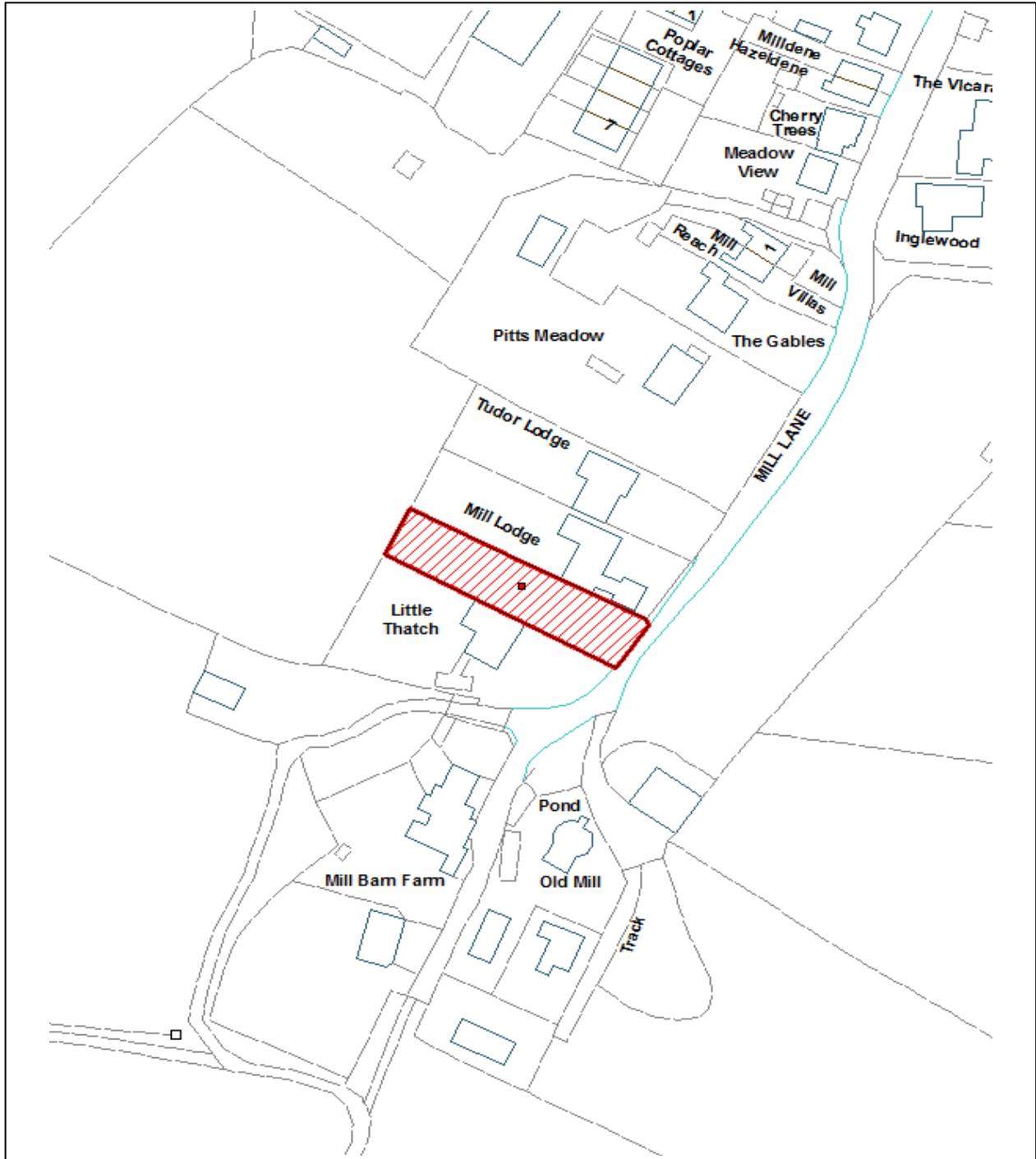


PLANNING COMMITTEE

11TH AUGUST 2020

REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING

A.4 PLANNING APPLICATION – 19/01157/FUL – LAND ADJACENT LITTLE THATCH MILL LANE THORPE LE SOKEN CO16 0ED



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Application: 19/01157/FUL

Town / Parish: Thorpe Le Soken Parish
Council

Applicant: Mr & Mrs Cramphorn

Address: Land adjacent Little Thatch Mill Lane Thorpe Le Soken CO16 0ED

Development: One dwelling.

1. Executive Summary

- 1.1 The application is referred to the Planning Committee by Councillor Land due to the proposed dwelling causing highway impacts and other traffic issues, a negative impact on neighbours, the site is located within a Conservation Area, it is located on a public right of way and it is within a confined space. Additional comments have been received by email from Councillor Land, dated 26th August relating to polluted waterway.
- 1.2 The application seeks full planning permission for the erection of one dwelling accessed via Mill Lane.
- 1.3 The application site is located within the defined Settlement Development Boundary for Thorpe Le Soken, as defined by the Saved Tendring District Local Plan 2007 and the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).
- 1.4 An earlier application for this site, planning application reference 18/00781/FUL, was recommended for approval, and overturned by Planning Committee who refused planning permission on the following grounds: impact upon neighbouring amenities – Little Thatch and Mill Lodge; the proposal was contrary to Saved Policy EN6 Biodiversity and EN6a 'Protected Species; and the impact upon the setting of the Listed Building, Mill Barn Farm. The application was taken to appeal and subsequently dismissed on 25 July 2019. However, the sole reason for dismissing the appeal related coastal habitats in that the proposal failed to provide a RAMs contribution. In all other respects the appeal scheme was considered acceptable and the reasons for refusal not upheld.
- 1.5 The current resubmitted application was to be determined at the Planning Committee to be held on 19 September 2019. However, it was subsequently agreed by the Committee Chairman that it be deferred for later consideration as a consequence of a late consultation response from ECC Ecology seeking a Great Crested Newt Survey for this site. In spring 2020, a Great Crested Newt Survey was provided by the applicant, which concluded that great crested newts (GCN) are likely to be absent from all surveyed ponds within 250m of the site. ECC Ecology were re-consulted on the submitted Great Crested Newt Survey and raise no objections, subject to conditions relating to biodiversity enhancement.
- 1.6 In conclusion, the previous appeal (reference APP/P1560/W/18/3213632) was dismissed on the single issue of a lack of a Unilateral Undertaking (UU) to address a RAMS contribution. This application has addressed this, a UU has now been completed to address the RAMS contribution. The principle of residential development in this location is acceptable and subject to conditions there is not considered to be any material visual harm, harm to neighbouring amenities, harm to ecology and biodiversity, harm to heritage assets or highway safety.

