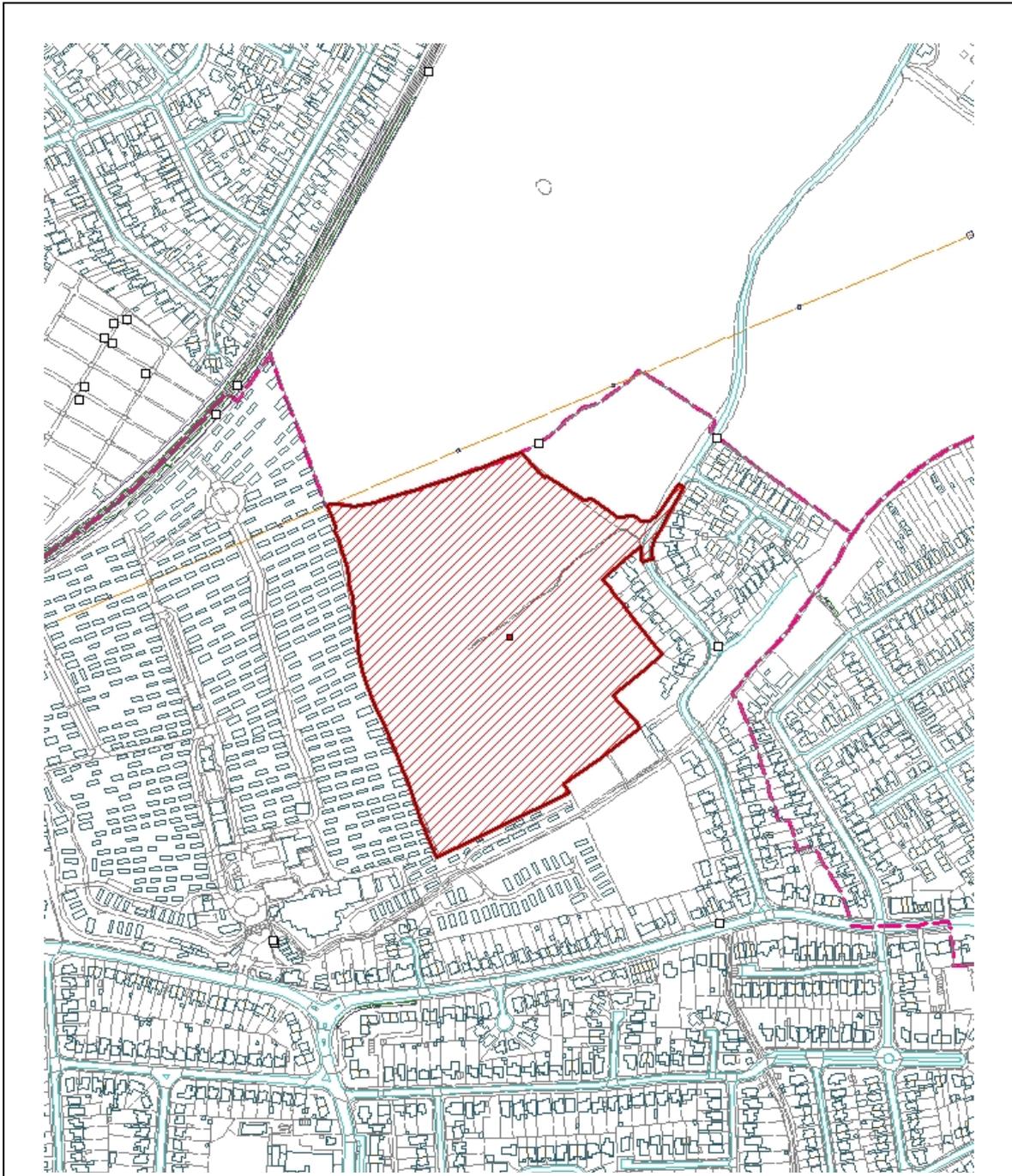


**PLANNING COMMITTEE**

**8<sup>th</sup> June 2021**

**REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING**

**A.1 & 2 PLANNING APPLICATION – 20/01416/DETAIL AND 21/00042/DISCON – LAND NORTHWEST OF SLADBURYS LANE CLACTON ON SEA ESSEX CO15 6NU**



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**Application:** 20/01416/DETAIL

**Town / Parish:** Clacton Non Parished

**Applicant:** Mr R Giles

**Address:** Land Northwest of Sladburys Lane Clacton On Sea Essex CO15 6NU

**Development:** Reserved matters application for residential development up to 132 dwellings with associated open space, landscaping, drainage, parking, servicing and utility infrastructure, with new vehicular access via Sladbury's Lane.

**Application:** 21/00042/DISCON

**Town / Parish:** Clacton Non Parished

**Applicant:** Mr R Giles

**Address:** Land to The North West of Sladburys Lane Clacton On Sea Essex CO15 6NU

**Development:** Discharge of condition 10 (Surface Water Drainage) of the planning application 15/01351/OUT approved on appeal APP/P1560/W/17/3169220.

