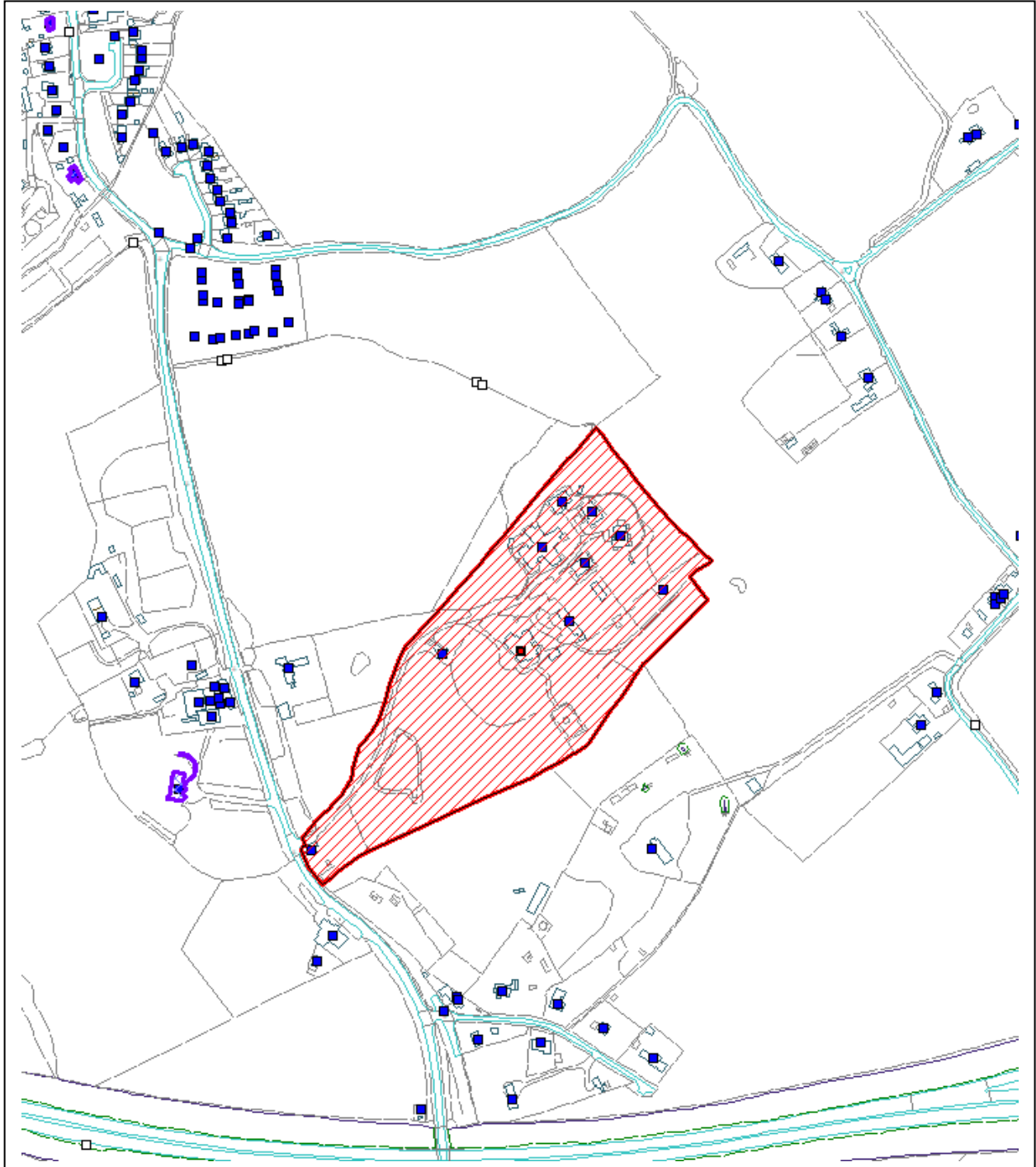


PLANNING COMMITTEE

3<sup>rd</sup> August 2021

REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING

**A.1 PLANNING APPLICATION – 20/00547/OUT – HAMILTON LODGE PARSONS HILL  
GREAT BROMLEY COLCHESTER CO7 7JB**



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**Application:** 20/00547/OUT

**Town / Parish:** Great Bromley Parish Council

**Applicant:** Daniel Rapson - Colchester Development Ltd

**Address:** Hamilton Lodge Parsons Hill Great Bromley CO7 7JB

**Development:** Hybrid Application for Outline application for residential development including: 67 dwellings including up to 30% as affordable housing and all necessary access roads (Outline), All associated amenity space, landscaping, parking, servicing, utilities, footpath and cycle links, on-site drainage, and infrastructure works including gas and electricity apparatus (Outline), Residential development for 12 dwellings (Use Class C3) and associated access roads including formation of new junction to Parsons Hill (Detail), Formal and informal open space including village green and meadow (Use Class D2) including landscaping, parking, servicing, utilities, footpath links (Detail).

## **1. Executive Summary**

- 1.1 Hamilton Lodge is located south of, and well detached from, the village of Great Bromley and virtually immediately north of the A120, approximately 8 miles east of Colchester. It comprises 16 acres of buildings, hardstanding, grassland and parkland around an early 20th Century house and more recently constructed care home/assisted living accommodation. The site is located outside of any defined settlement boundary in both the saved Tendring District Local Plan (2007) and the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft.
- 1.2 This application seeks planning permission for 79 residential units on the site which incorporates the renovation and conversion of Hamilton Lodge, The Stable Block and Walled Garden elements. The application has been submitted in a hybrid format (i.e. part outline/part detail application) and proposes the following;
  - 67 dwellings including the conversion of Hamilton Lodge, The Stable Block and Walled Garden and all associated access roads, amenity space, landscaping, parking, servicing, utilities, footpath and cycle links, on-site drainage, and infrastructure works including gas and electricity apparatus (Submitted in Outline Form);
  - Residential development for 12 dwellings and associated access roads including formation of new junction to Parsons Hill (Submitted in Detail Form);
  - Formal and informal open space including village green and meadow including landscaping, parking, servicing, utilities, footpath links (Submitted in Detail Form).
- 1.3 It is acknowledged that the site is brownfield in nature and attracted a certain level of traffic movements under its former care home use, but even taking this into account, it is considered that the proposal for 79 dwellings in this unsustainable and unsuitable location outside of any defined settlement boundary runs contrary to the objectives of adopted Policy SP3 and is of a wholly inappropriate scale, in a countryside location clearly detached from the nearest settlement of Great Bromley, which is identified as a smaller rural settlement under emerging policy SPL1.
- 1.4 Notwithstanding the clear conflict with established housing settlement policies outlined above it is acknowledged by officers that the development does provide some benefits which can be weighed up against the harm identified. These benefits include;

- The re-development of a brownfield site;
- The conversion and safeguarding of non-designated heritage assets present on the site;
- Provision of a 'village green' area, to be maintained by the parish council, which will open up public access to the site;
- Provision of 30% on-site affordable housing and policy compliant infrastructure contributions;
- Notwithstanding the lack of a sustained and robust marketing campaign to demonstrate that the site is not in demand for alternative employment uses, the development represents a viable solution for the future of the site

- 1.5 Overall, the proposal's benefits are modest. The National Planning Policy Framework places emphasis on managing patterns of growth to support objectives which include opportunities to promote walking, cycling and public transport use, and mitigating any adverse environmental impacts of traffic.
- 1.6 Development in rural areas is not precluded but the Framework indicates that significant weight should be given to the benefits of using suitable sites within settlements for homes and therefore supports the general thrust of the local plan in terms of location of new housing.
- 1.7 Consequently, the clear conflict with, and the adverse impacts on the Councils overarching housing strategy, as well as the increasing travel by private motorised transport would significantly and demonstrably outweigh the benefits when assessed against the policies in the National Planning Policy Framework taken as a whole. The proposal would conflict with the development plan as a whole, lead to the loss of a site which has a lawful commercial use, and there are no other considerations including the provisions of the National Planning Policy Framework which outweigh this finding.
- 1.8 The applicant has confirmed a willingness to enter into a legal agreement to secure the policy required open space, education, affordable housing and RAMS obligations. However, as the application is recommended for refusal on principle grounds a legal agreement has not been completed and therefore the lack of a mechanism to secure these obligations also is included as a reason for refusal.

### **Recommendation:**

That the Head of Planning be authorised to refuse planning permission for the development for the reasons set out within section 8.1 of the report.

## **2. Planning Policy**

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

This planning application was first submitted when the NPPF - National Planning Policy Framework February 2019 was in place. During the LPA assessment phase of the development proposals, a revised version of the National Planning Policy Framework (NPPF 2021) was published by the Ministry of Housing, Communities and Local Government (MHCLG) with revisions to both the NPPF and National Model Design Guide (NMDG), following consultation in January 2021. Among the key changes to the NPPF are updated policies aiming to improve the design of new developments, in response to the findings of the government's Building Better, Building Beautiful Commission. Due regard is given to both the NPPF 2019 as well as the NPPF 2021 (collectively referred to as the 'NPPF' in the remainder of this report) and as part of the assessment of this planning application.

*National Planning Practice Guidance*

*Tendring District Local Plan 2007*

QL2	Promoting Transport Choice
QL3	Minimising and Managing Flood Risk
QL11	Environmental Impacts and Compatibility of Uses
QL12	Planning Obligations
ER3	Protection of Employment Land
HG4	Affordable Housing in New Developments
HG7	Residential Densities
HG9	Private Amenity Space
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
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

EN29	Archaeology
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
SPL2	Settlement Development Boundaries
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
PP6	Employment Sites
PPL1	Development and Flood Risk
PPL3	The Rural Landscape
PPL4	Biodiversity and Geodiversity

PPL5	Water Conservation, Drainage and Sewerage
CP1	Sustainable Transport and Accessibility
CP2	Improving the Transport Network
DI1	Infrastructure Delivery and Impact Mitigation

*Local Planning Guidance*

*Essex Design Guide*

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

### **Status of the Local Plan**

Planning law requires that decisions on planning applications must be taken in accordance with the development plan unless there are material considerations that indicate otherwise (Section 70(2) of the 1990 Town and Country Planning Act and Section 38(6) of the Planning and Compulsory Purchase Act 2004). This is set out in Paragraph 2 of the Framework.

The 'development plan' for Tendring comprises, in part, the 'Saved' policies of the 2007 Local Plan. Paragraph 213 of the Framework allows local planning authorities to give due weight to policies adopted prior to its publication, according to their degree of consistency with the policies in the Framework. On the 26th January 2021 Section 1 of the 2013-2033 Local Plan was adopted and therefore now also forms part of the 'development plan' for Tendring, superseding some of the more strategic policies in the 2007 Local Plan. Notably, the housing and employment targets have been found sound, including the housing requirement of 550 dwellings per annum.

Paragraph 48 of the Framework 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 planning policy. In this regard, 'Proposed Modifications' to Section 2 of the 2013-33 Local Plan, which contains more specific policies and proposals for Tendring, has been examined and hearing sessions have now closed. The main modifications recommended to make the plan legally compliant and sound were considered at the Council's Planning Policy and Local Plan Committee on 29th June 2021. A six-week public consultation began on the 16<sup>th</sup> July 2021, and will close on 31<sup>st</sup> August 2021. Adoption is expected in late 2021. Section 2 will then join Section 1 as part of the development plan superseding in full the 2007 Local Plan. Part 2 of the 2013-33 Local Plan is therefore at a very advanced stage of preparation and should therefore be afforded considerable weight.

In relation to housing supply:

The Framework requires Councils 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, to account for any fluctuations in the market or to improve the prospect of achieving the planned supply). If this is not possible, or if housing delivery over the previous three years has been substantially below (less than 75%) the housing requirement, the 'tilted balance' at paragraph 11(d)(ii) of the Framework requires applications for housing development be granted permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.

With the adoption of Section 1 of the 2013-33 Local Plan the Council's '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, and the titled balance at paragraph 11 d) ii) of the Framework does not therefore apply.

