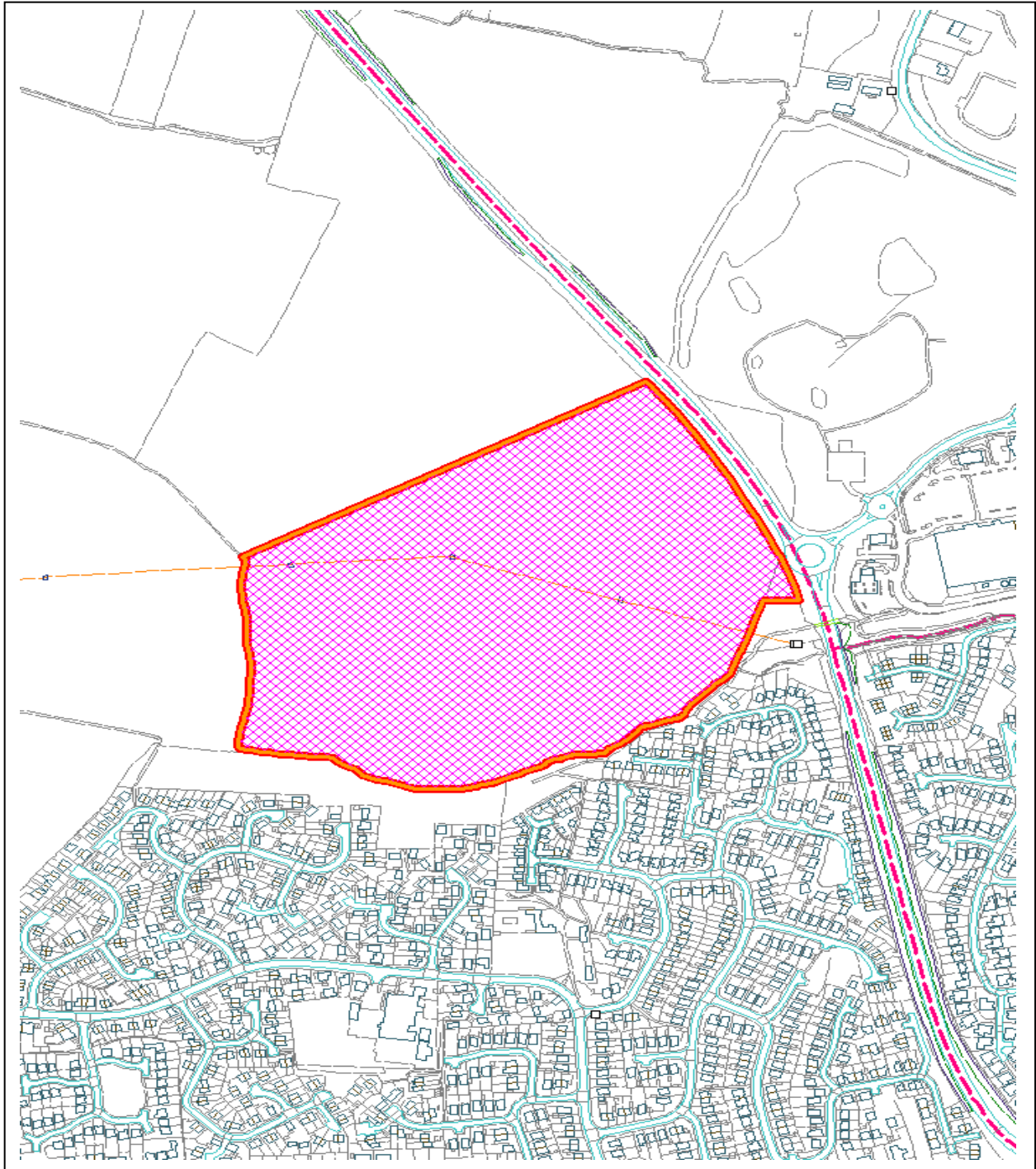


PLANNING COMMITTEE

30 NOVEMBER 2016

REPORT OF THE HEAD OF PLANNING

A.2 PLANNING APPLICATION - 16/01250/OUT - BROOK PARK WEST, LAND WEST OF A133 BROOK PARK WEST ROUNDABOUT, CLACTON-ON-SEA CO15 3TP



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Application:	16/01250/OUT	Town / Parish: Clacton unparished area
Applicant:	Mr Kevin Britton	
Address:	Brook Park West, Land West of A133 Brook Park West Roundabout, Clacton On Sea, CO15 3TP	
Development:	Hybrid planning application comprising: <ul style="list-style-type: none"> - Detailed application for foodstore (A1), hotel (C1), family public house (A3/A4), restaurants (A1/A3/A5), retail warehouse units (A1), picker's ditch major open space and associated access, landscaping, car parking and associated works. - Outline application for residential (C3) and employment development (B1 (a), (b), (c)) and associated access, landscaping, car parking and associated works (all matters reserved except access). 	

1. Executive Summary

- 1.1 This proposal is a major mixed-use development on flat agricultural land north of Clacton-on-Sea, on the opposite side of the A133 from the Brook Retail Park. The proposal includes:
- A Foodstore;
 - A 39-bed Hotel
 - A family pub;
 - Three non-food retail warehouse units;
 - Two drive-through café/restaurants;
 - Expansion of the Pickers Ditch Walkway;
 - Approximately 1 hectare of land for business use; and
 - Up to 200 dwellings.
- 1.2 Detailed approval is being sought for the foodstore, hotel, pub, non-food retail units and the Pickers Ditch Walkway with relevant parking and highways arrangements whereas outline approval (with details to follow through a later application) is being sought for the housing and business units.
- 1.3 The site lies outside of the settlement boundary in the adopted Local Plan and within the Local Green Gap between Clacton and Little Clacton. In the emerging Local Plan however, the site is included in the settlement development boundary and is partly allocated for some employment use. The site forms part of an area of land that is expected to be surrounded by the major 'Hartley Gardens' strategic development around north-west Clacton.
- 1.4 The issue that has required the most careful consideration has been the potential impact of the proposed out of town retail and leisure uses on the vitality and viability of Clacton Town Centre. A retail assessment has been submitted and independently appraised by expert consultants. The independent advice suggests that the development, as proposed, is unlikely to have any severe detrimental impacts on the vitality and viability of the town centre so long as certain restrictions are put in place to minimise potential competition with town centre businesses.

- 1.5 The site is in a highly accessible location within a relatively short distance of the existing retail park and other community facilities and with existing bus services easy able to access the site. The proposed Hartley Gardens development that is expected to surround the development in the longer term will contain new community facilities including primary school and healthcare provision – but there is no objection from either Essex County Council or the NHS to the proposed 200 houses being served by existing facilities subject to financial contributions towards their expansion, as necessary. The Highway Authority has considered the transport implications of the development and has no objections subject to conditions to secure certain improvements to the existing network.
- 1.6 Ecological impacts are expected to be low and the expansion of the Pickers Ditch Walkway presents the opportunity for significant ecological enhancement as well as improvements for the security of existing properties on the neighbouring housing estate. The proposal has attracted limited public interest with only a small number of local objections.
- 1.7 Because the Council does not have an up to date Local Plan and is currently unable to identify a five-year supply of deliverable housing sites as required by government planning policy, the residential element of this application has been considered in line with the government's 'presumption in favour of sustainable development'. Although the site lies outside of the settlement development boundaries and within the Local Green Gap of the adopted Local Plan, to comply with government requirements Officers have needed to approach the application with a view to positively addressing, as far as possible, technical issues and other matters raised by consultees and residents. The NPPF is particularly supportive of developments that deliver employment opportunities and housing.
- 1.8 Officers consider that this development complies with the requirements of the National Planning Policy Framework and the recommendation is approval subject to a s106 agreement to secure affordable housing, open space, and financial contributions towards health and education – subject to the testing of viability. Planning conditions would include restrictions to the use of the retail units in the interest of protecting the vitality and viability of the town centre.

Recommendation: Approval

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

- a) Within 6 (six) months of the date of the Committee's resolution to approve, the completion of a legal agreement under the provisions of section 106 of the Town and Country Planning Act 1990 dealing with the following matters (where relevant):
- Council Housing/Affordable Housing (subject to viability);
 - Primary school contribution;
 - Early Years and Childcare contribution (subject to viability);
 - Health contribution; and
 - Completion and transfer of public open space (including the proposed Pickers Ditch Walkway extension) and layout/maintenance contribution/arrangements.
- b) Planning conditions in accordance with those set out in (i) below (but with such amendments and additions, if any, to the detailed wording thereof as the Head of Planning (or the equivalent authorised officer) in their discretion considers appropriate).
- (i) Conditions:**
1. Standard 3 year limit for commencement of areas of development approved in full;
 2. Standard 3 year time limit for submission of reserved matters application for outline

elements.

3. Standard 2 year limit for commencement of development following approval of reserved matters.
 4. Accordance with approved plans (for the elements approved in full);
 5. General conformity with the illustrative layout diagram.
 6. Details of appearance, access, layout, scale and landscaping.
 7. Layout and phasing plan/programme.
 8. Development to contain up to (but no more than) 200 dwellings;
 9. Development to include a minimum 1.3ha of land for business use;
 10. Highways conditions (as recommended by the Highway Authority or subsequently amended – see relevant section of the report);
 11. Conditions to restrict retail and leisure uses on the site (in line with the advice of retail consultants WYG);
 12. Improvements to the A133 subway (appearance, security and safety);
 13. Archeologic trial trenching and assessment.
 14. Ecological mitigation/enhancement plan.
 15. Foul water strategy.
 16. Surface water drainage scheme for construction and occupation phases.
 17. SuDS maintenance/monitoring plan.
 18. Hard and soft landscaping plan/implementation.
 19. Details of lighting, materials and refuse storage/collection points.
 20. Broadband connection.
 21. Local employment arrangements.
- c) That the Head of Planning (or the equivalent authorised officer) 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

National Planning Policy Framework (NPPF)

- 2.1 The National Planning Policy Framework (March 2012) sets out the Government's planning policies and how these are expected to be applied at the local level.
- 2.2 Planning law requires that applications for planning permission be determined in accordance with the 'development plan' unless material considerations indicate otherwise. The NPPF doesn't change the statutory status of the development plan as the starting point for decision taking. Where proposed development accords with an up to date Local Plan it should be approved and where it does not it should be refused – unless other material considerations indicate otherwise. An important material consideration is the NPPF's 'presumption in favour of sustainable development'. The NPPF defines 'sustainable development' as having three dimensions:
 - an economic role;
 - a social role; and
 - an environmental role.
- 2.3 These dimensions have to be considered together and not in isolation. The NPPF requires Local Planning Authorities to positively seek opportunities to meet the development needs of their area whilst allowing sufficient flexibility to adapt to change. Where relevant policies in Local Plans are either absent or out of date, there is an expectation for Councils to

approve planning applications, without delay, unless the adverse impacts would significantly and demonstrably outweigh the benefits.

2.4 The NPPF, in Section 1, seeks to foster the conditions for a strong, competitive economy. It encourages local authorities to plan proactively to meet the development needs of business and seek to address potential barriers to investment, including a poor environment or any lack of infrastructure, services of infrastructure. It requires that Local Plan policies should be flexible enough to accommodate business needs not anticipated in the plan period and to allow a rapid response to changes in economic circumstances.

