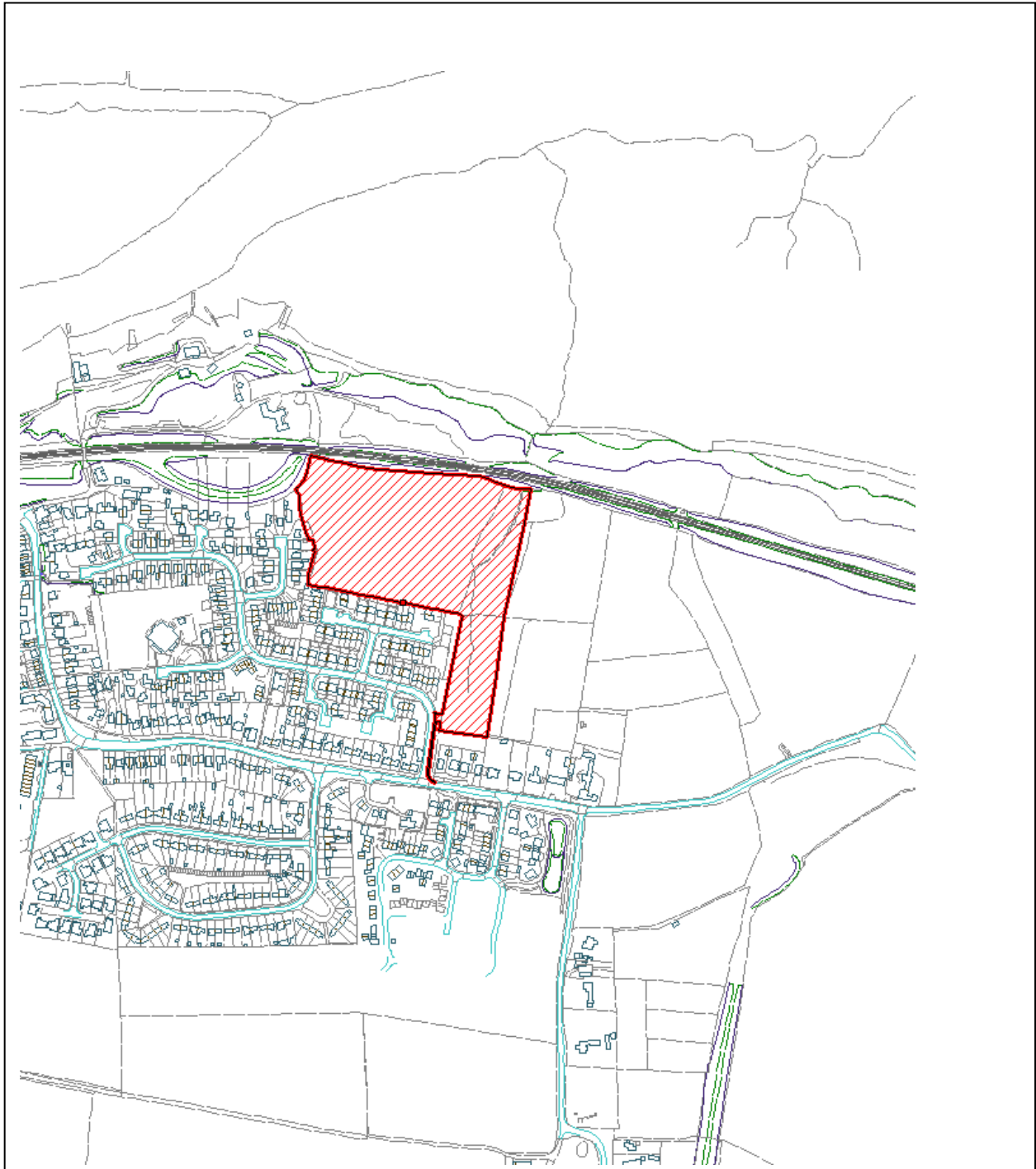


PLANNING COMMITTEE

17th NOVEMBER 2020

REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING

A.1 PLANNING APPLICATION – 20/00479/DETAIL – LAND NORTH OF STOURVIEW AVENUE MISTLEY



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Application: 20/00479/DETAIL

Town / Parish: Mistley Parish Council

Applicant: Mr Steven Rose - Rose Builders (Properties) Limited

Address: Land North of Stourview Avenue Mistley

Development: Reserved Matters application pursuant to outline permission (15/01810/OUT) for new access road, 70 dwellings and associated works.

1. **Executive Summary**

- 1.1 Outline planning permission (all matters reserved) was granted on 30th May 2017 for the erection of up to 70 dwellings and associated works, under application 15/01810/OUT. The current submission relates to the outstanding reserved matters for this development.
- 1.2 In accordance with Members' request, the current submission has been brought to Planning Committee seeking consent with regard to the reserved matters of access, landscaping, layout, appearance and scale.
- 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.
- 1.4 The site is accessed from Stourview Avenue with 62 dwellings accessing off the main central ring road the remaining 8 dwellings are located off two separate private driveways. The scheme retains a substantial level of open space to the eastern and northern sections of the site. The railway line runs to the north the development.
- 1.5 The detailed plans comply with the outline requirements in terms of the site plan having not changed and the access continues to be off Stourview Avenue. The usual design parameters (garden sizes, distance between dwellings and level of parking) and the reserved matters generally are considered acceptable with no material harm to visual or residential amenity, or highway safety.
- 1.6 A legal agreement is required for this application to secure a financial contribution towards the Essex Coast Recreational Disturbance and Avoidance and Mitigation Strategy (RAMS).