## 1. Executive Summary

- 1.1. It was requested that this application be referred to Committee for a decision by Cllr. Stephenson for the following reasons:
  - Several garden sizes amongst the many plots do not comply with Policy in that they are too small
  - Only 1 bungalow is to be made wheelchair adaptable – it should be all of them
  - The SUDs report does not mitigate for the flood risk that is possible
- 1.2. The site is on the north-eastern edge of Clacton, it is divided into two fields by a line of trees and existing vegetation. To the north of the site beyond an agricultural field is the Colchester to Clacton railway line. To the east and south of site are the residential properties of Sladbury's Lane and the Happy Valley Bowls and Tennis Club.
- 1.3. The current application seeks approval of the reserved matters (access, appearance, landscaping, layout and scale) relating to outline planning permission 15/01351/OUT, which was allowed at appeal, for the erection of up to 132 dwellings and open space, including provision for a new sports field, new vehicular access and access via Sladbury's Lane. This application includes details of access, appearance, landscape, layout and scale which were not included as part of the outline application.
- 1.4. As established through the granting of outline application 15/01351/OUT, at appeal, the principle of residential development for up to 132 dwellings on this site is acceptable. The appeal decision also deals with matters of impact on protected species, biodiversity and flood risk.
- 1.5. The detailed design, layout, access, landscaping and scale are considered acceptable. The proposal would result in no material harm to residential amenity or highway safety.

- 1.6. The flood risk details submitted in the form of a SuDS Design and Management Report are sufficient to discharge condition No. 10 (Surface Water) of Planning Application 15/01351/OUT approved on appeal APP/P1560/W/17/3169220.

**Recommendation:**

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

20/01416/DETAIL

- 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):

- Financial Contribution toward RAMS

- b) Subject to the conditions stated in section 8.2

21/00042/DISCON

That the Head of Planning be authorised to approve discharge of Condition No. 10 (Surface Water Drainage) of Planning Application 15/01351/OUT approved on appeal APP/P1560/W/17/3169220.

**2. Planning Policy**

The following Local and National Planning Policies are relevant to this planning application.

*NPPF National Planning Policy Framework February 2019*

*National Planning Practice Guidance*

*Tendring District Local Plan 2007*

- |      |  |
|------|--|
| QL1  | Spatial Strategy                                   |
| QL2  | Promoting Transport Choice                         |
| QL3  | Minimising and Managing Flood Risk                 |
| QL9  | Design of New Development                          |
| QL10 | Designing New Development to Meet Functional Needs |
| QL11 | Environmental Impacts and Compatibility of Uses    |
| QL12 | Planning Obligations                               |
| HG1  | Housing Provision                                  |
| HG4  | Affordable Housing in New Developments             |

HG7	Residential Densities
COM1	Access for All
COM2	Community Safety
COM6	Provision of Recreational Open Space for New Residential Development
COM21	Light Pollution
COM22	Noise Pollution
COM23	General Pollution
COM26	Contributions to Education Provision
COM29	Utilities
COM31A	Sewerage and Sewage Disposal
EN1	Landscape Character
EN2	Local Green Gaps
EN4	Protection of the Best and Most Versatile Agricultural Land
EN6	Biodiversity
EN6A	Protected Species
EN6B	Habitat Creation
EN11A	Protection of International Sites European Sites and RAMSAR Sites
EN11B	Protection of National Sites SSSI's, National Nature Reserves, Nature Conservation Review Sites, Geological Conservation Review Sites
EN11C	Protection of Local Sites: Local Nature Reserves, County Wildlife Sites, Regionally Important Geological/Geomorphological Sites
EN12	Design and Access Statements
EN13	Sustainable Drainage Systems
TR1A	Development Affecting Highways
TR1	Transport Assessment
TR3A	Provision for Walking
TR4	Safeguarding and Improving Public Rights of Way
TR5	Provision for Cycling
TR7	Vehicle Parking at New Development

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

Section 1: North Essex Authorities' Shared Strategic Section 1 Plan, adopted January 2021

SP1 Presumption in Favour of Sustainable Development

SP2 RAMS

SP4 Meeting Housing Needs

SP6 Infrastructure & Connectivity

SP7 Place Shaping Principles

Section 2: Emerging

SPL1 Managing Growth

SPL3 Sustainable Design

HP5 Open Space, Sports & Recreation Facilities

LP1 Housing Supply

LP2 Housing Choice

LP3 Housing Density and Standards

LP4 Housing Layout

LP5 Affordable and Council Housing

PPL1 Development and Flood Risk

PPL3 The Rural Landscape

PPL4 Biodiversity and Geodiversity

PPL5 Water Conservation, Drainage and Sewerage

PPL6 Strategic Green Gaps

CP1 Sustainable Transport and Accessibility

CP2 Improving the Transport Network

*Local Planning Guidance*

*Essex Design Guide*

*Essex County Council Car Parking Standards - Design and Good Practice*

**Status of the Local Plan**

- 2.1 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 26<sup>th</sup> 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.
- 2.2 Section 1 of the Local Plan (which sets out the strategy for growth across North Essex including Tendring, Colchester and Braintree) has been examined by an Independent Planning Inspector who issued his final report and recommended 'main modifications' on 10<sup>th</sup> December 2020. The Inspector's report confirms that, subject to making his recommended main modifications (including the removal from the plan of two of the three 'Garden Communities' proposed along the A120 i.e. those to the West of Braintree and on the Colchester/Braintree Border), the plan is legally compliant and sound and can proceed to adoption. Notably, the housing and employment targets in the plan have been confirmed as sound, including the housing requirement of 550 dwellings per annum in Tendring.
- 2.3 The Council has now formally adopt Section 1 of the Local Plan, in its modified state, at the meeting of Full Council on 26<sup>th</sup> 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.
- 2.4 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.
- 2.5 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.
- 2.6 In relation to housing supply:

The NPPF requires Councils to boost significantly the supply of housing to meet objectively assessed future housing needs in full. In any one year, Councils must be able to identify five years' worth of deliverable housing land against their projected housing requirements (plus an appropriate buffer to ensure choice and competition in the market for land, account for any fluctuations in the market or to improve the prospect of achieving the planned supply). If this is not possible, or housing delivery over the previous three years has been substantially below (less than 75%) the housing requirement, paragraph 11 d) of the NPPF requires applications for housing development needing to be assessed on their merits, whether sites are allocated for development in the Local Plan or not.

