

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	ML	09/03/2021
Planning Development Manager authorisation:	TF	09/03/2021
Admin checks / despatch completed	ER	10/03/2021
Technician Final Checks/ Scanned / LC Notified / UU Emails:	CC	10.03.2021

Application: 20/01429/DETAIL **Town / Parish:** Mistley Parish Council

Applicant: Hopkins Homes Ltd

Address: Land South of Harwich Road Mistley

Development: Reserved matters application for the erection of up to 100 dwellings with associated vehicular access, landscaping, open space, car parking and pedestrian links.

1. Town / Parish Council

Mistley Parish Council

At its Planning Committee Meeting on the 3rd December 2020, The Chairman of the Committee reminded the Meeting that the Parish Council and the LPA (Local Planning Authority) opposed the application and the additional 100 dwellings, primarily on the grounds of infrastructure issues, where the Parish Council and District Councillor Members spoke against this application at the Public Inquiry. The Committee noted the detail where the application was agreed at Public Inquiry. Given this outcome, all that the Committee can do now is to endeavour to work with the developers to achieve as much as it practicably can out of the scheme for the benefit of the Village and the local community, i.e. from the Section 106 Developer Agreement and the reserved matters.

2. Consultation Responses

TDC Tree & Landscape
Officer
25.11.2020

The information provided in relation to soft landscaping is sufficient in terms of amount and extent of proposed planting on the southern boundary adjacent to the Public Right of Way, more generally on the wider open spaces and throughout the built areas of the application site.

ECC SuDS Consultee
26.11.2020

Lead Local Flood Authority position
Having reviewed the Flood Risk Assessment and the associated documents which accompanied the planning application, we do not object the granting of planning permission 20/01429/DETAIL. It is in line with the approved outline drainage strategy and as such should be subject to the same conditions applied to the outline application (18/01995/OUT).

The proposed development will only meet the requirements of the National Planning Policy Framework if the measures as detailed in the Drainage strategies and the documents submitted with this application are implemented as approved.

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

1. Prior to the occupation of any of the proposed development the internal road and footway layout shall be provided in principal with drawing numbers:

- MIS2-002C Internal Layout
- MIS2-003C Planning Layout

Reason: To ensure that vehicles using the site access do so in a controlled manner, in the interests of highway safety and in accordance with Policy DM1.

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

Reason: To ensure that roads and footways are constructed to an acceptable standard, in the interests of highway safety and in accordance with Policy DM1 and DM6.

3. The development shall not be occupied until such time as a car parking and turning areas has been provided in accord with planning layout plan, drawing nos. 002C and 003C. These facilities shall be retained in this form at all times and shall not be used for any purpose other than the parking and turning of vehicles related to the use of the development thereafter.

Reason: To ensure that on-street parking of vehicles in the adjoining streets does not occur, in the interests of highway safety and in accordance with Policy DM1 and DM8.

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

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

5. All single garages should have a minimum internal measurement of 7m x 3m and all double garages should have a minimum internal measurement of 7m x 5.5m

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

6. Any new boundary planting shall be planted a minimum of 1 metre back from the highway boundary and any visibility splay.

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

7. 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.

8. Prior to occupation of the proposed dwelling, 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.

10. No development shall take place, including any ground works or demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement 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

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 DM 1.

11. The public's rights and ease of passage over public footpath nos. 4 and 5 (Parish: Mistley_176) shall be maintained free and unobstructed at all times.

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

Anglian Water Services
Ltd

No comments received

Historic England
23.11.2020

Historic England Advice

Significance

The proposed development is located to the west of the Site of Old St Mary's Church, which is designated a scheduled monument (List Entry Number: 1002142):

<https://historicengland.org.uk/listing/the-list/list-entry/1002142>

The site is regarded as being of national significance on account of its high evidential value, the church and churchyard surviving as below-ground archaeological remains. The site will retain archaeological and environmental information relating to the population of the local community during the medieval period.

