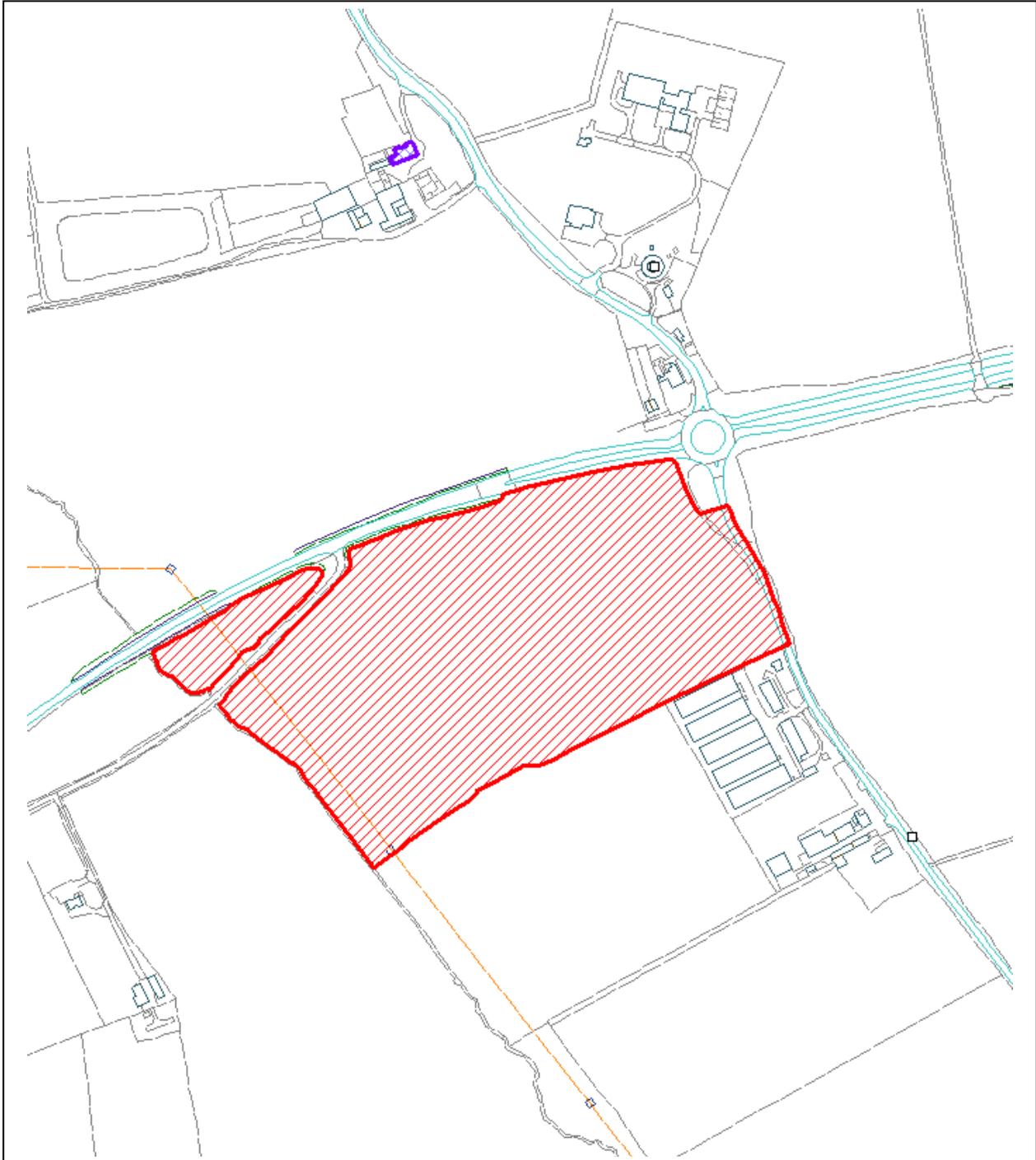


PLANNING COMMITTEE

20th OCTOBER 2020

REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING

A.1 PLANNING APPLICATION – 19/01706/OUT – LAND SOUTH WEST OF HORSLEY CROSS ROUNDABOUT CLACTON ROAD HORSLEY CROSS CO11 2NZ



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Application: 19/01706/OUT

Town / Parish: Mistley Parish Council

Applicant: Anglia Maltings (Holdings) and Robert Fairley Limited

Address: Land South West of Horsley Cross Roundabout Clacton Road Horsley Cross
CO11 2NZ

Development: Outline planning application for employment development, comprising Phase 1 for 15,350 sqm of B2 development rising to a maximum building height of 21.7m and Phase 2 for up to 18,117 sqm of B1c / B2 and B8 uses rising to a maximum building height of 12m, together with associated access, landscaping, parking and drainage pond.

1. Executive Summary

- 1.1 As Members will recall, this application was reported to Planning Committee on 14 July 2020, wherein it was resolved to approve the application subject to a suite of planning conditions. Subsequent to this resolution the applicant and agent (in discussions with their legal advisors) have advised that they would like to enter into a Section 106 Agreement to address the issue of skylark plots on land outside of the application site (land under the same current land ownership but beyond the 'red line' application boundaries).
- 1.2 Whilst condition 33 of the previous recommendation is not specific to the requirement for the off-site skylark plots, by inference it is required as it forms part of the mitigation measures set out in the submitted Ecological Assessment referred to in the condition. The condition reads as follows:

No development shall commence on site, until a scheme to minimise the potential impact of the development on wildlife present on site (including details of the timing of their implementation) has been submitted to and approved by the Local Planning Authority. The Scheme shall have regard to the Ecological Assessment prepared by MLM Consulting Engineers Limited (Revision C02 dated 4 October 2019) that form part of the planning application documents and shall include opportunities to enhance the wildlife value of the site. The scheme shall be fully implemented as so approved.

Reason: To ensure that the development incorporates proportionate mitigation measures to address the impact of the development and takes the opportunity to incorporate biodiversity enhancements in accordance with the National Planning Policy Framework and local plan policies.

- 1.3 In addition, paragraph 6.38 of the earlier Committee Report (repeated below), states the following and includes reference to the skylark plots (bold highlights below):

*"The planning application submission has included an Ecological Assessment which confirms that an extended phase 1 habitat survey of the site was carried out in late 2018 alongside dedicated protected species surveys (i.e. reptiles, wintering and breeding birds, bats, water vole and otter) that were carried out in 2019. Whilst the report confirms that the current proposals are unlikely to affect bats as boundary trees are to be retained, the proposal will affect habitat suitable for reptiles, birds and water vole. A triangular parcel of land north of the site consisting of improved grassland provides a potential receptor site for reptiles found on site whilst the creation of an attenuation basin and surrounding grassland is taking place. The creation of the basin and grassland will improve the on-site habitat for reptiles, as will the creation of a landscape bund along the northern boundary of the site. **It will be possible to mitigate for one skylark territory on site with mitigation for the remaining four territories***

being provided through eight skylark plots create in off-site arable fields. A mitigation licence will be required from Natural England to allow for the installation of a headwall into the bank of the adjacent 'Holland Brook' (on the western boundary of the site) to be carried out lawfully.

- 1.4 The S106 Agreement is in an agreed form and will be completed following any resolution to support the amended recommendation at Committee.
- 1.5 The applicant and agent (in discussions with their legal advisors) have also reviewed the proposed suite of planning conditions and are seeking some amendments which provide a degree of flexibility to recognise the phased approach to the delivery of the site. The approved conditions cover the whole site and do not provide this degree of flexibility.
- 1.6 The proposed changes to the planning conditions are considered both acceptable and reasonable, providing the same level of controls but recognising that this site will in all likelihood be delivered in two distinct phases.
- 1.7 The proposed changes to the planning conditions are shown in bold text within Section 8.2 of this report.
- 1.8 In terms of the application more generally, it relates to a site which is approximately 11.2 ha and is presently open agricultural land, with part of the site having been used for weekly car boot sales during March to October. It is in a rural area in the centre of the District and to the immediate south west of the A120/B1035 roundabout at Horsley Cross. Colchester is about 8 miles to the west and Harwich is about 9 miles to the east.
- 1.9 An 'extant' consent for outline planning permission (13/00745/OUT) on the site was approved by the Council on 4 August 2014 (with subsequent approval of reserved matters and Certificate of Lawfulness applications to confirm commencement of works) for *“Development of site to provide a new industrial park with up to 28,280m² of floorspace for B2 and B8 uses, a bus depot and 30m high telecommunications mast. All with associated access, landscaping, parking and highway improvements”*.
- 1.10 The development of the land will result in harm to the character and appearance of the countryside. However, with sensitive design of the buildings and careful use of 'bundling' and soft landscaping the development could result in the creation of iconic structures in a prominent setting. The development layout shows the retention of boundary trees, they are not threatened by the development proposal and their physical protection during the construction phase of any development, that may be granted planning permission, can be secured by conditions.
- 1.11 With respect to ecology, provided the avoidance, mitigation, compensation and enhancement measures described in the submitted Ecology Assessment are implemented, then there will be no residual effects significant at a local level or above and the scheme should result in a net gain in biodiversity. The development proposals are unlikely to have any significant effect on statutory or non-statutory designated sites.
- 1.12 ECC Highways and Highways England raise no objections to the application subject to appropriate mitigation measures.
- 1.13 ECC Public Transportation Team are satisfied that with rigorous planning conditions to address the provision of a bespoke minibus service, alongside the provision of a workplace travel plan, that the scheme will deliver an appropriate level of sustainable transport measures to address the relatively isolated nature of the site from a public transportation perspective.

