

## DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	ML	20/12/2019
Planning Development Manager authorisation:	TF	23/12/2019
Admin checks / despatch completed	CC	23/12/2019
Technician Final Checks/ Scanned / LC Notified / UU Emails:	AP	23/12/19

**Application:** 19/01201/OUT **Town / Parish:** Weeley Parish Council

**Applicant:** St Osyth Beach Estate Ltd

**Address:** Land East of Bentley Road Weeley

**Development:** Residential development comprising up to 80 dwellings, approximately 150 sqm retail/pharmacy unit, public open space and associated infrastructure.

### **1. Town / Parish Council**

Weeley Parish Council

WPC objects to this application. Until recently Weeley Heath was a small settlement consisting of 250 or so houses and has been designated a small rural development in the emerging local plan.

As part of the local plan consultation, TDC suggested that Weeley Heath could sustain 40 new properties, later doubling this number to 80.

In the last couple of years, in excess of 120 residential units have been approved with a significant number more in the pipeline or subject to appeal.

Weeley Heath simply cannot cope with more housing. Its character has already been damaged irreparably and this site is unsustainable and is not designated as a development site in the local plan.

### **2. Consultation Responses**

Anglian Water Services  
Ltd

Section 1 - Assets Affected

There are assets owned by Anglian Water or those subject to an adoption agreement within or close to the development boundary that may affect the layout of the site. Anglian Water would ask that the following text be included within your Notice should permission be granted.

Anglian Water has assets close to or crossing this site or there are assets subject to an adoption agreement. Therefore the site layout should take this into account and accommodate those assets within either prospectively adoptable highways or public open space. If this is not practicable then the sewers will need to be diverted at the developers cost under Section 185 of the Water Industry Act 1991. or, in the case of apparatus under an adoption agreement, liaise with the owners of the apparatus. It should be noted that the diversion works should normally be completed before development can commence.

## Section 2 - 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

## Section 3 - Used Water Network

The sewerage system at present has available capacity for these flows via a gravity connection to the 225mm public foul water sewer. If the developer wishes to connect to our sewerage network they should serve notice under Section 106 of the Water Industry Act 1991. We will then advise them of the most suitable point of connection.

(1) INFORMATIVE - Notification of intention to connect to the public sewer under S106 of the Water Industry Act Approval and consent will be required by Anglian Water, under the Water Industry Act 1991. Contact Development Services Team 0345 606 6087.

(2) INFORMATIVE - Notification of intention to connect to the public sewer under S106 of the Water Industry Act Approval and consent will be required by Anglian Water, under the Water Industry Act 1991. Contact Development Services Team 0345 606 6087.

(3) INFORMATIVE - Protection of existing assets - A public sewer is shown on record plans within the land identified for the proposed development. It appears that development proposals will affect existing public sewers. It is recommended that the applicant contacts Anglian Water Development Services Team for further advice on this matter. Building over existing public sewers will not be permitted (without agreement) from Anglian Water.

(4) INFORMATIVE - Building near to a public sewer - No building will be permitted within the statutory easement width of 3 metres from the pipeline without agreement from Anglian Water. Please contact Development Services Team on 0345 606 6087.

(5) INFORMATIVE: The developer should note that the site drainage details submitted have not been approved for the purposes of adoption. If the developer wishes to have the sewers included in a sewer adoption agreement with Anglian Water (under Sections 104 of the Water Industry Act 1991), they should contact our Development Services Team on 0345 606 6087 at the earliest opportunity. Sewers intended for adoption should be designed and constructed in accordance with Sewers for Adoption guide for developers, as supplemented by Anglian Water's requirements.

## Section 4 - 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

Essex County Council  
Ecology

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.

No objection subject to securing:

- a) Off-site visitor management measures for the Essex Coast RAMS;
- b) biodiversity mitigation and enhancement measures.

#### Summary

We have reviewed the Preliminary Ecological Appraisal (PEA) (James Blake Associates, July 2019) submitted in support of the above application. It is recommended that all desk studies should include biodiversity information from both Essex Wildlife Trust Biological Records Centre and the Essex Recorders Partnership as the latter source was not consulted.

We note that, according to current plan proposals a single tree with 'moderate' bat roost potential (due to the maturity, broken/split limbs, peeling bark and ivy cover) is to be retained. However the PEA recommends that, should this tree be proposed for removal at Reserved Matters stage, further bat survey & assessment will be necessary. The LPA will need certainty of likely impacts on protected species to enable it to make a lawful decision.

We note that the Ecology report includes a reference to the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) which has now been published for adoption by all the partner LPAs including Tendring DC. The residential element of this development is relevant to the Essex Coast RAMS and the site lies within the Zone of Influences for the Essex Estuaries SAC, Hamford Water SPA, SAC and Ramsar Site, Colne Estuary (Mid Essex Coast Phase 2) SPA & Ramsar site, Stour & Orwell Estuaries SPA & Ramsar site. This development will therefore result in likely impacts, in combination with other plans and projects on the Habitats sites listed above.

The LPA is therefore advised that a contribution should be sought from the residential development within the ZOI specified, which will need to be secured by legal agreement or via a condition of any consent. The LPA will also need to prepare a HRA Appropriate Assessment record to determine any adverse effect on site integrity and then secure the developer contribution by legal agreement for delivery of visitor management measures at the above Habitats sites in line with the Essex Coast RAMS.

The proposal to erect 81 dwellings will trigger a prior to commencement financial contribution towards offsite visitor management measures, in line with the Essex Coast RAMS Strategy (£122.30 per dwelling) for delivery prior to occupation. This mitigation will avoid impacts from the development in combination with other plans and projects.

In the absence of additional mitigation, retained habitats and

landscaping could be subjected to increased light levels after sunset, which may deter foraging bats and any roosting in Weeley Hall Wood SSSI. We recommend that a wildlife-sensitive lighting scheme is secured as a condition of any consent to be provided at Reserved Matters stage.

We are satisfied that there is sufficient ecological information available for determination. This provides certainty for the LPA of the likely impacts on protected and Priority species & habitats and, with appropriate mitigation measures secured, the development can be made acceptable.

