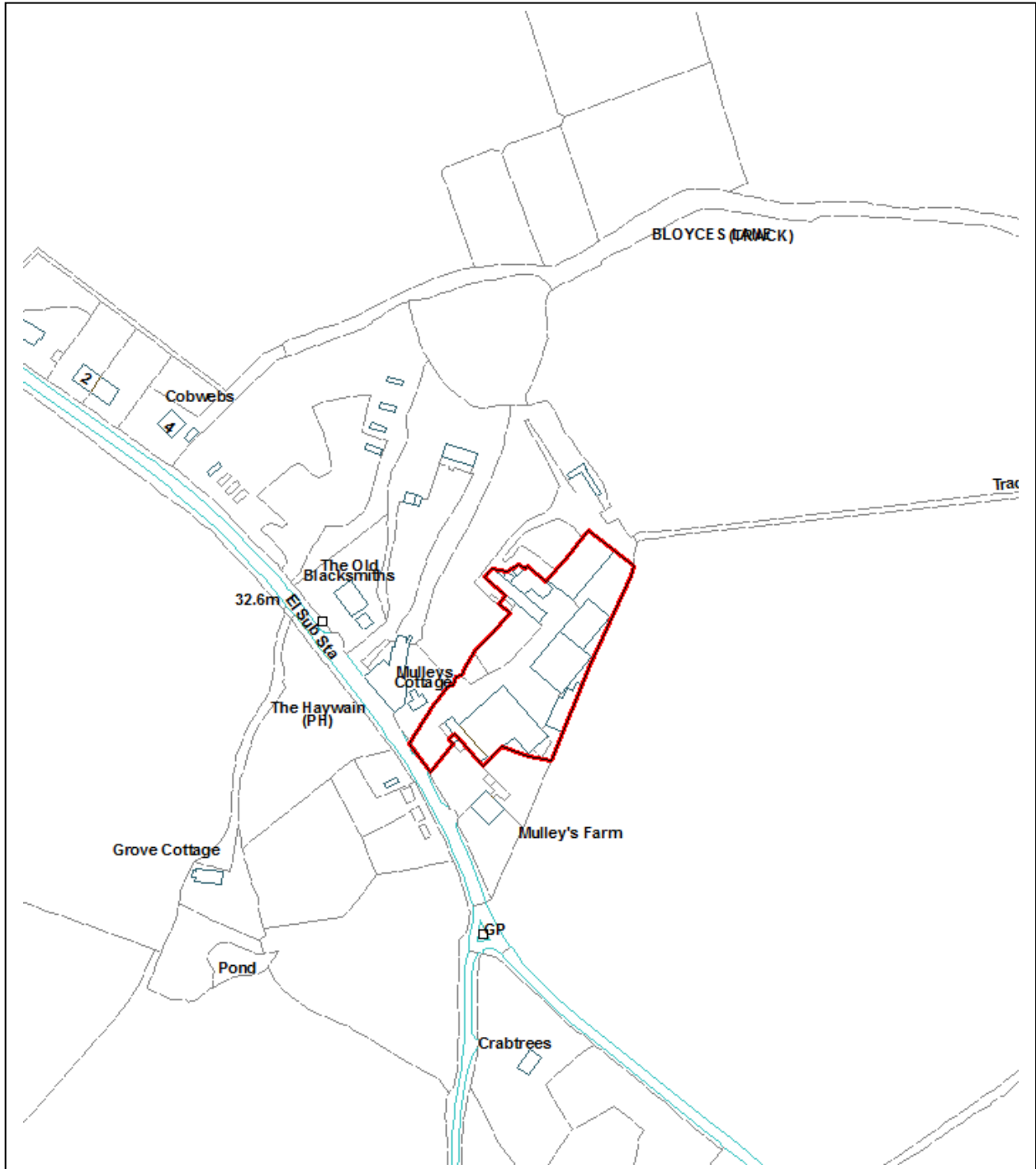


PLANNING COMMITTEE

22 OCTOBER 2019

REPORT OF THE HEAD OF PLANNING

**A.1 PLANNING APPLICATION – 18/01888/FUL – MULLEYS FARM BENTLEY ROAD LITTLE BROMLEY MANNINGTREE CO11 2PL**



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**Application:** 18/01888/FUL

**Town / Parish:** Little Bromley Parish Council

**Applicant:** Mrs Cooper

**Address:** Mulleys Farm Bentley Road Little Bromley Manningtree CO11 2PL

**Development:** Change of use of agricultural and storage buildings to mixed open use (B1, B2 and B8) and the erection of an extension following the removal of a lean-to structure.