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

### 3. Relevant Planning History

15/01351/OUT Outline planning application for Refused and 11.08.2016 residential development up to 132 Allowed at dwellings and open space, including Appeal provision for a sports field and a new vehicular access via Sladbury's Lane.

### 4. Consultations

TDC Environmental Protection  
12.01.2021

Noise Impact Assessment

With reference to the formal noise report, dated 21st December 2020; it does confirm the need for mitigation measures in order to achieve compliance with the relevant standards and guidelines values. In light of this we have the following comments to make -

Mitigation as laid out in section 5, page 23 of the submitted document confirms that in order to ensure required internal noise levels, as laid out in BS8233:2014 (Guidance on sound insulation and noise reduction for buildings). Glazing should be designed to achieve a minimum of 22dBR, W + Ctr, in accordance with BS8233:2014.

Due to the inability to achieve the standards as laid out in BS8233 for noise levels both during day time and night time periods, with the windows open, the report proposes attenuated background ventilators, with a minimum sound reduction performance of 24dB, will be required, if acoustic trickle vents are to be utilised.

The report also states that the external noise measured is that of 54dB. In accordance with the standards laid out in BS8233:2014, this value is within the threshold for the upper guideline value of 55dB; therefore negating the need for any mitigation to be undertaken within these areas.

In line with these findings, if the applicant is able to provide suitable evidence of the proposed materials, glazing and ventilation, confirming its effectiveness for compliance with the relevant British Standards, we have no reason to object to this proposal, providing the above evidence is submitted and approved in writing prior to the commencement of any development.

Contaminated Land

There is some indication of potential contamination from

our contaminated land database. The proposed site is also situated near a railway line and cemetery. The applicant is advised to undertake a suitable and sufficient site investigation and any necessary risk assessment to ensure proposed site is free from contamination. Therefore the standard contaminated land condition is to be applied.

#### Playground Equipment

Any playground equipment and impact absorbing surfaces, to comply with BS EN 1176 and BS EN 1177 respectively.

#### Construction Method Statement

In order to minimise potential nuisance to nearby existing residents caused by construction, Environmental Protection ask that the following is conditioned.

Prior to the commencement of any construction works, the applicant (or their contractors) shall submit a full method statement to, and receive written approval from, Environmental Protection Team. This report should include, but is not limited to, the following information -

#### Noise Control

- The use of barriers to mitigate the impact of noisy operations will be used where possible. This may include the retention of part(s) of the original buildings during the demolition process to act in this capacity.
- No vehicle connected with the works to arrive on site before 07:30 or leave after 19:00 (except in the case of emergency). Working hours to be restricted between 08:00 and 18:00 Monday to Saturday (finishing at 13:00 on Saturday) with no working of any kind permitted on Sundays or any Public/Bank Holidays.
- 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 5228:2014.
- Mobile plant to be resident on site during extended works shall be fitted with non-audible reversing alarms (subject to HSE agreement).
- Prior to the commencement of any piling works which may be necessary, a full method statement shall be agreed in writing with the Planning Authority (in consultation with Pollution and Environmental Control). 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.

- If there is a requirement to work outside of the recommended hours the applicant or contractor must submit a request in writing for approval by Environmental Protection prior to the commencement of works.

#### Emission Control

- All waste arising from the demolition process, ground clearance and construction processes to be recycled or removed from the site subject to agreement with the Local Planning Authority and other relevant agencies.
- No materials produced as a result of the site development or clearance shall be burned on site.
- All reasonable steps, including damping down site roads, shall be taken to minimise dust and litter emissions from the site whilst works of construction and demolition are in progress.
- All bulk carrying vehicles accessing the site shall be suitably sheeted to prevent nuisance from dust in transit.

#### Dust Control

- Dust suppression methods to be employed during construction so as to minimize likelihood of nuisance being caused to neighbouring properties. A scheme of measures for the control and suppression of dust emissions shall be submitted.

Adherence to the above condition will significantly reduce the likelihood of public complaint and potential enforcement action by Environmental Protection. The condition gives the best practice for Demolition and Construction sites. Failure to follow them may result in enforcement action under nuisance legislation (Environmental Protection Act 1990), or the imposition of controls on working hours (Control of Pollution Act 1974).

ECC SuDS Consultee  
13.11.2020

Having reviewed the Flood Risk Assessment and the associated documents which accompanied the planning application, we do not object to the granting of planning permission based on the following:

The information provided as part of this application is sufficient to discharge condition 10 of 15/01351/OUT.

#### Informatives

- Any drainage features proposed for adoption by Essex County Council should be consulted on with the relevant Highways Development Management Office.
- Changes to existing water courses may require separate consent under the Land Drainage Act before works take place.
- It is the applicant's responsibility to check that

they are complying with common law if the drainage scheme proposes to discharge into an off-site ditch/pipe. The applicant should seek consent where appropriate from other downstream riparian landowners.

TDC Waste Management  
10.11.2020

All access roads to be constructed to suitable standard to allow access and withstand weight of 32 tonne refuse vehicles to collect waste as part of the kerbside collection service from all properties.

Anglian Water Services Ltd  
12.11.2020

We have reviewed the applicant's submitted surface water drainage information (SudS design and management report) and have found that the proposed method of surface water discharge does not relate to an Anglian Water owned asset. As such, it is outside of our jurisdiction and we are unable to provide comments on the suitability of the surface water discharge.

TDC Building Control and Access  
Officer  
06.11.2020

Agent will need to show how access for a fire fighting appliance is to be provided in accordance with Approved Document B.

