

## DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	ML	25/01/2021
Planning Development Manager authorisation:	TC	26/01/2021
Admin checks / despatch completed	DB	26/01/2021
Technician Final Checks/ Scanned / LC Notified / UU Emails:	CC	26.01.2021

**Application:** 20/00648/FUL **Town / Parish:** Mistley Parish Council

**Applicant:** Ravi Kumar - Build Vantage

**Address:** Crown Building Former Secret Bunker Shrubland Road Mistley

**Development:** Variation of conditions 2, 4, 5, 6 and 16 of application 12/00109/FUL (approved on appeal APP/P1560/A/13/2197833) to amend approved details of dwellings and landscaping layout in conjunction with design changes to the required highway improvements.

### **1. Town / Parish Council**

Mistley Parish Council

The Parish Council's Planning Committee Meeting on the 3rd November 2020 was forced to defer this matter due to insufficient information. The Parish Council looked at the application again at its Meeting on the 16th November 2020, where it was considered that the application still lacked information and details. The Council noted the external changes to one of the flats, where the changes are not too different to the original application. The loss of the curved garage doors was also noted.

### **2. Consultation Responses**

ECC Highways Dept  
10.11.2020

It is noted that this application concerns variation of Conditions 2, 4, 5 and 6 to amend approved details of dwellings and landscaping layout in conjunction with design changes to the required highway improvements; the Highway Authority in principal does not object to the proposals as submitted subject to the following mitigation and condition(s):

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

(a) The amended design changes to the highway works on Harwich Road and access into the site as indicated in principal with drawing no. Ex18\_033\_02-279 Rev k.

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

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

Tree & Landscape Officer 21.10.2020 There is a single culinary Pear tree situated on the application site that is in poor condition. It does not merit protection by means of a tree preservation order. Otherwise there are no trees or other significant vegetation on the application site.

Whilst soft landscaping could be secured by condition to partially screen the Crown Building/Former Secret Bunker it has historically been a prominent feature in its setting. Therefore it may not be desirable to attempt to screen the building other than to provide a degree of privacy for future residents.

### 3. Planning History

12/00105/CON	Demolition of block of seven garages.	Approved	28.08.2012
12/00109/FUL	Conversion of the former nuclear bunker into 3 dwellings and erection of 28 dwellings in the grounds.	Refused <b>(Allowed on Appeal)</b>	07.03.2013
12/00110/LBC	Conversion of the former nuclear bunker into 3 dwellings.	Refused <b>(Allowed on Appeal)</b>	07.03.2013
14/00038/DISCON	Discharge of Condition 02 (Method Statement) of Conservation Area Consent 12/00105/CON	Approved	01.04.2014
15/00745/DISCON	Discharge of condition 3 (materials), 4 (boundary treatment details), 5 (landscaping), 7 (landscape management plan), 8 (disposal of surface water), 9 - 13 (contamination), 14 (parking of vehicles and drainage and surfacing details), 15 (parking of powered two wheelers and bicycles), 16 (site access, traffic calming measures and pedestrian facilities), 17 (construction method statement), 18 (protection/mitigation scheme for bats and slow worms) and 19 (programme of archaeological work) of planning permission 12/00109/FUL allowed under appeal reference APP/P1560/A/13/2197833.	Approved	18.08.2015
15/00746/DISCON	Discharge of condition 3 (details of openings and methods of glazing), 4 (interior finishes and materials of construction), 5 (schedule of features or fixtures of architectural and historic interest) and 6 (programme for recording building	Approved	10.07.2015

and its interior) of listed building consent 12/00110/LBC allowed under appeal reference APP/P1560/A/13/2197842.

20/00648/FUL	Variation of conditions 2, 4, 5, 6 and 16 of application 12/00109/FUL (approved on appeal APP/P1560/A/13/2197833) to amend approved details of dwellings and landscaping layout in conjunction with design changes to the required highway improvements.	Current
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#### **4. Relevant Policies / Government Guidance**

