport including walking, cycling and public transport.

6.14 The proposal, in accordance with the requirements of the outline planning permission, would provide a genuine choice of transport modes, including the provision of bus stops (condition 26 of 15/01781/OUT) to serve, not only the application site, but the Oakwood Park allocation in the future. The S106 agreement attached to the outline permission obligates the applicant to use reasonable endeavours to procure the operation of a bus service prior to the occupation of the 50<sup>th</sup> dwelling and provide a subsidy for the sum of up to £101,000.00 for the following: a public bus service from and to Clacton town centre and Clacton Rail Station on a route to pass into the site, to operate Monday to Saturday inclusive at no less than thirty minute intervals between the hours of 08:00 arriving at the site and 18:00 departing the site.

6.15 In addition, the scheme, pursuant to 15/01781/OUT condition 27 will provide: a footway/cycleway from Fowler Road into the residential area; a continuation of the footway/cycleway on the south side of Stephenson Road West to the footway/cycleway on the south side of Centenary Way, west of the roundabout in Thorpe Road; a residential travel plan; and residential travel information packs for the first occupants of all dwellings forming part of the development.

- 6.16 Therefore, by virtue of the above, and the fact that the principle of developing this site has already been accepted by virtue of the previous grant of outline planning permissions; and taking into account the extant schemes that have been permitted to the north and south of the site, in addition to the SAMU3 Oakwood Park allocation in the emerging Local Plan on land to the east, the site is deemed to be in a sustainable location by virtue of its accessibility.
- 6.17 Policy TR1a in the adopted Local Plan requires that development affecting highways be considered in relation to reducing and preventing hazards and inconvenience to traffic including the capacity of the road network. Policy CP1 in the emerging Local Plan states that developments will only be acceptable if the additional vehicular movements likely to result from the development can be accommodated within the capacity of the existing or improved highway network or would not lead to an unacceptable increase in congestion.
- 6.18 As highlighted within the 'Proposal' section above, and following the receipt of the consultation response from ECC Highways, the applicant made a number of highway related changes to the scheme, including: providing the principal east-west road as the priority road; the inclusion of a bus turnaround rather than a bus complete a loop around the internal roads of the site; a reduction in lay-by parking in the south-eastern corner of the site, whilst ensuring the amount of visitor parking provided is policy compliant; the extension of the footway/cycleway network along the eastern side of the site; revision of the location of surface material changes/ speed reduction measures; and a reduction in the length of a number of driveways in order to address the Highway Authority's comments in respect to on-plot tandem parking.
- 6.19 Consequently, from a highway and transportation perspective the impact of the proposal is now deemed acceptable to Highway Authority subject to the imposition of conditions as highlighted within the summary of their consultation response above.
- 6.20 The Council's adopted parking standards state that a minimum of 1 space per dwelling should be provided for 1 bedroom dwellings and a minimum of 2 spaces per dwelling should be provided for 2 and more bedroom dwellings. Also 0.25 space per dwelling is required for visitor parking. Parking spaces should measure 5.5 metres by 2.9 metres (tandem spaces 2.9 metres x 11 metres) and garages, where to be counted towards parking provision should measure 7 metres by 3 metres. The proposed development has been laid out in a manner that adheres to these standards and pays regard to the need to plan for sustainable access for all. The Highway Authority's recommended cycle parking condition has been amended to only seek details of cycle parking for plots without garages as the garages are 7 metres deep enabling space for cycle storage.
- 6.21 All in all, the development would be laid out in a manner that adheres to the parking standards in terms of quantum and pays regard to the need to plan for sustainable access for all; with a network of footpath and cycleways connecting this scheme to future surrounding developments, as well as to services and community facilities. This is in accordance with the policies referred to above.

#### Design (Layout, Scale and Appearance)

- 6.22 Paragraph 124 of the NPPF states that 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.
- 6.23 The proposed quantum of development has increased marginally since the original outline permission was granted by virtue of the fact that this reserved matters application doesn't cover the whole of the permitted residential area, with land along the eastern side of the

site being reserved for future development. However, whilst the gross density of 20.4 dph has increased to 23.7ha dph, the net density would remain at 31dph. As highlighted in the 'Site Context' section above, this density is aligned to that of Adopted Local Plan Policy HG7 (which recommends a range of 30-50 dph) and that sought on the emerging residential allocation for Oakwood Park adjacent, which stipulates a requirement for an average of 30 dph. Therefore it is considered that the proposal would not give rise to an over-development of the site.