2.5 The NPPF seeks to ensure the vitality of town centres. To this end Section 2 of the NPPF requires Councils to prioritise the use of sites within and on the edge of town centres for retail, leisure and office developments, over out of town locations – requiring a ‘sequential test’ to be undertaken when considering planning applications. It also requires applicants to demonstrate that development proposals that are over 2,500 square metres in gross floor area will not have a significant adverse impact on existing, committed and planned public/private investment in the town centre or centres of the catchment area of the proposal and that the sequential test has been fully addressed.

2.6 Paragraphs 24 to 27 of the NPPF are of relevance to the proposal and are reproduced in full as follows:

“24. Local planning authorities should apply a sequential test to planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up-to-date Local Plan. They should require applications for main town centre uses to be located in town centres, then in edge of centre locations and only if suitable sites are not available should out of centre sites be considered. When considering edge of centre and out of centre proposals, preference should be given to accessible sites that are well connected to the town centre. Applicants and local planning authorities should demonstrate flexibility on issues such as format and scale.

25. This sequential approach should not be applied to applications for small scale rural offices or other small scale rural development.

26. When assessing applications for retail, leisure and office development outside of town centres, which are not in accordance with an up-to-date Local Plan, local planning authorities should require an impact assessment if the development is over a proportionate, locally set floor space threshold (if there is no locally set threshold, the default threshold is 2,500 sq m). This should include assessment of:

- *the impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and*
- *the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and wider area, up to five years from the time the application is made. For major schemes where the full impact will not be realised in five years, the impact should also be assessed up to ten years from the time the application is made.*

27. Where an application fails to satisfy the sequential test or is likely to have significant adverse impact on one or more of the above factors, it should be refused.”

2.7 Section 4 of the NPPF deals with sustainable transport and requires all developments that will generate significant amounts of movement to be supported by a Transport Assessment. Opportunities for sustainable transport modes must be taken up; safe and suitable access for all people must be achieved; and improvements to the highway network that address the

impacts of the development must be undertaken. A key tool to facilitate sustainable transport modes will be in the form of a Travel Plan. Development should only be prevented or refused on transport grounds where the residual cumulative impacts are 'severe'.

- 2.8 Section 6 of the NPPF relates to delivering a wide choice of quality new homes. It 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 a 5% or 20% buffer to ensure choice and competition in the market for land). If this is not possible, housing policies are to be considered out of date and the presumption in favour of sustainable development is engaged with applications for housing development needing to be assessed on their merits, whether sites are allocated for development in the Local Plan or not.
- 2.9 Paragraph 187 of the NPPF states "*Local planning authorities should look for solutions rather than problems, and decision-takers at every level should seek to approve applications for sustainable development where possible. Local planning authorities should work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area*".

National Planning Policy Guidance (March 2014)

Ensuring the Vitality of Town Centres

- 2.10 This guidance supports the NPPF. It provides advice on how Local Planning Authorities should make policies and determine applications for planning permission that relate to town centre uses.
- 2.11 The NPPF sets out two key tests that should be applied when planning for town centre uses which are not in existing centres and do not accord with an up to date local plan. These are the sequential test and the impact test. These tests are only required to be applied where the gross floor area of the proposal exceeds 2,500 square metres. The guidance makes it clear that it is for the applicant to demonstrate compliance with the sequential test and that failure to undertake a sequential assessment could in itself constitute a reason for refusing planning permission.
- 2.12 The guidance states that the following considerations should be taken into account in determining whether a proposal complies with the sequential test:
- *With due regard to the requirement to demonstrate flexibility, has the suitability of more central sites to accommodate the proposal been considered? Where the proposal would be located in edge of centre or out of centre location, preference should also be given to accessible sites that are well connected to the town centre. Any associated reasoning should be set out clearly.*
 - *Is there scope for flexibility in the format and/or scale of the proposal? It is not necessary to demonstrate that a potential town centre or edge of centre site can accommodate precisely the scale and form of development being proposed but rather to consider what contribution more central sites are able to make individually to accommodate the proposal.*
 - *If there are no suitable sequentially preferable locations the sequential test is passed.*

In line with paragraph 27 of the NPPF where a proposal fails to meet the sequential test, it should be refused."

Local Plan

- 2.13 Section 38(6) of the Planning Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the 'development plan' unless material considerations indicate otherwise. In the case of Tendring the development plan consist of the following:

Tendring District Local Plan (Adopted November 2007) – as 'saved' through a Direction from the Secretary of State. Relevant policies include:

QL1: Spatial Strategy: Directs most new development toward urban areas like Clacton and seeks to concentrate development within settlement development boundaries.

QL2: Promoting Transport Choice: Requires developments to be located and designed to avoid reliance on the use of the private car.

QL3: Minimising and Managing Flood Risk: Seeks to direct development away from land at a high risk of flooding and requires a Flood Risk Assessment for developments in Flood Zone 1 on sites of 1 hectare or more.

QL8: Mixed-Uses: Promotes mixed-use developments, particularly in town centre locations but also elsewhere where they are not harmful to the amenity, function or character of the local area or vitality and viability of any nearby centre.

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

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

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

QL12: Planning Obligations: States that the Council will use planning obligations to secure infrastructure to make developments acceptable, amongst other things.

ER7: Business, Industrial Warehouse Proposals: Requires proposals to be appropriate in terms of their relationship to adjacent uses, impacts on amenity and pollution, vehicular access, mains services and storage facilities.

ER25: New Hotels and Guest Houses: Supports proposals for new hotels and guest houses where they are appropriate in terms of the suitability and previous use of the site, the character of the surrounding area, parking and highway considerations and design implications.

ER31: Town Centre Hierarchy and Uses: Requires all options for 'town centre uses' to be located within defined town, district or local centres to be thoroughly assessed before out of centre sites are considered.

ER32: Town Centre Uses Outside Existing Town Centres: Requires proposals for town centre uses outside of defined centres to be of an appropriate scale, not materially harm the vitality and viability of existing defined centres, be accessible by a range of transport modes and not prejudice the provision of employment land, housing, recreation or tourism facilities.

HG1: Housing Provision: Sets out the strategy for delivering new homes to meet the need up to 2011 (which is now out of date and needs replacing through the new Local Plan).

HG3: Residential Development Within Defined Settlements: Supports appropriate residential developments within the settlement development boundaries of the district's towns and villages.

HG3a: Mixed Communities: Promotes a mix of housing types, sizes and tenures to meet the needs of all sectors of housing demand.

HG4: Affordable Housing in New Developments: Seeks up to 40% of dwellings on large housing sites to be secured as affordable housing for people who are unable to afford to buy or rent market housing.

HG6: Dwellings Size and Type: Requires a mix of housing types, sizes and tenures on developments of 10 or more dwellings.

HG7: Residential Densities: Requires residential developments to achieve an appropriate density. This policy refers to minimum densities from government guidance that have long since been superseded by the NPPF.

HG9: Private Amenity Space: Requires a minimum level of private amenity space (garden space) for new homes depending on how many bedrooms they have.

COM1: Access for All: Requires publically accessible buildings and spaces to be accessible to people of all abilities.

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

COM6: Provision of Recreational Open Space for New Residential Developments: Requires residential developments on sites of 1.5 hectares or more to provide 10% of the site area as public open space.

COM8a: Proposed New Recreational Open Space: Identifies the Pickers Ditch Walkway as a proposal for additional recreational open space.

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

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

COM26: Contributions to Education Provision: Requires residential developments of 12 or more dwellings to make a financial contribution, if necessary, toward the provision of additional school places.

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

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

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

EN2: Local Green Gaps: Seeks to keep areas designated as Local Green Gaps open and essentially free of development in order to prevent the coalescence of settlements and to protect their rural setting.

EN4: Protection of the Best and Most Versatile Agricultural Land: Seeks to ensure that where agricultural land is needed for development, poorer quality land is used as priority over higher quality land.

EN6: Biodiversity: Requires existing biodiversity and geodiversity to be protected and enhanced with compensation measures put in place where development will cause harm.

EN6a: Protected Species: Ensures protected species including badgers and bats are not adversely impacted by new development.

EN6b: Habitat Creation: Encourages the creation of new wildlife habitats in new developments, subject to suitable management arrangements and public access.

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

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

EN29: Archaeology: Requires the archaeological value of a location to be assessed, recorded and, if necessary, safeguarded when considering development proposals.

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

TR1: Transport Assessment: Requires transport assessments for all major developments.

TR2: Travel Plans: Requires travel plans for developments likely to have significant transport implications including major developments.

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

TR4: Safeguarding and Improving Public Rights of Way: Encourages opportunities to expand the public right of way network.

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

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

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

CL7: New Town Centre and Retail and Mixed-Use Development: Identifies sites within Clacton Town Centre for potential retail and mixed-use development. These need to be considered as part of the 'sequential test' when considering an out-of-town retail scheme.

CL10: Extension to the Waterglade Centre: Allocates the former gas works site for the expansion of the Waterglade Retail Park. This also needs to be considered as part of the 'sequential test' when considering an out-of-town retail scheme.

Tendring District Local Plan 2013-2033 and Beyond: Preferred Options Consultation Document (Published July 2016)

Relevant policies include:

SP1: Presumption in Favour of Sustainable Development: Follows the Planning Inspectorate's standard wording to ensure compliance with the NPPF.

SP4: Infrastructure and Connectivity: Requires the provision of infrastructure, services and facilities that are identified to serve the needs arising from new development.

SP5: Place Shaping Principles: Requires the highest standards of built and urban design and sets out the key principles that will apply to all new developments.

SPL1: Managing Growth: Identifies Clacton-on-Sea as a 'strategic urban settlement' within a hierarchy of settlements designed to direct future growth to the most sustainable locations. Strategic urban settlements are considered to be the most sustainable locations for major development.

SPL2: Settlement Development Boundaries: Seeks to direct new development to sites within settlement development boundaries.

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

HP1: Improving Health and Wellbeing: Requires a Health Impact Assessment on all development sites deliver 50 or more dwellings and financial contributions towards new or enhanced health facilities where new housing development would result in a shortfall or worsening of health provision.

HP2: Community Facilities: Requires developments to either provide on-site or contribute towards new or enhanced community facilities to meet needs arising from the proposed development.

HP4: Open Space, Sports and Recreation Facilities: Requires new developments to contribute to the district's provision of playing pitches and outdoor sports facilities and also requires larger residential developments to provide land as open space with financial contributions toward off-site provision required from smaller sites.

LP1: Housing Supply: Sets out the broad location of where new housing is proposed to be built to over the next 15-20 years to meet objectively assessed needs.

LP2: Housing Choice: Promotes a range of house size, type and tenure on large housing developments to reflect the projected needs of the housing market.

LP3: Housing Density: Policy requires the density of new housing development to reflect accessibility to local services, minimum floor space requirements, the need for a mix of housing, the character of surrounding development and on-site infrastructure requirements.

