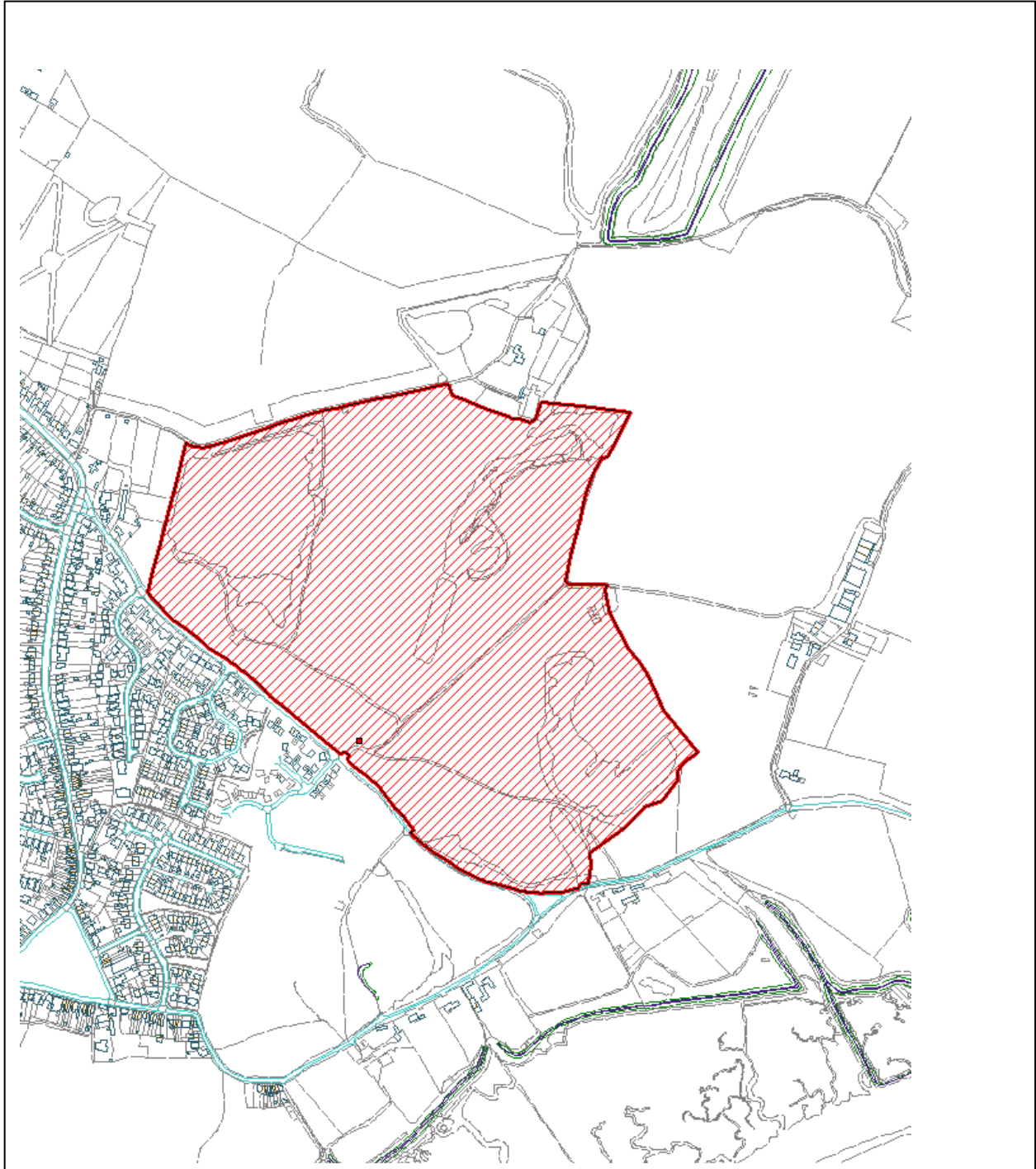


PLANNING COMMITTEE

02 SEPTEMBER 2020

REPORT OF THE HEAD OF PLANNING

**A.1 PLANNING APPLICATION – 19/00188/FUL – LOWER FARM EAST END GREEN
BRIGHTLINGSEA COLCHESTER CO7 0SX**



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Application: 19/00188/FUL

Town / Parish: Brightlingsea Town Council

Applicant: Mr James Blyth

Address: Lower Farm East End Green Brightlingsea Colchester CO7 0SX

Development: Mixed use tourist and residential scheme comprising enabling development of retirement living apartments (36 units), detached farmstead houses (5 units) and a lodge or club house serving a number of timber holiday lodges (104 units) and ancillary activities such as glamping, toilet facilities and play areas which will be the main focus of the development.

1. Executive Summary

- 1.1 This application is referred to planning committee as it represents a departure from the local plan. The development applied for relates to the construction of 104 holiday lodges and an associated function/club house building, 36 retirement apartments for over 60yr olds, 5 private dwellings along with ancillary landscaping/engineering works, a glamping area, toilet facilities, boating jetties and children's play area.
- 1.2 The application site is situated on the north-eastern edge of Brightlingsea on land to the north of Robinson Road. The site comprises approximately 81 acres of former gravel workings which established a low-level restoration profile. The site has been left to self-seed, which has created areas of open scrub, grassland and woodland around three former silt lagoons, which have formed five open lakes. The site is located outside of the defined settlement boundary for Brightlingsea in both the saved and emerging local plan and within a coastal protection belt within the saved plan only.
- 1.3 In respect of the tourism use, the development of the Lower Farm Park site will offer the opportunity to deliver diversification from its current limited low-level use through its integrated connectivity into the local area. It will offer: both direct and indirect employment opportunities within the local area; attract both national and international tourism; and, promote economic growth of the immediate and local areas. The mixed-use proposals across the site have been designed to align themselves with the overarching objectives and policies of the emerging Local Plan and Tendring District Council's Tourism Strategy.
- 1.4 In terms of the private housing this is proposed to, in part, finance the tourism use and trigger points are proposed accordingly to ensure an appropriate provision of tourism lodges prior to the occupation of the residential elements of the site. In terms of the merits of the residential aspects of the scheme, the site is located on the edge of a smaller urban settlement with good access to local services/facilities and there is residential development on land directly to the south and south-west of the site. The site contains mature vegetation along its perimeters with Robinson Road. As a consequence there would be minimal landscape impact whilst sufficient spacing to existing residential properties is retained to safeguard amenity.
- 1.5 In the current situation the Council cannot demonstrate a 5 year housing supply and therefore in accordance with the provisions of the National Planning Policy Framework (NPPF) the presumption in favour of sustainable development apply. The mixed use development is considered to meet the economic, environmental and social strands of sustainability as outlined in the NPPF.
- 1.6 Subject to the applicant entering into a Section 106 agreement to cover the provision of an affordable housing contribution and public open space/RAMS contributions, the proposal is

considered to be acceptable with no material harm to visual or residential amenity, heritage assets, ecology interests or highway safety, and the application is therefore recommended for approval.

Recommendation:

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

- a) **Within 6 (six) months of the date of the Committee's resolution to approve, the completion of a legal agreement under the provisions of section 106 of the Town and Country Planning Act 1990 dealing with the following matters (where relevant):**
 - **Financial Contribution towards RAMS**
 - **Affordable Housing Contribution**
 - **Open Space Contribution**
 - **Residential Occupation trigger points**
- 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

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

National

NPPF National Planning Policy Framework February 2019

National Planning Practice Guidance

Local

Tendring District Local Plan 2007

| | |
|-------|--|
| QL1 | Spatial Strategy |
| QL2 | Promoting Transport Choice |
| QL3 | Minimising and Managing Flood Risk |
| QL7 | Rural Regeneration |
| QL8 | Mixed-Uses |
| QL9 | Design of New Development |
| QL10 | Designing New Development to Meet Functional Needs |
| QL11 | Environmental Impacts and Compatibility of Uses |
| QL12 | Planning Obligations |
| ER16 | Tourism and Leisure Uses |
| ER18 | Caravan and Chalet Parks |
| ER19A | Touring Caravans and Tents |
| ER20 | Occupancy Timescales |

| | |
|-------|---|
| EN1 | Landscape Character |
| EN3 | Coastal Protection Belt |
| EN6 | Biodiversity |
| EN6A | Protected Species |
| EN6B | Habitat Creation |
| EN11A | Protection of International Sites European Sites and RAMSAR Sites |
| EN11B | Protection of National Sites SSSI's, National Nature Reserves, Nature Conservation Review Sites, Geological Conservation Review Sites |
| EN11C | Protection of Local Sites: Local Nature Reserves, County Wildlife Sites, Regionally Important Geological/Geomorphological Sites |
| EN13 | Sustainable Drainage Systems |
| EN13A | Renewable Energy |
| EN23 | Development within the Proximity of a Listed Building |
| EN29 | Archaeology |
| TR1A | Development Affecting Highways |
| TR1 | Transport Assessment |
| TR3A | Provision for Walking |
| TR4 | Safeguarding and Improving Public Rights of Way |
| TR5 | Provision for Cycling |
| TR7 | Vehicle Parking at New Development |
| HG1 | Housing Provision |
| HG3A | Mixed Communities |
| HG4 | Affordable Housing in New Developments |
| HG6 | Dwelling Size and Type |
| HG7 | Residential Densities |
| HG9 | Private Amenity Space |
| COM1 | Access for All |
| COM4 | New Community Facilities (Including Built Sports and Recreation Facilities) |
| COM6 | Provision of Recreational Open Space for New Residential Development |
| COM20 | Air Pollution/ Air Quality |
| COM21 | Light Pollution |
| COM22 | Noise Pollution |
| COM23 | General Pollution |
| COM29 | Utilities |

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

| | |
|------|--|
| SP1 | Presumption in Favour of Sustainable Development |
| SPL1 | Managing Growth |
| SPL3 | Sustainable Design |
| HP1 | Improving Health and Wellbeing |
| HP2 | Community Facilities |
| HP3 | Green Infrastructure |
| HP5 | Open Space, Sports & Recreation Facilities |
| LP1 | Housing Supply |
| LP2 | Housing Choice |
| LP3 | Housing Density and Standards |
| LP4 | Housing Layout |
| LP5 | Affordable and Council Housing |
| PP8 | Tourism |
| PP10 | Camping and Touring Caravan Sites |
| PP11 | Holiday Parks |
| PP13 | The Rural Economy |
| PPL1 | Development and Flood Risk |
| PPL3 | The Rural Landscape |
| PPL4 | Biodiversity and Geodiversity |

| | |
|-------|---|
| PPL5 | Water Conservation, Drainage and Sewerage |
| PPL7 | Archaeology |
| PPL9 | Listed Buildings |
| PPL10 | Renewable Energy Generation |
| CP1 | Sustainable Transport and Accessibility |
| CP2 | Improving the Transport Network |

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice
 Good Practice Guide on Planning for Tourism

Status of the Local Plan

- 2.2 The 'development plan' for Tendring is the 2007 'adopted' Local Plan. Paragraph 213 of the NPPF (2018) 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' 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 in 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

| | | | |
|-----------------|---|------------|------------|
| 89/02059/FUL | (Robinson Road, Brightlingsea) Restoration of sand and gravel workings - Renewal of permission TEN/1088/87 | Approved | 22.05.1990 |
| TEN/90/0872 | Holiday leisure home park (200 lodges) and amenities | Refused | 03.11.1992 |
| 02/01789/TELCOM | Installation of telecommunications mast and ancillary equipment. | Determined | 07.11.2002 |
| 12/00127/LUEX | Certificate of existing lawful use for recreational fishing. | Approval | 23.03.2012 |
| 19/00188/FUL | Mixed use tourist and residential scheme comprising enabling development of retirement living apartments (36 units), detached farmstead houses (5 units) and a lodge or club house serving a number of timber holiday lodges (104 units) and ancillary activities such as glamping, toilet facilities and play areas which will be the main focus of the development. | Current | |

4. Consultations

Anglian Water Services Ltd

ASSETS

Assets Affected

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

WASTEWATER SERVICES

Wastewater Treatment

The foul drainage from this development is in the catchment of Brightlingsea-Church Rd Water Recycling Centre that will have available capacity for these flows.

Used Water Network

Development may lead to an unacceptable risk of flooding downstream. Anglian Water will need to plan effectively for the proposed development, if permission is granted. We will need to work with the applicant to ensure any infrastructure improvements are delivered in line with the development. It is noted that the preliminary strategy is to discharge foul flows to a Package Treatment Plant, however there is mention of a backup proposal to discharge flows, via pumping station to the public foul water sewer. We require confirmation of the final foul strategy, including connection point and discharge rate should the final strategy include discharge to the public foul water sewer. We therefore request a condition requiring phasing plan and/or on-site drainage strategy.

A public sewer is shown on record plans within the land identified for the proposed development. It appears that development proposals will affect existing public sewers. It is recommended that the applicant contacts Anglian Water Development Services Team for further advice on this matter.