ECC Highways Dept  
06.04.2021

All housing developments in Essex which would result in the creation of a new street (more than five dwelling units communally served by a single all-purpose access) will be subject to the Advance Payments Code, Highways Act, 1980. The Developer will be served with an appropriate notice within 6 weeks of building regulations approval being granted and prior to the commencement of any development must provide guaranteed deposits which will ensure that the new street is constructed in accordance with acceptable specification sufficient to ensure future maintenance as a public highway by the ECC.

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

- No development shall take place, including any ground works or demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
  - the parking of vehicles of site operatives and visitors
  - loading and unloading of plant and materials
  - storage of plant and materials used in constructing the development

- wheel and underbody washing facilities

Reason: To ensure that on-street parking of these vehicles in the adjoining streets does not occur and to ensure that loose materials and spoil are not brought out onto the highway in the interests of highway safety and Policy DM1.

- Prior to the occupation of any of the proposed development the internal road site access and footway layout shall be provided in principal and accord with Drawing Numbers:  
929 PL 01 Rev. D - Amended Site Layout Plan.  
R984-008 Rev. C - Proposed access arrangements  
929 PL 04 Rev. C - Amended parking provision

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

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

Reason: To ensure that roads and footways are constructed to an acceptable standard, in the interests of highway safety and in accordance with Policy DM 1 & 6.

- The development shall not be occupied until such time as a car parking and turning area has been provided in accord with current Parking Standards. These facilities shall be retained in this form at all times and shall not be used for any purpose other than the parking and turning of vehicles related to the use of the development thereafter.

Reason: To ensure that on-street parking of vehicles in the adjoining streets does not occur, in the interests of highway safety and in accordance with Policy DM 1 & 8.

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

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

highway safety in accordance with Policy DM8.

- All single garages should have a minimum internal measurement of 7m x 3m.

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

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

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

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

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

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

Informatives:

- Prior to occupation, the development shall be served by a system of operational street lighting (excludes the shared surface areas) of design approved from the Highway Authority along the Primary route, which shall thereafter be maintained in good repair.
- Areas where there is no footway being provided adjacent to the carriageway and the intention is for these areas to be adopted a half a metre 'no build zone' will need to be provided and hard surfaced.
- The areas directly adjacent to the carriageway(s) in which the trees are to be planted should not be

less than 3 metres wide, exclusive of the footway and the trunks of the trees should be no nearer than 2 metres to the channel line of the road. The same dimensions should be used in situations where the footway is located adjacent to the carriageway.

- In paved areas, whether or not the planted areas are to be adopted highway, trees should be sited no closer than 2 metres to the defined (or undefined) edge of the carriageway. Where the adopted highway is to be an independent path, trees should be planted no closer than 1 metre from the edge of the highway. In all cases, trees should be provided with root barriers to prevent damage to underground services.
- 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](mailto:development.management@essexhighways.org) or by post to:

SMO1 - Development Management Team  
Ardleigh Depot,  
Harwich Road,  
Ardleigh,  
Colchester,  
CO7 7LT

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

Environment Agency  
16.02.2021

In line with our comments to the outline application 15/01351/OUT it appears that all of the build development will be situated in Flood Zone 1 - please refer to advice note 8 of the Local Flood Risk Standing Advice.

If this is not the case please re-consult us with an FRA.

Environment Agency  
26.04.2021

The discharge rate will fall within the remit of the Lead Local Flood Authority so the Environment Agency will not be providing comment.

Natural England  
06.05.2021

No objection subject to appropriate mitigation being secured.

We are satisfied that the mitigation described in the Appropriate Assessment is in line with our strategic-level advice. The mitigation should rule out an 'adverse effect on the integrity of the European designated sites that are included within the Essex Coast RAMS from increase recreational disturbance.

We advise that an appropriate planning condition or obligation is attached to any planning permission to secure the on-site mitigation measures, including links to footpaths in the surrounding area. The financial contribution should be secured through an appropriate and legally binding agreement, in order to ensure no adverse effect on integrity.

## 5. **Representations**

19 letters of objection and a petition with 812 signatures have been received which raise the following concerns:

- The local roads are not suitable for the increase in traffic
- The proposal will result in an increase in road accidents
- Narrow roads are not suitable for HGV's or large lorries
- The adverse impact of the drainage ponds on neighbouring properties
- Increase in flooding
- Surface water and drainage issues
- Surface water will be discharged into Pickers Ditch which is never maintained and already floods
- The sustainable drainage ponds and swales lie within Flood Zone 3
- Increase pressure on doctor's surgery, schools, dentists and hospitals
- Loss of wildlife
- There are far more suitable areas to build on
- Loss of privacy
- Noise from construction, vehicles, building works and subsequent house occupancy
- Using agricultural land for housing will increase the import of food
- Lack of private amenity space
- No easy access to a bus stop

## 6. **Assessment**

### Site Context

- 6.1 The site is on the north-eastern edge of Clacton, it is divided into two fields by a line of trees and existing vegetation. To the north of the site beyond an agricultural field is the Colchester to Clacton railway line. To the east and south of site are the residential properties of Sladbury's Lane and the Happy Valley Bowls and Tennis Club. Further residential development lies to the north-east of the site on the opposite side of Sladbury's Lane. Immediately adjacent to the west of the site is the Valley Farm Holiday Park.

- 6.2 The surrounding area is generally characterised by a mixture of one, one and a half and two storey properties. The materials used in the area is generally brick and render with clay and concrete roof tiles.

#### Planning History

- 6.3 Planning Application 15/01351/OUT sought planning permission for a residential development of up to 132 dwellings and open space, including provision for a sports field, new vehicular access via Sladbury's Lane. This application was refused by Planning Committee in August 2016, but later allowed on Appeal in October 2017.

