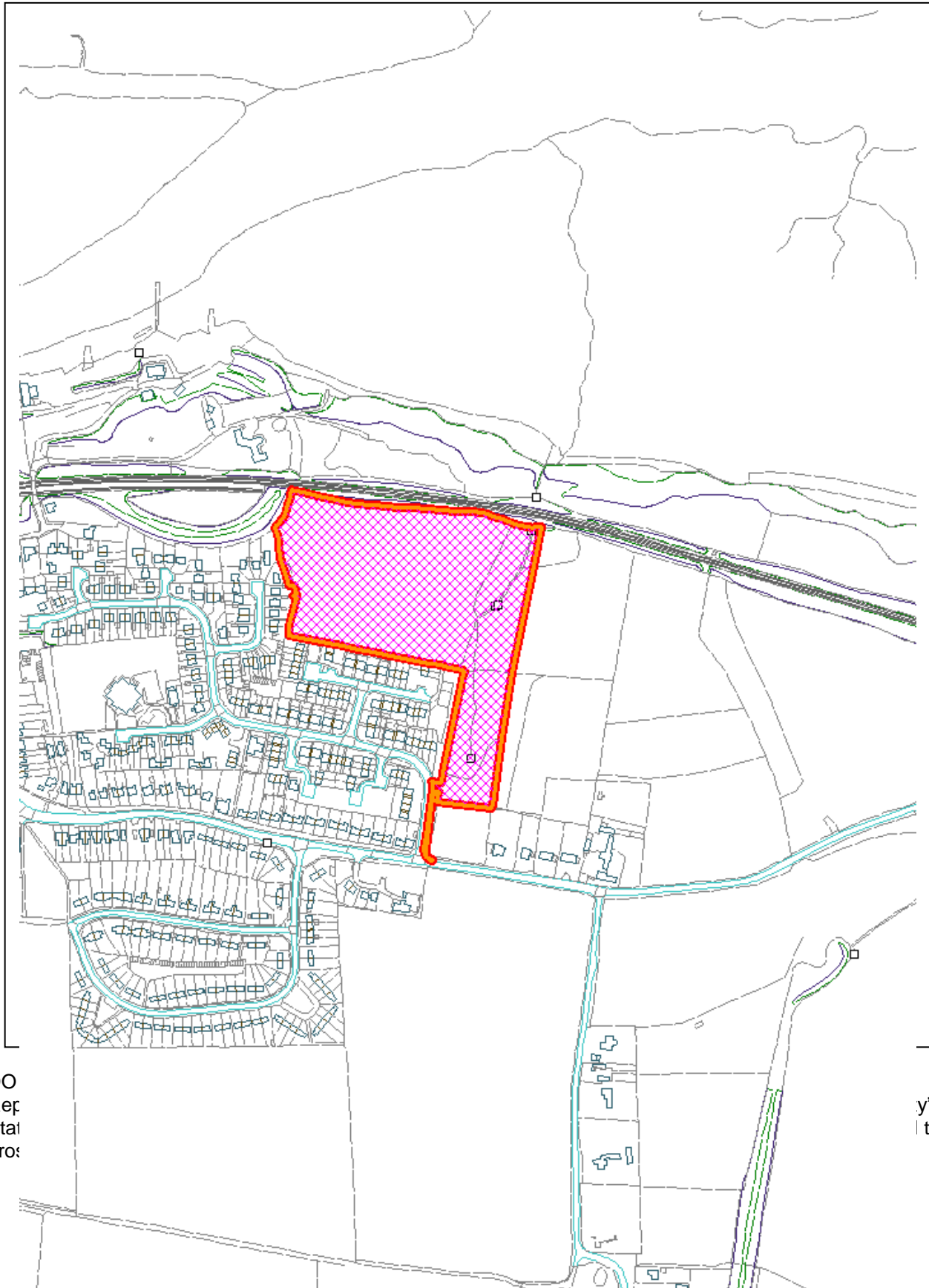


PLANNING COMMITTEE

30<sup>TH</sup> NOVEMBER 2016

REPORT OF THE HEAD OF PLANNING

**A.3 PLANNING APPLICATION – 15/01810/OUT – LAND NORTH OF STOURVIEW AVENUE MISTLEY CO11 1LT**



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<b>Application:</b>	15/01810/OUT	<b>Town / Parish:</b> Mistley
<b>Applicant:</b>	Rose Builders (Properties Ltd)	
<b>Address:</b>	Land north of Stourview Avenue, Mistley, CO11 1LT	
<b>Development:</b>	Proposed new access road and the erection of up to 70 dwellings and associated works.	

## 1. Executive Summary

- 1.1 This is an outline planning application seeking approval for the principle of up to 70 new homes with a new access road on undeveloped land off Stourview Avenue, Mistley. The application was submitted in November 2015 but determination has been delayed whilst additional information has been prepared to address the requirements of European Habitat Regulations, assess the ecological value of the site and whilst the cumulative impacts of other large-scale development proposals in the Manningtree, Lawford and Mistley area have been properly assessed. Around 1,500 new homes are already expected to be built in the Manningtree, Lawford, Mistley and Brantham area following resolution to grant planning permission for a number of major schemes, subject to s106 legal agreements to provide appropriate mitigation for the individual and cumulative impacts on health, education and highways.
- 1.2 Historically, this site was Mistley Parish Council's preferred location for inclusion in the new Local Plan for housing. However, following the grant of outline planning permission for schemes of up to 300 dwellings off Long Road, 135 dwellings off Harwich Road and 25 dwellings off Pound Corner, and having considered concerns raised by residents, development on the application site is no longer supported by the Parish Council. There are also 9 local objections and 1 representation of support.
- 1.3 The site is located within an area proposed for inclusion within an extension to the Suffolk Coast and Heaths Area of Outstanding Natural Beauty. It also lies outside of the settlement development boundary and within the Coastal Protection Belt, as defined in the Council's adopted Local Plan. In the new merging Local Plan however, the settlement development boundary extends around the majority of the site and the Coastal Protection Belt has been adjusted to exclude the land in question – indicating an expectation that the site could be developed. The site's location close to the Stour Estuary and associated Area of Outstanding Natural Beauty does however mean that any development would have to be undertaken in a sensitive manner that respects landscape and visual considerations and the natural beauty of the area.
- 1.4 Because the Council is still currently unable to identify a five-year supply of deliverable housing sites as required by government planning policy (albeit the situation is improving rapidly), this application has been considered in line with the government's 'presumption in favour of sustainable development'. Although the development would be contrary to the adopted Local Plan, to comply with government requirements Officers have needed to approach the application with a view to positively addressing, as far as possible, technical issues and other matters raised by consultees and residents.
- 1.5 Because Mistley forms part of the wider Manningtree, Lawford and Mistley urban settlement as defined in the Local Plan, residential development in this location has the potential to be sustainable with reasonable access to a range of local job opportunities, shops, services, facilities and public transport compared with more remote rural villages.

- 1.6 With a number of major developments already approved in the area, Officers have carefully considered both the individual and cumulative impacts to assist the Committee in making an informed judgement. The most significant planning issue in this regard has been Highways and the potential impact of multiple developments on highway capacity and safety, in particular the A137 at the busy railway crossing at Manningtree Station. Following lengthy and careful consideration, Essex County Council as the Highways Authority has advised that this particular development will not add significantly to traffic at the railway crossing and that it is acceptable in highways terms, subject to conditions relating mainly to the access and footpath arrangements.
- 1.7 Essex County Council as the Education Authority and NHS England have requested financial contributions towards addressing the impact of the development on local education and health services and Anglian Water has indicated that the development could be accommodated by the local sewage system. Ecological, flood risk and heritage impacts have been addressed to the satisfaction Officers. Whilst no indicative drawings have been provided in support of the application at this stage, Officers are content that a scheme of 70 dwellings with suitable open space and landscaping could be accommodated on the site in an acceptable manner – with the details of layout and design being reserved for consideration at a later stage.
- 1.8 Officers consider that this development complies with the requirements of the National Planning Policy Framework and the recommendation is approval subject to a s106 agreement to secure affordable housing, open space and allotments, and financial contributions towards health and education.

**Recommendation: Approval**

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):
- On-site Council Housing/Affordable Housing;
  - Education contribution;
  - Health contribution;
  - Contribution towards ecological mitigation; and
  - Completion and transfer of public open space + maintenance contribution.
- b) Planning conditions in accordance with those set out in (i) below (but with such amendments and additions, if any, to the detailed wording thereof as the Head of Planning (or the equivalent authorised officer) in their discretion considers appropriate).
- (i) Conditions:**
1. Standard 3 year time limit for submission of reserved matters application.
  2. Standard 2 year limit for commencement of development following approval of reserved matters.
  3. Details of appearance, layout, scale and landscaping (the reserved matters).
  4. Layout and phasing plan/programme.
  5. Development to contain up to (but no more than) 70 dwellings.
  6. Highways conditions (as recommended by the Highway Authority).
  7. Archeologic trial trenching.

8. Ecological mitigation/enhancement plan.
9. Foul water strategy.
10. Surface water drainage scheme.
11. SuDS maintenance/monitoring plan.
12. Hard and soft landscaping plan/implementation.
13. Details of lighting, materials and refuse storage/collection points.
14. Broadband connection.
15. Local employment arrangements.

