

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	NH	22/12/2020
Planning Development Manager authorisation:	SCE	22.12.2020
Admin checks / despatch completed	CC	22.12.2020
Technician Final Checks/ Scanned / LC Notified / UU Emails:	DB	22/12/2020

Application: 20/01050/FUL **Town / Parish:** Frinton & Walton Town Council

Applicant: Mr David Salmon

Address: Green End Farm Green End Lane Great Holland

Development: Replacement of plot 1 agricultural buildings with a three bed dwelling (in lieu of prior approval for plot 1 dwelling subject of application 17/02086/COUNOT)

1. Town / Parish Council

Frinton and Walton Town Council
21.09.2020

Recommend Approval

2. Consultation Responses

ECC Highways Dept
15.09.2020

Please note due to the recent COVID-19 restrictions no site visit has been undertaken and the observations below are based on submitted material, google earth photo dated April 2019. It is noted that this is a revised application to: 19/00702/COUNOT; the existing vehicular access off Green End Lane is to be utilised and comes out onto Kirby Road close to some existing bus stop facilities. The plot retains adequate room and provision for off street parking and turning, for the proposed dwellings therefore:

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

1. Prior to occupation of the development a vehicular turning facility, of a design to be approved in writing by the Local Planning Authority shall be constructed, surfaced and maintained free from obstruction within the site at all times for that sole purpose.
Reason: To ensure that vehicles can enter and leave the highway in a forward gear in the interest of highway safety in accordance with policy DM1.
2. No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary.
Reason: To avoid displacement of loose material onto the highway in the interests of highway safety in accordance with policy DM1.
3. Prior to the occupation of any of the proposed dwellings, the proposed private drive shall be constructed to a width of 5.5 metres for at least the first 6 metres from the back of Carriageway / Footway / Highway Boundary.
Reason: To ensure that vehicles can enter and leave the highway in

a controlled manner and to ensure that opposing vehicles can pass clear of the limits of the highway, in the interests of highway safety in accordance with policy DM1.

4. The proposed development shall not be occupied until such time as a domestic car parking for a minimum of two vehicles per dwelling has been provided in accordance with the Parking Standards. Each vehicular parking space shall have minimum dimensions of 2.9 metres x 5.5 metres, or each tandem vehicular parking space shall have minimum dimensions of 2.9 metres x 11 metres to accommodate two vehicles.

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

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

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

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

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

7. Areas within the curtilage of the site for the purpose of the reception and storage of building materials shall be identified clear of the highway.

Reason: To ensure that appropriate loading / unloading facilities are available to ensure that the highway is not obstructed during the construction period in the interest of highway safety in accordance with policy DM1.

8. The public's rights and ease of passage over public footpath no. 4 (Frinton and Walton_164) south of Green End Lane shall always be maintained free and unobstructed.

Reason: To ensure the continued safe passage of the public on the definitive right of way and accessibility in accordance with Policies DM1 and DM11.

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

Informative:

1: Steps should be taken to ensure that the Developer provides enough turning and off-loading facilities for delivery and site worker vehicles, within the limits of the site together with an adequate parking area for those employed in developing the site.

2: Any work within or affecting the highway is to be laid out and

constructed by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority, details to be agreed before the commencement of works.

The applicants should be advised to contact the Development Management Team by email at: development.management@essexhighways.org or by post to:

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

Essex County Council
Ecology
21.12.2020

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

No objection subject to securing biodiversity mitigation and enhancement measures

Summary

We have reviewed the Preliminary Ecological Appraisal (PEA) (Liz Lord Ecology, December 2020) relating to the likely impacts of development on designated sites, protected species and Priority species & habitats.

We now understand that Prior Approval for this building was not needed for change of use under GDPO so 17/02086/COUNOT relating to Plot 1 and Plot 2 constituted permitted development as per the decision notice issued 22 Jan 2018. The applicant therefore can implement that consent.

We are therefore satisfied that there is sufficient ecological information available for determination.

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

We note that Tendring DC have prepared a project level HRA Appropriate Assessment which identifies that the development is approximately 2.5km from Hamford Water SAC, SPA and Ramsar. Therefore this site lies within the Zone of Influence (ZOI) for the Essex Coast RAMS and delivery of mitigation measures in perpetuity will therefore be necessary to ensure that this proposal will not have an adverse effect on the integrity of the above Habitats sites from recreational disturbance, when considered 'in combination' with other plans and projects. We also note that Tendring DC will secure the Essex Coast RAMS contribution under a legal agreement.