- 1.14 The lawful commencement of works on the existing consented scheme - which keeps that 'extant' - and the submission of this current application with a known end-user for the 'Phase 1' component of the site, indicates that there is now a realistic prospect of business activity on the site and it is hoped that this will be the economic catalyst for 'Phase 2' which will bring new businesses into the Tendring area.
- 1.15 The proposal would result in no material harm to interests of acknowledged importance and would facilitate substantial economic development within the District. As per the previous recommendation to the July Planning Committee and the subsequent Committee resolution to approve, officers continue to recommend approval, subject to the list of updated planning conditions and the completion of a Section 106 Agreement.

Recommendation: Outline Approval

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

- a) **Within 6 (six) months of the date of the Committee's resolution to approve, the completion of a legal agreement under the provisions of section 106 of the Town and Country Planning Act 1990 dealing with the following matters:**
- **skylark plots on land outside of the application site**
- 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 (NPPF)

- 2.2 The NPPF sets out the Government's planning policies and how these are expected to be applied at the local level.
- 2.3 Planning law requires that applications for planning permission be determined in accordance with the 'development plan' unless material considerations indicate otherwise. The NPPF doesn't change the statutory status of the development plan as the starting point for decision taking. Where proposed development accords with an up to date Local Plan it should be approved and where it does not it should be refused – unless other material considerations indicate otherwise. An important material consideration is the NPPF's 'presumption in favour of sustainable development'.
- 2.4 The NPPF defines 'sustainable development' as having three dimensions:
- an economic role;
 - a social role; and
 - an environmental role.

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

National Planning Practice Guidance (PPG)

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

Status of the Local Plan

- 2.8 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.
- 2.9 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.
- 2.10 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.
- 2.11 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.

2.12 The following Local Planning Policies are relevant to this planning application:

Tendring District Local Plan (2007) – as ‘saved’ through a Direction from the Secretary of State.

Relevant policies include:

QL2: Promoting Transport Choice - requires developments to be located and designed to avoid reliance on the use of the private car and promote travel choice, other than in exceptional circumstance; in which case measures to improve the accessibility of development, particularly by walking, cycling and public transport, can be required.

QL3: Minimising and Managing Flood Risk - requires applications for development involving sites of 1 hectare or more, even within areas of low flood risk, to be accompanied by a Flood Risk Assessment to consider potential drainage and surface water flooding issues.

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

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

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

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

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

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

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

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

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

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

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

EN6b: Habitat Creation – states that consideration will be given to the potential for new wildlife habitats in new development.

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

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

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

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

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

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

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

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

Relevant policies include:

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

PPL1: Development and Flood Risk – Requires development proposals to include appropriate measures to respond to the risk of flooding on and/or off site and with the Flood Zone.

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

PPL4: Biodiversity and Geodiversity - Requires existing biodiversity and geodiversity to be protected and enhanced with compensation measures put in place where development will cause harm.

PPL5: Water Conservation, Drainage and Sewerage - Requires developments to incorporate sustainable drainage systems to manage surface water run-off and ensure that new development is able to deal with waste water and effluent.

CP1: Sustainable Transport and Accessibility – states that proposals for new development must be sustainable in terms of transport and accessibility and therefore should include and encourage opportunities for access to sustainable modes of transport, including walking, cycling and public transport.

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

Supplementary Guidance

Essex Design Guide for Mixed Use and Residential Areas (2005)

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

3. Relevant Planning History

06/00891/OUT	Use of agricultural land for employment purposes by formation of seven plots and the erection of buildings to enable relocation and expansion of existing businesses in North East Tendring District. (one in Colchester)	Called in by Secretary of State – Appeal Dismissed	29.03.2007 18.11.2008
13/00745/OUT	Development of site to provide a new industrial park with up to 28,280m ² of floorspace for B2 and B8 uses, a bus depot and 30m high telecommunications mast. All with associated access, landscaping, parking and highway improvements.	Approved	04.08.2014
14/01296/DETAIL	Erection of 30m telecommunications mast.	Approved	01.12.2014
17/01310/DETAIL	Submission of reserved matters pursuant to outline planning permission 13/00745/OUT with details pursuant to Conditions 1 (appearance, landscaping, layout and scale), 3 (Strategic Phasing Plan), 4 (Design Code), 5 (phasing arrangements), 6 (levels), in part 7 (external materials), in part 12 (roundabout), 15 (landscaping), 18 (loading, turning and parking) and in part Schedule 7 (details of an air quality monitoring programme) of Legal Agreement for the development of the site to provide a new industrial park for B2 and B8 uses.	Approved	04.05.2018
19/00002/EIASC	Proposed construction of nine industrial, storage and distribution (Class B1(c), B2 and B8) buildings, together with associated access, car parking, landscaping and drainage pond.	Closed	14.01.2019
19/01706/OUT	Outline planning application for employment development, comprising Phase 1 for 15,350 sqm of B2 development rising to a maximum building height of 21.7m and Phase 2 for up to 18,117 sqm of B1c / B2 and B8 uses rising to a maximum building height of 12m,	Current	

together with associated access, landscaping, parking and drainage pond.

19/01898/DISCON	Discharge of conditions 11 (wheel cleaning) and 21(dust management) for approved application 13/00745/OUT, and condition 2 (Construction Method Statement) for approved application 14/01296/DETAIL.	Approved	07.02.2020
19/01899/LUPROP	This certificate seeks to confirm that the outline planning permission granted on 4 August 2014 granted under reference 13/00745/OUT permitting the following development will be lawfully implemented by construction the base to a telecommunications mast in accordance with the approved drawings 66-2014-01P; 66-2014-02P and 66-2014-03P: Development of site to provide a new industrial park with up to 28,280 m2 of floorspace for B2 and B8 uses, a bus depot and 30m high telecommunications mast. All with associated access, landscaping, parking and highway improvements.	Approved	11.03.2020
20/00023/S106A	Formal application to modify a Section 106 Planning Obligation for planning permission 13/00745/OUT.	Agreed	
20/00538/LUPROP	Certificate of Lawfulness confirming that continued and future development of the site under the following planning permission would be lawful following its lawful implementation. Planning permission dated 4 August 2014, granted under reference 13/00745/OUT, involving "Development of site to provide a new industrial park with up to 28,280 m2 of floorspace for B2 and B8 uses, a bus depot and 30m high telecommunications mast. All with associated access, landscaping, parking and highway improvements".	Approved	15.06.2020
20/00556/LUPROP	The Application seeks a Certificate	Withdrawn	08.06.2020

of Lawfulness confirming that continued and future development of the site under the following planning permission would be lawful following its lawful implementation. Planning permission dated 4 August 2014, granted under reference 13/00745/OUT, involving "Development of site to provide a new industrial park with up to 28,280 m² of floorspace for B2 and B8 uses, a bus depot and 30m high telecommunications mast. All with associated access, landscaping, parking and highway improvements".

4. Consultations

Essex County Council Archaeology
09.12.2019

The Tendring Historic Environment Characterisation Project identifies the archaeology of this area (HECZ 13.2) as being characterised by a high density of cropmarks with high potential for extensive below ground deposits. The below ground archaeology of the zone is highly sensitive to change.

The area of the proposed development includes a recorded site on the Essex Historic Environment Record (EHER 3094) which comprises a ring ditch and ditched field boundaries. The Heritage Appraisal that accompanies the application correctly identifies that there is the potential for associated, currently unrecorded prehistoric remains to survive below ground, within the proposed development site. These features are presently of unknown significance but the proposed development will lead to their loss or a reduction in their significance.

A geophysical survey has been completed which failed to identify the ring ditch and field boundaries recorded from aerial photographic evidence and the report concludes that the technique was only partially successful.

The cropmark features will need to be rectified from the original source prior to a trial trenching evaluation in order to establish the nature and significance of the features recorded from cropmark evidence in addition to those identified through the geophysical survey.