LP4: Housing Layout: Policy seeks to ensure large housing developments achieve a layout that, amongst other requirements, promotes health and wellbeing; minimises opportunities

for crime and anti-social behaviour; ensures safe movement for large vehicles including emergency services and waste collection; and ensures sufficient off-street parking.

LP5: Affordable and Council Housing: Requires up to 30% of new homes on large development sites to be made available to the Council or a nominated partner, at a discounted price, for use as Affordable Housing or Council Housing.

PP1: New Retail Development: Seeks to direct new retail development to town centre locations in line with NPPF policy and identifies a need for between 980 and 1,850 sqm of additional convenience goods floorspace and between 11,880 and 19,800 sqm of comparison goods floorspace in Tendring by 2032. The policy acknowledges a particular need for convenience and comparison floorspace in Clacton, based on the findings of the Council's own Retail Study.

PP2: Retail Hierarchy: Sets out the hierarchy of town centres and district centres which should be the focus for new town centre uses including retail, leisure, commercial, office, tourism and cultural, community and residential development. The vitality and viability of Clacton Town Centre (a 'Major Town Centre') is of particular relevance to the consideration of this planning application.

PP4: Local Impact Threshold: Requires an 'impact assessment' with any application for retail, leisure or office development that is outside of a town centre and, for Clacton, would create more than 929 sqm of additional floorspace.

PP7: Employment Allocations: Seeks to secure between 5 and 10 hectares of new employment land for B1 (business), B2 (general industry) and B8 (storage or distribution) in the Hartley Gardens/Clacton Gateway area of Clacton. The application site falls within the Clacton Gateway area.

PP9: Hotels and Guesthouses: Gives support to proposals for new hotels and guesthouses on allocated mixed-use development sites where such accommodation is proposed as part of the mix of uses.

PP12: Improving Education and Skills: Requires the impacts of development on education provision to be addressed at a developer's costs and also requires applicants to enter into an Employment and Skills Charter or Local Labour Agreement to ensure local contractors are employed to implement the development and that any temporary or permanent employment vacancies (including apprenticeships) are advertised through agreed channels.

PPL1: Development and Flood Risk: Seeks to direct development away from land at a high risk of flooding and requires a Flood Risk Assessment for developments in Flood Zone 1 on sites of 1 hectare or more.

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

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

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

PPL7: Archaeology: Where developments might affect archaeological remains, this policy requires proper surveys, investigation and recording to be undertaken.

CP1: Sustainable Transport and Accessibility: Requires the transport implications of development to be considered and appropriately addressed.

CP2: Improving the Transport Network: States that major growth in Clacton will require provision of new road infrastructure and requires mitigation measures to address adverse transport impacts.

CP3: Improving the Telecommunications Network: Requires new development to be served by a superfast broadband (fibre optic) connection installed on an open access basis and that can be directly accessed from the nearest British Telecom exchange and threaded through resistant tubing to enable easy access for future repair, replacement or upgrading.

Other Guidance

Essex County Council Car Parking Standards – Design and Good Practice

Essex Design Guide for Residential and Mixed-Use Areas.

3. Relevant Planning History

3.1 The site has the following planning history:

13/30003/PRE APP	EIA Screening Opinion request - Development comprising of food store, six screen cinema, three A3 units, petrol filling station and landscape enhancements.		11.09.2013
13/30077/PRE APP	Cinema complex (6 screen cinema and three A3 units), foodstore (c 7432m2 gross), petrol filling station, car parking, landscape enhancements and country park expansion.		27.12.2013
14/00107/FUL	Full planning permission for a cinema complex (including restaurants), superstore, petrol filling station, extension to Picker's Ditch walkway and associated parkland together with an extension to the existing Brook Country Park.		22.05.2014
14/00730/FUL	Full planning application for cinema complex (including restaurants), superstore, petrol filling station, extension to the Picker's Ditch walkway and associated parkland together with an extension to the existing Brook Country Park (duplicate application).	Withdrawn	30.08.2016
15/30323/PRE APP	EIA Screening Opinion for development comprising of A1, A3, A3/A4, C1. C3 (up to 300 dwellings) and D1 uses, together with landscape enhancements.		22.12.2015
16/30004/PRE APP	Pre application for hybrid, major mixed use development comprising: - Food store, 39 bedroom hotel, 3 no. restaurants and pickers ditch recreational open		24.02.2016

space (to be submitted as full application)
 - Up to 300 dwellings (to be submitted as outline application)

16/01250/OUT	Hybrid planning application comprising: - Detailed application for foodstore (A1), hotel (C1), family public house (A3/A4), restaurants (A1/A3/A5), retail warehouse units (A1), picker's ditch major open space and associated access, landscaping, car parking and associated works. - Outline application for residential (C3) and employment development (B1 (a), (b), (c)) and associated access, landscaping, car parking and associated works (all matters reserved except access).	Current
16/30246/PRE APP	EIA Screening Opinion request - Development comprising of foodstore (A1), hotel (C1), family public house (A3/A4), restaurants (A1/A3/A5), retail warehouse units (A1), picker's ditch major open space and associated access, landscaping, car parking and associated works and 200 dwellings residential (C3) and employment development (B1 (a), (b), (c)) and associated access, landscaping, car parking and associated works (all matters reserved except access).	06.10.2016

4. Consultations

TDC Regeneration Although there are quite a few A1 Retail units included in the application, the Regeneration Team generally supports this development and they do not believe it will have a major impact on Clacton town centre, as long as adequate restrictions are imposed, including ensuring that the non-food retail floor space is limited to bulky comparison goods occupiers. The development will also provide up to 200 new jobs in both the retail and hospitality sectors which will be another boost for the town. The inclusion of the commercial Business units (approx 3,000sq m) in the applicants 'outline application' is also supported by the Regeneration Team, as not only will these provide the opportunity for further job creation, it will also see the provision of an alternative site for some much needed commercial units.

TDC Principal Trees and Landscape Officer In order to establish the degree to which the trees are a constraint on the development potential of the land the applicant has provided a Tree Survey and Report. The report is in accordance with BS5837: 2012 Trees in relation to design, demolition and construction. The report accurately describes the general health and condition of the trees on the application site and accurately shows the extent to which they affect the development potential of the land. The trees on the application site are not threatened by the development proposal.

The indicative site layout shows the creation of a new public open space adjacent to the existing Pickers Ditch Walk. The proposed layout will improve the users experience of the area by way of the increase in the width of the land next to Pickers Ditch.

In order to show the potential impact of the development proposal on the character and appearance of the local landscape the applicant has submitted a Landscape and Visual Impact Assessment (LVIA). The LVIA establishes that the site lies within the Clacton and the Sokens Clay Plateau and as defined in the Tendring District Council Landscape Character Assessment. The information contained in the LVIA provides a genuine description of the existing landscape character and demonstrates the degree to which the proposed change of use of land and associated development will impact on the qualities of the landscape.

The LVIA contains information relating to views of the development proposal from 11 locations. This gives a good indication of its potential impact on the appearance of the countryside and demonstrates that only low level and short term harm will be caused to the local landscape character.

Whilst it is clear that the development will result in the loss of agricultural land and bring about a significant change to the area: in landscape terms the development appears to be reasonably well associated with the existing residential development to the south and the retail area to the east.

Part of the application is in outline form and this is shown by broad areas identified for residential use. For the areas covered by the detailed application the applicant has provided a site layout plan showing the positions of the buildings and detailed soft landscaping plans. The integral soft landscaping is sufficient to soften and enhance the appearance of the development. The plans also, indicatively, show strong boundary planting to help screen and assimilate the development into its setting. Further information relating to the soft landscaping of the site boundaries will need to be secured as part of the planning process.

TDC Building Control

Agent should demonstrate that there is sufficient fire fighting access to comply with B5 of Approved Document B, Volume 2.

TDC Housing

Clacton is the area of highest demand on the housing register and there are currently 420 households seeking a 1 bedroom property, 195 seeking a 2 bedroom property, 105 seeking a 3 bedroom property and 49 seeking a 4 bedroom property. The Council should therefore seek the maximum number of properties as affordable housing and would prefer that another registered provider be sought to take on the affordable properties on this site. In the event that another provider cannot be found, the Council would consider other delivery options such as gifted properties or a financial contribution.

TDC Open Space and Play

There is currently a deficit of 41.08 hectares of play in the Clacton/Holland area. Any additional development in Clacton will increase demand on already stretched facilities. It is noted that the site is larger than 1.5ha and open space and play provision is being provided on site. Therefore no off-site contribution should be sought in relation to this application.

ECC Highways

The Highway Authority has assessed the highway and transportation impact of the proposal and raises no objections subject to planning conditions to secure the follow:

- the approval of a construction management plan including details of when cleaning facilities;

- signals at two arms of St. John's Roundabout;
- improved existing and/or new bus services to the site;
- new bus stops on the site;
- new and/or improved off-site bus stops;
- on-site bus turn round and/or layover facilities;
- fourth arm to the A133/Britton Way roundabout to provide access;
- upgrading of the pelican crossing in St. John's Road (Pathfields Road) to a toucan crossing;
- travel plan; and
- electric car charging points.

ECC Schools

A development of this size can be expected to generate the need for up to 18 early years and childcare places, 60 primary school places, and 40 secondary school places. In addition to this there is the employment element to consider, the formula for calculating early years and childcare for employment is based on the number of employees x 0.04.

Early Years and Childcare (EY&C): The proposed development is located within the St. Mary's Ward and there are only two EY&C providers in the area. There are no unfilled places recorded in this ward and as there is no capacity in the area, new provision will be needed and a project to expand provision/provide a new facility in the area is proposed. The estimated cost of the project is £250,740 based on £13,930 per place for 18 places.

Primary Schools: The proposed development is located within the Clacton forecast planning group which has an overall capacity of 4,202 places, of which 133 are in temporary accommodation. This group of schools is expected to have deficit of 186 permanent places by the school year 2019/20. The estimated cost of mitigating this development's impact on local school provision is £733,080 based on £12,218 per place for 60 places.

Secondary Schools: The proposed development is located within the Clacton secondary schools forecast planning group which has an overall capacity of 5,365 places and is forecast to have a deficit of 223 places by the school year 2019/20. The estimated costs of secondary school expansion to mitigate the impact of this development is £742,440 based on £18,561 per place for 40 places.

School Transport: Having reviewed the proximity of the site to the nearest primary and secondary schools, ECC will not be seeking a school transport contribution. However, the developer should ensure that safe and direct walking/cycling routes are available to the nearest schools.

Youth Facilities: ECC's Youth Service have asked that larger developments deliver commensurate social opportunities for older children that have outgrown the facilities commonly found in local and neighbourhood equipped play areas. There are a range of possible facilities that a development can deliver to address this need including multiple use games areas and skate board facilities.

In view of the above ECC requests that any permission for this development is granted subject to a s106 agreement to mitigate its impact on EY&C, Primary and Secondary School provision. If minded to turn down the application, the lack of such provision can be noted as an

additional reason for refusal.

NHS England This development is likely to have an impact on the services of four main GP practices in the locality (Great Clacton Medical Practice, Crusader Surgery, Old Road Medical Practice and Nayland Drive Surgery including its main surgery Green Elms). These GP practices do not have capacity for the additional growth as a result of this development. Therefore a Health Impact Assessment has been prepared by NHS England to provide the basis for a developer contribution toward capital funding to increase capacity within the GP Catchment Area.

