

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	AL	20/04/2021
Planning Development Manager authorisation:	JJ	21/04/2021
Admin checks / despatch completed	ER	21/04/2021
Technician Final Checks/ Scanned / LC Notified / UU Emails:	CC	21/04/2021

Application: 20/00996/FUL **Town / Parish:** Weeley Parish Council

Applicant: Yellow Brick Nursery

Address: Land West of The Hawk Hawk Lane Weeley

Development: Use of land for a woodland day nursery.

1. Town / Parish Council

Weeley Parish Council
21.12.2020

Weeley Parish Council feels insufficient information as to the impact of this proposal has been provided.

2. Consultation Responses

Essex County Council
Ecology
02.12.2020

ORIGINAL COMMENTS

As requested, please find attached our ecology comments on this application; it needs additional ecological information to be provided as there is currently insufficient available to understand the likely impacts of development.

In line with CIEEM guidance (see excerpt below from Guidelines for Ecological Impact Assessment (EcIA) in the UK and Ireland, Sept 2019), ecological assessment should start with a Preliminary Ecological Appraisal and contained in a PEA Report (PEAR) which may include Phase 1 surveys.

Box 6: Preliminary Ecological Appraisal

Preliminary Ecological Appraisal (PEA) is a term used to describe a rapid assessment of the ecological features present, or potentially present, within a site or the surrounding area (within the Zone of Influence for a proposed project). It normally comprises a desk study and a walkover survey.

A PEA can be undertaken in a variety of contexts, often as a preliminary assessment of likely impacts of a development scheme. It can help the project proposer and planning authority to agree the appropriate scope of any subsequent impact assessment or determine that ecological issues will not be significant in determining the application.

The results of the PEA can be provided in a PEA report or simply incorporated into the EcIA report, ecology component of an EIA, or a scoping report, as needed.

A PEA report does not replace an EcIA, as it normally contains recommendations for further surveys or general design advice to a developer, rather than a detailed assessment of the effects of a finalised scheme, with all required ecological surveys completed. For very straightforward projects, where no further ecological surveys are

needed, an EclA Report can be produced following completion of the PEA.

Any queries do let me know.

Best wishes
Sue

Dear Amy

Thank you for consulting Place Services on the above application.

Holding objection due to insufficient ecological information

We have reviewed the documents supplied by the applicant, relating to the likely impacts of development on designated sites, Protected & Priority habitats and species and identification of proportionate mitigation.

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

No ecological documents have been submitted as part of this application. A desk survey on the Multi- Agency Geographic Information for the Countryside (MAGIC) map identifies that a European Protected Species licence for Great Crested Newts (GCN) has been granted within approximately 1km of the development and there is a pond located within the blue line boundary. Government Standing Advice <https://www.gov.uk/guidance/great-crested-newts-surveys-and-mitigation-for-developmentprojects#when-to-ask-for-a-survey> is clear on the need for survey & assessment for protected species prior to determination. If the developer has chosen not to rely on District Level Licensing (DLL), the LPA should ask them for a survey if:

- distribution and historical records suggest there may be GCN
- there's a suitable water body such as a pond or ditch within 500 metres of the development, even if it only holds water for some of the year
- the development site includes refuges, such as log piles, rubble, grassland, scrub, woodland or hedgerows within 500 metres of suitable aquatic habitats (static or slow moving water body)

We therefore recommend that the applicant considers DLL as this is available in Essex(<https://www.gov.uk/government/publications/great-crested-newts-district-level-licensing-schemes>) where sites can be registered to be covered by this strategic mitigation scheme. Guidance for developers and registration forms to join the scheme are available and the LPA will need a Impact Assessment and Conservation Payment Certificate (IACPC) document countersigned by Natural England as evidence of site registration prior to determination where this European Protected Species is likely to be present and affected by development.

Additionally, the habitat onsite is classified on MAGIC map as a Priority Habitats- Deciduous Woodland. We therefore recommend that an assessment of the impact of the development on the habitat onsite is completed. This should be included in a Preliminary Ecological Appraisal Report (PEAR) is undertaken by a suitably qualified and experienced ecologist to assess the impacts of the development on

designated sites, protected and Priority species and habitats. This report should also include any appropriate precautionary mitigation measures, compensatory habitat where losses are expected and propose reasonable enhancements for biodiversity.