Recommendation: Full Approval

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

Subject to the conditions stated in section 8.2

2. Planning Policy

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

NPPF National Planning Policy Framework

National Planning Practice Guidance

Tendring District Local Plan 2007

QL9 Design of New Development

QL10 Designing New Development to Meet Functional Needs

QL11 Environmental Impacts and Compatibility of Uses

HG1 Housing Provision

HG6 Dwelling Size and Type

HG7 Residential Densities

HG9 Private Amenity Space

HG14 Side Isolation

TR1A Development Affecting Highways

TR4 Safeguarding and Improving Public Right of Way

TR7 Vehicle Parking at New Development

EN6 Biodiversity

EN6A Protected Species

EN11A Protection of International Sites European Sites and RAMSAR Sites

EN17 Conservation Areas

EN23 Development within the Proximity of a Listed Building

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

SPL1 Managing Growth

SPL2 Settlement Development Boundaries

- SPL3 Sustainable Design
- PPL4 Biodiversity and Geodiversity
- PPL8 Conservation Areas
- PPL9 Listed Buildings
- LP1 Housing Supply
- LP2 Housing Choice
- CP1 Sustainable Transport and Accessibility

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

Status of the Local Plan

- 2.2 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.
- 2.3 Section 1 of the Local Plan (which sets out the strategy for growth across North Essex including Tendring, Colchester and Braintree) was examined in January and May 2018, with further hearing sessions in January 2020. The Inspector issued his findings in respect of the legal compliance and soundness of the Section 1 Plan in May 2020. He confirmed that the plan was legally compliant and that the housing and employment targets for each of the North Essex Authorities, including Tendring, were sound. However, he has recommended that for the plan to proceed to adoption, modifications will be required – including the removal of two of the three Garden Communities 'Garden Communities' proposed along the A120 (to the West of Braintree and on the Colchester/Braintree Border) that were designed to deliver longer-term sustainable growth in the latter half of the plan period and beyond 2033.
- 2.4 The three North Essex Authorities are currently considering the Inspector's advice and the implications of such modifications with a view to agreeing a way forward for the Local Plan. With the Local Plan requiring modifications which, in due course, will be the subject of consultation on their own right, its policies cannot yet carry the full weight of adopted policy, however they can carry some weight in the determination of planning applications – increasing with each stage of the plan-making process.
- 2.5 The examination of Section 2 of the Local Plan (which contains more specific policies and proposals for Tendring) will progress once modifications to the Section 1 have been consulted upon and agreed by the Inspector. 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.
- 2.6 In relation to housing supply:
- 2.7 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.

- 2.8 At the time of this decision, the supply of deliverable housing sites that the Council can demonstrate falls below 5 years and so the NPPF says that planning permission should be granted for development unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework as a whole. Determining planning applications therefore entails weighing up the various material considerations. The housing land supply shortfall is relatively modest when calculated using the standard method prescribed by the NPPF (which applies until such time that the figures in the new Local Plan are adopted).
- 2.9 In addition, the actual need for housing (as set out in the emerging Local Plan) was found to be much less than the figure produced by the standard method when tested at the recent Examination in Public of the Local Plan, as recently endorsed by the Local Plan Inspector. Therefore, in weighing the benefits of residential development against the harm, the Inspector's endorsement of the lower housing requirement figure is a strong material consideration which tempers the amount of weight that can reasonably be attributed to the benefit of additional new housing to address the perceived shortfall – given that, against the Local Plan housing requirement there is, in fact, a surplus of supply as opposed to a shortfall.

3. Relevant Planning History

01/01840/FUL	New Cottage	Refused	17.12.2001
16/01886/TCA	1 No. Cherry tree - fell	Approved	15.12.2016
17/01933/FUL	Proposal for one dwelling.	Refused	10.04.2018
18/00781/FUL	One dwelling.	Refused Dismissed at appeal	27.07.2018
18/01574/TCA	2 No. Blackthorn - remove, 1 No. - Multi-trunk (species unknown) - remove, 2 No. Cherry Trees - remove	Approved	15.10.2018

4. Consultations

Essex County Council
Highways

As with the previous Planning Application: 18/00781/FUL the Highway Authority retain some concerns that the access onto the High street /B1033 is narrow, with an adverse effect on visibility and therefore the safety of both pedestrians and drivers, but consider that the increased vehicle movements associated with this one additional property could be considered to be within an acceptable tolerance and note that there are no recorded personal

injury collisions at the connection of Mill Lane to the High Street.

This does not in any way detract the underlying principal of seeking to avoid the intensification of usage of PROW by private vehicular means in order to avoid associated maintenance and safety issues that would otherwise impact the public usage. It remains that intensification (site dependent) will, more often than not, result in a frequency and volume of vehicular movement that is well beyond levels afforded by established prescriptive rights and therefore give rise to public nuisance issues. Such matters must continue to be material to the determination of all future planning applications where intensification is likely to result.

