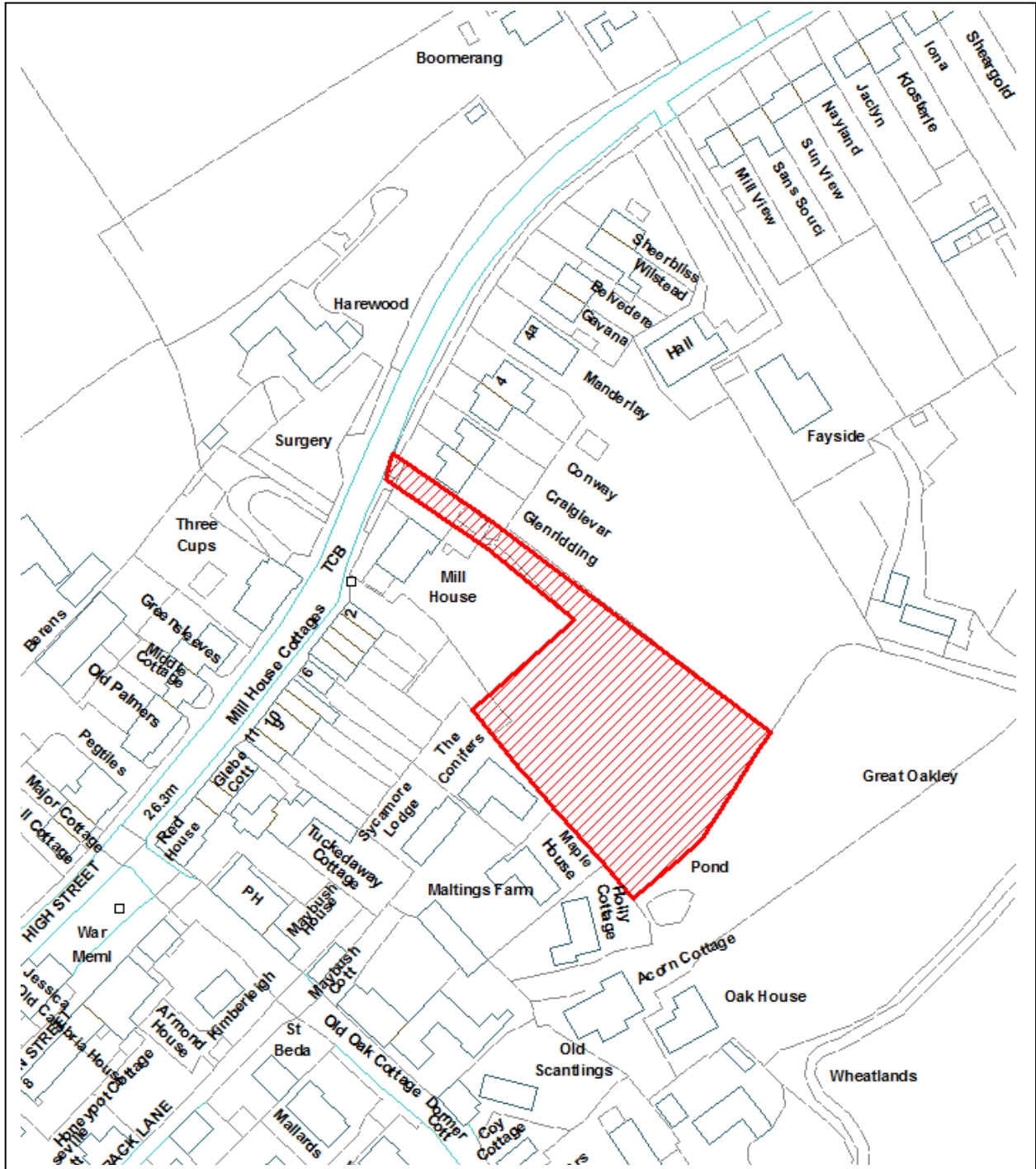


PLANNING COMMITTEE

30 July 2019

REPORT OF THE HEAD OF PLANNING

**A.4 PLANNING APPLICATION – 19/00004/OUT – LAND TO THE REAR OF MILL HOUSE
HIGH STREET GREAT OAKLEY HARWICH CO12 5AQ**



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Application: 19/00004/OUT

Town / Parish: Great Oakley Parish Council

Applicant: Burfoot Construction Ltd

Address: Land to The rear of Mill House High Street Great Oakley Harwich CO12 5AQ

Development: Erection of 5 no. four bedroom dwellings.

