

DELEGATED DECISION OFFICER REPORT

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Application: 19/01946/OUT **Town / Parish:** St Osyth Parish Council

Applicant: Bennett Homes

Address: Land South of Clacton Road and East of Rochford Road St Osyth Essex

Development: Outline Planning with some matters reserved, except access, for the demolition of existing buildings and the development of up to 100 new homes, public open space, a woodland walk and associated infrastructure.

1. Town / Parish Council

St Osyth Parish Council
24.02.2020

The Parish Council strongly object to this application, which is considered to be further and unnecessary overdevelopment of a village which is lacking in infrastructure.

Permissions having already been approved for developments at West Field and Wellwick, which will see the building of 73 and 190 properties respectively, there are concerns as to the impact of a further 100 properties, including:

- the increase of approximately 45 children* at the village Primary School, the catchment area for which includes St Osyth village, Point Clear, and the existing and proposed properties along St John's Road (*figures based on ECC formula);
- the shortage of patient places in the two surgeries;
- the lack of sufficient parking places in the centre of the village;
- there is already a lack of sufficient public transport to cater for existing residents;
- the increase of traffic using Clacton Road, which in turn would result in delays for traffic waiting to exit onto the B1027, via one of only two entrances to the village; it is because of this that the Parish Council has approached Essex Highway with a request for a mini roundabout at the Clacton Road entrance to the village;
- that the proposed woodland walk could result in increased visitor vehicles to the development, which in turn could result in unexpected off-road parking;
- the Parish Council would also draw attention to the fact that not only is the area of the proposed woodland walk prone to flooding, but more importantly, the site is part of a rewilding scheme as advised by the Essex Wildlife trust.

2. Consultation Responses

Essex County Council
Ecology
16.11.2020

Thank you for re-consulting Place Services on the above application.

Holding objection due to insufficient ecological information on European Protected Species (Great Crested Newts)

We have reviewed the Preliminary Ecological Appraisal (BSG Ecology, December 2019), the Ecological Walkover Survey (BSG Ecology, October 2020), the Bat Survey Report (BSG Ecology, October 2020) and the Reptile Survey (BSG Ecology, October 2020) supplied by the applicant, relating to the likely impacts of development on Protected & Priority habitats and species, identification of proportionate mitigation.

We are still not satisfied that there is sufficient ecological information available for determination of this application.

The Ecological Walkover Survey (BSG Ecology, October 2020) states that "further surveys will be necessary in the first instance by testing for GCN presence/absence using the environmental DNA (eDNA) method ... A positive result will be given if GCN have recently occupied the pond. If the pond, are found to be positive for GCN eDNA, then further survey work will be required... A European Protected Species licence from Natural England will be necessary if adverse impacts to GCN are likely in the absence of mitigation or Reasonable Avoidance Measures."

Surveys are therefore necessary although the applicant may be interested to know that Natural England's District level Licensing for GCN is now available in Essex as an alternative to surveys and EPS licensing - see <https://www.gov.uk/government/publications/great-crested-newts-district-level-licensing-schemes> - where sites can be registered to be covered by this strategic mitigation scheme. Guidance for developers and registration forms to join the scheme are available and the LPA will need an Impact Assessment and Conservation Payment Certificate (IACPC) document countersigned by Natural England as evidence of site registration prior to determination where this European Protected Species is likely to be present and affected by development.

This information is necessary prior, to determination, as paragraph 99 of the ODPM Circular 2005 highlights that: "It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision."

We note that the development lies within the zone of Influence for Essex Estuaries SAC, Colne Estuary SPA and Ramsar, Stour and Orwell Estuaries SPA and Ramsar, Dengie SPA and Ramsar, and Blackwater Estuary SPA and Ramsar. Colne Estuary SPA and Ramsar and Essex Estuaries SAC are the closest European sites and are located around 1.1 kilometres from the application site.

As mentioned in our comments on 18th March 2020 the applicant has provided a Shadow HRA, which states that high quality public open space will be provided within the development together with a public footpath link to adjacent farmland that will be suitable for dog walking.

It is the case officer's view that details of information leaflets notifying new residents of the dog walking route and provision of dog bin(s) can be secured by condition with provision of the walking route, and dog waste bins prior to first occupation of the development and retained as approved thereafter. The detail of the information leaflet can be secured by condition and shall be included within the new residents' welcome pack to every new dwelling. Conditions can secure the details of these elements and the long-term maintenance and management of the green space. This is considered sufficient to avoid adverse effects on the integrity of the Habitats sites from recreational disturbance when considering the development alone.

A proportionate financial contribution will also be secured in line with the Essex Coast RAMS requirements 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.

We note that Tendring DC have prepared a project level HRA and secured the above mitigation package from the applicant which is consistent with proposals within Essex Coast RAMS Zone of Influence. This concludes that with mitigation, the project will not have an Adverse Effect on the Integrity to the European Sites within the Essex Coast RAMS.

The Bat Survey Report (BSG Ecology, October 2020) identifies that a European Protected Species (EPS) Mitigation licence issued by Natural England will be required for works liable to affect the residential building (B14), as the site was concluded to support a day roost for a Single Common Pipistrelle. As the building is a confirmed roost, and only two emergence/re-entry surveys have been completed on this building, a third will be required for the provision of the licence and as outlines in the BCT Good Practice Guidelines (Collins 2016). Additionally, the Bat Survey Report (BSG Ecology, October 2020) states that "one bat activity survey is included within this interim report; the remaining two surveys will be undertaken in October 2020 and spring 2021." This is in line with Natural England licensing policy 4 which requires certainty of likely impacts and mitigation measures can be secured by the licence or a condition of any consent.

This is needed to enable the LPA to demonstrate its compliance with its statutory duties including its biodiversity duty under s40 NERC Act 2006.

We look forward to working with the LPA and the applicant to receive the additional information required to support a lawful decision and overcome our holding objection.

Essex County Council
Heritage
24.12.2020

Built Heritage Advice pertaining to an application for: Outline Planning with some matters reserved, except access, for the demolition of existing buildings and the development of up to 100 new homes, public open space, a woodland walk and associated infrastructure.

The heritage assets concerned within the application are the Grade II listed Tan Cottage and Old Cottage (List UID: 1111483), and the early nineteenth century barn at the east of the site, visible on the 1840 St. Osyth Tithe Map known as Folly Farm and as such is identified as a non-designated heritage asset.

Following the submission of amended proposals, I am unopposed to

this outline application subject to the following recommended conditions:

- Prior to the commencement of any works on site, a building recording commensurate with Level 2 of the Historic England's Understanding Historic Buildings (2016) shall be undertaken of the historic barn by the applicant, submitted to, and approved in writing by the Local Planning Authority.

- A condition is required, securing the conservation of the barn to be completed by an agreed mid-point within the phasing and completion of the development.

ECC Highways Dept
03.12.2020

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

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

The Transport Assessment accompanying the planning application has been considered in detail and the Highway Authority is satisfied that, at peak times, the number of trips generated by the proposal on the highway network would be unlikely to be severe, therefore:

From a highway and transportation perspective the impact of the proposal is acceptable to Highway Authority subject to the following mitigation and 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. prior to the commencement of any work on the site, a joint inspection of the route to be used by construction vehicles should be carried out by the Applicant and the Highway Authority, including photographic evidence.

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

a) A priority junction off Clacton Road to provide access to the proposed site as shown in principle on planning application, block plan drawing number: 1037_201 P1.

b) The road junction at its centre line shall be provided with a clear to ground visibility splay with dimensions of 2.4 metres by 59 metres in both directions, as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the road junction / access is first used by vehicular traffic and retained free of any obstruction at all times.

c) To current Essex County Council specification, the upgrade of the two nearest bus stops on Clacton Road which would best serve the proposal site (details shall be agreed with the Local Planning Authority prior to commencement of the development).

d) Provision of a 2-metre-wide footway on the south side of Clacton Road from its junction with the new site entrance westwards as shown in principal with drawing no.1037_203_P2.

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 and DM10.

3. Prior to the occupation of 100 units the provision of a Section 106 contribution of £30,000.00 pro-rata contribution (to be index linked) towards any future junction improvements to Clacton Road/ Pump Hill or Clacton Road/ Colchester Road/ Mill Street/ Spring Road Junctions.

Reason: in accordance with Policy DM17 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

4. 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: In the interests of reducing the need to travel by car and promoting sustainable development and transport in accordance with policies DM9 and DM10.

The above 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.

ECC SuDS Consultee
27.02.2020

As the Lead Local Flood Authority (LLFA) this Council provides advice on SuDS schemes for major developments. We have been statutory consultee on surface water since the 15th April 2015.

In providing advice this Council looks to ensure sustainable drainage proposals comply with the required standards as set out in the following documents:

- Non-statutory technical standards for sustainable drainage systems
- Essex County Council's (ECC's) adopted Sustainable Drainage Systems Design Guide
- The CIRIA SuDS Manual (C753)
- BS8582 Code of practice for surface water management for development sites.

Lead Local Flood Authority position

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:

- Verification of the suitability of infiltration of surface water for the development. This should be based on infiltration tests and ground water monitoring that have been undertaken in accordance with BRE 365 testing procedure and the infiltration testing methods found in chapter 25.3 of The CIRIA SuDS Manual C753. The testing should be undertaken in winter months and should be done in all locations where infiltration is intended.
- All features should be left unlined where possible to promote infiltration.
- Limiting discharge rates to 1 in 1 year greenfield runoff rates for all storm events up to and including the 1 in 100 year rate plus 40% allowance for climate change.
- 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 in 30 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.
- Detailed engineering drawings of each component of the drainage scheme.
- A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features.
- A written report summarising the final strategy and highlighting any minor changes to the approved strategy.

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

Reason

- To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site.
- To ensure the effective operation of SuDS features over the lifetime

of the development.

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

Condition 2

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

Reason

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

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

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

Condition 3

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 prior to occupation 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 4

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.

Natural England
17.03.2020

Thank you for your consultation on the above dated and received by Natural England on 25 February 2020.

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

SUMMARY OF NATURAL ENGLAND'S ADVICE - European designated sites¹

It has been identified that this development site falls within the 'Zone of Influence' (Zol) of one or more of the European designated sites scoped into the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS).

