

DELEGATED DECISION OFFICER REPORT

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Application: 19/01081/OUT **Town / Parish:** Little Clacton Parish Council

Applicant: Michael Rockall - Sole Bay Developments Limited

Address: Land to The South of Holland Road Little Clacton

Development: Outline application for 81 no. dwellings.

1. Town / Parish Council

Little Clacton Parish
Council

This application is not sustainable and is located in a position with very weak infrastructure therefore goes against the planning process used by TDC.

Little Clacton Parish Council recommend refusal.

2. Consultation Responses

ECC Schools Service

I have assessed the application on the basis of 28 x 2 bed houses, 52 x 3 bed houses and 2 x 4 bed houses. A development of this size can be expected to generate the need for up to 7.38 Early Years and Childcare (EY&C) places; 24.6 primary school, and 16.4 secondary school places.

Early Years and Childcare

The proposed development is located within the Little Clacton and Weeley Ward.

According to Essex County Council's childcare sufficiency data, published in Summer 2018, there are 7 providers of early years and childcare in the area. Overall a total of 10 unfilled places were recorded.

For Essex County Council to meet "s statutory duties it must both facilitate sufficiently places to meet free childcare entitlement demand and also ensure a diverse range of provision so that different needs can be met. As there are sufficient places available in the area, a developer's' contribution towards new childcare places will not be required for this development.

Primary Education

This proposed development sits within the area served by Engaines Primary School which offers 38 places each year. As at May 2019 the School was full in all year groups and is again expected to be so this September. The site also abuts the area served by Burrsville Infant Academy and Great Clacton Junior School. These schools are likewise full and expected to remain so.

An additional 24.6 places would be provided at an estimated cost of £375,913 at April 2019 prices. This equates to £15,281 per place and so, based on demand generated by this proposal set out above, a developer contribution of £375,913 index linked to April 2019, is sought to mitigate its impact on local primary education.

Having reviewed the proximity of the site to the nearest primary school, Essex County Council will also be seeking a primary school transport contribution as there are no current safe walking routes from the proposed development to the nearest primary school (Engaines). The cost for providing this is £372,985.20 index linked to April 2019.

Secondary Education

With regards to secondary education, the priority admissions area school would be Tendring Technology College but the site would equally well be served by any of the schools in the Clacton area (Tendring Secondary Group 1).

According to the Ten Year Plan, demand for places will outstrip current capacity with three forms of entry of additional places being planned for 2020/21. By 2023/24 up to 125 extra Year 7 places are forecast to be needed.

An additional 16.4 places would be provided at an estimated cost of £375,913 at April 2019 prices. This equates to £23,214 per place and so, based on demand generated by this proposal set out above, a developer contribution of £375,913 index linked to April 2019, is sought to mitigate its impact on local primary education.

Having reviewed the proximity of the site to the nearest secondary school, Essex County Council will also be seeking a secondary school transport contribution as the closest school (Tendring Technical college) whilst under the 3 miles statutory walking distance is deemed as unavailable to be walked due to the nature of the route.

The cost for providing this is £82,574 index linked to April 2019.

In view of the above, I request on behalf of Essex County Council that if planning permission for this development is granted it should be subject to a section 106 agreement to mitigate its impact on primary and secondary education and school transport. Our standard

formula section 106 agreement clauses that ensure the contribution would be fairly and reasonably related in scale and kind to the development are available from Essex Legal Services.

If your council were minded to turn down the application, I would be grateful if the lack of surplus primary and secondary education and secondary school transport provision in the area to accommodate the proposed new homes can be noted as an additional reason for refusal, and that we are automatically consulted on any appeal or further application relating to the site.

Essex Wildlife Trust

Essex Wildlife Trust currently objects to this application on the basis that insufficient information has been provided to enable an assessment of impacts on European Protected Species and priority habitat.

A bat roost survey is required to properly assess the importance of onsite habitats for bats and to inform mitigation requirements. In the absence of a bat roost survey it is not possible to fully assess the impacts of the development on European Protected Species.

A dormouse survey report must be provided before the local authority can determine the application. In the absence of a dormouse survey report it is not possible to fully assess the impacts of the development on a European Protected Species.

The Extended Phase 1 Ecological Assessment states that the majority of the onsite hedgerows will be removed as a result of the development. However, as no Design and Access statement has been provided by the developer we are unable to assess the extent of potential priority habitat loss. We request that the developer is asked to provide a Design and Access statement which details the extent of proposed hedgerow removal.

ECC SuDS Consultee

Lead Local Flood Authority position

Having reviewed the documents which accompanied the planning application, we do not object on the basis of the following conditions:

Condition 1

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

- Verification of the suitability of infiltration of surface water for the development.

This should be based on infiltration tests that have been undertaken in accordance with BRE 365 testing

procedure and the infiltration testing methods found in chapter 25.3 of The CIRIA SuDS Manual C753.

- If infiltration is proven to be unfeasible then the application should limit discharge rates to 6.8l/s for all storm events up to and including the 1 in 100-year rate plus 40% allowance for climate change.
- Provide sufficient storage to ensure no off site flooding as a result of the development during all storm events up to and including the 1 in 100 year plus 40% climate change event.
- Demonstrate that all storage features can half empty within 24 hours for the 1:100 plus 40% climate change critical storm event.
- Final modelling and calculations for all areas of the drainage system.
- The appropriate level of treatment for all runoff leaving the site, in line with the Simple Index Approach in chapter 26 of the CIRIA SuDS Manual C753.
- Detailed engineering drawings of each component of the drainage scheme.
- A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features.
- A written report summarising the final strategy and highlighting any minor changes to the approved strategy. The scheme shall subsequently be implemented prior to occupation. It should be noted that all outline applications are subject to the most up to date design criteria held by the LLFA.

Reason

- To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site.
- To ensure the effective operation of SuDS features over the lifetime of the development.
- To provide mitigation of any environmental harm which may be caused to the local water environment
- Failure to provide the above required information before commencement of works may result in a system being installed that is not sufficient to deal with surface water occurring during rainfall events and may lead to increased flood risk and pollution hazard from the site.

Condition 2

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

Reason

The National Planning Policy Framework paragraph 163 and paragraph 170 state that local planning authorities should ensure development does not increase flood risk elsewhere and does not contribute to water pollution. Construction may lead to excess water being discharged from the site. If dewatering takes place to allow for construction to take place below groundwater level, this will cause additional water to be discharged. Furthermore

the removal of topsoils during construction may limit the ability of the site to intercept rainfall and may lead to increased runoff rates. To mitigate increased flood risk to the surrounding area during construction there needs to be satisfactory storage of/disposal of surface water and groundwater which needs to be agreed before commencement of the development.

Construction may also lead to polluted water being allowed to leave the site. Methods for preventing or mitigating this should be proposed.

Condition 3

Prior to occupation a maintenance plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, has been submitted to and agreed, in writing, by the Local Planning Authority.

Should any part be maintainable by a maintenance company, details of long term funding arrangements should be provided.

Reason

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

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

Condition 4

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

Reason

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

UU Open Spaces

Current Position

There is currently a deficit of 41.08 hectares of play in the Clacton/Holland area.

Any additional development in Clacton will increase demand on already stretched facilities.

Due to the close proximity to the site it is highly likely that the biggest impact would be felt at this play area. Therefore, to ensure the facilities are adequate and able to cope with the additional usage it would be necessary

to increase the level of provision.

Recommendation

Due to the significant lack of play facilities in the area a contribution, towards play is justified and relevant to the planning application and that this money would be used to update and increase the size of play area at Foots Farm, Clacton.