#### Proposal

- 6.4 The current application seeks approval of the reserved matters (access, appearance, landscaping, layout and scale) relating to outline planning permission 15/01351/OUT, which was allowed at appeal, for the erection of up to 132 dwellings and open space, including provision for a new sports field, new vehicular access and access via Sladbury's Lane. This application includes details of access, appearance, landscape, layout and scale which were not included as part of the outline application.
- 6.5 The proposal seeks permission for 132 new dwellings; 3no. 1 bed dwelling; 48 no. 2 bed dwellings; 62 no. 3 bed dwellings and 19 no. 4 bed dwellings.
- 6.6 The majority of the proposed dwellings are two storey in height with 19 of the proposed dwellings being single storey.
- 6.7 Public Open Space is proposed to the southern part of the site, in accordance with the parameter plan approved at appeal.
- 6.8 Vehicular access to the site is proposed by a new roundabout on Sladbury's Lane. This access will provide the sole point of vehicular access to the site.

#### Principle of Development

- 6.9 The principle of development has been established by the granting of outline planning permission for up to 132 dwellings on this site at appeal.
- 6.10 Condition No. 4 of the appeal decision states that 'the reserved matters shall be in general conformity with the indicative site layout plan Drawing No. 256.201.02 and the proposed built development parameters plan Drawing No. 256.213.02'. These drawings show a new roundabout on Sladbury's Lane; the built development to the northern part of the site; the open space to the southern part of the site and a landscape buffer around the proposed built development.
- 6.11 The proposed plan complies with the above condition; therefore there can be no 'in principle' objection to the proposed development.

#### Appearance

- 6.12 All of the proposed dwellings address the street, to create an active street frontage. There are some dwellings which also have side elevations that face onto the street; these elevations are either set back from the street or in less prominent locations within the development and are therefore considered to be acceptable and not result in any adverse impact.

- 6.13 In terms of materials, the plans show a mixture of red brick, red tiles, render and boarding. No specific details of these materials have been provided at this stage; however, the use of acceptable materials can be secured by condition. The mix shown will ensure variety and visual interest across the development.
- 6.14 It is therefore considered that the detailed design and appearance of the proposed dwellings is acceptable.

Layout

- 6.15 Condition No. 4 of the outline consent, granted at appeal requires the reserved matters application to be in general conformity with the indicative site layout plan Drawing No. 256.201.02 and the proposed built development parameters plan Drawing No. 256.213.02'. The proposed development is in general conformity with this plan and therefore meets this condition. The Inspector considered that development in general conformity to this plan is acceptable subject to detailed considerations.
- 6.16 Each of the proposed dwellings, have their own private amenity space. Policy HG9 of the Saved Plan requires 50 sq.m for 1 bed dwellings, 75 sq.m for 2 bed dwellings and 100 sq.m for dwellings with 3 or more beds. Out of the 132 dwellings proposed 11 of the 2 bedroom units do not fully meet the minimum standards set out in Policy HG9 of the Saved Plan. These are set out in the table below:

<b>Plot No.</b>	<b>Amenity Space Provision (sq.m)</b>	<b>Policy Requirement (sq.m)</b>
33	67	75
34	71	75
46	72	75
47	72	75
64	72	75
108	58	75
109	65	75
119	63	75
120	65	75
122	70	75
123	68	75

- 6.17 Notwithstanding the above, they are all provided with a useable area in terms of the shape of the garden and there is access to nearby areas of open space within the proposed development. It is considered that given the scale of development proposed and the level of provision of on-site public open space, that the proposed provision of public open spaces is acceptable.
- 6.18 Parking is provided either to the front or sides of the dwellings, they are situated in small clusters, in appropriate locations throughout the site and therefore do not dominate the proposed development.
- 6.19 In conclusion, there is no objection to the layout of the proposed development.

Scale

- 6.20 The proposed dwellings are predominately two storey in height with some single storey dwellings along the rear boundary and towards the centre of the site. In terms of the 'parameters' set down at outline stage this allowed for development of up to two storeys. It

is, therefore considered that no objection can be raised to the scale of the proposed development.

#### Access/Highway Safety

- 6.21 Concerns have been raised regarding the impact of increase traffic; however, this was an issue which was considered at outline stage when it was concluded that subject to Highway Improvements secured by conditions that *'overall the impacts in traffic and transport terms would be acceptable and in accord with relevant policy'*.
- 6.22 Access is a consideration for this application, however, conditions imposed on the Appeal Decision state that the development shall be in accordance with a parameter plan, which shows a roundabout on Sladbury's Lane (Condition No. 4) and Condition No. 7 states that No dwelling shall be occupied until the following have been provided or completed in complete accordance with details that shall have first been submitted to and approved in writing by the Local Planning Authority:
- a roundabout in Sladbury's Lane to provide access to the proposal site as shown in principle on the planning application drawings;
  - upgrades to the two bus stops on the B1032 Holland Road to the west of its junction with Sladbury's Lane;
  - the widening (and provision of dropped kerbs/tactile paving crossing points) of the footway on both sides of Sladbury's Lane to a minimum of 2 metres where possible between the proposed site access roundabout and the B1032 Holland Road; and
  - residential travel information packs.

Given this condition, it is considered that there can be no objection to the provision of a roundabout to provide access to the site.

- 6.23 Furthermore, Essex County Council Highways have been consulted on the application and have advised that from a highway and transportation perspective the impact of the proposal is acceptable to the Highway Authority subject to conditions to cover the following:
- A Construction Method Statement;
  - The development being in accordance with the submitted plans;
  - Details of the estate roads and footways (including layout, levels, gradients, surfacing and means of surface water drainage);
  - Provision of car parking and turning areas prior to occupation;
  - The size of car parking spaces and garages;
  - Provision of cycle parking;
  - Provision of Residential Travel Packs

All of the above conditions are included within the recommendation below, with the exception of the Construction Method Statement and the provision of Residential Travel Packs as these are already covered by conditions on the outline consent.

