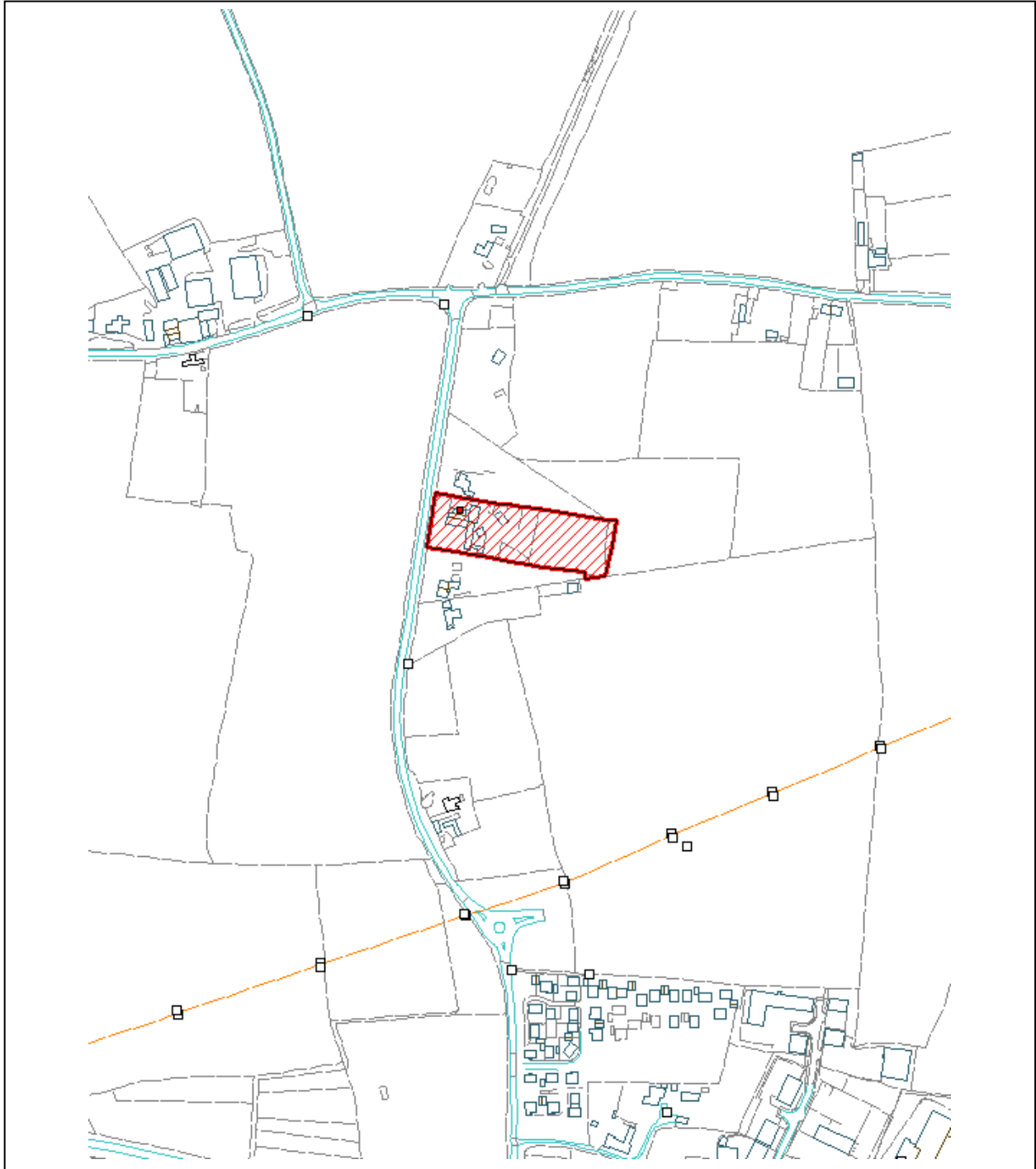


PLANNING COMMITTEE

15th December 2020

REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING

**A.1 PLANNING APPLICATION – 19/01598/FUL – CROSSWAYS GARDEN CENTRE
THORPE ROAD LITTLE CLACTON CLACTON ON SEA CO16 9RZ**



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Application: 19/01598/FUL

Town / Parish: Little Clacton Parish Council

Applicant: Ms Perry

Address: Crossways Garden Centre Thorpe Road Little Clacton Clacton On Sea Essex
CO16 9RZ

Development: Erection of 21 houses and associated development following demolition of existing buildings.

1. **Executive Summary**

- 1.1 This application is referred to Planning Committee as it represents a departure from the adopted Tendring District Local Plan, as the site lies outside of the Settlement Development Boundary and due to viability issues the required contributions are not being fully provided.
- 1.2 This application seeks full planning permission for the erection of 21 no. dwellings on a site which was a former garden centre. The site whilst outside the Settlement Development Boundary in the Saved Plan is included within the Settlement Development Boundary in the Draft Plan and is therefore considered to be a sustainable location for residential development, which outweighs the potential for loss of employment land.
- 1.3 The design, density, scale and layout of development is considered to be acceptable and the impact on neighbouring resident's amenities is not considered sufficient to warrant a reason for refusal.
- 1.4 The proposal does not provide the full financial contributions or affordable housing, however, this has been supported by a Financial Viability Assessment which has been independently assessed. It is therefore considered that the payments proposed are reasonable given the nature of the site.

Recommendation:

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

- a) Within 6 (six) months of the date of the Committee's resolution to approve, the completion of a legal agreement under the provisions of section 106 of the Town and Country Planning Act 1990 dealing with the following matters (where relevant):
 - Financial Contribution towards RAMS (£2,637.18)
 - Primary Education Contribution (£91,456.50)
 - Primary School Transportation (£90,744.57)
 - Financial Contribution towards future speed reduction measures for Thorpe Road (£10,925)
 - Affordable Housing Off-Site Financial Contribution (£120,000)
 - Open Space financial contribution (£53,504.95)
 - Management of amenity areas and open space by Management Company
 - Review mechanism in relation to viability
- b) Subject to the conditions stated in section 8.2

- c) That the Head of Planning be authorised to refuse planning permission in the event that such legal agreement has not been completed within the period of 6 (six) months, as the requirements necessary to make the development acceptable in planning terms had not been secured through a s106 planning obligation.

2. **Planning Policy**

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

National Planning Policy Framework 2019 (NPPF)

Adopted Local Plan Policies (2007)

QL1	Spatial Strategy
QL2	Promoting Transport Choice
QL3	Minimising and Managing Flood Risk
QL9	Design of New Development
QL10	Designing New Development to Meet Functional Needs
QL11	Environmental Impacts and Compatibility of Uses
QL12	Planning Obligations
ER3	Protection of Employment Land
HG1	Housing Provision
HG3A	Mixed Communities
HG6	Dwelling Size and Type
HG7	Residential Densities
HG9	Private Amenity Space
COM1	Access for All
COM31a	Sewerage and Sewage Disposal
EN1	Landscape Character
EN6	Biodiversity
EN6a	Protected Species
EN6b	Habitat Creation
EN11A	Protection of International Sites European Sites and RAMSAR Sites
TR1a	Development Affecting Highways
TR7	Vehicle Parking at New Development

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

SP1	Presumption in Favour of Sustainable Development
SP2	Spatial Strategy for North Essex
SP4	Providing for Employment & Retail
SP5	Infrastructure & Connectivity
SP6	Place Shaping Principles
SPL1	Managing Growth
SPL2	Settlement Development Boundaries
SPL3	Sustainable Design
HP3	Green Infrastructure
HP5	Open Space, Sports and Recreation Facilities
LP1	Housing Supply
LP2	Housing Choice
LP3	Housing Density and Standards
LP4	Housing Layout
PP6	Employment Sites

PP12	Improving Education and Skills
PPL1	Development and Flood Risk
PPL4	Biodiversity and Geodiversity
PPL5	Water Conservation, Drainage and Sewerage
CP1	Sustainable Transport and Accessibility
CP2	Improving the Transport Network

Status of the Local Plan

- 2.1 The 'development plan' for Tendring is the 2007 'adopted' Local Plan. Paragraph 213 of the NPPF (2019) allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF. Paragraph 48 of the NPPF also allows weight to be given to policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency with national policy. As of 16th June 2017, the emerging Local Plan for Tendring is the Tendring District Local Plan 2013-2033 and Beyond Publication Draft.
- 2.2 Section 1 of the Local Plan (which sets out the strategy for growth across North Essex including Tendring, Colchester and Braintree) was examined in January and May 2018, with further hearing sessions in January 2020. The Inspector issued his findings in respect of the legal compliance and soundness of the Section 1 Plan in May 2020. He confirmed that the plan was legally compliant and that the housing and employment targets for each of the North Essex Authorities, including Tendring, were sound. However, he has recommended that for the plan to proceed to adoption, modifications will be required – including the removal of two of the three Garden Communities 'Garden Communities' proposed along the A120 (to the West of Braintree and on the Colchester/Braintree Border) that were designed to deliver longer-term sustainable growth in the latter half of the plan period and beyond 2033.
- 2.3 The three North Essex Authorities are currently considering the Inspector's advice and the implications of such modifications with a view to agreeing a way forward for the Local Plan. With the Local Plan requiring modifications which, in due course, will be the subject of consultation on their own right, its policies cannot yet carry the full weight of adopted policy, however they can carry some weight in the determination of planning applications – increasing with each stage of the plan-making process.
- 2.4 The examination of Section 2 of the Local Plan (which contains more specific policies and proposals for Tendring) will progress once modifications to the Section 1 have been consulted upon and agreed by the Inspector. Where emerging policies are particularly relevant to a planning application and can be given some weight in line with the principles set out in paragraph 48 of the NPPF, they will be considered and, where appropriate, referred to in decision notices. In general terms however, more weight will be given to policies in the NPPF and the adopted Local Plan.

