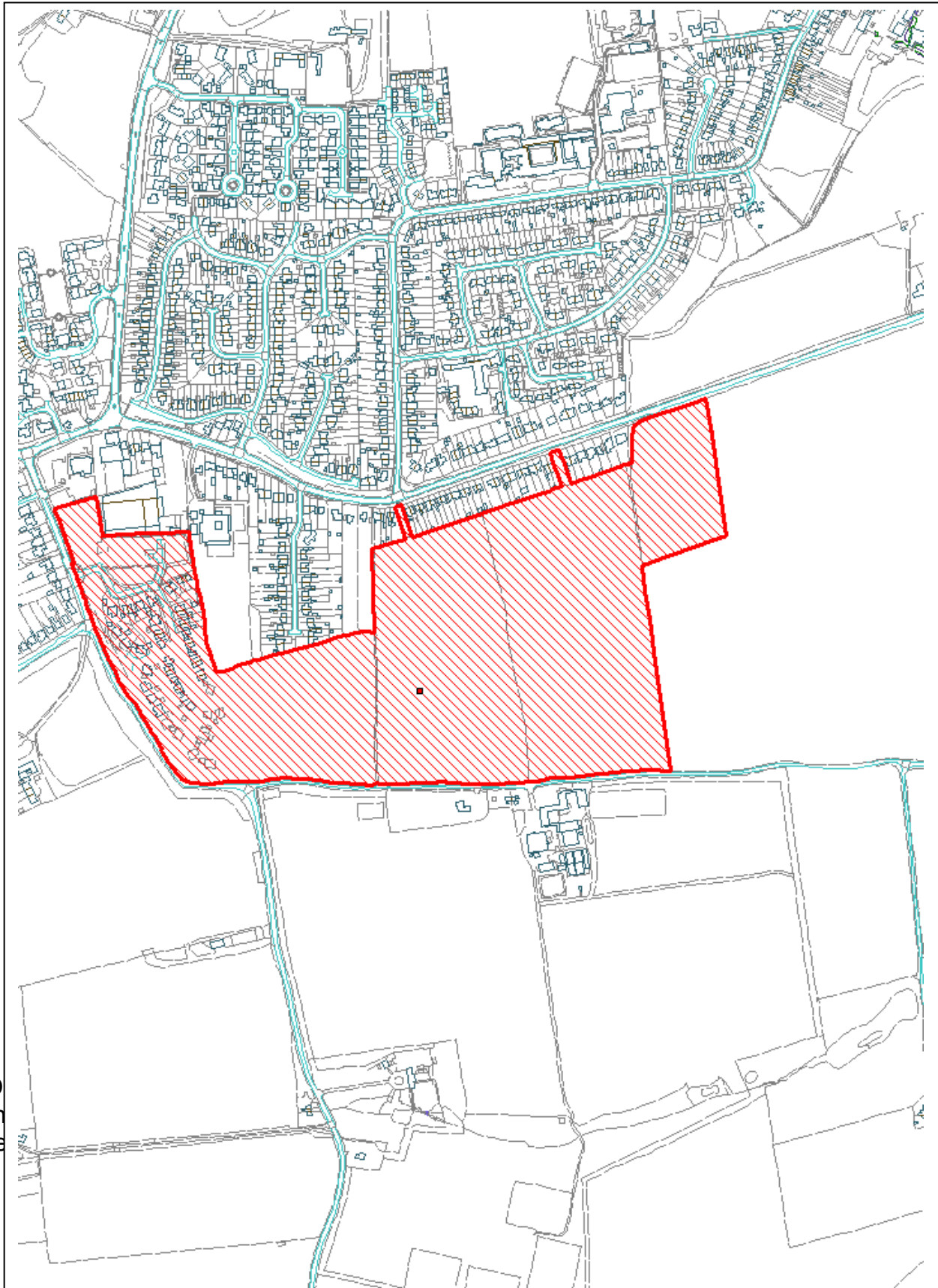


PLANNING COMMITTEE

20<sup>th</sup> OCTOBER 2020

REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING

**A.4 PLANNING APPLICATION – 20/00458/OUT – LAND EAST OF BROMLEY ROAD  
LAWFORD CO11 2HS**



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**Application:** 20/00458/OUT

**Town / Parish:** Lawford Parish Council

**Applicant:** Mr Steven Rose - Rose Builders (Properties) Ltd

**Address:** Land East of Bromley Road Lawford CO11 2HS

**Development:** Variation of condition 9 of 15/00876/OUT amending the delivery requirement of the spine road before the 201st occupation.

## 1. Executive Summary

- 1.1 Outline planning permission (all matters apart from access - reserved) was granted on 13th April 2017 for a mixed development of 360 houses and community facilities/open space on 22.76ha of land to the south of Lawford, under 15/00876/OUT. The current submission relates the variation of Condition 9 of the original planning approval. This deals with the provision and timeframe for the access from the site onto Long Road.
- 1.2 In accordance with Members' request, the current submission has been brought to Planning Committee seeking consent with regard to the delaying the provision of access onto Long Road from the 201<sup>st</sup> occupation on site (56% of the total dwellings on site) to the 261<sup>st</sup> occupation on site (73% of the total dwellings on site).
- 1.3 The site lies outside the defined settlement boundary of the saved Local Plan but within the settlement boundary of the emerging Local Plan. The principle of residential development has been accepted by the granting of outline planning permission, which also established the position of the access.
- 1.4 The detailed plans comply with the outline requirements and are considered acceptable with no material harm to visual or residential amenity, or highway safety.
- 1.5 A legal agreement, 'Deed of Variation' is required for this application to ensure the new outline approval links into the original 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 deed of variation to the original legal agreement under the provisions of section 106 of the Town and Country Planning Act 1990.**
- 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 Deed of Variation of the original s106 planning obligation.