We support the proposed reasonable biodiversity enhancements in section 6 of the PEA (bird boxes, native trees/shrubs and hedgehog friendly fencing) which have been recommended to secure measurable net gains for biodiversity, as outlined under Paragraph 170d of the National Planning Policy Framework 2019. We recommend that a Biodiversity Enhancement Strategy is secured to deliver this as a condition of any consent so that details particularly of locations can be provided at Reserved Matters stage. The nest boxes should focus on species likely to be present and affected eg House sparrow.

This will enable LPA to demonstrate its compliance with its statutory duties including its biodiversity duty under s40 NERC Act 2006.

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 REPORT RECOMMENDATIONS

"All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Preliminary Ecological Appraisal (James Blake Associates, July 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:

- o Purpose and conservation objectives for the proposed enhancement measures;
- o detailed designs to achieve stated objectives;
- o locations of proposed enhancement measures by appropriate maps and plans;

o persons responsible for implementing the enhancement measures;  
o 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)

ECC SuDS Consultee

As the Lead Local Flood Authority (LLFA) this Council provides advice on SuDS schemes for major developments. We have been statutory consultee on surface water since the 15th April 2015.

In providing advice this Council looks to ensure sustainable drainage proposals comply with the required standards as set out in the following documents:

- Non-statutory technical standards for sustainable drainage systems
- Essex County Council's (ECC's) adopted Sustainable Drainage Systems Design Guide
- The CIRIA SuDS Manual (C753)
- BS8582 Code of practice for surface water management for development sites.

#### Lead Local Flood Authority position

Having reviewed the Flood Risk Assessment and the associated documents which accompanied the planning application, we do not object to the granting of planning permission based on the following:

#### 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:

- Limiting discharge rates to 10.6l/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.

Any questions raised within this response should be directed to the applicant and the response should be provided to the LLFA for further consideration. If you are minded to approve the application contrary to this advice, we request that you contact us to allow further discussion and/or representations from us.

#### Summary of Flood Risk Responsibilities for your Council

We have not considered the following issues as part of this planning application as they are not within our direct remit; nevertheless these are all very important considerations for managing flood risk for this development, and determining the safety and acceptability of the proposal. Prior to deciding this application you should give due consideration to the issue(s) below. It may be that you need to consult relevant experts outside your planning team.

- Sequential Test in relation to fluvial flood risk;
- Safety of people (including the provision and adequacy of an emergency plan, temporary refuge and rescue or evacuation arrangements);

- Safety of the building;
- Flood recovery measures (including flood proofing and other building level resistance and resilience measures);
- Sustainability of the development.

In all circumstances where warning and emergency response is fundamental to managing flood risk, we advise local planning authorities to formally consider the emergency planning and rescue implications of new development in making their decisions.

ECC Highways Dept

All housing developments in Essex which would result in the creation of a new street (more than five dwelling units communally served by a single all-purpose access) will be subject to The Advance Payments Code, Highways Act, 1980. The Developer will be served with an appropriate Notice within 6 weeks of building regulations approval being granted and prior to the commencement of any development must provide guaranteed deposits which will ensure that the new street is constructed in accordance with acceptable specification sufficient to ensure future maintenance as a public highway.

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

1. No development shall take place, including any ground works or demolition, until a Construction Management Plan has been submitted to, and approved in writing by, the local planning authority. The approved plan shall be adhered to throughout the construction period. The Plan shall provide for:
  - i. the parking of vehicles of site operatives and visitors
  - ii. loading and unloading of plant and materials
  - iii. storage of plant and materials used in constructing the development
  - iv. wheel and underbody washing facilities

Reason: To ensure that on-street parking of these vehicles in the adjoining streets does not occur and to ensure that loose materials and spoil are not brought out onto the highway in the interests of highway safety and Policy DM 1.

2. Prior to final occupation, the upgrade of the two closest bus stops to the site to include suitable facilities to encourage use of the public transport network either side of Clacton Road. Including Kassel kerbs, bus stop flags/ timetable frames or any other measures deemed necessary.

Reason: To protect highway efficiency of movement and safety and to ensure the proposal site is accessible by more sustainable modes of transport such as public transport, cycling and walking, in accordance with policy DM1, DM9, DM10 and DM17

3. A financial contribution of £36,995 (to be index linked) towards any congestion/ traffic management improvements on Clacton Road and/ or for Bentley Road junction with Clacton Road.

Reason: To protect highway efficiency of movement and safety and to ensure the proposal site is accessible, in accordance with policy DM1 and DM17.

4. The vehicular access road shall be constructed at right angles to the highway boundary and to the existing 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
- A straight section of carriageway to be provided from the entrance junction for 15 metres.
- Appropriate vehicle visibility splays in accordance with current policy standards.
- Kerb radii measuring 6m
- Any other reasonable items to ensure the access is in accordance with current policy standards.
- Appropriate pedestrian crossing facilities where the new road joins the existing highway.
- A new footway measuring no less than 2m in width either side of the junction with tactile paving either side of Bentley Road and opposite for the existing footway on the north side.
- The proposed access from the development onto Mill Lane shall be an emergency access and restricted to pedestrians/ cyclists only.
- 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.

5. Prior to occupation of the proposed development, the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack per dwelling, for sustainable transport, approved by Essex County Council, (to include six one day travel vouchers for use with the relevant local public transport operator free of charge)

Reason: To protect highway efficiency of movement and safety and to ensure the proposal site is accessible by more sustainable modes of transport such as public transport, cycling and walking, in accordance with policy DM1, DM9, DM10 and DM17.

6. 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: The grant of planning permission does not automatically allow development to commence. In the event of works affecting the highway, none shall be permitted to commence until such time as they have been fully agreed with this Authority.

In the interests of highway user safety this may involve the applicant requesting a temporary closure of the definitive route using powers included in the aforementioned Act. All costs associated with this shall be borne by the applicant and any damage caused to the route shall be rectified by the applicant within the timescale of the closure.

Informative 2: Commuted Sums - Any signal equipment/structures/non-standard materials/trees/public rights of way through the site proposed within the existing extent of the public highway or areas to be offered to the Highway Authority for adoption as public highway, will require a contribution (commuted sum) to cover the cost of future maintenance for a period of 15 years following construction.

Informative 3: 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](mailto:development.management@essexhighways.org) or by post to:

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

Essex County Council  
Archaeology

The above planning application has been identified as having the potential to harm non-designated heritage assets with archaeological interest.