1. **Executive Summary**

- 1.1 This application has been referred to Planning Committee at the request of Councillor Bush due to concerns relating to; the previous application 17/01109/OUT refused on appeal ref: APP/P1560/W/3196781, the site is located outside the development boundary of the existing and emerging local plan, the site is located within the coastal protection belt of the existing and emerging local plan, TDC have identified and can demonstrate a five year housing supply and overdevelopment of the village deemed smaller rural settlement of emerging local plan 2017.
- 1.2 The application site is located outside of the Settlement Development Boundary of Great Oakley as defined within both the adopted Tendring District Local Plan 2007 and Emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017.
- 1.3 Planning Permission was refused by officers under planning reference 17/01109/OUT in June 2017, due to the application site being located outside of the settlement development boundary, the impact of the proposal on the open countryside and the Coastal Protection Belt, and the lack of an ecology survey. The application was taken to planning appeal and it was dismissed by the Planning Inspectorate in October 2018 under appeal reference APP/P1560/W/18/3196781. The principle of development has been established within the appeal decision. The Planning Inspectorate stated that 'there would be conflict with TLP Policy QL1 in terms of the sites location beyond the settlement development boundary. However, while the NPPF advocates a plan led approach, it is important to consider whether any circumstances outweigh the conflicts. In this instance the accessibility of services and facilities and the effect of development on the character of the countryside indicate that the site would provide an appropriate location for housing'. The appeal decision was dismissed on ecological grounds only due to the absence of an ecological assessment and the appeal decision states that 'the proposed development would have uncertain effects on protected species and would conflict with TLP Policies EN6 and EN6a'.
- 1.4 Since the appeal decision, the land has been cleared of all vegetation.
- 1.5 An Ecological Impact Assessment Report has been submitted as part of this application following the clearance of all vegetation since the appeal decision. ECC Ecology now have no objections to the proposal and have stated that there is sufficient ecological information available for the application to be determined. Two conditions will be imposed relating to the mitigation and enhancements to be carried out in line with the Ecological Impact Assessment Report and a biodiversity enhancement layout which will provide the finalised details and locations of the enhancement measures to secure the recommendations.

Recommendation:

That the Head of Planning be authorised to grant outline 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:**
- **Financial Contribution of £122.30 per new dwelling towards RAMS**
 - **Financial Contribution for Open Space towards improving and upgrading the current planning equipment at Orchard Close, Great Oakley.**
- b) Subject to the conditions stated in section 8.2.
- c) That the Head of Planning be authorised to refuse planning permission in the event that such legal agreement has not been completed within the period of 6 (six) months, as the requirements necessary to make the development acceptable in planning terms had not been secured through a s106 planning obligation.

2. Planning Policy

2.1 The following Local and National Planning Policies are relevant to this planning application.

NPPF National Planning Policy Framework February 2019

National Planning Practice Guidance

Tendring District Local Plan 2007

QL1 Spatial Strategy

QL9 Design of New Development

QL10 Designing New Development to Meet Functional Needs

QL11 Environmental Impacts and Compatibility of Uses

HG1 Housing Provision

HG3 Residential Development Within Defined Settlements

HG6 Dwelling Size and Type

HG7 Residential Densities

HG9 Private Amenity Space

HG13 Backland Residential Development

HG14 Side Isolation

EN1 Landscape Character

EN3 Coastal Protection Belt

EN6 Biodiversity

EN6A Protected Species

EN11A Protection of International Sites European Sites and RAMSAR Sites

EN17 Conservation Areas

EN23 Development Within the Proximity of a Listed Building

COM6 Provision of Recreational Open Space for New Residential Development

TR1A Development Affecting Highways

TR7 Vehicle Parking at New Development

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

SP1 Presumption in Favour of Sustainable Development

SPL1 Managing Growth

SPL2 Settlement Development Boundaries

SPL3 Sustainable Design

HP5 Open Space, Sports & Recreation Facilities

LP1 Housing Supply

LP2 Housing Choice

LP3 Housing Density and Standards

LP4 Housing Layout

LP8 Backland Residential Development

PPL2 Coastal Protection Belt

PPL3 The Rural Landscape

PPL4 Biodiversity and Geodiversity

PPL8 Conservation Areas

PPL9 Listed Buildings

CP1 Sustainable Transport and Accessibility

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

Status of the Local Plan

- 2.2 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.
- 2.3 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.
- 2.4 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.
- 2.5 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

17/01109/OUT	Erection of 5 no. four bedroom dwellings.	Refused	31.08.2017
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4. Consultations

ECC Highways Dept

A site visit has been undertaken and the information that was submitted in association with the application has been fully considered by the Highway Authority.

