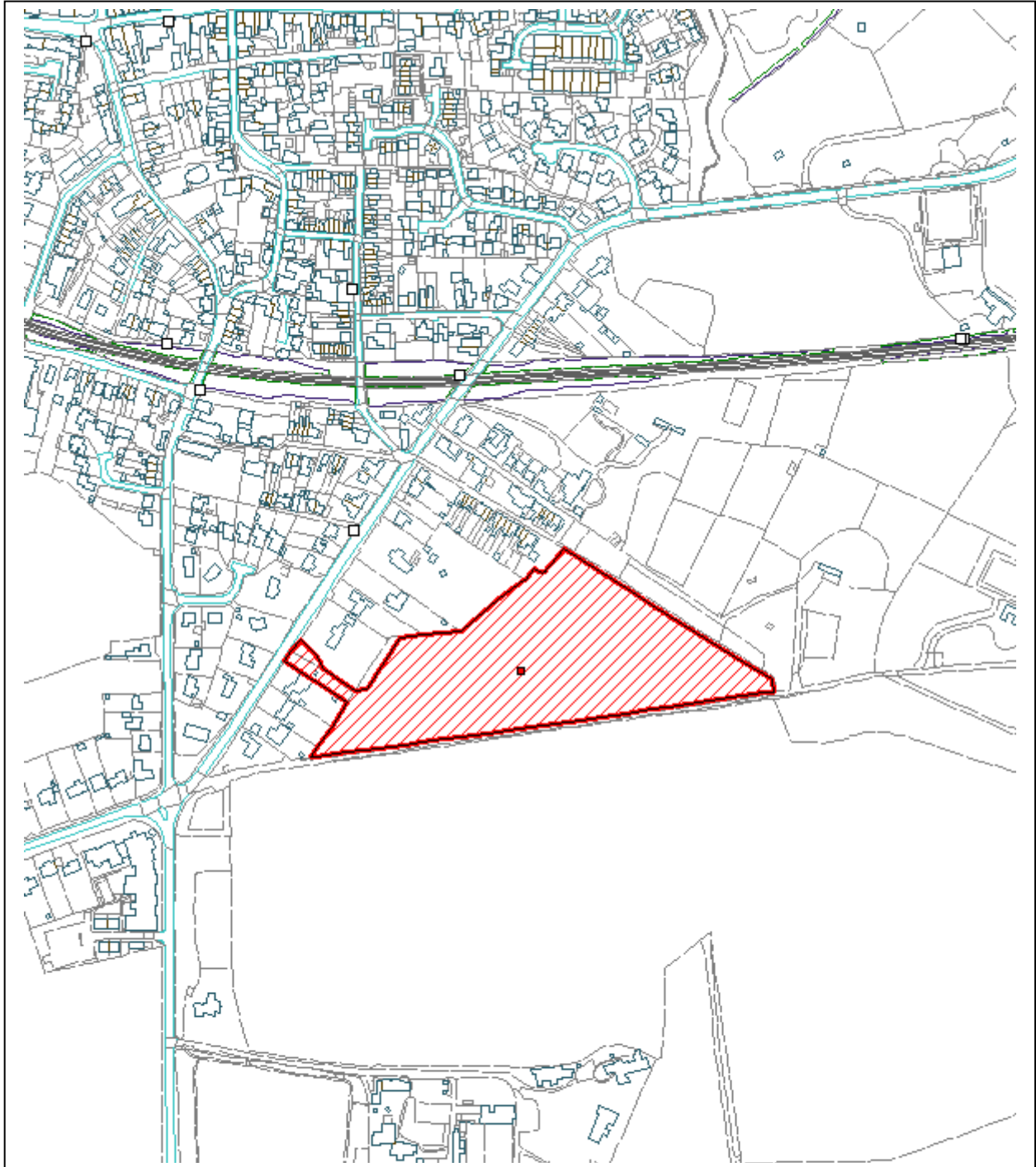


PLANNING COMMITTEE

24 SEPTEMBER 2019

REPORT OF THE HEAD OF PLANNING

**A.1 PLANNING APPLICATION – 19/00978/OUT – LAND TO THE EAST OF NEW ROAD
MISTLEY CO11 2AL**



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Application: 19/00978/OUT

Town / Parish: Mistley Parish Council

Applicant: CALA Homes (North Home Counties)

Address: Land to The East of New Road Mistley Essex CO11 2AL

Development: Variation of condition 4 of application 17/00004/OUT (approved at appeal APP/P1560/W/17/3176089) to amend the approved layout.

1. Executive Summary

- 1.1 The application site comprises a triangular area of open land situated on the east side of New Road behind the frontage properties and including an undeveloped plot of land through the frontage housing which provides the access into the proposed development from New Road. The site extends to 2.93 hectares in size and is situated within the Mistley Conservation Area.
- 1.2 Outline planning permission was allowed at appeal on 19 February 2018 for the 'erection of 67 dwellings together with the formation of an access'. The principle of housing development on the site is therefore established. Only access and layout were approved at appeal stage.
- 1.3 A S73 planning application reference: 18/01767/OUT was submitted on 19 October 2018 to amend the layout to provide wider roads, to improve emergency access and to incorporate a mix of housing types including detached dwellings, semi-detached properties and apartments.
- 1.4 That planning application was refused by members of the planning committee in April 2019 due to the encroachment of the built form along the southern and north-eastern boundaries of the site combined with the loss of buffering green space and the absence of an updated legal agreement to secure affordable housing, education contributions and a RAMS payment.
- 1.5 This re-submitted S73 application seeks to vary Condition 4 attached to the aforementioned outline planning permission to amend the approved layout whilst addressing the grounds of refusal outlined above.
- 1.6 Officers consider the revisions represent an improved layout over the scheme approved previously on appeal which will enable emergency and servicing vehicles to adequately access and manoeuvre across the site, whilst proposing a more spacious appearing development allowing for better spacing between properties and larger private gardens for future residents.
- 1.7 The revised layout incorporating the additional set back of the buildings fronting Green Lane and the footpath along the north-eastern boundary of the site is, on balance, sufficient to overcome the previous reason for refusal and along with the retention and strengthening of the boundary vegetation would safeguard the semi-rural character of Green Lane and the footpath.
- 1.8 Subject to the applicant entering into a deed of variation to update the existing Section 106 agreement to cover the provision of affordable housing and education/RAMS contributions, the proposal is considered to be acceptable with no material harm to visual or residential amenity, heritage assets, or highway safety, and the application is therefore recommended for approval.