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

RECOMMENDATION: A Programme of Aerial rectification and Archaeological evaluation

1. No development or preliminary ground-works can commence until a programme of archaeological evaluation, following aerial rectification of cropmark features, has been secured and undertaken in accordance with a Written Scheme of Investigation, which has been submitted by the applicant, and approved by the planning authority.

2. Following the completion of this initial phase of archaeological work, a summary report will be prepared and a mitigation strategy detailing the approach to further archaeological excavation and/or preservation in situ, shall be submitted to the local planning authority.

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

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

Further Recommendations:

A professional team of archaeologists should undertake the archaeological work. A brief outlining the level of archaeological investigation will be issued from this office on request. Tendring District Council should inform the applicant of the recommendation and its financial implications.

Essex Wildlife Trust

No comments received

Environment Agency

No comments received

Environmental Protection

No comments received

ECC Highways Dept
17.06.2020

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

13/0745/OUT and 17/01310/DETAIL were recommended for approval therefore the conclusions of the Highway Authority are as follows:

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

Prior to commencement:

- (1) No development shall take place until the following have been provided or completed:

Construction Traffic Management Plan, which shall be adhered to during the construction phase of development, shall be submitted to and approved in writing by the Local Planning Authority.

The Plan should include details regarding any temporary traffic management/signage and wheel cleaning facilities for the duration of the construction phase to prevent the deposition of mud or other debris onto the highway network/public areas, turning and parking facilities for delivery/construction vehicles within the limits of the application site together with an adequate parking area for those employed in developing the site.

Reason: In the interests of highway safety and efficiency.

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

- The highway works as shown in principle on Proposed Highway layout plan drawing no. 3203 02 RA, dated 13 September 2019.

- A 2-metre wide footway on both sides of Clacton Road on the north side of the proposed roundabout including relocation/ replacement of electricity poles/ lighting, road signs, removal of redundant kerbing and replacement with upstand kerb, tactile paving and footway and any associated drainage works.

- 2x2m footway on the north side of the proposed roundabout as shown in principal on drawing no. 3203 02 RA.

- Any other reasonable items to ensure the access is in accordance with current policy standards.

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

- (3) Prior to occupation of the proposed development the provision of bus stop infrastructure for the to new bus stops as shown in principal on drawing no. 3203 02 RA, to include but not restricted to bus stop cage markings, bus shelter (x2) Kassel Kerbs and bus

timetable information.

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.

Note: Conditions 1 and 2 requires a Legal Agreement between the Applicant/Developer and the Highway Authority using the powers in Section 278 of the Highways Act, 1980.

(4) From first occupation of Phase 1 of the development the occupier will provide a minibus/private taxi service for staff as follows:

- operating Monday to Friday at main shift changeover patterns;
- catchment will include but not restricted to towns/villages of Brantham, Manningtree, Mistley, and Lawford;
- pick up points will be flexible depending on the home location of staff using the service;
- the service will be free to staff for the first six months of occupation of Phase 1. Staff will then be charged to use the service but as a subsidised rate, no greater than the comparable local bus fare;
- the service will be operated from first occupation of Phase 1 for a period of up to five years after first occupation of Phase 1 on the subsidised basis;
- Staff will be made aware of the minibus provision as part of their relocation pack, which will include details of travelling by all active and sustainable modes. Further marketing will be needed on a regular basis to ensure any new starters to the company are also made aware;
- the service will be reviewed six months after occupation, with further monitoring occurring annually on the anniversary of site occupation for a period of five years. This review/monitoring is to be provided to Essex County Council as local highway authority as part of the Travel Plan monitoring;
- the service will continue if there is staff demand, however the service will then operate on a commercial basis with no subsidy at the end of 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.

(5) From first occupation of Phase 2 of the development the occupier(s) will provide a minibus/private taxi service for staff as follows:

- operating Monday to Friday at main shift changeover patterns;
- catchment will include but not restricted to towns/villages of Brantham, Manningtree, Mistley, and Lawford;
- pick up points will be flexible depending on the home

location of staff using the service;

- for the first six months of occupation of each respective building at Phase 2 the service would be free to staff of that building. Staff will then be charged to use the service but as a subsidised rate, no greater than the comparable local bus fare;

- the minibus provision will be regularly promoted to all employees on the whole site as part of their commitment to active and sustainable travel, via their company's individual travel plans;

- the extended service will be operated from first occupation of Phase 2 for a period of up to five years after first occupation of Phase 2 on this subsidised basis;

- the service will be reviewed six months after occupation of Phase 2, with further monitoring occurring annually on the anniversary of Phase 2 occupation for a period of five years. This review/monitoring is to be shared with Essex County Council as local highway authority as part of the Travel Plan monitoring.

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.

Note: The services will operate as above unless otherwise agreed with Essex County Council as local highway authority and Tendring District Council as local planning authority.

(6) The provision of a vehicular turning facility, of a design to be approved in writing by the Local Planning Authority shall be constructed, surfaced and maintained free from obstruction within the site at all times for that sole purpose.

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

(7) 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.

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

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

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

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

(10) 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.

The above requirements should be imposed by way of negative planning conditions or a planning obligation and 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:

(i) Internal Layout - Full details of the internal roads and footways (including layout, levels, gradients, surfacing, and means of surface water drainage, construction details and any lighting requirements) will be agreed during the Reserved Matters application.

(ii) The grant of planning permission does not automatically allow development to commence. In the event of works affecting the highway, none shall be permitted to commence until such time as they have been fully agreed with this Authority.

Informative:

1: Prior to occupation, the development shall be served by a system of operational street lighting of design approved from the Highway Authority for the new roundabout, which shall thereafter be maintained in good repair.

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

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

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

3: 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.

Highways England
22.01.2020

Offer no objection

Highways England has reviewed the Transport Assessment (prepared by Peter Evans Partnership, dated October 2019) and the A120-B1035 roundabout junction capacity assessments (supplied separately) and has the following observations.

It is noted that the proposed vehicle access on the B1035 includes new footways linking the site to new bus stops. Whilst it is recognised that current bus services running along the B1035 are fairly infrequent, Highways England considers it essential that the bus stop facilities are provided given that the nearest existing stops are located to the north of the A120 and there is no safe means of walking between these stops and the proposed development which would involve crossing the A120.

The Framework Travel Plan put's forward a range of measures to encourage sustainable travel which Highways England welcomes. It is noted that for some employees cycling to/from the proposed development this may involve having to cross or cycle along the A120 which can experience fast-moving and heavy traffic flows. The Framework Travel Plan's recommendation for establishing a Bike User Group and Cycle Buddy Scheme is particularly welcomed, especially if it can promote the safe movement of cyclists along or across the A120.

The TA's trip generation, distribution and assignment calculations, traffic growth assumptions and junction capacity assessments of the A120-B1035 roundabout are considered reasonable.

It has been concluded on this basis that the proposed development is not expected to significantly impact the strategic road network.

ECC Schools Service
20.02.2020

ECC's Developer Guide is currently being reviewed and the Council's current approach to assessing employment sites is likely to be amended. With that in mind, ECC will not be pursuing a contribution toward EY&C provision for this development.

Waste Management
17.12.2019

No comments.

Tree & Landscape Officer
16.12.2019

The site is currently set to grass and is ostensibly in agricultural use, although in recent years the land has only been used for car boot sales. There are several small trees and sections of scrubby vegetation on some of the site boundaries. The site is otherwise open and clearly visible from the roads to the north and east of the application site.

In terms of the impact of the development proposal on the area the proposed changes to the consented scheme, primarily the increase in the height of the largest unit on the site, has the potential to increase the adverse impact of the development on the local landscape character. It also makes it more difficult to achieve a satisfactory level of soft landscaping to ensure that the development is assimilated into its setting.

In this regard the applicant has provided a summary of the Landscape and Visual Impact Assessment (LVIA) submitted in support of the consented scheme and set out indicative design features of the proposed building that aim to minimise harm to the local landscape character.

In essence the development of the land will result in harm to the character and appearance of the countryside however with sensitive design of the building and careful use of 'bundling' and soft landscaping the development could result in the creation of an iconic structure in a prominent setting. The correct selection of external cladding and finishing will be a key element of the successful integration and assimilation of the EDME building into its setting and will need to be carried forward into Phase 2 of the development.

Whilst at the Pre- application stage it was suggested that it would be necessary for the applicant to provide a tree survey and report to show the impact of the development

proposal on the trees on the land. However the development layout shows the retention of boundary trees. Therefore the trees are not threatened by the development proposal and their physical protection during the construction phase of any development, that may be granted planning permission, can be secured as a reserved matter.

Sections 2.2 and 3.2 of the Design and Access Statement describe the soft landscaping strategy for the whole site and the area immediately around the EDME building. In principle the strategy sections of the Design and Access Statement are acceptable and a detailed soft landscaping scheme should be secured as a reserved matter.