Surface Water Disposal

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

From the details submitted to support the planning application the proposed method of surface water management does not relate to Anglian Water operated assets. As such, we are unable to provide comments on the suitability of the surface water management. The Local Planning Authority should seek the advice of the

Lead Local Flood Authority or the Internal Drainage Board.

Suggested Planning Conditions

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

Used Water Sewerage Network

- 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.

NHS East Essex CCG

We are aware that we have already responded to other developments that impact the Practices concerned within the area and therefore as we are only able to allocate 5 mitigation requests for one project, we would not be in a position to request for the smaller developments. In addition, we have also considered that as the majority of potential patients relating to this development would be temporary due to the holiday lodges they would not have a major impact on the local GP practices.

ECC SuDS Consultee

Lead Local Flood Authority position

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

Condition 1

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

- 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.
- Limiting discharge rates to 7.7l/s for all storm events up to and including the 1 in 100 year rate plus 40% allowance for climate change. Provide sufficient storage to ensure no off site flooding as a result of the development during all storm events up to and including the 1 in 100 year

plus 40% climate change event.

- Demonstrate that features are able to accommodate a 1 in 10 year storm events within 24 hours of a 1 in 100 year event plus climate change.
- Final modelling and calculations for all areas of the drainage system.
- The appropriate level of treatment for all runoff leaving the site, in line with the Simple Index Approach within the CIRIA SuDS Manual C753.
- Detailed engineering drawings of each component of the drainage scheme.
- A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features.
- A written report summarising the final strategy and highlighting any minor changes to the approved strategy. The scheme shall subsequently be implemented prior to occupation.

Reason

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

Condition 2

No works shall take place until a scheme to minimise the risk of offsite flooding caused by surface water run-off and groundwater during construction works and prevent pollution has been submitted to, and approved in writing by, the local planning authority. The scheme shall subsequently be implemented as approved.

Reason

The National Planning Policy Framework paragraph 163 and paragraph 170 state that local planning authorities should ensure development does not increase flood risk elsewhere and does not contribute to water pollution.

Construction may lead to excess water being discharged from the site. If dewatering takes place to allow for construction to take place below groundwater level, this will cause additional water to be discharged. Furthermore the removal of topsoils during construction may limit the ability of the site to intercept rainfall and may lead to increased runoff rates. To mitigate increased flood risk to the surrounding area during construction there needs to be satisfactory storage of/disposal of surface water and groundwater which needs to be agreed before

commencement of the development. Construction may also lead to polluted water being allowed to leave the site. Methods for preventing or mitigating this should be proposed.

Condition 3

No works shall take place until a Maintenance Plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, has been submitted to and agreed, in writing, by the Local Planning Authority.

Should any part be maintainable by a maintenance company, details of long term funding arrangements should be provided.

Reason

To ensure appropriate maintenance arrangements are put in place to enable the surface water drainage system to function as intended to ensure mitigation against flood risk.

Failure to provide the above required information before commencement of works may result in the installation of a system that is not properly maintained and may increase flood risk or pollution hazard from the site.

Condition 4

The applicant or any successor in title must maintain yearly logs of maintenance which should be carried out in accordance with any approved Maintenance Plan. These must be available for inspection upon a request by the Local Planning Authority.

Reason

To ensure the SuDS are maintained for the lifetime of the development as outlined in any approved Maintenance Plan so that they continue to function as intended to ensure mitigation against flood risk.

Condition 5

The development hereby permitted shall not be commenced until the pipes within the extent of the site, which will be used to convey surface water, are cleared of any blockage and are restored to a fully working condition.

Reason

To ensure that drainage system implemented at the site will adequately function and dispose of surface water from the site.

Environment Agency

No comments

Waste Management

Access roads to be constructed to a suitable standard to

withstand weight and width of 26 tonne refuse collection vehicle.

Bulk bin storage areas for the retirement mews to be of adequate size to accommodate both bulk bins for residual waste collection on a fortnightly basis along with bulk bins for alternate weekly recycling on dry recyclables (paper/card and plastic bottles, tins and cans) and positioned on flat hard standing floor with minimal bin moving distance between bin storage area and refuse collection vehicle.

Environmental Protection

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

I have reviewed the noise assessment report and lighting report, I have no adverse comment to make. The air quality and dust report mentions a dust management plan during the phases of construction.

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

Prior to the commencement of any construction works, the applicant (or their contractors) shall submit a full method statement to, and receive written approval from, the Pollution and Environmental Control.

Noise Control

1) The use of barriers to mitigate the impact of noisy operations will be used where possible.

2) No vehicle connected with the works to arrive on site before 07:30 or leave after 19:00 (except in the case of emergency).

Working hours to be restricted between 08:00 and 18:00 Monday to Saturday (finishing at 13:00 on Saturday) with no working of any kind permitted on Sundays or any Public/Bank Holidays.

3) The selection and use of machinery to operate on site, and working practices to be adopted will as a minimum requirement, be compliant with the standards laid out in British Standard 5228:2014.

4) Mobile plant to be resident on site during extended works shall be fitted with non-audible reversing alarms (subject to HSE agreement).

5) Prior to the commencement of any piling works which may be necessary, a full method statement shall be agreed in writing with the Planning Authority (in consultation with Pollution and Environmental Control). This will contain a rationale for the piling method chosen and details of the techniques to be employed which minimise noise and vibration to nearby residents.

6) If there is a requirement to work outside of the recommended hours the applicant or contractor must

submit a request in writing for approval by Pollution and Environmental Control prior to the commencement of works.

Emission Control

1) All waste arising from the ground clearance and construction processes to be recycled or removed from the site subject to agreement with the Local Planning Authority and other relevant agencies.

2) No materials produced as a result of the site development or clearance shall be burned on site. All reasonable steps, including damping down site roads, shall be taken to minimise dust and litter emissions from the site whilst works of construction and demolition are in progress.

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

Historic England

Thank you for your letter of 1 March 2019 regarding the above application for planning permission. On the basis of the information available to date, we do not wish to offer any comments. We suggest that you seek the views of your specialist conservation and archaeological advisers, as relevant.

It is not necessary for us to be consulted on this application again, unless there are material changes to the proposals. However, if you would like detailed advice from us, please contact us to explain your request.

Essex County Council Heritage

The Heritage Asset relevant to this application is Grade II listed Marsh Farm (List Entry ID: 1111401).

The historic agrarian setting of Marsh Farm has been compromised by quarrying in the immediate environs. However, the change of the setting in the immediate vicinity will be very apparent, making a change to the environment of the asset and the manner in which it is experienced. This is considered to be a low-level of less than substantial harm and as such paragraph 196 is relevant.

Essex Wildlife Trust

Essex Wildlife Trust objects to this proposal for the following reasons:

- Disturbance impacts on designated features of the Colne Estuary Special Protection Area (SPA), Ramsar, Site of Special Scientific Interest (SSSI) and National Nature Reserve (NNR); and
- Loss of tranquillity and disturbance impacts on a Local Wildlife Site and Priority Habitats

Colne Estuary SPA

The Colne Estuary SPA comprises a wide diversity of

habitats with large stretches of mudflats fringed by saltmarsh on the upper shores. The surrounding terrestrial habitats - the sea wall, ancient grazing marsh and its associated fleet and ditch systems, plus semi-improved grassland - are also of high conservation interest

The Colne Estuary is a site of significant international ornithological importance for overwintering birds, including raptors, geese, ducks and waders. The diversity of estuarine habitats provides good quality feeding areas for a diversity of waterbird species. At high tide, the birds roost along the shoreline and salt marsh fringe. The site is also important in summer for breeding birds.

The site is designated for overwintering Dark-bellied Brent Geese, Redshank, Hen Harrier and for its overall wintering waterbird assemblage. It is also designated for breeding Little Tern, Pochard and Ringed Plover.

Appropriate Assessment and Ecological Assessment

We disagree with the conclusions of the Appropriate Assessment that the project will have no adverse effects on site integrity of the SPA. It is our view that the project will result in increased anthropogenic disturbance and recreational impacts.

The Ecological Assessment claims:

p.27, para. 6.2.9 “The provision of on-site formal and informal open space literally on the doorstep is likely to limit the numbers of people seeking to visit the nearby estuary habitats.”

Regardless of the provision of on-site green space, people will still visit the coast because it is the coast; it provides a unique experience and a unique environment.

We also have concerns regarding further statements provided in the Ecological Assessment. For example:

p.1 “the growing body of evidence that estuarine birds can adapt to human activity nearby eg on banks, the development is unlikely to have major impacts on the nearby estuary”

Bird species vary greatly in their sensitivity to disturbance; susceptibility may vary with age, season, weather, and the degree of previous exposure. Anthropogenic disturbance is of most concern as it is less readily adapted to by waterbird species.

Redshank are particularly susceptible to disturbance impacts, especially during periods of poor weather. They

take very small prey in relation to their body size and must therefore feed for longer periods during the tidal cycle to achieve their daily energy intake requirements. Consequently, they have no scope to extend feeding times and are particularly vulnerable to disturbance; the depletion of fat reserves caused by birds taking flight in response to disturbance events can severely impair body condition and survival.

Dogs running off lead have a significant negative correlation with time spent by coastal birds on foraging and feeding. Shore-nesting birds such as Ringed Plover are also extremely vulnerable to anthropogenic disturbance and this has a direct impact on birds' reproductive success and survival.

We would expect to see references to the specific research underpinning this claim; no such references are provided in the bibliography attached to this report.

The Ecological Assessment (p.23, para. 5.3.1) includes a statement regarding the curlew currently using the application site:

“They may be displaced to adjoining suitable land or may continue to use the site in some way, adapting to the presence of people at some level.”

Curlew are particularly sensitive to disturbance and do not frequent sites such as the one envisaged in the masterplan. There is simply not enough open, undisturbed grassland habitat within the proposed development. To state that “they may continue to use the site in some way, adapting to the presence of people at some level “, is pure conjecture without any basis in evidence. In fact, the available evidence points to the contrary - that Curlew will abandon the site permanently. This statement is therefore groundless and should not have been included in a professional ecological report.

Habituation is a species-specific phenomenon and certain species, as mentioned above, retain their sensitivity to anthropogenic disturbance. Therefore, it is our view that the proposed development will result in increased disturbance impacts on designated features of the SPA.

Robinson Road Ponds Local Wildlife Site

The development will result in a loss of tranquillity and increased anthropogenic disturbance on a local wildlife site. The Robinson Roads Ponds LoWS designation remains in place at the present time and its status remains a LoWS unless it is formally de-selected. For planning purposes, it must therefore be treated as a currently designated site and consequently worthy of

protection, retention, and enhancement.

The developer should be required to restore the LoWS to qualifying standard as a condition of permission. The site remains of county level importance unless and/or until the LoWS is formally de-selected.

Natural England

European designated sites

The proposed site is located approximately 150m from the Colne Estuary (Mid Essex Coast Phase 2) Special Protection Area (SPA) also notified as Colne Estuary (Mid Essex Coast Phase 2) Ramsar, Essex Estuaries Special Area of Conservation (SAC) and Colne Estuary Site of Special Scientific Interest (SSSI), at its closest point.

Consideration of Impacts Alone

Natural England notes that your authority, as competent authority, has undertaken an appropriate assessment of the proposal in accordance with regulation 63 of the Conservation of Species and Habitats Regulations 2017 (as amended). Natural England is a statutory consultee on the appropriate assessment stage of the Habitats Regulations Assessment process.

Your appropriate assessment concludes that your authority is able to ascertain that the proposal will not result in adverse effects on the integrity of any of the sites in question. Having considered the assessment, and the measures proposed to mitigate for all identified adverse effects that could potentially occur as a result of the proposal, Natural England advises that we concur with the assessment conclusions, providing that all mitigation measures are appropriately secured in any planning permission given.

With reference to the letter from Green Environmental Consultants (June 2020) we note the 'preferred option', however Natural England recommends the connection of foul sewerage to the mains sewer. If this is not possible, then we advise that septic tanks must conform to Environment Agency requirements and discharge consent be obtained if applicable. Environmental permitting guidance can be found here. We note that a pre-development planning condition is proposed which will ensure details of the preferred foul water drainage solution are submitted to and agreed with the Council.

Special Areas of Conservation (SACs), Special Protection Areas (SPAs) and Ramsar sites; the latter are listed or proposed Wetlands of International Importance under the Ramsar Convention and are protected as a matter of Government policy. Paragraph 176 of the National Planning Policy Framework applies the same protection measures as those in place for European

sites.

Consideration of In-combination Impacts - Essex RAMS

Additionally 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). This relates to those aspects of the scheme that are 'residential', rather than tourist related.

As you will be aware, the Essex Coast RAMS is a large-scale strategic project which involves a number of Essex authorities, including Tendring District Council, working together to mitigate the recreational impacts that may occur on the interest features of the coastal European designated sites in Essex as a result of new residential development within reach of them; the European designated sites scoped into the RAMS are notified for features which are considered sensitive to increased levels of recreation (e.g. walking, dog walking, water sports etc.) which can negatively impact on their condition (e.g. through disturbance birds, trampling of vegetation, erosion of habitats from boat wash etc.). For further information on these sites, please see the Conservation Objectives and Information Sheets on Ramsar Wetlands which explain how each site should be restored and/or maintained.