Recommendation:

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

- a) **Within 6 (six) months of the date of the Committee's resolution to approve, the completion of a legal agreement under the provisions of section 106 of the Town and Country Planning Act 1990 dealing with the following matters (where relevant):**
 - **Financial Contribution towards RAMS**
 - **Affordable Housing Provision:**
 - **Education contribution**
- b) Subject to the conditions stated in section 8.2
- c) That the Head of Planning be authorised to refuse planning permission in the event that such legal agreement has not been completed within the period of 6 (six) months, as the requirements necessary to make the development acceptable in planning terms had not been secured through a s106 planning obligation.

2. Planning Policy

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

National Policy:

The National Planning Policy Framework
National Planning Policy Guidance

Local Policy:**Tendring District Local Plan 2007**

QL1 Spatial Strategy
QL2 Promoting Transport Choice
QL3 Minimising and Managing Flood Risk
QL9 Design of New Development
QL10 Designing New Development to Meet Functional Needs
QL11 Environmental Impacts and Compatibility of Uses
QL12 Planning Obligations
HG1 Housing Provision
HG3A Mixed Communities
HG4 Affordable Housing in New Developments
HG6 Dwelling Size and Type
HG7 Residential Densities
HG9 Private Amenity Space
COM2 Community Safety
COM6 Provision of Recreational Open Space for New Residential Development
COM21 Light Pollution
COM23 General Pollution
COM24 Health Care Provision
COM26 Contributions to Education Provision
COM29 Utilities

COM30 Electricity Supply
COM31A Sewerage and Sewage Disposal
EN1 Landscape Character
EN2 Local Green Gaps
EN3 Coastal Protection Belt
EN6 Biodiversity
EN6A Protected Species
EN6B Habitat Creation
EN11A Protection of International Sites: European Sites and RAMSAR Sites
EN12 Design and Access Statements
EN13 Sustainable Drainage Systems
EN17 Conservation Areas
EN23 Development Within the Proximity of a Listed Building
EN29 Archaeology
TR1A Development Affecting Highways
TR1 Transport Assessment
TR2 Travel Plans
TR3A Provision for Walking
TR5 Provision for Cycling
TR6 Provision for Public Transport Use
TR7 Vehicle Parking at New Development

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

SPL1 Managing Growth
SPL2 Settlement Development Boundaries
SPL3 Sustainable Design
HP2 Community Facilities
HP3 Green Infrastructure
HP4 Safeguarded Local Greenspace
HP5 Open Space, Sports & Recreation Facilities
LP1 Housing Supply
LP2 Housing Choice
LP3 Housing Density and Standards
LP4 Housing Layout
LP5 Affordable and Council Housing
PPL1 Development and Flood Risk
PPL3 The Rural Landscape
PPL4 Biodiversity and Geodiversity
PPL5 Water Conservation, Drainage and Sewerage
PPL7 Archaeology
PPL8 Conservation Areas
PPL9 Listed Buildings
CP1 Sustainable Transport and Accessibility
CP3 Improving the Telecommunications Network

Local Planning Guidance

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

Status of the Local Plan

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

Section 1 of the Local Plan (which sets out the strategy for growth across North Essex including Tendring, Colchester and Braintree) was examined in January and May 2018 and the Inspector's initial findings were published in June 2018. They raise concerns, very specifically, about the three 'Garden Communities' proposed in north Essex along the A120 designed to deliver longer-term sustainable growth in the latter half of the plan period and beyond 2033. Further work is required to address the Inspector's concerns and the North Essex Authorities are considering how best to proceed.

With more work required to demonstrate the soundness of the Local Plan, its policies cannot yet carry the full weight of adopted policy, however they can carry some weight in the determination of planning applications. The examination of Section 2 of the Local Plan will progress once matters in relation to Section 1 have been resolved. Where emerging policies are particularly relevant to a planning application and can be given some weight in line with the principles set out in paragraph 48 of the NPPF, they will be considered and, where appropriate, referred to in decision notices. In general terms however, more weight will be given to policies in the NPPF and the adopted Local Plan.

In relation to housing supply:

The NPPF requires Councils to boost significantly the supply of housing to meet objectively assessed future housing needs in full. In any one year, Councils must be able to identify five years' worth of deliverable housing land against their projected housing requirements (plus an appropriate buffer to ensure choice and competition in the market for land, account for any fluctuations in the market or to improve the prospect of achieving the planned supply). If this is not possible, or housing delivery over the previous three years has been substantially below (less than 75%) the housing requirement, paragraph 11 d) of the NPPF requires applications for housing development needing to be assessed on their merits, whether sites are allocated for development in the Local Plan or not. At the time of this decision, the supply of deliverable housing sites that the Council can demonstrate falls below 5 years and so the NPPF says that planning permission should be granted for development unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework as a whole. Determining planning applications therefore entails weighing up the various material considerations. The housing land supply shortfall is relatively modest when calculated using the standard method prescribed by the NPPF. In addition, the actual need for housing was found to be much less than the figure produced by the standard method when tested at the recent Examination In Public of the Local plan. Therefore, the justification for reducing the weight attributed to Local Plan policies is reduced as is the weight to be given to the delivery of new housing to help with the deficit.

