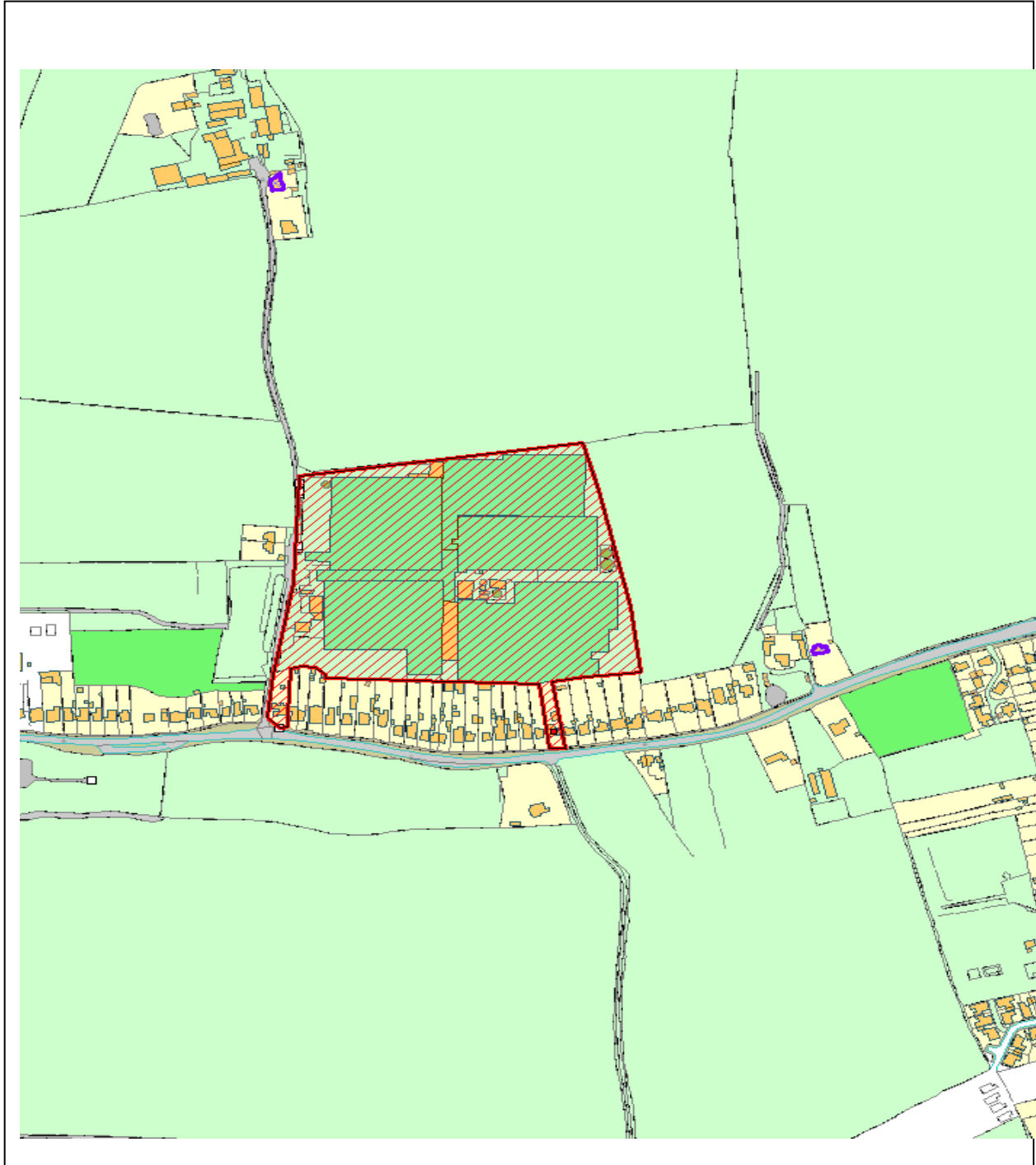


PLANNING COMMITTEE

12TH FEBRUARY 2020

REPORT OF THE HEAD OF PLANNING

A.1 PLANNING APPLICATION – 18/01779/FUL – 700 ST JOHNS ROAD ST JOHNS NURSERY SITE EARLS HALL DRIVE CLACTON ON SEA CO16 8BJ



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Application: 18/01779/FUL

Town / Parish: St Osyth Parish Council

Applicant: Mr Alder-Barber, Kelsworth Ltd

Address: 700 St Johns Road & St Johns Nursery Site Earls Hall Drive Clacton On Sea CO16 8BJ.

Development: Demolition of nursery buildings and dwellinghouse. Erection 195 residential units (comprising 6 two bed houses, 87 three bed houses, 33 four bed houses, 25 five bed houses, 12 one bedroom apartments and 24 two bedroom apartments), and 8 live work units (mixed commercial units measuring 1064 square metres in total with flats above). Associated roads, open space, drainage, landscaping, and other infrastructure.

1. Executive Summary

- 1.1 The application site comprises 7.6 hectares of horticultural land and which is located approximately 300m to the western edge of Clacton on Sea, but now within the Parish of St Osyth. It is to the north of St. Johns Road (B1027), with the majority of the site being to the rear of a ribbon of residential development that fronts onto the road (even nos 690 – 762).
- 1.2 Currently the vehicular access to the site is off Earls Hall Drive, a private road which passes along its western boundary. It is proposed to provide a footpath/cycleway within the current curtilage of 762 St Johns Road adjacent to the existing lane. In addition, the application site also includes a chalet bungalow and its garden at 700 St Johns Road which it is proposed to demolish, in order to provide a new, replacement vehicular access to the site, in lieu of the Earls Hall Drive one.
- 1.3 The site lies outside of the settlement development boundary for Clacton within the adopted Local Plan, but in the emerging Local Plan it is specifically included within the defined settlement boundary of the town. The emerging plan has now reached a relatively advanced stage of the plan-making process, and the Council relies on this to boost the supply of housing in line with government planning policy. It is therefore considered that the inclusion of this land within the settlement development boundary in the emerging Local Plan should carry considerable weight in the decision making process.
- 1.4 This application seeks full planning permission for demolition of the nursery glasshouses, buildings and structures and the dwellinghouse at 700 St Johns Road and the redevelopment of the site with a predominantly residential scheme comprising the erection of 195 units (comprising 6 two bed houses, 87 three bed houses, 33 four bed houses, 25 five bed houses, 12 one bedroom apartments and 24 two bedroom apartments), and 8 live work units (mixed commercial units measuring 1064 square metres in total with flats above), with associated roads, open space, drainage, landscaping, and other infrastructure.
- 1.5 The application is accompanied by a suite of technical drawings and documents supporting the proposal and all in all it is considered that no significant adverse or cumulative effects on the local environment or population would be caused, with it being deemed to be compliant with legislation and planning policy. Officers have carried out a Screening Opinion, pursuant to The Town and Country Planning (Environmental Impact Assessment) Regulations 2017, this concludes that as significant effects on the environment are not likely, an Environmental Impact Assessment is not required for this development.
- 1.6 Officers are content that subject to the imposition of reasonable planning conditions and S106 planning obligations, that the general principle of this level of development on the site is

acceptable. It is in keeping with both the site's location on the edge of Clacton, and along with the need to facilitate on site strategic landscaping, open space and the retention of existing landscape features. Furthermore, the proposal would ensure that the living conditions of existing and future residents would be protected from any materially detrimental impacts, whilst significantly boosting housing supply within the District, in line with the Council's own emerging Local Plan.

- 1.7 The recommendation is therefore to approve planning permission, subject to the completion of a legal obligation under Section 106 of the Town and Country Planning Act 1990 and the imposition of a number of controlling conditions.

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:

- Affordable Housing – 10% ;
- Ecology - Financial Contribution towards RAMS - £23,848.50;
- Education - Financial Contributions towards EY&C, Primary and Secondary school provision - £1,770,393;
- Healthcare - Financial contribution for additional floorspace at Nayland Drive Surgery - £67,666;
- Highways & Transportation –
 - Provision of 3no bus stops on St Johns Road;
 - Pro-rata financial contribution to bus services on St John's Road - £104,000;
 - Provision/upgrade of a 3-metre wide shared footway/cycleway on the north side of St Johns Road from its junction with Earls Hall Drive eastwards to the main vehicular access to the site and beyond to tie in with the proposed footway/cycleway for the Rouses Farm development south of St Johns Road (17/01229/OUT);
- Live/Work units to be constructed and marketed prior to 75% dwelling occupation;
- Public Open Space – To be laid out and transferred to a Management Company.

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

National Policy

National Planning Policy Framework 2019 (NPPF)

- 2.1 The NPPF sets out the Government's planning policies and how these are expected to be applied at the local level.
- 2.2 Planning law requires that applications for planning permission be determined in accordance with the 'development plan' unless material considerations indicate otherwise. The NPPF doesn't change the statutory status of the development plan as the starting point for decision

taking. Where proposed development accords with an up to date Local Plan, it should be approved and where it does not, it should be refused – unless other material considerations indicate otherwise. An important material consideration is the NPPF's 'presumption in favour of sustainable development'. The NPPF defines 'sustainable development' as having three dimensions:

- an economic role;
- a social role; and
- an environmental role.

- 2.3 These dimensions have to be considered together and not in isolation. The NPPF requires Local Planning Authorities to positively seek opportunities to meet the development needs of their area whilst allowing sufficient flexibility to adapt to change. Where relevant policies in Local Plans are either absent or out of date, there is an expectation for Councils to approve planning applications, without delay, unless the adverse impacts would significantly and demonstrably outweigh the benefits.
- 2.4 Paragraph 38 of the NPPF states "Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible."

National Planning Practice Guidance (PPG)

- 2.5 The PPG provides additional planning guidance from Central Government on a range of issues, including, but not limited to: Air Quality; Climate Change; Design, Flood risk and coastal change; Light Pollution; Natural Environment; Noise; and Travel Plans, Transport Assessments and Statements.

Status of the Local Plan

- 2.6 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.
- 2.7 Section 1 of the emerging 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 raised 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.
- 2.8 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.

- 2.9 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.
- 2.10 At the time of writing this report, 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 emerging 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.
- 2.11 The following Local Planning Policies are relevant to this planning application:

Tendring District Local Plan (2007) as 'saved' through a direction from the Secretary of State.

Relevant policies include:

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

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

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

QL6: Urban Regeneration Areas: Defines West Clacton as an urban regeneration area and the focus for investment in social, economic and transportation infrastructure along with initiatives to improve vitality, environmental quality, social inclusion, economic prospects, education, health, community safety and accessibility.

QL8: Mixed-Uses: Encourages a mix of complementary and compatible uses within town, district and local centres and urban regeneration areas.

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

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

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

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

ER3: Protection of Employment Land: States that the Council will ensure that land in employment use will normally be retained for that purpose.

ER7: Business, Industrial and Warehouse Proposals: The Council will need to be satisfied that the scale and nature of new business proposal are appropriate to the locality; have suitable vehicular access and car parking, utility connections and storage facilities.

HG1: Housing Provision: Sets out the strategy for delivering new homes to meet the need up to 2011.

HG3: Residential Development: Within Defined Settlements: Supports appropriate residential developments within the settlement development boundaries of the district's towns and villages.

HG3a: Mixed Communities: Promotes a mix of housing types, sizes and tenures to meet the needs of all sectors of housing demand.

HG4: Affordable Housing in New Developments: Seeks up to 40% of dwellings on large housing sites to be secured as affordable housing for people who are unable to afford to buy or rent market housing.

HG6: Dwellings Size and Type: Requires a mix of housing types, sizes and tenures on developments of 10 or more dwellings.

HG7: Residential Densities: Requires residential developments to achieve an appropriate density. This policy refers to minimum densities from government guidance that has long since been superseded by the NPPF.

HG9: Private Amenity Space: Requires a minimum level of private amenity space (garden space) for new homes depending on how many bedrooms they have.

HG13: Backland Residential Development: Residential development of "backland" sites will be permitted where all the criteria listed within the policy are met.

COM1: Access for All: Requires publicly accessible buildings to provide safe and convenient access for visitors, customers and employees of all abilities.

COM2: Community Safety: Requires developments to contribute toward a safe and secure environment and minimise the opportunities for crime and anti-social behaviour.

COM4: New Community Facilities (including Built Sports and Recreation Facilities): Supports the creation of new community facilities where they are acceptable in terms of accessibility to local people, impact on local character, parking and traffic and other planning considerations.

COM6: Provision of Recreational Open Space for New Residential Developments: Requires residential developments on sites of 1.5 hectares or more to provide 10% of the site area as Public Open Space.

COM19: Contaminated Land: Planning permission will only be granted on sites affected by contaminated land if following site investigation appropriate remedial measures are undertaken to remediate the site.

COM20: Air Pollution/Air Quality: Development will need to consider existing and proposed air quality and where required provide mitigation against the adverse impacts of development.

COM21: Light Pollution: Requires external lighting for new development to avoid unacceptable impacts on the landscape, wildlife or highway and pedestrian safety.

COM22: Noise Pollution: Requires noise-sensitive developments including houses and schools to be either located away from, or protected from (through mitigation measures) existing sources of noise.

COM23: General Pollution: States that permission will be refused for developments that have a significant adverse effect through the release of pollutants.

COM24: Health Care Provision: Supports developments for new and improved health care facilities that are in close proximity to the communities they intend to serve, acceptable in highways terms, accessible by a variety of transport modes and provide sufficient car parking.

COM26: Contributions to Education Provision: Requires residential developments of 12 or more dwellings to make a financial contribution, if necessary, towards the provision of additional school places.

COM29: Utilities: Seeks to ensure that new development on large sites is or can be supported by the necessary infrastructure.

COM31a: Sewerage and Sewage Disposal: Seeks to ensure that new development is able to deal with waste water and effluent.

EN1: Landscape Character: Requires new developments to conserve key features of the landscape that contribute toward local distinctiveness.

EN2: Local Green Gaps: Seeks to keep areas designated as Local Green Gaps open and essentially free of development in order to prevent the coalescence of settlements and to protect their rural setting.

EN6: Biodiversity: Requires existing biodiversity and geodiversity to be protected and enhanced with compensation measures put in place where development will cause harm.

EN6a: Protected Species: Ensures protected species, including badgers are not adversely impacted by new development.

EN6b: Habitat Creation: Encourages the creation of new wildlife habitats in new developments, subject to suitable management arrangements and public access.

EN11a - Protection of International Sites: European Sites and Ramsar Sites: Sets out the circumstances under which development which is likely to have a significant effect on a European Site, or a Ramsar site will be allowed (either individually or in combination with other plans or projects).

EN11b – Protection of National Sites: Sites of Special Scientific Interest, National Nature Reserves, Nature Conservation Review sites, Geological Conservation Review sites: Development likely to have an adverse effect on SSSI sites will not be permitted unless the reasons for the development clearly outweigh the reasons for the designation, or where planning conditions or obligations can be used to ensure the protection and enhancement of the site.