In the context of your duty as competent authority under the provisions of the Habitats Regulations, it is therefore anticipated that, without mitigation, new residential development in this location is 'likely to have a significant effect' on one or more European designated sites, through increased recreational pressure, either when considered 'alone' or 'in combination' with other plans and projects.

We understand that you have screened this proposed development and consider that it falls within scope of the Essex Coast RAMS, and that you have undertaken a Habitats Regulations Assessment (HRA) (Stage 2: Appropriate Assessment) in order to secure any necessary recreational disturbance mitigation, and note that you have recorded this decision within your planning documentation.

We are satisfied that the mitigation described in your Appropriate Assessment is in line with our strategic-level advice (our ref: 244199, dated 16th August 2018). 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.

The financial contribution should be secured through an appropriate and legally binding agreement, in order to ensure no adverse effect on integrity.

UU Open Spaces

Current Position

There is currently a deficit of 13.68 hectares of play and formal open space in Brightlingsea. There are two play areas in Brightlingsea located at Western Promenade approximately 1.6 miles from the development and Bayard Rec Ground approximately 0.8 miles from the development.

Recommendation

Although the development includes an on-site play area it is likely that this is going to be for holiday guests only and not available to local residents. A contribution towards improvement existing play facilities is both relevant and justified to this planning application. The contribution would be used to improve the facilities at the nearest play area located at Bayards Recreation Ground.

Housing Services

The proposed site is a mixed use tourist and residential site. The residential part of the site consists of 36 retirement apartments (24 x 1 bed and 12 x 2 bed) and 5 x4 bedroom houses.

As this is a mixed use site, it is extremely unlikely that a registered provider would want to take on affordable housing on site and the council would not want to either. In light of this, the council would prefer to see an off-site financial contribution instead of units being delivered on site for affordable housing.

If affordable housing was being sought on site, the council's preference would be for 11 x 1 bed flats and 1 x 4 bed house.

I have not taken the timber lodges mentioned in the application into account as there is nothing to indicate that they will be available for permanent residential use.

ECC Highways Dept

Essex County Council in their capacity as Highway Authority has thoroughly assessed the original and additional highways and transportation information submitted in support of the above planning application. The assessment of the application and Transport Assessment was undertaken with reference to the National Planning Policy Framework and in particular the following aspects were considered: access and safety; capacity; the opportunities for sustainable transport; and highway mitigation measures.

The Transport Assessment accompanying the planning application has been considered in detail and the

Highway Authority is satisfied that, at peak times, the number of trips generated by the proposal will not have a severe impact and can be accommodated safely and efficiently on the local highway network.

The conclusions of the Highway Authority are as follows:

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 occupation of the development, the road junction / access at its centre line shall be provided with a visibility splay with dimensions of 2.4 metres by 90 metres in a south east direction and 2.4 metres by 120 metres in a north west direction, as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the road junction / access is first used by vehicular traffic and retained free of obstruction above 600mm at all times.

Reason - To provide adequate inter-visibility between vehicles using the road junction / access and those in the existing public highway in the interest of highway safety in accordance with policy DM1.

2. Prior to occupation of the development a vehicular turning facility, of a design to be approved in writing by the Local Planning Authority shall be constructed, surfaced and maintained free from obstruction within the site at all times for that sole purpose.

Reason - To ensure that vehicles can enter and leave the highway in a forward gear in the interest of highway safety in accordance with policy DM1.

3. No unbound material shall be used in the surface treatment of the vehicular access within a minimum of 6 metres of the highway boundary.

Reason - To avoid displacement of loose material onto the highway in the interests of highway safety in accordance with policy DM1.

4. Prior to occupation of the development, the proposed road junction at its bell mouth junction with Robinson Road shall be constructed at right angles to the highway boundary and to the existing carriageway as shown on, drawing no. to a carriageway width of 5.5 metres with minimum radius kerbs of 6 metres based on and in principal with drawing no. IT1671/SK/01 Rev A; with a flanking single footway 2m. in width returned around the radius kerb only with tactile paving to provide a pedestrian link to the existing footway on the opposite side of Robinson Road.

Reason - To ensure that all vehicular traffic using the junction may do so in a controlled manner and to provide adequate segregated pedestrian access, in the interests of highway safety and in accordance with Policy DM1 and DM6.

5. Any gates provided at the vehicular access shall be inward opening only and shall be set back a minimum of 6 metres from the back edge of the carriageway.

Reason - To enable vehicles using the access to stand clear of the carriageway whilst gates are being opened and closed and to allow parking off street and clear from obstructing the adjacent footway/cycleway/carriageway in the interest of highway safety in accordance with policy DM1.

6. There shall be no discharge of surface water onto the Highway.

Reason - To prevent hazards caused by water flowing onto the highway and to avoid the formation of ice on the highway in the interest of highway safety to ensure accordance with policy DM1.

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

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

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

8. The proposed development shall not be occupied until such time as the vehicle parking area indicated on the approved plans, including any parking spaces for the mobility impaired, has been hard surfaced, sealed and marked out in parking bays. The vehicle parking area and associated turning area shall always be retained in this form. The vehicle parking shall not be used for any purpose other than the parking of vehicles that are related to the use of the development unless otherwise agreed with the Local Planning Authority.

Reason - To ensure that on street parking of vehicles in the adjoining streets does not occur in the interests of highway safety and that appropriate parking is provided in accordance with Policy DM8.

9. 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 in accordance with Policy DM8.

10. Prior to occupation and until such time as the public footpaths 161_8 & 161_27 (just beyond Marsh Farm) infrastructural improvements required for the upgrade of the natural surface by providing planings with timber edging; the extent to be agreed with the Highway Authority and has been provided entirely at the Developer's expense.

Reason - To make adequate provision within the highway for public footpath 8 and 27 (part) These areas currently have a natural surface so would benefit from an upgrade (a layer of planings with timber edging) due to the additional pedestrian traffic generated as a result of the proposed development.

This condition requires a Legal Agreement between the Applicant/Developer and the Highway Authority using the powers in Section 278 of the Highways Act, 1980.

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

Informative 1: The Public Right of Way network is protected by the Highways Act 1980. Any unauthorized interference with any route noted on the Definitive Map of PROW is a breach of this legislation. The public's rights and ease of passage over public footpaths 161_8 & 161_27 (Brightlingsea) shall always be maintained free and unobstructed to ensure the continued safe passage of the public on the definitive right of way.

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

Essex County Council Ecology

No objection subject to securing ecological mitigation and enhancement measures and a financial contribution for visitor management measures at the Colne Estuary SPA and Ramsar site.

Summary

Further to discussions between Place Services and the applicant's ecologist regarding the additional information needs for the above application, we have reviewed the recently submitted clarification letter to the LPA Reference No. 15-01-1501.250-5 (Honace, 25 June 2019).

England Coast Path - Salcott to Jaywick

The proposed link from the development site to the seawall and the seawall and the England Coast Path (ECP) has now been removed from the application. Natural England officers working to deliver this national scheme have confirmed that a decision on the proposed route for the stretch from Salcott to Jaywick will not be announced by Natural England until 2020 and will be subject to a detailed assessment of the proposed coastal footpath route. This is necessary to comply with the UK Habitats Regulations 2017 and will include assessment of, likely impacts on the adjacent Colne Estuary Special Protection Area and Ramsar site in particular recreational disturbance to the internationally important populations of the birds and habitats protected by these designations, either alone or in combination with other plans and projects. We note that any future connection to the ECP from the site will trigger a project level Habitats Regulations Assessment (HRA) Appropriate Assessment at that time.

We welcome this clarification to the proposed development that the Lower Farm Park application will not create a public right of way onto the crest of the sea wall independently from Natural England ECP. This now provides certainty for the scope of the Habitats Regulations Assessment (HRA) to be prepared by the LPA for likely impacts particularly from recreational disturbance.

Essex Coast Recreational disturbance Avoidance &

Mitigation Strategy (RAMS)

Natural England's formal advice to the LPA (16th Aug 2018) on its duty as a competent authority under the Habitats Regulations confirms that as the development includes a residential element, it is of a relevant type. Given its sensitive location the development lies within the Zone of Influence of the Essex Coast RAMS for assessment of likely impacts from recreational disturbance in combination with other plans and projects. Adverse impacts on European designated sites including the Colne Estuary SPA & Ramsar site cannot be avoided without mitigation.

In line with the recent Court judgement (CJEU People Over Wind v Coillte Teoranta C-323/17), mitigation measures cannot be taken into account when carrying out a screening assessment to decide whether a development is likely to result in significant effects on a Natura 2000 site. Therefore, all proposals which are within the scope of the Essex Coast RAMS must proceed to HRA Stage 2 (Appropriate Assessment).

The LPA will therefore prepare an Appropriate Assessment to consider if, with mitigation, it is possible to conclude no adverse effect on integrity (AEOI) of European designated (Habitats) sites particularly in terms of recreational pressure either alone or in combination with other plans and projects eg ECP which will require its own mitigation measures to avoid AEOI of the Habitats sites of the Essex coast.

As mitigation is necessary to ensure that any consent is legally compliant, it is still therefore recommended that a proportionate financial contribution for any consented number of residential units in line with the Essex Coast RAMS should be offered to and secured by the LPA. This would help fund strategic 'off site' measures. In the interim period before the RAMS is adopted by the LPA, a financial contribution should be agreed with and collected from the developer, prior to commencement. This is on the basis that it should be used to fund strategic 'off site' measures (i.e. in and around the relevant European designated site(s)). These measures should be targeted towards increasing the relevant European site(s) resilience to recreational pressure and be in line with aspirations of the emerging Essex Coast RAMS.

Please note that the developer needs to provide a proportionate financial contribution in line with the Essex Coast RAMS towards visitor management measures to allow the LPA to avoid AEOI on Habitats sites in order to meet the requirements of the Habitats Regulations before any consent can be issued.

The HRA mitigation contribution will need to be secured

by a legal agreement for provision prior to commencement of the residential element of the development to secure delivery of mitigation in perpetuity ahead of likely impacts.

Subject to Natural England's agreement with the conclusion of the LPA's Appropriate Assessment, it is considered that with sufficient mitigation measures in place that the development can avoid AEOI on the Colne Estuary SPA and Ramsar site.

Priority habitat within the development

We welcome the clarification that the Priority Lowland Acid Grassland habitat on site will be protected and enhanced as part of the development proposals. We note that through removal of the scrub vegetation, the acid grassland area will be allowed to naturally extend over this area. The Proposed Master Site Plan A3 0-A000-LP-003 and Proposed Master Site Plan A3 Simple Line 0-A000-LP-010 drawings have been updated to indicate the retention and creation of the acid grassland feature within the site. It is recommended that the management of this Priority habitat is secured by a condition of any consent.

Following clarification, we acknowledge that the Lower Farm Park site has a mixture or mosaic of mature and semi-mature habitats but lacks the open ground or early successional areas needed to be classified as Previously Developed Open Mosaic Habitat. No further surveys or assessment are considered necessary prior to determination.

Protection of Invertebrate Habitat

We welcome the proposed protection of the south facing dry acid grassland bank which runs along Stoney Lane, which was the area of greatest interest for invertebrates. As this lies just outside the northern boundary of the Lower Farm Park site and landholding, to reduce and restrict public access a low-level gorse or hawthorn hedge or fencing should be established alongside this area of interest at the toe of the dry acid grassland bank at the landholding boundary. We agree that it is important that the development avoids or minimises impacts on this biodiversity feature. To maintain the dry acid grassland bank in good habitat condition for invertebrates, we note it is therefore also proposed that the bank should remain open and unshaded. Details of the management currently provided by rabbits to maintain areas of bare ground and early-successional conditions for invertebrates are proposed in section 3.2 of the Invertebrate report to conserve the invertebrate value of the dry grassland bank outside the site.

These measures should therefore be incorporated in an amended design of the masterplan for this development to be submitted to the LPA. We recommend that these mitigation measures are secured for implementation by a condition of any consent.

Ecological and Biodiversity Enhancements

We welcome the proposed ecological enhancements to the Lower Farm Park application. This will allow the LPA to demonstrate any decision will be in line with paragraph 175 of the NPPF 2019 and will contribute to net gain for biodiversity from the development.

We are therefore now satisfied that there is sufficient ecological information available for determination of this application. The above additional information is required for the LPA to have certainty of impacts on designated sites, Protected and Priority species and habitats.

All of the above mitigation and enhancement measures are needed to enable the LPA to demonstrate its compliance with its statutory duties including the UK Habitats Regulations 2017 and its biodiversity duty under s40 NERC Act 2006.

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 Ecological Assessment (Green Ecology, Nov 2017 updated Aug 2018) and Ecology Clarifications letter (Honace, 25 June 2019) as already submitted with the planning application and agreed in principle with the local planning authority prior to determination.

