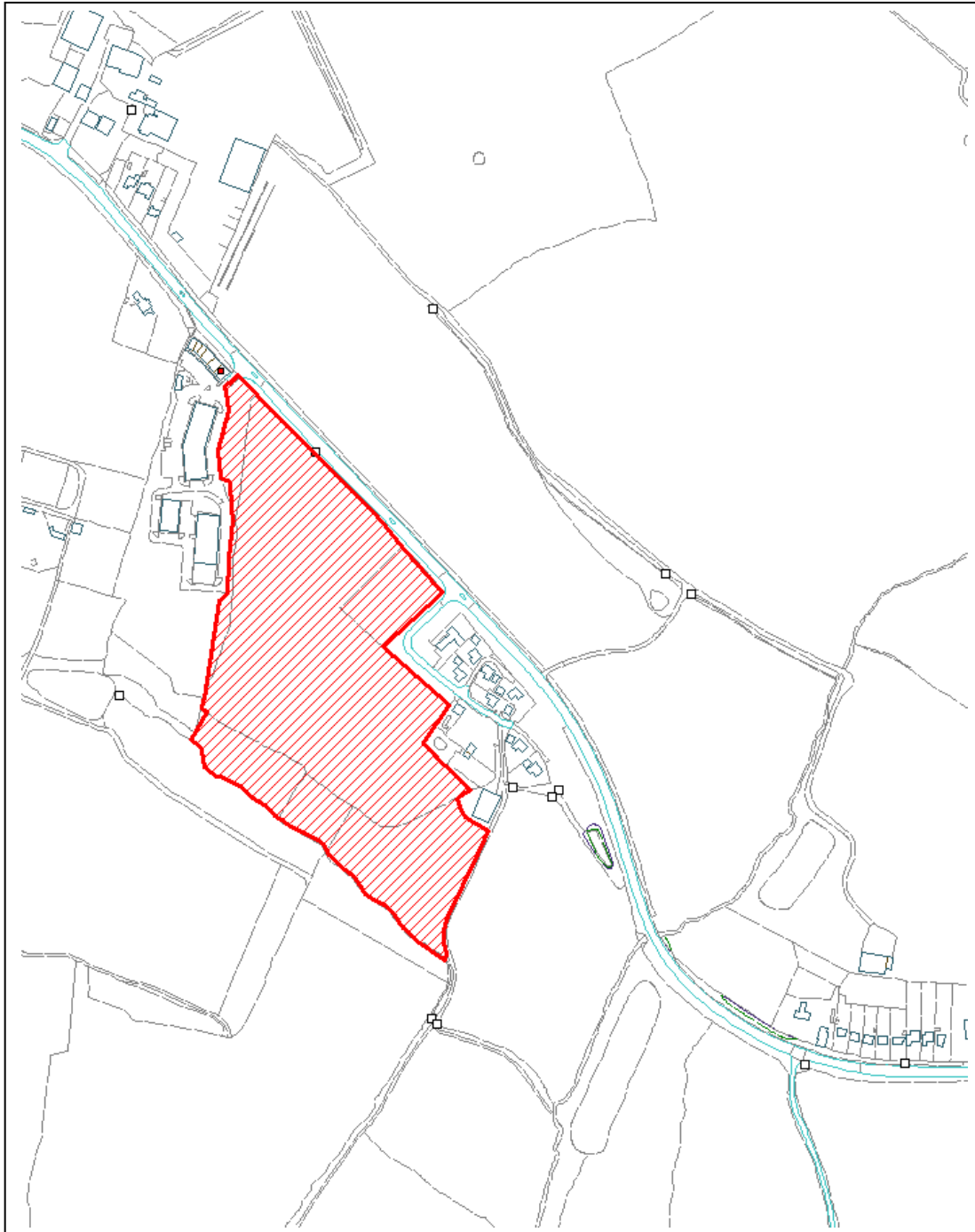


PLANNING COMMITTEE

22ND SEPTEMBER 2020

REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING

**A.2 PLANNING APPLICATION – 20/00239/FUL – GROUND FLOOR, 1 LANSWOOD PARK,
BROOMFIELD ROAD, ELMSTEAD, COLCHESTER**



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Application: 20/00239/FUL

Town / Parish: Elmstead Market Parish Council

Applicant: Mr Shaikly - Lanswood Limited

Address: Ground Floor, 1 Lanswood Park, Broomfield Road, Elmstead, Colchester

Development: Hybrid planning application comprising Outline Application for up to 10,000sqm of new mixed use (B1, B2, B8) commercial space and 14 houses, and Full Permission for 71 houses. Existing access amended and new residential access to Clacton Road.

1. Executive Summary

- 1.1 This application is referred to Planning Committee as it represents a departure from the adopted Tendring District Local Plan, proposing housing outside of any settlement development boundary in both the saved and emerging Local Plans.
- 1.2 This is a hybrid application which seeks outline planning permission (access included with appearance, landscaping, layout and scale reserved for later consideration) for up to 10,000 square metres of employment floor space within use classes B1 (business), B2 (general industrial) and B8 (storage and distribution); and 14 houses. Full planning permission is sought for 71 houses.
- 1.3 The application was originally submitted for a total of 72 dwellings and was increased to a total of 85 dwellings in late July, the proposed employment floor space remains unchanged. This change was subject to reconsultation with necessary consultees and neighbours which has now expired. The number of dwellings was increased in order to provide the £430,000 to fund a 3G artificial grass pitch on Charity Field. The Supplementary Planning Document supporting saved Policy COM6 confirms the open space contribution in this case amounts to £205,024.00. In addition to this the applicant is offering an additional contribution of £224,976.00 which combined with the above open space contribution would provide the full cost of providing the 3G artificial grass pitch. This is a departure from saved Policy COM6 and is offered by the applicant in acknowledgement of the scale of the proposed development and its impact upon the Parish of Elmstead Market.
- 1.4 The proposal seeks to use the 71 dwellings seeking full planning permission to “enable” the expansion of the existing Lanswood Business Park due to infrastructure servicing the site reaching capacity as acknowledged in the supporting text to Draft Policy SAE3 (Lanswood Park). The viability of the proposal has been independently assessed and confirms that the proposal cannot provide the £955,835.20 requested by Essex County Council Education or the 26 affordable dwellings. In terms of S106 contributions the applicant offers £430,000 to fund a 3G artificial grass pitch on Charity Field (£205,024 open space contribution and additional contribution of £224,976.00); the required RAMS contribution of £10,674.30 (£125.58 per dwelling); and £50,000 towards the upgrade of the traffic signals and introduction of MOVA (movement sensor traffic light signals) for the A133 Clacton Road junction with Bromley Road.
- 1.5 The report confirms that this is a sustainable location for development and the significant economic benefits of the proposal in providing up to 10,000 square metres of employment floor space, estimated to provide around 600 jobs, are considered to outweigh the modest landscape harm in this context of mixed residential and commercial development. The proposal does not provide the required contributions towards affordable housing or education on the grounds of viability and this is clearly a negative factor in terms of social sustainability and needs to be balanced against the significant economic benefits of the proposal. Officers

are of the opinion that the economic benefits of the proposal, and the viability evidence provided, overrides the absence of contributions towards education and affordable housing.

- 1.6 The proposal, subject to the recommended conditions, is also considered acceptable in terms of highway safety; residential amenity; ecology; heritage assets; archaeology; drainage; and detailed design, scale and layout.

Recommendation: Full and Outline Approval

That the Assistant Director for Planning be authorised to grant full and outline 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**
 - **Open Space contribution of £430,000 for 3G artificial grass pitch at Charity Field**
 - **Financial contribution of £50,000 towards the upgrade of the traffic signals and introduction of MOVA for the A133 Clacton Road junction with Bromley Road**
 - **Workplace travel plan monitoring fee of £6,000**
 - **Limit occupation of the proposed houses (e.g. 50% occupation until half of the infrastructure improvements have been completed, and 75% occupation until all of the infrastructure improvements have been completed) until the infrastructure improvements are complete and supplied to the site of the proposed Business Park expansion**
- 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 Planning Policy Framework 2019 (NPPF)
National Planning Practice Guidance**

Adopted Local Plan Policies (2007)

QL1	Spatial Strategy
QL2	Promoting Transport Choice
QL3	Minimising and Managing Flood Risk
QL9	Design of New Development
QL10	Designing New Development to Meet Functional Needs
QL11	Environmental Impacts and Compatibility of Uses
QL12	Planning Obligations
HG1	Housing Provision
HG3A	Mixed Communities
HG6	Dwelling Size and Type

HG7	Residential Densities
HG9	Private Amenity Space
HG13	Backland Residential Development
COM1	Access for All
COM31a:	Sewerage and Sewage Disposal
EN1:	Landscape Character
EN6:	Biodiversity
EN6a:	Protected Species
EN6b:	Habitat Creation
EN11A	Protection of International Sites European Sites and RAMSAR Sites
EN23	Development within the proximity of a listed building
TR1a:	Development Affecting Highways
TR7	Vehicle Parking at New Development

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

SP1	Presumption in Favour of Sustainable Development
SP2	Spatial Strategy for North Essex
SP4	Providing for Employment & Retail
SP5	Infrastructure & Connectivity
SP6	Place Shaping Principles
SPL1	Managing Growth
SPL2	Settlement Development Boundaries
SPL3	Sustainable Design
HP3	Green Infrastructure
LP1	Housing Supply
LP2	Housing Choice
LP3	Housing Density and Standards
LP4	Housing Layout
LP8	Backland development
PPL1	Development and Flood Risk
PPL3	The Rural Landscape
PPL4	Biodiversity and Geodiversity
PPL5	Water Conservation, Drainage and Sewerage
PPL9	Listed Buildings
CP1	Sustainable Transport and Accessibility
CP3	Improving the Telecommunications Network
SAE3	Lanswood Park

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice
Essex Design Guide

Status of the Local Plan

- 2.2 The 'development plan' for Tendring is the 2007 'adopted' Local Plan. Paragraph 213 of the NPPF (2019) allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF. Paragraph 48 of the NPPF also allows weight to be given to policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency with national policy. As of 16th June 2017, the emerging Local Plan for Tendring is the Tendring District Local Plan 2013-2033 and Beyond Publication Draft.
- 2.3 Section 1 of the Local Plan (which sets out the strategy for growth across North Essex including Tendring, Colchester and Braintree) was examined in January and May 2018, with

further hearing sessions in January 2020. The Inspector issued his findings in respect of the legal compliance and soundness of the Section 1 Plan in May 2020. He confirmed that the plan was legally compliant and that the housing and employment targets for each of the North Essex Authorities, including Tendring, were sound. However, he has recommended that for the plan to proceed to adoption, modifications will be required – including the removal of two of the three Garden Communities ‘Garden Communities’ proposed along the A120 (to the West of Braintree and on the Colchester/Braintree Border) that were designed to deliver longer-term sustainable growth in the latter half of the plan period and beyond 2033.

- 2.4 The three North Essex Authorities are currently considering the Inspector’s advice and the implications of such modifications with a view to agreeing a way forward for the Local Plan. With the Local Plan requiring modifications which, in due course, will be the subject of consultation on their own right, its policies cannot yet carry the full weight of adopted policy, however they can carry some weight in the determination of planning applications – increasing with each stage of the plan-making process.
- 2.5 The examination of Section 2 of the Local Plan (which contains more specific policies and proposals for Tendring) will progress once modifications to the Section 1 have been consulted upon and agreed by the Inspector. Where emerging policies are particularly relevant to a planning application and can be given some weight in line with the principles set out in paragraph 48 of the NPPF, they will be considered and, where appropriate, referred to in decision notices. In general terms however, more weight will be given to policies in the NPPF and the adopted Local Plan.
- 2.6 In relation to housing supply:

The NPPF requires Councils to boost significantly the supply of housing to meet objectively assessed future housing needs in full. In any one year, Councils must be able to identify five years’ worth of deliverable housing land against their projected housing requirements (plus an appropriate buffer to ensure choice and competition in the market for land, account for any fluctuations in the market or to improve the prospect of achieving the planned supply). If this is not possible, or housing delivery over the previous three years has been substantially below (less than 75%) the housing requirement, paragraph 11 d) of the NPPF requires applications for housing development needing to be assessed on their merits, whether sites are allocated for development in the Local Plan or not.