Anglian Water Services Ltd

No comments received.

Network Planner - UK Power Networks

No comments received.

Health and Safety Executive

No comments received.

Natural England
20.12.2019

No objection

Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on statutorily protected nature conservation sites or landscapes.

European sites

Based on the plans submitted, Natural England considers that the proposed development will not have likely significant effects on statutorily protected sites and has no objection to the proposed development. To meet the requirements of the Habitats Regulations, we advise you to record your decision that a likely significant effect can be ruled out.

Sites of Special Scientific Interest

Based on the plans submitted, Natural England considers that the proposed development will not have likely significant effects on statutorily protected sites and has no objection to the proposed development.

Arch. Liaison Off, Essex Police

No comments received.

Royal Society For The Protection of Birds

No comments received.

H M Explosives Inspectorate
16.12.2019

HSE's Explosives Inspectorate has no comment to make on this application as it does not fall within the safeguarding zones of a HSE licensed explosives site.

Cadent Gas Limited

No comments received.

ECC SuDS

Having reviewed the Flood Risk Assessment and the associated documents which accompanied the planning application, ECC do not object to the granting of planning permission subject to the following:

Condition 1

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 rates to 6.6l/s for the entire site as shown in drawing number 0110, revision P04 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.
- Detailed engineering drawings of each component of the drainage scheme.
- A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features.
- A written report summarising the final strategy and highlighting any minor changes to the approved strategy.

The scheme shall subsequently be implemented prior to occupation. It should be noted that all outline applications are subject to the most up to date design criteria held by the LLFA

Reason

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

Condition 2

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

subsequently be implemented as approved.

Reason

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

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

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

Condition 3

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

INFORMATIVES:

- Essex County Council has a duty to maintain a register and record of assets which have a significant impact on the risk of flooding. In order to capture proposed SuDS which may form part of the future register, a copy of the SuDS assets in a GIS layer should be sent to suds@essex.gov.uk.
- Any drainage features proposed for adoption by Essex County Council should be consulted on with the relevant Highways Development Management Office.
- Changes to existing water courses may require separate consent under the Land Drainage Act before works take place. More information about consenting can be found in the attached standing advice note.
- It is the applicant's responsibility to check that they are complying with common law if the drainage scheme proposes to discharge into an off-site ditch/pipe. The applicant should seek consent where appropriate from other downstream riparian landowners.

5. Representations

- 5.1 Mistley Parish Council - At the Parish Council's Planning Committee Meeting held on 5 December 2019 it was recommended that the application be approved as they would wish to encourage more employment in the area.
- 5.2 Tendring Parish Council supports the overall development of the site as it will bring welcome employment to the area, particularly as the site expands beyond the initial EDME production plant. There are however four areas of concern that they would ask the committee to consider in setting any conditions associated with the proposal, should the vote be to approve the application.
- 5.3 The first area of concern relates to **light pollution**. Horsley Cross is a very dark part of the countryside, with only limited lighting from around the roundabout on the A120. The very open nature of the surrounding countryside would mean that any artificial light emitted from the site would be visible for many miles across open fields. TPC therefore request that any on-site lighting must be of a design which projects the light downwards, to minimise light pollution.
*(Officer comment: this is controlled by way of proposed **condition 10** which will require submission of a written scheme of illumination)*
- 5.4 The second point relates to **traffic** and is in two parts - traffic volumes heading toward the A120 roundabout and restriction of HGVs from the site travelling through Tendring village. On that second point, I note that the application has a traffic report that states (as is obvious really) that the vast majority of HGV movements will be to the A120 and then west. Any HGV traffic that did turn right would end up at Thorpe Green, as the two wise-roads that lead down from Tendring toward the A133 have 17 tonne limits.
- 5.5 Regarding the A120 roundabout, it can be difficult to get from the B1035 onto that at peak times - but more so still after a ferry has docked at Harwich. I note Essex Highways have no concerns but I would ask whether consideration could be given to a left filter lane from the B1035 onto the A120, to aid these movements (much like has been introduced on the A120 slip to join the A133 near Frating).
(Officer comment: Both Highways England and County Highways have thoroughly assessed the applicants Transport Assessment and are satisfied that from a highway and transportation perspective the impact of the proposal is acceptable. In terms of the Horsley Cross roundabout, specifically, Highways England has confirmed that the development is not expected to significantly impact the strategic road network (A120), including the Horsley Cross roundabout).
- 5.6 Thirdly, it is well-known that the EDME processing gives off a fairly strong aroma from its current site. It would be good to have a planning condition that requires as much as possible to be done to minimise the **aroma emissions** from the new plant as the wind can carry that a long way.
(Officer comment: Proposed planning condition 36 below seeks to control aromas).
- 5.7 Finally, we have a concern about **visual appearance**. I know from attending the presentation EDME gave last year that the largest building is set at the lowest point of land to minimise its impact. However it would be good if a condition would be considered that makes the exterior colour of buildings on the site less stark, as 21m is a very tall building for this part of the countryside - and it is also a building with a very large footprint, unlike the nearby Horsley Cross water tower.
*(Officer comment: this is controlled by way of proposed **condition 7** which requires precise details of the manufacturer and types and colours of the external facing and roofing materials to be used in the construction of each phase of the development)*

- 5.8 1 letter of objection has been received raising matters including: Impact on traffic as there is already a high flow of heavy traffic on the Horsely Cross roundabout/A120 which will have an impact on the surrounding roads and visitors via the Harwich ferry route. There are too many near miss accidents on the roundabout. Parking of proposed workers could have a detrimental impact on local residents. Already we have too many people parking, leaving their cars and going for hours. We have a serious issue going in & out of our road and safety road markings have worn.

If these plans go ahead we are worried about the impact on the landscape. The landscape needs to be considered including Horsely Cross roundabout which is particularly messy and does not serve local people and visitors of our area. It has been poorly maintained. It would serve the area well if within the plans a consideration to improve the negative impact on landscaping in the area. If the applicants could consider the improvement to the area by planting many trees. We would like to see the improvement of quality of life for residents.

6 Assessment

Site Context

- 6.1 The application site is approximately 11.2 ha and is presently open agricultural land, with part of the site having previously been used for weekly car boot sales during the months of March to October. It is in a rural area in the centre of the District and to the immediate south west of the A120/B1035 roundabout at Horsley Cross. Colchester is about 8 miles to the west and Harwich is about 9 miles to the east.
- 6.2 There is a small cluster of buildings, including The Cross Inn pub; a farm and some cottages to the north and to the south is Kelly's Poultry Farm, but most notable in terms of its visual impact is the nearby water tower. The A120 is dualled for a short section either side of the roundabout and the B1035 is a single carriageway road.
- 6.3 The surrounding landscape within the immediate vicinity of the site is characterised by large open fields, occasionally broken up by small groups of/ or individual buildings. The site is near the top of a plateau and is roughly rectangular in shape. It has a northern boundary with the A120; a southern boundary to Kelly's Farm; the eastern boundary is shared with the B1035; and the western boundary to Holland Brook (this part of the site is crossed by electricity pylons). There is a fall of approximately 15 metres between the middle of the site and the western boundary.
- 6.4 The site is largely devoid of any significant vegetation, but there are some existing trees adjacent to the A120 roundabout and extending for a short distance down the B1035, in addition to where adjoining the A120 closer to the brook.

Proposal

- 6.5 The proposals represent a revised version of extant planning permissions for an industrial park on this site, which as stated above was originally granted outline planning permission in 2014.
- 6.6 The application seeks outline planning permission for the following development proposals:

"Outline planning application for employment development, comprising Phase 1 for 15,350sqm of B2 development rising to a maximum building height of 21.7m and Phase 2 for up to 18,117sqm of B1c/B2 and B8 uses rising to a maximum building height of 12m, together with associated access, landscaping, parking and drainage pond."