- 6.24 The layout of the site has evolved since illustrative proposed masterplan at the outline stage was approved and this application was originally submitted; and as with the matters of access, scale, appearance and landscaping, has been the subject of discussions between Officers and the applicant.
- 6.25 By taking cues from the Essex Design Guide, it is considered that the proposal would 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 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, including parking facilities that would be well integrated as part of the overall design. The mix of materials would include the use of brick, render and weatherboarding, with red and grey tile roofs. Dwelling designs have been articulated and proportioned accounting for the Essex vernacular style. The majority of dwellings would be two storeys high, with a scattering of two and a half storey dwellings (rooms within the roof space) across the site; none of these would be adjacent to the new bungalows and houses built and to be built to the north and south of the site.
- 6.26 In totality it is considered that the scale, layout, density, height and massing of the proposed dwellings and overall elevation designs would reflect the area's local distinctiveness, whilst being in broad harmony with the character and appearance of the surrounding area.

#### Living Conditions

- 6.27 NPPF para. 127 f) states that planning decisions should ensure that developments create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.
- 6.28 On planning for new residential development within Tendring, it is expected that all dwellings should meet the Essex Design Guide (EDG) Standards and ideally the standards set out in HG9 of the adopted Local Plan which states that for houses with three or more bedrooms a minimum of 100 sq.m. of private amenity space shall be provided; and for houses with two bedrooms, a minimum of 75 sq.m. shall be provided.
- 6.29 The sizes of gardens are detailed on plan ref 003 Rev A and the schedule included within the application submissions. The layout seeks to ensure that the gardens comply with Policy HG9 and the EDG with the vast majority of properties exceeding the Local Plan standards, on average, gardens exceed the adopted standard by 19%. The EDG recognises that where the majority of houses comply either with the standards, there may be some houses which, due to their situation in the layout, cannot be provided with a private garden to the 100sq.m standard. These may be, for example, houses which turn external corners or are required for townscape reasons in locations which are hemmed in at the rear. The EDG stipulates that were the standard strictly adhered to there would be gaps in these positions, and which would not amount to good urban design.
- 6.30 There are a very limited number of key corner buildings in the scheme whereby the above EDG guidance is applicable on plots 30, 39, 43, 94, 100, 101, 122, 128, 142, 163, 192, 200, 213, 233, 240). These 15 units have average gardens size of 90sq.m. In line with the

EDG which the Council has adopted as SPG, in addition to acting both positively and proactively, it is considered that in this case, a slight under provision would be outweighed by the benefits of creating a more attractive townscape. It is also considered that reasons for refusal could not be reasonably substantiated on the grounds of under provision.

- 6.31 With regard to privacy, the EDG 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 housing, 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”*.
- 6.32 The scheme has been designed with these separation distances in mind, and where concerning plots 3-14 which would back on to the approved bungalows at Bramcote (to the south) the distances between their rear elevations and the shared boundary would be 15m, and the average building to building distance being in compliance with the EDG.
- 6.33 Environmental Protection have stated that they needed information in relation to a Construction Method Statement and lighting scheme for the development; they also stated that they required a Control of Pollution Act 1974 S.61 application for prior consent relating to the plant and hours of operation. These requirements are covered by conditions 14 and 17 imposed upon 15/01781/OUT and therefore no further information is deemed necessary for this reserved matters application.
- 6.34 Therefore, in conclusion on this issue it is considered that the proposal would provide for acceptable living conditions for neighbouring and future residents, and as such their amenities would not be harmed with the proposal in compliance with the aforementioned policies and guidance.