- c) That the Head of Planning (or the equivalent authorised officer) 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**

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

- 2.1 The National Planning Policy Framework (March 2012) sets out the Government's planning policies and how these are expected to be applied at the local level.
- 2.2 Planning law requires that applications for planning permission be determined in accordance with the 'development plan' unless material considerations indicate otherwise. The NPPF doesn't change the statutory status of the development plan as the starting point for decision taking. Where proposed development accords with an up to date Local Plan it should be approved and where it does not it should be refused – unless other material considerations indicate otherwise. An important material consideration is the NPPF's 'presumption in favour of sustainable development'. The NPPF defines 'sustainable development' as having three dimensions:
- an economic role;
  - a social role; and
  - an environmental role.
- 2.3 These dimensions have to be considered together and not in isolation. The NPPF requires Local Planning Authorities to positively seek opportunities to meet the development needs of their area whilst allowing sufficient flexibility to adapt to change. Where relevant policies in Local Plans are either absent or out of date, there is an expectation for Councils to approve planning applications, without delay, unless the adverse impacts would significantly and demonstrably outweigh the benefits.
- 2.4 Section 6 of the NPPF relates to delivering a wide choice of quality new homes. It 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 a 5% or 20% buffer to ensure choice and competition in the market for land). If this is not possible, housing policies are to be considered out of date and the presumption in favour of sustainable development is engaged with applications for housing development needing to be assessed on their merits, whether sites are allocated for development in the Local Plan or not.
- 2.5 Paragraph 187 of the NPPF states "*Local planning authorities should look for solutions rather than problems, and decision-takers at every level should seek to approve applications for sustainable development where possible. Local planning authorities should*

*work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area”.*

### **Local Plan**

- 2.6 Section 38(6) of the Planning Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the ‘development plan’ unless material considerations indicate otherwise. In the case of Tendring the development plan consist of the following:

**Tendring District Local Plan (Adopted November 2007)** – as ‘saved’ through a Direction from the Secretary of State. Relevant policies include:

QL1: Spatial Strategy: Directs most new development toward urban areas and seeks to concentrate development within settlement development boundaries.

QL2: Promoting Transport Choice: Requires developments to be located and designed to avoid reliance on the use of the private car.

QL3: Minimising and Managing Flood Risk: Seeks to direct development away from land at a high risk of flooding and requires a Flood Risk Assessment for developments in Flood Zone 1 on sites of 1 hectare or more.

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

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

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

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

#### HG1: Housing Provision

Sets out the strategy for delivering new homes to meet the need up to 2011 (which is now out of date and needs replacing through the new Local Plan).

#### HG3: Residential Development Within Defined Settlements

Supports appropriate residential developments within the settlement development boundaries of the district’s towns and villages.

#### HG3a: Mixed Communities

Promotes a mix of housing types, sizes and tenures to meet the needs of all sectors of housing demand.

#### HG4: Affordable Housing in New Developments

Seeks up to 40% of dwellings on large housing sites to be secured as affordable housing for people who are unable to afford to buy or rent market housing.

#### HG6: Dwellings Size and Type

Requires a mix of housing types, sizes and tenures on developments of 10 or more dwellings.

#### HG7: Residential Densities

Requires residential developments to achieve an appropriate density. This policy refers to minimum densities from government guidance that have long since been superseded by the NPPF.

#### HG9: Private Amenity Space

Requires a minimum level of private amenity space (garden space) for new homes depending on how many bedrooms they have.

#### COM2: Community Safety

Requires developments to contribute toward a safe and secure environment and minimise the opportunities for crime and anti-social behaviour.

#### COM4: New Community Facilities (including Built Sports and Recreation Facilities)

Supports the creation of new community facilities where they are acceptable in terms of accessibility to local people, impact on local character, parking and traffic and other planning considerations.

#### COM6: Provision of Recreational Open Space for New Residential Developments

Requires residential developments on sites of 1.5 hectares or more to provide 10% of the site area as public open space.

#### COM21: Light Pollution

Requires external lighting for new development to avoid unacceptable impacts on the landscape, wildlife or highway and pedestrian safety.

#### COM23: General Pollution

States that permission will be refused for developments that have a significant adverse effect through the release of pollutants.

#### COM26: Contributions to Education Provision

Requires residential developments of 12 or more dwellings to make a financial contribution, if necessary, toward the provision of additional school places.

#### COM29: Utilities

Seeks to ensure that new development on large sites is or can be supported by the necessary infrastructure.

#### COM31a: Sewerage and Sewage Disposal

Seeks to ensure that new development is able to deal with waste water and effluent.

#### EN1: Landscape Character

Requires new developments to conserve key features of the landscape that contribute toward local distinctiveness.

#### EN3: Coastal Protection Belt

Resists development in the Coastal Protection Belt to safeguard the character of the undeveloped coast.

#### EN4: Protection of the Best and Most Versatile Agricultural Land

Seeks to ensure that where agricultural land is needed for development, poorer quality land is used as priority over higher quality land.

#### EN5a: Area proposed as an Extension to the Suffolk Coast and Heaths AONB

In this area, the Council will seek to protect the natural beauty of the landscape and views towards it, having regard to the Suffolk Coast and Heaths Strategy.

EN6: Biodiversity

Requires existing biodiversity and geodiversity to be protected and enhanced with compensation measures put in place where development will cause harm.

EN6a: Protected Species

Ensures protected species including badgers are not adversely impacted by new development.

EN6b: Habitat Creation

Encourages the creation of new wildlife habitats in new developments, subject to suitable management arrangements and public access.

EN11a: Protection of International Sites

Guards against development that would have an adverse impact on wildlife habitats of international importance which includes the Stour Estuary.

EN11b: Protection of National Sites

Guards against development that would have an adverse impact on wildlife habitats of national importance such as Sites of Scientific Interest (SSSI) and National Nature Reserves (NNR).

EN11c: Protection of Local Sites

Guards against development that would have an adverse impact on wildlife habitats of local importance including Local Wildlife Sites (LoWS).

EN12: Design and Access Statements

Requires Design and Access Statements to be submitted with most planning applications.

EN13: Sustainable Drainage Systems

Requires developments to incorporate sustainable drainage systems to manage surface water run-off.

EN29: Archaeology

Requires the archaeological value of a location to be assessed, recorded and, if necessary, safeguarded when considering development proposals.

TR1a: Development Affecting Highways

Requires developments affecting highways to aim to reduce and prevent hazards and inconvenience to traffic.

TR3a: Provision for Walking

Seeks to maximise opportunities to link development with existing footpaths and rights of way and provide convenient, safe attractive and direct routes for walking.

TR4: Safeguarding and Improving Public Rights of Way

Encourages opportunities to expand the public right of way network. Requires that developments affecting an existing public right of way accommodate the definitive alignment of the path or, where necessary, seek a formal diversion.

TR5: Provision for Cycling

Requires all major developments to provide appropriate facilities for cyclists.

TR6: Provision for Public Transport Use

Requires developments to make provision for bus and/or rail where transport assessment identifies a need.

TR7: Vehicle Parking at New Development

Refers to the adopted Essex County Council parking standards which will be applied to all non-residential development.

**Tendring District Local Plan 2013-2033 and Beyond: Preferred Options Consultation Document (Published July 2016)**

Relevant policies include:

SP1: Presumption in Favour of Sustainable Development

Follows the Planning Inspectorate's standard wording to ensure compliance with the NPPF.

SP4: Infrastructure and Connectivity

Requires the provision of infrastructure, services and facilities that are identified to serve the needs arising from new development.

SP5: Place Shaping Principles

Requires the highest standards of built and urban design and sets out the key principles that will apply to all new developments.

SPL1: Managing Growth

Identifies Manningtree, Lawford and Mistley as a 'smaller urban settlement' within a hierarchy of settlements designed to direct future growth to the most sustainable locations.

SPL2: Settlement Development Boundaries

Seeks to direct new development to sites within settlement development boundaries.

SPL3: Sustainable Design

Sets out the criteria against which the design of new development will be judged.

HP1: Improving Health and Wellbeing

Requires a Health Impact Assessment on all development sites deliver 50 or more dwellings and financial contributions towards new or enhanced health facilities where new housing development would result in a shortfall or worsening of health provision.

HP4: Open Space, Sports and Recreation Facilities

Requires new developments to contribute to the district's provision of playing pitches and outdoor sports facilities and also requires larger residential developments to provide land as open space with financial contributions toward off-site provision required from smaller sites.

LP1: Housing Supply

Sets out the broad location of where new housing is proposed to be built to over the next 15-20 years to meet objectively assessed needs.

LP2: Housing Choice

Promotes a range of house size, type and tenure on large housing developments to reflect the projected needs of the housing market.

LP3: Housing Density

Policy requires the density of new housing development to reflect accessibility to local services, minimum floor space requirements, the need for a mix of housing, the character of surrounding development and on-site infrastructure requirements.



#### LP4: Housing Layout

Policy seeks to ensure large housing developments achieve a layout that, amongst other requirements, promotes health and wellbeing; minimises opportunities for crime and anti-social behaviour; ensures safe movement for large vehicles including emergency services and waste collection; and ensures sufficient off-street parking.

#### LP5: Affordable and Council Housing

Requires up to 30% of new homes on large development sites to be made available to the Council or a nominated partner, at a discounted price, for use as Affordable Housing or Council Housing.