There is a capacity deficit in the catchment practice and a developer contribution of £69,391 is required to mitigate the 'capital cost' to NHS England for the provision of additional healthcare services arising directly as a result of the development proposal. NHS England requests that this sum be secured through a planning obligation linked to any grant of planning permission, in the form of a Section 106 agreement. The funding is most likely, depending on specific timescales, to go towards relocation costs for Great Clacton Medical Practice.

Natural England Natural England has no comments to make on this application.

Essex County Council Flood Authority Having reviewed the Flood Risk Assessment and further information submitted by the applicant in October 2016, we do not object to the granting of planning permission subject to conditions relating to the following:

- a detailed surface water drainage scheme;
- a scheme for minimising offsite flooding during construction works;
- a maintenance plan for the surface water drainage scheme; and
- keeping an on-going log of maintenance.

Essex County Council Archaeology The desk-based assessment submitted with the application highlights the potential for the survival of Medieval occupation evidence within the development area. The development site contains cropmark evidence for archaeological features that are likely to be agricultural in origin and may be medieval in origin. The assessment has considered the evidence from the Essex Historic Environmental Record and the Tendring Historic Environmental Characterisation Report and the recommendations are for an archaeological evaluation to assess the potential impact of the development. Conditions are recommended to secure the following:

- a programme of trial trenching and a subsequent summary report and mitigation strategy to be submitted for the Council's consideration;
- archaeological fieldwork in any areas of the site considered to contain archaeological deposits;
- a post excavation assessment with the full site archive and report to be deposited at the local museum.

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

Wastewater treatment: The foul drainage from this development is in the catchment of Clacton Holland Haven Recycling Centre that will have available capacity for these flows.

Foul Sewerage Network: Development will lead to an unacceptable risk of flooding downstream. A drainage strategy will need to be prepared in consultation with Anglian Water to determine mitigation measures. We request a condition requiring the drainage strategy covering the issue(s) to be agreed. Suggested wording is as follows: *“No development shall commence until a foul water strategy has been submitted to and approved in writing by the Local Planning Authority. No dwellings shall be occupied 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”*.

Surface Water Disposal: From the details submitted to support the planning application, the proposed method of surface water management does not relate to Anglian Water operated assets. As such, we are unable to provide comments on the suitability of the surface water management. The Local Planning Authority should seek the advice of the Lead Local Flood Authority or the Internal Drainage Board. The Environment Agency should be consulted if the drainage system directly or indirectly involves the discharge of water into a watercourse.

Trade Effluent: This planning application includes employment/commercial use. To discharge trade effluent from trade premises to a public sewer vested in Anglian Water requires our consent. It is an offence under section 118 of the Water Industry Act 1991 to discharge trade effluent to sewer without consent. Anglian Water would ask that text [provided in Anglian Water’s letter] with advice to this effect be included within the notice should permission be granted.

5. Representations

- 5.1 The Council has received only 3 objections to the proposal from residents raising the following concerns:
- The proposal is contrary to the adopted Local Plan;
 - The trend for online shopping means that bulky goods retail units are no longer needed;
 - An out of town hotel will encourage tourists to drive into the town centre rather than walk;
 - The pub will take trade from other pubs established in the area;
 - The drive-thru restaurants will increase nuisance and increase rubbish;
 - Object to one of the drive-thru restaurants being open 24 hours;
 - The town has enough retail units;
 - The proposal fails the sequential test of the NPPF;
 - The development will lead to significant light and noise pollution;
 - Congestion on the A133;
 - Impact of additional homes on health services;
 - Will destroy more green belt land with no benefits to the local area;
 - McDonalds and Cost Coffee are already well established elsewhere in Clacton;
 - More effort should be spent developing the town centre and the new ASDA site;
 - The existing Brook Park is poorly managed with rubbish everywhere;
 - It will be used as a race track during the night;
 - Impact on residents views over open fields; and
 - Impact of additional homes on school provision.
- 5.2 The applicant has submitted a Statement of Community Involvement which sets out the stakeholder and public consultation that had been undertaken up to the submission of the application, as well as the ongoing community engagement that will continue into the future.

The statement explains that pre-application advice was sought and that was discussions both with the Council and other authorities. In response to the pre-application engagement with the Council, the scheme has been revised to include more employment land, keep residential development away from the A133, include more bus stops and cycle ways and provide more information on the attenuation basis and their ecological benefits. Since the submission of the application, the applicants have sought to speak to local residents and will continue to do so at the different stages of the application process.

- 5.3 The Council has also received an objection from AEGON UK Property Fund whose interest is in Clacton Factory Outlet. They raise concern about the applicants retail impact assessment and also conflicts between the proposal and the Councils adopted and emerging planning policies. Their concerns are essentially retail impact, conflicts with policies on the location of hotels and the impact of vehicular movements.

6. Assessment

The Site

- 6.1 The application site comprises just under 16 hectares of very flat grade 3-4 agricultural land to the west of the A133 on the opposite side of the road from the established Brook Retail Park and its roundabout entrance. The land lies immediately north of Pickers Ditch and the associated boundary trees and walkway that extends around the north of the established housing estate. The residential properties closest to the site, where the walkway is at its narrowest, are in Dunthorpe Road and Sillett Close. Properties in Reigate Avenue, Turner Close (a more recent development), Chipstead Walk, Dorking Crescent and Abinger Close also close to the southern edge of the site but separated by a wider and more substantial portion of the Pickers Ditch Walkway. The site forms part of a larger agricultural field of some 27 hectares which extends further north along the A133. The western boundary of the site is formed by another part of Pickers Ditch and associated boundary trees. There is a hedge along the eastern boundary abutting the A133.
- 6.2 Apart from trees and hedges around the boundaries, the site itself contains no other natural features. An overhead power line does extend west to east across the site, suspended via three large pylons. The walkway to the south east of the site is very narrow and is close to existing properties, passes an area of woodland and connects to the established Brook Retail Park and properties in Raycliff Avenue via an underpass beneath the A133 which has been vandalised with graffiti. On the Planning Officers' site visit, parts of the walkway and the ditch had been the subject of fly tipping and littering.
- 6.3 The predominant style of property on the housing estate to the south is of mixed size and type in typical brick-built 1980s/1990s style with the properties in Turner Close which face onto the existing walkway being more recent and of more neo-traditional style – having been the development in the grounds of the Listed Cann Hall.

The Proposal

- 6.4 This is a hybrid planning application for major mixed development which seeks detailed (full) approval for some elements and outline approval (with details to follow at a later stage) for others.
- 6.5 Detailed (full) planning permission is sought for:
- One **discount food store** of 2,538 sqm floor area designed to the specification of retailer Lidl (who are understood to be the proposed occupier) with 141 car parking spaces. This store would be located on the eastern part of the site, accessed via the new access road.

- three **large retail units** totalling 5,167 sqm of floorspace with 200 car parking spaces. Two proposed occupiers are understood to be Wicks and Pets at Home with no occupier yet confirmed for the third unit.
- One **family pub/restaurant** designed to the specification of chain-company Marston's along with 92 car parking spaces to be shared with the associated hotel.
- One **39-bed hotel** with two meeting rooms, designed to the specification of chain-company Marston's
- Two **drive-thru café/restaurants** to the specification of Costa Coffee (located with the retail units) and McDonalds (located separately to the south-eastern corner of the site with 45 parking spaces).
- The **expansion of Pickers Ditch Walkway** around the southern part of the site (2.46 hectares) which will contain new landscaping, pedestrian/cycle connections and sustainable drainage features. Proposals to enhance and improve the security and appearance of the subway beneath the A133 are also proposed.
- The **access road** to be connected to the A133 through a fourth arm to the existing Brook Park (Britton Way) roundabout with internal roundabouts and junctions to serve different sections and uses of the development.

6.6 Outline planning permission is sought for:

- **Business units** – shown to occupy approximately 1.3 hectares of land to the north of the proposed food store and retail units with an estimated 3,000 sqm of floorspace..
- Up to **200 dwellings** and associated open space to occupy approximately, based on the indicative drawing, around 6.8 hectares of the western half of the site at densities ranging from 20-25 dwellings per hectare around the periphery and from 25-30 dwellings per hectare in central parts.

Architectural Drawings

- 1525/PA 01 Site Location Plan (based on Survey Drawing BH-SUR-01B)
- 1525/PA 02 Existing Site Plan based on Survey Drawing BH-SUR-01B
- 1525/PA 03 Parameters Plan
- 1525/PA 04 Proposed Indicative Masterplan
- 1525/Pa 05 Rev A Indicative Site Sections As Existing & As Proposed
- 1525/PA 06 Proposed retail Floor Plan, Mezzanine Plan and Roof Plan
- 1525/PA 07 Rev A Proposed Retail Elevations
- 1525/PA 08 Proposed Retail Site Plan
- JBC/5113/0000/01 Britton Way & Surrounding Land Topographical Survey (6 plans)
- 10819/CO/100 Rev A Proposed Costa Drive Thru – Plans and Elevations
- 5-1517/00F Proposed Site Plan – Lidl
- 5-1517/011b Proposed Elevations – Lidl
- 5-1517/009a Proposed Ground Floor Plan – Lidl
- 5-1517/010a Proposed First Floor Plan – Lidl

- 15-1517/012 Proposed Roof Plan – Lidl
- LD-SG-06 High Level Window Sections and Elevations
-
- 7138-SA-8470-P002 C Block Plan - McDonalds
- 7138-SA-8470-P004 C Proposed Site Layout Plan – McDonalds
- 7138-SA-8470-P006 A Proposed Ground Floor and Roof Plans – McDonalds
- 7138-SA-8470-P005 A Proposed Elevations & Section - McDonalds
- 7138-SA-8470-P022 B Proposed Site Layout Plan: Drive Totem – McDonalds
- 7138-SA-8470-P008 B Proposed Site Layout Plan: Site Signage – McDonalds
- 7138-SA-8470-P009 A Signage Elevations – McDonalds
- 7138-SA-8470-P012 A Play Frame Elevations – McDonalds

- H8702/55 Rev D Site Plan – Marston’s Pub and Hotel
- H8702/54 Proposed Elevations – Marston’s Pub
- H8702/51 Ground Floor Layout – Marston’s Pub
- H8702/52 First Floor Layout – Marston’s Pub
- H8702/53 Proposed Roof Plan – Marston’s Pub
- H8702/57 Proposed Section – Marston’s Pub
- H8702/61 Rev B Proposed Ground & First Floor Plan – Marston’s Hotel
- H8702/63 Rev B Proposed Roof Plan – Marston’s Hotel
- H8702/64 Rev B Proposed Elevations – Marston’s Hotel
- H8702/66 Rev B Proposed Soft Landscaping Plan – Marston’s Hotel
- H8702/58 Rev A Soft Landscaping Scheme – Marston’s Pub and Hotel
- H8702/59 Rev A Auto Tracking – Marston’s Pub and Hotel

Reports and Technical Information

- Design and Access Statement
- Ecological Appraisal
- Flood Risk Assessment
- Heritage Assessment
- Statement of Community Involvement
- Arboricultural Impact Assessment
- Planning, Retail and Leisure Assessment
- Noise Assessment
- Framework Travel Plan
- Landscape and Visual Impact Assessment
- Utility Report

Main Planning Considerations

6.7 The main planning considerations are:

- Principle of development;
- Impact on the Town Centre;
- Local Green Gap;
- Highways, transport and accessibility;
- Landscape, visual impact and trees;
- Flood risk and drainage;
- Ecology;
- Archaeology;
- Education provision;
- Healthcare provision;

- Utilities;
- Open space;
- Council Housing/Affordable Housing;
- Design, layout and impact on residents
- Pollution; and,
- Overall planning balance.

