

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	ML	16/01/2020
Planning Development Manager authorisation:	TF	17/01/2020
Admin checks / despatch completed	CC	17/01/2020
Technician Final Checks/ Scanned / LC Notified / UU Emails:	XAL	17/01/2020

Application: 18/02109/OUT **Town / Parish:** Harwich Town Council

Applicant: Sato UK Limited

Address: Sato UK Ltd Valley Road Dovercourt

Development: Demolition of existing redundant factory and outline application with all matters reserved with the exception of access for up to 42 residential units.

1. Town / Parish Council

Harwich Town Council Harwich Town Council objects to this application on the grounds of a loss of industrial land, a development which we consider is of a size that will have a further negative impact on local infrastructure and inappropriate access/egress.

2. Consultation Responses

ECC Schools Service The revised mix will result in the following Education Contribution:

EY&C: £53,311.32 Index Linked to April 2019
 Primary Education: £155,866.20 Index Linked to April 2019

As previously, ECC will not be seeking a contribution towards Secondary Education or School Transport.

Natural England SUMMARY OF NATURAL ENGLAND'S ADVICE - European designated sites

It has been identified that this development falls within the 'Zone of Influence' (ZoI) for one or more of the European designated sites scoped into the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS); see our recent advice to your authority on this issue (our ref: 244199, dated 16th August 2018) for further information.

In the context of your duty as competent authority under the provisions of the Habitats Regulations², it is anticipated that, without mitigation, new residential development in this area and of this scale is likely to have a significant effect on the sensitive interest features of these coastal European designated sites, through increased recreational pressure when considered 'in combination' with other plans and projects. The Essex Coast RAMS is a large-scale strategic project which involves a number of Essex authorities, including Tendring District Council, working together to mitigate the effects arising from new residential development. Once adopted, the RAMS will comprise a package of strategic measures to address such effects, which will be costed and funded through developer

contributions.

We therefore advise that you consider, in line with our recent advice, whether this proposal falls within scope of the RAMS as 'relevant development'. Where it does, this scale of development would fall below that at which Natural England would offer bespoke advice on this issue. However, in such cases we advise that you must undertake a Habitats Regulations Assessment (HRA) to secure any necessary mitigation and record this decision within the planning documentation; you should not grant permission until such time as the HRA has been undertaken and the conclusions confirmed.

UU Open Spaces

Response from Public Realm
Open Space & Play

Application Details

Application No: 18/02109/OUT

Site Address: Sato UK Limited Valley Road Dovercourt Harwich

Description of Development: Demolition of existing redundant factory and outline application with all matters reserved with the exception of access for up to 38 residential Units

Current Position

There is currently a deficit of 12.59 hectares of equipped play in Harwich and Dovercourt.

The nearest play areas to the development site are located at Clayton Road

To ensure the above play area is able to cope with the additional usage from this development it would be necessary to upgrade and increase the play provision available.

Recommendation

Due to the lack of play facilities in Harwich it is felt that a contribution towards play and formal open space is justified and relevant

Any contribution received would be used to improve the play facilities at:

Clayton Road Play Area

Housing Services

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

The application is for 42 properties and the council's emerging local plan requires 30% of properties to be delivered as affordable housing on sites consisting of 13 properties or more. The council would prefer to see affordable housing delivered on site. 30% of 38 properties equates to 11 properties in total.

There is a high demand for housing in Dovercourt and there are currently 95 households on the housing register seeking a 2 bedroom home, 65 seeking a 3 bedroom home and 19 seeking a 4 bedroom

home.

The council's preferred mix is as follows: 6 x 2bed, 4 x 3 bed and 1 x 4 bed.

The council would prefer that another registered provider is identified to take on the affordable homes on the site. If another provider cannot be identified, the council will consider other delivery options.

Building Control and
Access Officer

No adverse comments at this time.

ECC Highways Dept

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

The access/junction shall be provided in precise accord with preliminary block plan drawing no. 6635 - 1101.