In consequence, any further development along this land/footpath beyond this application would be unacceptable and would be objected to.”

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

1. Prior to the first occupation of the proposed dwelling, the proposed vehicular access shall be constructed to a width of 4.8m and shall be provided with an appropriately constructed connection to Mill Lane.
2. Prior to the proposed access on the proposed dwelling being brought into use, an 2.4m x 11m visibility splay in both directions, shall be provided on both sides of that access onto the Public Right of Way and shall be retained and maintained free from obstruction clear to ground thereafter. These splays must not form part of the vehicular surface of the access.
3. No unbound materials shall be used in the surface treatment of the proposed vehicular access throughout.
4. All off street car parking shall be in precise accord with the details contained within the current Parking Standards being provided within the site which shall be maintained free from obstruction and retained thereafter.
5. 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.
6. Any new or proposed boundary hedge shall be planted a minimum of 1m back from the highway boundary and 1m behind any visibility splays which shall be maintained clear of the limits of the highway or visibility splays thereafter.
7. Prior to the occupation of the proposed development, the developer shall make good and effect any

repairs necessary to the surface and sub surface of Mill Lane, Public Footpath No11 (Thorpe Le Soken) which have been unavoidably caused by the construction and fitting out phases of the proposed development to the specifications of the highway Authority entirely at the developers own expense.

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

- i. the parking of vehicles of site operatives and visitors
- ii. loading and unloading of plant and materials
- iii. storage of plant and materials used in constructing the development
- iv. wheel and underbody washing facilities

9. The public's rights and ease of passage over public footpath No.11 (Thorpe Le Soken) shall be maintained free and unobstructed at all times.

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

Informative 1: On the completion of the Development, all roads, footways/paths, cycle ways, covers, gratings, fences, barriers, grass verges, trees, and any other street furniture within the Site and in the area it covers and any neighbouring areas affected by it, must be left in a fully functional repaired/renovated state to a standard accepted by the appropriate statutory authority.

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

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

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

The Highway Authority cannot accept any liability for costs associated with a developer's improvement. This includes design check safety audits, site supervision, commuted sums for maintenance and any potential claims under Part 1

and Part 2 of the Land Compensation Act 1973. To protect the Highway Authority against such compensation claims a cash deposit or bond may be required.

Essex County Council Ecology
17.06.2020

Thank you for consulting Place Services on the above application.

No objection subject to securing
a) a financial contribution towards visitor management measures as part of the Essex Coast RAMS
and
b) biodiversity mitigation and enhancement measures

Summary

We have reviewed the Great Crested Newt Survey Report (Liz Lord Ecology, May 2020) relating to the likely impacts of development on designated sites, protected species and Priority species & habitats.

We are satisfied that there is sufficient ecological information available for determination.

This provides certainty for the LPA of the likely impacts on protected and Priority species & habitats and, with appropriate mitigation measures secured, the development can be made acceptable.

The mitigation measures identified in the Great Crested Newt Survey Report (Liz Lord Ecology, May 2020) should be secured and implemented in full. This is necessary to conserve and enhance protected and Priority Species Great Crested Newts.

We note that Tendring DC have prepared a project level HRA Appropriate Assessment which identifies that the development is approximately 2km away from Hamford Water SPA, SAC and Ramsar site and SPA. Therefore this site lies within the Zone of Influence (ZOI) for the Essex Coast RAMS and delivery of mitigation measures in perpetuity will therefore be necessary to ensure that this residential development will not have an adverse effect on the integrity of the above Habitats sites from recreational disturbance, when considered 'in combination' with other plans and projects.

We also note that Tendring DC will secure the Essex Coast RAMS contribution under a legal agreement.

We also support the proposed reasonable biodiversity enhancements, which have been recommended to secure measurable net gains for biodiversity, as outlined under Paragraph 170d of the National Planning Policy Framework 2019. The reasonable biodiversity enhancement measures should be outlined within a Biodiversity Enhancement Strategy and should be secured prior to slab level.

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

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

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

Recommended conditions:

1. ACTION REQUIRED IN ACCORDANCE WITH ECOLOGICAL APPRAISAL RECOMMENDATIONS

"All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Great Crested Newt Survey Report (Liz Lord Ecology, May 2020) as already submitted with the planning application and agreed in principle with the local planning authority prior to determination.

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

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

2. PRIOR TO SLAB LEVEL: BIODIVERSITY ENHANCEMENT STRATEGY

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

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

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

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

Reason: To enhance Protected and Priority Species/habitats and allow the LPA to discharge its duties

Environment Agency
19.05.2020

under the s40 of the NERC Act 2006 (Priority habitats & species).

Thank you for your consultation dated 30 April 2020. We have reviewed the amended application and make the following comments which are intended to provide guidance to the Local Planning Authority (LPA). We have included links to further advice which will be of interest to the LPA and the applicant.

Foul Drainage

We suggest the Local Authority should ask the developer to provide more information regarding their plans for the drainage at this site using the foul drainage assessment form.

<https://www.gov.uk/government/publications/foul-drainage-assessment-form-fda1>

We value the application of the drainage hierarchy to avoid a proliferation of private systems installed in areas where connection to the foul sewer could be an option. Although the property appears to be further than 30m from the public foul sewer the production of a drainage strategy for the site should investigate the possibility of connection to mains drainage.