- 6.7 The 'Phase 1' development will involve delivering a building for EDME (Class B2), a successful food processing company, employing 55 staff on its existing site at any one time. EDME currently occupy a 1.4 hectare (3.5 acre) site in Mistley which is operating close to capacity and with certain constraints caused by the layout, age and upkeep requirements of the existing buildings, which are all located in a Conservation Area and some of which are listed.
- 6.8 In terms of re-locating to Horsley Cross (which will keep EDME within Tendring) the applicant's Planning Statement states:
"EDME must relocate in order to remain competitive and continue to grow a sustainable business. It is proposed to relocate to Horsley Cross, the only sustainable location that has been found in the local area. Horsley Cross lies in arguably the best cereal growing region of Britain which significantly contributes to minimising food-miles. The proposed site has the benefit of the existing permissions which permit an industrial led development....Relocating EDME to the Horsley Cross site has great advantages, due to its proximity to the existing EDME site. Staff could be easily relocated. The site is also well located for access to the strategic road network and ports."
- 6.9 The planning statement also adds that:
"Apart from the very clear business need for EDME to relocate to the site, this would also release the existing EDME site for residential led development in line with Policy LMM1 – Mistley Urban Regeneration Area in the 2007 Local Plan and Policy SAMU1 'Development at EDME Maltings, Mistley' of the Tendring District Council's emerging Local Plan."
- 6.10 The 'Phase 2' development would involve a mixture of B1c (light industrial), B2 (industrial) and B8 (storage and distribution) uses as may be agreed through reserved matters up to a maximum floor space of 18,117sqm. It is proposed that no more than 25% of the overall site area will be for B8 uses.
- 6.11 In terms of **building heights**, the EDME building would be up to 17m high, with around 10% rising to a maximum height of 21.7m. This building height is required in order to accommodate the necessary food production equipment. There is a fall of approximately 15m between the entrance of the site (eastern boundary) and the western boundary and the EDME building has been positioned on the west side of the site, in order to minimise any visual impacts.
- 6.12 The proposed buildings located on the east side (Phase 2) will be up to 10m in height on the north side and up to 12m on the south side. This matches the heights proposed in the 'extant' planning permission for the site.
- 6.13 **Access** to the site would be gained from the B1035, located to the east of the site. Access would be via a new roundabout, similar to that proposed in the consented scheme.
- 6.14 In terms of Phase 1 of the development and to specifically meet the needs of EDME, HGV **parking** for 12 vehicles and 78 cars is proposed (including disabled provision). During pre-application discussions officers asked for a plan showing how the external areas around the EDME building could be re-worked in the event of EDME ever leaving the site and other B2 uses taking over this section of the site. This detail is included in the submitted Design & Access Statement and shows how parking could be provided in accordance with parking standards for B2 development. The car parking proposed is less than this, because it is based on the specific employee and visitor numbers for the EDME business.
- 6.15 In relation to Phase 2 of the development, car parking will be provided in accordance with the Council's car parking standards. The total parking provision will be dependent upon the overall mix of B1(c), B2 or B8 uses.

6.16 The **landscape strategy** for the site is set out in the submitted Design & Access Statement and in short this has four key elements as summarised below:

- The EDME building would be surrounded with landscaping, particularly to the outer boundaries to the north, west and south;
- The development as a whole would be screened by a landscaped bund along the boundary to the A120, as with the existing planning permission;
- The area to the far west of the site, near the overhead power lines, would be largely dedicated to a Sustainable Drainage pond and green areas; and
- Landscaping would also be included within the employment development as part of the outline proposals.

Principle of Development

6.17 The principle of development in the location proposed, as well as the access thereto, has already been established through the grant of outline planning permission (13/00745/OUT) and the approval of 'Reserved Matters' through planning application ref. 17/01310/DETAIL on 4 May 2018 (these approvals have subsequently been kept 'extant' through the discharging of planning conditions and submission of Lawful Development Certificate applications to both confirm that the base to a telecommunications mast (forming part of the outline approval) could lawfully be implemented (ref. 19/01899/LUPROP, approved 13 March 2020) and subsequently followed up by a Certificate of Lawfulness application to confirm that these works had been carried out and as such confirming that continued and future development of the site under planning approval 13/00745/OUT can be lawfully implemented (ref. 20/00538/LUPROP, approved 15 June 2020).

6.18 Whilst the grant of permission was a departure from the adopted Local Plan, the proposal was considered in a positive light, particularly bearing in mind the significant potential to deliver new employment opportunities on a site with good access to the A120. The report to Planning Committee on 4 February 2014 considered the following:

- National and Local Plan Policy;
- Highways and transport issues and sustainability;
- Design principles and landscape impact;
- Nature conservation, flood risk and heritage issues; and
- S106 planning obligations.

6.19 The site had been allocated in the 2012 draft of the emerging Local Plan in recognition of the need for employment and the limited supply of commercially attractive sites elsewhere in the District. These factors were considered to outweigh concerns raised at the time over the site's location in the open countryside, some distance from established centres of population. Although the promoters of the development at the time of the outline application had indicated that there had been significant business interest in the site, clearly the development has not been implemented to date.

6.20 The Council's evidence on employment land prepared in support of the new Local Plan, the 2016 Employment Land Review, recommended that the site should not be carried forward into the Local Plan because no transactions with businesses had progressed, the site remained unserved and had a number of constraints, primarily in relation to sustainability and infrastructure that brought the viability of future development into question. The site no longer features therefore as an employment allocation in the emerging Local Plan.

6.21 However, the lawful commencement of works on the existing consented scheme - which keeps that 'extant' - and the submission of this current application with a known end-user for the 'Phase 1' component of the site, indicates that there is now a realistic prospect of business activity on the site and it is hoped that this will be the economic catalyst for 'Phase 2' which will

bring new businesses into the Tendring area. Officers have therefore approached the application positively, working with the applicants to ensure that the development can proceed smoothly and the economic and employment benefits of the development can be realised. This stance is supported by the NPPF which in paragraph 20 states that to help achieve economic growth, local planning authorities should plan proactively to meet the development needs of business and support an economy fit for the 21st century.

- 6.22 In support of the application, the applicant has indicated that the potential **job creation** across the site, based on the mix of uses proposed, could fall within the region of around 410 to 425 jobs (this is not dissimilar to the estimate provided in the 'extant' permission which estimated in the region of 300 to 500 jobs across that scheme). In terms of EDME, it is suggested that employment would rise from 55 at present to 93.

Highways & Access

- 6.23 Essex County Council in their capacity as Highway Authority has thoroughly assessed the highways and transportation information submitted in support of the application. The assessment of the application and Transport Assessment was undertaken with reference to the National Planning Policy Framework in particular, the following aspects were considered: access and safety; capacity; the opportunities for sustainable transport; and highway mitigation measures. In addition, the site history has also been considered; the previous planning applications 13/0745/OUT and 17/01310/DETAIL were recommended for approval therefore the conclusions of the Highway Authority are that from a highway and transportation perspective the impact of the proposal is acceptable to Highway Authority subject to appropriate mitigation and controls by way of a suite of highway specific conditions and informatives.
- 6.24 Highways England offer no objection to application on the basis that the proposed development is not expected to significantly impact the strategic road network (A120), including the Horsley Cross roundabout.

Sustainable Transportation

- 6.25 A principal consideration in approving the 'extant' outline planning permission on this relatively isolated green field site was the offer of a substantial package of sustainable transportation measures, including the provision of an on-site bus depot which would offer a range of new bus services to and from the site. That proposal also included the provision of a number of new bus stops along these new bus corridors.
- 6.26 The applicant and their transportation consultant have reviewed the previous sustainable transport measures and have held extensive discussions with ECC Highways & Public Transportation Team to advance an alternative bespoke offer for the site.
- 6.27 The key issue that EDME has raised (with respect to 'Phase 1') is that it is unlikely that staff would live along a bus route, resulting in a low public transport usage. However, the provision of a dedicated minibus service that could pick up and drop off at a range of locations, at set times specific to key shift patterns could be a viable sustainable measure for this site.
- 6.28 Therefore, a minibus service solely for EDME staff living in the main existing staff population areas has been considered as this would provide a much more rounded sustainable transport option compared to a public bus service. The minibus service could include some or all of following pick up points, with the option of staff to be picked up en-route as well, all depending on which staff are using the service on a given day:

Co-op, Birch Drive, Branham;
Brantham Village Hall;

Maningtree Train Station;
High Street, Manningtree;
Anchor Inn, Mistley;
Mistley Train Station;
Lawford Surgery, Colchester Road; or
Lawford Service Station.

- 6.29 The minibus service would be free to EDME staff for the first six months after relocation to Horsley Cross. However after this time staff would be charged to use the minibus service, albeit with the service partially subsidised by EDME. The minibus service as a whole would be reviewed on an annual basis along with other Travel Plan measures to determine if the service remains practical for the site and shift patterns in operation. The service would be operated up to a period of five years on a subsidised basis. However if demand remains, the service could continue with staff paying the full fare to use the service.
- 6.30 ECC Public Transportation Team are satisfied that with a rigorous planning condition (see proposed condition 19 below) to address the Phase 1 minibus service, alongside the provision of a workplace travel plan (condition 18), that the scheme will deliver an appropriate level of sustainable transport measures to address the relatively isolated nature of the site from a public transportation perspective.
- 6.31 With respect to 'Phase 2', the end occupiers are unknown at this stage however would be a mix of B1c/B2/B8 uses. This means that staffing levels could vary significantly and more generally the staff catchment is also likely to be wider than Phase 1 as it would be dependent on if businesses were relocating to the site, or if a new business in the area, attracting staff from around the area. Whether or not the area of coverage of the minibus would be the same as phase 1 would depend on the end occupiers of phase 2. Therefore as part of this outline application the applicant has committed to providing a minibus service for a period of up to 5 years after first occupation of phase 2, with the area of coverage and routes to be determined once end occupiers and staff catchment are known. As with Phase 1, a rigorous planning condition (see proposed condition 20 below) is recommended to address the minibus service for 'Phase 2', which again will be backed up by the requirement for a workplace travel plan.