Housing Services

The applicant has accounted for 30% of the site to be delivered as affordable housing (25 homes in total). This is in line with the council's emerging Local Plan.

The only concern I have is that the applicant has accounted for all the 25 affordable homes to be delivered as 2 bedroom houses. Whilst this is welcome, we have a pressing need for 3 bedroom homes as well and I would like to suggest that a small number of the affordable homes be delivered as 3 bedroom houses. I would be happy to accept 20 x 2 bed houses and 5 x 3 bed houses as an alternative but I am happy to discuss further as necessary.

The council would prefer that another provider be sought to take on the affordable homes.

NHS East Essex CCG

The proposed development is likely to have an impact on the services of one GP practice including one branch surgery operating within the vicinity of the application site. These GP practices do not have capacity for the additional growth resulting from this development.

The proposed development will be likely to have an impact on the NHS funding programme for the delivery of primary healthcare provision within this area and specifically within the health catchment of the development. North East Essex CCG would therefore expect these impacts to be fully assessed and mitigated.

Review of Planning Application

The planning application does not appear to include a Health Impact Assessment (HIA) or propose any mitigation of the healthcare impacts arising from the proposed development.

A Healthcare Impact Assessment (HIA) has been prepared by North East Essex CCG to provide the basis for a developer contribution towards capital funding to increase capacity within the GP Catchment Area.

Assessment of Development Impact on Existing Healthcare Provision

The existing GP practices do not have capacity to accommodate the additional growth resulting from the proposed development. The development could generate approximately 180 residents and subsequently increase demand upon existing constrained services.

The development would have an impact on primary healthcare provision in the area and its implications, if unmitigated, would be unsustainable. The proposed development must therefore, in order to be considered under the 'presumption in favour of sustainable development' advocated in the National Planning Policy Framework, provide appropriate levels of mitigation.

Healthcare Needs Arising From the Proposed Development

The intention of NHS NEE CCG is to promote Primary Healthcare Hubs with co-ordinated mixed professionals. This is encapsulated in the strategy document: The NHS Five Year Forward View.

The development would give rise to a need for improvements to capacity, in line with emerging STP Estates Strategy, by way of refurbishment, reconfiguration, extension, or potential relocation for the benefit of the patients of Crusader Surgery (including its branch Great Clacton Medical Practice) or through other solutions that address capacity and increased demand via digital solutions or health and wellbeing initiatives. For this a proportion of the cost would need to be met by the developer.

A developer contribution will be required to mitigate the impacts of this proposal. North East Essex CCG calculates the level of contribution required, in this instance to be £46,188.62. Payment should be made before the development commences.

North East Essex CCG therefore requests that this sum be secured through a planning obligation linked to any grant of planning permission, in the form of a Section 106 planning obligation.

Conclusions

In its capacity as the primary healthcare commissioner, North East Essex CCG has identified that the development will give rise to a need for additional primary healthcare provision to mitigate impacts arising from the development.

The capital required through developer contribution would form a proportion of the required funding for the provision of capacity to absorb the patient growth generated by this development.

Assuming the above is considered in conjunction with the current application process, North East Essex CCG would not wish to raise an objection to the proposed development. Otherwise the Local Planning Authority may wish to review the development's sustainability if such impacts are not satisfactorily mitigated.

The terms set out above are those that North East Essex CCG deem appropriate having regard to the formulated needs arising from the development.

North East Essex CCG is satisfied that the basis and value of the developer contribution sought is consistent with the policy and tests for imposing planning obligations set out in the NPPF.

Anglian Water Services Ltd

Assets Affected

Our records show that there are no assets owned by Anglian Water or those subject to an adoption agreement within the development site boundary.

Wastewater Treatment

The foul drainage from this development is in the catchment of Clacton-Holland Haven Water Recycling Centre that will have available capacity for these flows

Used Water Network

Development may lead to an unacceptable risk of flooding downstream. Anglian Water will need to plan effectively for the proposed development, if permission is granted. We will need to work with the applicant to ensure any infrastructure improvements are delivered in line with the development. There has been no foul water drainage strategy submitted in support of this application.

We therefore request a condition requiring an on-site drainage strategy.

Surface Water Disposal

The preferred method of surface water disposal would be to a sustainable drainage system (SuDS) with connection to sewer seen as the last option. Building Regulations (part H) on Drainage and Waste Disposal for England includes a surface water drainage hierarchy, with infiltration on site as the preferred disposal option, followed by discharge to watercourse and then connection to a sewer.

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 or 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.

Suggested Planning Conditions

Anglian Water would therefore recommend the following planning condition if the Local Planning Authority is mindful to grant planning approval;

We have no objection subject to the following condition:

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

Environmental Protection

In order to minimise potential nuisance to nearby existing residents caused by construction works, Pollution and Environmental Control ask that the following is conditioned;

Prior to the commencement of any construction works, the applicant (or their contractors) shall submit a full method statement to, and receive written approval from, the Pollution and Environmental Control.

Noise Control

- 1) The use of barriers to mitigate the impact of noisy operations will be used where possible.
- 2) No vehicle connected with the works to arrive on site before 07:30 or leave after 19:00 (except in the case of emergency). Working hours to be restricted between 08:00 and 18:00 Monday to Saturday (finishing at 13:00 on Saturday) with no working of any kind permitted on Sundays or any Public/Bank Holidays.
- 3) The selection and use of machinery to operate on site, and working practices to be adopted will as a minimum requirement, be compliant with the standards laid out in British Standard 5228:2014.
- 4) Mobile plant to be resident on site during extended works shall be fitted with non-audible reversing alarms (subject to HSE agreement).
- 5) Prior to the commencement of any piling works which may be necessary, a full method statement shall be agreed in writing with the Planning Authority (in consultation with Pollution and Environmental Control). This will contain a rationale for the piling method chosen and details of the techniques to be employed which minimise noise and vibration to nearby residents.
- 6) If there is a requirement to work outside of the recommended hours the applicant or contractor must submit a request in writing for approval by Pollution and Environmental Control prior to the commencement of works.

Emission Control

- 1) All waste arising from the ground clearance and construction processes to be recycled or removed from the site subject to agreement with the Local Planning Authority and other relevant agencies.
- 2) No materials produced as a result of the site development or clearance shall be burned on site. All reasonable steps, including damping down site roads, shall be taken to minimise dust and litter emissions from the site whilst works of construction and demolition are in progress.
- 3) All bulk carrying vehicles accessing the site shall be suitably sheeted to prevent nuisance from dust in transit.

Adherence to the above condition will significantly reduce the likelihood of public complaint and potential enforcement action by Pollution and Environmental Control. The condition gives the best practice for Demolition and Construction sites. Failure to follow them may result in enforcement action under nuisance legislation (Environmental Protection Act 1990), or the imposition of controls on working hours (Control of Pollution Act 1974).

Any external lighting on the proposed development shall demonstrate compliance with the Institute of Lighting Professionals code of practice. (www.theilp.org.uk)

Essex County Council Ecology

No objection subject to securing;

- a) a proportionate financial contribution for visitor management measures in line with Essex Coast RAMS.
- b) ecological mitigation and biodiversity enhancement measures

Summary

We have reviewed the updated Extended Phase 1 Ecological Assessment and Phase 2 Surveys (Phillips Ecology, October 2019) submitted for the above application.

Despite our previous ecological comments on this application, we note that the Ecology report still fails to include a reference to the development site lying within the Zone of Influences for Hamford Water SAC, SPA and Ramsar site, the Essex Estuaries SAC and Colne Estuary (Mid Essex Coast Phase 2) SPA and Ramsar site. Residential development is relevant to the Essex Coast Recreational disturbance Avoidance & Mitigation Scheme (RAMS), and this development will result in likely impacts, in combination with other plans and projects.