#### PP12: Improving Education and Skills

Requires the impacts of development on education provision to be addressed at a developer's costs and also requires applicants to enter into an Employment and Skills Charter or Local Labour Agreement to ensure local contractors are employed to implement the development and that any temporary or permanent employment vacancies (including apprenticeships) are advertised through agreed channels.

#### PPL1: Development and Flood Risk

Seeks to direct development away from land at a high risk of flooding and requires a Flood Risk Assessment for developments in Flood Zone 1 on sites of 1 hectare or more.

#### PPL3: The Rural Landscape

Requires developments to conserve, where possible, key features that contribute toward the local distinctiveness of the landscape and include suitable measures for landscape conservation and enhancement.

#### PPL4: Biodiversity and Geodiversity

Requires existing biodiversity and geodiversity to be protected and enhanced with compensation measures put in place where development will cause harm.

#### PPL5: Water Conservation, Drainage and Sewerage

Requires developments to incorporate sustainable drainage systems to manage surface water run-off and ensure that new development is able to deal with waste water and effluent.

#### PPL7: Archaeology

Where developments might affect archaeological remains, this policy requires proper surveys, investigation and recording to be undertaken.

#### CP1: Sustainable Transport and Accessibility

Requires the transport implications of development to be considered and appropriately addressed.

#### CP3: Improving the Telecommunications Network

Requires new development to be served by a superfast broadband (fibre optic) connection installed on an open access basis and that can be directly accessed from the nearest British Telecom exchange and threaded through resistant tubing to enable easy access for future repair, replacement or upgrading.

#### **Other Guidance**

Essex County Council Car Parking Standards – Design and Good Practice

Essex Design Guide for Residential and Mixed-Use Areas.

**3. Relevant Planning History**

3.1 None.

**4. Consultations**

TDC Building Control Unable to comment at this time due to a lack of design drawings.

TDC Principal Tree & Landscape Officer The application site is situated the Stour Valley System Landscape Character Area (LCA) directly adjacent to the northernmost part of the Bromley Heathland Plateau LCA as defined in the Tendring District Council Landscape Character Assessment . One of the key characteristics of the Stour valley System is; as defined in the document the southern slopes and scenic tributary valleys of the Stour, form a setting to one of the most important wildlife estuaries in Europe and a setting to the Suffolk Coast and Heaths AONB. It is therefore vitally important that planning permission is not granted unless it can be demonstrated that significant harm will not be caused to either the scenic beauty or wildlife value of the area.

The companion document for the above Landscape Character Assessment entitled Guidance for the Built Environment emphasises the importance of protecting the landscape for its value the rural backdrop and setting for the Suffolk Coast and Heaths AONB.

In order to show the condition of the trees on the land and to ascertain the extent of the constraint that they are development potential of the application site the applicant has submitted a detailed tree survey and report. The information provided is in accordance with BS5837: 2012 Trees in relation to design, demolition and construction. Recommendations.

In the main the tree report accurately describes the health and condition of the trees although it does not identify those that may be at risk as a result of the development proposal as the application is in outline form and no indicative layout or zoning information has been provided.

In addition to this there appear to be trees in the north eastern corner (to the north of T4) that have not been included in the report.

To enable an assessment of the impact of the development proposal on the trees on the land to be made it will be necessary for the applicant to provide a zoning plan showing areas allocated for housing, open spaces and soft landscaping. This information should be provided prior to the determination of the application.

The application site comprises two fields divided by a scrubby hedgerow and watercourse running south to north towards the Stour Estuary. Both appear to be in agricultural use. There are no trees in the main body of the land to the west of the hedgerow adjacent to the watercourse although there are established trees, scrubby growth and hedgerows on the perimeter of this part of the site. On the part of the application site to the east of the watercourse and extending from Harwich Road to the railway track there are several trees with reasonable visual amenity value.

Without details of the proposed layout for the development proposals it is not possible to determine whether or not vegetation would be removed in order for the development to take place.

It would be reasonable, however, to assume that development could occur, on the treeless part of the land that would incorporate the retention of the perimeter trees and hedgerows as well as making provision for new planting. From the information made available by the applicant it is not possible to establish the degree to which development on this part of the land would cause harm to the appearance of the area.

In terms of the impact of the development proposal on the local landscape character it is important to recognise that the land in question is situated close to the Suffolk Coast and Heaths Area of Outstanding Natural Beauty (SC&H - AONB) and is included in the wider project area.

The land is in the proposed extension to the AONB which is currently being assessed by Natural England by way of a technical analysis of the natural beauty of the area. The formal designation of the land on the southern shore of the River Stour has been the long term aim of both Essex County Council and Tendring District Council and the commitment to this is set out in both the existing and draft Tendring District Council Local Plans.

It is possible that the development of this land would have a significantly detrimental impact on the character and appearance of the AONB when viewed from the northern bank of the Stour and also when viewed from within the proposed extension to the AONB on the southern bank of the Stour.

No information has been provided relating to the impact of the development proposal on the local landscape character or the AONB. In order to show the potential impact of the development on the local landscape character and the AONB the applicant should provide a Landscape and Visual Impact Assessment (LVIA) prior to the determination of this application. Without this information it will not be possible to ascertain the degree of harm to the character and appearance of the countryside that will be caused by the development of the land.

In terms of the Stour Estuary as habitat for wildlife as wildlife the applicant will also need to demonstrate that the development will not significantly affect species for which the river is designated as a Site of Special Scientific Interest.

In conclusion it is felt that it has not been demonstrated that the development of this land would not adversely affect the setting of the AONB, the local landscape character or the wildlife in the Stour Estuary.

Notwithstanding previous comments the additional information demonstrates that, in terms of its impact on trees, the development proposal could be implemented without causing harm to the majority of the trees on the land. Part of H1 and G1 would need to be removed to facilitate access and an internal road linked land either side of the watercourse that bisects the land.

In order to show the potential impact of the development on the local

landscape character and the AONB the applicant has provided a Landscape and Visual Impact Assessment (LVIA).

The document accurately describes the character and quality of the landscape and the impact that the development proposal would have on it. It recognises that harm would be caused by the change of use of the land. The LVIA addresses the impact of the development on the landscape in the immediate vicinity of the site itself and the wider landscape when viewed from the points identified in the LVIA.

Section 7.1.3 sets out the measures that can be taken to mitigate potential harm and ensure that the development sits relatively comfortably in its setting. These almost exclusively relate to soft landscaping to soften, screen and enhance the appearance of the development.

If this strategy is to be successful it will require a comprehensive soft landscaping scheme to be provided to achieve the objective set out in the LVIA.

In terms of density of dwellings and tree planting opportunities the LVIA states, in section 8.1.3, that lower density housing is proposed in the parts of the application site described as Character Area 1 to facilitate additional tree planting to enhance, screen and generally improve the appearance of the development.

This objective is desirable however it should be noted that those areas described as Character Area 1 area on the northern part of the application site which is lower than the southern part and already benefits from screening provided by tree situated on land forming part of the railway embankment. It may be prudent to re-consider this proposal as a decreased density in the central or southern part of the application site and the associated tree planting that would result may bring about the greatest benefit.

TDC Housing	There is a high demand for housing in Mistley on the housing register and there are currently 144 households seeking a 1 bedroom property, 65 seeking a 2 bedroom property, 28 seeking a 3 bedroom property and 9 seeking a 4 bedroom property or larger. The Council is not in a position to purchase up to 25% of the properties on the site for affordable housing (17 units) and would therefore prefer to be gifted 5 properties as an alternative (5 being 30% of 17 units).
TDC Open Space and Play	There is currently a deficit of 3.00 hectares of equipped play/formal open space in Mistley. No indicative layout has been provided as part of this application and it should be noted that due to the size of the development site, provision for open space and play should be provided for on site, and not by way of an off-site contribution.
ECC Highways	From a highway and transportation perspective the impact of the proposal is acceptable to Highway Authority subject to conditions in respect of the following: <ul style="list-style-type: none"><li>• A construction management plan including details of wheel cleaning facilities;</li><li>• The creation of a priority junction off Stourview Avenue to provide access;</li><li>• Upgrading two bus stops in Harwich Road to current Essex County</li></ul>

Council specification;

- A minimum 2 metre wide footway along the eastern side of Stourview Avenue carriageway between the proposed site access and Harwich Road with dropped kerbs/tactile paving crossing points in Stourview Avenue immediately north of its junction with Harwich Road; and
- Residential Travel Information Packs.

#### ECC Schools

A development of this size can be expected to generate the need for up to 6.3 Early Years and Childcare (EY&C) places and 21 primary school, and 14 secondary school places.

According to the latest information available to Essex County Council early years and childcare team, there is sufficient provision within the ward/surrounding wards to accommodate children from this development.

This proposed development is located within reasonable travelling distance of Mistley Norman CE Primary School, Highfields Primary School and Lawford CE Primary School. These schools have a combined overall capacity of 630 places. These schools overall are forecast to have a surplus of 8 places by the school year 2019-20.