## 1. **Executive Summary**

- 1.1 Councillor Stock has called for the application to be determined by Planning Committee due to the impacts to neighbouring properties through noise disturbances, and also harm to a listed building.
- 1.2 National and local plan policies support the proposed development for an expansion to the established business in a rural location providing the proposal can be accommodated without an adverse impact on the landscape character of the countryside, without harming the amenity of local residents, and satisfactory vehicular access and adequate car parking is provided.
- 1.3 The single storey side extension will not appear prominent and will result in a neutral impact to the existing street scene, while also being sited with sufficient distance to neighbouring properties and the nearby listed building to ensure no harm.
- 1.4 Following concerns raised with regard to the noise impacts of the proposal, a noise assessment has been submitted. The assessment concludes that the noise levels from the use of the site are marginally above the existing ambient noise levels and are not considered significant. Therefore, subject to the installation of acoustic fencing and noise control measures, the buildings can be used for metal fabrication without causing significant impact or disturbance to local residents.
- 1.5 Essex Highways Authority have raised no objections, while there is considered to be sufficient parking provision for the flexible use being proposed.

### **Recommendation:**

That the Head of Planning be authorised to grant planning permission for the development subject to the conditions stated in section 8.2.

## 2. **Planning Policy**

- 2.1 The following Local and National Planning Policies are relevant to this planning application:
  - NPPF National Planning Policy Framework February 2019
  - National Planning Practice Guidance
  - Tendring District Local Plan 2007
  - COM22 Noise Pollution

- EN23 Development Within the Proximity of a Listed Building
  - ER7 Business, Industrial and Warehouse Proposals
  - ER11 Conversion and Reuse of Rural Buildings
  - EN1 Landscape Character
  - QL9 Design of New Development
  - QL10 Designing New Development to Meet Functional Needs
  - QL11 Environmental Impacts and Compatibility of Uses
  - TR1A Development Affecting Highways
- Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017)
- PPL9 Listed Buildings
  - SP4 Providing for Employment and Retail
  - SPL3 Sustainable Design

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

- 2.2 The 'development plan' for Tendring is the 2007 'adopted' Local Plan. Paragraph 213 of the NPPF (2018) allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF. Paragraph 48 of the NPPF also allows weight to be given to policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency with national policy. As of 16th June 2017, the emerging Local Plan for Tendring is the Tendring District Local Plan 2013-2033 and Beyond Publication Draft.
- 2.3 Section 1 of the Local Plan (which sets out the strategy for growth across North Essex including Tendring, Colchester and Braintree) was examined in January and May 2018 and the Inspector's initial findings were published in June 2018. They raise concerns, very specifically, about the three 'Garden Communities' proposed in north Essex along the A120 designed to deliver longer-term sustainable growth in the latter half of the plan period and beyond 2033. Further work is required to address the Inspector's concerns and the North Essex Authorities are considering how best to proceed.
- 2.4 With more work required to demonstrate the soundness of the Local Plan, its policies cannot yet carry the full weight of adopted policy, however they can carry some weight in the determination of planning applications. The examination of Section 2 of the Local Plan will progress once matters in relation to Section 1 have been resolved. Where emerging policies are particularly relevant to a planning application and can be given some weight in line with the principles set out in paragraph 48 of the NPPF, they will be considered and, where appropriate, referred to in decision notices. In general terms however, more weight will be given to policies in the NPPF and the adopted Local Plan.

### **3. Relevant Planning History**

03/01778/FUL	Rear extension	Approved	21.10.2003
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05/01218/FUL	Temporary permission for siting of caravan whilst rebuilding of Mulley Cottage is carried out.	Approved	17.10.2005
07/02031/FUL	Change of use of 3 No. agricultural buildings to storage (B8 Use), retention of 3 No. agricultural buildings in storage (B8 use) and retention of 2 No. former agricultural buildings for use by Brick Logic (B2 Use). As amended by letter and attached plan dated 7th May 2008 and amplified by letter dated 20 May 2008 and External Lighting plan received on 10 June 2008.	Approved	11.07.2008

#### 4. Consultations

ECC Highways Dept

The information that was submitted in association with the application has been fully considered by the Highway Authority.