EN12: Design and Access Statements: Requires Design and Access Statements to be submitted with most planning applications.

EN13: Sustainable Drainage Systems: Requires developments to incorporate sustainable drainage systems to manage surface water run-off.

EN23: Development within the Proximity of a Listed Building: Guards against developments that would have an adverse impact on the setting of Listed Buildings

EN29: Archaeology: Requires the archaeological value of a location to be assessed, recorded and, if necessary, safeguarded when considering development proposals.

TR1a: Development Affecting Highways: Requires developments affecting highways to aim to reduce and prevent hazards and inconvenience to traffic.

TR1: Transport Assessment: Requires major developments to be supported by a 'Transport Assessment' and states that developments that would have materially adverse impacts on the transport system will be refused unless adequate mitigation measures are put in place.

TR2: Travel Plans: Requires 'Travel Plans' for developments likely to have significant transport implications.

TR3a: Provision for Walking: Seeks to maximise opportunities to link development with existing footpaths and rights of way and provide convenient, safe attractive and direct routes for walking.

TR4: Safeguarding and Improving Public Rights of Way: Encourages opportunities to expand the public right of way network. Requires developments affecting an existing public right of way to accommodate the definitive alignment of the path or, where necessary, seek a formal diversion.

TR5: Provision for Cycling: Requires all major developments to provide appropriate facilities for cyclists.

TR6: Provision for Public Transport Use: Requires developments to make provision for bus and/or rail where transport assessment identifies a need.

TR7: Vehicle Parking at New Development: Refers to the adopted Essex County Council parking standards which will be applied to all non-residential development.

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

Relevant policies include:

SP1: Presumption in Favour of Sustainable Development: Follows the Planning Inspectorate's standard wording to ensure compliance with the NPPF.

SP2: Spatial Strategy for North Essex: Existing settlements will be the principal focus for additional growth across North Essex within the Local Plan period. Development will be accommodated within or adjoining settlements according to their scale, sustainability and existing role both within each individual district and, where relevant, across the wider strategic area. Future growth will be planned to ensure settlements maintain their distinctive character and role. Re-use of previously-developed land within settlements is an important objective, although this will be assessed within the broader context of sustainable development principles, particularly to ensure that development locations are accessible by a choice of means of travel.

SP3: Meeting Housing Needs: The local planning authorities will identify sufficient deliverable sites or broad locations for their respective plan period, against the requirement in the table below.

SP5: Infrastructure and Connectivity: Requires the provision of infrastructure, services and facilities that are identified to serve the needs arising from new development.

SP6: Place Shaping Principles: Requires the highest standards of built and urban design and sets out the key principles that will apply to all new developments.

SPL1: Managing Growth: Identifies Clacton as a 'Strategic Urban Settlement' within a hierarchy of settlements designed to direct future growth to the most sustainable locations. Strategic Urban Settlements are expected to accommodate the largest proportion of the district's housing stock over the plan period to 2033.

SPL2: Settlement Development Boundaries: Seeks to direct new development to sites within settlement development boundaries. The boundary for Clacton extends to include the application site.

SPL3: Sustainable Design: Sets out the criteria against which the design of new development will be judged.

HP1: Improving Health and Wellbeing: Requires a Health Impact Assessment on all development sites that deliver 50 or more dwellings and financial contributions towards new or enhanced health facilities where new housing development would result in a shortfall or worsening of health provision.

HP2: Community Facilities: Requires development to support and enhance community facilities where appropriate, including by providing new facilities on site or contributing towards enhanced community facilities elsewhere to meet needs arising from the proposed development.

HP3: Green Infrastructure: Will be used as a way of adapting to, and mitigating the effects of, climate change, through the management and enhancement of existing spaces and habitats and the creation of new spaces and habitats, helping to provide shade during higher temperatures, flood mitigation and benefits to biodiversity, along with increased access.

HP5: Open Space, Sports and Recreation Facilities: Requires new developments to contribute to the district's provision of playing pitches and outdoor sports facilities and also requires larger residential developments to provide land as open space with financial contributions towards off-site provision required from smaller sites.

LP1: Housing Supply: Sets out the sources of new housing that will contribute towards meeting objectively assessed housing needs in the period up to 2033. The application site is identified in the Plan as a site suitable for residential redevelopment and is therefore anticipated to contribute towards meeting the District's new housing need.

LP2: Housing Choice: Promotes a range of house size, type and tenure on large housing developments to reflect the projected needs of the housing market.

LP3: Housing Density: Policy requires the density of new housing development to reflect accessibility to local services, minimum floor space requirements, the need for a mix of housing, the character of surrounding development and on-site infrastructure requirements.

LP4: Housing Layout: Policy seeks to ensure large housing developments achieve a layout that, amongst other requirements, promotes health and wellbeing; minimises opportunities for crime and anti-social behaviour; ensures safe movement for large vehicles including emergency services and waste collection; and ensures sufficient off-street parking.

LP5: Affordable and Council Housing: Requires up to 30% of new homes on large development sites to be made available to the Council or a nominated partner, at a discounted price, for use as Affordable Housing or Council Housing.

LP8: Backland Residential Development: Residential development of "backland" sites can be acceptable subject to the following criteria being met: no existing dwelling shall be left with a private amenity space below the Council's standards as a result of the development; there must be suitable access arrangements; the site must be appropriate for development and not prejudice a more appropriate comprehensive development solution; the proposals must not result in a hard urban edge or be out of character with the area; and must not be out of character with the area or set a harmful precedent.

PPL1: Development and Flood Risk: Seeks to direct development away from land at a high risk of flooding and requires a Flood Risk Assessment for developments in Flood Zone 1 on sites of 1 hectare or more.

PPL3: The Rural Landscape: Requires developments to conserve, where possible, key features that contribute towards the local distinctiveness of the landscape and include suitable measures for landscape conservation and enhancement.

PPL4: Biodiversity and Geodiversity: Requires existing biodiversity and geodiversity to be protected and enhanced with compensation measures put in place where development will cause harm. PPL5: Water Conservation, Drainage and Sewerage: Requires developments to incorporate sustainable drainage systems to manage surface water run-off and ensure that new development is able to deal with waste water and effluent.

PPL7: Archaeology: Where developments might affect archaeological remains, this policy requires proper surveys, investigation and recording to be undertaken.

PPL9: Listed Buildings: States that proposals for new development affecting a listed building or its setting will only be permitted where they will protect its special architectural or historic interest, its character, appearance and fabric.

PP12: Improving Education and Skills: Requires the impacts of development on education provision to be addressed at a developer's costs, either on site and/or through financial contributions. The policy also requires applicants to enter into an Employment and Skills Charter or Local Labour Agreement to ensure local contractors are employed to implement the development and that any temporary or permanent employment vacancies (including apprenticeships) are advertised through agreed channels.

CP1: Sustainable Transport and Accessibility: Requires the transport implications of development to be considered and appropriately addressed.

CP2: Improving the Transport Network: States that proposals which would have any adverse transport impacts will not be granted planning permission unless these are able to be resolved and the development made acceptable by specific mitigation measures which are guaranteed to be implemented.

CP3: Improving the Telecommunications Network: Requires new development to be served by a superfast broadband (fibre optic) connection installed on an open access basis and that can be directly accessed from the nearest British Telecom exchange and threaded through resistant tubing to enable easy access for future repair, replacement or upgrading.

Supplementary Guidance

Essex Design Guide for Mixed Use and Residential Areas (2018)

Essex County Council Car Parking Standards – Design and Good Practice (2009)

3. Relevant Planning History

91/00081/FUL	The siting of a mobile home for use by on site staff for security and supervision of the environmental equipment at the nursery on a 24-hour basis.	Approved	08.03.1991
91/00132/FUL	Replacement of fire damaged	Approved	08.03.1991

	glasshouse.		
92/01307/FUL	(Earls Hall Nursery Ltd., Earls Hall Drive, St Johns) Siting of mobile home for use by on-site staff for security and supervision of the environmental equipment at nursery on 24 hour basis (renewal of TEN/91/0081)	Approved	23.12.1992
94/00448/FUL	(Earls Hall Drive, St Johns Road, Clacton on Sea) Continued use of building as office accommodation (Renewal of permission TEN/574/89)	Approved	10.06.1994
94/01303/FUL	(Earls Hall Nursery Ltd., Earls Hall Drive, St John's) Siting of mobile home for use by on-site staff for security and supervision of the environmental equipment at nursery on 24 hour basis (renewal of TEN/92/1307)	Approved	25.11.1994
96/00220/FUL	(St Johns Nursery, Earls Hall Drive, Clacton on Sea) Siting of a mobile home for use by on-site staff for the security and supervision of the nursery and environmental equipment, on a 24 hour basis	Approved	29.03.1996
99/01444/FUL	1) Continued use of building as office accommodation (Renewal of TEN/94/0448) 2) Continued use of mobile home for use by on site staff (Renewal of TEN/96/0220)	Approved	22.11.1999
04/01686/FUL	Demolition of existing glass house and erection of new glass house for horticultural purposes.	Approved	21.10.2004
12/00771/AGRIC	Portal framed packing shed with profiled cladding walls/roof.	Determination	07.08.2012
16/00612/FUL	Proposed storage barn.	Approved	07.07.2016

16/00304/CHGUS3, the subject of enforcement appeal refs APP/P1560/C/18/3214046 & APP/P1560/C/18/3214047	Enforcement notice served to "Cease the mixed use of the site, comprising horticulture, retail, leisure uses and a cafe use and remove from the land all items, fixtures and fittings that facilitate the mixed use".	Dismissed	05.12.2019
17/01197/FUL	Improvements to Earls Hall Drive.	Refused	13.09.2017
17/01198/ADV	1 No. directional sign.	Approved	13.09.2017
17/01770/FUL	Extension to car park.	Approved	08.12.2017
17/01775/FUL	Temporary use of part of nursery as "Christmas Wonderland" - seasonal sales event. Operating from 16th October 2017 to 6th January 2018 - to include a Santa's Grotto and miniature train.	Refused	21.12.2017
17/01935/FUL, the subject of appeal ref. APP/P1560/W/18/3202282	Improvements to Earls Hall Drive.	Allowed	05.12.2019

4. Consultations

Anglian Water Services Ltd

No objection subject to conditions.

Wastewater Services

The foul drainage from this development is in the catchment of St Osyth Water Recycling Centre that will have available capacity for these flows. 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. They will need to work with the applicant to ensure any infrastructure improvements are delivered in line with the development. They therefore request a condition requiring a phasing plan and/or on-site drainage strategy.

Surface Water Disposal

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

From the details submitted to support the planning application the proposed method of surface water management does not relate to Anglian Water operated assets and the developer is proposing SuDs at this time as per FRA 5.4.1. The Local Planning Authority should seek the advice of the Lead Local Flood Authority. Should the proposed method of surface water management change to include interaction with Anglian Water operated assets, they would wish to be re-consulted to ensure that an effective surface water drainage strategy is prepared and implemented.

Suggested planning conditions requiring the submission and approval of a phasing scheme for the development and a scheme for on-site foul water drainage works, including connection point and discharge rate, and that the development will be built out in accordance with the approved details.

ECC Highways

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

Construction Management Plan;

Highway improvements:

- Where possible the provision/upgrade of a 3-metre-wide shared footway/ cycleway and associated tactile paving on the north side of St Johns Road from its junction with Earls Hall Drive eastwards to the main vehicular access to the site and beyond to tie in with the proposed footway/ cycleway for the Rouses Farm development south of St Johns Road (17/01229/OUT);
- Prior to the occupation of the first residential dwelling, the upgrade of the three closest bus stops on St Johns Road nearest to the St Johns Road site access/ shared cycleway/ footway onto St Johns Road:
 - North Side: outside house nos. 750/ 752; Stop Name: Earls Hall.
 - South Side: (within lay-by) opposite house nos. 734/736; Stop Name: Earls Hall.
 - North Side; outside house no. 692; Stop Name: Rouse Lane.
- Details to be agreed with the Local Planning Authority to encourage use of the public transport network the provision of improvements to include timetable information, bus stop signage and raised kerbs and hardstanding. Including widening of the footway on the north west side; cantilever shelters; Kassel kerbs, bus stop flags/ timetable frames;
- Prior to the occupation of 100 units the provision of a £104,000.00 pro-rata contribution (index linked) for procurement towards the local bus services operating on St Johns Road to serve the development;

Internal Layout

No occupation of the development shall take place until the following have been provided or completed:

The highway works as shown in principle on revised site plan drawing no. 4424/CA/PL1000 Rev. K but to include the following:

- A forward visibility splay of 25 metres needs to be provided on each corner of the development these will need to be hardened so they can be adopted.
- The raised table to be extended to include the drive to plot 173.
- The 2-metre-wide footway to continue round on the north side of the bend to tie into the footway at the junction outside plot 94 and from the north boundary to plot 97.
- Speed-restraint measures should be located at maximum intervals of 60m, starting within 50m of the entry junction or zone.
- The proposed build-out on the access road to the site would need to switch to the opposite lane to remove the potential traffic accessing the site backing up onto St Johns Road;

Residential Travel Information Packs

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

The public's rights and ease of passage over public footpath / bridleway / byway no. 167_1 (Great Clacton) shall be maintained free and unobstructed at all times.

The Cycle / Powered Two-wheeler parking shall be provided in accordance with the EPOA Parking Standards. The approved facility shall be secure, convenient, covered and provided prior to occupation and retained at all times.

ECC Place Services Ecology

No objection, subject to conditions.

Having reviewed the Ecology Surveys submitted with the application it is considered that there is sufficient ecological survey & assessment to determine the likely presence of, and impacts to, Protected & Priority species and internationally designated Habitats sites.

Due to the presence of bats within the surrounding area a wildlife sensitive lighting scheme, as specified in the Bat Survey report is secured by a condition of any consent to avoid impacts on bats, both roosting and foraging/ commuting across the site.

No further survey work is necessary for Gt Crested Newt as an offence is highly unlikely but recommend generic precautionary measures are used during demolition and construction phases of development.

The site is noted to be within the Zone of Influences for Hamford Water SAC, SPA and Ramsar site, the Essex Estuaries SAC and Colne Estuary (Mid Essex Coast Phase 2) SPA and Ramsar site and in accordance with the emerging Essex Coast Recreational disturbance Avoidance & Mitigation Scheme (RAMS) a financial contribution (£122.30 per dwelling) should be secured towards visitor management measures at these protected sites.