The above application lies within the extent of the former Heath at Weeley, the historic settlement of Weeley lies just to the north. Little archaeological investigation has taken place in the immediate area to inform on the potential for survival of archaeological remains in this area however the Tendring Historic Environment Characterisation Report describes the zone in which the application lies as a landscape with surviving medieval features and with further evidence for medieval or earlier activity identified from cropmark records. Excavations in advance of the construction of the A133 revealed a series of sites, dating from the Bronze Age onwards. The impact of the development on potential surviving archaeological deposits will need to be established through a programme of archaeological fieldwork.

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

**RECOMMENDATION:** A Programme of Archaeological trial trenching

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

2. No development or preliminary groundwork can commence on those areas of the development site containing archaeological deposits, until

the satisfactory completion of archaeological fieldwork, as detailed in the mitigation strategy, which has been signed off by the local planning authority.

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

#### Further Recommendations:

A professional team of archaeologists should undertake the archaeological work. A brief outlining the level of archaeological and geoarchaeological investigation will be issued from this office on request. Tendring District Council should inform the applicant of the recommendation and its financial implications.

## UU Open Spaces

### Response from Public Realm Open Space & Play

#### Application Details

Application No: 19/01201/OUT

Site Address: Land East of Bentley Road Weeley Essex

Description of Development: Residential development comprising up to 80 dwellings, approximately 150sqm retail/pharmacy unit, public space and associated infrastructure.

#### Current Position

There is currently a deficit of -2.18 hectares of equipped play and formal open space in Weeley.

#### Recommendation

It is noted from the application that there will be an onsite play area. Should the developer wish to transfer the open space or play area to the council for future maintenance, a commuted sum will be required. A further consultation should be issued at a later stage so that this can be agreed. This would exclude any SuDs.

## Housing Services

I have been asked to comment on the affordable housing requirements for the above application and I would comment as follows:

I note that the application is for 80 dwellings in total and the applicant has accounted for 32 of the dwellings to be delivered as affordable housing. This is acceptable to my department.

I note from the planning statement that it is intended to deliver a mixture of 2, 3 and 4 bedroom dwellings including bungalows. There is a very high demand for housing in Weeley and there are currently 151 households on the housing register seeking a 2 bedroom property (21 of whom are seeking a 2 bedroom bungalow), 108

seeking a 3 bedroom house and 43 seeking a 4 bedroom house.

My department's preference is that another registered provider be sought to take on the affordable homes on the site and I am happy to discuss the tenure and mix for the affordable homes at a later date as necessary.

Please let me know if you need any further information.

Waste Management

No comments at this stage.

Environmental Protection

I have reviewed the application and have the following comments to make;

There is some indication of potential contamination from our contaminated land database near the site. The applicant is advised to undertake a suitable and sufficient site investigation and any necessary risk assessment to ensure proposed site is free from contamination. Therefore standard contaminated land condition is to be applied.

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](http://www.theilp.org.uk))

## Tree & Landscape Officer

The application site is currently in agricultural use. The main body of the land does not contain any trees or other significant vegetation.

On the boundary of the land there are several trees that are mature healthy specimens that make a positive contribution to the character and appearance of the area.

In order to show the likely impact of the development proposal on the trees the applicant has submitted a tree survey and report. The report is in accordance with BS5837: 2012 Trees in relation to design, demolition and construction ' Recommendations

The tree report accurately describes the health and condition of the trees and shows that the development of the land will not necessitate the removal of any of the trees included in the tree report. The information contained in the report shows the extent of the Root Protection Areas (RPA's) of the trees which provides an indication of the way that retained trees will be protected for the duration of the construction phase of any development that may be granted planning permission.

If planning permission is likely to be granted then a condition should be attached to secure a detailed methodology of the way that tree will be protected. This will be by way of an Arboricultural Method Statement (AMS).

With regard to soft landscaping the Illustrative masterplan shows indicative soft landscaping including new tree planting. If planning permission is likely to be granted a detailed soft landscaping scheme should be secured by a planning permission.

Building Control and  
Access Officer

No adverse comments at this time.

NHS East Essex CCG

I refer to the above planning application and advise that, further to a review of the applicants' submission the following comments are with regard to the primary healthcare provision on behalf of North East Essex Clinical Commissioning Group (North East Essex CCG).

#### Existing Healthcare Position Proximate to the Planning Application Site

The proposed development is likely to have an impact on the services of one GP practices including one branch surgery operating within the vicinity of the application site. This GP Practice and Branch Surgery 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 176 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 Thorpe Le Soken Surgery (and/or its Branch Frinton Road Surgery, Kirby Cross) 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 £45,178. 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.

North East Essex CCG look forward to working with the applicant on understanding the Health impact and proposed pharmacy unit and the Council to satisfactorily address the issues raised in this consultation response and would appreciate acknowledgement of the safe receipt of this letter.

ECC Schools Service

Thank you for providing details of the above outline planning application for up to 80 new homes. From the information I have received, I have assessed the application on the basis of 80 houses. Assuming that all of these units are homes with two or more bedrooms, a development of this size can be expected to generate the need for up to 7.2 Early Years and Childcare (EY&C) places; 24 primary school, and 16 secondary school places.

Please note that any developer contribution figures referred to in this letter are calculations only, and that final payments will be based on the actual dwelling unit mix and the inclusion of indexation.

### 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 50 unfilled places were recorded. Essex County Council has a statutory duty under the Childcare Act 2006 to ensure that there is sufficient and accessible high quality early years and childcare provision to meet local demand. As there are sufficient places available in the area, a developers' contribution towards new childcare places will not be required for this application.

### Primary Education

This site sits within the priority admissions area of Weeley St. Andrew's Church of England Primary School which has capacity for 206 pupils. The School is at or close to capacity in most year groups. As you will be aware, there are a number of other development proposals in the area, including an allocation of 280 homes south of Thorpe Road (SAMUS) in the emerging Local Plan. These will increase pressure on the local school and require action. Looking at the wider (Tendring Group 1) area, the Essex School Organisation Services' 'Ten Year Plan', to meet the demand for school places shows that up to 28 additional places per year could be required by the end of the period.