However, to demonstrate legal compliance with Habitats Regulations, the LPA will need to prepare a Habitats Regulation Assessment (HRA) Appropriate Assessment as, without mitigation, it cannot conclude no adverse effect on integrity of the above Habitats sites.

The likely impacts from residential development within the Zone of Influence of the Essex Coast RAMS triggers the legal requirement for a proportionate financial contribution towards this strategic solution to secure effective visitor management measures at the coastal sites in perpetuity. The applicant therefore needs to confirm that they will sign a legal agreement for this mitigation to make the development acceptable. Without this, the LPA will be unable to meet its legal duty under the Habitats Regulations and therefore recommend refusal due to adverse effect on the integrity of a Habitats site.

In line with our request for additional ecological information on reptiles and dormice, we note that further survey work in accordance with Natural England's Standing Advice has now been carried out.

The dormouse presence/absence survey was carried out between July and October 2019 confirmed that the hedgerows within the site support dormice and the proposed development will result in the net loss of dormouse habitat. Mitigation proposed in Section 15 of the above report, includes the provision of replacement dormouse habitat (replacement native species hedgerow and nest boxes) and the removal of dormouse habitat in a staged approach, under the supervision of a dormouse licenced ecologist to ensure that individual dormice are not killed or injured. As such, a European Protected Species Mitigation (EPSM) licence will be required to enable the development to proceed lawfully under a derogation from the Habitat Regulations 2017 and we recommend that a copy of this licence is secured by a condition of any consent.

As the results of the reptile refugia survey confirm that the site supports a good population of common lizard and a small population of slow-worm, the ecology report now includes a mitigation strategy to ensure that these reptiles are not killed or injured as a result of the development. We welcome the details contained in section 15.4 for methods proposed for the translocation of reptiles from the application site. However the details relating to the off-site receptor area for these Priority Species will need to be secured in consultation with the LPA as a prior to commencement condition of any consent to demonstrate that this site is suitable meets the Natural England Standing Advice.

We note that the development proposal will require the cutting back, but not removal of, overgrown hedgerow habitat which is a Priority habitat and that the site is considered to support high suitability for foraging and commuting bats associated with intact species-rich hedgerows. We agree that potential impacts from illumination of the hedgerows which would render them unsuitable for foraging and commuting bats can be avoided and secured by a condition of any consent for a wildlife friendly lighting scheme. It is recommended that enhancement measures for loss of this habitat for bats -

the creation of new linear features within the application site - and compensation for loss of bird nesting habitat is also secured by a condition to make this development acceptable. To maintain control over future management of hedgerows, it will be essential that in the final layout all of them are kept within the public realm and none within private curtilages.

We note the objection of Essex Wildlife Trust on grounds of impacts on dormice, bats and Priority habitat. However we believe that the dormouse survey and assessment is sufficient and that the mitigation is appropriate and likely to be effective under a EPS Mitigation Licence, in line with Natural England licensing policy 4.

In relation to surveys relating to bats, paragraph 99 of the ODPM Circular 06/2005 states: "Bearing in mind the delay and cost that may be involved, developers should not be required to undertake surveys for protected species unless there is a reasonable likelihood of the species being present and affected by the development." It is therefore not considered reasonable to require the applicant to undertake surveys for bats where impacts can be avoided e.g. by securing mitigation under a condition of any consent.

We are satisfied that the LPA has sufficient certainty of likely impacts on bats from the outline application although we recommend that this is reviewed at Reserved Matters stage to ensure any variations to the design are assessed and any appropriate and relevant surveys are undertaken where necessary. Other than removal of very small length of hedgerow for a pedestrian access, there is no hedgerow removal, only cutting back, so the potential loss of Priority habitat is minimal and will be adequately compensated for within the development.

We therefore agree with the applicant's ecologist that no further surveys are necessary and consequently we now consider that this application is supported by sufficient ecological survey & assessment to determine the likely presence of, and impacts to, Protected & Priority species during construction as well as in-combination impacts from recreational disturbance on the Essex Coast Habitats (European) sites.

We welcome the opportunities for biodiversity enhancements and the application should include reasonable biodiversity enhancements, as paragraph 170d of the NPPF 2019 which highlights that development should identify and pursue opportunities for securing measurable net gains for biodiversity. A Biodiversity Enhancement Strategy for Protected and Priority Species should be secured as a condition of any consent which should include provision of bird and bat boxes and wildlife friendly fencing.

The mitigation measures identified in the ecological reports submitted should be secured and implemented in

full to make the development acceptable. This is necessary to conserve and enhance protected and Priority species and habitats.

This provides certainty for the LPA of the likely impacts on protected and Priority species & habitats and demonstrate its compliance with its statutory duties including its biodiversity duty under s40 NERC Act 2006 and s17 Crime & Disorder Act 1998.

Impacts will be minimised such that the proposal is acceptable subject to the conditions below based on BS42020:2013.

Submission for approval and implementation of the details below should be a condition of any planning consent.

Recommended conditions:

1. ACTION REQUIRED IN ACCORDANCE WITH ECOLOGICAL APPRAISAL RECOMMENDATIONS

"All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Extended Phase 1 Ecological Assessment and Phase 2 Surveys (Phillips Ecology, October 2019), as already submitted with the planning application and agreed in principle with the local planning authority prior to determination.

This may include the appointment of an appropriately competent person e.g. an ecological clerk of works (ECoW,) to provide on-site ecological expertise during construction. The appointed person shall undertake all activities, and works shall be carried out, in accordance with the approved details."

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

2. PRIOR TO SLAB LEVEL: BIODIVERSITY ENHANCEMENT STRATEGY

"A Biodiversity Enhancement Strategy for Protected and Priority species shall be submitted to and approved in writing by the local planning authority.

The content of the Biodiversity Enhancement Strategy shall include the following:

- a) Purpose and conservation objectives for the proposed enhancement measures;
- b) detailed designs to achieve stated objectives;
- c) locations of proposed enhancement measures by appropriate maps and plans;
- d) persons responsible for implementing the enhancement measures;

e) details of initial aftercare and long-term maintenance (where relevant).

The works shall be implemented in accordance with the approved details and shall be retained in that manner thereafter."

Reason: To enhance protected and Priority species & habitats and allow the LPA to discharge its duties under the s40 of the NERC Act 2006 (Priority habitats & species).

3. PRIOR TO OCCUPATION: WILDLIFE SENSITIVE LIGHTING DESIGN SCHEME

"A lighting design scheme for biodiversity shall be submitted to and approved in writing by the local planning authority. The scheme shall identify those features on site that are particularly sensitive for bats and that are likely to cause disturbance along important routes used for foraging; and show how and where external lighting will be installed (through the provision of appropriate lighting contour plans, Isolux drawings and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory.

All external lighting shall be installed in accordance with the specifications and locations set out in the scheme and maintained thereafter in accordance with the scheme. Under no circumstances should any other external lighting be installed without prior consent from the local planning authority."

Reason: To allow the LPA to discharge its duties under the UK Habitats Regulations 2017, the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species)

4. PRIOR TO COMMENCEMENT: REPTILE MITIGATION STRATEGY

"No development shall take place until a Reptile Mitigation Strategy addressing the mitigation and translocation of reptiles has been submitted to and approved in writing by the local planning authority.

The Reptile Mitigation Strategy shall include the following.

