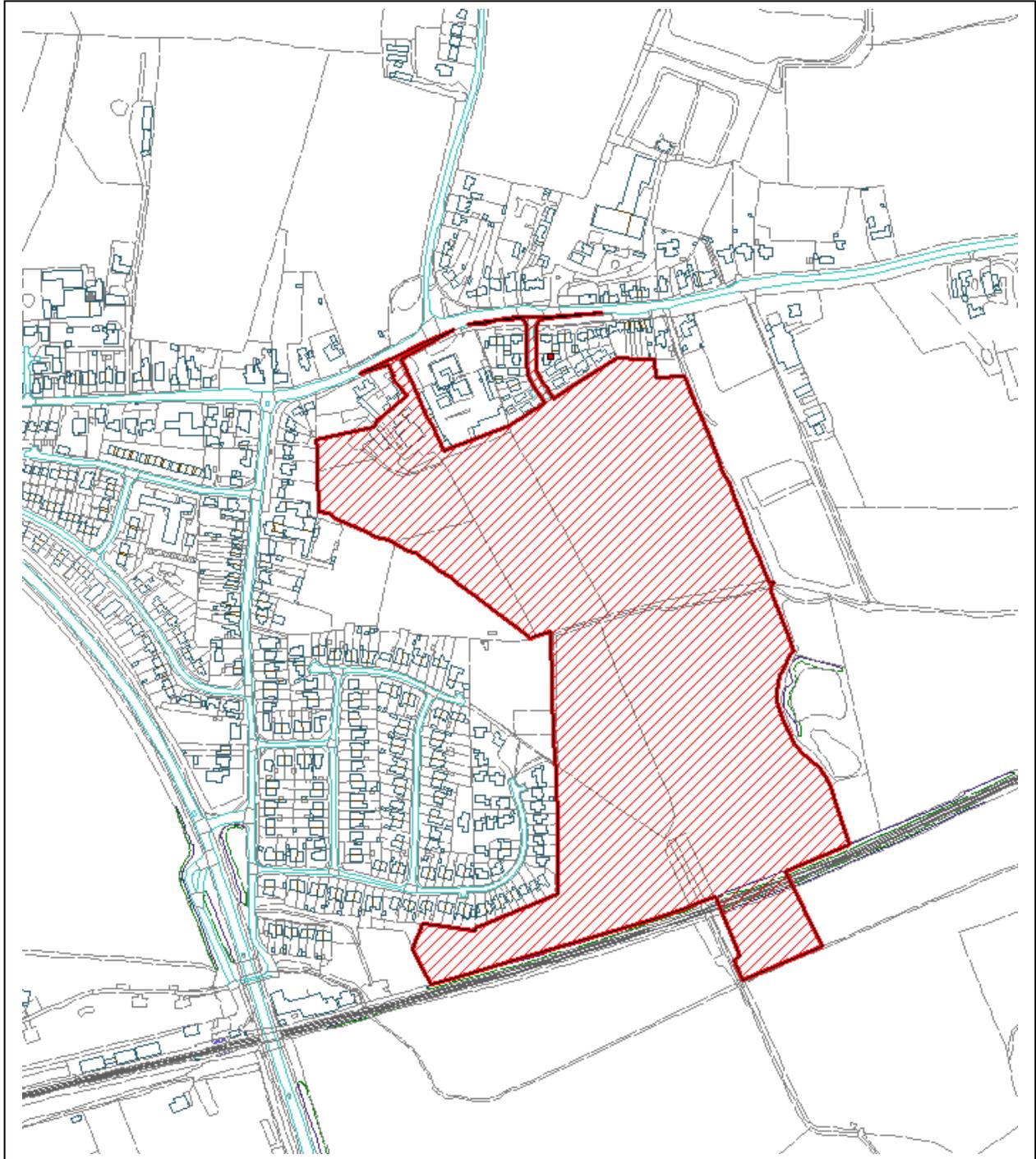


PLANNING COMMITTEE

12 August 2019

REPORT OF THE HEAD OF PLANNING

A.1 PLANNING APPLICATION – 19/00524/OUT – LAND TO THE SOUTH OF THORPE ROAD WEELEY CO16 9AJ



DO NOT SCALE

Reproduced from the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationery Office © Crown Copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings.

Application: 19/00524/OUT

Town / Parish: Weeley Parish Council

Applicant: Mr & Mrs Lumber and Weeley

Address: Land to The South of Thorpe Road Weeley CO16 9AJ

Development: Outline planning application with all matters reserved, except for access, for 280 dwellings, a 2 Form of Entry primary school, 56 place early years nursery, up to 3000 sqm of office (B1) buildings on 1 hectare and associated ancillary buildings, drainage systems, boundary treatments and hard surfacing as well as public open space, vehicular access from Thorpe Road a pedestrian footbridge and the closure of existing level crossing and formal diversion of public footpath No 5 - Weeley, over the new railway bridge.

1. Executive Summary

- 1.1. This application is essentially a resubmission of planning application ref. 17/02162/OUT which was refused by this Council on 19 November 2018.
- 1.2. That decision is currently subject of a planning appeal which is to be heard by way of a Public Inquiry to be held in October 2019. As Members are aware, this Council sought professional legal and planning advice in preparation for the appeal and on receipt of this legal opinion it was resolved to advise the Planning Inspectorate (by way of the Council's 'Statement of Case' March 2019) that the Council '*...wishes to withdraw its opposition to the Appeal and therefore do not wish to further defend the Appeal at the Public Inquiry.*'
- 1.3. Furthermore, the Council advised that '*This position has been relayed to the Appellant. Following useful discussion with the Appellant the Council have sought to agree a suitable course of action. It has been agreed with the Appellant that a duplicate planning application will be submitted imminently to the Council for consideration and determination. If the application is subsequently approved by the Council the Appellant has then agreed to withdraw the current Appeal.*'
- 1.4. Accordingly, this application concurs with the above agreement with the applicant, and any subsequent approved will trigger the withdrawal of the appeal. However, in the scenario of a further refusal, then the Public Inquiry will proceed and it will then be for the Government appointed Inspector to reach a decision on the planning merits of the case.
- 1.5. The application site comprises 17.71hectares of agricultural land that is situated to the south of the B1033 Thorpe Road, Weeley. This land is allocated for a major residential and mixed-use development in the Council's emerging Local Plan. Outline planning permission is being sought for 280 dwellings, a 2 Form of Entry primary school, 56 place early years nursery, up to 3000 sqm of office (B1) buildings on 1 hectare and associated ancillary buildings, drainage systems, boundary treatments and hard surfacing as well as public open space, vehicular access from Thorpe Road, a pedestrian footbridge and the closure of existing level crossing and formal diversion of public footpath No 5 – Weeley, over the new railway bridge.
- 1.6. The site lies outside of the settlement development boundary for Weeley within the adopted Local Plan, but in the emerging Local Plan it is specifically allocated through Policy SAMU5 for a mixed of residential development, employment land, primary school and public open space. Whilst it is acknowledged that the proposal is for a major form of development which would impact upon the character of Weeley, nonetheless it would constitute part of the settlement's evolution, as is the case with the majority of the larger settlements within the

district where new development is planned. Consequently, Officers consider that by permitting the construction of 280 dwellings (where approximately 11,000 dwellings are required to be built between 2013 and 2033 at 550 dwellings per annum), the proposal would not be so substantial that to grant permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development that are central to the emerging plan. This is particularly due to the fact that the site is allocated within the emerging Local Plan, which is a material consideration that should carry some weight in the decision-making process.

- 1.7 This is an application for outline planning permission with all matters reserved with the exception of access. Other matters including appearance, landscaping, layout and scale are reserved for approval at a later date and therefore this application seeks only to establish the principle of residential and mixed-use development of the site and the arrangements for access. The applicant has provided details of how they propose to access the site off Thorpe Road and the Highways Authority, having modelled the impacts of this development on the highway network as part of the Local Plan process, has accordingly raised no objections in principle to the proposed arrangements, subject to conditions requiring the approval of further details and certain off-site highway improvements.
- 1.8 Officers are content that subject to the imposition of reasonable planning conditions and S106 planning obligations that the general principle of this level of development on the site is acceptable. It is in keeping with both the site's location on the edge of the village and along with the need to facilitate on-site strategic landscaping, open space and the retention of existing landscape features. Furthermore, the proposal would ensure that the living conditions of existing and future residents would be protected from any materially detrimental impacts whilst significantly boosting housing supply within the District in-line with the Council's own emerging Local Plan.
- 1.9 The recommendation is, therefore, to approve outline planning permission subject to the completion of a legal obligation under Section 106 of the Town and Country Planning Act 1990 and a suite of planning conditions.

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 (as amended) dealing with the following matters:

- **Affordable Housing – specific tenure and mix to be agreed at the reserved matter/s stage/s;**
- **Education – 2.1ha of land to accommodate a 2 form entry primary school and commensurate nursery; along with financial contributions towards: Primary Education for 84 places; Secondary Education for 84 places and secondary school transport;**
- **Healthcare – Financial contribution towards relocation costs for Thorpe Surgery (including its branch surgery at Kirby Cross);**
- **Public Open Space, equipped play areas and Ecology Land (for Slow Worms) – to be transferred to management company and laid out before transfer;**
- **Ecology (off site) – Financial contribution towards off-site ecological mitigation – to improve access within Weeleyhall Wood SSSI;**
- **Financial Contribution towards RAMS;**
- **Highways and Transport – A financial contribution towards off-site highway**

improvements. These improvements relate to the A133/B1033/services and Frating roundabouts as identified in the Tendring Local Plan Highways and Transportation Modelling work;

- Public Rights of Way (PRoW) – Footbridge to be constructed over the railway line and transferred to Network Rail on completion with a commuted sum for future maintenance, PRoW5 to be diverted away from existing level crossing via footbridge on completion.

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 The NPPF, sets out the Government's planning policies and how these are expected to be applied at the local level.
- 2.4 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.
- 2.5 Section 5 of the NPPF relates to delivering a sufficient supply of homes. It requires Councils to boost significantly the supply of housing informed by a local housing need assessment. In any one year, Councils must be able to identify five years' worth of deliverable housing land against their projected housing requirements including a 5%, 10% or 20% buffer: to ensure choice and competition in the market for land; where the LPA wishes to demonstrate a five year supply of deliverable sites through an annual position statement to account for any fluctuations in the market during that year; or where there has been significant under delivery of housing over the previous three years, to improve the prospect of achieving the planned supply respectively. (NPPF para. 73). If this is not possible, housing policies are to be considered out of date and the presumption in favour of sustainable development is engaged with applications for housing development needing to be assessed on their merits, whether sites are allocated for development in the Local Plan or not.

- 2.6 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.”*
- 2.7 In paragraph 47, the NPPF also states that decisions on applications should be made as quickly as possible, within the statutory timescales unless a longer period has been agreed by the applicant in writing.

