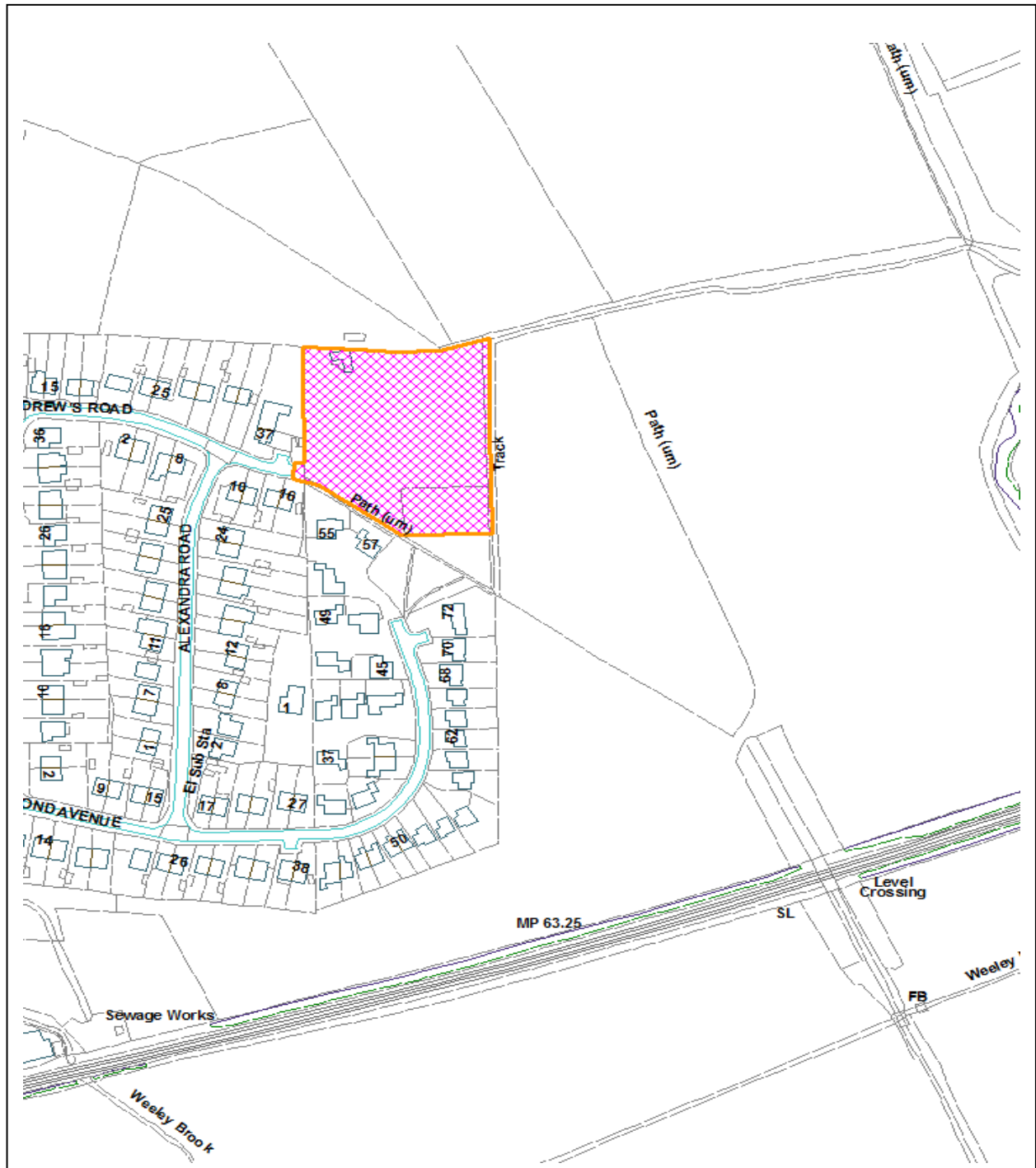


PLANNING COMMITTEE

31 JANUARY 2017

REPORT OF THE HEAD OF PLANNING

**A.1 PLANNING APPLICATION – 15/01750/FUL – LAND AT ST. ANDREWS ROAD, WEELEY, CO16 9HR**



DO NOT SCALE

Reproduced from the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationery Office © Crown Copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings.

<b>Application:</b>	15/01750/FUL	<b>Town / Parish:</b> Weeley
<b>Applicant:</b>	NEEB Holdings Ltd – Mr. R. Raymond	
<b>Address:</b>	Land at St. Andrews Road, Weeley, Essex CO16 9HR	
<b>Development:</b>	Proposed residential development comprising 14 houses, garages, access, public open space and landscaping.	

## 1. **Executive Summary**

- 1.1 This is a full planning application for 14 dwellings on 0.8 hectares of greenfield land off St. Andrew's Road, Weeley. As a full application, the Planning Committee is being asked to approve a detailed scheme including detached and semi-detached houses served from a new access road extending from the end of St. Andrew's Road. The proposal is before the Committee as a departure from the adopted Local Plan, but the site is specifically allocated for housing in the emerging draft plan. The application was submitted in November 2015, but determination has been delayed whilst the viability of the scheme has been independently assessed and whilst issues relating to drainage and highways have been resolved in consultation with Essex County Council.
- 1.2 Because the site is allocated for housing development in the emerging Local Plan and the Council remains just short of a five-year supply of deliverable housing sites as required by government planning policy, Officers have approached the application with a view to positively addressing, as far as possible, technical issues and other matters raised by consultees and residents.
- 1.3 The development is opposed by Weeley Parish Council with concerns including highways, pedestrian safety and the alleged viability of the scheme – concerns echoed by some of the six residents that have also written in objection. The Highway Authority does not object to the proposal and the conclusions of the independent viability appraisal are that the scheme cannot afford the normal affordable housing, education or other s106 contributions. The development is considered to be a natural extension to the existing built up area that would have limited impacts on the landscape, ecology and trees and the design and layout of the properties is considered to be acceptable for this location.
- 1.4 Officers consider that this development complies with the requirements of the National Planning Policy Framework and the recommendation is approval subject to a s106 agreement that can allow for the viability of the scheme to be re-assessed in the event that development fails to come forward within certain timescales.