As you will be aware, the Essex Coast RAMS is a large-scale strategic project which involves a number of Essex authorities, including Tendring, working together to mitigate the recreational impacts that may occur on the interest features of the coastal European designated sites in Essex as a result of new residential development within reach of them; the European designated sites scoped into the RAMS are notified for features which are considered sensitive to increased levels of recreation (e.g. walking, dog walking, water sports etc.) which can negatively impact on their condition (e.g. through disturbance birds, trampling of vegetation, erosion of habitats from boat wash etc.). For further information on these sites, please see the Conservation Objectives and Information Sheets on Ramsar Wetlands which explain how each site should be restored and/or maintained

In the context of your duty as competent authority under the provisions of the Habitats Regulations², it is therefore anticipated that, without mitigation, new residential development in this location is 'likely to have a significant effect' on one or more European designated sites, through increased recreational pressure, either when considered 'alone' or 'in combination' with other plans and projects.

NO OBJECTION - SUBJECT TO APPROPRIATE MITIGATION BEING SECURED

We understand that you have screened this proposed development and consider that it falls within scope of the Essex Coast RAMS, and that you have undertaken a Habitats Regulations Assessment (HRA) (Stage 2: Appropriate Assessment) in order to secure any necessary

recreational disturbance mitigation, and note that you have recorded this decision within your planning documentation.

We consider that without appropriate mitigation the application would:

- have an adverse effect on the integrity of European designated sites within scope of the Essex Coast RAMS

We are satisfied that the mitigation described in your Appropriate Assessment is in line with our strategic-level advice (our ref: 244199, dated 16th August 2018 and summarised at Annex 1). The mitigation should rule out an 'adverse effect on the integrity' (AEOI) of the European designated sites that are included within the Essex Coast RAMS from increased recreational disturbance.

We advise that an appropriate planning condition or obligation is attached to any planning permission to secure the on-site mitigation measures, including links to footpaths in the surrounding area. The financial contribution should be secured through an appropriate and legally binding agreement, in order to ensure no adverse effect on integrity.

Sites of Special Scientific Interest Impact Risk Zones

The Town and Country Planning (Development Management Procedure) (England) Order 2015 requires local planning authorities to consult Natural England on "Development in or likely to affect a Site of Special Scientific Interest" (Schedule 4, w). Our SSSI Impact Risk Zones are a GIS dataset designed to be used during the planning application validation process to help local planning authorities decide when to consult Natural England on developments likely to affect a SSSI. The dataset and user guidance can be accessed from the data.gov.uk website

Further general advice on the consideration of protected species and other natural environment issues is provided in APPENDIX 2 of this letter.

Essex County Council
Archaeology
13.01.2021

Due to the high potential of the site to contain significant archaeological remains an evaluation was requested and undertaken prior to determination. The fieldwork for this targeted evaluation has been completed and a report received and approved. The evaluation of this site has established that there is a high density and moderate complexity of archaeological remains present across a large part of the site although no areas that would clearly require preservation in situ.

Of significance are the remains suggestive of Saxon settlement within the development area and possible Roman settlement nearby. The potential for important evidence to survive within the development area is high and the density of archaeological features is likely to be great. The indications are that the archaeological remains are of local to regional significance and that mitigation can take the form of preservation, by record. A mitigation strategy will need to be produced which will allow areas of archaeological significance to be identified in their extent and for these areas to be investigated through further open area archaeological excavation. This is likely to involve further evaluation followed by large scale open area excavation.

The historic farm building proposed for demolition will also need to

have a historic buildings survey carried out prior to development commencing. As it appears the building will now be retained within the scheme this can be carried out post consent.

In view of this, the following recommendation is made in line with the National Planning Policy Framework:

Recommendations

Archaeological investigation

1. No development or preliminary groundworks can commence until a mitigation strategy detailing the further evaluation/ excavation / preservation strategy has been agreed and has been submitted to the local planning authority.
2. No development or preliminary groundworks can commence on those areas containing archaeological deposits until the satisfactory completion of fieldwork, as detailed in the mitigation strategy, and which has been approved in writing by the local planning authority.
3. The applicant will submit to the local planning authority a post excavation assessment (to be submitted within six months of the completion of the fieldwork, unless otherwise agreed in advance with the Planning Authority). This will result in the completion of post excavation analysis, preparation of a full site archive and report ready for deposition at the local museum, and submission of a publication report

Building Recording

1. No demolition, conversion or alterations shall commence until a programme of historic building recording has been secured in accordance with a written scheme of investigation (WSI) to be submitted by the applicant and approved in writing by the local planning authority.
2. The applicant will submit to the local planning authority a report detailing the results of the recording programme and confirm the deposition of the archive to an appropriate depository as identified and agreed in the WSI .

Further Recommendations:

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

If you have any questions about this advice, please do not hesitate to contact me.

UU Open Spaces
19.02.2020

Current Position

There is currently a deficit of -6.44 hectares of equipped play and formal open space in St Osyth and Point Clear.

Recommendation

We know that the Parish have plans to provide additional facilities at Priory Meadows, Park Road which adjoins the development site.

Due to the limited provision in the village it is felt a contribution towards play and is justified and relevant to this planning application. The application has made provision for open space but no play facilities are being provided on site. The contribution would be used to provide additional facilities at Priory Meadow.

Building Control and
Access Officer
05.02.2020

No comments at this time.

Tree & Landscape Officer
30.01.2020

The main body of the application site comprises of a single field in agricultural use. At the northernmost point of the site there is a residential dwelling and some light industrial/commercial buildings accessed from Clacton Road

The eastern boundary of the application site is demarcated by a track with hedgerows each side. The western boundary abuts developed land in Rochford Road and the southern boundary is open to the countryside.

The southernmost part of the application site is directly adjacent to the St Osyth Drain and is well populated with established trees comprising of Willow, Oak, Alder, Hawthorn and Blackthorn. There is an understory of Brambles, Nettles, and Common Reed (Phragmites). It appears that this area will be retained in a natural condition and the trees thereon and the ecological value of the land are not compromised by the development proposal.

In terms of the local landscape it should be noted that the northern section of the application site is situated the St Osyth/ Gt Bentley Heaths Landscape Character Area (LCA) with the southern section in the St Osyth Coastal slopes as defined in the Tendring District Council Landscape Character Assessment. The land to the south of the application site forms part of the St Osyth Coastal Ridge LCA which is similar in many ways to the Heathland Plateau but is perhaps less vegetated with fewer trees and countryside hedgerows.

One of the key characteristics of the St Osyth Heaths LCA is; as defined in the document 'the highly productive plateau of arable fields divided by low gappy hedgerows with occasional hedgerow Oaks. The plateau landscape is particularly sensitive as a result of its open character and low views.

Taking into account the 'urban fringe' location of the application site and the localised topography where the land falls down to the St Osyth Drain feeding into St Osyth Creek the site is locally contained.

In order to fully assess the potential impact of the development proposal on the local countryside the applicant has provided a Landscape and Visual Impact Assessment (LVIA).

The LVIA establishes the baseline qualities and value of the local landscape and assesses the landscape and visual effects of the proposed development on the local landscape character. It identifies the extent of harm and sets out steps to mitigate and ameliorate the

harm. The document identifies several locations (visual receptor viewpoints) from which the application site can be viewed.

With regard to the accuracy of the text in the LVIA it should be noted that there appears to be a 'copy and paste' error in section 7.2.5 where reference is made to 'areas of open space to maintain views to the Fens'"This does not affect the integrity of the report but should be corrected to avoid any potential future confusion.

In terms of the assessment contained in the LVIA and the conclusion reached it is clear that the development of the land and the resultant change of use will have a significant adverse effect on the landscape and that this will be irreversible. It is also clear that to a lesser extent the development will have adverse effects on visual quality of the local landscape character. The visual harm can, to a reasonable degree, be mitigated by the measures set out in the LVIA.

The conclusion reached in the LVIA states that 'This LVIA confirms that there are no landscape-related matters that, in our opinion, constitute reasons to outweigh the 'presumption in favour' of development embedded in the NPPF or which constitute a landscape reason to refuse planning permission'

On balance it appears that the LVIA provides a genuine reflection of the impact of the development proposal on the local landscape character. However notwithstanding the conclusion drawn it is clear that the development proposal, would, if implemented, result in the loss of open countryside that is valuable for its own sake. The development would bring about a permanent change to the local landscape and would contribute to the gradual erosion of the countryside.

With regard to the trees on the application site and adjacent land the applicant has submitted a tree survey in support of the application in order to show the extent of the constraint that the trees and boundary hedgerows are on the development potential of the land. The report is in accordance with BS5837: 2012 Trees in relation to design, demolition and construction ' Recommendations.

The information contained in the report adequately demonstrates that the development proposal will not result in the loss or removal of any important trees and could be implemented without causing harm retained trees. Retained trees and landscape features will form part of the green infrastructure associated with the development which can be strengthened by additional planting.

Should planning permission be likely to be granted then details of proposed soft landscaping, including tree planting, should be secured to mitigate visual harm caused by the development of the land and to part of the planning application by condition attached to any such permission.

Compliance with the Tree Report should also be secured if planning permission is to be granted.

Essex Wildlife Trust

No comments received

Waste Management
16.01.2020

No comments at this stage.

I have reviewed the application and Phase 1 contamination assessment and recommend the following comments.

The contaminated land report indicates potential contamination and I agree with the recommendations made within the report for further investigations. The applicant is advised to undertake intrusive investigations at the locations identified within the report to ensure proposed site is free from contamination.

Due to the site's close proximity to the micro wind turbines, prior to commencement of the development a full Noise Assessment should be submitted to the Local planning authority showing the proposed residential units (with the windows closed) meet the following internal noise levels shall be achieved; 35dB(A) Leq 16 hours 07.00hrs - 23.00hrs in Living rooms, while 30dB(A) Leq 8 hours in Bedrooms and no individual noise event to exceed 45dB(A) max (measured with F time weighting) 23.00hrs - 07.00hrs. External noise affecting gardens, balconies or amenity spaces shall not exceed 55dBLAeqt. (BS8233:2014)

In order to minimise potential nuisance to nearby existing residents caused by construction and demolition works, Environmental Protection ask that the following is conditioned.

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, Environmental Protection.