The PEA reports that a hibernating Soprano Pipistrelle was identified in the wall between buildings B1 and B4. Additionally, the report also identifies that "three separate collections of brown long-eared droppings, majority old, beneath ridge beam or collection of adjoining beams" were identified within B1 and "one collection of unconfirmed, possible brown long eared droppings." Feeding remains of Brown Long-eared bats were also identified in B4. The Preliminary Ecological Appraisal (Liz Lord

Ecology, December 2020) therefore recommends that B1 is subject to "three dusk / dawn surveys between May and September, with at least two of these surveys completed before the end of August. DNA analysis of the two dropping samples. At least one hibernation check between December and February inclusive (the 28th November check serves as one of the minimum two checks required for hibernation roosts)."

These further surveys will be needed for inform mitigation and compensation measures to support a European Protected Species (EPS) mitigation licence for bats. The LPA will need to agree these prior commencement to support the licence application being submitted to Natural England in order to demonstrate it is meeting its statutory duty under the Conservation of Habitats & Species Regulations 2017 (as amended).

The mitigation measures identified in the Preliminary Ecological Appraisal (Liz Lord Ecology, December 2020) should be secured by a condition of any consent and implemented in full. This is necessary to conserve and enhance protected and Priority Species. This will include the provision of a copy of the EPS mitigation licence for bats which will be needed to implement the development.

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 also support the proposed reasonable biodiversity enhancements, which have been recommended within Section 6 of the PEA , are secured to deliver measurable net gains for biodiversity, as outlined under Paragraph 170d of the National Planning Policy Framework 2019. The reasonable biodiversity enhancement measures should be outlined within a Biodiversity Enhancement Layout and should be secured as a condition of any consent.

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

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

Recommended conditions:

1. ACTION REQUIRED IN ACCORDANCE WITH ECOLOGICAL APPRAISAL RECOMMENDATIONS

"All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Preliminary Ecological Appraisal (Liz Lord Ecology, December 2020) as already submitted with the planning application and agreed in principle with the local planning authority prior to determination.

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

Reason: To conserve and enhance Protected and Priority species and allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife &

Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species).

2. PRIOR TO COMMENCEMENT: FURTHER SURVEYS FOR BATS

"Further supplementary ecological surveys for bats shall be undertaken to inform the preparation and implementation of ecological measures required by the Preliminary Ecological Appraisal (Liz Lord Ecology, December 2020) . The supplementary surveys shall be of an appropriate type for the above species and survey methods shall follow national good practice guidelines."

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

3. PRIOR TO COMMENCEMENT: SUBMISSION OF A COPY OF THE EPS LICENCE FOR BATS

"The following works to convert the existing outbuilding shall not in any circumstances commence unless the local planning authority has been provided with either:

a) a licence issued by Natural England pursuant to Regulation 55 of The Conservation of Habitats and Species Regulations 2017 (as amended) authorizing the specified activity/development to go ahead; or

b) a statement in writing from the relevant licensing body to the effect that it does not consider that the specified activity/development will require a licence."

Reason: To conserve protected and Priority species and allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 (as amended) and s40 of the NERC Act 2006 and s17 Crime & Disorder Act 1998.

4. PRIOR TO SLAB LEVEL: BIODIVERSITY ENHANCEMENT LAYOUT

"A Biodiversity Enhancement Layout, providing the finalised details and locations of the enhancement measures contained within the Preliminary Ecological Appraisal (Liz Lord Ecology, December 2020), shall be submitted to and approved in writing by the local planning authority.

The enhancement measures shall be implemented in accordance with the approved details and all features shall be retained in that manner thereafter."

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

5. PRIOR TO OCCUPATION: WILDLIFE SENSITIVE LIGHTING DESIGN SCHEME

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

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

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

3. Planning History

05/01237/FUL	First Floor Extension.	Approved	08.09.2005
07/00903/FUL	Retention of use of four farm buildings for storage and siting of portacabin for ancillary office use.	Approved	01.04.2008
13/60079/HOUEN Q	side single storey pitched roof garden room	Permission Required	08.03.2013
13/00426/FUL	Side single storey pitched roof garden room.	Approved	12.06.2013
13/00427/LBC	Side single storey pitched roof garden room.	Approved	
17/02086/COUNO T	Application for prior approval for the conversion of two agricultural buildings into two residential dwellings.	Prior Approval Not Required	23.01.2018
19/01183/FUL	Proposed removal of agricultural occupancy condition (condition 2) of application FRW/128/70.	Approved	03.10.2019
19/01684/COUNO T	Conversion of agricultural buildings into two dwellings.	Prior Approval Not Required	18.12.2019
20/00702/COUNO T	Conversion of three redundant agricultural buildings into dwellings.	Application Turned Away	23.07.2020