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

We note that the development is approximately 4.8km from Hamford Water SAC, SPA and Ramsar site. However, as the development is non-residential, there is no likely impact from the development on these Habitats sites from recreational impacts. Other potential impact pathways should be considered by the ecologist preparing the PEAR.

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

Without certainty of impacts on protected species and that appropriate mitigation can be secured either by a licence from Natural England or a condition of any consent, the LPA is likely to recommend refusal on the grounds of insufficient ecological information.

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

Essex County Council
Ecology

14.12.2020

AMENDED COMMENTS

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

Holding objection due to insufficient ecological information on European Protected Species (Gt crested newt) and Priority habitats (woodland and hedgerows)

Summary

We have reviewed the email from the agent concerning our request for a Preliminary Ecological Appraisal to support the application and confirm that the site has been viewed from the adjacent public right of way.

In the absence of any report prepared by a suitably experienced ecologist, the LPA needs confirmation of the ecology baseline for the site - it is mapped on the Government's Multi-Agency Geographic Information for the Countryside (Magic) maps as containing deciduous woodland and verified by the site visit - and its surroundings (which includes a watercourse, boundary hedgerow, woodland and ponds within 500m). The PEA report should also assess the likelihood of any offsite impacts on ecological receptors such as Holland Brook, as well as recommendations for reasonable biodiversity enhancements in line with NPPF. If the proposal is considered to be "low impact", we will recommend that precautionary mitigation measures are secured by a condition of any consent.

We therefore maintain our position that there is insufficient ecological information available for determination of this application and respectfully ask the applicant to provide this certainty to the LPA.

A desk survey on the (MAGIC) map identifies that a European Protected Species licence for Great Crested Newts (GCN) has been granted within approximately 1km of the development and there is a pond located within the blue line boundary. This is evidence of these protected species being present in the locality and Government Standing Advice <https://www.gov.uk/guidance/great-crested-newts-surveys-and-mitigation-for-development-projects#when-to-ask-for-a-survey> is clear on the need for survey & assessment for protected species prior to determination.

If the developer chooses not to rely on District Level Licensing (DLL), the LPA should ask them for a survey if:

- "distribution and historical records suggest there may be GCN
- there's a suitable water body such as a pond or ditch within 500 metres of the development, even if it only holds water for some of the year
- the development site includes refuges, such as log piles, rubble, grassland, scrub, woodland or hedgerows within 500 metres of suitable aquatic habitats (static or slow moving water body)"

As the proposals will involve disturbance of land within 500m of a pond, the site could offer suitable terrestrial habitat for GCN and therefore the change of use and increased disturbance in the woodland could affect terrestrial habitat. An initial assessment of the pond and habitat will allow assessment of whether GCN are likely to be affected by the proposals or not. If the ecologist concludes that the presence of Great Crested Newts (GCN) cannot be ruled out but the risk to the species is low and habitats are of poor quality, they may recommend that construction of the septic tank is managed under a non-licensed precautionary working method statement to avoid impacts on this European Protected Species.

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

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

Without certainty of impacts on protected species and that appropriate mitigation can be secured either by a licence from Natural England or a condition of any consent, the LPA is likely to recommend refusal on the grounds of insufficient ecological information.

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

Essex County Council
Ecology
06.04.2021
LATEST COMMENTS

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 (Liz Lord Ecology, March 2021) relating to the likely impacts of development on designated sites, protected species and Priority species & habitats.

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

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

The mitigation measures identified in the Preliminary Ecological Appraisal (Liz Lord Ecology, March 2021) should be secured and implemented in full. This is necessary to conserve and enhance protected and Priority Species particularly Great Crested Newts. The mitigation measures included in Appendix 3 of the report should be adhered to throughout the construction.