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

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

2. PRIOR TO SLAB LEVEL: WILDLIFE SENSITIVE LIGHTING DESIGN SCHEME

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

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

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

3. PRIOR TO SLAB LEVEL: BIODIVERSITY ENHANCEMENT LAYOUT

"A Biodiversity Enhancement Layout, providing the finalised details and locations of the enhancement measures contained within the Ecological Assessment (Green Ecology, Nov 2017 updated Aug 2018) and Ecology Clarifications letter (Honace, 25 June 2019), shall be submitted to and approved in writing by the local planning authority.

The enhancement measures shall be implemented in accordance with the approved details and all features shall be retained in that manner thereafter."

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

4. PRIOR TO OCCUPATION: LANDSCAPE AND ECOLOGICAL MANAGEMENT PLAN

"A Landscape and Ecological Management Plan (LEMP) shall be submitted to, and be approved in writing by, the local planning authority prior to occupation of the development.

The content of the LEMP shall include the following:

- a) Description and evaluation of features to be managed.
- b) Ecological trends and constraints on site that might

- influence management.
- c) Aims and objectives of management.
 - d) Appropriate management options for achieving aims and objectives.
 - e) Prescriptions for management actions.
 - f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).
 - g) Details of the body or organisation responsible for implementation of the plan.
 - h) Ongoing monitoring and remedial measures.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details."

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)

Essex County Council Ecology
**(Additional comments in
response to objections – 12th
June)**

In their consultation response ref 277161 (11th April 2019), Natural England state that "without mitigation, new residential development in this area and of this scale is likely to have a significant effect on the sensitive interest features of these coastal European designated sites". It advises the LPA must undertake a Habitats Regulations Assessment (HRA) to secure any necessary mitigation and record this decision within the planning documentation. The LPA should not grant permission until such time as the HRA has been undertaken and the conclusions confirmed.

An HRA Appropriate Assessment (AA) has been prepared for this development to assess if it can avoid an adverse effect on the Integrity (AEOI) of the designated sites, either alone or in combination with other plans and projects. The AA concluded that with mitigation the development will not result in AEOI of these sites and therefore, providing these mitigation measures are secured for implementation, the development can proceed. The LPA awaits the consultation response from Natural England on the AA as required by the Conservation of Habitats and Species Regulations 2017 (as amended).

Natural England also note that this development triggers

the “Discharges” category in the SSSI Impact Risk Zones (IRZ) layer. Natural England advise that consideration is given to the management of surface water to prevent potential impacts to the interest features of the designated sites through the infiltration of poor quality water that subsequently provides ground and surface water feeds to the designated sites, and if necessary, agreements through a planning condition to ensure the long-term maintenance of these systems to prevent future impacts should be secured. This impact pathway has been assessed in the AA and after consultation with Essex County Council’s Development and Flood Risk team, mitigation measures have been agreed (Memorandum by SLR Consulting, Lower Park Farm – Drainage Addendum, reference 428.07298.00003 dated 27/03/2019). These including a SuDS scheme will be secured for implementation by a condition of any consent to ensure that there would be no off-site discharges. The clarification letter for drainage and foul drainage (Green Environmental Consultants, 10 June 2020) confirms the measures embedded in the design of the development which will avoid adverse impacts on ecology or specifically the SAC.

The clarification letter to the LPA Reference No. 15-01-1501.250-5 (Honace, 25 June 2019) states that the “the (acid grassland area) will be protected and enhanced as part of the Lower Farm Park development proposals, through the removal of the scrub vegetation to allow the acid grassland to naturally extend over an area of 0.29 ha. The Proposed Master Site Plan A3 0-A000-LP-003 and the retention and creation of the acid grassland feature within the site.” The retention and enhancement of this area of acid grassland provides suitable habitat onsite for the invertebrates identified in the grassland area.

Additionally, the clarification letter also states that the “south facing dry acid grassland bank which runs along Stoney Lane, which was the area of greatest (invertebrate) interest” will be protected through the planting of a “a low-level gorse or hawthorn hedge or fencing should be established alongside... to reduce and restrict public access” and therefore conserve the area for these invertebrate species.

As stated in our consultation response dated 15th July 2019, we recommend that these mitigation measures are secured for implementation by a condition of any consent.

Essex County Council Ecology
**(Additional comments in
response to EWT objections –
4th August)**

We note that EWT (letter dated 17 June 2020) objects to the application on the basis of:

- Disturbance impacts on designated features of the Colne Estuary Special Protection Area (SPA), Ramsar,

Site of Special Scientific Interest (SSSI) and National Nature Reserve (NNR); and
- Disturbance impacts on a Local Wildlife Site and Priority Habitats

Appropriate Assessment of impacts on designated features of the Colne Estuary Special Protection Area (SPA), Ramsar, Site of Special Scientific Interest (SSSI) and National Nature Reserve (NNR)

We also note that, EWT disagree with the conclusions of the Appropriate Assessment that the project will have no adverse effects on site integrity of the SPA. It is their view that the project will result in increased anthropogenic disturbance and recreational impacts.

In the absence of mitigation, the EWT view is correct which is why Natural England's formal consultation response on the Appropriate Assessment for this application (ref 319867, 16 July 2020), Natural England letter states:

"Having considered the assessment, and the measures proposed to mitigate for all identified adverse effects that could potentially occur as a result of the proposal, Natural England advises that we concur with the assessment conclusions, providing that all mitigation measures are appropriately secured in any planning permission given."

In our revised comments (dated 15th July 2020) we recommended that the mitigation measures for recreational disturbance under the Essex Coast RAMS need to be secured by a legal agreement for delivery in perpetuity. Measures to control foul water drainage will also need to be secured by a condition of any consent with details to be agreed with the LPA prior to commencement.

We are therefore satisfied that the EWT concerns relating to disturbance impacts on designated features of the Colne Estuary SPA, Ramsar, SSSI and NNR can be overcome by securing the necessary mitigation measures for implementation in full.

Impacts on Robinson Road Ponds Local Wildlife Site (LoWS) and Priority habitat

The EWT objection also relates to impacts on Robinson Road Ponds LoWS; this is specific to the fact that its designation remains in place at the present time and its status remains a LoWS unless it is formally de-selected.

We agree with their comments that "For planning purposes, it must therefore be treated as a currently designated site" and EWT's request for restoration of the

LoWS to qualifying standard accepts that the site is no longer in good condition.

In line with NPPF (2019) para 170, the LPA seeks to protect and enhance sites of biodiversity value on the development site and minimising impacts on and providing net gains for biodiversity. By securing appropriate management of the acid grassland within this LoWS by a condition of any consent, this will protect, retain and enhance this Priority habitat, which the landowner has currently no requirement to do.

The invertebrate interest of the site has been assessed and the Invertebrate survey report prepared by Colin Plant Associates (consultant entomologists) followed the methodology issued by Natural England and specific guidelines produced in relation to invertebrate survey standards in Essex. Two Priority species were recorded both regarded as Near Threatened - Phoenix Fly from areas of grassland and Small Heath butterfly noted on several visits. The presence of cinnabar moth on site is not significant as this species is listed on s41 for research only.

In addition to Priority species, seven invertebrates listed the British Red Data Book (RDB) or those listed as Nationally Rare (IUCN status) were also recorded by the survey plus 47 Nationally Scarce species. Assessment of the overall invertebrate community used Osiris within the Pantheon database tool. The Species Quality Index (SQI) scores for the habitats on site indicate that the short sward and bare ground supporting a regionally important invertebrate fauna. However, while the site clearly supports a very important short sward and bare ground assemblage, 60% of the total number of species recorded by the survey were only associated with the dry acid grassland bank along Stoney Lane which sits just outside the site. The Pantheon analysis confirms that at least 22 of these species are directly dependent on the exposed sand and lichen heath microhabitat which is confined to this feature of the site.

In order to maintain this dry acid grassland bank in good habitat condition, it is proposed that the bank should remain open and unshaded. It is therefore important that the development avoid or minimises impacts on this biodiversity feature. It is key that physical disturbance currently provided by rabbits maintains areas of bare ground and early-successional conditions. Mitigation proposed in section 3.2 of the Invertebrate report to conserve the invertebrate value of the dry grassland bank outside the site includes:

- A buffer zone created adjacent to the bank such that it remains unshaded; and
- Public access to the bank should be limited and

restricted; a low-level gorse or hawthorn hedge or fencing should be established alongside the toe of the dry acid grassland bank to reduce and restrict public access.

We also recommended in our revised comments that these mitigation measures should therefore be incorporated in an amended design of the masterplan for this development to be submitted to the LPA as a condition of any consent for a long-term Landscape and Ecological Management Plan. This early-successional habitat should be maintained by periodic scraping to reset succession, in the absence of any other physical disturbance.

In addition, it should include reasonable biodiversity enhancements, as paragraph 175 of the NPPF 2019 which highlights that development should identify and pursue opportunities for securing measurable net gains for biodiversity. A Biodiversity Enhancement Layout is recommended as a condition of any consent to provide the finalised details and locations of the enhancement measures contained within the Ecological Assessment (Green Ecology, Nov 2017 updated Aug 2018) and Ecology Clarifications letter (Honace, 25 June 2019). Given the presence of a rich aculeate Hymenoptera fauna containing numerous rare species, it is also recommended that construction of bee banks, created in open, south-facing situations, would be an appropriate enhancement for biodiversity.

Following clarification, we acknowledge that the Lower Farm Park site has a mixture or mosaic of mature and semi-mature habitats but lacks the open ground or early successional areas needed to be classified as Open Mosaic Habitat on Previously Developed Land. The site therefore does not support this Priority habitat.

There is no reason why the LoWS designation should be affected. Indeed the review of any LoWS designation is a matter for the Local Site Partnership against the current LoWS criteria, not just the original features. In relation to the request for “The developer should be required to restore the LoWS to qualifying standard as a condition of permission”, the long term management of the site will be secured by a condition of any consent. Consideration should therefore be given to producing an updated site description for this LoWS based on management of the important biodiversity features on the site.

The clarification letter to the LPA Reference No. 15-01-1501.250-5 (Honace, 25 June 2019) states that the “the (acid grassland area) will be protected and enhanced as part of the Lower Farm Park development proposals, through the removal of the scrub vegetation to allow the acid grassland to naturally extend over an area of 0.29

ha. The Proposed Master Site Plan A3 0-A000-LP-003 and the retention and creation of the acid grassland feature within the site.” The retention and enhancement of this area of acid grassland provides suitable habitat onsite for the invertebrates identified in the grassland area.

Additionally, the clarification letter also states that the “south facing dry acid grassland bank which runs along Stoney Lane, which was the area of greatest (invertebrate) interest” will be protected through the planting of a “a low-level gorse or hawthorn hedge or fencing should be established alongside... to reduce and restrict public access” and therefore conserve the area for these invertebrate species.

As stated in our consultation response dated 15th July 2019, we recommend that these mitigation measures are secured for implementation by a condition of any consent.

We are therefore also satisfied that the EWT concerns relating to disturbance impacts on a Local Wildlife Site and Priority Habitats can also be overcome by securing the necessary mitigation and enhancement measures for implementation in full.

Environment Agency

Further to our previous letter referenced AE/2020/125228/02-L01 dated 14 August 2020, further information has been submitted that confirms the aspiration for foul water flows to go to the mains sewer.

On this basis, we are removing our holding objection to this application.

Foul Drainage

The applicant has now submitted letter referenced 425.07298.00006 and dated 18 August 2020. This letter confirms that the aspiration is to connect to the mains foul sewer and that a new pre-planning enquiry has been submitted to Anglian Water. This is consistent with government guidance contained within the National Planning Practice Guidance (Water supply, wastewater and water quality – considerations for planning applications, paragraph 020) which sets out a hierarchy of drainage options that must be considered and discounted in the following order:

1. Connection to the public sewer
2. Package sewage treatment plant (adopted in due course by the sewerage company or owned and operated under a new appointment or variation)
3. Septic Tank

As option 1, connection to the public sewer, is now the

primary consideration, we are satisfied that our holding objection to this application can be removed. We therefore have no objections to this application subject to the unsuspected contamination condition raised within our original letter referenced AE/2020/125228/01-L01 and dated 25 June 2020 being included should the permission be granted.

5. Representations

5.1 Brightlingsea Town Council would like change its previous comment, to a neutral position, however the Town Council would like to liaise with the owners in a structured way, to monitor and address some of the following points:-

- Going against apparent good practice with regard to energy use and supply with provision of, for example, wood burners but without provision of solar panels.
- Lack of parking.
- Sustainability of energy supplies.
- Development of Cycle Paths linking town and development.

Should the TDC Planning Committee be minded to grant approval BTC insist that the legal agreement relating to conditions is strictly adhered to particularly in relation to the requirement that no more than 60% of residential development can be occupied prior to the building of 50 lodges.