The applicant plans to install a package treatment plant (PTP) although the application lacks information concerning where the PTP will discharge. The drainage strategy should clarify if discharge is to be made to land or surface water. The foul drainage assessment form provides guidance on carrying out percolation tests to determine if the land is suitable for a drainage field. The applicant should refer to our approach to Ground Water Protection. Section G of this guidance outlines our positions on discharges of liquid effluent to ground and use of deep infiltration systems.
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/692989/Environment-Agency-approach-to-groundwater-protection.pdf

Environmental Permitting

The applicant may be able to discharge sewage effluent under the General Binding Rules (GBR). This would be classed as a new discharge so additional rules would need to be complied with. The GBR can be found at:
<https://www.gov.uk/government/publications/small-sewage-discharges-in-england-general-binding-rules>.

If the applicant can't comply with the GBR they would need to apply for an Environmental Permit. We can provide basic pre-application advice for free to help with the permit application. A chargeable service is available if more in-depth advice is required. Pre-application advice can be obtained via this online form:
<https://www.gov.uk/government/publications/environmental-permit-pre-application-advice-form>.

A permit application can't be pre-determined so the applicant should not automatically assume that a permit will be issued. The applicant should also be aware that the granting of Planning Permission or Building Regulation approval does not guarantee the granting of an Environmental Permit.

The applicant would also need to obtain separate permissions/easements to cross or use third party land if this is relevant to their proposal.

We trust this advice is useful.

5. Representations

5.1 One letter of representation has been received from District Councillor Daniel Land, stating the following:

- The development is in a poor location at the bottom of a narrow unmade road which doubles as a PROW;
- It's deep in the Conservation Area, in close proximity to some local historical landmarks. Thorpe High Street is a busy main road, with access from Mill Lane causing additional troubles on the road network at peak times;
- This development will have an impact on the neighbours on their visual amenity and privacy.
- The area at the bottom of this tiny lane is not suitable for heavy vehicles servicing a building site and will disrupt local residents and people using the busy footpaths

5.2 One letter of representation has been received from Essex Wildlife Trust, stating the following:

- Objection on the grounds that insufficient information has been provided by the applicant to enable determination. A Great Crested Newt Survey is required according to the guidance published by Natural England.

Thorpe Le Soken Parish Council have commented on this application and have stated that:

- Recommends refusal as per previous comments.

5.3 Representations have been received from 4 members of the public (through multiple letters of representation) raising the following concerns:

- Insufficient survey effort provided to establish the presence or absence of Great Crested Newts on or in the vicinity of the site;
- It has been previously reported that a breeding colony of Great Crested Newt exist in the pond less than 5 metres from the site;
- The site has had no survey effort expended on it despite Natural England Standing advice advising that this should be undertaken. Not to do so would be against both the NPPF guidance and indeed would be contrary to English and European Law. A Habitat Suitability Index (HSI) has been undertaken of the pond ecologically connected and adjacent to the site and found that the pond has 'Good' suitability for Great Crested Newt. This indicates that there is an 0.74 suitability for GCN to be present. With a score as high as this it would be unlawful for a decision to be taken to develop the site without the proper survey effort being undertaken. The HSI report has been sent to the Council for their information and action;
- It should be clear, as emphasised by the planning inspector, R Sabu that all applications should be considered on their own merits;

- The Appeal Inspector also made the point that the proposed developments harm to the living conditions of the occupants of neighbouring properties, adverse highway safety and biodiversity impacts, and harm in character and appearance terms were not positive benefits to the appeal scheme. The inspector concluded that they accordingly only had a neutral effect on the planning balance. It is therefore clear that in combination with other material considerations this application should be refused;
- Mill Lane is unsuitable for construction vehicles due to the width of the road and concerns over the resident's access to Mill Lane as the entrance to Mill Lane is a major issue;
- Concerns that the plot of land is too narrow to build on without encroaching onto neighbouring properties;
- An Ecology Report has never been conducted on this site;
- Concerns over the loss of light to the neighbouring dwellings, Mill Lodge and Little Thatch;
- There is no mains sewerage along Mill Lane;
- The development makes no contribution to the desirability of preserving or enhancing the character and appearance of the Thorpe Le Soken Conservation Area;
- The applicant has speedily mowed the plot to avoid surveys. Photos of shredded animals from the clearing of the site have been provided;
- This application has already been rejected, this is the same proposal resubmitted;
- The site was originally cleared and there were concerns with the ecology and wildlife;
- There are concerns with the proposal in terms of the foul water adding to the polluted waterway problems;
- A survey is needed to demonstrate the ecological impact;
- There does not appear to be a Foul Drainage Assessment (FDA). The applicant does not address foul drainage provision. The onus is on the applicant to undertake this.
- It is noted that application reference 19/01276/FUL (a site further up Mill Lane) has truthfully identified that it would be necessary for the site not to connect to mains drainage. This makes a material planning consideration;
- It is noted that the application form has been amended from mains sewerage to a private treatment facility. There are issues already along Mill Lane. Concerns with the soakaway will require a huge discharge area which doesn't exist. The new Mill Lane properties with private treatment facilities discharge and flood the neighbouring field in the winter;
- Concerns in regards to the extension of time and the documents not being viewable on public access;
- The previous documents for applications 01/01840, 02/01638 and 04/00858 do not appear to have been published for the property;
- Concerns with the location of installing a treatment system which should be 50 metres away from other treatment systems; and
- Concerns over the inaccuracies and missing date within the Foul Drainage Assessment.

6. Assessment

Site Context

- 6.1 The application site is located on the western side of Mill Lane and is situated between 'Little Thatch' to the south and 'Mill Lodge' to the north. Mill Lane is an un-adopted, unmade road with a mix of housing types including bungalows, terraces, and detached 1.5 and 2 storey dwellings.
- 6.2 The site lies within the Settlement Boundary for Thorpe-le-Soken, as established in the Tendring District Local Plan 2007 and the Emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017). The site lies within the Thorpe-le-Soken Conservation Area and located to the east of the site is a Public Right of Way which forms the vehicular access to the site.