4. Relevant Policies / Government Guidance

NPPF National Planning Policy Framework February 2019

National Planning Practice Guidance

NPPF National Planning Policy Framework February 2019

National Planning Practice Guidance

Tendring District Local Plan 2007

EN1 Landscape Character

EN6 Biodiversity

EN6A Protected Species

EN11A Protection of International Sites European Sites and RAMSAR Sites

HG1 Housing Provision

HG6 Dwelling Size and Type

HG9 Private Amenity Space

HG14 Side Isolation

QL1 Spatial Strategy

QL9 Design of New Development

QL10 Designing New Development to Meet Functional Needs

QL11 Environmental Impacts and Compatibility of Uses

TR1A Development Affecting Highways

TR7 Vehicle Parking at New Development

COM6 Provision of Recreational Open Space for New Residential Development

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

LP1 Housing Supply

LP2 Housing Choice

LP4 Housing Layout

HP5 Open Space, Sports & Recreation Facilities

PPL3 The Rural Landscape

PPL4 Biodiversity and Geodiversity

SPL1 Managing Growth

SPL3 Sustainable Design

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

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 relates to Green End Farm, Green End Lane, Great Holland. The application site is located outside of the settlement development boundary.

Site History

In December 2017, a formal notification was submitted pursuant to Part Q of the Town & Country Planning (General Permitted development) (England) Order 2015 for the conversion of an agricultural building into a dwelling.

Following consideration of the issues involved, the Council accepted by letter dated 23rd January 2018 that Prior Approval was not required (reference 18/00358/COUNOT). This approval was subject to the conversion of the building with a gross floor area of approximately 281 square metres.

Appeal History

There are two appeal decisions reference APP/A1530/W/16/3144635 and APP/A1530/W/16/3144643 for Chesnut Farm, Abberton Road, Layer De La Haye which deal with the replacement of buildings where the fall-back position relates to a Prior Notification Application under Part Q of the Town & Country Planning (General Permitted development) (England) Order 2015 (formerly Class MB).

The Inspector accepted that the fall-back position is a material planning consideration and concluded that the proposal would have a very similar effect to the prior approval scheme in relation to its sustainability of location and access to local services and facilities (the occupants would be reliant on private car); would not increase the number of dwellings over the prior approval scheme and would not result in an increase in new isolated homes in the countryside. The Inspector supported the replacement of three poultry sheds with three dwellings with the same floor area subject to conditions (in order to protect the character and appearance of the rural character of the area).

Proposal

The application seeks planning permission for the replacement of plot 1 agricultural buildings with a three bed dwelling (in lieu of prior approval for plot 1 dwelling subject of application 17/02086/COUNOT)

1. Principle of Development

Having regard to the above and the approval of 17/02086/COUNOT the principle of a new dwelling to replace existing buildings subject of a Class Q approval is accepted. The principle of new

dwellings of an increased height to replace a building subject of a Class Q approval is also accepted.

2. Impact on Character and Appearance

Paragraph 8 of the National Planning Policy Framework 2019 (NPPF) sets out the overarching objectives for achieving sustainable development, one being the environmental objective which requires the planning system to contribute to protecting and enhancing our natural, built and historic environment. Furthermore, Paragraph 127 of the NPPF requires that development should respond to local character and history, and reflect the identity of local surroundings. It goes on to say that local distinctiveness should be promoted and reinforced. Saved Policy QL9 and EN1 of the Tendring District Local Plan (2007) and Policy SPL3 and PPL3 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) seeks to ensure that development is appropriate in its locality and does not harm the appearance of the landscape.

The current application is for the replacement of the approved dwelling with a new one and a half storey dwelling in exactly the same location. The footprint of the dwelling remains the same with the addition of a first floor to accommodate three bedrooms, an ensuite and a bathroom. The only changes to the external appearance are the fenestration changes including rooflights to the front, rear and side elevation, as well as a former window and Juliet balcony. However, in order to ensure the building does not have a domestic form, considerable attention has been given to the external appearance of the building. This will have a utilitarian approach with a simple shell clad in timber and a profile metal sheet roof. The rooms at first floor level will be in the form of rooflights. This format will ensure the building retains a simplicity prevalent in an agricultural type structure. The use of the materials are considered acceptable in this rural location.

Having regard to the afore-mentioned appeals and national and local plan policies, in terms of its size, the proposal will not appear incongruous in its context and will not result in a harmful impact on the character and appearance of the area or landscape.