5.2 89 representations of objection have been received and 13 comments of support. The content of these representations are outlined below;

Objections

- Loss of important green space.
- Development is too big for the area and town.
- Too much traffic congestion along Robinson Road.
- Areas for nature are being decreased.
- Infrastructure of town cannot cope with the development.
- Already too many holiday homes, care homes and housing in the town.
- Boundaries of Flag Creek need to be protected.
- More noise and pollution to local area.
- Town too busy at peak times already and only one road in and one road out.
- Destruction of abundant wildlife.
- Land should be turned into a country park.
- Site is located outside any development boundary.
- Loss of treasured country lane.
- Increased traffic congestion and carbon footprint.
- Affordable housing should be provided.
- Economic benefits to local area should be queried.
- Appropriate assessment required to assess impacts on nearby designated sites (RAMSAR, SAC etc).
- No traffic stats for camping/glamping uses.
- Extra burden on sewerage/drainage.
- Adverse impact on local resident's amenity in terms of noise/light/privacy loss
- Light pollution impacts upon designated sites.
- Development is a Trojan horse to create housing development in the future
- Too close to marshland and designated sites.

- The damaging impact of the proposed development has been clearly described in detail in objections from others including Essex Wildlife Trust.
- The HRA is grossly misleading on the 3 separate occasions that the assessment says no easy pedestrian link to the designated site. In fact the nearest footpath runs alongside the site, joins up with Stoney Lane along the Northern edge of the site then runs straight downhill to the Colne Estuary.
- The HRA is misleading when it describes the land as "agricultural land" when it is in fact previously developed land described in the first invertebrate survey as Previously Developed Open Mosaic Habitat.
- The designated sites themselves have not been assessed to provide information on the connectivity of the whole area.
- There was no period for Place Services to properly consult other local authorities or bodies regarding other plans or projects. Consequently there is no mention of Natural England's proposed route of the Coastal Footpath or the Colne School expansion.
- Long drawn out building programme.
- No incentive after housing element is completed.
- Development is not a large job creator.
- Adverse impact on setting of listed building to the north.
- No junction capacity assessments have been undertaken.

Support

- Overriding demand for top quality holiday accommodation in Tendring area.
- Development meets the needs of the tourism market.
- Attracts more affluent tourists who are inclined to spend more money in the local area boosting the economy.
- Site is located ideally in terms of access to good transport links.
- Development suits all year round short break market which is increasing in popularity.
- Boosts local economy and creates jobs.
- Turns old quarry site into something good for town.
- Regenerates unused land.
- A great endorsement of the town and excellent use of space which is not heavily dependent on local infrastructure.

6. Assessment

Site Context

- 6.1 The application site is situated to the north-eastern edge of Brightlingsea on land to the north of Robinson Road. The site comprises approximately 81 acres of former gravel workings which established a low-level restoration profile. On the cessation of quarrying operations in the late 1980's the former quarry workings were backfilled with site sourced overburden and silt washings. Limited subsoil or topsoil was used to restore the site. The site has been left to self-seed, which has created areas of open scrub, grassland and woodland around three former silt lagoons, which have formed five open lakes with a total footprint of approximately 15 acres within the low-level landscape.
- 6.2 Access to the site is from the B1029 (which is defined as a B road of importance) and along Red Barn Road/Robinson Road. Direct access to the site is from the former quarry entrance along Robinson Road.
- 6.3 The site is bounded to the north by Marsh Farm (Grade II Listed) and arable fields that extend to Lower Farm to the east of the site. The southeast of the site is bounded by grassland and Freelands Road, which runs around to bound the south of the site as Robinson Road. The southwest and west of the site is bounded by Robinson Road and the

residential fringes of Brightlingsea. Directly on the southern side of Robinson Road a housing development is under construction.

- 6.4 Topographical data provided shows that natural ground levels surrounding the site form a plateau of higher ground around the northern, western and south-western boundaries of the site. The ground levels within the site generally fall in a northerly and north-easterly direction. Across the eastern area of the site ground levels fall from the raised plateau in a south-easterly direction.

Proposal

- 6.5 This application proposes the construction of a mixed-use tourist and residential scheme comprising retirement living apartments (36 units), detached farmstead houses (5 units) and a reception or club house (known as "The Barrow") to enable and serve a number of timber holiday lodges (104 units) and ancillary activities such as glamping, toilet facilities and play areas which will be the main focus of the development within the footprint of a former quarry.

Each element of the development is broken down as follows;

The Barrow

- 6.6 'The Barrow' is designed as a working space which will provide the administrative centre for the tourism proposals, which is flexible in internal space to allow it to provide the tourist hub for the site, events and corporate training facilities during the off season. The building comprises a small site shop to supply essential basic goods to tourists. A small kitchen and flexible cafe space for providing teas, coffees and cake and light lunches. Chair store, cloak rooms and toilets are also included. An office space, information centre and flexible education areas are provided all with disability access throughout.
- 6.7 'The Barrow' is a single storey building designed to be hidden in the landscape, with a full double curved sedum or 'living' roof.

The Holiday Lodges

- 6.8 A total of 104 lodges of differing building forms and arrangements will be the main focus of the development, which will vary in size and number of bedrooms across the former quarry workings. A mixture of one (50%), two (40%), three (8%) and four (2%) bedroom lodges will be developed.
- 6.9 The proposed lodges will be timber built and arranged around the existing lakes and existing/proposed vegetation. The timber lodge accommodation is targeted at the tourism market for short term stays with an undertaking to not permit the sale or transfer of these for residential purposes or long term let.

Glamping Area

- 6.10 Tepees, yurts and other temporary accommodation are proposed within the glamping area to the eastern end of the site and will be used to enhance and extend the initial tourism development. Each glamping unit will be furnished with a toilet, kitchenette, cold running water, wood burning stove for heating and cooking, storage areas, cool chest, lounging and bedroom areas. The glamping area will be open throughout the summer season only.

Mixed Age Play Area

- 6.11 A mixed age playground is proposed for the north-west area of the site. The play area is bounded by woodland planting and provides safe area for mixed age play.

Retirement Apartments

- 6.12 The retirement units will consist of 36 apartments that are targeted at the over 60's. The apartments will have a mix of twelve two bedroomed and twenty-four one bedroomed apartments within a two-storey art-deco styled building.
- 6.13 The retirement apartments are to be located at the lower south western corner of the site adjacent to Robinson Road. The ground floor apartments will have access to smaller manageable gardens and balconies are proposed for those at first floor level. A shallow sedum or "living" roof garden that blends the roof space into the local landscape will be accessed via a rooftop observatory. Parking for residents, staff and visitors with disabled parking is proposed offering 48 spaces.

Private Housing (5 Houses)

- 6.14 Five x 4 bedroom dwellings are proposed adjacent to Robinson Road in the southern central section of the site. The properties would be served via a private drive and comprise of red brick and weatherboard clad elements. Each property would be served by a detached double garage and open parking bays.
- 6.15 Other structures and notable areas of development associated with the development comprise: Public Conveniences, Fishing and Boating Lakes and Boating Jetties. The lakes are to be utilised for fishing, rowing/canoeing only.

Principle of Development

Tourism Use

- 6.16 There are a number of national and local planning policies that have been established to support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development.
- 6.17 Paragraph 83 of the National Planning Policy Framework (2019) states that Local Planning Authorities should provide support for sustainable rural tourism and leisure developments that benefit businesses in rural areas, communities and visitors, which respect the character of the countryside. This includes supporting the provision of tourist and visitor facilities located in appropriate locations.
- 6.18 Furthermore, Paragraph 84 of the National Planning Policy Framework (2019) states that planning policies and decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. In these circumstances it will be important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable (for example by improving the scope for access on foot, by cycling or by public transport). The use of previously developed land, and sites that are physically well-related to existing settlements, should be encouraged where suitable opportunities exist.

- 6.19 Moreover, Tendring District Council's Tourism Strategy identifies four core objectives to develop tourism in Tendring: increase the amount of money visitors spend in Tendring; extend the length of time visitors stay in the District; attract higher spending visitors; and, improve the perception of Tendring as a tourism destination.
- 6.20 Within both the saved and emerging local plans there are policies which support tourism uses and policies which refer specifically to new holiday parks. Policy ER16 of the saved plan states that when considering applications material considerations include whether the park;
- occupies a prime site in the main tourist areas within an attractive location;
 - provides or could provide a range of recreational facilities;
 - provides the potential to provide a range of holiday accommodation.
- 6.21 Emerging Local Plan policy PP11 is more detailed and states, amongst other things, that subject to consideration against other relevant local plan policies, the Council will support proposals for;
- Improvements to the range and quality of attractions and facilities at safeguarded sites and other sites; and
 - New holiday parks that comprise well designed timber chalets set on plinths with pitched roofs, ideally located within a wooded or undulating landscape setting that incorporates water features and indoor and outdoor leisure facilities that would be appropriate in a countryside location.
- 6.22 In this instance the tourism element of the proposals would offer a significant contribution to the priorities identified in the Local Plans and National Planning Policy, in particular in providing potential employment opportunities and local business growth.
- 6.23 In addition, the site is located within one of the District's coastal towns on an undulating site that comprises of wooded areas and water features. The Council's emerging Local Plan specifically states that the Council is anxious to promote a more diverse range of visitor accommodation that comprises of timber chalets/lodges set within landscaped settings with ancillary leisure facilities. In this regard the development at Lower Farm Park will offer activities that promote good mental and physical health, fitness and wellbeing and it is proposed that membership and day tickets will be available for local residents too.
- 6.24 Consequently, the benefits of the tourism use to the local economy, the sustainable credentials of the site which is well related to an existing settlement with good access to local facilities and the intention to provide a high quality timber chalet style development set within a landscaped setting, would accord with the requirements of the saved and emerging policies outlined above. The tourism use is therefore considered to be acceptable in principle, but must be considered against the requirements of other Local Plan policies.

Housing/Retirement Apartments

- 6.25 The application also proposes private housing in the form of 5 dwellings and 36 retirement apartments to, in part, act as enabling development to facilitate the provision of the tourism use. However, the housing elements need to be considered against the requirements of the Local Plan policies and on their own merits.
- 6.26 As stated above, the application site is located outside of any defined settlement boundary but directly to the north of a recently constructed housing development within Robinson Road. Consequently, the site is situated adjacent to the emerging settlement development boundary of Brightlingsea on the edge of a settlement defined as smaller urban settlement under emerging policy SPL1. The supporting text for that policy states that these

settlements provide a range of opportunities for the use of public transport, walking and cycling and because they have established town centres, employment areas and infrastructure, they provide locations where, with the right action, it is possible to create a significant number of additional new jobs and deliver sustainable housing growth on a large scale.

- 6.27 The location of the residential and retirement elements within the Lower Farm Park development are within walking distance of existing facilities in Brightlingsea Town Centre and regular public transport routes to further afield locations which indicate that the site is both a suitable and sustainable location to accommodate residential development, in accordance with the requirements of the local and national planning policies.
- 6.28 As stated above, the housing element of this development has been put forward to, in part, enable the tourism use. As a consequence it is important to include trigger points within the associated legal agreement to avoid the housing being built out and not the associated tourism use. In this context it has been agreed with the developer that no more than 60% of the residential element can be occupied until 50 holiday lodges, the glamping area and all landscaping/civil engineering works have been completed. This represents the first phase of the development. The second phase will see the construction of The Barrow (tourism function building) and further holiday lodges on the southern loop upon occupation of the remaining residential units.
- 6.29 Officers have reviewed this phasing of development and consider that the thresholds outlined above strike an appropriate balance between securing the construction of the tourism function against the occupation of the residential units whilst sufficiently incentivising the developer to complete various sections of the mixed used development proposed.
- 6.30 Overall the combined tourism and residential proposals across Lower Farm Park are acceptable in principle will offer a significant contribution to the local environment and economy, which are compatible and sympathetic with surrounding land uses.

Landscape Impact

- 6.31 The application site is primarily unimproved grassland with established boundary vegetation. The main body of the land contains a few solitary trees and tree belts with understory hedgerows and scrubby growth. From outside the application site there are two clearly visible bodies of water that are the result of earlier mineral extraction. The information submitted by the applicant refers to 5 lakes although these are not visible from the perimeter of the site but become apparent when on the land. The site layout plan shows these within the centrally situated belts of vegetation. Relatively dense vegetation encloses all of the waterbodies that currently sit comfortably in their setting.
- 6.32 In order to show the potential impact of the development proposal on the existing trees and other vegetation on the land the applicant has provided a Tree Survey and Report containing an Arboricultural Implication Assessment (AIA). This shows the full extent of the constraint that the existing trees are on the development potential of the land and takes into account the significance of the existing vegetation, especially for its screening value. The information contained in the report is in accordance with BS5837: 2012 Trees in relation to design, demolition and construction, Recommendations.
- 6.33 The site layout makes provision for the retention of most of the boundary vegetation and identifies planting locations for new trees and other soft landscaping by way of extensive blocks of planting.