In relation to housing supply:

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

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

3. Relevant Planning History

00/01226/FUL	Proposed porch	Approved	12.09.2000
95/00124/FUL	(Crossways Garden Centre, Thorpe Road, Little Clacton) New vehicular access	Approved	28.09.1995
98/00423/FUL	Erection of protective canopy over existing garden centre display area	Approved	18.05.1998
05/02134/FUL	Extension and detached garage/gym	Refused	15.02.2006
06/00349/FUL	Extension and detached garage/gym	Approved	25.04.2006
00/01718/FUL	Retention of polythene clad growing tunnel and timber shed. Buildings for garden centre/horticultural use	Approved	30.05.2001
95/00124/FUL	(Crossways Garden Centre, Thorpe Road, Little Clacton) New vehicular access	Approved	28.09.1995
95/01354/FUL	(Crossways Garden Centre, Thorpe Road, Little Clacton) Amendment of position for new vehicular access granted under application TEN/95/0124	Withdrawn	19.07.1996
96/00742/FUL	(Crossways Garden Centre, Thorpe Road, Lt Clacton) Use of land as garden to Crossways and variation of condition 1 of 262/77	Approved	16.04.1997
06/01756/FUL	New refreshments building and erection of security railings to road	Approved	15.02.2007

frontage.

4. Consultations

Essex County Council Ecology
02.11.2020

No objection subject to securing:

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

The Extended Phase 1, Bat Emergence and Reptile Surveys relating to the likely impacts of development on designated sites, protected species and priority species & habitats has been reviewed and the Ecology Team are satisfied that there is sufficient ecological information available for determination.

This provides certainty for the LPA of the likely impacts on protected and Priority species & habitats and, with appropriate mitigation measures secured, the development can be made acceptable.

The mitigation measures identified in the Extended Phase 1, Bat Emergence and Reptile Surveys (Hillier Ecology, November 2019) should be secured and implemented in full. This is necessary to conserve and enhance protected and Priority Species. As mentioned in the report, a Reptile Mitigation Strategy will be required as the site supports a low population of Common Lizards.

It is noted that Tendring DC have prepared a project level HRA Appropriate Assessment which identifies that the development is approximately 6km from Hamford Water Special Protection Area and Ramsar and also a similar distance from the Colne Estuary Special Protection Area and Ramsar and the Essex Estuaries Special Protection Area. Therefore this site lies within the Zone of Influence (ZOI) for the Essex Coast RAMS and delivery of mitigation measures in perpetuity will therefore be necessary to ensure that this proposal will not have an adverse effect on the integrity of the above Habitats sites from recreational disturbance, when considered 'in combination' with other plans and projects. It is also noted that Tendring DC will secure the Essex Coast RAMS contribution pre dwelling under a legal agreement.

We also support the proposed reasonable biodiversity enhancements, which have been recommended to secure measurable net gains for biodiversity, as outlined under Paragraph 170d of the National Planning Policy Framework 2019. The reasonable biodiversity enhancement measures should be outlined within a Biodiversity Enhancement Strategy and should be

secured as a condition of any consent. This will enable LPA to demonstrate its compliance with its statutory duties including its biodiversity duty under s40 NERC Act 2006.

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

Submission for approval and implementation of the details below should be a condition of any planning consent.

1. All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Extended Phase 1, Bat Emergence and Reptile Surveys (Hillier Ecology, November 2019) already submitted with the planning application and agreed in principle with the local planning authority prior to determination.

This may include the appointment of an appropriately competent person e.g. an ecological clerk of works (ECoW,) to provide on-site ecological expertise during construction. The appointed person shall undertake all activities, and works shall be carried out, in accordance with the approved details.

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

2. No development shall take place until a Reptile Mitigation Strategy addressing the mitigation and translocation of reptiles has been submitted to and approved in writing by the local planning authority. The Reptile Mitigation Strategy shall include the following.

- a) Purpose and conservation objectives for the proposed works.
- b) Review of site potential and constraints.
- c) Detailed design(s) and/or working method(s) to achieve stated objectives.
- d) Extent and location/area of proposed works on appropriate scale maps and plans.
- e) Type and source of materials to be used where appropriate, e.g. native species of local provenance.
- f) Timetable for implementation demonstrating that works are aligned with the proposed phasing of development.
- g) Persons responsible for implementing the works.
- h) Details of initial aftercare and long-term maintenance of the Receptor area(s).
- i) Details for monitoring and remedial measures.
- j) Details for disposal of any wastes arising from works.

The Reptile Mitigation Strategy shall be implemented in accordance with the approved details and all features shall be retained in that manner thereafter.

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

3. A Biodiversity Enhancement Strategy for Protected and Priority species shall be submitted to and approved in writing by the local planning authority.

The content of the Biodiversity Enhancement Strategy shall include the following:

- a) Purpose and conservation objectives for the proposed enhancement measures;
- b) detailed designs to achieve stated objectives;
- c) locations of proposed enhancement measures by appropriate maps and plans;
- d) persons responsible for implementing the enhancement measures;
- e) details of initial aftercare and long-term maintenance (where relevant).

The works shall be implemented in accordance with the approved details and shall be retained in that manner thereafter.

Reason: To enhance Protected and Priority Species/habitats and allow the LPA to discharge its duties under the s40 of the NERC Act 2006 (Priority habitats & species).

4. A lighting design scheme for biodiversity shall be submitted to and approved in writing by the local planning authority. The scheme shall identify those features on site that are particularly sensitive for bats and that are likely to cause disturbance along important routes used for foraging; and show how and where external lighting will be installed (through the provision of appropriate lighting contour plans, Isolux drawings and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory.

All external lighting shall be installed in accordance with the specifications and locations set out in the scheme and maintained thereafter in accordance with the scheme. Under no circumstances should any other external lighting be installed without prior consent from the local planning authority.

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

ECC Schools Service
12.11.2019

It has been calculated that this development would generate 1.9 EY & C pupils, 6.3 primary school pupils and 4.2 Secondary school pupils.

Early Years and Childcare

The proposed developments located within the Little Clacton & Weeley ward and will create the need for an additional 1.9 places. According to Essex County Council's childcare sufficiency data, published in Summer 2018 there are 7 providers of early years and childcare in the area. Overall there are more than 20 vacant childcare places recorded. Essex County Council has a statutory duty under the Childcare Act 2006 to ensure that there is sufficient and accessible high quality early years and childcare provision to meet local demand. As there are sufficient places available in the area, a developers' contribution towards new childcare places will not be required for this application

Primary Education

The proposed development sits within the area served by Engaines Primary School which offers 38 places each year. As at May 2019 the School was full in all year groups and was again expected to be so this September. The site also abuts the area served by Burrsville Infant Academy and Great Clacton Junior School. These schools are likewise full and expected to remain so. According to Essex County Council's 'Ten Year Plan' to meet demand for school places, the wider area is also under pressure with the groups covering both Little Clacton (Tendring Primary Group 1) and Clacton on Sea (Tendring Primary Group 2) potentially requiring additional capacity within the period. As set out in Tendring District Council's emerging Local Plan, the level of potential extra demand from new housing requires new school sites to be allocated.

A project to provide sufficient school capacity is proposed. An additional 6.3 places would be provided with an estimated cost of £96,270 at April 2019 prices. This equates to £15,281 per place and so, based on demand generated by this proposal set out above, a developer contribution of £96,270 index linked to April 2019 is sought to mitigate its impact on local primary education.

Having reviewed the proximity of the site to the nearest primary school, Essex County Council will also be seeking a primary school transportation contribution as there are no current safe walking routes from the development to the nearest primary school. The cost for providing this is £95,520.60 Index linked to April 2019 prices.

ECC Highways Dept
05.03.2020

Secondary Education

This proposed development is not considered to attract an education contribution in relation to secondary education needs as it is below Essex County Council's current threshold for places.