- a. Purpose and conservation objectives for the proposed works.
- b. Review of site potential and constraints.
- c. Detailed design(s) and/or working method(s) to achieve stated objectives.
- d. Extent and location/area of proposed works on appropriate scale maps and plans.
- e. Type and source of materials to be used where appropriate, e.g. native species of local provenance.
- f. Timetable for implementation demonstrating that works are aligned with the proposed phasing of

development.

- g. Persons responsible for implementing the works.
- h. Details of initial aftercare and long-term maintenance of the Receptor area(s).
- i. Details for monitoring and remedial measures.
- j. Details for disposal of any wastes arising from works.

The Reptile Mitigation Strategy shall be implemented in accordance with the approved details and all features shall be retained in that manner thereafter.”

Reason: To allow the LPA to discharge its duties under the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species)

ECC Highways Dept

It noted that this proposed development is intended to gain access via the proposed development site to the West abutting Thorpe Road Little Clacton, known as The Old Chicken Farm, Thorpe Road. This land received full planning consent and access over land which is in the applicant's control, the Essex Design Guide and Manual for Streets documents confirm that the proposed Thorpe Road access to this standard of visibility can serve up to 200 dwellings. 16/00421/FUL grants consent for 81 dwellings whilst this current application is for 82 dwellings totalling 163, well below the maximum; therefore:

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

1. The vehicular access road for this development shall be constructed at right angles to the proposed carriageway and shall be provided, but not be limited to, the following aspects;
 - Carriageways measuring no less than 5.5m in width
 - 2x2m Footways on both sides of the access road
 - Appropriate pedestrian crossing facilities where the new road joins the existing highway.
 - Appropriate vehicle visibility splays in accordance with current policy standards.
 - Any other reasonable items to ensure the access is in accordance with current policy standards.
 - All residential properties to be provided with a Transport Information Marketing Pack
 - Areas within the site identified for the purpose of loading/unloading/reception and storage of building materials and manoeuvring clear of the highway and retained at all times for that sole purpose as approved in writing by the Local Planning Authority.

Reason: to ensure that vehicles can enter and leave the highway in a controlled manner in the interest of highway safety in accordance with policy DM1.

2. Vehicular parking and turning facilities in

accordance with current policy standards shall be constructed, surfaced and maintained free from obstruction within the site at all times for that sole purpose.

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

3. An area within the site for the purpose of loading, unloading and manoeuvring of all vehicles including construction traffic, as well as a timetable for their implementation, shall be submitted to and approved, in writing, by the Local Planning Authority prior to any works being undertaken on site. The areas for loading, unloading and manoeuvring shall then be provided in accordance with the agreed details and shall be retained at all times for that sole purpose thereafter unless otherwise subsequently agreed, in writing, by the Local Planning Authority.

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

4. Prior to commencement of the proposed development details of a wheel cleaning facility within the site and adjacent to the egress onto the highway shall be submitted to and approved in writing by the Local Planning Authority. The wheel cleaning facility shall be provided at the commencement of the development and maintained during the period of construction.

Reason: To ensure that loose materials and spoil are not brought out onto the highway, in the interests of highway safety in accordance with policy DM1.

5. Prior to commencement of development, details of the estate roads and footways (including layout, levels, gradients, surfacing and means of surface water drainage) shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure roads/footways are constructed to an appropriate standard in the interests of highway safety in accordance with Policy DM7.

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

Informative 1: All housing developments in Essex which would result in the creation of a new street (more than five dwelling units communally served by a single all-purpose access) will be subject to The Advance Payments Code, Highways Act, 1980. The Developer will be served with an appropriate Notice within 6 weeks of

building regulations approval being granted and prior to the commencement of any development must provide guaranteed deposits which will ensure that the new street is constructed in accordance with acceptable specification enough to ensure future maintenance as a public highway.

Informative 2: All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.

The applicants should be advised to contact the Development Management Team by email at development.management@essexhighways.org or by post to:

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

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

Essex County Council Archaeology

The Essex Historic Environment Record shows that the proposed development lies in a sensitive area of known archaeological deposits. Immediately to the south of the site excavation has shown the presence of prehistoric and medieval; occupation (EHER 47187-8) Within the surrounding fields there are a range of cropmark evidence indicating the presence of field systems and prehistoric burials. The cropmarks include enclosures, linear features and ring ditches.

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

RECOMMENDATION: A Programme of Archaeological evaluation

1. No development or preliminary ground-works can commence until a programme of archaeological trial trenching has been secured and undertaken in accordance with a Written Scheme of Investigation, which has been submitted by the applicant, and approved by the planning authority.
2. Following the completion of this initial phase of archaeological work, a summary report will be prepared and a mitigation strategy detailing the approach to further archaeological excavation and/or preservation in situ, shall be submitted to the local planning authority prior to

the submission of any reserved matters.

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

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

Further Recommendations:

A professional team of archaeologists should undertake the archaeological work. In the first instance a programme of trial trenching investigation will be required followed by a programme of open area excavation. A brief outlining the level of archaeological investigation will be issued from this office on request. Tendring District Council should inform the applicant of the recommendation and its financial implications.

3. Planning History

00/00014/FUL	Removal of agricultural occupancy condition No. 3 of planning consent TEN/91/1476		20.01.2000
01/00327/FUL	Removal of agricultural occupancy condition on application No. TEN/91/1476	Approved	14.05.2001
91/00003/ADV	Sign on business premises	Approved	06.11.1991
91/01476/FUL	Dwelling for agricultural use	Approved	13.07.1993
95/00327/FUL	(Thorpe Road Chicken Farm, Thorpe Road, Little Clacton) Proposed storage building	Approved	21.04.1995
96/00508/FUL	(Thorpe Road Chicken Farm, Thorpe Road, Lt Clacton) Proposed building to be used as a field study room	Approved	19.06.1996
98/01163/FUL	Removal of agricultural occupancy condition (Condition 3of TEN/91/1476)	Refused	06.10.1998
14/30402/PREAPP	Proposed development of site for up to 90 residential units.		12.12.2014
16/00421/FUL	Construction of a development of 81 predominantly single storey retirement dwellings (following demolition of existing single dwelling).	Approved	30.06.2017
18/30115/PREAPP	Residential development of up to 63 dwellings.		14.06.2018
18/01399/DISCON	Discharge of condition 9) Bat Survey, 17) Local Recruitment Strategy & 18) Remediation Method Statement to approved Planning Application 16/00421/FUL.	Approved	04.09.2018
19/01081/OUT	Outline application for 81 no. dwellings.	Current	

4. Relevant Policies / Government Guidance

NPPF National Planning Policy Framework February 2019

National Planning Practice Guidance

Tendring District Local Plan 2007

QL1	Spatial Strategy
QL2	Promoting Transport Choice
QL3	Minimising and Managing Flood Risk
QL9	Design of New Development
QL10	Designing New Development to Meet Functional Needs
QL11	Environmental Impacts and Compatibility of Uses
QL12	Planning Obligations
HG1	Housing Provision
HG3	Residential Development Within Defined Settlements
HG3A	Mixed Communities
HG4	Affordable Housing in New Developments
HG6	Dwelling Size and Type
HG7	Residential Densities
HG9	Private Amenity Space
HG14	Side Isolation
COM1	Access for All
COM6	Provision of Recreational Open Space for New Residential Development
COM24	Health Care Provision
EN1	Landscape Character
EN6	Biodiversity
EN6A	Protected Species
EN6B	Habitat Creation
EN11A	Protection of International Sites European Sites and RAMSAR Sites
EN11B	Protection of National Sites SSSI's, National Nature Reserves, Nature Conservation Review Sites, Geological Conservation Review Sites
TR1A	Development Affecting Highways
TR2	Travel Plans
TR3A	Provision for Walking
TR7	Vehicle Parking at New Development