This proposed development is located within the priority admissions area for Manningtree High School. The school has a capacity of 870 places. The school is forecast to have a surplus of 70 places by the school year 2019-20. As the school could accommodate all of the pupils that would be generated by this development, no contribution under normal circumstances would be requested for additional school places. However, the County Council is aware of the proposals for Bromley Road, Lawford (15/00876/OUT) for 360 dwellings Long Road, Mistley (15/00761/OUT) for 300 dwellings and Harwich Road, Mistley (15/01520/OUT) for 135 dwellings.

The County Council is aware of the potential cumulative impact on primary and secondary school places if this development is granted planning permission and one, both or all of the other developments are also granted planning permission. Under these circumstances it is suggested that the Council should share the costs of providing the additional primary and secondary school places pro-rata between the two, three or four sites. The cost at April 2015 is £12,172 per primary place and £18,491 per secondary place, index linked to April 2015.

Feasibility work will need to be undertaken on the primary schools listed above to ascertain whether they have the capacity to accommodate the growth in pupil numbers that could be generated from this proposed housing development and others proposed in the area. If it is not possible to accommodate the growth on existing school sites in the area, then additional land or a new primary school site may be required.

Having reviewed the proximity of the site to the nearest primary and secondary schools, Essex County Council will not be seeking a school transport contribution. However, the developer should ensure that safe and direct walking/cycling routes are available to the nearest schools.

#### Anglian Water

Assets affected: There are assets owned by Anglian Water or those subject to an adoption agreement within or close to the development

boundary that may affect the layout of the site. Anglian Water would ask that an informative be included within your notice should permission be granted requiring this to be taken into account in any detailed scheme.

Wastewater treatment: The foul drainage from this development is in the catchment of Manningtree Water Recycling Centre that will have available capacity for these flows.

Foul Sewerage Network: The sewerage system at present has available capacity for these flows. If the developer wishes to connect to our sewerage network they should serve notice under Section 106 of the Water Industry Act 1991. We will then advise them of the most suitable point of connection.

Surface Water Disposal: From the details submitted to support the planning application, the proposed method of surface water management does not relate to Anglian Water operated assets. As such, we are unable to provide comments on the suitability of the surface water management. The local planning authority should seek the advice of the lead local flood authority of the internal drainage board. The Environment Agency should be consulted if the drainage system directly or indirectly involves the discharge of water into a watercourse. Should the proposed method of surface water management change to include interaction with Anglian Water operated assets, we would wish to be re-consulted to ensure that an effective surface water drainage strategy is prepared and implemented.

NHS England

This development is likely to have an impact on the services of the Riverside Health Centre in Manningtree. This GP practice does not have capacity for the additional growth as a result of this development. Therefore a Health Impact Assessment has been prepared by NHS England to provide the basis for a developer contribution toward capital funding to increase capacity within the GP Catchment Area.

There is a capacity deficit in the catchment practice and a developer contribution of £21,120 is required to mitigate the 'capital cost' to NHS England for the provision of additional healthcare services arising directly as a result of the development proposal. NHS England requests that this sum be secured through a planning obligation linked to any grant of planning permission, in the form of a Section 106 agreement.

Natural England

The application site is within or in close proximity to the Stour and Orwell Special Protection Area (SPA) which is also listed as a Ramsar site and a Site of Special Scientific Interest. The Council, as the competent authority under the Habitat Regulations, should have regard to any potential impacts that the development might have.

There are currently concerns for the impact of recreational pressure arising from housing development around the Stour Estuary, in particular the disturbance of birds for which the above sites are in part designated. In our previous letter, we advised that further consideration of recreational disturbance was required before impacts arising from the proposal, in combination with other plans and projects, could be ruled out. This was on the basis that there are areas of sensitive and accessible estuary within 8 km driving distance of the development site which residents would be likely to visit due to the unique draw of estuarine sites for recreation. We therefore advised that further consideration of off-site mitigation measures

(e.g. access and/or visitor management) at the identified locations was required in addition to the proposed on-site open space.

However, Ipswich Borough Council, Suffolk Coastal District Council and Babergh District Council are in the process of jointly producing a Recreational Avoidance and Mitigation Strategy which will be in place by March 2017. Once approved, this Strategy will specify requirements for developer contributions to an agreed and costed scheme of measures to help avoid and mitigate recreational disturbance impacts to designated sites, including the Stour and Orwell Estuary SPA, over the respective plan periods. We understand that your authority will also be involved in the formation of this Strategy and advise that it would therefore be appropriate, in this case, to collect proportionate financial contributions towards this emerging Strategy on the basis that these can then be used to fund strategic measures across the Stour and Orwell Estuary SPA. The amount collected, may, however, need to be revised once the specific detail of the Strategy has been finalised.

With regards the proposed on-site open space, we note that a substantial proportion of the site (approx. 30 %) has been set aside for this use. We welcome that the HRA report (pg. 18) acknowledges that, in order to help reduce the frequency of visits to sensitive parts of the estuary, such open space must be designed to be attractive for dog walking (i.e. to include dog waste bins etc.). As proposed, the inclusion of further on-site measures such as signage, information boards, guides and public rights of way (PRoW) maps will further help mitigate impacts. It should be ensured that the maintenance and management of these on-site measures are secured in perpetuity.

The maximum likely distance for a regular dog walk is a 2.6 km round trip<sup>2</sup> and so a circular walk of this length should ideally be provided within on-site open space, including a 'dogs-off-lead' area where possible. However, we appreciate that the limited size of the development site in this case means that this is not realistic. We therefore advise that, in order to fulfil this function, links with surrounding PRoW and open space should be explored further within the reserved matters.

In conclusion, we have no objection to this development subject to the above requirements in terms of a financial contribution to the emerging Recreational Avoidance and Mitigation Strategy and the design and management of on-site public open space being secured via suitably worded planning conditions.

RSPB

We object to this proposal as insufficient information has been provided to allow the Council, as the competent authority, to assess whether there will be any likely significant effect on the adjacent Stour and Orwell Estuaries Special Protection Area/Ramsar Site and Stour Estuary Site of Special Scientific Interest (SSSI).

Dedham Vale  
and Stour  
Estuary Project

The proposal site is within the setting of the Suffolk Coast and Heaths AONB, and visible from the northern side of the Stour Estuary. The land on the northern side of the river is nationally designated as AONB and the Council should ensure that the purpose of this designation is not compromised by the proposed development. The site is also within the 'candidate area' for potential expansion of the Suffolk Coast & Heaths AONB which is indicative only and is currently under investigation by

Natural England. To assess the impact on the setting of the AONB, a Landscape and Visual Impact Assessment is necessary along with an assessment of the potential adverse impacts on the Stour Estuary in ecological terms. [Both of which have since been provided].

Essex County  
Council Flood  
Authority

Having reviewed the Flood Risk Assessment, we do not object to the granting of planning permission subject to conditions relating to the following:

- a detailed surface water drainage scheme;
- a scheme for minimising offsite flooding during construction works;
- a maintenance plan for the surface water drainage scheme; and
- keeping an on-going log of maintenance.

Babergh District  
Council

Babergh District Council wishes to formally object to this application due to the potential impact upon a strategic allocation site at Brantham within the Babergh Core Strategy (2014). The basis for this objection relates to the potential cumulative impact upon the local highway network and in particular the need to give due account to relevant adopted allocations or sites with planning permission within the 'baseline' scenario. There are known transport constraints around the area which are cross boundary in nature and include impacts upon the A137 railway crossing.

This application may cause material prejudice to the outcome of delivering the Brantham strategic allocation scheme, which has already been through a statutory framework (Core Strategy Examination in public) and resolved suitable for allocation in the adopted plan. Full weight and regard should be given to the Brantham scheme when determining the suitability of further growth in the Manningtree, Lawford and Mistleley area. The Council reserves the right to hold this objection until matters are clarified and satisfactory solutions can be found.

## 5. Representations

5.1 The Council has received 9 objections to the proposal from residents including some lengthy and very well articulated letters raising the following concerns:

- The proposal is particularly vague with very little detail;
- The application includes a larger area of land that was originally envisaged in the Council's Local Plan studies which encroaches greatly on the Coastal Protection Belt;
- The proposed number of dwellings is greater than indicated in both the Council's previous version of the draft Local Plan and its Strategic Housing Land Availability Assessment (SHLAA);
- The proposed access road would open up the possibility of further development to the east;
- The valley has been included in the site area but this is valuable in wildlife and landscape character terms – it is also a habitat for Turtle Doves;
- Access could be achieved via the existing housing estate without the need to create a new access via the valley;
- The valley is part of the Coastal Protection Belt;
- Increases in vehicles and further impact on the crossing at Manningtree Station;
- Air pollution;
- Road/pedestrian safety;



- Cumulative impacts of several developments on education, health and the character of the area;
- Impact on amenities and utilities;
- Limited shopping and employment opportunities locally, leading to reliance on cars;
- Concern about how New Homes Bonus, Community Infrastructure Levy or s106 contributions will be used;
- The Council has a financial interest in the land;
- The agricultural grading of the land should be tested by Natural England;
- Loss of set-aside agricultural land;
- Development is not in accordance with the development plan;
- Destruction of views and enjoyment of the area for existing residents;
- Increases in parked cars;
- The Manningtree, Lawford and Mistley area is being targeted by 'get rich quick' developers;
- Increased risk of flooding; and
- Impact on the proposed AONB.