### **Recommendation: Approval**

That the Head of Planning be authorised to grant planning permission for the development subject to:-

- a) Within 6 (six) months of the date of the Committee's resolution to approve, the completion of a legal agreement under the provisions of section 106 of the Town and Country Planning Act 1990 dealing with the following matters (where relevant):
  - A potential review of viability at a later stage.
- b) Planning conditions in accordance with those set out in (i) below (but with such amendments and additions, if any, to the detailed wording thereof as the Head of Planning (or the equivalent authorised officer) in their discretion considers appropriate).
  - (i) **Conditions:**
    1. Standard 3 year time limit for commencement.
    2. Accordance with approved plans.
    3. Highways conditions (as recommended by the Highway Authority).
    4. Environmental Health conditions.
    5. Ecological mitigation/enhancement.
    6. Surface water drainage scheme.
    7. SuDS maintenance/monitoring plan.
    8. Archaeology.
    9. Hard and soft landscaping plan/implementation.
    10. Details of lighting, materials and refuse storage/collection points.
    11. Broadband connection.
    12. Local employment arrangements.
- c) That the Head of Planning (or the equivalent authorised officer) be authorised to refuse planning permission in the event that such legal agreement has not been completed within the period of 6 (six) months, as the requirements necessary to make the development acceptable in planning terms had not been secured through a s106 planning obligation.

## **Planning Policy**

### **National Planning Policy Framework (NPPF)**

The National Planning Policy Framework (March 2012) sets out the Government's planning policies and how these are expected to be applied at the local level.

Planning law requires that applications for planning permission be determined in accordance with the 'development plan' unless material considerations indicate otherwise. The NPPF doesn't change the statutory status of the development plan as the starting point for decision taking. Where proposed development accords with an up to date Local Plan it should be approved and where it does not it should be refused – unless other material considerations indicate otherwise. An important material consideration is the NPPF's 'presumption in favour of sustainable development'. The NPPF defines 'sustainable development' as having three dimensions:

- an economic role;
- a social role; and
- an environmental role.

These dimensions have to be considered together and not in isolation. The NPPF requires Local Planning Authorities to positively seek opportunities to meet the development needs of their area whilst allowing sufficient flexibility to adapt to change. Where relevant policies in Local Plans are either absent or out of date, there is an expectation for Councils to approve planning applications, without delay, unless the adverse impacts would significantly and demonstrably outweigh the benefits.

Section 6 of the NPPF relates to delivering a wide choice of quality new homes. It 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 a 5% or 20% buffer to ensure choice and competition in the market for land). If this is not possible, housing policies are to be considered out of date and the presumption in favour of sustainable development is engaged with applications for housing development needing to be assessed on their merits, whether sites are allocated for development in the Local Plan or not.

Paragraph 187 of the NPPF states *“Local planning authorities should look for solutions rather than problems, and decision-takers at every level should seek to approve applications for sustainable development where possible. Local planning authorities should work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area”*.

### **Local Plan**

Section 38(6) of the Planning Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the ‘development plan’ unless material considerations indicate otherwise. In the case of Tendring the development plan consist of the following:

**Tendring District Local Plan (Adopted November 2007)** – as ‘saved’ through a Direction from the Secretary of State. Relevant policies include:

QL1: Spatial Strategy: Directs most new development toward urban areas and seeks to concentrate development within settlement development boundaries. The policy categorises Weeley as a village.

QL2: Promoting Transport Choice: Requires developments to be located and designed to avoid reliance on the use of the private car.

QL3: Minimising and Managing Flood Risk: Seeks to direct development away from land at a high risk of flooding and requires a Flood Risk Assessment for developments in Flood Zone 1 on sites of 1 hectare or more.

QL9: Design of New Development: Provides general criteria against which the design of new development will be judged.

QL10: Designing New Development to Meet Functional Needs: Requires development to meet functional requirements relating to access, community safety and infrastructure provision.

QL11: Environmental Impacts: Requires new development to be compatible with its surrounding land uses and to minimise adverse environmental impacts.

QL12: Planning Obligations: States that the Council will use planning obligations to secure infrastructure to make developments acceptable, amongst other things.

HG1: Housing Provision

Sets out the strategy for delivering new homes to meet the need up to 2011 (which is now out of date and needs replacing through the new Local Plan).

HG3: Residential Development Within Defined Settlements

Supports appropriate residential developments within the settlement development boundaries of the district's towns and villages.

HG3a: Mixed Communities

Promotes a mix of housing types, sizes and tenures to meet the needs of all sectors of housing demand.

HG4: Affordable Housing in New Developments

Seeks up to 40% of dwellings on large housing sites to be secured as affordable housing for people who are unable to afford to buy or rent market housing.

HG6: Dwellings Size and Type

Requires a mix of housing types, sizes and tenures on developments of 10 or more dwellings.