The proposal is within an existing 30-mph speed limit with a generous footway on Harwich Road and retains adequate room and provision for off street parking and turning, for the existing and proposed dwellings therefore:

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

1. Prior to the first occupation of the development, the proposed road junction at its bell mouth with Harwich Road shall be constructed at right angles to the highway boundary and to the existing carriageway as shown in principle in the Indicative Site layout, plan Ref: 001 to a carriageway width of 5.5 metres.

2. Prior to first 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 retained free of any obstruction at all times.

3. No unbound materials shall be used in the surface treatment of any proposed vehicular access within 6 metres of the highway boundary.

4. There shall be no discharge of surface water onto the Highway.

5. Any part of the existing access at Mill House shown on the Indicative site layout plan (REF:001) that becomes redundant shall be suitably and permanently closed incorporating the reinstatement to full height of the highway footway / kerbing immediately the proposed new access is brought into first beneficial use.

6. Prior to first occupation of the development vehicle parking shall be provided in accordance with the EPOA Parking Standards as shown in principle in the Indicative Site Layout Plan REF: 001 constructed ready for use. The vehicle parking area and associated turning area shall be retained in the agreed form at all times.

7. All single garages should have a minimum internal measurement of length 7 metre x 3 metres and all double garages should have a minimum internal measurement of 7m x 5.5m.

8. Cycle parking shall be provided in accordance with the EPOA Parking Standards. The approved facility shall be secure, convenient, covered and provided prior to first occupation and retained at all times.

9. Prior to first 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.

10. 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. 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 underbody washing facilities

**Essex County Council Ecology
Amended Comments**

No objection subject to securing:

- a) a financial contribution towards visitor management measures at Hamford Water SPA, SAC and Ramsar site and
- b) ecological mitigation and enhancement measures

We have reviewed the recently submitted Ecological Impact Assessment (EclA) report (Liz Lord Ecology, July 2019) for the above application relating to likely impacts on designated sites, Protected and Priority species and habitats.

We note that the EclA also refers to a number of recent Great crested newt records approximately 5km west of the site, and a single record of this European Protected Species approximately 1km to the south west of the site, on the western side of Gt Oakley village. The report considers that there is therefore a risk of a remnant population of Great crested newts remaining in the immediate vicinity of an infilled pond on adjacent land. It recommends that site clearance should follow the Non-licensed Method Statement (Appendix 3 of the EclA) and if any Great crested newts are discovered, work should

stop immediately. The EcIA also states that the site has the potential to support reptiles if vegetation is left to grow unchecked and therefore recommends that the vegetation on site is regularly strimmed to ground level to prevent it becoming suitable for reptiles.

As the site was cleared (with a small number of trees remaining) in October 2018, there is a limited impact of development though we welcome consideration of likely impacts on Protected and Priority species on site. As the site provides potential foraging habitat for Priority Species such as Dunnock, House Sparrow, Song Thrush, Common Toad and Hedgehog, biodiversity enhancements should be provided for these species.

We are now satisfied that there is sufficient ecological information available for determination of this application. We recommend that the suggested mitigation measures are secured to avoid any offence, any further surveys considered necessary and enhancements to deliver measurable net gain for biodiversity. In addition, it should include reasonable biodiversity enhancements, as paragraph 175 of the NPPF 2019 which highlights that development should identify and pursue opportunities for securing measurable net gains for biodiversity.

The above additional information is required for the LPA to have certainty of impacts for Protected and Priority species and habitats for this application and to demonstrate its compliance with its statutory duties including its biodiversity duty under s40 NERC Act 2006 and s17 Crime & Disorder Act 1998.

Recommendation:

Two conditions relating to mitigation and enhancements to be carried out in line with the Ecological Impact Assessment Report and a biodiversity enhancement layout which will provide the finalised details and locations of the enhancement measures to secure recommendation.