National Planning Practice Guidance (PPG)

- 2.8 The PPG provides additional planning guidance from Central Government on a range of issues, including, but not limited to: Air Quality; Appeals, Climate Change; Design, Flood risk and coastal change; Light Pollution; Natural Environment; Noise; and Travel Plans, Transport Assessments and Statements.
- 2.9 Paragraph 49 of the NPPF states that in the context of the Framework, and in particular the presumption in favour of sustainable development, arguments that an application is premature are unlikely to justify a refusal of planning permission other than in the limited circumstances where both:
- a) the development proposed is so substantial, or its cumulative effect would be so significant, that to grant permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development that are central to an emerging plan; and
 - b) the emerging plan is at an advanced stage, but is not yet formally part of the development plan for the area.
- 2.10 Furthermore, in paragraph 50, the NPPF states that refusal of planning permission on grounds of prematurity will seldom be justified even where a draft plan has yet to be submitted for examination. Where planning permission is refused on grounds of prematurity, the local planning authority will need to indicate clearly how granting permission for the development concerned would prejudice the outcome of the plan-making process.

Local Development Plan Policy

Adopted Tendring Local Plan 2007 and Tendring District Local Plan 2013-2033 & Beyond Publication Draft

- 2.11 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.
- 2.12 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.

2.13 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.

2.14 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 (EIP) 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.

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

Relevant policies include:

QL1	Spatial Strategy
QL2	Promoting Transport Choice
QL3	Minimising and Managing Flood Risk
QL9	Design of New Development
QL10	Designing New Development to Meet Functional Needs
QL11	Environmental Impacts and Compatibility of Uses
QL8	Mixed-Uses
ER3	Protection of Employment Land

ER7	Business, Industrial and Warehouse Proposals
ER10	Small Scale Employment Sites in Villages
ER11	Conversion and Reuse of Rural Buildings
HG1	Housing Provision
HG3	Residential Development within Defined Settlements
HG3A	Mixed Communities
HG4	Affordable Housing in New Developments
HG6	Dwelling Size and Type
HG7	Residential Densities
HG9	Private Amenity Space
COM1	Access for All
COM2	Community Safety
COM4	New Community Facilities (Including Built Sports and Recreation Facilities)
COM6	Provision of Recreational Open Space for New Residential Development
COM21	Light Pollution
COM22	Noise Pollution
COM23	General Pollution
COM24	Health Care Provision
COM26	Contributions to Education Provision
COM29	Utilities
COM31A	Sewerage and Sewage Disposal
EN1	Landscape Character
EN4	Protection of the Best and Most Versatile Agricultural Land
EN6	Biodiversity
EN6A	Protected Species
EN6B	Habitat Creation
EN12	Design and Access Statements
ER13	Employment Use in Residential Areas

EN23	Development within the Proximity of a Listed Building
EN29	Archaeology
TR1A	Development Affecting Highways
TR1	Transport Assessment
TR2	Travel Plans
TR3A	Provision for Walking
TR4	Safeguarding and Improving Public Rights of Way
TR5	Provision for Cycling
TR6	Provision for Public Transport Use
TR7	Vehicle Parking at New Development
TR8	Public Car Parking

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

Relevant policies include:

SP1	Presumption in Favour of Sustainable Development
SP2	Spatial Strategy for North Essex
SP3	Meeting Housing Needs
SP4	Providing for Employment & Retail
SP5	Infrastructure & Connectivity
SP6	Place Shaping Principles
SPL1	Managing Growth
SPL2	Settlement Development Boundaries
SPL3	Sustainable Design
HP1	Improving Health and Wellbeing
HP2	Community Facilities
HP3	Green Infrastructure
HP5	Open Space, Sports & Recreation Facilities
LP1	Housing Supply
LP2	Housing Choice

LP3	Housing Density and Standards
LP4	Housing Layout
LP5	Affordable and Council Housing
PP7	Employment Allocations
PP12	Improving Education and Skills
PPL1	Development and Flood Risk
PPL3	The Rural Landscape
PPL4	Biodiversity and Geodiversity
PPL5	Water Conservation, Drainage and Sewerage
PPL7	Archaeology
PPL9	Listed Buildings
CP1	Sustainable Transport and Accessibility
CP2	Improving the Transport Network
CP3	Improving the Telecommunications Network
SAMU5	Development South of Thorpe Road, Weeley

Supplementary Guidance

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

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

3. Relevant Planning History

14/00082/OUT	Erection of 20 dwellings with associated garages and single access point to Thorpe Road.	Approved	20.06.2014
14/01841/DETAIL	Erection of 20 dwellings with associated garages and single access point to Thorpe Road.	Approved	14.04.2015
15/01443/DISCON	Discharge of condition 8 (details of estate roads and footways), 12 (vehicular turning) and 13 (construction method statement) of planning permission 14/01841/DETAIL.	Approved	20.11.2015
16/00370/DETAIL	Variation of condition 10 of planning permission 14/01841/DETAIL to change wording, removing	Approved	01.06.2016

	requirement of construction of estate roads to base course level prior to commencement of dwellings, to allow construction of houses to commence sooner, reducing the period of disruption to neighbours.		
16/30341/PREAPP	EIA Screening Opinion request for proposed development of up to 280 dwellings including associated works.		23.03.2017
17/02162/OUT	Outline planning application with all matters reserved, except for access, for 280 dwellings, a 2 Form of Entry primary school, 56 place early years nursery, up to 3000 sqm of office (B1) buildings on 1 hectare and associated ancillary buildings, drainage systems, boundary treatments and hard surfacing as well as public open space, vehicular access from Thorpe Road a pedestrian footbridge and the closure of existing level crossing and formal diversion of public footpath No 5 - Weeley, over the new railway bridge.	Refused	19.11.2018
18/00133/REFUSE	Outline planning application with all matters reserved, except for access, for 280 dwellings, a 2 Form of Entry primary school, 56 place early years nursery, up to 3000 sqm of office (B1) buildings on 1 hectare and associated ancillary buildings, drainage systems, boundary treatments and hard surfacing as well as public open space, vehicular access from Thorpe Road a pedestrian footbridge and the closure of existing level crossing and formal diversion of public footpath No 5 - Weeley, over the new railway bridge.	Appeal in Progress (Public Inquiry to be held from 8 to 11 October 2019)	

4. Consultations

Natural England

No objection.

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

In the context of the Council's 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 recreation pressure, either when considered 'alone' or 'in combination' with other plans or projects.

Natural England understand that the Council has screened the proposed development and consider that it falls within the scope of the Essex Coast RAMS and has therefore carried out a Habitats Regulations Assessment (HRA) (Stage 2 – Appropriate Assessment) in order to secure any necessary recreational disturbance mitigation.

Natural England are satisfied that the mitigation described in the Appropriate Assessment is in-line with their strategic level advice and that it should rule out an 'adverse effect on the integrity' (AEOI) of the European designated sites that are included within the Essex Coast RAMS from increased recreational disturbance.

ECC Highways Dept

ECC Highways raise no objection to the application.

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

The Transport Assessment accompanying the planning application has been considered in detail and the Highway Authority is satisfied that, at peak times, the number of trips generated by the proposal would not have a severe impact and could be accommodated safely and efficiently on the local highway network, subject to a number of requirements which could be accommodated safely and efficiently on the local highway network, subject to a number of requirements which could be secured by way of planning conditions and obligations, namely:

- Provision of a Construction Traffic Management Plan;
- Securing of a diversion of the existing definitive right of way;
- Widening of the Barleyfields carriageway;
- Right-turn lane into Barleyfields to be provided;
- A pedestrian refuge island to be provided to the west of Barleyfields access road;
- The existing footpath along the site frontage to be widened;
- Adjustments to carriageway width to the east of

- Crow Lane and removal of the layby;
- Provision of a right-turn lane into Crow Lane approaching from the east;
- Homestead access to be constructed with appropriate kerb radii;
- Right-turn lane into Homestead on approach from the east;
- Provision of a financial contribution towards the proposed improvements at the A133/B1033/services and Frating roundabouts as identified in the Tendring Local Plan Highways and Transportation Modelling work;
- The provision of two new bus stops located to the east of Barleyfield's access on both sides of Thorpe Road;
- Provision of new gateway traffic calming features to be provided on the approaches to Weeley in both directions on the B1033 to enhance the existing 30mph speed limits; and
- Provision and implementation of a Residential Travel Information Pack per dwelling.

Essex Wildlife Trust

No objection, subject to a developer contribution of £55,000, to be secured by way of a S106 agreement, towards mitigation works within Weeleyhall Wood Nature Reserve.

The contribution is required to offset increased recreational impacts on Weeleyhall Wood Site of Special Scientific Interest (SSSI). Weeleyhall Wood is one of the largest ancient woods in the Tendring peninsula. It contains one of the best examples in Essex of base-poor springline alder woodland, a type of woodland which is rare in the county, as well as good examples of lowland hazel-pedunculate oak and some wet ash-maple woodland, and chestnut coppice-with-standards derived from these last two.

The proposed development will result in an additional 280 households within the village of Weeley. This will result in a significant increase in recreational impacts on Weeleyhall Wood, including:

- proliferation of tracks and resultant erosion;
- local trampling of woodland plants;
- ongoing chronic disturbance impacting negatively on species habitat use, foraging opportunities and breeding success;
- relocation or removal of timber, which is a valuable resource for ancient woodland deadwood organisms;
- removal of attractive, uncommon, or rare plant species such as bluebell *Hyacinthoides non-scripta*;
- wildlife casualties as a result of trapping by, or ingestion of, discarded rubbish;

- vandalism of trees

Ultimately, without appropriate mitigation, the combined effect of these disturbance factors will lead to reductions in species diversity and abundance, or even the elimination or absence of particular species from the wood.

ECC SuDS Consultee

No objection - Having reviewed the Flood Risk Assessment, site plans, illustrative masterplan, the desk study and risk assessment, and the associated documents which accompanied the planning application, they raise no objection to the granting of planning permission subject to the imposition of a number of planning conditions to cover such matters as: detailed surface water drainage scheme; scheme to minimise the risk of offsite flooding caused by surface water run-off and groundwater; and surface water drainage system maintenance plan.

Anglian Water Services Ltd

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 from the development site.

Development may lead to an unacceptable risk of flooding downstream. Anglian Water will need to plan effectively for the proposed development, if permission is granted. They will need to work with the applicant to ensure any infrastructure improvements are delivered in line with the development. The previous drainage strategy outlining the required underground storage was based on gravity flows from 280 dwellings only; the new proposal includes a school and the possibility of a pumped regime being required to drain portions of the site. Accordingly, they request that conditions be imposed that requires a phasing plan and/or on-site drainage strategy. They also request the inclusion of a number of informatives to cover such matters as connection to the public sewer and works close to existing assets.

ECC Schools Service

Based upon a development of 280 homes - all being 2 or more bedrooms - the proposal would produce the need for 84 additional primary school places and 84 secondary spaces (there are current places available in the area to meet the needs of Early Years and Childcare). In addition to the above, the proposal will generate a secondary school transport contribution as the closest school is in excess of 3 miles statutory walking distance of the site.

2.1ha of land is to be provided for a new primary school and nursery to be delivered and transferred to ECC at no cost.

The likely financial contributions are:

Primary Education: £1,283,604; Secondary Education £1,299,984; and Secondary School Transport Contribution £281,960.

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

5. Representations

- 5.1 Weeley Parish Council objects to the application. Whilst recognising a need in the county for additional homes, this development would totally overwhelm the village. The infrastructure simply could not cope with such a large development, following on from the number of new builds already completed or under way in the village.