NPPF National Planning Policy Framework February 2019

National Planning Practice Guidance

Tendring District Local Plan 2007

QL1 Spatial Strategy

QL3 Minimising and Managing Flood Risk

QL6 Urban Regeneration Areas

QL9 Design of New Development

QL10 Designing New Development to Meet Functional Needs

QL11 Environmental Impacts and Compatibility of Uses

QL12 Planning Obligations

HG6 Dwelling Size and Type

HG7 Residential Densities

HG9 Private Amenity Space

TR1A Development Affecting Highways

TR7 Vehicle Parking at New Development

EN1 Landscape Character

EN2 Local Green Gaps

EN3 Coastal Protection Belt

EN23 Development Within the Proximity of a Listed Building

EN27 Enabling Development

LMM1 Mistley Urban Regeneration Area

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

SPL1 Managing Growth

SPL2 Settlement Development Boundaries

SPL3 Sustainable Design

LP1 Housing Supply

LP2 Housing Choice

LP3 Housing Density and Standards

LP4 Housing Layout

PPL1 Development and Flood Risk

PPL3 The Rural Landscape

PPL8 Conservation Areas

PPL9 Listed Buildings

CP1 Sustainable Transport and Accessibility

CP2 Improving the Transport Network

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 10<sup>th</sup> 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 26<sup>th</sup> 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 amounts to 0.85 hectares and lies to the south of the existing built up area of Mistley. Existing vehicular access to the site is along Shrubland Road via a priority junction onto the B3152 Harwich Road. Shrubland Road is not an adopted public highway but is a public right of way, which passes along the northern boundary of the site. From Shrubland Road there is shared access link with the Mistley Village Hall and the associated sports and recreation facilities.

The development site currently accommodates the former anti-aircraft operations bunker constructed in 1951 and a telecommunications mast and a number of small outbuildings.

The site lies within the Manningtree and Mistley Conservation Area, which was extended to include the bunker and the open areas around it in 2010.

The bunker at Furze Hill, Mistley, Essex, was built in 1951 as an Anti-Aircraft Operations Room. Its purpose was to receive information about the approach of hostile aircraft and allocate targets to the gun batteries in the area. It became redundant to its original role in 1956 when Anti-Aircraft Command was abolished, and the bunker was sold to Essex County Council in 1963. In 1966, it became the County Emergency HQ until 1984 when it became the County stand-by. The bunker was decommissioned in 1995 and leased to the Bunker Preservation Trust who refurbished it and ran it as a museum until 2002. Following the closure of the museum all equipment (apart from generator and filtration plant), furniture, exhibits and displays etc were removed. A change of use for secure storage was granted planning permission but this was not implemented.

The bunker was listed as Grade II in 2007. Planning permission was then granted at appeal for the conversion of the bunker to 3 apartments and the construction of 28 residential units within the grounds to facilitate the renovation of the bunker. Building work is substantially completed.

### Proposal

This S73 application proposes the following retrospective changes to the approved scheme via the variations of the conditions 2 (Approved Plans), 4 (Boundary Treatments), 5/6 (Landscaping) and 16 (Highway Works) of appeal decision APP/P1560/A/13/2197833;

### Site Layout

- 1: Double footpath between blocks A+B replaced with single footpath and all garden areas increased.
- 2: Parking area to the front of units 21-28 grass area removed from middle.
- 3: Parking area for the Bunker added to rear of Bunker.
- 4: Patios added to units 1-20.
- 5: Resin Bond substituted to Brick weave and tarmac.

### Elevations Units 1-10

- 1: Curved garage doors changed to square.
- 2: Second floor balustrade changed from wire to glass.

### Elevations Units 11-20

- 1: Curved garage doors changed to square.
- 2: Window position changed on the ground floor of units 11 and 19.

### Floor Plans Units 1-20

- 1: Curved garage doors changed to square.
- 2: Window position changed on the ground floor of units 11 and 19.
- 3: Living room and bedroom swapped on units 11 and 20 with the living space moved to the top floor.

### Floor Plans Units 1-20

- 1: Curved garage doors changed to square.

### Floor Plans Elevations Units 21-28

- 1: Window configuration altered on the front and rear elevations.
- 2: Windows removed from the bathrooms on each end unit.

- Reconfiguration of highway works (crossing/footway/junction on Harwich Road) due to proximity to new junction serving adjacent bungalow development.

No changes to the internal layout or elevations of the bunker are proposed.

### Appraisal

### Design/Layout Changes

The changes proposed the development are largely cosmetic and relate to a change in surface material, parking arrangements and fenestration styling and siting on the approved units. No changes are proposed in respect of the listed bunker conversion.

The alterations to the surface material to incorporate more brick paving/tarmac are not harmful to the overall character of the development or the setting of the listed bunker and conservation area. The planting installed throughout the scheme assists in suitably breaking up the larger areas of parking and enhances the overall appearance of the scheme.