The site has previously had approval for B2 and B8 use back in 2008; the proposed extension will not impact on the highway therefore:

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

1. Prior to first occupation of the development the areas within the site identified for the purpose of loading/unloading/reception and storage of materials and manoeuvring shall be provided clear of the highway and retained thereafter for that sole purpose.

Reason: To ensure that appropriate loading / unloading facilities are available in the interest of highway safety in accordance with policy DM1.

2. Prior to first occupation of the development a vehicular turning facility, of a design to be approved in writing by the Local Planning Authority shall be provided and maintained free from obstruction within the site at all times for that sole purpose.

Reason: To ensure that vehicles can enter and leave the highway in a forward gear in the interest of highway safety in accordance with policy DM1

3. The proposed development shall not be occupied until such time as the vehicle parking has been identified for staff and delivery vehicles, has been set aside marked out in parking bays. The vehicle parking area and

associated turning area shall be retained in this form at all times. The vehicle parking shall not be used for any purpose other than the parking of vehicles that are related to the use of the site unless otherwise agreed with the Local Planning Authority.

Reason: To ensure that on street parking of vehicles (in particular, heavy good vehicle lorries) on Bentley Road does not occur in the interests of highway safety and that appropriate parking is provided in accordance with Policy DM8.

4. The existing access within the proposed formal parking area shown on the parking plan (DWG 60146) shall be suitably and permanently closed incorporating the reinstatement to full height of the highway verge / footway / cycleway / kerbing immediately the proposed new access is brought into first beneficial use.

Reason: To ensure the removal of and to preclude the creation of unnecessary points of traffic conflict in the highway in the interests of highway safety in accordance with policy DM1.

5. Areas within the curtilage of the site for the purpose of the reception and storage of building materials (for the extension) shall be identified clear of the highway.

Reason: To ensure that appropriate loading / unloading facilities are available to ensure that the highway is not obstructed during the construction period in the interest of highway safety in accordance with policy DM1.

The above conditions are to ensure that the proposal conforms to the relevant policies contained within the County Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

Informative 1: The internal access arrangements being sufficient width throughout to permit opposing vehicles to pass and incorporating a vehicular turning space of sufficient dimensions to cater for articulated heavy goods vehicles and should be maintained free of obstruction at all times.

Informative 2: Any work affecting the highway is to be laid out and constructed by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority, details to be agreed before the commencement of works.

## **5. Representations**

5.1 Little Bromley Parish Council object to the application for the following reasons:

- The site is not connected to a mains sewer;
- Access road is too narrow and not suitable for large commercial vehicles; and
- Impact to neighbouring property.

5.2 There have been 11 letters of objection received, with their comments summarised below:

- Not a mains sewer on site;
- Highway safety concerns;
- Noise and light pollution;
- Harm to structure of adjacent listed building;
- Increase in traffic movements;
- Access not suitable for large commercial vehicles;
- Anti-social working hours; and
- Noise Assessment is not accurate enough and is flawed.

## **6. Assessment**

### Site Context

- 6.1 The application site is Mulleys Farm, which is located to the eastern section of Bentley Road within the parish of Little Bromley. The site measures approximately 0.51 hectares and contains a number of buildings. The character of the surrounding area is rural, with agricultural land notably to the east, south and west. There is however a small area of built form adjacent to the north of the site, which includes The Haywain Public House.
- 6.2 The site is not situated within a recognised Settlement Development Boundary in either the Saved Tendring Local Plan 2007 or Emerging 2013-2033 Tendring Local Plan Publication Draft.

### Site History

- 6.3 Under planning reference 07/02031/FUL, planning permission was granted for the change of use of the site so that the buildings usage included 6 x B8 Storage and Distribution use and 2 x B2 General Industry use.
- 6.4 It is important to note that a condition was attached to this decision to restrict the two buildings in B2 General Industry use only to a company known as 'Brick Logic'. This was because the B2 General Industry use was considered at that time to have the potential to cause disturbance to nearby residents. This occupier has since vacated the premises and the buildings therefore reverted to its original agricultural use.
- 6.5 Therefore the site in its current form has planning permission for B8 Storage and Distribution use, except for two buildings to the north-east of the site which have a restricted B2 General Industry use.

### Description of Proposal

- 6.6 This application seeks retrospective planning permission for the change of use of nine individual buildings (with one of the existing eight buildings being sub-divided) on site to a mixed open use of B1 Business, B2 General Industry and B8 Storage and Distribution. The site has been operating in this manner since September 2016.
- 6.7 The application also seeks retrospective consent for the erection of a single storey extension to the side elevation of the building located to the south-western corner of the site.