Landscaping/Visual Impacts

- 6.32 With respect to landscape, the site is currently set to grass and is ostensibly in agricultural use, although in recent years the land has only been used for car boot sales. There are several small trees and sections of scrubby vegetation on some of the site boundaries. The site is otherwise open and clearly visible from the roads to the north and east of the application site.
- 6.33 In terms of the impact of the development proposal on the area the proposed changes to the currently consented scheme, primarily the increase in the height of the largest unit on the site, has the potential to increase the adverse impact of the development on the local landscape character. It also makes it more difficult to achieve a satisfactory level of soft landscaping to ensure that the development is assimilated into its setting.
- 6.34 In this regard the applicant has provided a summary of the Landscape and Visual Impact Assessment (LVIA) submitted in support of the consented scheme and set out indicative design features of the proposed building that aim to minimise harm to the local landscape character.
- 6.35 In essence, the development of the land will result in harm to the character and appearance of the countryside. However, with sensitive design of the building and careful use of 'bundling' and soft landscaping the development could result in the creation of an iconic structure in a prominent setting. The correct selection of external cladding and finishing will be a key element

of the successful integration and assimilation of the EDME building into its setting and will need to be carried forward into Phase 2 of the development.

- 6.36 The development layout shows the retention of boundary trees. Therefore the trees are not threatened by the development proposal and their physical protection during the construction phase of any development, that may be granted planning permission, can be secured as a reserved matter.
- 6.37 The submitted Design and Access Statement describe the soft landscaping strategy for the whole site and the area immediately around the EDME building. In principle the strategy sections of the Design and Access Statement are acceptable and a detailed soft landscaping scheme should be secured as a reserved matter.

Ecology/Biodiversity

- 6.38 The planning application submission has included an Ecological Assessment which confirms that an extended phase 1 habitat survey of the site was carried out in late 2018 alongside dedicated protected species surveys (i.e. reptiles, wintering and breeding birds, bats, water vole and otter) that were carried out in 2019. Whilst the report confirms that the current proposals are unlikely to affect bats as boundary trees are to be retained, the proposal will affect habitat suitable for reptiles, birds and water vole. A triangular parcel of land to the north of the site consisting of improved grassland provides a potential receptor site for reptiles found on site whilst the creation of an attenuation basin and surrounding grassland is taking place. The creation of the basin and grassland will improve the on-site habitat for reptiles, as will the creation of a landscape bund along the northern boundary of the site. It will be possible to mitigate for one skylark territory on site with mitigation for the remaining four territories being provided through eight skylark plots created in off-site arable fields. A mitigation licence will be required from Natural England to allow for the installation of a headwall into the bank of the adjacent 'Holland Brook' (on the western boundary of the site) to be carried out lawfully.
- 6.39 Provided the avoidance, mitigation, compensation and enhancement measures described in the Ecology Assessment are implemented, then there will be no residual effects significant at a local level or above and the scheme should result in a net gain in biodiversity. The development proposals are unlikely to have any significant effect on statutory or non-statutory designated sites.
- 6.40 Natural England has raised no objections to the application based on the plans submitted, as they consider that the proposed development will not have any significant adverse impacts on statutorily protected nature conservation sites or landscapes.

Drainage

- 6.41 Having reviewed the Flood Risk Assessment and the associated documents which accompanied the planning application, ECC in their role as Lead Local Flood Authority (LLFA) do not object to the granting of planning permission subject to the imposition of a number of drainage conditions and informatives.

Archaeology

- 6.42 The area of the proposed development includes a recorded site on the Essex Historic Environment Record (EHER 3094) which comprises a ring ditch and ditched field boundaries. The Heritage Appraisal that accompanies the application correctly identifies that there is the potential for associated, currently unrecorded prehistoric remains to survive below ground, within the proposed development site. These features are presently of unknown significance but the proposed development will lead to their loss or a reduction in their significance.

6.43 Accordingly, ECC Archaeology are recommending that a programme of aerial rectification and archaeological evaluation are carried out, including archaeological fieldwork, as per planning condition 35 below.

7 Conclusion

7.1 The proposal would result in no material harm to interests of acknowledged importance and would facilitate substantial economic development within the District. The application is recommended for approval.

8 Recommendation

8.1 The Planning Committee is recommended to grant planning permission subject to the following amended 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
Provision of skylark plots on land outside of the application site	

8.2 Conditions and Reasons

1. Application for approval of reserved matters relating to the appearance; landscaping; layout; and scale of the development shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

Reason - The application as submitted does not provide sufficient information for consideration of these details and 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 begun before the expiration of two years from the date of the approval of the last of the reserved matters 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.

3. In conjunction with the submission of the first of the reserved matters, a Strategic Phasing Plan identifying the various **strategic** elements of the development and the timing of their provision shall be submitted to and approved in writing by the Local Planning Authority. The Strategic Phasing Plan shall include details of the following:

- i. Surface and foul water drainage strategy incorporating Sustainable Urban Drainage systems and attenuation methods;
- ii. **Strategic** biodiversity enhancements and landscaping works; and
- iii. The order in which the phases are to be developed.

The development shall be carried out in accordance with the details of the Strategic Phasing Plan as approved **unless otherwise agreed in writing by the Local Planning Authority or through discharge of conditions pursuant to this permission.**

Reason - To ensure that the scheme is brought forward in a timely and comprehensive manner in the interests of proper planning and to ensure a satisfactory relationship

between the various components of the development and between the site and adjoining land.

4. In conjunction with the submission of the first of the reserved matters a Design Code shall be submitted to and approved in writing by the Local Planning Authority. The Design Code shall relate to and include details of the following:

- i) Scale;
- ii) Density;
- iii) Massing;
- iv) Height;
- v) Landscape;
- vi) Layout;
- vii) Design and architectural standards;
- viii) Materials and external colours;
- ix) Signage;
- x) Access;
- xi) Land use;
- xii) Parking and servicing areas;
- xiii) Sustainability principles and energy efficiency measures; and
- xiv) Key spaces.

The development shall be carried out in accordance with the details of the Design Code as approved for the lifetime of the development.

Reason - To ensure that the scheme is brought forward in a timely and comprehensive manner in the interests of proper planning; the environment; amenity; the character and appearance of the area and highway safety.

5. No development shall commence in each of the phases identified within the approved Strategic Phasing Plan until reserved matters for that phase relating to the appearance; landscaping; layout; and scale of the development have been submitted to and approved in writing by the Local Planning Authority. The development of each of the phases identified within the approved Strategic Phasing Plan shall be carried out in accordance with the approved details.

Reason - The application as submitted does not provide sufficient information for consideration of these details; 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; and to ensure that the scheme is brought forward in a timely and comprehensive manner in the interests of proper planning; the environment; amenity; the character and appearance of the area and highway safety.

6. Details of the existing and proposed ground levels of each phase of the development (as approved within the Strategic Phasing Plan referred to in Condition 3) including the finished floor levels; eaves levels; and ridge heights and details of all areas of cut and fill (including details of the importation and exportation of any materials) shall be submitted to the Local Planning Authority. No development within the phase that the details relate to shall begin until those details have been approved in writing by the Local Planning Authority. No building shall be occupied (whether in whole or in part) **in the relevant phase** until all the works to implement the approved details have been fully completed.

Reason - To ensure a satisfactory relationship between the various components of the development and between the site and adjoining land. To ensure that construction is carried out at a suitable level having regard to drainage, access, the appearance of the development, any trees or hedgerows and the amenities of neighbouring properties.

7. Samples and precise details of the manufacturer and types and colours of the external facing and roofing materials to be used in the construction of each phase of the development (as approved within the Strategic Phasing Plan referred to in Condition 3 and the Design Code referred to in Condition 4) shall be submitted to and approved in writing by the Local Planning Authority. No development shall **be occupied** within the phase that the details relate to until the details have been approved in writing by the Local Planning Authority. The materials as may be approved shall be those used in the development unless otherwise first approved in writing by the Local Planning Authority.

Reason - To ensure that materials of an acceptable quality appropriate to the area are used across the application site and for the lifetime of the development.

