

PLANNING COMMITTEE

23rd November 2021

REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING

A.3 PLANNING APPLICATION – 21/00924/FUL – THE FORMER ERNEST LUFF HOUSE DAY CARE CENTRE LUFF WAY WALTON ON THE NAZE FRINTON ON SEA ESSEX



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Application: 21/00924/FUL

Town / Parish: Frinton & Walton Town Council

Applicant: Mr D Wylie - Senna House Limited

Address: The Former Ernest Luff House Day Care Centre Luff Way Walton On The Naze Frinton On Sea Essex CO14 8SW

Development: Conversion of existing day care centre to provide 4 one bedroom C2 living units along with associated communal space/office/staff room and external alterations to existing window and door openings.

1. Executive Summary

- 1.1 The application has been referred to the Planning Committee at the call-in request of Councillor Anne Davis, due to concerns over the potential for the proposal to adversely affect the living conditions of neighbouring residents, some of whom are elderly, by virtue of noise and disturbance. Furthermore, she is concerned that fencing around the site is not in keeping with the character and appearance of the area, and there is insufficient parking for the number of residents and staff proposed.
- 1.2 Frinton and Walton Town Council object to the proposal, due to concern over land use conflict with adjacent housing. Essex County Council support the application, and no third-party representations have been received.
- 1.3 The proposal is located within the Settlement Development Boundary and is acceptable in principle, in accordance with the policies of the development plan, and a lawful use certificate has previously been granted for a more intensive C2 Residential Institution use of the site. Some weight should also be given to the policy compliant reuse of a vacant and underused site.
- 1.4 Officers have fully assessed the proposal having regard to the provisions of the development plan and site specific circumstance. Because officers find that the proposal would not have any unacceptable adverse effect on the living conditions of neighbours, or result in demonstrable harm to highway safety or the character and appearance of the area, approval is therefore recommended.

Recommendation:

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

- a) **Within 6 (six) months of the date of the Committee's resolution to approve, the completion of a legal agreement under the provisions of section 106 of the Town and Country Planning Act 1990 dealing with the following matters (where relevant):**
- **Financial Contribution towards RAMS**
- b) Subject to the conditions stated in section 8.2
- c) That the Head of Planning be authorised to refuse planning permission in the event that such legal agreement has not been completed within the period of 6 (six) months, as the requirements necessary to make the development acceptable in planning terms had not been secured through a s106 planning obligation.

2. Planning Policy

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

National:

National Planning Policy Framework 2021 (the Framework)
Planning Practice Guidance

Local:

Saved Tendring District Local Plan 2007 Policies (the 2007 Local Plan)

QL2	Promoting Transport Choice
QL3	Minimising and Managing Flood Risk
QL11	Environmental Impacts and Compatibility of Uses (part saved)
QL12	Planning Obligations
HG6	Dwelling Size and Type
HG9	Private Amenity Space
COM1	Access for All
COM2	Community Safety
COM5	Residential Institutional Uses
COM6	Provision of Recreational Open Space for New Residential Development
COM31a	Sewerage and Sewage Disposal
EN6	Biodiversity
EN6a	Protected Species
EN6b	Habitat Creation
EN11a	Protection of International Sites: European Sites and Ramsar Sites
EN13	Sustainable Drainage Systems
TR1a	Development Affecting Highways
TR3a	Provision for Walking
TR7	Vehicle Parking at New Development

Tendring District Local Plan 2013-2033 and Beyond (the 2013-33 Local Plan)

Section 1 (adopted 2021):

SP1	Presumption in Favour of Sustainable Development
SP2	Recreational Disturbance Avoidance and Mitigation Strategy (RAMS)
SP3	Spatial Strategy for North Essex
SP4	Meeting Housing Needs
SP7	Place Shaping Principles

Section 2 (emerging – adoption expected later in 2021):

SPL1	Managing Growth
SPL2	Settlement Development Boundaries
SPL3	Sustainable Design
HP1	Improving Health and Wellbeing
HP5	Open Space, Sports and Recreation Facilities
LP1	Housing Supply
LP4	Housing Layout
LP10	Care Independent Assisted Living
PPL1	Development and Flood Risk
PPL4	Biodiversity and Geodiversity
PPL5	Water Conservation, Drainage and Sewerage
PPL10	Renewable Energy Generation and Energy Efficiency Measures
CP1	Sustainable Transport and Accessibility
DI1	Infrastructure Delivery and Impact Mitigation