Principle of Development

- 6.3 The application site is located within the defined Settlement Development Boundary for Thorpe-le-Soken, as defined by the Saved Tendring District Local Plan 2007 and the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).
- 6.4 Policy SPL2 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft states 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. The principle for residential development is therefore acceptable subject to the detailed consideration below. The appeal decision also accepted the principle of development.

Layout, design and Appearance

- 6.5 The adopted Tendring District Local Plan (2007) "Saved" Policies QL9, QL10 and QL11 seek to ensure that all new development makes a positive contribution to the quality of the local environment and character, by ensuring that proposals are well designed, relate satisfactorily to their setting and are of a suitable scale, mass and form. These sentiments are carried forward in Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).
- 6.6 The plan demonstrates that the proposed dwelling will be situated towards the front of the site and accessed via a vehicular access from Mill Lane. The proposed dwelling will be one and a half storeys with a traditional cottage design. The materials proposed are red brick and plain tiles which will be in keeping with the character of the area. Due to the sensitive location of the proposed dwelling, a condition will be attached to this decision to ensure a sample of these materials is provided subject to being agreed by the Local Planning Authority. The design is unchanged from the appeal proposal and the Inspector has not raised any objection to the design.
- 6.7 The residential character of the locality is predominantly linear in form consisting of detached dwellings on fairly spacious plots fronting Mill Lane. Dormer windows to the front of the dwelling are a prominent feature along Mill Lane and therefore the design of this proposal is considered to be in keeping with the character of the area.
- 6.8 Policy HG9 of the Saved Tendring Local Plan 2007 states that private amenity space for a dwelling with three bedrooms or more should be a minimum of 100 square metres. This is achieved comfortably.

Impact upon Neighbouring Amenities

- 6.9 The NPPF, in paragraph 17 states that planning should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings. In addition, Policy QL11 of the Tendring District Local Plan (2007) states that amongst other criteria, *'development will only be permitted if the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties'*.
- 6.10 The appeal site lies between two detached dwellings; Little Thatch to the south and Mill Lodge to the north. Within the appeal decision, the Planning Inspector stated that:
- '...the proposed dwelling would occupy almost the full width of the plot such that the flank walls would be in close proximity to the boundaries with the adjacent properties. The flank wall of Mill Lodge is also in close proximity to the boundary and has an existing triple window that currently looks out onto the vacant site'*.
- 6.11 Paragraph 15 of the appeal decision consider the impact on Mill Lodge and stated that:

'...the proposed building would present a two-storey wall, albeit with a slope at higher level, that would be readily visible from the kitchen window in the flank wall of Mill Lodge. However, the space served by this window is a dual aspect open plan kitchen, which also benefits from a patio door to the adjacent wall which affords a high quality of outlook across the rear garden. Therefore, while outlook from the kitchen window would be affected by the proposed development, due to the nature of the room that this window serves it would result in no material harm to the living conditions of the occupiers of Mill Lodge in this respect'.

6.12 The relationship with the neighbouring dwelling is unchanged from the appeal proposal and therefore there is no objection in terms of the impact on Mill Lodge.

6.13 In terms of loss of light, the appeal decision letter concluded that:

'...the window is south facing, and given the close proximity and height of the flank wall of the proposed dwelling, it would reduce the levels of light reaching the kitchen area. However, given that there is a full height patio door on the adjacent wall, the space would still receive adequate light such that the living conditions of the occupiers would not be unduly affected. Moreover, given the function and layout of the room, it is unlikely that the occupiers would spend substantial portions of the day in the space adjacent to that flank window'.

6.14 The Appeal Inspector noted the guidance within the Essex Design Guide, with respect to outlook and light, and the application of a 45 degree rule in relation to neighbouring windows. It was concluded that:

'...given the position of the proposed building in relation to Mill Lodge and the open plan nature of the internal spaces, the harm to outlook and light would not be significant such that refusal of permission on this ground alone would be justified'.

6.15 Within paragraph 18 of the appeal decision, the Planning Inspector acknowledged the concerns in relation to the effect of the proposed dwelling on the living conditions of occupiers of Little Thatch with regards to outlook. However, it was concluded that:

'...since the proposed building would not be located directly opposite to this side of the house, the outlook from the bedroom window in the flank wall of Little Thatch would not be unduly affected. Furthermore, since the room is unlikely to be occupied during substantial parts of the day, any harm would be very limited such that refusal of permission on this ground alone would not be justified'.

6.16 Paragraph 18 of the appeal decision did acknowledge concerns raised relating to overlooking to the front of Little Thatch. However, the Inspector concluded that:

'...the windows on the flank wall of the proposed building facing Little Thatch would be to an ancillary room of the kitchen and a secondary window to the dining area. Therefore, a suitable condition could be reasonably imposed to require these windows to be obscured such that the privacy of the occupants of Little Thatch would not be unduly affected should planning permission be forthcoming'.

6.17 A condition will be imposed to ensure that the two windows proposed on the south western elevation show on Drawing No.CML.01 Revisions E shall be non-opening and glazed in obscure glass and retained in this approved form.

6.18 Paragraph 19 of the appeal decision provides further consideration to the impact on 'Little Thatch' and concluded that:

'...given the position of the proposed dwelling in front of the building line of Little Thatch, the proposed building would not significantly affect the levels of light reaching the bedroom window. It may be likely that the future occupants of the appeal site would erect a fence

along the boundary with Little Thatch that may reduce the levels of light to this room. However, given that the room is less likely to be occupied for substantial parts of the day compared with other spaces, the harm in this respect would be limited. While light levels to the front of Little Thatch may be reduced for certain parts of the day, given that the windows to the front of Little Thatch would continue to receive light from the south, the levels of light available in the dwelling would not be significantly reduced such that the living conditions of the occupiers would be unduly affected’.