HG7: Residential Densities

Requires residential developments to achieve an appropriate density. This policy refers to minimum densities from government guidance that have long since been superseded by the NPPF.

HG9: Private Amenity Space

Requires a minimum level of private amenity space (garden space) for new homes depending on how many bedrooms they have.

HG14: Side Isolation

Requires a minimum distance between detached properties.

COM2: Community Safety

Requires developments to contribute toward a safe and secure environment and minimise the opportunities for crime and anti-social behaviour.

COM4: New Community Facilities (including Built Sports and Recreation Facilities)

Supports the creation of new community facilities where they are acceptable in terms of accessibility to local people, impact on local character, parking and traffic and other planning considerations.

COM6: Provision of Recreational Open Space for New Residential Developments

Requires residential developments on sites of 1.5 hectares or more to provide 10% of the site area as public open space, or a financial contribution from smaller developments.

COM21: Light Pollution

Requires external lighting for new development to avoid unacceptable impacts on the landscape, wildlife or highway and pedestrian safety.

COM23: General Pollution

States that permission will be refused for developments that have a significant adverse effect through the release of pollutants.

COM26: Contributions to Education Provision

Requires residential developments of 12 or more dwellings to make a financial contribution, if necessary, toward the provision of additional school places.

COM29: Utilities

Seeks to ensure that new development on large sites is or can be supported by the necessary infrastructure.

COM31a: Sewerage and Sewage Disposal

Seeks to ensure that new development is able to deal with waste water and effluent.

EN1: Landscape Character

Requires new developments to conserve key features of the landscape that contribute toward local distinctiveness.

EN6: Biodiversity

Requires existing biodiversity and geodiversity to be protected and enhanced with compensation measures put in place where development will cause harm.

EN6a: Protected Species

Ensures protected species including badgers are not adversely impacted by new development.

EN6b: Habitat Creation

Encourages the creation of new wildlife habitats in new developments, subject to suitable management arrangements and public access.

EN12: Design and Access Statements

Requires Design and Access Statements to be submitted with most planning applications.

EN13: Sustainable Drainage Systems

Requires developments to incorporate sustainable drainage systems to manage surface water run-off.

EN29: Archaeology

Requires the archaeological value of a location to be assessed, recorded and, if necessary, safeguarded when considering development proposals.

TR1a: Development Affecting Highways

Requires developments affecting highways to aim to reduce and prevent hazards and inconvenience to traffic.

TR3a: Provision for Walking

Seeks to maximise opportunities to link development with existing footpaths and rights of way and provide convenient, safe attractive and direct routes for walking.

TR4: Safeguarding and Improving Public Rights of Way

Encourages opportunities to expand the public right of way network. Requires that developments affecting an existing public right of way accommodate the definitive alignment of the path or, where necessary, seek a formal diversion.

TR5: Provision for Cycling

Requires all major developments to provide appropriate facilities for cyclists.

TR6: Provision for Public Transport Use

Requires developments to make provision for bus and/or rail where transport assessment identifies a need.

TR7: Vehicle Parking at New Development

Refers to the adopted Essex County Council parking standards which will be applied to all non-residential development.

**Tendring District Local Plan: 2013-2033 and Beyond Proposed Submission Draft (November 2012), as amended by the Tendring District Local Plan Pre-Submission Focussed Changes (January 2014).**

Relevant policies include:

SP1: Presumption in Favour of Sustainable Development

Follows the Planning Inspectorate's standard wording to ensure compliance with the NPPF.

SPL1: Managing Growth

Identifies Weeley as an 'expanded settlement' where development on a strategic scale is proposed in the event that the objectively assessed housing need for Tendring being confirmed at 600 dwellings per hectare. It has subsequently been confirmed that 550 dwellings per annum is the figure for Tendring and that less development of a strategic scale will be necessary at Weeley.

SPL2: Settlement Development Boundaries

Seeks to direct new development to sites within settlement development boundaries.

SPL3: Sustainable Design

Sets out the criteria against which the design of new development will be judged.

#### HP4: Open Space, Sports and Recreation Facilities

Requires larger residential developments to provide a minimum 10% of land as open space with financial contributions toward off-site provision required from smaller sites.

#### LP1: Housing Supply

Sets out how the Council will meet objectively assessed housing needs over the next 15-20 years and in which parts of the district. The application site is one of the areas specifically allocated for housing.

#### LP2: Housing Choice

Promotes a range of house size, type and tenure on large housing developments to reflect the projected needs of the housing market.

#### LP3: Housing Density and Standards

Policy requires the density of new housing development to reflect accessibility to local services, minimum floor space requirements, the need for a mix of housing, the character of surrounding development and on-site infrastructure requirements.

#### LP4: Housing Layout

Policy seeks to ensure large housing developments achieve a layout that, amongst other requirements, promotes health and wellbeing; minimises opportunities for crime and anti-social behaviour; ensures safe movement for large vehicles including emergency services and waste collection; and ensures sufficient off-street parking.

#### LP5: Affordable and Council Housing

Requires up to 30% of new homes on large development sites to be made available to the Council or a nominated partner, at a discounted price, for use as affordable or council housing.

#### PP12: Improving Education and Skills

Requires applicants to enter into an Employment and Skills Charter or Local Labour Agreement to ensure local contractors are employed to implement the development and that any temporary or permanent employment vacancies (including apprenticeships) are advertised through agreed channels.

#### PPL1: Development and Flood Risk

Seeks to direct development away from land at a high risk of flooding and requires a Flood Risk Assessment for developments in Flood Zone 1 on sites of 1 hectare or more.