Reason: To ensure that the largest type of vehicle using the junction may do so in a controlled manner and to provide adequate segregated pedestrian access, in the interests of highway safety and in accordance with Policy DM 1 and 6

All off street parking shall be in precise accord with the details contained within the current Parking Standards.

Reason: To ensure that on-street parking of vehicles in the adjoining streets does not occur, in the interests of highway safety and in accordance with Policy DM 1.

Any garage provided with its vehicular door facing the proposed highway, shall be sited a minimum of 6m from the boundary.

Reason: To ensure that the vehicle to be garaged may be left standing clear of the highway whilst the garage door is opened and closed, in the interests of highway safety and in accordance with Policy DM 1 and 8.

The internal access road and footways shall be a continuous kerbed extension of Valley Road from its connection to Valley Road and shall be provided straight for at least the first 20m within the site.

Reason: To ensure that all vehicular traffic using the junction may do so in a controlled manner and to provide adequate segregated pedestrian access, in the interests of highway safety and in accordance with Policy DM 1 and 6.

Prior to first occupation of the proposed development, each individual proposed vehicular access shall be constructed at right angles to the highway boundary and to a width of 3.7m and each shared vehicular access shall be constructed at right angles to the highway boundary and to a width of 5.5m and shall be provided with an appropriate dropped kerb vehicular crossing of the footway to the specifications of the Highway Authority.

Reason: To ensure that vehicles using the site access do so in a controlled manner, in the interests of highway safety and in accordance with Policy DM 1.

Prior to the proposed accesses being brought into use, a 1.5m x 1.5m. Pedestrian visibility splay, relative to the highway boundary, shall be provided on both sides of that access and shall be maintained in perpetuity free from obstruction clear to ground. These splays must not form part of the vehicular surface of the access.

Reason: To ensure adequate inter-visibility between drivers of vehicles using the proposed access and pedestrians in the adjoining highway, in the interests of highway safety and in accordance with Policy DM 1.

No unbound materials shall be used in the surface treatment of any of the proposed vehicular accesses within 6m of the proposed highway boundary.

Reason: To ensure that loose materials are not brought out onto the highway, in the interests of highway safety and in accordance with Policy DM 1.

Prior to commencement of the proposed development, a vehicular turning facility for service and delivery vehicles of at least size 3 dimensions and of a design which shall be approved in writing by the Local Planning Authority, shall be provided within the site and shall be maintained free from obstruction at all times for that sole purpose.

Reason: To ensure that vehicles using the site access may enter and leave the highway in a forward gear, in the interests of highway safety and in accordance with Policy DM 1.

Prior to occupation of the proposed development, details of the proposed Cycle parking shall be provided in accordance with the EPOA Parking Standards. The approved facility shall be secure, convenient, covered and provided prior to first occupation and retained at all times.

Reason: To ensure appropriate cycle parking is provided in the interest of highway safety and amenity in accordance with Policy DM8.

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

Reason: In the interests of reducing the need to travel by car and promoting sustainable development and transport in accordance with policies DM9 and DM10..

Each internal estate road junction shall be provided with a clear to ground level visibility splay with dimensions of 25m by 2.4m by 25m on both sides. Such visibility splays shall be provided before the road is first used by vehicular traffic and shall be retained free from obstruction at all times.

Reason: To ensure a reasonable degree of inter-visibility between drivers of vehicles at and approaching the road junction, in the interests of highway safety and in accordance with Policy DM 1 and 6.

All carriageways should be provided at 5.5m between kerbs or 6.0m where vehicular access is taken but without kerbing.

Reason: To ensure that roads and footways are constructed to an acceptable standard, in the interests of highway safety and in accordance with Policy DM 1 and 6.

All footways should be provided at no less than 2.0m in width.

Reason: To ensure that roads and footways are constructed to an acceptable standard, in the interests of highway safety and in accordance with Policy DM 1 and 6.

No development shall take place, including any ground works or demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement 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

Design Informative:

1. There should be no vehicular access over any radius kerbs.
2. The new carriageways should be provided with a centreline bend radius of 13.6m together with adequate forward visibility.
3. Any trees provided within the adoptable highway will attract a commuted sum of no less than £750 per tree.
4. The applicant should be requested to consider the provision and location of street lighting columns, particularly at road junctions, these should be within the adoptable areas.