5. Representations

5.1 Great Oakley Parish Council have raised the following comments:

- The proposed development site is outside of any past, current or proposed housing development boundary for the village.
- At no time during the extensive consultation on the Emerging Local Plan has this site been put forward.
- The site sits within the Coastal Protection Belt.
- The development would require the demolition of at least one existing building within the curtilage of a Grade 2 Listed Building which would have a significant impact on the listed building's setting and the wider street scene. The proposed access is narrow and would have a detrimental impact on vehicle movements in the already busy centre of the village.

5.2 29 letters of objection have been received (including objection from The Harwich Society and RSPCA). The concerns raised can be summarised as follows;

- The piece of land is land locked
- Views and quietness of the Maltings Grange will be severely compromised
- Access too narrow for existing and additional traffic.
- Site clearance after Appeal decision
- Alter the street scene within the Conservation Area
- Highway Safety and potential collisions
- Site is located outside the Settlement Development Boundary of the Draft and Emerging Local Plan.
- Site is located outside the Coastal Protection Belt.
- TDC can demonstrate a 5/6 year housing supply.
- Overdevelopment of smaller rural settlement
- Lack of ecology survey
- Demolition of garage linked to Grade II Listed Building – negative impact
- Detrimental impact on the appearance of the local area
- Narrow vehicular entrance/exist is opposite the doctors surgery and will have restricted views due to the road layout and parking.
- Lack of local amenities
- Owner acted in an unethical manner by destroying the local ecological environment including filling in the adjacent pond.
- Unnecessary development with no public benefits
- Inspector's comments have been disregarded regarding the high possibility of serious ecological damage.
- Alter the setting of the Grade II Listed Building
- The statement made by the landowner is factually incorrect. No RSPCA inspector gained access to the land or completed an inspection and therefore were unable to confirm whether there were any protected species on the land.
- Full application is required to assess design, scale and materials

6. **Assessment**

The main considerations for this application are;

- Site Context;
- Proposal;
- Planning History;
- Principle of Residential Development;
- Layout, Scale, Character and Impact;
- Residential Amenities;
- Highway Safety and Parking;
- Trees and Landscaping;
- Heritage Impact;
- Coastal Protection Belt;
- Financial Contributions;
- Habitat Regulations Assessment; and,
- Ecology and Biodiversity.

Site Context

6.1 The application site measures approximately 0.25 hectares in size and is roughly square shaped. The application site is located immediately to the rear of Mill House, a Grade II Listed Building and is currently used as grassland. Access to the site is alongside the

curtilage of Mill House and would involve the demolition of a single storey outbuilding/garage which is adjacent to the neighbouring dwelling Glenridding.

- 6.2 To the north and west of the application site are the rear gardens of dwellings along Harwich Road. To the east of the application site are paddocks and to the south west of the application site is a modern residential development of Maltings Farm.
- 6.3 The area surrounding the site is primarily residential, with a variety of properties in scale, age and design.
- 6.4 The majority of the application site (apart from the access from Harwich Road) falls within the Coastal Protection Belt of both the Adopted and Emerging Local Plan. The south west of the application site lies adjacent to the Great Oakley Conservation Area.

Planning History

- 6.5 Planning Permission was refused by officers under planning reference 17/01109/OUT in June 2017, due to the application site being located outside of the settlement development boundary, the impact of the proposal on the open countryside and the Coastal Protection Belt and the lack of an ecology survey. The application was taken to planning appeal and it was dismissed by the Planning Inspectorate in October 2018 under appeal reference APP/P1560/W/18/3196781. The appeal was dismissed on ecological reasons only in the absence of an ecological assessment and the appeal decision states that 'the proposed development would have uncertain effects on protected species and would conflict with TLP Policies EN6 and EN6a'.
- 6.6 Since the appeal decision, the land has been cleared of all vegetation.

Proposal

- 6.7 The application seeks outline planning permission for the construction of five dwellings off a private drive, with each property, indicated to have either a dedicated garage or off street parking.
- 6.8 All matters (access, appearance, landscaping, layout and scale) are reserved for consideration as part of a future detailed application. The proposal therefore seeks to establish the principle of five dwellings on this site.