The extant remains of the church are very slight and the churchyard is now a paddock. It is now located within the small hamlet of Mistley Heath, on the edge of Mistley, on the edge of a largely open arable landscape, with the modern suburban housing of Mistley encroaching from the north-west.

Impact

The application site lies within the setting of the scheduled monument of the 'Site of Old St Mary's Church'. Any development or changes at the application site have potential to affect the setting of the monument and cause harm to its significance. The current proposal concerns the reserved matters for the erection of up to 100 dwellings and associated works, for which outline planning permission has been already granted (18/01994/OUT).

This application proposes to create an area of public open space and appropriate landscaping on the eastern edge of the proposed development, between the residential development and the scheduled monument. This will reduce the impact of the development on the setting of the scheduled monument and reduce the harm to the significance of the monument.

Legislative and Policy Context

a) The Ancient Monuments and Archaeological Areas Act 1979 (as amended)

Scheduled monuments are protected under the Ancient Monuments and Archaeological Areas Act 1979 (as amended).

Paragraph 20 of The Department of Digital, Culture, Media and Sport policy statement on Scheduled Monuments (2013) states that for, 'works proposed for development-, conservation- or presentation-related purposes, the Secretary of State has particular regard to the following principles ... in cases that would lead to less than substantial harm to the significance of a Scheduled Monument the harm will be weighed against the public benefits of the proposal'.

b) The National Planning Policy Framework (NPPF)

Heritage assets, including scheduled monuments, are

'an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations' (NPPF paragraph 184).

The NPPF goes on to state in paragraph 190 that,

'local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal' and 'take this into account when considering the impact of a proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset's conservation and any aspect of the proposal'.

When considering the impact of a proposed development upon the significance of scheduled monuments, NPPF paragraph 193 requires great weight to be given to the monument's conservation.

As NPPF paragraph 194 sets out, any harm to the significance of a scheduled monument, including from development within its setting, requires clear and convincing justification irrespective of the level of potential harm.

Where a development proposal would lead to less than substantial harm to the significance of a scheduled monument, NPPF paragraph 196 requires that the harm is weighed against the public benefits of the proposal.

Historic England's Position

Historic England considers that the proposed development would result in a change to the setting of the "Site of Old St Mary's Church" scheduled monument.

We are satisfied that the creation of an area of public open space and landscaping on the eastern edge of the proposed development is acceptable would not result in serious harm to the significance scheduled monument.

Recommendation

Historic England has no objection to the application on heritage grounds. We acknowledge that opportunities have been taken to maximise public open space and appropriate landscaping on the eastern edge of the proposed development.

Cadent Gas Limited No comments received

TDC UU Open Spaces
03.02.2021 Current Position

There is currently a deficit of -3.00 hectares of equipped play/formal open space in Mistley.

Recommendation

No comments are being made by Open Spaces.

Essex Wildlife Trust No comments received

3. Planning History

18/01994/OUT	Outline planning application for the erection of up to 100 dwellings with associated vehicular access, landscaping, open space, car parking and pedestrian links.	Refused (Allowed on Appeal)	23.07.2019
20/01429/DETAIL	Reserved matters application for the erection of up to 100 dwellings with associated vehicular access, landscaping, open space, car parking and pedestrian links.	Current	
20/01433/DISCON	Discharge of condition 6 (landscape management plan) of application 18/01994/OUT.	Approved	28.10.2020
20/01434/DISCON	Discharge of conditions 9 (surface water drainage scheme), 10 (foul water strategy) and 11	Approved	05.03.2021

(maintenance of surface water drainage system) of application 18/01994/OUT.