Noise Control

- 1) The use of barriers to mitigate the impact of noisy operations will be used where possible. This may include the retention of part(s) of the original buildings during the demolition process to act in this capacity.
- 2) No vehicle connected with the works to arrive on site before 07:30 or leave after 19:00 (except in the case of emergency). Working hours to be restricted between 08:00 and 18:00 Monday to Saturday (finishing at 13:00 on Saturday) with no working of any kind permitted on Sundays or any Public/Bank Holidays.
- 3) The selection and use of machinery to operate on site, and working practices to be adopted will, as a minimum requirement, be compliant with the standards laid out in British Standard 5228:2014.
- 4) Mobile plant to be resident on site during extended works shall be fitted with non-audible reversing alarms (subject to HSE agreement).
- 5) Prior to the commencement of any piling works which may be necessary, a full method statement shall be agreed in writing with the Planning Authority (in consultation with Pollution and Environmental Control). This will contain a rationale for the piling method chosen and details of the techniques to be employed which minimise noise and vibration to nearby residents.
- 6) If there is a requirement to work outside of the recommended hours the applicant or contractor must submit a request in writing for approval by Environmental Protection prior to the commencement of works.

Emission Control

- 1) All waste arising from the demolition process, ground clearance and construction processes to be recycled or removed from the site subject to agreement with the Local Planning Authority and other relevant agencies.
- 2) No materials produced as a result of the site development or clearance shall be burned on site. All reasonable steps, including

damping down site roads, shall be taken to minimise dust and litter emissions from the site whilst works of construction and demolition are in progress.

3) All bulk carrying vehicles accessing the site shall be suitably sheeted to prevent nuisance from dust in transit.

Dust Control

1) Dust suppression methods to be employed during construction so as to minimize likelihood of nuisance being caused to neighbouring properties. A scheme of measures for the control and suppression of dust emissions shall be submitted.

Adherence to the above condition will significantly reduce the likelihood of public complaint and potential enforcement action by Environmental Protection. The condition gives the best practice for Demolition and Construction sites. Failure to follow them may result in enforcement action under nuisance legislation (Environmental Protection Act 1990), or the imposition of controls on working hours (Control of Pollution Act 1974).

Lighting

Any external lighting on the proposed development shall be located, designed and directed [or screened] so that it does not cause avoidable intrusion to neighbouring residential properties. The applicant shall demonstrate compliance with the Institute of Lighting Professionals code of practice. (www.theilp.org.uk)

NHS East Essex CCG
20.01.2020

Thank you for consulting North East Essex Clinical Commissioning Group on the above planning application.

I refer to the above planning application and advise that, further to a review of the applicants' submission the following comments are with regard to the health and social care system provision on behalf of Suffolk and North East Essex Integrated Care System.

Existing Healthcare Position Proximate to the Planning Application Site

The proposed development is likely to have an impact on the services of two GP Branch Surgeries including their two main Practices operating within the vicinity of the application site. These GP practices and branch surgeries do not have capacity for the additional growth resulting from this development.

The proposed development will be likely to have an impact on the NHS funding programme for the delivery of primary healthcare provision within this area and specifically within the health catchment of the development. As the commissioner of primary care services, North East Essex CCG would therefore expect these impacts to be fully assessed and mitigated.

Review of Planning Application

North East Essex CCG acknowledges that the planning application includes a Planning Statement which suggests that a capital contribution may be required to mitigate against the healthcare impacts arising from the proposed development

A Healthcare Impact Assessment (HIA) has been prepared by North

East Essex CCG to provide the basis for a developer contribution towards capital funding to increase capacity within the GP Catchment Area.

Assessment of Development Impact on Existing Healthcare Provision

The existing GP practices do not have capacity to accommodate the additional growth resulting from the proposed development. The development could generate approximately 220 residents and subsequently increase demand upon existing constrained services.

The development would have an impact on primary healthcare provision in the area and its implications, if unmitigated, would be unsustainable. The proposed development must therefore, in order to be considered under the 'presumption in favour of sustainable development' advocated in the National Planning Policy Framework, provide appropriate levels of mitigation.

Healthcare Needs Arising From the Proposed Development

At the earliest stage in the planning process it is recommended that work is undertaken with NHS England and Public Health England to understand the current and future dental needs of the development and surrounding areas giving consideration to the current dental provision, current oral health status of the area and predicted population growth to ensure that there is sufficient and appropriate dental services that are accessible to meet the needs of the development but also address existing gaps and inequalities.

Encourage oral health preventative advice at every opportunity when planning a development, ensuring that oral health is everybody's business, integrating this into the community and including this in the health hubs to encourage and enable residents to invest in their own oral healthcare at every stage of their life.

Health & Wellbeing Statement

As an Integrated Care System it is our ambition that every one of the one million people living in Suffolk and North East Essex is able to live as healthy a life as possible and has access to the help and treatment that they need in the right place, with good outcomes and experience of the care they receive.

Suffolk and North East Essex Integrated Care System, recognises and supports the role of planning to create healthy, inclusive communities and reduce health inequalities whilst supporting local strategies to improve health, social and cultural wellbeing for all aligned to the guidance in the NPPF section 91.

The way health and care is being delivered is evolving, partly due to advances in digital technology and workforce challenges. Infrastructure changes and funds received as a result of this development may incorporate not only extensions, refurbishments, reconfigurations or new buildings but will also look to address workforce issues, allow for future digital innovations and support initiatives that prevent poor health or improve health and wellbeing.

The NHS Long term plan requires a move to increase investment in the wider health and care system and support reducing health inequalities in the population. This includes investment in primary

medical, community health services, the voluntary and community sector and services provided by local authorities so to boost out of hospital care and dissolve the historic divide between primary and community health services. As such, a move to health hubs incorporating health and wellbeing teams delivering a number of primary and secondary care services including mental health professionals, are being developed. The Acute hospitals will be focussing on providing specialist treatments and will need to expand these services to cope with additional growth. Any services which do not need to be delivered in an acute setting will look to be delivered in the community, closer to people's homes.

The health impact assessment (HIA) submitted with the planning application will be used to assess the application. This HIA will be cross-referenced with local health evidence/needs assessments and commissioners/providers own strategies so to ensure that the proposal impacts positively on health and wellbeing whilst any unintended consequences arising are suitably mitigated against.

The development would give rise to a need for improvements to capacity, in line with emerging STP Estates Strategy; by way of refurbishment, reconfiguration, extension, or potential relocation for the benefit of the patients of Church Square Branch Surgery (and/or including its Main Practice St James Surgery) or through other solutions that address capacity and increased demand as outlined in the Health & Wellbeing Statement. For this a proportion of the cost would need to be met by the developer.

A developer contribution will be required to mitigate the impacts of this proposal. North East Essex CCG calculates the level of contribution required, in this instance to be £56,444.00. Payment should be made before the development commences.

North East Essex CCG therefore requests that this sum be secured through a planning obligation linked to any grant of planning permission, in the form of a Section 106 planning obligation.

Conclusions

In its capacity as the primary healthcare commissioner, North East Essex CCG has identified that the development will give rise to a need for additional primary healthcare provision to mitigate impacts arising from the development.

The capital required through developer contribution would form a proportion of the required funding for the provision of capacity to absorb the patient growth generated by this development.

Assuming the above is considered in conjunction with the current application process, North East Essex CCG would not wish to raise an objection to the proposed development. Otherwise the Local Planning Authority may wish to review the development's sustainability if such impacts are not satisfactorily mitigated.

The terms set out above are those that North East Essex CCG deem appropriate having regard to the formulated needs arising from the development.

North East Essex CCG is satisfied that the basis and value of the developer contribution sought is consistent with the policy and tests

for imposing planning obligations set out in the NPPF.

North East Essex CCG look forward to working with the applicant and the Council to satisfactorily address the issues raised in this consultation response and would appreciate acknowledgement of the safe receipt of this letter.

Environment Agency
05.02.2020

Thank you for your consultation dated 16 January 2020. We have reviewed the application as submitted and have no objection. We would take this opportunity to remind the applicant that they may require an Environmental Permit in order to undertake their work.

Environmental Permitting Regulations 2010:

Flood Defence Consents now fall under the new Environmental Permitting (England and Wales) Regulations 2010 system (EPR). The applicant may need an environmental permit for flood risk activities if they want to do work in, under, over or within 8m of the river and of any flood defence structure or culvert of the St Osyth Brook designated a 'main river'.

The EPR are a risk-based framework that enables us to focus regulatory effort towards activities with highest flood or environmental risk. Lower risk activities will be excluded or exempt and only higher risk activities will require a permit. Your proposed works may fall under an either one or more of the below:

- 'Exemption,
- 'Exclusion',
- 'Standard Risks Permit'
- 'Bespoke permit.

New forms and further information can be found at: <https://www.gov.uk/guidance/flood-risk-activities-environmental-permits>. Anyone carrying out these activities without a permit where one is required, is breaking the law.

Please contact our National Customer Contact Centre to assess which category your proposed works fall under. They will then be able to tell you the classification of your application, the fee associated with your application, and how to proceed forward. They can be contacted by email at: floodriskactivity@environment-agency.gov.uk

Anglian Water Services ASSETS
Ltd
10.08.2020

Section 1 - Assets Affected

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

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

owners of the apparatus. It should be noted that the diversion works should normally be completed before development can commence.

WASTEWATER SERVICES

Section 2 - Wastewater Treatment

The foul drainage from this development is in the catchment of St Osyth Water Recycling Centre that will have available capacity for these flows

Section 3 - Used Water Network

This response has been based on the following submitted documents: Flood risk assessment and drainage strategy report The sewerage system at present has available capacity for these flows. If the developer wishes to connect to our sewerage network they should serve notice under Section 106 of the Water Industry Act 1991. We will then advise them of the most suitable point of connection. (1) INFORMATIVE - Notification of intention to connect to the public sewer under S106 of the Water Industry Act Approval and consent will be required by Anglian Water, under the Water Industry Act 1991. Contact Development Services Team 0345 606 6087. (2) INFORMATIVE - Notification of intention to connect to the public sewer under S106 of the Water Industry Act Approval and consent will be required by Anglian Water, under the Water Industry Act 1991. Contact Development Services Team 0345 606 6087. (3) INFORMATIVE - Protection of existing assets - A public sewer is shown on record plans within the land identified for the proposed development. It appears that development proposals will affect existing public sewers. It is recommended that the applicant contacts Anglian Water Development Services Team for further advice on this matter. Building over existing public sewers will not be permitted (without agreement) from Anglian Water. (4) INFORMATIVE - Building near to a public sewer - No building will be permitted within the statutory easement width of 3 metres from the pipeline without agreement from Anglian Water. Please contact Development Services Team on 0345 606 6087. (5) INFORMATIVE: The developer should note that the site drainage details submitted have not been approved for the purposes of adoption. If the developer wishes to have the sewers included in a sewer adoption agreement with Anglian Water (under Sections 104 of the Water Industry Act 1991), they should contact our Development Services Team on 0345 606 6087 at the earliest opportunity. Sewers intended for adoption should be designed and constructed in accordance with Sewers for Adoption guide for developers, as supplemented by Anglian Water's requirements.