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

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

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

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

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, March 2021) 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 SLAB LEVEL: BIODIVERSITY ENHANCEMENT STRATEGY

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

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

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

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

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

ECC Highways Dept
12.01.2021
ORIGINAL COMMENTS

I have taken a look at the details for this application and have some additional queries around how the woodland day nursery would operate and the potential impact that would have on journeys to and from the site along Hawk Lane, they are:

- How would the nursery operate, would it be on a first come first serve basis or operate under a pre-booking system with set times over an AM or PM basis plus a time gap between each session to allow traffic to clear Hawk Lane? Reason: limited parking for the site and Hawk Lane being single track with little or no passing places.
- Will the attraction be open to external schools/ nurseries to hire? Reason: site parking doesn't seem adequate to cater for a mini-bus access to park and turn to enter and leave the site in forward gear on top of other visitor parking.
- Does the proposed car park allow/ cater for staff parking as there appears to be 4 full-time staff proposed. If not what provisions have been made for staff parking? Reason: I note with each session it is envisaged that it will accommodate 10 children, with a potential maximum of 25 children attending the site per day is sought and only 8 parking spaces available.

ECC Highways Dept
06.04.2021
LATEST COMMENTS

The information that was submitted in association with the application has been fully considered by the Highway Authority. Due to the recent COVID-19 restrictions no site visit was undertaken in conjunction with this planning application. The information submitted with the application and additional information requested has been assessed and conclusions have been drawn from a desktop study with the observations below based on submitted material, google earth image dated April 2010. It is noted that each 'session' will only be for a morning or afternoon and solely for children registered with Yellow Brick Rd and in conjunction with the owners/occupiers of The Hawk. All children will only be taken to the site on a pre-booked system. It is proposed to transfer/return the children to The Hawk by a 7-seater minibus by the nursery staff. Drop offs or collections by parents will be strongly discouraged, and likely only infrequently. It is also noted that it proposed to only have 2 adults on site at any one time. Each minibus journey will accommodate one adult and 5-6 children. Thus, only one

space is required for the 7-seater, with the remainder for additional staff or parents if they actually drive, therefore:

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

1. Areas within the curtilage of the site for the purpose of loading / unloading / reception and storage of building materials and manoeuvring of all vehicles, including construction traffic shall be provided 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.

Note - MUD / DEBRIS ON HIGHWAY

Under Section 148 of the Highways Act 1980 it is an offence to deposit mud, detritus etc. on the highway. Therefore, the applicant must ensure that no mud or detritus is taken onto the highway, such measures include provision of wheel cleaning facilities and sweeping/cleaning of the highway. In addition, under Section 161 any person, depositing anything on a highway which results in a user of the highway being injured or endangered is guilty of an offence.

2. 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.

3. 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.

4. Prior to the proposed development becoming operational, a minimum of 8no. vehicle parking bays shown in the proposed car park layout drawing including any parking spaces for the minibus, shall be provided, and set out. The vehicle parking area and associated turning area shall be retained in this form at all times.

Reason: To ensure that on street parking of vehicles in the adjoining lane does not occur in the interests of highway safety and that appropriate parking is provided in accordance with Policy DM8.

5. Each vehicular parking space shall have minimum dimensions of 2.9 metres x 5.5 metres.

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

6. The public's rights and ease of passage over public footpath no. 1 (Tendring_182) 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.

7. Prior to the development becoming operational a Car Park Management Plan shall be submitted to, and agreed in writing with, the Local Planning Authority. The Plans to include the following, and be adhered to at all times:

- i. The site will only operate on a pre-booked system only.
- ii. A minimum 1-hour gap shall be set between the morning session ending and the afternoon 'session' starting to accommodate dropping off and pick-up times.
- iii. A minimum of 8 parking spaces including one to accommodate a minibus (7-seater) and associated turning to be provided and allow vehicles to enter and leave in forward gear.
- iv. Drop offs or collections by parents will be kept to a minimum and only for exceptional circumstances and pre-arranged with the nursery.

Reason: In the interests of highway safety to ensure accordance with Policy DM1 and DM10.

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

Informative:

1: 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

2: On the completion of the Development, all roads, footways/paths, cycle ways, covers, gratings, fences, barriers, grass verges, trees, and any other street furniture within the Site and in the area it covers and any neighbouring areas affected by it, must be left in a fully functional repaired/renovated state to a standard accepted by the appropriate statutory authority.