3. Relevant Planning History

17/00004/OUT	Erection of 67 dwellings together with formation of access.	Refused (Allowed on Appeal)	07.04.2017
18/01767/OUT	Variation of Condition 4 approved plans 0964-F01 rev D, and 1628 URB XX XX GA 90 001 Rev H) of APP/P1560/W/17/3176089, to provide a re-worked layout to	Refused	12.04.2019

	provide wider roads to improve emergency access and to incorporate a mix of housing types including detached dwellings, semi-detached properties and apartments.	
19/00978/OUT	Variation of condition 4 of application 17/00004/OUT (approved at appeal APP/P1560/W/17/3176089) to amend the approved layout.	Current
19/01043/DISCON	Discharge of condition 16 (Bus Stop Upgrades) of application 17/00004/OUT (Approved on appeal APP/P1560/W/17/3176089).	Current
19/01068/DETAIL	Reserved matters application pursuant to conditions 1 and 5 of outline planning permission 17/00004/OUT (approved on appeal APP/P1560/W/17/3176089).	Current

4. Consultations

ECC SuDS Consultee

As the application only relates to the variation of a condition that does not relate to SUDS, I am happy for the objection to be removed on the basis that this application is subject to the previously set drainage conditions.

ECC Highways Dept

RE: PRP DRAWING NUMBERED AA7718-2040 - 01

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

1 All carriageways should be provided at 5.5m between kerbed footways or 6.0m where vehicular access is taken but without kerbing.

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

2 All footways should be provided at no less than 2.0m in width.

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

3 Prior to the commencement of development, details of the estate roads and footways (including layout, levels, gradients, surfacing and means of surface

water drainage) shall be submitted to and approved in writing by the Local Planning Authority.

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

4 All off street car parking shall be provided in precise accord with the details contained within the current Parking Standards being provided within the site which shall be maintained free from obstruction and retained thereafter.

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

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

Reason: To ensure that the vehicle to be garaged may be left standing clear of the highway whilst the garage door is opened and closed, in the interests of highway safety.

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

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

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

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

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

8 Prior to first occupation of the proposed apartment blocks, communal recycling/bin/refuse collection points shall be provided within 15m of the

carriageways or adjacent to the carriageways and additionally clear of all visibility splays at accesses and retained thereafter.

Reason: To minimise the length of time a refuse vehicle is required to wait within and cause obstruction of the highway, in the interests of highway safety.

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

Reason: To promote the use of sustainable means of transport.

Anglian Water Services Ltd	No comments received
Essex Wildlife Trust	No comments received
Essex Bridleways Association	No comments received
Essex County Council Archaeology	The advice provided follows that given in response to the original application 17/00004/OUT.

The EHER records a number of cropmark features in the surrounding area that would indicate a high probability of surviving archaeological remains being present within the development site. These include ring ditches and enclosures which may be prehistoric in origin. To the south aerial photographic evidence indicates the route of a Roman road which ran to Colchester. In the late 1800's the land formed part of the parkland for Mistley Hall, prior to this the Heritage Statement indicates that it was in agricultural use bordering the settlement at Mistley, which is Medieval in origin. The site lies within the Conservation Area which includes the historic settlement and historic house and parkland at Mistley and there is potential for archaeological remains relating to the settlement to survive.

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

RECOMMENDATION: A Programme of Archaeological evaluation

1. No development or preliminary ground-works can commence until a programme of archaeological evaluation has been secured and undertaken in

accordance with a Written Scheme of Investigation, which has been submitted by the applicant, and approved by the planning authority. Following the completion of this initial phase of archaeological work, a summary report will be prepared and a mitigation strategy detailing the approach to further archaeological excavation and/or preservation in situ, shall be submitted to the local planning authority.

2. No development or preliminary groundwork can commence on those areas of the development site containing archaeological deposits, until the satisfactory completion of archaeological fieldwork, as detailed in the mitigation strategy, which has been signed off by the local planning authority.

3. Following completion of the archaeological fieldwork, the applicant will submit to the local planning authority a post-excavation assessment (within six months of the completion date, unless otherwise agreed in advance with the planning authority), which will result in the completion of post-excavation analysis, preparation of a full site archive and report ready for deposition at the local museum, and submission of a publication report.

5. Representations

5.1 Mistley Parish Council noted that there would appear to be insufficient infrastructure in place, especially the location of the nearest bus stop which is quite remote from the proposed development. The Parish Council consider that there is insufficient information available for it to make an informed comparison and recommendation to the LPA. Further detail is requested, including the location and position of affordable housing which is not clear in the detail received.

5.2 Cllr Coley has called in the planning application for the following reasons;

- This is yet another application to change the layout of this site, after a Planning Inspector has determined the layout when granting the previous appeal.
- It is acknowledged that some minor improvements have been incorporated into this plan, in comparison to the previous amendment application. However, there are still serious flaws contained in this latest iteration.
- The application includes a significant reduction in open space. Therefore, there would be further negative impact on the rural nature of this location which is firmly in the conservation area.
- The scheme still contains several flats which are out of keeping in the locality. The parish of Mistley has no need for further flats. It is currently overserved with this type of dwelling.
- Some of the properties have reduced front gardens, further urbanising the nature of this development.

- The layout results in an overcrowded nature with minimal distances between homes, reducing the light and privacy levels between these dwellings. This is out of character and falls short of minimum standards.