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

SP1 Presumption in Favour of Sustainable Development

SP2 Spatial Strategy for North Essex

SP3 Meeting Housing Needs

SP6 Place Shaping Principles

SPL1 Managing Growth

SPL2 Settlement Development Boundaries

SPL3 Sustainable Design

HP1 Improving Health and Wellbeing

HP2 Community Facilities

HP3 Green Infrastructure

HP5 Open Space, Sports & Recreation Facilities

LP1 Housing Supply

LP2 Housing Choice

LP3 Housing Density and Standards

LP4 Housing Layout

LP5 Affordable and Council Housing

PPL1 Development and Flood Risk

PPL3 The Rural Landscape

PPL4 Biodiversity and Geodiversity

PPL5 Water Conservation, Drainage and Sewerage

CP1 Sustainable Transport and Accessibility

CP2 Improving the Transport Network

Local Planning Guidance

Essex Design Guide

Essex County Council Car Parking Standards - Design and Good Practice

Status of the Local Plan

The 'development plan' for Tendring is the 2007 'adopted' Local Plan. Paragraph 213 of the NPPF (2019) allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF. Paragraph 48 of the NPPF also allows weight to be given to policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of

consistency with national policy: As of 16th June 2017, the emerging Local Plan for Tendring is the Tendring District Local Plan 2013-2033 and Beyond Publication Draft.

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

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

In relation to housing supply:

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

5. Officer Appraisal (including Site Description and Proposal)

Site Context

The application site is a parcel of farm land with no permanent structures and is currently fallow and not in use. The site sits to the east of Thorpe Road and south of Holland Road at the northern edge of Clacton-on-Sea and to the east of the village of Little Clacton. To the north-east of the site are a few sporadic residential properties and several commercial uses. The site itself is bounded by vegetation on all boundaries with an access track from the north off Holland Road. There are several mature trees present on the northern boundary. Directly to the west of the site is land which previously accommodated a chicken farm and a dwelling. That land now has planning permission for the construction of 81 bungalows for older persons. The land to the south/south-west has planning permission for the construction of 250 dwellings.

The application site is not allocated for any use in the adopted Local Plan and falls outside of the defined settlement development boundary. However, in the emerging Local Plan the site is allocated, along with adjoining land, for a major mixed use development proposal which effectively

covers all of the land contained by Thorpe Road, Holland Road, the railway line and the industrial area north of Clacton.

Proposal

This outline application seeks permission to construct 81 dwellings on the site. The application is in outline form with all matters reserved.

An indicative layout plan has been provided which shows the provision of 81 dwellings comprising of a mixture of detached, semi-detached and terraced properties. The indicative housing mix is detailed as: 35 x 2 bedroom properties, 44 x 3 bedroom properties and 2 x 4 bedroom units. 81 dwellings on this site measuring 3.03 hectares equates to a housing density of approximately 26.7 units per hectare.

Vehicular access is shown to be provided via the proposed housing development directly to the west. An area of open public space is illustrated centrally within the site with housing arranged around this area.

The illustrative layout also demonstrates a footpath link through to the consented scheme for 250 dwellings directly to the south of the site.

Principle of Development

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

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.

The 'development plan' for Tendring is the 2007 'adopted' Local Plan, despite some of its policies being out of date. Paragraph 213 of the NPPF allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF. Paragraph 213 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. At the time of writing, the emerging Local Plan for Tendring is the Tendring District Local Plan 2013-2033 and Beyond Publication Draft. 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 213 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.

The application site is not allocated for any use in the adopted Local Plan and falls outside of, and some distance from, the settlement development boundary. The proposal is therefore contrary to adopted Local Plan policy. However, in the emerging Local Plan the site is allocated, along with adjoining land, for a major mixed use development proposal which effectively covers all of the land contained by Thorpe Road, Holland Road, the railway line and the industrial area north of Clacton comprising Oakwood Business Park, Clacton Factory Outlet and Gorse Lane Industrial Estate. The settlement development boundary has been extended to include this whole area. The site had also been included in the earlier (and now superseded) 2012 Draft Local Plan, as amended in 2014, for residential development. The principle of development taking place on the land in question has

therefore been accepted by the Council for some years, albeit within emerging as opposed to adopted policy.

In recent years, there has been a number of planning application approvals within emerging site allocation SAMU3. These include:

- 16/02107/FUL (approved) - erection of 47 bungalows and 2 dwellings
- 18/01800/DETAIL - (approved) - erection of 250 dwellings
- 16/00421/FUL - (approval) - erection of 81 dwellings

The above shows that development in this area is acceptable in principle. That being said, there is an emerging policy for the area as a whole. The emerging Local Plan Policy SAMU3 states:

Land north of Clacton-on-Sea, between Holland Road and the Oakwood Business Park (Oakwood Park, Clacton), shown on the Map SAMU3, is allocated for a mix of residential development, community facilities and public open space as follows:

- a. 21.1 hectares of new homes of mixed sizes and types to include affordable housing as per the Council's requirements;*
- b. at least 500 new homes to be delivered during the plan period to 2033; to include 180 dwellings which address a specific requirement for accommodation designed for the needs of older residents;*
- c. 3.3 hectares of public open space;*
- d. 2.1 hectares of land for a new primary school with co-located 56 place early years and childcare facility (D1 use) as required by the Local Education Authority through Section 106 Planning Obligations;*
- e. 2.04 hectares of land for care and extra care facilities;*
- f. 1.93 hectares of land for a local centre; and*
- g. 1.0 hectares of land for health care facilities;*

Proposals must accord with the following:

- h. inclusion of development at urban to suburban densities (average of 30 dph) and include a master planned approach which addresses the opportunities for further development post-2033;*
- i. the principal point of vehicular access should be off Thorpe Road through the commitment to the west utilising the recently constructed roundabout and only if necessary a secondary access off Holland Road to the north;*
- j. capacity and/or safety enhancements to the local highway network where necessary;*
- k. where necessary, enhancements to public transport, cycle, pedestrian, and bridleway infrastructure;*
- l. delivery of opportunities for the protection and enhancement of the historic environment features and settings including the built and archaeological environment;*
- m. where an archaeological evaluation (trial trenching where necessary) identifies surviving archaeological deposits, an appropriate mitigation strategy for preservation in situ or by excavation should be submitted;*
- n. the design and layout of the development must have regard to the surrounding landscape, seeking to minimise visual impacts through the inclusion of mitigation measures to deliver links with the existing landscape and access features. As part of this, appropriate landscaping treatment along the northern and eastern fringes of the site is required to minimise visual impacts;*
- o. financial contributions to early years and childcare, primary and secondary education provision, as required by the Local Education Authority primarily through Section 106 Planning Obligations or the Community Infrastructure Levy;*
- p. early engagement with Anglian Water to secure upgrades to both treatment infrastructure and network and to formulate a water and drainage strategy to serve the new development;*
- q. financial contributions towards community facilities such as health provision as required by the NHS/CCG either through the Community Infrastructure Levy or Section 106 Planning Obligations.*

Whilst the site only forms a small part of the above mentioned emerging Local Plan allocation, the adopted Local Plan falls short in identifying sufficient land to meet the 'objectively assessed' future need for housing which is a key requirement of the NPPF. As a result, the Council is also currently

unable to identify a five-year supply of deliverable housing sites, plus a 5-20% buffer, as required by the NPPF.

'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.

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". 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 both adopted and emerging plans, Clacton on Sea is categorised as a 'town' or 'strategic urban settlement' in recognition of its size and range of services and facilities and as a location where sustainable development on a larger scale can be achieved. In comparison, 'smaller urban settlements', 'rural service centres' and 'smaller rural settlements' are considered to offer lesser sustainable locations for major development. Little Clacton village is defined as a 'rural service centre' and although the site falls within Little Clacton Parish, it is some distance from the built up area of the village.