3: Although it is not envisaged that any more than 2 car spaces will be required, and the existing clearing within the woodland can accommodate 8 vehicles, and has been shown as a maximum, consideration should be given to increasing this by an additional 2 spaces to facilitate staff who may drive to the site and/or for collection and dropping off purposes.

3. Planning History

06/00745/FUL	Proposed agricultural barn.	Refused	26.03.2009
11/00347/FUL	Erection of agricultural building (Retention of existing building	Approved	16.11.2011

following internal and external alterations).

16/01867/FUL

Change of use to form an annexe.

Approved

11.01.2017

4. Relevant Policies / Government Guidance

NPPF National Planning Policy Framework February 2019

National Planning Practice Guidance

Tendring District Local Plan 2007

QL7	Rural Regeneration
QL9	Design of New Development
QL10	Designing New Development to Meet Functional Needs
QL11	Environmental Impacts and Compatibility of Uses
COM1	Access for All
COM4	New Community Facilities (Including Built Sports and Recreation Facilities)
COM11	Formal Recreation Facilities in the Countryside
COM22	Noise Pollution
COM31A	Sewerage and Sewage Disposal
EN1	Landscape Character
EN6	Biodiversity
EN6A	Protected Species
EN6B	Habitat Creation
EN11A	Protection of International Sites European Sites and RAMSAR Sites
TR1A	Development Affecting Highways
TR7	Vehicle Parking at New Development
ER7	Business, Industrial and Warehouse Proposals

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

SP1	Presumption in Favour of Sustainable Development
SP3	Spatial Strategy for North Essex
SPL1	Managing Growth
SPL3	Sustainable Design
HP1	Improving Health and Wellbeing

HP5	Open Space, Sports & Recreation Facilities
PP13	The Rural Economy
PPL3	The Rural Landscape
PPL4	Biodiversity and Geodiversity
CP1	Sustainable Transport and Accessibility

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. 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.

5. Officer Appraisal (including Site Description and Proposal)

Site Description

The application relates to the land to the west of The Hawk, Hawk Lane, Weeley. The site measures approximately 0.96 hectares in size and forms part of the garden and a woodland in the ownership of The Hawk. The Hawk is a detached house located at the northern end of Hawk Lane

off the B1033 Colchester Road. There is only one other property located directly adjacent to the site known as 'Hornbeams' also accessed via Hawk Lane.

Access to the site is via an existing gated entrance adjacent to the driveway serving The Hawk. Immediately beyond the gateway is a small clearing screened by a number of trees that feature alongside a ditch. The remainder of the land is covered with a mix of broad-leaved trees with a series of paths, open spaces and a pond. A Public Right of Way runs along the southern boundary of the site. The site lies outside of the built up area and settlement development boundary of Weeley. However, the entrance to Hawk Lane is a short walk from the centre of the village containing numerous facilities including a village school, railway station, two Public Houses and other amenities such as a shop and bakery. There is a footpath opposite the Hawk Lane entrance all the way to the centre of the village, although the road(s) leading into the village will have to be crossed a few times to reach the village centre by foot.

Description of Proposal

The application seeks full planning permission for the change of use of the land for the purposes of an open-air children's day nursery or 'Forest Nursery' for pre-school children from 2 to 4 years old (associated with the established Yellow Brick Road Nursery which is on Frinton Road in Holland on Sea – some 6.2 miles from the application site).

The Planning Statement accompanying the application explains how the operation will involve two x 4 hour sessions per day, one in the morning and again in the afternoon. Generally, it is expected that each session will accommodate 10 children, although some flexibility is sought and a maximum of 25 children attending the site per day is sought. The activity will not start before 8.30am and will cease by 6.30pm on Mondays to Fridays only. Although the use will continue throughout the year, activities will be curtailed during the winter months earlier in the afternoon.

Physical works and structures associated with the proposed use include the renovation of an existing glasshouse, the provision of a bell tent for poorer weather conditions (maximum diameter of 7m) and 2 portable toilet units connected to a new Klargestar package treatment plant to be discharged into the existing ditch.