5.3 10 letters of objection have been received. The main areas of concern highlighted by objectors are as follows;

- Similar to previous refusal as development would dominate views from the footpath.
- Proposed changes are focussed more on profit than care for the local area.
- Over development and ruining of a local beauty spot.
- Substitution of terraced properties for larger houses.
- Pedestrian access onto footpath to NE would harm safety of existing residents.
- Adverse impact upon light received, overlooking and increase noise from development.
- Lack of detail provided showing lighting scheme and proposed planting.
- Erosion of natural buffer to Green Lane which hampers the ability of any landscape scheme to mitigate the effects.
- Substantial loss in open space compared to scheme allowed on appeal.
- Bolder, more continuous views of built form from Green Lane.
- Incursion into RPA of Sycamore Tree from proposed road and conflict between canopy of tree and vehicles using the road.
- Frontage parking to apartments is unattractive.
- Reduction in open space from previous appeal.
- New dwellings would result in more strain on local infrastructure.
- Reason for revisions, including access for emergency vehicles, should have been properly considered at appeal stage.
- Revisions represent an encroachment towards Green Lane and the footpath to the north-east of the site. Significant narrowing of the green buffer in both locations.
- Against the principle of developing the land for residential purposes.
- The encroachment towards Green Lane and the footpath to the NE will visually dominate and destroy the current rural feel in this conservation area.
- Layout and apartments are out of character with the conservation area setting.
- Adverse impacts on wildlife.
- Larger detached homes proposed which will have an additional impact on the setting.
- Some of the private garden sizes are below the required threshold.
- Size of front gardens has been eroded to allow for larger homes.
- Sub-standard back to back distances between proposed dwellings.
- Lack of parking provision.
- Flood risk assessment is out of date and drainage matters should be resolved prior to determination.

6. **Assessment**

Site Context

- 6.1 The application site comprises a triangular area of open land situated on the east side of New Road behind the frontage properties and including an undeveloped plot of land through the frontage housing which provides the access into the proposed development from New Road. The site extends to 2.93 hectares in size and is situated within the Mistley Conservation Area.
- 6.2 There is residential development to the north and west of the site, which is divided from the wider countryside to the south by an access road/public footpath, Green Lane. To the north east is an area of grassland and wooded areas, comprised of the gardens associated with private dwellings and recreational areas, beyond which is the line of the railway.

- 6.3 The site is bounded by a hedge with small trees along the boundary with Green Lane, and by a hedge with large trees and groups of trees which border a pathway along the northeast boundary. To the northwest, the boundary is formed by the rear boundaries of the houses along New Road, with a mixture of timber fences, hedges and trees.
- 6.4 There are several heritage assets, or groups of heritage assets in the vicinity. The Lodge, listed grade II, is located at the corner of New Road and Green Lane, in a garden of a residence, with one wall facing directly onto Green Lane and there are three grade II listed houses along New Road, 100 metres from the site. There are also three listed structures to the south of the proposal site, accessed off Clacton Road all listed grade II: Mistle Hall, Walled Garden and Gardener's Shed. To the east of the site are Old Hall and Garden Wall which are also grade II listed structures. Further to the south-east off Green Lane is Diary Cottage which contains a cluster of listed buildings.

Proposal/Planning History

- 6.5 Outline planning permission reference 17/00051/REFUSE was allowed at appeal on 19 February 2019 for the 'erection of 67 dwellings together with formation of access'.
- 6.6 In determining the appeal, the Planning Inspector attached Condition 4 to the appeal decision which states:
- 'The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan: Drawing No. 0964-F01 rev D - Access Plan and Drawing No. 1628 URB XX XX GA 90 001 Rev H – Site Layout.'***
- 6.7 A S73 planning application reference: 18/01767/OUT was submitted on 19 October 2018 for the 'Variation of Condition 4 approved plans 0964-F01 rev D, and 1628 URB XX XX GA 90 001 Rev H) of APP/P1560/W/17/3176089, to provide a re-worked layout to provide wider roads to improve emergency access and to incorporate a mix of housing types including detached dwellings, semi-detached properties and apartments'.
- 6.8 That planning application was refused by members of the planning committee in April 2019 on three grounds, these being;
- The encroachment of the built form along the southern and north-eastern boundaries of the site combined with the loss of buffering green space was considered to have a detrimental impact upon the character of the locality and the wider conservation area setting.
 - A completed Section 106 to secure the above-mentioned planning obligation was not provided prior to the application determination date.
 - A proportionate financial contribution was not secured in accordance with the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) requirements.
- 6.9 This re-submitted S73 application seeks to vary Condition 4 attached to the aforementioned outline planning permission to amend the approved layout whilst addressing the grounds of refusal outlined above. As with the previous application the supporting documents state that it has become necessary to amend the approved layout to improve the proposed road network, thereby allowing sufficient access to the site for all emergency vehicles and servicing vehicles and to alter the housing types to include detached dwellings, semi-detached properties and apartments.

