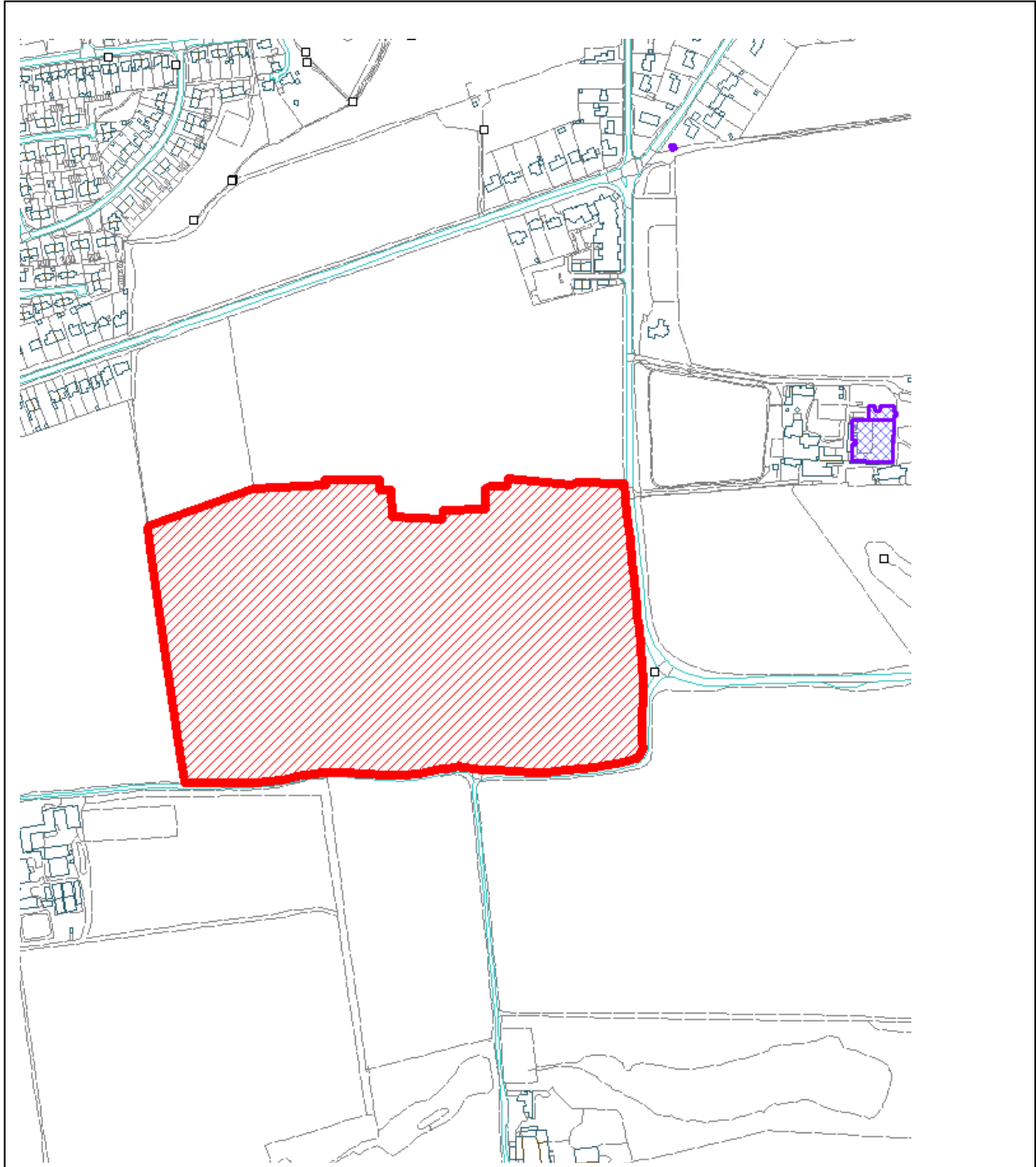


PLANNING COMMITTEE

24 SEPTEMBER 2019

REPORT OF THE HEAD OF PLANNING

A.2 PLANNING APPLICATION – 19/00539/DETAIL – LAND TO THE SOUTH OF LONG ROAD AND TO WEST OF CLACTON ROAD MISTLEY CO11 2HN



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Application: 19/00539/DETAIL

Town / Parish: Mistley Parish Council

Applicant: Tendring Farms Ltd

Address: Land to The South of Long Road and to West of Clacton Road Mistley Essex
CO11 2HN

Development: Reserved matters application pursuant to outline planning permission 17/01537/OUT for the creation of phase 2 - 204 dwellings and four commercial buildings, plus associated roads, driveways, parking, footpaths, landscaping and ancillary works.