A number of residents have submitted objections citing the additional risk of flooding to their properties and this is reinforced by comments made at the monthly parish council meetings.

In addition, the Parish are concerned that any increase in traffic volumes will cause significant inconvenience and delays for local residents and through traffic, not to mention an increased risk of accidents.

Reliance on public transport is simply not sustainable given the poor train service and limited bus services.

Finally, the Parish state that local residents '*are dismayed*' at the way that this application has been allowed to be re-submitted. Local opposition is vehement and unanimous.

- 5.2 Letters of objection have been received from Weeley Residents Association and 23 local households. The letters of objection raise the following concerns:

Principle of Development

- Weeley has already provided sufficient quota of new houses;
- No need for commercial properties in the area as there are plenty of existing commercial estates;
- Large estate development would alter the balance of the locality and not integrate with existing community;
- Size of development disproportionate with current size of village;
- Council has sufficient Housing Land Supply;

- Scheme 'premature' until such time as Part 2 of the emerging Local Plan is examined;
- Local Housing Needs cited by applicant incorrect and significantly lower;
- Nothing has changed from previous refusal;
- Application is seeking to circumvent and override due Planning process, outside of Examination of the Local Plan;
- Smaller sites are more appropriate;
- Weeley is a rural community and this development is far too excessive for a village of this size;
- There are other more appropriate locations for growth such as Horsley Cross;
- Backland form of development

Access (highway, public transport, cycling and walking)

- Chronic volume of traffic already passes through village on the B1033;
- Local transport is already a nightmare and holiday traffic is already finding it difficult to use these local roads;
- Further traffic will increase pollution levels to the detriment of public health/add to global warming;
- One entrance in and out of proposed estate is 'asking for a catastrophic disaster' if there is an emergency;
- Rail service is poor with no parking facilities or disabled access at the station;
- Current local bus service is very poor and limited;
- 'Nonsensical' bridge is not needed and will be an eyesore

Landscape and Ecology

- Development will irreparably damage local village landscape beyond recognition;
- Overriding harm to the character and appearance of Weeley Village and rural landscape;
- Site represents a very important area for a diverse collection of birds, mammals and insect species. Loss of farmland and hedgerows will result in a negative impact on already threatened species;
- Glade leading up to Barracks Field from the railway line is a wildlife haven;
- Rural nature and quiet enjoyment of existing public footpaths will be destroyed and cannot be replaced;
- Proposed railway footbridge and any associated floodlighting and ramped access will cause severe visual environmental harm and is not necessary;
- Loss of productive farmland and local farming employment;

Living Conditions/Residential Amenities

- Application will impact on air quality and have noise implications from additional road congestion impacting on public health and quality of life;
- Loss of outlook over open countryside enjoyed by existing community

Community Infrastructure

- Local facilities already over stretched especially schools, doctors, surgeries and pharmacies;
- Weeley has very limited local services meaning people have to travel by car to main shopping centres;
- Increased pressure on existing local healthcare providers and known shortage of GP's nationwide;

- Provision of new primary school is an *'empty gesture'* as it will impact on secondary education locally and there is no expansion plans;
- There is little or no real employment locally and no real demand for it;
- Local sewerage system is already a serious issue;
- Poor erratic electricity supply with frequent power failures

Heritage/Setting of Listed Buildings

- Views from footpaths towards historic Grade 2 Listed St Andrews Church would be lost;
- Site previously known as 'Barracks Field', as used for stationing of soldiers in Napoleonic times. Any development on this site would certainly be of a negative impact and destroy the historic and natural environment permanently;

Flooding

- Clay-based soil is not easily drainable and there are current issues with smaller nearby developments;
- Local flooding is already a problem and will be exacerbated by even more hard surfaces/built on ground;
- Land adjacent to railway line is frequently water-logged in the autumn/winter months

6. Assessment

Site Context

- 6.1 The application site comprises 17.71 hectares of agricultural land that is situated to the south of the B1033 Thorpe Road, Weeley. The northern boundary of the site is shared with a range of land uses, including Ash Farmhouse (a grade II listed building with its farm yard that is in commercial use forming part of the application site), the existing Tendring District Council Offices, the recently completed residential estate of 20 no. dwellings known as Barleyfield Drive and more established dwellings, including nos.1-6 Thorpe Road and a bungalow known as 'Emma-Dawn'.
- 6.2 To the east of the site is the Tendring Hundred Riding Club showground, a pair of ponds and open farmland beyond; to the south is the railway line, with houses fronting Second Avenue and The Street beyond the western boundary. Halfway along the western boundary is a new development under construction for 14 no. houses, garages, access, public open space and landscaping on land at the end of St Andrews Road, pursuant to 15/01750/FUL.
- 6.3 The site is relatively flat semi-improved grassland, but does slope gently towards the south. The site is surrounded by hedgerows with standard trees, some previously managed as coppice and pollards. To the south of the site is a small copse/woodland (through which a Public Right of Way passes down to the railway line) with evidence of previous coppicing, within the site are occasional aged trees, some with veteran associations.
- 6.4 Weeley benefits from a range of existing local services which include a primary school, a holiday park, the Black Boy pub, a bakery and a convenience shop (including post office). Furthermore, Weeley Heath is located nearby to the south with additional services and facilities. In recognition of these services and other factors, Weeley is designated as a 'Rural Service Centre' in the draft Local Plan.
- 6.5 The application site is served by several bus services that link to nearby settlements including service nos. 97 and 105/107 to Colchester, 2/76/X76/100 to Clacton, as well as schools services: 87C to Brightlingsea, 115 Thorpe-le-Soken, and 702 to Frinton, with the village also having a railway station that provides a service from Clacton/Walton to Colchester and beyond to London.

Proposal

- 6.6 As set out at the head of this report, this application is essentially a duplicate planning application to the one that was refused in December 2018 and subject to a pending planning appeal to be heard by way of a Public Inquiry this coming October. Outline planning permission is sought for 280 dwellings, a 2 Form of Entry primary school, 56 place early years nursery, up to 3000 sqm of office (B1) buildings on 1 hectare and associated ancillary buildings, drainage systems, boundary treatments and hard surfacing as well as public open space, vehicular access from Thorpe Road a pedestrian footbridge and the closure of existing level crossing and formal diversion of public footpath No 5 - Weeley, over the new railway bridge.
- 6.7 This is an application for Outline Planning permission, with all matters reserved with the exception of access. The applicant has provided details of how they propose to access the site off Thorpe Road, via Barley Field Drive with the creation of a footway/cycleway along the existing Ash Farm entrance which itself would be retained for the residential and agricultural use of Ash Farm. All other matters (Appearance; Landscaping; Layout; and Scale) are reserved and it can therefore be said that the application seeks to establish the principle of residential development of the site.
- 6.8 The application is supported by a wide suite of technical drawings and documents, these include:
- Site Location Plan;
 - Existing Site Plan;
 - Land Use Audit/Illustrative Master Plan;
 - Proposed Access Arrangement Plan;
 - Additional Pedestrian/Cycle Access Plan;
 - Footpath Diversion Plan;
 - Proposed Footbridge, General Arrangement Plan;
 - Topographical Survey Plans;
 - Acoustic Assessment;
 - Air Quality Assessment;
 - Barn Owl Mitigation report;
 - Bat Activity Survey;
 - Breeding Bird Survey;
 - Design and Access Statement;
 - Ecological Impact Assessment;
 - Flood Risk Assessment;
 - Heritage Assessment;
 - Junctions report for right turn lane;
 - Landscape and Visual Impact Assessment;
 - Phase 1 Desk Study and Risk Assessment
 - Planning Statement;
 - Preliminary Ecological Appraisal;
 - Reptile Survey and Outline Mitigation Strategy;
 - Road Safety Audit Stage 1;
 - School Land compliance study and Knotweed Survey;
 - Statement of Community Involvement;
 - Transport Assessment;
 - Tree Constraints Assessment; and

- Underground utilities search report.
- 6.9 With the exception of the formation of the access into the site, details of the appearance, landscaping, layout and scale are all reserved matters. This means that approval is not sought for these at this stage and details are therefore not currently required. If the outline application were to be granted the applicant, or any successors in title, would need to submit reserved matters applications to the Local Planning Authority, in addition to discharging planning conditions before development could commence.
- 6.10 The application proposes one main vehicular access point into the site through Barleyfield Drive. In order to facilitate this, a dedicated right turn lane, with carriageway realignment within the public highway would be carried out as shown on the proposed access arrangement plans. It is also proposed to install a 3.5m wide footway/cycleway along the existing access that serves the dwelling and farm buildings at Ash Farm.
- 6.11 The submitted illustrative Masterplan shows that the principal site access from Barleyfield Drive would likely run in a southerly direction through the heart of the site, thereby creating a central spine road off of which secondary vehicular access routes - including to the employment area and school land - would be created. The illustrative Masterplan also identifies the existing public footpaths that pass through the site, as well as new potential pedestrian and cycle routes. The exact location of the proposed new routes through the site would be refined through the Reserved Matters process.
- 6.12 Whilst a reserved matter, the indicative Masterplan and Land Use Parameter Plan identify the potential layout of the site, which is intended to give some certainty to the general location of development and ultimately be used to inform the Reserved Matters stage/s. This would be a predominantly housing-led scheme for up to 280 units and whilst the precise mix of dwelling types is unknown, the applicant's state that they intend to provide a broad range of residential accommodation and would include both affordable and market housing, likely to be 2-5 bedroom units.
- 6.13 The design of the housing would likely follow the design cues from the adjacent Barleyfield Drive development, which was recently completed by the applicant, and is of a traditional vernacular design with a high level of detailing such as bargeboards, finials, string courses, stone cills, segmented brick lintels and oversized eaves. The proposed residential buildings would likely be a mixture of 1, 1½ and 2 storey homes and would be of a mixture of detached, semi-detached and terraced housing. The roofscape would include a mixture of half dormers and gables that present to the side and/or the front.
- 6.14 The site and policy context gives rise to three main character areas. As the site abuts the countryside, an 'edge' typology/character area would be used to help inform the transition from open countryside to built form. This would likely have a combination of large detached houses as well as some small cottages. The main body of the site would have a more suburban feel based around a broad avenue, lined with street trees. The third of the main character areas would be around the community hub focused on the school, employment land and the existing Council offices (which are outside of the application site). These buildings would have a civic and community focus to create a communal and public space in and around this area.
- 6.15 The main planning considerations are:
- Principle of Development;
 - Transport & Access;
 - Reserved Matters - Appearance, Landscaping, Layout and Scale;
 - Landscape & Visual Impact;
 - Ecology and Nature Conservation;

- Archaeology and Cultural Heritage;
- Hydrology, Flood Risk & Drainage;
- Ground Conditions and Contamination;
- Air quality and Noise;
- Living Conditions; and
- Planning Obligations.