## **2. Planning Policy**

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

NPPF National Planning Policy Framework 2019

National Planning Practice Guidance

Tendring District Local Plan 2007

QL1	Spatial Strategy
QL2	Promoting Transport Choice
QL3	Minimising and Managing Flood Risk
QL9	Design of New Development
QL10	Designing New Development to Meet Functional Needs
QL11	Environmental Impacts and Compatibility of Uses
QL12	Planning Obligations
HG1	Housing Provision
HG3	Residential Development within Defined Settlements
HG4	Affordable Housing in New Developments
COM2	Community Safety
COM4	New Community Facilities (Including Built Sports and Recreation Facilities)
COM21	Light Pollution
COM23	General Pollution
COM26	Contributions to Education Provision
EN1	Landscape Character
EN5	Areas of Outstanding Natural Beauty (AONB's)
EN29	Archaeology
TR1A	Development Affecting Highways
TR4	Safeguarding and Improving Public Rights of Way

TR5	Provision for Cycling
TR6	Provision for Public Transport Use
TR7	Vehicle Parking at New Development

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

SP1	Presumption in Favour of Sustainable Development
SP2	Spatial Strategy for North Essex
SP5	Infrastructure & Connectivity
SP6	Place Shaping Principles
SPL1	Managing Growth
SPL2	Settlement Development Boundaries
SPL3	Sustainable Design
HP1	Improving Health and Wellbeing
HP2	Community Facilities
HP3	Green Infrastructure
HP4	Safeguarded Local Greenspace
HP5	Open Space, Sports & Recreation Facilities
LP1	Housing Supply
LP5	Affordable and Council Housing
PPL4	Biodiversity and Geodiversity
CP1	Sustainable Transport and Accessibility
CP2	Improving the Transport Network
CP3	Improving the Telecommunications Network

#### Other Guidance

Essex Design Guide for Residential and Mixed-Use Areas.  
 Essex Design Guide (2005)  
 Urban Place Supplement (2007)

#### **Status of the Local Plan**

- 2.2 The 'development plan' for Tendring is the 2007 'adopted' Local Plan. Paragraph 213 of the NPPF (2019) allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF. Paragraph 48 of the NPPF also allows weight to be given to policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency with national policy. As of 16th June 2017, the emerging Local Plan for Tendring is the Tendring District Local Plan 2013-2033 and Beyond Publication Draft.
- 2.3 Section 1 of the Local Plan (which sets out the strategy for growth across North Essex including Tendring, Colchester and Braintree) was examined in January and May 2018, with further hearing sessions in January 2020. The Inspector issued his findings in respect of the legal compliance and soundness of the Section 1 Plan in May 2020. He confirmed that the plan was legally compliant and that the housing and employment targets for each of the North Essex Authorities, including Tendring, were sound. However, he has recommended that for the plan to proceed to adoption, modifications will be required – including the removal of two of the three Garden Communities 'Garden

Communities' proposed along the A120 (to the West of Braintree and on the Colchester/Braintree Border) that were designed to deliver longer-term sustainable growth in the latter half of the plan period and beyond 2033.

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

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

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

In addition, the actual need for housing (as set out in the emerging Local Plan) was found to be much less than the figure produced by the standard method when tested at the recent Examination in Public of the Local Plan, as recently endorsed by the Local Plan Inspector. Therefore, in weighing the benefits of residential development against the harm, the Inspector's endorsement of the lower housing requirement figure is a strong material consideration which tempers the amount of weight that can reasonably be attributed to the benefit of additional new housing to address the perceived shortfall – given that, against the Local Plan housing requirement there is, in fact, a surplus of supply as opposed to a shortfall.

### 3. Relevant Planning History

15/30021/PREAPP	Screening Opinion request for mixed use development including community building, school access with drop off and pick up area, village green, parking and residential development (360 dwellings).		06.02.2015
15/00876/OUT	The erection of 360 houses (including Lawford Enterprise Trust Housing), with associated garages on 22.76ha with two vehicular access points, site roads, pedestrian and cycle routes, a new primary school access with off-road pickup and drop-off parking, a community building with public access toilets, a junior camping field, village green, public open space, structural landscaping and playground.	Approved	13.04.2017
17/01527/DETAIL	Reserved matters application with details of appearance, landscaping, layout and scale pursuant to Phase 1 of outline permission (15/00876/OUT) including 120 dwellings, community building with parking, junior camping field, village green, structural landscaping and playground.	Approved	14.03.2018
18/00304/DISCON	Discharge of conditions 3 (Masterplan), 7 (Construction Management Plan), 12 (Surface Water Drainage Scheme), 13 (Foul Water Strategy), 14 (Hard and Soft Landscaping), 16 (Ecological and Management Plan), 17 (Tree Protection Measures), 19 (Refuse/Storage points, Dwelling External Materials), 20 (construction Management Statement), 21 (Broadband Connection) and 23 (Water, Energy and Resource	Approved	30.10.2018

	Efficiency Measures) of approved planning application 15/00876/OUT		
18/00750/DISCON	Discharge of conditions 18 (Archaeology), 22 (Local Recruitment Strategy), 24 (Contamination) of approved planning application 15/00876/OUT.	Approved	02.07.2018
18/01094/DISCON	Discharge of Condition 19 (street lighting) of 15/00876/OUT.	Approved	17.08.2018
18/01548/DISCON	Discharge of condition 7) Construction Management Plan - to approved Planning Application 15/00876/OUT.	Approved	11.02.2019
19/00211/FUL	Re-location of approved electrical substation (retrospective) and parking spaces.	Approved	07.06.2019
19/00274/DISCON	Discharge of Condition 18C (Archaeological Excavation Report) of application 15/00876/OUT.	Approved	28.03.2019
19/00900/DISCON	Discharge of Condition 14 (Landscaping) of application 15/00876/OUT.	Approved	12.07.2019
19/01475/DETAIL	Reserved matters application with details of appearance, landscaping, layout and scale pursuant to Phase 2 of outline permission (15/00876/OUT) including 140 dwellings, associated hardstanding, boundary treatments, landscaping and drainage.	Approved	09.07.2020
19/01498/NMA	Non Material Amendment to approval of 15/00876/OUT for substitution of "Cornelia" house type for "Barbier" house type at plots 86-87, 90-93, 100-101. Proposed substitution of "Cornelia" house type for "Cornelia Variation" housetype at plots 54-57. Change of rear and		04.11.2019

side elevations, and internal layout to "Alexander" house type at plots 75-79.