ECC Place Services Historic Environment (Archaeology)

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

A number of cropmark complexes in the surrounding area attest to the archaeological potential of the area of the proposed development. These include settlement enclosures, trackways and linear features of probable agricultural origin. Previous investigation within the surrounding area have shown the field systems to be of Roman origin. The recorded cropmarks are immediately adjacent to the site and can be expected to continue into the development area. Any surviving below ground heritage assets would be damaged or destroyed by the proposed development. Much of the site is covered by glasshouses which would need to be demolished prior to an archaeological investigation to determine the potential for survival of archaeological remains.

ECC Place Services Historic Environment (Historic Buildings and Conservation)

No Objection to the application. However, two designated heritage assets are located within the environs of the site:

- Grade II Listed, Earls Hall Lodge (List Entry ID:1309075); and - Grade II Listed, Duchess Farmhouse (List Entry ID: 1111522).

It is recommended that a condition is attached to any granted permission pertaining to planting to ensure the development is adequately screened on the north side in views from Earls Hall Lodge.

ECC Schools Service

Early Years and Childcare

The proposed development is located within the St Osyth and Point Clear Ward and will create the need for an additional 14.76 places. According to Essex County Council's childcare sufficiency data, published in Summer 2018, there are 4 providers of early years and childcare in the area. Overall a total of 0 unfilled places

were recorded.

Essex County Council has a statutory duty under the Childcare Act 2006 to ensure that there is sufficient and accessible high quality early years and childcare provision to meet local demand. The data shows that there is insufficient provision within the ward to meet the demand created from this development.

Additional provisions will be required and an additional 14.76 places would be provided at an estimated total cost of £257,149 at April 2019 prices. This equates to £17,422 per place and so, based on demand generated by this proposal set out above, a developer contribution of £257,149 Index linked to April 2019, is sought to mitigate its impact on local EY&C provision.

Primary Education

The proposed development is located in the priority admissions area of St Osyth CE Primary Academy. The demand generated by this development would require an additional 49.2 places and would be provided at an estimated cost of £751,825 at April 2019 prices. This equates to £15,281 per place and so, based on demand generated by this proposal set out above, a developer contribution of £751,825 Index linked to April 2019 is sought to mitigate its impact on local primary education.

Having reviewed the proximity of the site to the nearest primary school, Essex County Council will also be seeking a primary school transport contribution as there are no current safe walking routes from the proposed development to the nearest primary school. The cost of providing this is £745,970.40 index linked to April 2019.

Secondary Education

With regard to secondary education needs, the proposed development is located within the priority admissions area of Clacton Coastal Academy. The demand generated by this proposal would require an additional 32.8 places and would be provided at an estimated cost of £761,419 at April 2019 prices. This equates to £23,214 per place and so, based on demand generated by this proposal set out above, a developer contribution of £761,419 Index linked to April 2019 is sought to mitigate its impact on local secondary education.

Subject to confirmation, having reviewed the proximity of the site to the nearest secondary schools, Essex County Council will not be seeking a secondary school transport contribution.

Having reviewed the Flood Risk Assessment and the associated documents which accompanied the planning application there was initially a holding objection from the Lead Local Flood Authority, as the proposals to achieve 20% betterment on existing brownfield run-off rates were unacceptable.

The applicant revised the Surface Water Drainage Strategy to reflect the LLFA's requirement that discharge rates should be limited as close as reasonably practicable to the 1 in 1-year greenfield run-off rate for the site for all events up to and including all 1 in 100-year events with allowance made for climate change. Having reviewed the amended Strategy, the SuDs team withdrew their holding objection.

Essex Police

No objection.

The dwellings seem to be positioned well for good natural surveillance while protecting the vulnerable rear of the properties by having the gardens backing directly onto other gardens.

There is however insufficient detail to allow an informed decision to be made whether the development will accord with the NPPF by creating a safe environment, so that crime and disorder, and the fear of crime, do not undermine the quality of life. Such detailed considerations include uniform lighting without dark areas, effective physical security on each property, garden gates sited as near as possible to the front of the property.

They recommend that Secure By Design accreditation is sought for both the domestic and commercial units.

Natural England

It has been identified that this development site falls within the 'Zone of Influence' (ZoI) of one or more of the European designated sites scoped into the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS).

They raise no objection subject to appropriate mitigation being secured. They understand that TDC have screened this proposed development and consider that it falls within scope of the Essex Coast RAMS, and that TDC have undertaken a Habitats Regulations Assessment (HRA) (Stage 2: Appropriate Assessment) in order to secure any necessary recreational disturbance mitigation, and note that TDC have recorded this decision within your planning documentation.

They consider that without appropriate mitigation the application would have an adverse effect on the integrity of European designated sites within scope of the Essex Coast RAMS.

They are satisfied that the mitigation described in TDC's Appropriate Assessment is in line with their strategic-level advice. The mitigation should rule out an 'adverse effect on the integrity' (AEOI) of the European designated sites that are included within the Essex Coast RAMS from increased recreational disturbance.

They advise that an appropriate planning condition or obligation is attached to any planning permission to secure the on-site mitigation measures, including links to footpaths in the surrounding area. The financial contribution should be secured through an appropriate and legally binding agreement, in order to ensure no adverse effect on integrity.

NHS North East Essex CCG

No objection subject to a financial contribution to mitigate the impact of the GP practices.

The proposed development is likely to have an impact on the services of two branch surgeries including their main GP practices operating within the vicinity of the application site. These GP practices and branch surgeries do not have capacity for the additional growth

- Nayland Drive Branch Surgery (including its Main Practice Green Elms Health Centre part of ACE Community Practices & includes Epping Close Practice & Frinton Road Medical Centre)
- Clacton Road Branch Surgery (including its Main Practice Old Road Surgery)

The development would give rise to a need for improvements to capacity, in line with emerging Estates Strategy, by way of refurbishment, reconfiguration, extension, or potential relocation at the Nayland Drive Branch Surgery. A developer contribution of £72,864 was originally sought, based on a development of 210 dwellings, to be paid before the development commences. The CCG have advised that the contribution for a development of 195 dwellings would be £67,666.

TDC Building Control and Access

The Architect to ensure that access for fire fighting appliances is provided in accordance with Section 5 from Approved Document B.

TDC Environmental Protection

There is some indication of contamination from our potential contaminated land database register less than 250m away. Also due to previous uses of the site there might be some contamination (redundant fuel tanks etc). 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 a standard contaminated land condition should 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.

TDC Housing

Consultation response following submission of revised plans/reduction in number of dwellings outstanding at the time of writing the report. Their updated views will be reported to Members at the Planning Committee meeting.

TDC Public Realm, Open Space & Play

There is currently a deficit of 41.08 hectares of play in the Clacton/Holland area and any additional development in Clacton will increase demand on already stretched facilities.

Recommendation.

It is noted that due to the size of the development site, on site provision of open space and play facilities to a LEAP standard have been included within the design.

TDC Tree & Landscape Officer

In order to show the potential impact of the development proposal on the trees on the application site and taking into account previous consultee comments the applicant has submitted an amended Tree Survey and Report. The report contains an Arboricultural Impact Assessment (AIA) and Tree Protection Plan (TPP) and has been completed in accordance with BS5837: 2012 Trees in relation to design, demolition and construction; Recommendations.

The tree report accurately describes the health and condition of the trees and shows the extent to which they are a constraint on the development potential of the land. It also shows how retained trees will be physically protected for the duration of the construction phase of any planning permission that may be granted.

The tree report shows the retention of the best trees with the greatest amenity value close to the western boundary adjacent to the existing entrance to the garden centre and the Oaks on the eastern and eastern part of the northern boundary.

The most significant amendment to the tree report is that the Poplars planted as a windbreak on the northern boundary are to be removed. The condition of the Poplars is such that they are not viable in the medium term and the amenity of the locality and appearance of the development would be best served by their removal and replacement with alternative species.

Replacement planting could be secured by condition. In this respect details of the soft landscaping, including tree planting, as indicated on the

Amended Block Plan, should be secured under condition attached to any planning permission that may be granted or provided prior to the determination of the application.

TDC Waste Management

All access roads to be constructed to withstand weight and be of sufficient width to accept refuse collection vehicles. Bin stores allocated with apartments to be constructed with lockable gates and roof and to be a suitable size to provide wheeled bins for residual waste on a fortnightly basis and wheeled bins for alternate weekly collection of paper/cardboard and plastic bottles, tins and cans collection.

5. **Representations**

- 5.1 Following a detailed review of the amended plans, Councillors highlighted numerous concerns and observations in respect of the following:

Location and layout: The proposed development would constitute an overdevelopment of a site, the layout of which, together with the number and type of dwellings, would have an overwhelming effect on the population density. The plans show a stark difference in the private amenity space between the existing properties along St John's Roads and those which have been shoehorned into the site, in addition to a marked difference in the appearance of the new dwellings, which are out of character with those along St John's Road.

Whilst it is acknowledged that consideration has been given to both residential and visitors parking, there are concerns as to the prevention of on road parking and the effective management of allocated visitors parking bays, so as to ensure that they are not used for additional residential parking. They also state that it is also worthy of note that there is an apparent lack of any visitors parking in the north eastern area of the development, as outlined in drawing '4424 pl1002'.

The Parish Council would also draw attention to the lack of future infrastructure to ensure the sustainability of the development, such as charging points for electric vehicles.

They state that it is noted that a number of dwellings in the south eastern area of the development, as outlined in drawing '4424 pl 1004 j' will overlook the commercial units, the need for which the Parish Council find incredibly surprising, given the potential impact from large delivery vehicles needing access to the site of the commercial units for loading and unloading, on the residents whose properties will overlook the units.

Whilst it is noted that the development would include a 'public open space', the Parish Council has serious concerns as to the location of the attenuation pond, which is in close proximity to the location of what would seem to be a children's play area. Additionally, concerns were raised as to the need for and subsequent maintenance of the pond. Given the inclusion of an attenuation pond, the Parish Council would also question the surfacing to be used on the driveways and parking areas, which it is suggested should be porous in both design and material.

The Parish Council would also maintain that the proposed development is 'unsympathetic' to the rural area, in which the District Council has already proven a housing stock of 5.6 years.

Vehicular Access: They raise concerns that there is proposed to be a single point of access to and egress from the site, from and onto the B1027, via a basic 'T-junction'. The Parish Council is extremely concerned as to the increase in and impact of traffic using St John's Road, given the proximity of the proposed dwellings to a development of up to 950 properties

(17/01229/OUT refers), the entrance for which will be approximately 110 metres east of the proposed access to the planned development.

Members of the Parish Council are concerned that the vehicular movement generated by the traffic from the two developments, numbering approximately 1,145 dwellings (18/01779/FUL & 17/01229/OUT refer), could result in some 2,000+ additional vehicles using the B1027 on a daily basis. This would have a significant impact of the volume of traffic passing St Osyth and will undoubtedly result in traffic delays, for vehicles exiting the village via both entrances/ exits, in addition to a build-up of traffic in area of the junctions to both developments, especially as despite having a filter lane for eastbound traffic, the access to the development as part of 17/01229/OUT will still comprise of a basic 'T-junction'.

The proximity of the two developments, together with the omission of a dedicated filter lane for westbound traffic needing to access the proposed development of 195 dwellings is a cause for serious concern; as is access to the development and guaranteed passage along the B1027 for emergency vehicles.

Infrastructure: The Parish Council would again raise serious concerns as to the continued impact of large-scale developments on local infrastructure, especially medical and educational services. In the case of the latter, it should be noted that all dwellings proposed as part of the application will be within the catchment areas for St Osyth Church of England Primary School.

Concerns have been expressed to the Council by residents of St John's Road as to the provision of adequate sewage disposal, given that the existing system regularly 'backs up'.

For all the reasons listed above, St Osyth Parish Council objects in the strongest possible terms to this application. The views of the Council were endorsed by members of the public in attendance at the extraordinary meeting.

- 5.2 15 no. letters of objection have been received from local residents, along with a petition comprising 40 signatories. They raise the following concerns:

Principle of Development

- There has been a lot of new development already and more is planned. There is no need for more housing;
- The Council can currently demonstrate a 5-year housing land supply so there is currently no need for this site to be considered for housing development;
- The site should not be considered ahead of the examination of Part Two of the new Local Plan;
- The cumulative impacts of this proposed development along with the planning permission granted for 950 dwellings on land west of Jaywick Lane should mean the application should be refused; and
- The location of the site and scale of development means that this cannot be considered sustainable development – it is remote from St Osyth and has no continuous footway connection and is on the edge of Clacton.

Highways

- The highway network cannot take all the additional traffic - St John's Road is already a very busy road, which has queuing traffic, including at the junction with Jaywick Lane. Traffic volumes means it is difficult for existing residents to pull out onto the road and this is before the estates, which already have planning permission, at Rouses Farm, Leisure Glades and St. Osyth Priory are built. The road is considerably busier during the summer months due to the number of holiday parks at St Osyth and Point Clear;

- ECC Highways are seeking very significant changes to the St Johns Road junctions with Jaywick Lane, Cloes Lane and London Road in an effort to alleviate the highways impact of the development of 950 dwellings off St Johns Road, and these improvements were necessary even before this development was considered;
- Before any more housing estates are given planning permission to the West of Jaywick Lane there must be a new link road from there to the A133;
- Traffic surveys undertaken by the applicant do not reflect recently consented houses in the town;
- Vehicular access - a single access road serving the development is not sufficient; the access is opposite an access for a farm and residential properties and is close to one of the access points for the 950 home development West of Jaywick Lane; there are no details of the new junction on St. Johns Rd – will it be a roundabout, traffic lights or a T-junction?
- Insufficient parking – 1 space per one bed flat and two space for a five-bed dwelling will not be adequate. This could lead to the over-spill spreading to neighbouring streets;
- St Johns Road has already had two three car accidents near the proposed access;
- The traffic problems on St Johns Road caused by the Christmas event at the Nursery caused uproar and these problems would be replicated by this development; and
- The footway along St Johns Road towards St Osyth ends at Leisure Glade, with no footpath along a very busy road until the start of the St Osyth bypass.

Services / Facilities

- Residents will need to commute out of the area as there are not enough jobs for all these residents;
- Local schools are already full;
- It is very difficult to get appointments to see GPs and Colchester hospital has no spare capacity;
- Bus service along St Johns has previously been cut back so service is now limited;
- Access to Clacton railway station is limited; and
- The sewage system is not designed to cope with this number of new houses.

Design

- This area is a semi-rural unsuited for this scale of development;
- This is a large back land development and particularly unsuitable for blocks of flats which should be located on main roads;
- Four storey flats and three storey town houses backing onto bungalows is unacceptable. Other developments have been required to be in keeping with existing developments - as the properties along St Johns Road are predominantly bungalows this application should include bungalows along the adjoining boundary of existing developments;
- The gardens of the new properties will be a third of the size of residents existing gardens, exacerbating loss of privacy and sense that new development is over-bearing; and New dwellings are being proposed too close to existing properties. Dwellings close to the site boundaries should be single storey.