20/01436/DISCON	Discharge of condition 12 (public right of way improvements) of application 18/01994/OUT.	Approved	08.03.2021
20/01437/DISCON	Discharge of conditions 14 (biodiversity enhancement scheme) and 15 (HRA mitigation) of application 18/01994/OUT.	Approved	02.11.2020

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
HG14	Side Isolation
COM6	Provision of Recreational Open Space for New Residential Development
COM26	Contributions to Education Provision
COM31A	Sewerage and Sewage Disposal
EN1	Landscape Character
EN5	Areas of Outstanding Natural Beauty (AONB's)

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
EN17	Conservation Areas
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
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
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

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. In this latter regard, as of 26th January 2021, 'Section 1' of the emerging Local Plan for Tendring (Tendring District Local Plan 2013-2033 and Beyond Publication Draft) has been adopted and forms part of the 'development plan' for Tendring.

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 has now formally adopt Section 1 of the Local Plan, in its modified state, at the meeting of Full Council on 26th January 2021, at which point it became part of the development plan and carries full weight in the determination of planning applications – superseding, in part, some of the more strategic policies in the 2007 adopted plan.

The examination of Section 2 of the Local Plan (which contains more specific policies and proposals for Tendring) will proceed in early 2021 and two Inspectors have 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.

With the adoption of the modified Section 1 of the emerging Local Plan, the Councils 'objectively assessed housing need' of 550 dwellings per annum has been found 'sound' and there is no housing shortfall. The Council is able to report a significant surplus of housing land supply over the 5 year requirement, in the order of 6.5 years.

5. Officer Appraisal (including Site Description and Proposal)

Site Description

The application site measures approximately 7.47 hectares of land comprising of land located to the south of Hopkins Homes existing Phase 1 development off Harwich Road, Mistley for 135 dwellings that is currently under construction. Access to the site is through the Phase 1 housing development to the north and the application site red line reflects this requirement. The site comprises arable agricultural land across the southern part of two fields. It is located at the eastern end of Mistley to the south of Harwich Road and the existing post-war housing development at Rigby Avenue and to the west of Heath Road which leads to the settlement of Mistley Heath.

There is a public right of way crossing part of the site along the current field boundary that provides a link between Rigby Avenue and the Essex Way which follows the field's southern boundary. Other than this footpath, there are no environmental or planning designations on the site and the site is in Flood Zone 1 (i.e. low risk).

To the east of the site, across Heath Road, are the remains of St. Mary's Church which are designated as a Scheduled Ancient Monument. An east-west aligned track with public footpath status that is part of the Essex Way demarcates the southern boundary of the site and just north of this within the site there is a gas main that is also aligned east-west.

Proposal

This application seeks reserved matters consent, pursuant to outline application reference 18/01994/OUT, which was approved on appeal on 10th March 2020, granting planning permission for:

"The erection of up to 100 dwellings with associated vehicular access, landscaping, open space, car parking and pedestrian links. All matters other than access reserved"

This reserved matters application seeks approval for:

"Application for the approval of reserved matters for appearance, landscaping, layout and scale for 100no. dwellings pursuant to outline planning permission ref: 18/01994/OUT"

In particular the reserved matters scheme proposes:

- 100 dwellings providing a mix of housing of which 30% would be affordable homes;
- A similar design approach to the Phase 1 development would be followed and the proposal would be at a similar density, scale and massing;
- Vehicular access from Harwich Road via Hopkins Homes' Phase 1 development to the north. Three separate vehicular access points and additional footpaths are proposed between the Phase 1 and Phase 2 developments;
- A comprehensive landscape scheme designed to enhance biodiversity and soften the appearance of the development creating landscaped edge to Mistley. Significant areas of open space, incorporating landscape buffers and a drainage basin, would be provided to the western, southern and eastern boundaries; and
- The public right of way crossing the site would be retained, providing a connection to the Essex Way to the south of the site and Rigby Avenue to the north. Additional pedestrian access will be provided through the Phase 1 development to Harwich Road and Heath Road.

Principle of Development

The principle of a residential development comprising 100 dwellings has already been established through the grant of outline planning permission by the Planning Inspectorate on 10th March 2020 (Ref - APP/P1560/W/19/3238064).