1. **Executive Summary**

- 1.1 The site benefits from extant outline planning consent for 300 homes and 2 hectares of employment land. Planning permission was granted subject to a number of planning conditions including that any detailed plans for the site need to be in general conformity with the submitted parameters plans. These broadly identified, the location of housing, commercial development and open space as well as the height of development.
- 1.2 A 'reserved matters' application (application ref 17/00535/DETAIL) for the northern section of the site (Phase 1) to include 96 dwellings, extensive areas of open space to the north and north-east, and an access onto Clacton Road (details of an access onto Long Road was determined at the outline stage) was subsequently approved in August 2018.
- 1.3 This application is for 'Phase 2' relating to the southern section of the site and is for the remaining 204 dwellings; provision of the employment land in the form of four two-storey commercial buildings; plus associated roads, driveways, parking, footpaths, landscaping and ancillary works.
- 1.4 Although there have been representations from Mistley Parish Council and from two members of the public, the issues raised were largely dealt with at Outline planning stage (and in part through the 'Phase 1' reserved matters application) and are considered not to be material to determination of this application.
- 1.5 It is considered that in respect of Access, Appearance, Layout, Scale and Landscaping, the application has demonstrated that the development would be of high quality, would respond to its surroundings and would be sustainable and as such, Reserved Matters can be agreed subject to: the completion of a legal obligation under Section 106 of the Town and Country Planning Act 1990 (as amended) to secure a financial contribution to mitigate direct recreational impacts at European designated sites; and a suite of planning conditions.
- 1.6 If the Committee endorses this recommendation, conditions would be imposed relating directly to the reserved matters under consideration, while conditions attached to the outline approval would still apply. The legal agreement for the original application which secures affordable housing, education, health and off-site highway contributions would also still apply.

Recommendation:

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

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

2. Planning Policy

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

National Policy

National Planning Policy Framework 2019 (NPPF)

National Planning Practice Guidance

Local Development Plan Policy

Tendring District Local Plan 2007

QL9	Design of New Development
QL10	Designing New Development to Meet Functional Needs
HG3	Residential Development Within Defined Settlements
HG6	Dwelling Size and Type
HG7	Residential Densities
HG9	Private Amenity Space
COM1	Access for All
COM2	Community Safety
COM8	Provision and Improvement of Outdoor Recreational Facilities
COM8A	Proposed New Recreational Open Space
ER7	Business, Industrial and Warehouse Proposals

EN1	Landscape Character
EN2	Local Green Gaps
EN6	Biodiversity
EN6A	Protected Species
TR1A	Development Affecting Highways
TR3A	Provision for Walking
TR5	Provision for Cycling
TR6	Provision for Public Transport Use
TR7	Vehicle Parking at New Development

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

SPL3	Sustainable Design
HP1	Improving Health and Wellbeing
HP3	Green Infrastructure
HP5	Open Space, Sports & Recreation Facilities
LP2	Housing Choice
LP3	Housing Density and Standards
LP4	Housing Layout
PPL3	The Rural Landscape
PPL4	Biodiversity and Geodiversity
PPL6	Strategic Green Gaps

Essex Design Guide

Essex County Council Car Parking Standards - Design and Good Practice

Status of the Local Plan

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

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

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

In relation to housing supply:

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

3. Relevant Planning History

15/00761/OUT	Outline application with all matters reserved, other than strategic access points onto the public highway, for the erection of up to 300 dwellings, up to 2 hectares of employment land (A2/A3/B1/D1 uses), with associated public open space and infrastructure.	Approved	18.07.2016
16/00818/OUT	Resubmission of outline application with all matters reserved, other than strategic access points onto the public highway, for the erection of up to 300 dwellings, up to 2 hectares of	Approved	

	employment land (A2/A3/B1/D1 uses), with associated public open space and infrastructure.		
17/00534/OUT	Variation of condition 4 of 15/00761/OUT to change parameter plans.	Refused	10.08.2017
17/00535/DETAIL	Application for Phase 1 Reserved Matters for Access, Appearance, Landscaping, Layout and Scale for 96 Residential following Outline Planning Permission 15/00761/OUT (as subsequently amended by 17/01537/OUT).	Approved	16.08.2018
17/01181/OUT	Outline application with all matters reserved, other than strategic access points onto the public highway, for the erection of up to 485 dwellings, up to 2 hectares of employment land (A2/A3/B1/B2; B8; D1 uses), with associated public open space and infrastructure.	Refused	29.11.2018
17/01537/OUT	Variation of condition 4 of application 15/00761/OUT to change the description of the condition to 'The reserved matters shall be in general conformity with the following indicative drawings: Building Heights Plan - Drawing No: 001, Illustrative Masterplan - Drawing No: PL17006/04 and Landscape Plan - Drawing No: 003'.	Approved	14.06.2018
18/01190/OUT	Variation of Conditions 1, 11, 12, 13, 14, 15, and 16 of 17/01537/OUT to allow work to commence prior to the submission of remaining reserved matters (reserved matters for 96 units already submitted).	Current	
19/00336/OUT	Variation of condition 4 of application 17/01537/OUT to change the description of the condition to 'The reserved matters shall be in general conformity with the following indicative drawings: Building Heights Plan - Drawing No: 001A, Illustrative Masterplan - Drawing No: PL17006/04A and Landscape Plan - Drawing No: 003A'.	Current	
19/00539/DETAIL	Reserved matters application pursuant to outline planning	Current	