This proposed development would generate an additional 24 places and would be provided at an estimated cost of £366,744 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 £366,744 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 not be seeking a primary school transport contribution as the route is considered as available to be walked, accompanied as necessary as there is a suitable footpath all the way to the school.

### Secondary Education

With regards to secondary education, the priority admissions area school would be Tendring Technology College which has a published annual admission number of 312 pupils. The school is close to or above this number in most year groups and is expected to take slightly over its published number this September. According to the Ten Year Plan, demand for places in the wider area (Tendring Secondary Group 1) will, without action, outstrip current capacity and an additional three forms of entry are therefore being planned for 2020/21. By 2023/24 up to 125 extra Year 7 places are forecast to be needed.

An additional 16 places would be provided at an estimated cost of £371,424 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 £371,424 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 schools, Essex County Council will be seeking a secondary school transport contribution. The secondary transport contribution, based on 16 pupils, would be £80,560 index linked 10 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 secondary school transport. Our standard formula s106 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.

### **3. Planning History**

19/01201/OUT	Residential development comprising up to 80 dwellings, approximately 150 sqm retail/pharmacy unit, public open space and associated infrastructure.	Current
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### **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

Tendring Landscape Character Assessment

HG1 Housing Provision

HG3A Mixed Communities

HG4 Affordable Housing in New Developments

HG6 Dwelling Size and Type

HG7 Residential Densities

HG9 Private Amenity Space

COM6 Provision of Recreational Open Space for New Residential Development

COM26 Contributions to Education Provision

COM31A Sewerage and Sewage Disposal

EN1 Landscape Character

EN6 Biodiversity

EN6A Protected Species

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

EN29 Archaeology

TR1A Development Affecting Highways

TR3A Provision for Walking

TR4 Safeguarding and Improving Public Rights of Way

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

SP5 Infrastructure & Connectivity

SPL1 Managing Growth

SPL2 Settlement Development Boundaries

SPL3 Sustainable Design

LP1 Housing Supply

LP2 Housing Choice

LP3 Housing Density and Standards

LP4 Housing Layout

LP5 Affordable and Council Housing

HP1 Improving Health and Wellbeing

HP5 Open Space, Sports & Recreation Facilities

PP12 Improving Education and Skills

PPL1 Development and Flood Risk

PPL3 The Rural Landscape

PPL4 Biodiversity and Geodiversity

PPL5 Water Conservation, Drainage and Sewerage

PPL7 Archaeology

CP1 Sustainable Transport and Accessibility

CP2 Improving the Transport Network

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

Essex Design Guide

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

The 'development plan' for Tendring is the 2007 'adopted' Local Plan. Paragraph 213 of the NPPF (2019) allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF. Paragraph 48 of the NPPF also allows weight to be given to policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency with national policy. As of 16th June 2017, the emerging Local Plan for Tendring is the Tendring District Local Plan 2013-2033 and Beyond Publication Draft.

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

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

In relation to housing supply:

The NPPF requires Councils to boost significantly the supply of housing to meet objectively assessed future housing needs in full. In any one year, Councils must be able to identify five years' worth of deliverable housing land against their projected housing requirements (plus an appropriate buffer to ensure choice and competition in the market for land, account for any fluctuations in the market or to improve the prospect of achieving the planned supply). If this is not possible, or housing delivery over the previous three years has been substantially below (less than 75%) the housing requirement, paragraph 11 d) of the NPPF requires applications for housing development needing to be assessed on their merits, whether sites are allocated for development in the Local Plan or not. At the time of this decision, the supply of deliverable housing sites that the Council can demonstrate falls below 5 years and so the NPPF says that planning permission should be granted for development unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework as a whole. Determining planning applications therefore entails weighing up the

various material considerations. The housing land supply shortfall is relatively modest when calculated using the standard method prescribed by the NPPF. In addition, the actual need for housing was found to be much less than the figure produced by the standard method when tested at the recent Examination In Public of the Local plan. Therefore, the justification for reducing the weight attributed to Local Plan policies is reduced as is the weight to be given to the delivery of new housing to help with the deficit.

## **5. Officer Appraisal (including Site Description and Proposal)**

### Site Description

The application site is situated within Weeley Heath on undeveloped greenfield land to the east of Bentley Road and to the north of Mill Lane. The site is not specifically allocated for development in either adopted or emerging Local Plans. In both the saved and emerging Local Plans the site lies outside albeit adjoining the settlement development boundary for Weeley Heath.

The site is broadly rectangular in shape and relatively flat. The site is approximately 4.8 hectares in size and is currently in agricultural use. To the east of the site lies a development known as Millers Green. Outline planning permission was approved on the site in 2015 for 46 dwellings and this is currently being constructed. Access for the Millers Green development is from both Clacton Road (for 36 dwellings) and Mill Lane (for 10 dwellings). The west of the site is bounded by Bentley Road and the opposite properties, which comprise a variety of different property types and styles.

The northern edge of the site comprises residential development fronting Clacton Road, which comprises of a variety of house types and styles. To the south of the site lies Mill Lane and further residential development beyond.

### Proposal

This application seeks outline planning permission for approximately 80 dwellings, a retail/pharmacy unit, open space, and associated landscaping and infrastructure on land at Bentley Road, Weeley Heath. Whilst all matters are currently reserved, an illustrative masterplan has been prepared which demonstrates how the proposal could be achieved in terms of points of access, suggested housing mix and density, open space and landscaping.

### Principle of Development

Paragraph 47 of the NPPF requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The site lies outside of the Settlement Development Boundary of both the Saved and Draft Local Plans and is not allocated for development.

Saved Policy QL1 of the Tendring District Local Plan (2007) sets out the spatial strategy and seeks to concentrate most development in the District's larger towns with limited development, consistent with local community needs, in smaller towns and villages. Weeley and Weeley Heath are defined as villages. The policy also seeks to concentrate development within settlement boundaries and states that development outside those boundaries will only be permitted where it is consistent with countryside policies. There is nothing to suggest that the proposals accord with the Plan's countryside policies. As such, they conflict with Policy QL1.