The Planning Inspector concluded that:

'There would be a significant social benefit of housing, a significant social benefit associated with affordable housing, economic benefits associated with construction and expenditure and environmental benefits associated with open space provision in excess of the minimum requirements and biodiversity enhancements. I find these benefits, all of which are public are substantial and are not significantly and demonstrably outweighed by the great weight attached to the harm to the settings of the heritage assets, the significant environmental harm to the character and appearance of the area and the landscape and the moderate weight attached to the implications of the UPC evidence.'

The main considerations as part of this Reserved Matters application are:

- Access;
- Layout;
- Scale;
- Appearance; and
- Landscape

Access

Access was approved at the outline stage and the illustrative layout drawing that accompanied that application indicated that there would be three vehicular accesses into the site via the housing development to the north. The detailed scheme submitted as part of this application submission replicates that proposed arrangement, which Essex County Council Highways did not object to previously.

The existing Public Right of Way (PROW), which crosses the centre of the site in a north-south alignment, will be retained and enhanced. This enhanced footpath will provide the site and adjoining development to the north with direct access to the Essex Way PROW and the wider countryside to the south.

New pedestrian links/paths will also be provided within the open space around the development and to provide links with the housing to the north. This arrangement is acceptable.

ECC-Highways have reviewed the detailed layout and have no objections. They have requested several conditions securing the approved layout, parking/cycle provision prior to occupation and details of estate roads. Where not already provided or shown on the approved plans these requirements will be secured via conditions.

Layout

The relatively low density of development allows for a generous standard of road and footway width, ensuring that the internal road layout can safely and comfortably accommodate emergency services and waste collection services. All the houses and bungalows would benefit from a combination of garaging (either single or double) and/or surface parking, which in all instances would be compliant with parking standards. Visitor parking (23 spaces) is provided that is below the required level of 0.25 spaces per property (25 spaces), but it is noted that a number of properties have an over provision of driveway spaces.

The proposal for 100 dwellings on a built area of approximately 3.7ha (i.e. the 6.5ha site main site area, excluding the 2.8ha of proposed open space and landscaping) which gives a net density of 27dph. Considering the site's edge of settlement location and the importance of preserving the

landscape and historic character of the area this density is considered to be acceptable and consistent with the pattern of existing built form to the north.

Residential amenity for future residents would be acceptable having regard to privacy and avoidance of overshadowing, while garden sizes would be compliant with standards and indeed several will be in excess of minimum standards. Back-to-back distances and rear facing window arrangements ensure that the development would accord with the standards outlined in the Essex Design Guide to avoid privacy and outlook concerns arising for future residents.

It is considered that the layout has been carefully considered to reflect its urban edge setting. Key aspects of this include:

- A large landscaped buffer zone to the south, west and east of the built form representing over 40% of the site area, which accords with the open space dimension thresholds secured as part of the legal agreement at appeal stage;
- Outward facing single storey detached properties in the south-eastern corner of the site, set behind existing and proposed vegetation to help retain the sylvan semi-rural nature of this location as a southern gateway into the village of Mistley and to protect the setting of the nearby SAM;
- Detached housing backing onto the southern boundary which forms the new urban edge with open countryside to the south. New tree/hedgerow planting will be provided along the entire length of this boundary to further soften the transition between countryside, the Essex Way and the new built development;
- An articulated street layout which helps create a sense of place with key vista buildings, curved roads, raised traffic tables and a landscaped area where the footpath crosses the central spine road, adding to the level of interest; and
- Parking is designed so they are not dominant features in the development and to ensure that public spaces are fronted by buildings and their entrances and not by a predominance of flank elevations or side or rear boundaries

In response to previous pre-application advice the layout has been amended to redistribute the affordable housing more widely across the site. The affordable dwellings are now interspersed with market housing across the site, which has been achieved by moving some affordable dwellings to the north of the central east west spine road. A group of affordable dwellings has also been moved to within the western part of the site. The submitted layout has been designed to fully accord with the requested affordable housing mix.