A small parking area is proposed adjacent to the entrance gateway within an existing clearing (requiring the removal of some small trees). All trees surrounding the clearing will be retained. The car park will comprise space for 8 vehicles (one larger space for a minibus). Access to the main part of the site from the car park will be along a bark-covered footway adjacent to the existing ditch and line of trees which will be lit during winter months by solar powered lights strung from the trees.

The scheme will primarily involve the woodland and a clearing immediately to the west of a pond featuring a log pile play area and vegetable patch.

Assessment

The main considerations in this instance are:

- Principle of Development;
- Trees, Landscaping and Visual Impact;
- Access, Parking and Highway Safety;
- Biodiversity;
- Impact on Residential Amenities;
- Environmental Protection; and,
- Representations.

Principle of Development

Paragraph 80 of National Planning Policy Framework 2019 (NPPF) stipulates planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Paragraph 83 of the NPPF concerns rural development proposals and the promotion of a prosperous rural economy. It states that planning policies and decisions should enable:

- a) The sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings;
- b) The development and diversification of agricultural and other land-based rural businesses;
- c) Sustainable rural tourism and leisure developments which respect the character of the countryside; and;
- d) The retention and development of accessible local services and community facilities, such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship.

Emerging policy PP13 relates to the rural economy and provides support for growth in the rural economy and it states that the Council may grant planning permission for certain type of development in the countryside outside of defined settlement development boundaries, subject to detailed consideration, including against other policy requirements in this Local Plan. The types of development referred to in the policy include:

- Where appropriate to the historic environment, conversion or re-use of rural buildings in the countryside to employment, leisure or tourism use;
- Business and domestic equine related activities;
- Agricultural and key workers' dwellings; and buildings that are essential to support agricultural, aquaculture, horticulture and forestry; and farm diversification schemes; and
- Buildings that are essential to support agricultural, aquaculture, horticulture and forestry; and farm diversification schemes.

The site is proposed to be used in connection with a nearby day nursery (as explained in the proposals section), the proposed use will therefore assist in providing a more complete educational offer (in the form of a high quality external learning / explore environment) for the end users. The above-mentioned national and local planning policies therefore offers in principle support for a scheme of this nature which aims to promotes children's interaction with nature and the associated health and educational benefits, the health and educational benefits of the proposal are weighing significantly in favour of the proposed change of use.

Subject to the detailed design/technical matters being addressed such as highway impacts, detailed design aspects and/ecology considerations, the development is acceptable in principle.

Trees, Landscaping and Visual Impact

Saved Policy QL9 sets out a range of general design principles, including requirements for developments to have regard in their design approach to local character and distinctiveness, architectural quality, scale and massing, and landscaping. This policy requires all new development to make a positive contribution to the quality of the local environment, and to protect or enhance local character. Draft Policy SPL3 sets out the requirement for development to achieve sustainable design. Paragraph 124 of the NPPF states that the creation of high-quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.

Furthermore, Saved Policy EN1 relates to landscape character and states, inter alia, that development control will seek in particular to conserve features which contribute to local distinctiveness, which includes important hedgerows and trees.

The application site is well populated with trees with open grassed areas creating pleasant walks and glades. A slow flowing watercourse runs along the full length of the southern boundary. In itself, the proposed change of use of the land will not adversely affect the character of the area or compromise the retention or integrity of important trees or other vegetation on the land. The proposed structures comprise the existing greenhouse (to be renovated), a bell tent and portable toilet facilities. The proposed structures are not excessive in scale or nature being positioned within existing clearings. This allows for the retention of the site's existing trees and vegetation and preserves the landscape setting and habitat. The structures and parking area would be almost fully screened from view by the existing boundary vegetation and no additional soft landscaping is

considered necessary. Full details of the surfacing to be used in the parking area comprising a 'no dig' construction method will be secured by condition to ensure the longevity of the retained trees. The use of solar powered fairy lights does not raise any concerns regarding light pollution simply due to their temporary nature and subtle appearance, which again will be almost fully screened by existing boundary vegetation.

On this basis, the proposal will not result in any adverse visual impact or any harm to the landscape character of the locality.