Principle of Development

- 6.9 The site lies outside of the Settlement Development Boundary (SDB) of the Saved Local Plan (Tendring District Local Plan 2007) but within the SDB of the draft Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).
- 6.10 The principle of development has been established through the planning appeal decision reference APP/P1560/W/18/3196781 dated 3rd October 2018. The Planning Inspector stated 'the proposal would result in a backland and cul-de-sac form of layout but given the proximity of similar recent development such as Maltings Grange, this would not look particularly out of keeping or set a harmful precedent'.
- 6.11 The Inspector explained that 'Great Oakley contains a range of services and facilities for day to day needs including a primary school, shop, public house, doctor's surgery and village hall. While the site is currently land locked, the indicative site layout shows the access onto High Street/Harwich Road. The above services and facilities are within a reasonable walking distance via pavements through the village. While there would be need to travel beyond Great Oakley for a greater range of services and facilities, there are regular

bus services through the week connecting the village to Harwich, Clacton and Colchester. Therefore, future occupants of the proposed development would not be greatly reliant on the private motor car. Thus the negative social effects in terms of the accessibility of services would be limited'. It is therefore considered that due to the sites close proximity to Great Oakley, the development would not represent new isolated homes in the countryside.

- 6.12 The Inspector concluded that 'there would be conflict with TLP Policy QL1 in terms of the sites location beyond the settlement development boundary. However, while the NPPF advocates a plan led approach, it is important to consider whether any circumstances outweigh the conflicts. In this instance the accessibility of services and facilities and the effect of development on the character of the countryside indicate that the site would provide an appropriate location for housing'. Therefore, limited weight is given to the policy conflict. The Planning Inspector at appeal therefore accepted the principle of development and that decision is a strong material planning consideration.
- 6.13 At the time of the appeal decision the Council was able to demonstrate a robust five year supply of deliverable housing sites and this was confirmed in a number of appeal decisions. However the Councils stance has changed since the decision was issued and the Council is currently unable to demonstrate a five year housing supply. The tilted balance under the NPPF therefore applies.
- 6.14 Therefore, given the above, the accessibility of services and facilities and the effect of development on the character of the countryside indicate that the site would provide an appropriate location for housing. There would be some intrinsic conflict with Saved Policy QL1 but this would not manifest itself into any harm in terms of its overall objectives or result in social, economic or environmental harm. The principle of residential development is therefore considered to be acceptable as established by the recent appeal decision.

Layout, Scale, Character and Impact

- 6.15 Paragraphs 127 and 170 of the NPPF state that developments should add to the overall quality of the area, be visually attractive as a result of good architecture and be sympathetic to local character, including the surrounding built environment.
- 6.16 Saved Policies QL9, QL10 and QL11 of the adopted Tendring District Local Plan (2007) seek to ensure that all new development makes a positive contribution to the quality of the local environment and character, by ensuring that proposals are well designed, relate satisfactorily to their setting and are of a suitable scale, mass and form. These sentiments are carried forward within Policy SPL3 of the emerging Local Plan.
- 6.17 Whilst all matters are reserved for later consideration, an Indicative Block Plan has been provided to indicate how development could be achieved within the application site. The indicative plan shows that 5 x 4 bedroom dwellings with garages and parking spaces will be located, accessed off of High Street/Harwich Road.
- 6.18 The dwellings indicate that they can all accommodate in excess of 100 square metres of private amenity space in line with Policy HG9 of the Tendring District Local Plan 2007 and that sufficient private amenity space is retained for the host dwelling Mill House.
- 6.19 The site adjoins existing residential development to the south west, Maltings Farm with the rear of dwellings located to the north and west of Harwich Road. The proposed development will therefore appear as part of the existing built up area.
- 6.20 It is therefore considered that a detailed design, layout and landscaping scheme could be provided at reserved matters stage which would preserve the character of the surrounding area and be acceptable in terms of visual impact.

Residential Amenities

- 6.21 The NPPF, in paragraph 127 states that planning should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings. In addition, Policy QL11 of the 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'. These sentiments are carried forward in Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (2017).
- 6.22 Paragraph 108 of the NPPF seeks to ensure that safe and suitable access to a development site can be achieved for all users. Saved Policy QL10 of the adopted Tendring District Local Plan 2007 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. These objectives are supported by emerging Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017.
- 6.23 Appearance and layout are reserved for later consideration. It is considered that five dwellings could be accommodated on the site with no material loss of amenity in terms of loss of light, outlook or privacy. It is therefore considered that sufficient spacing between properties could be achieved to result in a development that would not harm the amenities of neighbours.