5.2 Mistley Parish Council has also objected to the application following a public meeting held on 5<sup>th</sup> January 2016. The reasons for the objection are the size of the size of the development, its density and highway safety, with concerns that the proposed access will significantly increase volume of vehicles and subsequent traffic to Stourview Avenue, Harwich Road, High Street, New Road and The Walls.

5.3 There is also an objection from Welbeck Strategy Land II LLP who are the applicants for the development of up to 135 homes on land off Harwich Road, Mistley that has since obtained planning permission. Their objection raised several concerns about the suitability of the site in planning terms and was submitted before planning permission was granted for their development.

5.4 One letter of support has also been received, pointing out a number of reasons why the site was historically supported by the Parish Council for inclusion in the Local Plan, including that it is of poor agricultural value and could accommodate natural growth within the parish.

## **6. Assessment**

### **The Site**

6.1 The application site comprises just over 4.7 hectares of undeveloped greenfield land on the edge of Mistley. The site comprises two parcels of land which are very different in appearance and character. The main body of the site upon which new homes are expected to be built lies north of existing Council properties and the playground in Stourview Close, east of properties in Seafield Avenue and south of the Harwich to Manningtree railway line – beyond which is the Stour Estuary. The land comprises managed grassland with a small area of woodland to the north and north west and overgrowth to the south immediately abutting the existing housing estate. The topography of the site is unusual – generally sloping downwards towards the railway line and to the north east, but undulating significantly within the site with a distinct high point in the centre of site.

6.2 The eastern parcel of land, through which it is proposed to create the new access road appears very separate from the main body of the site and contains a significant number of trees both along its western boundary (adjoining the main body of the site) and in a cluster through the centre of a site on lower ground around a spring which runs through the land. The topography of this area of land is more dramatic, sloping either side of the valley around the spring. To the front part of the eastern parcel, the land immediately fronting Harwich Road has outline planning permission (Ref: 14/01462/OUT) for 4 dwellings. The red line site includes part of the highway along the edge of Stour view Avenue.

## **The Proposal**

- 6.3 This outline planning application with all matters reserved seeks approval for the principle of up to 70 dwellings with a new access road off Stourview Avenue on the eastern part of the site. The proposal is not supported by any illustrative drawings, but it is intended (as set out in the Design and Access Statement) that the main body of the site will contain the houses and the land to the east will accommodate the new access road which, itself, will connect the development from Stourview Avenue.

## **Architectural Drawings**

- 1126.L.001 Site Location Plan
- 1026.L.002(A) Existing Site Plan

## **Reports and Technical Information**

- Design and Access Statement
- Landscape and Visual Assessment
- Habitat Regulation Assessment
- Ecology Report
- Geological Survey
- Highway Access Statement
- Heritage Statement
- Flood Risk Assessment
- Arboricultural Impact Assessment
- Tree Survey and Constraints Plan
- Utility Report
- Desk Based Risk Assessment

## **Main Planning Considerations**

- 6.4 The main planning considerations are:
- Principle of development;
  - Highways, transport and accessibility;
  - Coastal Protection Belt;
  - Areas of Outstanding Natural Beauty;
  - Landscape, visual impact and trees;
  - Flood risk and drainage;
  - Ecology;
  - Education provision;
  - Healthcare provision;
  - Utilities;
  - Open space;
  - Council Housing/Affordable Housing;
  - Potential layout and density;
  - Council-owned land; and,
  - Overall planning balance.

## **Principle of development**

- 6.5 In line with Section 38(6) of the Planning and Compulsory Purchase Act 2014, planning decisions must be taken in accordance with the 'development plan' unless material

considerations indicate otherwise. The requirements of the National Planning Policy Framework (NPPF) are a material consideration in this regard.

- 6.6 The 'development plan' for Tendring is the 2007 'adopted' Local Plan, despite some of its policies being out of date. Paragraph 215 of the NPPF allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF. Paragraph 216 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 14<sup>th</sup> July 2016, the emerging Local Plan for Tendring is the Tendring District Local Plan 2013-2033 and Beyond Preferred Options Consultation Document. As this plan is currently at an early stage of preparation, some of its policies can only be given limited weight in the determination of planning applications, but the weight to be given to emerging policies will increase as the plan progresses through the later stages of the process. 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 216 of the NPPF, they will be considered and, where appropriate, referred to in planning decisions. In general terms however, more weight will be given to policies in the NPPF and the adopted Local Plan.
- 6.7 The application site is located immediately adjoining residential development in Mistley. The site is adjacent to but outside the village's settlement development boundary as defined within the adopted Local Plan. The boundary aims to restrict new development to the most sustainable sites and outside of the boundary the Local Plan generally seeks to conserve and enhance the countryside for its own sake by not allowing new housing unless it is consistent with countryside policies. In the emerging Local Plan however, the majority of the site has been included within the revised settlement boundary as depicted in the new emerging Local Plan, indicating a general acceptance that development on the land could, in principle, be accepted in the future.
- 6.8 Because the site lies outside of the settlement development boundary and is not allocated for development in the adopted Local Plan, it is technically contrary to adopted policy and the proposed development would be a departure from that plan. However, paragraph 47 of the NPPF also requires local planning authorities to boost significantly the supply of housing by identifying and updating annually a supply of specific deliverable sites sufficient to provide five years worth of housing against their housing requirements. In areas where there has been persistent under delivery of housing, an additional 20% 'buffer' is also required to provide a realistic prospect of achieving the planned supply and to ensure choice and competition in the market for land.
- 6.9 For Tendring, the housing requirement is 550 dwellings per annum, as based on the evidence contained within the 'Objectively Assessed Housing Needs Study' (July 2015) and supplementary evidence that was presented to the Local Plan Committee on 21<sup>st</sup> January 2015. At the time of writing, and despite the publication of the new draft Local Plan, the Council was still only able to identify an approximate 4.5 year supply and thus there still remains considerable (albeit quickly reducing) shortfall. Paragraph 49 of the NPPF states that relevant policies for the supply of housing should not be considered 'up to date' if it is not possible to demonstrate a five year supply of deliverable housing sites and, in such cases, the 'presumption in favour of sustainable development' set out in paragraph 14 of the NPPF is engaged.
- 6.10 'Sustainable Development', as far as the NPPF is concerned, is development that contributes positively to the economy, society and the environment and under the 'presumption in favour of sustainable development', authorities are expected to grant permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole; or specific policies in the NPPF indicate development should be restricted.

- 6.11 Due to the lack of a five-year supply of housing sites and the subsequent engagement of the presumption in favour of sustainable development, the Council would not be justified in refusing planning permission purely on the basis of the application site being outside of the settlement development boundaries in the adopted Local Plan. The application must therefore be judged on its merits against the NPPF.
- 6.12 One of the NPPF's core planning principles is to "actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable".
- 6.13 With this in mind, the emerging Local Plan includes a 'settlement hierarchy' aimed at categorising the district's towns and villages and providing a framework for directing development toward the most sustainable locations. In the adopted Local Plan, Manningtree, Lawford and Mistley are together categorised as a 'town' and in the emerging Local Plan, they are categorised as a 'smaller urban settlement' in recognition of their collective size and range of services and facilities and as a location where sustainable development on a larger scale can be achieved. In comparison, 'villages', 'rural service centres' and 'smaller rural settlements' are considered to offer lesser sustainable locations for major development.
- 6.14 Because the Council has a housing land shortfall, the site adjoins an urban settlement where sustainable development on a larger scale can be achieved and most of the land is provisionally included within the settlement development boundary of the emerging Local Plan, Officers consider that the principle of residential development on the application site is acceptable.

#### **Highways, transport and accessibility**

- 6.15 Paragraph 32 of the NPPF relates to transport and requires Councils, when making decisions, to take account of whether:
- the opportunities for sustainable transport modes have been taken up depending on the nature and location of the site, to reduce the need for major transport infrastructure;
  - safe and suitable access to the site can be achieved for all people; and
  - improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.
- 6.16 Policy QL2 in the adopted Local Plan and Policy CP1 in the emerging Local Plan seek to ensure that developments maximise the opportunities for access to sustainable transport including walking, cycling and public transport. The application site is within 400 metres walking distance of Mistley Norman Primary School, within 900 metres of Mistley Village Hall, within 500 metres of a local convenience shop, within 1.2 kilometres of Mistley railway station and Mistley High Street. The site is also within 500 metres of a bus stop on a bus route with services between Colchester and Harwich and to and from Clacton. The site offers a reasonable level of accessibility which is reflected in Manningtree, Lawford and Mistley's categorisation as a smaller urban settlement in the emerging Local Plan.
- 6.17 Policy TRA1a in the adopted Local Plan requires that development affecting highways be considered in relation to reducing and preventing hazards and inconvenience to traffic including the capacity of the road network. Policy SD8 in the emerging Local Plan states

that developments will only be acceptable if the additional vehicular movements likely to result from the development can be accommodated within the capacity of the existing or improved highway network or would not lead to an unacceptable increase in congestion.