permission 17/01537/OUT for the creation of phase 2 - 204 dwellings and four commercial buildings, plus associated roads, driveways, parking, footpaths, landscaping and ancillary works.

4. Consultations

ECC Highways

Proposal is acceptable subject to the imposition of a number of highway specific planning conditions.

ECC SuDS Consultee

No object as it is in line with the approved outline drainage strategy and as such should be subject to the same conditions applied to the outline planning application (15/00761/OUT).

The proposed development will only meet the requirements of the National Planning Policy Framework if the measures as detailed in the Drainage strategies and the documents submitted with this application are implemented as approved.

5. Representations

Mistley Parish Council recommend refusal based on the following planning and material considerations: the height of the dwellings, its scale and design will distract from the character of the village of Mistley, the scheme is contrary to Policy QL9 and the design of the new development which does not make a positive contribution to the local environment and does not protect or enhance the local character, there is an adverse impact on the landscape, the current Local Development Plan makes reference to safeguarding the open character of the important breaks between the settlements and between separate neighbourhoods. It also makes reference to preserving the attractive views and individual character of this settlement – both of these will not be met for this proposal, Policy QL2 Public Transport (the details in the Design Statement are incorrect regarding the bus routes to Colchester, Clacton and Harwich), the proposal is contrary to TR1a in relation to Public Transport. Policy QL10 makes reference to designing a new development to meet the functional needs of the highway network, i.e. access points to the highway and sustainable transport – this is not the case for this development. Sustainable and Affordable Housing Policy QL1 and PPS3 will not be met. Parking provision does not appear to be met and the footpath provision is insufficient.

2 letters of objection have been received from local residents. The letters of objection raise the following concerns: pressure of traffic around this local area is already strained, roads are narrow and the access to Long Road is not suitable; already significant development in the local area and this is unnecessary; concerns about change in the character of the area and loss of sense of being a village; and overdevelopment of the site. Other issues raised relate to the principle of development and matters relating more specifically to 'Phase 1' which have already been dealt with at the outline stage or through the 'Reserved Matters' application for the earlier phase and do not form part of the determination of this application.

6. Assessment

The Application Site

- 6.1 The site comprises an agricultural enclosure, covering an area of approximately 23 hectares, lying immediately to the south of Long Road, to the west of Clacton Road and to the north of Dead Lane. The site rises gently from its northern boundary towards the south but then falls to a relatively flat plateau over the southern part of the site. With limited boundary hedging and vegetation, the site is very exposed to public view from vantage points within Long Road and Clacton Road.
- 6.2 To the west of the site, planning permission has been granted - and is being developed in phases – for major mixed-use development including up to 360 dwellings in accordance with 15/00876/OUT. The northern part of the site adjoining Long Road together with land to the north of Long Road is designated in the emerging Local Plan as a ‘Strategic Green Gap’ which passes between the built-up areas of Lawford and Mistley. To the north of Long Road, long distance views can be had over the built up area towards the Stour Estuary. A small number of dwellings and an assisting living complex lie in proximity to the junction of Long Road with Clacton Road, to the north-east of the site. To the south, and beyond Dead Lane, open countryside predominates.