Principle of development

- 6.8 In line with Section 38(6) of the Planning and Compulsory Purchase Act 2014, planning decisions must be taken in accordance with the 'development plan' unless material considerations indicate otherwise. The requirements of the National Planning Policy Framework (NPPF) are a material consideration in this regard.
- 6.9 The 'development plan' for Tendring is the 2007 'adopted' Local Plan, despite some of its policies being out of date. Paragraph 215 of the NPPF 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 216 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 14th July 2016, the emerging Local Plan for Tendring is the Tendring District Local Plan 2013-2033 and Beyond Preferred Options Consultation Document. As this plan is currently at an early stage of preparation, some of its policies can only be given limited weight in the determination of planning applications, but the weight to be given to emerging policies will increase as the plan progresses through the later stages of the process. 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 216 of the NPPF, they will be considered and, where appropriate, referred to in planning decisions. In general terms however, more weight will be given to policies in the NPPF and the adopted Local Plan.
- 6.10 The site is not allocated for housing or mixed use development in the Council's adopted Local Plan and falls outside of the settlement development boundary. It also forms part of the designated Local Green Gap which seeks to maintain physical separation between the edge of Clacton urban area and the separate village of Little Clacton. In the emerging Local Plan however, the Local Green Gap designation has not been carried forward in this location and the site is effectively enveloped by the proposed Hartley Gardens strategic development proposal that is expected to deliver 2,500 homes in the longer term. In the emerging Local Plan the application site itself is not specifically zoned for a particular use, but it is included within the settlement development boundary and is indicated as a location where some land is to be used for employment. Between 5 and 10 hectares of employment land in this general location is suggested in Policy PP7 of the emerging plan.
- 6.11 Because the site lies outside of the settlement development boundary and is not allocated for development in the adopted Local Plan, it is technically contrary to adopted policy and the proposed development would be a departure from that plan. However, the adopted Local Plan is out of date in respect of future retail, employment and housing needs and the NPPF requires Councils to consider proposals on their merits against the economic, social and environmental dimensions of sustainable development.
- 6.12 'Sustainable Development', as far as the NPPF is concerned, is development that contributes positively to the economy, society and the environment and under the 'presumption in favour of sustainable development', authorities are expected to grant permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole; or specific policies in the NPPF indicate development should be restricted. Relevant to this

particular development proposal, the NPPF is very supportive, in principle, of developments that deliver economic growth and housing.

- 6.13 For housing, paragraph 47 of the NPPF also requires local planning authorities to boost significantly the supply of housing by identifying and updating annually a supply of specific deliverable sites sufficient to provide five years worth of housing against their housing requirements. In areas where there has been persistent under delivery of housing, an additional 20% 'buffer' is also required to provide a realistic prospect of achieving the planned supply and to ensure choice and competition in the market for land. For Tendring, the housing requirement is 550 dwellings per annum, as based on the evidence contained within the 'Objectively Assessed Housing Needs Study' (July 2015) and supplementary evidence that was presented to the Local Plan Committee on 21st January 2015. At the time of writing, and despite the publication of the new draft Local Plan, the Council was still only able to identify an approximate 4.5 year supply and thus there still remains considerable (albeit quickly reducing) shortfall. Paragraph 49 of the NPPF states that relevant policies for the supply of housing should not be considered 'up to date' if it is not possible to demonstrate a five year supply of deliverable housing sites and, in such cases, the 'presumption in favour of sustainable development' set out in paragraph 14 of the NPPF is engaged.
- 6.14 Due to the lack of a five-year supply of housing sites and the subsequent engagement of the presumption in favour of sustainable development, the Council would not be justified in refusing planning permission purely on the basis of the application site being outside of the settlement development boundaries in the adopted Local Plan. The application must therefore be judged on its merits against the NPPF.
- 6.15 For the development of 'town centre uses' including retail on land in an out of town location, as proposed here, the NPPF and policies both adopted and emerging Local Plans set out specific requirements aimed at safeguarding the vitality and viability of town centres and these are explained in more detail elsewhere in this report.
- 6.16 One of the NPPF's core planning principles is to "actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable".
- 6.17 With this in mind, the emerging Local Plan includes a 'settlement hierarchy' aimed at categorising the district's towns and villages and providing a framework for directing development toward the most sustainable locations. In the adopted Local Plan, Clacton on Sea is categorised as a 'town' in the adopted Local Plan and a 'strategic urban settlement, in the emerging Local Plan in recognition of its size and range of services and facilities and as a location where sustainable development on a larger scale can be achieved. In comparison, 'smaller urban settlements', 'villages', 'rural service centres' and 'smaller rural settlements' are considered to offer lesser sustainable locations for major development.
- 6.18 Because the Council's adopted Local Plan is out of date in respect of retail, employment and housing needs, there is a current housing land shortfall, the site adjoins an urban settlement where sustainable development on a larger scale can be achieved and most of the land is provisionally included within the settlement development boundary of the emerging Local Plan, Officers consider that the principle of residential development on the application site is acceptable – subject to assessing the impacts on the vitality and viability of Clacton Town Centre.

Impact on the Town Centre

- 6.19 The retail and leisure uses proposed for the site would, in themselves, generate considerable economic growth, widen customer choice and provide additional employment

opportunities for the people in the Clacton area and surrounding villages. This should be seen as a positive so long as the development does not result in an adverse impact upon the vitality and viability of Clacton Town Centre.

- 6.20 Any development of retail and leisure uses in an 'out of centre' location such as this therefore requires careful detailed assessment to ensure it does not detract from the vitality and viability of existing town centres. Paragraph 24 of the NPPF requires Councils to apply a 'sequential test' to such proposals, requiring the use of town centre sites or, failing that, 'edge of centre' sites, as a priority over out of centre locations. Where, following the sequential test, an out of centre location is considered to be justified, paragraph 26 of the NPPF requires Councils to request an 'impact assessment' for any development involving the creation of 2,500 square metres or more of new floorspace unless specific local thresholds have been adopted. For Clacton, the emerging Local Plan in Policy PP4 sets a lower threshold of 929 sqm. The assessment must consider the impact of the proposal on town centre investments and on the vitality and viability of town centres. Where applications fail to satisfy the sequential test or the development is likely to have a significant adverse impact on established town centres, paragraph 27 of the NPPF says that applications should be refused.
- 6.21 The applicant has submitted a 'Planning, Retail and Leisure Assessment' with the application which suggests that there should be no significant adverse impact on town centre vitality and viability and that the proposal will deliver a significant enhancement to the retail offer in the Clacton area which is current losing a customer trade to locations further afield. The applicant's Retail Statement has been independently tested, on the Council's instruction, by consultants WYG – the same consultants that undertook the Retail Study for the Local Plan.
- 6.22 For the sequential test, WYG suggests that the applicant's assessment could have gone further to explore the potential to accommodate the proposed retail and leisure development on smaller 'sequentially-preferable sites' within or closer to the town centres, if necessary being more flexible in terms of the scale and format of the proposal. The assessment of alternative sites has focussed almost exclusively on the proposed extension to the Waterglade Retail Park, which is a specific proposal in the adopted Local Plan. However, WYG consider that other smaller sites could have also been included in the assessment including land at Jackson Road, the potential 'Civic Quarter' around the Library and the Station Gateway land next to Clacton Railway Station. Because of this, WYG suggest that the applicant's assessment does not accord fully with the requirements of the sequential test set out in the NPPF and in the Local Plan.
- 6.23 That said, Officers have considered whether or not including those smaller sites in the assessment would have made any significant difference bearing in mind their current use and likelihood of development. For example, whilst there is a reasonable prospect of the land adjoining the Waterglade Retail Park being developed following the removal, by the National Grid, of the gas holders, the future of the other sites is less certain. The Jackson Road site is effectively the NCP Car Park and whilst the Council would support an appropriate mixed-use development that would enhance the town centre, there has been little indication from NCP of any desire to progress such a development. The Civic Quarter concept for land around the library, Town Hall and High Street Car Park is very dependent on co-location of public services and the redevelopment of a popular and well located multi-storey car park. It's deliverability in the short to medium term is therefore very uncertain. The Station Gateway comprises land currently used by Fullers Yard, the Sadds Yard industrial area and the railway station car park – all viable existing uses where there has been no strong expression from the owners to support redevelopment. With this in mind, whilst WYG have raised legitimate concerns, Officers are satisfied that the inclusion of additional smaller sites in the sequential test is unlikely to alter the overall conclusions of the assessment.

- 6.24 Turning to impacts, WYG has assessed both convenience (i.e. the Lidl foodstore) and comparison (i.e. the Wicks, Pets at Home and one other) to determine whether or not there is likely to be a significant adverse impact on the town centre which might justify the refusal of planning permission in line with the NPPF. For the foodstore, WYG conclude that another Lidl store is unlikely to have a significant adverse impact on the vitality or viability of either Clacton, Frinton or Walton town centres. To safeguard against the proposed store changing in nature and leading to adverse impacts in the future, WYG suggest that consideration be given to restricting the use of the store, through planning conditions, so that it can only be occupied by a discount food retailer such as Lidl or Aldi. WYG does however suggest that there could be an adverse impact on the District Centre of Old Road, particularly the existing Lidl and Aldi supermarkets located at the very northern end of Pier Avenue, and that Officers need to consider whether such harm would outweigh the benefits in the overall planning balance.
- 6.25 For comparison (non-food) goods, WYG considers it highly unlikely that the scheme would result in a significant adverse impact on either Frinton or Walton town centres, but for Clacton Town Centre there could be potential for a significant adverse impact due to overlap with and diversion of trade from existing businesses unless restrictions are put in place, through planning conditions, to ensure goods are limited to 'bulky comparison goods'.
- 6.26 For the other town centre uses such as the hotel, family pub and drive-thru restaurants, WYG suggest that the drive-thru facilities are unlikely to compete with, or draw trade from other eating establishments in the area because they are in-effect ancillary to the use of the proposed retail park, drawing upon shoppers and those passing the site by vehicle. The pub is likely to cater for the new residential communities being established in north-west Clacton as much as it will for existing residents so there is unlikely to be a significant adverse impact. For the hotel, whilst some competition with town centre and seafront hotels is acknowledged, its relatively limited scale is not considered likely to give rise to significant adverse impacts. .
- 6.27 In conclusion, WYG advises that if the Council was minded to approve the development, it will be important that the proposal trades in the manner in which it has been tested as part of the applicant's assessments. Therefore, WYG suggests specific planning conditions be applied that will ensure the following (summarised):
- No more than 214 sqm of the foodstore (Lidl) is used for comparison goods and the store is restricted to use as a 'discount foodstore' and cannot sell certain goods or provide certain services such as tobacco, staffed fresh meat, fish or deli, pharmacy, dry cleaning, photo-shop, post office or café.
 - Total sales area within the non-food comparison units (Wicks, Pets at Home and another) is limited, including any mezzanine space.
 - External sales area must be linked to the adjoining (Wicks) retail unit so it does not trade separately.
 - Limits to the range of goods that can be sold in the non-food retail units.
 - Limits to the total floor area of the proposed pub/restaurant, drive thru units and hotel.
- 6.28 The applicants have suggested that the restrictions contained within WYG's conditions go too far in restricting the use of the development and have suggested an alternative form of wording – however Officers would be inclined to impose WYG's wording through any

conditions if the Committee is minded to approve. The applicants could apply separately to have the conditions amended, but Officers are keen to follow WYG's independent advice.