Informative 5 The areas directly adjacent to the carriageway 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.

Informative 5: 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 6: 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 7: 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.

Tree & Landscape Officer

The site is currently occupied a redundant industrial unit adjacent to a new building constructed to replace the buildings on the application site.

There are no trees or other significant vegetation in the main body of the land but the boundary of the application site is well populated with established trees and hedging species. This provides a good level of screening.

The trees situated on the boundary of the application site back onto the rear boundaries of the gardens serving adjacent dwellings. In the main this means that the trees are not prominent features in the public realm and consequently their visual amenity value is low. Nevertheless they perform a valuable screening function.

In order to show the extent of the constraint that the trees are on the development potential of the land the applicant should provide a tree survey and report. The report will need to show the steps that will be taken to protect any trees identified for retention. The report should be in accordance with BS5837: 2012 Trees in relation to design, demolition and construction: Recommendations.

Whilst some of the trees and hedgerow species may need to be removed to facilitate the development proposal the retention of the best trees on the land would enhance the appearance of the development and give the site layout a degree of 'instant maturity'.

In terms of the amenity value of the trees and their impact on the character of the local environs it is not considered necessary to make any of the boundary trees the subjects of a Tree preservation Order.

A combination of selective tree retention and new planting will create an environment and setting for the long term provision of an increased tree population on the application site

In this regard, and in terms of general soft landscaping of the site,

details of soft landscaping should be secured by a condition attached to any planning permission that may be granted.

Waste Management

No comments at this stage.

Environmental Protection

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

There is no indication of potential contamination from our contaminated land database. Although due to previous uses of the site there might be some contamination. (Light industrial use)

Prior to the commencement of the proposed development, the applicant is advised to undertake a suitable and sufficient site investigation and any necessary risk assessment to ensure the land is free from significant levels of contamination. Therefore standard contaminated land condition is to be applied.

In addition to the above, an asbestos survey should be carried out prior to demolition and removal of any asbestos containing material should be carried out by a qualified contractor.

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

Prior to the commencement of any site clearance, demolition or construction works, the applicant (or their contractors) shall submit a full method statement to, and receive written approval from the Pollution and Environmental Control. The method statement (Demolition/Construction Management Plan) should include the following;

' Noise Control

1) The use of barriers to mitigate the impact of noisy operations will be used where possible. This may include the retention of part(s) of the original buildings during the demolition process to act in this capacity.

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 Local 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) A scheme of measures for the control and suppression of dust

emissions shall be submitted to and approved in writing by the Local Planning Authority. Such agreed works shall be implemented in the approved form prior to the commencement of any development of the site and shall be maintained in the approved form until the development is completed and ready to be signed off as complete for the permitted purpose

2) 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.

3) 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.

4) All bulk carrying vehicles accessing the site shall be suitably sheeted to prevent nuisance from dust in transit.

' Dust Control

1) Dust suppression methods to be employed during construction so as to minimize likelihood of nuisance being caused to neighbouring properties. A scheme of measures for the control and suppression of dust emissions shall be submitted.

Environment Agency

Thank you for your re-consultation dated 5 March 2019. We have reviewed the application as submitted and are able to remove our holding objection raised in our letter referenced AE/2019/123692/01 and dated 23 January 2019 providing the conditions outlined below on groundwater and contaminated land are included should the permission be granted.

Groundwater and Contaminated Land

The previous use of the proposed development site as unconfirmed industry presents a high risk of contamination that could be mobilised during construction to pollute controlled waters. Controlled waters are particularly sensitive in this location because the proposed development site is located upon a secondary aquifer A. Further details are provided below.

The site is located upon a bedrock geology of London Clay (a non-aquifer) with Kesgrave Sand and Gravels (a secondary undifferentiated aquifer) and Lowestoft Formation (a secondary aquifer undifferentiated) forming the superficial deposits. We would consider the site of medium environmental sensitivity.

We have reviewed the following document Environmental Desk Study and Preliminary Risk Assessment including (Apple Environmental, 2019) which has now been submitted in support of this application.