### 3. **Relevant Planning History**

99/00737/FUL	Demolition of existing coach house, Springlands and other outbuildings, and the construction of 5 no. 8 person residential units of accommodation for persons with learning difficulties	Approved	07.07.1999
05/01468/FUL	Single storey extension to existing building	Approved	10.10.2005
07/01250/FUL	Demolition of 4 buildings and erection of 4 detached bungalows for residential care purposes (Class C2).	Approved	14.11.2007
10/00034/FUL	Alteration and extension of existing residential home (Selbourne Court); Development of four bungalow units to provide self contained one person studio flats, four per bungalow.	Approved	15.03.2010
14/01560/FUL	Proposed 8 new supported living apartments, staff office, car park and landscaping and demolition of existing lean-to store and wall to make way new access driveway.	Approved	19.12.2014
20/00547/OUT	Hybrid Application for Outline application for residential development including: 67 dwellings including up to 30% as affordable housing and all necessary access roads (Outline), All associated amenity space, landscaping, parking, servicing, utilities, footpath and cycle links, on-site drainage, and infrastructure works including gas and electricity apparatus (Outline), Residential development for 12 dwellings (Use Class C3) and associated access roads including formation of new junction to Parsons Hill (Detail), Formal and informal open space including village green and meadow (Use Class D2) including landscaping, parking, servicing, utilities, footpath links (Detail).	Current	

#### 4. Consultations

Anglian Water Services Ltd  
02.02.2021

#### ASSETS

##### Section 1 - 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 SERVICES

##### Section 2 - Wastewater Treatment

The foul drainage from this development is in the catchment of Great Bromley Water Recycling Centre that will have available capacity for these flows

##### Section 3 - Used Water Network

This response has been based on the following submitted documents: Drainage Assessment.

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. (1) INFORMATIVE - Notification of intention to connect to the public sewer under S106 of the Water Industry Act Approval and consent will be required by Anglian Water, under the Water Industry Act 1991. Contact Development Services Team 0345 606 6087. (2) INFORMATIVE - Notification of intention to connect to the public sewer under S106 of the Water Industry Act Approval and consent will be required by Anglian Water, under the Water Industry Act 1991. Contact Development Services Team 0345 606 6087. (3) INFORMATIVE - Protection of existing assets - A public sewer is shown on record plans within the land identified for the proposed development. It appears that development proposals will affect existing public sewers. It is recommended that the applicant contacts Anglian Water Development Services Team for further advice on this matter. Building over existing public sewers will not be permitted (without agreement) from Anglian Water. (4) INFORMATIVE - Building near to a public sewer - No building will be permitted within the statutory easement width of 3 metres from the pipeline without agreement from Anglian Water. Please contact Development Services Team on 0345 606 6087. (5) INFORMATIVE: The developer should note that the site drainage details submitted have not been approved for the purposes of adoption. If the developer wishes to have the sewers included in a sewer adoption agreement with Anglian Water (under Sections 104 of the Water Industry Act 1991), they should contact our Development Services



Team on 0345 606 6087 at the earliest opportunity. Sewers intended for adoption should be designed and constructed in accordance with Sewers for Adoption guide for developers, as supplemented by Anglian Water's requirements.

#### Section 4 - Surface Water Disposal

The preferred method of surface water disposal would be to a sustainable drainage system (SuDS) with connection to sewer seen as the last option. Building Regulations (part H) on Drainage and Waste Disposal for England includes a surface water drainage hierarchy, with infiltration on site as the preferred disposal option, followed by discharge to watercourse and then connection to a sewer.

From the details submitted to support the planning application the proposed method of surface water management does not relate to Anglian Water operated assets. As such, we are unable to provide comments on the suitability of the surface water management. The Local Planning Authority should seek the advice of the Lead Local Flood Authority or the Internal Drainage Board. 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 to ensure that an effective surface water drainage strategy is prepared and implemented.

TDC Building Control and Access  
Officer  
19.01.2021

No adverse comments at this time

Essex County Council Archaeology  
19.01.2021

The following advice follows updated information that the historic assets identified in the planning application will no longer be demolished. The existing buildings have been identified as non-designated heritage assets and if conversion or demolition is required then a historic building record will need to be completed.

The development site lies within an area of archaeological potential, evidence for medieval settlement has been revealed beyond the northwest boundary of the site, the quality of the floor tiles recovered suggest a domestic or religious building of high status within the vicinity dating to the 14th century. Along the former eastern boundary evidence for a medieval pottery kiln was recovered. Cropmark evidence for further archaeological activity lies within the surrounding area and find spots dating from the Roman to post-medieval period surround the site. The site itself contains extant historic garden and landscape features associated with the estate which will also be disturbed or

destroyed in the groundworks associated with the development.

The following recommendation is made in line with the National Planning Policy Framework:

Recommendation: Historic building recording and archaeological evaluation

No demolition or conversion of any kind shall take place until the applicant has secured the implementation of a programme of historic building recording in accordance with a written scheme of investigation which has been submitted by the applicant, and approved by the planning authority.

The applicant will submit to the local planning authority an approved historic building report (to be submitted within six months of the completion of fieldwork, unless otherwise agreed in advance with the Planning Authority).

No development or preliminary groundworks of any kind shall take place until a programme of archaeological investigation has been secured in accordance with a written scheme of investigation which has been submitted by the applicant, and approved in writing by the local planning authority.

No development or preliminary groundworks of any kind shall take place until the completion of the programme of archaeological investigation identified in the WSI defined in 1 above.

The applicant will submit to the local planning authority a post excavation assessment (to be submitted within six months of the completion of the fieldwork, unless otherwise agreed in advance with the Planning Authority). This will result in the completion of post excavation analysis, preparation of a full site archive and report ready for deposition at the local museum, and submission of a publication report.

A professional historic building specialist and archaeological contractor should undertake any fieldwork. A g brief detailing the requirements can be produced from this office. The District Council should inform the applicant of the recommendation and its financial implications.

Essex County Council Ecology  
27.01.2021

No objection subject to securing:

- a) a proportionate financial contribution towards effective visitor management measures in line with Essex Coast RAMS; and
- b) biodiversity mitigation and enhancement measures

Summary

ECC Ecology have reviewed the Preliminary Ecological Appraisal (SES, November 2019), the Ecological Impact Assessment (SES, October 2020) and the Concept Masterplan (Grafik Architecture, November 2020) relating to the likely impacts of development on designated sites, protected species and Priority species & habitats.

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

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

The mitigation measures identified in the Ecological Impact Assessment (SES, October 2020) should be secured and implemented in full. This is necessary to conserve and enhance protected and Priority Species.

ECC Ecology note that this application will require the LPA to prepare a project level HRA Appropriate Assessment as the development lies within the Zone of Influence (ZOI) for the Essex Coast RAMS, approximately 10km from Hamford Water SAC, SPA and Ramsar. Delivery of mitigation measures in perpetuity will therefore be necessary to ensure that this proposal will not have an adverse effect on the integrity of the above Habitats sites from recreational disturbance, when considered 'in combination' with other plans and projects. A proportionate financial contribution will need to be secured from the applicant under a legal agreement.

ECC Ecology note from the Concept Masterplan (Grafik Architecture, November 2020) that Hamilton Lodge will be retained and converted. As concluded in the Ecological Impact Assessment (SES, October 2020) the site supports six pipistrelle bat day roosts in buildings, two pipistrelle bat day roosts in trees, two Brown Long-eared (BLE) hibernation roosts in buildings, a BLE day roost in a building and a BLE maternity roost which was not used during the 2020 maternity season. Therefore, the development will require a European Protected Species (EPS) licence for the demolition/conversion of the buildings and removal of trees on site which support roosting bats. In line with Natural England's licensing policy 4, ECC Ecology are satisfied that further bat surveys will be needed to support the licence and they recommend that the LPA secures a copy of the EPS mitigation licence for bats by a condition of any consent.

ECC Ecology recommend that all the mitigation, compensation and enhancement measures detailed in Appendix 21 of the Ecological Impact Assessment (SES, October 2020) are secured by a condition of any consent and implemented in full for both full and outline elements of the development. This will also include soft felling

techniques and mitigation measures for the trees on site assessed as having bat roost potential, but with no roosts identified.

ECC Ecology also note that the Ecological Impact Assessment (SES, October 2020) identifies that Hazel Dormice are present onsite, and an EPS mitigation licence for this species will also be required from Natural England prior to any vegetation clearance. They also recommend that the LPA secures a copy of the EPS mitigation licence for Hazel dormice by a condition of any consent.

The Ecological Impact Assessment (SES, October 2020) also identifies that a 'moderate' population of Common Lizards has been identified onsite. Section 6 of the Ecological Impact Assessment (SES, October 2020) identifies suitable outline mitigation and enhancement measures for this species. The final mitigation, translocation and enhancement measures should be included in a Reptile Mitigation Strategy to be secured as a condition of any consent.

ECC Ecology also support the proposed reasonable biodiversity enhancements, which have been recommended to secure measurable net gains for biodiversity, as outlined under Paragraph 170d of the National Planning Policy Framework 2019. We note that Appendix 21 of the Ecological Impact Assessment (SES, October 2020) and that identifies the biodiversity enhancement measures proposed for the detailed part of this hybrid application including the locations in the Proposed Mitigation and Enhancement Plan. However, the confirmed details for the outline elements of this application should be included within a Biodiversity Enhancement Strategy and should be secured as a condition of any consent for discharge at Reserved Matters stage.

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

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

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

Recommended conditions for the Full element of the application:

**1. ACTION REQUIRED IN ACCORDANCE WITH ECOLOGICAL APPRAISAL RECOMMENDATIONS**

"All mitigation and enhancement measures and/or works

shall be carried out in accordance with the details contained in Appendix 21 of the Ecological Impact Assessment (SES, October 2020) as already submitted with the planning application and agreed in principle with the local planning authority prior to determination.

This may include the appointment of an appropriately competent person e.g. an ecological clerk of works (ECoW,) to provide on-site ecological expertise during construction. The appointed person shall undertake all activities, and works shall be carried out, in accordance with the approved details."

Reason: To conserve and enhance Protected and Priority species and allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species).

## 2. PRIOR TO COMMENCEMENT: SUBMISSION OF A COPY OF THE EPS LICENCE FOR BATS

"The following works to demolish/convert the buildings onsite shall not in in any circumstances commence unless the local planning authority has been provided with either:

- a) a licence issued by Natural England pursuant to Regulation 55 of The Conservation of Habitats and Species Regulations 2017 (as amended) authorizing the specified activity/development to go ahead; or
- b) a statement in writing from the relevant licensing body to the effect that it does not consider that the specified activity/development will require a licence."

Reason: To conserve protected and Priority species and allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 and s17 Crime & Disorder Act 1998.

## 3. PRIOR TO COMMENCEMENT: SUBMISSION OF A COPY OF THE EPS LICENCE FOR HAZEL DORMICE

"The works shall not in in any circumstances commence unless the local planning authority has been provided with either:

- a) a licence issued by Natural England pursuant to Regulation 55 of The Conservation of Habitats and Species Regulations 2017 (as amended) authorizing the specified activity/development to go ahead; or
- b) a statement in writing from the relevant licensing body to the effect that it does not consider that the specified activity/development will require a licence."

Reason: To conserve protected and Priority species and

allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 and s17 Crime & Disorder Act 1998.

#### 4. PRIOR TO COMMENCEMENT: REPTILE MITIGATION STRATEGY

"No development shall take place until a Reptile Mitigation Strategy addressing the final mitigation and translocation of reptiles has been submitted to and approved in writing by the local planning authority.

The Reptile Mitigation Strategy shall include the following.

- a) Purpose and conservation objectives for the proposed works.
- b) Review of site potential and constraints.
- c) Detailed design(s) and/or working method(s) to achieve stated objectives.
- d) Extent and location/area of proposed works on appropriate scale maps and plans.
- e) Type and source of materials to be used where appropriate, e.g. native species of local provenance.
- f) Timetable for implementation demonstrating that works are aligned with the proposed phasing of development.
- g) Persons responsible for implementing the works.
- h) Details of initial aftercare and long-term maintenance of the reptile receptor area(s).
- i) Details for monitoring and remedial measures.
- j) Details for disposal of any wastes arising from works.