Section 4 - Surface Water Disposal

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

Housing Services
18.02.2020

I have been asked to comment on the affordable housing requirements for the above application and I can advise as follows:

I note from the planning statement and application form that the applicant has accounted for up to 30 of the 100 homes to be delivered as affordable housing and this is in line with the Council's emerging Local Plan.

Having had regard to the planning statement and what the applicant proposes to deliver, I can advise that on the housing register at present, we currently have the following number of households seeking accommodation in St. Osyth:

1 bed bungalow - 137 households (all 60+)
2 bed house - 122 households
3 bed house - 96 households
4 bed house - 35 households.

The Council's preference would be for another provider to be sought to take on the affordable homes on this application.

ECC Schools Service
24.02.2020

Thank you for providing details of the above outline planning application for up to 100 new homes. No residential unit mix has been provided so I have assumed that all of these units are homes with two or more bedrooms. Based on this information I have calculated that a development of this size can be expected to generate the need for up to 9 Early Years and Childcare (EY&C) places; 30 primary school, and 20 secondary school places.

Please note that any developer contribution figures referred to in this letter are calculations only, and that final payments will be based on the actual dwelling unit mix and the inclusion of Indexation.

Early Years and Childcare

The proposed development is located within St Osyth ward. According to latest available childcare sufficiency data, there are 4 early years and childcare providers within the surrounding 3 miles, 3 of which are in the St Osyth ward. Overall a total of 4 unfilled places were recorded for this area.

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. This includes provision of childcare places for children aged between 0.5 years as well as wrap around provision for school aged children (5.1 for 19 with additional needs).

Although there is some EY&C capacity in the area, the data shows insufficient provision to meet the additional demand created by this development, It is thereby proposed that a contribution towards the creation of 9 new childcare places is requested.

Based on demand generated by this proposal set out above, a developer contribution of £156,798, index linked to April 2019, is sought to mitigate its impact on local primary school provision. This equates to £17,422 per place.

Primary Education

This proposed development would sit in the Priority Admissions Area of St Osyth CE Primary School, which offers up to 45 places per year.

The school is full in some year groups, with demand expected to rise as families move into the neighbouring St Osyth Priory development. Forecasts for the area, set out in the Essex School Organisation Service's Ten Year Plan to meet demand for school places suggest that the wider area (Tendring Group 2 - Clacton) will require additional places by the end of the Plan period.

Based on demand generated by this proposal set out above, a developer contribution of £458,430, Index linked to April 2019, is sought to mitigate its impact on local primary school provision. This equates to £15,281 per place.

Secondary Education

With regards to secondary school education, there is no Secondary School in St Osyth itself. Clacton Coastal Academy, which forms part of Tendring secondary school planning group 1, is the closest school. Demand for places across the area has increased significantly in recent years, with a programme of potential expansion projects set out in the Ten Year Plan. Demand is forecast to peak in the 2023/24 academic year with an extra 169 places needed for entry into Year 7.

Based on demand generated by this proposal set out above, a developer contribution of £464,280, index linked to April 2019, is sought to mitigate its impact on local primary school provision. This equates to £23,214 per place.

School Transport

Having reviewed the proximity of the site to the nearest primary school, Essex County Council will not be seeking a school transport contribution, however, the developer should ensure that safe direct walking and cycling routes to local schools are available.

Having reviewed the proximity of the site to the nearest secondary school, Essex County Council will be seeking a school transport contribution as, whilst this is located 2.9 miles from the development, part of the route has previously been inspected and deemed as unavailable to be walked, accompanied as necessary. This equates to £100,700.

In view of the above, I request on behalf of Essex County Council that if planning permission for this development is granted it should be subject to a section 106 agreement to mitigate its impact on childcare, primary and secondary education, and secondary school transport. The contributions requested have been considered in connection with the CIL Regulations 2010 (as Amended) and are CIL compliant. Our standard formula s106 agreement clauses that ensure the contribution would be necessary and fairly and reasonably related in scale and kind to the development are available from Essex Legal Services.

If your council were minded to turn down the application, I would be grateful if the lack of childcare, primary and secondary education, and secondary school transport provision in the area to accommodate the proposed new homes can be noted as an additional reason for refusal, and that we are automatically consulted on any appeal or further application relating to the site.

3. Planning History

19/01946/OUT Outline Planning with some matters reserved, except access, for the demolition of existing buildings and the development of up to 100 new homes, public open space, a woodland walk and associated infrastructure. Current

4. Relevant Policies / Government Guidance

NPPF National Planning Policy Framework February 2019

National Planning Practice Guidance

Tendring District Local Plan 2007

QL1 Spatial Strategy

QL2 Promoting Transport Choice

QL3 Minimising and Managing Flood Risk

QL9 Design of New Development

QL10 Designing New Development to Meet Functional Needs

QL11 Environmental Impacts and Compatibility of Uses

QL12 Planning Obligations

HG1 Housing Provision

HG3A Mixed Communities

HG4 Affordable Housing in New Developments

HG6 Dwelling Size and Type

HG7 Residential Densities

HG9 Private Amenity Space

COM1 Access for All

COM6 Provision of Recreational Open Space for New Residential Development

COM22 Noise Pollution

COM23 General Pollution

COM26 Contributions to Education Provision

COM31A Sewerage and Sewage Disposal

EN1 Landscape Character

EN6 Biodiversity

EN6A Protected Species

EN11A Protection of International Sites European Sites and RAMSAR Sites

EN11B Protection of National Sites SSSI's, National Nature Reserves, Nature Conservation Review Sites, Geological Conservation Review Sites

EN23 Development Within the Proximity of a Listed Building

EN29 Archaeology

TR1A Development Affecting Highways

TR3A Provision for Walking

TR4 Safeguarding and Improving Public Rights of Way

TR7 Vehicle Parking at New Development

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

SP1 Presumption in Favour of Sustainable Development

SP2 Spatial Strategy for North Essex

SP3 Meeting Housing Needs

SP5 Infrastructure & Connectivity

SPL1 Managing Growth

SPL2 Settlement Development Boundaries

SPL3 Sustainable Design

LP1 Housing Supply

LP2 Housing Choice

LP3 Housing Density and Standards

LP4 Housing Layout

LP5 Affordable and Council Housing

HP1 Improving Health and Wellbeing

HP5 Open Space, Sports & Recreation Facilities

PP12 Improving Education and Skills

PPL1 Development and Flood Risk

PPL3 The Rural Landscape

PPL4 Biodiversity and Geodiversity

PPL5 Water Conservation, Drainage and Sewerage

PPL7 Archaeology

PPL9 Listed Buildings

CP1 Sustainable Transport and Accessibility

CP2 Improving the Transport Network

Local Planning Guidance

Tendring Landscape Character Assessment

Essex County Council Car Parking Standards - Design and Good Practice

Essex Design Guide

Status of the Local Plan

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.

Section 1 of the Local Plan (which sets out the strategy for growth across North Essex including Tendring, Colchester and Braintree) has been examined by an Independent Planning Inspector who issued his final report and recommended 'main modifications' on 10th December 2020. The Inspector's report confirms that, subject to making his recommended main modifications (including the removal from the plan of two of the three 'Garden Communities' proposed along the A120 i.e. those to the West of Braintree and on the Colchester/Braintree Border), the plan is legally compliant and sound and can proceed to adoption. Notably, the housing and employment targets in the plan have been confirmed as sound, including the housing requirement of 550 dwellings per annum in Tendring.

The Council is now making arrangements to formally adopt Section 1 of the Local Plan in its modified state and this is expected to be confirmed at the meeting of Full Council on 26th January 2021 – at which point will become part of the development plan and will carry full weight in the determination of planning applications – superseding, in part, some of the more strategic policies in the 2007 adopted plan. In the interim, the modified policies in the Section 1 Local Plan, including the confirmed housing requirement, can be given significant weight in decision making owing to their advancement through the final stages of the plan-making process.

The examination of Section 2 of the Local Plan (which contains more specific policies and proposals for Tendring) is now expected to proceed in 2021 and two Inspectors have already been appointed by the Secretary of State to undertake the examination, with the Council preparing and updating its documents ready for the examination. In time, the Section 2 Local Plan (once examined and adopted in its own right) will join the Section 1 Plan as part of the development plan, superseding in full the 2007 adopted plan.

Where emerging policies are particularly relevant to a planning application and can be given 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 relation to housing supply:

The NPPF requires Councils to boost significantly the supply of housing to meet objectively assessed future housing needs in full. In any one year, Councils must be able to identify five years' worth of deliverable housing land against their projected housing requirements (plus an

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

At the time of this decision, the supply of deliverable housing sites that the Council can demonstrate technically falls below 5 years – but this is only because, until the modified Section 1 Local Plan is formally adopted at the end of January 2021, housing supply has to be calculated against a housing need figure derived through the government's 'standard methodology' – a figure that is significantly higher than the 'objectively assessed housing need' of 550 dwellings per annum in the Section 1 Plan and confirmed by the Inspector in his final report to be sound. Because of this technicality, the NPPF still requires 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.

However, because the housing land supply shortfall is relatively modest when applying the standard method prescribed by the NPPF and significant weight can now be given, in the interim, to the sound policies in the modified Section 1 Plan (including the housing requirement of 550 dwellings per annum), the reality is that there is no housing shortfall and, on adoption of the Section 1 Plan, the Council will be able to report a significant surplus of housing land supply over the 5 year requirement, in the order of 6.5 years. Therefore, in weighing the benefits of residential development against the harm, the Inspector's confirmation of 550 dwellings per annum as the actual objectively assessed housing need for Tendring is a significant material consideration which substantially tempers the amount of weight that can reasonably be attributed to the benefit of additional new housing – particularly in the consideration of proposals that fall outside of the settlement development boundaries in either the adopted or the emerging Section 2 Local Plan.