We agree with the conclusions of the report that further investigation is required at site to identify any potential contamination. Consideration should be given to specific contaminants associated with the former uses and consider areas that are to be free draining as well as locations of above and any underground storage tanks and any related infrastructure when focusing investigations. Please refer to the DOE industry profiles for the former land uses when assessing for contaminants. <https://www.claire.co.uk/useful-government-legislation-and-guidance-by-country/76-key-documents/198-doe-industry-profiles> Testing of any groundwater encountered in line with CWG should be included. Testing for all contaminants that are associated with former land uses should be included. These should

include, but are not limited to speciated hydrocarbons and PAHs in line with CWG.

The application's Environmental Desk Study and Preliminary Risk Assessment (Apple Environmental, 2019), demonstrates that it will be possible to manage the risk posed to controlled waters by this development. Further detailed information will however be required before any built development is undertaken. We believe that it would place an unreasonable burden on the developer to ask for more detailed information prior to the granting of planning permission but respect that this is a decision for the local planning authority.

Without the conditions below we would object to the proposal in line with paragraph 170 of the National Planning Policy Framework because it cannot be guaranteed that the development will not be put at unacceptable risk from, or be adversely affected by, unacceptable levels of water pollution.

Condition 1

Prior to any part of the permitted development being occupied, a verification report demonstrating the completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to, and approved in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met.

Reason for condition 1

To ensure that the site does not pose any further risk to human health or the water environment by demonstrating that the requirements of the approved verification plan have been met and that remediation of the site is complete. This is in line with paragraph 170 of the National Planning Policy Framework.

Condition 2

The development hereby permitted shall not commence until a monitoring and maintenance plan in respect of contamination, including a timetable of monitoring and submission of reports to the local planning authority, has been submitted to, and approved in writing by, the local planning authority. Reports as specified in the approved plan, including details of any necessary contingency action arising from the monitoring, shall be submitted to, and approved in writing by, the local planning authority.

Reason for condition 2

To ensure that the site does not pose any further risk to human health or the water environment by managing any ongoing contamination issues and completing all necessary long-term remediation measures. This is in line with paragraph 170 of the National Planning Policy Framework.

Condition 3

If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until a remediation strategy detailing how this contamination will be dealt with has been submitted to, and approved in writing by, the local planning authority. The remediation strategy shall be implemented as approved.

Reason for condition 3

To ensure that the development does not contribute to, is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution from previously unidentified contamination sources at the development site. This is in line with paragraph 170 of the National Planning Policy Framework. Condition 4

No drainage systems for the infiltration of surface water to the ground are permitted other than with the written consent of the local planning authority. Any proposals for such systems must be supported by an assessment of the risks to controlled waters. The development shall be carried out in accordance with the approved details.

Reason for condition 4

To ensure that the development does not contribute to, is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution caused by mobilised contaminants. This is in line with paragraph 170 of the National Planning Policy Framework.

Condition 5

Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express written consent of the local planning authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details.

Reason for condition 5

Piling or any other foundation designs using penetrative methods can result in risks to potable supplies from, for example, pollution / turbidity, risk of mobilising contamination, drilling through different aquifers and creating preferential pathways. Thus it should be demonstrated that any proposed piling will not result in contamination of groundwater.

Environmental Protection

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

The development hereby permitted shall not be commenced until the following components of a scheme to deal with the risks associated with contamination of the site have been submitted to and approved, in writing, by the local planning authority:

1) An intrusive site investigation, based on information provided in the submitted land contamination report.

2) A remediation method statement (RMS) based on the site investigation results and the detailed risk assessment (1). This should give full details of the remediation measures required and how they are to be undertaken. The RMS should also include a verification plan to detail the data that will be collected in order to demonstrate that the works set out in the RMS are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

4) A Closure Report is submitted upon completion of the works. The closure report shall include full verification details as set out in (2). This should include details of any post remediation sampling and analysis, together with documentation certifying quantities and source/destination of any material brought onto or taken from the site. Any material brought onto the site shall be certified clean;

In addition to the above, an asbestos survey should be carried out prior to any demolition and removal of any asbestos containing material should be carried out by a qualified contractor

Reason: To ensure any contaminated land is adequately dealt with.