Although the Local Plan was intended to cover the period up to 2011 the policies within it have been saved and are therefore extant. Saved Policy QL1 is broadly consistent with the NPPF in terms of seeking to protect the character and appearance of the countryside and surrounding area. Consequently, Policy QL1, and any conflict with it, can be afforded significant weight. As the site lies outside of the settlement development boundaries and is not allocated for development in either the adopted or emerging Local Plan, it is contrary to local policy. However, where Councils are short of identifying a five-year supply of deliverable housing sites, the National Planning Policy Framework's (NPPF) presumption in favour of sustainable development is engaged and applications must be considered on their merits.

Policy SPL1 of the Emerging Local Plan defines the Plan's settlement hierarchy which seeks to prioritise development in locations with access to the strategic road network, public transport and the widest range of services. Under this hierarchy Weeley is categorised as a third tier Rural Service Centre and Weeley Heath as a Smaller Rural Settlement. The latter are considered to be the least sustainable locations for growth, but can achieve a small scale increase in housing within flexibly drawn settlement boundaries. The supporting text presumes against developments of more than 10 dwellings in Smaller Rural Settlements unless they have local support.

Policy SPL2 defines settlement boundaries and states that development outside of those boundaries will be considered in relation to the settlement hierarchy and any other relevant policies within the plan. Given the size of the proposed housing development in relation to the scale of housing anticipated in Weeley Heath, it is considered that this element of the proposal conflicts with Policy SPL2.

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.

Officers consider that the emerging Local Plan is progressing well, the core planning principles under paragraph 15 of the National Planning Policy Framework (NPPF) that development should be genuinely plan-led apply and the Council should actively manage patterns of growth is therefore awarded significant weight. With this in mind, it is considered appropriate to seek to protect villages from unfair, disproportionate and potentially unlimited levels of new housing growth.

Major developments - which have planning permission and have recently been built-out or retain extant consents - in Weeley/Weeley Heath include:

- Land South of Thorpe Road, Weeley - 280 dwellings
- Land at Willow Farm, Mill Lane, Weeley Heath - 46 dwellings
- Kidbys Nurseries, Weeley Heath - 22 dwellings

These 348 dwellings already represent a large increase in the housing stock contained within Weeley/Weeley Heath. If added to the permissions already granted, a further 80 dwellings as proposed in this outline application would increase this potential growth even further.

The 80 dwellings proposed within this application is predominantly a residential scheme with minor retail element that offers no exceptional economic, social or environmental benefits over and above any of the other schemes with planning permission that might lead the Council to consider the proposal in exceptional light and there is no support from the Parish Council or local residents. As the housing land supply shortfall is relatively modest when calculated using the standard method prescribed by the NPPF, it is considered that this is an unnecessary and unwanted development that is contrary to the development plan and would exacerbate the disproportionate level of housing growth either built or subject to extant permissions in the Weeley/Weeley Heath area over recent years.

The proposal is contrary to the adopted Local Plan and would conflict with the policies of the National Planning Policy Framework. The development would represent an unnecessary and piecemeal intrusion into the countryside that would have an adverse impact on the character of the area. The development would prejudice the effective and coordinated delivery of infrastructure through the plan-led process and would be disproportionate in scale for its location.

As such therefore it is considered that further development in this location would be contrary to Saved Policy QL1 and Draft Policy SPL2, which would be at odds with both the adopted and the emerging strategy for development in Weeley Heath.

Landscape, Visual impact and Trees

The application site is currently in agricultural use. The main body of the land does not contain any trees or other significant vegetation. On the boundary of the land there are several trees that are mature healthy specimens that make a positive contribution to the character and appearance of the area. In order to show the likely impact of the development proposal on the trees the applicant has submitted a tree survey and report. The report is in accordance with BS5837: 2012 Trees in relation to design, demolition and construction ' Recommendations

The tree report accurately describes the health and condition of the trees and shows that the development of the land will not necessitate the removal of any of the trees included in the tree report. The information contained in the report shows the extent of the Root Protection Areas (RPA's) of the trees which provides an indication of the way that retained trees will be protected for the duration of the construction phase of any development that may be granted planning permission.

The supporting text to emerging policies SPL1 and SPL2 of the Draft Local Plan advises that outside the Settlement Development Boundaries, new development will be subject to strict control to protect and enhance the character and openness of the countryside. Amongst other things saved policy QL9 of the Local Plan and emerging policy SPL3 of the Draft Local Plan state that new development should make a positive contribution to the quality of the local environment and enhance local character. Saved Policy EN1 of the Local Plan and emerging policy PPL3 of the Draft Local Plan state that the quality of the district's landscape and its rural character will be protected and where possible enhanced. Development which would significantly harm landscape character or quality will not be approved.

Consistent with this paragraph 170 of the Framework states that planning policies and decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside and the wider benefits from natural capital and ecosystem services.

While it is relatively featureless, the flat, open landscape of the plateau edge allows views of the village in its countryside setting, particularly from the approach on Bentley Road from the west and from Mill Lane to the south. The site, as a characteristic part of the heathland plateau landscape, makes an important contribution to the rural setting of the village. Its openness means that it cannot accommodate development without undue harm to the landscape, making the site fairly susceptible to development. Although the application includes proposals for extensive planting on the north-western and south-western boundaries, the development of this site with up to 80 dwellings would result in the loss of an attractive area of open countryside, adversely affecting the character and setting of the village. This would undermine the distinctive identity of the settlement and would not conserve or enhance the rural character of the landscape.

Furthermore the application proposals are not supported by a Landscape and Visual Impact Assessment. It is, therefore, difficult to assess the respective landscape and visual effects of the proposals. Although the land is not the subject of specific landscape protection policies and does not fall within a designated strategic gap, guidance in the Council commissioned Tendring District Landscape Assessment indicates that the strategy for this location should be to conserve the low density settlement pattern in rural areas, maintain the distinctive identity of individual settlements and enhance the character of the urban fringe.

It does go on to state that there may be some opportunity for development adjacent to existing settlements. However, the scale of the housing element of the proposal would be significant in relation to the adjoining established development and would result in the urbanisation of land which is currently open in character.

## Ecology

### Protected Species (Site Specific)

The submitted ecological appraisal concludes the following;

The majority of the site comprises arable fields with semi-improved grassland margins, scattered trees, scrub and hedgerows.

No further species surveys are recommended as the identified bat roosting potential tree is to be retained. Precautionary measures for reptiles, hedgehogs and birds are also recommended.