At the time of this decision, the supply of deliverable housing sites that the Council can demonstrate falls below 5 years and so the NPPF says that planning permission should be granted for development unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework as a whole. Determining planning applications therefore entails weighing up the various material considerations. The housing land supply shortfall is relatively modest when calculated using the standard method prescribed by the NPPF (which applies until such time that the figures in the new Local Plan are adopted).

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**

08/01426/FUL	Erection of 4 no. buildings to be occupied as B1, B2 and B8 business units including ancillary A1 and A3 units (existing buildings to be demolished); and construction of new vehicular and pedestrian accesses.	Approved	31.03.2009
09/01284/NM A	Realignment of access road, creation of loop road (south east corner) to meet highway authority requirements, removal of existing tree (T30), provision of replacement heavy standard oak tree, associated parking layout amendment as detailed on drawing no. 4055/01L.	Refused	30.12.2009
10/00448/FUL	Erection of building to be occupied as A1, A2, A3, B1, B2, B8 and D1 (day nursery) (existing buildings to be demolished).	Approved	29.07.2010
15/00364/DIS CON	Discharge of condition 10 (materials) of planning permission 08/01426/FUL.	Approved	24.04.2015
16/00126/NM A	Non-material amendment of planning permission 08/01426/FUL for a new monopitch roof design and squared footprint to building 2 and realignment of road and parking to east boundary and parking surrounding building.	Approved	18.03.2016
17/00785/OUT	Hybrid submission for outline permission for the provision of proposed buildings 7, 8, & 9. Variation of approved planning application 08/01426/FUL to provide two smaller footprint and smaller scale office buildings identified as 5 & 6 as replacement for original single building.	Approved	09.10.2017
18/00901/NM A	Non material amendment to application to 17/00785/OUT - Reposition plots 5 and 6 90 degrees, minor amendments to road and parking layout.	Approved	04.07.2018
18/30205/PRE APP	Mixed use development.	Support	22.08.2019
19/01178/EIA SCR	Request for an EIA Screening Opinion.	Not EIA development	20.08.2019

4. Consultations

ECC Archaeology

This planning application has been identified as having the potential to harm non-designated heritage assets with archaeological interest. The Essex Historic Environment Record identified the potential for below ground archaeological deposits in this area indicated by cropmark evidence and evaluation within the adjacent site.

In advance of a decision on the above application a programme of

archaeological evaluation was requested. The work specified included a programme of aerial rectification of the cropmark features shown on the EHER followed by a targeted trial trench investigation. The evaluation has succeeded in locating most of the cropmark features identified and provided sufficient evidence to determine the nature and significance of the archaeological remains and to make recommendations. A further phase of fieldwork will be required, by condition, for the above application once permission is gained.

The following recommendations are made in line with the Department for Communities and Local Government National Planning Policy Framework:

RECOMMENDATION: Archaeological excavation

1. No development or preliminary groundworks can commence until a mitigation strategy detailing the excavation / preservation strategy shall be submitted to the local planning authority.
2. No development or preliminary groundworks can commence on those areas containing archaeological deposits until the satisfactory completion of fieldwork, as detailed in the mitigation strategy, and which has been approved in writing by the local planning authority.
3. The applicant will submit to the local planning authority a post excavation assessment (to be submitted within six months of the completion of the fieldwork, unless otherwise agreed in advance with the Planning Authority). This will result in the completion of post excavation analysis, preparation of a full site archive and report ready for deposition at the local museum, and submission of a publication report.

ECC Highways Dept

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

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

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

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

v. prior to the commencement of any work on the site, a joint inspection of the route to be used by construction vehicles should be carried out by the Applicant and the Highway Authority, including photographic evidence.

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 DM1.

2. A financial contribution of **£50,000 (index linked)** towards the upgrade of the traffic signals and introduction of MOVA for the A133 Clacton Road junction with Bromley Road.

Reason: In the interests of highway safety and efficiency.

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

- a) A preliminary design and Stage 1 Road Safety Audit outlining the proposed junction proposal for the residential development with Grange Farm Close and office development proposed opposite Grange Farm Close. (details shall be agreed with the Local Planning Authority prior to commencement of the development).
- b) For the residential development an affective 2 metre footway shall be provided from the development to the two new bus stops on A133 Clacton Road. (Where possible any new section of footway adjacent to the A133 should be set back from the edge of carriageway so pedestrians don't have to walk adjacent to the carriageway).
- c) For the residential development two new bus stops on A133 Clacton Road to be provided near Grange Farm Close junction to include but not restricted to shelter (x2) with bus stop flag, Kassel Kerbs and bus timetables.
- d) Alterations to the existing refuge island near the Grange Farm Close junction to provide a crossing point for pedestrians to the new bus stop on the south-eastbound side with drop kerbs/ tactile paving and an affective 2-metre-wide footway to the bus stop.
- e) The upgrade of the two closest bus stops (known as Beth Chatto Gardens) on the A133 Clacton Road near Lanswood Park the improvements to include but not restricted to: bus stop flags, bus timetables, Kassel Kerbs and drop kerbs/tactile paving (x2) for the pedestrian crossing points.

Reason: To make adequate provision within the highway for the movement and safety of the additional pedestrian traffic generated as a result of the proposed development in accordance with policy DM1 and DM9.

4. 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.

5. Prior to occupation the vehicle parking area indicated on the approved plans, including any parking spaces for the mobility impaired, has been 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.

6. 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.

7. The submission of a workplace travel plan to the Local Planning Authority for approval in consultation with Essex County Council. Such approved travel plan shall be actively implemented for a minimum period of 5 years. It shall be accompanied by a monitoring fee of £6,000 (plus the relevant sustainable travel indexation) to be paid before occupation to cover the 5-year period.

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

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

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

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.

Notes:

- The above requirements should be imposed by way of negative planning conditions or planning obligation agreements as appropriate.
- In making this recommendation the Highway Authority has treated all planning application drawings relating to the internal layout of the proposal site as illustrative only.
- Prior to any works taking place in the highway the developer should enter into an S278 agreement with the Highway Authority under the Highways Act 1980 to regulate the construction of the highway works.
- All or some of the above requirements may attract the need for a commuted sum towards their future maintenance (details should be agreed with the Highway Authority as soon as possible)

ECC Heritage	No objection.
NHS East Essex CCG	On further review, the healthcare situation has not changed since the last consultation in March 2020 and therefore we will not be seeking a healthcare contribution as the impacted Practice (within the vicinity of the application site) is not currently over capacity.
UU Open Spaces	There is currently a deficit of 4.51 hectares of equipped play/formal open space in Elmstead Market. A contribution towards play and open space is justified and relevant to this planning application. The Parish Council wish to build a 3G artificial grass pitch with sports lighting (61 x 43 m), 2623msq, at the site known as Charity Fields on School Road.
ECC Ecology	<p>No objection subject to securing</p> <p>a) a proportionate financial contribution towards visitor management in line with Essex Coast RAMS and b) ecological mitigation and biodiversity enhancement measures</p> <p>We have reviewed the Preliminary Ecological Appraisal (Hybrid Ecology, February 2020) relating to the likely impacts of development on designated sites, protected species and Priority species & habitats. We are satisfied that there is sufficient ecological information available for determination. This provides certainty for the LPA of the likely impacts on designated sites, protected and Priority species & habitats and, with appropriate mitigation measures secured, the development can be made acceptable.</p> <p>We note that Tendring DC have prepared a project level HRA Appropriate Assessment which identifies that the development is approximately 3.4km from the Colne Estuary SPA and Ramsar site. Therefore this site lies within the Zone of Influence (ZOI) for the Essex Coast RAMS and delivery of mitigation measures in perpetuity will therefore be necessary to ensure that this proposal will not have an adverse effect on the integrity of the above Habitats sites from recreational disturbance, when considered 'in combination' with other plans and projects. We also note that Tendring DC will secure the Essex Coast RAMS contribution of £125.58 per dwelling under a legal agreement.</p> <p>The mitigation measures identified in the Preliminary Ecological Appraisal (Hybrid Ecology, February 2020) should be secured and implemented in full. This is necessary to conserve and enhance protected and Priority Species. We recommend that a Construction Environmental Management Plans (Biodiversity) CEMP is also submitted to the LPA, prior to commencement. This should detail the protection measures for the woodland onsite, a biosecurity protocol for the identified American Skunk Cabbage, as well as suitable additional precautionary mitigation measures for protected and Priority species.</p> <p>We also support the proposed reasonable biodiversity enhancements, which have been recommended to secure measurable net gains for biodiversity, as outlined under Paragraph 170d of the National Planning Policy Framework 2019. The</p>

reasonable biodiversity enhancement measures should be outlined within a Biodiversity Enhancement Strategy and should be secured prior to slab level. This will enable LPA to demonstrate its compliance with its statutory duties including its biodiversity duty under s40 NERC Act 2006.

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

Recommended conditions:

Full application

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 Preliminary Ecological Appraisal (Hybrid Ecology, February 2020) 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 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species).

2. PRIOR TO COMMENCEMENT: ADDITIONAL MEASURES FOR BADGERS

"No development shall take place (including any demolition, ground works, site clearance) until a further badger survey and updated mitigation statement has been submitted to and approved in writing by the local planning authority. This further survey shall be undertaken to identify whether any Badger activity has changed since the previous surveys were undertaken and whether further mitigation and/or works are required for badgers during the construction phase. The works shall be carried out strictly in accordance with the approved details and shall be retained in that manner thereafter."

Reason: To conserve Protected species and allow the LPA to discharge its duties under the Badger Protection Act 1992 and s17 Crime & Disorder Act 1998.

3. PRIOR TO COMMENCEMENT: CONSTRUCTION ENVIRONMENTAL MANAGEMENT PLAN (BIODIVERSITY)

"A construction environmental management plan (CEMP: Biodiversity) shall be submitted to and approved in writing by the local planning authority.

The CEMP (Biodiversity) shall include the following.

- a) Risk assessment of potentially damaging construction activities.
- b) Identification of "biodiversity protection zones".
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
- d) The location and timing of sensitive works to avoid harm to biodiversity features.
- e) The times during construction when specialist ecologists need to be present on site to oversee works.
- f) Responsible persons and lines of communication.
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
- h) Use of protective fences, exclusion barriers and warning signs.
- i) Containment, control and removal of any Invasive non-native species present on site

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority"

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

4. PRIOR TO SLAB LEVEL: BIODIVERSITY ENHANCEMENT LAYOUT

"A Biodiversity Enhancement Layout providing the finalised details and locations of the enhancement measures contained within the Preliminary Ecological Appraisal (Hybrid Ecology, February 2020), 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 & habitats and allow the LPA to discharge its duties under the s40 of the NERC Act 2006 (Priority habitats & species).

5. PRIOR TO OCCUPATION: 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 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species)

Outline application

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 Preliminary Ecological Appraisal (Hybrid Ecology, February 2020) 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 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species).

2. CONCURRENT WITH RESERVED MATTERS PRIOR TO COMMENCEMENT: ADDITIONAL MEASURES FOR BADGERS

"No development shall take place (including any demolition, ground works, site clearance) until a further badger survey and updated mitigation statement has been submitted to and approved in writing by the local planning authority.

This further survey shall be undertaken to identify whether any Badger activity has changed since the previous surveys were undertaken and whether further mitigation and/or works are required for badgers during the construction phase. The works shall be carried out strictly in accordance with the approved details and shall be retained in that manner thereafter."

Reason: To conserve Protected species and allow the LPA to discharge its duties under the Badger Protection Act 1992 and s17 Crime & Disorder Act 1998.

3. CONCURRENT WITH RESERVED MATTERS:
CONSTRUCTION ENVIRONMENTAL MANAGEMENT PLAN
(BIODIVERSITY)

"A construction environmental management plan (CEMP: Biodiversity) shall be submitted to and approved in writing by the local planning authority.

The CEMP (Biodiversity) shall include the following.

- j) Risk assessment of potentially damaging construction activities.
- k) Identification of "biodiversity protection zones".
- l) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
- m) The location and timing of sensitive works to avoid harm to biodiversity features.
- n) The times during construction when specialist ecologists need to be present on site to oversee works.
- o) Responsible persons and lines of communication.
- p) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
- q) Use of protective fences, exclusion barriers and warning signs.
- r) Containment, control and removal of any Invasive non-native species present on site

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority"

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

4. CONCURRENT WITH RESERVED MATTERS: BIODIVERSITY ENHANCEMENT LAYOUT

"A Biodiversity Enhancement Layout providing the finalised details and locations of the enhancement measures contained within the Preliminary Ecological Appraisal (Hybrid Ecology, February 2020), 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 & habitats and allow the LPA to discharge its duties under the s40 of the NERC Act 2006 (Priority habitats & species).