19/01698/DISCON	Discharge of condition 07 (construction Management Plan) 12 (Surface Water Drainage) 13 (Foul Water Strategy) 14 (soft Landscaping) 16 (Ecological mitigation scheme) 18 (Archaeology WSI) 19 (Refuse and external materials) 20 (construction Method Statement) and 24 (Remediation) of planning permission 15/00876/OUT.	Approved	29.05.2020
19/01751/DETAIL	Reserved matters application following outline permission 15/00876/OUT - Application to substitute "Cornelia" house type for "Barbier" house type at plots 86-87, 90-93, 100-101 as previously approved by 17/01527/DETAIL. Proposed substitution of "Cornelia" house type for "Cornelia Variation" housetype at plots 54-57. Change of rear and side elevations, and internal layout to "Alexander" house type at plots 75-79.	Approved	28.08.2020
20/00178/NMA	Non Material Amendment to approval of 15/00876/OUT for substitution of plots 39, 60 and 81 from "Braithewaite Variation" house type to "Braithewaite" house type. Hand plot 63.	Approved	25.03.2020
20/00458/OUT	Variation of condition 9 of 15/00876/OUT amending the delivery requirement of the spine road before the 201st occupation.	Current	
20/00480/DETAIL	Reserved matters application with details of appearance, landscaping, layout and scale pursuant to Phase 3 of outline permission (15/00876/OUT) including 100 dwellings, associated hardstanding,	Current	



boundary treatments, landscaping and drainage.

20/00707/DISCON	Discharge of conditions (phase 3) 12 (Surface Water), 13 (Foul Water), 14 (Landscaping), 16 (Ecology Mitigation), 17 (Tree Protection), 19 (Refuse Collections and Materials Only), (phase 3 and 5) 18 (Archaeology) and 24 (Contamination) of planning permission 15/00876/OUT.	Approved	18.06.2020
20/00773/DISCON	Discharge of conditions (phase 3) 12 (Surface Water), 13 (Foul Water), 14 (Landscaping), 16 (Ecology Mitigation), 17 (Tree Protection), 19 (Refuse Collections and Materials Only), (phase 3 and 5) 18 (Archaeology) and 24 (Contamination) of planning permission 15/00876/OUT.	Current	
20/01224/FUL	Proposed children's nursery.	Current	
20/01337/DISCON	Discharge of condition 17 (tree protection) for phase 2 of planning permission 15/00876/OUT.	Refused	

#### 4. Consultations

ECC Highways Dept  
07.05.2020

The information that was submitted in association with the application has been fully considered by the Highway Authority. It is noted that the variation is associated with condition 9 of 15/00876/OUT and based on and in principal with the revised wording in the Planning Statement (page 12):

The Highway Authority does not object to the proposals as submitted:

No more than 200 dwellings on the development shall be occupied until the following have been provided or completed:

a) A mini-roundabout at the junction of Wignall Street and Bromley Road in accordance with approved Ardent Consulting Engineers drawings K297-002C.

b) Upgrading to current Essex County Council specification of the two bus stops which would best serve the proposal site (either Long Road and/or Wignall Street).

c) A minimum 3-metre-wide footway/cycleway along the proposal site's Long Road frontage.

d) Upgrade to the Public Right of Way which runs through the proposal site between Long Road and Dead Lane (details shall be agreed with the Local Planning Authority prior to commencement of the development).

No more than 260 dwellings on the development shall be occupied until the priority junction with right turn lane (with two pedestrian refuge islands) in Long Road to provide access to the proposal site. Priority junction shall have minimum 10.5 metre kerbed radii with dropped kerbs/tactile paving crossing points, a minimum 6.75 metre access road carriageway with one 3 metre footway/cycleway, one 2 metre footway pedestrian/cycle refuge island and a minimum 109 x 2.4 x 120 metre clear to ground visibility splay; in accordance with Ardent Consulting Engineers drawing K297-003A. Reason: To protect highway efficiency of movement and safety and to ensure the proposal site is accessible by more sustainable modes of transport such as public transport, cycling and walking

Informative:

1: 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](mailto:development.management@essexhighways.org) or by post to:

SMO1 - Essex Highways  
Colchester Highways Depot,  
653 The Crescent,  
Colchester

## 5. **Representations**

5.1 Lawford Parish Council commented on Mon 11 May 2020, they have no objection to this application.

5.2 Third Party: 1 objection received summarised below:

- Construction of the mini-roundabout and the subsequent increase in volume of, not just domestic vehicles, but of construction traffic in an already congested area.
- The Long Road junction would remove this close proximity to the Cox's Hill junction and ease much of the congestion when this does occur.
- Number of driveways and private roads will be greatly inconvenienced during the construction and subsequent operation.
- Increased volume of domestic traffic associated with the new houses will reduce air quality.
- The bus stop is being located but there are no plans of this.
- No guarantee that the Long Road junction and spine road will ever be constructed.
- The 1st Lawford Scout Group manages the Venture Centre 2000 as a small business which could be negatively affected ie reduced number of private hirers ect.
- Not the right time for this proposed variation and that it should be rejected in favour of the original.

## 6. **Assessment**

### Site Context

6.1 The host site, on the southern side of Lawford, is known as "Lawford Green". The site occupies a broadly rectangular parcel of land 22.6 hectares (55.8 acres) in size. The site was previously used for agricultural purposes, this is currently changing into a housing estates with outline planning permission for 350 houses (Ref: 15/00876/OUT), with associated reserved matters permissions in place. It is located on land east of Bromley Road, south of Long Road and north of Dead Lane.

6.2 The construction of the site was spilt into 3 main phases. Phase 1 is to the west, connecting with Bromley Road, Phase 2 centrally positioned and Phase 3 to the east, ultimately connecting with Long Road to the east. A central spine road runs between all three Phases, known as 'The Avenue'.