The Proposal

- 6.3 Outline planning permission 15/00761/OUT was granted in July 2016 on the site for up to 300 dwellings and up to 2 hectares land of employment land, with associated public open space and infrastructure.
- 6.4 Subsequently, a ‘reserved matters’ application (application ref 17/00535/DETAIL) for the northern section of the site (Phase 1) to include 96 dwellings, extensive areas of open space to the north and north-east, and an access onto Clacton Road (details of an access onto Long Road was determined at the outline stage) was approved in August 2018.
- 6.5 This application is for ‘Phase 2’ relating to the southern section of the site and is for the remaining 204 dwellings; provision of the employment land in the form of four two-storey commercial buildings; plus associated roads, driveways, parking, footpaths, landscaping and ancillary works.
- 6.6 The residential element represents approximately two thirds of those (up to 300) for which outline permission has been granted. The proposed 204 dwellings would comprise:
- 40 two bedroom houses (19.6%);
 - 82 three bedroom houses (40.2%)
 - 82 four bedroom houses (40.2%)

Analysis

- 6.7 The principal issues are:
The extent to which the reserved matters application would:
- Comply with the terms and conditions of the outline approval having particular regard to compliance with the parameter plans;
 - Would conform with National Planning Policy and the requirements of the Development Plan for Tendring District;

In respect of:

- Access;

- Appearance;
- Landscaping;
- Layout; and
- Scale

Access

- 6.8 In accordance with the outline approval, the principal means of access to the residential development was approved to be gained from its Long Lane frontage but with a secondary access from Clacton Road to the east retained as a 'Reserved Matter' on the basis that further design work was required. The details of the Clacton Road access was addressed as part of the 'Phase 1' reserved matters application and this 'Phase 2' site will continue to benefit from these two access points onto the highway network. No further accesses are proposed onto Clacton Road and there will be no vehicular access onto Dead Lane immediately to the south of the site.
- 6.9 In terms of internal access provision this is proposed to be determined by three route types: primary, secondary and tertiary. The primary route connects the two entrances into the development from Long Road and Clacton Road via the centre of the site and will be the main corridor of movement for residential traffic. Secondary and tertiary routes allow perforation into the balance of the site, with a separate secondary route running along the eastern boundary to provide access to the employment land without traffic needing to pass through the heart of the new residential estate area.
- 6.10 The Highway Authority has confirmed that they have no objection to the application as submitted from an access and highway layout perspective.

Appearance

- 6.11 The scheme for the Phase 2 will use the same house types already approved in Phase 1, ensuring there is a continuity in the appearance of the scheme and no differentiation between the two phases of development when the scheme is complete. The houses will be of a traditional vernacular of varying sizes and configurations to provide an attractive variation of buildings across the site, as well as to offer a mix of house types that respond to the local market and create a range of different size dwellings from modest 2-bedroom units up to more substantial 4-bedroom family units.
- 6.12 External finishes for the residential element of the scheme will include a mix of render, brick and timber finishes as found in the surrounding areas and which will provide visual interest and help create a 'sense of place'. The proposals also include the use of other traditional materials such as painted timber windows and doors.
- 6.13 With respect to the commercial elements, three of the four proposed two-storey buildings have been designed to be of a traditional appearance, borrowing heavily from the design of the maltings clustered around the quayside and railway station. Furthermore, they have been designed to read as converted space rather than as new buildings. The final commercial building which would sit on the corner of Clacton Road and Dead Lane has been deliberately design to be more bespoke and contemporary in form and appearance. The proposed building uses an angled floorplan to turn the corner (curved walls are not a feature of the local vernacular) that, in turn, creates a staggered appearance for the mono-pitched roof to create a feature building which would act as a 'gateway' to Mistle/Lawford from the south.
- 6.14 In support of the planning application, in terms of its overall appearance, the applicant states in their submitted 'Design and Access Statement' that:

“The proposed scheme will create a new quarter on the east side of Lawford and west of Mistley, establishing a coherent relationship with the surrounding land uses and formalising the new gateway to the village when approaching on Clacton Road. The houses are set behind a landscape buffer of open space that separates the new homes from Clacton Road and Dead Lane, meaning that the majority of views of the new edge to the built-up area from passing traffic will be glimpsed through trees and landscaping. As such, the scheme seeks to define its own distinct character, but also responds sensitively to its location at the edge of the settlement, particularly in view of its role as a gateway to the village when approaching from the south. The landscaping design reflects the form of the development with tree planting to the edges in order to highlight the boundaries of the new transition to the countryside around the village, as well as closing vistas along the straight cul-de-sac roads. In parallel, the hard and soft landscaping creates the setting for the buildings and highlights the extent of the public realm as part of the hierarchy of streets.”

- 6.15 It is considered that the scheme as submitted, in terms of both the residential and commercial built form, will be acceptable in terms of external appearance and act as a natural extension to the already approved ‘phase 1’ proposals.