Highway Safety/Parking

- 6.24 Paragraph 108 of the NPPF seeks to ensure that safe and suitable access to a development site can be achieved for all users. Saved Policy QL10 of the adopted Tendring District Local Plan 2007 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. These objectives are supported by emerging Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017.
- 6.25 Essex Highway Authority raise no objections subject to conditions relating to the construction of the road junction, visibility splays, no unbound materials, no discharge of surface water onto the highway, any part of access to Mill Lane becomes redundant shall be suitably or permanently closed, parking in line with Parking Standards, garage measurements, cycle parking, Residential Travel Information Pack and construction method statement.
- 6.26 Access is a reserved matter so the detail will be considered in a future reserved matters application and it is not necessary to impose conditions at this stage. This is not a 'major' application and it is not therefore considered reasonable to request provision of residential travel packs. It would however be reasonable to impose a construction method statement at this time as this relates to the principle of development.
- 6.27 The Council's current Adopted Parking Standards require that dwellings with 4 bedroom that a minimum of 2 parking space is provided per unit. The preferred bay size for cars is 5.5 metres by 2.9 metres. The minimum bay size is 5 metres by 2.5 metres and should only be used in exceptional circumstances. Garages should measure 7 metres by 3 metres in line with Essex Parking Standards. There is ample space within the site to provide sufficient parking to each dwelling.

- 6.28 The application is accompanied by an indicative site layout. This demonstrates that three of the five dwellings will be served by garages. The garages measure 6 metres x 6 metres which falls short of the Essex Parking Standards requirements of 7 metres by 3 metres. However, there is sufficient parking to be able to accommodate parking spaces to the front of the garages which will accommodate parking spaces measuring 5.5 metres by 2.9 metres. The remaining two dwellings demonstrate that two parking spaces can be achieved in line with Essex Parking Standards to the frontage. There is therefore no objection on highway safety grounds.

Trees and Landscaping

- 6.29 Landscaping will be secured at the reserved matters stage. There is scope for planting to the front of each dwelling and for planting around the perimeter of the application site. There is also some vegetation along the existing boundary which will be retained and secured by condition when a detailed application is submitted.

Heritage Impact

- 6.30 Paragraph 189 of the National Planning Policy Framework ("the Framework") requires applicants to describe the significance of any heritage assets affected. This requirement is retained by draft Policy PPL9 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft. Paragraph 196 of the Framework adds that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.
- 6.31 Policy EN17 of the Tendring District Local Plan 2007 and Policy PPL8 of the Tendring District Local Plan 2013-2033 and Tendring District Local Plan 2013-2033 and Beyond Publication Draft states that development within a Conservation Area must preserve or enhance the special character or appearance of the Conservation Area.
- 6.32 Policy EN22 of the Saved Plan states that development involving proposals to extend or alter a Listed Building will only be permitted where; it would not result in the damage or loss of features of special architectural or historic interest; and the special character and appearance or setting of the building would be preserved or enhanced. These requirements are carried forward to Policy PPL9 of the Emerging Publication Draft (June 2017) which also requires the use of building materials, finishes and building techniques that respect the listed building and its setting.
- 6.33 A Planning Statement and Heritage Statement was submitted as part of this planning application. The statement explains that the entrance to the site is located within the Great Oakley Conservation Area however the rest of the site lies adjacent.
- 6.34 As stated within the Appeal decision reference APP/P1560/W/18/3196781, 'the access from the High Street and Harwich Road would necessitate the removal of one of the garages to the side of Mill House'. The Inspector considered that the garage 'is a modest structure in terms of size, age and materials and its removal would have little negative effect on the special interest of the listed building or the character and appearance of the adjoining Conservation Area'.
- 6.35 The Planning Inspector in paragraph 19 of the appeal decision states that 'residential development in this location would avoid a negative effect on the character and appearance of the adjoining Conservation Area. There would be sufficient distance between new buildings and Mill House to avoid adverse effects on the special interest and setting of the Listed Building'. These points remain unchanged from the appeal proposal and are therefore acceptable.