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).

ECC Schools Service

Good afternoon Matthew,

The revised mix will result in the following Education Contribution:

EY&C: £53,311.32 Index Linked to April 2019

Primary Education: £155,866.20 Index Linked to April 2019

As previously, ECC will not be seeking a contribution towards Secondary Education or School Transport.

Anglian Water Services
Ltd

ASSETS

Section 1 - Assets Affected

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

WASTEWATER SERVICES

Section 2 - Wastewater Treatment

The foul drainage from this development is in the catchment of Harwich And Dovercourt Water Recycling Centre that will have available capacity for these flows

Section 3 - Used Water Network

Development will lead to an unacceptable risk of flooding downstream. Anglian Water will need to plan effectively for the proposed development, if permission is granted. We will need to work with the applicant to ensure any infrastructure improvements are delivered in line with the development. We require confirmation as to whether a pumped regime is to be utilised, and if so the proposed pumped rate.

We therefore request a condition requiring an on-site drainage strategy (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. The surface water strategy/flood risk assessment submitted with the planning application is not relevant to Anglian Water and therefore this is outside our jurisdiction for comment and the Planning Authority will need to seek the views of the Environment Agency. We will request that the agreed strategy is reflected in the planning approval.

Section 5 - Suggested Planning Conditions

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

Used Water Sewerage Network (Section 3)

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

Reason To prevent environmental and amenity problems arising from flooding.

ECC SuDS Consultee

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 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:

- o Limiting discharge rates to 3.3 l/s for all storm events up to an including the 1 in 100 year rate plus 40% allowance for climate change.
- o 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.
- o Final modelling and calculations for all areas of the drainage system.
- o Detailed engineering drawings of each component of the drainage scheme.
- o A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features.

o 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.

Reason

o To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site.

o To ensure the effective operation of SuDS features over the lifetime of the development.

o To provide mitigation of any environmental harm which may be caused to the local water environment

o 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

No works shall take place until 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.

Tree & Landscape Officer The information provided shows retained trees and the method by which they will be protected for the duration of the construction phase of any development for which planning permission may be granted.

The information is acceptable and shows the retention of the trees on the land with the greatest value.

3. Planning History

15/01549/OUT	Hybrid application consisting of: Full application for a replacement factory on northern component of site (following demolition of existing office). Outline application for up to 38 residential units on southern component of site.	Approved	06.05.2016
16/00768/DISCON	Discharge of condition 7 (vehicular turning facility) and 8 (discharge of surface water) relating to the full permission and part discharge of condition 22 (materials), 23 (site levels), 24 (surface water drainage), 25 (off site flooding) and 30 (construction method statement) relating to the full and outline permission of the hybrid application approved under reference 15/01549/OUT.	Approved	21.09.2016
16/00790/OUT	Variation of condition 2 of planning permission 15/01549/OUT to vary the design of the factory and reduce the number of car parking spaces provided.	Approved	19.09.2016
16/00791/FUL	New swale and retaining wall.	Approved	11.10.2016
16/01568/DISCON	Discharge of condition 25 (off site flooding) of planning permission 15/01549/OUT.	Approved	
17/00370/OUT	Variation of condition 2 of planning permission 15/01549/OUT to vary the design of the factory and the number of car parking spaces provided.	Approved	16.05.2017

18/01617/OUT	Variation of condition 10 of planning permission 17/00370/OUT to extend the deadline for the submission of details after 6th May 2019.	Approved
18/02109/OUT	Demolition of existing redundant factory and outline application with all matters reserved with the exception of access for up to 42 residential units.	Current