Principle of Development

- 6.16 In line with Section 38(6) of the Planning and Compulsory Purchase Act 2014, planning decisions must be taken in accordance with the 'development plan' unless material considerations indicate otherwise. The requirements of the National Planning Policy Framework (NPPF) are a significant material consideration in this regard.
- 6.17 The 'development plan' for Tendring is the 2007 'adopted' Local Plan. Paragraph 213 of the NPPF allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF. Paragraph 48 of the NPPF also allows weight to be given to policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency with national policy.
- 6.18 As of 16 June 2017, the emerging Local Plan for Tendring is the Tendring District Local Plan 2013-2033 and Beyond Publication Draft. 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 being undertaken to address the Inspector's concerns and the North Essex Authorities are potentially working towards submitting this evidence to facilitate a resumption of the Inquiry in the Autumn.
- 6.19 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.
- 6.20 The application site is not allocated for development in the adopted Local Plan and it lies outside (albeit adjacent to) the 'settlement development boundary' for Weeley. In the emerging Local Plan, the site is however specifically allocated through Policy SAMU5 for a mix of residential development, employment, a Primary School and public open space. The policy contains specific requirements in relation to housing numbers, educational facilities, healthcare provision, highways and open space.
- 6.21 Draft Policy SAMU5 states: *"Land south of Thorpe Road, Weeley, shown on the Map SAMU5, is allocated for mixed use development as follows:*
- a. at least 280 new homes of a mixed size and type to include affordable housing as per the Council's requirements;*
 - b. 1 hectare of land for employment (potentially utilising buildings at Ash Farm);*
 - c. 1 hectare of public open space;*
 - d. 2.1 hectares of land for a new primary school with co-located 56 place commensurate early years and childcare facility (D1 use) as required by the Local Education Authority through Section 106 Planning Obligations;*

Proposals must accord with the following:

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

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

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

- Policy SAMU5 and the formal site allocation on the Policies Map should be deleted; and amendments made to the proposed spatial distribution of housing growth and employment development across the district;
- The development of the site for 280 dwellings would be oversized and spoil the village;
- Would not want to see the public footpath (no5) and the proposed railway footbridge upgraded to a Bridleway due to health and safety concerns and potential conflicts between users and farm machinery;
- The village would have building works for years to come which would lead to residents' lives being disrupted with noise, traffic and unsuitable vehicles on small roads, including HGVs;
- Inadequate social and highway infrastructure to serve the development;
- The land is full of wildlife, including barn owls, bats, grass snakes, hedgehogs and herons;
- There are more suitable areas in Weeley for this development which would not blight so many of the residents;
- Plans for such massive over-development would also be contrary to the requirements of Section 7 of the NPPF as in no way would it be 'contributing to protecting and enhancing Weeley's natural, built and historic environment'.

- 6.24 In applying the guidance within paragraph 48 of the NPPF, the Local Plan has reached a **relatively** advanced stage of the plan-making process; the objections to Policy SAMU5 are noted, although Officers are of the view that the proposal is in line with the policies in the NPPF to boost the supply of housing and achieve a balance between economic, social and environmental factors. On this assessment, Policy SAMU5 and the allocation of the site for mixed-use development can carry a reasonable level of weight in the determination of this planning application.
- 6.25 Furthermore, 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 when calculated using the standard methodology 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 (EIP) of the Local plan. Therefore, the justification for reducing the weight attributed to the adopted Local Plan policies is reduced as is the weight to be given to the delivery of new housing to help with the deficit.
- 6.26 As highlighted above within the executive summary, this application is essentially a resubmission of planning application ref. 17/02162/OUT which was refused by this Council on 19 November 2018. The reasons for refusal in that case were as follows:

Reason 1

Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990 require applications for planning permission to be determined in accordance with the 'development plan' unless material considerations indicate otherwise. The National Planning Policy Framework (NPPF) (2018) is a material planning consideration in the determination of planning applications and paragraph 15 states that the planning system should be genuinely 'plan-led'.

The development plan for this area is the Tendring District Local Plan 2007 (the 'adopted Local Plan') which is 'saved' beyond its intended timescale of 2011 under a direction from the Secretary of State. The application site lies outside of the settlement development boundary as depicted on the Local Plan's proposals maps. Policy QL1 in the adopted Local Plan states that development will be concentrated with the settlement development boundaries and that outside of the defined boundary and other specific land allocations in the plan, only development which is consistent with countryside policies will be permitted. Whilst the adopted Local Plan was only intended to cover the period to 2011, the NPPF in paragraph 213 allows Councils to give weight to existing policies according to their degree of consistency with the NPPF. As confirmed in recent appeal decisions, Policy QL1 whilst dated is broadly consistent with the NPPF and can reasonably be afforded a moderate level of weight in determining planning applications.

The application site is however the subject of a specific allocation for housing and mixed use development through Policy SAMU5 in the Tendring District Local Plan 2013-2033 and Beyond - Publication Draft 2017 (the 'emerging Local Plan') and is shown within a proposed revision to the settlement development boundary. Paragraph 48 in the NPPF allows Councils to give weight to emerging plans according to their stage of preparation, the extent of unresolved objections and the degree of consistency with the NPPF. As confirmed in recent appeal decisions, the examination of the emerging Local Plan is yet to be concluded and relevant policies within it can only be afforded limited weight. The weight that can reasonably be applied to Policy SAMU5 is further reduced by the fact that there are a large number of public objections to the allocation which are yet to be resolved through the examination process. This allocation is by far the most publicly contentious proposal in the emerging Local Plan and many of the unresolved objections relate to the principle of the development and its scale in relation to the existing settlement of Weeley.

In the time that has passed since the emerging Local Plan was submitted to the Secretary of State to begin the examination process, a significant number of sites have obtained planning permission for residential development and the Council can now comfortably demonstrate both a five-year supply of deliverable housing sites and a notable surplus of land to deliver housing requirements over the full plan period to 2033. Housing delivery within the next five years and over the plan period is no longer dependent on the 280 dwellings proposed for the application site and therefore any argument that the development should be granted planning permission on housing supply grounds in advance of the conclusion of the Local Plan examination and the Inspector's consideration of the unresolved objections can only be given limited weight.

In this case, the policies in the adopted Local Plan should prevail and the application site is outside of the settlement development boundary for Weeley and therefore contrary to Policy QL1 in the Council's adopted Local Plan and in a location where countryside policies apply, such as Policy EN1 'Landscape Character', which aims to protect and where possible enhance the district's landscape and its distinctive local character.

Reason 2

A number of public objections to this application, and to the corresponding housing and mixed use allocation in Policy SAMU5 of the Tendring District Local Plan 2013-2033 and Beyond - Publication Draft 2017 (the 'emerging Local Plan'), raise concern about the scale of the development being disproportionate to the size and character of the existing settlement of Weeley - representing in excess of a 60% increase in the village's dwelling stock. Weeley is categorised as a 'Rural Service Centre' in Policy SPL1 of the emerging Local Plan where housing development is envisaged to be at a level that is fair, achievable and sustainable. The other settlements that fall into the Rural Service Centre category are Alresford, Elmstead Market, Great Bentley, Little Clacton, St. Osyth and Thorpe-le-Soken where the percentage increase in dwellings range between 20% and 40%.

Since the emerging Local Plan was submitted to the Secretary of State to begin the examination process, the Council can now comfortably demonstrate both a five-year supply of deliverable housing sites and a notable surplus of land to deliver housing requirements over the full plan period to 2033. Housing delivery within the next five years and over the plan period is no longer dependent on the 280 dwellings proposed for the application site and therefore in advance of the conclusion of the Local Plan examination and the Inspector's consideration of the unresolved objections Policy SAMU5 of the Emerging Plan can only be given limited weight.

In light of the above, it is considered that the proposed development represents a disproportionate scale of growth in relation to the size and character of the existing settlement of Weeley. The development is contrary to policies in the Tendring District Local

Plan 2007 (the 'adopted Local Plan'); Policy QL9 which requires new development to maintain or enhance local character and distinctiveness, and Policy QL11 which requires the scale and nature of development to be appropriate to the locality.

- 6.27 That decision is subject of a current planning appeal which is to be heard by way of a Public Inquiry to be held in October 2019. As Members are aware, this Council sought professional legal and planning advice in preparation for the appeal and the following conclusions were subsequently reached by the Planning Committee on 13 March 2019 and conveyed to the Planning Inspectorate by way of the Council's 'Statement of Case' March 2019:

"The Council has promptly, following in particular the publication of the revised National Planning Policy Framework (February 2019), given further consideration to the Councils adopted and emerging Local Plan policies in the context of the appeal proposal. It has concluded that the refusal reasons provided by the Council should not be defended further in light of this revised policy position and that in principle the proposed development is compliant with national, adopted and emerging policy.

In these circumstances and to enable a pragmatic and proportionate way forward, the Council wishes to withdraw its opposition to the Appeal and therefore do not wish to further defend the Appeal at the Public Inquiry.

This position has been relayed to the Appellant. Following useful discussion with the Appellant the Council have sought to agree a suitable course of action. It has been agreed with the Appellant that a duplicate planning application will be submitted imminently to the Council for consideration and determination. If the application is subsequently approved by the Council the Appellant has then agreed to withdraw the current Appeal."

- 6.28 Accordingly, if the Public Inquiry proceeds then it will be for the Government appointed Inspector to reach a decision on the planning merits of the case.
- 6.29 It is also considered pertinent to remind Members of the previous debate on 'prematurity' which was an issue of discussion on the previous application (Planning Committee 21 August 2018) and resulted in a resolution to defer determination of that application until the outcome of the Part 2 examination of the Council's emerging Local Plan. Following that resolution, the applicant sought legal advice and requested that the Council proceed to determine the application on the grounds that to defer for an indeterminate period of time would amount to unreasonable behaviour, which would potentially have a significant financial implications for the public purse through the costs regime of the appeal process.
- 6.30 The applicant's Solicitor highlighted that Parliament, through the Town & Country Planning Act 1990 has given the Council the legal right to determine planning applications. An applicant for planning permission can therefore expect their application to be determined which must be approved or rejected, and if the latter, good planning reasons given ie. the Council must act, and pursuant to NPPF paragraph 47 the decision should be made as quickly as possible.
- 6.31 Paragraphs 2.1.9 and 2.1.10 of this report above, stipulate that Paragraph 49 of the NPPF state that in the context of the Framework, and in particular the presumption in favour of sustainable development, arguments that an application is premature are unlikely to justify a refusal of planning permission other than in the limited circumstances where both:
- a) the development proposed is so substantial, or its cumulative effect would be so significant, that to grant permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development that are central to an emerging plan; and

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

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

- 6.32 Whilst it is acknowledged that the proposal the subject of this outline application is for a major form of development which would impact upon the character of Weeley, nonetheless it would constitute part of the settlement's evolution, as is the case with the majority of the larger settlements within the district where new development is planned. Consequently, Officers consider that by permitting the construction of 280 dwellings (where approximately 11,000 dwellings are required to be built between 2013 and 2033 at 550 dwellings per annum), the proposal would not be so substantial that to grant permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development that are central to the emerging plan. This is particularly due to the fact that the site is allocated within the emerging Local Plan, which is a material consideration that should be given some weight in itself in the determination of this application.
- 6.33 Therefore, pursuant to NPPF paragraph 50, refusal of planning permission on grounds of prematurity will seldom be justified and it is quite likely that the Council would be deemed to have acted unreasonably at appeal should either the application fail to be determined, or is refused on grounds that are difficult to support with robust evidence.
- 6.34 In addition, the applicant's Solicitor has previously highlighted that a Local Planning Authority has a legal duty to apply consistency when determining similar planning applications (*North Wiltshire District Council v Secretary of State for the Environment and others [1992] 3plr 113*). The Council has approved or resolved to approve planning permission on the following sites which are also included within the emerging Local Plan: Rouses Farm, Clacton (17/01229/OUT) for 950 dwellings; Brook Park West, Clacton (16/01250/OUT) for 200 dwellings; Robinson Road, Brightlingsea (17/01318/FUL) for 115 dwellings; and Low Road, Dovercourt (17/02168/OUT) for 300 dwellings.
- 6.35 Consequently, having considered the application site's status within the emerging Local Plan, the imperative to deliver new homes and to maintain a five year supply of deliverable housing sites, as well as the need to make planning decisions in a consistent manner, Officers consider that the principle of a major residential and mixed-use development on the site is acceptable, subject to its consideration against other relevant policies, including draft Policy SAMU5.