Access, Parking and Highway Safety

Paragraph 108 of the National Planning Policy Framework 2019 seeks to ensure that safe and suitable access to a development site can be achieved for all users. Saved Policy QL10 of the adopted Tendring District Local Plan 2007 states that planning permission will only be granted if amongst other things; access to the site is practicable and the highway network will be able to safely accommodate the additional traffic the proposal will generate and the design and layout of the development provides safe and convenient access for people. The sentiments of this policy are carried forward within draft Policy SPL3 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017.

Furthermore, saved policy TR1a in the adopted Local Plan requires that development affecting highways be considered in relation to reducing and preventing hazards and inconvenience to traffic including the capacity of the road network. Policy CP1 in the emerging Local Plan states that developments will only be acceptable if the additional vehicular movements likely to result from the development can be accommodated within the capacity of the existing or improved highway network or would not lead to an unacceptable increase in congestion.

For a forest nursery concept to be successful, its location within a semi-rural area is inevitable. In such locations, access will not always be ideal. In this instance, although narrow, Hawk Lane is surfaced throughout with occasional passing bays. For the most part, the only other user is at Hornbeams. As explained within the Planning Statement accompanying the application, in order to reduce the number of vehicle movements, the nursery intends to operate a 7 seater minibus to transfer children from the main nursery building located in Holland-on-Sea. Drop offs and pick ups will therefore mostly take place at the existing nursery building with children travelling with carers by minibus to the forest nursery site. Whilst it is recognised that some parents may wish to deliver/collect their child direct to and from the site, the limited sessions of 2 per day and the limited number of children per session minimises traffic movements to an acceptable level. 8 spaces (including one larger space for a minibus) is considered sufficient to serve the development having regard to the limited number of children and minibus service.

Essex County Council raise no objection to the development subject to conditions, which will be imposed where necessary.

Biodiversity

Paragraph 170 of the NPPF requires Councils, when determining planning applications, to minimise impacts on and providing net gains for biodiversity. Where significant harm to biodiversity cannot be avoided, mitigated or, as a last resort, compensated for, Councils should refuse planning permission. Saved policies EN6 of the adopted Local Plan and emerging policy PPL4 of the emerging Local Plan give special protection to designated sites of international, national or local importance to nature conservation but for non-designated sites still require impacts on biodiversity to be considered and thereafter minimised, mitigated or compensated for.

The application is accompanied by a Preliminary Ecological Appraisal (Liz Lord Ecology, March 2021) assessing the likely impacts of development on designated sites, protected species and Priority species & habitats. Officers are satisfied that there is sufficient ecological information available for determination.

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

Impact on Residential Amenities

The NPPF (2019) at paragraph 127 states that planning should secure developments with a high standard of amenity for existing and future users. Saved 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, including noise disturbance.

Due to the minor nature of the use (no more than 13 children on site at any one time), the separation distance to the nearest neighbouring properties and boundary vegetation provided screening, the proposal would not amount to any material harm to residential amenities from loss of privacy or noise nuisance. The Council's Environmental Protection Team raise no objections.

Representations

Weeley Parish Council raised concerns with the lack of information provided with the application.

Officers are content that sufficient additional ecology and highway information has now been received. No objections have been received from statutory consultees.

No individual letters of representations have been received.

Conclusion

This is an activity which would complement the existing nursery school while enabling young children to explore and discover the countryside in a managed setting.

Taking into consideration the three strands of sustainability namely economic, social and environmental considerations the development is considered to represent a sustainable development by; safeguarding jobs, improving an educational offer and attracting new people to the District, as well as promoting children's (and parents) interaction with nature and retaining and strengthening existing landscaping and biodiversity enhancements.

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:

Car Park Layout 1:200 Plan received on 19th October 2020

Indicative Layout Plan received on 19th October 2020 (allowing a bell tent with a maximum diameter of 7m and 2 portable toilet units on site only)

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

- 3 The development hereby permitted shall be carried out in strict accordance with the use as described within the application form, accompanying Planning Statement and additional information received via email dated 13th March 2021, namely:

- Operate between the hours of 8.30am and 6.30pm Monday to Friday only.