- 6.3 Development on Phase 1 of the site is well underway with approximately 47 units completed with many plots sold and occupied. The housing comprises mostly of detached and semi-detached houses of two-storeys. There is a mixture of material types and colours, including exposed brick, boarding and render. The western side of the wider site resembles a largely finished new housing development. The central and eastern sections remain as undeveloped open countryside.
- 6.4 At present, vehicular access is gained to the site directly from Bromley Road in the west and eventually from Long Road in the north east as the site is developed out. Bromley Road connects Lawford with Little Bromley and the A120 to the south. Long Road is the main road connecting Lawford and Mistley. Dead Lane to the south is a narrow lane, more rural in its character and provides access to farmers and a small number of dwellings.
- 6.5 The site is flat and bounded by perimeter hedgerows and trees marking the field boundaries. The site lies outside the defined settlement boundary of the saved Local Plan but within the settlement boundary of the emerging Local Plan. A public footpath (No. 12) crosses the site, running from Long Road to Dead Lane and forms the western boundary of Phase 2 of the development.
- 6.6 The site is within a Zone of Consideration in relation to a Site of Special Scientific Interest (SSSI) to the north. There is also an Area of Outstanding Natural Beauty (AONB) to the north-west of the site. Although no Listed Building or Conservation Area are affected by the proposal and there are no protected trees on site.
- 6.7 Immediately east of the application site is an expanse of open countryside that has planning approval for the erection of up to 485 dwellings, up to 2 hectares of employment land (A2/A3/B1/D1 uses), with associated public open space and infrastructure, via application (Ref: 17/01181/OUT).

### Planning History

- 6.8 Outline planning permission (ref: 15/00876/OUT) was granted in 2017 for “The erection of 360 houses (including Lawford Enterprise Trust Housing), with associated garages on 22.76ha with two vehicular access points, site roads, pedestrian and cycle routes, a new primary school access with off-road pickup and drop-off parking, a community building with public access toilets, a junior camping field, village green, public open space, structural landscaping and playground”. This permission was made subject to conditions and S106 agreement. Access was approved as part of the Outline, with appearance, landscaping, layout and scale forming the Reserved Matters.
- 6.9 Reserved Matters applications were approved for Phase 1 (ref: 17/01527/DETAIL) involving 120 dwellings in 2018 and Phase 2 (ref: 19/01475/DETAIL) involving 140 dwellings in 2019 and Phase 3 (ref: 20/00480/DETAIL) that resolved the final 100 dwellings, recently in 2020.
- 6.10 In the event of this application being positively received, a new Decision Notice shall be issued for the entire outline site, including where relevant the conditions or reserved matters approvals that have been achieved so far on site. As part on the original outline

approval (ref: 15/00876/OUT) there were 24 planning conditions attached. These were often pre commencement conditions and involving matters such as; an agreed Master Plan, Phasing Schedule, Construction Management details, Landscaping, Lighting, Drainage and various highway related on-site and off-site improvements. Importantly, these conditions related to each separate phase of the development. The conditions are outlined below.

<b>OUTLINE APPLICATION CONDITIONS</b>	<b>Timing</b>
15/00876/OUT	
1 Time Frame	By 13/04/2020
2 Time Frame For Reserved Matters	By 13/04/2022
3 Master Plan	Reserved Matter
4 Reserved Matters	Reserved Matter
5 Land Use Audit	No discharge required
6 Maximum number of dwellings	No discharge required
7 Wheel Cleaning	Prior to Commencement
8 Access Details and Off Site Highway Improvements	Prior to Occupation
9 Off Site Highway Improvements	Prior to 201st Occupation
10 A137 Cox's Hill/Long Road/Wignall Street mini roundabout	Prior to 31st Occupation
11 Residential Travel Information Pack	Prior to Occupation
12 Surface water drainage	Prior to Commencement
13 Foul Water	Prior to Commencement
14 Hard and soft landscaping	Prior to Commencement
15 Replace failed Trees within 5 years	First planting season
16 Ecological Mitigation and Enhancement Plan	Prior to Commencement
17 Tree protection measures	Prior to Commencement
18 Archaeological Investigation	Prior to Commencement
19 Lighting, refuse	Prior to Commencement
20 Construction management plan	Prior to Commencement
21 High Speed Broadband	Prior to Occupation
22 Local Recruitment Strategy	Prior to Commencement
23 Resource efficiency measures	Prior to Commencement
24 Contamination	Prior to Commencement

### Proposal

6.11 This Section 73 application or 'Variation of Conditions' application seeks to vary condition 9 of the original outline consent (ref: 15/00876/OUT).

6.12 Existing Condition 9

*"No more than 200 dwellings on the development shall be occupied until the following have been provided or completed:*

*a) A priority junction with right turn lane (with two pedestrian refuge islands) in Long Road to provide access to the proposal site. Priority junction shall have minimum 10.5 metre kerbed radii with dropped kerbs/tactile paving crossing points, a minimum 6.75 metre access road carriageway with two 3 metre footway/cycleways, pedestrian/cycle refuge island and a minimum 109 x 2.4 x 120 metre clear to ground visibility splay; in accordance with Ardent Consulting Engineers drawing no K294- 002B,*

*b) Upgrading to current Essex County Council specification of the two bus stops which would best serve the proposal site (either Long Road and/or Wignall Street); and*

*c) A minimum 3-metre-wide footway/cycleway along the proposal site's Long Road frontage,*

*d) Upgrade to the Public Right of Way which runs through the proposal site between Long Road and Dead Lane (details shall be agreed with the Local Planning Authority prior to commencement of the development)."*

6.13 Proposed Condition 9 (with existing wording crossed out and proposed new wording underlined).

"No more than 200 dwellings on the development shall be occupied until the following have been provided or completed:

~~a) A priority junction with right turn lane (with two pedestrian refuge islands) in Long Road to provide access to the proposal site. Priority junction shall have minimum 10.5 metre kerbed radii with dropped kerbs/tactile paving crossing points, a minimum 6.75 metre access road carriageway with two 3 metre footway/cycleways, pedestrian/cycle refuge island and a minimum 109 x 2.4 x 120 metre clear to ground visibility splay; in accordance with Ardent Consulting Engineers drawing no K294-002B~~ mini-roundabout at the junction of Wignall Street and Bromley Road in accordance with approved Ardent Consulting Engineers drawings K297-002D.

b) Upgrading to current Essex County Council specification of the two bus stops which would best serve the proposal site (either Long Road and/or Wignall Street); and

c) A minimum 3-metre-wide footway/cycleway along the proposal site's Long Road frontage,

d) Upgrade to the Public Right of Way which runs through the proposal site between Long Road and Dead Lane (details shall be agreed with the Local Planning Authority prior to commencement of the development)

No more than 260 dwellings on the development shall be occupied until the priority junction with right turn lane (with two pedestrian refuge islands) in Long Road to provide access to the proposal site. Priority junction shall have minimum 10.5 metre kerbed radii with dropped kerbs/tactile paving crossing points, a minimum 6.75 metre access road carriageway with one 3 metre footway/cycleway, one 2 metre footway pedestrian/cycle refuge island and a minimum 109 x 2.4 x 120 metre clear to ground visibility splay; in accordance with Ardent Consulting Engineers drawing K297-003A.