It is therefore considered that the principle of this development can be supported based on the shortfall of housing land, the requirements of the NPPF, the site's sustainable location and the provisional support for development, as part of a wider strategic development, as indicated in the current emerging Local Plan.

Because this site forms part of a wider allocation in the emerging Local Plan, consideration has needed to be given to whether or not development would be premature and whether or not it would prejudice the deliverability of the wider development in a sustainable and comprehensive manner.

The concerns revolve around whether or not the development would be delivered in isolation and would prejudice the comprehensive approach as set out in SAMU3. The key concerns in this regard relate to how the site connects and relates with the potential wider development, how the highways and transportation impacts of the development might affect the wider development, how the development addresses infrastructure impacts in isolation in advance of new infrastructure proposed to be delivered as part of the wider scheme as detailed in SAMU3.

Whilst all matters are reserved in this instance, the developer has provided an indicative site plan which shows that footpath connections can be made to the adjoining sites and wider area.

In terms of the scheme's impact on infrastructure, it is noted that the wider strategic development will be required to deliver new education and health facilities which will be delivered on the central part of the site. In this instance, the education authority and healthcare providers have indicated what level of contributions would make the proposal acceptable. A viability assessment has been provided by the applicant to establish whether the development would be viable whilst providing policy compliant s106 obligations. The findings of the viability assessment will be discussed later on within the report.

In conclusion it would be difficult to resist this development proposal on the grounds of prematurity unless it genuinely prejudiced or jeopardised the potential for a larger development in the future. If developed in the form proposed and with appropriate restrictions, and an acceptable level of Section 106 contributions, officers are content that the development can be considered favourably in terms of its principle and policy considerations.

Layout/Scale

Paragraph 124 of the NPPF states that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Being clear about design expectations, and how these will be tested, is essential for achieving this. So too is effective engagement between applicants, communities, local planning authorities and other interests throughout the process.

The current application is an outline application with all matters reserved. The applicant has submitted an indicative layout drawing, setting out their vision for developing the site and to demonstrate one way in which the site could be developed. The layout has been amended on several occasions and now demonstrates that the site can accommodate 81 properties whilst providing a useable public open space and sufficient spacing between existing and proposed properties and private amenity space and parking for each unit to a policy compliant standard.

It is considered that the proposal has the potential to respond positively to local character, provide buildings that exhibit individual architectural quality and a mix of densities and house-types with well-defined public and private spaces. The public realm through additional landscaping, street furniture and other distinctive features would assist in creating a sense of place, and provide streets and spaces that are overlooked and active, promoting natural surveillance and inclusive access, as well as including parking facilities that are well integrated as part of the overall design.

Although appearance, landscaping, layout and scale are reserved matters, the general principle of this level of development on the site is considered acceptable; and is in keeping with both the site's location on the edge of the settlement and along with the need to facilitate on site strategic landscaping, open space and the retention of existing landscape features/protected trees.

Landscape Impact/Trees

The application site is currently in agricultural use and is set to grass. There are no trees or other significant vegetation in the main body of the land. Field boundary vegetation comprises of primarily Blackthorn with some Hawthorn and Goat Willow. There are established Oaks on the northernmost part of the land, adjacent to Holland Road, in the grounds of the adjacent property, fronting Holland Road and in isolated positions within existing field boundary hedgerows.

In order to show the extent to which the trees on the application site and on adjacent land are a constraint on the development potential of the land an Arboricultural Impact Assessment has been submitted as part of a Tree Survey and Report. The report has been carried out in accordance with BS5837: 2012 Trees in relation to design, demolition and construction Recommendations.

The information contained in the report accurately describes the condition of the trees and hedgerows and defines the extent to which they constrain the site. Whilst the field boundary hedgerows are attractive features in their setting they have spread into the field through root activity associated with the growth habit of the Blackthorn. It would be reasonable for them to be cut back to establish field boundary hedges that have a more traditional width. The information submitted with the application suggest that this will be necessary to facilitate the development of the land

With respect to the mature Oaks on the site the report establishes that the development could take place without causing harm to the best trees on the land with the potential for the highest amenity value. During the course of the application the Oak Trees located towards the north of the site have been formally protected through the serving of a Tree Preservation Order.

The amended illustrative layout plan and supporting information, submitted by the applicant and relating to the protected trees on the site, adequately demonstrates that the development proposal could be implemented without causing harm to protected trees. The plan provided shows that there will be no development within the Root Protection Areas of retained and protected trees. As the application is in an outline form a condition is recommended to ensure that no development takes place within the Root Protection Areas of the protected trees.

Should planning permission be granted then an Arboricultural Method Statement (AMS) will be required to show how retained trees would be physically protected for the duration of the construction phase of the development.

In terms of the landscape impact the site is flat and very well contained by existing mature vegetation located on the site perimeters. Views into the site from Holland Road to the north and Thorpe Road to the west are extremely limited. Furthermore, it must be noted that the land directly to the south and west of the site benefit from extant planning permissions for residential development. The land to the east is also allocated for mixed use development in the emerging local plan. Consequently the development of the site in the manner illustrated on the indicative layout plan, whilst retaining the majority of the perimeter hedging/trees, would not adversely harm the landscape character of the area. A soft and hard landscaping scheme would be secured via condition to enhance internal views of the development if permission is forthcoming.

Impact on Residential Amenity

Paragraph 117 of the NPPF states that planning decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions.

Whilst matters of layout and scale are reserved for future determination, with regard to privacy, the Essex Design Guide states that "with rear-facing habitable rooms, the rear faces of opposite houses approximately parallel, and an intervening fence or other visual barrier which is above eye level from the potential vantage point, a minimum of 25 metres between the backs of houses may be acceptable". It goes on to state that "where new development backs on to the rear of existing housings, existing residents are entitled to a greater degree of privacy to their rear garden boundary, and therefore where the rear faces of the new houses may not encroach any closer than 15 metres to an existing rear boundary, even though with a closer encroachment 25 metres between the backs of houses would still be achieved".

The distances between new and existing dwellings (including those proposed on adjacent sites) could be well in excess of those required by the Essex Design Guide and Officers consider that there are no reasonable grounds for refusal in terms of the relationship between existing dwellings, those proposed on adjacent sites and the proposed development. Consequently, adherence to these standards would ensure that the living conditions of existing residents would be protected from overlooking; and a loss of outlook and daylight/sunlight.

It is considered that a detailed layout could be designed which achieves an appropriate relationship with the existing dwellings and which would also be sympathetic to the character of the surrounding area and the wider landscape. All in all it is considered that the above measures would ensure that the living conditions of existing and future residents would be protected from any materially detrimental impacts.

Highway Safety/Parking

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

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

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

Access to the application site will be through the Old Chicken Farm site directly to the west, which has consent for a new access onto Thorpe Road with a visibility standard of 215 x 4.5m. The Essex Design Guide and Manual For Streets documents confirm that an access to this standard of visibility can serve up to 200 dwellings. 16/00421/FUL on the Old Chicken Farm site granted consent for 81 dwellings whilst the current application is for 81 dwellings totalling 162, well below the maximum.

The Highway Authority have not raised objection to this arrangement subject to the imposition of a number of planning conditions concerning the specification of the carriageways and footways, the provision of parking and turning areas in accordance with policy standards and the submission of a construction method statement and details of wheel washing facilities.