#### Landscaping and Ecology

- 6.35 Part 15 of the NPPF indicates that development should contribute to and enhance the natural environment and that impacts on biodiversity should be minimised.
- 6.36 The amended soft landscaping details provided by the applicant and relating to the private amenity space and highway planting is in the main comprehensive and satisfactory. There are several grass verges either side of the spine road, and following the request of Officers, the applicant has agreed to accommodate additional tree planting, in order to create a tree lined avenue utilising *Tilia cordata Greenspire* (small-leaved lime). This would have a positive impact on the public realm and consequently on the overall character and appearance of the development.
- 6.37 In terms of ecology, the development falls within the ‘Zone of Influence’ (Zoi) for one or more of the European designated sites scoped in the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). This residential development lies within the Zoi for Hamford Water SPA and Ramsar, Colne Estuary SPA and Ramsar, Blackwater Estuary SPA and Ramsar, Dengie SPA and Ramsar, and Essex Estuaries SAC. Hamford Water SPA and Ramsar site are the closest European sites and are located around 5.7km north-east of the application site.
- 6.38 The outline planning permission did not secure a contribution towards RAMS or mitigation to contain recreation within and around the development site. In the contemporary context of the Council’s duty as competent authority under the Habitats Regulations, it is

anticipated that without mitigation, such new residential development would likely have a significant effect on the sensitive features of the coastal European sites, through increased recreational pressure when considered 'in combination' with other plans and projects. It is considered that the proposal falls within the scope of RAMS as 'relevant development'.

- 6.39 The applicant has submitted a shadow Habitat Regulations Assessment (HRA) which highlights a yellow dashed 1.275km circulatory walking route round the site and a dog off lead area on its submitted plan, and the provision of dog waste bins and information leaflets, to encourage the future residents to remain on-site for day to day recreation/dog walking. In addition, a RAMS payment of £122.30 per dwelling (£30,575.00 based on 250 dwellings), is proposed to be included within a Unilateral Undertaking (UU), pursuant to S106 of the Town and Country Planning Act 1990, for the funding of strategic off-site measures. These measures should be targeted towards increasing the relevant European sites' resilience to recreational pressure (such as wardening schemes) and be in line with the aspirations of the emerging RAMS.
- 6.40 Natural England state that provided their guidance is adhered to, an 'adverse effect on the integrity' (AEOI) of the European sites included within the Essex Coast RAMS from increased recreational disturbance can be ruled out subject to the mitigation sought and to be secured by condition and planning obligation. Unfortunately the circular dog walking route is only 1.275km, and not 2.7km minimum as recommended. However, this site is isolated from the Public Right of Way network so cannot include links to this to increase the distance. However, this site directly adjoins a large mixed use allocation to the north which will provide greater opportunities in the future for recreation in the immediate locality. In these specific circumstances the proposed on-site green space provision is considered acceptable. A condition is included within the recommendation to secure the detail and implementation of the mitigation measures.

#### Planning Obligations

- 6.41 The S106 agreement secured under the outline planning permission provides 1) £348,203.00 for education; 2) a subsidy for the sum of up to £101,000.00 for the provision of a public bus service from and to Clacton town centre and Clacton Rail Station operating Monday to Saturday between the hours of 8am arriving at the site and 6pm departing the site at no less than 35 minute intervals; 3) Affordable housing in the form of 16 two bed dwellings; 4) Viability assessment – if completion of 120 dwellings does not occur within 4 years of the commencement date then no further dwellings shall be completed until an up to date viability assessment has been carried out and submitted for analysis. If viability has improved since the original assessment the owner shall enter into discussions to determine whether they should be required to pay a percentage (which could be 100%) of the Post Review Additional Contributions (up to £750,000.00 for affordable housing and up to £700,000.00 for education). If completion of 200 dwellings does not occur within 8 years of commencement the same requirement applies.
- 6.42 As set out above and at the head of this report, the applicant has agreed to enter into a UU to facilitate the provision of off-site RAMS mitigation measures.
- 6.43 In addition, and pursuant to the original S106 agreement attached to the outline planning permission Housing were asked to comment on the application in terms of the affordable housing provision. They state that they have noted the location of the affordable homes on the site and can confirm that they are happy with the location of the 16 x 2 bedroom houses.
- 6.44 In the S106 agreement, specifically Schedule 3 and the affordable housing provisions, it requires that the Oakwood Park Housing Enterprise Trust is incorporated and registered at

Companies House before the development commences, with a view that the 16 homes referred to above would be transferred to the Trust upon completion. Paragraph 2.1 states that if the trust is unable, or is incapable of accepting the transfer of the affordable homes, they should be transferred to the Council or another approved body.