The information that was submitted in association with the application has been fully considered by the Highway Authority.

The proposed site will utilise an existing vehicular access. When compared with the former commercial use, the level of activity will be considerably reduced while the nature of vehicles will also change for the site. It appears that the application will retain adequate off-street parking and turning, for the proposed dwellings therefore:

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

1. No development shall take place, including any ground works or demolition, until a Construction Management Plan has been submitted to, and approved in writing by, the local planning authority. The approved plan shall be adhered to throughout the construction period. The Plan shall provide for:
 - i. the parking of vehicles of site operatives and visitors
 - ii. loading and unloading of plant and materials
 - iii. storage of plant and materials used in constructing the development
 - iv. wheel and underbody washing facilities
 - v. construction management plan

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

2. Prior to commencement of the development the planning application drawings shall be revised and submitted to and approved in writing by the Local Planning Authority to show the following:

- a) A revision to the vehicle access and parking arrangements for Plots 6 to 10.
- b) Kerb radii measuring 6m.
- c) A straight section of carriageway to be provided from the entrance junction for 10 metres.
- d) Special junction detail featuring entrance ramp/table.
- e) 2x2m Footways on both sides of the access road/

- bell mouth.
- f) Visibility splays clear of any parking spaces.
- g) 2 x 20 metre visibility splays at all junctions between a private road and adoptable road
- h) 6 metres in front of all parking spaces.
- i) A 0.5 metres no build zone on both sides of the 6-metre road.
- j) No windows, doors or other projections should extend over public areas.
- k) 1.5 x 1.5 metre pedestrian visibility splays at all vehicle accesses and clear of trees.
- l) 13.6 metres centre line bend radius kerbs on the 6-metre road and appropriate forward visibility (25 metres).
- m) The footways tapered to join the shared surface.
- n) Areas within the site identified for the purpose of loading/unloading/reception and storage of building materials and manoeuvring clear of the highway and retained at all times for that sole purpose as approved in writing by the Local Planning Authority.

The development shall be carried out in accordance with the approved drawings.

Reason: To protect highway efficiency of movement and safety and to ensure the proposal site is accessible by more sustainable modes of transport such as public transport, cycling and walking, in accordance with policy DM1 and DM9.

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

a) A priority junction off Thorpe Road to provide access to the proposal site. Junction shall include but not be limited to a 6.0-metre wide carriageway, 2no. 6 metre kerbed radii and a 2.4 x 180 metre visibility splay southbound and 2.4 x 205 metre visibility splay northbound.

b) A financial contribution of £11,500 (to be index linked) towards future speed reduction measures for Thorpe Road. This condition requires a Legal Agreement between the Applicant/Developer and the Highway Authority using the powers in Section 106 of the Highways Act, 1980.

Reason: To protect highway efficiency of movement and safety and to ensure the proposal site is accessible, in accordance with policy DM1 and DM17.

4. Prior to commencement of development, details of the estate roads and footways (including layout, levels, gradients, surfacing and means of surface water

drainage) shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure roads/footways are constructed to an appropriate standard in the interests of highway safety in accordance with Policy DM7.

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

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

6. Prior to occupation of the development each vehicular access shall be constructed at right angles to the highway boundary and to the carriageway. The width of the access at its junction with the highway shall not be more than 3.6 metres (equivalent of 4 low kerbs) for an individual access, shall be retained at that width for 6 metres within the site and shall be provided with an appropriate dropped kerb vehicular crossing of the footway/highway verge

Reason: to ensure that vehicles can enter and leave the highway in a controlled manner in the interest of highway safety in accordance with policy DM1.

7. The proposed boundary planting shall be planted a minimum of 1 metre back from the highway boundary and any visibility splay.

Reason: To ensure that the future outward growth of the planting does not encroach upon the highway or interfere with the passage of users of the highway, to preserve the integrity of the highway and in the interests of highway safety and in accordance with Policy DM1.

8. The proposed development shall not be occupied until such time as the vehicle parking area indicated on the approved plans, including any visitor parking spaces, has been hard surfaced, sealed and marked out in parking bays. The vehicle parking area and associated turning area shall be retained in this form at all times. The vehicle parking shall not be used for any purpose other than the parking of vehicles that are related to the use of the development unless otherwise agreed with the Local Planning Authority.

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

in accordance with Policy DM8.

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

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

10. All single garages should have a minimum internal measurement of 7m x 3m

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

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

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

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

Reason: To protect highway efficiency of movement and safety and to ensure the proposal site is accessible by more sustainable modes of transport such as public transport, cycling and walking, in accordance with policy DM1, DM9, DM10 and DM17.

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

Tree & Landscape Officer
12.11.2019

There are no trees or other significant vegetation in the main body of the application site however there appear to be a few isolated trees on the boundary of the site comprising primary Lombardy Poplar (*Populus nigra* 'Italica'). These trees are not a significant constraint on the development potential of the land and do not merit

retention or protection by means of a tree preservation order.

With regard to the layout and visual appearance of the development it appears that the shape and size of the public open space will help to provide a pleasant open character for the development but would not function well as a play space or recreational open space.

In terms of the way that the development will impact on and influence the character of the public realm it is considered that the design of the element fronting Thorpe Road would result in an undesirable urbanisation of the locality: primarily by the creation of hard surfacing for car parking in front of plots 1 to 5. Consideration should be given to this aspect of the development. If the dwelling and car parking were to be set back from Thorpe Road and new soft landscaping were to be carried out on the boundary with Thorpe Road then a more visually pleasing layout could be achieved.

The eastern boundary of the site is demarcated by an established hedgerow comprising indigenous species. It would be desirable to retain this boundary feature or to secure its replacement if it were necessary for it to be removed to facilitate the development of the land.

If planning permission is likely to be granted then a condition should be attached to secure details of soft landscaping ' including new tree planting.

UU Open Spaces
13.01.2020

There is currently a deficit of 2.22 hectares of equipped play in Little Clacton.

There is one play area in the village which is located along London Road and is a designated LEAP plus the Parish Playing Field has open space and used for all sports.

Due to the significant lack of play and open spaces facilities in the area, a contribution is justified and relevant to the planning application. The contribution would be used towards creating additional facilities and improvements at the Parish Playing Fields.

Housing Services

The application proposes 21 dwellings for older people. The Council's emerging Local Plan requires that 30% of dwellings on sites containing 11 more homes should provide affordable housing. This would equate to 6 dwellings on this application.

There is a high demand for housing from older people in the district, which is not surprising given the demographics of the district. There are currently 202 households over the age of 60 on the housing register seeking housing in the Clacton-on-Sea area.

Given the high demand for housing from older people in the Clacton area, my department would be looking to see affordable housing delivered on site.

ECC SuDS Consultee
06.11.2019

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

Condition 1

No works except demolition shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme should include but not be limited to:

- Limiting discharge rates to 1.1l/s for all storm events up to and including the 1 in 100 year rate plus 40% allowance for climate change. If foul water is proposed to be treated and discharged to the watercourse then it should be done so within the 1.1l/s discharge rate in order to ensure that flood risk is not increased.
- Provide sufficient storage to ensure no off site flooding as a result of the development during all storm events up to and including the 1 in 100 year plus 40% climate change event.
- Demonstrate that all storage features can half empty within 24 hours for the 1:100 plus 40% climate change critical storm event.
- Final modelling and calculations for all areas of the drainage system.
- The appropriate level of treatment for all runoff leaving the site, in line with the Simple Index Approach in chapter 26 of the CIRIA SuDS Manual C753. It should be noted that downstream defenders do not provide treatment for soluble metals and therefore, alone, are not a suitable form of treatment.
- Detailed engineering drawings of each component of the drainage scheme.
- A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features.
- A written report summarising the final strategy and highlighting any minor changes to the approved strategy.

Reason

- To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site.
- To ensure the effective operation of SuDS features over the lifetime of the development.
- To provide mitigation of any environmental harm which

may be caused to the local water environment
- Failure to provide the above required information before commencement of works may result in a system being installed that is not sufficient to deal with surface water occurring during rainfall events and may lead to increased flood risk and pollution hazard from the site.

Condition 2

Prior to occupation a maintenance plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, has been submitted to and agreed, in writing, by the Local Planning Authority. Should any part be maintainable by a maintenance company, details of long term funding arrangements should be provided.

Reason

To ensure appropriate maintenance arrangements are put in place to enable the surface water drainage system to function as intended to ensure mitigation against flood risk.

Failure to provide the above required information before commencement of works may result in the installation of a system that is not properly maintained and may increase flood risk or pollution hazard from the site.

Condition 3

The applicant or any successor in title must maintain yearly logs of maintenance which should be carried out in accordance with any approved Maintenance Plan. These must be available for inspection upon a request by the Local Planning Authority.

Reason

To ensure the SuDS are maintained for the lifetime of the development as outlined in any approved Maintenance Plan so that they continue to function as intended to ensure mitigation against flood risk.