3. Residential Amenities

The NPPF, in paragraph 127 states that planning should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings. In addition, Policy QL11 of the Tendring District Local Plan (2007) states that amongst other criteria, 'development will only be permitted if the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties'. These sentiments are carried forward in Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (2017).

Due to the rural nature of the application site, the proposed dwelling is not considered to cause any impact upon neighbouring amenities.

4. Highway Safety and Parking Provision

Essex Highways Authority have been consulted on this application and have stated that please note due to the recent COVID-19 restrictions no site visit has been undertaken and the observations below are based on submitted material, google earth photo dated April 2019. It is noted that this is a revised application to: 19/00702/COUNOT; the existing vehicular access off Green End Lane is to be utilised and comes out onto Kirby Road close to some existing bus stop facilities. The plot retains adequate room and provision for off street parking and turning, for the proposed dwellings. The Highway Authority therefore have no objections to this application subject to conditions relating to vehicular turning facility, no unbound materials, private drive, car parking measurements, cycle parking, residential travel pack, storage of materials and public footpath. The cycle parking condition will not be imposed as there is sufficient parking available to the rear of the dwelling. This application is for a minor development only therefore the residential travel pack will not be imposed. The storage of materials will be imposed as an informative only.

The plans provided demonstrate that there is sufficient parking available to the front of the host dwelling to accommodate at least two parking spaces in line with Essex Parking Standards.

5. Trees and Landscaping

No important trees or other significant vegetation will be affected by the development proposal. The site is in a relatively secluded location and the development proposal will not have a significant visual impact on the immediate environment surrounding the application site nor the wider local landscape character. A landscaping condition will be imposed to help soften and enhance the appearance of the development.

6. Biodiversity and Protected Species;

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 Preliminary Ecology Appraisal or extended Phase 1 Habitat Survey should be conducted to assess the site and the results of this used to inform (the need for) subsequent species specific surveys.

Essex County Council Ecology were consulted on this application and raise a holding objection due to insufficient ecological information. The applicant has provided a preliminary Ecology Survey and the Ecology team have been re-consulted.

ECC Ecology were consulted on this application and stated that there is a holding objection due to insufficient ecological information on protected species. A Preliminary Ecological Appraisal has been provided and ECC Ecology have been re-consulted. The team have no objection subject to securing biodiversity mitigation and enhancement measures.

7. Financial Contribution - Open Space

Policy COM6 of the adopted Tendring District Local Plan 2007 states "For residential development below 1.5 hectares in size, developers shall contribute financially to meet the open space requirements of the development in proportion to the number and size of dwellings built".

There is currently a deficit of 14.12 hectares of equipped play in Frinton, Walton & Kirby and Great Holland. There is only one play area in Great Holland located on the corner of Pork Lane and Main Road. Due to the size of the development, it is unlikely that this development will impact existing facilities. Therefore no contribution is being requested on this occasion.

8. Financial Contribution - RAM's

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.

The application scheme proposes a residential on a site that lies within the Zone of Influence (Zol) being approximately 2.5 km away from Hamford Water Ramsar and SPA.. New housing development within the Zol would be likely to increase the number of recreational visitors to Hamford Water and in combination with other developments it is likely that the proposal would have significant effects on the designated site. Mitigation measures must therefore be secured prior to occupation.

A completed unilateral undertaking has been provided to secure this legal obligation and to ensure that the development would not adversely affect the integrity of European Designated Sites in accordance with policies EN6 and EN11a of the Saved Tendring District Local Plan 2007, Policy PPL4 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft and Regulation 63 of the Conservation of Habitat and Species Regulations 2017.

9. Other considerations

Frinton and Walton Town Council recommends this application for approval.

No letters of representation have been received.

10. Conclusion

Due to the special circumstances under which the application is being assessed and the fall-back position already approved, in the absence of any material harm resulting from the development, the application is recommended for approval, subject to conditions.

6. **Recommendation**

Approval - Full

7. **Conditions**

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

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

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

- Drawing No. GE/1
- Drawing No. GE/3

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

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

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

- 4 Prior to the occupation of any of the proposed dwellings, the proposed private drive shall be constructed to a width of 5.5 metres for at least the first 6 metres from the back of Highway Boundary.

Reason - To ensure that vehicles can enter and leave the highway in a controlled manner and to ensure that opposing vehicles can pass clear of the limits of the highway, in the interests of highway safety

- 5 The proposed development shall not be occupied until such time as a domestic car parking for a minimum of two vehicles per dwelling has been provided in accordance with the Parking Standards. Each vehicular parking space shall have minimum dimensions of 2.9 metres x 5.5 metres, or each tandem vehicular parking space shall have minimum dimensions of 2.9 metres x 11 metres to accommodate two vehicles.