4. Relevant Policies / Government Guidance

NPPF National Planning Policy Framework February 2019

National Planning Practice Guidance

Tendring District Local Plan 2007

QL1 Spatial Strategy

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

HG3 Residential Development Within Defined Settlements

HG4 Affordable Housing in New Developments

HG6 Dwelling Size and Type

HG7 Residential Densities

HG9 Private Amenity Space

HG13 Backland Residential Development

COM6 Provision of Recreational Open Space for New Residential Development

COM19 Contaminated Land

COM22 Noise Pollution

COM24 Health Care Provision

COM26 Contributions to Education Provision

TR1A Development Affecting Highways

TR3A Provision for Walking

TR7 Vehicle Parking at New Development

EN1 Landscape Character

EN6 Biodiversity

EN6A Protected Species

EN11A Protection of International Sites European Sites and RAMSAR Sites

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

SP1 Presumption in Favour of Sustainable Development

SPL1 Managing Growth

SPL2 Settlement Development Boundaries

SPL3 Sustainable Design

HP4 Safeguarded Local Greenspace

HP5 Open Space, Sports & Recreation Facilities

LP1 Housing Supply

LP2 Housing Choice

LP3 Housing Density and Standards

LP4 Housing Layout

LP5 Affordable and Council Housing

LP8 Backland Residential Development

PPL4 Biodiversity and Geodiversity

PPL5 Water Conservation, Drainage and Sewerage

PP12 Improving Education and Skills

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 located on the western side of Valley Road within the settlement of Dovercourt. The site currently accommodates a large redundant factory building previously utilised by Sato (a global labelling specialist). They have recently vacated the factory and re-located to a new purpose built unit directly to the north of the application site.

The site is bordered by residential properties to the south, east and west. Along the southern and western boundaries of the site are areas of trees/vegetation which are predominantly conifers.

Proposal

This planning application seeks outline planning permission for the erection of 42 properties on the site. All matters are reserved with the exception of means of access, so appearance, landscaping, layout and scale are all reserved for future determination. At 1.25 hectares in size a development of 42 units on this site would equate to approximately 29 units per hectare.

An indicative layout drawing has been provided showing 38 units. However, following a review in respect of the need for open space on this site the number of units has increased to 42 properties which is in lieu of the open space.

The housing mix is proposed as follows;

2 x 1 bed flats

16 x 2 bed units (inc. 12 flats)
17 x 3 bed units
7 x 4 bed units

Planning History

A previous hybrid planning application (Ref - 15/01549/OUT) granted full planning permission for the factory element and outline permission for 38 units on application site. The factory has now been built out. Condition 10 of the hybrid application, which related to the residential element of the proposal, required the application for the approval of reserved matters pursuant to the residential scheme to be made within three years, namely by 19th October 2018. No such application has been submitted and consequently the residential scheme has now lapsed.

Principle

The application site is located within the established settlement boundary of Dovercourt within both the saved and emerging local plan. The site is not designated for any specific use in either plan. Therefore in view of this and given that the site previously has planning permission for residential development the principle is considered to be acceptable.

In respect of the redundant factory present on the site it was evident that the original application was to provide primarily for the needs of the business. The old factory (still standing) was outdated and in effect was not appropriate for a modern global business. The new factory to serve the needs of Sato has been constructed and is occupied on the land to the north.

Layout/Scale

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

The current application is an outline application with all matters reserved aside from the access. The applicant has submitted an indicative layout drawing, setting out their vision for developing the site and to demonstrate one way in which the site could be developed. The layout provided is the same as submitted at the time of the previous approval for 38 units. However, following discussions during the course of the application it has been agreed that the open space can be removed from the scheme and 4 additional dwellings proposed. This is due to the site measuring under 1.5 hectares in size and therefore on-site open space is not required.

Overall the plan suitably demonstrates that the site can accommodate 42 properties whilst retaining sufficient spacing between existing and proposed properties and private amenity space and parking for each unit to a policy compliant standard.

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

The supporting information states that the apartment buildings at the entrance of the site would be 3 storeys in size. Whilst surrounding development is predominantly 2 storey as these buildings would be situated at the entrance into the development they will maintain a good degree of separation to nearby properties and therefore would not detract from the appearance of the area.

Although appearance, landscaping, layout and scale are reserved matters, the general principle of this level of development on the site is considered acceptable; and is in keeping with both the site's urban location.