Supplementary Planning Guidance:

Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy SPD 2020 (RAMS)
Essex County Council Development Management Policies 2011 (Highways SPD)
Essex County Council Parking Standards Design and Good Practice Guide 2009 (Parking SPD)
Tendring Provision of Open Recreational Open Space for New Development SPD 2008 (Open Space and Play SPD)

Status of the Local Plan

- 2.2 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 National Planning Policy Framework 2021 (the Framework).
- 2.3 The ‘development plan’ for Tendring comprises, in part, the ‘saved’ policies of the 2007 Local Plan. Paragraph 219 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 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 were found sound and have been fixed, including the housing requirement of 550 dwellings per annum.
- 2.4 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 the policies of the Framework. In this regard ‘Proposed Modifications’ to the emerging 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. The Council held a six-week public consultation on the Main Modifications and associated documents which began on 16th July 2021. The consultation closed at 5pm on 31st August 2021 and adoption is expected later this year. Section 2 will then join Section 1 as part of the development plan, superseding in full the 2007 Local Plan. Section 2 of the 2013-33 Local Plan is therefore at a very advanced stage of preparation and should be afforded considerable weight.

2.5 In relation to housing supply:

2.6 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 is engaged. This 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.

2.7 Following the adoption of Section 1 of the 2013-33 Local Plan and the Council's 'Objectively Assessed housing Need' of 550 dwellings per annum there is no housing shortfall. The Council is able to report a comfortable surplus of housing land supply over the 5 year requirement. The 'tilted balance' at paragraph 11 d) ii) of the Framework does not therefore apply to applications for housing.

3. Relevant Planning History

05/01748/FUL	Day centre for elderly	Refused	30.11.2005
06/00518/FUL	Day care centre.	Withdrawn	16.05.2006
06/01396/FUL	Day care centre	Approved	05.10.2006
11/00631/FUL	Extension to guest suite.	Approved	05.08.2011
18/00092/FUL	Construction of 4 almshouse-type one bed dwellings.	Refused	20.07.2018
18/01265/FUL	Construction of 4 almshouse-type one bed dwellings.	Refused	25.09.2018
19/01530/FUL	Proposed conversion of existing building into four 1 bedroom units for elderly persons, with associated parking facilities.	Withdrawn	05.11.2020
19/01867/LUPROP	Proposal to use the building as a Care Home for up to 6 children with	Lawful Use Certificate	04.02.2020

learning disabilities aged 11 to 18. Granted

4. **Consultations**

ECC Highways Dept
12.08.2021

The information that was submitted in association with the application has been fully considered by the Highway Authority. A site visit was undertaken in conjunction with this planning application. The information submitted with the application has been thoroughly assessed and conclusions have been drawn from a desktop study with the observations below based on submitted material, google earth image dated April 2019.

It is noted that this application is similar to previous applications; 18/00092/FUL and 18/01265/FUL which the Highway Authority did not object to. The proposed off-street parking is the same as the existing and access will be from the current vehicular access as highlighted on drawing PA-10-A, 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. As indicated on drawing no. PA-10-A, the parking spaces / vehicular hardstanding shall be constructed to minimum dimensions of 5.5m x 2.9m and retained thereafter.

Reason: To encourage the use of off-street parking, in the interests of highway safety and in accordance with Policy DM 1 and 8.