Scale and Appearance

The proposed height of dwellings throughout the site is predominantly two-storeys, with an element of 1½ storey garages with flats over (FOGs) and single storey bungalows. This scale of development is considered acceptable, which allows for sufficient separation distances between plots which acts to break up the built form as viewed from its undeveloped surroundings. The height of dwellings has also been informed by the setting of the site with single storey bungalows proposed along the south-eastern edge of the site along the most sensitive boundary in terms of the relationship with the ruins of St. Mary's Church which are designated as a Scheduled Ancient Monument and Grade II listed building.

The proposed dwellings are designed to a high quality reflecting local vernacular and the design of the Phase 1 development to the north comprising of a mixed palette of materials (including a mix of red, buff and multi facing brickwork, coloured smooth renders, black/white horizontal boarding and red/black pantiles), which would be used in order to maintain and enhance local character and distinctiveness. The inclusion of decorative brickwork detailing to the gables, brick plinths/quoins, bay windows, detailed door and window surrounds and exposed rafters further promotes the traditional appearance of the proposed dwellings and adds further visual interest to the overall development.

The appearance of the dwellings will reflect the design approach, including the form, proportions and materials, of those dwellings under construction to the north of the site. This is acceptable and ensures consistency between the two developments.

It is considered that the scheme as submitted will be acceptable in terms of scale and appearance and will be appropriate to its urban edge setting.

Landscaping

It is considered that the proposed scheme layout provides for a strategic landscape approach which will facilitate the delivery of well thought out and usable open spaces which will establish a positive landscaping setting for the development whilst also aiding the transition from new built development to rural edge. The layout also allows for a strong landscaped buffer zone around the edge of the built form to safeguard the setting of the SAM to the south-east of the site.

The Council's Tree and Landscaping Officer provides the following comments in this respect;

'The application site is in agricultural use and does not contain any trees or other vegetation in the main body of the land.'

The only significant vegetation on the land is the hawthorn hedgerow on the western half of the southern boundary adjacent to The Essex Way - Public Right of Way. (PROW). The retention of this feature is not threatened by the development proposal

In terms of screening views of the development from The Essex Way and surrounding publicly accessible areas the applicant has provided details of planting proposals on the open space forming part of the development proposal. In the main the information provided sets out a good level of planting and is in accordance with that required by the appeal decision relating to the site.

Taking into account the separation distance between the developed land and The Essex Way it is considered that in addition to the planting proposals, set out by the applicant, a new Hawthorn hedgerow should be planted along the full length of the northern boundary of the Essex Way. The hedgerow should be allowed to reach a height of approximately 2m at which time it will greatly strengthen the screening from the PROW.'

The location of the proposed LEAP is considered to be acceptable as it will be afforded good surveillance from facing properties to the west and is ideally located to serve both the proposed development and housing development under construction to the north. Details of the required specification of a LEAP have been previously forwarded.

Ecology

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 a site of international, national or local importance to nature conservation but the site is some 0.7 kilometres from the Stour and Orwell Estuaries Special Protection Area (SPA) and the Stour and Orwell Estuaries Ramsar site which supports spring and overwintering birds, saltmarsh vegetation and invertebrates. It is also some 12.3 kilometres from the Essex Estuaries Special Area of Conservation (SAC). As such the appeal site is within the zones of influence for the identified European designated sites.

At appeal stage the inspector concluded the proposal to provide on-site public open space of some 2.8 hectares, a circular walking route and connections to existing off-site public footpaths along with the required financial contribution any adverse impact of recreational disturbance on the designated sites can be adequately mitigated against. The information provided as part of this submission suitably reflects the mitigation measures secured at appeal stage.