- 6.24 Essex County Council Parking Standards state that for one bedroom dwellings 1 off-street parking space is provided and for dwellings with 2 or more bedrooms a minimum of 2 off-street parking spaces are provided. Furthermore, 0.25 spaces per dwelling should be provided for visitor parking. Each parking space should measure 5.5 metres by 2.9 metres and if a garage is to be relied on it should measure 7 metres by 3 metres internally. The plans show compliance with the above standards with all dwellings having at least 2 parking spaces and the large units having 3 parking spaces, plus visitor parking throughout the site.
- 6.25 For the above reasons the proposal is considered acceptable in highway safety terms.

#### Impact on Residential Amenity

- 6.26 The nearest residential dwellings are those in Sladbury's Lane. These properties lie adjacent to the proposed Public Open Space and on the opposite side of Sladbury's Lane adjacent to the proposed roundabout. It is accepted that the proposal will result in some impact in terms of general noise and disturbance both during construction and subsequent occupation. However, at the time of the appeal, the Inspector was satisfied that it would be possible to provide a detailed scheme for 132 dwellings which would not adversely affect the living conditions of neighbouring occupiers.
- 6.27 As the proposed dwellings are located away from the neighbouring properties, it is considered that there would be no adverse impact on the neighbour's amenities in terms of overlooking.
- 6.28 In terms of the residential amenity of the proposed residents, the noise report confirms the need for mitigation measures in order to achieve compliance with the relevant standards and guidelines due to the proximity of the railway line. The mitigation measures include specialised glazing and attenuated background ventilators, if acoustic trickle vents are to be utilised, which can be secured by condition, as set out in the recommendation. The Council's Environmental Health Team also recommend conditions relating to contaminated land, which is included in the recommendation and a Construction Method Statement which is secured by a condition on the outline consent.
- 6.29 The majority of the proposed dwellings do not have a direct back-to-back relationship, but where there is it meets the required standards as set out in the Essex Design Guide of 25 metres, with the exception of the relationship between Plots 115 and 116 and Plots 122-125, where the distance is 20 metres. Plots 115 and 116 are single storey, so on balance this relationship is considered acceptable.
- 6.30 It is considered that a condition to remove permitted development rights for dormer windows is necessary across the whole of the site to ensure that adequate residential amenity is retained.

#### Landscaping/Biodiversity

- 6.31 The Appeal Inspector stated that the '*negative impacts on the Local Green Gap would be minimal and capable of being offset by the landscape strategy*'. A condition was then added to the appeal decision to require, details of hard and soft landscaping and a landscape management plan. The proposal is in accordance with the landscape strategy and further landscaping details will be dealt with via conditions.
- 6.32 The impact on biodiversity and protected species was detail with at the outline stage; the Inspector concluded that based on the successful implementation of the mitigation and enhancement measures detailed in the Ecological Report and Ecological Addendum, no significant adverse effects are predicted.
- 6.33 The Inspector then imposed a condition to ensure that development is carried out in accordance with the recommendations of the reports. This condition still applies.
- 6.34 Under the Habitats Regulations, a development which is likely to have a significant effect or an adverse effect (alone or in combination) on a European designated site must provide mitigation or otherwise must satisfy the tests of demonstrating 'no alternatives' and 'reasons of overriding public interest'. There is no precedent for a residential development meeting those tests, which means that all residential development must provide mitigation. The contribution is secured by unilateral undertaking.
- 6.35 The application site lies within the Zone of Influence (Zoi) of the Essex Estuaries Special Area of Conservation; the Colne Estuary Ramsar Site and the Hamford Water Ramsar Site.

New housing development within the ZOI would be likely to increase the number of recreational visitors at these sites and, in combination with other developments it is likely that the proposal would have significant effects on the designated site. Mitigation measures must therefore be secured prior to occupation.

6.36 A proportionate financial contribution of £125.58 per dwelling would need to be secured in accordance with the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) requirements. The applicant has agreed to pay this and provide the following on site:

- A series of bound gravel surfaced paths which would provide routes around and through the public open space, supplemented by more informal mown paths.
- Two circular walks, each approx. 690m long, giving a combined total length of 1,380m
- A proposed public open space which would incorporate a 'dogs off lead' area and three dog waste bins

Natural England have been consulted and raise no objection to the proposal subject to appropriate mitigation being secured. They confirm that they are satisfied with the above mitigation, which should rule out an adverse effect on the integrity of the European designated sites that are included within the Essex Coast RAMS from increase recreational disturbance.

#### Drainage/Flood Risk

6.37 A number of concerns have been raised with regard to flooding and the fact that the development will exacerbate an existing localised flooding problem.

6.38 However, at the appeal stage a surface water scheme had been proposed which demonstrates that surface water management is achievable in principle and conditions have been imposed requiring further details; these details have been submitted as part of this current application and a separate discharge of condition application (21/00042/DISCON).