Landscaping/Trees

The site is currently occupied by a redundant industrial unit adjacent to a new building constructed to replace the buildings on the application site.

There are no trees or other significant vegetation in the main body of the land but the boundary of the application site is well populated with established trees and hedging species. This provides a good level of screening.

The trees situated on the boundary of the application site back onto the rear boundaries of the gardens serving adjacent dwellings. In the main this means that the trees are not prominent features in the public realm and consequently their visual amenity value is low. Nevertheless they perform a valuable screening function.

Whilst some of the trees and hedgerow species may need to be removed to facilitate the development proposal the retention of the best trees on the land would enhance the appearance of the development and give the site layout a degree of instant maturity.

In terms of the amenity value of the trees and their impact on the character of the local environs it is not considered necessary to make any of the boundary trees the subjects of a Tree preservation Order.

In this regard, and in terms of general soft landscaping of the site, details of soft landscaping will be provided at reserved matters stage.

Impact on Residential Amenity

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

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

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

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

Highway Safety/Parking

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

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

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

The application site will utilise the existing access from Valley Road into the site. The Highway Authority have not raised objection to this arrangement subject to the imposition of a number of planning conditions concerning, amongst other things, the specification of the carriageways and footways, the provision of parking and turning areas in accordance with policy standards and the submission of a construction method statement and details of wheel washing facilities.

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

Biodiversity

Paragraph 170 of the NPPF requires Councils, when determining planning applications, to minimise impacts on and providing net gains for biodiversity. Where significant harm to biodiversity cannot be avoided, mitigated or, as a last resort, compensated for, Councils should refuse planning permission. Saved policies EN6 of the adopted Local Plan and emerging policy PPL4 of the emerging Local Plan give special protection to designated sites of international, national or local importance to nature conservation but for non-designated sites still require impacts on biodiversity to be considered and thereafter minimised, mitigated or compensated for.

The ecological appraisal submitted as part of the previous approval on the site suggested the need for bat emergence/re-entry surveys and the need to avoid vegetation/building demolition during the bird breeding season (March-August inc). The appraisal did not identify any impacts to other protected species.

In view of this an updated bat emergence survey has been provided. The survey indicates that there are unlikely to be any bats roosting in the building at present. The activity survey results suggest that there is a very low level of foraging and commuting activity around the site activity. The species observed in the survey were the most common species.

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 Stour 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 Stour 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.

Drainage

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

In this instance surface water storage is to be provided by the existing attenuation basin located north of the site and connected by an existing connection. Any additional storage from the site will be provided in the form of oversized pipes within the proposed residential development area, before discharging to the existing attenuation basin at the designed maximum inflow rate.

The submitted FRA has considered the potential impact of the development on surface water runoff rates and it has been demonstrated that surface water can be managed, as such flood risk from the site would not increase.

The FRA also demonstrates that the proposed development would be operated with minimal risk from flooding and would not increase flood risk elsewhere.

Essex County Council SUDs Team has reviewed the submitted information and have no objections subject to the conditions contained within their comments.

Section 106 of the Town and Country Planning Act 1990

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. As the site is under 1.5 hectares in size there is no policy requirement to provide on-site open space.

The Council's Open Space Team has commented on the application and has identified a deficit of equipped play and formal open space in Harwich and Dovercourt. The nearest play areas to the development site are located at Clayton Road. To ensure the above play area is able to cope with the additional usage from this development it would be necessary to upgrade and increase the play provision available. As such they have requested the provision of an off-site contribution to be secured via a legal agreement.

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.

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

Education Provision

Policy QL12 in the adopted Local Plan and Policy PP12 in the emerging Local Plan require that new development is supported by the necessary infrastructure which includes education provision.

Essex County Council as the Local Education Authority has been consulted on the planning application and has made representations. They have requested the following contributions;

Early Years and Care - £53,311.32p
Primary Education - £155,866.20p

No contributions are required towards education transport costs.

Viability Matters

In view of the above, the total s106 obligations for this development equate to approximately £300,000 along with the required 30% affordable housing provision (12 units).