5. CONCURRENT WITH RESERVED MATTERS: 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 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species)

TDC Environmental Protection

Have reviewed the Contaminated Land Assessment and satisfied with the findings.

Due to the residential areas close proximity to the proposed commercial units, prior to commencement of the development a Noise Impact Assessment should be submitted to the Local Planning Authority.

In order to minimise potential nuisance to nearby existing residents caused by construction works, Environmental Protection ask that the following is conditioned:

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

ECC SuDS Consultee

Having reviewed the FRA Addendum, ECC SuDS are happy that the originally recommended pre-commencement conditions can be applied to this application.

Lead Local Flood Authority position

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

1: No works except demolition shall takes 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:

- Limiting discharge to 3.3 l/s (greenfield 1 in 1 year rate which should be confirmed by greenfield calculations) for the residential site, for all storm events up to and including the 1 in 100 year rate plus 40% allowance for climate change. All relevant permissions to discharge from the site into any outfall should be demonstrated. Discharge via infiltration for the commercial site for all storm events up to and including the 1 in 100 year rate plus 20% allowance for climate change.
- Final modelling and calculations for all areas of the drainage system.
- 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.

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.

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.

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

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.

Anglian Water Services Ltd

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

Section 2 - Wastewater Treatment

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

Section 3 - 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. There has been no foul water strategy submitted in support of this application. We therefore request a condition requiring an on-site drainage strategy.

Section 4 - Surface Water Disposal

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

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. The Environment Agency should be consulted if the drainage system directly or indirectly involves the discharge of water into a watercourse. Should the proposed method of surface water management change to include interaction with Anglian Water operated assets, we would wish to be reconsulted to ensure that an effective surface water

drainage strategy is prepared and implemented.

Section 5 - Trade Effluent

The planning application includes employment/commercial use. To discharge trade effluent from trade premises to a public sewer vested in Anglian Water requires our consent. It is an offence under section 118 of the Water Industry Act 1991 to discharge trade effluent to sewer without consent. Anglian Water would ask that the following text be included within your Notice should permission be granted.

"An application to discharge trade effluent must be made to Anglian Water and must have been obtained before any discharge of trade effluent can be made to the public sewer.

Anglian Water recommends that petrol / oil interceptors be fitted in all car parking/washing/repair facilities. Failure to enforce the effective use of such facilities could result in pollution of the local watercourse and may constitute an offence.

Section 6 - Suggested Planning Conditions

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

Used Water Sewerage Network (Section 3)

We have no objection subject to the following condition: Condition Prior to the construction above damp proof course, a scheme for on-site foul water drainage works, including connection point and discharge rate, shall be submitted to and approved in writing by the Local Planning Authority. Prior to the occupation of any phase, the foul water drainage works relating to that phase must have been carried out in complete accordance with the approved scheme. Reason To prevent environmental and amenity problems arising from flooding.

TDC Housing Services

The application proposes 85 dwellings in total and as such, the affordable housing requirements in the emerging Local Plan will apply. The emerging Local Plan requires that 30% of the dwellings on eligible sites should be delivered as affordable housing so on this application this equates to 26 dwellings (25.5 rounding up).

There remains a high demand for housing in Elmstead Market and there are currently the following number of households on the housing register seeking accommodation in the village:

2 bed - 97 households
3 bed - 68 households
4 bed - 28 households

Given the demand for housing, TDC Housing would prefer to see the affordable dwellings delivered on-site. TDC Housing would prefer that another registered provider is sought to take on the affordable

dwellings.

ECC Schools Service

Details of the proposed mix have not been provided; therefore ECC Schools have assessed the application on the basis that all of these units are homes with two or more bedrooms. A development of this size can be expected to generate the need for up to 7.65 Early Years and Childcare (EY&C) places; 25.5 primary school, and 17 secondary school places.

Please note that any developer contribution figures referred to in this letter are calculations only, and that final payments will be based on the actual dwelling unit mix and the inclusion of indexation.

Early Years and Childcare

Essex County Council has a statutory duty under the Childcare Act 2006 to ensure that there is sufficient and accessible high-quality early years and childcare provision to meet local demand. This includes provision of childcare places for children aged between 0-5 years as well as wrap around provision for school aged children (5-11 or up to 19 with additional needs).

The proposed development is located within Alresford and Elmstead ward (postcode CO7 7FD). According to latest available childcare sufficiency data, there are 13 early years and childcare providers within a 3 mile radius. There are unfilled places recorded as well as a nursery expansion project planned with S106 funding that has already been allocated. As there are sufficient places available in the area, a developers' contribution towards new childcare places will not be required for this application.

Primary Education

This development sits within the priority admissions area of Elmstead Primary School, which currently has an official total capacity of 208 places. As of January, the school had 217 pupils on roll, with 33 children in one class. According to the Essex School Organisation Service's 'Ten Year Plan' to meet demand for school places, the local group of schools (Tendring Primary Planning Group 3) are already under pressure. Forecasts suggest growing demand for places over the Plan period with a potential need for around two forms of entry of additional capacity by 2028/29. The demand generated by this development would be in addition to this demand, therefore a developer contribution of £440,334, index linked to April 2020, is sought to mitigate its impact on local primary school provision. This equates to £17,268 per place.

Secondary Education

With regards to secondary school provision, the local school would be Colne Community School and College, which has a Published Admission Number of 248 pupils per year. As of January, the school were full in three of the five statutory age year groups, including the cohort admitted last September. Forecasts, set out in the 10 Year Plan, suggest the school will again be full this coming September with increasing demand there-on-in. In response, a two form entry expansion is proposed. The demand generated by this development would be in addition to this demand, therefore a developer contribution of £404,175 index linked to April 2020, is sought to

mitigate its impact on local secondary school provision. This equates to £23,775 per place.

School Transport

Having reviewed the proximity of the site to the nearest primary school, Essex County Council will not be seeking a primary school transport contribution, however, the developer should ensure that safe direct walking and cycling routes to local schools are available.

Having reviewed the proximity of the site to the nearest secondary school, Essex County Council will be seeking a secondary school transport contribution. The cost of providing this is £85,595 Index Linked to April 2020.

Libraries

ECC may seek contributions to support the expansion of the library service to meet customer needs generated by residential developments of 20+ homes. The provision of a Library Service is a statutory duty under the 1964 Public Libraries and Museums Act and it's increasingly become a shared gateway for other services such as for accessing digital information and communications. In this case the suggested population increase brought about by the proposed development is expected to create additional usage of Wivenhoe library. As outlined in the adopted Essex Developers' Guide to Infrastructure Contributions (2016), a contribution is therefore considered necessary to improve, enhance and extend the facilities and services statutorily provided to account for the expected increase in number using these facilities. The requested contribution is based on the following calculation: Average. RICS East of England Library tender value cost per m² for library provision x 30m² / 1000 x av. household occupants + av. fitting out costs of a new provision in Essex + provision of stock per dwelling. In this case, and taking the above into account, it is calculated that a contribution of £25,731.20 is requested and should be included in any Section 106 Agreement should the Council be minded to grant permission.

In view of the above, it is requested on behalf of Essex County Council that if planning permission for this development is granted it should be subject to a section 106 agreement to mitigate its impact on primary and secondary education, secondary school transport and libraries. The contributions requested have been considered in connection with the CIL Regulations 2010 (as Amended) and are CIL compliant. Our standard formula s106 agreement clauses that ensure the contribution would be necessary and fairly and reasonably related in scale and kind to the development are available from Essex Legal Services.

If your council were minded to turn down the application, it would be gratefully requested that the lack of surplus primary and secondary education, secondary school transport and library provision in the area to accommodate the proposed new homes be noted as an additional reason for refusal, and that ECC are automatically consulted on any appeal or further application relating to the site.

TDC Regeneration

TDC Regeneration understand that the hybrid planning application seeks detailed planning permission for 85 residential units and outline planning consent for up to 10,000 sq m of B1, B2, B8 commercial employment space – the residential component being enabling development to help meet the cost of servicing the commercial site with the required utilities (there is understood to be significant capacity issues vis-à-vis the supply of power to the East of Elmstead Market).

It is understood that the commercial development is expected to provide capacity for circa 600 jobs.

Commentary is confined to those aspects of the application that focus on the provision of employment space.

Lanswood Park has established a deserved reputation for providing high quality commercial space and as such has quickly become the primary focus for commercial activity in the West of the district. The existing commercial site has also come to set the benchmark for commercial development in Tendring, and responds directly to the growing demand for both incubation and move-on space in the district. The development has a strong track record in capturing inward investment with established and successful businesses (with an agenda for growth) moving to the site from outside of the district. The indicative design for the commercial buildings is in keeping with the existing units, and together with the proposed site landscaping will only add to the quality feel of the established commercial development.

The site enjoys good access to the A133 and via Frating to the A120. Its location as a commercial centre is therefore supported by the existing transport network and further enhanced by the bus services that travel along it.

Given the success of the existing Lanswood Park development, and the growing demand for commercial space in the district, the Council's Regeneration Service has no hesitation in supporting this application and in so doing acknowledge the symbiotic relationship the commercial aspects of the application must have with the proposed residential development.

Essex Police

In order to comply with Tendring's Consultation document to the formation of Tendring Local Plan to 2033 - Policy PL4 - Housing Layout - 'minimise the opportunities for crime and antisocial behaviour by ensuring good surveillance, clear definition between public and private spaces', by way of, for example, uniform lighting without dark areas, having effective physical security on each dwelling, positioning garden gates sited as near as possible to the front of the property, Essex Police would like to see this developer seek to achieve a Secured by Design award in respect of this development. The proposed site plan does show most of the dwellings seem to be positioned well for good natural surveillance while protecting the vulnerable rear of the properties by having the gardens backing directly onto other gardens. The applicant did not seek pre-application consultation as referenced in NPPF.

- Essex Police notes that plots 1-9 and 70-72 have a rear parking

courtyard however these are to be discouraged as they introduce access to the vulnerable rear elevations of dwellings where the majority of burglary is perpetrated, are often left unlit and therefore increase the fear of crime plus courtyards provide areas of concealment which can encourage antisocial behaviour. To counteract the negative impact of rear parking courtyards, there are simple security measures available, e.g. key to key lockable rear garden gates, appropriate lighting and lower rear fencing topped with wooden trellis that allows for informal observation from the resident.

5. **Representations**

5.1 Elmstead Parish Council (comments on amended proposal) is in favour of this application subject to the S106 offer as stated in the letter dated 21st July 2020 reference 19.003 from ABC Planning to Alison Newland.

5.2 Original proposal: 7 objections received summarised below:

- Over development in the Elmstead area through recent permissions;
- Increased pressure on local amenities such as schools, doctors and transport infrastructure;
- Further encroachment on green belt land that currently provides buffer area between villages;
- Loss of view of the woodland from neighbouring properties;
- Increased traffic compromising car and pedestrian safety;
- Heavy machinery will cause noise and dust pollution to local residents;
- Overlooking existing cottages which compromises resident privacy;
- Drainage and sewage issues for new development and existing dwellings with cesspits;
- Out of character;
- Over bearing;
- Poor design and scale consideration;
- Noise, artificial light and property depreciation;
- Environmental concerns/Wildlife and countryside;
- Dangerous site entrance - unlit carriageway, brow of hill and history of collisions;
- Lack of access and private road use;
- Abundance of wildlife already under threat from overdevelopment of the local area;
- Two dwellings at Grange Farm Bungalow have been refused and objected to by Elmstead Parish Council due to being out of character;
- Visitor parking insufficient will create overspill to neighbouring roads;
- Disappointed with the applicant's pre-consultation meeting;
- Existing footpaths are poorly maintained;
- Wildlife will be hugely impacted with no visible work done to assess/protect the protected species this would disrupt;
- Currently the village has circa 800 established residential dwellings with another 290 with the status of approved and/or under construction - by granting approval for another 72 in addition to this equates to almost a 10 percent increase on established dwellings and a combined increase with approved/under construction by a massive 45% increase; and
- Disruption during construction.

5.3 Original proposal: 2 comments of support summarised below:

- Occupy largest single unit on the site and currently employ 16 people and this will allow us to expand by around 100%;

- Good road access for businesses;
- Aesthetically pleasing design;
- Well thought out proposal allowing growth in a village that has been in decline for many years;
- Adds to an existing small crop of new houses which currently look out of place;
- Lanswood has a very popular cafe which is well used by locals and passing traffic alike which again appears to be a boost to the area and could be developed in a nice setting;
- The quality of the additional business space coupled with the housing opportunities will make us a more attractive employer and should help in attracting the right type of candidates.