#### PPL3: The Rural Landscape

Requires developments to conserve, where possible, key features that contribute toward the local distinctiveness of the landscape and include suitable measures for landscape conservation and enhancement.

#### PPL4: Biodiversity and Geo-Diversity

Gives protection to internal, European and nationally important wildlife sites and requires existing biodiversity and geodiversity on any site to be protected and enhanced with compensation measures put in place where development will cause harm.



**PPL5: Water Conservation, Drainage and Sewerage**

Requires developments to incorporate sustainable drainage systems to manage surface water run-off and ensure that new development is able to deal with waste water and effluent.

**PPL7: Archaeology**

Requires that where development that might affect archaeological remains, studies and works are undertaken to identify, recover and record such remains.

**CP1: Sustainable Transport and Accessibility**

Requires developments to include and encourage opportunities for access to sustainable modes of transport, including walking, cycling and public transport.

**CP3: Improving the Telecommunications Network**

Requires that new developments be served by superfast or ultrafast broadband.

**Other Guidance**

Essex County Council Car Parking Standards – Design and Good Practice

Essex Design Guide for Residential and Mixed-Use Areas.

**3. Relevant Planning History**

The site has the following planning history:

14/00099/FUL	Erection of 16 houses including garages, access road, public open space and landscaping.	Withdrawn	24.04.2014
15/01750/FUL	Proposed residential development comprising 14 houses, garages, access, public open space and landscaping.	Current	

**4. Consultations**

TDC  
Principal Tree &  
Landscape  
Officer

In order to establish the degree to which the trees are a constraint on the development potential of the land the applicant has provided a Tree Survey and Report. The report is in accordance with BS5837: 2012 Trees in relation to design, demolition and construction.

The report accurately describes the general health and condition of the trees and hedgerows on the application site and adjacent land and accurately shows the extent to which they affect the development potential of the land. The trees are not covered by a Tree Preservation Order and the site is not situated in a conservation area.

Assuming the method statements and tree protection measures set out in the tree report are implemented as part of the development, then the proposal can be implemented without causing harm to the important trees off-site ensuring their continued health and functionality.

In order to show the potential impact of the development proposal on the character and appearance of the area the applicant has submitted a Landscape and Visual Impact Assessment (LVIA). The site is situated Clacton and the Sokens Clay Plateau and adjacent to the Holland valley System as defined in the Tendring District Council Landscape Character Assessment.

The LVIA provides a detailed baseline assessment of the quality and characteristics of the local landscape and accurately describes the potential impact of the development proposal on both the countryside and the existing housing.

Section 8.11 of the LVIA states that the proposed residential development would represent a relatively small infill contained within the broadly triangular form of the village between The Street and Thorpe Road which would not extend further east into the surrounding agricultural landscape than the existing built development to the north and south.

Section 7.0, describes Master Planning Principles and identifies a series of principles which would help establish a landscape-led master plan including design objectives and recommendations of how these could be delivered to ensure that the development sits comfortably in its urban fringe setting

If the recommendations set out in paragraphs 8.19 to 8.23 of the LVIA are followed then it is considered that the development proposal could be implemented without causing harm to the local landscape character.

TDC  
Environmental  
Health

Construction Method

Noise Control:

- 1) No vehicle connected with the works to arrive on site before 07:00 or leave after 19:00 (except in the case of emergency). Working hours to be restricted between 07:00 and 19:00 Monday to Saturday (finishing at 13:00 on Saturday) with no working of any kind permitted on Sundays or any Public/Bank Holidays.
- 2) The selection and use of machinery to operate on site, and working practices to be adopted will, as a minimum requirement, be compliant with the standards laid out in British Standard 5228:1984.
- 3) Mobile plant to be resident on site during extended works shall be fitted with non-audible reversing alarms (subject to HSE agreement).
- 4) Prior to the commencement of any piling works which might be necessary, a full method statement shall be agreed in writing with the

Council. This will contain a rationale for the piling method chosen and details of the techniques to be employed which minimise noise and vibration to nearby residents.

Emission Control:

- 1) All waste arising from the ground clearance and construction processes to be recycled or removed from the site subject to agreement with the Council and other relevant agencies.
- 2) No fires to be lit on site at any time.
- 3) On large scale construction sites, a wheel-wash facility shall be provided for the direction of the works to ensure levels of soil on roadways near the site are minimised.
- 4) All bulk carrying vehicles accessing the site shall be suitably sheeted to prevent nuisance from dust in transit.

Contaminated Land:

We are satisfied that the investigations carried out by the geo-environmental consultants are sufficient. No further investigation or remediation is needed unless it is discovered or suspected during the build that the land could be contaminated.