If any mitigation or compensation measures recommended, and if the precautionary measures for reptiles, birds and hedgehogs detailed in this report are followed, it is considered that the development is able to proceed with minimal impact on the local conservation status of any protected, principally important or rare species within the area.

It is also considered that with a sensitive landscaping scheme, and by including some, or all, of the additional enhancements, the site could be improved for local wildlife post development. These include;

- Where possible, scrub and scattered trees at the boundaries of the site should be retained and enhanced to create corridors and shelter/foraging areas for wildlife including birds, bats and small mammals;
- The addition of a variety of bird boxes on retained trees and proposed new buildings will attract a greater diversity of birds to nest. Boxes should be located out of direct sunlight and close to, but not restricted by, vegetation.
- Landscaping should incorporate native or wildlife attracting trees, shrubs, and wildflower areas as these would likely be of benefit to a variety of wildlife including, birds, bats and invertebrates, including pollinators.
- 'Hedgehog links' (i.e. 15cm diameter gaps at the base of fences) are recommended to enable small mammals to move through the development.

ECC-Place Services Ecology Team have reviewed the submitted appraisal and confirm they have no objections subject to conditions securing; the mitigation/enhancement measures outlined in the appraisal and a wildlife sensitive lighting design scheme. They also state that if the layout changes at reserved matters stage and the retained tree is to be removed a bat roost survey may then be required.

### 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.

Whilst the applicant has confirmed their agreement to payment of this contribution, in the absence of a completed Section 106 Agreement such obligations cannot be secured against any permission and this will therefore form part of a reason for refusal.

### Design/Layout

Landscaping, layout, scale and appearance are reserved for later consideration. Whilst an indicative layout has been provided it is not for formal determination at this stage.

The indicative layout shows that the development could be designed to accord with the Essex Design Guide spacing standards in terms of back to back distances of 25m between properties and demonstrates that 80 dwellings can be accommodated on the site with garden sizes that

comply with the requirements of saved local plan policy HG9. The illustrative layout also shows the intention to have different character areas within the development in particular lower density areas along the edges of the development with areas of landscaping and a 'urban square area' providing a strong active frontage address the intended area of open space.

The proposal is for up to 80 dwellings on a total of 4.83ha of land. This gives a density of development of approximately 16.5 dph which is an acceptable density for this location abutting a rural settlement and recognising the need to promote an efficient use of land. Not including the areas of open spaces the average density of the built up areas of the development will be 25dph. Such a density would enable compliance with policy standards under saved policy HG9 for private amenity space and parking provision in accordance with the adopted parking standards.

### Residential Amenity

The indicative layout plan shows sufficient spacing between the proposed properties and those dwellings under construction to the east to avoid and adverse impacts on amenity in respect of overlooking or loss of outlook. The illustrative layout also shows that back to back distances to the existing properties that front onto Clacton Road to the north and Bentley Road to the east will be in excess of 25m and the Essex Design Guide required 15m to the rear boundary of existing dwellings will also be achievable.

Disruption, dust and noise during construction can be controlled and minimised by submission of a Construction Method Statement as recommended by TDC Environmental Protection and this can be secured via condition in the interests of amenity for existing residents.

There are not therefore any overriding amenity concerns relating to the principle of development or the vehicular access.

### Archaeology

The NPPF states where a site on which development is proposed includes or has the potential to include heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation.

ECC-Archaeology state that the application site lies within the extent of the former Heath at Weeley, the historic settlement of Weeley lies just to the north. Little archaeological investigation has taken place in the immediate area to inform on the potential for survival of archaeological remains in this area however the Tendring Historic Environment Characterisation Report describes the zone in which the application lies as a landscape with surviving medieval features and with further evidence for medieval or earlier activity identified from cropmark records. Excavations in advance of the construction of the A133 revealed a series of sites, dating from the Bronze Age onwards. The impact of the development on potential surviving archaeological deposits will need to be established through a programme of archaeological fieldwork.

As a result they recommend a further programme of archaeological evaluation works if permission was granted. This requirement would be secured by condition.

### Highway Impacts

Paragraph 108 of the NPPF (2019) relates to transport and requires Councils, when making decisions, to ensure that:

- Appropriate opportunities to promote sustainable transport modes can be made - or have been - taken up, given the type of development and its location;
- safe a suitable access to the site can be achieved for all users; and
- 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.



Policy QL2 in the adopted Local Plan and Policy CP1 in the emerging Local Plan seek to ensure that developments maximise the opportunities for access to sustainable transport including walking, cycling and public transport. The application site performs relatively well in this regard being around 1000 metres from the village hall, railway station and primary school and with other local services including convenience shop and pub within a reasonable distance. The site offers a reasonable level of accessibility which is reflected in Weeley's categorisation as a 'rural service centre' in the emerging Local Plan.

Policy TRA1a in the adopted Local Plan requires that development affecting highways be considered in relation to reducing and preventing hazards and inconvenience to traffic including the capacity of the road network. Policy CP2 in the emerging Local Plan states that proposals which would have any adverse transport impacts will not be granted planning permission unless these are able to be resolved and the development made acceptable by specific mitigation measures which are guaranteed to be implemented.

In this case, the Highway Authority have been consulted and do not have any objections subject to the following;

- details of a construction method statement being secured;
- the upgrade of the two closest bus stops to the site to include suitable facilities to encourage use of the public transport network either side of Clacton Road. Including Kassel kerbs, bus stop flags/ timetable frames or any other measures deemed necessary;
- a financial contribution of £36,995 (to be index linked) towards any congestion/traffic management improvements on Clacton Road and/ or for Bentley Road junction with Clacton Road;
- Carriageways measuring no less than 5.5m in width;
- 2x2m Footways on both sides of the access road;
- A straight section of carriageway to be provided from the entrance junction for 15 metres;
- Appropriate vehicle visibility splays in accordance with current policy standards;
- Kerb radii measuring 6m;
- Any other reasonable items to ensure the access is in accordance with current policy standards;
- Appropriate pedestrian crossing facilities where the new road joins the existing highway;
- A new footway measuring no less than 2m in width either side of the junction with tactile paving either side of Bentley Road and opposite for the existing footway on the north side;
- The proposed access from the development onto Mill Lane shall be an emergency access and restricted to pedestrians/ cyclists only; and
- 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.