The mitigation/enhancement measures include vegetation clearance outside the bird nesting season (March to August), newt exclusion fencing along the southern and eastern boundary during construction, native planting, reptile hibernacula, bird and bat boxes and raised garden gates or hedgehog holes in fences. These measures are considered to represent a robust ecological enhancement scheme and will need to be detailed, including a timeline for their implementation, in an ecological enhancement report.

Housing Mix (Affordable)

In respect of the affordable housing mix the Council's Housing Team provided the following comments at pre-application stage;

The applicant has proposed 30 of the 100 homes to be affordable homes on this site and this is compliant with policy. They have suggested a mix of 4 x 1BF, 3 x 1BB, 1 x 2BF, 2 x 2BB, 16 x 2BH and 4 x 3BH. TDC Housing can confirm that we are happy with this mix.

They have asked for a view on the tenure split and suggest 70% for affordable rent and 30% for low cost home ownership (shared ownership, First Homes, etc). TDC Housing would suggest that the flats and bungalows be retained for affordable rent. In terms of the split for the shared ownership homes TDC housing would suggest 7 x 2BH and 2 x 3BH.

The application has been submitted to reflect these comments and accords with the affordable housing requirements contained within the legal agreement secured at outline stage.

Heritage Impacts

The height of dwellings has also been informed by the setting of the site with single storey bungalows proposed along the south-eastern edge of the site along the most sensitive boundary in terms of the relationship with the ruins of St. Mary's Church which are designated as a Scheduled Ancient Monument and Grade II listed building. The proposal therefore meets the requirements of Policy EN23 and emerging Policy PP9 with respect to protecting the setting of listed heritage assets.

Historic England have confirmed that the proposed development would result in a change to the setting of the 'Site of Old St Mary's Church' scheduled monument. However, they are satisfied that the creation of an area of public open space and landscaping on the eastern edge of the proposed development is acceptable would not result in serious harm to the significance scheduled monument.

As such, Historic England has no objection to the application on heritage grounds as they acknowledge that opportunities have been taken to maximise public open space and appropriate landscaping on the eastern edge of the proposed development.

Outline permission - Compliance with Conditions

The submission is made within the timescale imposed by Condition 2 (i.e. within two years of 10th March 2020) and the submitted details contain all the information required by Condition 16 relating to levels, external lighting, means of enclosure, bicycle parking and refuse and recycling.

The submitted details are in general conformity with the indicative drawings listed at Condition 4 of the outline permission and the Open Space Parameters Plan contained in the S106 agreement (drawing no. 6556/ASP7/DFP).

The submission has paid due regard to the requirements of Condition 17 (Garage Sizes) and Condition 20 (EV charging points).

Alongside this application, four separate discharge of conditions applications have been submitted as follows:

- Condition 6 (landscape management plan)
- Conditions 9, 10 and 11 (surface and foul water drainage and drainage maintenance)
- Condition 12 (public right of way improvements)
- Conditions 14 and 15 (biodiversity enhancement and habitat mitigation measures)

These discharge of condition applications have now all been approved.

Other Considerations

Mistley Parish Council provided the following comments;

At its Planning Committee Meeting on the 3rd December 2020, The Chairman of the Committee reminded the Meeting that the Parish Council and the LPA (Local Planning Authority) opposed the application and the additional 100 dwellings, primarily on the grounds of infrastructure issues, where the Parish Council and District Councillor Members spoke against this application at the Public Inquiry. The Committee noted the detail where the application was agreed at Public Inquiry. Given this outcome, all that the Committee can do now is to endeavour to work with the developers to achieve as much as it practicably can out of the scheme for the benefit of the Village and the local community, i.e. from the Section 106 Developer Agreement and the reserved matters.