- 6.34 With regard to the amenity value of the trees on the land it is not considered necessary to make a new tree preservation order as individual trees do not meet the criteria under which they merit formal protection and the scrubby planting does not fall within the scope of the legislation under which it could be protected as 'Woodland'. Nevertheless it is clear that the majority of the existing vegetation will be retained and strengthened by new planting.
- 6.35 In terms of the development proposal itself, the design of the holiday homes is such that they will fit well into the landscape and the single storey units will not be prominent features in their setting or in the wider landscape.
- 6.36 The positions and scale of the residential properties and the care home close to Robinson Road will not result in the removal of existing vegetation although the positions of both these elements of the application are such that they have the potential to be prominent features in the landscape.
- 6.37 With regard to the impact of the development proposal on the local landscape character '*The Tendring District Council Landscape Character*' defines the area within which the application sits as the Brightlingsea Peninsula Coastal Ridge Landscape Character Area (LCA). At the south western corner the application site creeps into the Brightlingsea Coastal Slopes LCA. The development proposal also has the potential to have a visual impact on the Brightlingsea Drained Marshes LCA and the Brightlingsea Creek Marshes LCA.
- 6.38 In order to show the likely impact of the development proposal on the existing landscape character the applicant has submitted a Landscape and Visual Impact Assessment (LVIA). The document describes the value of the existing landscape and its visual qualities and the sensitivity of the land to the impact of the development. It also describes the magnitude of the effect on the character of the landscape and the way that it is perceived and enjoyed by the public.
- 6.39 The LVIA shows how the development of the lower lying land on the application site, combined with the retention and strengthening of boundary vegetation, will ensure that the development does not have an adverse impact on the visual qualities of the landscape. In the main the existing screening, on land under the control of the applicant, greatly reduces the visual harm to the local landscape character
- 6.40 It is acknowledged that the introduction of the built form into the countryside will contribute to the gradual erosion of the countryside albeit that much of the site will be subject to development comprising low level structures that will have a low impact on the character of the local environs.
- 6.41 It is also evident that the site is situated within a designated Coastal Protection Belt in the saved Local Plan, however this designation has fallen away in the emerging Local Plan as it is acknowledged the former use of the site as a quarry and its re-development would not adversely harm the coastal character. As such it is not considered that this designation can prevent the development in principle.
- 6.42 When viewed from the open countryside to the north-west, north and north-east it is considered that the holiday homes will not be visible and that the remaining elements of the built form will be seen against a backdrop of the existing development currently under construction to the south of Robinson Road. Additional soft landscaping will assist with the mitigation of potential visual harm caused by the residential homes and the care home.
- 6.43 In terms of the impact of the development proposal on the trees on the land and on the visual and landscape qualities of the countryside it is considered that the development proposal could be relatively well assimilated into its setting. Carefully designed landscaping will need to be in place for the whole site and especially for the residential element of the

development. A detailed landscaping scheme and management plan for its maintenance will be secured via condition. Further conditions are included within the recommendation to secure the physical protection of the retained trees for the duration of the construction phase of the development.

Detailed Design/Layout

- 6.44 The proposed layout reflects the constraints of the site in respect of the siting of the various water features, vegetation and topography of the land. Following this approach the tourism uses and associated play area are located within the northern section of the site arranged around the lakes/ponds and interspersed amongst existing and proposed vegetation. The Barrow or function building is purposefully located to be the first building encountered as the site is entered for security and aesthetic reasons.
- 6.45 The private housing and retirements flats are segregated from the tourism uses and are accessed via private drives located either side of central access point. The housing/apartment buildings are located in flat well-screened areas of the site adjacent to the Robinson Road boundary.
- 6.46 Internal access roads meander through the site to serve the key tourist and residential areas. It is proposed that all roads within the site will remain private. The private interconnected access roads will comprise a flexible reinforced, sustainable pavement using gravel geocell construction techniques (or similar). Whilst the privately-owned internal roads within Lower Farm Park will not be adopted by the local authority, consideration has been made to their layout and general arrangement to establish safe access for all vehicles, including emergency services, site support and amenity services.
- 6.47 In terms of the detailed design of the various structures proposed it is evident that they have been designed to be sympathetic to the landscape character in terms of form, scale and materiality.
- 6.48 The Barrow (main function building) for example would take on a contemporary appearance and would be partly hidden within the landscape by earth mounds and a large curved living/sedum roof. The timber elements of the building, its shape and form, therefore reflect the trees and woodland in a softening response.
- 6.49 The tourism lodges are of timber construction, with grey windows and large bi-folding doors that provide views and connectivity to the external environment. Front decking and access will be provided, and some (larger lodges) will have secondary access. Curved sedum or living roofs will again assist in softening and blending the building mass into the landscape. A low height of 3.5m combined with the use of sympathetic materials ensures that these structures would not be overly prominent in landscape views.
- 6.50 The glamping area will comprise of tepees, yurts and standard tents which due to their lightweight and temporary appearance would not detract from this section of the site. Associated public conveniences for the glamping plots would be of contemporary design featuring timber exteriors and curved thatched roofs.
- 6.51 The Retirement Mews promote a modern art deco style with a central glazed entrance element with 2 no. two storey wings projecting either side. The wings would be finished in a mixture of light render and timber boarding to provide a variety of finishes. The roof would again be finished in a sedum living surface and would be accessible to residents for amenity purposes. Each apartment would also be served by a balcony area or small garden area. 48 parking bays for residents, staff and visitors are located to the east of the building.

- 6.52 The 5 houses will comprise of four bedrooms each and will be more traditional in appearance consisting of red brick, tiled roof and timber fascia elements. Each property would be served by large driveways and detached timber clad garages.
- 6.53 Officers consider that the scale of the development has been sensitively set out within the confines of the footprint of the former quarry. The location, arrangement and interconnectivity of the various buildings within the site seeks to enhance the existing site setting by maintaining an open environment.
- 6.54 The positioning and space between the various buildings sets out a low density mixed use development that allows for the continued protection and enhancement of the site's existing setting and habitat.

Highway Safety/Parking

- 6.55 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.
- 6.56 Saved 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.
- 6.57 In this respect the submitted Transport Assessment highlights that the proposed mixed-use development will not attract notable traffic levels during the weekday peak hours and confirms that the local road network has ample capacity for vehicles travelling to and from the site.
- 6.58 The main access into the Lower Farm Park site would be via the existing (but enhanced) entrance that formerly served the quarrying operations, and the assessment demonstrates that good and safe levels of visibility would be achieved at the junction with Robinson Road.
- 6.59 Additional information has been provided by the applicant's transport consultants in response to ECC-Highways initial comments concerning junction capacities in the vicinity of the site. The information provided takes into consideration proposed traffic flows from all aspects the development in conjunction with traffic flows emanating from the new housing development under construction on the southern side of Robinson Road.
- 6.60 In conclusion the transport report demonstrates that the proposal would be accessible by non-car modes being within walking and cycling distance of local facilities and existing housing and also within walking distance of local bus services. Furthermore, with reference to the TRICS database it has been demonstrated that the proposed development would not attract notable traffic levels during the weekday peak hours. Moreover, it is considered that given that all the local roads do have ample spare capacity, the development traffic levels should not be regarded as having an adverse impact on highway safety.
- 6.61 Essex County Council in their capacity as Highway Authority has thoroughly assessed the original and additional highways and transportation information submitted in support of the planning application. The assessment of the application and Transport Assessment was

undertaken with reference to the National Planning Policy Framework and in particular the following aspects were considered: access and safety; capacity; the opportunities for sustainable transport; and highway mitigation measures. They conclude that they are satisfied that, at peak times, the number of trips generated by the proposal will not have a severe impact and can be accommodated safely and efficiently on the local highway network.

- 6.62 These comments are subject to a number of conditions being applied to secure the following; visibility splays to the access onto Robinson Road, vehicle turning facilities, the existing access to Robinson Road being upgraded/re-configured with flanking footways, the submission of a Construction Method Statement, the completion of parking areas prior to occupation and public right of way improvements in the vicinity of the site.
- 6.63 Parking provision as shown on the submitted layout plans is in accordance with current parking standards in terms of quantum and bay dimensions. The private housing will be provided comfortably in excess of the required 2 spaces per property and the 48 spaces proposed for the retirement flats is commensurate with the standard requirements. Each of the holiday lodges would be served by on-plot parking at a ratio dependent on the number of bedrooms the lodge accommodates.

Biodiversity/Ecology

- 6.64 Paragraph 170 of the NPPF requires Councils, when determining planning applications, to minimise impacts on and providing net gains for biodiversity. Where significant harm to biodiversity cannot be avoided, mitigated or, as a last resort, compensated for, Councils should refuse planning permission. Saved policies EN6 of the adopted Local Plan and emerging policy PPL4 of the emerging Local Plan give special protection to designated sites of international, national or local importance to nature conservation but for non-designated sites still require impacts on biodiversity to be considered and thereafter minimised, mitigated or compensated for.
- 6.65 In this respect a detailed ecological appraisal has been submitted. The appraisal concludes the following;
- The site has developed on former gravel workings. Limited subsoil or topsoil was used in restoration which has created a largely impoverished environment. The site had been left to self-seed, which created areas of open scrub, grassland and woodland around three former silt lagoons, which have formed five open lakes. The boundaries were mostly hedged or scrubby. The interior was dominated by poor quality grass and ruderal vegetation with some recent grass seeding; most water bodies were poor with little aquatic vegetation.
 - A bank, just outside the Site's northern boundary had small areas of acid grassland, lichen heath and bare ground; a potentially regionally important assemblage of invertebrates was found in association with it. A small population of reptiles was recorded and badgers use the site, being resident nearby; no special importance for wintering birds was found. Great Crested Newts and Water Voles were scoped out.
 - The scheme will retain and enhance the most significant features such as the water bodies and surrounding scrub as well as existing small tree areas. A mix of habitats will be retained on site. As the northern bank is not within the site it will not be touched as part of these proposals. Significant amounts of woodland planting are proposed. The scheme will retain most of the important habitats and create new ones on current poor agricultural land, thus diversifying the habitats and species potential.
 - Where lighting is needed, the impact of lighting on bats should be kept to a minimum and should avoid the trees and water bodies. The development proposals for mixed residential

and tourism uses at the Site are for a low key development, major or obtrusive lighting will not be required. Any lights required within the Site will be sensitive to its location and use lights that will reduce impacts on bats and other wildlife.

- Reptiles can be accommodated on site, on retained peripheral habitats. A translocation programme from the development zones will be necessary to ensure that animals are not harmed during construction.

- To offer further protection to Badgers within the site, some thorn shrub planting will be established around any setts within the Site to offer further protection and mitigate interference.

- The bird species recorded using the Site in winter would be expected to continue to use the site throughout any construction, residential occupation and tourism operations. Curlew, which used the open new sown grassland in the centre of the site would be disturbed from this area; it is unclear whether they would use other, undeveloped, parts of the site or would move to other grass fields in the area. Skylark would similarly be disturbed but were only recorded once. The water bodies would remain available for birds in winter and summer. Given the legal protection offered to nest sites, all vegetation clearance (where it is possible that birds will be nesting) will be undertaken between the months of September and February, outside of the peak bird nesting season (March to August inclusive).

- The most significant feature for invertebrates is the open bank which runs directly adjacent to the Site's northern boundary alongside Stoney Lane. To maintain this habitat feature in a good condition in the long term, several essential conditions must be met:

- a) *The bank must remain open and unshaded;*

- b) *The Rabbit population must remain intact, since the physical disturbance provided by their activities is of key importance in maintaining areas of bare ground and early-successional conditions;*

- c) *Nutrient enrichment resulting from dog walking must be minimised as far as possible. High levels of nitrogen inputs are detrimental to acid grassland; and*

- d) *The above conditions necessitate creation of a buffer zone around the embankment such that it remains unshaded, to reduce and discourage public access.*

- Ecological Enhancements - The provision of new woodland planting across the Lower Farm Park site will provide bird nesting opportunities and bat roost potential. If required whilst planting is maturing, boxes for birds and bats could be provided in retained trees. Boxes provided in association with the retirement living mews will be of benefit residents as well as wildlife. Some wildlife friendly grassland would also be delivered within the Site which will be beneficial for reptiles, invertebrates and other wildlife. Existing habitats such as the poor-quality water bodies (Local Wildlife Site) would be enhanced to encourage plant species-diversity which would have long term beneficial impacts for a variety of animals.

6.66 The ecological appraisal has been independently reviewed by the Place Services Ecology Team who have agreed with its conclusions. Originally the application proposed a footpath link through to the seawall independently from Natural England's proposed England Coastal Path. Due to concerns over increased recreational disturbance to local bird populations, this pedestrian link has now been removed. Place Services also comment as follows;

- As mitigation is necessary to ensure that any consent is legally compliant, it is still therefore recommended that a proportionate financial contribution for any consented number of residential units in line with the Essex Coast RAMS should be offered to and secured by the LPA, to avoid an adverse effect on integrity of European designated (Habitats) sites;

- We note that through removal of the scrub vegetation, the acid grassland area will be allowed to naturally extend over this area. The proposed site plan drawings have been updated to indicate the retention and creation of the acid grassland feature within the site. It is recommended that the management of this Priority habitat is secured by a condition of any consent.

- We acknowledge that the Lower Farm Park site has a mixture or mosaic of mature and semi-mature habitats but lacks the open ground or early successional areas needed to be classified as Previously Developed Open Mosaic Habitat. No further surveys or assessment are considered necessary prior to determination.