Revised Layout

- 6.10 The layout previously approved at appeal stage showed the majority of the development being formed of terrace blocks of dwellings with properties set in close proximity to the carriageways. The easternmost housing blocks were to be arranged around central parking courts with the properties facing outwards. A large number of the properties were indicated to have private amenity spaces below the required policy standard and aside from the access into the site the development was to comprise of shared surface style access roads. At the southern end of the site a landscape buffer to Green Lane was proposed measuring a minimum of 12m at its narrowest point. A drainage attenuation area was to be located in the south-eastern corner of the land.
- 6.11 The revised layout shows the provision of wider carriageways served partly by footways and a variety of detached, semi-terraced and apartment style properties. The parking courts have been removed and replaced by on-plot parking provided via open parking bays, under-crofts and garages.
- 6.12 The majority of the dwellings are now served by sufficient private amenity space provision to accord with policy requirements and the spacing between properties has been improved which will enhance future resident's privacy levels and outlook. The layout approved at appeal stage demonstrated that a large number of the dwellings would be served by small undersized gardens and the back to back distances between properties in some places fell as low 10m. The revised layout improves the back to back distances between the proposed properties by increasing the spacing to between 20m-24m. This is considered to represent a significant improvement over the layout approved at appeal stage.
- 6.13 The specific changes to the layout proposed in this resubmitted S73 application address the concerns raised by the planning committee regarding the reduction in open space along the southern and north-eastern boundaries of the site. This has been improved by amending the position of Plots 1 and 2 in the south-western corner of the site and rationalising the car parking layout in the northern corner of the site. The setbacks of the units fronting Green Lane have been improved to allow for as wide a buffer strip as possible. This will minimise any feeling of encroachment that may arise from the development.
- 6.14 In particular the revised plans show that at the south-western end of the development the revised layout of plots 1 and 2 has resulted in the properties being sited 15.2m from the edge of Green Lane whereas the refused scheme showed a smaller gap of 9.4m being retained. Further to the east the properties have been set back 1.2m further from Green Lane than shown on the refused scheme and in respect of the apartments in the north-eastern corner of the site these have been set back 6.7m from the edge of the footpath which represents an additional set back of 4m from the refused layout.
- 6.15 It is considered that the revised width of the open space on the southern and north-eastern boundaries of the site represent an improvement from the reduction proposed in the refused S73 application reference: 18/01767/OUT and addresses the reason for refusal previously outlined.
- 6.16 At appeal stage the inspector stated the following in respect of the visual impact of the development;

As to visual impact, the greatest effect would be experienced in the direct, albeit, limited views from Green Lane and the public footpath on the north-eastern boundary. However, given the density and maturity of the boundary hedges, the opportunities to retain and reinforce these boundaries and the proposed setback from the southern boundary, the minor to moderate adverse effect in terms of visual impact would be mitigated.

The latest revision to the layout broadly follows the set-back distances from Green Lane achieved within the scheme approved at appeal and in fact represents an improvement along the north-eastern boundary due to the inclusion of a wider space to the footpath. As such the findings of the inspector remain pertinent as it is considered the proposed changes to the layout along with the implementation of a robust landscaping scheme adequately mitigates against the impacts identified.

- 6.17 The eastern end of the development contains higher density development including the provision of apartment style properties which will front onto a footpath leading from The Path south-easterly towards Green Lane. The apartments comprise of two blocks separated by a landscaped parking area. Each block is proposed to contain 6 units and the indicative drawings provided show that the buildings are intended to be of a style commensurate with the terraced form of dwellings on The Park to the north-west with dark timber clad gables, plain tiled roofs and red brick linked elements. The plans show that the apartments are intended to be of a form, scale and materiality that relates appropriately to the character and appearance of this section of the conservation area. The green gap to the footpath running to the north-east is comparable with the size shown within the previously approved scheme. The retention of the mature hedgerow present on the shared boundary ensures that views of the development from the adjacent footpath would be limited and not represent a greater impact than the currently approved layout.
- 6.18 The increased size of the communal spaces around the apartment buildings along with the proximity of the large area of on-site public open space are sufficient to meet the amenity requirements of future residents of these units. Furthermore, Saved policy COM6 of the adopted Local Plan and the emerging District Local Plan requires at least 10% of gross area of the site to remain as open space provision. The provision of open space within the site comprises 0.81ha within an overall site area of 2.93ha. This equates to 27.6% of the site being open space and therefore the open space provision is comfortably in accordance with Saved policy COM6.
- 6.19 Overall the proposed changes to the layout result in a more open appearing development that would suitably complement the existing character and pattern of development in the vicinity. The higher density development at the eastern end of the site relates appropriately to the terraced form of properties on The Park to the north-west and the detached larger properties towards the western element of the site are more in keeping with the lower density character of New Road. The removal of the parking courts and their replacement with on-plot parking is considered to represent an improvement and the relationship between the dwellings has improved which will result in better privacy levels for future residents and larger private garden areas. The parking areas serving the apartments are to be suitably softened by planting and with the use of sympathetic surface materials, which can be secured at reserved matters stage, the visual impact can be adequately mitigated.
- 6.20 The revised layout incorporating the additional set back of the buildings fronting Green Lane and the footpath along the north-eastern boundary of the site is, on balance, sufficient to overcome the previous reason for refusal and along with the retention and strengthening of the boundary vegetation would safeguard the semi-rural character of Green Lane and the footpath.

Landscape Impacts/Tree Considerations

- 6.21 As the principle of development has been approved by the successful appeal against the Council's decision to refuse to grant planning permission the main issue to consider in terms of tree protection and impact on the local landscape character is whether or not the proposed amended layout is likely to increase the harm that would be caused to the countryside by the development of the land in accordance with the consented scheme.