- 6.19 The relationship with Little Thatch is unchanged from the appeal proposal and therefore there are no objections in terms of impact upon ‘Little Thatch’.

Impact upon Heritage Assets

- 6.20 Policy EN17 of the Tendring District Local Plan 2007 and Policy PPL8 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) state that development within a Conservation Area must preserve or enhance the special character or appearance of the Conservation Area.

- 6.21 Policy EN23 of the adopted Tendring District Local Plan (2007) seeks to ensure that any proposals for development that would adversely affect the setting of a Listed Building, including group value and long distance views will not be permitted. Policy PPL9 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (2017) seeks to ensure that the proposals for new developments affecting a listed building or setting will only be permitted where they will protect its special architectural or historic interest, its character, appearance and fabric: are explained and justified through an informed assessment and understanding of the significant of the heritage asset and its setting; and are of a scale, design and use materials and finishes that respect the listed building and its setting.

- 6.22 A Planning and Heritage Statement was submitted as part of this planning application describing the proposed development and the impact upon the Conservation Area and Listed Buildings.

- 6.23 As stated within the earlier appeal decision at paragraph 25, the Planning Inspector recognised the:

‘...concerns relating to the effect of the proposed development on The Old Mill and the Grade II Listed Mill Barn Farm in terms of the effect on the setting of these buildings and the living conditions of the occupiers’. The Inspector explained that ‘given the distance between these buildings and the appeal site, and the design and conditions of the occupiers would not be adversely affected by the proposal. Thus, taking these matters together, and in accordance with the duties imposed by the Planning (Listed Buildings and Conservation Areas) Act 1990, I conclude that the proposed development would preserve the character and appearance of the Conservation Area and the setting of the aforementioned Listed Buildings.’

- 6.24 It is therefore concluded that there is no substantive grounds for objection to the scheme in terms of heritage impact.

Trees and Landscaping

- 6.25 Regrettably the previous vegetation found on the application site has been cut down to ground level. There is some re-growth comprising rank and ruderal vegetation including brambles. There is a large Willow in the northernmost corner of the site that will not be affected by the development proposal.

- 6.26 On, or close to the boundary with the adjacent property known as ‘Little Thatch’ there is an established boundary hedge.

- 6.27 A soft landscaping condition will be imposed to secure new planting on the site frontage to soften the appearance of the development and the retention of the front boundary hedge within the Conservation Area.

Highway safety

- 6.28 Essex County Council Highways have been consulted on this application and have stated that although there were concerns with planning application 18/00781/FUL, the access onto High Street is narrow, with an adverse effect on visibility and therefore the safety of both pedestrians and drivers, but consider that the increased vehicle movements associated with this one additional property could be considered to be within an acceptable tolerance and note that there are no recorded personal injury collisions at the connection of Mill Lane to the High Street.
- 6.29 This does not in any way detract the underlying principle of seeking to avoid the intensification of usage of PROW by private vehicular means in order to avoid associated maintenance and safety issues that would otherwise impact the public usage. It remains that intensification (site dependent) will, more often than not, result in a frequency and volume of vehicular movement that is well beyond levels afforded by established prescriptive rights and therefore give rise to public nuisance issues. Such matters must continue to be material to the determination of all future planning applications where intensification is likely to result. In consequence, any further development along this land/footpath beyond this application would be unacceptable and would be objected to.
- 6.30 Notwithstanding these highway concerns, it is again material to note the conclusions reached in the previous appeal. The Planning Inspector, at paragraph 27 of the appeal decision letter, acknowledges:

'...local concerns regarding highway safety and congestion relating to Mill Lane and High Street including during the construction process and I note the evidence relating to damage to The Oaks'. The inspector also recognises 'the evidence relating to the use of Mill Lane as a Public Footpath. However, while I acknowledge that the Highways Authority objected to previous proposals for the site, it has not raised any objections on this proposal in this regard and from the evidence before me I see no reason to disagree with this assessment'.

- 6.31 There is sufficient parking to the front of the host dwelling to meet Essex County Council Parking Standards requirement of 5.5 metres by 2.9 metres. There is therefore no objection on highway safety grounds.
- 6.32 The Highway Authority does not raise any objection to the proposal subject to conditions relating to vehicular access, visibility splays, no unbound materials, off street parking, cycle parking, boundary hedge 1 metre back from highway, repairs to public footpath and construction method statement. All of the conditions will be imposed apart from the condition relating to off street parking as the application site can accommodate sufficient parking.

Financial Contributions – Open Space

- 6.33 Policy COM6 of the adopted Tendring District Local Plan 2007 states "For residential development below 1.5 hectares in size, developers shall contribute financially to meet the open space requirements of the development in proportion to the number and size of dwellings built".
- 6.34 On this occasion, a contribution is not required from the Public Realm team.