5.4 Amended proposal: 2 objections summarised below:

- The access linking the site to the main road is a private road, maintained and paid for by 9 existing households so would be subject to various legal challenges if planning was accepted. They should use the existing commercial access;
- Access is not included to the 71 houses;
- Feel that the impact of this large scale build, on top of an additional 14 houses will have a considerable health risk to our village;
- Appreciate two additional bus stop with shelters, new footway and junction improvements to A133/B1029;
- No objection to Lanswood Park increasing their office space but with their housing proposal still object.

6. **Assessment**

Site Context

- 6.1 The site comprises vacant agricultural land and lies to the east of the existing Lanswood Park Business Centre which is proposed under this application for expansion, beyond that to the east lies Beth Chattos Gardens which has recently been added to Historic England's Register of Parks and Gardens of Special Historic Interest in England. To the north-eastern site boundary lies Clacton Road (A133). The main residential part of the proposal is separated from Clacton Road by an office development and dwellings at Grange Farm Close. The eastern boundary of the main residential area is open arable farmland with a large agricultural building at the north east corner. The southern boundary is woodland and Elmstead Brook with farmland beyond.
- 6.2 The main area of the site has a flat to gently sloping gradient towards the south, this is most pronounced from Clacton Road looking south west. The south/south-east section of site is at a lower ground level, this exposes the site to longer distance views, particularly to the East on Clacton Road. The site is not subject to any landscape designations.
- 6.3 The context of the site has changed significantly over recent years with development and extant permissions for residential and commercial development occupying this south side of Clacton Road.

Planning History

- 6.4 The detailed history above confirms the redevelopment of this site to Lanswood Business Centre with permissions starting from 2009. The existing buildings benefit from a variety of uses with use classes B1 (business), B2 (general industrial) and B8 (storage and distribution)

dominating but also including A1 (retail), A2 (financial and professional services), A3 (restaurants and cafés), and D1 (day nursery) uses/permissions.

- 6.5 10/00488/FUL approved a building for A1, A2, A3, B1, B2, B8 and D1 day nursery following demolition of the existing garden centre. The garden centre has been demolished but the building has not been erected.
- 6.6 In the immediate area there have been seven new dwellings approved and built at Grange Farm Close to the immediate north of the proposed main residential area under references 17/01617/OUT and 18/00003/DETAIL, and 16/00724/OUT and 18/00004/DETAIL. These permissions are adjacent to the existing dwellings at Grange Farm Bungalow, Grange Farm Cottage and Blue Barn Farm Cottages.
- 6.7 Site to the immediate west of the access from the main residential area onto the A133: 18/01858/OUT and 19/01140/DETAIL approved 'Proposed office development of up to 929sqm B1 office with associated car parking, infrastructure and landscaping' to the immediate north of the proposed main residential area.
- 6.8 Site to the immediate east of the access from the main residential area onto the A133: 18/00644/OUT was refused in June 2018 and dismissed at appeal (APP/P1560/W/18/3208427) in July 2019 for 'Demolition of existing bungalow and erection of up to nine dwellings and associated garaging' at Grange Farm Bungalow. The Inspector confirmed the site is sustainably located and also referred to the changed character of the site: "Directly southeast of the site is a development of dwellings that have recently been constructed. These dwellings are all detached and display a degree of openness and spaciousness about them. Immediately to the northwest of the site permission has also been granted for an office development which is currently under construction. Thus, I do not consider that a development of additional dwellings between these two sites would fail to respect the character of the area, which has been the subject of change in the recent past." That appeal was dismissed solely in the absence of a legal agreement securing a RAMS contribution.
- 6.9 19/01031/OUT was a resubmission for the same description of development which was refused October 2019 and is currently at appeal (APP/P1560/W/20/3248849). The reason for refusal related solely to the absence of a legal agreement to provide for RAMS, affordable housing and public open space contributions.

Proposal

- 6.10 The application seeks outline planning permission (access included with appearance, landscaping, layout and scale reserved for later consideration) for up to 10,000 square metres of employment floor space within use classes B1 (business), B2 (general industrial) and B8 (storage and distribution); and 14 houses (plots 72-85). Full planning permission is also sought for 71 houses (plots 1-71).
- 6.11 The application was originally submitted for a total of 72 dwellings and was increased to 85 dwellings in late July, the proposed employment floor space remains unchanged. This change was subject to re-consultation with necessary consultees, and neighbours which has now expired. The number of dwellings was increased in order to provide the £430,000 to fund a 3G artificial grass pitch on Charity Field.
- 6.12 The housing mix for the 71 dwellings seeking full planning permission is 6 two bed houses, 44 three bed houses, 7 three bed bungalows, 11 four bed houses and 3 five bed houses. The indicative mix for the outline element is 3 two bed houses, 7 three bed houses, and 4 four bed houses.

- 6.13 An amended site plan and certificate was received on 27th August 2020 including the full vehicular access from the residential element linking to Clacton Road.

Principle of Development

- 6.14 The site lies outside of any settlement development boundary in both the adopted 2007 Tendring District Local Plan and the emerging 2017 Local Plan. 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.
- 6.15 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).
- 6.16 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.
- 6.17 Whilst it is recognised that there would be conflict with Saved Policy QL1 and Emerging Policy SPL1 in terms of the site being sited outside the settlement development boundary, as stated above, in the context of the 5 year housing land supply paragraph 11 d) of the NPPF requires applications for housing development to be assessed on their merits, whether sites are allocated for development in the Local Plan or not and it is important to consider whether any circumstances outweigh this conflict.
- 6.18 While the NPPF advocates a plan-led approach, it is important to consider whether any circumstances outweigh the conflict. Development should be plan led unless material considerations indicate otherwise.
- 6.19 In line with Paragraph 8 of the National Planning Policy Framework (2019), achieving sustainable development means meeting an economic objective, a social objective and an environmental objective. These are assessed below. The sustainability of the application site is therefore of particular importance.

Economic

- 6.20 Paragraph 80 of the NPPF states *“Planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local*

business needs and wider opportunities for development. The approach taken should allow each area to build on its strengths, counter any weaknesses and address the challenges of the future. This is particularly important where Britain can be a global leader in driving innovation, and in areas with high levels of productivity, which should be able to capitalise on their performance and potential.”

- 6.21 Paragraph 84 of the NPPF states *“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.”*
- 6.22 The site is now an established employment site (although not allocated as an existing employment site within either the adopted or emerging local plan) and the proposal represents an expansion to an existing employment use. Saved Policy ER7 supports business, industrial and warehouse proposals where they comply with 8 criteria a) scale and nature is appropriate to the locality; b) no unacceptable impact upon amenity; c) satisfactory vehicular access and parking is provided; d) mains water with mains sewage and/or adequate waste water and trade effluent treatment facilities can be made available; e) acceptable storage with no open storage where visually intrusive; f) in relation to a change of use, that the existing premises are suitable for the purpose; g) in relation to new sites, the need for a comprehensive Design Brief, including a landscaping scheme has been considered and where necessary prepared; and; h) opportunities for promoting rail freight or through the District's ports are in no way compromised. These matters are all addressed in the report below and deemed to be acceptable except e) where a condition is recommended relating to open storage and outside working; and h) the site is not close to a railway line or port.
- 6.23 Draft Policy PP7 identifies the rear section of the site (where the attenuation pond and buildings 7, 8 and 9 are located approved under 17/00785/OUT) as an employment allocation to provide for B1, B2 and B8 uses confirming that these uses will be supported in order to provide job opportunities for residents in the District. Draft Policy SAE3 relates to the allocation of that rear section of the site for 1.2 hectares of employment land. The supporting text to Draft Policy SAE3 states *“It is recognised that further development at this site will require a major infrastructure investment to provide an electricity connection to Alresford as the electricity grid capacity has been reached. This is an abnormal cost and yields realised from employment sites in Tendring may not be sufficient to bear this cost and therefore it may make the further phases unviable. In this case the Council will consider an open book appraisal of any enabling development to secure the uplift in land value to fund the electricity cabling works to Alresford.”*
- 6.24 The application seeks outline planning permission for up to 10,000 square metres of employment floor space within use classes B1 (business), B2 (general industrial) and B8 (storage and distribution). It is estimated this would provide around 600 full time jobs. Lanswood Business Centre has grown over recent years and is a significant local employer (stated to be around 400 existing employees), the proposal represents an expansion to this existing site. Indicative layout and elevations have been provided which illustrate how this floor space could be provided on site in a similar manner to the existing Lanswood Business Centre.
- 6.25 The Council's Regeneration Team support the proposal stating that Lanswood Park has established a deserved reputation for providing high quality commercial space and as such has quickly become the primary focus for commercial activity in the West of the District. The existing commercial site has also come to set the benchmark for commercial development in

Tendring, and responds directly to the growing demand for both incubation and move-on space in the District. The development has a strong track record in capturing inward investment with established and successful businesses (with an agenda for growth) moving to the site from outside of the District. The site enjoys good access to the A133 and via Frating to the A120. Its location as a commercial centre is therefore supported by the existing transport network and further enhanced by the bus services that travel along it. Given the success of the existing Lanswood Park development, and the growing demand for commercial space in the District, the Council's Regeneration Service has no hesitation in supporting this application and in so doing acknowledge the symbiotic relationship the commercial aspects of the application must have with the proposed residential development.

- 6.26 It is also considered that the provision of 85 dwellings would contribute economically to the area, by providing employment during the construction of the properties and from future occupants utilising local services.
- 6.27 The proposal therefore performs very strongly in terms of economic sustainability.

Social

- 6.28 Emerging Policy SPL1 of the Publication Draft of the Local Plan 2017 includes a 'settlement hierarchy' aimed at categorising the District's towns and villages and providing a framework for directing development toward the most sustainable locations therefore being in line with the aims of the aforementioned paragraph 8 of the NPPF. This is the emerging policy equivalent to Saved Policy QL1 of the adopted Tendring District Local Plan 2007 which states that development should be focussed towards the larger urban areas and to within development boundaries as defined within the Local Plan.
- 6.29 Elmstead Market is categorised in emerging Policy SPL1 as a 'Rural Service Centre' in recognition of its size and range of local services. For this scale of settlement the Local Plan identifies opportunities for smaller-scale growth. The site in question has not been allocated for such growth in the emerging Local Plan and is outside the defined settlement boundaries in both the draft and emerging Local Plans.
- 6.30 The site lies around a mile from the edge of the settlement of Elmstead Market linked by a footpath. There are also bus stops in close proximity that provide regular services to Wivenhoe, Clacton and Colchester. The site is therefore considered to be within a reasonable, and safe, walking distance of the range of services and facilities within Elmstead Market, including schools, shops and employment and is therefore sustainably located as confirmed by planning and appeal decisions for neighbouring sites as detailed under the Planning History section of this report. The location therefore meets the social objective of sustainable development.
- 6.31 The proposal does not include the required contributions towards affordable housing or education on the grounds of viability as considered in detail below. This clearly is a negative factor in terms of social sustainability and needs to be balanced against the significant economic benefits of the proposal. Officers are of the opinion that the economic benefits of the proposal, and the viability evidence detailed below, overrides any harm from the location of housing outside of the settlement development boundary and the absence of contributions towards education and affordable housing.

Environmental

- 6.32 The environmental role is about contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy. As discussed under 'Landscaping' and 'Biodiversity' below,

subject to the recommended conditions and adequate detailed design and soft landscaping, the economic benefits of the proposal would override any environmental harm.