Highways, Transport & Access

- 6.36 Where concerning the promotion of sustainable transport, the NPPF in para. 103 states that the Government recognises that different policies and measures will be required in different communities and opportunities to maximise sustainable transport solutions will vary from urban to rural areas. Para. 111 of the NPPF stipulates that all development that could generate significant amounts of vehicle movements should be supported by a Transport Assessment, this is to ensure, amongst other things, that suitable access to the site can be achieved and that opportunities for sustainable transport modes are explored to reduce the need for major transport infrastructure. Development should only be prevented where the residual cumulative impacts are likely to be severe.
- 6.37 On this subject, the PPG goes into more detail into the overarching principles on Transport Assessments, with Requirements (e) to (h) of Policy SAMU5 requiring the principal point of vehicular access into the site off Thorpe Road; with capacity and/or safety enhancements to

the local highway network and to public transport, cycle and pedestrian infrastructure, where necessary; as well as the provision of a pedestrian/cycle bridge over the railway line, as a replacement for the existing level crossing.

- 6.38 A full audit of the highway network surrounding the application site has been undertaken by the applicant, with the proposal fulfilling the above requirements. ECC Highways have assessed the highway and transportation impact of the proposal, including full assessment of the Transport Assessment, examination of all documents submitted, and undertaken a site visit and have raised no objection subject to the imposition of reasonable planning conditions and obligations. A meeting has been held between representatives of ECC Highways, TDC and the applicant to further consider an appropriate proportionate scale of financial contribution towards off-site highway mitigation at and between the A133/B1033/services and Frating roundabout and a contribution of circa £150,000 has been agreed to be included in the S106 Agreement.
- 6.39 Therefore it is considered that the proposal, during either the construction or operational phases would not have a detrimental effect upon the highway network or the general accessibility of the surrounding area with sustainable mitigation measures proposed and to be secured by the appropriate means.

Reserved Matters - Appearance, Landscaping, Layout and Scale

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

Landscape & Visual Impact

- 6.45 NPPF para. 170 stipulates that the planning system should contribute to and enhance the natural and local environment by, amongst other things, protecting and enhancing valued landscapes. The Planning Practice Guidance (PPG) states where appropriate, Landscape Character Assessments should be prepared to complement Natural England's National Character Area profiles. Landscape Character Assessment is a tool to help understand the character and local distinctiveness of the landscape and identify the features that give it a sense of place.
- 6.46 In response to this, the applicant has submitted a Landscape and Visual Impact Assessment (LVIA) which highlights that the application site is situated within two character areas, 8B, Clacton and The Sokens Clay Plateau and 6D Holland Valley System. In this respect the development of the land has the potential to cause harm to a wider landscape area, although the site is not covered by any specific landscape designation and it is acknowledged that the information submitted in support of the application provides a genuine and accurate description of the landscape and visual effects.
- 6.47 The application site comprises relatively flat (albeit sloping towards to the railway line on the southern end) agricultural land with landscape features within the site and to its boundaries which include mature and established hedgerows and small tree groups. As it lies on the eastern edge of Weeley, with existing development situated along the northern and western boundary, the locality is therefore already partly residential in character.
- 6.48 Quite clearly, the proposed development would see a permanent change of land use (and therefore character) from farmland to residential/mixed use, and would inevitably result in a permanent significant effect upon the landscape. However, whilst only in outline, the planning application demonstrates that the scheme could be designed to minimise landscape and visual effects, through the creation of a positively designed settlement edge to Weeley.
- 6.49 As part of the landscape design it is proposed that existing trees and hedgerows on the site would be retained and enhanced by new native planting and a substantial landscape buffer to the southern boundary created which would incorporate the public open space and land to be designated for ecological purposes/the translocation of Slow Worms from elsewhere on the site.
- 6.50 The successful integration of the development into the local landscape character can be secured through strong soft landscaping on the complete boundary of the application site and new soft landscaping forming an integral part of the residential part of the development.
- 6.51 As the application is in outline form it is not possible to assess the direct impact of the development on specific trees, hedgerows or other vegetation as the site layout has yet to be determined. Within the Design and Access Statement Figure 2 entitled Land Use Layout gives an indication of the shape of the development, but without sufficient detail to gauge the potential impact on existing trees and other vegetation. The tree report identifies the most important trees and hedgerows and should be used to shape the development layout, which has been carried out in accordance with BS5837: 2012 Trees in relation to design, demolition and construction - Recommendations.
- 6.52 In conclusion on this matter, and pursuant to requirement (i) of Policy SAMU5, it is considered that the proposal would not give rise to significant adverse effects upon the surrounding landscape, subject to mitigation measures which could be secured through the submission of reserved matters and the imposition of appropriate conditions.

Ecology and Nature Conservation

- 6.53 One aim of sustainable development should be to conserve and enhance the habitats and species on site. This is reflected within NPPF paragraph 170 which recognises that the planning system should contribute to and enhance the natural and local environment by, amongst other things: protecting and enhancing sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan); recognising the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland; and minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.
- 6.54 The PPG highlights that section 40 of the Natural Environment and Rural Communities Act 2006, which places a duty on all public authorities in England and Wales to have regard, in the exercise of their functions, to the purpose of conserving biodiversity. A key purpose of this duty is to embed consideration of biodiversity as an integral part of decision making throughout the public sector, which should be seeking to make a significant contribution to the achievement of the commitments made by government in its Biodiversity 2020 strategy.
- 6.55 With respect to Green infrastructure, the PPG defines this as a network of multifunctional green space, urban and rural, which is capable of delivering a wide range of environmental and quality of life benefits for local communities. Green infrastructure is not simply an alternative description for conventional open space. As a network it includes parks, open spaces, playing fields, woodlands, but also street trees, allotments and private gardens. It can also include streams, canals and other water bodies and features such as green roofs and walls.
- 6.56 The Preliminary Ecological Appraisal (PEA) submitted with the application recommended that Barn Owl, Bat, Bird and Reptile surveys be carried out, consequently the following reports have been submitted: Barn Owl Mitigation report; Bat Activity Survey; Breeding Bird Survey; and Reptile Survey and Outline Mitigation Strategy, with an Ecological Impact Assessment (EclA), the aim of which is to set out mitigation measures required to ensure compliance with nature conservation legislation and to address any potentially significant ecological effects.
- 6.57 Building 4 (a hay barn) located on Ash Farm has confirmed breeding Barn Owls in a Barn Owl box located within this building, with the presence of 3 Barn Owl chicks at the time that the survey was carried out.
- 6.58 With regard to Bats, the majority of the foraging activity was noted in the southern arable field, along the external boundary hedgerows, the hedgerow east to west across the centre of the site and in the small areas of woodland to the south of the site adjacent the railway line. These features were confirmed to be mainly in use by common species of bat, including Common Pipistrelle and Soprano Pipistrelle. Two passes of a Nathusius' Pipistrelle and Leisler's bat were recorded during the first period of static monitoring close to the railway line.
- 6.59 The site was found to support 24 species of bird, 17 of which are thought to be using the site for breeding. Most of the species encountered are common and widespread in Essex and the UK in general. The majority of the species using the site are not listed as birds of conservation concern, (BoCC), or are UK Biodiversity Action Plan (UKBAP) or Local Biodiversity Action Plan (LBAP) or listed as Species of Principal Importance under NERC s41 with the exception of: Skylark (Red/UKBAP/LBAP/NERC), Tree Sparrow, and Yellowhammer, (red status/UK BAP/NERC). Mallard, Dunnock and Common Gull are listed as Amber, of which only Tree Sparrow, Skylark, Dunnock and Yellowhammer are

considered to be breeding on site. Key habitats used by breeding birds included the hedgerows, scrub and trees present along the boundaries of the site, which are considered important on a site scale.

- 6.60 The grassland on site was confirmed suitable for reptiles during the reptile survey with a good population of Slow Worm recorded across the site, and which would need to be translocated to a dedicated part of the site where they can reside undisturbed i.e through the fencing off of an area separate from the Public Open Space. Detailed mitigation measures and recommendations for the enhancement of biodiversity are included within the EclA and which should be secured by way of planning condition/s. These measures would ensure the effective protection of protected species and other wildlife, including hedgehogs.
- 6.61 As has been highlighted above, the site has been identified as falling within the 'Zone of Influence' (Zol) of a number of European designated sites scoped into the Essex Coastal Recreational disturbance Avoidance and Mitigation Strategy (RAMS) – namely the Hamford Water Special Protection Area (SPA), Ramsar site and Site of Special Scientific Interest (SSSI); the Essex Estuaries Special Area of Conservation (SAC); the Colne Estuary SPA, Ramsar site and SSSI; and the Stour and Orwell Estuaries SPA, Ramsar site and SSSI . In the context of the Council's 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 recreation pressure, either when considered 'alone' or 'in combination' with other plans or projects.'*
- 6.62 Natural England understand that the Council has screened the proposed development and consider that it falls within the scope of the Essex Coast RAMS and as a result the Council has gone on to carry out a Habitats Regulations Assessment (HRA) (Stage 2 – Appropriate Assessment) in order to secure any necessary recreational disturbance mitigation.
- 6.63 Natural England raise no objection to the application based on the mitigation described in the Appropriate Assessment, being a combination of on-site measures (to create and support high-quality, informal, semi-natural area within the site; circular dog walking routes and/or links to surrounding public rights of way (PRoW); and dedicated 'dogs-off-lead' areas; in addition to signage/leaflets to householders to promote these areas for recreation; dog waste bins etc) and an off-site per dwelling tariff based financial contribution to mitigate direct recreational impacts at the European designated sites. Accordingly, they request that any planning permission be subject to an appropriate planning condition or obligation to secure the on-site mitigation measures, including links to footpaths in the surrounding area. The financial contribution should be secured through an appropriate and legally binding agreement.
- 6.64 With respect to the Weeley Hall Wood SSSI (which does not fall within the Essex Coast RAMS), the Essex Wildlife Trust have expressed concerns with regard to the impacts that an increase in visitors is already having upon Weeleyhall Wood and have costed work to improve rides and install boardwalks at around £55,000. The applicant has confirmed their agreement to the full payment for these works and accordingly Essex Wildlife Trust raise no objection to the application.
- 6.65 Therefore, in conclusion on this issue, it is considered that the proposal would not give rise to significant adverse effects upon ecology and nature conservation subject to the mitigation measures proposed which could be secured through the submission of reserved matters, imposition of appropriate conditions, and securing of financial contributions through the S106 Agreement.