- 6.22 As with the consented scheme, there would be a change in the local landscape character of the site, as a result of the change in use from a grazed field to residential development.
- 6.23 The changes to the approved layout show that the proposed layout will not significantly alter the impact of the already consented development on the local landscape character. The separation distance on the southern and eastern boundaries is broadly in line with the approved layout with the exception of a single property positioned at the north eastern edge of the development. However, as this property is proposed to have a significant setback of approximately 45m from Green Lane with an intervening landscaped area, its prominence in views from Green Lane would be minimal. The amended layout would also have the benefit of increasing the separation between the built development and the Public Right of Way to the north of the application site.
- 6.24 Whilst a detailed landscaping scheme will be provided at detail stage the submitted landscape strategy confirms that the following principles will be applied;
- Management of the existing species rich hedgerow along the north-eastern boundary of the site with opportunities to infill gaps along the hedgerow with appropriate native species planting.
 - Lime trees or similar to be planted in the south-eastern corner of the site that would supplement and create continuity with the existing partial lime avenue along Green Lane.
 - Public open space within the south-eastern corner of the site, to include a play equipment and seating.
 - A new native species hedgerow along the southern edge of the housing, including small trees planted within the hedgerow where appropriate.
- 6.25 In respect of the impact of the development upon trees there are several small trees in the gardens of the properties in New Road; some of which would need to be removed in order to facilitate the development proposal. The field has strong boundary hedgerows and a single Sycamore close to the southern boundary.
- 6.26 In order to show the impact of the trees on the application site the applicant has provided an Arboricultural Implications Assessment (AIA) as part of a detailed Tree Survey and Report. The information is in accordance with BS5837 2012 Trees in relation to designs, demolition and construction: Recommendations.
- 6.27 The report shows the extent of the constraint that the trees are on the development potential of the land. It identifies trees that would need to be removed in order to facilitate the development. None of the trees identified for removal make such a contribution to the appearance of the conservation area that they merit formal legal protection by means of a Tree Preservation Order (TPO). The amenity value provided by the young Oak in the position of the proposed new access to the highway could be relatively easily replicated by new planting.
- 6.28 A representation has been received in respect of the impact of the revised development upon a mature Sycamore present on the southern boundary of the plot. The tree is in fair condition and makes a positive contribution to the appearance of the area. It has a reasonably well formed crown although it has over-extended branches on both its northern and southern aspects.
- 6.29 With regard to the proposed groundworks the construction of the proposed highway within the Root Protection Area (RPA) has the potential to cause harm to the tree however taking into account the tree species and the known tolerance of Sycamores to root pruning the proposed, a relatively minor incursion into the RPA will not cause significant harm or long term damage to tree.

6.30 In terms of the above ground elements of the tree it would benefit from pruning works to re-shape and balance the crown to reduce load bearing stresses on the above-mentioned over-extended branches oriented to the north and south. A reduction in the region of 30% would reduce the likelihood of complete branch failure and increase the safe useful life expectancy of the tree. The removal of three or four sub-lateral branches on the northern aspect of the tree would provide adequate clearance over the highway without compromising the health, appearance or long term viability of the tree.

6.31 The development proposal makes provision for the retention of the tree and identifies steps to be taken to mitigate the harm caused by compaction of the ground close to the main stem caused by cattle gathering in this location. It is considered that the proposed development will not cause harm to, or compromise the health or viability of, the tree.

6.32 Consequently, the development proposal does not threaten the viability of the best trees on the land.

Highway Safety/Parking

6.33 Paragraph 108 of the NPPF (2019) requires Councils to, when making decisions, take account of whether;

- a. appropriate opportunities to promote sustainable transport modes can be, or have been, taken up, given the type of development and its location;
- b. safe and suitable access to the site can be achieved for all users; and
- c. any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.

6.34 Saved Policy QL10 states that planning permission will only be granted, if amongst other things, access to the site is practicable and the highway network will be able to safely accommodate the additional traffic the proposal will generate.

6.35 The current application represents a variation to an outline scheme where the access into the site formed part of the application to be considered. The access remains unchanged and is therefore still proposed via a new opening located between 8 and 10 New Road. As a consequence the Highway Authority is satisfied that there is existing highway capacity to serve the proposed scheme and have not raised an objection subject to the inclusion of the conditions outlined in the Officer's recommendation above. Several of the conditions required by the Highway Authority are reflected on the submitted layout plan. All other conditions included by the planning inspector are re-instated.

6.36 The submitted layout plan shows that ample parking provision will be provided on site through driveway parking for the dwellings (some in excess of 2 spaces) and parking areas for the apartments. Visitor's parking is provided at certain points throughout the development and will also be absorbed by the longer driveways serving the larger dwellings.

Heritage

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

- 6.38 Within the appeal decision the planning inspector concluded that the application site, given its enclosed and discrete nature and the fact that it does not form part of or inform the significant views of the designed parkland indicated, does not contribute to the historical significance of Green Lane as a key access to the former Mistley Hall. Consequently, the planning inspector agreed that the site does not contribute to the aesthetic or historical significance of the Mistley Conservation Area and as such development on this site would preserve the character and appearance of the conservation area as a whole.
- 6.39 The proposal site does not contribute to the setting of the listed buildings in the vicinity. The proposal site is physically separated from each of the listed structures, and there is only a low level of intervisibility from some distance, over hedges and through some trees, with the side elevation of Mistley Hall. Due to topography, hedges, trees, woodland and intervening structures, the proposal site does not contribute to the experience of any of these listed structures.
- 6.40 The updated site layout does not alter the conclusions of the planning inspector, that the location, siting, form and appearance of the proposed development will have a neutral impact on the setting of the sixteen heritage assets near the proposed development site. Furthermore, it is considered that the revised layout reflects densities in the wider area and the proposed development will preserve the conservation area setting by making a positive contribution to local character and distinctiveness.

Ecology

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

These recommendations will be secured via conditions.

- 6.42 Legal advice has been sought to confirm that Tendring District Council should now seek financial contributions in accordance with the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). A Habitat Regulations Assessment (HRA) has been carried out to confirm that the mitigation will be the RAMS contribution as recommended by Natural England. It is therefore considered that this contribution is sufficient to mitigate against any adverse impact the proposal may have on European Designated Sites. The recommendation seeks to secure this within six months of a committee resolution to approve, otherwise planning permission would be refused in its absence on the grounds that there is no certainty that the development would not adversely affect the integrity of Habitats sites. Natural England has been consulted and confirms that they have no further comments on the matter.