- 6.29 On this advice, Officers are satisfied that the requirements of the NPPF have been addressed and that refusal of planning permission over concerns about the impact on the vitality and viability of the town centre is not justified, so long as the above controls are put in place. If the Committee is minded to approve this application in line with the Officer recommendation, these conditions will be imposed in order to guard against any significant adverse impacts on the town centre.

Local Green Gap

- 6.30 The site falls within a 'Local Green Gap' as identified in the Council's adopted Local Plan which, in this location, is designed to:

- Safeguard the separate identity, character and openness of the setting of Little Clacton, particularly by protecting the undeveloped land either side of Centenary Way;
- Preserve and where possible enhance views from the settlements;
- Prevent further ribbon development in the London Road area between Clacton-on-Sea and Little Clacton; and
- Safeguard the open character of the land wither side of the Little Clacton bypass.

- 6.31 Policy EN2 of the adopted Local Plan aims to keep Local Green Gaps essentially free of development within the plan period which, for the adopted Local Plan, was up to 2011. However, with the need for additional land for housing to meet longer-term requirements, there is an acceptance that it might not be possible to carry forward Local Green Gaps in all parts of the district into the next version of the Local Plan. So in the emerging Local Plan, many of the Local Green Gaps, including this one, have been redrawn to allow some development.

- 6.32 In recent months, the Planning Committee has resolved to refuse a number of planning applications for being contrary to adopted Local Green Gap policy including 15/01234/OUT for 240 dwellings off Halstead Road, Kirby Cross; 15/00904/OUT, 16/00208/OUT & 16/00209/OUT for 240, 220 and 276 dwellings (respectively) off Rush Green Road, Clacton; 15/01720/OUT for 175 dwellings off Centenary Way, Clacton; 15/00964/OUT for 71 dwellings off Mayes Lane, Ramsey; and 15/01710/OUT for 110 dwellings off Thorpe Road, Kirby Cross. Two of these sites (namely Rush Green Road and Mayes Lane) are specifically allocated for housing in the emerging Local Plan, as is the application site. Applications 15/01234/OUT for Halstead Road, Kirby Cross and 15/01710/OUT for Thorpe Road, Kirby Cross have however since been allowed on appeal.

- 6.33 The Council had previously received two appeal decisions for Local Green Gap sites. The first relates to an outline planning application for up to 60 dwellings on land north of Harwich Road, Little Oakley (Ref: 14/00995/OUT) and the second relates to an outline application for up to 75 dwellings on land east of Halstead Road, Kirby-le-Soken (Ref: 15/00928/OUT). Both appeals were dismissed with both Planning Inspectors concluded that the emerging Local Plan should carry only limited weight and that, critically, Policy EN2 in the adopted Local Plan is not a housing policy and should carry 'full weight'. The Inspector stated "*this policy aims to keep Local Green Gaps open and free of development, to prevent the coalescence of settlements and to protect their rural settings. This is compatible with the aim of the Framework, as set out in paragraph 17, to recognise the intrinsic character and beauty of the countryside and to protect valued landscapes. Consequently I have attached full weight to LP Policy EN2 in determining this appeal*".

- 6.34 However, there has since been a decision by the Court of Appeal (Cheshire East Borough Council v Secretary of State for Communities and Local Government & Anr. Case Number:

C1/2015/0894) in which three judges overturned an earlier High Court decision which had determined that green gap policies are not housing policies and should not be considered out of date if a Council cannot identify a sufficient supply of housing land. In overturning the High Court's decision, the Court of Appeal judges concluded that the concept of 'policies for the supply of housing' should not be confined to policies in the development plan that provide positively for the delivery of new housing in terms of numbers and distribution or the allocation of sites. They concluded that this concept extends to policies whose effect it is to influence the supply of housing land by restricting the locations where new housing may be developed – including, for example, policies for the green belt, policies for the general protection of the countryside, policies for conserving the landscape of Areas of Outstanding Natural Beauty and National Parks, policies for the conservation of wildlife or cultural heritage, and various policies whose purpose is to protect the local environment in one way or another by preventing or limiting development.

- 6.35 Notwithstanding the appeal decisions at Little Oakley and Kirby-le-Soken, the implication of this legal ruling is that the Council cannot simply refuse planning permission for development within Local Green Gaps on the basis that the Local Green Gap policy should carry 'full weight'. Instead, the Council must apply the key test within the NPPF to determine whether or not the adverse impacts of development would significantly and demonstrably outweigh the benefits – weighing up the presence of the Local Green Gap policy in the overall planning balance. This flexibility was exercised by the Inspectors dealing with the Kirby Cross appeals in allowing the grant of planning permission.
- 6.36 Given the proposed inclusion of this site within the redrawn settlement development boundaries in the emerging Local Plan and the proposed removal of the Local Green Gap in this area to enable the Hartley Gardens development, Officers consider that the loss of this part of the adopted Local Green Gap would not significantly and demonstrably outweigh the benefits of the development.
- 6.37 Because the weight to be given to the Local Green Gap designation alongside the benefit of the development is a matter of judgement, if the Committee was to take an alternative view to Officers and concludes that the adverse impact of losing the Local Green Gap significantly and demonstrably outweighs all economic, social and environmental benefits of the development, refusal against Policy EN2 of the adopted Local Plan would at least be a legitimate reason for refusal. On this particular occasion however, the economic, social and environmental benefits of this development are significant and the emerging Local Plan establishes a desire to see major development in this general location. Officers consider that a successful defence of an appeal against refusal on Local Green Grounds would be unlikely.

Highways, transport and accessibility

- 6.38 Paragraph 32 of the NPPF relates to transport and requires Councils, when making decisions, to take account of whether:
- the opportunities for sustainable transport modes have been taken up depending on the nature and location of the site, to reduce the need for major transport infrastructure;
 - safe a suitable access to the site can be achieved for all people; and
 - improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

- 6.39 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. The application site is on the edge of the district's largest and most sustainable urban settlement. The new commercial uses on the site would be accessible to existing residents by foot and cycle via the expanded Pickers Ditch Walkway and by bus and car via the new access road. The new homes proposed as part of the development will naturally benefit from being located within walking distance of the new retail, leisure and employment uses and of the facilities at the existing Brook Retail Park. The homes would be some distance from existing medical facilities and schools (the nearest being Cann Hall Primary School) but they are accessible by cycle, bus and car. In the longer term new facilities are expected to be delivered as part of the wider Hartley Gardens development which could also be accessed by residents of this development.
- 6.40 The development will be accessed by a new fourth arm onto the current Brook Park (A133/Britton Way) roundabout and the spine road from the roundabout will then provide access to the different land-use elements of the scheme. It is proposed that a bus stop/layby be incorporated into the access road which will allow existing bus services to access and stop at the new development with minimal diversion. The bus services that currently operate in the area should easily be able to incorporate the development into their routes. In the longer-term as the residential element of the scheme is constructed, there is potential for bus services to be directed through, and around the residential area to serve the new residents.
- 6.41 Policy TRA1a 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. The Highway Authority has considered the applicant's transport assessment and has resolved to make no objections subject to conditions – the most notable of which include off-site works to secure the upgrading of the existing pelican crossing to a toucan crossing on St. John's Road/Pathfields Road and for signals to be installed on two arms of St. John's Roundabout. The applicants have questioned whether the latter is required and a response from ECC Highways is, at the time of writing, yet to be received. It is therefore proposed that a planning condition requiring a plan for improvements to St. Johns Roundabout to be approved by the Council before development can commence be imposed. This will allow more time for ECC to consider and confirm the scale and nature of such improvements.
- 6.42 Whilst not the subject of specific written representations, Officers are also aware of some local concerns that the development might jeopardise the opportunity for the future dualling of the A133 to meet increased traffic demands in the future. It has also been suggested to Officers that the scheme might be better served by two separate roundabouts to cater for commercial and residential traffic separately. Whilst ECC Highways has not raised this as a concern, the applicants have been asked their highways consultants to consider this matter and their response is summarised below.
- 6.43 Firstly, the Council's own transport modelling work, to date, in support of the emerging Local Plan does not identify the need for dualling of the A133. Secondly, the fourth arm onto the A133/Britton Way roundabout has been designed to meet the required standards and involves some widening to both the north and the south of the roundabout and that with reasonable small changes to the roundabout, the dualling of the A133 in this location, if ever necessary in the future, could still be achieved. There will also be sufficient land around the roundabout for it to be enlarged to meet dual carriageway standards in the future, if necessary. In conclusion, the proposed Brook Park West development and associated access arrangements would not prejudice the ability to dual the A133 should this ultimately be required to cater for new housing development, or indeed other factors such as general traffic growth. This conclusion has been based on pragmatic engineering judgement.

- 6.44 In response to the suggestion of a second roundabout access to the site, the development would not prevent the option of a second roundabout to access future phases of development in this location above and beyond the current proposal. A new 3-arm roundabout could be delivered within the highway boundary and land under the control of the applicant. However, for the purposes of the current proposal, the fourth arm onto the current roundabout has been shown to be sufficient – as has been confirmed by ECC Highways. The applicants highways consultants suggest that the current roundabout could accommodate more traffic movements than are currently expected as a result of the proposed development.
- 6.45 Concern has been raised about the internal workings of the proposed road layout and potential conflicts between residential and commercial traffic. The applicant's highway consultants have advised that the internal layout has been designed to be attractive to residents and to those accessing the commercial developments alike and includes a well landscaped dual carriageway section from the main roundabout to the internal roundabout. They confirm that the proposed internal roundabout has substantially greater capacity than the predicted traffic demands of the development.
- 6.46 From a highways, transport and accessibility perspective, Officers consider that whilst there is some dispute over the nature of off-site works that would be required, the development – subject to the appropriate conditions, meets the requirements of the NPPF and the Local Plan and refusal on these grounds would not be justified.