Archaeology and Cultural Heritage

- 6.66 Paragraph 184 of the NPPF states that heritage assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations. NPPF para. 189 states that in determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance. Furthermore, para. 192 of the NPPF states that in determining applications, local planning authorities should take account of:
- a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
 - b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
 - c) the desirability of new development making a positive contribution to local character and distinctiveness.
- 6.67 Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 stipulates that in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
- 6.68 There is one listed building in close proximity to the application site, which is Ash Farmhouse, a grade II listed building which is located immediately beyond the north western corner of the site. The listing description for this is: *Grade II listed 15th/16th century house with later alterations and additions. Timber-framed and plastered. Red plain-tiled roofs. Two red brick chimney stacks to left range, right stack to central range. 2 storeys. Left crosswing, jettied central range and right crosswing, this with 2 brackets. Single storey lean-to extension to left return.*
- 6.69 There are a number of farm buildings to the south of the farmhouse, these were built during the Victorian period and consisted of an enclosed rectangular farmyard and therefore can be deemed to be curtilage listed. This layout survived until 1923, but from 1958, there was very considerable change involving the construction of very large modern barns to the south, these would likely be demolished prior to building out the commercial element of the scheme (subject to the relevant consents), with the curtilage listed buildings converted to offices which would require an application for listed building consent.
- 6.70 The submitted heritage statement highlights that the curtilage listed buildings have undergone some change, and do not have as much 'heritage value' as the listed farmhouse. Nevertheless, the proposed changes to the farm and its farmyard should take into account the curtilage listing, and should treat sympathetically those structures within the curtilage listing. Officers concur with this view, and the fact that the curtilage listed buildings act as a 'buffer' to the farmhouse it is considered that these designated heritage assets and their settings would not be harmed by the proposal.
- 6.71 In its glossary, the NPPF highlights that *"There will be archaeological interest in a heritage asset if it holds, or potentially may hold, evidence of past human activity worthy of expert investigation at some point."*
- 6.72 As highlighted by ECC Archaeology, the heritage statement recognises the potential of the development area to contain multi-period archaeological remains associated with the

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

- 6.73 Subject to the above measures, it is considered that the proposal would not give rise to detrimental effects upon Cultural Heritage or Archaeology; and Requirement j. of Policy SAMU5 would be met i.e. the delivery of opportunities for the protection and enhancement of the historic environment including the built and archaeological environment.

Hydrology, Flood Risk & Drainage

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

and the proposal would not give rise to flood risk emanating from surface water generated by the proposal.

- 6.79 Overall no significant adverse or cumulative effects on water resource receptors have been identified during the construction and operational phases of the proposed development; therefore it would be compliant with legislation and planning policy.

Ground Conditions and Contamination

- 6.80 Section 15 of the NPPF states that to prevent unacceptable risks from pollution and land instability, planning decisions should ensure that new development is appropriate for its location. The effects (including cumulative effects) of pollution on health, the natural environment or general amenity, and the potential sensitivity of the area or proposed development to adverse effects from pollution, should be taken into account. Where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.
- 6.81 Historically, the site has predominately been used for agriculture and has not been developed with the exception of the farmyard in its north-west corner which could have hot spots of contamination from chemical, fuel or oil spillages. The submitted report on a Phase 1 Desk Study and Risk Assessment states that an historical landfill is listed associated with a former gravel pit some 80m to the south-east of the site and which was licensed to take commercial and household waste between 1958 and 1966. This historical landfill could be a source of ground gases which could influence the eastern, central and south eastern parts of the site.
- 6.82 In addition, the Envirocheck Report which is appended to the Phase 1 Desk Study report indicates a number of areas of potentially infilled land which in addition to the historical landfill identifies an area close to the south-western corner which corresponds with the brick and tile works noted on the historical maps. It should be noted that this area has been redeveloped for housing (the estate which includes First and Second Avenue, and the streets leading from them), however, it is possible that the former brick and tile works could also be a potential source of ground gases.
- 6.83 Therefore it is recommended that an appropriately worded condition be imposed that requires further investigation to assess the potential for ground gases/vapours and establishing the concentrations of potential contaminants in particular areas of the site.

Air quality

- 6.84 NPPF paragraph 170 states that the planning system should contribute to and enhance the natural and local environment by, amongst other things, preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of air pollution. The PPG provides more detailed advice on air quality.
- 6.85 As confirmed in the submitted Air Quality report a qualitative construction dust risk assessment has been carried out based on the IAQM guidance 'Guidance on the Assessment of Dust from Demolition and Construction 1.1'. The dust emission magnitude for all activities: demolition, earthworks, construction and trackout, were considered. The sensitivity of the area to dust soiling effects and human health impact were also considered. An overall risk of the dust impact for each of the activities was derived. The risk for dust soiling impact for all activities is considered to be 'Medium' to 'High', and the risk of impact to human health impact is considered to be 'Negligible' to 'Low Risk'.
- 6.86 The Environmental and Sustainability Management Plan (EMP) – PEP Part 3 indicates that construction activities related to the development would cause some nuisance to local

population, however with appropriate mitigation measures recommended within the EMP and IAQM the resulting residual dust impacts during the construction phase would be 'insignificant'. Based on the air quality data available from the nearest non-automatic monitoring site (triplicate site 14/15/16, A133 Bypass) and background concentrations from DEFRA and non-automatic triplicate (11/12/13) site at Town Hall, a qualitative assessment of air quality impacts during the operational phase of the development has been carried out and it is considered that the operational phase impacts would also be 'Insignificant'. Therefore, based on available information the overall local air quality is unlikely to be an issue at the site; and furthermore, it is considered that future receptors (residential dwellings, staff and students at the school), once in operation, would be exposed to pollutant concentrations below the National Air Quality Objectives (NAQOs) and the locations are considered suitable for the proposed use.

- 6.87 In the absence of significant operational effects and taking into consideration the low background air pollutant levels, the site is considered to be suitable for development in air quality terms. Therefore it is considered that the proposal, during either the demolition/construction or operational phases would not have a detrimental effect upon the air quality of the surrounding area.

Noise & Vibration

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

Living Conditions

- 6.92 Paragraph 117 of the NPPF states that planning decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions.
- 6.93 Whilst matters of layout and scale are reserved for future determination, with regard to privacy, the Essex Design Guide states that *“with rear-facing habitable rooms, the rear faces of opposite houses approximately parallel, and an intervening fence or other visual barrier which is above eye level from the potential vantage point, a minimum of 25 metres between the backs of houses may be acceptable”*. It goes on to state that *“where new development backs on to the rear of existing housings, existing residents are entitled to a greater degree of privacy to their rear garden boundary, and therefore where the rear faces of the new houses may not encroach any closer than 15 metres to an existing rear boundary, even though with a closer encroachment 25 metres between the backs of houses would still be achieved”*.
- 6.94 The distances between new and existing dwellings could be well in excess of those required by the Essex Design Guide and Officers consider that there are no reasonable grounds for refusal in terms of the relationship between existing dwellings in the locality and the proposed development. Consequently, adherence to these standards would ensure that the living conditions of existing residents would be protected from overlooking; and a loss of outlook and daylight/sunlight.
- 6.95 Furthermore, the submission indicates how landscaping could be retained and enhanced within the application site, so as to further mitigate the effects of the development. Officers consider that a detailed layout could be designed which achieves an appropriate relationship with the existing dwellings and which would also be sympathetic to the character of the surrounding area and the wider landscape. All in all it is considered that the above measures would ensure that the living conditions of existing and future residents would be protected from any materially detrimental impacts.

Planning Obligations

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

Affordable Housing

- 6.99 Para. 62 of the NPPF requires, inter alia, LPAs where they have identified that affordable housing is needed, to set policies for meeting this need on site, unless off-site provision or a financial contribution of broadly equivalent value can be robustly justified and the agreed approach contributes to the objective of creating mixed and balanced communities.
- 6.100 Adopted Policy HG4 seeks up to 40% of dwellings on large housing sites to be secured as affordable housing for people who are unable to afford to buy or rent market housing, whereas draft Policy LP5 requires up to 30% of new homes on large development sites to be made available to the Council or a nominated partner, at a discounted price, for use as Affordable Housing or Council Housing, subject to viability testing. This is in compliance with the requirements of requirement (a) of draft Policy SAMU5 that specifies that the proposal should be for at least 280 new homes of a mixed size and type to include affordable housing as per the Council's requirements.

Education

- 6.101 NPPF paragraph 94 states that the Government attaches great importance to ensuring that a sufficient choice of school places is available to meet the needs of existing and new communities. Local planning authorities should take a proactive, positive and collaborative approach to meeting this requirement, and to development that will widen choice in education. They should: Give great weight to the need to create, expand or alter schools; and work with schools promoters to identify and resolve key planning issues before applications are submitted.
- 6.102 In accordance with requirement (d) of draft Policy SAMU5, a new 2 form entry primary school with co-located 56 place early years and childcare facility (D1) use on 2.1 hectares of land is proposed to be provided as required by the Local Education Authority (LEA). The application makes provision for this requirement and the applicant has liaised directly with Essex County Council to determine where and how this would be delivered.
- 6.103 Furthermore, requirement (l) of draft Policy SAMU5 is for a financial contribution to early years and childcare and secondary education provision. The financial contributions, index linked from April 2017 and based on the projected future population of the scheme have been summarised thus from the consultation response from ECC Education:
- Early Years & Childcare: there are currently places available in the area to meet the needs of EY & C, so no contribution is requested;
 - Primary Education: £1,283,604; and
 - Secondary Education: £1,299,984 plus £281,960 for School Transport;

Healthcare

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

Public Open Space

- 6.106 As highlighted above, the landscape scheme at the Reserved Matters stage would include an area of POS of 1ha, which the illustrative masterplan identifies as predominantly being in two parcels: between the secondary road proposed to serve the employment land and the school site; and along the northern edge of the railway line, including the copse through which PRoW 5 currently passes.
- 6.107 It would also be necessary to set aside a dedicated area with restricted access as a reserve for Slow Worms in addition to the POS, the precise location and area of which would be determined prior to the submission of the first reserved matters applications. All of the above would be managed by a Management Company specifically set up to look after the green areas of the site, amongst other things.

Ecology (RAMS)

- 6.108 Prior to commencement of development either a sum calculated in accordance with an adopted Essex RAMS will be paid to the Council or if the Essex RAMS has not yet been adopted at commencement of development, then a sum of £122.30 per dwelling (£34,244 for 280 dwellings) will be paid to the Council.
- 6.109 The contribution will be used to mitigate increased recreational use at the European designated sites.

Ecology (Weeleyhall Wood SSSI)

- 6.110 As highlighted above both Essex Wildlife Trust and Natural England have expressed concerns with regard to the impacts that an increase in visitors is already having upon Weeleyhall Wood and have costed work to improve rides and install boardwalks at around £55,000. Clearly the proposal would likely add to these pressures and therefore it is considered appropriate to seek this contribution. The applicant has confirmed agreement to payment in full rather than as a proportionate element only.