Landscaping

- 6.16 With respect to landscaping, the application includes a landscape masterplan which is based on the following landscape strategy principles:

- The retention, wherever practicable, of existing trees and hedgerows around the periphery of the site where they have value and are good quality;
- Retain and enhance the landscape value of the existing verge to Clacton Road;
- Create a central area of public open space to mark the centre of the site, acting as a focus for the public realm and accommodating footpath routes through the site, including the link between the employment uses in the south eastern corner and the bus stops on Long Road;
- Establish a ‘parkland’ setting for the eastern edge of the site, offering separation from passing traffic on Clacton Road and placing the new buildings in a landscaped setting that responds to the grounds of Mistley Hall and the conservation area on the opposite side of the street;
- Create a landscaped edge to the southern side, establishing a transition from the new edge to the built-up area to the countryside and land in agricultural use further to the south;
- Provide a landscaped buffer against the land to the west, which also benefits from an outline planning permission for residential use. The existing field boundary will be incorporated, offering maturity in the short to medium term;
- Create an inclusive public realm that promotes feelings of safety and security. The public realm will be designed to address the needs of the whole community including the disabled and elderly;
- Recreational walking routes incorporated within the areas of public open space, offering a sequence of circuits for jogging, dog walking, etc. as well as connecting to the network of rights of way beyond the site boundary through the grounds of Mistley Hall (to the east), towards Chequers Farm (to the south) and via Dead Lane to the paths around Grange Farm (to the south west). These recreational benefits will also act as the on-site element of mitigation against the recreational impacts of an increased population on nearby nationally protected coastal habitats;
- The architectural design of the new homes will guide the choice of materials to ensure distinctive streets and spaces are created within the new public realm. The latter will provide a cohesive element to the overall design, reflecting that the same house types have already been approved for use in Phase 1; and
- Ornamental planting to front gardens will provide a defensible edge to the built form and mark the edge of the street. Defined planting palettes, responding to the

orientation of groups of houses within the development will create a consistent, high-quality planting design across the development. Tree planting will help to define character within the different individual streets and spaces.

- 6.17 The applicant has requested that the detailed planting to property frontages will be deferred at this stage and are agreeable to the imposition of a planning condition to agree the specification of planting.
- 6.18 In terms of hard landscaping, it is proposed that all roads and footways will be built to the County Council's standards, but they will not be adopted and will be maintained privately in perpetuity. Through routes shared by all residents will be surfaced in macadam, whilst private drives will be finished in block paving so that the boundary between the street and the curtilage of the property is clearly defined. Around the edges of the built development – where houses face outwards to overlook the landscaped buffers and the central area of open space, the private drives will be surfaced with 'Autumn Gold' coloured block paving. Similarly, within the heart of the site where houses face towards the streets, block paving will be employed to add character to the scheme. Within the employment area the parking areas will be a mix of tarmac (for the circulation areas), block paving (for the parking bays) and soft landscaping to soften the impact of parked cars.
- 6.19 It is considered that the strategic landscape approach proposed is acceptable and will facilitate the delivery of well thought out and usable open spaces which will establish a positive landscaping setting for the development whilst also aiding the transition from new built development to rural edge. However, specific detailed planting proposals are still required and according this needs to be subject to condition.
- 6.20 In accordance with Planning Policy Guidance, conditions requiring such details can be imposed at Reserved Matters stage as they relate directly to a specific reserved matter. It is consequently recommended that conditions be imposed to secure an acceptable hard and soft landscaping scheme for Phase 2 of development and to ensure its implementation and where necessary, replacement within 5 years should planting not survive.

Layout

- 6.21 The original outline planning permission was for up to 300 dwellings and that number is reinforced by condition. This application does not seek to increase the quantum of dwellings, as inclusive of the 'Phase 1' approval, this proposal will deliver 300 dwellings across the entire site. In accordance with the approved scheme, the total site area is approximately 23 hectares, including 12 hectares for residential development, 2 hectares of employment areas and 9ha for green infrastructure. Based on these site area splits and the fact that this scheme does not deviate from this position, the residential development will deliver a gross density over the entire site of 14 dwellings per hectare and a net density of around 25 dwellings per hectare in terms of the 'developable area'. It is considered that this is a relatively low housing density in keeping with the semi-rural nature of the site and far lower than the minimum density that is generally required under Policy HG7 of the adopted Local Plan and Policy LP3 of the emerging Local Plan.
- 6.22 The relatively low density of development would allow for a generous standard of road and footway width, ensuring that the internal road layout can safely and comfortably accommodate emergency services and waste collection services. All of the houses would benefit from a combination of garaging and surface parking, which in all instances would be compliant with parking standards. Residential amenity for future residents would be acceptable having regard to privacy, avoidance of overshadowing or overbearance, while garden sizes would be compliant with standards and would be satisfactorily orientated to take advantage of optimum levels of sunlight. Details of boundary treatment are subject to a separate outline planning condition.