The requirements would be secured via condition or at the reserved matters stage. The financial contribution would be secured through a legal agreement. Therefore in the absence of a completed legal agreement the failure to secure this contribution to provide traffic management measures will form part of the reasons for refusal.

### Flood Risk & Drainage

Paragraph 155 of the NPPF requires Councils, when determining planning applications, to direct development away from areas at highest flood risk. Although the site is in Flood Zone 1 (low risk), the NPPF, Policy QL3 in the adopted Local Plan and Policy PLA1 in the emerging Local Plan still require any development proposal on sites larger than 1 hectare to be accompanied by a site-specific Flood Risk Assessment (FRA). This is to assess the potential risk of all potential sources of flooding, including surface water flooding that might arise as a result of development.

The applicant has submitted a Flood Risk Assessment which has been considered by Essex County Council as the authority for sustainable drainage. The strategy outlines that it is proposed to direct surface water flows to the ditches located to the south and south-west of the site. Further residential roofs and private driveways are to be discharged to permeable paving before discharging to a traditional piped system. A system of swales and gullies across the site are to collect run-off from the access road and shared carriageways. ECC have reviewed this strategy and have no objections subject to conditions being applied to any approval securing further details

as to the precise nature of the drainage strategy, maintenance details and measures to mitigation against flooding/pollution during construction.

Anglian Water has commented upon the application, and confirm the foul drainage from the development is in the catchment of Clacton-Holland Haven Water Recycling Centre that will have available capacity for these flows. A foul water strategy would however need to be approved before development could take place. Based on the details contained within the FRA and Drainage Report, it is considered that the application site could be developed in the manner proposed without any risk of flooding from or to the proposed development compliant with the aims and objectives of the NPPF as well as Local Plan Policies set out above.

### 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 Weeley/Weeley Heath. Due to the limited play provision in Weeley/Weeley Heath, any further development in the area will increase the current deficit further and put greater demand on already stretched facilities and accordingly an on-site LAP has been included within the site.

If the on-site open space (and LAP) is to be transferred to Tendring District Council for future maintenance, an additional financial contribution towards maintenance will also need to be secured through a 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.

However, as the application is to be refused, the lack of a Section 106 Agreement to secure the on-site play equipment and future maintenance of the open space (excluding areas including SUDs features) and play equipment will be included as a reason for refusal, to ensure that this matter is properly addressed if the applicant decides to appeal.

### Council Housing/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.

If minded to approve this application, up to 24 of the proposed properties would need to be secured for affordable housing purposes through a Section 106 legal agreement and the applicant has indicated that they would be willing to provide the full policy-compliant contribution of affordable housing. However, as the application is to be refused, the lack of a Section 106 Agreement to secure the necessary level of affordable housing will be included as a reason for refusal, to ensure that this matter is properly addressed if the applicant decides to appeal.

### 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 7.2 Early Years and Childcare (EY&C) places, 24 primary school places, and 16 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 £366,744 for primary school places and £371,424 for secondary school places along with a contribution of £80,560 for secondary school transport. The total contribution would therefore equate to £818,728.

As the application is to be refused, the lack of a Section 106 Agreement to secure the necessary education specific contributions will be included as a reason for refusal, to ensure this matter is properly addressed if the applicant decides to appeal.

### Healthcare Provision

NHS CCG have confirmed that the local GP practice at Thorpe-le-Soken Surgery does not have capacity for the residents resulting from this proposal and request a contribution of £45,178 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 Thorpe Le Soken Surgery (and/or its Branch Frinton Road Surgery, Kirby Cross) or through other solutions that address capacity and increased demand via digital solutions or health and wellbeing initiatives.

As the application is to be refused, the lack of a Section 106 Agreement to secure the necessary health specific contributions will be included as a reason for refusal, to ensure this matter is properly addressed if the applicant decides to appeal.

### Other Considerations

Weeley Parish Council objects to this application. They provide the following reasons;

- Until recently Weeley Heath was a small settlement consisting of 250 or so houses and has been designated a small rural development in the emerging local plan. As part of the local plan consultation, TDC suggested that Weeley Heath could sustain 40 new properties, later doubling this number to 80. In the last couple of years, in excess of 120 residential units have been approved with a significant number more in the pipeline or subject to appeal. Weeley Heath simply cannot cope with more housing. Its character has already been damaged irreparably and this site is unsustainable and is not designated as a development site in the local plan.

120 letters of objection have been received. These letters outline the following concerns;

- Congested road system
- Mill Lane is a designated quiet land and cars cannot pass side by side
- No demonstrable need for additional houses in this location
- Development would not constitute a positive contribution and would be harmful and detrimental to the area
- Weeley Heath/Weeley has well exceeded its quota of new homes
- Local services/infrastructure are already over-stretched
- Infrequent rail links
- Little or no real employment opportunities nearby
- Loss of agricultural land
- Poor pedestrian access to local facilities
- Urban housing estate which is out of character in this location
- Noise and disturbance excessive during construction phase.

## **6. Recommendation**

Refusal

## **7. Reasons for Refusal**

- 1 Paragraph 47 of the NPPF requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The site lies outside of the Settlement Development Boundary of both the Saved and Draft Local Plans and is not allocated for development.

Saved Policy QL1 of the Tendring District Local Plan (2007) sets out the spatial strategy and seeks to concentrate most development in the District's larger towns with limited development, consistent with local community needs, in smaller towns and villages. Weeley and Weeley Heath are defined as villages. The policy also seeks to concentrate development within settlement boundaries and states that development outside those boundaries will only be permitted where it is consistent with countryside policies. There is nothing to suggest that the proposals accord with the Plan's countryside policies. As such, they conflict with Policy QL1.

Although the Local Plan was intended to cover the period up to 2011 the policies within it have been saved and are therefore extant. Saved Policy QL1 is broadly consistent with the NPPF in terms of seeking to protect the character and appearance of the countryside and surrounding area. Consequently, Policy QL1, and any conflict with it, can be afforded significant weight. As the site lies outside of the settlement development boundaries and is not allocated for development in either the adopted or emerging Local Plan, it is contrary to local policy. However, where Councils are short of identifying a five-year supply of deliverable housing sites, the National Planning Policy Framework's (NPPF) presumption in favour of sustainable development is engaged and applications must be considered on their merits.