Coastal Protection Belt

- 6.36 Saved Policy EN3 of the Tendring District Local Plan 2007 and Draft Policy PPL2 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) seeks to protect the unique and irreplaceable character of the Essex coastline from inappropriate forms of development as well as seeking to improve public access to and enjoyment of the coast in accordance with the National Planning Policy Framework.
- 6.37 As stated within the appeal decision, APP/P1560/W/18/3196781, 'the sites contribution to the countryside and rural character of the area surrounding Great Oakley, including the CPB, is very limited. It does not provide an important transition from village to countryside'. It is therefore considered that the proposal will not have a substantial impact on the Coastal Protection Belt.

Financial Contributions – Open Space

- 6.38 Policy COM6 of the adopted Tendring District Local Plan 2007 states "For residential development below 1.5 hectares in size, developers shall contribute financially to meet the open space requirements of the development in proportion to the number and size of dwellings built".
- 6.39 There is currently a deficit of -0.76 hectares of equipped play in Great Oakley. However, there is adequate provision in terms of formal open space.
- 6.40 There is one play area in Great Oakley, located off Orchard Close approx. 0.3 miles. This play area has recently been upgraded and is classified as a Local Equipped Area for Play. However, should further development take place in the village it would be necessary to increase the size of the current play provision to prevent the current deficit from increasing.
- 6.41 Due to the limited play provision in Great Oakley, a contribution towards play is justified and relevant to the planning application. The contribution would be used towards improving and up grading the current equipment at Orchard Close, Great Oakley. A Unilateral undertaking is currently being prepared to secure this legal obligation.

Habitat Regulations Assessment

- 6.42 Following Natural England's recent advice and the introduction of Zones of Influences around all European Designated Sites (i.e. Ramsar, Special Protection Areas and Special Areas of Conservation). Within Zones of Influences (which the site falls within) Natural England are requesting financial contributions to mitigate against the in-combination recreational impact from new dwellings.
- 6.43 Legal advice has been sought in relation to the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) which supports the view that Tendring District Council can seek financial contributions in accordance with the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). A Habitat Regulations Assessment has therefore been undertaken to confirm that the mitigation will be a proportionate financial contribution as recommended by Natural England. It is therefore considered that this contribution is sufficient to mitigate against any likely significant effect the proposal may have on European Designated Sites.
- 6.44 A unilateral undertaking is currently being prepared to secure this legal obligation and to ensure that the development would not adversely affect the integrity of European Designated Sites in accordance with policies EN6 and EN11a of the Saved Tendring District Local Plan 2007, Policy PPL4 of the emerging Tendring District Local Plan 2013-

2033 and Beyond Publication Draft and Regulation 63 of the Conservation of Habitat and Species Regulations 2017.

Ecology and Biodiversity

- 6.45 Paragraph 174 of the National Planning Policy Framework 2019 requires Local Planning Authorities to protect and enhance biodiversity and geodiversity.
- 6.46 Saved Policies EN6 'Biodiversity' and EN6a 'Protected Species' of the adopted Tendring District Local Plan 2007 state that development proposals will not be granted planning permission unless existing local biodiversity and protected species are protected. These sentiments are carried forward within draft Policy PLA4 'Nature Conservation and Geo-Diversity' of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017.
- 6.47 ECC Ecology were originally consulted on the application and had a holding objection due to insufficient information for impacts on designed sites, and Protected and Priority species/habitats.
- 6.48 An Ecological Impact Assessment Report was requested from the applicant and this was submitted in support of this application. ECC Ecology have removed their holding objection with no objection to the proposal subject to securing a financial contribution (RAMS) towards visitor management measures at Hamford Water SPA, SAC and Ramsar Site and ecological mitigation and enhancement measures.
- 6.49 ECC Ecology note that the Ecological Impact Assessment Report refers to a number of recent Great crested newt records approximately 5km west of the site, and a single record of this European Protected Species approximately 1km to the south west of the site, on the western side of Gt Oakley village. The report considers that there is therefore a risk of a remnant population of Great crested newts remaining in the immediate vicinity of an infilled pond on adjacent land. It recommends that site clearance should follow the Non-licensed Method Statement (Appendix 3 of the Ecological Impact Assessment Report) and if any Great crested newts are discovered, work should stop immediately. The Ecological Impact Assessment Report also states that the site has the potential to support reptiles if vegetation is left to grow unchecked and therefore recommends that the vegetation on site is regularly strimmed to ground level to prevent it becoming suitable for reptiles.
- 6.50 As the site was cleared (with a small number of trees remaining) in October 2018, there is a limited impact of development though we welcome consideration of likely impacts on Protected and Priority species on site. As the site provides potential foraging habitat for Priority Species such as Dunnock, House Sparrow, Song Thrush, Common Toad and Hedgehog, biodiversity enhancements should be provided for these species.
- 6.51 ECC Ecology are now satisfied that there is sufficient ecological information available for determination of this application subject to the suggested mitigation and enhancement measures to deliver measurable net gain for biodiversity.