The Reptile Mitigation Strategy shall be implemented in accordance with the approved details and all features shall be retained in that manner thereafter."

Reason: To allow the LPA to discharge its duties under the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species)

#### 5. PRIOR TO OCCUPATION: WILDLIFE SENSITIVE LIGHTING DESIGN SCHEME

"A lighting design scheme for biodiversity shall be submitted to and approved in writing by the local planning authority. The scheme shall identify those features on site that are particularly sensitive for bats and that are likely to cause disturbance along important routes used for foraging; and show how and where external lighting will be installed (through the provision of appropriate lighting contour plans, Isolux drawings and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory.

All external lighting shall be installed in accordance with the specifications and locations set out in the scheme and maintained thereafter in accordance with the

scheme. Under no circumstances should any other external lighting be installed without prior consent from the local planning authority."

Reason: To allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species)

Recommended conditions for Outline elements of the application:

#### 1. CONCURRENT WITH RESERVED MATTERS ACTION REQUIRED IN ACCORDANCE WITH ECOLOGICAL APPRAISAL RECOMMENDATIONS

"All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in Appendix 21 of the Ecological Impact Assessment (SES, October 2020) as already submitted with the planning application and agreed in principle with the local planning authority prior to determination.

This may include the appointment of an appropriately competent person e.g. an ecological clerk of works (ECoW,) to provide on-site ecological expertise during construction. The appointed person shall undertake all activities, and works shall be carried out, in accordance with the approved details."

Reason: To conserve and enhance Protected and Priority species and allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species).

#### 2. CONCURRENT WITH RESERVED MATTERS PRIOR TO SLAB LEVEL: FINAL BIODIVERSITY ENHANCEMENT STRATEGY

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

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

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

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

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

### 3. CONCURRENT WITH RESERVED MATTERS PRIOR TO OCCUPATION: WILDLIFE SENSITIVE LIGHTING DESIGN SCHEME

"A lighting design scheme for biodiversity shall be submitted to and approved in writing by the local planning authority. The scheme shall identify those features on site that are particularly sensitive for bats and that are likely to cause disturbance along important routes used for foraging; and show how and where external lighting will be installed (through the provision of appropriate lighting contour plans, Isolux drawings and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory.

All external lighting shall be installed in accordance with the specifications and locations set out in the scheme and maintained thereafter in accordance with the scheme. Under no circumstances should any other external lighting be installed without prior consent from the local planning authority."

Reason: To allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species)

ECC Highways Dept

Essex County Council in their capacity as Highway Authority has thoroughly assessed the highways and transportation information submitted in support of the above planning application. The assessment of the application and Transport Assessment was undertaken with reference to the National Planning Policy Framework and the following aspects were considered: access and safety; capacity; the opportunities for sustainable transport; and highway mitigation measures.

The Transport Assessment accompanying the planning application has been considered in detail and the Highway Authority is satisfied that, at peak times, the number of trips generated by the proposal on the highway network would be unlikely to be severe, therefore:

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



conditions:

1. No development shall take place, including any ground works or demolition, until a Construction Management Plan has been submitted to, and approved in writing by, the local planning authority. The approved plan shall be adhered to throughout the construction period. The Plan shall provide for:

- i. vehicle routing,
- ii. the parking of vehicles of site operatives and visitors,
- iii. loading and unloading of plant and materials,
- iv. storage of plant and materials used in constructing the development,
- v. wheel and underbody washing facilities.
- vi. Before and after condition survey to identify defects to highway in the vicinity of the access to the site and where necessary ensure repairs are undertaken at the developer expense when caused by the developer.

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.

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

- a) A priority junction off Parsons Hill to provide access to the proposed site as shown in principle on planning application, drawing number: 20066-100 Rev. A4.
- b) The road junction at its centre line shall be provided with a minimum clear to ground visibility splay with dimensions of 2.4 metres by 92 metres to the north and 2.4 metres by 102 metres to the south, as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the road junction / access is first used by vehicular traffic and retained free of any obstruction at all times.
- c) To current Essex County Council specification, the provision of two bus stops on Parsons Hill which would best serve the proposal site (details shall be agreed with the Local Planning Authority prior to commencement of the development) to include but not restricted to shelter (x2) with bus stop flag, Kassel Kerbs, and bus timetables.
- d) Provision of a 2-metre-wide footway either side of the new junction and across the entire site frontage as shown in principle with drawing no. 20066-100 Rev. A4.
- e) Provision of a 2-metre-wide footway on the south-west side of Parsons Hill to provide a pedestrian link from the development to the Village Hall and bus stop as shown in principle with drawing no. 20066-100 Rev. A4.

Reason: To protect highway efficiency of movement and safety and to ensure the proposal site is accessible by more sustainable modes of transport such as public

transport, cycling and walking, in accordance with policy DM1, DM9 and DM10.

3. A Section 106 financial contribution of £20,000 (index linked) towards the design and/or delivery of the upgrade of the traffic signals at the A133 Main Road/ Colchester Road/ B1029 Great Bentley Road/ Bromley Road junction, Frating. Such contribution to be paid on commencement of development. (Payback 5 years).

Reason: In the interests of highway safety and efficiency.

4. There shall be no discharge of surface water onto the Highway.

Reason: To prevent hazards caused by water flowing onto the highway and to avoid the formation of ice on the highway in the interest of highway safety to ensure accordance with policy DM1.

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

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

6. Prior to occupation the vehicle parking areas indicated on the approved plans, including any parking spaces for the mobility impaired, has been marked out in parking bays. The vehicle parking area and associated turning area shall always be retained in this form. The vehicle parking shall not be used for any purpose other than the parking of vehicles that are related to the use of the development unless otherwise agreed with the Local Planning Authority.

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

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

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

8. Prior to first occupation of the proposed development, the Developer shall submit a residential travel plan to the Local Planning Authority for approval in

consultation with Essex County Council. Such approved travel plan shall then be actively implemented for a minimum period from first occupation of the development until 1 year after final occupation.

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:

- The above requirements should be imposed by way of negative planning conditions or planning obligation agreements as appropriate.
- In making this recommendation the Highway Authority has treated all planning application drawings relating to the internal layout of the proposal site as illustrative only.
- Prior to any works taking place in the highway the developer should enter into an S278 agreement with the Highway Authority under the Highways Act 1980 to regulate the construction of the highway works.
- All or some of the above requirements may attract the need for a commuted sum towards their future maintenance (details should be agreed with the Highway Authority as soon as possible)
- All highway related details should be agreed with the Highway Authority.
- The proposed junction layout, and footway proposals will require a further Stage 1 Road Safety Audit.
- The development should be in accordance with the Parking Standards Design and Good Practice Supplementary Planning Document dated September 2009.

ECC Schools Service  
02.02.2021

Thank you for providing details of the revised hybrid planning application for up to 79 new homes. As no residential unit mix has been provided I have assumed that all of these units are homes with two or more bedrooms, and therefore a development of this size can be expected to generate the need for up to 7.11 Early Years and Childcare (EY&C) places; 23.7 primary school, and 15.8 secondary school places.

Please note that any developer contribution figures referred to in this letter are calculations only, and that final payments will be based on the actual dwelling unit mix and the inclusion of indexation.

Early Years and Childcare

Essex County Council has a statutory duty under the Childcare Act 2006 to ensure that there is sufficient and accessible high-quality early years and childcare

provision to meet local demand.

The proposed development is located within the Alresford and Elmstead ward. According to latest available childcare sufficiency data, there are 8 early years and childcare providers within the ward, however only one childminder is within a 3 mile radius. Overall a total of 15 unfilled places were recorded.

As there are sufficient places available in the area, a developers' contribution towards new childcare places will not be required for this application.

### Primary Education

This development would be within the priority admissions area of St George's CE Primary, Great Bromley, which has a Published Admission Number of 17 places per year. As of October, the school was full in most year groups, including Reception, with a total of 119 pupils on roll. Forecasts for the wider area (Tendring Primary Group 3), which are published in the Essex School Organisation Service's 10 Year Plan to meet demand for school places, suggest that up to 32 additional places per year group will be required by the end of the Plan period.

In accordance with the ECC Developer's Guide to Infrastructure Contributions (Revised 2020), based on demand generated by this proposal set out above, a developer contribution of £486,040, index linked to Q1 - 2020, is sought to mitigate its impact on local primary school provision. This equates to £20,508 per place.

### Secondary Education

This development would be within the priority admission area of Manningtree High. A one form entry expansion project is underway, which is expected to provide sufficient medium term secondary school capacity for the area. A developer contribution would therefore not be required at this time.

### School Transport

Having reviewed the proximity of the site to the nearest primary school, Essex County Council would not be seeking a school transport contribution, however, the developer should ensure that safe direct walking and cycling routes to local schools are available.

Having reviewed the proximity of the site to the nearest secondary school, Essex County Council would seek a secondary school transport contribution as the distance from the proposed development to the nearest secondary school falls outside of the statutory 3 mile limit. The current cost of providing this is £104,728 index

Linked to Q1 - 2020.

## Libraries

ECC may seek contributions to support the expansion of the library service to meet customer needs generated by residential developments of 20+ homes. The provision of a Library Service is a statutory duty under the 1964 Public Libraries and Museums Act and it's increasingly become a shared gateway for other services such as for accessing digital information and communications.

In this case the suggested population increase brought about by the proposed development is expected to create additional usage of Wivenhoe primarily, Greenstead and/or Manningtree libraries. In accordance with the Essex County Council Developers' Guide to Infrastructure Contribution (Revised 2020), a contribution is therefore considered necessary to improve, enhance and extend the facilities and services provided, at a cost of £244.92 and £77.80 per unit, respectively. Improvements could include, but is not limited to, additional facilities, additional furniture, provision of learning equipment / play equipment for younger children, improved access, external works such as parking and bike racks and IT.

In this case, and taking the above into account, it is calculated that a contribution of £25,494.88 is requested and should be included in any Section 106 Agreement should the Council be minded to grant permission.

In view of the above, I request on behalf of Essex County Council that if planning permission for this development is granted it should be subject to a section 106 agreement to mitigate its impact on primary education, secondary school transport and libraries.

The contributions requested have been considered in connection with the CIL Regulations 2010 (as Amended) and are CIL compliant. Our standard formula s106 agreement clauses that ensure the contribution would be necessary and fairly and reasonably related in scale and kind to the development are available from Essex Legal Services.

If your council were minded to turn down the application, ECC would be grateful if the lack of surplus primary education, secondary school transport and libraries in the area to accommodate the proposed new homes can be noted as an additional reason for refusal, and that we are automatically consulted on any appeal or further application relating to the site.

TDC Housing Services  
22.02.2021

The Council's emerging Local Plan requires that sites delivering 11 or more dwellings need to provide affordable housing. This application proposes 79 dwellings in total and therefore there is a requirement to deliver affordable housing. The emerging Local Plan requires that 30% of dwellings on eligible sites should be delivered as affordable housing and therefore on this application, this equates to 23 dwellings in total.

There is a high demand for housing in Great Bromley from households residing in the district on the housing register. There are currently the following number of households on the housing register seeking housing in the village:

1 bedroom - 103 households\*  
2 bedroom - 63 households  
3 bedroom - 46 households  
4 bedroom - 23 households

\*of the 103 households seeking 1 bedroom accommodation, 38 households are aged 60 or over.

The Housing Services preference is that affordable housing should be delivered on site and that another registered provider should be sought to take on the affordable housing dwellings.

TDC UU Open Spaces  
13.05.2021

There is currently a deficit of -1.15 hectares of equipped play and formal open space in Great Bromley.

There is one play area in Great Bromley, located at Hare Green approximately 1 mile from the development. To cope with any further development this provision will need to be increased.

#### Recommendation

The application includes formal and informal open space, however for a development of this size we would expect to see some provision for play to be included on site, ideally made from natural materials and following the contours of the land.

TDC Waste Management  
20.01.2021

No comments at this stage.

Essex County Council Heritage  
28.01.2021

ECC Heritage consider the Site to contain the following non-designated heritage assets:

- Hamilton Lodge;
- Associated stable block;
- Associated walled garden; and
- Associated gate lodge.