- 6.45 TDC Housing have had no contact with regard to the incorporation of the Trust and they cannot see any evidence that it does exist. However, unless the Council receives the evidence required in the S106 concerning the Trust's incorporation, and having consulted with the Portfolio Holder for Housing, they stipulate that they would prefer that the 16 x 2 bedroom houses be transferred to the Council as opposed to the Trust. Officers are minded to enter into discussions with the applicant along these lines, however this is not a determining factor in this application, and is not a reasonable reason to withhold issuing the reserved matters decision. This is a separate requirement under the S106 which will require formal discharge.

#### Other matters

- 6.46 As set out within the report to Members on the outline planning application, the site is in relative close proximity to Oak House Farm which is listed grade II situated to the west of the site and north of the roundabout access on Thorpe Road. In determining that application, it was considered that with careful consideration of details regarding layout, scale and design, a development of this site in the manner proposed could be achieved without having a materially harmful effect upon the setting of the listed building, in compliance with relevant national and local plan policies.
- 6.47 It has been considered above that the scale, layout, density, height and massing of the proposed dwellings and overall elevation designs would reflect the area's local distinctiveness, whilst being in broad harmony with the character and appearance of the surrounding area. As demonstrated within the Proposed Street Scene 1 drawing submitted with the application, the proposed dwellings have been designed with the Essex vernacular in mind, and overall it is considered that the scheme would not give rise to harm to the setting of a designated heritage asset, pursuant to section 16 of the NPPF.

## **7. Conclusion**

- 7.1 The application site extends to an area of 10.53ha hectares of unfarmed agricultural land which forms part of a wider development site (and includes completed and occupied employment units to the south which are accessed via Fowler Road). It lies to the north of Clacton on Sea within the settlement development boundary of the Draft Local Plan, but outside within the adopted 2007 Local Plan. The site is bounded by Oakwood Business Park, residential properties and Stephenson Road West to the south, Thorpe Road and Oak House Farm (Grade II Listed) to the west, and agricultural/development land and residential properties to the north and east.
- 7.2 The proposal seeks the approval of Reserved Matters (relating to appearance, access, landscaping, layout and scale) for 250 dwellings following the grant of outline planning permission 12/01262/OUT, as varied by outline planning permission 15/01781/OUT.
- 7.3 From a highway and transportation perspective the impact of the proposal is now deemed acceptable to the Highway Authority subject to the imposition of conditions. The development would be laid out in a manner that adheres to the parking standards in terms of quantum and pays regard to the need to plan for sustainable access for all; with a network of footpath and cycleways connecting this scheme to future surrounding developments, as well as to services and community facilities.

7.4 It is considered that the scale, layout, density, height and massing of the proposed dwellings and overall elevation designs would be in broad harmony with the character and appearance of the surrounding area. Furthermore, the proposal would provide for acceptable living conditions for existing and future residents, and as such their amenities would not be harmed. In addition, following amendments to the scheme, it is considered that the landscaping of the site would be appropriate and with regard to ecology, mitigation measures to enable increasing the relevant Europeans sites' resilience to recreational pressure would be in line with the aspirations of the emerging RAMS.

**8. Recommendation**

8.1 The Planning Committee is recommended to grant reserved matters approval subject to the following conditions and informatives and the prior completion of a Section 106 legal agreement with the agreed Heads of Terms, as set out in the table below:

CATEGORY	TERMS
Financial contribution towards RAMS.	£122.30 per new dwelling

8.2 Conditions and Reasons

1. The development hereby permitted shall be carried out in accordance with the following approved plans and documents:

Drawing numbers:

1232/AL/702 F

6054/1001 B

OPC/101 REV C

PH-144-002 REV C; 003 REV B; 004 REV B; 005 REV B; 006 REV B; 007 REV B; 010 REV B; 011 REV B; 012 REV B; 013 REV B; 014 REV B; 015 REV C; 017 REV B; 018 REV B; 019 REV B; 020 REV B; 021 REV B; 022 REV B; 023 REV B; 025 REV B; 027 REV A; 028 REV B; 029 REV B; 031 REV B; 031 REV B (Alternative External); 032 REV B; 033 REV B; 034 REV C; 035 REV A; 040 REV A; 041 REV A; 050 REV B; 051 REV B; 052 REV B; 053 REV B; 054 REV B; 055 REV B; 056 REV B; 057 REV A; 058 REV A and 059 REV A.

JBA 18/263-SK01 REV B

JBA 18/263-01 REV B; 02 REV B; 03 REV B; 04 REV B; 05 REV B; 06 REV B; 07 REV B; 08 REV B and 09 REV B.

HYBRID 1 – Plan illustrating circular walk

Documents:

Shadow Habitat Regulations Assessment 09/05/2019 ref 3022/HRA/vf

Amenity Space Breakdown dated 15<sup>th</sup> March 2019

Measured Works Schedule: Detailed Soft Landscape Proposals for Plots JBA 18/263-03-09

Aboricultural Implications Assessment: Addendum October 2018

Utilities Statement October 2018 Version 1.0

Reason: For the avoidance of doubt and in the interests of proper planning.

2. The internal roads and footways shall be delivered in line with the Phasing in Ph-144-050 Rev B. No individual dwelling shall be occupied until such time as the estate road(s) providing means of vehicular and pedestrian access to and from the roundabout in Thorpe Road to that dwelling has been provided in accordance with the approved plans.

Reason: To ensure that vehicles using the site access do so in a controlled manner, in the interests of highway safety.

3. Prior to the commencement of any above ground works, 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. Development shall be carried out in accordance with the approved details.

Reason: To ensure that roads and footways are constructed to an acceptable standard, in the interests of highway safety.

4. No dwelling shall be occupied until such time as its car parking and turning area to serve that dwelling and a means of access to Thorpe Road has been provided in accordance with the approved plans. The car parking and turning area shall be retained in this form at all times and shall not be used for any purpose other than the parking and turning of vehicles related to the use of the development thereafter.

Reason: To ensure that on-street parking of vehicles in the adjoining streets does not occur, in the interests of highway safety.

5. Prior to occupation details of covered and secure provision for the storage of bicycles for each dwelling without a garage shall have been submitted to and approved in writing by the Local Planning Authority. The approved facilities shall be provided before the dwelling to which they relate is occupied and shall thereafter be retained.

Reason: To ensure appropriate cycle parking is provided in the interest of highway safety and amenity.

6. Prior to commencement of any above ground works a scheme for the on-site mitigation of the recreational impact of the development on protected Essex Coast European sites shall have been submitted to and approved in writing by the Local Planning Authority. This mitigation scheme shall comprise;

- a) a circular walking route; dog off lead area; dog waste bins; and residents' information leaflets as indicated within the Shadow Habitat Regulations Assessment and plan titled Hybrid 1;
- b) full details of the long-term maintenance and management of the green space;
- c) a program for implementation

Development shall be undertaken in strict accordance with the approved mitigation scheme and program and thereafter managed and retained as approved. Any approved information leaflet shall be included within the new residents welcome pack to every dwelling.

Reason: To encourage the future residents to remain on-site for day to day recreation/dog walking, so as to minimise pressures upon Hamford Water SPA and Ramsar, Colne Estuary SPA and Ramsar, Blackwater Estuary SPA and Ramsar, Dengie SPA and Ramsar, and Essex Estuaries SAC, Hamford Water SPA and Ramsar site, pursuant to the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy.