- 6.23 The layout and orientation of the 4 commercial buildings, is considered appropriate to the south and eastern edges of the site. The flank-on configuration of the three traditional vernacular designed buildings with space for parking in between the blocks is a positive design approach which assists in breaking up the built form on this more sensitive rural edge. The more contemporary corner block is considered to be of an appropriate scale and will act as a landmark 'gateway' building.

Scale

- 6.24 The outline permissions, including approved variations to a 'Building Heights Plan', shows the site split, with buildings around the outside able to be up to two storeys tall and the scale of development rising to 2½ storey's in the centre (maximum height of 13 metres from road level to the ridge). The proposed scheme, whilst not looking to utilise the potential to build to up to 2½ storey's in the centre of the site, does seek to increase density in this location with the greater use of semi-detached properties coupled with buildings being placed closer to the roads, creating a scale that contrasts with the outside edges. In response to the suburban scale, the scheme predominantly proposes two storey buildings, although there will be interest created through variation in the streetscape, roofscape and the relationship with the new trees.
- 6.25 With respect to the more sensitive eastern and southern edges to the site - which form the new urban/rural edge to the site - the application has sought to introduce lower density detached frontage housing which would be set in an extensive parkland setting with respect to the dwellings facing east towards Clacton Road and a green buffer with new trees and reduced width private drives to the south with Dead Lane. With respect to the latter, following negotiations with the applicant, the built form has been further refined with the introduction of two chalets (plots 112 and 117) and two reduced ridge height houses (plots 114 and 119), which provide for a more organic and varied streetscape which is more sensitive to this rural edge.
- 6.26 The emphasis is on two-storey development across Phase 2, but alongside the introduction of two 1½ storey chalets on the southern boundary as referred to above, the application has further revised the scheme to introduce an additional four 1½ storey chalets dispersed across the site to add some varied and interest to the layout (these are plots 48, 84, 145 and 146).
- 6.27 The scale and form of the 4 commercial buildings, is considered appropriate to the south and eastern edges of the site, given the flank-on configuration of the three traditional vernacular designed buildings and the separation distances between the blocks which helps to soften their appearance on this more sensitive rural edge. The scale and form of the more contemporary corner block is considered to be of an appropriate scale given this will be set within a more in-depth parkland setting. Furthermore, it is considered that this building provides for a positive design approach which will deliver a landmark 'gateway' building.

Other Matters

- 6.28 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 a site of international, national or local importance to nature conservation but the urban area of Manningtree, Lawford and Mistley does fall within the 'Zone of Influence' (Zol) of the Stour and Orwell Estuaries Special Protection Area (SPA), a Ramsar Site and a Site of Special Scientific Interest (SSSI). In the context of the Council's duty as 'competent authority' under the provisions of the Habitats Regulations, it is therefore anticipated that, without mitigation,

new residential development in this location is *'likely to have a significant effect on one or more European designated sites through increased recreation pressure, either when considered 'alone' or 'in combination' with other plans or projects.'*

- 6.29 The Council has screened the proposed development and consider that it falls within the scope of the Essex Coast RAMS and as a result the Council has gone on to carry out a Habitats Regulations Assessment (HRA)(Stage 2 – Appropriate Assessment) in order to secure any necessary recreational disturbance mitigation.
- 6.30 The mitigation described in the Appropriate Assessment, being a combination of on-site measures (circular dog walking routes and/or links to the surrounding public rights of way (PRoW); and dedicated 'dogs-off-lead' areas; in addition to signage/leaflets to householders to promote these areas for recreation; dog waste bins etc) and an off-site per dwelling tariff based financial contribution to mitigate direct recreational impacts at the European designated sites is considered to secure the necessary recreational disturbance mitigation. The financial contribution is to be secured through an appropriate and legally binding agreement.

7. Conclusion

- 7.1 The application satisfies the requirements of the NPPF and the Development Plan for Tendring having regard to Access, Appearance, Landscaping, Layout and Scale and should be approved subject to the conditions as set out in this Report.

8. Recommendation

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

CATEGORY	TERMS
Financial contribution towards RAMS.	£122.30 per new dwelling

8.2 Conditions and Reasons

- 1. The development hereby permitted shall be carried out in accordance with the following approved plans:

- Location Plan – CC011-PL-01 Rev A
- Development Layout – CC011-PL-05 Rev C
- Detailed Layout – CC011-PL-03 Rev C
- Parking Layout – CC011-PL-04 Rev C
- Storey Heights – CC011-PL-08 Rev C
- Landscape Masterplan – CC011-PL-07 Rev C
- Walking Route Mitigation Plan – CC011-PL-09 Rev A
- Emergency Drive-over Strip Detail – CC011-PL-10
- House Type HT3Bd – 212
- House Type HT2B – 203 Rev A
- House Type HT3Ba – 205 Rev A
- House Type HT3Bc - 206 Rev A
- House Type HT3Bb – 207 Rev A
- House Type HT4Ba – 208 Rev A
- House Type HT4Bb – 209 Rev A
- House Type HT4Bc – 210 Rev A
- House Type HT4Bd – 211 Rev A