TDC Building Control and Access
Officer
04.11.2019

No comments at this stage.

Anglian Water Services Ltd
05.11.2019

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

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

This response has been based on the following

submitted documents: Drainage strategy Development may lead to an unacceptable risk of flooding downstream. Anglian Water will need to plan effectively for the proposed development, if permission is granted. We will need to work with the applicant to ensure any infrastructure improvements are delivered in line with the development. It is noted that two options are proposed. A discharge via Package Treatment Plant or discharge via pumped regime to the public foul network. As previously stated, there is insufficient capacity in the network to accommodate a pumped regime with network upgrades/onsite storage. We therefore request a condition requiring an on-site drainage strategy

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

Prior to the construction above damp proof course, a scheme for on-site foul water drainage works, including connection point and discharge rate, shall be submitted to and approved in writing by the Local Planning Authority. Prior to the occupation of any phase, the foul water drainage works relating to that phase must have been carried out in complete accordance with the approved scheme. Reason To prevent environmental and amenity problems arising from flooding

TDC Environmental Protection
19.11.2019

Environmental Protection have reviewed the Geo-Environmental Desk Study and are satisfied with the findings. It should be noted that should contamination be found that was not previously identified during any stage of the application hereby approved or previous to this and not considered in the any remediation scheme it shall be made safe and reported immediately to the local planning authority.

Also a Construction Method Statement. This will be required and should be secured by condition and include the following:

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

TDC Waste Management
22.11.2019

Access roads to be of sufficient width to allow access of 26 tonne refuse HGV and allow vehicle to manoeuvre and turn so vehicles can drive in and out with minimal reversing. All access roads to be constructed to standard to withstand weight of 26 tonne refuse collection vehicle.

5. Representations

Little Clacton Parish Council

Object to the application:

The site has no pedestrian facilities and the nearest bus stops are approximately 1km away. The area already has high vehicle movement making it unsafe to cyclists. All of which goes against the NPPF 2019 which states applications should create places that are safe, secure and attractive, which minimise the scope for conflicts between pedestrians, cyclists and vehicles. This site would require all daily connections to shops, work and schools to be completed using vehicles.

If TDC are mindful to approve we will require S106 monies – consider open spaces/Plough Corner along with named school monies for Engaines Primary School.

6. Assessment

Site Context

- 6.1 The application site is located to the north of Clacton and the east of Little Clacton. It measures approx. 0.8 hectares and is currently occupied by a former garden centre known as 'Crossways'. It contains numerous buildings and infrastructure; a car park to the front of the site, a collection of larger warehouse type buildings housing the main customer commercial areas and numerous smaller buildings. The rear of the site is grass and low scale scrub planting to the boundaries.
- 6.2 To the immediate north of the site lies a detached 2 storey dwelling and large associated garden, where planning permission was granted (16/00912/FUL) for the erection of 5 no. dwellings and associate garaging and ancillary works. However, as there have been no Building Control applications or discharge of condition application it is considered that this consent has now expired.
- 6.3 Further north lies a chicken farm where planning permission was granted in June 2017 (16/00421/FUL) for 81 predominately single storey retirement dwellings. This consent has not yet been implemented but due to the pandemic they are legible to apply for an extension of time through an environmental approval process, which can only be refused if EIA or habitat regulation requirements are not met. Adjacent to this site there was also a further application for 81 no. dwellings (19/01081/OUT) which was refused due to viability issues and lack of an agreed S106 agreement.
- 6.4 To the south of the site lies a detached 2 storey dwelling, beyond which lies a more recently constructed chalet bungalow known as Shires. To the south of Shires lies land which was granted reserved matters consent in July 2019 (18/01800/DETAIL) for 250 dwellings (known as Oakwood Park).

Proposal

- 6.5 This application seeks planning permission for 21 two storey dwellings (5 no. 3 bed dwellings and 16 no. 4 bed dwellings), with access from Thorpe Road.
- 6.6 The proposal involves a parking area to the front of the site which provides visitor parking and parking for Plots 1-5, which are semi-detached and terraced units set back from the front boundary of the site in line with the neighbouring dwellings. Towards the centre of the site the proposed dwellings are arranged in a linear form either side of the access road with boulevard planting on one side. Towards the rear of the site is a private drive with a more informal layout. To the rear of the proposed terraced units is a private kitchen garden for residents use.

- 6.7 The proposed dwellings will have a contemporary appearance due mainly to the size and proportions of the windows. The proposed materials are grey/black slate roof tiles; red facing brickwork and grey UPVC windows.

Principle of Development

- 6.8 The application site is located outside of the defined Settlement Development Boundary as defined within the adopted Tendring District Local Plan (2007) but within the defined Settlement Boundary in the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (2017). However, given that the Emerging Plan is yet to be formally adopted and the fact that it could be argued that Policy QL1 of the Adopted Plan is out dated, it is considered that the assessment of the principle of development falls to be considered under the NPPF.
- 6.9 The NPPF requires Councils to boost significantly the supply of housing to meet objectively assessed future housing needs in full. In any one year, Councils must be able to identify five years' worth of deliverable housing land against their projected housing requirements (plus an appropriate buffer to ensure choice and competition in the market for land, account for any fluctuations in the market or to improve the prospect of achieving the planned supply). If this is not possible, or housing delivery over the previous three years has been substantially below (less than 75%) the housing requirement, paragraph 11 d) of the NPPF requires applications for housing development needing to be assessed on their merits, whether sites are allocated for development in the Local Plan or not.
- 6.10 At this current time, the supply of deliverable housing sites that the Council can demonstrate falls below 5 years and so the NPPF says that planning permission should be granted for development unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework as a whole. Determining planning applications therefore entails weighing up the various material considerations. The housing land supply shortfall is relatively modest when calculated using the standard method prescribed by the NPPF (which applies until such time that the figures in the new Local Plan are adopted).
- 6.11 In addition, the actual need for housing (as set out in the emerging Local Plan) was found to be much less than the figure produced by the standard method when tested at the recent Examination in Public of the Local Plan, as recently endorsed by the Local Plan Inspector. Therefore, in weighing the benefits of residential development against the harm, the Inspector's endorsement of the lower housing requirement figure is a strong material consideration which tempers the amount of weight that can reasonably be attributed to the benefit of additional new housing to address the perceived shortfall – given that, against the Local Plan housing requirement there is, in fact, a surplus of supply as opposed to a shortfall.
- 6.12 In the context of the 5 year housing land supply paragraph 11 d) of the NPPF requires applications for housing development to be assessed on their merits, whether sites are allocated for development in the Local Plan or not and it is important to consider whether any circumstances outweigh this conflict.
- 6.13 While the NPPF advocates a plan-led approach, it is important to consider whether any circumstances outweigh the conflict. Development should be plan led unless material considerations indicate otherwise and it is accepted that the site is not in a preferred location for growth.
- 6.14 In line with Paragraph 8 of the National Planning Policy Framework (2019), achieving sustainable development means meeting an economic objective, a social objective and an

environmental objective. The sustainability of the application site is therefore of particular importance. These are assessed below.

Economic

- 6.15 It is considered that the proposal would contribute economically to the area, for example by providing employment during the construction of the properties and from future occupants utilising local services. The site was a former garden centre, so was in employment use. Policy ER 3 of the Saved Plan states that:
- a) the Council will ensure that land in, or allocated in this Plan for employment use will normally be retained for that purpose. Its redevelopment or change of use for non-employment purposes will only be permitted if the applicant can demonstrate that it is no longer viable or suitable for any form of employment use. The applicant should either:
 - Submit evidence of a sustained but ultimately unsuccessful marketing exercise, undertaken at a realistic asking price; or
 - Show that the land (site or premises) is inherently unsuitable and/or not viable for any form of employment use.
 - b) Where the loss of an employment site is permitted, the applicant will normally be expected to provide a suitable alternative elsewhere in the district, or a financial contribution towards the Council's employment, training or regeneration programmes and initiatives.
 - c) This policy will not be applied where vacant business premises form a subordinate but integral part of an existing dwelling in the same ownership.
- A similar approach is set out in Policy PP6 of the Emerging Plan.

- 6.16 No evidence of any marketing campaign has been submitted. However, the Garden Centre has been closed for approx. 2 years and the employment use has already been lost. Furthermore, the site is in a poor state of repair and the opportunities for employment use will be severely limited without significant investment. In addition the site has been included within the Settlement Development Boundary but not allocated specifically for employment use. It is therefore considered that the loss of employment use would not be sufficient to justify refusal of the application.