- No weekend opening.
- Operate on pre-booked sessions only comprising one 4 hour morning session and one 4 hour afternoon session per day.
- Operate in connection with the Yellow Brick Road Nursery and used solely by children registered with Yellow Brick Road Nursery.
- A maximum of 25 children per day split between the AM/PM sessions meaning a maximum of between 10-13 children allowed on the site at any one time.
- Direct drop offs or collections by parents to be discouraged and kept to a minimum with the 7-seater minibus service being the main mode of transport to and from the site.

Reason - To ensure that the use is appropriate within its semi-rural setting and in the interests of highway safety.

- 4 Prior to any above ground works, details of the surface treatment of car park shall be submitted to and approved in writing by the Local Planning Authority. The details shall comprise of a 'No Dig' specification with the use of a cellular confinement system backfilled with loose material to ensure free movement of surface water and gaseous exchange for tree roots. The development shall be carried out in accordance with the above details unless otherwise agreed in writing by the Local Planning Authority.

Reason – To ensure the protection of the retained trees in the interests of visual amenity as insufficient information has been submitted with the application.

- 5 Prior to the proposed use becoming operational, a minimum of 8 no. vehicle parking bays (minimum dimensions of 2.9 metres x 5.5 metres) including 1 no. larger parking space for the minibus, as shown on the approved Car Park Layout 1:200 Plan received on 19th October 2020 shall be provided, and set out in bays. The vehicle parking area and associated turning area shall be retained in this approved form at all times.

Reason - To ensure that adequate space for parking off the highway is provided and to ensure that on street parking of vehicles in the adjoining lane does not occur in the interests of highway safety.

- 6 The public's rights and ease of passage over public footpath no. 1 (Tendring_182) 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.

- 7 All new hardstanding and parking areas 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 or surface within the site.

Reason - In the interests of sustainable development and to ensure that run-off water is avoided to minimise the risk of surface water flooding.

- 8 Notwithstanding the provisions of Article 3, Schedule 2 Part 2 Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), no provision of fences, walls or other enclosures shall be erected on the site except in complete accordance with details which shall previously have been approved, in writing, by the Local Planning Authority following the submission of a planning application for such development.

Reason - In the interests of visual amenity and landscape impact.

- 9 The development hereby permitted shall be carried out in strict accordance with the mitigation and enhancement measures and/or works as contained within the Preliminary Ecological Appraisal (Liz Lord Ecology, March 2021). 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).

- 10 Prior to any above ground works, a Biodiversity Enhancement Strategy for Protected and Priority species shall be submitted to and approved in writing by the local planning authority. The content of the Biodiversity Enhancement Strategy shall include the following:

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

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

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

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.

Environmental Permit Required

Due to proposal involving a new package treatment plant with the discharge of waste into the existing ditch and Environmental Permit from The Environment Agency will be required. Please follow the link for guidance and the necessary application forms:

<https://www.gov.uk/topic/environmental-management/environmental-permits>

Highways Informatives

1: Areas within the curtilage of the site for the purpose of loading / unloading / reception and storage of building materials and manoeuvring of all vehicles, including construction traffic shall be provided clear of the highway 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.

2: Under Section 148 of the Highways Act 1980 it is an offence to deposit mud, detritus etc. on the highway. Therefore, the applicant must ensure that no mud or detritus is taken onto the highway, such measures include provision of wheel cleaning facilities and sweeping/cleaning of the highway. In addition, under Section 161 any person, depositing anything on a highway which results in a user of the highway being injured or endangered is guilty of an offence.

3: 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

4: On the completion of the Development, all roads, footways/paths, cycle ways, covers, gratings, fences, barriers, grass verges, trees, and any other street furniture within the Site and in the area it covers and any neighbouring areas affected by it, must be left in a fully functional repaired/renovated state to a standard accepted by the appropriate statutory authority.

5: Although it is not envisaged that any more than 2 car spaces will be required, and the existing clearing within the woodland can accommodate 8 vehicles, and has been shown as a maximum, consideration should be given to increasing this by an additional 2 spaces to facilitate staff who may drive to the site and/or for collection and dropping off purposes. This would require the submission of planning application to vary this permission.

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