Highways and Transport

- 6.111 ECC Highways have assessed the highway and transportation impact of the proposal including full assessment of the Transport Assessment, examination of all documents submitted, and undertaken a site visit and do not wish to raise an objection subject to the imposition of reasonable planning conditions and obligations. It is considered that the majority of the required works can be covered by planning condition, with the exception of the provision of a financial contribution towards the proposed improvements at the A133/B1033/ services roundabout (and Frating roundabout as appropriate), which would need to be covered by a planning obligation. The applicant has agreed to the need for this contribution and a meeting has been held between representatives of ECC Highways, TDC and the applicant to further consider the appropriate proportionate scale of financial contribution required towards these off-site highway works taking into account other committed schemes that feed into these key inter-sections on the current road network. It has been agreed in principle that this contribution will be in the region of £150,000.
- 6.112 It is considered that the proposal, during either the construction or operational phases would not have a detrimental effect upon the highway network or the general accessibility of the surrounding area with sustainable mitigation measures proposed and to be secured by the appropriate means, in accordance with requirements e.g. of Policy SAMU5 requiring the principal point of vehicular access into the site off Thorpe Road; with capacity and/or safety enhancements to the local highway network and to public transport, cycle and pedestrian infrastructure, where necessary.

Public Rights of Way

- 6.113 Requirement (h) of draft Policy SAMU5 is for the provision of a footbridge bridge over the railway line, as a replacement for the existing level crossing. Once constructed this would be transferred to Network Rail (or Essex County Council if deemed more appropriate) with a commuted sum (currently undetermined) for future maintenance. As part of this, PRoW 5 would be diverted away from its existing alignment over the level crossing via footbridge on completion.
- 6.114 As part of requirement (h) of draft Policy SAMU5, the provision of the pedestrian/cycle bridge over the railway, as a replacement for the existing level crossing point was indicated to be delivered '*prior to the occupation of the one-hundreth dwelling*', which at the time of the drafting of the emerging Local Plan was the agreed position with Network Rail. However, upon further analysis and review by Network Rail's Level Crossing Manager, Network Rail has amended their position and now recommend that the new bridge crossing be delivered on completion of the 25th dwelling. Discussions have been held with the applicant on this matter and they have now agreed to the imposition of a 25 unit cap on occupation prior to the delivery of the pedestrian/cycle bridge to replace the existing level crossing point.

Planning Obligation Summary

- 6.115 The above obligations are summarised here and overall, it is considered that they satisfy the tests for planning obligations set out in the CIL Regulations, which are necessary to: make the development acceptable in planning terms; directly relate to the development; and fairly and reasonably related to the development in scale and kind:
- **Affordable Housing** – 30%, specific tenure and mix to be agreed at the reserved matter/s stage/s;
 - **Education** - 2.1ha of land to accommodate a 2-form entry primary school and commensurate nursery; along with financial contributions towards: Primary Education for 84 places (£1,283,604); Secondary Education for 84 places (1,299,984); plus £196,224 for School Transport;
 - **Healthcare** - Financial contribution of £97,152 towards relocation costs for Thorpe Surgery (including its branch surgery Kirby Cross);
 - **Public Open Space** - Public Open Space, equipped play areas and Ecology Land (for Slow Worms) - To be transferred to management company and laid out before transfer;
 - **RAMS** - sum of £122.30 per dwelling (£34,244 for 280 dwellings) to mitigate for increased recreational use at the European designated sites.
 - **Ecology (off site Weeleyhall Wood SSSI)** - Financial contribution of £55,000 towards off-site ecological mitigation - to improve access within Weeleyhall Wood SSSI;
 - **Highways and Transport** – The provision of a financial contribution (in the region of £150,000) towards the proposed improvements at and between the A133/B1033/ services and Frating roundabouts as identified in the Tending Local Plan Highways and Transportation Modelling work.
 - **Public Rights of Way (PRoW)** – Footbridge to be constructed over the railway line and transferred to Network Rail on completion with a commuted sum for future

maintenance, PRow 5 to be diverted away from existing level crossing via footbridge on completion. Footbridge to be provided on occupation of 25th dwelling.

7. Planning Balance/Conclusion

- 7.1 This is an application for Outline Planning permission, with all matters reserved with the exception of access. The applicant has provided details of how they propose to access the site off Thorpe Road; and the Local Highway Authority has no objection to the proposed arrangements. All other matters (Appearance; Landscaping; Layout; and Scale) are reserved and it can therefore be said that the application seeks to establish the principle of residential development of the site.
- 7.2 NPPF paragraph 10 stipulates that at its heart is a presumption in favour of sustainable development. For decision-taking (NPPF para. 11) this means approving development proposals that accord with the development plan without delay; but where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless: any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole; or specific policies in the Framework indicate development should be restricted.
- 7.3 It has been acknowledged that the site is currently situated outside a defined settlement boundary, and therefore for all intents and purposes rural policies of restraint apply. However, the site is specifically allocated through Policy SAMU5 for a mix of residential development, community facilities and public open space in the emerging Local Plan. This can be afforded some weight in the decision making process due to it being at the Publication Draft stage, and is a material consideration in the determination of this planning application.
- 7.4 As highlighted above within the executive summary and 'principle of development' section of this report, this application is essentially a resubmission of planning application ref. 17/02162/OUT which was refused by this Council on 19 November 2018.
- 7.5 That decision is currently subject of a planning appeal which is to be heard by way of a Public Inquiry to be held in October 2019. As Members are aware, this Council sought professional legal and planning advice in preparation for the appeal and on receipt of this legal opinion it was resolved to advise the Planning Inspectorate (by way of the Council's 'Statement of Case' March 2019) that the Council '*...wishes to withdraw its opposition to the Appeal and therefore do not wish to further defend the Appeal at the Public Inquiry.*'
- 7.6 Furthermore, the Council advised that '*This position has been relayed to the Appellant. Following useful discussion with the Appellant the Council have sought to agree a suitable course of action. It has been agreed with the Appellant that a duplicate planning application will be submitted imminently to the Council for consideration and determination. If the application is subsequently approved by the Council the Appellant has then agreed to withdraw the current Appeal.*'
- 7.7 Accordingly, if the Public Inquiry proceeds then it will be for the Government appointed Inspector to reach a decision on the planning merits of the case.
- 7.8 It is also considered pertinent to remind Members of the previous debate on 'prematurity' which was an issue of discussion on the previous application (Planning Committee 21 August 2018) and resulted in a resolution to defer determination of that application until the outcome of the Part 2 examination of the Council's emerging Local Plan. Following that resolution, the applicant sought legal advice and requested that the Council proceed to determine the application on the grounds that to defer for an indeterminate period of time

would amount to unreasonable behaviour, which would potentially have a significant financial implications for the public purse through the costs regime of the appeal process.

- 7.9 Officers would re-iterate previous advice that refusal of planning permission on grounds of prematurity will seldom be justified.
- 7.10 The application is accompanied by a suite of technical drawings and documents supporting the proposal and all in all Officers consider that no significant adverse or cumulative effects on the local environment or population would be caused, with it being deemed to be compliant with legislation and national planning policy.
- 7.11 In addition, whilst outline in form, Officers are content that subject to the imposition of reasonable planning conditions and obligations that the general principle of this level of development on the site is considered acceptable; and is in keeping with both the site's location on the edge of the village, along with the need to facilitate on site strategic landscaping, open space and the retention of existing landscape features. Furthermore, the proposal would ensure that the living conditions of existing and future residents would be protected from any materially detrimental impacts whilst providing much needed housing within the District.

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 section 106 legal agreement with the agreed Heads of Terms as referred to in Section 6 above.

8.2 Conditions and Reasons

1. 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 as amended by the Planning and Compulsory Purchase Act 2004.

2. 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.

3. No development shall be commenced until plans and particulars of "the reserved matters" referred to in the above conditions relating to the 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. Prior to submission of the first Reserved Matters application, a layout and phasing plan/programme to include details of market and affordable housing provision, employment provision, identification of the physical extent of each proposed phase of development, the layout and an indicative timescale for implementation of each phase, shall be submitted to and agreed, in writing, by the Local Planning Authority.

Reason – To ensure a satisfactory development programme in the interests of the occupiers of the development and in terms of local amenity.

5. The maximum number of dwellings to be contained in the development shall be 280 and the amount of employment land shall not exceed 1 hectare and the B1 office space shall not exceed 3000 sqm.

Reason – To ensure compliance with the description of development hereby approved.

6. Prior to occupation of the proposed development, 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.

Reason – In the interests of reducing the need to travel by car and promoting sustainable development and transport.

7. Prior to occupation of the development, vehicular parking and turning facilities in accordance with current policy standards shall be provided for all dwellings, unless otherwise agreed in writing by the Local Planning Authority. They shall be constructed, surfaced and maintained free from obstruction within the site at all times for that sole purpose. Any vehicular hardstanding shall have minimum dimensions of 2.9 metres x 5.5 metres for each individual parking space, retained in perpetuity.

Reason – To ensure that vehicles can enter and leave highway in a forward gear in the interest of highway safety and to ensure adequate space for parking off the highway is provided in the interest of highway safety.

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

Reason – To prevent hazards caused by water flowing onto the highway and to avoid the formation of ice on the highway in the interest of highway safety.

9. No development shall take place before an Environmental Construction Management Plan for the construction of the development hereby approved has been submitted to, and approved in writing by, the Local Planning Authority. Works shall be carried out in accordance with the approved method statement. Details submitted in respect of the method statement, incorporated on a plan, shall provide for wheel cleaning facilities during the excavation, site preparation and construction stages of the development to prevent the deposition of mud or other debris onto the highway network/public areas. The method statement shall also include details of safe access to/from the site, the parking and turning of vehicles of site operatives and visitors, loading and unloading of plant and materials, delivery and construction working hours, dust suppression strategy, routing of delivery vehicles, measures to control noise and lighting, the provision of a means of storage and/or delivery for all plant, site huts, site facilities and materials, means of safeguarding the public right of way during construction, the erection and maintenance of security hoarding, a scheme for recycling/disposing of waste resulting from construction, and temporary traffic management/signage.

Reason - To ensure that development is carried out in a controlled manner in the interests of highway safety, while minimising impacts on the surrounding residential properties and the natural environment.

10. No development shall take place until details of surface water drainage have been submitted to and agreed, in writing, by the Local Planning Authority. No part of the

development shall be first occupied or brought into use until the agreed method of surface water drainage has been fully installed and is available for use.

Reason - To minimise the risk of flooding.

11. Prior to construction above damp proof course, a scheme for on-site foul water drainage works, including connection point and discharge rate, shall be submitted to and approved in writing by the Local Planning Authority. Prior to the occupation of any phase, the foul water drainage works relating to that phase must have been carried out in complete accordance with the approved scheme.

Reason – To prevent environmental and amenity problems arising from flooding.

12. No works shall take place until a scheme to minimise the risk of offsite flooding caused by surface water run-off and groundwater during construction works and prevent pollution has been submitted to, and approved in writing by, the Local Planning Authority. The scheme shall subsequently be implemented as approved.

Reason - To ensure development does not increase flood risk elsewhere and does not contribute to water pollution.