Garages Floor Plans & Elevations – CC011-GR
Commercial Block ‘A’ Proposed Plans – CC011-CB-A1
Commercial Block ‘A’ Proposed Elevations – CC011-CB-A2
Commercial Block ‘B’ Proposed Plans – CC011-CB-B1
Commercial Block ‘B’ Proposed Elevations – CC011-CB-B2
Commercial Block ‘C’ Proposed Plans – CC011-CB-C1
Commercial Block ‘C’ Proposed Elevations – CC011
Commercial Block ‘D’ Proposed Plan – CC011-CB-D1
Commercial Block ‘D’ Proposed Elevations – CC011-CB-D2

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

2. No development shall commence until details of existing and proposed levels of the site, finished floor levels and identifying all areas of cut or fill, have been submitted to and approved in writing by the Local Planning Authority. The development shall be completed in accordance with the agreed scheme prior to occupation.

Reason – To ensure a satisfactory form of development having particular regard to drainage and the provision of level access.

3. Prior to commencement of development, details of the estate roads, parking courts 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/parking courts/footways are constructed to an appropriate standard in the interests of highway safety.

4. The proposed estate roads shall be constructed prior to the commencement of the erection of any residential development proposed to have access from such road and the proposed road and turning space, where applicable shall be constructed in such a manner as to ensure that each dwelling before it is occupied shall be served by a properly consolidated and surfaced carriageway between the dwellings and the existing highway. The footways and footpaths commensurate with the frontage of each dwelling shall be constructed and completed within twelve months from the date of occupation of the dwelling; and a management plan, including management responsibilities and maintenance schedules for all parking areas other than those forming part of the public highway, or on private domestic property shall be submitted to and approved, in writing, by the Local Planning Authority prior to the first occupation of the development. The management plan shall be carried out as approved in accordance with the details and timescales in the plan.

Reason – In the interests of highway safety, to ensure satisfactory access at all stages of development and to ensure the maintenance of shared vehicular surfaces.

5. No development shall take place until:
 - a) There has been submitted to and approved in writing by the Local Planning Authority, a scheme of hard and soft landscaping works for the site, to include all areas of open space, all play areas, all amenity areas, all street trees, all verges and all other planted or open areas excluding private residential curtilages. The scheme shall include any proposed changes in ground levels and also accurately identify spread, girth and species of all existing trees, shrubs and hedgerows on the site and indicate any to be retained, together with measures for their protection which shall comply with the recommendations set out in the British Standards Institute publication “BS 5837:2012 Trees in relation to design, demolition and construction. The development shall be carried out in accordance with the approved details.

- b) Existing trees on the site, agreed with the Local Planning Authority for inclusion in the scheme of landscaping (above), have been protected by the erection of temporary protective fences of a height, size and in positions which shall previously have been agreed, in writing, with the Local Planning Authority. The protective fences shall be retained throughout the duration of building and engineering works in the vicinity of the trees to be protected. Any trees dying or becoming severely damaged as a result of any failure to comply with these requirements shall be replaced with trees of appropriate size and species during the first planting season or in accordance with such other arrangement as may be agreed in writing with the Local Planning Authority.

Reason – To ensure a satisfactory standard of landscaping and the protection of retained trees.

6. A landscape implementation and management plan, including planting schedules and long term design objectives, management responsibilities and maintenance schedules for all hard and soft landscape areas, shall be submitted to and approved, in writing, by the Local Planning Authority prior to the first occupation of the development. The landscape implementation and management plan shall be carried out as approved in accordance with the details and timescales in the plan.

Reason – To ensure the timely implementation, management and maintenance of the approved landscaping in the interests of amenity and the character and appearance of the area.

7. No street lighting or lighting of common area shall be installed until details of an illumination scheme have been submitted to and approved in writing by the Local Planning Authority. Development shall only be carried out in accordance with the approved details.

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

8. Prior the commencement of development, details of cycle storage required to serve each dwelling shall be submitted to and approved in writing by the Local Planning Authority. All cycle storage so approved shall be provided prior to first occupation of the dwelling to which it relates and shall be retained thereafter as approved.

Reason – To ensure a satisfactory development in terms of appearance and functionality and sustainability, so that cycling is encouraged as a sustainable means of transport.