5. Officer Appraisal (including Site Description and Proposal)

Site Description

The application site is approximately 6.8 hectares and lies to the south of Clacton Road on the southern edge of the village of St Osyth. The majority of the Site (approximately 6 hectares) comprises unused open land whose gradient slopes down to the brook to the south - this land is behind existing residential properties on Rochford Road to the west. The remaining parcel of land of approximately 0.8 hectares has an existing vehicle access point on Clacton Road and contains a variety of buildings and a caravan storage area. This part of the Site is known as "Folly Farm".

The site is contained by; the existing dwellings of Rochford Road to the west, with back gardens forming the western boundary of the Site, an existing area of public open space associated with the Park Road development to the west of the Site, a mature hedgerow on the eastern boundary of the site with a public right of way located behind, to the south of the site a brook which connects into Mill Dam Lake to the south west and Clacton Road and associated residential properties to the North.

The majority of the site is located outside of any defined settlement boundary, as outlined in the saved and emerging proposal maps for St Osyth.

Proposal

The application seeks outline approval with all matters reserved, except for access, for the demolition of the existing buildings at Folly Farm (aside from a barn which this application proposes to convert to residential use) and the development of up to 100 dwellings (inclusive of the barn conversion), public open space, a new woodland walk and associated infrastructure.

Key items proposed by this scheme include:

- Demolition of existing residential property and associated outbuildings close to Clacton Road (except for the historic barn);
- Vehicle access point from Clacton Road to the northern end of the site, with an additional pedestrian and cyclist access off Rochford Road. No vehicle access would be obtained from Rochford Road;
- New areas of public open space, including a woodland walk to the south of the site along the existing brook and areas of meadow grassland;
- The proposed drainage scheme includes Sustainable Drainage Systems particularly, permeable paving on all driveways and attenuation basins set to match the greenfield run off rate; and
- 30% affordable housing provision.

The scheme proposes a mix of 2, 3, 4-bedroom houses. The indicative housing mix is;

- 1 Bed Dwelling 9%
- 2 Bed Dwelling 28%
- 3 Bed Dwelling 41%
- 4+ Bed Dwelling 23%

Principle of Development

Paragraph 47 of the NPPF requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The site lies outside of the Settlement Development Boundary of both the Saved and Draft Local Plans and is not allocated for development.

Saved Policy QL1 of the Tendring District Local Plan (2007) sets out the spatial strategy and seeks to concentrate most development in the District's larger towns with limited development, consistent with local community needs, in smaller towns and villages. The policy also seeks to concentrate development within settlement boundaries and states that development outside those boundaries will only be permitted where it is consistent with countryside policies. There is nothing to suggest that the proposals accord with the Plan's countryside policies. As such, they conflict with Policy QL1.

As the site lies outside of the settlement development boundaries and is not allocated for development in either the adopted or emerging Local Plan, it is contrary to local policy. However, where Councils are short of identifying a five-year supply of deliverable housing sites, the National Planning Policy Framework's (NPPF) presumption in favour of sustainable development is engaged and applications must be considered on their merits. In terms of St Osyth this has led to a number of major residential proposals being approved either by the Council or following an appeal over recent years.

With this in mind, the emerging Local Plan includes a 'settlement hierarchy' aimed at categorising the District's towns and villages and providing a framework for directing development toward the most sustainable locations. St Osyth is categorised in emerging Policy SPL1, along with six other villages, as a 'Rural Service Centre' in recognition of its size and reasonable range of services and facilities, particularly when compared against many of the District's smaller rural villages. Rural Service Centres are the next most sustainable category of settlement following 'Strategic Urban Settlements' (Clacton-on-Sea; Harwich and Dovercourt; and the proposed Tendring Colchester Borders Garden Settlement) and 'Smaller Urban Settlements' (Frinton; Walton and Kirby Cross; Manningtree; Lawford and Mistley; and Brightlingsea). Therefore, a level of housing development for St Osyth could have the potential to be considered sustainable so long as detailed matters such as infrastructure provision and environmental impacts are considered and addressed.

However, one of the main concerns raised by the Parish Council and local residents, with respect to this application, is the total number of new dwellings that have already gained planning permission on sites around St Osyth over recent years and which have either been built out or remain extant, and the cumulative impact that any additional homes and population over and above this could have on local services, traffic, other infrastructure and the character of the village. Whilst St Osyth is categorised in the emerging Local Plan as a rural service centre where

sustainable growth could be supported, this is not a license to allow an unlimited or disproportionate level of growth in the village. The level of growth intended for rural service centres through the policies in the emerging Local Plan, as set out in paragraph 3.2.1.3, is meant to be 'fair, achievable and sustainable'. Furthermore, the village does not have its own railway station and is not located in close proximity to any strategic employment centres.

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

At the time of this decision, the supply of deliverable housing sites that the Council can demonstrate technically falls below 5 years - but this is only because, until the modified Section 1 Local Plan is formally adopted at the end of January 2021, housing supply has to be calculated against a housing need figure derived through the government's 'standard methodology' - a figure that is significantly higher than the 'objectively assessed housing need' of 550 dwellings per annum in the Section 1 Plan and confirmed by the Inspector in his final report to be sound. Because of this technicality, the NPPF still requires 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.

However, because the housing land supply shortfall is relatively modest when applying the standard method prescribed by the NPPF and significant weight can now be given, in the interim, to the sound policies in the modified Section 1 Plan (including the housing requirement of 550 dwellings per annum), the reality is that there is no housing shortfall and, on adoption of the Section 1 Plan, the Council will be able to report a significant surplus of housing land supply over the 5 year requirement, in the order of 6.5 years. Therefore, in weighing the benefits of residential development against the harm, the Inspector's confirmation of 550 dwellings per annum as the actual objectively assessed housing need for Tendring is a significant material consideration which substantially tempers the amount of weight that can reasonably be attributed to the benefit of additional new housing - particularly in the consideration of proposals that fall outside of the settlement development boundaries in either the adopted or the emerging Section 2 Local Plan.

Accordingly, it is considered that given that the emerging Local Plan is progressing well, the core planning principles under paragraph 15 of the National Planning Policy Framework (NPPF) that development should be genuinely plan-led apply and the Council should actively manage patterns of growth is therefore awarded significant weight. With this in mind, it is considered appropriate to seek to protect villages from unfair, disproportionate and potentially unlimited levels of new housing growth.

Major developments - which have planning permission and have recently been built-out or retain extant consents - in St Osyth include:

- Westfield, St Osyth - 72 dwellings
- Wellwick, St Osyth - 190 dwellings

These 262 dwellings represent a significant increase in the village's housing stock which, based on the district-wide housing need for the whole of Tendring (contained within the emerging Local Plan) is already disproportionate. If added to the permissions already granted, a further 100 dwellings as proposed in this outline application would increase the potential growth further. As such the settlement is already now expected to accommodate a greater level of housing development than envisaged in the emerging Local Plan.

The 100 dwellings proposed for the application site is a purely residential scheme that offers no exceptional economic, social or environmental benefits over and above any of the other schemes with planning permission that might lead the Council to consider the proposal in exceptional light and there is no support from the Parish Council or local residents. As the housing land supply shortfall is relatively modest when calculated using the standard method prescribed by the NPPF, it is considered that this is an unnecessary and unwanted development that is contrary to the development plan and would exacerbate the disproportionate level of housing growth either built or subject to extant permissions in St Osyth over recent years.

As such therefore it is considered that further development in this location would be contrary to Saved Policy QL1 and Draft Policy SPL2.

Highway Considerations

Paragraph 108 of the NPPF (2019) relates to transport and requires Councils, when making decisions, to ensure that:

- Appropriate opportunities to promote sustainable transport modes can be made - or have been - taken up, given the type of development and its location;
- safe a suitable access to the site can be achieved for all users; and
- any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree

Policy QL2 in the adopted Local Plan and Policy CP1 in the emerging Local Plan seek to ensure that developments maximise the opportunities for access to sustainable transport including walking, cycling and public transport. The application site performs relatively well in this regard, with the nearest facilities located as follows;

St Osyth Primary School - 0.4km
Nisa Food Store - 0.45 km
Village Hall - 0.25 km
Doctor's Surgery - 0.15km

The provision of a new access onto Clacton Road with associated 2m wide footways in conjunction with a pedestrian access onto Rochford Road to link into existing/proposed footways would be secured via a condition placed on the planning permission. The site therefore offers a reasonable level of accessibility which is reflected in St Osyth's categorisation as a 'rural service centre' in the emerging Local Plan.

Policy TRA1a in the adopted Local Plan requires that development affecting highways be considered in relation to reducing and preventing hazards and inconvenience to traffic including the capacity of the road network. Policy CP2 in the emerging Local Plan states that proposals which would have any adverse transport impacts will not be granted planning permission unless these are able to be resolved and the development made acceptable by specific mitigation measures which are guaranteed to be implemented.

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

The Transport Assessment accompanying the planning application has been considered in detail and the Highway Authority is satisfied that, at peak times, the number of trips generated by the proposal on the highway network would be unlikely to be severe, therefore:

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

- No development shall take place, including any ground works or demolition, until a Construction Management Plan has been submitted;
- No occupation of the development shall take place until the following have been provided or completed:
 - a) A priority junction off Clacton Road to provide access to the proposed site as shown in principle on planning application, block plan drawing number: 1037_201 P1.
 - b) The road junction at its centre line shall be provided with a clear to ground visibility splay with dimensions of 2.4 metres by 59 metres in both directions, as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the road junction / access is first used by vehicular traffic and retained free of any obstruction at all times.
 - c) To current Essex County Council specification, the upgrade of the two nearest bus stops on Clacton Road which would best serve the proposal site (details shall be agreed with the Local Planning Authority prior to commencement of the development).
 - d) Provision of a 2-metre-wide footway on the south side of Clacton Road from its junction with the new site entrance westwards as shown in principal with drawing no.1037_203_P2;
- Prior to the occupation of 100 units the provision of a Section 106 contribution of £30,000.00 pro-rata contribution (to be index linked) towards any future junction improvements to Clacton Road/ Pump Hill or Clacton Road/ Colchester Road/ Mill Street/ Spring Road Junctions; and
- 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).

These requirements would be secured via appropriately worded conditions and, in respect of the financial contribution, through a legal agreement.

Therefore in the absence of a completed legal agreement the failure to secure the contribution to provide junction improvements will form part of the reasons for refusal.

Landscape Impact/Trees

The main body of the application site comprises of a single field in agricultural use. At the northernmost point of the site there is a residential dwelling and some light industrial/commercial buildings accessed from Clacton Road. The eastern boundary of the application site is demarcated by a track with hedgerows each side. The western boundary abuts developed land in Rochford Road and the southern boundary is open to the countryside.