The indicative layout plan shows that each property would be served by a minimum of 2 no. parking spaces either through open bays or garaging. Provision is also made for visitor parking in accordance with current parking standards. This provision accords with the requirements of the current parking standards.

Biodiversity

Paragraph 170 of the NPPF requires Councils, when determining planning applications, to minimise impacts on and providing net gains for biodiversity. Where significant harm to biodiversity cannot be avoided, mitigated or, as a last resort, compensated for, Councils should refuse planning permission. Saved policies EN6 of the adopted Local Plan and emerging 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.

In this respect an ecological appraisal and associated species specific surveys have been submitted. These surveys conclude/recommend the following;

Bats

- External lighting within the development should be kept to a minimum; in quantity, aspect and lux level;
- Where lighting is required, consideration should be given to the practicability of using motion sensitive lighting, using low level bollard lighting (with minimal upwards light spill) on pathways and using directional or hooded lighting that illuminates only required areas; and
- Lighting should be selected that emits minimal ultra violet light and avoids white and blue wavelengths of the light spectrum.

Hazel dormice

- Planting of replacement hedgerow to compensate for the loss of any hedgerow habitat and ensure no loss of connectivity.
- 10 nest boxes will also be erected within retained vegetation to increase the carrying capacity of existing habitat.
- An initial cut of any suitable habitat which is to be removed to 300mm will be carried out between December and March, inclusive, under supervision of named ecologist.
- Removal of remaining low hedgerow material (grubbing out) under supervision of named ecologist will be carried out once dormice have emerged from hibernation in early May.

Hedgehogs

- Any accumulations of brash will be dismantled by hand in a sensitive and careful manner.
- No bonfires will be made or lit on site.

Reptiles

- Temporary reptile exclusion fencing will be installed around the site perimeter.

- The site will be subject to a capture exercise during the reptile active season (i.e. between March and September, inclusive). Artificial refugia (or artificial cover objects) comprising 50cm² sheets of bitumen felt and corrugated Onduline will be distributed at high density (approximately 100 per hectare) throughout the area.
- Once an animal has been captured, and placed within a suitable container, it will be transported to the receptor area and released.
- A receptor site which adheres to the following characteristics adapted from Natural England's standing advice will be secured with consultation with the LPA prior to commencement
- Once the reptile translocation works have been completed and it is considered that the site is clear of reptiles, clearance works can proceed. The top soil will be scraped back by an excavator under the supervision of an ecological clerk of works during the reptile active season. If a reptile is unexpectedly encountered, it will be translocated to the agreed receptor site.

Breeding Birds

- The bird nesting season is taken to be March to August inclusive. Any removal of suitable nest habitat will either need to be undertaken outside of this period or else checked by an experienced ecologist to ensure that no nesting birds are present.

Protected Habitats/RAMS

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. However, the site lies within the Zone of Influence (ZoI) of the Colne Estuary Special Protection Area (SPA) and Ramsar as defined in the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). The residents of new housing are therefore considered likely to regularly visit relevant designated sites for recreational purposes. In order to avoid a likely significant effect in terms of increased recreational disturbance to Coastal European designated sites (Habitats sites) in particular Colne Valley SPA and Ramsar site, mitigation measures will need to be in place prior to occupation. These would be in the form (for schemes of under 100 net additional dwellings) of an off-site financial contribution of £122.30 per dwelling.

Essex County Council Place Services Ecology Team have reviewed the information provided and have no objections subject to the application securing a financial contribution towards visitor management measures in respect of RAMS and a conditions securing ecological mitigation and enhancement measures including full details of the reptile receptor site.

Essex Wildlife Trust has objected to the application and ECC-Place Services Team has commented on this as follows;

We note the objection of Essex Wildlife Trust on grounds of impacts on dormice, bats and Priority habitat. However we believe that the dormouse survey and assessment is sufficient and that the mitigation is appropriate and likely to be effective under a EPS Mitigation Licence, in line with Natural England licensing policy 4.

In relation to surveys relating to bats, paragraph 99 of the ODPM Circular 06/2005 states: "Bearing in mind the delay and cost that may be involved, developers should not be required to undertake surveys for protected species unless there is a reasonable likelihood of the species being present and affected by the development." It is therefore not considered reasonable to require the applicant to undertake surveys for bats where impacts can be avoided e.g. by securing mitigation under a condition of any consent.

We are satisfied that the LPA has sufficient certainty of likely impacts on bats from the outline application although we recommend that this is reviewed at Reserved Matters stage to ensure any variations to the design are assessed and any appropriate and relevant surveys are undertaken where necessary.

Drainage

Part 14 of the NPPF sets out the Government's stance on climate change, flooding and coastal change, recognising that planning plays a key role in, amongst other things, providing resilience to the impacts of climate change. Inappropriate development in areas at risk of flooding should be avoided.

The site is currently greenfield land and is located within Flood Zone 1, it is therefore at low risk from tidal/fluviial flooding. Construction would also be managed and controlled to ensure no contamination of groundwater is caused during the construction phase.

Anglian Water state that the foul drainage from this development is in the catchment of Clacton-Holland Haven Water Recycling Centre that will have available capacity for these flows. However, as it stands the development would lead to an unacceptable risk of flooding downstream, therefore a drainage strategy would need to be prepared in consultation with them to determine mitigation measures. They request that a condition requiring the drainage strategy covering the issue is imposed.

In relation to surface water disposal, the discharge of future surface water runoff from the site will not be increased because of the redevelopment as it will be controlled as a result by attenuating and slowing the rate at which it infiltrates the ground with permeable paving, cellular soakaways and an infiltration basin. Essex County Council SUDs Team has reviewed the submitted information and have no objections subject to the conditions contained within their comments.

Section 106 of the Town and Country Planning Act 1990 and Viability Matters

Open Space

Policy COM6 in the adopted Local Plan and Policy HP4 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.

The Council's Open Space Team has commented on the application and has identified a deficit of equipped play and formal open space in Clacton-on-Sea. Due to the limited play provision in Clacton-on-Sea, any further development in the area will increase the current deficit further and put greater demand on already stretched facilities and accordingly an off-site contribution towards enhancements at Foots Farm play area is requested.

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 Section 106 legal agreement. If the Council were minded to approve this application, Officers would engage in negotiations with the applicant to agree the necessary requirements in line with the guidance contained within the Council's Supplementary Planning Document on Open Space.

Affordable Housing

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.

24 of the proposed properties would need to be secured for affordable housing purposes through a Section 106 legal agreement.

Education Provision

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.

Essex County Council as the Local Education Authority has been consulted on the planning application and has made representations. ECC advised that, based on its standard formula, a development of this size can be expected to generate the need for up to 7.38 Early Years and Childcare (EY&C) places, 24.6 primary school places, and 16.4 secondary school places.

ECC state that there are sufficient EY&C places available in the local area and as such a contribution in this respect will not be required.

However, on the basis that there are insufficient places to meet the needs of this development in respect of Primary and Secondary provision, ECC has requested financial contributions of £375,913 for primary school places and £380,710 for secondary school places along with a contribution of £372,985.20 for primary school transport and £82,574 for secondary school primary transport. The total contribution would therefore equate to £1.212m.

Healthcare Provision

NHS CCG have confirmed that the local GP practice at Crusader Surgery does not have capacity for the residents resulting from this proposal and request a contribution of £46,188.62 to enable improvements to capacity, in line with emerging STP Estates Strategy, by way of refurbishment, reconfiguration, extension, or potential relocation for the benefit of the patients of Crusader Surgery (including its branch Great Clacton Medical Practice) or through other solutions that address capacity and increased demand via digital solutions or health and wellbeing initiatives

In view of the above, the total s106 obligations for this development equate to approximately £1.4m along with the required 30% affordable housing provision (24 units).