- 6.18 Highway capacity is a significant matter in the Manningtree, Lawford and Mistley (and Brantham) area and the A137 in particular is known to be the subject of regular queuing and congestion during peak periods, as highlighted by some residents that had objected to this planning application along with Babergh District Council. Queuing at the railway crossing is a known problem in the area. Because this is one of a number of major development proposals in the pipeline for the area, the cumulative impacts have required collaborative assessment under the direction of Essex and Suffolk County Council as the relevant local Highway Authorities. This additional assessment has led, in part, to a delay in determining this application.
- 6.19 Having considered the application and the potential cumulative impacts on traffic, the Highway Authority has concluded that this particular development will not have a severe impact on highway capacity and safety and that no mitigation towards improvements at the A137 railway crossing will be requested from this development. Mitigation measures, in the form of contributions towards a £150,000 fund towards traffic calming measures at the railway crossing are however being secured, through s106 legal agreements for some of the larger developments proposed on land further west, closer to the railway crossing, including the major developments in Brantham and Lawford and off Long Road, Mistley. These measures address the concern raised by Babergh District Council in its representation and there are consequently no outstanding concerns about complying with the legal duty to cooperate.
- 6.20 The Highway Authority is satisfied that this development in Mistley can be supported, subject to some specific conditions relating mainly to the vehicular access arrangements, construction traffic and footpath/cycleways.
- 6.21 In conclusion, the site is reasonably accessible, by foot and cycle, to local services and facilities and public transport and the vehicular access and highways matters have been considered and deemed acceptable by the Highway Authority. The transport impacts of the development are not considered to be severe and, from this perspective, Officers consider the proposal to be acceptable.

### **Coastal Protection Belt**

- 6.22 The whole application site falls within the Coastal Protection Belt as shown in the adopted Local Plan. The purpose of the Coastal Protection Belt, as set out in paragraph 6.14 in support of Policy EN3 in the adopted Local Plan, is to protect the unique and irreplaceable character of the Essex coastline from inappropriate forms of development. It goes on to say that open coastal areas are particularly vulnerable to visual intrusion due to the high visibility of any development on the foreshore, on the skyline and affecting vistas along the stretches of undeveloped coast.
- 6.23 The Coastal Protection Belt was originally drawn in 1984 and was a key strategic policy in Essex County Council's 2001 Replacement Structure Plan which was superseded by the East of England Plan in 2008 and subsequently abolished in 2012 with the introduction of the NPPF. The NPPF does however state, in paragraph 114 that local planning authorities should maintain the character of the undeveloped coast, protecting and enhancing its distinctive landscapes, particularly in areas defined as Heritage Coast, and improve public access to and enjoyment of the coast.
- 6.24 Policy EN3 states that new development which does not have a compelling functional need to be located in the Coastal Protection Belt will not be permitted. It requires applicants to

demonstrate such a need by showing that by reason of its critical operational requirements of the development cannot be located outside of the designated area. Then, even if the compelling need is demonstrated, the policy requires that significant harm to the landscape character and quality of the undeveloped coastline should be avoided.

- 6.25 However, in the emerging Local Plan, following the abolition of the Coastal Protection Belt Policy at county and regional level, the Council decided that the designation should be kept but that the boundary be rationalised to ensure it relates only to areas that are genuinely coastal and where development is likely to have a genuine impact on the character and appearance of the coastline. Included in the numerous amendments to the designation was the removal of the application site.
- 6.26 The status to be given to local 'countryside protection' policies such as Coastal Protection Belt and Local Green Gaps has been clarified recently by a decision of the Court of Appeal (Cheshire East Borough Council v Secretary of State for Communities and Local Government & Anr. Case Number: C1/2015/0894) in which three judges overturned an earlier High Court decision which had determined that such countryside protection policies are not housing policies and should not be considered out of date if a Council cannot identify a sufficient supply of housing land. In overturning the High Court's decision, the Court of Appeal judges concluded that the concept of 'policies for the supply of housing' should not be confined to policies in the development plan that provide positively for the delivery of new housing in terms of numbers and distribution or the allocation of sites. They concluded that this concept extends to policies whose effect it is to influence the supply of housing land by restricting the locations where new housing may be developed – including, for example, policies for the green belt, policies for the general protection of the countryside, policies for conserving the landscape of Areas of Outstanding Natural Beauty and National Parks, policies for the conservation of wildlife or cultural heritage, and various policies whose purpose is to protect the local environment in one way or another by preventing or limiting development.
- 6.27 Whilst the emerging Local Plan only carries limited weight, the abolition of the Coastal Protection Belt policy at county, regional or national level also limits the amount of weight that can be applied to the adopted policy. From the ground, the site is relatively well contained by landscaping and physical features and views over the Estuary are limited. On the basis that development in this location and on this site is unlikely to have a severe detrimental impact on the character of the undeveloped coastline, Officers have applied limited weight to the Coastal Protection Belt policy and consider that refusing planning permission against this policy would be difficult to defend on appeal.

### **Areas of Outstanding Natural Beauty**

- 6.28 The proposed area of extension to the Suffolk Coast and Heaths Area of Outstanding Natural Beauty (AONB) includes application site. Policy EN5a in the adopted Local Plan seeks to ensure that, in determining planning applications, the natural beauty of the landscape within the area, and views towards it are protected – having regard to the Suffolk Coast and Heaths Strategy.
- 6.29 Representatives of the Dedham Vale and Stour Estuary Project have written to highlight that the site is visible from the northern side of the Stour Estuary – the area that is part of the established AONB. They urge that the purpose of this designation is not compromised by the proposed development and that the findings of a Landscape and Visual Impact Assessment are key to determining this.
- 6.30 The Council's Principal Trees and Landscapes Officer has also commented on the application to highlight the importance of the Suffolk Coast and Heaths Area of Outstanding Natural Beauty and the need to ensure that its setting is appropriately safeguarded. Initially,

he suggested that development of this land would have a significantly detrimental impact on the character and appearance of the AONB when viewed from the northern bank of the Stour and also when viewed from within the proposed extension to the AONB on the southern bank of the Stour. However, following the submission of a Landscape and Visual Impact Assessment, it is accepted that adverse impacts could be mitigated through the appropriate use of landscaping.

- 6.31 Because the Local Plan is out of date and the Council cannot identify sufficient land to meet projected housing needs, Officers must refer back to the NPPF. Paragraph 115 states that great weight should be given to conserving landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to landscape and scenic beauty. Paragraph 116 goes to state that planning permission should be refused for major development in these designated areas except in exceptional circumstances and where it can be demonstrated they are in the public interest. Because the application site is not within a formally designated AONB at the moment, refusal purely on a point of principle would not be justified and landscape and visual impacts need to be weighed up alongside the benefits of development.

### **Landscape, visual impact and trees**

- 6.32 Whilst Officers have concluded that the site's location within the Coastal Protection Belt and the proposed extension to the Suffolk Coast and Heaths AONB cannot justify the refusal of planning permission on a matter of principle, Policy QL9 in the adopted Local Plan and Policy SPL3 in the emerging Local Plan still require developments to respect and enhance views, skylines, landmarks, existing street patterns, open spaces and other locally important features. Policy EN1 of the adopted Local Plan and Policy PPL3 in the emerging Local Plan seek to protect and, wherever possible, enhance the quality of the district's landscape; requiring developments to conserve natural and man-made features that contribute toward local distinctiveness and, where necessary, requiring suitable measures for landscape conservation and enhancement. Policies QL9 and SPL3 also require developments to incorporate important existing site features of landscape, ecological or amenity value such as trees, hedges, water features, buffer zones, walls and buildings.
- 6.33 The Council's Principal Trees and Landscapes Officer identifies that the site is situated on the Stour Valley System Landscape Character area, directly adjacent to the northernmost part of the Bromley Heathland Plateau, as identified in the Council's own Landscape Character Assessment. In this area, particular regard has to be given to the setting of the Stour Estuary. Although the site is on the coastal slopes and is currently an undeveloped part of the open countryside, views from the site out towards the Stour Estuary and the wider countryside are very limited as a result of the existing trees and landscaping around the perimeter of the site with the best filtered views from the central high point of the site looking in a north easterly direction.
- 6.34 The applicant's Landscape and Visual Impact Assessment considers important elements of the landscape and the potential visual impact of the proposed development from different viewpoints around the site, including from the north of the Stour Estuary. The assessment then takes the value of the particular view, its sensitivity to change and the likely impact of development to measure the severity of any landscape and visual impacts. The assessment concludes that harm would be caused by the change of use in the land but sets out measures that could be taken to mitigate the harm and ensure the development sits relatively comfortably in its setting. These measures relative to soft landscaping to soften, screen and enhance the appearance of the development. The Tree and Landscape Officer has made observations on the proposed measures and has suggested ways in which they could be improved to minimise adverse impacts given the topography of the site. Subject to the approval of a suitable layout at reserved matters stage along with a

comprehensive soft landscaping scheme, development could be achieved in a sympathetic manner.