The southernmost part of the application site is directly adjacent to the St Osyth Drain and is well populated with established trees comprising of Willow, Oak, Alder, Hawthorn and Blackthorn. There is an understory of Brambles, Nettles, and Common Reed (Phragmites). It appears that this area will be retained in a natural condition and the trees thereon and the ecological value of the land are not compromised by the development proposal.

In terms of the local landscape it should be noted that the northern section of the application site is situated the St Osyth/ Gt Bentley Heaths Landscape Character Area (LCA) with the southern section in the St Osyth Coastal slopes as defined in the Tendring District Council Landscape Character Assessment. The land to the south of the application site forms part of the St Osyth Coastal Ridge LCA which is similar in many ways to the Heathland Plateau but is perhaps less vegetated with fewer trees and countryside hedgerows.

One of the key characteristics of the St Osyth Heaths LCA is; as defined in the document the highly productive plateau of arable fields divided by low gappy hedgerows with occasional hedgerow Oaks. The plateau landscape is particularly sensitive as a result of its open character and low views. Taking into account the urban fringe location of the application site and the localised topography where the land falls down to the St Osyth Drain feeding into St Osyth Creek the site is locally contained.

In order to fully assess the potential impact of the development proposal on the local countryside the applicant has provided a Landscape and Visual Impact Assessment (LVIA). The LVIA establishes the baseline qualities and value of the local landscape and assesses the landscape

and visual effects of the proposed development on the local landscape character. It identifies the extent of harm and sets out steps to mitigate and ameliorate the harm. The document identifies several locations (visual receptor viewpoints) from which the application site can be viewed.

In terms of the assessment contained in the LVIA and the conclusion reached it is clear that the development of the land and the resultant change of use will have a significant adverse effect on the landscape and that this will be irreversible. It is also clear that to a lesser extent the development will have adverse effects on visual quality of the local landscape character. The visual harm can, to a reasonable degree, be mitigated by the measures set out in the LVIA.

The conclusion reached in the LVIA states that 'This LVIA confirms that there are no landscape related matters that, in our opinion, constitute reasons to outweigh the presumption in favour of development embedded in the NPPF or which constitute a landscape reason to refuse planning permission. On balance it appears that the LVIA provides a genuine reflection of the impact of the development proposal on the local landscape character.

However notwithstanding the conclusion drawn it is clear that the development proposal, would, if implemented, result in the loss of open countryside that is valuable for its own sake. The development would bring about a permanent change to the local landscape and would contribute to the gradual erosion of the countryside. The development would extend the settlement out further into open countryside and by eroding its rural setting the development would contribute to the further urbanisation of the village. This would undermine the distinctive identity of the settlement and would not conserve or enhance the rural character of the landscape. As such the application is in conflict with saved local plan policy EN1, emerging local plan policy PPL3, as the proposed development would have a harmful impact on the rural landscape setting of the village.

With regard to the trees on the application site and adjacent land the applicant has submitted a tree survey in support of the application in order to show the extent of the constraint that the trees and boundary hedgerows are on the development potential of the land. The report is in accordance with BS5837: 2012 Trees in relation to design, demolition and construction Recommendations.

Flood Risk and Drainage

Paragraph 155 of the NPPF requires Councils, when determining planning applications, to direct development away from areas at highest flood risk. Although the site is in Flood Zone 1 (low risk), the NPPF, Policy QL3 in the adopted Local Plan and Policy PLA1 in the emerging Local Plan still require any development proposal on sites larger than 1 hectare to be accompanied by a site-specific Flood Risk Assessment (FRA). This is to assess the potential risk of all potential sources of flooding, including surface water flooding that might arise as a result of development.

The applicant has submitted a Flood Risk Assessment which has been considered by Essex County Council as the authority for sustainable drainage. ECC has confirmed no objections to the drainage proposals which demonstrates a combination of SuDS features comprising swales, permeable paving and an infiltration basin to reduce surface runoff.

Wastewater drainage will be disposed of using a gravity drainage scheme discharging to the public foul sewer crossing the Site. Anglian Water has specified the point of connection to this public sewer and confirmed that both the receiving sewer and water recycling centre has capacity for the development.

Therefore based on the details contained within the FRA and Drainage Report, it is considered that the application site could be developed in the manner proposed without any risk of flooding from or to the proposed development compliant with the aims and objectives of the NPPF as well as Local Plan Policies set out above.

Ecology

Paragraph 175 of the NPPF requires Councils, when determining planning applications, to protect and enhance biodiversity and geodiversity. Where significant harm to biodiversity cannot be avoided, mitigated or, as a last resort, compensated for, Councils should refuse planning

permission. Policy EN6 of the adopted Local Plan and Policy PPL4 of the emerging Local Plan give special protection to designated sites of international, national or local importance to nature conservation but for non-designated sites still require impacts on biodiversity to be considered and thereafter minimised, mitigated or compensated for.

Protected Habitats/RAMS: Under Regulations 61 and 62 of the Habitats Regulations, local planning authorities as the 'competent authority' must have regard for any potential impact that a plan or project might have on European designated sites. The application site is not, itself, designated as site of international, national or local importance to nature conservation. However, the development site lies within the Zone of Influence for Essex Estuaries SAC, Colne Estuary SPA and Ramsar, Stour and Orwell Estuaries SPA and Ramsar, Dengie SPA and Ramsar, and Blackwater Estuary SPA and Ramsar. Colne Estuary SPA and Ramsar and Essex Estuaries SAC are the closest European sites and are located around 1.1 kilometres from the application site.

The applicant has provided a Shadow HRA, which states that high quality public open space will be provided within the development together with a public footpath link to adjacent farmland that will be suitable for dog walking. Details of information leaflets notifying new residents of the dog walking route and provision of dog bin(s) can be secured by condition with provision of the walking route, and dog waste bins prior to first occupation of the development and retained as approved thereafter. The detail of the information leaflet can be secured by condition and shall be included within the new residents' welcome pack to every new dwelling. Conditions can secure the details of these elements and the long-term maintenance and management of the green space. This is considered sufficient to avoid adverse effects on the integrity of the Habitats sites from recreational disturbance when considering the development alone.

A proportionate financial contribution will also be secured in line with the Essex Coast RAMS requirements 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. A project level HRA has been completed and outlines the above mitigation package which is consistent with proposals within Essex Coast RAMS Zone of Influence. This concludes that with mitigation, the project will not have an Adverse Effect on the Integrity of the European Sites within the Essex Coast RAMS. Natural England have been consulted in this respect and have confirmed no objections subject to the mitigation being secured.

Whilst the applicant has confirmed their agreement to payment of this contribution, in the absence of a completed Section 106 Agreement such obligations cannot be secured against any permission and this will therefore form part of a reason for refusal.

Site Specific Ecological Considerations: To assess the impact upon designated sites, protected species and Priority species & habitats the applicant has prepared and submitted the following documents;

- Preliminary Ecological Appraisal (BSG Ecology December 2019)
- Shadow Habitats Regulations Assessment (BSG Ecology December 2019);
- Reptile Survey (James Blake Associates October 2020);
- Ecological Walkover Survey (James Blake Associates October 2020); and
- Bat Emergence/Return to Roost Survey and Bat Activity Interim report (James Blake Associates October 2020)

The submitted documents have been reviewed by ECC-Place Services Ecology Team and they have provided the following comments;

We have reviewed the Preliminary Ecological Appraisal (BSG Ecology, December 2019), the Ecological Walkover Survey (BSG Ecology, October 2020), the Bat Survey Report (BSG Ecology, October 2020) and the Reptile Survey (BSG Ecology, October 2020) supplied by the applicant, relating to the likely impacts of development on Protected & Priority habitats and species, identification of proportionate mitigation.

We are still not satisfied that there is sufficient ecological information available for determination of this application.

The Ecological Walkover Survey (BSG Ecology, October 2020) states that "further surveys will be necessary in the first instance by testing for GCN presence/absence using the environmental DNA (eDNA) method. A positive result will be given if GCN have recently occupied the pond. If the ponds are found to be positive for GCN eDNA, then further survey work will be required. A European Protected Species licence from Natural England will be necessary if adverse impacts to GCN are likely in the absence of mitigation or Reasonable Avoidance Measures."

Additional surveys in respect of GCN are therefore necessary. This information is required, prior to determination, as paragraph 99 of the ODPM Circular 2005 highlights that: "It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision."

The Bat Survey Report (BSG Ecology, October 2020) identifies that a European Protected Species (EPS) Mitigation licence issued by Natural England will be required for works liable to affect the residential building (B14), as the site was concluded to support a day roost for a Single Common Pipistrelle. As the building is a confirmed roost, and only two emergence/re-entry surveys have been completed on this building, a third will be required for the provision of the licence and as outlines in the BCT Good Practice Guidelines (Collins 2016). Additionally, the Bat Survey Report (BSG Ecology, October 2020) states that "one bat activity survey is included within this interim report; the remaining two surveys will be undertaken in October 2020 and spring 2021." This is in line with Natural England licensing policy 4 which requires certainty of likely impacts and mitigation measures can be secured by the licence or a condition of any consent.

Consequently, the absence of the required GCN surveys will represent a further reason for refusal. As this information is necessary to enable the Council to demonstrate its compliance with its statutory duties including its biodiversity duty under s40 NERC Act 2006.

Layout/Density/Residential Amenities

As an outline planning application, detailed design and layout is a reserved matter for future consideration but if minded to approve, the Council would need to be satisfied that an appropriate scheme of up to 100 dwellings, with associated infrastructure and open space could be accommodated on the site in an appropriate manner.

The applicant has submitted indicative drawings to show how the scheme could potentially be laid out. To the north of the site the Clacton Road frontage dwelling has been situated in a similar fashion to the existing dwellings along Clacton Road. The dwelling address Clacton Road and provide a sense of familiarity to the development and help to enhance existing streetscene.

Within the development the layout of the dwellings have been positioned to provide an attractive and vibrant streetscene whilst conforming to the Essex Design Guide. Separation distances have been provided in accordance with the design guidance as follows:

- Rear Elevation to Rear Elevation - 25m
- Rear Elevation to Side Elevation - 15m

In addition, rear gardens have been provided in accordance with the Essex Design Guide, as follows:

- 1-2 Bed - 50m²
- 3-4+ Bed - 100m²

The layout of the dwellings would advantage of existing views to the south, across the existing woodland, and to the east, across the open fields. The development blocks have been sited to take advantage of views towards the proposed POS at the southern end of the site. All plots are shown to meet the relevant parking and garden size standards.