Recommendation:

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

- a) **Within 6 (six) months of the date of the Committee's resolution to approve, the completion of a legal agreement under the provisions of section 106 of the Town and Country Planning Act 1990 dealing with the following matters (where relevant):**
 - **Financial Contribution of £125.58 per new dwelling towards RAMS**
- 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:

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
HG3A	Mixed Communities
HG4	Affordable Housing in New Developments
HG6	Dwelling Size and Type
HG7	Residential Densities
HG9	Private Amenity Space
HG14	Side Isolation
COM2	Community Safety
COM4	New Community Facilities (Including Built Sports and Recreation Facilities)
COM6	Provision of Recreational Open Space for New Residential Development
COM21	Light Pollution

COM23	General Pollution
COM26	Contributions to Education Provision
COM29	Utilities
COM31A	Sewerage and Sewage Disposal
EN1	Landscape Character
EN3	Coastal Protection Belt
EEN5	Areas of Outstanding Natural Beauty (AONB's)
EN6	Biodiversity
EN6A	Protected Species
EN6B	Habitat Creation
EN11A	Protection of International Sites European Sites and RAMSAR Sites
EN11B	Protection of National Sites SSSI's, National Nature Reserves, Nature Conservation Review Sites, Geological Conservation Review Sites
EN12	Design and Access Statements
EN13	Sustainable Drainage Systems
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
LP2	Housing Choice
LP3	Housing Density and Standards
LP4	Housing Layout
LP5	Affordable and Council Housing
PPL3	The Rural Landscape
PPL4	Biodiversity and Geodiversity
PPL5	Water Conservation, Drainage and Sewerage
PPL6	Strategic Green Gaps
PPL7	Archaeology
CP1	Sustainable Transport and Accessibility
CP2	Improving the Transport Network
CP3	Improving the Telecommunications Network

Other Guidance

Essex County Council Car Parking Standards - Design and Good Practice
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:
- 2.7 The NPPF requires Councils to boost significantly the supply of housing to meet objectively assessed future housing needs in full. In any one year, Councils must be able to identify five years' worth of deliverable housing land against their projected housing requirements (plus an appropriate buffer to ensure choice and competition in the market for land, account for any fluctuations in the market or to improve the prospect

of achieving the planned supply). If this is not possible, or housing delivery over the previous three years has been substantially below (less than 75%) the housing requirement, paragraph 11 d) of the NPPF requires applications for housing development needing to be assessed on their merits, whether sites are allocated for development in the Local Plan or not.

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

3. Relevant Planning History

15/01810/OUT	Proposed new access road and the erection of up to 70 dwellings and associated works.	Approved	30.05.2017
20/00479/DETAIL	Reserved Matters application pursuant to outline permission (15/01810/OUT) for new access road, 70 dwellings and associated works.	Current	

4. Consultations

ECC Highways Dept 05.11.2020	All housing developments in Essex which would result in the creation of a new street (more than five dwelling units communally served by a single all-purpose access) will be subject to the Advance Payments Code, Highways Act, 1980. The Developer will be served with an appropriate notice within 6 weeks of building regulations approval being granted and prior to the commencement of any development must provide guaranteed deposits which will ensure that the new street is constructed in accordance with acceptable specification sufficient to ensure future maintenance as a public highway by the ECC.
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From a highway and transportation perspective the impact of the proposal is acceptable to Highway Authority subject to the following mitigation and conditions:

1. Prior to the occupation of any of the proposed development the internal road and footway layout shall be provided in principal and accord with Drawing numbers:

- Rb003-pl-02 h Amended site layout.
- Rb003-pl-03 g Amended detailed site layout
- Rb003-pl-07 g Amended parking plan

Reason: To ensure that vehicles using the site access do so in a controlled manner, in the interests of highway safety and in accordance with Policy DM1.

2. Prior to the commencement of development, details of the estate roads and footways (including layout, levels, gradients, surfacing and means of surface water drainage) shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that roads and footways are constructed to an acceptable standard, in the interests of highway safety and in accordance with Policy DM 1 and 6.

3. The development shall not be occupied until such time as a car parking and turning area has been provided in accord with current Parking Standards. These facilities shall be retained in this form at all times and shall not be used for any purpose other than the parking and turning of vehicles related to the use of the development thereafter.

Reason: To ensure that on-street parking of vehicles in the adjoining streets does not occur, in the interests of highway safety and in accordance with Policy DM 1 and 8.

4. Each vehicular parking space shall have minimum dimensions of 2.9 metres x 5.5 metres and each tandem vehicular parking space shall have minimum dimensions of 2.9 metres x 11 metres to accommodate two vehicles.

Reason: To ensure adequate space for parking off the highway is provided in the interest of highway safety in accordance with Policy DM8.

5. All single garages should have a minimum internal measurement of 7m x 3m and all double garages should have a minimum internal measurement of 7m x 5.5m.

Reason: To encourage the use of garages for their intended purpose and to discourage on-street parking, in the interests of highway safety and in accordance with Policy DM8.

6. The Cycle parking shall be provided in accordance with the EPOA Parking Standards. The approved facility shall be secure, convenient, covered and provided prior to first occupation and retained at all times.

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

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

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.

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

- I. the parking of vehicles of site operatives and visitors
- II. loading and unloading of plant and materials
- III. storage of plant and materials used in constructing the development
- IV. wheel and underbody washing facilities

Reason: To ensure that on-street parking of these vehicles in the adjoining streets does not occur and to ensure that loose materials and spoil are not brought out onto the highway in the interests of highway safety and Policy DM1.

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

Informative:

1: Prior to occupation, the development shall be served by a system of operational street lighting (excludes the shared surface areas) of design approved from the Highway Authority along the Primary route/ traffic calmed areas, which shall thereafter be maintained in good repair.

2: General note: areas where there is no footway being provided adjacent to the carriageway and the intention is for these areas to be adopted a half a metre 'no build zone' will need to be provided and hard surfaced.