Reason – To protect highway efficiency of movement and safety and to ensure the proposal site is accessible by more sustainable modes of transport such as public transport, cycling and walking.”

- 6.14 The new priority junction at Long Road, criterion (a), is required at the 200- unit trigger. This is because the Bromley Road/Wignall Street junction is near its operational capacity.
- 6.15 However, this Section 73 application seeks to formally vary condition 9 to remove the obligation to deliver the new Long Road junction before the occupation of the 201<sup>st</sup> dwelling (56% of the total dwellings on site). Instead the condition is re-worded to deliver a new mini-roundabout at the junction of Bromley Road and Wignall Street. In doing so, increasing the operational capacity of this junction and allow 260 homes on the Lawford Green site to use the Bromley Road junction. The approved new Long Road junction will instead be delivered before the occupation of the 261<sup>st</sup> dwelling (73% of the total dwellings on site).

#### Justification and Principle of the Development

- 6.16 Phase 1 is under construction, this shall be followed by phase 2 and 3 in due course. The applicant highlights the logic in building out the development site from west to east and the rationale behind the delay in opening the Long Road junction via 3 key points.
- 6.17 Firstly, homeowners in phase 1 have moved in and use the new spine road (“The Avenue”) to access Bromley Road. Construction traffic accesses the site from the rear at Dead Lane. This ensures construction traffic and residential traffic do not mix, enhancing amenity implications for the new residents who do not have construction traffic passing their homes. Ultimately, providing safety and security benefits from such an arrangement.
- 6.18 Secondly, the 200<sup>th</sup> dwelling is sited midway in phase 2. As currently worded, the Long Road access and associated spine road should be delivered once the 200<sup>th</sup> dwelling on site is occupied. However, for the applicant there is a substantial cost to build over 500m of tarmacked road and provide the Long Road junction.
- 6.19 Thirdly, for the applicant, there are several complex logistical and safety issues associated with the early opening of the access to Long Road. If constructed and made available for public use, the link road will require extensive security fencing on both sides of the road. This is necessary to ensure that the public cannot gain access to the construction site. Such measures would require additional gate supervisors (cost) and would lead to mud being brought onto the highway.
- 6.20 For these reasons, the applicant wishes to delay the opening of the new junction with Long Road. The justification for the proposed delayed opening of the new junction is considered reasonable in planning and housing delivery terms.
- 6.21 As the outline planning permission was approved in 2015, the principle of having up to 360 dwellings in this location is not contested. Neither is the access for these dwellings from Bromley Road and Long Road as this was approved under the original outline

permission. Therefore, there are no in principle objections to delaying the opening of the host site to Long Road until the 261<sup>st</sup> dwelling is occupied. However, this is subject to the development management and highway safety implications of the proposed change being acceptable. These factors are explored in further detail below.

#### Highway safety and junction capacity

- 6.22 Paragraph 108 of the NPPF states, when assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that:
- a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;
  - b) safe and suitable access to the site can be achieved for all users; and
  - c) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.
- 6.23 Paragraph 109 of the NPPF states development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 6.24 Policy QL2 in the adopted Local Plan and Policy CP1 in the emerging Local Plan seek to ensure that developments maximise the opportunities for access to sustainable transport including walking, cycling and public transport. Policy TR1a in the adopted Local Plan requires that development affecting highways be considered in relation to reducing and preventing hazards and inconvenience to traffic including the capacity of the road network. Policy CP2 in the emerging Local Plan states proposals which would have any adverse transport impacts will not be granted unless these are resolved, and the development made acceptable by specific mitigation measures.
- 6.25 Of key importance, is whether the existing and proposed highway junctions nearby can deal with the increased traffic flows that the delayed opening of the junction with Long Road would create?
- 6.26 To help in the decision making process, this application has included a Transport Assessment (TA) from Ardent Consulting Engineers. The TA calculated the predicted traffic flows for the weekday morning, school finish and evening peak hours at both the Bromley Road / The Aveune entrance junction and the Wignall Street/Bromley Road nearby main distributor junction. The TA took into consideration the predicted traffic flows of the host development together with other developments in the wider local area including at East Bergholt, Brantham and Mistley.
- 6.27 The TA (pg 3 Section 1.7 and pg 26 Section 4.4) has incorrectly assumed that all 360 dwellings would be using the Bromley Road access until the Long Road junction is opened. In fact, the figure would be 261 dwellings occupied until the Long Road junction opens. Notwithstanding this over calculation, the TA concludes the Bromley Road/The Avenue site access junction has ample capacity to serve as the sole access accommodate all the traffic associated with the consented development (all 360



dwellings). Furthermore, the proposed mini roundabout at the Wignall Street/Bromley Road junction would be able to accommodate the predicted flows with the development accessed solely from Bromley Road (again all 360 dwellings).

- 6.28 Officers are content that there is sufficient justification for the delay in opening the link road to Long Road. Within the original 'reason' for applying Condition 9, the rationale focused on highway efficiency and the delivery of infrastructure to promote sustainable journeys, rather than by private car. Whilst minor delays at the Wignall Street junction exist, they are deemed to be within acceptable limits. Essex County Council Highways has agreed with these findings. They have not objected to the current proposal. The provision of a new mini roundabout between Wignall Street/Bromley Road is also a significant local benefit that was not previously included in the original outline permission.
- 6.29 In view of this, there are no grounds to object to the application on highways safety grounds since the impact is not "severe" as stated in paragraph 109 of the NPPF. These findings have been accepted by Essex Council Highways. The junction with Long Road shall be open in the future as the build out on site matures, not as the TA suggests at 360 dwellings occupied but at the occupation of the 261<sup>st</sup> dwelling on site (73% of the total dwellings on site).