- 6.35 Turning to trees, there are none in the main body of the land to the west of the hedgerow adjacent to the watercourse although there are established trees, scrubby growth and hedgerows on the perimeter of this part of the site. On the part of the application site to the east of the watercourse and extending from Harwich Road to the railway track there are several trees with reasonable visual amenity value as advised by the Council's Principal Tree and Landscape Officer which are clearly visible on the site. Initially, the Tree Officer raised concern that, in the absence of details of the proposed layout, it was not possible to determine whether or not vegetation would be removed in order for the development to take place. However, following the submission of more information, he is satisfied that the development proposal could be implemented without causing harm to the majority of the trees on the land – accepting that some trees would need to be removed to facilitate access and an internal road linked land either side of the watercourse that bisects the land.
- 6.36 The key test for the Council is whether or not adverse impacts would significantly and demonstrably outweigh the benefits of the development and whether the impact could be reduced or mitigated through landscaping and careful design. On the basis that adverse landscape impacts on the immediate area are generally unavoidable when it comes to greenfield settlement expansion, important views from the wider area including the AONB can be minimised and landscaping and good design has the potential to reduce and mitigate most impacts, Officers consider that the adverse impacts would not outweigh the benefits of development and a recommendation of refusal in this instance would not be justified.
- 6.37 Because this is a matter that has required balanced judgement, if the Committee chooses to take a contrary view, landscape and visual impact is at least a material planning consideration that could be argued as a reason for refusal, if necessary, at appeal – but your Officers' advice is that the harm is not significant and demonstrably enough to justify the refusal of this application given the remaining housing land shortfall.

### **Flood risk and drainage**

- 6.38 Paragraph 103 of the NPPF requires Councils, when determining planning applications, to ensure flood risk is not increased elsewhere. Although the site is in Flood Zone 1 (low risk), the NPPF, Policy QL3 in the adopted Local Plan and Policy PLA1 in the emerging Local Plan still require any development proposal on site larger than 1 hectare to be accompanied by a site-specific Flood Risk Assessment (FRA). This is to assess the potential risk of all potential sources of flooding, including surface water flooding, that might arise as a result of development.
- 6.39 The applicant has submitted a Flood Risk Assessment which has been considered by Essex County Council as the authority for sustainable drainage. Initially, ECC issued a 'holding objection' and required further work to be undertaken to ensure compliance with the guidelines set out in the relevant National Planning Practice Guidance. The applicant responded to the objection with further information requested and the objection has now been addressed. ECC now supports the grant of outline planning permission subject to conditions relating to the submission and subsequent approval of a detailed Surface Water Drainage Scheme before development can take place.
- 6.40 In conclusion, the applicant has demonstrated through their Flood Risk Assessment and supplementary information that development can, in principle, be achieved without increasing flood risk elsewhere. With the planning condition suggested by ECC, the scheme should comply with the NPPF and Policies QL3 and PLA1 of the adopted and emerging



Local Plans (respectively) and therefore addresses the flood risk element of the environmental dimension of sustainable development.

### **Ecology**

- 6.41 Paragraph 118 of the NPPF requires Councils, when determining planning applications, to aim to conserve and enhance biodiversity. Where significant harm to biodiversity cannot be avoided, mitigated or, as a last resort, compensated for, Councils should refuse planning permission. Policy EN6 of the adopted Local Plan and Policy PPL4 of the emerging Local Plan give special protection to designated sites of international, national or local importance to nature conservation but for non-designated sites still require impacts on biodiversity to be considered and thereafter minimised, mitigated or compensated for.
- 6.42 Under Regulations 61 and 62 of the Habitats Regulations, local planning authorities as the 'competent authority' must have regard for any potential impact that a plan or project might have on European designated sites. The application site is not, itself, designated as site of international, national or local importance to nature conservation but the urban area of Manningtree, Lawford and Mistley does abut the Stour Estuary which is designated as a Special Protection Area (SPA), a Ramsar Site and a Site of Special Scientific Interest (SSSI). Whilst the application site is located more than 400 metres from the Stour Estuary and separated by the railway line which prevents any direct disturbance, consideration still needs to be given to potential indirect effects on the designated area that might result from the proposed development.
- 6.43 Natural England has written to remind the Council of its statutory duty and to highlight specific concerns about the potential for 'recreational disturbance' to the protected habitat that might arise from the development and the associated increase in population and activity. Recreational disturbance is a significant problem for such habitats and can have a disastrous effect, in particular, on rare populations of breeding and nesting birds. Notable concerns include increased marine activity (boating, jet skiing etc) and people walking their dogs either within or close to the protected areas. Both activities can easily frighten birds that are breeding and nesting and can have an extremely detrimental impact on their numbers.
- 6.44 Importantly, paragraph 119 of the NPPF states very clearly that the presumption in favour of sustainable development does not apply where development requiring appropriate assessment under the Birds or Habitats Directives is being considered, planned or determined. The applicant has undertaken a Habitat Regulation Assessment and Natural England has advised that the assessments provided with the application and the fact that a considerable amount of recreational and informal open space would be secured as part of the development means that there would be no significant detrimental impact on the designated areas. A financial contribution towards implementation of a Recreational Avoidance and Mitigation Strategy being undertaken jointly by Ipswich Borough Council, Suffolk Coastal District Council and Babergh District Council has also been requested as part of the mitigation. The RSPB (Royal Society for the Protection of Birds) made an objection on the basis that insufficient information had been provided to the Council to demonstrate that there would not be a significant effect, particularly when considered 'in combination' with other plans and projects in the area. This has now been addressed.
- 6.45 It is Officers' view that appropriate assessment in this instance is not required given the position of the site, the limited opportunities to access the Estuary due to the barrier provided by the railway line and the level of open space that would be secured, and the fact that the in-combination effects resulting from other developments in the area have already been carefully considered by Natural England and Officers.

- 6.46 The ecological value of the site itself is of considerable concern to a number of local objectors. The applicant had prepared and submitted a Phase 1 Ecological Assessment to assess the ecological value of the site and immediate area itself and the potential impact of the development. For the main body of the site where the residential development will take place, the assessment notes that the land is open grassland managed, probably by an annual hay cut or simple topping regime. For the eastern part of the site through which the access road is proposed, the phase 1 assessment suggested that further phase 2 surveys would be required. On Officers advice, these have been undertaken for the whole site by professional ecologists on behalf of the applicants and the findings are summarised below:
- 6.47 Woodland: There is a very small section of Biological Action Plan Priority Habitat designated deciduous woodland adjacent to the very northern boundary of the proposed development site. This will not be reduced in size or conservation value by the proposed development, its conservation and biodiversity value could be enhanced through suitable management as part of the wider site development.
- 6.48 Badgers: Field signs were noted as part of the survey, but setts were found within the site boundary.
- 6.49 Bats: The pocket of woodland in the north eastern corner of the site has moderate potential to support bat roosts, with a single mature tree identified as having high potential. All other trees present have negligible potential to support bat roosts. The trees with roost potential will remain in place and will be unaffected by the proposed development. The majority of the foraging activity was noted along the central hedgerow and in the small area of woodland to the north east of the site and these features were confirmed to be in use by common species of bat including Common Pipistrelle and Soprano Pipistrelle.
- 6.50 Reptiles: The grassland on the site was confirmed suitable for reptiles during the survey with Common Lizard, Slow-worm and Grass Snake using the site.
- 6.51 Invertebrates: Main species found are widespread in grassland habitats. Few species were recorded within the woodland, but a number of scrub edge specialists were recorded and also species associated with bark and sapwood decay, as specialist dead wood habitats. With three species of conservation concern, the site is considered to be of District level value for invertebrates.
- 6.52 Breeding Birds: The site was found to support a relatively high diversity and number of breeding bird species. Most of the species are common and widespread, but seven bird species of conservation concern were recorded. Key habitats used by breeding birds included the scrub and trees present along the boundary of the site, which are considered important on a site scale. The impact assessment concludes that the site will have a negligible impact upon all designated and non-designated sites for nature conservation present in the local area.
- 6.53 Mitigation and Enhancement: To mitigate any harm and bring about an overall enhancement for ecology, the assessment recommends measures that could be secured through planning conditions:
- Five bat bricks should be included within the scheme. Alternatively, bat boxes could be placed, however these tend to be less robust than bat bricks;
  - Inclusion of mini log piles or log pyramids for invertebrates;
  - Shrub and tree species to be included should be considered beneficial to wildlife. Species to be avoided include Birches, (other than Silver Birch (*Betula pendula*)) and non-native evergreen shrubs;
  - Inclusion of bug hotels. Inclusion of hibernacula and log piles for reptiles;
  - Inclusion of a Hedgehog house; and
  - Inclusion of five bird boxes suitable for Starling and House Sparrow.

- 6.54 Officers note the findings of the report and welcome the potential to deliver an enhanced wildlife habitat in the location off the back of the development. The recommended mitigation measures/enhancement measures can be secured through a planning condition requiring an ecological plan to be agreed by the Council prior to the commencement of the development.