Landscape, visual impact and trees

- 6.47 Policy QL9 in the adopted Local Plan and Policy SPL3 in the emerging Local Plan still requires developments to respect and enhance views, skylines, landmarks, existing street patterns, open spaces and other locally important features. Policy EN1 of the adopted Local Plan and Policy PPL3 in the emerging Local Plan seek to protect and, wherever possible, enhance the quality of the district's landscape; requiring developments to conserve natural and man-made features that contribute toward local distinctiveness and, where necessary, requiring suitable measures for landscape conservation and enhancement. Policies QL9 and SPL3 also require developments to incorporate important existing site features of landscape, ecological or amenity value such as trees, hedges, water features, buffer zones, walls and buildings.
- 6.48 The site is located on very flat, featureless land to the north of the existing built up area. The applicants have submitted a Landscape and Visual Impact Assessment to assess the landscape value of the site and to consider the impact of the development. This assessment has been considered by the Council's Principal Trees and Landscape Officer whose advice is that the site lies within the Clacton and the Sokens Clay Plateau and as defined in the Tendring District Council Landscape Character Assessment. The information contained in the applicant's assessment provides a genuine description of the existing landscape character and demonstrates the degree to which the proposed change of use of land and associated development will impact on the qualities of the landscape. The assessment demonstrates that only low level and short term harm will be caused to the local landscape character. Officers concur with this conclusion.
- 6.49 In landscape terms the development appears to be reasonably well associated with the existing residential development to the south and the retail area to the east. For the areas covered by the detailed application the applicant has provided a site layout plan showing the positions of the buildings and detailed soft landscaping plans. The integral soft landscaping is sufficient to soften and enhance the appearance of the development. The plans also, indicatively, show strong boundary planting to help screen and assimilate the

development into its setting. Further information relating to the soft landscaping of the site boundaries will need to be secured as part of the planning process, via planning conditions.

- 6.50 For Trees, the applicants have provided a Tree Survey and Report and the Council's Principal Trees and Landscape Officer has confirmed that the trees on the application site are not threatened by the development proposal. The indicative site layout shows the creation of a new public open space adjacent to the existing Pickers Ditch Walk. The proposed layout will improve the users experience of the area by way of the increase in the width of the land next to Pickers Ditch.

Flood risk and drainage

- 6.51 Paragraph 103 of the NPPF requires Councils, when determining planning applications, to ensure flood risk is not increased elsewhere. Although the site is in Flood Zone 1 (low risk), the NPPF, Policy QL3 in the adopted Local Plan and Policy PLA1 in the emerging Local Plan still require any development proposal on site larger than 1 hectare to be accompanied by a site-specific Flood Risk Assessment (FRA). This is to assess the potential risk of all potential sources of flooding, including surface water flooding, that might arise as a result of development.
- 6.52 The applicant has submitted a Flood Risk Assessment which has been considered by Essex County Council as the authority for sustainable drainage. Initially, ECC issued a 'holding objection' and required further work to be undertaken to ensure compliance with the guidelines set out in the relevant National Planning Practice Guidance. The applicant responded to the objection with further information requested and the objection has now been addressed. ECC now supports the grant of outline planning permission subject to conditions relating to the submission and subsequent approval of a detailed Surface Water Drainage Scheme before development can take place. It is noted that the expanded Pickers Ditch Walkway is proposed to contain attenuation features.
- 6.53 In conclusion, the applicant has demonstrated through their Flood Risk Assessment and supplementary information that development can, in principle, be achieved without increasing flood risk elsewhere. With the planning condition suggested by ECC, the scheme should comply with the NPPF and Policies QL3 and PLA1 of the adopted and emerging Local Plans (respectively) and therefore addresses the flood risk element of the environmental dimension of sustainable development.

Ecology

- 6.54 Paragraph 118 of the NPPF requires Councils, when determining planning applications, to aim to conserve and enhance biodiversity. Where significant harm to biodiversity cannot be avoided, mitigated or, as a last resort, compensated for, Councils should refuse planning permission. Policy EN6 of the adopted Local Plan and Policy PPL4 of the emerging Local Plan give special protection to designated sites of international, national or local importance to nature conservation but for non-designated sites still require impacts on biodiversity to be considered and thereafter minimised, mitigated or compensated for.
- 6.55 Under Regulations 61 and 62 of the Habitats Regulations, local planning authorities as the 'competent authority' must have regard for any potential impact that a plan or project might have on European designated sites. The application site is not, itself, designated as site of international, national or local importance to nature conservation and is considerable distance from any designated sites. Officers consider that there will be no significant impacts on any designated sites and Natural England have written with no comment on the application. Officers are satisfied therefore that no further 'appropriate assessment' is required.

- 6.56 The applicant has prepared and submitted a Phase 1 Extended Habitat Survey to assess the ecological value of the site and immediate area itself and the potential impact of the development. Being in predominantly agricultural use, the ecological value of the site was expected to be low but consideration still needs to be given to any habitats potentially occupying the boundaries of the site. The survey covered all of the different parts of the site including the arable field, arable field margins, rough grassland with tree planting, hedgerows and ditches. The assessment looked at a range of flora and fauna and the findings are summarised below:
- 6.57 Bats: The survey identifies that a number of young to mature trees are present on the edge of the site and these were assessed for their potential to support roosting bats. A mature Oak tree was found to have a rot hole and split limb which might have had potential for roosting bats, but these were found to either be an inappropriate size for bats or to be used by nesting birds. A semi-mature Willow on the site was found to have large split on a downwards-arching limb that might have had bat potential, but this was assessed as being too exposed to the weather and therefore unlikely to be used. For foraging bats, some of the hedgerows around the site were considered to have some potential due to the presence of numerous trees but that with the majority of the site in intensive arable use, the site was assessed of being of relatively low ecological potential and that further survey work would unlikely to yield any useful data. This is particularly as the features most likely to be used by bats will be retained and enhanced as part of the proposal. It is recommended that any lighting scheme be sensitively designed to reduce night-time illumination of the relevant trees.
- 6.58 Badgers: No Badger setts or other signs of use by Badgers were identified on the site, although it is anticipated that Badgers might pass through the site following the line of the hedgerows which afford some limited foraging potential. To safeguard against any potential adverse impact on Badgers, the report recommends a number of measures that could be secured through a mitigation plan that would be required by planning condition if the proposal is approved.
- 6.59 Other Mammals: There are records for Hedgehogs and Harvest Mouse using the local area but the ditch was considered to be unsuitable for Water Voles, with no records of this species being identified in desk-top survey information. The rough grassland and field margins around the site were considered to have some limited potential for Field Vole and Shrews but on balance the site was considered to be of no more than low ecological value and the measures recommended to safeguard reptiles would equally serve to protect these species.
- 6.60 Amphibians: No ponds were recording within the site, with the nearest sqm 0.5km to the north of the main field, separated from the site by open arable land with no direct commuting routes. The ditch was considered to be unsuitable for Great Crested Newts, being heavily overshadowed with steep sided banks and only occasional localised patches of shallow water. Whilst the field margins and hedgerows might afford some potential for foraging and shelter, the habitats are largely suboptimal for Great Crested Newts, with the majority of the site being dominated by arable land. However, specific mitigation measures are proposed to guard against any potential adverse impacts on Newts and other species.
- 6.61 Reptiles: Whilst there are records for Slow-worm and Common Lizard in the general area, the potential for such species to be present on the site itself is reduced by the intensive arable use of the land – although the hedgerows and field margins might afford some potential to support common reptiles. No specific evidence of such species was identified as part of the survey. Precautionary measures to ground clearance are however proposed to safeguard reptiles in the unlikely event that they are found to be present.

- 6.62 Birds: Birds seen within the site included Common Gull, Blue Tit, House Sparrow and Robin; but there are records of other common species using the site including Great Tit and Woodpigeon. The loss of some hedgerow which might affect these common species will be compensated for through new hedgerow planting and the creation of swathes of wildflower grassland. This will not only enhance the habitat for birds, but also invertebrates. Development should avoid disturbance of birds during the breeding season.
- 6.63 Invertebrates: Wasps and Spiders were seen on the site during the survey, but records show that Butterflies use the field margins. The site is dominated by cereal crop which lacks diversity and is therefore unlikely to attract varied invertebrate assemblages. There is no evidence of the presence of any rare or notable invertebrates and the value of the site is considered to be low or negligible.
- 6.64 Recommended enhancements for the site include woodland edge planting, new native hedgerow planting, bolstering of hedgerows, wildflower grassland, new tree planting, attenuation ponds, bat boxes and bird boxes which can all be secured through an ecological mitigation plan. The report also suggested management arrangements which can form part of such a mitigation plan.
- 6.65 Officers concur with the findings of the report and consider that the ecological value of the site is generally low with the potential to secure significant enhancements through the development. A condition is suggested to secure an ecological mitigation plan that will detail the protection and enhancement measures that will need to be agreed by the Council prior to the commencement of the development.

Archaeology

- 6.66 The applicants have also considered the archaeological value of the site and there is evidence that some archaeological remains of historical significance could potentially be beneath the soil. In line with the recommendation within the applicants' assessment and the general approach advocated by Essex County Council's Archaeologist, a condition will be applied if the Committee is minded to approve, to ensure trial trenching and recording is undertaken prior to any development to ascertain, in more detail, what archaeological remains might be present.

Education provision

- 6.67 Policy QL12 in the adopted Local Plan and Policy PP12 in the emerging Local Plan require that new development is supported by the necessary infrastructure which includes education provision. A large number of local residents have expressed concern that local schools will not be able to cope with the expected increase in population arising from the 200 new homes, particularly when considered alongside other proposals for major residential development under consideration in the wider area.
- 6.68 Essex County Council as the Local Education Authority has been consulted on the planning application and has made representations. ECC has requested a £250,740 contribution towards early years and childcare provision, a £733,080 contribution towards primary provision and a contribution towards secondary provision of £742,440. The requested contribution towards secondary education has been queried with ECC because it runs contrary to previous advice in respect of development in Rush Green Road (a proposal subject of an appeal against refusal) where the advice was that a deficit in secondary provision arose as a result of the decision taken to close the Tendring Enterprise Studio School and that, under these circumstances it would have been inappropriate to request a contribution for additional secondary school places. Whilst, at the time of writing, Officers had not received a response from ECC to this point, it would appear unreasonable to

expect this development to contribute financially towards secondary provision when school in Jaywick Lane could be reopened, if necessary, to meet future demands.

- 6.69 The applicants have indicated a willingness to pay the primary school contribution but they do not agree with contributing towards early years and childcare provision as it is not a statutory educational requirement and, in their view, would be contrary to the regulations that control what can reasonably and legally be secured through s106 legal agreements. Officers do not accept this in principal stance as policies allow for securing EY&C contributions and it is common practice throughout Essex for these to be secured through s106 agreements on major developments. However, if the ability for the scheme to make financial contributions is limited by economic viability (discussed below), then it would be reasonable to expect that contributions towards primary school provision would take priority over those for EY&C provision.