#### Residential Amenity

- 6.30 Officers have sympathy with the single objector who raised concerns with regards to additional traffic flows at the Wignall Street/Bromley Road junction. However, the facts in relation to junction capacity have been demonstrated in the TA and been accepted by County Highways. The impact on residential amenity is considered negligible from having traffic using the Bromley Road/The Avenue access and exits points until the 261<sup>st</sup> dwelling occupation. In effect this is 60 dwellings more than what was originally intended.
- 6.31 Officers would stress that the local area is the beneficiary of a high quality housing development. Such developments shall likely have a positive effect on local jobs and services such as the Scout Hut and attendance at such places. The concern in relation to the bus stop on Wignall Road being moved has been resolved as County Highways have accepted that it can stay in the current position. The plans have been updated to reflect this.
- 6.32 Overall, when considered with mini roundabout junction improvements proposed, the wider public benefits outweigh any short / medium term loss of residential amenity from traffic noise and fumes etc. During these difficult economic times with the health crisis affecting all aspects of society, officers do not consider resisting the proposed variation of condition would be in the wider public interest.

#### Other Matters

- 6.33 This application is not considered to have any impact on the appearance, layout, scale or landscape of the site or the wider Reserve Matters approvals on site for each phase.

6.34 As a S73 application effectively creates a new planning permission, it is necessary to update all the conditions to reflect where conditions have been discharged, sometimes in whole and sometimes in part.

6.35 The original outline application was also approved with a signed Section 106 document to secure:

- On-site Council Housing/Affordable Housing (14 Houses 'Gifted' to TDC, these are within Phase 2);
- Education contribution and/or land for school expansion;
- Health contribution;
- Community facilities;
- Completion and transfer of public open space;
- Contribution towards off-site traffic management measures at the A137 railway crossing; and
- Contribution towards monitoring impacts on the Stour Estuary. Access was also considered and approved as part of the outline application

A new Deed of Variation is in the process of being signed that shall ensure the original details in the Section 106 document are honoured.

## **7. Conclusion**

7.1 Officers believe the proposal is an acceptable variation of planning condition that will assist in achieving/maintaining a 5-year Housing Land Supply, and the NPPF requirement to significantly boost the provision of housing land within the District.

7.2 The application has no impact on the, appearance, layout, landscaping or scale of the approved development. Matters relating to access, namely the delaying of the opening of the access to Long Road, have been adequately been assessed by Officers with regards to amenity impacts and by Essex County Council Highways Department with regards to Highways capacity and safety.

7.3 Ultimately, the proposals bring forward much-needed housing in a manner that is considered non-objectional from a highway safety and capacity perspective. Any impact on residential amenity shall be short lived and temporary in nature.

## **8. Recommendation**

8.1 The Planning Committee is recommended to grant planning permission subject to the following conditions and informatives and the prior completion of a deed of variation to the original legal agreement under the provisions of section 106 of the Town and Country Planning Act 1990.

### **8.2 Conditions and Reasons**

1. All applications for approved reserve matters shall be in accordance with the approved master plan and phasing plan / program agreed under application

18/00304/DISCON unless otherwise previously agreed in writing with the Local Planning Authority.

Reason - The application is in outline and is for a large development likely to be delivered in phases for which the detail will need to accord broadly with the parameters established at outline stage.

2. Approval of the details of the siting, design and external appearance of the dwellings, the means of access thereto and the landscaping of the site (hereinafter called "the Reserved Matters") shall be obtained for each agreed phase of the development before any development on such phase is commenced.

The development shall be carried out in accordance with any such approval unless agreed in writing by the Local Planning Authority. To date the development shall be implemented in accordance with the details approved in the following applications:

Phase 1	Reserve Matters Approval 17/01527/DETAIL
Phase 2	Reserve Matters Approval 19/01475/DETAIL
Phase 3	Reserve Matters Approval 20/00480/DETAIL

Also, in association with the following alterations to these approved details within the following applications:

- 19/01498/NMA Non Material Amendment to approval of 15/00876/OUT for substitution of "Cornelia" house type for "Barbier" house type at plots 86-87, 90-93, 100-101. Proposed substitution of "Cornelia" house type for "Cornelia Variation" housetype at plots 54-57. Change of rear and side elevations, and internal layout to "Alexander" house type at plots 75-79.
- 19/01751/DETAIL Reserved matters application following outline permission 15/00876/OUT - Application to substitute "Cornelia" house type for "Barbier" house type at plots 86-87, 90-93, 100-101 as previously approved by 17/01527/DETAIL. Proposed substitution of "Cornelia" house type for "Cornelia Variation" housetype at plots 54-57. Change of rear and side elevations, and internal layout to "Alexander" house type at plots 75-79.
- 20/00178/NMA Non Material Amendment to approval of 15/00876/OUT for substitution of plots 39, 60 and 81 from "Braithewaite Variation" house type to "Braithewaite" house type. Hand plot 63.
- 19/00211/FUL Re-location of approved electrical substation (retrospective) and parking spaces.

Approval of the details of the siting, design and external appearance of the dwellings, the means of access thereto and the landscaping of the site (hereinafter called "the Reserved Matters") shall be obtained for each agreed phase of the development before any development on such phase is commenced. The development shall be carried out in accordance with any such approval.

Reason - The application is in outline and detailed matters require approval before development can commence.

3. The development shall be in general conformity with the principles set out on the submitted drawing entitled Land Use Audit, dated 21/01/16 unless otherwise previously agreed in writing with the LPA.

Reason – To establish reasonable limits to the layout of the development in the interests of good design, layout, appearance and residential amenity.

4. The maximum number of dwellings to be contained in the development shall be up to (but no more than) 360 dwellings.

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

5. Unless otherwise agreed in writing with the Local Planning Authority, the Construction Management for Phase 1 and Phase 2 shall be implemented in accordance with the details approved in the following discharge of condition applications:

18/00304/DISCON and 18/01548/DISCON (Phase 1) and 19/01698/DISCON (Phase 2)

Prior to the commencement of development in any other defined phase of the approved development, a construction management plan for that phase, to include but shall not be limited to details of wheel cleaning facilities within the site and adjacent to the egress onto the highway, shall be submitted to and approved in writing by the Local Planning Authority. The relevant phase of the development shall be constructed in accordance with the agreed plan.

Reason - To protect highway efficiency of movement and safety.