At 6.8 hectares, the site would be required to provide a minimum of 10% open space at a size of 0.68 hectares. This is comfortably achieved through formal open space at the northern end of the site and large area of informal open space at the southern end which also incorporates SUDs

features. The density of the development would be 15 dwellings per hectare. This level of housing density is consistent with the character of the locality.

Heritage Impacts

The heritage assets affected by the application are the Grade II listed Tan Cottage and Old Cottage (List UID: 1111483), and the early nineteenth century barn at the east of the site, visible on the 1840 St. Osyth Tithe Map known as Folly Farm and as such is identified as a non-designated heritage asset.

Following the submission of amended proposals retaining the historic barn, ECC-Place Services (Heritage) are unopposed to this outline application subject to the following recommended conditions:

- Prior to the commencement of any works on site, a building recording commensurate with Level 2 of the Historic England's Understanding Historic Buildings (2016) shall be undertaken of the historic barn by the applicant, submitted to, and approved in writing by the Local Planning Authority.
- A condition is required, securing the conservation of the barn to be completed by an agreed mid-point within the phasing and completion of the development.

These requirements of the development would be secured via conditions.

Legal Obligations

The NPPF states Local Planning Authorities shall 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 of 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.

Saved Policy QL12 and draft Policy PP12 require that new development is supported by the necessary infrastructure which includes education provision.

Education

Saved Policy COM26 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. Draft Policy PP12 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.

Essex County Council as the Local Education Authority has been consulted on the planning application and has made representations. ECC advised that, based on its standard formula, a development of this size can be expected to generate the need for up to 9 Early Years and Childcare (EY&C) places, 30 primary school places, and 20 secondary school places.

On the basis that there are insufficient places to meet the needs of this development in respect of EY&C, Primary and Secondary provision, ECC has requested financial contributions of £156,798 for EY&C places, £458,430 for primary school places and £464,280 for secondary school places along with a contribution of £100,700 for secondary school transport. The total contribution would therefore equate to approximately £1.18m.

As the application is to be refused, the lack of a Section 106 Agreement to secure the necessary education specific contributions will be included as a reason for refusal, to ensure this matter is properly addressed if the applicant decides to appeal.

Healthcare

NHS CCG have confirmed that the local GP practice at Church Square Branch Surgery (and/or including its Main Practice St James Surgery) does not have capacity for the residents resulting from this proposal and request a contribution of £56,444 to enable improvements to capacity, in line with emerging STP Estates Strategy, by way of refurbishment, reconfiguration, extension, or potential relocation for the benefit of the patients of Church Square Branch Surgery (and/or including its Main Practice St James Surgery) or through other solutions that address capacity and increased demand via digital solutions or health and wellbeing initiatives.

As the application is to be refused, the lack of a Section 106 Agreement to secure the necessary health specific contributions will be included as a reason for refusal, to ensure this matter is properly addressed if the applicant decides to appeal.

Affordable Housing

Policy HG4 in the adopted Local Plan requires large residential developments to provide 40% of new dwellings as affordable housing for people who cannot otherwise afford to buy or rent on the open market. Policy LP5 in the emerging Local Plan, which is based on more up to date evidence on viability, requires 30% of new dwellings on large sites to be made available for affordable or Council Housing. The policy does allow flexibility to accept as low as 10% of dwellings on site, with a financial contribution toward the construction or acquisition of property for use as Council Housing (either on the site or elsewhere in the district) equivalent to delivering the remainder of the 30% requirement.

If minded to approve this application, up to 30 of the proposed properties would need to be secured for affordable housing purposes through a Section 106 legal agreement and the applicant has indicated that they would be willing to provide the full policy-compliant contribution of affordable housing. However, as the application is to be refused, the lack of a Section 106 Agreement to secure the necessary level of affordable housing will be included as a reason for refusal, to ensure that this matter is properly addressed if the applicant decides to appeal.

Public Open Space

Saved Policy COM6 and Draft Policy HP5 require large residential developments to provide at least 10% of land as public open space or otherwise make financial contributions toward off-site provision.

Policy COM6 in the adopted Local Plan and Policy HP4 of the emerging Local Plan require large residential developments to provide at least 10% of land as public open space and/or otherwise make financial contributions toward off-site provision.

If the on-site open space is to be transferred to Tendring District Council for future maintenance, an additional financial contribution towards maintenance will also need to be secured through a Section 106 legal agreement. If the Council were minded to approve this application, Officers would engage in negotiations with the applicant to agree the necessary requirements in line with the guidance contained within the Council's Supplementary Planning Document on Open Space.

The Council's Open Space Team has commented on the application and has identified a deficit of equipped play and formal open space in St Osyth. Due to the limited provision in the village it is felt a contribution towards play and is justified and relevant to this planning application. The application has made provision for open space but no play facilities are being provided on site. The contribution would be used to provide additional facilities at Priory Meadow.

As the application is to be refused, the lack of a Section 106 Agreement to secure the future maintenance of the open space (excluding areas including SUDs features) and the off-site play contribution will be included as a reason for refusal, to ensure that this matter is properly addressed if the applicant decides to appeal.

RAMS

As stated above, this residential development lies within the Zone of Influence of the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). The residents of new housing are therefore considered likely to regularly visit relevant designated sites for recreation. In order to avoid a likely significant effect in terms of increased recreational disturbance to coastal European designated sites (Habitats sites) in particular Colne Estuary SPA and Ramsar site and the Essex Estuaries SAC, mitigation measures will need to be in place prior to occupation. These would be in the form of a financial contribution of £125.80p per dwelling.

A completed legal agreement to secure the provision of the legal obligations outlined above has not been provided. As such, whilst it may be the intention of the developer to meet these requirements, in the absence of a completed S106 such obligations cannot be secured against the permission and will therefore represent a reason for refusal.

Other Considerations

ECC-Archaeology have requested a Programme of Archaeological evaluation due to the presence of a number of below ground archaeological sites surviving in the near vicinity. This would be secured via condition.

The Council's Environmental Protection Team have no objections in respect of the findings of the submitted contamination survey. They have however requested the submission of a noise assessment prior to commencement of work to demonstrate that the nearby wind turbines would not have an adverse impact upon the amenity of future residents. This would be secured via condition.

St Osyth Parish Council strongly objects to this application, which is considered to be further and unnecessary overdevelopment of a village which is lacking in infrastructure.

Permissions having already been approved for developments at West Field and Wellwick, which will see the building of 73 and 190 properties respectively, there are concerns as to the impact of a further 100 properties, including:

- the increase of approximately 45 children* at the village Primary School, the catchment area for which includes St Osyth village, Point Clear, and the existing and proposed properties along St John's Road (*figures based on ECC formula);
- the shortage of patient places in the two surgeries;
- the lack of sufficient parking places in the centre of the village;
- there is already a lack of sufficient public transport to cater for existing residents;
- the increase of traffic using Clacton Road, which in turn would result in delays for traffic waiting to exit onto the B1027, via one of only two entrances to the village; it is because of this that the Parish Council has approached Essex Highway with a request for a mini roundabout at the Clacton Road entrance to the village;
- that the proposed woodland walk could result in increased visitor vehicles to the development, which in turn could result in unexpected off-road parking; and
- the Parish Council would also draw attention to the fact that not only is the area of the proposed woodland walk prone to flooding, but more importantly, the site is part of a rewilding scheme as advised by the Essex Wildlife trust.

6 letters of objection have been received outlining the following issues;

- No places for children in the local school.
- Residents will need to drive to alternative schools increasing traffic congestion within the village.
- Proposed dwellings are too close to rear boundaries of existing dwellings resulting in loss of privacy.
- Local doctor's surgery will be overwhelmed
- Flooding will occur as the site has poor drainage.
- Adverse impact upon local wildlife populations including rare birds, foxes etc.
- Local road and infrastructure cannot cope with the additional traffic particularly during the busy summer season.

- No benefit to local people, only profits to the developer.
- Development would overwhelm the village which has already taken on a disproportionate level of housing growth.
- Archaeological remains on site should be preserved.

6. Recommendation

Refusal

7. Reasons for Refusal

- 1 Paragraph 47 of the NPPF requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The site lies outside of the Settlement Development Boundary of both the Saved and Draft Local Plans and is not allocated for development.

Saved Policy QL1 of the Tendring District Local Plan (2007) sets out the spatial strategy and seeks to concentrate most development in the District's larger towns with limited development, consistent with local community needs, in smaller towns and villages. The policy also seeks to concentrate development within settlement boundaries and states that development outside those boundaries will only be permitted where it is consistent with countryside policies. There is nothing to suggest that the proposals accord with the Plan's countryside policies. As such, they conflict with Policy QL1.

As the site lies outside of the settlement development boundaries and is not allocated for development in either the adopted or emerging Local Plan, it is contrary to local policy. However, where Councils are short of identifying a five-year supply of deliverable housing sites, the National Planning Policy Framework's (NPPF) presumption in favour of sustainable development is engaged and applications must be considered on their merits. In terms of St Osyth this has led to a number of major residential proposals being approved either by the Council or following an appeal over recent years.

With this in mind, the emerging Local Plan includes a 'settlement hierarchy' aimed at categorising the District's towns and villages and providing a framework for directing development toward the most sustainable locations. St Osyth is categorised in emerging Policy SPL1, along with six other villages, as a 'Rural Service Centre' in recognition of its size and reasonable range of services and facilities, particularly when compared against many of the District's smaller rural villages. Rural Service Centres are the next most sustainable category of settlement following 'Strategic Urban Settlements' (Clacton-on-Sea; Harwich and Dovercourt; and the proposed Tendring Colchester Borders Garden Settlement) and 'Smaller Urban Settlements' (Frinton; Walton and Kirby Cross; Manningtree; Lawford and Mistley; and Brightlingsea). Therefore, a level of housing development for St Osyth could have the potential to be considered sustainable so long as detailed matters such as infrastructure provision and environmental impacts are considered and addressed.