Health provision

- 6.70 The requirement of the NPPF to promote the creation of high quality environments with accessible local services that reflect the community's needs also extends to health provision, another matter of considerable concern amongst local residents. Again through Policy QL12 in adopted Local Plan and Policy HP1 in the emerging Local Plan, new development needs to be supported by the necessary infrastructure, including health provision. As this the case across most parts of the district, local health services are operating either at, close to or above capacity in catering for the needs of the current population. One of the roles of the Local Plan is to ensure that major residential developments are planned alongside agreed investment in an area's infrastructure to accommodate anticipated increases in population. For health provision, this could mean the expansion of existing facilities or through the provision of new ones.
- 6.71 At pre-application stage, Officers encouraged dialogue between the applicants and the NHS to explore the possibility of establishing a new purpose-built medical facility on this site as part of the mix of uses – given the growing health needs of Clacton and the site's highly accessible location off the A133 in an area that is expected to accommodate significant longer-term housing growth. The applicants have been carried out such discussions, but the NHS is still in the process of reviewing its plans for future investment and has been unable to commit to any proposal to create a facility on this site. Instead, NHS England has provided its standard Health Impact Assessment for the development proposal and has requested a financial contribution of just over £69,000 is requested to mitigate the capital cost to the NHS for the provision of additional healthcare services. The funding is most likely, depending on specific timescales, to go towards relocation costs for Great Clacton Medical Practice.
- 6.72 Subject to viability (covered below), this contribution will be secured through the s106 legal agreement if the Committee was minded to approve planning permission.

Utilities

- 6.73 With regard to sewage capacity, Anglian Water has advised that there is sufficient capacity in the foul sewerage network to deal with the levels of effluent expected from this scheme of and has made no objections to the proposal subject to conditions to require a surface water management strategy and a foul water strategy being submitted and agreed.

Open space/Pickers Ditch Walkway

- 6.74 One of the key elements of this proposal is the substantial expansion of the Pickers Ditch Walkway along the northern edge of the existing built up area. It has long been the goal of the Council to create a continuous green corridor along Pickers Ditch providing a link for

walkers and cyclists from the west of the town all the way through to Holland Haven in the east. Over many years, sections of the walkway have been completed and Policy COM8a in the adopted Local Plan clearly sets out the aspiration to deliver a further 52 hectares of green space along the route of Pickers Ditch in the future.

- 6.75 This development provides the opportunity to expand upon and significantly enhance this particular section of the walkway which, in parts is extremely narrow, has poor surveillance and where there is evidence of vandalism and misuse. The expansion of the walkway by some 2.5 hectares will enable the creation of enhanced and safer walkways, greater security, habitat creation and sustainable drainage features. It will also ensure the retention of important trees around the site and will act as a buffer between the dwellings closest to the site and the new development that is proposed. Measures to improve the appearance, security and safety of the existing A133 subway/underpass will also be secured.
- 6.76 The applicant has suggested the transfer of the land to the Council with a financial contribution towards its layout and future maintenance. Another option could be for the open space to be laid out prior to its transfer to the Council, but these are matters that can be negotiated through a s106 agreement. Essex County Council's request for a multi-use games area and skate board facilities are noted and consideration will be given to the practicality, viability and appropriateness of such a facility in this location but the priority will be the creation of an informal open space for walkers and cyclists.
- 6.77 Policy COM6 in the adopted Local Plan and Policy PEO22 of the emerging Local Plan require large residential developments to provide at least 10% of land as public open space or otherwise make financial contributions toward off-site provision. For the residential element of the scheme for which outline approval is being sought, there will be some incidental open space within the scheme but the additional land at Pickers Ditch Walkway will be substantially greater than the normal 10% requirement.

Council Housing/Affordable Housing

- 6.78 Policy HG4 in the adopted Local Plan requires large residential developments to provide 40% of new dwellings as affordable housing for people who cannot otherwise afford to buy or rent on the open market. Policy LP6 in the emerging Local Plan, which is based on more up to date evidence on viability, requires 30% of new dwellings on large sites to be made available to the Council to acquire at a discounted value for use as Council Housing. The policy does allow flexibility to accept as low as 10% of dwellings on site, with a financial contribution toward the construction or acquisition of property for use as Council Housing (either on the site or elsewhere in the district) equivalent to delivering the remainder of the 30% requirement.
- 6.79 The Council's Housing Needs team has commented on the application and advised that there is a significant need for affordable housing in the area based on evidence from the local housing register. Therefore, if possible, the scheme is expected to deliver the full 30% affordable housing requirement and the housing team has suggested that a registered provider other than the Council may be better placed to acquire these dwellings at a discounted value. If the Committee is minded to approve this application, Officers will negotiate and agree an appropriate level of Council Housing to be secured through a s106 legal agreement – however, economic viability may have a bearing on the level secured. .

Economic Viability

- 6.80 Paragraph 173 in the NPPF states that pursuing sustainable development requires careful attention to viability and cost in both plan-making and decision-taking. The applicant has submitted, on a commercially confidential basis, an assessment of economic viability which suggests that the scheme would be unable to afford the provision of affordable or Council

housing within the scheme. If the Committee is minded to approve this application, Officers will have the viability assessment independently reviewed.

- 6.81 The applicant has also submitted draft 'heads of terms' for a s106 legal agreement which propose the following:
- 12 'shared ownership' homes or a financial contribution in the event that no registered provider is interested in acquiring the properties;
 - The primary school contribution of £733,080 as requested by ECC, but no contribution to early years and childcare or secondary provision;
 - The transfer of the Pickers Ditch Walkway land to the Council with a financial contribution for its planting, laying out and future maintenance.
- 6.82 The Council's preference would naturally be the full 30% social rented or intermediate housing, the full contributions towards education, the health contribution and the transfer of Pickers Ditch land to the Council with necessary contributions. However, if an independent assessment of viability confirms that there is a limit to what can realistically be secured, these contributions will need to be prioritised and an appropriate s106 agreement will need to be negotiated. It is likely that the Pickers Ditch Walkway and the contribution towards primary school places will be the highest priorities.

Design, layout and impact on residents

- 6.83 As a hybrid application, detailed design and layout drawings have only been submitted for the retail units, pub/restaurant, hotel, drive-thru restaurants and the Pickers Ditch open space. The residential and business uses are in outline at this stage, with details being reserved for future consideration.
- 6.84 The overall layout of the scheme comprises the expansion of Pickers Ditch Walkway to the south which will ensure a significant area of separation between the new buildings and existing dwellings on the adjoining housing estate – there are consequently no concerns over any overlooking or unacceptable residential amenity impacts – subject to appropriate lighting and landscaping. The retail and commercial uses are located on the eastern half of the site to ensure the most direct access for vehicles and commercial vehicles and to reflect the presence of commercial activity on the opposite side of the A133. The residential and associated amenity space would be located within the western part of the site which responds appropriately to the provisional allocation of land to the west for long-term residential growth.
- 6.85 Turning to the designs of the buildings for which detailed approval is sought, the designs are generally standard format designs for the proposed occupiers and there is no surrounding context or style of development that indicates the requirement for bespoke design. Indeed the buildings on the existing Brook Park Retail Park are of standard format design.
- 6.86 For the food store, the building is designed to the standard specification of retailers Lidl. The store is single storey with staff mezzanine floor and topped with a mono-pitch roof. The mono-pitch roof drops in height west to east, with full height glazing in the southern elevation to enable natural light penetration of the sales floor inside. The other elevations comprise white-finish render and aluminium cladding. Given the context of the site on the opposite side of the A133 to a retail park utilising basic and standard functional designs, Officers are content with the proposed quality and appearance of the proposed Lidl building.
- 6.87 For the Family Public House and the Lodge Hotel are designed to the specification of Marston's. The buildings will be separate, but linked commercially. The architectural design of the proposed pub restaurant building has been developed as a series of building

elements focussed around a central core, aimed at reducing the perceived mass of the building. The hotel adopts a simpler use of materials and roof-scale that will be sympathetic to the scale of the associated pub. Materials will comprise cream render, red facing brickwork, grey-pointed timber cladding and contrast coloured roof tiles. The complex will include a fenced children's external play area. Officers are satisfied that in this location, the design of build would be acceptable.

- 6.88 For the MacDonalds Drive Thru, the building is designed to meet operational requirements. It has a footprint of 442 sqm. The proposed building has a distinctive glazed customer area orientated to address the main frontage of the site. It would be a single-storey building utilising materials that will mainly reflect the brand image. Wall elevations are treated using a mixture of walnut effect solid core laminate panels, with contemporary grey block below. Subject to appropriate screening and assimilation with the expanded Pickers Ditch Walkway, Officers are satisfied that this standard design would be acceptable in this location.
- 6.89 For the second Drive-Thru, the building is designed to the specification of Costa Coffee. It is a single storey drive thru coffee shop totalling 190 sqm of floorspace. It would be a simple contemporary building. The main body will consist of thru coloured render in white, with contrasting horizontally laid timber cladding.
- 6.90 Only outline consent is sought for the residential and employment development shown, on the indicative masterplan, to occupy around 6.8 hectares and 1.3 of land respectively. The average net density of the housing would be around 29 dwellings per hectare which is slightly above that of the neighbouring housing estate. To achieve this average density, there will be variations in density throughout the site and the indicative diagrams show lower density housing around the outside of the site with higher density elements within the centre.

Overall Planning Balance

- 6.91 Because the Council's adopted Local Plan is out of date in respect of retail, employment and housing needs and a five-year supply of deliverable housing sites cannot currently be identified, the National Planning Policy Framework (NPPF) requires that development be approved unless the adverse impacts would significantly and demonstrably outweigh the benefits, or if specific policies within the NPPF suggest development should be refused. The NPPF in this regard applies a 'presumption in favour of sustainable development' for which sustainable development addresses economic, social and environmental considerations.
- 6.92 Economic: The proposal carries significant economic benefits and opportunities for job creation (around 200 jobs estimated) across a range of sectors and the proposal has been independently assessed to confirm that, subject to imposing certain planning conditions, there is unlikely to be a significant adverse impact on the vitality and viability of Clacton Town Centre. The economic benefits carry significant weight in the overall planning balance.
- 6.93 Social: The provision of up to 200 dwellings toward meeting projected housing need, at a time when the Council is unable to identify a five-year supply, is a significant social benefit which again carries a high level of weight in the overall planning balance – particularly as government policy is to boost housing supply. Additional social benefits include the proposed expansion of the Pickers Ditch walkway which will help minimise visual impacts for residents of the existing housing and improve use, surveillance and security in this location. The impacts of health and schools provision will be mitigated through financial contributions to be secured through a s106 agreement, if the application is approved. As a site located on the edge of the district's largest town, the proposal performs well in respect

of social sustainability and will serve the expanding population of Clacton if the wider Hartley Gardens development takes place in the longer term.

- 6.94 Environmental: The site is not particularly sensitive in terms of its landscape character and ecological value and the expansion of Pickers Ditch Walkway offers the potential for a significant environmental enhancement in the area. The development will result in a loss of a large area of agricultural land, but this is the inevitable cost of meeting future development needs in a district with a limited supply of previously developed brownfield land. The loss of this section of the Local Green Gap is not considered to be a significant adverse impact given the proposals in the emerging Local Plan for this area to accommodate long-term strategic growth.
- 6.95 In the overall planning balance, Officers consider that the adverse impacts do not significantly and demonstrably outweigh the benefits and, on this occasion, the benefits are considerable. The application is therefore recommended for approval subject to a s106 legal agreement and a range of planning conditions – including those required to restrict the use of the retail units in the interest of safeguarding the vitality and viability of Clacton Town centre.

Background Papers

None.