TDC Housing	There is a high demand for housing in Weeley and there are 81 households on the housing registers seeking a 2 bedroom property, 40 seeking a 3 bedroom property and 18 seeking a 4 bedroom property or larger. The housing department is not in a position to purchase any of the units at a discounted price and so a financial contribution would be preferred.
TDC Open Space and Play	There is currently a deficit of 2.18 hectares of equipped play and formal open space in Weeley. There are two play areas in Weeley, one located along Clacton Road and one off Hilltop Crescent – both of which are classified as Local Equipped Areas for Play (LEAP). Due to the limited provision in Weeley in terms of both play and formal open space, it would be necessary to increase provision in the area should further development take place. Due to the significant lack of facilities in Weeley it is felt that a contribution is justified and relevant to this planning application.
ECC Highways	<p>From a highway and transportation perspective the impact of the proposal is acceptable to Highway Authority subject to mitigation and conditions relating to the following:</p> <ul style="list-style-type: none"><li>• Accordance with the details shown on the plans;</li><li>• Details of estate roads and footways including layout, levels, gradients, surfacing and drainage;</li><li>• Internal junction dimensions;</li><li>• Dimensions of the vehicular turning facility;</li><li>• No unbound materials to be used within 6m of the highway boundary;</li><li>• Dimensions and specification of individual accesses;</li><li>• Visibility splays for each dwelling;</li></ul>

- Bicycle storage facilities;
- Construction methods statement;
- Travel information packs;
- Footway links to footpath No.4 to be reconstructed to a minimum width of 2 metres;
- Boundary hedges to be set back a minimum 1 metre from the highway; and
- Bus stops to be upgraded.

ECC  
Archaeology

Although there are no records on the Essex Historic Environment Record (HER) for archaeological features within the footprint of the development itself, there has been no previous archaeological work undertaken on the site, and the Tendring Historic Environment Characterisation Project recognises that there is potential for below ground archaeological remains within the area more generally. Any surviving previously unrecorded below ground non-designated heritage assets with archaeological interest would be damaged or destroyed by the proposed development.

Planning conditions should be imposed on approval of planning permission to secure, prior to commencement of development:

- a programme of trial trenching and a subsequent summary report and mitigation strategy to be submitted for the Council's consideration;
- archaeological fieldwork in any areas of the site considered to contain archaeological deposits;
- a post excavation assessment with the full site archive and report to be deposited at the local museum.

Anglian Water

Assets affected: Our records show that there are no assets owned by Anglian Water or those subject to an adoption agreement within the development site boundary.

Wastewater treatment: The foul drainage from this development is in the catchment of Clacton and Holland Recycling Centre that will have available capacity for these flows.

Foul Sewerage Network: The sewerage system at present has available capacity for these flows. If the developer wishes to connect to our sewerage network they should serve notice under Section 106 of the Water Industry Act 1991. We will then advise them of the most suitable point of connection.

Surface Water Disposal: The proposed method of surface water management does not relate to Anglian Water operated assets. The advice of the Lead Local Flood Authority or the Internal Drainage Board should be sought. The Environment Agency should be consulted if the drainage system directly or indirectly involves the discharge of water into a watercourse. Should the proposed method of surface water management change to include interaction with Anglian Water operated assets, we would wish to be re-consulted.

Natural England

Natural England has no comments to make on this application. It is for the local planning authority to determine whether or not this application is consistent with national and local policies on the natural environment.

ECC Flood Authority	<p>Having reviewed the information provided, there is now no objection to the granting of planning permission subject to conditions relating to the following:</p> <ul style="list-style-type: none"> <li>• a detailed surface water drainage scheme;</li> <li>• a scheme for minimising offsite flooding during construction works;</li> <li>• a maintenance plan for the surface water drainage scheme; and</li> <li>• keeping an on-going log of maintenance.</li> </ul>
The Ramblers Association	<p>We have no objection, providing the public right of way remains open and usable whilst the building work takes place and is 3 metres wide on completion.</p>

## 5. **Representations**

- 5.1 The Council has received 6 objections to the proposal highlighting concerns about:
- The access/egress to the development;
  - Congestion in surrounding roads;
  - Impact on wildlife including bats;
  - Impact on the public right of way which is used by ramblers and dog walkers;
  - The viability of the development and limited s106 obligations;
  - Noise pollution;
  - The site being too small to accommodate 14 dwellings;
  - Danger to the elderly, children and dog walkers due to additional cars;
  - Limited school capacity;
  - Limited publicity for the development;
- 5.2 There were also 9 representations from the same individual querying the lack of a site notice to publicise the application, a query that was subsequently addressed.
- 5.3 Weeley Parish Council has objected to the proposal with the following statement: *“Our concerns at the scale of this proposed development remain. As noted in response to the 2014 application for this site, WPC's discussions with both the developer and TDC's Development Plan Manager focused on a smaller scale development of 10 houses on this site. 14 houses is too many. St Andrew's Road is too narrow; congestion and parking problems will be inevitable. There is also concern about apparent advance agreement between the developer and the TDC case officer at the time the earlier application was withdrawn. It is not clear how a statement by the developer in 2014 to the effect that a 16 unit scheme can be made marginally viable if the Council waived all affordable housing and s106 requirements can be true given that the new application is for 14 houses. It is disappointing that WPC will not gain anything in S106 contributions should this application be approved.”*

## 6. **Assessment**

### **The Site**

- 6.1 The application site comprises just under 0.8 hectares of greenfield land on the eastern edge of Weeley village. The land is at the end of St. Andrew's Road which is part of wider post-war development of houses and bungalows. The site that includes paddock land and a stable

building with a hedgerow and mature trees along the northern boundary and a maintained Hawthorn hedge along the southern boundary with access to the public right of way (footpath No. 4) in the southern part of the site.

### **The Proposal**

- 1.5 As a full application, the Planning Committee is being asked to approve a detailed scheme including 10 detached 4-bed houses; 2 detached 3-bed houses and 2 semi-detached 2-bed houses served by an extended access road from the end of St. Andrew's Road.