Other Matters

- The access road for this development will pass very close to existing properties on either side and this could also cause structural damage;
- The development will be close to wind turbines and the noise from these can be quite loud;
- Concern about noise, dust and mud during construction, particularly as existing residents will have development being built on both sides of St Johns Road with the 950 development already approved;
- Extra traffic on St Johns Road will result in deteriorating air quality and increased noise pollution;
- Property values of properties surrounding the site will suffer and loss of views from existing properties;

- Local people will not be able to afford these new homes and they will be occupied by people who cannot afford to live in London;
- The conifer trees on the boundary that it is assumed will be removed should be replaced along with new high fences; and
- Where will the displaced wildlife live?

5.3 One further representation has been submitted with the author being 'neutral' towards the development, but wishing that the Council consider the following issues:

- There is inadequate provision of health care and education in the local area and the services need more resources;
- The site boundaries should all be fenced to stop trespass onto neighbouring land, including Earls Hall Drive which is a private road;
- The proposed playground and sports area are much needed facilities and should be conditioned
- The maximum height of dwellings should be 2 storeys to be in keeping with surrounding properties.

6. **Assessment**

Site Context

- 6.1 The application site comprises 7.6 hectares of horticultural land which is located approximately 300m to the west of Clacton-on-Sea, within the Parish of St Osyth. It is to the north of St. Johns Road (B1027), with the majority of the site being to the rear of a ribbon of residential development that fronts onto the road (even no's 690 – 762).
- 6.2 Planning permission was granted in 1972 for the construction of glasshouses and ancillary structures, and the majority of the site is covered with pitched roof glasshouses; hardstandings, including car parking and service areas; water and fuel tanks; silos; and a variety of other buildings, including metal clad storage buildings and plant that has developed over the years to serve the nursery business. Currently the vehicular access to the site is off Earls Hall Drive, a private road which passes along the western boundary of the site.
- 6.3 It is proposed to provide a footpath/cycleway within the current curtilage of 762 St Johns Road adjacent to the existing lane. In addition, the application site also includes a chalet bungalow and its garden at 700 St Johns Road which it is proposed to demolish, in order to provide a new, replacement vehicular access to the site, in lieu of the Earls Hall Drive one.
- 6.4 To the northern and eastern site boundaries there are hedgerows with trees within them, which are of variable quality, beyond these are fields that are in agricultural use. To the north of the site, and within arable farmland, there is also the Earls Hall Wind Farm which contains five turbines. Along the southern boundary are the rear gardens of the dwellings that front St Johns Road, these all tend to be long with most being in excess of 40m deep. To the west of the site is Earls Hall Drive, with the site boundary comprising a mix of tall hedge and timber close boarded fencing where enclosed.
- 6.5 To the west of Earls Hall Drive, the ribbon of development fronting St Johns Road continues, but to the rear of these properties there is either existing development, such as the Leisure Glades Lodge Holiday Park, or land where the Council has previously approved development, including: the grant of Outline planning permission for 14 dwellings (820 St Johns Road, ref. 18/00379/OUT); Outline planning permission for 34 dwellings (Land Forming Part of Earls Hall Farm, Earls Hall Drive, ref. 17/00826/OUT); and a change of use of land for the stationing of up to 62 holiday units was granted in April 2019, to allow an extension to the adjoining Leisure Glades Caravan Park (Land north of 782 and 828 St Johns Road, ref. 18/00952/FUL). A pair

of semi-detached houses, 1 & 2 Earls Hall Drive also front the site's western boundary, approximately $\frac{3}{4}$ of the way up.

- 6.6 In addition to these developments, to the southern side of St Johns Road and to the east of Rouses Lane, the Council has granted outline planning permission for the development of up to 950 dwellings; a new Neighbourhood Centre comprising local healthcare facility, units for retail and food and drink and/or a community centre. The developer is also required to provide a 2.1ha site for a new primary school (ref. 17/01229/OUT).

Proposal

- 6.7 This application seeks full planning permission for demolition of the nursery glasshouses, buildings and structures and the dwellinghouse at 700 St Johns Road and the redevelopment of the site with a predominantly residential scheme.
- 6.8 The application was originally submitted in October 2018 and it was proposed that the site be redeveloped to provide 210no residential units (comprising 24no two bed houses, 88no three bed houses, 32no four bed houses, 22no five bed houses, 12no one bedroom apartments and 24no two bedroom apartments), and 8no live work units.
- 6.9 Following discussions between the applicant and Officers, revisions have twice been made to the application as originally submitted, and include amended drawings, as well as additional/revised documents. The principal revisions to the original submission comprised: A reduction in the number of dwellings from 210no to 196no; Revisions to the design of a large number of house types and to Apartment Block C; Highway modifications to meet ECC Highways' requirements on widths of roads and the number of speed bumps/tables; and the provision of a segregated footpath/cycleway, extended through the central Green from Earls Hall Drive.
- 6.10 On assessing the revised proposal in greater detail, including having regard to consultation responses and representations made, it became apparent to Officers that there were still a number of issues with regard to the application. Consequently, further information was sought from the applicant, which was submitted early December 2019.
- 6.11 In totality the application submission now comprises:
- Planning application form;
 - Site Location Plan;
 - Existing Survey plan;
 - Proposed Site plan;
 - Dwelling Type plan;
 - Materials schedule;
 - Private Amenity Space plan;
 - Car & Cycle Parking Provision plan;
 - Refuse Storage and Collection plan;
 - Proposed Highway Adoption extent plan;
 - Public Open Space plan;
 - Elevations & Floor Plans for each house type & live work unit; apartment block & garage;
 - Residential type schedule;
 - Residential schedule by plot;
 - Arboricultural Impact Assessment;
 - Design and Access Statement;
 - Extended Phase 1 Habitat Survey and Bat Risk Assessment;
 - Bat Survey;
 - Reptile Survey;
 - Flood Risk Assessment and surface water drainage strategy; and associated plans;

- Heritage Impact Assessment;
- Phase 1 Geo-Technical/Contamination Desk Study;
- Planning Statement, Heads of Terms & Affordable Housing Statement;
- Shadow Habitat Regulations Assessment; and
- Transport Assessment.

6.12 The revisions requested have resulted in some key changes and additional drawings and documents listed below:

- Refuse Storage Plan – This shows refuse and recycling storage bin locations for each plot and bin stores for the flats, including details of door dimensions demonstrating easy access to the stores for collection;
- Refuse Collection Plan - The Transport Statement previously submitted includes tracking plans that demonstrate that the entire site road system can accommodate refuse vehicles. The vast majority of homes would be able to deposit refuse bins for collection on the edge of the house plot. For a very limited number of dwellings that are served by short private drives, collection day bin storage locations are identified within easy reach of the highway, demonstrating that residents would not be required to carry/wheel bins more than 25 metres from their properties for collection, and refuse operatives would have an even shorter walk to collection points on bin day;
- Cycle Storage Plan – This demonstrates that each dwelling would have car parking and secure cycle storage for bicycles; and Flat blocks would have communal cycle stores, all in accordance with ECC's standards. For houses that have garages, internal measurements of 7m x 3m are achieved to satisfy this requirement;
- Site Ownership/Management Area Plan - This shows the areas to be offered for adoption (roads and footpaths), the remaining land would be conveyed to occupiers and the Public Open Space, play area and communal areas, such as flat parking courts and the parking court/service yard to the Live-Work Units would be maintained by a private management company;
- Garden Size Plan - There is a private amenity space plan showing the private amenity areas for each dwelling and confirming that all the garden areas comply with the minimum standards set out within the Development Plan/Essex Design Guide and explaining how the space is calculated for clarity;
- Parking Plan - There is a parking plan which shows the number and location of all parking spaces within the site. Some of the larger homes would exceed the Council's standards as they would allow for visitor parking on plot. Other homes would meet the Council's standards with visitor spaces located in accessible locations close to the homes. Overall the number of car parking spaces on the site would exceed the parking standards with an average of 2.1 spaces per dwelling and an additional 35 spaces for visitors (1 visitor space for each 4 homes (25%);
- Circular Dog Walking Plan - A dog walking plan showing links to the Public Rights of Way network and approximate walking distances within and around the site roads has been provided for consideration by the Council and in connection with the Habitat Regulations Assessment (HRA);
- Surface Water Drainage - ECC SUDS team raised no objection to the application, subject to standard conditions which demonstrate its acceptance of the strategy for draining the site, however additional plans showing the extent of possible standing water in flood events is now included to demonstrate the usability of the main area of Public Open Space. The section

plans produced show levels across the Open Space, including the dwellings adjacent to it and an explanation of the effects of rainfall events on it;

- Play Area/Public Open Space - At this stage the play space and recreational area is illustrative, for the purposes of demonstrating scale and distance. The precise content and design of the play area and recreational area within the open space is not fixed and the applicant expects that the Council would wish to have an input into its content and design. *[Officer Comment – this would be included as a Planning Obligation]*. The plans do however demonstrate the distances between housing and the play area, to demonstrate that it meets the Fields in Trust minimum buffer distances between homes and play areas, recommended play area sizes and specifications, including the use of dog-proof fences, safety surfacing and seating areas within a naturally landscaped space, which would also offer habitat and ecological improvements;

- Arboriculture Impact Assessment - The application now recognises the advice of the Council's Tree and Landscape Officer with regards to the removal of the Poplars on the northern boundary for safety reasons. Planning conditions securing the new planting can be imposed to ensure the boundary contains the range of species that would result in both an aesthetic improvement and ecological enhancement of the edge of settlement boundary. This would apply to new planting along all boundaries;

- Plans - Design & Layout:

- Site entrance - Brick walls are now proposed along both sides of the entrance road;

- Back to Back Distances - All plots have been reviewed and house positions revised to ensure the minimum back to back distances of 25 metres are achieved. To achieve this, houses have been revised in terms of position, some modest changes to some of the house types on the individual plots carried out and an overall reduction of one plot taking the total from 196 to 195;

- All homes continue to achieve the Council's standards in terms of area and depth;

- Increased parking for flats has been achieved by creating larger parking courts adjacent to the flat blocks. This has resulted in a reduction in open space within the centre of the site, although calculations still show that more than 10% of the site area would be open space, in accordance with the Council's standard for larger sites; and

- Parking bays – The scheme utilises the 'Essex' preferred bay sizes of 5.5m x 2.9m and all garage spaces also to meet the 7m x 3m internal dimension required so that they can be considered to be useable parking spaces.

6.13 In totality, therefore, the proposed development now comprises: Demolition of the dwelling at 700 St Johns Road and the demolition and clearance of the nursery site; creation of a new priority junction and an access road with 2no footways; the erection of 195 units (comprising 6 two bed houses, 87 three bed houses, 33 four bed houses, 25 five bed houses, 12 one bedroom apartments and 24 two bedroom apartments), and 8 live work units (mixed commercial units measuring 1064 square metres in total with flats above), with associated roads, open space, drainage, landscaping, and other infrastructure.

6.14 Pursuant to The Town and Country Planning (Environmental Impact Assessment) Regulations 2017, the project, the subject of this planning application falls within Schedule 2 as set out therein: 10. Infrastructure projects; (b) Urban development projects - (ii) the development includes more than 150 dwellings. Consequently, it falls to the local planning authority to consider whether it is likely to have significant effects on the environment.

6.15 Officers have carried out a Screening Opinion (SO), which can be found on the planning register, this concludes that significant effects on the environment are not likely and therefore an Environmental Impact Assessment is not required for this development.

6.16 The main planning considerations are:

- Principle of Development;
- Landscape & Visual Impact;
- Ecology and Nature Conservation;
- Heritage;
- Design and Layout;
- Living Conditions;
- Surface Water and Drainage;
- Ground Conditions and Contamination;
- Access, Highways and Transportation;
- Planning Obligations and Viability; and
- Planning Balance and Conclusion.

Principle of Development

6.17 In line with Section 38(6) of the Planning and Compulsory Purchase Act 2014, planning decisions must be taken in accordance with the 'development plan' unless material considerations indicate otherwise. The requirements of the National Planning Policy Framework (NPPF) are a material consideration in this regard. The 'development plan' for Tendring is the 2007 'adopted' Local Plan, despite some of its housing policies being out of date. Paragraph 213 of the NPPF allows local planning authorities to give due weight to adopted policies according to their degree of consistency with the policies in the NPPF.

6.18 As of 16 June 2017, the 'emerging' Local Plan for Tendring is the Tendring District Local Plan 2013-2033 and Beyond Publication Draft. Section 1 of the emerging 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 raised 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 being undertaken to address the Inspector's concerns and the North Essex Authorities are potentially working towards submitting this evidence to facilitate a resumption of the Inquiry.

6.19 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.

6.20 The application site is not allocated for development in the adopted Local Plan and it lies outside (albeit approximately 300 metres) of the settlement development boundary for Clacton. The site is not identified on the Inset Maps in the adopted Local Plan as being subject to any other planning policy designations.

6.21 In the Tendring District Local Plan 2013-2033 and Beyond Publication Draft however, the site is included within the proposed new settlement boundary for Clacton, which includes the frontage development along St Johns Road as far as Pump Hill. By virtue of the site being located within the proposed new development boundary the Council has indicated that it

believes in principle that the site is suitable for residential development. The application site is identified as 'white land' and has no specific policy designation or requirements.