Viability

- 6.33 Paragraph 57 of the NPPF states *“Where up-to-date policies have set out the contributions expected from development, planning applications that comply with them should be assumed to be viable. It is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage. The weight to be given to a viability assessment is a matter for the decision maker, having regard to all the circumstances in the case, including whether the plan and the viability evidence underpinning it is up to date, and any change in site circumstances since the plan was brought into force. All viability assessments, including any undertaken at the plan-making stage, should reflect the recommended approach in national planning guidance, including standardised inputs, and should be made publicly available.”*
- 6.34 The applicant submitted a pre-application enquiry 18/30205/PREAPP to consider viability at an early stage in this process due to abnormal infrastructure costs required to enable the business park expansion. These costs relate to securing electricity, gas, and water connections due to significant capacity issues. The supporting text to Draft Policy SAE3 Lanswood Park acknowledges these constraints and states *“It is recognised that further development at this site will require a major infrastructure investment to provide an electricity connection to Alresford as the electricity grid capacity has been reached. This is an abnormal cost and yields realised from employment sites in Tendring may not be sufficient to bear this cost and therefore it may make the further phases unviable. In this case the Council will consider an open book appraisal of any enabling development to secure the uplift in land value to fund the electricity cabling works to Alresford.”* The abnormal costs also included £100,000 for highway works, £9,050.00 for RAMS, and £97,146 for education.
- 6.35 These abnormal costs were reviewed at pre-application stage by Quantity Surveyors at the District Valuers on the Council’s behalf and were accepted as reasonable, the abnormal costs remain unchanged under the current proposal. The Council’s viability assessor for the current application was therefore instructed to adopt these costs. The £97,146 allocated to education was an estimate from the applicant at the time and is no longer relevant, please see S106 section for up to date details.
- 6.36 The application was originally submitted for a total of 72 dwellings. However in order to provide the £430,000 to fund a 3G artificial grass pitch on Charity Field the number of dwellings was increased by 13 to a total of 85 dwellings (71 for full planning permission and 14 for outline planning permission).
- 6.37 The viability assessment was undertaken and independently reviewed on the Council’s behalf for 72 dwellings. The amended plans result in one of those dwellings being lost to provide access to the residential area containing the 14 dwellings seeking outline planning permission. The employment floor space proposed remains unchanged. This reduces the profitability of the proposal for the applicant by one dwelling and therefore represents a detriment to their stated profit. The original viability assessment is therefore considered acceptable in relation to the amended proposal.
- 6.38 The applicant concludes their proposed scheme generates a deficit of around £1.37million. The Council’s viability assessor concluded in March 2020 that the proposed scheme generates a residual land value of around £4.04 million and when benchmarked against a site value of around £3.10 million the proposed scheme generates a surplus of around £0.94 million.
- 6.39 Following further discussion, primarily in relation to construction costs, an amended viability assessment was provided in May 2020. The Council’s assessor adopted a general estate

housing BCIS (Building Cost Information Service) cost rate due to the limited sample size of detached dwellings within the 5 year BCIS. However, they reflected upon this issue and as there is a greater range of data for detached housing within the Applicant's 15 year BCIS analysis they subsequently adopted the Applicant's cost rates.

- 6.40 The amended appraisal generates a residual land value of around £3 million and when benchmarked against a site value of around £3.10 million the proposed scheme generates a deficit of around £0.10 million. (This deficit is addressed by the £97,146 originally offered for education in the 'abnormals'). Consequently, the Council's assessor concluded that the proposed scheme cannot support any affordable housing. As detailed under the S106 section below the proposal also cannot support the requested education contribution which totals £955,835.20.
- 6.41 A clause in the S106 legal agreement will be required to limit occupation of the proposed houses until the abnormal infrastructure improvements are complete and supplied to the site of the proposed Business Park expansion.

Appearance

- 6.42 71 of the proposed houses are subject of a 'full' planning application. There is a variety of house types proposed which are all well proportioned with attractive design features such as brick detailing and plinths, projecting gables, chimneys, glazing bars, and porches. The materials comprise a traditional mix of red and buff brick, black boarding, with red and grey plain tiles. The detailed design and materials proposed are acceptable.
- 6.43 Up to 10,000sqm of commercial buildings and 14 dwellings seek outline planning permission with appearance reserved for later consideration. The indicative layout suggests these dwellings will use the same house types as the dwellings seeking full planning permission which would raise no concern. Indicative elevations of the commercial buildings show two storey (9 metres high), shallow pitched buildings with glazed entrances constructed of white render and grey roofing and cladding panels. Their design reflects the wider Lanswood Business Centre and represents an acceptable design in this mixed residential and commercial area.

Layout

- 6.44 71 of the proposed dwellings seek full planning permission. The site is accessed from Grange Farm Close to the North and from this access point a view through to the woodland in the south of the site is retained. The layout maximises the benefits of the existing woodland with all properties in the south of the site fronting the open space and woodland beyond. The layout is spacious reflecting the location of the site with soft landscaping and tree planting adjacent to the roads to soften the appearance of the development.
- 6.45 The residential development is accessed through Grange Farm Close and does not have a frontage to Clacton Road. Saved Policy HG13 (echoed in emerging policy LP8) states proposals for the residential development of backland sites must comply with the following criteria:
- i. the site lies within a defined settlement development boundary and does not comprise land allocated or safeguarded for purposes other than a residential use;
 - ii. where a proposal includes existing private garden land which would not result in less satisfactory access or off-street parking arrangements, an unacceptable reduction in existing private amenity space or any other unreasonable loss of amenity to existing dwellings;
 - iii. a safe and convenient means of vehicular and pedestrian access/egress can be provided that is not likely to cause undue disturbance or loss of privacy to

neighbouring residents or visual detriment to the street scene. Long or narrow driveways will be discouraged;

- iv. the proposal does not involve "tandem" development using a shared access;
- v. the site does not comprise an awkwardly shaped or fragmented parcel of land likely to be difficult to develop in isolation or involve development which could prejudice a more appropriate comprehensive development solution;
- vi. the site is not on the edge of defined settlements and likely to produce a hard urban edge or other form of development out of character in its particular setting; and
- vii. the proposal would not be out of character with the area or set a harmful precedent for other similar forms of development.

6.46 The main problems that can arise as a result of backland development include undermining the established character of an area; dwelling plots appearing cramped relative to their surroundings; the fragmentation of established gardens with a loss of mature landscaping; and the infringement of neighbouring residents' amenities. Development behind an established building line can also appear incongruous, particularly with isolated dwellings.

6.47 However, as this proposal represents a comprehensive development it does not raise the usual concerns. There is a proper means of access which is considered safe and convenient for both drivers and pedestrians with turning areas to avoid the need for vehicles to reverse onto a public highway. As addressed elsewhere in this report the location of the site, although outside a settlement development boundary is considered sustainable and is not safeguarded for other uses. There is no material harm in relation to residential amenity, landscape harm or material harm to the character of the surrounding area as considered elsewhere within this report and the proposed development not having a frontage to Clacton Road does not therefore raise any material objection.

6.48 Initial concerns were raised in relation to separation distances between some of the plots and some undersized gardens. The general principle set out within the Essex Design Guide (EDG) is that where the rear facades of properties face each other, a minimum spacing of 25m is required. The plans were amended and adequate rear separation is now provided.

6.49 Adopted Policy HG9 requires the following standards of private amenity space: three or more bedroom house minimum of 100sqm, two bedroom house minimum of 75sqm. Plots below this threshold are two bedroom Plots 1 (73sqm) and 2 (74sqm); and three bedroom plots 5 (91sqm), 6 (90sqm), 7 (93sqm), and 8 (92sqm). However, all other plots comply and a large proportion significantly exceed the standard with many around double the standard and some plots around four times the standard. The provision of private amenity space is therefore acceptable.

6.50 The layout confirms that each dwelling is provided with adequate private amenity space, off street parking and separation to prevent the development appearing cramped or overdeveloped. Soft landscaping of public areas around the site softens the appearance of the dwellings in the streetscene.

6.51 Up to 10,000sqm of commercial buildings and 14 dwellings seek outline planning permission with layout reserved for later consideration. The indicative layout provided reflects the main residential proposal, and the existing Lanswood Business Centre and raises no concerns at this time.

Scale

6.52 The housing mix for the 71 dwellings seeking full planning permission is 6 two bed houses, 44 three bed houses, 7 three bed bungalows, 11 four bed houses and 3 five bed houses. The indicative mix for the outline element is 3 two bed houses, 7 three bed houses, and 4 four bed houses.

- 6.53 The development comprises predominantly two storey dwellings, in keeping with the scale of existing dwellings and commercial buildings in the locality. The site is on a slope and street scene drawings and levels details have been provided to show how the development would sit in the landscape. At the lowest part of the site (east) there are bungalows and the details provided show how the development would sit acceptably in this sloping landscape.
- 6.54 Up to 10,000sqm of commercial buildings and 14 dwellings seek outline planning permission with scale reserved for later consideration. None of the indicative details provided raise any concern in relation to scale.

Highway Safety/Parking

- 6.55 71 houses seek full planning permission with separate access onto Clacton Road past Grange Farm Bungalow and the approved office development. Up to 10,000sqm of commercial buildings and 14 dwellings seek outline planning permission with access included for consideration.
- 6.56 Paragraph 108 of the National Planning Policy Framework 2019 seeks to ensure that safe and suitable access to a development site can be achieved for all users. Saved Policy QL10 of the adopted Tendring District Local Plan 2007 states that planning permission will only be granted if amongst other things; access to the site is practicable and the highway network will be able to safely accommodate the additional traffic the proposal will generate and the design and layout of the development provides safe and convenient access for people. The sentiments of this policy are carried forward within draft Policy SPL3 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017.
- 6.57 The vehicular access serving the outline element of the proposal is included for consideration and comprises the existing access into Lanswood Business Centre for the employment units, and an access from within the main residential element for the 14 dwellings seeking outline planning permission. The detailed layout, appearance and parking for those 14 dwellings will be considered at reserved matters stage but the indicative layout raises no concern at this stage.
- 6.58 An amended site plan has been received which includes the access north of the proposed dwellings linking past Grange Farm Bungalow to the Clacton Road. Notice has been served on the landowners (J and T Hills). The applicant confirms the adjacent houses have rights of access and pay to maintain this road, which Hills then maintain so it is a private road but the neighbouring houses do not own it. The applicant adds if approved then the cost of the road would become liable across all the new dwellings it follows therefore that the existing properties would pay significantly less. These comments notwithstanding, this is a private issue outside of the grant of planning permission. The required certificate has been provided serving notice on the owners of the access road and that is all that is required for the planning application to be considered valid. Should planning permission be granted then the ownership of the access remains a civil issue to be resolved between the landowner and the developer and is not a consideration in the grant of planning permission.
- 6.59 The application has been submitted with a Transport Assessment to assess the impact of both the commercial proposal and the residential proposal on the existing highway network.
- 6.60 Essex County Council Highways has commented on the proposal and have no objection subject to conditions and a legal agreement to secure a financial contribution of £50,000 towards the upgrade of the traffic signals and introduction of MOVA for the A133 Clacton Road junction with Bromley Road; and £6000 workplace travel plan monitoring fee. MOVA (Microprocessor Optimised Vehicle Actuation) is a method of controlling the traffic signals based on the presence of vehicles detected on the approach to a signalised junction.

- 6.61 The conditions require: construction management plan; a preliminary design and Stage 1 Road Safety Audit outlining the proposed junction proposal for the residential development with Grange Farm Close and office development proposed opposite Grange Farm Close; 2 metre footway from the development to the two new bus stops on A133 Clacton Road; two new bus stops on A133 Clacton Road to be provided near Grange Farm Close junction to include but not restricted to shelter (x2) with bus stop flag, Kassel Kerbs and bus timetables; alterations to the existing refuge island near the Grange Farm Close junction to provide a crossing point for pedestrians to the new bus stop on the south-eastbound side with drop kerbs/ tactile paving and an affective 2-metre-wide footway to the bus stop; the upgrade of the two closest bus stops (known as Beth Chatto Gardens) on the A133 Clacton Road near Lanswood Park the improvements to include but not restricted to: bus stop flags, bus timetables, Kassel Kerbs and drop kerbs/tactile paving (x2) for the pedestrian crossing points; no discharge of surface water onto the Highway; car and cycle parking provided prior to occupation; workplace travel plan; and residential travel information packs.
- 6.62 These requirements are all secured within the recommended conditions in the interests of highway safety. The required footway, bus stops and refuge island upgrade are all in the highway so can be secured by condition and would also be covered by a S278 agreement with the Highway Authority.
- 6.63 Each dwelling is provided with two off street parking spaces, either on the driveway or in a garage, in accordance with the parking standards. 18 visitor car parking spaces as required are also provided to serve the 71 dwellings seeking full planning permission.