6.8 The proposal states the following opening hours of:

- Monday to Friday – 7am to 6pm
- Saturday – 7am to 12pm
- Sunday and Bank Holidays – Closed

These hours are in accordance with the operating hours previously approved under planning permission 07/02031/FUL.

#### Principle of Development

- 6.9 Paragraph 80 of the National Planning Policy Framework (2019) states planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.
- 6.10 Paragraph 83 of the 2019 (NPPF) states that planning policies and decisions should help build a strong, competitive economy by enabling the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings. Paragraph 84 of the 2019 (NPPF) states that planning policies and decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. In these circumstances, it will be important to ensure that development is sensitive to its surrounding, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable. The use of previously developed land, and sites that are physically well-related to existing settlements, should be encouraged where suitable opportunities exist.
- 6.11 The preamble of saved Policy ER7 of the adopted Tendring District Local Plan 2007 explains how the Council wishes to support the growth of existing firms and will grant permission for extensions to established business premises in rural locations providing they have an acceptable impact on visual amenity. Saved Policy ER7 itself states that in rural locations permission may exceptionally be granted for extensions to existing businesses where new employment opportunities would be generated providing the proposals can be accommodated without an adverse impact on the landscape character of the countryside and satisfactory vehicular access and adequate car parking is provided.
- 6.12 The preamble of saved Policy ER11 of the adopted Tendring District Local Plan 2007 states that in the interest of encouraging a lively and viable rural economy the re-use or conversion of rural buildings for employment purposes is encouraged, but that the type and scale of activity proposed should be compatible with the character of the surrounding area, and the potential impact on the amenity of local residents will be an important consideration.
- 6.13 In summary, national and local plan policies support the proposed development for an expansion to the established business in a rural locations providing the proposals can be accommodated without an adverse impact on the landscape character of the countryside, without harming the amenity of local residents, and satisfactory vehicular access and adequate car parking is provided.
- 6.14 It is acknowledged the application will see an intensification of an employment use in a rural area away from any significant settlement. However, given the existing permission of a mixed B8 and restricted B2 use at the site, on balance it is considered that this intensification is not significant enough to warrant recommending a reason for refusal, subject to the detailed consideration below.

### Visual Impacts

- 6.15 The adopted Tendring District Local Plan (2007) "Saved" Policies QL9, QL10 and QL11 seek to ensure that all new development makes a positive contribution to the quality of the local environment and character, by ensuring that proposals are well designed, relate satisfactorily to their setting and are of a suitable scale, mass and form. These sentiments are carried forward in Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).
- 6.16 The proposed scheme results in one external alteration to the existing site, a single storey side extension to the building located to the south-western corner of the site, currently occupied by Datum Group Ltd.
- 6.17 Given that the extension is sited approximately 30 metres from Bentley Road and is located to the rear of existing built form, it will not appear prominent, thereby resulting in a neutral impact to the street scene. Further, the overall design and material use is in-keeping with the existing development and is considered an acceptable addition.

### Impact to Setting of a Listed Building

- 6.18 Policy EN23 of the Adopted Plan states that development within the proximity of a Listed Building that would adversely affect the setting of a Listed Building, including group value and long distance views, will not be permitted. The sentiments of this policy are carried forward within policy PPL9 of the Emerging Plan.
- 6.19 The application site is located adjacent to the east of Mulley's Cottages, which is a Grade II Listed Building. However the only external amendment being proposed within this application is a single storey extension, which is to be located approximately 20 metres apart. Given this significant separation distance, the extensions single storey nature and that any long distance views will be maintained, there is not considered to be any significant impacts to the setting of the Grade II Listed Building.

### Impact to Neighbouring Amenities

- 6.20 Paragraph 127 of the National Planning Policy Framework (2019) states that planning policies and decisions should ensure that developments create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.
- 6.21 Planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should:
- a) mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life;
  - b) identify and protect tranquil areas which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason; and
  - c) limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.