Policy SPL1 of the Emerging Local Plan defines the Plan's settlement hierarchy which seeks to prioritise development in locations with access to the strategic road network, public transport and the widest range of services. Under this hierarchy Weeley is categorised as a third tier Rural Service Centre and Weeley Heath as a Smaller Rural Settlement. The latter are considered to be the least sustainable locations for growth, but can achieve a small scale increase in housing within flexibly drawn settlement boundaries. The supporting text presumes against developments of more than 10 dwellings in Smaller Rural Settlements unless they have local support.

Policy SPL2 defines settlement boundaries and states that development outside of those boundaries will be considered in relation to the settlement hierarchy and any other relevant policies within the plan. Given the size of the proposed housing development in relation to the scale of housing anticipated in Weeley Heath, it is considered that this element of the proposal conflicts with Policy SPL2.

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.

Officers consider that the emerging Local Plan is progressing well, the core planning principles under paragraph 15 of the National Planning Policy Framework (NPPF) that development should be genuinely plan-led apply and the Council should actively manage patterns of growth is therefore awarded significant weight. With this in mind, it is considered

appropriate to seek to protect villages from unfair, disproportionate and potentially unlimited levels of new housing growth.

Major developments - which have planning permission and have recently been built-out or retain extant consents - in Weeley/Weeley Heath include:

- Land South of Thorpe Road, Weeley - 280 dwellings
- Land at Willow Farm, Mill Lane, Weeley Heath - 46 dwellings
- Kidbys Nurseries, Weeley Heath - 22 dwellings

These 348 dwellings already represent a large increase in the housing stock contained within Weeley/Weeley Heath. If added to the permissions already granted, a further 80 dwellings as proposed in this outline application would increase this potential growth even further.

The 80 dwellings proposed within this application is predominately a residential scheme with minor retail element that offers no exceptional economic, social or environmental benefits over and above any of the other schemes with planning permission that might lead the Council to consider the proposal in exceptional light and there is no support from the Parish Council or local residents. As the housing land supply shortfall is relatively modest when calculated using the standard method prescribed by the NPPF, it is considered that this is an unnecessary and unwanted development that is contrary to the development plan and would exacerbate the disproportionate level of housing growth either built or subject to extant permissions in the Weeley/Weeley Heath area over recent years.

The proposal is contrary to the adopted Local Plan and would conflict with the policies of the National Planning Policy Framework. The development would represent an unnecessary and piecemeal intrusion into the countryside that would have an adverse impact on the character of the area.

Overall the development would prejudice the effective and coordinated delivery of infrastructure through the plan-led process and would be disproportionate in scale for its location. The economic and social benefits of the proposed housing have been given due consideration in the overall planning balance, but the adverse effects of the development are considered to significantly and demonstrably outweigh the benefits. The proposal therefore does not constitute sustainable development.

- 2 While it is relatively featureless, the flat, open landscape of the plateau edge allows views of the village in its countryside setting, particularly from the approach on Bentley Road from the west and from Mill Lane to the south. The site, as a characteristic part of the heathland plateau landscape, makes an important contribution to the rural setting of the village. Its openness means that it cannot accommodate development without undue harm to the landscape, making the site fairly susceptible to development. Although the application includes proposals for extensive planting on the north-western and south-western boundaries, the development of this site with up to 80 dwellings would result in the loss of an attractive area of open countryside, adversely affecting the character and setting of the village. This would undermine the distinctive identity of the settlement and would not conserve or enhance the rural character of the landscape.

Furthermore the application proposals are not supported by a Landscape and Visual Impact Assessment. It is, therefore, difficult to assess the respective landscape and visual effects of the proposals. Although the land is not the subject of specific landscape protection policies and does not fall within a designated strategic gap, guidance in the Council commissioned Tendring District Landscape Assessment indicates that the strategy for this location should be to conserve the low density settlement pattern in rural areas, maintain the distinctive identity of individual settlements and enhance the character of the urban fringe. It does go on to state that there may be some opportunity for development adjacent to existing settlements. However, the scale of the housing element of the proposal would be significant in relation to the adjoining established development and would result in the urbanisation of land which is currently open in character.

The Council, therefore, find in this case that, in conflict with adopted Local Plan Policy EN1 and emerging Policy PPL3 the proposed development would have a moderately harmful impact on the rural landscape setting of the village.

- 3 The National Planning Policy Framework (2019) states 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 of the following tests: necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development.

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 10 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 discounted value for use as affordable housing, or as an alternative, the Council will accept a minimum of 10% if new dwellings are to be made available alongside a financial contribution toward the construction or acquisition of property for use as affordable housing (either on the site or elsewhere in the district) equivalent to delivering the remainder of the 30% requirement. A completed Section 106 has not been provided prior to the application determination date and the application is therefore contrary to the above policy.

Saved 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. Emerging Policy PP12 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) 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. Essex County Council Education Services have identified the need for financial contributions toward primary and secondary education provision and school transport. A completed Section 106 obligation to secure these contributions has not been provided prior to the application determination date and the application is therefore contrary to the above policies.

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. In this case there is likely to be sufficient on-site open space provision to meet the Council's requirements. However, there will also be a need to provide on-site play provision and if the open space and play provision 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.

Saved Policy QL12 state and emerging Policy HP1 state that the Council will work to improve the health and wellbeing of residents in Tendring by seeking mitigation towards new or enhanced health facilities from developers where new housing development would result in a shortfall or worsening of healthcare provision. NHS CCG have confirmed that the local GP practice at Thorpe-le-Soken Surgery does not have capacity for the residents resulting from this proposal and request a contribution of £45,178 to enable improvements to capacity.

Paragraph 108 of the NPPF seeks to ensure that safe and suitable access to a development site can be achieved for all users. Saved Policy QL10 of the adopted Tendring

District Local Plan 2007 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. Furthermore, saved Policy TR1a requires new development to be considered in relation to the road hierarchy to reducing and preventing hazards and inconvenience to traffic. ECC-Highways have confirmed the need for a financial contribution of £36,995 towards congestion and traffic management improvements on Clacton Road and/or for Bentley Road junction with Clacton Road to protect highway efficiency of movement and safety.

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

- 4 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 reasons for the refusal, approval has not been possible.

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