5 letter of objection have been received, they largely relate to the principle of the development which has already been established, the comments raise the following concerns;

- Local infrastructure cannot cope with an additional 100 homes as the town is already at capacity with traffic and congestion a major concern.
- No need for additional housing.
- Removal of gap between Mistley and Mistley Heath eroding the separate identities of these settlements.
- Adverse impact upon Essex Way Trail.
- Add additional stress upon the capacity of local doctors, schools and dentists.
- Too much urban sprawl and adverse impact upon the rural and picturesque character of the area.

6. Recommendation

Approval

7. Conditions

- 1 The development hereby permitted shall be carried out in accordance with the following approved plans/documents;
 - 6556.ASP.PSD.4 B
 - 301
 - 302
 - 303
 - 304 A
 - 304 Rev A
 - 305
 - 306
 - 201
 - 202
 - 203 A
 - 203 Rev A
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- 6556.ASP.OSF.2.0 E
- MIS2 - 002 C
- MIS2 - 003 C

- 6556.ASP.PP.1.0 E
- 6556.ASP.PP.1.1 E
- 6556.ASP.PP.1.2 E
- 6556.ASP.PP.1.3 E
- 6556.ASP.PP.1.4 E
- 001 F
- 002 F
- 003 F
- 009 B

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

- 2 The development shall not be occupied until such time as a car parking and turning areas has been provided in accord with planning layout plan, drawing nos. 002C and 003C. These facilities shall be retained in this form at all times and shall not be used for any purpose other than the parking and turning of vehicles related to the use of the development thereafter.

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

- 3 Any new boundary planting shall be planted a minimum of 1 metre back from the highway boundary and any visibility splay.

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

- 4 The proposed cycle parking shall be provided in accordance with the details shown on the approved plan. The approved facilities 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.

- 5 The public's rights and ease of passage over public footpath nos. 4 and 5 (Parish: Mistley_176) shall be maintained free and unobstructed at all times.

Reason - To ensure the continued safe passage of the public on the definitive right of way and accessibility.

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.

All roads shall be constructed to allow manoeuvring of 32 tonne refuse collection vehicles and withstand weight of collection vehicles.

Highway Informatives

Areas where there is no footway being provided adjacent to the carriageway and the intention is for these areas to be adopted a half a metre 'no build zone' will need to be provided and hard surfaced.

The areas directly adjacent to the carriageway(s) in which the trees are to be planted should not be less than 3 metres wide, exclusive of the footway and the trunks of the trees should be no nearer than 2 metres to the channel line of the road. The same dimensions should be used in situations where the footway is located adjacent to the carriageway.

In paved areas, whether the planted areas are to be adopted highway, trees should be sited no closer than 2 metres to the defined (or undefined) edge of the carriageway. Where the adopted highway is to be an independent path, trees should be planted no closer than 1 metre from the edge of the highway. In all cases, trees should be provided with root barriers to prevent damage to underground services.

The Public Right of Way network is protected by the Highways Act 1980. Any unauthorised interference with any route noted on the Definitive Map of PROW is considered to be a breach of this legislation. The public's rights and ease of passage over public footpath nos. 4 and 5 (Parish: Mistley_176) shall be maintained free and unobstructed at all times to ensure the continued safe passage of the public on the definitive right of way.

The grant of planning permission does not automatically allow development to commence. In the event of works affecting the highway, none shall be permitted to commence until such time as they have been fully agreed with this Authority. In the interests of highway user safety this may involve the applicant requesting a temporary closure of the definitive route using powers included in the aforementioned Act. All costs associated with this shall be borne by the applicant and any damage caused to the route shall be rectified by the applicant within the timescale of the closure.

All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall 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 - Development Management Team
 Ardleigh Depot,
 Harwich Road,
 Ardleigh,
 Colchester,
 CO7 7LT

The Highway Authority cannot accept any liability for costs associated with a developer's improvement. This includes design check safety audits, site supervision, commuted sums for maintenance and any potential claims under Part 1 and Part 2 of the Land Compensation Act 1973. To protect the Highway Authority against such compensation claims a cash deposit or bond may be required.

<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>