Social

- 6.17 The NPPF seeks to support a prosperous rural economy. It promotes sustainable transport and seeks a balance in favour of sustainable transport modes to give people a real choice about how they travel recognising that opportunities to maximise solutions will vary between urban and rural areas. With regard to the social dimension, this means supporting strong, vibrant and healthy communities by supplying the housing required to meet the needs of present and future generations and creating a high quality environment with accessible local services. The site is located on the edge of Clacton.
- 6.18 In the Council's "Local Plan Settlement Hierarchy" document (April 2016), Clacton is identified as a Strategic Urban Settlement which is considered one of the most socially sustainable locations for development in the district, with good access to jobs, shops, services and public transport by foot and cycle. The inclusion of the site within the Settlement Development Boundary of the Emerging Plan further indicates the sustainability credentials of the site.

Environmental

- 6.19 The environmental role is about contributing to protecting and enhancing the natural and built environment which is considered below under the heading Scale, Layout and Appearance.

Scale, Layout and Appearance

- 6.20 Paragraph 8 of the National Planning Policy Framework 2019 (NPPF) sets out the overarching objectives for achieving sustainable development, one being the environmental objective which requires the planning system to contribute to protecting and enhancing our natural, built and historic environment. Furthermore, Paragraph 127 of the NPPF requires that development should respond to local character and history, and reflect the identity of local surroundings. It goes on to say that local distinctiveness should be promoted and reinforced. Saved Policy QL9 of the Tendring District Local Plan (2007) and Policy SPL3 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) seek to ensure that development is appropriate in its locality.
- 6.21 The site is located in an area which will undergo significant change with residential development permitted to the north, east and south-east of the proposed site. The consent granted to the north of the site (16/00912/FUL) was a low density development but this has now expired. Other nearby developments granted under (16/00421/FUL and 18/01800/FUL) are much higher density. It is therefore considered that whilst the proposed development is a high density it would not be out of character with the surrounding area.
- 6.22 The design of the dwellings has a modern appearance and will appear different to the surrounding development, with the large windows and grey window frames. However, in terms of size and scale they would not appear significantly out of place with the approved schemes and the use of red brick is a feature in the surrounding area. It is therefore considered that the design and appearance of the proposed dwellings is acceptable.
- 6.23 Policy HG9 of the Tendring District Local Plan 2007 sets out the following requirements for private amenity space:
- For houses with 3 or more bedrooms a minimum of 100 square metres
 - For houses with 2 bedrooms a minimum of 75 square metres
 - For one bedroom houses a minimum of 50 square metres
- All proposed dwellings have garden areas of 100 square metres or more and therefore are policy compliant.

Highway Safety/Parking

- 6.24 Paragraph 108 of the National Planning Policy Framework 2019 seeks to ensure that safe and suitable access to a development site can be achieved for all users. Saved Policy QL10 of the adopted Tendring District Local Plan 2007 states that planning permission will only be granted if amongst other things; access to the site is practicable and the highway network will be able to safely accommodate the additional traffic the proposal will generate and the design and layout of the development provides safe and convenient access for people. The sentiments of this policy are carried forward within draft Policy SPL3 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017.
- 6.25 The site is to be served by one access point onto Thorpe Road, the proposed access is approx. 1.5 metres further north than the existing access. Essex County Council Highways have been consulted on the application and raise no objection (subject to conditions), they have stated that when compared with the former commercial use, the level of activity will be considerably reduced while the nature of vehicles will also change for the site.
- 6.26 Conditions have been recommended by Essex County Council Highways to cover the following: the submission of a Construction Management Plan; the detailed layout, including a footpath on both sides of the access road/bellmouth; a priority junction off Thorpe Road; a financial contribution towards future speed reduction measures for Thorpe Road (to form part of the S106 obligations); further details of estate roads, footpaths and turning facilities;

location of boundary treatment planting; provision of vehicle and cycle parking and the provision of Residential Travel Packs. These are included within the recommendation.

- 6.27 Conditions are also recommended with regards to sizes of car parking spaces and garage, however these are not included in the recommendation as with regards to car parking spaces the plans show compliance and whilst the garages do not meet the required size standards of 3m by 7m, there are not relied upon to provide car parking spaces in order to meet the standards.
- 6.28 The Essex County Council Parking Standards state that for dwellings with 2 or more bedrooms, 2 vehicle parking spaces are required, which measure 2.9 metres by 5.5 metres. The proposal complies with this requirement and adequate off-street parking is provided, together with 4 visitor parking spaces.

Landscaping

- 6.29 Saved Policy QL9 and EN1 of the Tendring District Local Plan (2007) and Policy SPL3 and PPL3 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) seeks to ensure that development is appropriate in its locality and does not harm the appearance of the landscape.
- 6.30 The site lies outside the Settlement Development Boundary in the Saved Plan but is not in any area designated for landscape value and is included within the Settlement Development Boundary in the Emerging Plan.
- 6.31 There are no trees or other significant vegetation in the main body of the application site however there are a few isolated trees on the boundary of the site comprising primary Lombardy Poplar (*Populus nigra 'Italica'*). These trees are not a significant constraint on the development potential of the land and do not merit retention or protection by means of a tree preservation order.
- 6.32 The layout of the proposed development with the boulevard planting, open space and shared kitchen garden will provide a pleasant open character for the development. It will not function well as play space or recreational space, but a contribution towards this type of provision will be secured by the S106.
- 6.33 The development will impact the surrounding area, which is an area already going through change with the Oakwood Park development and where it has been accepted that change will occur with the granting of other applications referred to in the 'Site Context' section of this report.
- 6.34 It is the Landscape Officers view that the element fronting Thorpe Road would result in an undesirable urbanisation of the locality; primarily by the creation of hard surfacing for car parking in front of Plots 1 to 5. It is accepted that the proposal could be improved with further landscaping to the front of the site, however, given that the existing hardstanding currently exists it is considered that this would be unreasonable to refuse the application on this basis, especially as some planting is proposed which is a benefit to the current situation.
- 6.35 It is therefore considered that the landscape impact of the proposal is acceptable subject to a condition to secure details of soft landscaping. It also will be advised that any approved scheme should include new tree planting and that it would be desirable to retain the established hedgerow along the eastern boundary.

Biodiversity

- 6.36 Paragraph 170 of the National Planning Policy Framework 2019 require that Local Planning Authorities contribute to and enhance sites of biodiversity or geological value whilst paragraph 174 requires Local Planning Authorities to safeguard components of local wildlife-rich habitats.
- 6.37 Saved Policies EN6 'Biodiversity' and EN6a 'Protected Species' of the adopted Tendring District Local Plan 2007 state that development proposals will not be granted planning permission unless existing local biodiversity and protected species are protected. A similar approach is taken in draft Policy PPL4 Biodiversity and Geodiversity of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017.
- 6.38 An Extended Phase 1, Bat Emergence and Reptile Survey has been submitted with the application this concludes that:
- The inspection of the buildings identified 'Building 3' as having moderate potential to support roosting bats and the building was subject to two emergence surveys; all other buildings have negligible potential to support roosting bats;
 - The emergence surveys produced a negative result for roosting bats and no specific licencing or mitigation is necessary; two species were recorded commuting and foraging during the surveys;
 - The survey of the trees indicated negligible potential to support roosting bats;
 - Installation of bat boxes, complemented by bat friendly lighting, would offer enhancements;
 - There was no evidence of Barn Owls using or having used the buildings;
 - There were no Badger setts and no evidence of Badgers using the site;
 - The reptile survey recorded a maximum of four Common Lizard during any one survey of the area comprising of 0.35 hectares indicating that a small population is present which will need protecting using an exclusion, capture and translocation method to prevent injury or death resulting from the development;
 - There was no evidence of Hedgehogs; and
 - All species of flora recorded are considered common and widespread.
- 6.39 Essex County Council Ecology have reviewed the proposal and have no objection subject to securing the RAMS contribution and conditions which form part of the recommendation. They support the proposed reasonable biodiversity enhancements, which have been recommended to secure measurable net gains for biodiversity, as outlined under Paragraph 170d of the National Planning Policy Framework 2019. The recommended conditions secure: compliance with the Extended Phase 1, Bat Emergence and Reptile Surveys; the submission of a Reptile Mitigation Strategy addressing the mitigation and translocation of reptiles; a Biodiversity Enhancement Strategy for Protected Species and submission of a wildlife sensitive lighting scheme which identifies those features on site that are particularly sensitive for bats and that are likely to cause disturbance along important routes used for foraging.
- 6.40 Subject to the recommended conditions the application is acceptable in relation to ecology and biodiversity.

Impact on Residential Amenity

- 6.41 Paragraph 127 of the National Planning Policy Framework 2019 states that planning should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings. Saved Policy QL10 of the adopted Tendring District Local Plan (2007) requires that all new development should meet functional requirements. In particular the policy states that planning permission will only be granted if; buildings and structures are orientated to ensure adequate daylight, outlook and privacy and provision is made for functional needs including private amenity space. Emerging Policy SPL3 of the Tendring

District Local Plan 2013-2033 and Beyond Publication Draft 2017 supports these objectives.