### **Architectural Drawings**

- 1299/P2/100 Site Location Plan
- 1299/P2/01 Site Plan – 14 Unit Scheme – General Arrangement
- 1299/P2/103 Site Plan – Fencing and Surface Finishes
- 1299/P2/104 Site Plan – Materials
- 1299/P2/106 House Types A & B, Plots 1, 2, 3, 4 – Elevations
- 1299/P2/107 Floor Plans – Plots 1, 2, 3, 4
- 1299/P2/108 House Type C, Plots 5, 8, 11 & 12 – Plans and Elevations
- 1299/P2/109 House Type D, Plots 6, 9 & 13 – Plans and Elevations
- 1299/P2/110 House Type E, Plots 7, 10 & 14 – Plans and Elevations
- 1299/P2/111 Garages – Plans & Elevations
- 1299/P2/112 Street Scenes
- 056/2016/01 P1 Proposed Drainage Layout

### **Reports and Technical Information**

- Design and Access Statement
- Ecological Survey
- Geo-Environmental Desk Study
- Landscape and Visual Appraisal
- Tree Survey
- Drainage Strategy Report
- Arboricultural Impact Assessment

### **Main Planning Considerations**

- 6.2 The main planning considerations are:

- Principle of development;
- Highways, transport and accessibility;
- Landscape, visual impact and trees;
- Flood risk and drainage;
- Ecology;
- S106 planning obligations
- Detailed design and layout
- Overall planning balance.

### **Principle of development**

- 6.3 In line with Section 38(6) of the Planning and Compulsory Purchase Act 2014, planning decisions must be taken in accordance with the 'development plan' unless material

considerations indicate otherwise. The requirements of the National Planning Policy Framework (NPPF) are a material consideration in this regard.

- 6.4 The 'development plan' for Tendring is the 2007 'adopted' Local Plan, despite some of its policies being out of date. Paragraph 215 of the NPPF 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 216 of the NPPF also allows weight to be given to policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency with national policy. As of 14<sup>th</sup> July 2016, the emerging Local Plan for Tendring is the Tendring District Local Plan 2013-2033 and Beyond Preferred Options Consultation Document. As this plan is currently at an early stage of preparation, some of its policies can only be given limited weight in the determination of planning applications, but the weight to be given to emerging policies will increase as the plan progresses through the later stages of the process. Where emerging policies are particularly relevant to a planning application and can be given some weight in line with the principles set out in paragraph 216 of the NPPF, they will be considered and, where appropriate, referred to in planning decisions. In general terms however, more weight will be given to policies in the NPPF and the adopted Local Plan.
- 6.5 The site is not allocated for housing or mixed use development in the adopted Local Plan and it also falls outside of the 'settlement development boundary'. In the emerging Local Plan however, the site is specifically allocated for residential development and the settlement development boundary has been extended to include both this site and the wider area of land east of the village which is allocated for a more strategic mixed use development.
- 6.6 Because the site lies outside of the settlement development boundary of the adopted Local Plan, it is technically contrary to adopted policy. However the adopted Local Plan falls significantly short in identifying sufficient land to meet the 'objectively assessed' future need for housing which is a key requirement of the NPPF and some weight, albeit limited weight, can be given to proposals in emerging Local Plans. The Council is also currently unable to identify a five-year supply of deliverable housing sites, plus a 5-20% buffer, as required by paragraph 47 of the NPPF – although the housing supply position has improved significantly in recent months as a result of a number of major residential schemes gaining planning permission, either from the Council or on appeal.
- 6.7 A report to the Local Plan Committee on 19<sup>th</sup> January 2017 sets out Officers' latest calculation of housing supply based on the objectively assessed requirement of 550 dwellings per annum, the need to make up for historic undersupply, the need for a 20% buffer and assumptions about the number of homes realistically likely to be built on large sites with planning permission (or subject of Committee resolution to grant permission) and on smaller 'windfall' sites across the district. Officers have undertaken a more thorough assessment of deliverability on various sites and have projected the figures forward to provide the housing supply position, as is expected to be, in April 2017. This exercise still projects a shortfall against the five-year requirement resulting in a supply of 4.4 years.
- 6.8 It therefore remains, in line with paragraph 49 of the NPPF, that housing policies are considered to be 'out-of-date' and the government's 'presumption in favour of sustainable development' is engaged. To comply with national planning policy, the Council would not, at

this time, be justified in refusing this planning application purely on the basis that it lies outside of the settlement development boundary of the adopted Local Plan.

- 6.9 'Sustainable Development', as far as the NPPF is concerned, is development that contributes positively to the economy, society and the environment and under the 'presumption in favour of sustainable development', authorities are expected to grant permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole; or specific policies in the NPPF indicate development should be restricted.
- 6.10 One of the NPPF's core planning principles is to "*actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable*". With this in mind, Policy SPL1 in emerging Local Plan includes a 'settlement hierarchy' aimed at categorising the district's towns and villages and providing a framework for directing development toward the most sustainable locations.
- 6.11 In the emerging Local Plan, the settlement of Weeley is identified in Policy SPL1 as an 'expanded settlement' and land is allocated around the village to deliver a potential 1,411 dwellings along with employment and community facilities and infrastructure. However, Policy LP1 shows that the level of development proposed for Weeley will ultimately depend on whether the overall 'objectively assessed housing need' for Tendring is confirmed at 550 or 600 dwellings per annum. In the 550 dpa scenario only 304 dwellings are proposed, but it is the 600 dpa scenario that justifies the full 1,411 dwellings. On 3<sup>rd</sup> November 2016, the Council's Local Plan Committee resolved to confirm 550 dpa as the objectively assessed housing need for Tendring based on the latest evidence. The Committee also resolved that the pre-submission draft of the Local Plan will be amended to reflect the lower growth scenario for Weeley which involves keeping the development to the east.
- 6.12 Even with proposed revisions to the emerging Local Plan later in 2016, it is still envisaged that Weeley will accommodate some major development and application for 14 dwellings on the land off St. Andrew's Road, to the east of the village, would be compatible with that approach. On the above reasoning, Officers consider that the development can be supported in principle.