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 applicants should be advised to contact the Development Management Team by email at development.management@essexhighways.org or by post to:

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

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

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

TDC Environmental Protection
21.06.2021

Environmental Protection would recommend the following:

Construction and Demolition

In order to minimise potential nuisance caused by demolition/construction works/Ground Works, Environmental Protection recommend that the following below is conditioned;

1. 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 Mondays to Saturdays (finishing at 13:00 on Saturdays) with no working of any kind permitted on Sundays or any Public/Bank Holiday whilst construction works and alterations are being carried out.
2. No materials produced as a result of the site development or clearance shall be burned on site.
3. If there is any asbestos present in the current building or site then adequate and suitable measures should be carried out for the minimisation of asbestos fibres during demolition, so as to prevent airborne fibres from affecting workers carrying out the work, and nearby properties. Only contractors licensed by the Health and Safety Executive should be employed. Any redundant materials removed from the site should be transported by a registered waste carrier and disposed of at an appropriate legal tipping site.
4. Lighting: Any external lighting on the proposed development shall be located, designed and directed [or screened] so that it does not cause avoidable intrusion to neighbouring residential

properties. The applicant shall demonstrate compliance with the Institute of Lighting Professionals code of practice.
(www.theilp.org.uk)

Adherence to the above conditions 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).

TDC Building Control and Access
Officer
17.06.2021

Depending upon the exact use, the travel distances in one direction may be excessive.

(These concerns related to travel distance for means of escape in the event of fire. Revised plans introducing doorways to units 2, 3 and 4 satisfactorily address this concern).

5. Representations

- 5.1 The application was publicised by way of site notice and immediate neighbours of the site were notified in writing. In response no third-party objections or comments were received.
- 5.2 Ward Councillor Anne Davis has requested the application be referred to the Planning Committee in the event approval is recommended, for reasons which may be summarised as follows:
- Effect on the street scene/character and appearance of the area.
 - Highways impact due to insufficient parking for staff and visitors.
 - Effect on the living conditions of neighbours, with particular regard to residents of Selhurst Court, the occupants of which are elderly and vulnerable.
 - Effect on the living conditions of future occupants, with particular regards to outdoor amenity space.
- 5.3 Frinton and Walton Town Council object to the proposal, due to concern over land use conflict with adjacent housing which is occupied by elderly residents.
- 5.4 Essex County Council's Commissioning Manager has written in support of the application. Support for the proposal may be summarised as follows:
- Representatives of Essex County Council (ECC) have visited the site and viewed the proposed plans to convert the building in to four self-contained flats with a communal lounge and designated staff area.
 - The accommodation would be for adults with a learning disability and/or physical impairment who require a support package to live in the community and will be built with complex needs in mind.
 - There is strong demand locally for this type of accommodation and ECC would support the proposed scheme.

6. Assessment

The Site

- 6.1 The former Ernest Luff Centre is a single-storey, red brick-built former day care centre, located adjacent to Garden Road in Frinton on Sea. Vehicular access to parking areas is obtained via Luff Way to the rear. The roof is clad in red pantile roof tiles. Windows and doors are finished in brown. There is a box hedge behind the footway of Garden Road, behind which a vertically boarded timber fence has been erected. Further timber fencing lines the northern boundary with 112 Garden Road, a two-storey dwelling. A similar fence runs along the site boundary with the access road to the rear, which separates the site from single-storey terraced bungalows to the west. To the south of the site is a car park serving the Triangle Shopping Centre, whereas opposite the site the predominant land use is residential.

The Proposal

- 6.2 Planning permission is sought for internal and external alterations to the building to provide four, one-bedroomed flats, falling within the C2 Use Class (Residential Institutions). Each flat would have one bedroom, a separate kitchen and living area, and an accessible bathroom. Future occupants would be young adults with learning difficulties. A communal room would be provided, together with staff office, kitchen and w/c. A doorway and window on the north elevation and a window on the south elevation would be infilled. Some new and altered window openings would be introduced to facilitate the building's re-use. The facility would be staffed 24 hours a day, although all residents may not need 24 hours support. Skilled staff would be provided, the level of support being based on the needs of the individual.