7. Conclusion

- 7.1 Appeal reference APP/P1560/W/18/3196781 was dismissed only on ecological grounds. These concerns have now been addressed. The principle of residential development in this location is acceptable and subject to conditions there is not considered to be any material visual harm, harm to neighbouring amenities, harm to local landscape, ecology and biodiversity or highway safety. Therefore the application is recommended for approval.

8. Recommendation

- 8.1 The Planning Committee is recommended to grant planning permission subject to the following conditions and informatives and the prior completion of a section106 legal agreement with the agreed Heads of Terms, as set out in the table below:

CATEGORY	TERMS
Financial contribution towards RAMS.	£122.30 per dwelling
Open Space	Financial Contribution for Open Space towards improving and upgrading the current play equipment at Orchard Close, Great Oakley.

8.2 Conditions and Reasons

1. The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.

Reason - To comply with the requirements of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

2. Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

Reason - To comply with the requirements of Section 92 of the Town and Country Planning Act 1990.

3. No development shall be commenced until plans and particulars of "the reserved matters" referred to in the above conditions relating to the access, appearance, landscaping, layout and scale have been submitted to and approved, in writing, by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason - The application as submitted does not provide sufficient particulars for consideration of these details.

4. The development hereby permitted shall be carried out in accordance with the following approved plans and documents: Drawing Ref:001 and Ecological Impact Assessment Report – Ref 1512 - Dated 3rd July 2019.

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

5. 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. 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 underbody washing facilities

Reason - To ensure that on-street parking of these vehicles in the adjoining streets does not occur and to ensure that loose materials and spoil are not brought out onto the highway in the interests of highway safety

6. All vegetation clearance shall be undertaken outside of the bird nesting season (March to September inclusive). If this is not possible, immediately prior to commencement of works

a check for nesting birds should be undertaken by a suitably experienced ecologist. Any active nests will need to be left in situ until the young have left the nest.

Reason - To preserve and enhance the biodiversity of the site in accordance with the Ecological Impact Assessment Report dated 3rd July 2019 Ref: 1512

7. Development shall be carried out in full accordance with the mitigation and enhancement measures and/or works detailed in the Ecological Impact Assessment Report (Liz Lord Ecology, July 2019) including Appendix 3. This may include the appointment of an appropriately competent person e.g. an ecological clerk of works (ECoW,) to provide on-site ecological expertise during construction. The appointed person shall undertake all activities, and works shall be carried out, in accordance with the approved details.

Reason - To conserve and enhance Protected and Priority species and allow the LPA to discharge its duties under the UK Habitats Regulations, the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species).

8. Prior to commencement of any above ground works, A Biodiversity Enhancement Layout, providing the finalised details and locations of the enhancement measures contained within the Ecological Impact Assessment (EclA) report (Liz Lord Ecology, July 2019), shall be submitted to and approved in writing by the local planning authority. The enhancement measures shall be implemented in accordance with the approved details and all features shall be retained in that manner thereafter.

Reason - To enhance Protected and Priority Species and allow the LPA to discharge its duties under the s40 of the NERC Act 2006 (Priority habitats & species)

8.3 Informatives

Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

Legal Agreement Informative - Open Space/Play Space Contribution

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: Public Open Space financial contribution in accordance with Policy COM6 of the adopted Tendring District Local Plan (2007) and Policy HP5 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft.

Legal Agreement Informative - Recreational Impact Mitigation

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.

Highways

Under Building Regulations B5, access for fire tenders is required to a point not further than 45 metres from the entrance to the dwelling. Any road or private drive forming part of such a fire access must be no less than 3.7 metres wide between kerbs (this may be reduced to 3.1 metres for a gateway or similar short narrowing) and should have a minimum centre line bend radius of 6.55 metres. The access way should be capable of carrying a 12.5 tonne vehicle. A cul-de-sac which is more than 20 metres long must have a turning head of a least Size 3.

Informative 2: 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 or by post to:

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

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.