3: The areas directly adjacent to the carriageway(s) in which the trees are to be planted should not be less than 3 metres wide, exclusive of the footway and the trunks of the trees should be no nearer than 2 metres to the channel line of the road. The same dimensions should

be used in situations where the footway is located adjacent to the carriageway.

In paved areas, whether or not the planted areas are to be adopted highway, trees should be sited no closer than 2 metres to the defined (or undefined) edge of the carriageway. Where the adopted highway is to be an independent path, trees should be planted no closer than 1 metre from the edge of the highway. In all cases, trees should be provided with root barriers to prevent damage to underground services.

4: 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 – Development Management Team
Ardleigh Depot,
Harwich Road,
Ardleigh,
Colchester,
CO7 7LT

5: 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.

TDC Tree &
Landscape
Officer
20.05.2020

In order to show the impact of the development proposal on the trees and other vegetation on the application site the applicant has provided a tree survey and report. This information is in accordance with 'BS5837: 2012 Trees in relation to design, demolition and construction'

Recommendations.

The report accurately describes the health, condition and amenity value of the trees and other vegetation on the land. The implementation of the development will result in the removal of two short sections of hedgerow in order to construct the new access road. One section is on the boundary of the site adjacent to Stourview Avenue and the second bisects the site broadly parallel with the watercourse that runs through the land. Taking into account new soft landscaping associated with the development of the land the removal of the sections of hedgerow will not cause significant long term harm to either the character or appearance of the area.

Some scrubby growth will also be removed but this will be adequately compensated for by new soft landscaping

The information provided shows that the trees in the best condition with the greatest visual amenity value will be retained and physically protected for the duration of the construction phase of the development.

In terms of new planting the applicant has provided detailed soft landscaping proposals that include the retention and strengthening of existing boundary vegetation along with new planting. Tree, shrub and hedgerow planting is proposed throughout the development that will both soften and enhance its appearance.

The information provided is comprehensive and sufficient to secure an appropriate level of soft landscaping.

TDC Waste Management
12.05.2020

All bin and refuse collection points must be within maximum of 20 metres walking distance of the collection vehicle. All access roads to be constructed to a capacity to withstand the 26 tonne gross weight of the collection vehicles.

ECC SuDS Consultee
13.05.2020

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

Full details of the detailed drainage scheme should be submitted as part of a discharge of conditions application for 15/01810/OUT.

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.

Essex
Wildlife Trust

No Comments received.

Essex
County
Council
Ecology
15.10.2020

No objection subject to securing

- a) A proportionate financial contribution towards effective visitor management measures in line with Essex Coast RAMS; and
- b) Ecological mitigation and biodiversity enhancements

Summary

ECC Ecology have reviewed the Soft Landscaping Proposals (Andrew Hastings Landscape Consultants Ltd., March 2020) and the Ecological Assessment (Eco Planning, 2015) submitted with the outline application in relation to the impacts of the development on designated sites and protected species and Priority species and proposed enhancement measures.

ECC Ecology are satisfied that there is sufficient information available for determination.

No ecological information has been submitted with this application. We have reviewed the Soft Landscape Proposals (Sheets 1-7) (Andrew Hastings Landscape Consultants Ltd., March 2020) and ECC Ecology support the inclusion of substantial green space on the western boundary of the site, as recommended in the Information to Inform Habitat Regulations Assessment (ADAS, May 2016).

ECC Ecology note that an Ecological Mitigation, Management and Enhancement Plan was secured as Condition 9 of the outline consent (15/01810/OUT). This will need to be informed by updated ecological surveys.

As the outline application was subject to Habitats Regulations Assessment and Natural England's formal comment was "No objection subject to securing mitigation measures", ECC Ecology also note that schedule 5 of the signed S106 Agreement for the outline consent secured a financial contribution towards monitoring of impacts on the Stour Estuary payable prior to occupation of any dwellings. We therefore recommend that, as the LPA has adopted the Essex Coast RAMS, this monitoring is delivered by BirdAware Essex in accordance with the legal agreement.

ECC Ecology support the inclusion of biodiversity enhancements in the form of log piles, reptile hibernacula, bird boxes, big hotels, hedgehog houses and native species hedgerow planting as included in the Soft Landscape Proposals (Sheets 1-7) (Andrew Hastings Landscape Consultants Ltd., March 2020). However, ECC Ecology note that the proposed reptile hibernacula and hedgehog house appear to be located in the middle of an area of amenity turf and public access. ECC Ecology recommend that these are relocated to a more sheltered location, away from residents and within longer vegetation. The locations of the enhancement measures should be informed by the

applicant's ecologist. ECC Ecology also note, from the Ecological Assessment (Eco Planning, 2015) sections of the site have "biodiversity value". ECC Ecology recommend that the DEFRA Biodiversity Metric v2.0 is utilised in the Ecological Mitigation, Management and Enhancement Plan secured as Condition 9, to assess the baseline biodiversity value of the site, and develop appropriate enhancement measures to demonstrate measurable net gains for biodiversity. This is needed to enable LPA to demonstrate its compliance with its statutory duties including its biodiversity duty under s40 NERC Act 2006.

Natural
England
03.11.2020

Having considered the previously submitted HRA under the outline planning permission, and the additional assessment by the ecologist, Natural England agree that the proposed reserved matters application is acceptable subject to the Essex RAMS payment.

Anglian
Water
Services Ltd
26.05.2020

ASSETS
Section 1 - Assets Affected

There are assets owned by Anglian Water (AW) or those subject to an adoption agreement within or close to the development boundary that may affect the layout of the site. Anglian Water would ask that the following text be included within your Notice should permission be granted.