6. No more than 200 dwellings on the development shall be occupied until the following have been provided or completed:
  - a. A mini-roundabout at the junction of Wignall Street and Bromley Road in accordance with approved Ardent Consulting Engineers drawing K297-002D,
  - b. Upgrading to current Essex County Council specification of the two bus stops which would best serve the proposal site (either Long Road and/or Wignall Street); and
  - c. A minimum 3-metre-wide footway/cycleway along the proposal site's Long Road frontage.
  - d. Upgrade to the Public Right of Way which runs through the proposal site between Long Road and Dead Lane (details shall be agreed with the Local Planning Authority prior to commencement of the development).

No more than 260 dwellings on the development shall be occupied until the priority junction with right turn lane (with two pedestrian refuge islands) in Long Road to provide access to the proposal site has been implemented. Priority junction shall have minimum 10.5 metre kerbed radii with dropped kerbs/tactile paving crossing points, a minimum 6.75 metre access road carriageway with one 3 metre footway/cycleway, one 2 metre footway pedestrian/cycle refuge island and a minimum 109 x 2.4 x 120 metre clear to ground visibility splay; in accordance with Ardent Consulting Engineers drawing K297-003A.

Reason - To protect highway efficiency of movement and safety and to ensure the proposal site is accessible by more sustainable modes of transport such as public transport, cycling and walking.

7. Prior to occupation of any defined phase of the approved development, the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack for sustainable transport (in consultation with Essex County Council), to include six one day travel vouchers per household for use with the relevant local public transport operator.

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

8. Unless otherwise agreed in writing with the Local Planning Authority, the surface water drainage scheme for Phase 1 and Phase 2 shall be implemented in accordance with the details approved in the following discharge of conditions application:

18/00304/DISCON (Phase 1) and 19/01698/DISCON (Phase 2)

No other defined phase of the approved development shall take place until a surface water drainage scheme for that phase, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development has been submitted to and approved in writing by the local planning authority. All phases of the development shall subsequently be implemented in accordance with the approved details.

In particular the drainage scheme shall include:

- Drainage modelling calculations showing how the run-off for all events up to and including the 1 in 100 year plus climate change is controlled within the site.
- Where infiltration techniques are being proposed, and all run-off cannot be infiltrated, attenuation storage must be provided for any overflow volumes calculated.
- Where run-off is proposed to be discharged to a watercourse, discharge should be limited to the greenfield 1 in 1 year rate for all events.
- Where different SuDS features are being proposed, the drainage modelling should show how these are cascaded together and show clearly their combined effect in controlling both the water quantity and improving water quality within the development. .
- Account for a 10% urban creep in the calculation of run-off from the development.

- Provide the appropriate number of treatment stages from the different areas of the development.
- Provide the details of the adoption and maintenance of the scheme for the lifetime of the development.
- Provide the Drainage Scheme Layout showing the SuDS features and their dimensions as appropriate.

Reason - To prevent flooding on the proposed site and the local area by ensuring the satisfactory storage of/disposal of surface water in a range of rainfall events and ensure the system operates as designed for the lifetime of the development.

9. Unless otherwise agreed in writing with the Local Planning Authority, the foul water drainage scheme for Phase 1 and Phase 2 shall be implemented in accordance with the details approved in the following discharge of condition applications:

18/00304/DISCON (Phase 1) and 19/01698/DISCON (Phase 2)

No development shall commence on other phases until a foul water strategy has been submitted to and approved in writing by the Local Planning Authority. No dwellings shall be occupied on any defined 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 prevent environmental and amenity problems arising from flooding.

10. Unless otherwise agreed in writing with the Local Planning Authority, the hard and soft landscaping scheme for Phase 1 and Phase 2 shall be implemented in accordance with the details approved in the following discharge of conditions application:

18/00304/DISCON & 19/00900/DISCON (Phase 1) and 19/01698/DISCON (Phase 2)

No other defined phase of the development shall take place until there has been submitted to and approved, in writing, by the Local Planning Authority a scheme of hard and soft landscaping works for that phase, which shall include any proposed changes in ground levels and also accurately identify spread, girth and species of all existing trees, shrubs and hedgerows on the site and indicate any to be retained, together with measures for their protection which shall comply with the recommendations set out in the British Standards Institute publication "BS 5837: 2012 Trees in relation to design, demolition and construction."

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

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

season with others of similar size and species, unless the Local Planning Authority agrees in writing to a variation of the previously approved details.

Reason - To ensure that the development provides a satisfactory setting, in the interests of the character and appearance of the landscape and the visual amenity of the site.

12. Unless otherwise agreed in writing with the Local Planning Authority, the ecological mitigation, management and enhancement for Phase 1 and Phase 2 shall be implemented in accordance with the details approved in the following discharge of condition applications:

18/00304/DISCON (Phase 1) and 19/01698/DISCON (Phase 2)

No other defined phase of the approved development shall commence until an Ecological Mitigation Scheme and Management/Enhancement Plan has been submitted to and approved, in writing, by the Local Planning Authority. The document shall include:

- i) A survey to confirm (or otherwise) the presence of protected species on the application site.

If protected species are present, the survey shall be accompanied by a scheme of appropriate mitigation measures (including bat protection measures and precise details of the timing and method/s of protection). No development shall be undertaken except in full accordance with any such approved scheme of mitigation.

- ii) A management plan to demonstrate how biodiversity within the site will be encouraged by the development.

Reason - In order to safeguard protected wildlife species and their habitats and in the interests of biodiversity.

13. Unless otherwise agreed in writing with the Local Planning Authority, the tree protection measures for Phase 1 and Phase 2 shall be implemented in accordance with the details approved in the following discharge of conditions applications:

18/00304/DISCON (Phase 1) and 20/01337/DISCON (Phase 2)

No other defined phase of the development shall commence until details of tree protection measures, including during the construction phase, for that phase, have been submitted to and approved in writing by the Local Planning Authority and such measures as approved shall be implemented fully in accordance with such requirements.

Reason – In order to ensure the protection of trees, in the interests of local and residential amenity.

14. A. The Written Scheme of Investigation for Phase 1 and Phase 2 shall be implemented in accordance with the approved details within the following discharge of condition applications:

18/00750/DISCON (Phase 1) and 19/01698/DISCON (Phase 2)

No development or preliminary ground-works within any other defined phase of the development can commence until a programme of archaeological trial trenching for that phase has been secured and undertaken in accordance with a Written Scheme of Investigation, which has been submitted by the applicant, and approved by the Local Planning Authority. 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 through re-design of the development, shall be submitted to the Local Planning Authority.