- 6.22 Policy HG3 of the Adopted Tendring Local Plan 2007 and Policy SPL2 of the Emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft are considered relevant to the determination of the application as they state that there is a general presumption in favour of new development within defined development boundaries of towns and villages, subject to detailed consideration against other relevant Local Plan policies.
- 6.23 Policy SP1 of the emerging Local Plan sets out how the Council intend to manage growth, and the spatial strategy sets out that the District's Strategic Urban Settlements (Clacton-on-Sea, Harwich, Dovercourt and the Tendring Colchester Borders) will accommodate the largest portion of the District's increase in housing stock over the plan period. These settlements have the larger populations and a wide range of existing infrastructure and facilities, making them the most sustainable locations for growth. These settlements also provide better opportunities for encouraging more sustainable means of transport (public transport, walking and cycling) and for new jobs to be created through established town centres, employment areas and infrastructure.
- 6.24 The emerging Local Plan proposes substantial new development to the west of Clacton. In addition to the proposal to extend the settlement development boundary to the west, the plan identified two mixed use development sites:
- *Hartley Gardens* (Land north of Bockings Elm and west of A133, identified on map SAMU2 in the Draft Local Plan) is allocated for between 800-1,000 new homes; at least 7 hectares of land for employment; a new primary school and early years and childcare facility; and 1 hectare of Public Open Space; and
 - *Rouses Farm* (Land west of Jaywick Lane and south of St. John's Road, identified on map SAMU4 in the Draft Local Plan), is allocated for at least 850 new dwellings mix of residential development, community facilities and Public Open Space as follows: a new primary school with early years and childcare facility; a new neighbourhood centre; a site for a new healthcare facility; and a minimum of 5 hectares of Public Open Space. The Planning Committee passed a resolution, at the March 2019 meeting, to grant Outline Planning Permission, with all matters reserved except access for up to 950 dwellings in (17/01229/OUT).
- 6.25 This means that in addition to the existing local services that exist within the west of the town (the applicants TA states there is a nursery, local food shops, post office, community centre and healthcare centre within 15 minutes' walk of the site), the Rouses Farm development on the opposite side of St Johns Road will see the provision of additional community facilities, which should include the provision of a new primary school, with early years and childcare facility and a new neighbourhood centre.
- 6.26 The application site has been in use as a commercial nursery (horticultural use) for in excess of 40 years, and the Council's adopted and emerging Development Plan contain policies that seek to protect land that has been in employment uses (policies ER3 and PP6 respectively).
- 6.27 However, whilst Policy ER3 of the Tendring District Local Plan 2007 states that the Council will ensure that land in employment use, or allocated in the Plan for employment use will normally be retained for that purpose, there is no policy basis to protect the existing lawful use on this site. This is because Policy ER3 only seeks to protect 'employment land' which is defined by LP paragraph 3.5 as "*all types of employment use within Classes B1 [(b) and (c)], B2 and B8 of the Use Classes Order 1987 (as amended).*"

- 6.28 With regard to emerging Policy PP6, this states that “*The Council will seek to protect existing employment sites, as set out in the Council’s current Employment Land Review. These will be safeguarded for B1 (Business), B2 (General Industry) and B8 (Storage or Distribution) purposes and uses that are classified as sui generis if they are akin to employment type uses and also where appropriate A1 (Retail)*”. This site is not one of those set out in the Employment Land Review. The Aspinall Verdi document reviews 5no sites in Clacton as: Ford Road (Newman) Industrial Estate; Oakwood and Crusader Business Park; Gorse Lane Industrial Estate; Valleybridge Road Industrial Estate and Oxford Road Industrial Estate. Therefore, this development if permitted would not result in the loss of employment land as defined in the Council’s study.
- 6.29 However, as a result of several pre-application meetings and discussions with Officers, the applicant acknowledges the importance of presenting a scheme which also offers modern, purpose built employment space (circa 1000sq m) as part of a mixed use scheme. The applicant opines that if granted planning permission this purpose built business (live-work) accommodation would provide for up to 100 jobs (reference Employment Density Guide). The business units would provide a valuable resource in the town where the Employment Study reports good demand for such facilities, but which also reports a generally poor quality of accommodation currently available.
- 6.30 The inclusion of the site within the settlement development boundary of the emerging plan represents a significant material planning consideration, and demonstrates that it is the Council’s intention going forward to release this land for residential purposes. The emerging Local Plan has been the subject of extensive public consultation and no third party objections have been raised to its inclusion.
- 6.31 Some objectors to the planning application have raised concerns about the cumulative impacts of this proposed development with the planning permission granted for 950 dwellings at Rouses Farm, but the technical reports accompanying the application and the advice of consultees consider the cumulative impacts of the developments.
- 6.32 It is relevant to note that the Council’s planning policies – Policy HG13 of the adopted Local Plan and Policy LP8 of the emerging Local Plan, both seek to guard against the development of inappropriate ‘Backland’ residential development. ‘Backland’ developments are defined as residential development:
- a. which lies generally behind the line of existing frontage development;
 - b. has little or no frontage to a public highway; and
 - c. which would constitute piecemeal development in that it does not form part of a large area allocated for development.
- 6.33 Whilst the development would see residential development on land with little or no frontage to a public highway, as the emerging Local Plan proposes that the site will be included within the settlement development boundary, it effectively (by default) allocates this land for development. Furthermore, by the very nature of how settlements evolve, quite frequently new development finds itself situated behind existing housing and therefore in many cases a ‘backland’ scenario is inevitable. In addition, it is the intention of the applicant for the vast majority of the proposed road layout to be adopted by the Local Highway Authority.
- 6.34 Accordingly the proposals do not fall to be considered against Policy HG13 and LP8, although many of the above considerations still apply to the detailed consideration of this application – the effect of the proposals upon the living conditions of occupiers of existing neighbouring dwellings; ensuring that a safe and convenient means of vehicular and pedestrian access can be provided; and ensuring that the scheme is in keeping with the character of the area.

6.35 The site is in a relatively sustainable location and given the on-going pressure to increase housing supply and delivery within the district, Officers consider that no objection should be raised to the site coming forward for redevelopment, ahead of the examination of Part Two of the new Local Plan. Consequently, the principle of residential development on the site is considered acceptable.

Landscape & Visual Impact

6.36 NPPF para. 170 stipulates that the planning system should contribute to and enhance the natural and local environment by, amongst other things, protecting and enhancing valued landscapes and recognising the intrinsic character and beauty of the countryside.

6.37 The application site is located in a semi-rural area beyond the urban fringes of Clacton, however this is a brownfield site. Officers note that although the site is currently almost completely covered with buildings and hard-standing, it is not visually intrusive in the landscape. Although lying beyond the main urban area, there is a ribbon of development along St Johns Road that gives the area a partially residential character.

6.38 There are no trees or other significant vegetation in the main body of the site, but along the site's boundaries, there are some established hedgerows and trees which make some contribution towards screening the existing buildings in some views of the site. The trees are varied in species and quality, and include ornamental trees near the entrance on Earls Hall Drive; coniferous hedging and several mature Oaks that are prominent features in their setting, albeit peripheral location.

6.39 Officer's requested that a Tree Survey and Report be submitted to demonstrate that the layout of the proposed dwellings would ensure a good relationship with retained trees of value. The submitted report confirms that the retention of the trees with the greatest amenity value close to the western boundary, adjacent to the existing entrance to the garden centre. The tree report also demonstrates the retention and protection of the Oaks on the eastern and north eastern boundaries of the site.

6.40 Officers were also concerned that the Tree Report recommended the retention of the Poplars that were planted as a windbreak for the nursery along the northern boundary. Poplars are a fast-growing species and these are already circa 20m tall, they are known to have propensity for branch failure as they mature and are not a long-lived species. Officer's concluded that it would not be sensible to retain them adjacent to new residential properties, although it is understood that their removal would mean that they would cease to visually screen the site.

6.41 Ultimately, the residential redevelopment of the site would change the character of the site, but Officers consider that the proposed development would not have a significant adverse visual impact on the wider landscape and that retained trees and hedgerows on the site's boundaries can be enhanced by new native planting through a detailed landscaping scheme to help create a positive new urban edge to the town.

Ecology and Nature Conservation

Protected Species

6.42 The applicant's Ecologist undertook a Phase One survey to identify potential habitats within the application site and establish whether there are habitats that might indicate the presence of protected species on it. The survey identified that the land surrounding the application site is dominated by both residential dwellings and arable land. Within the site, in areas not covered by buildings or other structures, the ground is varied in its structure and habitats within it form a mosaic, including bare ground, semi-improved amenity grassland, scrub, intact hedgerow

and spoil heaps. Having analysed the habitats present, further work was carried out in respect of the following species.

- 6.43 Badgers – As no evidence of badger was noted on site, no further surveys are recommended for this species, however as they are a highly mobile species it is recommended that a walkover survey should be carried out two weeks prior to works on site to ensure that the situation hasn't changed.
- 6.44 Bats – A Bat Risk Assessment was carried out on the site, but the ecologist acknowledges that this was done in March which is a sub-optimal time of year to carry out this work. The assessment did however identify six buildings and three trees that were assessed as having low potential to contain roosting bats. Further bat surveys were carried out, but no bats were observed utilising the buildings or trees on site during these surveys; and the report concludes that bats are unlikely to roost on site. Bats were however observed roosting in a tree adjacent to the site and were also observed both commuting across and foraging on the site. The report recommends a bat sensitive scheme of external lighting; the erection of temporary bat boxes on trees during site clearance and construction and long- term mitigation of bat boxes to be built into at least 1 in 5 of the new buildings on site. It is recommended that these matters are secured by condition.
- 6.45 Birds – a number of nesting birds on the site means that the site should not be cleared during the bird nesting season as a precautionary measure. To mitigate for the loss of nesting opportunities at the site, bird boxes should be erected at the site/incorporated within the fabric of buildings. Again, it is recommended that these matters are covered by condition.
- 6.46 Great Crested Newts – A small, drainage ditch is present just outside the eastern boundary of the site that was dry at the time of the survey. A pond is present approximately 280m to the south west of the site, separated from the site by residential housing and the busy B1027. The Council's Ecologist advises that no further survey work is necessary for Gt Crested Newt, as an offence is highly unlikely, but recommends generic precautionary measures are used during demolition and construction phases of development.
- 6.47 Reptiles – The Phase One Habitat Survey states there are habitats on site that provide opportunities for reptiles to bask and shelter. A further reptile survey was commissioned and this reports that no evidence of native reptiles was recorded. The main species located on the site is the European Wall Lizard which is a non-native species of lizard which has a long history of introduction into the UK. The European Wall lizard is listed under the Wildlife & Countryside Act 1981 (as amended) under Section 14 as a non-native animal not normally resident in the UK and it is illegal to release these animals into the wild. The applicant's ecologist recommends that prior to the commencement of development works the wall lizards should be removed from site and either humanely disposed of or re-homed in captivity in order to stop any animals escaping into the wider countryside.
- 6.48 Having reviewed the Ecology Surveys submitted with the application, it is considered that there is sufficient survey & assessment information to determine the likely presence of, and impacts to, Protected & Priority species and internationally designated Habitats sites, to allow the Council to determine the planning application.

Habitat Regulations Assessment

- 6.49 The development falls within the 'Zone of Influence' (Zoi) for one or more of the European designated sites scoped in the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). This residential development lies within the Zoi for Hamford Water SPA and Ramsar, and Essex Estuaries SAC and Colne Estuary (Mid Essex Coast Phase 2) SPA and Ramsar site.

- 6.50 The Council has a duty as a competent authority under the Habitats Regulations, to consider the potential for there to be a significant effect on the sensitive features of European protected coastal sites. It is anticipated that without mitigation, new residential development such as this one would have a likely significant effect on the sensitive features of the coastal European sites, through increased recreational pressure when considered 'in combination' with other plans and projects. It is considered that the proposal falls within the scope of RAMS as 'relevant development'.
- 6.51 Natural England state that provided their guidance is adhered to, an 'adverse effect on the integrity' (AEOI) of the European sites included within the Essex Coast RAMS from increased recreational disturbance can be ruled out, subject to appropriate mitigation.
- 6.52 One recommended way of trying to avoid increasing recreational pressures on the coastal European sites, is to encourage dog owners to exercise their dogs near their homes and not drive to the protected sites. The applicant has submitted details of the strategy that they propose to implement within a shadow Habitat Regulations Assessment (HRA). This highlights that the proposed development site itself contains public open space in accordance with COM6 of the Local Plan (Tendring District Council, 2007) which requires at least 10% of the site area as public open space. Additionally, a PROW runs adjacent to the western boundary of the site, along Earls Hall Drive, this links up with further rights of way and provides circular walking routes of various lengths adjacent to the site. It is anticipated that the Rights of Way network and on-site open space would serve the majority of the everyday recreational needs of the residents.
- 6.53 Information leaflets would also be distributed to new householders highlighting local footpaths within the open countryside and alternative areas of green space including nearby country parks. Details of the information leaflets and dog waste bins can be secured by condition, with the provision of the latter being prior to first occupation of the development, and retained as approved thereafter. The information leaflet can be included within the residents' welcome pack to every new dwelling. A Planning obligation can also secure the long-term maintenance and management of the green space.
- 6.54 Legal advice has been sought in relation to the Essex Coast RAMS which supports the view that Tendring District Council can also seek financial contributions in accordance with the strategy. The Council has produced a HRA setting out the mitigation that is proposed – namely the details contained within the strategy and a RAMS payment of £122.30 per dwelling (£23,848.50 based on 195 dwellings), is proposed to be included within the S106 agreement, to enable to fund strategic off-site measures. These measures should be targeted towards increasing the relevant Europeans sites' resilience to recreational pressure (such as schemes to provide wardens at them who will help manage and educate visitors, in line with the aspirations of the emerging RAMS).
- 6.55 Natural England are satisfied that the mitigation described in the Council's appropriate assessment is in line with their strategic-level advice; and advise that an appropriate planning condition or obligation is attached to any planning permission to secure the on-site mitigation measures, including links to footpaths in the surrounding area. The financial contribution should be secured through an appropriate and legally binding agreement, in order to ensure no adverse effect on integrity i.e. the S106 agreement.
- 6.56 Subject to the mitigation being secured there would be certainty that the development would not adversely affect the integrity of European Designated Sites, in accordance with policies EN6 and EN11a of the saved Tendring District Local Plan 2007, Policy PPL4 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft and Regulation 63 of the Conservation of Habitat and Species Regulations 2017.

Heritage

- 6.57 Paragraph 184 of the NPPF states that heritage assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations. In determining planning applications, NPPF Para.189 states that in determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance.
- 6.58 The Planning (Listed Buildings and Conservation Areas) Act 1990 is concerned with the protection of the historic environment. Section 66 of the Act imposes a statutory duty upon local planning authorities to consider the impact of proposals upon listed buildings and their settings, and to have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest that it possesses.
- 6.59 There are no listed buildings within the application site, but there are two Grade II listed buildings relatively nearby - Dutchess Farmhouse approximately 110m east of the site and Earls Hall Lodge which is approximately 300m to the north of the site.
- 6.60 The Heritage Impact Assessment submitted by the applicant accepts that the application site is located within the wider setting of Dutchess Farm and Earl's Hall Lodge, but states that the impact of the proposed development on the special architectural and historic interest of these buildings and their settings is neutral. The applicant argues that the proposed development would have little or no bearing on their setting due to screening by mature planting along the nursery site boundaries which would be retained or enhanced, and that where the development is visible in longer views, then this would be seen in the context of nearby 20th century housing along St John's Road.
- 6.61 The redevelopment of the site, including the introduction of buildings that are taller than are currently characteristic of the area, would change the character of the site and would result in it having a more urban character. Officers consider that this extension of the urban area into an area which currently has a more rural characteristic would alter the setting within which the listed buildings are experienced, most notably Earl's Hall Lodge to the north. However, ECC Place Services Historic Environment (Historic Buildings and Conservation) recommend that a condition is attached to any granted permission pertaining to landscape planting to ensure the development is adequately screened on the north side in views from Earls Hall Lodge.
- 6.62 Consequently, in terms of effects of the scheme upon above ground heritage assets, the application is considered acceptable, and would preserve the setting of the listed buildings. Therefore no harm would be caused to these designated heritage assets.
- 6.63 ECC Place Services (Heritage) have stated that the planning application has been identified as having the potential to harm non-designated heritage assets with archaeological interest. A number of cropmark complexes in the surrounding area attest to the archaeological potential of the area of the proposed development. These include settlement enclosures, trackways and linear features of probable agricultural origin. Previous investigation within the surrounding area have shown the field systems to be of Roman origin. The recorded cropmarks are immediately adjacent to the site and can be expected to continue into the development area.
- 6.64 Any surviving below ground heritage assets would be damaged or destroyed by the proposed development, much of the site is covered by glasshouses which would need to be demolished prior to an archaeological investigation to determine the potential for survival of archaeological remains. It is recommended that a condition requiring a Programme of Archaeological trial trenching following demolition be imposed upon any grant of planning permission.