- 6.22 Policy QL11 of the Saved Plan states that amongst other criteria, 'development will only be permitted if the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties'. These sentiments are carried forward in Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).
- 6.23 Given the potential noise/vibration impact associated with the development proposal it was considered necessary that a noise assessment be submitted to explore whether the proposed change of use could be carried out without causing significant harm to the amenities of the adjacent neighbours. Accordingly a noise assessment has been undertaken.
- 6.24 The submitted assessment details that a series of noise measurements were carried out at the site on 21 February 2019, taken 10 metres from the site boundary to Mulley's Cottage, which is the closest related property. The survey results included noise with and without the site operating. Measurements were taken to represent overall activity at the site, including internal welding, electric fork lift truck activity, and van and other vehicle arrivals and departures. Other background noises noted include passing local traffic, including agricultural vehicles, occasional aircraft and distant road traffic noise from the A120 approximately 1.8km to the south.
- 6.25 The assessment concludes that the noise levels from the use of the site are marginally above the existing ambient noise levels and are not considered significant. The buildings can operate for metal fabrication without causing significant impact or disturbance to local residents. The noise from the use of the site is less than the significant adverse impact threshold referred to within the NPPF (2019). It has therefore been concluded that the proposed change of use will not result in significant noise pollution to the serious detriment of the adjacent neighbouring properties.
- 6.26 The noise assessment also states that a 2 metre high acoustic screen to the boundary of Mulley's Cottage is essential to further reduce noise impacts, and provides details of physical and management noise control measures. These are recommended as conditions to this decision.
- 6.27 The development also includes a single storey side extension; however given its size and distance to nearby neighbouring properties, there is considered to be a neutral impact to existing amenities as a result.

#### Highways Impacts

- 6.28 Essex Highways Authority initially stated it has no objections subject to conditions relating to a vehicular turning facility, vehicle parking for staff and delivery vehicles being marked out and areas of the site identified for loading, unloading and storage of materials being provided clear of the highway.
- 6.29 Following these comments, a meeting between Essex Highways Authority, the agent for the application, a local councillor and the Chairman for the Parish Council took place on 6 August 2019, following information supplied by the Parish Council discussing the practices taking place on the site; notably vehicles parking on Bentley Road as opposed to the application site and vehicles not leaving the site in a forward gear.
- 6.30 Following this meeting, the agent for the application provided details of a Swept Path Analysis, which provides two options to show how vehicles are able to leave the site in forward gear, and also details of a turning and manoeuvring area within the site. As such Essex Highways Authority has submitted slightly revised comments that are still in support of the application but add additional emphasis to avoid the parking of vehicles on Bentley Road. The condition requesting a vehicular turning facility however is now not relevant following the

submission of the above information, and is therefore not recommended as a condition to this decision.

- 6.31 Adopted Car Parking Standards state that for a B8 Storage or Distribution use, provision should be made for a minimum of one parking space per 150sqm. For a B1 Business use provision should be made for 1 parking space per 30sqm, while for B2 General Industrial use there should be provision for 1 parking space per 50sqm.
- 6.32 The total size of all nine units is approximately 2,600 square metres. Against the above standards this would require a maximum of 18 spaces if all the units were B8, a maximum of 52 spaces if all the units were B2, and a maximum of 86 spaces if all the units were B1. The site currently has planning permission for six units as a B8 Storage or Distribution use, and two units as a B2 General Industrial use.
- 6.33 Given the increase in required parking provision Officers requested that a parking layout be submitted to demonstrate the levels of parking required is achievable.
- 6.34 The submitted parking layout shows provision for 48 parking spaces. As per the calculations above the site should demonstrate a minimum of 18 parking spaces and a maximum of 86 spaces; the provision falls approximately in the middle of these two figures, while it is acknowledged that the site in its existing layout predominantly includes B8 Storage and Distribution uses. Therefore it is considered that the parking provision highlighted is acceptable for the site. The parking layout also shows provision in front of the existing access point to the south-eastern corner of the site, and accordingly Essex Highways Authority have recommended a further condition to ensure this access point is suitably and permanently closed.

## **7. Conclusion**

- 7.1 In summary, national and local policies are in support of growth to rural businesses. While the proposal represents an intensification to the existing use, it is not considered to be excessively so. The scheme involves few external changes, with the single storey extension being a minor addition that neither harms the character of the area or impacts neighbouring amenities. The change of use to include a flexible B1, B2 and B8 use across the site does have the potential to increase noise levels, both through additional comings and goings of vehicles and through noise associated with a B2 use in particular. While a restriction was put on the B2 General Industry use at this site in the previous planning permission, this was because it was unclear if there would be significant harm to neighbouring amenities. However, a noise assessment has been provided which has concluded noise levels from the use of the site are marginally above the existing ambient noise levels. Further, Essex Highways Authority offer no objections, while the parking provision is considered to be acceptable. Therefore, subject to conditions shown below, the development is recommended for approval.