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

Impact on Residential Amenity

- 6.44 The NPPF (2019) at paragraph 127 states that planning should secure developments with a high standard of amenity for existing and future users. Saved Policy QL11 of the Tendring District Local Plan (2007) states that amongst other criteria development will only be permitted if the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties.
- 6.45 The proposed layout has been carefully considered and although Officers note the concerns raised by residents living in close proximity to the site, the revised layout will retain sufficient spacing to existing properties to the west on New Road and to the north on The Park not to cause any adverse impacts in respect of loss of light, outlook or privacy. The closest point between the rear of the proposed properties and the rear of those existing properties on New Road is 30m which comfortably accords with the recommended distances outlined in the Essex Design Guide.
- 6.46 At detail stage the appearance and position of fenestration will be considered but it is clear from the submitted layout plan that this can be achieved without having adverse impacts on existing and future amenity.

Drainage

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

Legal Obligations

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

7. Conclusion

- 7.1 In conclusion the scheme represents an improved layout over that approved previously on appeal which will enable emergency and servicing vehicles to adequately access and

manoeuvre across the site, whilst proposing a more spacious appearing development allowing for better spacing between properties and larger private gardens for future residents. The layout also seeks to respond to the existing adjoining residential dwellings thereby presenting a more logical urban form.

7.2 The revised layout incorporating the additional set back of the buildings fronting Green Lane and the footpath along the north-eastern boundary of the site is, on balance, sufficient to overcome the previous reason for refusal and along with the retention and strengthening of the boundary vegetation would safeguard the semi-rural character of Green Lane and the footpath.

7.3 It is considered that the proposal meets the requirements set out within local and national policy and subject to the recommended conditions and completion of a S106 agreement the application is recommended for approval.

8. Recommendation

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

CATEGORY	TERMS
Affordable Housing Provision	30% affordable housing provision
Education contribution	Early Years and Childcare Contribution, Primary Education Contribution and Secondary Education Contribution.
Financial contribution towards RAMS.	£122.30p per unit

8.2 Conditions and Reasons

1). Details of scale, appearance and landscaping (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.

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

2). The development hereby permitted shall take place not later than 2 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). The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan: Drawing No. 0964-F01 rev D - Access Plan and Drawing No. AA7718-2040 01 – Site Layout.

Reason – For the avoidance of doubt.

4). Any Reserved Matters application relating to landscaping as required by Condition 1 shall include a detailed specification of hard and soft landscaping works for the

development. This shall include plant and tree types and sizes, plant numbers and distances, details of the play equipment details, soil specification, seeding and turfing treatment, colour and type of material for all hard surface areas and method of laying, refuse storage, signs and lighting.

Reason - In the interests of visual amenity and biodiversity.

- 5). Any trees or plants which die, are removed, or become seriously damaged or diseased within a period of 5 years from the completion of the development, shall be replaced in the next planting season with others of a similar size and species unless the local planning authority gives approval in writing to any variation.

Reason - To ensure the effective implementation of the approved landscaping scheme, in the interests of visual amenity.

- 6). A landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas, other than small, privately owned, domestic gardens, shall be submitted to and approved, in writing, by the local planning authority prior to the first occupation of the development. The landscape management plan shall be carried out as approved in accordance with the details and timescales in the plan.

Reason - To ensure the proper management and maintenance of the approved landscaping in the interests of amenity and the character and appearance of the area.

- 7). All areas of hardstanding shall be constructed using porous materials laid on a permeable base. All planting, seeding or turfing contained in the approved details of the landscaping scheme shall be carried out in phases to be agreed in writing as part of that scheme by the local planning authority. Prior to the occupation of each dwelling, the hardstanding associated with that dwelling shall be fully laid out.

Reason - In the interests of sustainable development and to ensure that run-off water is avoided to minimise the risk of surface water flooding.

- 8). No development shall commence until details of all trees, shrubs and hedges to be retained, together with the means of protecting them including any trees located outside but adjacent to the site boundary, from damage during the carrying out of the development have been submitted to and approved in writing by the local planning authority. The approved means of protection shall be installed prior to the commencement of development and shall remain in place until after the completion of the development.

Reason - To ensure the mature trees/hedges within the site are safeguarded during construction and retained in the interests of visual amenity.

- 9). No external lighting shall be installed until details of the illumination scheme have been submitted to and approved in writing by the Local Planning Authority. Development shall only be carried out in accordance with the approved details.

Reason - In the interests of amenity to reduce the impact of night time illumination on the character of the area

- 10). No development shall commence or site clearance or on site investigation works take place until a Biodiversity Management Plan for enhancing biodiversity including the detailed design of proposed biodiversity enhancements and their subsequent management once the development is completed, is submitted to and approved in

writing by the local planning authority in line with the recommendations contained in the submitted Ecological Assessment (as prepared by ethos Environmental Planning dated June 2019. Development shall be implemented in accordance with the approved scheme and thereafter maintained.

Reason - To preserve and enhance the biodiversity of the site.

- 11). No materials, goods or articles of any description shall be stacked, stored or placed at any time within the limits of the spread of any of the existing trees, shrubs or hedges. No works involving alterations in ground levels, or the digging of trenches, or excavations of any kind, (including the laying or installation of drains, pipes, cables or other services) shall be carried out within the extent of the spread of any existing trees, shrubs and hedges unless the express consent in writing of the local planning authority has previously been obtained. No machinery of any kind shall be used or operated within the extent of the spread of the existing trees, shrubs, or hedges.

Reason - To ensure the mature trees/hedges within the site are safeguarded during construction and retained in the interests of visual amenity.