8. No building on the Phase 1 site shall exceed 21.7 metres in height (**save for the boiler house flue which may be up to 59.3m in height**) and no building on the Phase 2 site shall exceed 12 metres, as measured from the finished site levels immediately adjacent to the building to which it relates.

Reason - In the interests of proper planning; amenity and the character of the area.

9. No **boundary treatments shall be installed** within each phase (as approved within the Strategic Phasing Plan referred to in Condition 3) until full written details of the provision; siting; design and materials of screen walls; fences; and security gates within that phase have been submitted to and approved in writing by the Local Planning Authority. The screen walls; fences; and security gates shall be erected in accordance with the approved details before the first occupation of the building(s) to which they relate **in that phase** and shall at all times thereafter be retained in the approved form.

Reason - To ensure that the materials; design; height and location of the boundary treatments are of an acceptable quality appropriate to the area and that they are used across the application site for the lifetime of the development.

10. No street lighting, floodlighting, or other means of illuminating any part of the site outside any of the buildings hereby approved shall be erected or installed until written details of the illumination works have been submitted to and approved in writing by, the Local Planning Authority. The works concerned shall only be carried out in accordance with the approved details.

Reason - In the interests of residential amenity; the character of the area and highway safety.

11. No part of the development shall be occupied until the roundabout on the B1035 to provide access to the proposal site has been completed to accord with the scheme illustrated by drawing no. **Highway Layout Plan 3203 02 RA** along with any speed management measures required by the Highway Authority details of which shall have first been submitted to and approved in writing by the Local Planning Authority.

Reason - To protect highway efficiency of movement and safety in accordance with Policy DM1, DM9 and DM10 of the Highway Authority's Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

12. No development shall take place **on a phase** until the following have been provided or completed **for that phase**:

Construction Traffic Management Plan, which shall be adhered to during the construction phase of development **for that phase**, shall be submitted to and approved in writing by the Local Planning Authority.

The Plan should include details regarding any temporary traffic management/signage and wheel cleaning facilities for the duration of the construction phase to prevent the deposition of mud or other debris onto the highway network/public areas, turning and parking facilities for delivery/construction vehicles within the limits of the application site together with an adequate parking area for those employed in developing the site.

Reason - In the interests of highway safety and efficiency.

13. No occupation of the development shall take place until the following have been provided or completed:
- The highway works as shown in principle on Proposed Highway layout plan drawing no. 3203 02 RA, dated 13 September 2019.
 - A 2-metre wide footway on both sides of Clacton Road on the north side of the proposed roundabout including relocation/ replacement of electricity poles/ lighting, road signs, removal of redundant kerbing and replacement with upstand kerb, tactile paving and footway and any associated drainage works.
 - 2x2m footway on the north side of the proposed roundabout as shown in principal on drawing no. 3203 02 RA.

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

14. Prior to occupation of the proposed development the provision of bus stop infrastructure for the two new bus stops as shown in principal on drawing no. 3203 02 RA, to include but not restricted to bus stop cage markings, bus shelter (x2) Kassel Kerbs and bus timetable information.

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

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

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

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

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

17. No occupation of any phase of the development shall take place prior to the submission of a workplace travel plan to the Local Planning Authority for approval in consultation with Essex County Council **for that phase**. 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 **unless otherwise agreed in writing by the Local Planning Authority as part of the approved travel plan**.

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

18. From first occupation of Phase 1 of the development the occupier will provide a private transport service for employees using minibus private hire, taxi or other vehicles or services to transport staff to or from **Phase 1** the development as follows:
- operating Monday to Friday at main shift changeover patterns and or at times when the maximum number of staff arrive at or leave the development site;
 - the staff pick up drop off catchment will include but is not restricted to towns/villages of Brantham, Manningtree, Mistley, and Lawford;
 - pick up and drop off points will be flexible depending on the home location of staff using the service;
 - the service will be free to staff for the first six months of occupation of Phase 1. Staff may then be charged to use the service but as a subsidised rate, no greater than the comparable local bus fare;
 - the service will be operated from first occupation of Phase 1 for a period of up to five years after first occupation of Phase 1 on the subsidised basis;
 - Staff will be made aware of the private transport service as part of their relocation pack, which shall include details of travelling by all active and sustainable modes. Further marketing shall be carried out as required to ensure any new starters to the occupant company are also made aware of the service;
 - the service will be first monitored six months after occupation, with further monitoring occurring annually on the anniversary of site occupation for a period of five years. This monitoring is to be provided to Essex County Council as local highway authority as part of the Travel Plan monitoring. The monitoring will provide relevant statistical information such as the number of staff using the service, reasons why staff who live in the catchment do not use the service, details of any issues with the provision of the service; and
 - the service shall continue on a subsidised basis for a period of five years unless Essex County Council acting reasonably on the basis of the monitoring conclude there is insufficient staff demand for the service, the service will then operate on a commercial basis with no subsidy at the end of the 5-year period.

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

19. From first occupation of Phase 2 of the development the occupier(s) will provide a private transport service for employees using minibus private hire taxi or other vehicles or services to transport staff to or from the **Phase 2** development as follows:
- operating Monday to Friday at main shift changeover patterns and or at times when the maximum number of staff arrive at or leave the development site;
 - the staff pick up drop off catchment will include but is not restricted to towns/villages of Brantham, Manningtree, Mistley, and Lawford;
 - pick up and drop of points will be flexible depending on the home location of staff using the service;
 - for the first six months of occupation of each respective building at Phase 2 the service shall be free to staff based in that building. Staff may then be charged to use the service but as a subsidised rate, no greater than the comparable local bus fare;
 - the private transport service provision shall be regularly promoted to all employees on the whole site as part of the occupants commitment to active and sustainable travel, via the occupants individual travel plans;
 - the service shall continue on a subsidised basis for a period of five years unless Essex County Council acting reasonably on the basis of the monitoring conclude there is insufficient staff demand for the service, the

service will then operate on a commercial basis with no subsidy at the end of the 5-year period; and

- the service will be first monitored six months after occupation, with further monitoring occurring annually on the anniversary of site occupation for a period of five years. This monitoring is to be provided to Essex County Council as local highway authority as part of the Travel Plan monitoring. The monitoring will provide relevant statistical information such as the number of staff using the service, reasons why staff who live in the catchment do not use the service, details of any issues with the provision of the service.

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.

20. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 as amended or the Town and Country Planning (use Classes) Order 1987 as amended (or any Orders revoking and re-enacting those Orders with or without modification) no building hereby approved shall be used as an office (whether in whole or in part) except as ancillary to the principal use of that building hereby approved.

Reason - In order to ensure that the development is sustainable for its lifetime in accordance with Policy MLM6 of the Tendring District Local Plan: Pre Submission Focussed Changes 2014 and because Class B1 office uses are defined as 'town centre uses' by the National Planning Policy Framework (**February 2019**) and the accompanying National Planning Policy Guidance: Ensuring the Vitality Viability of Town Centres (March 2014).

21. The submission of reserved matters relating to hard and soft landscaping required by Conditions 1, 3, 4 and 5 of this planning permission **for each phase** shall include full written details of strategic landscaping/planting belts **for the relevant phase of development**. The said details shall also accurately identify the 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 "BS5837: 2012 - Trees in Relation to Design; Demolition and Construction". The said details shall also include other areas of strategic planting belts on the perimeter of and within the site and shall also include details of the planting of new trees and shrubs of species which are indigenous and compatible with the landscape and biodiversity characteristics of the locality.

Reason - To ensure satisfactory landscape treatment of the site which will enhance the character and appearance of the site and the area and to ensure protection during construction works of trees, shrubs and hedgerows which are to be retained on or near the site in order to ensure that the character and amenity of the area are not impaired.

22. All changes in ground levels, hard and soft landscaping, planting, seeding or turfing shown on the landscaping details approved pursuant to Conditions 1, 3, 4 and 5 of this planning permission **for each phase** shall be carried out during the first planting and seeding season (October - March inclusive) following the commencement of the development **of that phase** or in such other planting season as shall first have been agreed, in writing, by the Local Planning Authority having had regard to the Strategic Phasing Plan.

Reason - To ensure satisfactory landscape treatment of the site which will enhance the character and appearance of the site and the area and to ensure protection during construction works of trees, shrubs and hedgerows which are to be retained on or near the site in order to ensure that the character and amenity of the area are not impaired.

23. Unless otherwise formally agreed, in writing, by the Local Planning Authority pursuant to the consideration of the reserved matters, no building on any part of the development hereby permitted shall be constructed (whether in whole or in part) until the carriageway of the said estate access road, which provides access between the buildings and the B1035, has been constructed up to and including at least road base level. Until final surfacing of the estate access road is completed, the footway base course shall be provided in a manner to avoid any upstands to gullies, covers, kerbs or other such obstructions within or bordering the footway. The carriageway, footways and footpaths in front of each building shall be completed with final surfacing by no later than 12 months after the first occupation of that building.