Design and Layout

- 6.65 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.
- 6.66 The applicant's Design and Access Statement states that the buildings have been designed to encompass modern design elements, such as deeper window recesses and feature brickwork panels to create a theme of contemporary design whilst using traditional materials. This approach is intended to produce dwellings that appear modern whilst also incorporating features that would assist the development in relating to the surrounding area.
- 6.67 The majority of dwellings on the site would be houses and these have been designed to be two or three storeys. Parking for the houses would generally be provided on-plot, although there are cul-de-sacs where parking is arranged in courts in front of houses. It is also proposed to construct three blocks of flats. Blocks A & B, located on the west of the site, near Earls Hall Drive, would be three storey and contain 6no flats in each block. Parking for these flats would be either in bays to the front of the block or small courts to the rear.
- 6.68 Apartment C would be located more centrally within the site, next to (east of) the central green, and would be a four-storey building containing 24 flats. The parking for these flats would be provided through an external parking court and within a ground floor undercroft car park. With the exception of the entrances /stairwells, and bin storage, the whole of the ground floor would be parking with the flats on the first, second and third floors of the building. The applicant has revised the scheme so that it complies with the Council's parking standards of one space for each 1-bed unit and two spaces for each 2-bed flat.
- 6.69 Following concerns raised by Officers regarding the original scheme, the applicant has reduced the number of proposed dwellings in total by 15, this reduces the average net density of development down to 29 dwellings per hectare (dph). With private rear gardens meeting or exceeding the standards set out within the Essex Design Guide (EDG), the scheme would not give rise to an over-development of the site.
- 6.70 Third party views with regard to the scale of the dwellings to the rear of the properties on St John's Road are noted, however the minimum building to building distances between the proposed development and existing dwellings way exceed the EDG standards and overall it is considered that the scheme would not over-dominate its built context.
- 6.71 Adopted Local Plan Policy COM6 states that the Council will require at least 10% of the gross site area as Public Open Space on a development site of this size, and provision works out to be around 10.7%. This provision must include appropriate equipment and be laid out to a specification agreed with the District Council; this can be secured through the S106 legal agreement.
- 6.72 The majority of the open space is to be provided in a central Green and the layout shows that this would provide a children's play and an area for informal recreation. The Green would also feature swales and function as part of the surface water drainage system in times of extreme flooding (1:100 year event, plus taking into account climate change). It would be overlooked by housing on all sides providing good natural surveillance of the space. The Green would continue to the west to provide a green pedestrian/cycle corridor through and adjacent to Earls Hall Drive, and leading onto St John's Road.

- 6.73 The revised site layout shows a good level of soft landscaping, including tree planting, precise details of which should be secured under condition. With no clearly discernible building form or architectural theme along St John's Road, and with the design of the proposal taking some cues from the Essex Design Guide, Officers consider that the scheme would respond positively to local character, provide buildings that exhibit individual architectural quality and house-types with well-defined public and private spaces.
- 6.74 The public realm through additional landscaping, street furniture and other distinctive features would also 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. Therefore, in totality, it is considered that the scale, layout, density, height and massing of buildings and overall elevational design would harmonise with the character and appearance of the surrounding area.

Living Conditions

- 6.75 Para.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. Para.127 of the NPPF also refers to the need to ensure a high standard of amenity for existing and future users.
- 6.76 The EDG sets out guidance on new development, which should be designed in order to provide a decent standard of amenity for future occupants of the development, as well as protecting the amenities of existing residents who live adjacent to the development. The EDG 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"*.
- 6.77 The proposed dwellings along the southern boundary are predominantly two storeys, with some 2 ½ storey houses. The existing dwellings on St Johns Road do however enjoy deep rear gardens and the new dwellings would be situated at least 15 metres from the boundaries of existing dwellings. Consequently, adherence to these standards would ensure that the living conditions of existing residents would be protected from a material level of overlooking; and no material a loss of outlook or daylight/sunlight would ensue either.
- 6.78 Local Plan Policy HG9 sets out the Council's standards for private amenity space for new dwellings. All houses are provided with rear gardens and one house type (3D) are also provided with 25 sq.m. first floor balconies between the houses. The applicant has provided an accommodation schedule which shows that all the houses meet or exceed the minimum standard: 100 sq.m for three or more bedrooms; 75 sq.m. for two bedrooms; and 50 sq.m. for one bed houses.
- 6.79 For flats, Policy HG9 requires the provision of either a communal garden with a minimum of 25 sq.m. per flat; or a minimum of 50 sq.m. private garden area for a ground floor flat or maisonette and a minimum balcony area of 5 sq.m. for units above. The applicant proposes that each flat in Blocks A, B and C be provided with a balcony with an area of between 5-7 sq.m. Block A & B would also be provided with a communal garden area.

- 6.80 The applicant proposes that the occupants of Block C and the 8 live-work units are not provided with a communal garden area, suggesting that the occupants would be able to use the Green which is next to the Block C and a short walk from the live-work units. Officers consider this level of provision to be acceptable. Conditions are recommended regarding the setting out of the amenity spaces and the boundary treatments to ensure residents will have useable private amenity spaces whilst ensuring an attractive public realm.
- 6.81 The new vehicular access and associated footways to serve the development would be formed by demolishing the dwelling that stands at 700 St John's Road. The resulting road would therefore run between the gardens of the dwellings at 698 & 702 St Johns Road. The first set of revised plans showed that the applicant proposed an acoustic fence along both garden's side boundaries. Whilst no details had been provided, on reflection Officers considered that to ensure both a reasonable standard of amenity and to provide a suitable quality entrance to the site, brick boundary walls would be required on both sides of the road, with additional landscaping to soften the appearance. The applicant agreed to this change and precise construction details of the walls, including the materials, design and detailing can be secured by condition.
- 6.82 Given the proximity of existing residential properties to the application site, the Council's Environmental Health department have recommended a number of conditions concerning demolition and construction activities to minimise potential nuisance. Such conditions would cover matters such as noise controls; controls over the hours of work and deliveries; details of any piling works (if applicable); the prohibition of burning waste produced during demolition and construction; as well as dust suppression.
- 6.83 To the north of the application site is the Earls Hall Wind Farm which comprises five wind turbines, with a hub height of 80 metres and a maximum height to blade tip of 125 metres. The wind farm was granted planning permission on appeal in 2009 (Planning Application no. 07/00433/FUL). During the Planning Inquiry, the Inspector carefully considered the issue of noise from the turbines as local residents argued that this was a reason for the application to be refused. The Inspector concluded that the turbines would not cause any significant noise harm to the living conditions of local residents, including Pond House and Earls Hall Farm which are closer to the turbines than the proposed dwellings on the application site. The Council's Environmental Health Officer reports no complaints concerning noise from the Wind Farm and overall raises no objection to the application on noise grounds.
- 6.84 Overall, Officers consider that the proposal as revised, has been designed in a manner which achieves an appropriate relationship with the existing dwellings. 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.

Surface Water and Drainage

- 6.85 Anglian Water raises no objection to the application and have confirmed that the St Osyth Water Recycling Centre would have sufficient capacity to deal with the foul drainage flows from the proposed development. Works would be required to foul water sewers in order to prevent the risk of flooding and a condition is recommended to ensure that the applicant works with Anglian Water and the delivery of housing is phased.
- 6.86 The applicant has submitted a Drainage Strategy which has been considered by Essex County Council who are the Lead Local Flood Authority (LLFA). The LLFA initially submitted a holding objection as the applicant was not proposing to sufficiently limit the discharge of surface water from the site. Following receipt of a revised Surface Water Drainage Strategy this holding objection was withdrawn and the LLFA raise no objection to the granting of planning permission subject to conditions relating to the submission and subsequent approval of a

detailed surface water drainage scheme, a maintenance plan, and a scheme to minimise the risk of offsite flooding and prevent pollution during construction.

- 6.87 As explained above, Officers were however concerned about a lack of detail in respect of the design of the SUDS features, particularly as the main central area of open space is proposed to be used as a holding area for surface flood water. Therefore, the latest set of plans that were submitted in December, take account of the other changes to the layout made to address Officer's wider list of issues and now provides clarification on the impact of flood events on the open space.
- 6.88 The applicant highlights that the site would have considerably more natural drainage than the current hard surfaced/covered site which would be a significant improvement in itself. The submitted sections shown on the plans demonstrate that engineered ponds would comfortably cater for storage during the 1 in 1 and 1 in 5-year flood events, leaving the informal recreational area and equipped play space entirely free of standing water during such events. The ponds would be designed with safety in mind and to enhance the ecological value of the site for the benefit of all users and wildlife.
- 6.89 Surface water may pool on the informal recreational area by up to 150mm in a more severe 1 in 30-year flood event and by up to 300mm in a very severe 1 in 100-year event. However, the section plans show that even in the extreme 1 in 100-year storm event, the equipped play area and all homes around would not be affected by standing surface water. This means that whilst the area is designed to flood that the frequency of flooding would be very rare and for a short duration of time.
- 6.90 From this basis it is considered that the Council could not substantiate reasons for refusal of planning permission in respect of drainage matters, and the proposal would not give rise to flood risk emanating from surface water generated by the proposal.

Ground Conditions and Contamination

- 6.91 Para.170 of the NPPF states that to prevent unacceptable risks from pollution and land instability, planning decisions should ensure that new development is appropriate for its location. The effects (including cumulative effects) of pollution on health, the natural environment or general amenity, and the potential sensitivity of the area or proposed development to adverse effects from pollution, should be taken into account. Where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.
- 6.92 The site is understood to have been used as a horticultural nursery since the 1970's and the applicant's initial assessment of potential contamination of the site identified a number of potential sources of contamination. Some of the buildings are made with asbestos containing material and this would require specialist demolition and removal to be carried out in accordance with statutory regulations.
- 6.93 In addition, there is considered to be a risk of contamination from the storage of various fuels and horticultural chemicals at the site. Environmental Health also refer to a potential risk arising from land approximately 250metres from the site that is on the potential contaminated land database register. Further intrusive, systematic sampling across the site is proposed. Environmental Health does not object to the application, but have stated that further investigation is required, followed by a period of rehabilitation. Further surveys and a remediation strategy can be secured by condition to ensure that existing residents neighbouring the site and future occupants of the development are not adversely affected by possible land contamination.

Access, Highways and Transportation

- 6.94 Where concerning the promotion of sustainable transport, the NPPF in para. 103 states that the Government recognises that different policies and measures will be required in different communities and opportunities to maximise sustainable transport solutions will vary from urban to rural areas.
- 6.95 Paragraph 102 of the NPPF requires Councils when making decisions to ensure:
- 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.
- 6.96 Policy QL2 in the adopted Local Plan and Policy CP1 in the emerging Local Plan seek to ensure that developments maximise the opportunities for access to sustainable transport including walking, cycling and public transport. As highlighted above, in addition to the existing local services that exist within the west of the town (the applicants TA highlights that there is a nursery, local food shops, post office, community centre and healthcare centre within 15 minutes' walk of the site), the Rouses Farm development on the opposite side of St Johns Road will see the provision of additional community facilities, which should include the provision of a new primary school, with early years and childcare facility and a new neighbourhood centre.
- 6.97 Furthermore, existing bus services also pass the site, along St John's Road and include Hedingham route 6 between Point Clear, St Osyth and Clacton (half-hourly service Monday – Saturday daytimes, hourly Monday – Saturday evenings and Sundays), and FirstGroup route 98 between Clacton and Colchester (hourly Monday – Saturday daytimes, and two evening services Monday – Saturday evenings). Consequently, along with other developments proposed to the west of Clacton there are opportunities to increase the attractiveness of more sustainable means of transport, including by walking, cycling and bus services.
- 6.98 Policy TR1a in the adopted Local Plan requires that development affecting highways be considered in relation to reducing and preventing hazards and inconvenience to traffic including the capacity of the road network. Policy CP1 in the emerging Local Plan states that developments will only be acceptable if the additional vehicular movements likely to result from the development can be accommodated within the capacity of the existing or improved highway network or would not lead to an unacceptable increase in congestion.
- 6.99 It is acknowledged that some local residents and the Parish Council have objected to the proposal with concerns about the development's impact on St John's Road, general road safety and capacity. Highways Officers have stated that at the main junction into the site they would have ideally preferred to see a ghosted right turn lane provided on St John's Road. However, on closer inspection they state that there does not appear to be enough publicly maintainable highway to accommodate a ghosted right turn lane at this location, and if there were it would be at the expense of the shared footway/cycleway being provided in the vicinity of the site. Consequently, it is understood why this cannot be achieved at this location. Essex County Council, in its capacity as the Local Highway Authority, has considered the proposal and concluded that it would be acceptable from a highways perspective subject to a number of conditions and obligations the subject of which, as highlighted within the summary of their response above are included at the end of this report.

- 6.100 The Council's adopted parking standards state that a minimum of 1 space per dwelling should be provided for 1 bedroom dwellings and a minimum of 2 spaces per dwelling should be provided for 2 and more bedroom dwellings. Also 0.25 space per dwelling is required for visitor parking. Parking spaces should measure 5.5 metres by 2.9 metres and garages (to be counted towards parking provision) should measure 7 metres by 3 metres. The proposed development has been laid out in a manner that adheres to these standards and pays regard to the need to plan for sustainable access for all.
- 6.101 The transport impacts of the development are not considered to be severe and, from this perspective, refusal of planning permission on such grounds would not be justified, particularly bearing in mind that the draft Local Plan includes this site within the settlement development boundary. Therefore it is considered that the proposal, during either the construction or operational phases would not have a detrimental effect upon the highway network or the general accessibility of the surrounding area with sustainable mitigation measures proposed and to be secured by the appropriate means.

Site Assessment Conclusion

- 6.102 No substantive objections to the application have been raised by any statutory consultees. Having assessed the specific merits of the site in terms of its potential to accommodate the proposed development in a sustainable manner, Officers are of the opinion that the proposed quantum of development could be accommodated without significant adverse impacts, subject to securing planning obligations in respect of social infrastructure and facilities; and the 'Planning Balance' exercise carried out thereafter.