AW has assets close to or crossing this site or there are assets subject to an adoption agreement. Therefore the site layout should take this into account and accommodate those assets within either prospectively adoptable highways or public open space. If this is not practicable then the sewers will need to be diverted at the developers cost under Section 185 of the Water Industry Act 1991 or, in the case of apparatus under an adoption agreement, liaise with the owners of the apparatus. It should be noted that the diversion works should normally be completed before development can commence.

WASTEWATER SERVICES
Used Water Network

AW have reviewed the applicant's submitted foul drainage strategy and flood risk documentation and consider that the impacts on the public foul sewerage network are acceptable to AW at this stage. AW request that they are consulted on any forthcoming application to discharge Condition 10 of the outline planning application 15/01810/OUT, to which this Reserved Matters application relates, that require the submission and approval of detailed foul drainage information.

Surface Water Disposal

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

AW have reviewed the applicant's submitted surface water drainage information (Drainage Strategy) and have found that the proposed method of surface water discharge does not relate to an AW owned asset. As such, it is outside of our jurisdiction and we are unable to provide comments on the suitability of the surface water discharge. The Local Planning Authority should seek the advice of the Lead Local Flood Authority or the Internal Drainage Board. The Environment Agency should be consulted if the drainage system directly or indirectly involves the discharge of water into a watercourse. Should the proposed method of surface water management change to include interaction with AW operated assets, they would wish to be re-consulted to ensure that an effective surface water drainage strategy is prepared and implemented. A connection to the public surface water sewer may only be permitted once the requirements of the surface water hierarchy as detailed in Building Regulations Part H have been satisfied. This will include evidence of the percolation test logs and investigations in to discharging the flows to a watercourse proven to be unfeasible.

5. Representations

- 5.1 Mistley Parish Council have made a neutral comment. They have asked if the Stourview Avenue access satisfies the Essex Highways requirements in terms of size. They suggest the junction of the new access road & Stourview Avenue should have a mini-roundabout to regulate the traffic through the estate. Also, they have asked if the extra traffic will impact the local road network especially with the Harwich Road. The Parish have asked what will happen at the junction of Stourview Avenue & Harwich Road if there are parked cars between this junction & the new junction. Is there a need for double yellow lines in this location? Finally, the Parish ask for further information regarding affordable housing.
- 5.2 The Council has received 5 objections to the proposal from residents raising the following concerns:
- Loss of native flora and fauna
 - Plans should included runs under fences for small mammals, nest boxes, trees, ponds ect.
 - Lack of environmentally friendly energy generation facilities
 - The local school cannot take the additional numbers
 - Destroys the green area
 - Additional new dwellings nearby are not selling
 - Manningtree is not accessible with limited facilities not enough to support this development
 - Loss of AONB land

- Additional traffic would be beyond what the local road network can take
- Noise and population from the cars is a problem
- Lack of local services, schools, shops, Doctors ect.
- Mistley is turning from a Village into a Town.
- Over 1,000 houses have been approved recently and the 'village' does not have the services to support them.
- The ecological reports are out of date and need updating.
- There are bats (a protected Species) in the trees, development in this AONB location should not be given the go ahead.
- Loss of views of the estuary

6. Assessment

Site Context

- 6.1 The application site comprises of 4.7 hectares of undeveloped greenfield land on the edge of Mistley. The site comprises two parcels of land which are very different in appearance and character. The main body of the site upon which new dwellings are to be built lies north of existing Council properties and a playground in Stourview Close. This is also east of properties in Seafield Avenue and south of the Harwich to Manningtree railway line, beyond which is the Stour Estuary. The land comprises managed grassland with a small area of woodland to the north and north-west and overgrowth to the south immediately abutting the existing housing estate. The topography of the site is unusual, generally sloping downwards towards the railway line and to the north east, but undulating significantly within the site with a distinct high point in the centre of the site.
- 6.2 The eastern parcel of land, through which it is proposed to create the new access road appears very separate from the main body of the site and contains a significant number of trees both along its western boundary (adjoining the main body of the site) and in a cluster through the centre of a site on lower ground around a spring which runs through the land. The topography of this area of land is more dramatic, sloping either side of the valley around the spring. To the front part of the eastern parcel, the land immediately fronting Harwich Road 4 new dwellings have been built under application ref: 14/01462/OUT. The red line site includes part of the highway along the edge of Stour View Avenue.

Planning History

- 6.3 The original outline permission (Ref: 15/01810/OUT), did not include any of the Reserve Matters. Therefore, this application relates to appearance, landscaping, layout, access and scale.
- 6.4 As part on the original outline approval there were 16 planning conditions attached. These were often pre commencement conditions and involving matters such as; an agreed Layout, Phasing Schedule, Construction Management details, Landscaping, Lighting, Drainage and various highway related on-site and off-site improvements. The conditions cover ground that could be considered by Reserve Matters, such as drainage, tree protection and lighting but are covered via the original outline Planning Conditions. These are summarised below:

OUTLINE	APPLICATION	CONDITIONS	Timing
15/00876/OUT			
1	Time Frame		By 30/05/2020
2	Time Frame For Reserved Matters		Two years post the last RM approval
3	Reserved Matters		Reserved Matter Application
4	Layout and Phasing Plan		Prior to Commencement
5	Maximum number of dwellings		No discharge required
6	Construction management plan		Prior to Commencement
7	Access Details and Off Site Highway Improvements		Prior to Occupation
8	Archaeological Investigation		Prior to Commencement
9	Ecological Mitigation and Enhancement Plan		Prior to Commencement
10	Foul Water		Prior to Commencement
11	Surface water drainage		Prior to Commencement
12	Hard and soft landscaping		Prior to Commencement
13	Replace failed Trees within 5 years		First planting season
14	External lighting, refuse storage, external material		Prior to Commencement
15	High Speed Broadband		Prior to Occupation
16	Local Recruitment Strategy		Prior to Commencement

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

- On-site Council Housing/Affordable Housing;
- Education contribution;
- Health contribution;
- Contribution towards ecological mitigation; and
- Completion and transfer of public open space + maintenance contribution.