- We welcome the proposed protection of the south facing dry acid grassland bank which runs along Stoney Lane, which was the area of greatest interest for invertebrates. As this lies just outside the northern boundary of the Lower Farm Park site and landholding, will that to reduce and restrict public access, a low-level gorse or hawthorn hedge or fencing should be established alongside this area of interest at the toe of the dry acid grassland bank at the landholding boundary.

- To maintain the dry acid grassland bank in good habitat condition for invertebrates, we note it is therefore also proposed that the bank should remain open and unshaded. Details of the management currently provided by rabbits to maintain areas of bare ground and early-successional conditions for invertebrates are proposed in section 3.2 of the Invertebrate report to conserve the invertebrate value of the dry grassland bank outside the site.

- We welcome the proposed ecological enhancements to the Lower Farm Park application. This will allow the LPA to demonstrate any decision will be in line with paragraph 175 of the NPPF 2019 and will contribute to net gain for biodiversity from the development.

6.67 An HRA Appropriate Assessment (AA) has been prepared for this development to assess if it can avoid an adverse effect on the Integrity (AEOI) of the designated sites, either alone or in combination with other plans and projects. The AA concludes that with mitigation the development will not result in AEOI of these sites and therefore, providing these mitigation measures are secured for implementation, the development can proceed.

6.68 Natural England's have formally reviewed the AA and state:

"Having considered the assessment, and the measures proposed to mitigate for all identified adverse effects that could potentially occur as a result of the proposal, Natural England advises that we concur with the assessment conclusions, providing that all mitigation measures are appropriately secured in any planning permission given."

6.69 The AA recommends that the mitigation measures for recreational disturbance under the Essex Coast RAMS need to be secured by a legal agreement for delivery in perpetuity. Furthermore, measures to control foul water drainage are also secured by a condition of any consent with details to be agreed with the LPA prior to commencement.

6.70 The Council are therefore satisfied that any disturbance impacts on designated features of the Colne Estuary SPA, Ramsar, SSSI and NNR can be overcome by securing the necessary mitigation measures for implementation outlined above.

6.71 The development has also attracted an objection from the Essex Wildlife Trust in respect of;

- Disturbance impacts on designated features of the Colne Estuary Special Protection Area (SPA), Ramsar, Site of Special Scientific Interest (SSSI) and National Nature Reserve (NNR); and

- Disturbance impacts on a Local Wildlife Site and Priority Habitats

6.72 ECC Place Services have reviewed the content of the objection and respond as follows;

- In the absence of mitigation, the EWT view is correct which is why Natural England's formal consultation response on the Appropriate Assessment for this application (ref 319867, 16 July 2020), Natural England letter states:

"Having considered the assessment, and the measures proposed to mitigate for all identified adverse effects that could potentially occur as a result of the proposal, Natural England advises that we concur with the assessment conclusions, providing that all mitigation measures are appropriately secured in any planning permission given."

- In our revised comments (dated 15th July 2020) we recommended that the mitigation measures for recreational disturbance under the Essex Coast RAMS need to be secured by a legal agreement for delivery in perpetuity. Measures to control foul water drainage will also need to be secured by a condition of any consent with details to be agreed with the LPA prior to commencement.

- We are therefore satisfied that the EWT concerns relating to disturbance impacts on designated features of the Colne Estuary SPA, Ramsar, SSSI and NNR can be overcome by securing the necessary mitigation measures for implementation in full.

- Having regard to the impacts on Robinson Road Ponds Local Wildlife Site (LoWS) and Priority habitat, we agree with their comments that "For planning purposes, it must therefore be treated as a currently designated site" and EWT's request for restoration of the LoWS to qualifying standard, accepts that the site is no longer in good condition.

- In order to maintain this dry acid grassland bank in good habitat condition, it is proposed that the bank should remain open and unshaded. Mitigation proposed in section 3.2 of the Invertebrate report to conserve the invertebrate value of the dry grassland bank outside the site includes:

*- A buffer zone created adjacent to the bank such that it remains unshaded; and
- Public access to the bank should be limited and restricted; a low-level gorse or hawthorn hedge or fencing should be established alongside the toe of the dry acid grassland bank to reduce and restrict public access.*

- We acknowledge that the Lower Farm Park site has a mixture or mosaic of mature and semi-mature habitats but lacks the open ground or early successional areas needed to be classified as Open Mosaic Habitat on Previously Developed Land. The site therefore does not support this Priority habitat. There is no reason why the LoWS designation should be affected.

- The retention and enhancement of this area of acid grassland provides suitable habitat onsite for the invertebrates identified in the grassland area. Additionally, the clarification letter also states that the "south facing dry acid grassland bank which runs along Stoney Lane, which was the area of greatest (invertebrate) interest" will be protected through the planting of a "a low-level gorse or hawthorn hedge or fencing should be established alongside to reduce and restrict public access" and therefore conserve the area for these invertebrate species.

- We are therefore also satisfied that the EWT concerns relating to disturbance impacts on a Local Wildlife Site and Priority Habitats can also be overcome by securing the necessary mitigation and enhancement measures for implementation in full.

- 6.73 Officers are now therefore satisfied that there is sufficient ecological information available for determination of this application. The information provided is sufficient to have certainty of impacts on designated sites, Protected and Priority species and habitats. All of the mitigation and enhancement measures are needed to enable the LPA to demonstrate its compliance with its statutory duties including the UK Habitats Regulations 2017 and its biodiversity duty under s40 NERC Act 2006. The mitigation and enhancement measures are secured via legal agreement or conditions outlined below in section 8.2 of this report.

Impact on Residential Amenity

- 6.74 The NPPF (2019) at paragraph 127 states that planning should secure developments with a high standard of amenity for existing and future users. Saved 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.
- 6.75 The site will be developed within the footprint of a former quarry. The low-level restoration profile will assist in acoustically screening the site from nearby residential properties. To the south of the site the nearest residential properties are situated within a recently constructed housing development. At this end of the development the nearest development to these properties would be the proposed private dwellings and the retirement apartments which will be set behind the existing mature hedgerow that fronts onto Robinson Road. Consequently, the degree of separation between the existing/proposed properties on Robinson Road and the residential elements of the proposed development in conjunction with the mature vegetation on the site's southern boundary means that any impact upon resident's amenity would be minimal.
- 6.76 To the north of the site is an existing dwelling (Marsh Farm) which is situated approximately 85m from the nearest tourist lodge. The property is set in amongst mature landscaped grounds and with the planting of additional landscaping in this location any impact upon the existing residents in terms of noise or outlook would be minimal.
- 6.77 A noise assessment has been provided and reviewed by the Council's Environmental Protection Team. The noise assessment concludes;
- The acoustic environment is predominantly influenced by road traffic, aircraft, leaf rustle and birdsong. The surveys show that the sound levels across the development site are suitable to protect amenity of the residents.
 - Noise levels during construction activities can be adequately controlled to protect residential amenity to comply with the most stringent guidance set out in the standards.
 - Any mechanical plant required as part of the development will be selected, orientated and if required attenuated to achieve suitable sound levels at the sensitive on and offsite residential properties.
 - Road traffic levels generated by the development will be relatively low and are unlikely to coincide with peak movements in the wider area and so are likely to be relatively acoustically insignificant.
 - This assessment demonstrates that acoustic issues should be considered however the scope of any restrictions should be in proportion to the likelihood of impact which in this case is minimal.
- 6.78 An Air Quality Assessment and also been submitted and confirms that the impacts of dust on local air quality will be negligible. Continued implementation of existing procedures to monitor and mitigates against dust will be maintained in line with best practice. These measures along with construction arrangements will be secured through the use of a condition securing the submission of a detailed construction method statement.

- 6.79 Against the findings of these documents, the degree of separation between the proposed development and nearby residents and the well-screened nature of the site it is considered that the development would not adversely harm local resident's current level of amenity.

Heritage Impacts

- 6.80 Government policies relating to planning are given in the National Planning Policy Framework (NPPF). Section 12 (paragraphs 126 – 141) of the NPPF (Conserving and enhancing the historic environment) outlines policies relating to the historic environment and the key role it plays in the Government's definition of sustainable development, the principle which underpins the document.
- 6.81 The NPPF requires that local planning authorities 'should set out in their Local Plan a positive strategy for the conservation and enjoyment of the historic environment', recognising that 'heritage assets are an irreplaceable resource' and should be conserved 'in a manner appropriate to their significance'.
- 6.82 The NPPF requires that planning applicants should 'describe the significance of any heritage assets affected' by their application, 'including any contribution made by their setting'.

The following built heritage assets have been identified in the vicinity of the site;

- Marsh Farm Grade II Listed Building c.65m from the site boundary
- Pillbox World War II Pillbox recorded on the HER

- 6.83 In respect of Marsh Farm, this is a designated heritage asset (Grade II) situated to the north of the proposed development area. This heritage asset would, historically, have been functionally linked to its wider landscape as it would have been the operational centre of the surrounding farm. The current settling, established in the late 20th century, is of a different nature.
- 6.84 In this instance it is concluded that; the historic setting of Marsh Farm has already been subject to change through the loss of its functional relationship to its surrounding landscape and the mineral extraction in that landscape, none of the factors from which the asset derives its significance will be impacted and the listed building is well screened from the proposed development site by existing vegetation. As such it is considered that there would be no discernible change to the setting of the asset as pertains to its significance
- 6.85 Turning to the Pillbox, this is classified as a non-designated heritage asset as it is considered to be of local heritage and cultural heritage significance. Whilst the topographical position of the pillbox was of critical significance to the choice of its position the historic mineral extraction means that this setting is considerably different to that of 1940. Accordingly there is no longer a functional link between the monument and landscape, including that of the site proposed for re-development. Again it is therefore concluded that the impact on this asset would be minimal.
- 6.86 Historic England have reviewed the application proposals and have no additional comments to offer on the impacts of the proposals.
- 6.87 ECC-Place Services (Heritage) have also reviewed the content of the applicant's Heritage Statement and development proposals. They consider that the historic agrarian setting of Marsh Farm has been compromised by quarrying in the immediate environs. However, the change of the setting in the immediate vicinity will be very apparent, making a change to the environment of the asset and the manner in which it is experienced. This is considered to be a low-level of less than substantial harm and as such paragraph 196 is relevant.

- 6.88 Having regard to ECC-Place Services conclusions, Paragraph 196 of the NPPF states the following, 'where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal'.
- 6.89 Taking into consideration the requirements of paragraph 196 (NPPF), officers are of the view that the development would result in public benefits that outweigh the harm identified by ECC-Place Services. The harm identified, for the reasons outlined above, is evidently at the lower end of the 'less than substantial' spectrum. Consequently, the benefits associated with creating a tourism use that promotes both direct and indirect employment opportunities within the local area, attracts both national and international tourism and promotes economic growth of the immediate and local areas, are considered to outweigh the lower level of harm identified to the heritage asset at Marsh Farm. The development is therefore considered to meet the requirements of paragraph 196 of the NPPF.

Drainage/SUDs

- 6.90 It is proposed that the surface water will be managed within the site through the use of a suite of source control Sustainable Urban Drainage System (SuDS) measures such as sedum roofs, soakaways, filter trenches, infiltration swales, permeable surfaces and paving, and a combined attenuation pond and infiltration basin.
- 6.91 The existing lakes will be retained and will continue to provide a combination of attenuation and infiltration for runoff from greenfield areas as per the current baseline site conditions. Lake water levels will be controlled by infiltration through the permeable side slopes, whilst the existing small diameter high level overflow arrangements will be maintained in order to regulate lake water levels during extreme events and release excess flows at controlled rates to local watercourses at existing outfall locations.
- 6.92 Based upon realistic desk-based infiltration rates for the site, surface water runoff can be entirely managed within the boundary of the site. ECC-SUDs Team have reviewed this information have no objections to the surface water drainage strategy subject to the inclusion of several conditions, which are outlined below in section 8.2.
- 6.93 In terms of foul drainage, following discussions with the Environment Agency and Anglian Water it is now proposed that the whole development will be served by mains sewerage, with an on-site pumping station and rising main provided to discharge flows off-site to the public foul sewer network.
- 6.94 Anglian Water has confirmed that the foul drainage from this development is in the catchment of Brightlingsea, Church Rd Water Recycling Centre that will have available capacity for these flows. A condition securing full details of the foul drainage strategy is recommended and therefore included as part of the recommendation.

Financial Contributions – s106

- 6.95 The following legal obligations are to be secured as part of this development;

Affordable Housing

- 6.96 The Council's Housing Team have confirmed the need for an off-site affordable housing contribution. A 30% affordable housing provision has been calculated to equate to £799,000. The legal agreement will be worded as such to secure 60% of this payment upon 60% occupation of the residential units and the remaining 40% upon 80% occupation.

RAMS

- 6.97 Legal advice has been sought to confirm that Tendring District Council should seek financial contributions in accordance with the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). A Habitat Regulations Assessment (HRA) has been carried out to confirm that the mitigation will be the RAMS contribution as recommended by Natural England. It is therefore considered that this contribution is sufficient to mitigate against any adverse impact the proposal may have on the European Designated Site. A payment of £125.58p per residential unit will be paid upon first occupation of the residential units.