Landscaping

- 6.64 Saved Policy QL9 and EN1 of the Tendring District Local Plan (2007) and Policy SPL3 and PPL3 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) seeks to ensure that development is appropriate in its locality and does not harm the appearance of the landscape.
- 6.65 The application site comprises agricultural land and is not subject to any landscape designations. The northern boundary of the application site adjacent to the A133 is demarcated by an established, but gappy, hedgerow comprising primarily Elm, Hawthorn, Elder and Bramble. The most visually prominent tree on the application site is the Oak tree close to the existing access to Lanswood Park. On the western boundary there are 3 Lombardy Poplar and there is an established area of woodland, adjacent to Elmstead Brook on the southern part of the application site.
- 6.66 In order to show extent of the constraint that the existing trees, hedgerows and woodland have on the development potential of the land the applicant has provided a tree survey and report. In terms of the impact of the development proposal on the existing vegetation the proposals show that the boundary hedgerow will be retained and strengthened by new planting. The Oak at the front and the woodland to the south will be retained with the woodland potentially being improved by increased maintenance. It appears that the implementation of the development proposals will necessitate the removal of 3 Lombardy Poplar although this is not clear from the information provided. As they are located with the proposed commercial area layout and landscaping are reserved for later consideration so this can be addressed at that time. Whilst the retention of these trees would be desirable the contribution that they make to the amenity of the locality is only moderate and could be relatively easily replaced and improved upon by new soft landscaping.
- 6.67 With regard to the potential impact and effects of the development of the land on the local landscape character the applicant has submitted a Landscape and Visual Impact Assessment

(LVIA). This quantifies the degree to which the change of use of the land associated with the development will cause harm to the local landscape character and sets out measures to mitigate that harm. The LVIA describes the impact and effects immediately following completion of the development and after a period of 15 years. In the Summary and Conclusion it states that: 'The landscape led approach to the development, including the protection and enhancement of existing site features, the design of buildings, and integration of strategic planting will ensure that the proposals will have a minimal residual effect on the landscape character of the area.'

- 6.68 This landscape led approach will contribute to the mitigation of harm resulting from this relatively large scale commercial and residential proposal. As confirmed in the Planning History section there have been residential refusals in this immediate area based upon landscape harm. However this harm has not been deemed grounds for dismissal by Inspectors at appeal. The site to the immediate east of the access from the main residential area onto the A133 had 18/00644/OUT refused in June 2018 and dismissed at appeal (APP/P1560/W/18/3208427) in July 2019 for 'Demolition of existing bungalow and erection of up to nine dwellings and associated garaging' at Grange Farm Bungalow. The Inspector confirmed the site is sustainably located and also referred to the changed character of the site: "Directly southeast of the site is a development of dwellings that have recently been constructed. These dwellings are all detached and display a degree of openness and spaciousness about them. Immediately to the northwest of the site permission has also been granted for an office development which is currently under construction. Thus, I do not consider that a development of additional dwellings between these two sites would fail to respect the character of the area, which has been the subject of change in the recent past." That appeal was dismissed solely in the absence of a legal agreement securing a RAMS contribution. The context of the site has changed significantly over recent years with planning permissions and allowed appeals for residential and commercial development and the proposal will be seen in that context. It is therefore not considered that a landscape harm objection could be sustained, particularly in light of the significant benefits of the proposal in terms of employment creation and new housing.
- 6.69 Full details of the hard and soft landscaping for the full permission (71 dwellings) are required by recommended condition, landscaping is a reserved matter so will be addressed at a later stage for the outline permission element

Biodiversity

- 6.70 Saved Policies EN6 'Biodiversity' and EN6a 'Protected Species' of the adopted Tendring District Local Plan 2007 state that development proposals will not be granted planning permission unless existing local biodiversity and protected species are protected. A similar approach is taken in draft Policy PPL4 Biodiversity and Geodiversity of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017.
- 6.71 Paragraph 170 of the National Planning Policy Framework 2019 require that Local Planning Authorities contribute to and enhance sites of biodiversity or geological value whilst paragraph 174 requires Local Planning Authorities to safeguard components of local wildlife-rich habitats.
- 6.72 The site comprises predominantly agricultural land but abuts a woodland (Priority Habitat "lowland deciduous woodland") and has mature vegetation to the site boundaries. The woodland edge has been subject to an Arboricultural Impact Assessment and protective measures are recommended. The applicant has submitted a Preliminary Ecological Appraisal to assess the biodiversity value of the site and the impact upon any protected species.
- 6.73 The site is former farmland of moderate quality, with a species-poor hedgerow along the frontage, ornamental hedge along the eastern boundary and individual trees scattered to the

west. Elmstead Brook, a shallow stream, flows along the southern boundary. The woodland to the immediate south is damp in character and consists of alder, ash, willow with occasional hawthorn and cherry. It represents a good resource for a wide range of legally protected species and wildlife generally and provides good onward habitat connectivity. The proposal is unlikely to directly impact this woodland. Mitigation measures, including protection of trees during construction, control of external lighting and managed public access are required to ensure a sustainable relationship with the development.

- 6.74 The agricultural barn beyond the north-eastern corner of the site has two bat boxes installed on the south-facing external wall. The mature oak tree to be retained on the north-western corner of the site contains several suitable bat roost features. Several trees within the wet woodland contain potential roost features. This woodland is likely to be unchanged as a result of the development. The hedgerow along the site frontage is likely to support nesting birds. The woodland will also support nesting birds in high numbers. The report confirms that potential for legally protected species on the development site is limited to nesting birds and badger (all setts are over 20 metres from the development site). American skunk cabbage an invasive non-native species was identified in the woodland. It is notable for its ability to out compete other plants, particularly in wet woodland. Once established the plant is very invasive, forming dense colonies which can spread by rhizome seed, water currents, birds and mammals. The development presents an opportunity for woodland management which could include the remediation of invasive species by licensed contractors.
- 6.75 Essex County Council Ecology have reviewed the proposal and have no objection subject to securing the RAMS contribution and conditions which form part of the recommendation. They support the proposed reasonable biodiversity enhancements, which have been recommended to secure measurable net gains for biodiversity, as outlined under Paragraph 170d of the National Planning Policy Framework 2019. The recommended conditions secure: compliance with the Preliminary Ecological Appraisal; A further badger survey and updated mitigation statement to identify whether any Badger activity has changed since the previous surveys were undertaken and whether further mitigation and/or works are required for badgers during the construction phase; submission of a CEMP (construction environmental management plan); submission of a Biodiversity Enhancement Layout; and submission of a wildlife sensitive lighting scheme which identifies those features on site that are particularly sensitive for bats and that are likely to cause disturbance along important routes used for foraging.
- 6.76 Subject to the recommended conditions the application is acceptable in relation to ecology and biodiversity.

Heritage

- 6.77 Policy EN23 Development within the Proximity of a Listed Building sets out that proposals for development that would adversely affect the setting of a Listed Building will not be permitted. This includes long distance views.
- 6.78 The listed buildings in closest proximity of the site are Hill Farmhouse (Grade II) located approximately 350m to the south east. To the south of Hill Farmhouse on the verge at the junction of Church Road is a late C19 cast iron metal Guide Post for the Parish of Frating (Grade II). Grove Farmhouse (Grade II) is located 800m to the west.
- 6.79 Hill Farmhouse is viewed in conjunction with the site at a distance of around 350 metres away. It is visible beyond the dwellings at Grange Farm Close when looking east along Clacton Road. When looking west from Hill Farmhouse there is a large amount of mature screening through which glimpses of the site will be possible. In the context of the existing office and residential development between the site and Clacton Road and the existing Lanswood Business Centre behind, the separation distance to the Grade II listed Hill Farmhouse, and the existing and proposed planting there would be no material harm to long distance views of the

listed building or Guide Post on Frating Hill. Grove Farmhouse (Grade II) is 800 metres to the west and its setting will be unaffected by the proposal due to intervening buildings and mature vegetation.

- 6.80 Essex County Council Heritage have been consulted on the proposal and raise no objection.
- 6.81 Beth Chattos Gardens was added to Historic England's Register of Parks and Gardens of Special Historic Interest in England on 18th August 2020. The site is separated from these gardens by the existing Lanswood Business Park so would have no adverse impact upon the setting of the Grade II listed gardens.

Impact on Residential Amenity

- 6.82 Paragraph 127 of the National Planning Policy Framework 2019 states that planning should always seek to secure a high standard of amenity for existing and future users. Policy QL11 of the adopted Tendring District Local Plan (2007) states that development will only be permitted if it will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties. Emerging Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017 supports these objectives.
- 6.83 In terms of the future occupiers of the proposed dwellings they are provided with adequate private amenity space and separation distances to prevent any material loss of light, outlook or privacy.
- 6.84 The seven dwellings in Grange Farm Close are a minimum of 23 metres from the site boundary and a minimum of 56 metres from the closest proposed dwelling (Plot 7). Grange Farm Bungalow is 34 metres from the site boundary and 54 metres from the closest proposed dwelling (Plot 1). Grange Farm Cottage and Blue Barn Farm Cottages are semi-detached with a large detached outbuilding and frontage turning area and are located in the north eastern corner of the site. Their front elevation is around 36 metres from the site boundary and 42 metres from the closest proposed dwelling (Plot 9). The southern end elevation is around 20 metres from the site boundary and around 34 metres from the rear elevation of Plots 12 and 13. Existing dwellings are therefore adequately separated from the proposed dwellings to ensure adequate outlook, light and privacy which significantly exceeds the separation distances specified in the Essex Design Guide.
- 6.85 The access serving the residential element of the proposal for all 85 dwellings passes Grange Farm Bungalow at a separation distance of around 10 metres. Given the existing speed and noise generated by traffic on Clacton Road it is not considered that the use of the access would result in any material harm in terms of disturbance to justify refusing planning permission on these grounds.
- 6.86 The commercial element utilises the existing vehicular access between the existing and proposed commercial units and therefore is well separated from the nearest dwelling to the west which is around 100 metres from the commercial access.
- 6.87 The boundary treatment condition also requires provision of rear access lockable gates for plots 1-9 and 68-70 which have rear parking courtyards in the interests of increasing the safety and convenience of the rear parking areas.
- 6.88 Environmental Pollution have considered the proposal and are satisfied with the Contaminated Land Assessment which indicates that the risk of encountering contamination during development is low. As a result, no further work is recommended with respect to soil contamination. Due to the proposed dwellings close proximity to the proposed commercial development they request submission of a Noise Impact Assessment. A condition requiring

submission of a construction method statement is also imposed in the interests of minimising disruption and pollution during construction.

Drainage

- 6.89 The site lies in Flood Zone 1 and the development area amounts to 8.37 hectares. Paragraph 163 of the National Planning Policy Framework 2019 (NPPF) states that when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere and that major applications comprising a site area of 1 hectare or more should be supported by a site-specific flood-risk assessment (FRA). Paragraph 165 of the NPPF goes on to state that major developments should incorporate sustainable drainage systems.
- 6.90 Saved Policy QL3 of the adopted Tendring District Local Plan (2007) seeks to minimise and manage flood risk. In addition Saved Policy EN13 of the adopted Local Plan states that development proposals should incorporate measures for the conservation and sustainable use of water. These aims are carried forward into draft Policy PPL5 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (2017).
- 6.91 Essex County Council SUDS as Lead Local Flood Authority have reviewed the submitted Flood Risk Assessment and have no objection subject to the recommended conditions.
- 6.92 The application proposes foul sewage to the main sewer. Anglian Water confirm the foul drainage from this development is in the catchment of Thorrington Water Recycling Centre that will have available capacity for these flows.
- 6.93 As no foul water strategy has been submitted with the application Anglian Water request a condition requiring an on-site drainage strategy to ensure the development does not lead to an unacceptable risk of flooding downstream.
- 6.94 Subject to the recommended conditions relating to foul and surface water the drainage aspects of the development are acceptable.

Section 106 of the Town and Country Planning Act 1990

- 6.95 The NPPF states that Local Planning Authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be sought where they meet all the following tests: necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development. These are set out and addressed below under the relevant sub-headings:
- 6.96 - Recreational Disturbance

Under the Habitats Regulations, a development which is likely to have a significant effect or an adverse effect (alone or in combination) on a European designated site must provide mitigation or otherwise must satisfy the tests of demonstrating 'no alternatives' and 'reasons of overriding public interest'. There is no precedent for a residential development meeting those tests, which means that all residential development must provide mitigation.

The application scheme proposes new dwellings on a site that lies within the Zone of Influence (Zoi) being approximately 3400 metres from the Colne Estuary SPA and Essex Estuaries SAC. New housing development within the Zoi would be likely to increase the number of recreational visitors to these designated sites; and, in combination with other developments it is likely that the proposal would have significant effects on the designated sites. Mitigation measures must therefore be secured prior to occupation.

The applicant has agreed to provide the required proportionate financial contribution (£10,674.30) in a legal agreement still to be completed. This will provide certainty that the development would not adversely affect the integrity of Habitats sites.