B. The archaeological fieldwork for Phase 1 has been approved by the Local Planning Authority within application 18/00750/DISCON. These works have been fully implemented. No development or preliminary groundwork can commence on those other phases 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.

C. The post-excavation assessment for Phase 1 has been approved by the Local Planning Authority within application 19/00274/DISCON. Following completion of the archaeological fieldwork on other phases, 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 Local Planning Authority), which will result in the completion of post-excavation analysis, preparation of a full site archive and report ready for deposition at the local museum, and submission of a publication report.

Reason - The proposed development is located within an area with potential for below ground archaeological deposits. The development would result in harm to non-designated heritage assets with archaeological interest.

15. Unless otherwise agreed in writing with the Local Planning Authority, the lighting, refuse storage/collection point and the manufacturer and types and colours of the external facing and roofing materials for the dwellings in Phase 1 and Phase 2 shall be implemented in accordance with the details approved in the following discharge of condition applications:

18/00304/DISCON & 18/01094/DISCON (Phase 1) and 19/01698/DISCON (Phase 2)

Within any other defined phase of the scheme, no development shall commence until precise details of lighting, refuse storage/collection points and the manufacturer and types and colours of the external facing and roofing materials for the dwellings to be used in the construction of that phase have been submitted to and approved, in writing, by the Local Planning Authority. Such lighting, refuse points and materials so approved shall be those used in the development.

Reason - To ensure a satisfactory development in relation to external appearance.



16. Unless otherwise agreed in writing with the Local Planning Authority, the Construction Management Plans of Phase 1 and 2 shall be implemented in accordance with the approved details within the following discharge of condition applications:

18/00304/DISCON (Phase 1) and 19/01698/DISCON (Phase 2)

Within any other defined phase of the development, none of the development shall take place before a method statement for the construction of the development within that phase has been submitted to, and approved in writing by, the Local Planning Authority. The demolition and construction works for the relevant phase of the scheme shall be carried out in accordance with the approved method statement.

Details submitted in respect of the method statement, incorporated on a plan, shall provide for wheel cleaning facilities during the excavation, site preparation and construction stages of the development. The method statement shall also include details of the loading and unloading of plant and materials, details of the piling method, hours of construction, dust suppression strategy, means of recycling materials, noise and vibration mitigation techniques, lighting to be used during construction showing light spill to neighbouring properties (with methods to be employed to prevent nuisance if required), the provision of parking facilities for contractors during all stages of the development (excavation, site preparation and construction) and the provision of a means of storage and/or delivery for all plant, site huts, site facilities and materials.

Reason - To ensure that development is carried out in a controlled manner while minimising impacts on the surrounding residential properties and also in the interests of highway safety.

17. Within the hereby permitted development, no dwelling shall be occupied until a high-speed broadband connection is installed utilising resistant tubing to that dwelling. Unless otherwise agreed in writing with the Local Planning Authority, all connections shall be in accordance with the details set out in the GTC letter dated 4 July 2017. If the applicant is unable to achieve this standard of connection, and can evidence through consultation that this would not be possible, practical or economically viable an alternative superfast (i.e. will provide speeds greater than 24mbps) wireless service will be considered acceptable.

Reason - To ensure the development is able to be equipped with high speed broadband to enable opportunities for web-based communication and homeworking.

18. Unless otherwise agreed in writing with the Local Planning Authority, the development shall be built in accordance with the Local Recruitment Strategy documented within approved application 18/00750/DISCON.

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

19. Unless otherwise agreed in writing with the Local Planning Authority, the development shall be built in accordance with the Resource Efficiency Measures Specification Statement documented within approved application 18/00304/DISCON.

Reason - To enhance the sustainability of the development through better use of water, energy and materials.

20. Unless otherwise agreed in writing with the Local Planning Authority, the land contamination and remediation strategy of Phase 1 and 2 shall be implemented in accordance with the approved details within the following discharge of conditions applications:

18/00750/DISCON (Phase 1) and 19/01698/DISCON (Phase 2)

No other defined phase of development shall commence until an assessment of the risks posed by any contamination within that phase, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), shall have been submitted to and approved in writing by the local planning authority. If any contamination is found, a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the approved development shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures and timescale and a verification report shall be submitted to and approved in writing by the local planning authority. If, during the course of any phase of the development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to the local planning authority within 20 days of the report being completed and approved in writing by the local planning authority.

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

### 8.3 **Informatives**

Positive and Proactive Statement

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

#### Highways Informatives

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

3.Prior to any works taking place in the highway the developer should enter into an agreement with the Highway Authority under the Highways Act 1980 to regulate the construction of the highway works.

4.All or some of the above requirements may attract the need for a commuted sum towards their future maintenance (details should be agreed with the Highway Authority as soon as possible).

5.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](mailto:development.management@essexhighways.org) or by post to:

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

6.The proposal should be in accordance with the Parking Standards Design and Good Practice Supplementary Planning Document dated September 2009.

7.S106 Informative: The applicant is reminded that this permission is linked to a planning obligation under Section 106 of the Town and Country Planning Act 1990. The original Section 106 associated with application 15/00876/OUT remains in place. This application, via a Deed of Variation Agreement shall honour in full, the details of the original Section 106 document.

8. Conditions Informative: Please note that in accordance with Government Legislation a formal application must be made to the Local Planning Authority when submitting details in connection with the approval of details reserved by a condition. A fee of £28 for householder applications and £97 for all other types of application will be required for each written request.

Standard Informative 1: The Provisions of the Essex Act 1987, Section 13 (Access for the Fire Brigade) may apply to this Development and will be determined at Building Regulation Stage.

Standard Informative 2: You are reminded that the carrying out of building works requires approval under the Building Regulations in many cases as well as a grant of planning permission. If you are in doubt as to whether or not the work, the subject of this planning permission, requires such approval, then you are invited to contact the Building Control section at Tendring District Council.

Standard Informative 3: If the development includes the construction of a new building on or at the boundary of 2 properties, work to an existing party wall or party structure or involve excavation near to and below the foundation level of neighbouring buildings, you are advised that the provisions of the Party Wall Act 1996 may apply to this development. An explanatory booklet concerning the implications of this Act is available online or from the District Council.

## **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/>.