#### **Highways, transport and accessibility**

- 6.13 Paragraph 32 of the NPPF relates to transport and requires Councils, when making decisions, to take account of whether:
- the opportunities for sustainable transport modes have been taken up depending on the nature and location of the site, to reduce the need for major transport infrastructure;
  - safe a suitable access to the site can be achieved for all people; and
  - improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.



- 6.14 Policy QL2 in the adopted Local Plan and Policy CP1 in the emerging Local Plan seek to ensure that developments maximise the opportunities for access to sustainable transport including walking, cycling and public transport. The site is just over 400 metres from the local shop, post office and bus services in The Street, just under 650 metres from Weeley Railway Station, 930 metres from the local primary school and village hall and 650 metres from the Black Boy Pub.
- 6.15 The Parish Council and a number of residents have raised concerns about the access into the site and potential issues of congestion and pedestrian safety in the surrounding roads. The road in St. Andrews Road and elsewhere on the adjoining housing estate east of Weeley are not considered to be exceptionally narrow for a post war housing development such as this with on-plot car parking for most properties. Residents may have experienced issues with on-street parking mainly as a result of increasing car ownership. A relatively small development of 14 dwellings is not expected to exacerbate such issues to an extent that would justify a refusal of planning permission, particularly as the dwellings proposed are all to be served by parking in line with Essex County Council minimum standards.
- 6.16 The proposal has been the subject of consultation with Essex County Council as the Highway Authority and there is no objection to the proposal on highway safety or capacity grounds subject to planning conditions mainly designed to ensure that highways, driveways and footways are achieve certain standards. They also require the connection to the public right of way to be 2 metres in width, although it is noted that the Ramblers' Association preference would be 3 metres. Officers do not consider that the proposal gives rise to a severe transport impact and there are no legitimate grounds for refusal in this respect.

#### **Landscape, visual impact and trees**

- 6.17 Policy EN1 of the adopted Local Plan and Policy PPL3 in the emerging Local Plan seek to protect and, wherever possible, enhance the quality of the district's landscape; requiring developments to conserve natural and man-made features that contribute toward local distinctiveness and, where necessary, requiring suitable measures for landscape conservation and enhancement. Policies QL9 and SPL3 also require developments to incorporate important existing site features of landscape, ecological or amenity value such as trees, hedges, water features, buffer zones, walls and buildings.
- 6.18 Officers consider that the site forms a natural extension to the existing housing estate and would not bring about an illogical or unexpected intrusion into the open countryside. Notwithstanding the provisional allocation of land to the east for development in the emerging Local Plan, this development as an individual scheme offers a natural rounding off of the built up area that would be seen in the context of existing development. The land whilst greenfield is relatively flat and featureless with the main landscape features along the boundaries and the public right of way.
- 6.19 The applicant has submitted a Landscape and Visual Impact Assessment to show the potential impact of the development proposal on the character and appearance of the area and this has been considered by the Council's Principal Tree and Landscape Officer. The assessment identifies measures that would help establish a landscape-led master plan including design objectives and recommendations of how these could be delivered to ensure that the development sits comfortably in its urban fringe setting. The Tree and Landscape

Officer is content that a landscaping proposal that reflects these principles will ensure an acceptable form of development. A detailed landscaping proposal would be required through planning condition if the application is approved.

- 6.20 For trees, the applicants have submitted a tree survey and report which, again have been considered by the Council's Principal Tree and Landscape Officer to be in accordance with the relevant standards. None of the trees around the site are covered by Tree Preservation Orders and the tree protection measures recommended in the report will be imposed through planning conditions if the application is approved.

### **Flood risk and drainage**

- 6.21 Paragraph 103 of the NPPF requires Councils, when determining planning applications, to ensure flood risk is not increased elsewhere. The site is in Flood Zone 1 (low risk) and being below 1 hectare in size, there was no specific requirement for the applicant to provide a Flood Risk Assessment. Initially, there was an objection from Essex County Council's drainage team due to the lack of a drainage strategy and following the submission of a strategy, ECC remained concerns that the drainage solution proposed would not be compatible, in technical terms, with the highway layout. The applicants have sought to address ECC's concerns through negotiation and submission of revised details and these matters have now been addressed.

### **Ecology**

- 6.22 Paragraph 118 of the NPPF requires Councils, when determining planning applications, to aim to conserve and enhance biodiversity. Where significant harm to biodiversity cannot be avoided, mitigated or, as a last resort, compensated for, Councils should refuse planning permission. Policy EN6 of the adopted Local Plan and Policy PPL4 of the emerging Local Plan give special protection to designated sites of international, national or local importance to nature conservation but for non-designated sites still require impacts on biodiversity to be considered and thereafter minimised, mitigated or compensated for.
- 6.23 The development would not have any significant direct or indirect affects on any formally designated wildlife sites, but the ecological value of the site itself has been given consideration through a preliminary ecological assessment. No badger setts or signs of badger activity were recorded within or adjacent to the development site. The stables on site were surveyed for their potential for bats but the inspection found no roosting bats or signs of roosting bats and with the exception of one tree located in an adjacent residential garden, none of the site trees were found to have features suitable for roosting bats. The boundary hedges and trees do offer a habitat for commuting bats but are intended to be retained in line with tree protection measures explained above. The site was not considered to be of high potential for amphibians or common reptiles. The stable building and some of the boundary hedgerows were identified as a habitat for nesting birds. No further surveys are recommended by the ecologist. Mitigation measures to ensure the development is undertaken at the right times and in a careful and sympathetic way to ensure any ecological impacts are kept to a minimum are recommended within the report.