Planning Obligations and Viability

- 6.103 For the avoidance of doubt and duplication, the socio-economic impacts that would be mitigated through planning obligations (in addition to any previously cited within this report) secured through S106 of the Town and Country Planning Act 1990, and the policy basis for requiring them, are included in this section of the report. Ultimately, para. 54 of the NPPF 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 used where it is not possible to address unacceptable impacts through a planning condition.
- 6.104 Consequently, this section also outlines the manner in which planning obligations would satisfy the tests set out in the Community Infrastructure Levy Regulations 2010 (CIL Regs) and para. 56 of the NPPF, which states that obligations should only be sought where they meet all of the following tests:
- necessary to make the development acceptable in planning terms;
 - directly related to the development; and
 - fairly and reasonably related in scale and kind to the development.

- 6.105 Section 8 of the NPPF requires the planning system to take account of and support local strategies to improve health, social and cultural wellbeing for all, and deliver sufficient community and cultural facilities and services to meet local needs.

Affordable Housing

- 6.106 Para. 62 of the NPPF requires, *inter alia*, LPAs where they have identified that affordable housing is needed, to set policies for meeting this need on site, unless off-site provision or a financial contribution of broadly equivalent value can be robustly justified and the agreed approach contributes to the objective of creating mixed and balanced communities. Para. 64 of the NPPF states that where major development involving the provision of housing is proposed,

planning policies and decisions should expect at least 10% of the homes to be available for affordable home ownership.

- 6.107 Adopted Policy HG4 seeks up to 40% of dwellings on large housing sites to be secured as affordable housing for people who are unable to afford to buy or rent market housing, whereas draft Policy LP5 requires up to 30% of new homes on large development sites to be made available to the Council or a nominated partner, at a discounted price, for use as Affordable Housing or Council Housing, subject to viability testing.
- 6.108 The NPPF requires Councils to consider economic viability when it applies its policies and the Council's own 2013 viability evidence in support of the new Local Plan demonstrates that 40% affordable housing is unlikely to be viable in Tendring and that between 10% and 30% is more realistic. Emerging Policy LP5 states that the Council will expect 30% of new dwellings to be provided as Affordable Housing. As an alternative, the Council will accept a minimum 10% of new dwellings provided on-site as Affordable Housing with a financial contribution towards the construction or acquisition of property for use as Affordable Housing equivalent to delivering the remainder of the 30% requirement.
- 6.109 The Council's Housing Officers confirm that Clacton is the area with the highest demand on the housing register within the District with a high level of demand for all sizes of dwellings. As the site is located in the area with the highest demand, there is a need for affordable housing to be provided on site and the Council's preference would be for 30% of the total number of homes to be provided as Affordable Housing on site.
- 6.110 However, due to the presence of the glasshouses that cover the majority of the site, there is a considerable cost to its re-development, taking into account the removal of glass, possible asbestos and the frames, this abnormally affects viability, to the tune of approximately £1.98m. The Council's appointed valuation consultants BNP Paribas Real Estate have liaised at length with the applicant, in order to ascertain what percentage of affordable housing the development can afford to provide; and it has been concluded that this is 10%, in accordance with the minimum requirements of NPPF paragraph 64.

Ecology/ Habitat Regulations Assessment

- 6.111 To ensure that the Council discharges its duty as competent authority under the Habitats Regulations, it is necessary to secure mitigation to ensure that the new residential development would not have a significant effect on the sensitive features of the coastal European sites, through increased recreational pressure when considered 'in combination' with other plans and projects.
- 6.112 In accordance with the Habitat Regulations Assessment (HRA) prepared by the Council and approved by Natural England, a RAMS payment of £122.30 per dwelling (£23,848.50 based on 195 dwellings). These measures should be targeted towards increasing the relevant European sites' resilience to recreational pressure (such as wardening schemes) and be in line with the aspirations of the emerging Essex RAMS.

Education

- 6.113 NPPF paragraph 94 states that the Government attaches great importance to ensuring that a sufficient choice of school places is available to meet the needs of existing and new communities. Local planning authorities should take a proactive, positive and collaborative approach to meeting this requirement, and to development that will widen choice in education and give great weight to the need to create, expand or alter schools.
- 6.114 Essex County Council, the Local Education Authority (LEA), have been consulted on the proposal. Having assessed the likely demand for places generated by the proposed

development and having assessed current capacity in the area, the LEA recommend that financial contributions be sought to create additional places to ensure that there are sufficient places available for Early Years and Childcare in the St Osyth and Point Clear Ward, St Osyth CE Primary Academy and Clacton Coastal Academy. Consequently, the following financial contributions (all index linked to April 2019) recommended to go towards both the construction and expansion of existing facilities are sought:

- Early Years and Childcare: £257,149;
- Primary Education: £751,825;
- Secondary Education: £761,419 for (Clacton Coastal Academy); and
- Primary school transport contribution of £745,970.40, as there are no safe walking routes from the site to St Osyth.

6.115 However, in response to this, the applicant highlights that Ravenscroft Primary School and Cann Hall Primary School, are 1.7km (1.05 miles) and 2.3km (1.43 miles) away from the site respectively, and whilst the latter is further away than St Osyth CE Primary Academy (1.9km), both of these Clacton schools are easily accessible via existing hard surfaced footways. Officers also note that St Clares RC Primary School is approximately 1.6km away (1 mile). In addition, the applicants highlight that planning permission for a new primary school at Rouses Farm on the opposite side of St Johns Road has been granted and therefore would be closer still to the application site, in due course.

6.116 Whilst it is likely that the application site would be built out and occupied prior to the construction and opening of the Rouses Farm Primary School, it is considered reasonable to question the logic in bussing children from the application site to St Osyth when they could walk from a location on the edge of Clacton to one of at least three of Clacton's Primary schools. It is understood that the proposed development would give rise to a greater demand for school places within the locality; and the applicant does not raise an issue with regard to making financial contributions towards the construction and expansion of existing facilities in respect of Early Years and Childcare, Primary and Secondary Education, only the Primary School transport contribution, the inclusion of which would render the development as unviable.

6.117 From this basis Officers consider that the request for a Primary School transport contribution would not pass the CIL tests, as it would not be necessary to make the development acceptable in planning terms; would not directly relate to the development; or fairly and reasonably relate to the development in scale and kind.

Healthcare

6.118 NPPF paragraphs 91 and 92, amongst other things, state that the planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities.

6.119 NHS North East Essex CCG has been consulted on the proposed development. Having reviewed the current situation they confirm that there is insufficient capacity at the local surgeries to meet the demand arising from this number of new dwellings, however they confirm that they have no objection to the application, subject to a financial contribution to mitigate the impact of the development upon GP practices. A contribution of £67,666 is requested towards capacity improvements at the Nayland Drive Branch Surgery (including its Main Practice Green Elms Health Centre part of ACE Community Practices & includes Epping Close Practice & Frinton Road Medical Centre).

6.120 The improvements could involve the refurbishment, reconfiguration, extension, or potential relocation of the Surgery. The NHS request that the money is paid before the development commences.

Highways and Transportation

- 6.121 NPPF paragraph 102, amongst other things requires opportunities to promote public transport use are identified; and that 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.
- 6.122 ECC Highways state that they have assessed the highway and transportation impact of the proposal including full assessment of the Transport Assessment, examination of all documents submitted, and undertaken a site visit and do not wish to raise an objection subject to the imposition of reasonable planning conditions and obligations. It is considered that the majority of the required works can be covered by planning condition, with the exception of the provision of 3no bus stops on St Johns Road; a pro-rata financial contribution of £104,000 to bus services operating along St John's Road; and the provision/upgrade of a 3-metre wide shared footway/cycleway on the north side of St Johns Road from its junction with Earls Hall Drive eastwards to the main vehicular access to the site and beyond to tie in with the proposed footway/ cycleway for the Rouses Farm development south of St Johns Road (17/01229/OUT).

Live/Work units

- 6.123 Paragraph 80 of the NPPF states that planning decisions should help create the conditions in which businesses can invest, expand and adapt. It goes onto state that significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.
- 6.124 As highlighted above, as a result of several pre-application meetings and discussions with Officers, the applicant acknowledges the importance of presenting a scheme which offers modern, purpose built employment space (circa 1000sq m) as part of a mixed use scheme. The business units would provide a valuable resource in the town where the Employment Study reports good demand for such facilities, but which also reports a generally poor quality of accommodation currently available.
- 6.125 In order to ensure that the live/work units are provided, it is recommended that a trigger of no more than 75% of open market dwellings should be occupied until the live/Work units have been constructed and actively marketed.

Public Open Space

- 6.126 NPPF para.s 91 and 92, amongst other things, state that access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and well-being of communities. As previously stated, the Adopted Local Plan Policy is that on residential development sites greater than 1.5ha there is a requirement that Public Open Space (POS) is provided equal to at least 10% of the site area.
- 6.127 The Council's Public Realm Officer has advised that there is currently a deficit of 41.08 hectares of play in the Clacton/Holland area. As the development will increase demand on already stretched facilities it will need to mitigate this impact. The applicant proposes on site provision of open space and play facilities to a LEAP standard have been included within the design. As referred to above, the proposed on-site provision works out to be around 10.7% of the site area, and this provision must include appropriate equipment and be laid out to a specification agreed with the District Council which can be secured through the S106 legal agreement.
- 6.128 As the level of provision on-site is considered appropriate, no contribution is being requested for off-site provision. The delivery of the Open Space and Play Area will need to be controlled through the S106 agreement, along with suitable arrangement for future ownership and

maintenance. In this instance the Public Open Space and Play Area, the developer will need to arrange for this to be transferred to a private Management Company.

Viability

- 6.129 Paragraph 57 of the NPPF states that it is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage. It goes on to state that the weight to be given to a viability assessment is a matter for the decision maker, having regard to all the circumstances in the case.
- 6.130 As covered within the Affordable Housing section above, during the course of the application the applicant has submitted a viability assessment which demonstrates that the scheme is not viable with the planning obligations that the Council would normally seek. The applicant's viability assessment has been independently assessed by the Council's specialist viability consultant; and they have confirmed that the assessment has followed the recommended approach in national planning guidance, including standardised inputs.
- 6.131 Paragraph 6.110 above highlights that due to the presence of the glasshouses that cover the majority of the site, there is a considerable cost to the site's re-development, taking into account the removal of glass, possible asbestos and the frames; this abnormally affects viability, to the tune of approximately £1.98m.
- 6.132 The Council's appointed valuation consultants have confirmed that these abnormal costs reduce the amount of affordable housing that can be provided by this development, the percentage of affordable housing the development can afford to provide is 10%; and that is without the aforementioned Primary School transport contribution.
- 6.133 The above obligations are summarised here and overall, it is considered that they satisfy the tests for planning obligations set out in the CIL Regulations, which are necessary to: make the development acceptable in planning terms; directly relate to the development; and fairly and reasonably related to the development in scale and kind:
- Affordable Housing – 10 %;
 - Ecology - Financial Contribution towards RAMS - £23,848.50;
 - Education - Financial Contributions towards EY&C, Primary and Secondary school provision - £1,770,393;
 - Healthcare - Financial contribution for additional floorspace at Nayland Drive Surgery - £67,666;
 - Highways & Transportation –
 - Provision of 3no bus stops on St Johns Road;
 - Pro-rata financial contribution to bus services on St John's Road - £104,000;
 - Provision/upgrade of a 3-metre wide shared footway/cycleway on the north side of St Johns Road from its junction with Earls Hall Drive eastwards to the main vehicular access to the site and beyond to tie in with the proposed footway/ cycleway for the Rouses Farm development south of St Johns Road (17/01229/OUT);
 - Live/Work units to be constructed and marketed prior to 75% dwelling occupation;
 - Public Open Space – To be laid out and transferred to a Management Company.

7. Planning Balance & Conclusion

- 7.1 As set out within Paragraph 47 of the NPPF, planning law requires that applications for planning permission be determined in accordance with the Development Plan, unless material considerations indicate otherwise. In this case the application site is located outside of a designated settlement development boundary and as such is located on land designated as countryside in the adopted Local Plan.

- 7.2 However, in the emerging Local Plan it is specifically included within the defined settlement boundary of the town of Clacton. The emerging plan has now reached a relatively advanced stage of the plan-making process, and the Council relies on this to boost the supply of housing in line with government planning policy. It is therefore considered that the inclusion of this land within the settlement development boundary in the emerging Local Plan should carry considerable weight in the decision making process, particularly as no objections were raised to this during the public consultation.
- 7.3 Furthermore, at the time of writing this report, 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.
- 7.4 As set out in Paragraph 8 of the NPPF, achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives):
- an economic objective (to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure);
 - a social objective (to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being); and
 - an environmental objective (to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy).
- 7.5 In terms of the economic and social objectives, the development of the site for 195no dwellings, in addition to 8no live/work units would contribute towards the District's 5-year housing supply, whilst also providing 20 affordable units, of an appropriate dwelling type mix to meet social needs.
- 7.6 There would also be jobs generated during the construction stage and once occupied, future occupiers would contribute to the vitality of Clacton and St Osyth, through providing further support for existing services and businesses. The development of the site would also secure financial contributions to assist in mitigating the impact upon services and Public Open Space within the area, which through the provision of children's play equipment on site, and financial contributions towards bus service improvements would likely give rise to benefits to the wider community. As such, it is considered there are numerous economic and social benefits that would arise from the development that can be afforded moderate to significant weight in favour of the scheme.
- 7.7 In terms of the environmental objective, the site is situated outside of the adopted development boundary for Clacton, but the scheme would give rise to the redevelopment of an underutilised site, and would ensure that the glass houses, as well as any potential Asbestos Containing Materials (ACM) are safely removed and disposed of appropriately. The site forms part of the urban fringe whereby the landscape is considered to have the capacity to absorb the development without detriment to the character and appearance of the wider countryside. The creation of the access through the plot of 700 St John's Road would change the living

environment for the occupiers of the adjacent dwellings, however it would be of a width that would comply with the requirements of the Local Highway Authority, as well as ensuring landscaping and brick walls are provided, to enable an acoustic barrier to be formed.