### 8.3 Informatives

1. All housing developments in Essex which would result in the creation of a new street (more than five dwelling units communally served by a single all-purpose access) will be subject to the Advance Payments Code, Highways Act, 1980. The Developer will be served with an appropriate notice within 6 weeks of building regulations approval being granted and prior to the commencement of any development must provide guaranteed deposits which will ensure that the new street is constructed in accordance with acceptable specification sufficient to ensure future maintenance as a public highway by the ECC.
2. The temporary bus route shall conform to drawing no. Ph-144-059 Rev a (Temporary bus route) until such time as the eastern development joins up with Oakwood Park in accordance with the bus service obligation from the s106 Agreement.
3. Prior to occupation, the development shall be served by a system of operational street lighting of design approved from the Highway Authority along the Primary route, which shall thereafter be maintained in good repair.
4. The areas directly adjacent to the carriageway(s) in which the trees are to be planted should not be less than 3 metres wide, exclusive of the footway and the trunks of the trees should be no nearer than 2 metres to the channel line of the road. The same dimensions should be used in situations where the footway is located adjacent to the carriageway.
5. In paved areas, whether or not the planted areas are to be adopted highway, trees should be sited no closer than 2 metres to the defined (or undefined) edge of the carriageway. Where the adopted highway is to be an independent path, trees should be planted no closer than 1 metre from the edge of the highway. In all cases, trees should be provided with root barriers to prevent damage to underground services.
6. All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.

The applicants should be advised to contact the Development Management Team by email at [development.management@essexhighways.org](mailto:development.management@essexhighways.org) or by post to:

SMO1 - Essex Highways  
Colchester Highways Depot,  
653 The Crescent,  
Colchester  
CO4 9YQ

The Highway Authority cannot accept any liability for costs associated with a developer's improvement. This includes design check safety audits, site supervision, commuted sums for maintenance and any potential claims under Part 1 and Part 2 of the Land Compensation Act 1973. To protect the Highway Authority against such compensation claims a cash deposit or bond may be required.

7. This application is the subject of a legal agreement and this decision should only be read in conjunction with this agreement. The agreement addresses the following issues: mitigation against any recreational impact from residential developments in accordance with Regulation 63 of the Conservation of Habitat and Species Regulations 2017.

## **9. Additional Considerations**

### Public Sector Equality Duty (PSED)

- 9.1 In making your decision you must have regard to the PSED under section 149 of the Equality Act 2010 (as amended). This means that the Council must have due regard to the need in discharging its functions to:
- 9.2 A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
- 9.3 B. Advance equality of opportunity between people who share a protected characteristic and those who do not. This may include removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; taking steps to meet the special needs of those with a protected characteristic; encouraging participation in public life (or other areas where they are underrepresented) of people with a protected characteristic(s); and
- 9.4 C. Foster good relations between people who share a protected characteristic and those who do not, including tackling prejudice and promoting understanding.
- 9.5 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, being married or in a civil partnership, race including colour, nationality and ethnic or national origin, religion or belief, sex and sexual orientation.
- 9.6 The PSED must be considered as a relevant factor in making this decision but does not impose a duty to achieve the outcomes in section 149 and section 149 is only one factor that needs to be considered, and may be balanced against other relevant factors.
- 9.7 It is considered that the recommendation to grant permission in this case would not have a disproportionately adverse impact on a protected characteristic.

### Human Rights

- 9.8 In making your decision, you should be aware of and take into account any implications that may arise from the Human Rights Act 1998 (as amended). Under the Act, it is unlawful for a public authority such as the Tendring District Council to act in a manner that is incompatible with the European Convention on Human Rights.
- 9.9 You are referred specifically to Article 8 (right to respect for private and family life), Article 1 of the First Protocol (protection of property) and Article 14 (right to freedom from discrimination).
- 9.10 It is not considered that the recommendation to grant permission in this case interferes with local residents' right to respect for their private and family life, home and correspondence or freedom from discrimination except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation to grant permission is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

### Finance Implications

- 9.11 Local finance considerations are a matter to which local planning authorities are to have regard in determining planning applications, as far as they are material to the application.

9.12 The New Homes Bonus (NHB) is one local finance consideration capable of being a material consideration to which the weight given shall be determined by the decision maker. The NHB is a payment to local authorities to match the Council Tax of net new dwellings built, paid by Central Government over six consecutive years. In this instance, it is not considered to have any significant weight attached to it that would outweigh the other considerations.

**10. Background Papers**

None applicable