The changes to the formation and spacing of the amenity spaces serving the new units is also acceptable from a visual amenity perspective. The planting and boundary treatments that have been installed are sympathetic to the overall character of the development. The Council's Trees and Landscaping Officer has reviewed the implemented landscaping scheme and has no objections in this respect. The rearrangement of the amenity spaces has resulted in larger garden areas serving the new units which is considered to represent an enhancement over the approved scheme.

In conclusion the changes to hard/soft landscaping, layout of parking areas, boundary treatments and fenestration styling/siting is acceptable and does not erode the overall quality of the development in terms of its siting within the Mistley Conservation Area or the setting of the utilitarian appearing listed bunker.

### Highway Changes

As stated above a variation to the approved highway works is required due to the previous highway works being un-implementable due to the proximity of a completed development to the east of the site. As a result revised highway works, which include a new crossing point and linking footways) have been submitted and subsequently reviewed by ECC Highways. ECC-Highways have confirmed that the works proposed are acceptable and confirm the need to complete these works prior to any on-site occupations. This will be secured via the update highway works condition.

### Legal Obligations

A deed of variation has been completed to secure those obligations contained within the original legal agreement against this S73 application. The nature of the obligations are concerned with the relevant trigger points for occupation of the new dwellings against the repair, renovation and conversion of the listed bunker.

Those conditions still relevant to the application have been updated to reflect the changes now proposed and details previously approved via discharge of condition applications.

### Other Considerations

Mistley Parish Council have provided a neutral response on the grounds that insufficient information has been provided to accurately assess the changes to the development. (However, a summary of variations has been provided by the applicant along with updated plans and highway work plans outlining the changes sought).

No further letters of representation have been received.

## **6. Recommendation**

Approval

## 7. Conditions

- 1 The development hereby permitted shall be carried out in accordance with the following approved plans: RBC06, G12L, G13L, G23D, G24F, G26D, G27B, RBC06 19D, REDW-2870-110-403, RBC06 16, BU101.01.32A, BU101.01.33, BU101.01.34, BU101.01.35, BU101.01.36, EX18\_033\_02-278 Rev J and EX18\_033\_02-279 Rev K.

Reason - For the avoidance of doubt.

- 2 The materials used in the construction of the development shall be those approved under planning reference 15/00745/DISCON.

Reason - In the interests of visual amenity.

- 3 All changes in ground levels, hard landscaping, planting, seeding or turfing shown on the approved landscaping details (drawing no. BU01.01.32 A) 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 - To ensure the effective implementation of the landscaping scheme in the interests of visual amenity.

- 4 The landscape maintenance shall be carried out in full accordance with those details approved under planning reference 15/00745/DISCON.

Reason - To ensure the effective implementation of the approved landscaping scheme in the interests of visual amenity.

- 5 The installed surface water drainage scheme shall be in accordance with those details approved under planning reference 15/00745/DISCON.

Reason - To avoid surface water flooding from the development.

- 6 No dwelling shall not be occupied until space has been laid out for the parking of vehicles within the site in accordance with drawing no. BU01.01.32 A and in accordance with details of drainage and surfacing submitted to and approved in writing by the local planning authority, and those areas shall not thereafter be used for any purpose other than the parking of vehicles.

Reason - To ensure the development is served by sufficient off-street parking provision in the interests of highway safety and visual amenity.

- 7 No dwelling shall be occupied until space has been laid out within the site for the parking of powered two wheelers and bicycles. The spaces provided shall not thereafter be used for any purpose other than the parking of powered two wheelers and bicycles.

Reason - In the interests of sustainability.

- 8 No occupation of the development shall take place until the following has been provided or completed:

- The amended design changes to the highway works on Harwich Road and access into the site as indicated in principal with drawing no. EX18\_033\_02-279 Rev K.



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.

- 9 The development shall be constructed in full accordance with the details outlined within the Construction Method Statement approved under planning reference 15/00745/DISCON.

Reason - In the interests of highway safety and amenity.

- 10 All work shall be carried out in full accordance with the recommendations contained within the Reptile Working Method Statement (Reliant Building Contractors - May 2014) approved under planning 15/00745/DISCON.

Reason - To protect reptiles in the interests of biodiversity.

## 8. **Informatives**

### Positive and Proactive Statement

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

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