13. No development shall take place until a Maintenance Plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, has been submitted to and agreed, in writing, by the Local Planning Authority.

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

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

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

15. No development shall take place within the application site until the applicant or developer has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved, in writing, by the Local Planning Authority. The development shall be carried out in accordance with the scheme so approved.

Reason – To allow for proper investigation and recording of the site, which is potentially of archaeological and historic significance.

16. Prior to the commencement of any work a full method statement in respect of piling works shall be submitted to and approved in writing by the Local Planning Authority, this will contain a rationale for the piling method chosen and details of the techniques to be employed which minimise noise and vibration to nearby residents.

Reason - In the interests of residential amenity.

17. Other than for lighting within the public highways, each reserved matters application shall be accompanied by details of external lighting which shall be submitted to and

approved in writing by the Local Planning Authority. The external lighting strategy shall consider how the use of such lighting will avoid, or minimise, harm caused by light pollution and the development shall be carried out in accordance with the approved scheme.

Reason - To ensure that new external lighting of the development is not harmful to biodiversity or local amenity.

18. Prior to commencement of any phase of development, details of all refuse/recycling storage and collection points required to serve that phase of development shall be submitted to and approved in writing by the Local Planning Authority. Each refuse/recycling storage and collection point so approved shall be provided prior to first occupation of any dwelling to which it relates and shall be retained thereafter as approved.

Reason – To ensure a satisfactory development in terms of appearance and functionality in the interests of amenity.

19. Each Reserved Matters application shall incorporate a detailed scheme of hard and soft landscaping works, which shall include any proposed changes in ground levels and also accurately identify spread, girth and species of all existing trees, shrubs and hedgerows on the site and indicate any to be retained, together with measures for their protection which shall comply with the recommendations set out in the British Standards Institute publication 2BS 5837: 2012 Trees in relation to design, demolition and construction.

Reason – In the interests of visual amenity and character of the area.

20. All trees and hedges identified to be retained, shall be protected in accordance with the recommendations set out in the British Standards Institute publication "BS 5837: 2012 Trees in relation to design, demolition and construction. The protective fences shall be retained throughout the duration of building and engineering works in the vicinity of the trees to be protected. Any trees dying or becoming severely damaged as a result of any failure to comply with these requirements shall be replaced with trees of appropriate size and species during the first planting season, or in accordance with such other arrangement as may be agreed in writing with the Local Planning Authority, following the death of, or severe damage to the trees.

Reason - In the interests of visual amenity and the character of the area.

21. No phase of development shall commence until precise details of the manufacturer and types and colours of the external facing and roofing materials to be used in the construction of that phase have been submitted to and approved, in writing, by the Local Planning Authority. Such materials so approved shall be those used in that particular phase of development.

Reason – To ensure a satisfactory development in relation to external appearance.

22. The development hereby permitted shall be carried out in accordance with the mitigation measures set out in the Ecological Impact Assessment; Barn Owl Mitigation Report; Bat Activity Survey; Breeding Bird Survey; Reptile Survey and Outline Mitigation Strategy, unless otherwise agreed in writing by the Local Planning Authority.

Reason – To ensure the proposal does not adversely affect any protected species and to enhance the biodiversity of the site.

23. Prior to the commencement of any above ground works a Landscape and Ecology Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The Plan shall specify how areas of green space are to be managed, including measures to create habitats as well as general biodiversity enhancements and safeguarding of protected species.

Reason – To ensure the areas of green space are appropriately managed and to encourage biodiversity on the site.

24. No occupation of the development, or specific phase of development in accordance with Condition 4, shall take place until the following have been completed, as necessary for each phase, in accordance with details that shall have been completed, as necessary for each phase, in accordance with details that shall have first been submitted to and approved in writing by the Local Planning Authority:

- Barleyfields carriageway to be widened to 6.75 metres, including 1 x 3 metre footway, and 1 x 2 metre footway to continue into the site;
- Right-turn lane into Barleyfields for traffic approaching from the west to be a minimum width of 3.5 metres with running lanes of 3 metres in both directions, including lane markings and hatching, as shown in principle on drawing no. 161890-002 Rev B;
- A pedestrian refuge island to be provided to the west of Barleyfields access road with pedestrian tactile as shown in principle on drawing no. 161890-002 Rev B;
- The existing footway along the site frontage to be widened to 3 metres minimum as shown in principle on drawing no. 161890-002 Revision B;
- Adjustments to carriageway width to the east of Crow Lane and removal of the layby, to include kerbing, adjustments to levels and carriageway construction.
- vi). Right-turn lane into Crow Lane approaching from the east to be a minimum width of 3.5 metres with running lanes of 3 metres in both directions, including lane markings and hatching, as shown in principle on drawing no. 161890-002 Rev B;
- Homestead access constructed appropriate kerb radii, including dropped kerb to facilitate pedestrian crossing;
- Right-turn lane into Homestead approaching from the east to be a minimum width of 3.5 metres with running lanes of 3 metres in both directions, including lane markings and hatching, as shown in principle on drawing no. 161890-002 Rev B.

No dwelling within the development or phase of development, shall be first occupied until such time as all facilities identified above, as necessary for each phase, have been provided in accordance with details so approved.

Reason – To protect highway efficiency of movement and safety and to enable satisfactory access to the site by pedestrians, bicycles, public transport and motorised vehicles.

25. Prior to commencement of any phase of development, details of cycle storage required to serve each dwelling within that phase of development shall be submitted to and approved in writing by the Local Planning Authority. All cycle storage so approved shall be provided prior to first occupation of the dwelling to which it relates and shall be retained thereafter as approved.

Reason – To ensure a satisfactory development in terms of appearance and functionality and sustainability, so that cycling is encouraged as a sustainable means of transport.

26. Each Reserved Matters application shall include precise details of the provision, siting, design and materials of screen walls and fences. The approved screen walls and fences shall be erected prior to the dwellings to which they relate being first occupied and thereafter be retained in the approved form.

Reason – To protect the amenities and privacy of occupiers of adjoining properties and in the interests of visual amenity.

27. As part of the first Reserved Matters application, details of any conversion of redundant listed buildings and/or demolition of non-curtilage listed buildings shall be submitted to and approved, in writing, by the Local Planning Authority.

Reason – To protect the special character and setting of the listed building(s).

28. Prior to commencement of any phase of development, details of existing and proposed levels of the site, finished floor levels and identifying all areas of cut or fill, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be completed in accordance with the agreed scheme.

Reason – To protect existing vegetation and to protect the amenities and privacy of adjoining properties and in the interests of visual amenity.

29. Prior to commencement of any phase of development the precise location and specification (to include wooden shelters, raised kerbs, flag and timetable frames) of two new bus stops located to the east of Barleyfield's access on either side of Thorpe Road shall be submitted to and agreed, in writing, by the Local Planning Authority in consultation with the Local Highway Authority. The approved bus stops shall be provided prior to occupation of any dwelling and thereafter be retained in the approved form.

Reason - To ensure a satisfactory development in terms of appearance and functionality and sustainability, so that bus usage is encouraged as a sustainable means of transport.

30. The site access to Crow Lane as shown in principle on the planning application drawings shall include but not be limited to a visibility splay with dimensions of 2.4 metres by 75 metres to the west and 2.4 metres by 75 metres to the east, 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.

Reason – To protect highway efficiency of movement and safety.

31. The site access to Barleyfields as shown in principle on the planning application drawings shall include but not be limited to a visibility splay with dimensions of 2.4 metres by 66 metres to the west and 2.4 metres by 66 metres to the east, 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.

Reason – To protect highway efficiency of movement and safety.

32. The site access to Homestead as shown in principle on the planning application drawings shall include but not be limited to a visibility splay with dimensions of 2.4 metres by 75 metres to the west and 2.4 metres by 75 metres to the east, 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.

Reason - To protect highway efficiency of movement and safety.

33. A new gateway traffic calming feature(s) shall be provided on the approaches to Weeley on the B1033 to enhance the existing 30mph speed limits, scheme details to be submitted to and agreed in writing by the Local Planning Authority and implemented prior to first occupation.

Reason – To protect highway efficiency of movement and safety.

34. Prior to commencement of any phase of development, a soil survey of the site shall be undertaken and the results provided to the Local Planning Authority. The survey shall be taken at such points and to such depth as the Local Planning Authority may stipulate. Where contamination is identified, a scheme for decontamination of the site shall be submitted to and approved by the Local Planning Authority in writing and the scheme as approved shall be fully implemented and completed before any dwelling hereby permitted is first occupied.

Reason – To ensure that any contamination is identified and addressed in the interests of the health and safety of site operatives during the construction phases and the future occupiers of the development.

35. Details of acoustic measures to minimise noise disturbance to occupiers of dwellings in close proximity to the existing railway line shall be submitted to and agreed in writing by the local planning authority prior to commencement of development or if phased that part of the site closest to the railway. The agreed acoustic measures shall be fully implemented and completed before the dwellings identified for this mitigation are first occupied.

Reason – To protect the amenities of future occupiers.

36. 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 be 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;
 - 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.

37. The hereby permitted development shall not be occupied until a fibre optic broadband connection installed on an open access basis and directly accessed from the nearest exchange, incorporating the use of resistant tubing, has been installed at the site, in accordance with details that shall be submitted and approved, in writing, by the Local Planning Authority. If the applicant is unable to achieve this standard of connection,

and can evidence through consultation that it would not be possible, practical or economically viable an alternative superfast (i.e. will provide speeds greater than 24mbps) wireless service will be considered acceptable.

Reason – To ensure the development is able to be equipped with high speed broadband to enable opportunities for web-based communication and homeworking.

38. Prior to commencement or at a later date agreed in writing by the Local Planning Authority, the applicants shall submit to the Local Planning Authority, in writing, a Local Recruitment Strategy to include details of how the applicant/developer shall use their reasonable endeavours to promote and encourage the recruitment of employees and other staff in the locality of the application site, for the construction of the development and for the uses of the development thereafter. The approved Local Recruitment Strategy shall be adhered to therein after.

Reason – To promote and encourage the recruitment of employees and other staff in the locality of the application site..

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.
2. The Local 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.
3. The Public Right of Way network is protected by the Highways Act 1980. Any unauthorized interference with any route noted on the Definitive Map of PROW is considered to be a breach of this legislation. The public's rights and ease of passage over public footpaths 3, 4 and 5 (Weeley) shall be maintained free and unobstructed at all times to ensure the continued safe passage of the public on the definitive right of way.
4. The granting of planning permission does not automatically allow development to commence. In the event of works affecting the highway, none shall be permitted to commence until such time as they have been fully agreed with this Authority. In the interests of highway user safety this may involve the applicant requesting a temporary closure of the definitive route using powers included in the aforementioned Act. All costs associated with this shall be borne by the applicant and any damage caused to the route shall be rectified by the applicant within the timescale of the closure.
5. Any signal equipment/structures/non-standard materials/trees/public rights of way through the site proposed within the existing extent of the public highway or areas to be offered to the Highway Authority for adoption as public highway, will require a contribution (commuted sum) to cover the cost of future maintenance for a period of 15 years following construction.

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 or by post to:

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

7. The application is the subject of a legal agreement and this decision should only be read in conjunction with this agreement.

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.