- 7.8 In terms of other aspects, the development would provide the potential for a high quality residential layout that could create a good sense of place and appropriate character whilst complying with the standards for internal and external amenity, as well as the Council's adopted parking standards. The site could also reasonably be developed without material detriment to the occupants of neighbouring dwellings and heritage assets, and would retain the majority of existing trees considered of amenity value.
- 7.9 The site is also in a relatively sustainable location, which would enable access by foot/cycle/bus to facilities in Clacton such as schools, the GP practice and the town centre, as well as the future development at Rouses Farm. Therefore, it is considered overall that there would be limited environmental harm connected with the development.
- 7.10 The applicant has submitted a suite of detailed documents which demonstrate that the site is free of any constraints to residential development which cannot be resolved by way of conditions and through planning obligations (the S106 Agreement).
- 7.11 When considering the planning balance and having assessed the specific merits of the application, and having regard to the requirements of the NPPF as a whole, Officers consider that the benefits of the proposal outweigh the adverse impacts and as such it is recommended that planning permission should be granted, subject to the specific mitigation set out within 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 section 106 legal agreement with the agreed Heads of Terms, as set out in the table below:

CATEGORY	TERMS
Affordable Housing	10 %
Ecology (RAMS)	£23,848.50
Education	£1,770,393
Healthcare	£67,666
Highways & Transportation	- Provision of 3no bus stops on St Johns Road; - Pro-rata financial contribution to bus services on St John's Road - £104,000; - Provision/upgrade of a 3-metre wide shared footway/cycleway on the north side of St Johns Road from its junction with Earls Hall Drive eastwards to the main vehicular access to the site and beyond to tie in with the proposed footway/ cycleway for the Rouses Farm development south of St Johns Road (17/01229/OUT);
Live/Work units	To be constructed and marketed prior to 75% of dwelling occupation.
Public Open Space	To be transferred to a Man. Co.

8.2 Conditions and Reasons

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason - To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

- 2) The development hereby permitted shall be carried out in accordance with the approved drawings as listed within the 'e3 design g/4424/03/drawing issue sheet – planning last updated 20/12/2019'; and '4424 PL 0040 - Material Reference Schedule Rev B dated 3.5.2019'.

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

- 3) Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (or any Order amending, revoking and re-enacting that Order) the live-work premises on plots 203-201, shall be used as a mixed use of A1 and/or A2 and/or B1 at ground and first floor levels; and C3 at second floor level and for no other purposes.

Reason - To protect the amenities of the occupiers of the second floor flats and other nearby residential properties, and to ensure that an element of commercial activity is retained on the application site.

- 4) All garages and car parking spaces shall be kept available for the parking of motor vehicles at all times. The garages and car parking spaces shall be used solely for the benefit of the occupants of the dwelling/commercial unit of which it forms part/is intended to serve, and their visitors, and for no other purpose, and permanently retained as such thereafter.

Reason - To ensure adequate parking and garage space is provided within the site in accordance with the standards adopted by the local planning authority.

- 5) No development shall take place, including any ground works or site clearance, until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. The approved Plan shall provide for the following all clear of the public highway:

- a. the parking of vehicles of site operatives and visitors;
- b. loading and unloading of plant and materials;
- c. safe access to/from the site, including the routing of construction traffic;
- d. storage of plant and materials used in constructing the development;
- e. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- f. wheel and under-body washing facilities;
- g. measures to control the emission of dust and dirt during demolition and construction;
- h. a scheme for recycling/disposing of waste resulting from demolition and construction works;
- i. a scheme to control noise and vibration during the demolition and construction phases, including details of any piling operations; and
- j. details of how the approved Plan will be implemented and adhered to.

The approved Plan shall be adhered to throughout the construction process.

- 6) In accordance with the Summary and Recommendations of the submitted 'Phase 1 Desk Study Report', prior to the commencement of development a comprehensive survey shall be undertaken to assess the nature and extent of any contamination on the site (including

Asbestos Containing Materials), a copy of the survey findings together with a remediation scheme to bring the site to a suitable condition in that it represents an acceptable risk shall be submitted to and agreed in writing with the Local Planning Authority prior to the commencement of development. Formulation and implementation of the remediation scheme shall be undertaken by competent persons and in accordance with 'Model Procedures for the Management of Land Contamination, CLR 11'. Further advice is available in the 'Essex Contaminated Land Consortium's Land Affected by Contamination: Technical Guidance for Applicants and Developers'. Such agreed measures shall be implemented and completed prior to the commencement of development hereby approved.

Notwithstanding the above, should contamination be found that was not previously identified or not considered in the remediation scheme agreed in writing with the Local Planning Authority, that contamination shall be made safe and reported immediately to the Local Planning Authority. The site shall be re-assessed in accordance with the above and a separate remediation scheme shall be submitted to and agreed in writing with the Local Planning Authority. Such agreed measures shall be implemented and completed prior to the first occupation of any parts of the development.

The developer shall give one-month's advanced notice in writing to the Local Planning Authority of the impending completion of the remediation works. Within four weeks of completion of the remediation works a validation report undertaken by competent person or persons and in accordance with the 'Essex Contaminated Land Consortium's Land Affected by Contamination: Technical Guidance for Applicants and Developers' and the agreed remediation measures shall be submitted to the Local Planning Authority for approval. There shall be no residential occupation of the site (or beneficial occupation of the office building hereby permitted) until the Local Planning Authority has approved the validation report in writing. Furthermore, prior to occupation of any property hereby permitted, the developer shall submit to the Local Planning Authority a signed and dated certificate to confirm that the remediation works have been completed in strict accordance with the documents and plans comprising the remediation scheme agreed in writing with the Local Planning Authority.

Reason - To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

- 7) No development shall take place until full details of the finished levels, above ordnance datum, of the ground floors of the proposed buildings, in relation to existing ground levels have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved levels.

Reason - To avoid the excessive raising or lowering of any building hereby permitted and the alterations of ground levels within the site which may lead to unneighbourly development with problems of overlooking and loss of privacy.

- 8) No preliminary groundworks or other development below existing ground and slab level shall commence until a programme of archaeological trial trenching has been secured and undertaken in accordance with a Written Scheme of Investigation, which has previously been submitted to, and approved in writing by, the local planning authority. Following the completion of this initial phase of archaeological work, a summary report shall be prepared and a mitigation strategy, detailing the approach to further archaeological excavation and/or preservation in situ, shall be submitted to and approved in writing by the local planning authority.

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

Reason - The site may be of archaeological interest; and to enable full investigation and recording of archaeological artefacts.

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

Reason - The site may be of archaeological interest; and to enable full investigation and recording of archaeological artefacts.

- 10) Prior to the occupation of the development hereby approved, a scheme of landscaping shall be submitted to and approved in writing by the local planning authority. The scheme shall incorporate a detailed specification including plant/tree types and sizes, plant numbers and distances, soil specification, seeding and turfing treatment, colour and type of material for all hard surface areas and method of laying where appropriate.

All areas of hardstanding shall be constructed using porous materials laid on a permeable base unless otherwise agreed in writing by the local planning authority.

All planting, seeding or turfing contained in the approved details of the landscaping scheme shall be carried out in the first planting and seeding seasons after the commencement of the development unless otherwise previously agreed in writing by the local planning authority.

All hard surface areas agreed as part of the scheme shall be carried out before the first occupation of the buildings or upon the completion of the development whichever is the earlier.

Any trees or plants which die, are removed, or become seriously damaged, or diseased within a period of 5 years from the completion of the development shall be replaced in the next planting season with others of a similar size and species unless the local planning authority gives written consent to any variation.

Reason - In the interests of visual amenity and the character of the area.

- 11) The development shall be carried out in full accordance with the recommendations as set out within section 8 of the submitted 'Arboricultural Impact Assessment' report produced by EnviroArb Solutions Ltd, dated 5 December 2019. No alterations or variations to the approved works or tree protection schemes shall be made without prior written consent of the local planning authority.

Reason - In the interests of visual amenity and the character of the area.

- 12) All ecological mitigation & enhancement measures and/or works shall be carried out in accordance with the details contained in the 'Extended Phase 1 Habitat Survey and Bat Risk Assessment' (Total Ecology, May 2018), 'Bat Survey' report (Total Ecology, May 2018) and 'Reptile Survey' (Total Ecology, Sept 2018) as submitted with the planning application and agreed in principle with the local planning authority prior to determination. This should include the appointment of an appropriately competent person e.g. an ecological clerk

of works (ECoW,) to provide on-site ecological expertise during construction. The appointed person shall undertake all activities, and works shall be carried out in accordance with the approved details.

Reason – To conserve and enhance Protected and Priority species and allow the LPA to discharge its duties under the UK Habitats Regulations, the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species) and s17 Crime & Disorder Act 1998.

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

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

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

- 14) Prior to the first occupation of any dwelling hereby permitted, a Biodiversity Enhancement Layout for Protected and Priority species shall be submitted to and approved in writing by the local planning authority. The content of the Biodiversity Enhancement Layout shall include the following:

- a) Purpose and conservation objectives for the proposed enhancement measures;
- b) detailed designs to achieve stated objectives;
- c) locations of proposed enhancement measures by appropriate maps and plans;
- d) persons responsible for implementing the enhancement measures;
- e) details of initial aftercare and long-term maintenance.

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

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

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

- Verification of the suitability of infiltration of surface water for the development. This should be based on infiltration tests that have been undertaken in accordance with BRE 365 testing procedure and the infiltration testing methods found in chapter 25.3 of The CIRIA SuDS Manual C753;
- Limiting discharge rates to 8.8 l/s for all storm events up to and including the 1 in 100 year rate plus 40% allowance for climate change or via infiltration depending on on-site infiltration testing results;

- A provision of 10% for urban creep should be included in calculations;
- Provide sufficient storage to ensure no off site flooding as a result of the development during all storm events up to and including the 1 in 100 year plus 40% climate change event;
- Demonstrate that all storage features can half empty within 24 hours for the 1:100 plus 40% climate change critical storm event;
- Final modelling and calculations for all areas of the drainage system;
- The appropriate level of treatment for all runoff leaving the site, including roof water, in line with the Simple Index Approach in chapter 26 of the CIRIA SuDS Manual C753;
- Detailed engineering drawings of each component of the drainage scheme, including details of minimum 1 in 3 side slopes for swales/ponds/basins;
- A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features; and
- A written report summarising the final strategy and highlighting any minor changes to the approved strategy.

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

- 16) Prior to first occupation of the development hereby permitted, 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, shall be 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. The development shall be carried out and managed in accordance with the agreed details in perpetuity.

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 prior to occupation may result in the installation of a system that is not properly maintained and may increase flood risk or pollution hazard from the site.

- 17) 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.

- 18) 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.

- 19) No site clearance, demolition or construction work shall take place on the site, including starting of machinery and delivery of materials, outside the following times:

Monday to Friday 0800 hours - 1800 hours;
Saturday 0800 hours - 1300 hours; and
Sundays, Public and Bank Holidays - no work

Reason - To protect the amenities of the occupiers of nearby residential properties and the surrounding area.

- 20) No burning of refuse, waste materials or vegetation shall be undertaken in connection with the site clearance or construction of the development.

Reason - To protect the amenities of the occupiers of nearby residential properties and the surrounding area.

- 21) No dwelling or live-work unit shall be occupied until the refuse and recycling bins, and where applicable, storage areas and collection points, for that dwelling/unit have been provided and are available for use.

Reason - To ensure adequate facilities for refuse and recycling in the interests of residential amenity and in order to prevent the unsightly storage of refuse containers and in the interests of amenity.

- 22) Prior to the demolition of 700 St John's Road, details of the form of construction of the acoustic wall to be erected along its eastern and western boundaries, adjacent to nos 698 and 702 St John's Road respectively, shall be submitted to and approved in writing by the local planning authority. The walls shall be erected in accordance with the agreed details prior to the construction of the new access road.

Reason - To protect the amenities of the occupiers of nearby residential properties and the surrounding area.

- 23) Prior to first occupation of the development hereby approved, details of all gates, fences and other walls, or other means of enclosure, shall be submitted to and approved in writing by the local planning authority. The details shall include position, design, height and materials of the enclosures. The enclosures as approved shall be provided prior to the occupation of the development hereby approved and shall be permanently maintained as such.

Reason - To enhance the appearance of the development and in the interests of visual amenity and privacy.

- 24) Prior to the first occupation of the development hereby permitted, full details of the construction of the footpath/cycleway proposed to run through the existing curtilage of 780 St John's Road shall be submitted to and approved in writing by the local planning authority. The details shall include the extent of demolition of existing extensions/outbuilding/s and the method for making good, with full elevations and floor plans of the resultant works. The development shall be carried out in accordance with the agreed details.

- 25) The bicycle parking facilities as shown on the approved plan are to be provided prior to the first occupation of the development and retained at all times.

Reason - To ensure appropriate bicycle parking is provided in accordance with the Council's adopted Parking Standards.

- 26) No occupation of the development shall take place until the following have been provided or completed: The highway works as shown in principle on revised site plan drawing no. 4424/CA/PL1000 Rev. K, but to include the following minor amendments:
- A forward visibility splay of 25 metres needs to be provided on each corner of the development these will need to be hardened so they can be adopted;
 - The raised table to be extended to include the drive to plot 173;
 - The 2-metre-wide footway to continue round on the north side of the bend to tie into the footway at the junction outside plot 94 and from the north boundary to plot 97;
 - Speed-restraint measures should be located at maximum intervals of 60m, starting within 50m of the entry junction or zone; and
 - The proposed build-out on the access road to the site needs to switch to the opposite lane to remove the potential traffic accessing the site backing up onto St Johns Road.

Reason – In the interests of highway safety.

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

Reason - In the interests of reducing the need to travel by car and promoting sustainable development and transport.

8.3 Informatives

Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

Legal Agreement Informative

This application is the subject of a legal agreement and this decision should only be read in conjunction with this agreement.

Highways Informatives

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.

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.

Sustainable Urban Drainage Informatives

Essex County Council has a duty to maintain a register and record of assets which have a significant impact on the risk of flooding. In order to capture proposed SuDS which may form part of the future register, a copy of the SuDS assets in a GIS layer should be sent to suds@essex.gov.uk.

Any drainage features proposed for adoption by Essex County Council should be consulted on with the relevant Highways Development Management Office.

Changes to existing water courses may require separate consent under the Land Drainage Act before works take place. More information about consenting can be found in the attached standing advice note.

It is the applicant's responsibility to check that they are complying with common law if the drainage scheme proposes to discharge into an off-site ditch/pipe. The applicant should seek consent where appropriate from other downstream riparian landowners.

The Ministerial Statement made on 18th December 2014 (ref. HCWS161) states that the final decision regarding the viability and reasonableness of maintenance requirements lies with the LPA. It is not within the scope of the LLFA to comment on the overall viability of a scheme as the decision is based on a range of issues which are outside of this authority's area of expertise.

We will advise on the acceptability of surface water and the information submitted on all planning applications submitted after the 15th of April 2015 based on the key documents listed within this letter. This includes applications which have been previously submitted as part of an earlier stage of the planning process and granted planning permission based on historic requirements. The Local Planning Authority should use the information submitted within this response in conjunction with any other relevant information submitted as part of this application or as part of preceding applications to make a balanced decision based on the available information.

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

- 10.1 In making this recommendation, officers have considered all plans, documents, reports and supporting information submitted with the application together with any amended documentation. Additional information considered relevant to the assessment of the application (as referenced within the report) also form background papers. All such information is available to view on the planning file using the application reference number via the Council's Public Access system by following this link <https://idox.tendringdc.gov.uk/online-applications/>