6.97 - Open Space and Play Space

Saved Policy COM6 and emerging Policy HP5 state that for residential development on a site of 1.5ha and above, where existing public open space and/or play equipment are inadequate, shall provide appropriate provision on-site or by way of a financial contribution towards the provision of new or improved off-site facilities to meet the projected needs of future occupiers of the development.

There is currently a deficit of 4.51 hectares of equipped play/formal open space in Elmstead Market. A contribution towards play and open space is justified and relevant to this planning application. The Parish Council wish to build a 3G artificial grass pitch with sports lighting (61 x 43 m), 2623msq, at the site known as Charity Fields on School Road. Costings and specification have been provided from the Sport England website with the total cost of an U9/ U10/ training 60-65 mm 3G pitch, fenced, sports lighting (61 x 43 m) of £430,000.

The Supplementary Planning Document supporting saved Policy COM6 provides a calculation for the open space contribution based on the bedroom size of each proposed dwelling. In this case this amounts to £205,024.00.

In addition to this the applicant is offering an additional contribution of £224,976.00 which combined with the above open space contribution would provide the full cost of providing the 3G artificial grass pitch. This is a departure from saved Policy COM6 and is offered by the applicant in acknowledgement of the scale of the proposed development and its impact upon the Parish of Elmstead Market.

The applicant has agreed to provide the financial contributions in a legal agreement still to be completed.

6.98 - Affordable Housing

Saved Policy HG4 of the Tendring District Local Plan (2007) requires up to 40% of new dwellings on residential schemes of 5 or more units to be provided in the form of affordable housing to meet the needs of people that are unable to access property on the open market. Emerging Policy LP5 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) which is based on more up-to-date evidence of housing need and viability, requires for developments of 11 or more dwellings, the Council expect 30% of new dwellings to be made available to Tendring District Council or an alternative provider to acquire at a proportionate discounted value for use as affordable housing.

There remains a high demand for housing in Elmstead Market and there are currently the following number of households on the housing register seeking accommodation in the village: 2 bed - 97 households, 3 bed - 68 households and 4 bed - 28 households.

30% equates to 26 dwellings. Given the demand for housing, the Council would prefer to see the 26 affordable dwellings delivered on site.

As confirmed by the viability assessment the proposal cannot provide any contribution towards affordable housing.

6.99 - Healthcare

Policy HP1 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft states that the Council will seek contributions towards new or enhanced health facilities from developers where new housing development would result in a shortfall or worsening of health provision.

NHS East Essex CCG were consulted on both the original and amended proposal and confirm they are not seeking a healthcare contribution as the impacted Practice (within the vicinity of the application site) is not currently over capacity.

6.100 - Education

Policy COM26 of the Tendring District Local Plan 2007 states where necessary planning permission will only be granted for residential developments of 12 or more dwellings if land and/or financial contributions are made to provide the additional school places that will be needed to service the development. Policy PP12 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017 states planning permission will not be granted for new residential development unless the individual or cumulative impacts of development on education provision can be addressed, at the developer's cost, either on-site or through financial contributions towards off-site improvements.

Essex County Council request that if planning permission is granted it should be subject to a section 106 agreement to mitigate its impact on primary (£440,334) and secondary (£404,175) education, secondary school transport (£85,595), and libraries (£25,731.20). The total contribution requested is £955,835.20 as detailed below:

Essex County Council confirm a development of this size can be expected to generate the need for up to 7.65 Early Years and Childcare (EY&C) places; 25.5 primary school, and 17 secondary school places.

Early Years and Childcare As there are sufficient places available in the area, a developers' contribution towards new childcare places is not required for this application.

Primary Education This development sits within the priority admissions area of Elmstead Primary School. According to the Essex School Organisation Service's 'Ten Year Plan' to meet demand for school places, the local group of schools (Tendring Primary Planning Group 3) are already under pressure. Forecasts suggest growing demand for places over the Plan period with a potential need for around two forms of entry of additional capacity by 2028/29. The demand generated by this development would be in addition to this demand, therefore a developer contribution of £440,334 is sought to mitigate its impact on local primary school provision.

Secondary Education The local school would be Colne Community School and College, which has a Published Admission Number of 248 pupils per year. As of January, the school were full in three of the five statutory age year groups, including the cohort admitted last September. Forecasts, set out in the 10 Year Plan, suggest the school will again be full this coming September with increasing demand there-on-in. In response, a two form entry expansion is proposed. The demand generated by this development would be in addition to this demand, therefore a developer contribution of £404,175 is sought to mitigate its impact on local secondary school provision.

School Transport Given the proximity of the site to the nearest primary school, a primary school transport contribution is not sought and there is a public footpath linking the development to this primary school. Having reviewed the proximity of the site to the nearest secondary school, Essex County Council seek a secondary school transport contribution of £85,595.

Libraries

ECC may seek contributions to support the expansion of the library service to meet customer needs generated by residential developments of 20+ homes. The provision of a Library Service is a statutory duty under the 1964 Public Libraries and Museums Act and it's increasingly become a shared gateway for other services such as for accessing digital information and communications. In this case the suggested population increase brought about by the proposed development is expected to create additional usage of Wivenhoe library. As outlined in the adopted Essex Developers' Guide to Infrastructure Contributions (2016), a contribution is therefore considered necessary to improve, enhance and extend the facilities and services statutorily provided to account for the expected increase in number using these facilities. The requested contribution is £25,731.20.

As confirmed by the viability assessment the proposal cannot provide any contribution towards education.

6.101 - Highways

Essex County Council Highways has commented on the proposal and have no objection subject to conditions and a legal agreement to secure a financial contribution of £50,000 towards the upgrade of the traffic signals and introduction of MOVA for the A133 Clacton Road junction with Bromley Road. MOVA (Microprocessor Optimised Vehicle Actuation) is a method of controlling the traffic signals based on the presence of vehicles detected on the approach to a signalised junction.

6.102 - Provision of the abnormal infrastructure improvements

As detailed under the Viability section, a clause in the S106 legal agreement will be required to limit occupation of the proposed houses until the infrastructure improvements are complete (e.g. 50% occupation until half of the infrastructure improvements have been completed, and 75% occupation until all of the infrastructure improvements have been completed) and supplied to the site of the proposed Business Park expansion.

Archaeology

6.103 ECC Archaeology confirmed that the proposal has the potential to harm non-designated heritage assets with archaeological interest with cropmark evidence and evaluation within the adjacent site. The applicants were therefore required to carry out a programme of archaeological evaluation before the application could be determined. The evaluation succeeded in locating most of the cropmark features identified and provided sufficient evidence to determine the nature and significance of the archaeological remains and to make recommendations. A further phase of fieldwork and recording is required by condition in the recommendation.

7 Conclusion

- 7.1 This hybrid application seeks outline planning permission (access included with appearance, landscaping, layout and scale reserved for later consideration) for up to 10,000 square metres of employment floor space within use classes B1 (business), B2 (general industrial) and B8 (storage and distribution); and 14 houses. Full planning permission is sought for 71 houses.
- 7.2 The proposal seeks to use the 71 dwellings seeking full planning permission to "enable" the expansion of the existing Lanswood Business Park due to infrastructure servicing the site reaching capacity. The viability of the proposal has been independently assessed and confirms that the proposal cannot provide the £955,835.20 education contribution or the 26 affordable dwellings. However, the applicant offers £430,000 to fund a 3G artificial grass pitch on Charity

Field (£205,024 open space contribution and additional contribution of £224,976.00); the required RAMS contribution of £10,674.30 (£125.58 per dwelling); and £50,000 towards the upgrade of traffic signals.

7.3 The report confirms that this is a sustainable location for development and the significant economic benefits of the proposal in providing up to 10,000 square metres of employment floor space, estimated to provide around 600 jobs, are considered to outweigh the modest landscape harm in this context of mixed residential and commercial development. The proposal does not provide the required contributions towards affordable housing or education on the grounds of viability and this is clearly a negative factor in terms of social sustainability and needs to be balanced against the significant economic benefits of the proposal. However, Officers are of the opinion that the economic benefits of the proposal, and the viability evidence provided, overrides the absence of contributions towards education and affordable housing and recommend that full and outline planning permission is granted.

8 Recommendation

8.1 The Planning Committee is recommended to grant full and outline 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
Financial contribution towards RAMS.	£10,674.30 (£125.58 per dwelling)
Open Space	£430,000 for 3G artificial grass pitch at Charity Field
Highways	Financial contribution of £50,000 towards the upgrade of the traffic signals and introduction of MOVA for the A133 Clacton Road junction with Bromley Road
Highways	workplace travel plan monitoring fee £6,000
Provision of abnormals	Limit occupation of the proposed houses until the infrastructure improvements are complete (e.g. 50% occupation until half of the infrastructure improvements have been completed, and 75% occupation until all of the infrastructure improvements have been completed) and supplied to the site of the proposed Business Park expansion

8.2 Conditions and Reasons

8.3 Full planning permission

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

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

2. The development hereby permitted shall be carried out in accordance with the following approved plans and documents:

Layout plan: PA_10_10 E.

House types: PA_20_01, PA_20_02, PA_20_03, PA_20_04, PA_20_04, PA_20_06, PA_20_07, PA_20_08, PA_20_09, PA_20_10, PA_20_11, PA_20_12, and PA_20_13.

Garages: PA_20_20, PA_20_21, PA_20_22, and PA_20_23.

Street scenes: PA_30_01 A and PA_30_02 A.

Section: PA_40_01 A

Transport Assessment dated February 2020 and Transport Assessment Addendum dated 21/07/2020 by Richard Jackson Ltd.

Preliminary Ecological Appraisal dated February 2020 by Hybrid-Ecology Ltd.

Landscape and Visual Appraisal dated February 2020 by SES.

Arboricultural Impact Assessment and Preliminary Method Statements dated 10/02/2020 by Tree Planning Solutions.

Site Specific Flood Risk Assessment dated February 2020 and Flood Risk Assessment Addendum dated 21/07/2020 by Richard Jackson Ltd.

Contaminated Land and Geotechnical Assessment dated 07/02/2020 by Nott Group.

Development Viability report by Fenn Wright dated January 2020 and addendum letter dated 07/04/2020.

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

3. No occupation of the development shall take place until the following have been provided or completed:
- a) A preliminary design and Stage 1 Road Safety Audit outlining the proposed junction proposal for the residential development with Grange Farm Close. Details of which shall have been previously agreed in writing with the Local Planning Authority prior to commencement of the development.
 - b) An affective 2 metre footway shall be provided from the development to the two new bus stops on A133 Clacton Road.
 - c) Two new bus stops on A133 Clacton Road to be provided near Grange Farm Close junction to include but not restricted to shelter (x2) with bus stop flag, Kassel Kerbs and bus timetables.
 - d) Alterations to the existing refuge island near the Grange Farm Close junction to provide a crossing point for pedestrians to the new bus stop on the south-eastbound side with drop kerbs/ tactile paving and an affective 2-metre-wide footway to the bus stop.
 - e) The upgrade of the two closest bus stops (known as Beth Chatto Gardens) on the A133 Clacton Road near Lanswood Park the improvements to include but not restricted to: bus stop flags, bus timetables, Kassel Kerbs and drop kerbs/tactile paving (x2) for the pedestrian crossing points.

Reason - To make adequate provision within the highway for the movement and safety of the additional pedestrian traffic generated as a result of the proposed development.

4. Prior to occupation the vehicle parking area (garage and/or driveway) serving that dwelling as indicated on the approved plans, shall have been provided. The vehicle parking area and associated turning areas and visitor parking shall thereafter be retained in the approved 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.

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.

5. Details of cycle parking for every dwelling without a garage shall be submitted to and approved in writing by the Local Planning Authority. The approved facility shall be secure, convenient, covered and provided prior to occupation and retained at all times.

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

6. Prior to occupation the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack for sustainable transport, the details of which shall have been previously submitted to and approved in writing by the Local Planning Authority. The travel packs shall include six one day travel vouchers for use with the relevant local public transport operator.

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

7. Prior to commencement of any above ground works precise details of the provision, siting, design and materials of screen walls and fences shall have been submitted to and approved in writing by the Local Planning Authority. The approved screen walls and fences shall be erected prior to the dwellings to which they relate being occupied and thereafter be retained in the approved form. Boundary treatments facing the highway or open spaces will be expected to be of high quality e.g. brick walls. This shall include rear access lockable gates for plots 1-9 and 68-70 which have rear parking courtyards.