The Principle of Development

- 6.3 Adopted Part 1 Policy SP3 of the 2013-33 Local Plan sets out the Spatial Strategy for North Essex. The Council's Spatial Strategy is to direct most new housing development to the Strategic Urban Settlements and the Tendring Colchester Borders Garden Community (TCBGC). Frinton, Walton and Kirkby Cross are an identified Smaller Urban Settlement. To encourage sustainable patterns of growth and carefully control urban sprawl, each settlement listed under emerging Part 2 Policy SPL1, with the exception of the TCBGC, is defined under emerging Part 2 Policy SPL2 with a 'Settlement Development Boundary' (SDB). Within SDBs there is a general presumption in favour of new development, subject to detailed consideration against other relevant Local Plan policies, and any approved Neighbourhood Plan (NP).
- 6.4 The site is located within the SDB for Frinton, Walton, Kirby Cross and Gt Holland under the 2007 Local Plan. It remains within the identified SDB under emerging Policy SPL2 (Map B.10 Frinton and Walton), and there is no approved Neighbourhood Plan for the area. The emerging Local Plan is at an advanced stage of preparation, and, following consultation on the main modifications to make the plan legally sound, there are no unresolved objections to the extent of the proposed SDB, or to Policy SPL1. In accordance with Paragraph 48 of the Framework significant weight should therefore be given to these emerging policies.
- 6.5 Under Section 5 'Delivering a sufficient supply of homes', Paragraph 62 of the Framework states that housing needed for different groups within the community should be assessed and reflected in planning policies, including for people with disabilities. The proposal is for a non-custodial residential institution for young adults with learning difficulties; residents would not be locked in their rooms. Saved Policy COM5 Residential Institutional Uses is therefore relevant. Amongst other things, this policy states that outside of the Control of Residential Institutional Uses Areas, applications for changes of use will be considered on

their own merits, subject to meeting other relevant Local Plan policies and the following additional criteria:

a) the site would not be located away from existing Settlement Development Boundaries, in order that support services, facilities and public transport routes can be available. Only in exceptional circumstances may such uses be located outside existing Settlement Development Boundaries;

6.6 The site is located within the SDB for Frinton, Walton, Kirby Cross and Gt Holland under the 2007 Local Plan. It remains within the SDB under emerging Policy SPL2 (Map B.10 Frinton and Walton).

b) the development would not lead to a clustering of similar uses in the locality;

6.7 The proposal would not lead to such a cluster.

c) the development would not create or give rise to a significant material adverse impact on public safety;

6.8 The proposal would not give rise to significant adverse effects on public safety.

d) there would be sufficient external space in the proposal to accommodate the normal recreation and other needs of residents, visitors or employees without impacting on highway safety, or the residential amenities enjoyed by adjoining properties; and

6.9 Saved Policy HG9 requires a minimum of 25 square metres per flat is provided communally. The outdoor amenity space available around the building is 445 square metres, well in excess of this policy requirement. Established boundary fencing would provide a degree of acoustic screening, and would ensure that the proposal would not harm neighbouring residential privacy, or impact on highway safety (see further below).

e) the extent and nature of any alterations/extensions or new separate buildings which may be required for the purposes of the use proposed should not result in the over development of the site.

6.10 No extensions are proposed and alterations are very minor, and it would not therefore constitute over development of the site.

6.11 Where planning permission is granted under Policy COM5, use rights under the provisions of the Use Classes Order 2005 may be withdrawn where there is evidence to suggest that a change of use from that granted to another use within the same Use Class would be inappropriate.

6.12 Emerging Policy HP1 states that the Council will work to improve the health and wellbeing of residents in Tendring, and the proposal is to support young adults with learning difficulties. Emerging Policy LP10 'Care, Independent Assist Living' states, amongst other things, that the Council will support the provision of care homes and extra care housing within settlement development boundaries. Amongst other things, modified Policy LP10 states that:

"To meet the care needs of our future generations and generate growth in the care, independent and assisted living sector in line with the Economic Development Strategy, the Council will support the construction of high quality care homes and extra-care housing in sustainable locations.....", and;

“All new care homes and extra care housing must pay particular attention to landscape character if located outside of settlement development boundaries and offer a high quality, safe, secure and attractive environment for their residents and provide sufficient external space to accommodate the normal recreation and other needs of residents, visitors or employees. Proposals shall have no significant material adverse impact on the landscape, residential amenity, highway safety, or the form and character of nearby settlements and shall be otherwise appropriate in scale and design for their location, having regard to other policies in this Local Plan.”