Open Space Improvements

- 6.98 The Council's Open Space Team have confirmed that a contribution towards improvements to existing play facilities is both relevant and justified to this planning application. The contribution would be used to improve the facilities at the nearest play area located at Baynards Recreation Ground.

7. Overall Planning Balance/Conclusions

- 7.1 The overarching objective of the development proposals is to develop a middle to high end tourist and leisure complex which will offer a new resort appealing to existing and new customers.
- 7.2 It will offer: both direct and indirect employment opportunities within the local area; attract both national and international tourism; and, promote economic growth of the immediate and local areas.
- 7.3 The development mix and general arrangement of Lower Farm Park is designed to relate well to the local area and connect the site to its surroundings, particularly in relation to its siting, height, scale, massing, form, design and materials used within the buildings.
- 7.4 The mixed use development is therefore considered to represent sustainable development on the edge of one of the District's larger settlements that meets the three strands of sustainability namely; environmental, social and economic. As such the development is recommended for approval subject to the completion of a legal agreement outlining the various obligations listed below and the conditions listed at section 8.2 of 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 Provision | Offsite contribution - £799,000 |
| Financial contribution towards RAMS. | £125.58p per permanent dwelling unit (excludes tourism lodges) |
| Open Space – Baynards Rec | Contribution based on the 5 x 4 bedroom properties |
| Over 60's Restriction to Apartments | |
| Residential Occupation – Trigger Points | No more than 60% occupation of Residential elements prior to 50 holiday lodges being constructed, the glamping area and all civil engineering |

| | |
|--|--|
| | (accesses/paths/landscaping) is installed) |
|--|--|

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. No above ground works shall be commenced until precise details of the manufacturer and types and colours of the external facing and roofing materials to be used in construction of all elements of the development have been submitted to and agreed, in writing, by the Local Planning Authority. Such materials as may be agreed shall be those used in the development.

Reason - The development is publicly visible and therefore sympathetic materials are a visually essential requirement.

3. No above ground works shall take place until there has been submitted to and approved, in writing, by the Local Planning Authority a scheme of hard and soft landscaping works for the site, which 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 - In the interest of visual amenity and the character of the area.

4. 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 - In the interest of visual amenity and the character of the area.

5. Prior to the construction above damp proof course, a scheme for on-site foul water drainage works, including connection point and discharge rate and pumping station details, 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.

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

- 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.
- Limiting discharge rates to 7.7l/s for all storm events up to and including the 1 in 100 year rate plus 40% allowance for climate change.
- Provide sufficient storage to ensure no off site flooding as a result of the development during all storm events up to and including the 1 in 100 year plus 40% climate change event.
- Demonstrate that features are able to accommodate a 1 in 10 year storm events within 24 hours of a 1 in 100 year event plus climate change.
- Final modelling and calculations for all areas of the drainage system.
- The appropriate level of treatment for all runoff leaving the site, in line with the Simple Index Approach within the CIRIA SuDS Manual C753.
- Detailed engineering drawings of each component of the drainage scheme.
- A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features.
- A written report summarising the final strategy and highlighting any minor changes to the approved strategy.

The scheme shall subsequently be implemented prior to occupation.

Reason

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

7. No works shall take place until a scheme to minimise the risk of offsite flooding caused by surface water run-off and groundwater during construction works and prevent pollution has been submitted to, and approved in writing by, the local planning authority. The scheme shall subsequently be implemented as approved.

Reason - The National Planning Policy Framework paragraph 163 and paragraph 170 state that local planning authorities should ensure development does not increase flood risk elsewhere and does not contribute to water pollution.

8. No works shall take place until a Maintenance Plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, has been submitted to and agreed, in writing, by the Local Planning Authority.

Should any part be maintainable by a maintenance company, details of long term funding arrangements should be provided.

Reason - To ensure appropriate maintenance arrangements are put in place to enable the surface water drainage system to function as intended to ensure mitigation against flood risk.

9. 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.

10. The development hereby permitted shall not be commenced until the pipes within the extent of the site, which will be used to convey surface water, are cleared of any blockage and are restored to a fully working condition.

Reason - To ensure that drainage system implemented at the site will adequately function and dispose of surface water from the site.

11. No development shall commence, including any groundworks, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Construction Method Statement shall provide for:

- safe access to/from the site;
- the parking of vehicles of site operatives and visitors;
- the loading and unloading of plant and materials;
- the storage of plant and materials used in constructing the development;
- the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- wheel washing facilities;
- measures to control the emission of dust and dirt during construction;
- a scheme for recycling/disposing of waste resulting from construction works;
- details of hours of deliveries relating to the construction of the site;
- details of hours of site clearance or construction;
- a scheme to control noise and vibration during the construction phase, including details of any piling operations

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

Reason - To ensure that on-street parking of construction vehicles and materials storage in the adjoining streets does not occur, in the interests of highway safety and to control delivery/working hours in the interests of residential amenity.

12. Prior to occupation of the development, the road junction/access at its centre line shall be provided with a visibility splay with dimensions of 2.4 metres by 90 metres in a south east direction and 2.4 metres by 120 metres in a north west direction, as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the road junction/access is first used by vehicular traffic and retained free of obstruction above 600mm at all times.

Reason - To provide adequate inter-visibility between vehicles using the road junction / access and those in the existing public highway in the interest of highway safety.

13. No unbound material shall be used in the surface treatment of the vehicular access within a minimum of 6 metres of the highway boundary.

Reason - To avoid displacement of loose material onto the highway in the interests of highway safety.

14. Prior to occupation of the development, the proposed road junction at its bell mouth junction with Robinson Road shall be constructed at right angles to the highway boundary and to the existing carriageway to a carriageway width of 5.5 metres with minimum radius

kerbs of 6 metres based on and in principal with drawing no. IT1671/SK/01 Rev A; with a flanking single footway 2m in width returned around the radius kerb only with tactile paving to provide a pedestrian link to the existing footway on the opposite side of Robinson Road.

Reason - To ensure that all vehicular traffic using the junction may do so in a controlled manner and to provide adequate segregated pedestrian access, in the interests of highway safety.

15. Any gates provided at the vehicular access shall be inward opening only and shall be set back a minimum of 6 metres from the back edge of the carriageway.

Reason - To enable vehicles using the access to stand clear of the carriageway whilst gates are being opened and closed and to allow parking off street and clear from obstructing the adjacent carriageway in the interest of highway safety.

16. There shall be no discharge of surface water onto the Highway.

Reason - To prevent hazards caused by water flowing onto the highway and to avoid the formation of ice on the highway in the interest of highway safety.

17. The proposed development shall not be occupied until such time as the relevant vehicle parking areas indicated on the approved plans, including any parking spaces for the mobility impaired, have been hard surfaced, sealed and marked out in parking bays. The vehicle parking areas and associated turning area shall always be retained in this form. The vehicle parking shall not be used for any purpose other than the parking of vehicles that are related to the use of the development unless otherwise agreed with the Local Planning Authority.

Reason - To ensure that on street parking of vehicles in the adjoining streets does not occur in the interests of highway safety and that appropriate parking is provided.

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

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

19. No occupation shall take place until such time as the public footpaths 161_8 & 161_27 (just beyond Marsh Farm) have been the subject of infrastructural improvements required for the upgrade of the natural surface by providing planings with timber edging; the extent to be agreed with the Highway Authority and has been provided entirely at the Developer's expense.

Reason - To make adequate provision within the highway for public footpath 8 and 27 (part) These areas currently have a natural surface so would benefit from an upgrade (a layer of planings with timber edging) due to the additional pedestrian traffic generated as a result of the proposed development.

20. All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Ecological Assessment (Green Ecology, Nov 2017 updated Aug 2018) and Ecology Clarifications letter (Honace, 25 June 2019) as already submitted with the planning application and agreed in principle with the local planning authority prior to determination.

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

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

21. A lighting design scheme for biodiversity shall be submitted to and approved in writing by the local planning authority prior to the first occupation of the development. 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).

22. A Biodiversity Enhancement Layout, providing the finalised details and locations of the enhancement measures contained within the Ecological Assessment (Green Ecology, Nov 2017 updated Aug 2018) and Ecology Clarifications letter (Honace, 25 June 2019), shall be submitted to and approved in writing by the local planning authority prior to the first occupation of the development.

The enhancement measures shall be implemented in accordance with the approved details and all features shall be retained in that manner thereafter.

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

23. A Landscape and Ecological Management Plan (LEMP) shall be submitted to, and be approved in writing by, the local planning authority prior to occupation of the development.

The content of the LEMP shall include the following:

- a) Description and evaluation of features to be managed.
- b) Ecological trends and constraints on site that might influence management.
- c) Aims and objectives of management.
- d) Appropriate management options for achieving aims and objectives.
- e) Prescriptions for management actions.
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).
- g) Details of the body or organisation responsible for implementation of the plan.
- h) Ongoing monitoring and remedial measures.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not

being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details.

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).

24. The hereby approved tourist lodges shall be occupied for holiday purposes only and shall not be occupied as a person's sole or main place of residence. The owners/operators of the site shall maintain an up to date register of the names of all owners/occupiers of holiday homes on site and of their main home addresses. The register shall be made available at all reasonable times for inspection by the local planning authority.

Reason - To safeguard the tourist use of the site and to prevent permanent residential use in this unsuitable location.

25. The development hereby approved shall comprise of a maximum of 104 holiday lodges and no touring caravans.

Reason - To ensure the number of units is compatible with the size and layout of the site.

26. Prior to its first construction full details of the play area shall be provided including scaled drawings of the various pieces of play equipment, surfacing and boundary treatments. The play area shall be constructed in accordance with the approved details and retain as such thereafter.

Reason – In the interests of visual amenity.

27. Prior to the first occupation of the private housing and tourist accommodation a detailed electric vehicle charging point scheme shall be submitted to and approved, in writing, by the Local Planning Authority. The approved scheme shall be installed as approved prior to occupation and retained thereafter.

Reason – In the interests of sustainable transport.

28. No development shall commence until the applicant/developer has submitted to the Local Planning Authority, in writing, a Local Recruitment Strategy to include details of how the applicant/ developer shall use their reasonable endeavours to promote and encourage the recruitment of employees and other staff in the locality of the application site, for the construction of the development. The approved Local Recruitment Strategy shall be adhered to therein after.

Reason - To promote and encourage the recruitment of employees and other staff in the locality of the application site.

29. Prior to the first occupation of the tourist accommodation a public access strategy that outlines details to enable local public access onto the site and use of the park facilities, shall be submitted to and approved, in writing, by the Local Planning Authority. The approved strategy shall be adhered to at all times thereafter.

Reason – To facilitate local public access into the site in the interests of promoting health and amenity benefits to local residents.

30. There shall be no use of motorboats or engine powered watercraft on the water features across the site at any time.

Reason – In the interests of amenity and ecological reasons.

31. The development hereby permitted shall be carried out in accordance with the following approved plans/documents

- IT1671/SK/01 Rev A
- 0/A000/LP/003 Rev A
- 0/A000/LP/010 Rev A
- 0/A000/PR/001
- 0/A000/LP/005
- 0/A000/LP/007
- 0/A000/LP/008
- 0/A000/LP/009
- 0/A100/PR/001 Rev B
- 0/A100/PR/004
- 0/A200/PR/001 Dwelling Elevations
- 0/A200/PR/001 Retirement Mews Elevations
- 0/A200/PR/002 The Barrow Elevations
- 0/A600/PR/002 Retirement Mews Section Plan
- 0/A600/PR/002 The Barrow Section Plan
- P130-02 Lower Farm Lighting Scheme
- TYP1 – 0/A200/PR/001
- TYP1 – 0/A600/PR/001
- TYP1 – 0/A600/PR/002
- TYP2 – 0/A200/PR/001
- TYP2 – 0/A600/PR/001
- TYP2 – 0/A600/PR/002
- TYP2 – 0/A600/PR/003
- TYP2 – 0/A600/PR/004
- TYP3 – 0/A200/PR/001
- TYP3 – 0/A600/PR/001
- TYP3 – 0/A600/PR/002
- TYP4 – 0/A200/PR/001
- TYP4 – 0/A600/PR/001
- TYP4 – 0/A600/PR/002
- TYP5 – 0/A200/PR/001 Rev A
- TYP5 – 0/A600/PR/002
- TYP5 – 0/A600/PR/003

Reason – For the avoidance of doubt.

8.3 Informatives

Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

Highway Informatives

The Public Right of Way network is protected by the Highways Act 1980. Any unauthorised interference with any route noted on the Definitive Map of PROW is a breach of this legislation. The public's rights and ease of passage over public footpaths 161_8 & 161_27 (Brightlingsea) shall always be maintained free and unobstructed to ensure the continued safe passage of the public on the definitive right of way.

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.

The applicant is reminded that this permission is linked to a planning obligation under Section 106 of the Town and Country Planning Act 1990.

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