ECC Heritage commend the applicant team for taking on board heritage comments, working with the local authority and altering a scheme which can save a collection of heritage assets in this site. Development is needed as a form of intervention to halt the decline of these heritage assets and provide them with a sustainable use. As such, ECC Heritage support this application in principle.

The concept masterplan shows areas of development. ECC Heritage support these in principle as well as the space given to the front of Hamilton Lodge. There is still an unknown future for Trelawn, the associated gate lodge (shown retained on concept plan but noted as lost in the heritage aspirations document). However, ECC Heritage are confident this can be resolved during the reserved matters stage.

The buildings to be demolished are of no heritage value, detract from the setting of the heritage assets and as such there is no objection to this aspect of the application.

ECC Heritage support this application on the assumption that proper legal agreements are put in place to safeguard the future of the heritage assets as part of this development.

Should this application be approved, ECC Heritage recommend TDC suggest design workshops with the applicant in advance of reserved matter applications. If delivered correctly I consider this development would make a good case study of how appropriate new build development can save and rejuvenate heritage assets which are at risk.

TDC Environmental Protection  
12.01.2021

Environmental Protection have reviewed the above application and if this application is to proceed to the full planning phase then Environmental Protection would require the following:

#### Demolition & Construction

Prior to the commencement of any ground and/or demolition and/or construction works, the applicant (or their contractors) shall submit a full method statement to, and receive written approval from, the Pollution and Environmental Control.

#### - Noise Control

1) 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.

2) 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.

3) 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.

4) Mobile plant to be resident on site during extended works shall be fitted with non-audible reversing alarms (subject to HSE agreement).

5) 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. 6) 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 Pollution and Environmental Control prior to the commencement of works.

#### - Emission Control

1) 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.

2) No materials produced as a result of the site development or clearance shall be burned on site.

3) 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.

4) All bulk carrying vehicles accessing the site shall be suitably sheeted to prevent nuisance from dust in transit.

Adherence to the above condition will significantly reduce the likelihood of public complaint and potential enforcement action by Pollution and Environmental Control. 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).

#### External Lighting

No development shall take place until a scheme for the control of light pollution has been submitted to and approved in writing by the local planning authority. The scheme shall be devised by a competent person and fully comply with the Code of Practice for the Reduction of Light Pollution issued by the Institution of Lighting



Professionals, the DETR document "Lighting in the Countryside: Towards Good Practice" and all current official guidance. Such light pollution control measures as shall have been approved shall be installed prior to [the building hereby permitted/ use hereby permitted] [coming into beneficial use/commencing] and thereafter be retained and maintained to the agreed specification and working order

Any lighting of the development shall be located, designed and directed [or screened] so that it does not [cause avoidable intrusion to adjacent residential properties/constitute a traffic hazard/cause unnecessary light pollution outside the site boundary]. "Avoidable intrusion" means contrary to the Code of Practice for the Reduction of Light Pollution issued by the Institute of Lighting Professionals ([www.theilp.org.uk](http://www.theilp.org.uk))

#### Contaminated Land

I have checked the councils contaminated land database and there is no information in relation to contaminated land in this area therefore we would recommend the following:

No development shall take place until the ground conditions on the site have been subject to a Risk Assessment. This will enable Tendring District Council to decide whether the site is suitable for its proposed use prior to any development taking place.

This will incorporate a 'phase one' assessment in the form of a desktop study/site walkover report. This will include a review of previous investigations; previous uses; potential sources of contamination; and potential pathways and receptors. If necessary, this shall be followed up by a 'phase two' risk assessment that shall incorporate a detailed intrusive investigation referring to the phase one study.

Individual risk assessments shall be submitted to Environmental Protection for approval on completion.

NHS East Essex CCG  
10.08.2020

As it stands currently the impacted practice/practices are not over capacity therefore we will not be seeking a healthcare contribution at this stage, however if anything changes please consult us further and we will carry out a further healthcare impact assessment to review capacity within the relevant practice/s.

ECC SuDS Consultee  
18.11.2020

#### Lead Local Flood Authority position

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

#### Condition 1

No works except demolition shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme should include but not be limited to:

- Discharge via infiltration for all storm events up to and including the 1 in 100 year rate plus 40% allowance for climate change.
- Final modelling and calculations for all areas of the drainage system.
- Detailed engineering drawings of each component of the drainage scheme.
- A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features.
- A written report summarising the final strategy and highlighting any minor changes to the approved strategy.

The scheme shall subsequently be implemented prior to occupation. It should be noted that all outline applications are subject to the most up to date design criteria held by the LLFA.

#### Reason

- To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site.
- To ensure the effective operation of SuDS features over the lifetime of the development.
- To provide mitigation of any environmental harm which may be caused to the local water environment
- Failure to provide the above required information before commencement of works may result in a system being installed that is not sufficient to deal with surface water occurring during rainfall events and may lead to increased flood risk and pollution hazard from the site.

#### Condition 2

The applicant or any successor in title must maintain yearly logs of maintenance which should be carried out in accordance with any approved Maintenance Plan. These must be available for inspection upon a request by the Local Planning Authority.

#### Reason

To ensure the SuDS are maintained for the lifetime of the development as outlined in any approved Maintenance Plan so that they continue to function as intended to ensure mitigation against flood risk.

Any questions raised within this response should be directed to the applicant and the response should be provided to the LLFA for further consideration. If you are minded to approve the application contrary to this advice, we request that you contact us to allow further discussion and/or representations from us.

## **5. Representations**

5.1 Great Bromley Parish Council supports the application in general, however would question TDC as to why more affordable units are required when the identified need is 8 units, following a previous survey from the Rural Community Council of Essex, has already been fulfilled. There is also concern on the impact on services such as health and education. The current access point is also cause for concern.

5.2 15 letters of representation have been received outlining the following concerns;

- This proposal is an over development of the site that will only increase pressure on current infrastructure with no benefit to the local area
- Where are the jobs to support these houses certainly not in this area. So travel by car will be required as the limited bus service will not work for most people travelling to work.
- No proper attempt has been made by the development company to liaise with ALL of the village. Especially considering that many may have been shielding, staying at home or not had suitable internet access.
- The proposed site's entrance and egress is sited on a bend, whilst a mini roundabout and lower speed limit has been considered as traffic calming methods. The potential of an additional 200 + daily car journeys through an already busy village shows a severe lack of forward planning and neglect to our village.
- This site is deemed to in the open country by TDC's own classification. In TDC's Local Plan, Great Bromley is classed, in Section 3, Sustainable Places, 3.2.1.4.2, as a "Smaller Rural Settlement.
- All journeys will have to be made by car, which is against the aims of TDC and the Government.
- Site cannot support large scale residential development and retain a village feel.
- Lack of local infrastructure to support residents – school places and doctor appointments.
- Junction at Parsons Hill and surrounding rural lanes will have difficulty coping with increased volume of traffic.
- Light pollution impacts upon rural locality and wildlife.
- Maintenance concerns in respect of the new areas of landscaping/village green.
- Wildlife corridor will be destroyed by the development.
- Development would incorporate double the number of homes than the village of Gt Bromley.
- Housing numbers have been achieved and the site is located outside of the defined settlement boundary for the village.

- Public transport and facilities are largely non-existent.

5.3 1 neutral representation have been received outlining the following comments;

- Hamilton Lodge along with its parkland is a heritage asset of Great Bromley although it has been remodelled over the years and in the recent past has fallen into decline.
- Our main concerns are that the bottle shape of the plot could easily be converted into a "gated community" at any time in the future, to the detriment of the village.
- The outline plan has no parking marked for visitors to the meadow and new village green, which was presented as open to the whole village to enjoy.
- There are few local amenities in the village with no medical practitioners, shops and few employment opportunities other than farming or self-employment. The village primary school is small and already full to capacity, there is no secondary school in the village.

## 6. **Assessment**

6.1 The main issues to consider in assessing this application are whether there is any conflict with Development Plan policies. If there is any conflict, whether the application can be considered to be in accordance with the Development Plan when taken as a whole. If the application is not in accordance with the Development Plan, whether there are any material considerations, including emerging policies in the Local Plan to 2033 and the NPPF, which indicate that planning permission should be granted.

It is considered that the principal, important and contentious issues in this case are:

- Principle of Development & Loss of Employment Use
- Visual Impacts and Tree Impacts
- Design/Layout
- Impacts on Residential Amenity
- Heritage Considerations
- Ecology Matters
- Highway Safety/Parking
- Drainage/Foul Drainage
- Legal Obligations/Viability

### Site Context

- 6.2 Hamilton Lodge is located south of the village of Great Bromley and virtually immediately north of the A120, approximately 8 miles east of Colchester. It comprises 16 acres of buildings, hardstanding, grassland and parkland around an early 20th Century house and more recently constructed care home/assisted living accommodation. It is a former residential care home and is comprised within the Tendring District Council brownfield register. The care home function ceased in 2017. Hamilton Lodge itself has been unoccupied since 2014.
- 6.3 The site has a narrow frontage to Parson's Hill with gate piers and a single storey lodge cottage. This frontage is screened by reasonably dense and unkempt vegetation.
- 6.4 The current access/driveway is offset to the left and tree-lined. It curves north-eastwards to the care home buildings. The site boundaries are well-landscaped. The key characteristic of the site is the wealth of trees within what is an overgrown parkland site with an extensive range of buildings, hardstanding and circulation areas.

- 6.5 Hamilton Lodge itself is of Regency construction has been much altered over its lifetime, both internally and externally, due to the major phases of its redevelopment. It is uncertain how much built fabric, if any, the building retains and much of the subsequent gothic alterations were lost towards the end of the nineteenth century or early twentieth century. Internally, the main building has been comprehensively altered for care home use
- 6.6 In total the buildings on site have a total gross internal floor area of some of 38,842 sqft (3,612 sqm). In addition to Hamilton Lodge itself (providing approximately 12,000 sqft of accommodation), the following buildings are on site:
- Coach House: A two storey building of rendered solid brick construction under a slated roof.
  - Bungalows: Four bungalows arranged as four studio units each, providing open plan accommodation.
  - Selbourne Court: A 1980's built single storey property providing 18 bedrooms, 3 x kitchen/dining areas, resident's lounge and ancillary offices.
  - Springlands: A single storey building timber building.
  - Trelawn: Single storey gatehouse situated at the entrance to the property.
- 6.7 Taking the above into account the current built form on the site equates to approximately 5% of the total site area.
- 6.8 The site is located outside of any defined settlement boundary in both the saved Tendring District Local Plan (2007) and the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft.

#### Proposal

- 6.9 This application seeks planning permission for 79 residential units on the site which incorporates the renovation and conversion of Hamilton Lodge, The Stable Block and Walled Garden elements.
- 6.10 The application has been submitted in a hybrid format (i.e. part outline/part detail application) and proposes the following;
- 67 dwellings including the conversion of Hamilton Lodge, The Stable Block and Walled Garden and all associated access roads, amenity space, landscaping, parking, servicing, utilities, footpath and cycle links, on-site drainage, and infrastructure works including gas and electricity apparatus (Submitted in Outline Form);
  - Residential development for 12 dwellings and associated access roads including formation of new junction to Parsons Hill (Submitted in Detail Form);
  - Formal and informal open space including village green and meadow including landscaping, parking, servicing, utilities, footpath links (Submitted in Detail Form).
- 6.11 The conversion of the existing structures (Hamilton Lodge, The Stable Block and Walled Garden) sit within the 'outline' part of the application and it is the applicant's intention to undertake further detailed assessment, survey and design as part of the Reserved Matters approval process.
- 6.12 The more recent buildings on site and those not identified as non-designated heritage assets are to be demolished as part of the application proposals.
- 6.13 Overall the proposed re-development of the site, depending on the detailed design and siting of the reserved matters elements of the scheme, would result in approximately 40-45% of the site being covered in built form.