The applicants have reviewed the required contributions and have submitted a viability assessment to review the overall viability of the development against the requirement to secure these obligations. The viability assessment has been independently reviewed by Andrew Golland Associates who conclude that the applicant's build cost plan is not credible and therefore the scheme should be able to provide the full s106 requirements whilst ensuring the developer maintains a 17.5% profit margin.

The applicants are not willing to agree with the findings of the Council's independent assessor and as a consequence a legal agreement has not been completed.

As a result the development is contrary to the above-mentioned saved and emerging local plan policies which seek to secure local infrastructure improvements and affordable housing.

Other Considerations

A contamination assessment has been provided which has been reviewed by the Environment Agency and the Council's Environmental Protection Team. Both consultees have recommended controlling conditions to secure the findings of the assessment.

Harwich Town Council objects to this application on the grounds of a loss of industrial land, a development which we consider is of a size that will have a further negative impact on local infrastructure and inappropriate access/egress.

3 letters of objection have been received outlining the following concerns;

- demolition of the factory and harm to local residents (a full demolition method survey will be requested via condition);
- overlooking from development (sufficient back to back distances have been retained to existing properties and detailed design in respect of the position of openings will be assessed at reserved matters stage);
- loss of property value (not a material planning consideration);
- Vegetation/trees along southern and western boundaries should be retained (the vast majority of the existing screening is to be retained along these boundaries to provide screening for existing residents);
- Houses are not needed (the Council cannot currently demonstrate a 5yr supply when using the standard method for calculating housing need, as such houses are required);
- Local infrastructure improvements required (the absence of a completed legal agreement securing infrastructure contributions/affordable housing is a reason for refusal); and
- Traffic increases (ECC-Highways do not object to the development and the impact upon the local highway network).

6. Recommendation

Refusal

7. Reasons for Refusal

- 1 The National Planning Policy Framework (2019) states that Local Planning Authorities should consider whether otherwise unacceptable development could be made acceptable

through the use of conditions or planning obligations. Planning obligations should only be sought where they meet all the following tests: necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development.

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

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

Saved Policy COM6 and emerging Policy HP5 state that for where existing public open space and/or play equipment are inadequate the development shall provide appropriate provision on-site or a financial contribution towards the provision of new or improved off-site facilities to meet the projected needs of future occupiers of the development. There is an identified deficit of equipped play and formal open space in Harwich and Dovercourt. Due to the limited play provision in Harwich and Dovercourt, any further development in the area will increase the current deficit further and put greater demand on already stretched facilities and accordingly an off-site contribution towards enhancements at Clayton Road play area is requested. Without a completed legal agreement securing the off-site contribution the proposals are contrary to the above policies.

The applicants have reviewed the required contributions and have submitted a viability assessment to review the overall viability of the development against the requirement to secure these obligations. The viability assessment has been independently reviewed by an independent assessor who concludes that the applicant's build cost plan is not credible and therefore the scheme should be able to provide the full s106 requirements whilst ensuring the developer maintains a 17.5% profit margin.

The applicants are not willing to agree with the findings of the Council's independent assessor. As such a completed Section 106 obligation to secure the relevant contributions towards education, open space enhancements and affordable housing has not been provided and is therefore contrary to the above policies.

- 2 Under the Habitats Regulations, a development which is likely to have a significant effect or an adverse effect (alone or in combination) on a European designated site must provide mitigation or otherwise must satisfy the tests of demonstrating 'no alternatives' and 'reasons of overriding public interest'. There is no precedent for a residential development meeting those tests, which means that all residential development must provide mitigation. This residential development lies within the Zone of Influence of the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). The residents of new housing are therefore considered likely to regularly visit relevant designated sites for recreation. In order to avoid a likely significant effect in terms of increased recreational disturbance to coastal European designated sites (Habitats sites) mitigation measures will need to be in place prior

to occupation. A proportionate financial contribution has not been secured in accordance with the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) requirements.

The development is therefore contrary to Paragraph 175 of the National Planning Policy Framework, Policy EN6 and EN11a in the adopted Local Plan and Policy PPL4 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft.

8. Informatives

Positive and Proactive Statement

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

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