Habitat Regulations Assessment

- 6.35 Following Natural England's recent advice and the introduction of Zones of Influences around all European Designated Sites (i.e. Ramsar, Special Protection Areas and Special Areas of Conservation). Within Zones of Influences (which the site falls within) Natural England are requesting financial contributions to mitigate against the in-combination recreational impact from new dwellings.
- 6.36 Legal advice has been sought in relation to the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) which supports the view that Tendring District Council can seek financial contributions in accordance with the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). A Habitat Regulations Assessment has therefore been undertaken to confirm that the mitigation will be a proportionate financial contribution as recommended by Natural England. It is therefore considered that this contribution is sufficient to mitigate against any likely significant effect the proposal may have on European Designated Sites.
- 6.37 The application site lies within the Zone of Influence (Zoi) of Hamford Water SPA and Ramsar Site. Within the Appeal paragraph 9, the Planning Inspector stated that the appellant has *'provided a signed Unilateral Undertaking (UU) under Section 106 of the Town and Country Planning Act 1990 during the course of the appeal seeking to ensure the payment of a financial contribution prior to the commencement of development'*. However, the UU provided by the appellant *'does not refer specifically to Essex Coast RAMS or to Hamford Water SPA and Hamford Water Ramsar site, the sites that would be adversely affected by the proposal. Consequently, there is a possibility that it would not mitigate the harm caused by the proposed development. Moreover, NE's interim advice states that "in the interim period before the RAMS is adopted, a financial contribution should be agreed with and collected from the developer, prior to commencement, on the basis that it can be used to fund strategic 'off site' measures (i.e. in and around the relevant European designated site(s))" (my emphasis). Since the relevant European designated sites are not explicitly identified in the UU it would not meet this requirement.* The inspector concluded in paragraph 11 of the appeal decision that *'the UU therefore would conflict with Regulation 122 of the Community Infrastructure Levy regulations 2019 (as amended)'*.
- 6.38 Following legal advice the Council has now changed the wording in its Unilateral Undertakings to be CIL compliant. A completed unilateral undertaking has been received to secure the financial contribution required to mitigate against any recreational impact from the new dwelling and to ensure 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.

Ecology and Biodiversity

- 6.39 Paragraph 174 of the National Planning Policy Framework 2019 requires Local Planning Authorities to protect and enhance biodiversity and geodiversity.
- 6.40 Saved Policies EN6 'Biodiversity' and EN6a 'Protected Species' of the adopted Tendring District Local Plan 2007 state that development proposals will not be granted planning permission unless existing local biodiversity and protected species are protected. These sentiments are carried forward within draft Policy PLA4 'Nature Conservation and Geo-Diversity' of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017.
- 6.41 Within the previous appeal, paragraph 22 of the Inspector's decision letter acknowledges:
'...concerns relating to clearance works being carried out on the site since the application was determined. However, some of these matters are covered by legislation outside of the planning acts and I have assessed the proposal as presented for appeal against its planning

merits – which these matters are extraneous to’. The appeal statement acknowledges ‘the evidence relating to ecology, the Council has stated that it no longer contests this reason for refusal’.

- 6.42 ECC Ecology have provided comments on the application and requested a Great Crested Newt Survey, following this matter being highlighted by a local resident. A Great Crested Newt Survey was provided in May 2020 which stated that the results indicate that great crested newts (GCN) are likely absent from all surveyed ponds within 250m of the site. Reasonable survey effort has been made to determine the presence of GCN, and therefore no further survey or mitigation works are required with respect to GCN. ECC Ecology has considered the GCN Survey and concluded that:

‘We are satisfied that there is sufficient ecological information available for determination. This provides certainty for the LPA of the likely impacts on protected and Priority species & habitats and, with appropriate mitigation measures secured, the development can be made acceptable. The mitigation measures identified in the Great Crested Newt Survey Report (Liz Lord Ecology, May 2020) should be secured and implemented in full. This is necessary to conserve and enhance protected and Priority Species Great Crested Newts.

- 6.43 It is therefore considered that subject to the conditions, the proposed development is acceptable in terms of ecology.

Drainage

- 6.44 As part of this application concerns have been raised in regards to drainage. The ‘original’ application form which was submitted as part of this application stated that the new dwelling would be connected to the mains sewer and the details to be submitted at building regulations stage. The Environment Agency (EA) were consulted on this application and provided guidance to the Council and the applicant on the issue of foul drainage. In line with the EA’s guidance the applicant was requested to provide more information regarding their plans for the drainage at this site by way of their ‘Foul Drainage Assessment Form’.
- 6.45 The applicant duly provided a completed ‘foul drainage assessment form’ and amended the submitted planning application form to state that the development would employ a private system in the form of a package treatment plant. The EA have provided their comments stating that as they have no holding objection they have no further comments to make on this application, albeit they have caveated this advice by setting out various requirements for the use of a private system and tests that would need to be taken to ensure that such a system would not cause environmental issues including ground water pollution, which could include the need to seek an Environmental Permit. The granting of Planning Permission or Building Regulation approval does not guarantee the granting of an Environmental Permit.
- 6.46 Whilst the regulations employed by the EA sit outside of planning regulations, given the local concerns on this issue and the potential uncertainty over the foul drainage approach for this site, a condition is recommended that will require a detailed foul drainage strategy is submitted and approved prior to commencement of development.

7 Conclusion

- 7.1 Appeal reference APP/P1560/W/18/3213632 was dismissed only on the lack of a satisfactory Unilateral Undertaking for RAMS. A UU has been completed to overcome the above concern. The principle of residential development in this location is acceptable and subject to conditions there is not considered to be any material visual harm, harm to neighbouring amenities, harm to ecology and biodiversity, harm to heritage assets or highway safety. Therefore the application is recommended for approval.

8 Recommendation

8.1 The Planning Committee is recommended to grant planning permission subject to the following conditions and informatives.

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 following approved plans and documents; drawing numbers CML -01 Revision E and Planning and Heritage Statement dated October 2017.

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

3. Prior to first occupation of the proposed dwelling, the proposed vehicular access shall be constructed to a width of 4.8m and shall be provided with an appropriately constructed connection to Mill Lane.

Reason - To ensure that all vehicles using the private drive access do so in a controlled manner, in the interests of highway safety.

4. Prior to the proposed access to the proposed dwelling being brought into use, a 2.4m x 11m visibility splay in both directions, shall be provided on both sides of that access onto the Public Right of Way and shall be retained and maintained free from obstruction clear to ground thereafter. These splays must not form part of the vehicular surface of the access.