## Principle of Development & Loss of Employment Use

- 6.14 Planning law requires that decisions on planning applications must be taken in accordance with the development plan unless there are material considerations that indicate otherwise as set out in (Section 70(2) of the 1990 Town and Country Planning Act and Section 38(6) of the Planning and Compulsory Purchase Act 2004). The 'development plan' for Tendring comprises, in part, the 'Saved' policies of the 2007 Local Plan. Paragraph 213 of the Framework allows local planning authorities to give due weight to adopted albeit outdated policies, according to their degree of consistency with the policies within it.
- 6.15 Section 1 of the Local Plan (which sets out the strategy for growth across North Essex including Tendring, Colchester and Braintree) has been examined by an Independent Planning Inspector who issued his final report and recommended 'main modifications' on 10th December 2020. The Inspector's report confirms that, subject to making his recommended main modifications (including the removal from the plan of two of the three 'Garden Communities' proposed along the A120 i.e. those to the West of Braintree and on the Colchester/Braintree Border), the plan is legally compliant and sound and can proceed to adoption. Notably, the housing and employment targets in the plan have been confirmed as sound, including the housing requirement of 550 dwellings per annum in Tendring.
- 6.16 The examination of Section 2 of the Local Plan (which contains more specific policies and proposals for Tendring) is now expected to proceed in 2021 and two Inspectors have already been appointed by the Secretary of State to undertake the examination, with the Council preparing and updating its documents ready for the examination. In time, the Section 2 Local Plan (once examined and adopted in its own right) will join the Section 1 Plan as part of the development plan, superseding in full the 2007 adopted plan.
- 6.17 Where emerging policies are particularly relevant to a planning application and can be given considerable weight in line with the principles set out in the National Planning Policy Framework (NPPF), they will be considered and, where appropriate, referred to in decision notices.
- 6.18 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.
- 6.19 As the supply of deliverable housing sites in the modified Section 1 of the Local Plan is now in the order of 6.5 years this actual objectively assessed housing need for Tendring is a significant material consideration in the determination of planning applications which substantially tempers the amount of weight that can reasonably be attributed to the benefit of additional new housing - particularly in the consideration of proposals that fall outside of the settlement development boundaries in either the adopted or the emerging Section 2 Local Plan.
- 6.20 Adopted Policy SP3 (Spatial Strategy for North Essex) of the 2013-2033 Local Plan states, amongst other things, that development will be accommodated within or adjoining settlements, according to their scale, sustainability and existing role both within each individual district and, where relevant, across the wider strategic area. Future growth will be planned to ensure existing settlements maintain their distinctive character and role, to avoid coalescence between them and to conserve their setting. New housing development should be focused

towards the larger urban areas and to within settlement development boundaries. This is consistent with the Framework's objectives for achieving sustainable development through a plan-led approach that focuses development to locations which are or can be made sustainable, limiting the need to travel and offering a genuine choice of transport modes

- 6.21 As set out above, the policies for the delivery of housing are considered up-to-date and the application must therefore be determined in accordance with Paragraph 11 c) of the NPPF, thus in accordance with the development plan. In this instance it is evident that the site is not located within any defined settlement boundary. The site is within the countryside for the purposes of planning policy. The proposal is therefore contrary to adopted policy SP3.
- 6.22 The main aims of Policy SP3 are to direct growth to those places where a good range of services and facilities are easily accessible by means other than private motorised transport, to reduce the need to travel and to protect the character and appearance of the countryside.
- 6.23 Although the application site is some distance outside of any defined settlement boundary, the proposed dwellings would not be isolated from other dwellings. Nevertheless, the development would be situated 450m from the defined settlement boundary of Great Bromley (as outlined in the emerging local plan) and 1.4km from the defined settlement boundary of Frating. These villages are, under emerging policy SPL1, themselves considered to be among the lowest order settlements, suitable for the provision of only a limited amount of additional housing, due to the minimal level of services and facilities they provide. Residents of these villages are considered to be reliant on other larger villages and towns in order to access a full range of services, facilities and employment opportunities.
- 6.24 There is a surfaced footpath that passes directly beside the application site and leads to the village of Great Bromley to the north and extends south to the junction with Harwich Road. There are bus services available near to this junction, which is approximately a 5 minute walk from the site. This bus service runs to Colchester and other settlements on an hourly basis. Whilst regular, it is not considered to be particularly frequent. However, the footpath is unlit and only runs along the eastern side of the road. There is no refuge from traffic on the western side of the road nor shelter provided from inclement weather on either side of the road. It is therefore considered that these matters, along with the time taken for the journeys to and from larger settlements, would encourage a reliance on the use of private motorised transport. As such it is not concluded that the public transport provision offers a reasonable alternative mode in this location.
- 6.25 In addition, although it would be possible to walk to Great Bromley, and other settlements may technically be within walking distance of the site, the service provision within these settlements is limited and would not meet every day needs of future occupiers of the proposed development. It is therefore considered that it would be highly likely that, rather than walking or cycling to the nearby villages, future occupiers would regularly use private motorised transport to access a full range of services, facilities and employment opportunities.
- 6.26 It is acknowledged that there will be forthcoming provision of a village shop within a 5 minute walk of the site. However, by its nature it would likely provide a limited range of goods. Nevertheless, this would allow for the reduction in some journeys, particularly for top up items. This attracts modest weight in favour of the proposal.
- 6.27 Overall it is considered that the existence of the unlit footways, the bus services and the forthcoming village shop, along with other limited facilities in proximity to the site, including the offerings of The Court House Public House, are sufficient to reach a finding that the location of the development would not be acceptable in relation to accessibility to services and facilities.
- 6.28 This conclusion is consistent with the findings of a planning inspector within a recent appeal decision at Field House, Parsons Hill, Great Bromley (Appeal Reference - APP/P1560/A/14/2229002), which is located approximately 430m to the south of the site.

Whilst relating to a smaller residential development for 3 dwellings the inspector concluded that the site was unsustainable and future residents would be heavily reliant on private vehicle to access their everyday needs.

- 6.29 It is appreciated that opportunities to maximise alternative transport solutions will vary between urban and rural areas and it is also acknowledged that the site is brownfield in nature and attracted a certain level of traffic movements under its former care home use, but even taking this into account, it is considered that the proposal for 79 dwellings in this unsustainable location runs contrary to the objectives of Policy SP3 and is of an inappropriate scale, in a countryside location clearly detached from the nearest settlement of Great Bromley which is identified as a smaller rural settlement under emerging policy SPL3.
- 6.30 Moreover, whilst it is acknowledged that the land has been previously developed, the site essentially comprises of care home/assisted living buildings, areas of hardstanding, grassland and parkland around an early 20th Century house. The extent of the combined building footprints present on this extensive site equate only to approximately 5% of the total site coverage. Whereas the proposed built form will cover a significantly wider area of the site at approximately 40-45% of the land. This increase in built form is considered to result in a harmful urbanising effect and would represent a substantial and material change to the character of the site in this essentially rural location. The higher and more urban density proposed would evidently be at odds with the prevailing pattern of built form in the vicinity, which comprises of loose knit development within large spacious plots more akin to the rural character of the locality. Consequently, the development would also be in conflict with adopted policy SP7 of the Tendring District Local Plan 2013-2033 and Beyond - Section 1 and saved policy EN1 of the adopted Tendring District Local Plan (2007), which state that all new development should reflect the following place shaping principles, where applicable respond positively to local character and context to preserve and enhance the quality of existing places and their environs and that the quality of the district's landscape and its distinctive local character will be protected and, where possible, enhanced and any development which would significantly harm landscape character or quality will not be permitted.
- 6.31 It is therefore concluded that the site would not be in a suitable location for the proposed development having regard to local and national policies concerned with the location of development. The proposal would conflict with adopted Policy SP3 and emerging local plan Policy SPL1 as the proposal would conflict with the aims of the settlement hierarchy it sets out.
- 6.32 In terms of the previous employment element (associated with the former care home), saved Policy ER3 of the adopted Tendring District Local Plan (2007) applies to all land in employment use. This policy states that the Council will ensure that land in, or allocated in this Plan for employment use will normally be retained for that purpose. Its redevelopment or change of use for non-employment purposes will only be permitted if the applicant can demonstrate that it is no longer viable or suitable for any form of employment use. The policy therefore requires applicants to either:
- i. submit evidence of a sustained but ultimately unsuccessful marketing exercise, undertaken at a realistic asking price; or
  - ii. show that the land (site, or premises) is inherently unsuitable and/or not viable for any form of employment use
- 6.33 In this instance, the current lawful use of the development site is C2 (Residential Institutional Use/Care Home). This falls to be considered as an employment use and therefore the provisions of saved policy ER3 as outlined above are relevant.
- 6.34 The application has not been submitted with a sustained and robust marketing campaign to demonstrate that the site is not in demand for alternative employment uses. Nor has it been suitably shown that the land and buildings are inherently unsuitable for any form of employment use.



- 6.35 A document provided by the applicant seeks to address this matter by stating that the saved policy is of limited weight, that the application site is not specifically allocated for employment use, that marketing took place following the closure of the care home use and that the development of the site does not undermine the policy objectives of safeguarding identified employment sites.
- 6.36 Officers have reviewed this document and remain of the view that saved policy ER3 is relevant to this application and carries significant weight being that it is a policy contained within the adopted Tendring District Local Plan (2007). The policy evidently states that any employment site, regardless of whether it is allocated or not, is caught by the requirements of this policy.
- 6.37 In addition, the applicant's position that marketing took place following the closure of the care home use is noted, however details and evidence of this marketing have not been provided as part of the planning application. Therefore, in the absence of any marketing particulars or robust evidence to show that the site cannot be utilised for alternative employment uses the application proposals for a 100% residential development are contrary to saved policy ER3.
- 6.38 Notwithstanding the clear conflict with established housing settlement policies outlined above it is acknowledged by officers that the development does provide some benefits which can be weighed up against the harm identified. These benefits include;
- The re-development of a brownfield site;
  - The conversion and safeguarding of non-designated heritage assets present on the site;
  - Provision of an ancillary open space area, to be maintained by the parish council, which will open up public access to the site;
  - Provision of 30% on-site affordable housing and policy compliant infrastructure contributions;
  - The development represents a viable solution for the future of the site.

These matters are discussed in more detailed below.

#### Visual Impact/Trees Impacts

- 6.39 The application site is situated the Bromley Heaths (Heathland Plateau) Landscape Character Area (LCA) as defined in the Tendring District Council Landscape Character Assessment.
- 6.40 In order to show the potential visual impact of the development proposal on the area the applicant has provided a Landscape and Visual Impact Assessment (LVIA). This document quantifies the likely visual impact of the completed development on the character and appearance of the local landscape character. The document identifies several locations (visual receptor viewpoints) from which the application site can be viewed.
- 6.41 The LVIA sets out the existing qualities and values of the local landscape character, describes the existing level of screening provided by vegetation on the site and refers to additional landscaping that will be carried out to enhance the overall appearance of the application site as well as strengthening screening.
- 6.42 In order to consider the impact from each viewpoint (VP) the following conclusions are made by the Council's Trees and Landscaping Officer:

#### *VP1 - Parsons Hill ' Back Lane West Junction.*

The new entrance to the site may be visible from this VP, however the main body of the application and the proposed development contained thereon will not be visible from this point. The visual impact is therefore minimal.

#### *VP2 - Cricket Club*

Glimpses of the developed land may be possible during the period of time before new planting becomes established but views will be distant and not significantly harmful to users of the Village Hall, Cricket Club or surrounding area

#### *VP3 - Site Entrance Parsons Hill' looking north*

Fleeting glimpses for users of the highway that will decrease with the passage of time as planting matures. Little visual impact or harm.

#### *VP4 - Site Entrance Parsons Hill ' looking south*

Fleeting glimpses for users of the highway that will decrease with the passage of time as planting matures. Little visual impact or harm.

#### *VP5 - Parsons Hill ' Approach to Site.*

No clear views of the application site from this viewpoint. Some minor changes to the vegetation species by the entrance that will be assimilated into their setting in the fullness of time.

#### *VP6 - Parsons Hill ' View to south east through gap in hedge*

From the gap in the field side boundary hedgerow on Parsons Hill there will be the opportunity for glimpsed and fairly distant views of the site. However the views are restricted by existing vegetation and will be diminished further by proposed soft landscaping. The harmful visual impact will be minimal.