Reason - To protect highway efficiency of movement and safety.

24. Prior to implementation of each phase (as approved within the Strategic Phasing Plan referred to in Condition 3) full written details of the areas to be provided for the loading, unloading, turning and parking of vehicles (including adequate cycle and disabled parking spaces) for that phase shall be submitted to and approved by the Local Planning Authority. No building shall be occupied within that phase until the said areas to which it relates have been constructed in accordance with the details as so approved. The said areas shall be retained and kept available for use as such at all times thereafter.

Reason - To protect highway efficiency of movement and safety.

25. No goods, materials or containers shall be stored, stacked or deposited on the site outside the buildings hereby approved above a height of 3m as measured from the finished site level or outside of those areas of the site the details of which shall have previously been submitted to and approved in writing by the Local Planning Authority. No commercial or manufacturing activities or processes shall be carried on outside the buildings.

Reason - In the interests of residential amenity; the character of the area and highway safety.

26. Full written details of areas for the storage of refuse and/or other waste for each phase of the development (as approved within the Strategic Phasing Plan referred to in Condition 3) shall be submitted to and approved by the Local Planning Authority prior to the implementation of the phase of the development to which the details relate. The said areas and details as so approved shall be provided before the first occupation of each building within each phase and shall thereafter be retained as such at all times.

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

27. Details of a dust management plan for each phase of the development (as approved within the Strategic Phasing Plan referred to in Condition 3) shall be submitted to and approved prior to the implementation of the phase that the details relate to. Such details are to include measures to control the spread of dust and other similar material throughout every construction phase of the development **for that phase**. The dust management plan as so approved shall be fully implemented.

Reason - In the interests of the environment; residential amenity; the character of the area and highway safety.

28. No part of the site shall be used for retail sales (whether in whole or in part) except as directly ancillary to the uses hereby approved.

Reason - In order to ensure that the development is sustainable for its lifetime.

29. No works except demolition shall take place until a detailed surface water drainage scheme for the **phase**, 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 **for that phase**. The scheme should include but not be limited to:

- Limiting discharge rates to 6.6l/s for the entire site as shown in drawing number 0110, revision P04 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.
- Detailed engineering drawings of each component of the drainage scheme.
- A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features.
- A written report summarising the final strategy and highlighting any minor changes to the approved strategy.

The scheme shall subsequently be implemented prior to occupation **of that phase**. It should be noted that all outline applications are subject to the most up to date design criteria held by the LLFA

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.

30. No works shall take place **on a phase** 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 **for that phase**. 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.

31. 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.

32. No development shall commence **on a phase** until a foul water strategy has been submitted to and approved in writing by the Local Planning Authority **for that phase**. No buildings shall be occupied **on the relevant phase** until the works have been carried out in accordance with the foul water strategy so approved unless otherwise approved in writing by the Local Planning Authority.

Reason - To ensure that an adequate and satisfactory means of foul drainage is provided to avoid pollution, in the absence of a foul sewer.

33. No development shall commence on site, until a scheme to minimise the potential impact of the development on wildlife present on site (including details of the timing of their implementation) has been submitted to and approved by the Local Planning Authority. The Scheme shall have regard to the Ecological Assessment prepared by MLM Consulting Engineers Limited (Revision C02 dated 4 October 2019) that form part of the planning application documents and shall include opportunities to enhance the wildlife value of the site. The scheme shall be fully implemented as so approved.

Reason - To ensure that the development incorporates proportionate mitigation measures to address the impact of the development and takes the opportunity to incorporate biodiversity enhancements in accordance with the National Planning Policy Framework and local plan policies.

34. No development or preliminary ground-works can commence **on a phase** until a programme of archaeological evaluation, following aerial rectification of cropmark features, has been secured and undertaken in accordance with a Written Scheme of Investigation, which has been submitted by the applicant, and approved by the planning authority **for that phase**.

Following the completion of this initial phase of archaeological work, a summary report will be prepared and a mitigation strategy detailing the approach to further archaeological excavation and/or preservation in situ, shall be submitted to the local planning authority **for the relevant phase**.

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

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

Reason - To ensure adequate opportunity is provided for archaeological investigation and research on the site which is potentially of archaeological and historic significance in accordance with the National Planning Policy Framework and local plan policies.

- 35. In conjunction with the submission of the first of the reserved matters for each phase, a strategic phase plan identifying the following elements of the development and the timing of their provision shall be submitted to and approved in writing by the Local Planning Authority for that phase:**
- i. Technical design details and timing of a temporary site access (if applicable) for the construction phases of the development;**
 - ii. Earthworks and changes in existing ground levels including details of the volumes of any materials that are to be exported from or imported to the site;**
 - iii. The provision of utilities;**
 - iv. Internal access ways; estate roads; parking and servicing areas.**

The development on each phase shall be carried out in accordance with the details of the strategic phase plan as approved unless otherwise agreed in writing by the Local Planning Authority or through discharge of conditions pursuant to this permission.

Reason - To ensure that the scheme is brought forward in a timely and comprehensive manner in the interests of proper planning; amenity and the character and appearance of the area and to ensure a satisfactory relationship between the various components of the development and between the site and adjoining land. To ensure that construction is carried out at a suitable level having regard to drainage, access, the appearance of the development, any trees or hedgerows and the amenities of neighbouring properties.

- 36 No development shall commence within each phase until full written details of measures to control odours, including extraction systems, within that phase have been submitted to and approved in writing by the Local Planning Authority. The development shall only be carried out in accordance with the approved details.**

Reason – To control and limit odour in the interests of nearby local amenity and since the application does not include the necessary details for consideration.

8.3 Informatives

Positive and Proactive Statement

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

Other Informatives

1. Essex County Council has a duty to maintain a register and record of assets which have a significant impact on the risk of flooding. In order to capture proposed SuDS which may form part of the future register, a copy of the SuDS assets in a GIS layer should be sent to suds@essex.gov.uk.
2. Any drainage features proposed for adoption by Essex County Council should be consulted on with the relevant Highways Development Management Office.

3. 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.

4. 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.

5. Conditions 13 and 14 requires a Legal Agreement between the Applicant/Developer and the Highway Authority using the powers in Section 278 of the Highways Act, 1980.

6. Prior to occupation, the development shall be served by a system of operational street lighting of design approved from the Highway Authority for the new roundabout, which shall thereafter be maintained in good repair.

7. All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works. The applicants should be advised to contact the Development Management Team by email at development.management@essexhighways.org or by post to:

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

9. Additional Considerations

Public Sector Equality Duty (PSED)

- 9.1 In making your decision you must have regard to the PSED under section 149 of the Equality Act 2010 (as amended). This means that the Council must have due regard to the need in discharging its functions to:
- 9.2 A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
- 9.3 B. Advance equality of opportunity between people who share a protected characteristic and those who do not. This may include removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; taking steps to meet the special needs of those with a protected characteristic; encouraging participation in public life (or other areas where they are underrepresented) of people with a protected characteristic(s); and
- 9.4 C. Foster good relations between people who share a protected characteristic and those who do not, including tackling prejudice and promoting understanding.
- 9.5 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, being married or in a civil partnership, race including colour, nationality and ethnic or national origin, religion or belief, sex and sexual orientation.
- 9.6 The PSED must be considered as a relevant factor in making this decision but does not impose a duty to achieve the outcomes in section 149 and section 149 is only one factor that needs to be considered, and may be balanced against other relevant factors.

- 9.7 It is considered that the recommendation to grant permission in this case would not have a disproportionately adverse impact on a protected characteristic.

Human Rights

- 9.8 In making your decision, you should be aware of and take into account any implications that may arise from the Human Rights Act 1998 (as amended). Under the Act, it is unlawful for a public authority such as the Tendring District Council to act in a manner that is incompatible with the European Convention on Human Rights.
- 9.9 You are referred specifically to Article 8 (right to respect for private and family life), Article 1 of the First Protocol (protection of property) and Article 14 (right to freedom from discrimination).
- 9.10 It is not considered that the recommendation to grant permission in this case interferes with local residents' right to respect for their private and family life, home and correspondence or freedom from discrimination except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation to grant permission is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

Finance Implications

- 9.11 Local finance considerations are a matter to which local planning authorities are to have regard in determining planning applications, as far as they are material to the application.
- 9.12 The New Homes Bonus (NHB) is one local finance consideration capable of being a material consideration to which the weight given shall be determined by the decision maker. The NHB is a payment to local authorities to match the Council Tax of net new dwellings built, paid by Central Government over six consecutive years. In this instance, it is not considered to have any significant weight attached to it that would outweigh the other considerations.

10. Background Papers

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