### **Education provision**

- 6.55 Policy QL12 in the adopted Local Plan and Policy PP12 in the emerging Local Plan require that new development is supported by the necessary infrastructure which includes education provision. A large number of local residents have expressed concern that local schools will not be able to cope with the expected increase in population arising from the 70 new homes, particularly when considered alongside other proposals for major residential development either approved or under consideration in the wider area.
- 6.56 Essex County Council as the Local Education Authority has been consulted on the planning application and has made representations. ECC's advice was submitted in response to this application in isolation however the cumulative effect of other potential developments has also been taken into account. ECC advised that, based on its standard formula, a development of this size can be expected to generate the need for up to 6.3 Early Years and Childcare (EY&C) places, 21 primary school places, and 14 secondary school places.
- 6.57 ECC is satisfied that there would be sufficient provision of Early Years and Childcare facilities and primary school places in the area to address the needs of the development. However, this advice pre-dated the approval of the development for up to 135 dwellings on land south of Harwich Road (15/01520/OUT). If additional places are required, a sum of £12,172 per place would be needed – a maximum of £255,612. Updated advice has been sought from ECC as to the financial contributions now required, but at the time of writing this had yet to be received and Officers suggest that the Council reserves the right to secure any necessary funds through a s106 legal agreement..
- 6.58 For secondary school provision, ECC advised that the additional pupils expected from the scheme on its own could be accommodated within existing capacity at Manningtree High School, however ECC was mindful the potential impacts of other developments under consideration in the area – namely the 360 homes off Bromley Road, Lawford (15/00876/OUT) which has a Committee resolution to approve subject to a s106 legal agreement; the 300 homes off Long Road, Mistley (15/00761/OUT) which now has outline planning permission; and the 135 homes off Harwich Road (15/01520/OUT) which also has planning permission. At the time of ECC's advice, it was suggested that the cost of providing additional secondary school places be shared by the four development sites if the Stourview Avenue scheme were to be approved. The cost would be £18,491 per place – a maximum of £258,874. Updated advice has been sought from ECC as to the precise financial contributions are required, but at the time of writing this had yet to be received and Officers suggest that the Council reserves the right to secure any necessary funds through a s106 legal agreement.

### **Health provision**

- 6.59 The requirement of the NPPF to promote the creation of high quality environments with accessible local services that reflect the community's needs also extends to health provision, another matter of considerable concern amongst local residents. Again through Policy QL12 in adopted Local Plan and Policy HP1 in the emerging Local Plan, new development needs to be supported by the necessary infrastructure, including health provision.

- 6.60 As this the case across most parts of the district, local health services are operating either at, close to or above capacity in catering for the needs of the current population. One of the roles of the Local Plan is to ensure that major residential developments are planned alongside agreed investment in an area's infrastructure to accommodate anticipated increases in population. For health provision, this could mean the expansion of existing facilities or through the provision of new ones.
- 6.61 However, because the Council's Local Plan is out of date and it cannot identify sufficient land to meet projected housing needs, applications must be considered on their merits against the government's presumption in favour of sustainable development and Officers have needed to liaise with NHS England (with a strategic overview of health provision in our area) to calculate what investment will be required to mitigate the impact of this development and others proposed in the Manningtree, Lawford and Mistley area. Through adopted Policy QL12 and emerging Policy HP1, the Council can require developers to address infrastructure requirements likely to arise from their developments by either building new facilities or making financial contributions towards the creation of additional capacity. It is noted that there is local scepticism about how this will work in practice, but in the absence of an up to date Local Plan, this is an approach that has been accepted by Planning Inspectors.
- 6.62 As with highways and education, Officers have considered both the individual impact of this development on health provision as well as the cumulative impact that might arise if the other major developments are to be allowed. The Council working with NHS England can, through the planning system, put measures in place to mitigate the impact of population growth arising from major residential developments on local infrastructure. Whilst it is the NHS' responsibility to ensure that health centres and local surgeries are adequately resourced and staffed, the Council can secure either new buildings or financial contributions towards expanding existing buildings to ensure there is at least sufficient space for additional doctors, nurses and other medical professions to provide their services.
- 6.63 NHS England has undertaken a Health Impact Assessment of the development proposal and has identified that the local surgeries will not have the capacity to serve the additional residents that would result from the development. A developer contribution of £21,120 is requested to mitigate the capital cost to the NHS for the provision of additional healthcare services. NHS England has confirmed that there are already plans in the pipeline to expand the Riverside Health Centre and that such moneys could be used to help fund this investment.

### **Utilities**

- 6.64 With regard to sewage capacity, Anglian Water has advised that there is sufficient capacity in the foul sewerage network to deal with the levels of effluent expected from this scheme of and has made no objections to the proposal subject to conditions to require a surface water management strategy and a foul water strategy being submitted and agreed.

### **Open space**

- 6.65 Policy COM6 in the adopted Local Plan and Policy HP3 of the emerging Local Plan require large residential developments to provide at least 10% of land as public open space or otherwise make financial contributions toward off-site provision. To comply with these policies, a minimum of approximately 0.5ha of the land needs to be provided as green infrastructure – much of which is expected to be provided along the northern part of the site to assist in minimising visual impacts on the Stour Estuary. A larger area than this will, in reality be secured because much of the eastern parcel of land is unsuitable for development and more space is needed to mitigate any concerns about recreational

disturbance at the Stour Estuary. The detailed dimensions of the open space would be confirmed at reserved matters stage.

- 6.66 The Council's Open Space and Bereavement Service Manager has commented on the application and has identified a deficiency of open space in the Mistley area and has advised that if the on-site open space is to be transferred to Tendring District Council for future maintenance, an additional financial contribution towards maintenance will also need to be secured through a s106 legal agreement. If the Committee is minded to approve this application, Officers will engage in negotiations with the applicant to agree the necessary contribution in line with the guidance contained within the Council's Supplementary Planning Document on Open Space.

### **Council Housing/Affordable Housing**

- 6.67 Policy HG4 in the adopted Local Plan requires large residential developments to provide 40% of new dwellings as affordable housing for people who cannot otherwise afford to buy or rent on the open market. Policy LP5 in the emerging Local Plan, which is based on more up to date evidence on viability, requires 30% of new dwellings on large sites to be made available for affordable or Council Housing. The policy does allow flexibility to accept as low as 10% of dwellings on site, with a financial contribution toward the construction or acquisition of property for use as Council Housing (either on the site or elsewhere in the district) equivalent to delivering the remainder of the 30% requirement.
- 6.68 The Council's Housing Needs team has commented on the application and advised that there is a significant need for affordable housing in the Mistley area based on evidence from the local housing register. It has been suggested that, as an alternative to transferring 30% of properties to the Council (up to 21 dwellings) at a discounted value, the Council would be prepared to accept 5 properties 'gifted' (i.e. transferred to the Council or a nominated partner or trust at zero cost).
- 6.69 If the Committee is minded to approve this application, Officers will negotiate and agree an appropriate level of Council Housing to be secured through a s106 legal agreement.

### **Potential layout and density**

- 6.70 As an outline planning application, detailed design and layout is a reserved matter for future consideration but the Council needs to be satisfied that an appropriate scheme of up to 70 dwellings, access road and open space can be accommodated on the site in an appropriate manner. The applicant has not provided an indicative layout, so Officers have needed to consider the land available, the constraints affecting the site and the potential density.
- 6.71 Whilst the eastern parcel of land is expected to accommodate the proposed access road (carefully located to minimise the loss of trees), it is the main body of the site to the west that is expected to accommodate up to 70 dwellings. This parcel of land measures approximately 3 hectares and therefore the gross density of development could be as high as 23 dwellings per hectare. Assuming that, as an absolute minimum, 0.3 hectares is used for open space, the net density would be around 26 dwellings per hectare. The more open space secured, the higher the density could be. The residential density of the adjoining housing estate, for context, is approximately 35 dwellings per hectare.

### **Council-owned land**

- 6.72 Some objectors to the application have queried why the name of the Council's Chief Executive appears on the planning application forms – concerned that he has a personal and prejudicial interest in the land. Our Chief Executive does not have any personal interest in the land, but his name is on the form because Tendring District Council owns some of the

land at Stourview Avenue that would be required to create the proposed access road. Through a separate process, the disposal of this land has been provisionally agreed – but this should not be seen as a green-light for the development to obtain planning permission. The Planning Committee should make that decision on planning grounds, irrespective of any interest that the Council, as landowner, has in the site.

### **Overall planning balance**

- 6.73 Because the Council's Local Plan is out of date and a five-year supply of deliverable housing sites cannot currently be identified, the National Planning Policy Framework (NPPF) requires that development be approved unless the adverse impacts would significantly and demonstrably outweigh the benefits, or if specific policies within the NPPF suggest development should be refused. The NPPF in this regard applies a 'presumption in favour of sustainable development' for which sustainable development addresses economic, social and environmental considerations.
- 6.74 Economic: Whilst the scheme is totally residential with no commercial premises provided, up to 70 dwellings would generate additional expenditure in the local economy which has to be classed as an economic benefit. There will also be temporary jobs in construction whilst the homes are being built.
- 6.75 Social: The provision of up to 70 dwellings toward meeting projected housing need, at a time when the Council is unable to identify a five-year supply, is a significant social benefit which carries a high level of weight in the overall planning balance – particularly as government policy is to boost housing supply. Additional social benefits include the proposed open spaces that will be secured. The impacts of health and schools provision will be mitigated through appropriate financial contributions to be secured through a s106 agreement, if the application is approved.
- 6.76 Environmental: The environmental impacts of the proposal have required very careful consideration. The site is within the Coastal Protection Belt and forms part of the area under consideration for inclusion in an expanded Area of Outstanding Natural Beauty. Officers consider that these factors should not preclude the potential for development in principle but the visual impacts need to be weighed up against the benefits. In this instance, the visual impacts are not expected to be severe and through landscaping can be softened or mitigated. Ecological impacts, both indirect in terms of recreational disturbance at the Stour Estuary and direct in terms of protected species on the site have been carefully assessed and mitigation measures that could lead to an overall enhancement are suggested.
- 6.77 In the overall planning balance, Officers consider that the adverse impacts do not significantly and demonstrably outweigh the benefits and the application is therefore recommended for approval subject to a s106 legal agreement and a range of planning conditions.

### **Background Papers**

None.