#### *VP7 - Mary Lane North ' South from gap in hedgerow*

Views are distant and restricted by existing vegetation between the viewpoint and the application site as well as vegetation on the boundary of the application site itself. The LVIA acknowledges that the proposed development will be partially visible during the winter months but that the resultant visual harm is negligible.

#### *VP8 - Mary Lane North ' South from gap in hedgerow*

As with viewpoint 7 views are distant and restricted by existing vegetation between the viewpoint and the application site as well as vegetation on the boundary of the application site itself. The LVIA acknowledges that the proposed development will be partially visible during the winter months but that the resultant visual harm is negligible.

#### *VP9 - Mary Lane North ' South west from Manor Farm*

There are strong field side hedgerows for much of Mary Lane North and views of the application are consequently restricted. VP9 offers a glimpse of the site from some distance. Little, if any adverse impact on local landscape character from this VP.

#### *VP10 - Mary Lane North -South west from hedgerow gap adjoining Guild Hall orchard*

As with VP9 there are strong field side hedgerows for much of Mary Lane North and views of the application are consequently restricted. VP10 offers a glimpse of the site from some distance through a gap in the hedgerow. The north eastern edge of the development may be visible from this VP until new planting becomes established. In terms of the visibility of the development in the landscape it is likely that there will be clear views of the development will

be from this point. In the short term the visual impact is likely to be harmful, with harm diminishing as new planting becomes established.

*VP11 - Mary Lane North ' Westwards from adj. 4 Park Cottages.*

Views of the development from this viewpoint, along with VP12 are probably the most significant. Although boundary planting will soften the appearance of the development views of dwellings are likely to remain visible in the long term albeit primarily from residential dwellings known as The Cottages. There is no real gap in the hedgerow at this point and no public access to the agricultural land. The harm is categorized as minor in the LVIA and this is considered to be an accurate reflection of the impact of the development on the local landscape character from this VP.

*VP12 - Camp Road PRow 166\_ 15 Westwards*

As described in VP11 views of the development from this viewpoint are probably the most significant. Although boundary planting will soften the appearance of the development views of dwellings are likely to remain visible in the long term and, to a degree, diminish the experience for users of the PRow. The harm is categorized as minor in the LVIA and this is considered to be an accurate reflection of the impact of the development on the local landscape character from this VP.

*VP13 - PRow 166\_17 looking south*

Views would be from such a distance that they would not diminish or otherwise affect user's enjoyment of the countryside from this viewpoint.

*VP14 - St Georges Church, Badley Hall Rd, looking south*

The application site is not visible from this viewpoint

*VP15 - PRow 166\_18 looking south*

Any views of the site would be from such a distance that any change to the local landscape character would be imperceptible from this viewpoint.

- 6.43 The Summary and Conclusion section of the LVIA describes the impact and effects on the local landscape character, taking into account the historic use of the land and the surrounding area.
- 6.44 Section 7.1.19 of the LVIA is particularly relevant as it succinctly describes the different ways that development can be considered and assessed. It states; the nature of these visual effects is subjective. While the loss of land to new development can be judged as having a negative visual influence, the proposed development is designed with an appropriate vernacular appearance and a significant level of public open space which, over time as planting establishes, will complement existing views. Views are also currently degraded on-site and the proposals will enhance certain views both in the short and long term. Unless otherwise stated residual effects are assessed as neutral-minor beneficial.
- 6.45 In respect of the impact of the development upon existing trees the application site comprises the land and buildings associated with Hamilton Lodge (former residential care home). Much of the site is neglected parkland with established specimen trees with an understory of less significant growth.
- 6.46 The site contains fairly dense areas of trees, within the main body of the land and on site boundaries as well as dense undergrowth and areas of open grassland. There is a large pond close to the existing access road.

- 6.47 In terms of trees and other vegetation on the application site and adjacent land the applicant has provided a detailed tree survey and report. The report accurately describes the health and condition of existing trees and the extent to which they are a constraint on the development potential of the land. The information contained in the report is in accordance with BS5837: 2012 Trees in relation to design, demolition and construction. Recommendations.
- 6.48 The tree report adequately demonstrates that the development of the land could take place without causing harm to the important trees on the land. In terms of formal legal protection of the trees it should be noted that the site is not affected by a tree preservation order and is not situated within a conservation area.
- 6.49 Taking into account the current limited amenity value of the trees resulting from their low profile in the public domain and the fact that the development proposal makes provision for the retention of the most significant trees on the application site it is not considered necessary or expedient to make a new tree preservation order (TPO) at the present time. If planning permission were to be granted it may become necessary for new TPO's to be made to deal with post development pressures.
- 6.50 In conclusion, and having regard to the above input from the Councils Trees and Landscaping Officer, it is considered that the visual impact of the development proposals and the impact upon trees to be, on balance acceptable. Where there are minor harm this can be mitigated through necessary planning conditions and or this impact will be lessened over time and as new and additional landscaping become established.

#### Design/Layout

- 6.51 The proposed development comprises of clear separate areas. Each element of the development is broken down as follows;

#### Detailed Residential Element (12 units)

- 6.52 This comprises 12 dwellings in two cul-de-sacs, 7 will face towards the village green and 5 will face towards 'Lodge Meadow'.
- 6.53 The form is a mix of principally detached homes at an appropriate density served by private amenity spaces of over 100sqm. These properties would be served by a minimum of 2 no. parking spaces and in most cases exceed this requirement. The proposed back to back distances between the two elements of development here would meet standard and ensure future resident's amenity is safeguarded.
- 6.54 Materials employed within this section of the development will be brick, render, weatherboarding and clay tiles. The dwellings would take on a traditional appearance comprising of varying pitches of roof, bay window features and brickwork/timber detailing to add interest.
- 6.55 The detailed design of this section of the development represents an appropriate response to the character of the area.

#### Village Green/Lodge Meadow

- 6.56 The open area in front of the pond is to be a focus for recreation and forms part of the 'Village Green'. It is a public-facing part of the site and is subject of specific proposals designed by the landscaping company employed by the applicant. This part of the site measures 8,880 sqm, or 2.25 acres. Wooded edges, stands and individual trees comprised within this area are safeguarded as part of the landscape and maintenance proposals. It is intended that this area will be transferred to the Parish Council and will include areas of informal play.

- 6.57 'Lodge Meadow' is proposed to provide a transition between the 12 dwellings and Hamilton Lodge/Coach House elements to the east. This area will include the retention of the Ha-Ha.

#### Hamilton Lodge/Coach House/Walled Garden

- 6.58 The conversion and re-use of these structures for residential use is included within the remaining 67 units that are submitted in outline form. Consequently, the detailed aspects of the conversion of these non-designated heritage assets (NDHA) are not included within this submission. However, the submitted Heritage Aspirations document and associated Concept Masterplan demonstrates that these NDHA can be retained and converted for residential use. The exact housing mix for these converted structures would be confirmed at reserved matters stage. The concept plans show that a communal garden area can be provided between Hamilton Lodge and The Stable Block and provide sufficient amenity space for future residents. Parking will be absorbed around the building/structures in question.

#### New Build Residential Elements

- 6.59 The remaining new build dwellings are to be incorporated within several development parcels located predominantly at the eastern end of the site and in and around the retained non-designated heritage assets. These parcels will accommodate approximately 50 dwellings in total and are shown on the submitted concept masterplan drawing in limited detail. In the event of an approval the detailed design and layout of these sections of the development would be reviewed at reserved matters stage. Notwithstanding the need to submit reserved matters for this element of the development it is considered that there is sufficient spacing to accommodate the number of units envisaged for these development parcels whilst incorporating adequate parking provision, private amenity space and suitable distances between properties to safeguard future resident's privacy.

#### Impact on Residential Amenity

- 6.60 The NPPF at paragraph 130 states that planning should secure developments with a high standard of amenity for existing and future users. Saved Policy QL11 of the Tendring District Local Plan (2007) states that amongst other criteria development will only be permitted if the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties.
- 6.61 There are residential properties located in around the application site at varying distances. To the east there are dwellings located approximately 225m from the site, to the south residential properties are sited between 110m-149m from the site and to the north a dwelling is located 88m at its closest point to the development. On the opposite side of Parsons Hill a dwelling is situated in a setback location from the highway at approximately 109m from the frontage of the site.
- 6.62 Therefore given the degree of separation of these dwellings to the development site and the presence of mature vegetation existing on the site perimeters any impact upon the resident's amenity, in terms of outlook and privacy, would not be harmful thereby according with the provisions of the local and national planning policies outlined above.

#### Heritage Considerations

- 6.63 Government policies relating to planning are given in the National Planning Policy Framework (NPPF). Section 16 (paragraphs 189 – 208) of the NPPF (Conserving and enhancing the historic environment) outlines policies relating to the historic environment and the key role it plays in the Government's definition of sustainable development, the principle which underpins the document.

- 6.64 The NPPF requires that local planning authorities 'should set out in their Local Plan a positive strategy for the conservation and enjoyment of the historic environment', recognising that 'heritage assets are an irreplaceable resource' and should be conserved 'in a manner appropriate to their significance'.
- 6.65 The NPPF requires that planning applicants should 'describe the significance of any heritage assets affected' by their application, 'including any contribution made by their setting'. Specifically, the NPPF states the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.
- 6.66 Place Services (Heritage) have identified the following on-site structures as non-designated heritage assets;
- Hamilton Lodge;
  - Associated stable block;
  - Associated walled garden; and
  - Associated gate lodge.
- 6.67 These structures are not designated heritage assets. They are not included on the National Heritage List for England, nor are they in a conservation area. However, they have been identified by the Place Services as non-designated built heritage assets.
- 6.68 Consequently, following on-site discussions the application has been amended to include the retention and conversion of these buildings for residential purposes.
- 6.69 The revised principles have been developed and involve an improved design response including:
- Incorporation of the non-designated built heritage assets on the site, including their adaptive re-use;
  - An outline strategy for the integration, re-use and alteration of these built heritage assets;
  - An urban design strategy for the proposed new residential development in the setting of the non-designated built heritage assets. This will retain key elements of the site that contribute to the significance of the heritage assets. These include:
    - Retention of the ha-ha associated with Hamilton Lodge;
    - Providing a landscape buffer between the ha-ha and Hamilton Lodge;
    - Retaining partial views towards Hamilton Lodge through the tree line;
    - Retaining the woodland and pond to the south of Hamilton Lodge;
    - Low density development to the area in front of the ha-ha;
    - Redefining the courtyard to the rear of the site, and ensuring its continued use;
    - Creating a courtyard style development within the walled garden, subservient to the garden wall and stable block; and
    - Creating a new entrance to the walled garden framed by appropriate new built form.
- 6.70 As a result of these revisions to the development masterplan Place Services support this application on the assumption that, in the event of an approval, a robust legal agreement is put in place to safeguard the future of the heritage assets as part of this development.

#### Ecology Matters

- 6.71 Paragraph 174 of the NPPF requires Councils, when determining planning applications, to minimise impacts on and providing net gains for biodiversity. Where significant harm to biodiversity cannot be avoided, mitigated or, as a last resort, compensated for, Councils

should refuse planning permission. Saved policies EN6 of the adopted Local Plan and emerging policy PPL4 of the emerging Local Plan give special protection to designated sites of international, national or local importance to nature conservation but for non-designated sites still require impacts on biodiversity to be considered and thereafter minimised, mitigated or compensated for.

6.72 An Ecological Impact Assessment has been submitted by the applicants and assessed by ECC-Place Services. Place Services conclude that there is sufficient ecological information available for determination which provides certainty for the Council of the likely impacts on protected and Priority species & habitats.