However, one of the main concerns raised by the Parish Council and local residents, with respect to this application, is the total number of new dwellings that have already gained planning permission on sites around St Osyth over recent years and which have either been built out or remain extant, and the cumulative impact that any additional homes and population over and above this could have on local services, traffic, other infrastructure and the character of the village. Whilst St Osyth is categorised in the emerging Local Plan as a rural service centre where sustainable growth could be supported, this is not a license to allow an unlimited or disproportionate level of growth in the village. The level of growth intended for rural service centres through the policies in the emerging Local Plan, as set out in paragraph 3.2.1.3, is meant to be 'fair, achievable and sustainable'. Furthermore, the village does not have its own railway station and is not located in close proximity to any strategic employment centres.

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

At the time of this decision, the supply of deliverable housing sites that the Council can demonstrate technically falls below 5 years - but this is only because, until the modified Section 1 Local Plan is formally adopted at the end of January 2021, housing supply has to be calculated against a housing need figure derived through the government's 'standard methodology' - a figure that is significantly higher than the 'objectively assessed housing need' of 550 dwellings per annum in the Section 1 Plan and confirmed by the Inspector in his final report to be sound. Because of this technicality, the NPPF still requires 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.

However, because the housing land supply shortfall is relatively modest when applying the standard method prescribed by the NPPF and significant weight can now be given, in the interim, to the sound policies in the modified Section 1 Plan (including the housing requirement of 550 dwellings per annum), the reality is that there is no housing shortfall and, on adoption of the Section 1 Plan, the Council will be able to report a significant surplus of housing land supply over the 5 year requirement, in the order of 6.5 years. Therefore, in weighing the benefits of residential development against the harm, the Inspector's confirmation of 550 dwellings per annum as the actual objectively assessed housing need for Tendring is a significant material consideration which substantially tempers the amount of weight that can reasonably be attributed to the benefit of additional new housing - particularly in the consideration of proposals that fall outside of the settlement development boundaries in either the adopted or the emerging Section 2 Local Plan.

Accordingly, it is considered that given that the emerging Local Plan is progressing well, the core planning principles under paragraph 15 of the National Planning Policy Framework (NPPF) that development should be genuinely plan-led apply and the Council should actively manage patterns of growth is therefore awarded significant weight. With this in mind, it is considered appropriate to seek to protect villages from unfair, disproportionate and potentially unlimited levels of new housing growth.

Major developments - which have planning permission and have recently been built-out or retain extant consents - in St Osyth include:

- Westfield, St Osyth - 72 dwellings
- Wellwick, St Osyth - 190 dwellings

These 262 dwellings represent a significant increase in the village's housing stock which, based on the district-wide housing need for the whole of Tendring (contained within the emerging Local Plan) is already disproportionate. If added to the permissions already granted, a further 100 dwellings as proposed in this outline application would increase the potential growth further. As such the settlement is already now expected to accommodate a greater level of housing development than envisaged in the emerging Local Plan.

The 100 dwellings proposed for the application site is a purely residential scheme that offers no exceptional economic, social or environmental benefits over and above any of the other schemes with planning permission that might lead the Council to consider the proposal in exceptional light and there is no support from the Parish Council or local residents. As the housing land supply shortfall is relatively modest when calculated using the standard

method prescribed by the NPPF, it is considered that this is an unnecessary and unwanted development that is contrary to the development plan and would exacerbate the disproportionate level of housing growth either built or subject to extant permissions in St Osyth over recent years.

As such therefore it is considered that further development in this location would be contrary to Saved Policy QL1 and Draft Policy SPL2.

- 2 In terms of the local landscape it should be noted that the northern section of the application site is situated the St Osyth/ Gt Bentley Heaths Landscape Character Area (LCA) with the southern section in the St Osyth Coastal slopes as defined in the Tendring District Council Landscape Character Assessment. The land to the south of the application site forms part of the St Osyth Coastal Ridge LCA which is similar in many ways to the Heathland Plateau but is perhaps less vegetated with fewer trees and countryside hedgerows.

One of the key characteristics of the St Osyth Heaths LCA is; as defined in the document the highly productive plateau of arable fields divided by low gappy hedgerows with occasional hedgerow Oaks. The plateau landscape is particularly sensitive as a result of its open character and low views. Taking into account the urban fringe location of the application site and the localised topography where the land falls down to the St Osyth Drain feeding into St Osyth Creek the site is locally contained.

In order to fully assess the potential impact of the development proposal on the local countryside the applicant has provided a Landscape and Visual Impact Assessment (LVIA). The LVIA establishes the baseline qualities and value of the local landscape and assesses the landscape and visual effects of the proposed development on the local landscape character. It identifies the extent of harm and sets out steps to mitigate and ameliorate the harm. The document identifies several locations (visual receptor viewpoints) from which the application site can be viewed.

In terms of the assessment contained in the LVIA and the conclusion reached it is clear that the development of the land and the resultant change of use will have a significant adverse effect on the landscape and that this will be irreversible. It is also clear that to a lesser extent the development will have adverse effects on visual quality of the local landscape character. The visual harm can, to a reasonable degree, be mitigated by the measures set out in the LVIA.

The conclusion reached in the LVIA states that 'This LVIA confirms that there are no landscape related matters that, in our opinion, constitute reasons to outweigh the presumption in favour of development embedded in the NPPF or which constitute a landscape reason to refuse planning permission. On balance it appears that the LVIA provides a genuine reflection of the impact of the development proposal on the local landscape character.

However notwithstanding the conclusion drawn it is clear that the development proposal, would, if implemented, result in the loss of open countryside that is valuable for its own sake. The development would bring about a permanent change to the local landscape and would contribute to the gradual erosion of the countryside. The development would extend the settlement out further into open countryside and by eroding its rural setting the development would contribute to the further urbanisation of the village. This would undermine the distinctive identity of the settlement and would not conserve or enhance the rural character of the landscape. As such the application is in conflict with saved local plan policy EN1, emerging local plan policy PPL3, as the proposed development would have a harmful impact on the rural landscape setting of the village.

- 3 The National Planning Policy Framework (2019) states 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 of 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.

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 10 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 discounted value for use as affordable housing, or as an alternative, the Council will accept a minimum of 10% if new dwellings are to be made available alongside a financial contribution toward the construction or acquisition of property for use as affordable housing (either on the site or elsewhere in the district) equivalent to delivering the remainder of the 30% requirement. A completed Section 106 has not been provided prior to the application determination date and the application is therefore contrary to the above policy.

Saved Policy COM26 of the Tendring District Local Plan 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. Emerging Policy PP12 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 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. Essex County Council Education Services have identified the need for financial contributions toward primary and secondary education provision and school transport. A completed Section 106 obligation to secure these contributions has not been provided prior to the application determination date and the application is therefore contrary to the above policies.

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 and/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. In this case there is likely to be sufficient on-site open space provision to meet the Council's requirements. However, there will also be a need to provide an off-site play contribution and if the on-site open space is to be maintained by the Council then provisions for maintenance will need to be secured through a Section 106 obligation. Without such provisions being secured the proposals are contrary to the above policies.

Saved Policy QL12 state and emerging Policy HP1 state that the Council will work to improve the health and wellbeing of residents in Tendring by seeking mitigation towards new or enhanced health facilities from developers where new housing development would result in a shortfall or worsening of healthcare provision. NHS CCG have confirmed that the local GP practice at Church Square Branch Surgery (and/or including its Main Practice St James Surgery) does not have capacity for the residents resulting from this proposal and request a contribution of £56,444 to enable improvements to capacity.

Paragraph 108 of the NPPF 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. Furthermore, saved Policy TR1a requires new development to be considered in relation to the road hierarchy to reducing and preventing hazards and inconvenience to traffic. ECC-Highways have confirmed the need for a financial contribution of £30,000 towards any future junction improvements to Clacton Road/Pump Hill or Clacton Road/Colchester Road/Mill Street/Spring Road Junctions.

A completed Section 106 obligation to secure the relevant contributions towards education, highway improvements, health, open space/play space and affordable housing has not been provided and is therefore contrary to the above policies.

- 4 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. This residential development lies within the Zone of Influence of the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). The residents of new housing are therefore considered likely to regularly visit relevant designated sites for recreation. In order to avoid a likely significant effect in terms of increased recreational disturbance to coastal European designated sites (Habitats sites) mitigation measures will need to be in place prior to occupation. A proportionate financial contribution has not been secured in accordance with the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) requirements.

The development is therefore contrary to Paragraph 175 of the National Planning Policy Framework, Policy EN11a in the adopted Local Plan and Policy PPL4 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft.

- 5 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.

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. Paragraph 99 of Circular 06/2005 states that "It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision" it goes on to state "The need to ensure ecological surveys are carried out should therefore only be left to coverage under planning conditions in exceptional circumstances".

Paragraph 5.3 of government document 'Planning for Biodiversity and Geological Conservation: A Guide To Good Practice', states that "In the development control process, the onus falls on the applicant to provide enough information to enable the Local Planning Authority to assess the impacts on biodiversity and geological conservation. Planning applications must be supported by adequate information". Standing advice from Natural England recommends that an initial scoping or extended Phase 1 habitat survey should be conducted to assess the site and the results of this used to inform (the need for and carrying out of) subsequent species specific surveys.

The Ecological Walkover Survey (BSG Ecology, October 2020) states that "further surveys will be necessary in the first instance by testing for GCN presence/absence using the environmental DNA (eDNA) method. A positive result will be given if GCN have recently occupied the pond. If the ponds are found to be positive for GCN eDNA, then further survey work will be required. A European Protected Species licence from Natural England will be necessary if adverse impacts to GCN are likely in the absence of mitigation or Reasonable Avoidance Measures."

Additional surveys in respect of GCN are therefore necessary. This information is required, prior to determination, but has not been provided. Therefore, the Local Planning Authority is unable to say with confidence that the proposal will not have an adverse impact on a species protected by Schedules 1, 5 and 8 of the Wildlife and Countryside Act 1981 and would therefore be contrary to saved Policies EN6 and EN6a as well as draft plan Policy

PPL4. It would also be contrary to Paragraphs 170 and 174 of the National Planning Policy Framework, which requires that biodiversity should be protected and that significant harm should be avoided. In this case it is unknown whether significant harm will be caused. As such, the proposal is in conflict with the afore-mentioned policies, guidance, directive and the Framework.

8. Informatives

Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and discussing those with the Applicant. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm which has been clearly identified within the reasons for the refusal, approval has not been possible.

<p>Are there any letters to be sent to applicant / agent with the decision? If so please specify:</p>	<p>YES</p>	<p>NO</p>
<p>Are there any third parties to be informed of the decision? If so, please specify:</p>	<p>YES</p>	<p>NO</p>