## **8. Recommendation**

- 8.1 The Planning Committee is recommended to grant planning permission subject to the following conditions and informatives. Given the nature of the application a section106 legal agreement is not required in this instance.

### **8.2 Conditions and Reasons**

- 1 The development hereby permitted shall be carried out in accordance with the following approved plans, titled 'Site Location Plan' received 19 June 2019, 'Block Plan', 'Site Plan', 'Parking Plan', 'Environmental Noise Report', drawing number 512/18 and the two untitled swept path analysis models received 3 October 2019.

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

- 2 Notwithstanding the approved plans, within three months of the date of this decision, a plan identifying areas within the site for vehicle parking for staff and delivery vehicles shall be provided and approved in writing by the Local Planning Authority. The vehicle parking area and associated turning area shall be completed within three months of approval of the plan by the Council and retained in this form at all times. The vehicle parking shall not be used for any purpose other than the parking of vehicles that are related to the use of the site unless otherwise agreed with the Local Planning Authority.

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

- 3 Notwithstanding the approved plans, within three months of the date of this decision, a plan identifying areas within the site for the purposes of loading/unloading/reception and storage of materials and manoeuvring shall be provided and approved in writing by the Local Planning Authority. The proposed works shall be completed within three months of the Council approving the plan. These areas shall be clear of the highway and retained in this approved form thereafter for that sole purpose unless otherwise agreed by the Local Planning Authority.

Reason: To ensure that appropriate loading / unloading facilities are available in the interest of highway safety.

- 4 The existing access within the proposed formal parking area shown on the document titled 'Parking Plan' shall be suitably and permanently closed incorporating the reinstatement to full height of the highway verge / footway / cycleway / kerbing immediately the proposed new access is brought into first beneficial use.

Reason: To ensure the removal of and to preclude the creation of unnecessary points of traffic conflict in the highway in the interests of highway safety.

- 5 Notwithstanding any existing floodlighting or other means of external lighting on site, no floodlighting or other 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, and in the interests of highway safety.

- 6 Notwithstanding the provisions of Article 3, Schedule 2 Part 7 Class H of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), there shall be no erection, extension or alteration to any of the hereby permitted buildings except in accordance with drawings showing the design and siting of such additions or building(s) which shall previously have been submitted to and approved, in writing, by the Local Planning Authority.

Reason - In the interests of neighbouring amenities.

- 7 No public announcement system or other form of external audio communication system shall be installed at the site except in accordance with details (to include position, height and full technical details), which shall have previously been submitted to, and agreed in writing by, the Local Planning Authority.

Reason - In the interests of neighbouring amenities.

- 8 Notwithstanding the approved plans, within three months of the date of this decision, details of the proposed acoustic fencing shall be submitted to and approved in writing by the Local Planning Authority. The fencing shall be erected within three months of approval of the proposed plans and be fully in accordance with the approved details and shall be retained thereafter as approved.

Reason – In the interests of avoiding noise disturbances to the adjacent neighbouring property.

- 9 Within three months of the date of this decision, details of the physical and management noise control measures, as indicated within Appendix B of the document titled 'Environmental Noise Report', shall be submitted to and approved in writing by the Local Planning Authority. These measures shall be implemented within three months of approval of the proposed noise control measures and completed in accordance with the approved details and shall be adhered to thereafter.

Reason – In the interests of avoiding noise disturbances to the adjacent neighbouring property.

- 10 Use of the premises as hereby permitted shall be confined to the following hours:

Mondays to Fridays: 7am – 6pm  
Saturdays: 7am – 12pm  
Sundays and Bank Holidays: Closed

Reason – To avoid disturbance in the interest of residential amenity.

### 8.3 Informatives

#### Positive and Proactive Statement

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

#### Highways Informatives

The internal access arrangements being sufficient width throughout to permit opposing vehicles to pass and incorporating a vehicular turning space of sufficient dimensions to cater for articulated heavy goods vehicles and should be maintained free of obstruction at all times.

Any work affecting the highway is to be laid out and constructed by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority, details to be agreed before the commencement of works.

Areas within the curtilage of the site for the purpose of the reception and storage of building materials (for the extension) shall be identified clear of the highway.

## 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.