6.73 The comments of Place Services outline the following;

- The site supports six pipistrelle day roosts in buildings, two pipistrelle day roosts in trees, two Brown Long-eared (BLE) hibernation roosts in buildings, a BLE day roost in a building and a BLE maternity roost which was not used during the 2020 maternity season. Therefore, the development will require a European Protected Species (EPS) licence for the demolition/conversion of the buildings and removal of trees on site which support roosting bats. In line with Natural England's licensing policy 4, we are satisfied that further bat surveys will be needed to support the licence and we recommend that the LPA secures a copy of the EPS mitigation licence for bats by a condition of any consent.
- We recommend that all the mitigation, compensation and enhancement measures detailed in
  - Appendix 21 of the Ecological Impact Assessment (SES, October 2020) are secured by a condition of any consent and implemented in full for both full and outline elements of the development. This will also include soft felling techniques and mitigation measures for the trees on site assessed as having bat roost potential, but with no roosts identified.
  - A European Protected Species mitigation licence for Hazel Dormice will also be required from Natural England prior to any vegetation clearance. We also recommend that the LPA secures a copy of the EPS mitigation licence for Hazel dormice by a condition of any consent.
  - The Ecological Impact Assessment (SES, October 2020) also identifies that a 'moderate' population of Common Lizards has been identified onsite. Section 6 of the Ecological Impact Assessment (SES, October 2020) identifies suitable outline mitigation and enhancement measures for this species. The final mitigation, translocation and enhancement measures should be included in a Reptile Mitigation Strategy to be secured as a condition of any consent.
  - We also support the proposed reasonable biodiversity enhancements, which have been recommended to secure measurable net gains for biodiversity, as outlined under Paragraph 170d of the National Planning Policy Framework 2019. We note that Appendix 21 of the Ecological Impact Assessment (SES, October 2020) and that identifies the biodiversity enhancement measures proposed for the detailed part of this hybrid application including the locations in the Proposed Mitigation and Enhancement Plan.

These requirements would be secured via suitably worded conditions.

6.74 Under Regulations 61 and 62 of the Habitats Regulations, local planning authorities as the 'competent authority' must have regard for any potential impact that a plan or project might have on European designated sites. The application site is not, itself, designated as site of international, national or local importance to nature conservation. However, the site lies within the Zone of Influence (Zoi) of the Colne Estuary Special Protection Area (SPA) and Ramsar as

defined in the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). The residents of new housing are therefore considered likely to regularly visit relevant designated sites for recreational purposes. In order to avoid a likely significant effect in terms of increased recreational disturbance to Coastal European designated sites (Habitats sites) in particular Colne Estuary SPA and Ramsar site, mitigation measures will need to be in place prior to occupation. These would be in the form (for schemes of under 100 net additional dwellings) of an off-site financial contribution of £127.60 per dwelling.

- 6.75 Whilst the applicant has confirmed their agreement to payment of this contribution, in the absence of a completed Section 106 Agreement such obligations cannot be secured against any permission and this will therefore form part of a reason for refusal.

#### Highway Safety/Parking

- 6.76 Paragraph 110 of the NPPF requires Councils, when making decisions to ensure:
- a) appropriate opportunities to promote sustainable transport modes can be, or have been, taken up, given the type of development and its location;
  - b) safe and suitable access to the site can be achieved for all users; and
  - c) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.
- 6.77 Saved policy TR1a in the adopted Local Plan requires that development affecting highways be considered in relation to reducing and preventing hazards and inconvenience to traffic including the capacity of the road network. Policy CP1 in the emerging Local Plan states that developments will only be acceptable if the additional vehicular movements likely to result from the development can be accommodated within the capacity of the existing or improved highway network or would not lead to an unacceptable increase in congestion.
- 6.78 The development proposes the construction of a new access approximately 30 metres to the south of the existing access onto Parsons Hill, and the existing access will be stopped up. To support the new access proposals a Road Safety Audit has been provided in conjunction with a detailed highway visibility plan and plans outlining required highway infrastructure improvements including new bus stops in the vicinity of the site and new associated footpaths.
- 6.79 The existing access to the site is clearly not suitable to serve a residential development of the scale proposed. Consequently, the new access and associated highway improvement works have been designed and assessed through a Road Safety Audit that has been reviewed by Essex County Council Highways. Therefore, they have confirmed that they have no objection to the development subject to the following requirements being secured;
- The submission of a Construction Management Plan
  - No occupation of the development taking place until the following have been provided or completed:
    - a) *A priority junction off Parsons Hill to provide access to the proposed site as shown in principle on planning application, drawing number: 20066-100 Rev. A4.*
    - b) *The road junction at its centre line shall be provided with a minimum clear to ground visibility splay with dimensions of 2.4 metres by 92 metres to the north and 2.4 metres by 102 metres to the south, as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the road junction/access is first used by vehicular traffic and retained free of any obstruction at all times.*
    - c) *To current Essex County Council specification, the provision of two bus stops on Parsons Hill which would best serve the proposal site (details shall be agreed with the Local Planning Authority prior to commencement of the development) to include but not restricted to shelter (x2) with bus stop flag, Kassel Kerbs, and bus timetables.*



*d) Provision of a 2-metre-wide footway either side of the new junction and across the entire site frontage as shown in principle with drawing no. 20066-100 Rev. A4.*

*e) Provision of a 2-metre-wide footway on the south-west side of Parsons Hill to provide a pedestrian link from the development to the Village Hall and bus stop as shown in principle with drawing no. 20066-100 Rev. A4.*

- A financial contribution of £20,000 (index linked) towards the design and/or delivery of the upgrade of the traffic signals at the A133 Main Road/Colchester Road/B1029 Great Bentley Road/Bromley Road junction, Frating. Such contribution to be paid on commencement of development.
- No discharge of surface water onto the Highway.
- Any new boundary planting shall be planted a minimum of 1 metre back from the highway boundary and any visibility splay.
- Vehicular and cycle parking provision being provided prior the first occupation of the relevant residential use.
- The submission of a residential travel plan

6.80 The above requirements can either be secured via planning conditions or through a legal agreement. Therefore in the absence of a completed legal agreement the failure to secure the above contribution to provide upgraded traffic signals, will form part of the reasons for refusal.

#### Drainage/Foul Drainage

6.81 Paragraph 159 of the NPPF requires Councils, when determining planning applications, to direct development away from areas at highest flood risk. Although the site is in Flood Zone 1 (low risk), the NPPF, Policy QL3 in the adopted Local Plan and Policy PPL1 in the emerging Local Plan still require any development proposal on sites larger than 1 hectare to be accompanied by a site-specific Flood Risk Assessment (FRA). This is to assess the potential risk of all potential sources of flooding, including surface water flooding that might arise as a result of development.

6.82 The applicant has submitted a Flood Risk Assessment which has been considered by Essex County Council as the authority for sustainable drainage. The strategy outlines that the proposed drainage network shall comprise of a series of carrier pipes, which intercept surface water runoff from roofs and paved areas, which then finally discharge to an infiltration component. The proposed road network and driveways will drain via a permeable pavement system and infiltrate directly to ground. The surface water drainage network has been designed for all storms up to and including the 1 in 30-year storm event with controlled ponding to the surrounding car park area in the 1 in 100-year storm plus a 40% allowance for climate change.

6.83 ECC have reviewed this strategy and have no objections subject to conditions being applied to any approval securing further details as to the precise nature of the drainage strategy, maintenance details and measures to mitigation against flooding/pollution during construction.

6.84 In terms of foul drainage the proposed development will discharge foul water flows via the existing foul water connection into the 150mm diameter foul water public sewer within the adjacent field to the west. The proposed drainage network shall comprise of a series of carrier pipes that will drain by gravity to independent foul water package pumping stations located within both Phase 1 and Phase 2. Anglian Water has commented upon the application, and confirm the foul drainage from the development is in the catchment of Great Bromley Water Recycling Centre that will have available capacity for flows from this site.

6.85 Based on the details contained within the FRA and Drainage Report, it is considered that the application site could be developed in the manner proposed without any risk of flooding from or to the proposed development compliant with the aims and objectives of the NPPF as well as Local Plan Policies set out above.

#### Legal Obligations/Viability

- 6.86 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.
- 6.87 The Council's Open Space Team has commented on the application and has identified a deficit of equipped play and formal open space in Great Bromley Parish.
- 6.88 The application does include formal and informal open space, however for a development of this size the Open Spaces Team have confirmed that they would expect to see some provision for play to be included on-site, ideally made from natural materials and following the contours of the land. If minded to approve the play provision would be secured via condition or at reserved matters stage.
- 6.89 As the on-site open space (and play provision) is to be transferred to Great Bromley Parish Council for future maintenance, an additional financial contribution towards maintenance will also need to be secured through a Section 106 legal agreement. If the Council were minded to approve this application, Officers would engage in negotiations with the applicant to agree the necessary requirements in line with the guidance contained within the Council's Supplementary Planning Document on Open Space.
- 6.90 However, as the application is recommended for refusal, the lack of a Section 106 Agreement to secure the on-site play provision and future maintenance of the open space (excluding areas including SUDs features) will be included as a reason for refusal, to ensure that this matter is properly addressed if the applicant decides to appeal in the event of a refusal.

#### Council Housing/Affordable Housing

- 6.91 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 viability, requires 30% of new dwellings on large sites to be made available for affordable or Council Housing.
- 6.92 If members are minded to approve this application, up to 24 of the proposed properties would need to be secured for affordable housing purposes through a Section 106 legal agreement and the applicant has indicated that they would be willing to provide the full policy-compliant contribution of affordable housing. However, as the application is to be refused, the lack of a Section 106 Agreement to secure the necessary level of affordable housing will be included as a reason for refusal, to ensure that this matter is properly addressed if the applicant decides to appeal in the event of a refusal.

#### Education Provision

- 6.93 Policy QL12 in the adopted Local Plan and Policy PP12 in the emerging Local Plan require that new development is supported by the necessary infrastructure which includes education and library provision.
- 6.94 Essex County Council as the Local Education Authority has been consulted on the planning application and has made representations. ECC advised that, based on its standard formula, a development of this size can be expected to generate the need for up to 7.11 Early Years and Childcare (EY&C) places; 23.7 primary school, and 15.8 secondary school places.
- 6.95 ECC state that there are sufficient EY&C and Secondary School places available in the local area and as such a contribution in this respect will not be required.

- 6.96 However, on the basis that there are insufficient places to meet the needs of this development in respect of Primary provision, ECC has requested a financial contribution of £486,040 for primary school places. They have also requested £104,728 for secondary school transport provision and £25,494.88 towards the provision of a library services in the area. The total contribution requested by ECC-Education is therefore £616,262.88.
- 6.97 As the application is to be refused, the lack of a Section 106 Agreement to secure the necessary education specific contributions will be included as a reason for refusal, to ensure this matter is properly addressed if the applicant decides to appeal in the event of a refusal.

#### Healthcare Provision

- 6.98 NHS CCG have confirmed that as it stands currently the impacted practice/practices are not over capacity therefore they will not be seeking a healthcare contribution at this stage.
- 6.99 In conclusion, the developer has agreed to the contributions/legal obligations outlined above and has submitted a viability appraisal to demonstrate that these obligations can be provided in conjunction with the renovation and conversion of the non-designated heritage assets. The viability appraisal also shows that the number of residential units proposed (i.e. 79 units) is required to ensure the development is viable. This report has been independently reviewed by BNP Paribas who concur with this view.

### **7. Conclusion/Planning Balance**

- 7.1 Tendring District Local Plan (2007) Policy QL1, which previously set out the spatial strategy and defined a hierarchy of settlements, has been superseded by the adopted Tendring District Local Plan Section 1 Policy SP3. Policy SP3 states that new development will be accommodated within or adjoining settlements according to their scale, sustainability, and existing role both within each individual district and, where relevant, across the wider strategic area. Policy SPL2 of the emerging TDLP Section 2 advises that outside the 'Settlement Development Boundaries' new development will be subject to strict control in relation to the Settlement Hierarchy and any other relevant policies in the plan. As such full weight can be afforded to Policy SP3 and the proposal's conflict with it in determining this application.
- 7.2 In terms of the benefits of the development, the proposal would make a contribution to the supply of housing by the delivery of 79 dwellings, thereby boosting the supply of housing as required by the Framework. However, the Council is able to demonstrate that it has a 5-year supply of deliverable housing sites and is able to meet its housing need over the plan period of 2013 to 2033. Therefore, although the 5-year supply is not a 'ceiling' and the proposal would help to meet the Government's objective of significantly boosting the supply of homes, the weight that can be attached to this benefit is reduced below substantial due to the Council already demonstrating that it has sufficient sites for future housing to meet its identified needs.
- 7.3 The proposal would also have economic benefits by way of the support for construction jobs during the build and demand for supplies and materials. These benefits would together be modest. There would also be the support for services by future occupiers and again this benefit would be modest.
- 7.4 The applicant has indicated a willingness to deliver, by way of the UU, policy compliant financial contributions for the delivery/maintenance of public open or play space provision and education contributions. However, this is a requirement to make the development acceptable and is not a benefit that weighs in the balance. Similarly, other matters where no material harm has been identified, are neutral in the planning balance.