Reason - To ensure adequate inter-visibility between drivers of vehicles using the proposed access and pedestrians in the adjoining Public Right of Way, in the interests of highway safety.

5. No unbound materials shall be used in the surface treatment of the proposed vehicular access throughout.

Reason - To ensure that loose materials are not brought out onto the highway, in the interests of highway safety.

6. 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.

Reason - To ensure appropriate cycle / powered two wheeler parking is provided in the interest of highway safety and amenity

7. Any new or proposed boundary hedge shall be planted a minimum of 1m back from the highway boundary and 1m behind any visibility splays which shall be maintained clear of the limits of the highway or visibility splays thereafter.

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

8. Prior to the occupation of the proposed development, the developer shall make good and effect any repairs necessary to the surface and sub surface of Mill Lane, Public Footpath No11 (Thorpe Le Soken) which have been unavoidably caused by the

construction and fitting out phases of the proposed development to the specifications of the highway Authority entirely at the developers own expense.

Reason - To ensure the continued safe passage of pedestrians on the definitive right of way

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

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

10. The public's rights and ease of passage over public footpath No.11 (Thorpe Le Soken) shall be maintained free and unobstructed at all times.

Reason - To ensure the continued safe passage of the public on the definitive right of way and accessibility.

11. Prior to the commencement of any above ground works, a scheme of hard and soft landscaping works for the site shall be submitted to and approved, in writing, by the Local Planning Authority. The scheme shall include any proposed changes in ground levels and also accurately identify spread, girth and species of all existing trees, shrubs and hedgerows on the site and indicate any to be retained, together with measures for their protection which shall comply with the recommendations set out in the British Standards Institute publication "BS 5837: 2012 Trees in relation to design, demolition and construction.

Reason - To enhance the visual impact of the proposed works

12. All changes in ground levels, hard landscaping, planting, seeding or turfing shown on the approved landscaping details shall be carried out during the first planting and seeding season (October - March inclusive) following the commencement of the development or in such other phased arrangement as may be agreed in writing by the Local Planning Authority. Any trees or shrubs which, within a period of 5 years of being planted die, are removed or seriously damaged or seriously diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority agrees in writing to a variation of the previously approved details.

Reason - To ensure that the landscaping scheme is suitably implemented within an appropriate timescale.

13. The mature hedgerow along the south western boundary of the site which is adjacent to Little Thatch shall be retained.

Reason - To ensure retention of the mature hedgerow in the interests of visual amenity.

14. The removal of any vegetation for site access/site clearance shall only be carried out by hand stripping and not by using mechanical machinery.

Reason - To protect any wildlife within the site.

15. Notwithstanding the provisions of Article 3, Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (or any Order revoking and re-enacting that Order with or without modification), the two windows proposed on the south western side elevation shown on Drawing No. CML 01 Revision E shall be non-opening and glazed in obscure glass and shall thereafter be permanently retained in this approved form.

Reason – To protect the privacy and amenities of the occupiers of the adjoining property.

16. Notwithstanding the details shown on the approved drawings, no development shall take place until a plan indicating the positions, design, materials and type of boundary treatments to be erected shall be submitted to and approved by the Local Planning Authority. The approved boundary treatments shall be implemented before the dwellings hereby permitted are occupied.

Reason – In the interests of residential amenities and visual amenity.

17. All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Great Crested Newt Survey Report (Liz Lord Ecology, May 2020) as already submitted with the planning application and agreed in principle with the local planning authority prior to determination. This may include the appointment of an appropriately competent person e.g. an ecological clerk of works (ECoW,) to provide on-site ecological expertise during construction. The appointed person shall undertake all activities, and works shall be carried out, in accordance with the approved details.”

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

- 18 Prior to commencement of works, “A Biodiversity Enhancement Strategy for Protected and Priority species shall be submitted to and approved in writing by the local planning authority.

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

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

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

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

- 19 No development shall commence until a detailed foul water strategy has been submitted to and approved in writing by the Local Planning Authority. The dwelling shall not be occupied until the works have been carried out in accordance with the foul water strategy as approved.

Reason – To prevent environmental and amenity problems, including any ground water pollution, arising from the system of foul water drainage employed on the site.

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 - Recreational Impact Mitigation

This application is the subject of a legal agreement and this decision should only be read in conjunction with this agreement. The agreement addresses the following issues: mitigation against any recreational impact from residential developments in accordance with Regulation 63 of the Conservation of Habitat and Species Regulations 2017.

Highways

Informative 1: On the completion of the Development, all roads, footways/paths, cycle ways, covers, gratings, fences, barriers, grass verges, trees, and any other street furniture within the Site and in the area it covers and any neighbouring areas affected by it, must be left in a fully functional repaired/renovated state to a standard accepted by the appropriate statutory authority.

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

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

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

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

Environmental Permitting

The applicant may be able to discharge sewage effluent under the General Binding Rules (GBR). This would be classed as a new discharge so additional rules would need to be complied with. The GBR can be found at:

<https://www.gov.uk/government/publications/small-sewage-discharges-in-england-general-binding-rules>.

If the applicant can't comply with the GBR they would need to apply for an Environmental Permit. The Environment Agency can provide basic pre-application advice for free to help with the permit application. A chargeable service is available if more in-depth advice is required. Pre-application advice can be obtained via this online form:

<https://www.gov.uk/government/publications/environmental-permit-pre-application-advice-form>.

A permit application can't be pre-determined so the applicant should not automatically assume that a permit will be issued. The applicant should also be aware that the granting of Planning Permission or Building Regulation approval does not guarantee the granting of an Environmental Permit.

The applicant will need to obtain separate permissions/easements to cross or use third party land if this is relevant to their proposal.

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/>.