Reason - In the interests of visual and residential amenity.

8. Details of the infrastructure improvements serving the business park expansion hereby granted outline planning permission shall be submitted to and approved in writing by the Local Planning Authority. The infrastructure improvements, as approved, shall be completed in accordance with the provisions of the S106 legal agreement.

Reason – The dwellings are approved in association with viability evidence on the basis that they fund the infrastructure improvements to serve the business park expansion.

9. Prior to commencement of any above ground works details of the proposed facing and roofing materials shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

Reason – Insufficient details have been provided with the application, in the interests of visual amenity.

10. 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 - This is a publicly visible site where an appropriate landscaping scheme is a visually essential requirement.

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

Reason - To ensure the adequate maintenance of the approved landscaping scheme for a period of five years in the interests of the character of the surrounding area.

8.4 Outline planning permission

12. The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.

Reason - To comply with the requirements of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

13. Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

Reason - To comply with the requirements of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

14. No development shall be commenced until plans and particulars of "the reserved matters" referred to in the above conditions relating to the appearance, landscaping, layout and scale have been submitted to and approved, in writing, by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason - The application as submitted does not provide sufficient particulars for consideration of these details.

15. The development hereby permitted in relation to access only shall be carried out in accordance with the following approved plans and documents:

Layout plan: PA_10_10 E.

Transport Assessment dated February 2020 and Transport Assessment Addendum dated 21/07/2020 by Richard Jackson Ltd.

Preliminary Ecological Appraisal dated February 2020 by Hybrid-Ecology Ltd.

Landscape and Visual Appraisal dated February 2020 by SES.

Arboricultural Impact Assessment and Preliminary Method Statements dated 10/02/2020 by Tree Planning Solutions.

Site Specific Flood Risk Assessment dated February 2020 and Flood Risk Assessment Addendum dated 21/07/2020 by Richard Jackson Ltd.

Contaminated Land and Geotechnical Assessment dated 07/02/2020 by Nott Group.

Development Viability report by Fenn Wright dated January 2020 and addendum letter dated 07/04/2020.

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

16. No occupation of the development shall take place until the following have been provided or completed:
 - a) Alterations to the existing refuge island near the Grange Farm Close junction to provide a crossing point for pedestrians to the new bus stop on the south-eastbound side with drop kerbs/ tactile paving and an affective 2-metre-wide footway to the bus stop.
 - b) The upgrade of the two closest bus stops (known as Beth Chatto Gardens) on the A133 Clacton Road near Lanswood Park the improvements to include but not restricted to: bus stop flags, bus timetables, Kassel Kerbs and drop kerbs/tactile paving (x2) for the pedestrian crossing points.

Reason - To make adequate provision within the highway for the movement and safety of the additional pedestrian traffic generated as a result of the proposed development.

17. Prior to occupation a workplace travel plan shall have been submitted to and approved in writing by the Local Planning Authority. Such approved travel plan shall be actively implemented for a minimum period of 5 years.

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

18. No goods, materials or containers shall be stored, stacked or deposited on the site outside the buildings, nor shall any commercial/manufacturing activities or processes (except for the loading and unloading of vehicles) be carried on outside the buildings, unless otherwise agreed in writing with the Local Planning Authority.

Reason - To protect the character and appearance of the area in the interests of visual amenity and the amenity of residents in the locality.

8.5 Both full and outline planning permissions

19. No development or preliminary groundworks can commence until a mitigation strategy detailing the excavation / preservation strategy has been submitted to and approved in writing by the local planning authority.

Reason – Because the proposal has the potential to harm non-designated heritage assets with archaeological interest.

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

Reason - Because the proposal has the potential to harm non-designated heritage assets with archaeological interest.

21. A post excavation assessment shall be submitted to the local planning authority for approval (to be submitted within six months of the completion of the fieldwork, unless otherwise agreed in advance with the Local Planning Authority). This will result in the completion of post excavation analysis, preparation of a full site archive and report ready for deposition at the local museum, and submission of a publication report

Reason - Because the proposal has the potential to harm non-designated heritage assets with archaeological interest.

22. No development shall take place, including any ground works or demolition, until a Construction Management Plan has been submitted to, and approved in writing by, the local planning authority. The approved plan shall be adhered to throughout the construction period. The Plan 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
 - v. prior to the commencement of any work on the site, a joint inspection of the route to be used by construction vehicles should be carried out by the Applicant and the Highway Authority, including photographic evidence.

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.

23. 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.

24. Prior to the commencement of development, a Construction Method Statement shall be submitted to and approved in writing by the local planning authority. The Construction Method Statement shall provide for:

- measures to control the emission of dust and dirt during demolition and construction;
- a scheme for recycling/disposing of waste resulting from demolition and construction works;
- details of hours of deliveries relating to the demolition and construction of the development;
- details of hours of site clearance and construction;
- a scheme to control noise and vibration during the demolition and 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 - In the interests of residential amenity and highway safety and to reduce the likelihood of complaints of statutory nuisance.

25. Prior to commencement of any above ground works a Noise Impact Assessment shall be submitted to and approved in writing by the Local Planning Authority. The Noise Impact Assessment shall assess the impact of the proposed commercial units upon the neighbouring dwellings hereby granted full and outline planning permission. Any necessary mitigation measures shall be detailed within the Noise Impact Assessment and implemented prior to occupation of the affected dwellings and retained as approved thereafter.

Reason - Due to the residential areas close proximity to the proposed commercial units.

26. Prior to the construction above damp proof course, a scheme for on-site foul water drainage works, including connection point and discharge rate, shall have been 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.

27. No works except demolition shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme should include but not be limited to:
- Limiting discharge to 3.3 l/s (greenfield 1 in 1 year rate which should be confirmed by greenfield calculations) for the residential site, for all storm events up to and including the 1 in 100 year rate plus 40% allowance for climate change. All relevant permissions to discharge from the site into any outfall should be demonstrated.
 - Discharge via infiltration for the commercial site for all storm events up to and including the 1 in 100 year rate plus 20% allowance for climate change.
 - Final modelling and calculations for all areas of the drainage system.
- 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.

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.

28. 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.

29. Prior to occupation of any phase a maintenance plan detailing the maintenance arrangements for that phase including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, shall have 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 prior to occupation may result in the installation of a system that is not properly maintained and may increase flood risk or pollution hazard from the site.

30. 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.

31. Prior to commencement of any above ground works precise details of the existing site levels, proposed site levels and finished floor level and eaves and ridge heights of the hereby permitted buildings in relation to site levels within adjacent sites and floors, eaves and ridge levels of neighbouring property shall be submitted to and approved in writing by the Local Planning Authority, and shall be implemented as approved unless the Local Planning Authority first gives written approval to any variation.

Reason - In the interests of visual amenity and privacy.

32. All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Preliminary Ecological Appraisal (Hybrid Ecology, February 2020). 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 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species).

33. No development shall take place (including any demolition, ground works, site clearance) until a further badger survey and updated mitigation statement has been submitted to and approved in writing by the local planning authority. This further survey shall be undertaken to identify whether any Badger activity has changed since the previous surveys were undertaken and whether further mitigation and/or works are required for badgers during the construction phase. The works shall be carried out strictly in accordance with the approved details and shall be retained in that manner thereafter.

Reason - To conserve Protected species and allow the LPA to discharge its duties under the Badger Protection Act 1992 and s17 Crime & Disorder Act 1998.

34. No development shall take place (including any demolition, ground works, site clearance) until a construction environmental management plan (CEMP: Biodiversity) has been submitted to and approved in writing by the local planning authority. The CEMP (Biodiversity) shall include the following.
- a) Risk assessment of potentially damaging construction activities.
 - b) Identification of "biodiversity protection zones".
 - c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
 - d) The location and timing of sensitive works to avoid harm to biodiversity features.
 - e) The times during construction when specialist ecologists need to be present on site to oversee works.
 - f) Responsible persons and lines of communication.
 - g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
 - h) Use of protective fences, exclusion barriers and warning signs.
 - i) Containment, control and removal of any Invasive non-native species present on site

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority.

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

35. Prior to commencement of any above ground works a Biodiversity Enhancement Layout providing the finalised details and locations of the enhancement measures contained within the Preliminary Ecological Appraisal (Hybrid Ecology, February 2020), shall have been 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 & habitats and allow the LPA to discharge its duties under the s40 of the NERC Act 2006 (Priority habitats & species).

36. Prior to occupation a lighting design scheme for biodiversity shall have been 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 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species)

37. Works shall be carried out in full accordance with the Arboricultural Impact Assessment and Preliminary Method Statements dated 10/02/2020 by Tree Planning Solutions unless otherwise agreed in writing by the Local Planning Authority.

Reason – To protect existing mature vegetation on site.

8.6 Informatives

Highway Informatives

1. Prior to any works taking place in the highway the developer should enter into an S278 agreement with the Highway Authority under the Highways Act 1980 to regulate the construction of the highway works.
2. All or some of the above requirements may attract the need for a commuted sum towards their future maintenance (details should be agreed with the Highway Authority as soon as possible)
3. Where possible any new section of footway adjacent to the A133 should be set back from the edge of carriageway so pedestrians don't have to walk adjacent to the carriageway.
4. 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.

Anglian Water informatives

1. Notification of intention to connect to the public sewer under S106 of the Water Industry Act Approval and consent will be required by Anglian Water, under the Water Industry Act 1991. Contact Development Services Team 0345 606 6087.
2. Notification of intention to connect to the public sewer under S106 of the Water Industry Act Approval and consent will be required by Anglian Water, under the Water Industry Act 1991. Contact Development Services Team 0345 606 6087.
3. Protection of existing assets - A public sewer is shown on record plans within the land identified for the proposed development. It appears that development proposals will affect existing public sewers. It is recommended that the applicant contacts Anglian Water Development Services Team for further advice on this matter. Building over existing public sewers will not be permitted (without agreement) from Anglian Water.
4. Building near to a public sewer - No building will be permitted within the statutory easement width of 3 metres from the pipeline without agreement from Anglian Water. Please contact Development Services Team on 0345 606 6087
5. The developer should note that the site drainage details submitted have not been approved for the purposes of adoption. If the developer wishes to have the sewers included in a sewer adoption agreement with Anglian Water (under Sections 104 of the Water Industry Act 1991), they should contact our Development Services Team on 0345 606 6087 at the earliest opportunity. Sewers intended for adoption should be designed and constructed in accordance with Sewers for Adoption guide for developers, as supplemented by Anglian Water's requirements.
6. An application to discharge trade effluent must be made to Anglian Water and must have been obtained before any discharge of trade effluent can be made to the public sewer.
7. In relation to the foul water condition the following will be required: Feasible drainage strategy agreed with Anglian Water detailing the discharge solution including: Development size. Proposed discharge rate (Should you require a pumped connection, please note that our minimum pumped discharge rate is 3.8l/s). Connecting manhole discharge location (No connections can be made into a public rising main). Notification of intention to connect to the public sewer under S106 of the Water Industry Act. Feasible mitigation strategy in agreement with Anglian Water (if required).

SUDS Informatives

1. Any drainage features proposed for adoption by Essex County Council should be consulted on with the relevant Highways Development Management Office.
2. Changes to existing water courses may require separate consent under the Land Drainage Act before works take place. More information about consenting can be found in the attached standing advice note.
3. It is the applicant's responsibility to check that they are complying with common law if the drainage scheme proposes to discharge into an off-site ditch/pipe. The applicant should seek consent where appropriate from other downstream riparian landowners.

This application is the subject of a legal agreement and this decision should only be read in conjunction with this agreement. The agreement addresses the following issues: Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) financial contribution, open space financial contribution, highway works including work place travel plan monitoring fee, and phased restriction on occupancy until infrastructure improvements are complete.

9 Additional Considerations

Public Sector Equality Duty (PSED)

- 9.5 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:
- 9.6 A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
- 9.7 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
- 9.8 C. Foster good relations between people who share a protected characteristic and those who do not, including tackling prejudice and promoting understanding.
- 9.9 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.
- 9.10 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.
- 9.11 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

- 9.12 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.

- 9.13 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).
- 9.14 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

- 9.15 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.
- 9.16 The New Homes Bonus (NHB) is one local finance consideration capable of being a material consideration to which the weight given shall be determined by the decision maker. The NHB is a payment to local authorities to match the Council Tax of net new dwellings built, paid by Central Government over six consecutive years. In this instance, it is not considered to have any significant weight attached to it that would outweigh the other considerations.

10 Background Papers

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