- 6.42 The proposal provides a good level of amenity for the proposed residents; there is adequate amenity space and no direct overlooking between properties.
- 6.43 With regards to the impact on neighbouring properties the proposal will have a significant impact on the amenities of both neighbouring residents, due to the proposed dwellings being 2 storey in height. There will be overlooking into both neighbouring properties, however, there will be a small area of amenity space that would not be overlooked for both properties. Also there was a development proposed on the land to the north and the land to the south is surrounded by new development and included within the Settlement Development Boundary, and therefore there is a reasonable prospect of both these sites being re-development.
- 6.44 The proposal will increase the level of activity on the site because at present it is vacant with no activity. However, the level of activity generated by the proposed development is not considered to be greater than that which could be generated by a commercial use (which is its authorised use).
- 6.45 Plots 12, 13 and 14 are situated a sufficient distance from the dwellings proposed under application 16/00421/FUL. The Essex Design Guide states that where habitable rooms are located at the rears of neighbouring properties and the rear facades face each other, a minimum spacing of 25m between the rears of the properties is required. An intervening fence or other visual barrier of above eye-level height (as viewed from the potential vantage point) should be incorporated to maintain an adequate level of privacy. A back to back distance of 27 metres is proposed.
- 6.46 On balance, it is considered that the proposal would not have a significant adverse impact on neighbour's amenities to warrant a reason for refusal, subject to conditions to remove permitted development rights for extensions, outbuildings and loft conversions.

Drainage

- 6.47 The site lies in Flood Zone 1 and the development area is less than 1 hectare, therefore no site specific flood risk assessment is required. However, the application is a major application and paragraph 65 of the NPPF states that "major developments should incorporate sustainable drainage systems unless there is clear evidence this would be inappropriate".
- 6.48 Saved Policy QL3 of the adopted Tendring District Local Plan (2007) seeks to minimise and manage flood risk. In addition Saved Policy EN13 of the adopted Local Plan states that development proposals should incorporate measures for the conservation and sustainable use of water. These aims are carried forward into draft Policy PPL5 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (2017).
- 6.49 As part of the application a Drainage Strategy has been submitted, Essex County Council SUDS as Lead Local Flood Authority have reviewed the submitted document and have no objection subject to the conditions which require a detailed surface water drainage scheme and maintenance plan to be submitted and approved and yearly logs of maintenance to be carried out.
- 6.50 Anglian Water have confirmed that they will need to plan effectively for the proposed development, if permission is granted and work with the applicant to ensure any infrastructure improvements are delivered in line with the development. It is noted that two options are proposed. A discharge via Package Treatment Plant or discharge via pumped

regime to the public foul network. There is insufficient capacity in the network to accommodate a pumped regime with network upgrades/onsite storage. Therefore request a condition requiring an on-site drainage strategy is recommended.

- 6.51 Subject to the recommended conditions relating to foul and surface water the drainage aspects of the development are acceptable.

Viability

- 6.52 Paragraph 57 of the NPPF states “Where up-to-date policies have set out the contributions expected from development, planning applications that comply with them should be assumed to be viable. It is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage. The weight to be given to a viability assessment is a matter for the decision maker, having regard to all the circumstances in the case, including whether the plan and the viability evidence underpinning it is up to date, and any change in site circumstances since the plan was brought into force. All viability assessments, including any undertaken at the plan-making stage, should reflect the recommended approach in national planning guidance, including standardised inputs, and should be made publicly available.”
- 6.53 As part of this application, the applicant has submitted a Financial Viability Assessment which has been independently reviewed on the Council’s behalf.
- 6.54 The Viability Assessment originally submitted proposed 1 affordable dwelling to be provided on site and the Council’s Independent Review concluded that *‘the Applicant has understated their sales values and the affordable housing offer should be in excess of 1 unit’ and have made an initial assessment that the ‘scheme can support a surplus of c. £1.09m’*. This was based on the scheme generating residual land value of c. £1.25m and a benchmark site value of c. £0.16m.
- 6.55 Following further discussions between the Applicant’s Viability Consultants and the Council’s Independent Reviewer, a residual land value of c. £0.48m and a benchmark site value of c. £0.32m was agreed. This was in light of the scheme being amended by the 5 bed units being removed, the scheme being 100% market housing (with no on-site affordable housing provision) and additional information being provided. Based on this proposal the Council’s Independent Reviewer concluded that the scheme generates a surplus of c. £0.12m and therefore can support a payment of £0.12m towards affordable housing and £0.25m towards S106 payments. This conclusion has not been disputed by the Applicant’s.
- 6.56 The required financial contributions are set out below and for ease of reference the recommendation sets out the requested financial contributions and that being sought. The amount is a decreased amount due the viability issues; and each financial contribution (apart from the RAMS contribution, which is a legal requirement), has been proportionally decreased. Officers consider that this is a fair approach, but this can be amended if Members do not agree, subject to it not adversely affecting the viability of the scheme.
- 6.57 The recommendation also includes a review mechanism within the S106 for the viability to be re-assessed at the time of commencement of development, in case the viability of the proposal improves.

Section 106 of the Town and Country Planning Act 1990

- 6.58 The NPPF states that Local Planning Authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be sought where they meet all the

following tests: necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development. These are set out and addressed below under the relevant sub-headings:

Recreational Disturbance

- 6.59 Under the Habitats Regulations, a development which is likely to have a significant effect or an adverse effect (alone or in combination) on a European designated site must provide mitigation or otherwise must satisfy the tests of demonstrating 'no alternatives' and 'reasons of overriding public interest'. There is no precedent for a residential development meeting those tests, which means that all residential development must provide mitigation.
- 6.60 The application scheme proposes new dwellings on a site that lies within the Zone of Influence (Zoi) being approximately 6km from Hamford Water Special Protection Area and Ramsar and also a similar distance from the Colne Estuary Special Protection Area and Ramsar and the Essex Estuaries Special Protection Area. New housing development within the Zoi would be likely to increase the number of recreational visitors to these designated sites; and, in combination with other developments it is likely that the proposal would have significant effects on the designated sites. Mitigation measures must therefore be secured prior to occupation.
- 6.61 The applicant has agreed to provide the required financial contribution (£2,637.18) in a legal agreement still to be completed. This will provide certainty that the development would not adversely affect the integrity of Habitats sites.
- Open Space and Play Space
- 6.62 Saved Policy COM6 and emerging Policy HP5 state that for residential development on a site of 1.5ha and above, where existing public open space and/or play equipment are inadequate, shall provide appropriate provision on-site or by way of a financial contribution towards the provision of new or improved off-site facilities to meet the projected needs of future occupiers of the development.
- 6.63 There is currently a deficit of 2.22 hectares of equipped play in Little Clacton. A contribution towards play and open space is therefore justified and relevant to this development. There is one play area in the village which is located along London Road and is a designated LEAP plus the Parish Playing Field has open space and used for all sports. The contribution would be used towards creating additional facilities and improvements at the Parish Playing Fields.
- 6.64 The Supplementary Planning Document supporting saved Policy COM6 provides a calculation for the open space contribution based on the bedroom size of each proposed dwelling. In this case this amounts to £56,321.00.
- 6.65 The applicant has agreed to provide a financial contribution in a legal agreement but due to the viability issues it is proposed to be a reduced amount of £53,504.95
- Affordable Housing
- 6.66 Saved Policy HG4 of the Tendring District Local Plan (2007) requires up to 40% of new dwellings on residential schemes of 5 or more units to be provided in the form of affordable housing to meet the needs of people that are unable to access property on the open market. Emerging Policy LP5 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) which is based on more up-to-date evidence of housing need and viability, requires for developments of 11 or more dwellings, the Council expect 30% of

new dwellings to be made available to Tendring District Council or an alternative provider to acquire at a proportionate discounted value for use as affordable housing.

- 6.67 There is a high demand for housing from older people in the district, which is not surprising given the demographics of the district. There are currently 202 households over the age of 60 on the housing register seeking housing in the Clacton-on-Sea area.
- 6.68 30% of dwellings equates to 6 dwellings. Given the high demand for housing from older people in the Clacton area, the Council would prefer to see the 6 affordable dwellings delivered on site.
- 6.69 However, as confirmed by the viability assessment the proposal cannot provide any on site affordable housing but an off-site financial contribution of £120,000 is proposed.

- Education

- 6.70 Policy COM26 of the Tendring District Local Plan 2007 states where necessary planning permission will only be granted for residential developments of 12 or more dwellings if land and/or financial contributions are made to provide the additional school places that will be needed to service the development. Policy PP12 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017 states planning permission will not be granted for new residential development unless the individual or cumulative impacts of development on education provision can be addressed, at the developer's cost, either on-site or through financial contributions towards off-site improvements.
- 6.71 Essex County Council request that if planning permission is granted it should be subject to a section 106 agreement to mitigate its impact on primary (£96,270) and primary school transport (£95,520.60). The total contribution requested is £191,790.60 as detailed below:

Essex County Council confirm a development of this size can be expected to generate the need for up to 1.9 Early Years and Childcare (EY&C) places; 6.3 primary school, and 4.2 secondary school places.