- 6.13 Having regard to the criteria under Policy LP10, external amenity space is sufficient to meet the needs of future residents and is policy compliant. The proposal would not have any adverse effect on landscape interests, nor is it considered to pose a threat to the residential amenity of neighbours. The effect of the development on the character and appearance of the area and highway safety, and the living conditions of neighbours is considered in more detail below.
- 6.14 For the above reasons, the proposal is policy compliant and acceptable in principle. Furthermore, application reference 19/01867/LUPROP established the lawfulness of the use of the building for a C2 Residential Institutional use (Care Home for up to 6 children with learning disabilities aged 11 to 18). The proposal is for a C2 Residential Institutional use, and would therefore fall within the established lawful use of the site. Significant weight should be given to this consideration.

Character and Appearance

- 6.15 Policy SP7 sets out the place shaping principles all new development should follow. The first bullet of this policy states that development should respond positively to local character and context to preserve and enhance the quality of existing places and their environs. Emerging Policy LP4 (h) states that new housing development should deliver dwellings that are designed to high standards of architecture, which respect local character, and which together with a well-considered site layout create a unique sense of place. The emerging plan is at an advanced stage of preparation, there are no unresolved objections to Policy LP4, and the policy is consistent with the policies of the Framework. Substantial weight is therefore given to this policy.
- 6.16 Paragraph 126 of the Framework states that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work, and helps make development acceptable to communities. Paragraph 130 of the Framework requires developments are sympathetic to local character and history, including the surrounding built environment, and are visually attractive as a result of good architecture.
- 6.17 The alterations to the building proposed are minor and would not be harmful to the architectural integrity of the original building or the street scene. The concerns of Ward Councillor Davis in relation to boundary fencing is understood. However, the fencing is of a similar design to that enclosing the rear gardens of the adjacent Selhurst Court and dwellings to the north. It is therefore compatible with the existing pattern of development in the area. Furthermore, fencing around the site, adjacent to Garden Road, is set behind mature box hedging which softens its base. Officers do not find that it had a harmful effect on the character and appearance of the area or the street scene. In any case, fencing around the site does not form part of the application. Nevertheless, in the interests of visual amenity a condition is proposed in the recommendation to require retention of the hedging.

Highway Safety

- 6.18 Two parking spaces for visitors and one for staff would be provided, and further on street parking is available on Garden Road at the front of the site. In raising no highway safety objections, Essex County Council as local highway authority note that the proposal is similar to applications reference 18/00092/FUL and 18/01265/FUL, which, although ultimately refused for other reasons (lack of affordable housing), attracted no highway safety objections either. Having regard to the former day care centre use the proposal is unlikely to generate a significantly greater number of traffic movements or parking demand. Furthermore, the proposed off-street parking is the same as for the former use, and access would be via the current vehicular access. For these reasons, it is not considered that the proposal would give rise to any unacceptable highway safety impacts or residual cumulative impacts on the highway network that would be severe. The proposal would not therefore conflict with saved Policies TR1a, TR3a or TR7. Following Paragraph 11 of the Framework, planning permission should not be refused on highway safety grounds.

Living Conditions of Neighbours

- 6.19 The dwelling to the north is situated at a higher level and separated from the proposal by a bank and high fence, which would adequately protect the occupants' privacy, and act as an acoustic barrier. The site is separated from the adjacent Selhurst Court by a road, either side of which is fenced off. This fencing would provide a suitable barrier to noise transmission towards the elderly occupants, and protect their privacy. In any case, the proposal is for a supported residential scheme, which is compatible with neighbouring residential land uses. As a result of these considerations, the proposal accords with the relevant criteria of saved Policy QL11, adopted Part 1 Policy SP7, and emerging Part 2 Policy SPL3 Part B (e). However, in order to provide comfort in terms of the management of the use, a condition is recommended to require prior approval and subsequent adherence to a management plan, and the agent for the applicant is in agreement.

RAMS

- 6.20 The site is situated within the Zone of Influence of internationally important sites for biodiversity covered by the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) SPD, which requires a financial contribution to fund mitigation measures. The recommendation is therefore subject to the prior completion of the necessary Unilateral Undertaking, in accordance with saved Policy QL12, adopted Policy SP2, and the RAMS SPD. In accordance with the Conservation of Habitats and Species Regulations 2017 the Council has completed the necessary Habitats Regulations Assessment, and concluded that, with the proposed mitigation, the project would not have an Adverse Effect on the Integrity of the sites included within the Essex Coast RAMS.