Proposal

6.6 This is a Reserved Matters application (appearance, landscaping, layout, access and scale) for all 70 dwellings of the original outline approval.

6.7 The scheme proposes to create 70 no. two, three and four bedroom detached and semi-detached houses in a single cul-de-sac street. The layout reflects the principles set out in the Design and Access Statements submitted in support of the application for outline planning permission, but updated with additional details required for a Reserve Matters application.

6.8 The access to the housing development is from Stourview Avenue. The eastern section of the application site is left for landscaping, open space and the access road. The new residential dwellings are effectively located to the immediate north of Stour View Close only.

Principle of Development

- 6.9 The principle of residential development and access from Stourview Avenue (Condition 7 of the original Outline approval) has been accepted by the granting of outline planning permission 15/01810/OUT. Issues such as the impact on the village character, ecological impacts, drainage, archaeology, lighting and land contamination have therefore already been assessed via the outline permission and associated planning conditions.
- 6.10 Therefore, the proposed development needs to comply with the sustainable development objectives of the NPPF, Chapters 11 and 12 in particular. Together with development management policies, QL9 QL10 QL11, HG6, HG7, HG9 and TR7 within the adopted Tendring Local Plan 2007. Within the Emerging Local Plan, SP6, CP1, LP3 and LP4 are important as is guidance from the Essex County Council Car Parking Standards and the Essex Design Guide (2020). The development is assessed against these policies in the sections below.

Appearance

- 6.11 The applicant says of the design that the scheme will look to adopt the best elements of the 'recent' residential schemes in the Mistley; with the goal of achieving a "sense of place" that reflects the Essex vernacular and the forms promoted by the Essex Design Guide. The applicant goes on to say, Mistley generally is characterised by 'traditional building forms' including pitched roofs, projecting porches, combinations of brickwork and boarding, with various elements of detailing and variation in fenestration.
- 6.12 Officers accept these design principles have been brought forward in this application. All of the dwellings are of an attractive design, and are between 2 - 4 bedroom proportions, principally being semi-detached and detached houses but with some detached chalet dwellings which help to provide additional variety. Overall, this represents a suitable housing 'mix'. The materials involve red and buff brick, grey and red pantiles, slate and brown plain tiles, with black upvc rainwater goods and white upvc fascia's and bargeboards. All the dwellings except the timber boarded 'Alexander' has soldier courses on the front facing windows placements.
- 6.13 The detailed design of the dwellings is varied with different roof forms, and use of porches and window detailing which adds a somewhat traditional element to the design and provides visual interest. External chimney stacks are on show via the 'Charlotte', 'Ophelia' and 'Amelia'. These chimneys also boast interesting brick detailing at the flue. This offset against the large front facing sash windows on both floors makes for impressive designs. The front elevation, entrance canopy and first floor gable design of the 'Charlotte' is particularly eye catching.
- 6.14 The 'Victoria' as the name implies follows the 'classical' Victorian traditional theme. This dwelling has an emphasis on depth rather than width. However, this orientation works seamlessly within the street scape to good effect. The 'Rosemary', 'Barbier' and 'Hebe' are more functional in appearance, yet include interesting eaves detailing via exposed wooden rafters, together with clearly defined front entrances. The 'Grace' and 'Amber' follows the utilitarian theme, yet the hipped roof with eaves overhanging the flank and front building lines is an acquired design choice. The 'Damask' has an emphasis on width, often found on corner plots. The bay window helps offset the design providing additional visual interest. Finally, the 'Alexander', this a one and half storey dwelling with timber weatherboarding on the front and side elevations, also on the front dormers. The

rear gable designs and exposed chimney stack result is an impressive variation to what is an architecturally strong dwelling roster.

- 6.15 The surrounding area comprises of a mixture of type and styles of dwellings, using a range of materials all fairly traditional in appearance, it is therefore considered that the design of the proposed dwellings is in keeping with the character of the area. Overall, appearance of the buildings is considered to be compliant with national and local design principles and policies for such new developments.

Layout / Impact on Residential Amenity

- 6.16 Paragraph 127 of the National Planning Policy Framework 2019 states that planning should involve good architecture, layout and landscaping. Policy H7 of the adopted Tendring District Local Plan (2007) states that development should be designed so as to incorporate suitable outdoor amenity space, so as to have no unduly adverse impact on the character of the area or neighbouring residential amenity. Emerging Policy LP3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) supports these objectives.
- 6.17 Access to the proposed scheme is from Stourview Avenue, on the southern edge of the site, with the estate road looping around the existing trees. The new homes are to the north of the existing properties in Stourview Close and set back from the railway by a new band of landscaping. The layout comprises a single cul-de-sac, with the road forming a loop so that vehicles do not need to turn and can leave in a forward gear without needing to reverse. No connections to the adjoining land are made. As there is no usable 'public space' either centrally or to the west of the site. It makes sense to have access to the 'public space' for dog walking etc to the east of the existing residential settlement only. The existing pedestrian link from the eastern edge of Stourview Close is retained.
- 6.18 In relation to the gaps between dwellings (side by side), no objection is raised. There is a positive spacious feel between dwellings. Officers have reviewed the proposed block plan with regards parking provision and garden size especially. The required standards are reached.
- 6.19 The new homes also back on to the railway with five dwellings facing eastwards to create surveillance of the whole of the open space which includes a play area (Locally Equipped Area for Play LEAP). Existing trees are retained in the public open space and form part of the setting of the entrance, acting as a transition from the new edge of the built-up area of the village to the countryside further to the east.
- 6.20 The adoptable Highway entrance road measures 5.5 metres wide with a 2 metre wide pavement, the road width increases to 6 metres on the shared surface (no dedicated pavement) forming the loop road. This is considered ample space for pedestrians and motorists alike.
- 6.21 Overall across the site area of 4.7 hectares (11.6 acres), the proposed development of 70 new homes equates to a density of 14.9 dwellings per hectare (6.0 dwellings per acre). This is a very low density relative to the size of the site.