### **S106 planning obligations**

- 6.24 Policy QL12 in the adopted Local Plan and Policies HP1, HP2 and PP12 in the emerging Local Plan require that new development is supported by the necessary infrastructure. At 14 dwellings, the development is below the threshold that either Essex County Council or NHS England would request financial contributions towards education or health provision.
- 6.25 Policy HG4 in the adopted Local Plan requires large residential developments to provide 40% of new dwellings as affordable housing for people who cannot otherwise afford to buy or rent on the open market. Policy LP5 in the emerging Local Plan, which is based on more up to date evidence on housing need and viability, requires 30% of new dwellings on large sites to be made available to the Council or a nominated partner to acquire at a discounted value for use as affordable or council housing. The policy does allow flexibility to accept as low as 10% of dwellings on site, with a financial contribution toward the construction or acquisition of property for use as affordable or council housing (either on the site or elsewhere in the district) equivalent to delivering the remainder of the 30% requirement.
- 6.26 Policy COM6 in the adopted Local Plan and Policy HP4 of the emerging Local Plan require large residential developments to provide at least 10% of land as public open space or otherwise make financial contributions toward off-site provision. As a site smaller than 1.5 hectares, a development of this scale can be required to make a financial contribution and the Council's Open Spaces team have commented on the application and has suggested that contributions could be made towards facilities in Weeley at Clacton Road and Hilltop Crescent.
- 6.27 Paragraph 173 in the NPPF states that pursuing sustainable development requires careful attention to viability and cost in both plan-making and decision-taking. The applicant has submitted, on a commercially confidential basis, an assessment of economic viability which suggests that the scheme would be marginally viable and unable to afford the provision of affordable or Council housing or any other financial contributions. The viability assessment has been independently scrutinised on behalf of the Council and our independent advice verifies and upholds the findings of the assessment.
- 6.28 If the Committee is minded to approve the application in the knowledge that no affordable housing or open space contributions would be made, the independent advice recommends that there is still a s106 legal agreement containing a review mechanism that requires viability to be re-tested if development is not completed in line with some agreed timescales. If the development slips behind schedule and a later viability assessment shows that economic conditions have improved to the extent that s106 contributions can be made, the Council would be able to secure some contribution.

### **Detailed design and layout**

- 6.29 14 dwellings on a 0.8 hectare site represents an approximate density of 17.5 dwellings per hectare which is relatively low compared with the average 20-25 dwelling per hectare found elsewhere across the neighbouring housing estate. The suggestions from some objectors that 14 homes is too many for this site on density grounds are not accepted by officers.
- 6.30 The layout shows the larger detached houses around the north and east perimeter of the site with gardens backing onto the site boundaries, thus enabling significant tree retention and

landscape screening to the wider countryside. The uniform arrangement of these dwellings with garden sizes well in excess of policy requirements and sufficient space between are traditional and suitable for this location. The smaller dwellings at the front of the site follow the line of the new access road with visitor parking, incidental open space and drainage area to the front. The layout follows a traditional front-to-front and back-to-back arrangement with the exception only of plots 7 and 8 in the north west corner of the site which are accessed via a private drive with landscaping proposed to ensure security for plots 1, 2 and 3 that lie in front. The dwellings are arranged in a way which ensures no issues in respect of impact on private amenity or light of adjoining householders. The properties will have front gardens and on-plot parking spaces.

- 6.31 The elevational designs are traditional and simple in nature and are appropriate for this location at the edge of a post-war housing estate with little historic architecture from which to base decorative features, materials or design. The properties would have decorative chimney stacks and window features and will utilise brown interlocking plain tiles, red natural clay plain tiles, red multi-stock bricks, buff multi-stock bricks, brick soldier course, bay windows, dormer windows and casement windows.

### **Overall Planning Balance**

- 6.32 Because the Council's Local Plan is out of date and a five-year supply of deliverable housing sites cannot currently be identified, the National Planning Policy Framework (NPPF) requires that development be approved unless the adverse impacts would significantly and demonstrably outweigh the benefits, or if specific policies within the NPPF suggest development should be refused. The NPPF in this regard applies a 'presumption in favour of sustainable development' for which sustainable development addresses economic, social and environmental considerations.
- 6.33 Economic: Whilst the scheme is 100% residential, the 14 dwellings would generate additional expenditure in the local economy which has to be classed as an economic benefit. There will also be temporary jobs in construction whilst the homes are being built.
- 6.34 Social: The provision of 14 dwellings toward meeting projected housing need, at a time when the Council is unable to identify a five-year supply, is a significant social benefit which carries a high level of weight in the overall planning balance – particularly as government policy is to boost housing supply.
- 6.35 Environmental: The environmental impacts of the proposal will be neutral with no significant adverse impacts on ecology, landscape value or flooding with the appropriate mitigation measures described above.
- 6.36 In the overall planning balance, Officers consider that no adverse impacts would significantly and demonstrably outweigh the benefits and the application is therefore recommended for approval subject to a s106 legal agreement and a range of planning conditions.

### **Background Papers**

None