Other Matters

- 6.21 Public complaint was made to the Council in relation to the condition of the site earlier this year. The proposal would provide the building with a re-use and address the currently disused nature of the site, which renders it vulnerable to potential vandalism and antisocial behaviour. Some weight should therefore be given to a policy complaint re-use of the site which addresses these concerns.
- 6.22 The proposal is for supported accommodation for young adults with learning difficulties. The Framework's definition of people with disabilities includes people with learning difficulties (Annex 2: Glossary). People with disabilities fall within the protected characteristics of the Public Sector Equality Duty, and Members attention is therefore drawn to the further advice in relation to section 149 of the Equality Act 2010 under 'Additional Considerations' below.

7. Conclusion

- 7.1 The proposal is acceptable in principle in accordance with the policies of the development plan. Furthermore, a lawful use certificate has been granted for a C2 Residential Institution use of the building which the proposal falls within, and significant weight should therefore be given to this consideration. The development would not be harmful to the character and appearance of the area, highway safety, or the living conditions of existing or future occupants. Some weight should also be given to the policy complaint reuse of a vacant and underused site. Taking all these factors into account, planning permission should therefore be granted, in accordance with the presumption in favour of sustainable development under Adopted Part 1 Policy SP1 of the 2013-33 Local Plan, and Paragraph 11 (c) of the Framework.

8. Recommendation

- 8.1 The Planning Committee is recommended to grant planning permission subject to the following conditions and informatives, and the prior completion of a section106 legal agreement with the agreed Heads of Terms, as set out in the table below:

CATEGORY	TERMS
Financial contribution towards RAMS.	Prior to first occupation.

8.2 Conditions and Reasons

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall be carried out in strict accordance with the following approved plans:

Drawing No. 3499-PA-LOC, Location Plan
Drawing No. PA-10-A, Site Plan
Drawing No. PA-11-B, Proposed Floor Plans and Elevations

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

3. As indicated on drawing no. PA-10-A, the parking spaces / vehicular hardstanding shall be constructed to minimum dimensions of 5.5m x 2.9m and retained thereafter.

Reason: To encourage the use of off-street parking, in the interests of highway safety and in accordance with Policy DM 1 and 8.

4. 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 Mondays to Saturdays (finishing at 13:00 on Saturdays) with no working of any kind permitted on Sundays or any Public/Bank Holiday whilst construction works and alterations are being carried out.

Reason: In the interests of protecting neighbouring residential amenity.

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

Reason: In the interests of protecting neighbouring residential amenity.

6. Notwithstanding the terms of the Town and Country Planning (Use Classes) Order 1987 (as amended), or any Act or Order revoking and/or re-enacting the Order, the building shall be use for the purposes describe in the application, and for no other use falling within the C2 Use Class.

Reason: In the interests of proper planning and for the avoidance of doubt, and so as to comply with Saved Policy COM5 of the 2007 Local Plan.

7. The hedge behind the footway along Garden Road shall be retained for the lifetime of the development.

Reason: In the interests of visual amenity.

8. Prior to first occupation a Management Plan for the approved use shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the use shall operate in strict accordance with the approved Management Plan, except as may be agreed otherwise in writing by the Local Planning Authority.

Reason - To ensure the use and facility is appropriately operated and managed, in the interests of protecting neighbouring residential amenity.

Informatives

1. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.
2. This decision is the subject of a legal agreement and should only be read in conjunction with it. The agreement addresses the following issues: RAMS contributions.
3. The applicants should be advised to contact the Development Management Team by email at development.management@essexhighways.org or by post to:

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

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

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

Additional Considerations

Public Sector Equality Duty (PSED)

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:

- A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
- 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
- C. Foster good relations between people who share a protected characteristic and those who do not, including tackling prejudice and promoting understanding.

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.

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.

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

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.

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).

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

- 8.3 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.
- 8.4 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.

9. Background Papers

- 9.1 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/>.