Reason - To ensure adequate space for parking off the highway is provided in the interest of highway safety

- 6 Notwithstanding the provisions of Classes A, B, C, D and E of Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or the equivalent provisions of any order revoking and re-enacting that Order), the dwellings hereby permitted shall not be extended or ancillary buildings or structures erected within the curtilage without the prior written approval of the Local Planning Authority following the submission of a planning application.

Reason - In order to protect the rural character and appearance of the area.

- 7 No above ground level works shall take place until precise details of the provision, siting, design and materials of screen walls and fences have been submitted to and approved in writing by the Local Planning Authority. The approved details shall be erected prior to the occupation of the development and thereafter be retained in the approved form unless otherwise agreed in writing by the Local Planning Authority.

Reason - To ensure that the development is appropriate within its setting in the interests of visual amenity.

- 8 All new parking areas and areas of hardstanding shall be made of porous materials, or provision shall be made to direct run-off water from the hard surface to a permeable or porous area within the site area.

Reason - In the interests of sustainable development and to minimise the risk of surface water flooding.

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

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

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

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

- 11 Prior to Occupation, all mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Preliminary Ecological Appraisal (Liz Lord Ecology, December 2020) as already submitted with the planning application and agreed in principle with the local planning authority prior to determination.

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

- 12 Prior to commencement of development, further supplementary ecological surveys for bats shall be undertaken to inform the preparation and implementation of ecological measures required by the Preliminary Ecological Appraisal (Liz Lord Ecology, December 2020). The supplementary surveys shall be of an appropriate type for the above species and survey methods shall follow national good practice guidelines."

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

- 13 Prior to commencement of development, the following works to convert the existing outbuilding shall not in any circumstances commence unless the local planning authority has been provided with either:
- a) a licence issued by Natural England pursuant to Regulation 55 of The Conservation of Habitats and Species Regulations 2017 (as amended) authorizing the specified activity/development to go ahead; or
 - b) a statement in writing from the relevant licensing body to the effect that it does not consider that the specified activity/development will require a licence."

Reason - To conserve protected and Priority species and allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 (as amended) and s40 of the NERC Act 2006 and s17 Crime & Disorder Act 1998.

- 14 Prior to occupation of the development, a Biodiversity Enhancement Layout, providing the finalised details and locations of the enhancement measures contained within the Preliminary Ecological Appraisal (Liz Lord Ecology, December 2020), shall be submitted to and approved in writing by the local planning authority. The enhancement measures shall be implemented in accordance with the approved details and all features shall be retained in that manner thereafter."

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

- 15 Prior to occupation of development, a lighting design scheme for biodiversity shall be submitted to and approved in writing by the local planning authority. The scheme shall identify those features on site that are particularly sensitive for bats and that are likely to cause disturbance along important routes used for foraging; and show how and where external lighting will be installed (through the provision of appropriate lighting drawings and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory. All external lighting shall be installed in accordance with the specifications and locations set out in the scheme and maintained thereafter in accordance with the scheme. Under no circumstances should any other external lighting be installed without prior consent from the local planning authority."

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

16 Prior to the commencement of development, a Construction Method Statement shall be submitted to and approved in writing by the local planning authority. The Construction Method Statement shall provide for:

- safe access to/from the site;
- the parking of vehicles of site operatives and visitors;
- the loading and unloading of plant and materials;
- the storage of plant and materials used in constructing the development;
- wheel washing facilities;
- measures to control the emission of dust and dirt during demolition and construction;
- a scheme for recycling/disposing of waste resulting from demolition and construction works;
- details of hours of deliveries relating to the demolition and construction of the development;
- details of hours of site clearance and construction;
- a scheme to control noise and vibration during the demolition and construction phase, including details of any piling operations.

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

Reason - To ensure that on-street parking of construction vehicles in the adjoining streets does not occur, to ensure that loose materials and spoil are not brought out onto the highway in the interests of highway safety and to ensure working conditions are sympathetic to residential amenities.

8. Informatives

Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

Legal Agreement Informative - Recreational Impact Mitigation

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

Highways

1: Steps should be taken to ensure that the Developer provides enough turning and off-loading facilities for delivery and site worker vehicles, within the limits of the site together with an adequate parking area for those employed in developing the site.

2: Any work within or affecting the highway is to be laid out and constructed by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority, details to be agreed before the commencement of works.

The applicants should be advised to contact the Development Management Team by email at: development.management@essexhighways.org or by post to:

SMO1 ' Essex Highways
Colchester Highways Depot,

653 The Crescent,
Colchester.
CO4 9YQ.

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