- 6.22 Due to the topography of the site, gabions are used to address the change in levels as the access road rises into the site. These features provide a natural appearance within the landscaping scheme rather than using the more urbanising retaining brick walls. Trees are also retained in the north western corner, where long gardens are proposed to ensure that there is plenty of space between the trees and the new homes.
- 6.23 Overall, the layout is intelligently considered and visually interesting. The development should co-exist relatively anonymously adjacent to its existing residential neighbours. Officers have no objections with regards to the layout of the proposed development.

- Impact on Residential Amenity

- 6.24 Paragraph 127 of the National Planning Policy Framework 2019 states that planning should always seek to secure a high standard of amenity for existing and future users. Policy QL11 of the adopted Tendring District Local Plan (2007) states that development will only be permitted if it will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties. Emerging Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) supports these objectives.
- 6.25 Officers have worked closely with the applicant to ensure any overlooking issues on site are 'designed out' through measures such as window removal or obscuring the windows. In some cases the physical designs have changed, for example Plot 1 now has a hipped roof. In other cases, outbuildings have been used to avoid overlooking from dwellings on higher ground, (see plots 19 and 21, also 33 and 35). The 15 metre rear facing distance to existing neighbouring residential properties boundaries has been achieved and then the 25 metre distance rear wall to rear wall has been respected throughout.
- 6.26 The exception to this ruling are plots 19, 8, 7 and 1. These are on lower ground than the neighbours especially plot 1 where the land falls away sharply. Furthermore, the relationship is a side elevation with no first floor side windows. Officers consider this acceptable and no written objections have been received from existing neighbouring residents. Overall Officers have no objections with regards to impact on residential amenity of the proposal.

Scale

- 6.27 The scale of development is a reserved matter and no parameter plan dictating the height of the new homes was submitted with or condition as part of the application for outline planning permission. The agent indicates the scale of the new homes is based on the assessment of the character of the residential streets on the eastern side of the village, with all buildings at two storeys in height and either in detached or semi-detached forms.
- 6.28 Generally, the larger detached houses in more spacious plots are on the outside of the site helping with the permeability of the site and transition into the countryside. The smaller detached and semi-detached dwellings are in the centre of the site. Importantly this is evident on the eastern and northern edges of the site, where larger houses create a lower density of development as the new edge to the built-up area of the village meets

the public open space and countryside beyond. Houses along the southern perimeter are generally in quite large plots with hipped roofs, this will help provide a more permeable open southern edge to the site.

- 6.29 The proposed scale and massing helps to reinforce the various character areas across the site. Such scale and massing is also in keeping with the housing in the surrounding area. In conclusion, the 'scale' element of the proposal is considered acceptable.

Access / Highway Safety / Parking

- 6.30 The Local Parish Council and others have raised concerns about the local highway networks ability to cater for the extra traffic. However, this development and several other major developments in the vicinity were look at during the outline application. The cumulative impacts required a collaborative assessment under the direction of Essex and Suffolk County Council as the relevant local Highway Authorities. The Highway Authorities concluded that this particular development will not have a severe impact on highway capacity and safety and that no mitigation towards improvements on the highway network were requested from this development.
- 6.31 The site is reasonably accessible, by foot and cycle, to local services and facilities and public transport and the vehicular access and highways matters have been considered and deemed acceptable by the Highway Authority. The transport impacts of the development are not considered to be severe and, from this perspective, Officers consider the proposal to be acceptable.
- 6.32 Access via Stourview Avenue was conditioned at outline stage and this scheme has honoured that requirement. The highway is built to an 'adoptable level' up to the shared access within the site.
- 6.33 ECC Highways have no objections to the development subject to the standard Highway conditions, such as car parking areas to be retained, parking spaces to be the required size, correct garage sizes and the provision of residential travel packs for future residents.
- 6.34 The on-site parking is compliant with the Council's parking standards, both in terms of quantum and size, as set out in the Essex Parking Standards (2009). Overall, Officer have no objection to the 'Access' reserve matter assessment.

Landscape / Biodiversity

- 6.35 Local Plan Policy EN1 and draft Local Plan Policy PPL3 seeks to protect and limit the potential landscape impacts of new development. While paragraph 175 d) of the NPPF seeks to ensure a 'measurable net gains for biodiversity'.
- 6.36 A comprehensive hard and soft landscaping scheme has been submitted with this application.
- 6.37 The Council's Landscape Officer has fully supported the proposal and offered no recommendations for additional or alternative planting. Suds features within the eastern part of the site are covered by the original outline permission and associated planning conditions.