- 7.5 The applicant has confirmed acceptance to provide the policy required 30% affordable housing provision. The housing department has identified that there is a high demand for affordable housing in the area. There is therefore a need for affordable housing to be delivered on site and the proposal would make a significant contribution to the Council meeting its objectively assessed need for affordable housing in the District. Therefore, this benefit can be given moderate weight as there is a high demand for affordable housing in the district.
- 7.6 In terms of the non-designated heritage assets and their conversion and retention, whilst this element of the proposal is welcomed, in the first instance, the lack of a sustained and robust marketing campaign to demonstrate that the site is not in demand for alternative employment uses, as well as the failure to demonstrate that the land and buildings are inherently unsuitable for any form of employment use results in the considered position which is that officers apply moderate weight to this benefit. Whilst the retention of these assets is supported by the Council and ECC-Place Services the amount of weight that can be given to their retention is also tempered by the fact that they are not statutory listed buildings and not situated within a designated conservation area.
- 7.7 It is also acknowledged that the site would have attracted a good amount of vehicular movements associated with its lawful residential institutional use, the provision of a village green and its accessibility to the wider public, as well as the re-development of a brownfield site which is supported in part by the Framework.
- 7.8 However, overall, the proposal's benefits are modest. The Framework places emphasis on managing patterns of growth to support objectives which include opportunities to promote walking, cycling and public transport use, and mitigating any adverse environmental impacts of traffic.
- 7.9 Development in rural areas is not precluded but the Framework indicates that significant weight should be given to the benefits of using suitable sites within settlements for homes and therefore supports the general thrust of the local plan in terms of location of housing.
- 7.10 Consequently, the adverse impacts on, and clear conflict with, the Council's housing strategy and of increasing travel by private motorised transport would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. The proposal would conflict with the development plan as a whole, and there are no other considerations including the provisions of the Framework which outweigh this finding.

## **8. Recommendation**

- 8.1 The Planning Committee is recommended to refuse planning permission for the following reasons;

1). For the purposes of the determination of this application the Council can currently demonstrate that a 5 year housing land supply exists. Therefore, paragraph 11d) of the NPPF is not engaged. The policies for the delivery of housing are considered up-to-date and the application must therefore be determined in accordance with Paragraph 11c) of the NPPF, thus in accordance with the development plan.

Adopted Policy SP3 (Spatial Strategy for North Essex) of the 2013-2033 Local Plan states, amongst other things, that development will be accommodated within or adjoining settlements, according to their scale, sustainability and existing role both within each individual district and, where relevant, across the wider strategic area. Future growth will be planned to ensure existing settlements maintain their distinctive character and role, to avoid coalescence between them and to conserve their setting. New housing development should be focused towards the larger urban areas and to within settlement development boundaries. This is consistent with the Framework's objectives for achieving sustainable development through a

plan-led approach that focuses development to locations which are or can be made sustainable, limiting the need to travel and offering a genuine choice of transport modes

As set out above, the policies for the delivery of housing are considered up-to-date and the application must therefore be determined in accordance with Paragraph 11 c) of the NPPF, thus in accordance with the development plan.

In this instance it is evident that the site is not located within any defined settlement boundary. The site is within the countryside for the purposes of planning policy. The proposal is therefore contrary to adopted policy SP3.

The main aims of Policy SP3 are to direct growth to those places where a good range of services and facilities are easily accessible by means other than private motorised transport, to reduce the need to travel and to protect the character and appearance of the countryside.

These policies are consistent with the NPPF objective for achieving sustainable development. This is through a plan-led approach that focuses development to locations which are or can be made sustainable, limiting the need to travel and offering a genuine choice of transport modes.

Nearby Great Bromley and Frating are classified as 'Smaller Rural Settlements' in the emerging local plan, primarily due to the lack of job opportunities, local services, facilities and other infrastructure. There is also a reliance on neighbouring towns and villages for work, shopping and other services, often involving car travel. These smaller villages are considered to be the least sustainable locations for growth and therefore only suitable for the provision of a limited amount of additional housing, due to the minimal level of services and facilities they provide.

It is appreciated that opportunities to maximise alternative transport solutions will vary between urban and rural areas and it is also acknowledged that the site is previously developed, in a rural location, and attracted a certain level of traffic movements under its former care home use, but even taking this into account, it is considered that the proposal for 79 dwellings in this unsustainable location runs contrary to the objectives of Policy SP3 and is of an inappropriate scale, in a countryside location clearly detached from the nearest settlement of Great Bromley, which is identified as a smaller rural settlement under emerging policy SPL3.

Moreover, whilst it is acknowledged that the land has been previously developed the site essentially comprises of care home/assisted living buildings, areas of hardstanding, grassland and parkland around an early 20th Century house. The extent of the combined building footprints present on the site equate only to approximately 5% of the total site coverage. Whereas the proposed built form will cover a significantly wider area of the site at approximately 40-45% of the land. This increase in built form would represent a substantial and material change to the character of the site in this essentially rural location. The higher and more urban density proposed would evidently be at odds with the prevailing pattern of built form in the vicinity, which comprises of loose knit development within large spacious plots more akin to the rural character of the locality. As such, the development is in conflict with adopted policy SP7 of the Tendring District Local Plan 2013-2033 and Beyond - Section 1 and saved policy EN1 of the adopted Tendring District Local Plan (2007), which state that all new development should reflect the following place shaping principles, where applicable respond positively to local character and context to preserve and enhance the quality of existing places and their environs and that the quality of the district's landscape and its distinctive local character will be protected and, where possible, enhanced and any development which would significantly harm landscape character or quality will not be permitted.

The planned growth for the District to meet housing need has been established. In applying the NPPF's presumption in favour of sustainable development, the adverse impacts of the proposal both on the Council's ability to manage growth through the plan-led approach, the character of the area and the unsustainable location of the site, are not outweighed by any

public benefits or other material considerations that might warrant the proposal being considered in an exceptional light.

It is therefore concluded that the site would not be in a suitable location for the proposed development having regard to local and national policies concerned with the location of development. The proposal would conflict with adopted Policy SP3 and emerging local plan Policy SPL1 as the proposal would conflict with the aims of the settlement hierarchy it sets out.

2). Saved Policy ER3 of the adopted Tendring District Local Plan (2007) applies to all land in employment use. This policy states that the Council will ensure that land in, or allocated in this Plan for employment use will normally be retained for that purpose. Its redevelopment or change of use for non-employment purposes will only be permitted if the applicant can demonstrate that it is no longer viable or suitable for any form of employment use. The applicant should either:

- i. submit evidence of a sustained but ultimately unsuccessful marketing exercise, undertaken at a realistic asking price; or
- ii. show that the land (site, or premises) is inherently unsuitable and/or not viable for any form of employment use

In this instance the current lawful use of the development site is C2 (Residential Institutional Use/Care Home). This falls to be considered as an employment use and therefore the provisions of saved policy ER3 as outlined above are relevant.

The application has not been submitted with a sustained and robust marketing campaign to demonstrate that the site is not in demand for alternative employment uses. Nor has it been suitably shown that the land and buildings are inherently unsuitable for any form of employment use.

A document provided by the applicant seeks to address this matter by stating that the saved policy is of limited weight, that the application site is not specifically allocated for employment use, that marketing took place following the closure of the care home use and that the development of the site does not undermine the policy objectives of safeguarding identified employment sites.

Officers have reviewed this document and remain of the view that saved policy ER3 is relevant to this application and carries significant weight being that it is a policy contained within the adopted Tendring District Local Plan (2007). The policy evidently states that any employment site, regardless of whether it is allocated or not, is caught by the requirements of this policy.

Therefore, in the absence of any marketing particulars or robust evidence to show that the site cannot be utilised for any alternative employment uses the application proposals for a 100% residential scheme are considered contrary to the requirements of saved policy ER3.

3). The National Planning Policy Framework (2021) states Local Planning Authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be sought where they meet all of the following tests: necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development.

Saved Policy HG4 of the Tendring District Local Plan (2007) requires up to 40% of new dwellings on residential schemes of 5 or more units to be provided in the form of affordable housing to meet the needs of people that are unable to access property on the open market. Emerging Policy LP5 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017), which is based on more up-to-date evidence of housing need and viability, requires for developments of 10 or more dwellings, the Council expect 30% of new dwellings

to be made available to Tendring District Council or an alternative provider to acquire at a discounted value for use as affordable housing, or as an alternative, the Council will accept a minimum of 10% if new dwellings are to be made available alongside a financial contribution toward the construction or acquisition of property for use as affordable housing (either on the site or elsewhere in the district) equivalent to delivering the remainder of the 30% requirement. A completed Section 106 has not been provided prior to the application determination date and the application is therefore contrary to the above policy.

Saved Policy COM26 of the Tendring District Local Plan states where necessary planning permission will only be granted for residential developments of 12 or more dwellings if land and/or financial contributions are made to provide the additional school places that will be needed to service the development. Emerging Policy PP12 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) states planning permission will not be granted for new residential development unless the individual or cumulative impacts of development on education provision can be addressed, at the developer's cost, either on-site or through financial contributions towards off-site improvements. Essex County Council Education Services have identified the need for financial contributions toward primary provision and secondary school transport along with a contribution towards library provision. A completed Section 106 obligation to secure these contributions has not been provided prior to the application determination date and the application is therefore contrary to the above policies.

Saved Policy COM6 and emerging Policy HP5 state that for residential development on a site of 1.5ha and above, where existing public open space and/or play equipment are inadequate shall provide appropriate provision on-site or by way of a financial contribution towards the provision of new or improved off-site facilities to meet the projected needs of future occupiers of the development. In this case there is likely to be sufficient on-site open space provision to meet the Council's requirements. However, there will also be a need to provide play provision and if the open space and play provision is to be maintained by the Parish Council then provisions/responsibility arrangements will need to be secured through a Section 106 obligation. Without such provisions being secured the proposals are contrary to the above policies.

Paragraph 110 of the NPPF seeks to ensure that safe and suitable access to a development site can be achieved for all users. Saved Policy TR1a requires new development to be considered in relation to the road hierarchy to reducing and preventing hazards and inconvenience to traffic. Policy CP1 in the emerging Local Plan states that developments will only be acceptable if the additional vehicular movements likely to result from the development can be accommodated within the capacity of the existing or improved highway network or would not lead to an unacceptable increase in congestion.

ECC-Highways have confirmed the need for a financial contribution of £20,000 towards the design and/or delivery of the upgrade of the traffic signals at the A133 Main Road/ Colchester Road/ B1029 Great Bentley Road/ Bromley Road junction, Frating, to protect highway efficiency of movement and safety.

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. This residential development lies within the Zone of Influence of the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). The residents of new housing are therefore considered likely to regularly visit relevant designated sites for recreation. In this case the nearest designated site is the Colne Estuary SPA and Ramsar site and the Essex Estuaries SAC.

In order to avoid a likely significant effect in terms of increased recreational disturbance to coastal European designated sites (Habitats sites) mitigation measures will need to be in place prior to occupation. A proportionate financial contribution has not been secured in accordance with the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) requirements and the provisions of adopted policy SP2 (Spatial Strategy for North Essex) of Section 1 of the 2013-2033 Local Plan.

A completed Section 106 obligation to secure the relevant contributions towards, RAMS, education, highway improvements, open space/play space and affordable housing has not been provided and is therefore contrary to the above policies.

## 8.2 Informatives

### Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and discussing those with the Applicant. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm which has been clearly identified within the reason(s) for the refusal, approval has not been possible.

## 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/>.