6.39 Essex County Council Flood and Water Management Team have been consulted on the application and raise no objection to the discharge of condition application. Following the letters of objections further clarification was sought from them, the response can be summarised as follows:

- The development under current legislation only has to deal with the flood risk produced by the development and the developer is not responsible for reducing existing flood risk in the area. The proposal is seeking to discharge at a maximum rate of 4.5 l/s, which is the 1 in 1 greenfield rate for the site. This will improve flood risk by reducing the run off rate into the ditch for larger storm events. For a 1 in 100 year storm event for example the pre development discharge rate would be 18.6 l/s and the post development discharge rate will be 4.5 l/s. Therefore considerably reducing the discharge rate for larger storm events and therefore reducing flood risk.
- In terms of the construction phase. We would expect the same discharge rate as approved as part of the proposed development. This should be managed during the construction phase and it should be ensured that fine soils and silt are captured and not discharged into the ditch. This should be dealt with as part of the construction management plan.
- A flood compensation area is not something we can ask for. As stated previously the developer has a responsibility to deal with flood risk from the development and not to compensate for existing flood risk in the area.
- As part of the planning application a maintenance plan has been provided. If the surface water drainage system is maintained as stated within the report a blockage should not occur. It is the duty of the local planning authority to ensure suds features are being maintained as stated.

- As part of this development they are diverting part of an existing ditch. They therefore need to ensure that they have section 23 consent, which has not been submitted.

6.40 It was also advised that as the discharge point is a main river that the Environment Agency should be consulted. The Environment Agency has responded saying that the discharge rate falls within the remit of the Lead Local Flood Authority so they will not be providing comment.

6.41 Given the above, it is considered that the proposed surface water drainage system is sufficient to ensure that the proposed development will not cause additional flooding. It is accepted that there is a current issue but the developer only has to deal with the surface water from the proposed development and cannot be held accountable to solve an existing issue. As the Environment Agency and Essex County Council Lead Local Flood Authority raise no objection to the proposal it is considered that a refusal on this basis cannot be substantiated and that 21/00042/DISCON should be approved.

Section 106 of the Town and Country Planning Act 1990

6.42 A legal agreement was secured at outline stage requiring: an education contribution for primary education; provision of 30% affordable housing; on-site provision of open space and a healthcare contribution of £241.21 per dwelling. This legal agreement and all conditions on the outline consent, granted at appeal, will still apply.

**7. Conclusion**

7.1 As established through the granting of outline application 15/01351/OUT, at appeal, the principle of residential development for up to 132 dwellings on this site is acceptable. The appeal decision also deals with matters of impact on protected species, biodiversity and flood risk.

7.2 The detailed design, layout, access, landscaping and scale are considered acceptable. The proposal would result in no material harm to residential amenity or highway safety.

7.3 The flood risk details submitted in the form of a SuDS Design and Management Report are sufficient to discharge condition No. 10 (Surface Water) of Planning Application 15/01351/OUT approved on appeal APP/P1560/W/17/3169220.

7.4 The application is therefore recommended for approval subject to a legal agreement to secure the necessary financial contribution towards RAMS.

**8. Recommendation**

8.1 The Planning Committee is recommended to grant planning permission subject to the following conditions and informatives and the prior completion of a Section 106 legal agreement with the agreed Heads of Terms, as set out in the table below:

<b>CATEGORY</b>	<b>TERMS</b>
Financial contribution towards RAMS.	£125.58 per dwelling

**8.2 Conditions and Reasons**

1. The development hereby permitted shall be carried out in accordance with the following approved Drawing Nos:

929-PL-02 C  
929-PL-03 C  
929-PL-04 C  
929-PL-05 C  
929-PL-06 C  
929-PL-07 C  
929-PL-08 C  
929-PL-07 C  
929-PL-10 A  
929-PL-11 A  
929-PL-12  
929-PL-13 B  
929-PL-14 B  
929-PL-15 B  
929-PL-16 B  
929-PL-17 B  
929-PL-18 B  
929-PL-19  
929-PL-20 A  
929-PL-21 A  
929-PL-22  
929-PL-23 A  
929-PL-24 A  
929-PL-25  
929-PL-26 A  
929-PL-27 A  
929-PL-28 A  
929-PL-29 A  
929-PL-30 A  
929-PL-31 A  
929-PL-32 C  
929-PL-33 A  
929-PL-34 A  
929-PL-36  
929-PL-37 A  
929-PL-38 B  
E17840-TLP-001

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

2. Prior to the commencement of development evidence of the proposed materials, glazing and ventilation, confirming its effectiveness for compliance with BS8233:2014 (Guidance on sound insulation and noise reduction for buildings) shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason – To ensure a suitable level of amenity for proposed residents.

3. Unless otherwise agreed by the Local Planning Authority, development other than that required to be carried out as part of an approved scheme of remediation must not commence until conditions 1 to 4 have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until condition 4 has been complied with in relation to that contamination.

Site Characterisation

An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

- (i) a survey of the extent, scale and nature of contamination;
- (ii) an assessment of the potential risks to:
  - human health,
  - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
  - adjoining land,
  - groundwaters and surface waters,
  - ecological systems,
  - archaeological sites and ancient monuments;
- (iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

#### Submission of Remediation Scheme

A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

#### Implementation of Approved Remediation Scheme

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

#### Reporting of Unexpected Contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 1, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 2, which is subject to the approval in writing of the Local Planning Authority.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 3.

#### Long Term Monitoring and Maintenance

A monitoring and maintenance scheme to include monitoring the long-term effectiveness of the proposed remediation over a period of [x] years, and the provision of reports on the same must be prepared, both of which are subject to the approval in writing of the Local Planning Authority.

Following completion of the measures identified in that scheme and when the remediation objectives have been achieved, reports that demonstrate the effectiveness of the monitoring and maintenance carried out must be produced, and submitted to the Local Planning Authority.

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

Reason - To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

4. Prior to the occupation of any of the proposed development the internal road site access and footway layout shall be provided in principal and accord with Drawing Numbers:  
929 PL 01 Rev. D - Amended Site Layout Plan.  
R984-008 Rev. C - Proposed access arrangements  
929 PL 04 Rev. C - Amended parking provision

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

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

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

6. Any dwelling hereby permitted shall not be occupied until such time as a car parking and turning area has been provided. These facilities shall be retained in this form at all times and shall not be used for any purpose other than the parking and turning of vehicles related to the use of the development thereafter.