- 6.38 The scheme achieves a semi-rural to rural transition especially as one heads east from the centre of the site. Thus, helping to define its edge of the settlement location, especially if you arrive from the east. This is aided by the retention of the existing trees within the eastern parcel of the site.
- 6.39 The landscaping (new and existing) together with the site layout plays an integral role in defining that appearance of the site. Creating the setting for the buildings and highlights the public realm from the street frontages.
- 6.40 The Section 106 associated with the outline permission instructs a suitable 'Management Company' to be established to maintain the Public Open Space for perpetuity. As such, the development is considered compliant with the aforementioned policy guidance and Officers raise no objection to the development on grounds of landscaping.
- Ecology
- 6.41 As required by saved Local Plan Policies EN6 and EN6a and draft Local Plan Policy PPL4, the applicant has submitted a HRA screening report at Outline stage. This was accepted by Natural England and Essex Wildlife Trust, both these parties were consulted on this application.
- 6.42 The HRA Screening report found that the proposed development provides a potential impact to the Stour and Orwell Estuaries SPA/ Ramsar. The area of greenspace to the west of the site provides suitable mitigation for the potential impacts providing dog waste bins, signage, information boards and paths are included within the scheme.
- 6.43 Under the Habitats Regulations, a development which is likely to have a significant effect or an adverse effect (alone or in combination) on a European designated site must provide mitigation or otherwise must satisfy the tests of demonstrating 'no alternatives' and 'reasons of overriding public interest'. There is no precedent for a residential development meeting those tests, which means that all residential development must provide mitigation.
- 6.44 A unilateral undertaking will need to be prepared to secure the off-site financial contributions. This will ensure that the development would not adversely affect the integrity of European Designated Sites in accordance with policies EN6 and EN11a of the Saved Tendring District Local Plan 2007, Policy PPL4 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft and Regulation 63 of the Conservation of Habitat and Species Regulations 2017.
- 6.45 The proposal includes the biodiversity enhancements in the form of log piles, reptile hibernacula, bird boxes, big hotels, hedgehog houses and native species hedgerow planting as included in the Soft Landscape Proposals (Sheets 1-7) (Andrew Hastings Landscape Consultants Ltd., March 2020). Overall, both Natural England and Essex Wildlife Trust have offered no objections to this application subject to RAMS payments and Ecological Mitigation and Enhancement. The latter was secured as Condition 9 of the outline consent (15/01810/OUT). This will need to be informed by updated ecological surveys.

Section 106 of the Town and Country Planning Act 1990 and Viability Matters

- 6.46 As established by the Outline Planning Permission 15/01810/OUT/OUT, the development requires s106 contributions regarding:
- On-site Council Housing/Affordable Housing;
 - Education contribution;
 - Health contribution;
 - Contribution towards ecological mitigation; and
 - Completion and transfer of public open space + maintenance contribution.
- 6.47 The delivery of these aspects is controlled directly by the s106 agreement and include mainly the community benefits of the scheme, such as the open space, affordable housing and play space.
- 6.48 Other than the RAMS payments via a separate Unilateral Undertaking, there are no changes to the original Section 106 document.
- 6.49 With regards to the Affordable Housing contribution, the outline permission established that the Council would accept 5 properties 'gifted' (i.e. transferred to the Council or a nominated partner or trust at zero cost). This has been submitted within this application with plots 1, 6, 7, 8 and 9 being the affordable houses offered forward.
- 6.50 In relation to the Flood Risk Assessment and the associated documents which accompanied this planning application, ECC SuDS do not object to the granting of planning permission subject to full details of the detailed drainage scheme to be submitted as part of a discharge of conditions application for 15/01810/OUT.

7. Conclusion

- 7.1 Officers consider the proposal to be an efficient use of the site that will assist in achieving/maintaining a 5-year Housing Land Supply, and the N.P.P.F requirement to significantly boost the provision of housing land within the District. Any outstanding details relating to Suds, lighting, contamination or archeology have been adequately controlled by the original Outline planning conditions.
- 7.2 This scheme provides a range of housing within landscaped surroundings to create safe, attractive and characterful streets. The appearance does not feel cramped or overdeveloped.
- 7.3 The new homes have good sized private gardens, sufficient off-street parking provision and include capacity for the storage of cycles and refuse. Sustainable drainage infrastructure is utilised to manage surface water runoff and the highways are designed to meet the necessary safety standards and compliment the different character areas of the site.
- 7.4 The landscaped northern and eastern sides of the site will provide benefits for local biodiversity, as well as retaining the countryside character further to the east.

7.6 Ultimately, the proposals bring forward much-needed housing in a manner that is considered a sympathetic and high-quality addition to Mistley. The proposal is considered compliant with the parameter plans as set out and approved at Outline stage and subsequent requirements of Reserve Matters.

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 section106 legal agreement with the agreed Heads of Terms, as set out in the table below:

CATEGORY	TERMS
Financial contribution towards RAMS.	£125.58 per new dwelling towards RAMS

8.2 Conditions and Reasons

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

- Rb003-pl-07 g Amended parking plan Received on 27 Oct 2020
- Rb003-pl-08 g Amended garden areas plan 27 Oct 2020
- Rb003-pl-09 g Amended refuse plan 27 Oct 2020
- Rb003-pl-02 h Amended site layout 27 Oct 2020
- Rb003-pl-03 g Amended detailed site layout 27 Oct 2020
- Rb003-pl-04 g Amended storey heights plan 27 Oct 2020
- Rb003-pl-05 g Amended surface finishes 27 Oct 2020
- Rb003-pl-06 g Amended materials plan 27 Oct 2020
- Rb003-ht-ame-02 rev b Amended amelia - proposed elevations 17 Sep 2020
- Rb003-ht-ch-02 rev b Amended charlotte - proposed elevations 17 Sep 2020
- Rb003-ht-al-01 rev b Amended alexander - proposed floor plans 17 Sep 2020
- Rb003-ht-ch-01 rev b Amended charlotte - proposed floor plans 17 Sep 2020
- Rb003-ht-ame-01 rev b Amended amelia - proposed floor plans 17 Sep 2020
- Rb003-ht-op-02 rev b Amended ophelia - proposed elevations 17 Sep 2020
- Rb003-ht-ro-02 rev b Amended rosemary (detached) - proposed floor plans and elevations 17 Sep 2020
- Rb003-ht-ro-01 rev c Amended rosemary - proposed floor plans and elevations 17 Sep 2020
- Rb003-ht-op-01 rev c Amended ophelia - proposed floor plans 17 Sep 2020
- Rb003-ht-vi-01 rev c Amended victoria - proposed floor plans and elevations 17 Sep 2020
- Rb003-ht-da-01 rev d Amended damask - proposed floor plans and elevations 17 Sep 2020
- Rb003-ht-he-01 rev b Amended hebe - proposed floor plans and elevations 17 Sep 2020
- Rb003-ht-al-02 rev b Amended alexander - proposed elevations 17 Sep 2020
- Rb003-ht-amb-01 rev b Amended amber- proposed floor plans and elevations 17 Sep 2020
- Rb003-ht-gr-01 rev b Amended grace - proposed floor plans and elevations 17 Sep 2020
- Rb003-ht-ba-01 rev d Amended barbier - proposed floor plans and elevations 17 Sep 2020