9. Any new boundary planting shall be planted a minimum of 1 metre back from the highway boundary and any visibility splay.

Reason – To ensure that the future outward growth of the planting does not encroach upon the highway or interfere with the passage of users of the highway, to preserve the integrity of the highway and in the interests of highway safety.

10. Notwithstanding the provisions of Article 3, Schedule 2 Part 3 of the Town and Country Planning (General Permitted Development) Order 1995, (or any Order revoking and re-enacting that Order with or without modification), the commercial buildings hereby approved shall be used as offices and for no other purpose including any other purpose in Class B1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (or in any provision equivalent to that Class in any Statutory instrument and re-enacting that Order with or without modification).

Reason – To protect the amenities and privacy of occupiers of adjoining properties and in the interests of visual amenity.

8.3 Informatives

Informative 1: All housing developments in Essex which would result in the creation of a new street more than five dwelling units communally served by a single all-purpose access) will be subject to the Advance Payments Code, Highways Act, 1980. The Developer will be served with an appropriate notice within 6 weeks of building regulations approval being granted and prior to the commencement of any development must provide guaranteed deposits which will ensure that the new street is constructed in accordance with acceptable specification sufficient to ensure future maintenance as a public highway by the ECC.

Informative 2: The applicant has advised that it is intended that the roads will be privately maintained and not put forward for adoption.

Informative 3: Prior to occupation, the development shall be served by a system of operational street lighting of design approved from the Highway Authority along the Primary route, which shall thereafter be maintained in good repair.

Informative 4: The areas directly adjacent to the carriageway(s) in which the trees are to be planted should not be less than 3 metres wide, exclusive of the footway and the trunks of the trees should be no nearer than 2 metres to the channel line of the road. The same dimensions should be used in situations where the footway is located adjacent to the carriageway.

In paved areas, whether or not the planted areas are to be adopted highway, trees should be sited no closer than 2 metres to the defined (or undefined) edge of the carriageway. Where the adopted highway is to be an independent path, trees should be planted no closer than 1 metre from the edge of the highway. In all cases, trees should be provided with root barriers to prevent damage to underground services.

Informative 5: On the completion of the Development, all roads, footways/paths, cycle ways, covers, gratings, fences, barriers, grass verges, trees, and any other street furniture within the Site and in the area it covers and any neighbouring areas affected by it, must be left in a fully functional repaired/renovated state to a standard accepted by the appropriate statutory authority.

Informative 6: All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.

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

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

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

9. Additional Considerations

Public Sector Equality Duty (PSED)

- 9.1 In making your decision you must have regard to the PSED under section 149 of the Equality Act 2010 (as amended). This means that the Council must have due regard to the need in discharging its functions to:
- 9.2 A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
- 9.3 B. Advance equality of opportunity between people who share a protected characteristic and those who do not. This may include removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; taking steps to meet the special needs of those with a protected characteristic; encouraging participation in public life (or other areas where they are underrepresented) of people with a protected characteristic(s); and
- 9.4 C. Foster good relations between people who share a protected characteristic and those who do not, including tackling prejudice and promoting understanding.
- 9.5 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, being married or in a civil partnership, race including colour, nationality and ethnic or national origin, religion or belief, sex and sexual orientation.
- 9.6 The PSED must be considered as a relevant factor in making this decision but does not impose a duty to achieve the outcomes in section 149 and section 149 is only one factor that needs to be considered, and may be balanced against other relevant factors.
- 9.7 It is considered that the recommendation to grant permission in this case would not have a disproportionately adverse impact on a protected characteristic.

Human Rights

- 9.8 In making your decision, you should be aware of and take into account any implications that may arise from the Human Rights Act 1998 (as amended). Under the Act, it is unlawful for a public authority such as the Tendring District Council to act in a manner that is incompatible with the European Convention on Human Rights.
- 9.9 You are referred specifically to Article 8 (right to respect for private and family life), Article 1 of the First Protocol (protection of property) and Article 14 (right to freedom from discrimination).
- 9.10 It is not considered that the recommendation to grant permission in this case interferes with local residents' right to respect for their private and family life, home and correspondence or freedom from discrimination except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation to grant permission is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

Finance Implications

- 9.11 Local finance considerations are a matter to which local planning authorities are to have regard in determining planning applications, as far as they are material to the application.

9.12 The New Homes Bonus (NHB) is one local finance consideration capable of being a material consideration to which the weight given shall be determined by the decision maker. The NHB is a payment to local authorities to match the Council Tax of net new dwellings built, paid by Central Government over six consecutive years. In this instance, it is not considered to have any significant weight attached to it that would outweigh the other considerations.

10. Background Papers

None