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

Primary Education - The proposed development sits within the area served by Engaines Primary School which offers 38 places each year. As at May 2019 the School was full in all year groups and was again expected to be so this September. The site also abuts the area served by Burrsville Infant Academy and Great Clacton Junior School. These schools are likewise full and expected to remain so. According to Essex County Council's 'Ten Year Plan' to meet demand for school places, the wider area is also under pressure with the groups covering both Little Clacton (Tendring Primary Group 1) and Clacton on Sea (Tendring Primary Group 2) potentially requiring additional capacity within the period. As set out in Tendring District Council's emerging Local Plan, the level of potential extra demand from new housing requires new school sites to be allocated.

A project to provide sufficient school capacity is proposed. The demand generated by this development would be 6.3 places, therefore a developer contribution of £96,270 is sought to mitigate its impact on local primary school provision.

Secondary Education - This proposed development is not considered to attract an education contribution in relation to secondary education needs as it is below Essex County Council's current threshold for places.

School Transport - Having reviewed the proximity of the site to the nearest primary school, Essex County Council will also be seeking a primary school transportation contribution as there are no current safe walking routes from the development to the nearest primary school. The cost for providing this is £95,520.60.

6.72 The applicant has agreed to provide a financial contribution in a legal agreement but due to the viability issues it is proposed to be a reduced amount of £182,201.07 (£91,456.50 towards Primary School Places and £90,744.57 towards Primary School transportation).

- Highways

6.73 Essex County Council Highways has commented on the proposal and have no objection subject to conditions and a legal agreement to secure a financial contribution of £11,500 towards future speed reduction measures for Thorpe Road. The applicant has agreed to provide a financial contribution but due to the viability issues it is proposed to be a reduced amount of £10,925.

7. Conclusion

7.1 This application seeks full planning permission for the erection of 21 no. dwellings on a site which was a former garden centre. The site whilst outside the Settlement Development Boundary in the Saved Plan is included within the Settlement Development Boundary in the Draft Plan and is therefore considered to be a sustainable location for residential development, which outweighs the potential for loss of employment land.

7.2 The design, density, scale and layout of development is considered to be acceptable and the impact on neighbouring resident's amenities is not considered sufficient to warrant a reason for refusal.

7.3 The proposal does not provide the full financial contributions or affordable housing, however, this has been supported by a Financial Viability Assessment which has been independently assessed. It is therefore considered that the payments proposed are reasonable given the nature of the site.

7.4 Subject to completion of the S106 and the conditions set out below the application is recommended for approval.

8. Recommendation

8.1 The Planning Committee is recommended to grant planning permission subject to the following conditions and informatives and the prior completion of a section106 legal agreement with the agreed Heads of Terms, as set out in the table below:

CATEGORY	TERMS	POLICY REQUIREMENT
Affordable Housing Provision	Off-Site Financial Contribution - £120,000	6 Affordable Dwellings provided on-site
Primary Education Provision	Financial Contribution - £91,456.50	Financial Contribution - £96,270
Primary School Transportation	Financial Contribution - £90,744.57	Financial Contribution - £95,520.60

RAMS	Financial Contribution £2,637.18	Financial Contribution £2,637.18
Open Space	Financial Contribution - £53,504.95	Financial Contribution - £56,321
Highways – Speed Reduction measures for Thorpe Road	Financial Contribution - £10,925	Financial Contribution - £11,500
Open Space/Amenity Areas	On-going Management by a Management Company	Management by Management Company or transfer to Council with financial contribution
Viability	Review Mechanism prior to commencement	

8.2 Conditions and Reasons

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

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

- 2 The development hereby permitted shall be carried out in accordance with the following approved Drawing Nos:

0493_A_DD_001
0493_A_DD_010/D
0493_A_DD_011_A
0493_A_DD_012_A
0493_A_DD_013_A
0493_A_DD_014_A
0493_A_DD_015_B
0493_A_DD_016_B
0493_A_DD_017_B
0493_A_DD_018_B
0493_A_DD_019_A
0493_A_DD_020_A
0493_A_DD_021_B
0493_A_DD_022_A
0493_A_DD_023_C

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

- 3 No development shall be commenced until precise details of the manufacturer and types and colours of the external facing and roofing materials to be used in construction have

been submitted to and agreed, in writing, by the Local Planning Authority. Such materials as may be agreed shall be those used in the development.

Reason - To ensure that materials of an acceptable quality appropriate to the area are used and insufficient information has been submitted in this regard.

- 4 No development shall commence, including any groundworks, until a Construction Method Statement has been submitted to, and approved in writing by the Local Planning Authority. The Construction Method Statement shall provide for:
- safe access to/from the site;
 - the parking of vehicles of site operatives and visitors;
 - the loading and unloading of plant and materials;
 - the storage of plant and materials used in constructing the development;
 - the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - wheel washing facilities;
 - measures to control the emission of dust and dirt during demolition and construction;
 - a scheme for recycling/disposing of waste resulting from demolition and construction works;
 - details of hours of deliveries relating to the demolition and construction of the development;
 - details of hours of site clearance or construction;
 - a scheme to control noise and vibration during the demolition and construction phase, including details of any piling operations.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

Reason - In the interests of residential amenity.

- 5 Prior to commencement of the development the planning application drawings shall be revised and submitted to and approved in writing by the Local Planning Authority to show the following:
- a) A revision to the vehicle access and parking arrangements for Plots 6 to 10.
 - b) Kerb radii measuring 6m.
 - c) A straight section of carriageway to be provided from the entrance junction for 10 metres.
 - d) Special junction detail featuring entrance ramp/table.
 - e) 2x2m Footways on both sides of the access road/ bell mouth.
 - f) Visibility splays clear of any parking spaces.
 - g) 2 x 20 metre visibility splays at all junctions between a private road and adoptable road
 - h) 6 metres in front of all parking spaces.
 - i) A 0.5 metres no build zone on both sides of the 6-metre road.
 - j) No windows, doors or other projections should extend over public areas.
 - k) 1.5 x 1.5 metre pedestrian visibility splays at all vehicle accesses and clear of trees.
 - l) 13.6 metres centre line bend radius kerbs on the 6-metre road and appropriate forward visibility (25 metres).
 - m) The footways tapered to join the shared surface.

The development shall be carried out in accordance with the approved drawings.

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

- 6 No occupation of the development shall take place until a priority junction off Thorpe Road to provide access to the proposal site has been completed. The junction shall include but not be limited to a 6.0-metre wide carriageway, 2no. 6 metre kerbed radii and a 2.4 x 180 metre visibility splay southbound and 2.4 x 205 metre visibility splay northbound.

Reason - To protect highway efficiency of movement and safety and to ensure the proposal site is accessible.

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

Reason - To ensure roads/footways are constructed to an appropriate standard in the interests of highway safety.

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

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

- 9 Prior to occupation of the development each vehicular access shall be constructed at right angles to the highway boundary and to the carriageway. The width of the access at its junction with the highway shall not be more than 3.6 metres (equivalent of 4 low kerbs) for an individual access, shall be retained at that width for 6 metres within the site and shall be provided with an appropriate dropped kerb vehicular crossing of the footway/highway verge.

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

- 10 The proposed boundary planting shall be planted a minimum of 1 metre back from the highway boundary and any visibility splay.

Reason -To ensure that the future outward growth of the planting does not encroach upon the highway or interfere with the passage of users of the highway, to preserve the integrity of the highway and in the interests of highway safety.

- 11 No dwelling shall be occupied until such time as the vehicle parking area indicated on the approved plans, for that dwelling, has been hard surfaced, sealed and marked out in parking bays. The vehicle parking area and associated turning area shall be retained in this form at all times. The vehicle parking shall not be used for any purpose other than the parking of vehicles that are related to the use of the development unless otherwise agreed with the Local Planning Authority.

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

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

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

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

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

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

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

- 15 No above ground development shall take place until precise details of the provision, siting, design and materials of screen walls and fences have been submitted to and approved in writing by the Local Planning Authority. The approved screen walls and fences shall be erected prior to the dwellings to which they relate being first occupied and thereafter be retained in the approved form.

Reason - To protect the amenities and privacy of occupiers and in the interest of visual amenity.

- 16 All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Extended Phase 1, Bat Emergence and Reptile Surveys (Hillier Ecology, November 2019) already submitted with the planning application and agreed in principle with the local planning authority prior to determination. This may include the appointment of an appropriately competent person e.g. an ecological clerk of works (ECoW,) to provide on-site ecological expertise during construction. The appointed person shall undertake all activities, and works shall be carried out, in accordance with the approved details.