- 12). No development shall commence, including any groundworks, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Construction Method Statement shall provide for:

- safe access to/from the site;
- the parking of vehicles of site operatives and visitors;
- the loading and unloading of plant and materials;
- the storage of plant and materials used in constructing the development;
- the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- wheel washing facilities;
- measures to control the emission of dust and dirt during construction;
- a scheme for recycling/disposing of waste resulting from construction works;
- details of hours of deliveries relating to the construction of the site;
- details of hours of site clearance or construction;
- a scheme to control noise and vibration during the construction phase, including details of any piling operations

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

Reason - To ensure that on-street parking of construction vehicles and materials storage in the adjoining streets does not occur, in the interests of highway safety and to control delivery/working hours in the interests of residential amenity.

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

Reason - To ensure adequate intervisibility between drivers of vehicles using the proposed access and those in the adjoining highway, in the interests of highway safety.

- 14). Prior to the commencement of development, details of the estate roads and footways (including layout, levels, gradients, surfacing and means of surface water drainage)

shall be submitted to and approved in writing by the Local Planning Authority. The development shall be constructed as approved thereafter.

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

- 15). All parking spaces and turning areas within the site shall be provided prior to the first occupation of the approved dwellings and retained for the sole purpose of the parking and turning of vehicles thereafter.

Reason - To ensure off-street parking is provided at a level commensurate with the requirements of the current parking standards and to ensure there are sufficient turning facilities for all types of vehicles attracted by the development.

- 16). Prior to first occupation of the proposed development, the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack for sustainable transport the details of which shall first be submitted and approved in writing by the local planning authority, to include 6 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.

- 17). Prior to commencement of development, a scheme shall be submitted to and approved in writing by the local planning authority for the upgrading and improvement of the 2 nearest bus stops to the site. The scheme shall be implemented in accordance with the approved details.

Reason – To promote the use of sustainable transport modes.

- 18). No vehicular access to the development shall be taken from Green Lane.

Reason – In the interests of safeguarding pedestrian use of Green Lane and in the interests of visual amenity.

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

Reason - To minimise the length of time a refuse vehicle is required to wait within and cause obstruction of the highway, in the interests of highway safety.

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

Reason - To promote the use of sustainable means of transport.

- 21). No development or preliminary ground-works shall commence until a programme of archaeological evaluation has been secured and undertaken in accordance with a Written Scheme of Investigation, which has been submitted to and approved in writing by the local planning authority. Following the completion of this initial phase of

archaeological work, a summary report shall be prepared and a mitigation strategy detailing the approach to further archaeological excavation and/or preservation in situ, shall be submitted to the local planning authority.

Reason - The Tendring Historic Environment Characterisation project and Essex HER show that the proposed development is located within an area with potential for below ground archaeological deposits.

- 22). No development or preliminary groundwork shall commence on those areas of the development site containing archaeological deposits, until the completion of archaeological fieldwork, as detailed in the mitigation strategy, which has been approved off by the local planning authority.

Reason - The Tendring Historic Environment Characterisation project and Essex HER show that the proposed development is located within an area with potential for below ground archaeological deposits.

- 23). Following completion of the archaeological fieldwork, the applicant will submit to the local planning authority a written post-excavation assessment (within 6 months of the completion date, unless otherwise agreed in writing with the local planning authority), which will include a post-excavation analysis, preparation of a full site archive and report ready for deposition at the local museum, and the submission of a publication report.

Reason - The Tendring Historic Environment Characterisation project and Essex HER show that the proposed development is located within an area with potential for below ground archaeological deposits.

- 24). No works shall take place until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme shall include but not be limited to:

- detailed hydrogeological testing to demonstrate the viability of infiltration. Where possible infiltration should be the preferred method of surface water disposal;
- if infiltration testing demonstrates that ground conditions are unsuitable then further consideration should be given to the alternative discharge strategy, including limiting discharge rates to 5l/s for all storm events up to and including the 1 in 100 year rate plus 40% allowance for climate change;
- provide sufficient storage to ensure no off site flooding as a result of the development during all storm events up to and including the 1 in 100 year plus 40% climate change event and a 10% allowance for urban creep;
- final modelling and calculations for all areas of the drainage system;
- the appropriate level of treatment for all runoff leaving the site, in line with the CIRIA SuDS Manual C753;
- detailed engineering drawings of each component of the drainage scheme;
- a final drainage plan which details exceedance and conveyance routes, finished floor levels and ground levels, and location and sizing of any drainage features;
- a written report summarising the final strategy and highlighting any minor changes to the approved strategy.

The scheme shall be implemented prior to occupation.

Reason - To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site. To ensure the effective operation of SuDS features over the lifetime of the development. To provide mitigation of any environmental harm which may be

caused to the local water environment. Failure to provide the above required information before commencement of works may result in a system being installed that is not sufficient to deal with surface water occurring during rainfall events and may lead to increased flood risk and pollution hazard from the site.

- 25). 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 to 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 mitigate increased flood risk to the surrounding area during construction there needs to be satisfactory storage of/disposal of surface water and groundwater which needs to be agreed before commencement of the development. Construction may also lead to polluted water being allowed to leave the site. Methods for preventing or mitigating against this should be proposed.

- 26). No works 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. Should any part be maintainable by a maintenance company, details of long term funding arrangements shall be provided.

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. Failure to provide the above required information before commencement of works may result in the installation of a system that is not properly maintained and may increase flood risk or pollution hazard from the site.

- 27). The applicant or any successor in title shall maintain yearly logs of maintenance which shall be carried out in accordance with any approved Maintenance Plan. These shall be available for inspection upon the submission of a written 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.

8.3 Informatives

- Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

- 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

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

- The applicant is reminded that this permission is linked to a planning obligation under Section 106 of the Town and Country Planning Act 1990.

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