Rb003-gr-sg1-01 Sg1a single garage floor plan, roof plan and elevations 06 April 2020

Rb003-gr-sg1-02 Sg1b double garage floor plan, roof plan and elevations 06 April 2020

19.5009.08 v1 Play area 06 April 2020

10831/fw1 Foul water drainage strategy plan 06 Apr 2020

10831/ra1b General arrangement of access road 06 Apr 2020

10831/sw1 Surface water drainage strategy plan 06 Apr 2020

1126 I 001 Site plan 06 Apr 2020

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

2. Prior to the occupation of any of the proposed development the internal road and footway layout shall be provided in principal and accord with Drawing numbers:
 - Rb003-pl-02 h Amended site layout.
 - Rb003-pl-03 g Amended detailed site layout
 - Rb003-pl-07 g Amended parking plan

Reason - To ensure that vehicles using the site access do so in a controlled manner, in the interests of highway safety and in accordance with Policy DM1.

3. Prior to the commencement of development, details of the estate roads and footways (including layout, levels, gradients, surfacing and means of surface water drainage) shall be submitted to and approved in writing by the Local Planning Authority.

Reason - To ensure that roads and footways are constructed to an acceptable standard, in the interests of highway safety and in accordance with Policy DM 1 and 6.

4. The development shall not be occupied until such time as a car parking and turning area has been provided in accord with current Parking Standards. These facilities shall be retained in this form at all times and shall not be used for any purpose other than the parking and turning of vehicles related to the use of the development thereafter.

Reason - To ensure that on-street parking of vehicles in the adjoining streets does not occur, in the interests of highway safety and in accordance with Policy DM 1 and 8.

5. Each vehicular parking space shall have minimum dimensions of 2.9 metres x 5.5 metres and each tandem vehicular parking space shall have minimum dimensions of 2.9 metres x 11 metres to accommodate two vehicles.

Reason - To ensure adequate space for parking off the highway is provided in the interest of highway safety in accordance with Policy DM8.

6. All single garages should have a minimum internal measurement of 7m x 3m and all double garages should have a minimum internal measurement of 7m x 5.5m.

Reason - To encourage the use of garages for their intended purpose and to discourage on-street parking, in the interests of highway safety and in accordance with Policy DM8.

7. The Cycle parking shall be provided in accordance with the EPOA Parking Standards. The approved facility shall be secure, convenient, covered and provided prior to first occupation and retained at all times.

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

8.3 Informatives

Positive and Proactive Statement

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

Legal Agreement Informative - Recreational Impact Mitigation

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

Highways

1: Prior to occupation, the development shall be served by a system of operational street lighting (excludes the shared surface areas) of design approved from the Highway Authority along the Primary route/ traffic calmed areas, which shall thereafter be maintained in good repair.

2: General note: areas where there is no footway being provided adjacent to the carriageway and the intention is for these areas to be adopted a half a metre 'no build zone' will need to be provided and hard surfaced.

3: The areas directly adjacent to the carriageway(s) in which the trees are to be planted should not be less than 3 metres wide, exclusive of the footway and the trunks of the trees should be no nearer than 2 metres to the channel line of the road. The same dimensions should be used in situations where the footway is located adjacent to the carriageway.

In paved areas, whether or not the planted areas are to be adopted highway, trees should be sited no closer than 2 metres to the defined (or undefined) edge of the carriageway. Where the adopted highway is to be an independent path, trees should be

planted no closer than 1 metre from the edge of the highway. In all cases, trees should be provided with root barriers to prevent damage to underground services.

4: 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 – Development Management Team
Ardleigh Depot,
Harwich Road,
Ardleigh,
Colchester,
CO7 7LT

5: 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.

Suds

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.

Ecology

The Soft Landscape Proposals (Sheets 1-7) (Andrew Hastings Landscape Consultants Ltd., March 2020) show that the proposed reptile hibernacula and hedgehog house appear to be located in the middle of an area of amenity turf and public access. ECC Ecology recommend that these are relocated to a more sheltered location, away from residents and within longer vegetation. The locations of the enhancement measures should be informed by the applicant's ecologist. ECC Ecology note, from the Ecological Assessment (Eco Planning, 2015) sections of the site have "biodiversity value". ECC Ecology recommend that the DEFRA Biodiversity Metric v2.0 is utilised in the Ecological

Mitigation, Management and Enhancement Plan secured as Condition 9, to assess the baseline biodiversity value of the site, and develop appropriate enhancement measures to demonstrate measurable net gains for biodiversity. This is needed to enable LPA to demonstrate its compliance with its statutory duties including its biodiversity duty under s40 NERC Act 2006.

Anglian Water

1. Anglian Water has assets close to or crossing this site or there are assets subject to an adoption agreement. Therefore the site layout should take this into account and accommodate those assets within either prospectively adoptable highways or public open space. If this is not practicable then the sewers will need to be diverted at the developers cost under Section 185 of the Water Industry Act 1991 or, in the case of apparatus under an adoption agreement, liaise with the owners of the apparatus. It should be noted that the diversion works should normally be completed before development can commence.

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/>.