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

- 17 No development shall take place until a Reptile Mitigation Strategy addressing the mitigation and translocation of reptiles has been submitted to and approved in writing by the local planning authority.
The Reptile Mitigation Strategy shall include the following.
- a) Purpose and conservation objectives for the proposed works.
 - b) Review of site potential and constraints.
 - c) Detailed design(s) and/or working method(s) to achieve stated objectives.
 - d) Extent and location/area of proposed works on appropriate scale maps and plans.

- e) Type and source of materials to be used where appropriate, e.g. native species of local provenance.
 - f) Timetable for implementation demonstrating that works are aligned with the proposed phasing of development.
 - g) Persons responsible for implementing the works.
 - h) Details of initial aftercare and long-term maintenance of the Receptor area(s).
 - i) Details for monitoring and remedial measures.
 - j) Details for disposal of any wastes arising from works.
- The Reptile Mitigation Strategy shall be implemented in accordance with the approved details and all features shall be retained in that manner thereafter.

Reason - To allow the Local Planning Authority to discharge its duties under the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species).

- 18 Prior to the commencement of development, a Biodiversity Enhancement Strategy for Protected and Priority species shall be submitted to and approved in writing by the local planning authority.

The content of the Biodiversity Enhancement Strategy shall include the following:

- a) Purpose and conservation objectives for the proposed enhancement measures;
- b) detailed designs to achieve stated objectives;
- c) locations of proposed enhancement measures by appropriate maps and plans;
- d) persons responsible for implementing the enhancement measures;
- e) details of initial aftercare and long-term maintenance (where relevant).

The works shall be implemented in accordance with the approved details and shall be retained in that manner thereafter.

Reason - To enhance Protected and Priority Species/habitats and allow the Local Planning Authority to discharge its duties under the s40 of the NERC Act 2006 (Priority habitats & species).

- 19 Prior to any above ground works, a lighting design scheme for biodiversity shall be submitted to and approved in writing by the local planning authority. The scheme shall identify those features on site that are particularly sensitive for bats and that are likely to cause disturbance along important routes used for foraging; and show how and where external lighting will be installed (through the provision of appropriate lighting contour plans, Isolux drawings and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory.

All external lighting shall be installed in accordance with the specifications and locations set out in the scheme and maintained thereafter in accordance with the scheme. Under no circumstances should any other external lighting be installed without prior consent from the local planning authority.

Reason - To allow the Local Planning Authority to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species)

- 20 No works except demolition shall takes place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme should include but not be limited to:
- Limiting discharge rates to 1.1l/s for all storm events up to an including the 1 in 100 year rate plus 40% allowance for climate change. If foul water is proposed to be treated and

discharged to the watercourse then it should be done so within the 1.1l/s discharge rate in order to ensure that flood risk is not increased.

- Provide sufficient storage to ensure no off site flooding as a result of the development during all storm events up to and including the 1 in 100 year plus 40% climate change event.
- Demonstrate that all storage features can half empty within 24 hours for the 1:100 plus 40% climate change critical storm event.
- Final modelling and calculations for all areas of the drainage system.
- The appropriate level of treatment for all runoff leaving the site, in line with the Simple Index Approach in chapter 26 of the CIRIA SuDS Manual C753. It should be noted that downstream defenders do not provide treatment for soluble metals and therefore, alone, are not a suitable form of treatment.
- Detailed engineering drawings of each component of the drainage scheme.
- A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features.
- A written report summarising the final strategy and highlighting any minor changes to the approved strategy.

The scheme shall subsequently be implemented prior to occupation.

Reason

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

- 21 Prior to first occupation a maintenance plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, has been submitted to and agreed, in writing, by the Local Planning Authority. Should any part be maintainable by a maintenance company, details of long term funding arrangements should be provided. The development shall be maintained in accordance with the approved details.

Reason - To ensure appropriate maintenance arrangements are put in place to enable the surface water drainage system to function as intended to ensure mitigation against flood risk.

- 22 The applicant or any successor in title must maintain yearly logs of maintenance which should be carried out in accordance with any approved Maintenance Plan. These must be available for inspection upon a request by the Local Planning Authority.

Reason - To ensure the SuDS are maintained for the lifetime of the development as outlined in any approved Maintenance Plan so that they continue to function as intended to ensure mitigation against flood risk.

- 23 Prior to the construction above damp proof course, a scheme for on-site foul water drainage works, including connection point and discharge rate, shall be submitted to and approved in writing by the Local Planning Authority. Prior to the occupation of any phase, the foul water drainage works relating to that phase must have been carried out in complete accordance with the approved scheme.

Reason: To prevent environmental and amenity problems arising from flooding.

- 24 In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with a scheme to assess the nature and extent of any contamination on the site, and any necessary remediation measures. The works shall be carried out in accordance with the approved details.

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

- 25 Notwithstanding the provisions of Article 3, Schedule 2, Part 1 Classes A, B and C of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order with or without modification), no enlargement, improvement or other alteration to the dwelling shall be erected or carried out except in accordance with drawings showing the siting and design of such enlargement, improvement or other alteration which shall previously have been submitted to and approved, in writing, by the Local Planning Authority.

Reason - In the interests of the amenities of the occupants of neighbouring property.

- 26 Notwithstanding the provisions of Article 3, Schedule 2 Part 1 Class E of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order with or without modification), no provision of buildings, enclosures, swimming or other pool shall be erected except in accordance with drawings showing the design and siting of such building(s) which shall previously have been submitted to and approved, in writing, by the Local Planning Authority.

Reason - In the interests of the amenities of the occupants of neighbouring property.

8.3 Informatives

1. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.
2. The applicant is reminded that this permission is linked to a planning obligation under Section 106 of the Town and Country Planning Act 1990.
3. Essex County Council has a duty to maintain a register and record of assets which have a significant impact on the risk of flooding. In order to capture proposed SuDS which may form part of the future register, a copy of the SuDS assets in a GIS layer should be sent to suds@essex.gov.uk.
4. Any drainage features proposed for adoption by Essex County Council should be consulted on with the relevant Highways Development Management Office.
5. Changes to existing water courses may require separate consent under the Land Drainage Act before works take place. More information about consenting can be found in the attached standing advice note.

6. It is the applicant's responsibility to check that they are complying with common law if the drainage scheme proposes to discharge into an off-site ditch/pipe. The applicant should seek consent where appropriate from other downstream riparian landowners.
7. On the completion of the Development, all roads, footways/paths, cycle ways, covers, gratings, fences, barriers, grass verges, trees, and any other street furniture within the Site and in the area it covers and any neighbouring areas affected by it, must be left in a fully functional repaired/renovated state to a standard accepted by the appropriate statutory authority.
8. The area(s) directly adjacent to the carriageway(s) in which the trees are to be planted should not be less than 3 metres wide, exclusive of the footway and the trunks of the trees should be no nearer than 2 metres to the channel line of the road. The same dimensions should be used in situations where the footway is located adjacent to the carriageway. In paved areas, whether the planted areas are to be adopted highway, trees should be sited no closer than 2 metres to the defined (or undefined) edge of the carriageway. Where the adopted highway is to be an independent path, trees should be planted no closer than 1 metre from the edge of the highway. In all cases, trees should be provided with root barriers to prevent damage to underground services.
9. Any work within or affecting the highway is to be laid out and constructed by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority, details to be agreed before the commencement of works.
The applicants should be advised to contact the Development Management Team by email at: development.management@essexhighways.org
10. The Highway Authority cannot accept any liability for costs associated with a developer's improvement. This includes design check safety audits, site supervision, commuted sums for maintenance and any potential claims under Part 1 and Part 2 of the Land Compensation Act 1973. To protect the Highway Authority against such compensation claims a cash deposit or bond may be required.
11. With regard to the proposed landscaping scheme, it is advised that this should include new tree planting and that it would be desirable to retain the established hedgerow along the eastern boundary.

12. Additional Considerations

Public Sector Equality Duty (PSED)

- 12.1 In making your decision you must have regard to the PSED under section 149 of the Equality Act 2010 (as amended). This means that the Council must have due regard to the need in discharging its functions to:
 - A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
 - B. Advance equality of opportunity between people who share a protected characteristic and those who do not. This may include removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; taking steps to meet the special needs of those with a protected characteristic; encouraging participation in public life (or other areas where they are underrepresented) of people with a protected characteristic(s); and
 - C. Foster good relations between people who share a protected characteristic and those who do not, including tackling prejudice and promoting understanding.

- 12.2 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, being married or in a civil partnership, race including colour, nationality and ethnic or national origin, religion or belief, sex and sexual orientation.
- 12.3 The PSED must be considered as a relevant factor in making this decision but does not impose a duty to achieve the outcomes in section 149 and section 149 is only one factor that needs to be considered, and may be balanced against other relevant factors.
- 12.4 It is considered that the recommendation to grant permission in this case would not have a disproportionately adverse impact on a protected characteristic.

Human Rights

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

Finance Implications

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

13. Background Papers

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