The applicants have reviewed the required contributions and have submitted a viability assessment to review the overall viability of the development against the requirement to secure these obligations. The viability assessment has been independently reviewed by BNP Paribas who conclude the following;

In summary, our proposed scheme appraisal with a 17.5% profit on value and the full S106 payment of c. £1.39m generates a residual land value of c. £1.24m and when benchmarked against a site value of £1.05m the proposed scheme generates a surplus of c. £0.19m.

Consequently, the scheme with a profit of 17.5% on value can support the full S106 contribution of c. £1.39m.

Therefore against a profit margin of 17.5% the site can meet the required s106 contributions but no affordable housing provision. In light of these conclusions and having regard to the National Planning Policy Guidance relating to viability, the Council requested that BNP Paribas re-run the viability appraisal taking into consideration a lower profit margin of 15%, which is still within the NPPG's recommended range in respect of developer's profit margin.

The findings show that the scheme can support a 20% affordable housing provision (16 units) and a £710,000 s106 contribution whilst being viable at a reduced profit margin of 15% on the market housing provision.

Notwithstanding that this provision is still significantly short of the full policy compliant s106 position, the applicants have not agreed to accept the lower profit margin and have maintained that a 20% profit margin should be applied.

The Council disagree and maintain that a lower profit margin should be applied. This is accordance with the guidance outlined within Paragraph: 018 Reference ID: 10-018-20190509 of the NPPG.

Furthermore, it is evident that even if the lower profit margin was agreed the development would still fall significantly short of the required policy compliant s106 position.

The emerging policy SAMU3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) sets out the specific requirements for the wider mixed use allocation of which this site is a part. The overall site includes 750 homes of which 500 are expected to be delivered within the plan period up to 2033. It states that any application for future development will be expected to comply with and assist in the delivery of this housing requirement along with other relevant policies in the Local Plan.

In-particular the policy states, amongst other things, that proposals must accord with the following;

- Financial contributions to early years and childcare, primary and secondary education provision, as required by the Local Education Authority primarily through Section 106 Planning Obligations or the Community Infrastructure Levy;
- Financial contributions towards community facilities such as health provision as required by the NHS/CCG either through the Community Infrastructure Levy or Section 106 Planning Obligations; and
- affordable housing as per the Council's requirements.

In this instance it is evident that even if a lower profit margin was agreed the development as proposed cannot achieve the required level of s106 contributions or affordable housing provision. As a result the development is contrary to the above-mentioned saved and emerging local plan policies and not in accordance with the specific requirements of the emerging mixed-use allocation.

Other Considerations

Little Clacton Parish Council recommends refusal for the following reasons;

This application is not sustainable and is located in a position with very weak infrastructure therefore goes against the planning process used by TDC.

No further letters of representation have been received.

6. Recommendation

Refusal

7. Reasons for Refusal

- 1 The National Planning Policy Framework (2019) states that Local Planning Authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be sought where they meet all the following tests: necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development.

The applicant in support of the planning application submitted a Viability Study that indicated that the scheme could not support the full Section 106 planning obligation contributions. In terms of applying the titled balance to the planning merits of the case, it is considered in this instance that the relative weight that should be given to the need to provide housing in the District is not sufficient to outweigh the low level of contributions that will be provided to mitigate the impacts of the scheme in terms of addressing the additional demands on education and healthcare and the absence of policy compliant affordable housing requirements.

The emerging policy SAMU3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) sets out the specific requirements for the wider mixed use allocation of which this site is a part.

In particular the policy states, amongst other things, that proposals must accord with the following;

- Financial contributions to early years and childcare, primary and secondary education provision, as required by the Local Education Authority primarily through Section 106 Planning Obligations or the Community Infrastructure Levy;
- Financial contributions towards community facilities such as health provision as required by the NHS/CCG either through the Community Infrastructure Levy or Section 106 Planning Obligations; and
- affordable housing as per the Council's requirements.

In this instance it is evident that the development as proposed cannot achieve the required level of s106 contributions or affordable housing provision. As a result the development is contrary to the above-mentioned saved and emerging local plan policies and not in accordance with the specific requirements of the emerging mixed-use allocation.

Policy COM26 of the Tendring District Local Plan states where necessary planning permission will only be granted for residential developments of 12 or more dwellings if land and/or financial contributions are made to provide the additional school places that will be needed to service the development. Policy PP12 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft states planning permission will not be granted for new residential development unless the individual or cumulative impacts of development on education provision can be addressed, at the developer's cost, either on-site or through financial contributions towards off-site improvements. A completed Section 106 obligation has not been completed to secure such requirements has not been provided prior to the application determination date and the application is therefore contrary to the above policies.

Policy HP1 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft states that the Council will seek contributions towards new or enhanced health facilities from developers where new housing development would result in a shortfall or worsening of health provision. NHS England has identified the need for financial contributions towards local health services. A completed Section 106 obligation to secure these contributions has not been completed or secured prior to the application determination date and the application is therefore contrary to the above policy.

Saved Policy HG4 of the Tendring District Local Plan (2007) requires up to 40% of new dwellings on residential schemes of 5 or more units to be provided in the form of affordable housing to meet the needs of people that are unable to access property on the open market. Emerging Policy LP5 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) which is based on more up-to-date evidence of housing need and viability, requires for developments of 11 or more dwellings, the Council expect 30% of new dwellings to be made available to Tendring District Council or an alternative provider to acquire at a proportionate discounted value for use as affordable housing. A completed S106 obligation has not been completed to secure this level of provision prior to the application determination date and the application is therefore contrary to the above policy.

Saved Policy COM6 and emerging Policy HP5 state that for residential development on a site of 1.5ha and above, where existing public open space and/or play equipment are inadequate shall provide appropriate provision on-site or by way of a financial contribution towards the provision of new or improved off-site facilities to meet the projected needs of future occupiers of the development. There is an identified deficit of equipped play and formal open space in Clacton-on-Sea. Due to the limited play provision in Clacton-on-Sea, any further development in the area will increase the current deficit further and put greater demand on already stretched facilities and accordingly an off-site contribution towards enhancements at Fooks Farm play area is requested. There will also be a need to provide

on-site open space and if this is to be maintained by the Council then provisions will need to be secured through a Section 106 obligation. Without such provisions being secured the proposals are contrary to the above policies.

A completed Section 106 obligation to secure the relevant contributions towards education, health, open space/play space and affordable housing has not been provided and is therefore contrary to the above policies.

- 2 Under the Habitats Regulations, a development which is likely to have a significant effect or an adverse effect (alone or in combination) on a European designated site must provide mitigation or otherwise must satisfy the tests of demonstrating 'no alternatives' and 'reasons of overriding public interest'. There is no precedent for a residential development meeting those tests, which means that all residential development must provide mitigation. This residential development lies within the Zone of Influence of the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). The residents of new housing are therefore considered likely to regularly visit relevant designated sites for recreation. In order to avoid a likely significant effect in terms of increased recreational disturbance to coastal European designated sites (Habitats sites) mitigation measures will need to be in place prior to occupation. A proportionate financial contribution has not been secured in accordance with the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) requirements.

The development is therefore contrary to Paragraph 175 of the National Planning Policy Framework, Policy EN11a in the adopted Local Plan and Policy PPL4 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft.

8. Informatives

Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and discussing those with the Applicant. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm which has been clearly identified within the reason(s) for the refusal, approval has not been possible.

Are there any letters to be sent to applicant / agent with the decision? If so please specify:	YES	NO
Are there any third parties to be informed of the decision? If so, please specify:	YES	NO