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

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

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

8. All single garages should have a minimum internal measurement of 7m x 3m.

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

9. Prior to the first occupation of any dwelling hereby permitted details of the proposed cycle parking shall be submitted to and approved in writing. The development shall be carried out in accordance with the approved details and retained as such thereafter.

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

10. No development shall be commenced until precise details of the manufacturer and types and colours of the external facing and roofing materials to be used in construction have been submitted to and agreed, in writing, by the Local Planning Authority. Such materials as may be agreed shall be those used in the development.

Reason - To ensure that materials of an acceptable quality appropriate to the area are used and insufficient information has been submitted in this regard.

11. Notwithstanding the provisions of Article 3, Schedule 2, Part 1 Class B of the Town and Country Planning (General Permitted Development) Order 2016 (or any Order revoking and re-enacting that Order with or without modification), no enlargement, improvement or other alteration to the dwelling shall be erected or carried out except in accordance with drawings showing the siting and design of such enlargement, improvement or other alteration which shall previously have been submitted to and approved, in writing, by the Local Planning Authority.

Reason - In the interest of amenities of the occupants of the neighbouring and proposed properties.

#### Informatives

1. Any playground equipment and impact absorbing surfaces, shall comply with BS EN 1176 and BS EN 1177 respectively.
2. Any drainage features proposed for adoption by Essex County Council should be consulted on with the relevant Highways Development Management Office.
3. Changes to existing water courses may require separate consent under the Land Drainage Act before works take place.
4. It is the applicant's responsibility to check that they are complying with common law if the drainage scheme proposes to discharge into an off-site ditch/pipe. The applicant should seek consent where appropriate from other downstream riparian landowners.
5. Prior to occupation, the development shall be served by a system of operational street lighting (excludes the shared surface areas) of design approved from the Highway Authority along the Primary route, which shall thereafter be maintained in good repair.
6. Areas where there is no footway being provided adjacent to the carriageway and the intention is for these areas to be adopted a half a metre 'no build zone' will need to be provided and hard surfaced.
7. The areas directly adjacent to the carriageway(s) in which the trees are to be planted should not be less than 3 metres wide, exclusive of the footway and the trunks of the trees

should be no nearer than 2 metres to the channel line of the road. The same dimensions should be used in situations where the footway is located adjacent to the carriageway.

8. In paved areas, whether or not the planted areas are to be adopted highway, trees should be sited no closer than 2 metres to the defined (or undefined) edge of the carriageway. Where the adopted highway is to be an independent path, trees should be planted no closer than 1 metre from the edge of the highway. In all cases, trees should be provided with root barriers to prevent damage to underground services.
9. 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.
10. The applicants should be advised to contact the Development Management Team by email at [development.management@essexhighways.org](mailto:development.management@essexhighways.org) or by post to:

SMO1 - Development Management Team  
Ardleigh Depot,  
Harwich Road,  
Ardleigh,  
Colchester,  
CO7 7LT

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

## 9. **Additional Considerations**

### Public Sector Equality Duty (PSED)

- 9.1 In making your decision you must have regard to the PSED under section 149 of the Equality Act 2010 (as amended). This means that the Council must have due regard to the need in discharging its functions to:
  - 9.2 A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
  - 9.3 B. Advance equality of opportunity between people who share a protected characteristic and those who do not. This may include removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; taking steps to meet the special needs of those with a protected characteristic; encouraging participation in public life (or other areas where they are underrepresented) of people with a protected characteristic(s); and
  - 9.4 C. Foster good relations between people who share a protected characteristic and those who do not, including tackling prejudice and promoting understanding.
- 9.5 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, being married or in a civil partnership, race including colour, nationality and ethnic or national origin, religion or belief, sex and sexual orientation.
- 9.6 The PSED must be considered as a relevant factor in making this decision but does not impose a duty to achieve the outcomes in section 149 and section 149 is only one factor that needs to be considered, and may be balanced against other relevant factors.

- 9.7 It is considered that the recommendation to grant permission in this case would not have a disproportionately adverse impact on a protected characteristic.

#### Human Rights

- 9.8 In making your decision, you should be aware of and take into account any implications that may arise from the Human Rights Act 1998 (as amended). Under the Act, it is unlawful for a public authority such as the Tendring District Council to act in a manner that is incompatible with the European Convention on Human Rights.
- 9.9 You are referred specifically to Article 8 (right to respect for private and family life), Article 1 of the First Protocol (protection of property) and Article 14 (right to freedom from discrimination).
- 9.10 It is not considered that the recommendation to grant permission in this case interferes with local residents' right to respect for their private and family life, home and correspondence or freedom from discrimination except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation to grant permission is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

#### Finance Implications

- 9.11 Local finance considerations are a matter to which local planning authorities are to have regard in determining planning applications, as far as they are material to the application.
- 9.12 The New Homes Bonus (NHB) is one local finance consideration capable of being a material consideration to which the weight given shall be determined by the decision maker. The NHB is a payment to local authorities to match the Council Tax of net new dwellings built, paid by Central Government over six consecutive years. In this instance, it is not considered to have any significant weight attached to it that would outweigh the other considerations.

#### **10. Background Papers**

- 10.1 In making this recommendation, officers have considered all plans, documents, reports and supporting information submitted with the application together with any amended documentation. Additional information considered relevant to the assessment of the application (as referenced within the report) also form background papers. All such information is available to view on the planning file using the application reference number via the Council's Public Access system by following this link <https://idox.tendringdc.gov.uk/online-applications/>.