

**MINUTES OF THE MEETING OF THE PLANNING COMMITTEE,  
HELD ON TUESDAY, 23RD NOVEMBER, 2021 AT 6.00 PM  
IN THE COUNCIL CHAMBER - COUNCIL OFFICES, THORPE ROAD, WEELEY,  
CO16 9AJ**

<b>Present:</b>	Councillors White (Chairman), Bray (Vice-Chairman), Alexander, Baker, Casey, Codling, Harris and Placey
<b>Also Present:</b>	Councillors Coley, Davis and G V Guglielmi.
<b>In Attendance:</b>	Gary Guiver (Acting Director, Planning), Graham Nourse (Assistant Director, Planning), Joanne Fisher (Planning Solicitor), Trevor Faulkner (Planning Manager), Jacob Jaarsmar (Planning Team Leader), Emma Haward (Leadership Support Officer) and Matthew Cattermole (Communications Assistant).

**165. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

Apologies were received from Councillor Fowler with no substitute.

**166. MINUTES OF THE LAST MEETING**

It was moved by Councillor Bray, seconded by Councillor Baker and **RESOLVED** that the minutes of the last meeting of the Committee held on 26 October 2021 be approved as a correct record subject to following alterations:

1. Minute 156, Councillor Baker's declaration of interest should read '...due to formerly being a Ward Member of the adjacent Ward'.
2. Minute 162, the reasons for refusal of application 21/00208/FUL - Land Rear of Strangers Way, Church Road, Brightlingsea were as follows:-
  - a. *Contrary to 'Backland Development' Policies HG13 of the adopted Local Plan and Policy SP7 of the emerging Local Plan by reason of it introducing a long and narrow driveway access in a location close to the side elevation and rear garden of Strangers Way which would result in increased noise, vehicular movements and light pollution to the neighbouring property; and*
  - b. *Contrary to Policy SP7 of the emerging Local Plan in that it would introduce a cramped form of development which would be out of character with the surrounding area, which is predominately characterised by detached dwellings with large rear gardens.*

**167. DECLARATIONS OF INTEREST**

Councillor Baker declared a personal interest in planning application **A.1 21/00650/OUT – LAND EAST OF BROMLEY ROAD LAWFORD CO11 2HS**. He stated that he was predetermined and that therefore, he would not participate in the Committee's deliberations and decision making on this application.

Councillor Coley, who was present in the public gallery, declared a personal interest in planning application **A.1 21/00650/OUT – LAND EAST OF BROMLEY ROAD**

**LAWFORD CO11 2HS** due to his being both a Director and the Chairman of the Lawford Housing Enterprise Trust.

Councillor G V Guglielmi, who was also present in the public gallery, also declared a personal interest in planning application **A.1 21/00650/OUT – LAND EAST OF BROMLEY ROAD LAWFORD CO11 2HS** due to his being a Director of the Lawford Housing Enterprise Trust.

**168. QUESTIONS ON NOTICE PURSUANT TO COUNCIL PROCEDURE RULE 38**

There were none on this occasion.

**169. A.1 PLANNING APPLICATION 21/00650/OUT – LAND EAST OF BROMLEY ROAD, LAWFORD CO11 2HS**

Earlier in the meeting, Councillor Baker had declared a personal interest in this planning application. He had declared that he was predetermined and therefore did not participate in the Committee's deliberations and decision making on this application.

Earlier in the meeting Councillor Coley, present in the public gallery, had declared a personal interest in this planning application due to his being both a Director and the Chairman of the Lawford Housing Enterprise Trust.

Earlier in the meeting Councillor G V Guglielmi, present in the public gallery, had also declared a personal interest in this planning application due to his being the Director and Chairman of the Lawford Housing Enterprise Trust.

The Committee was reminded that outline planning permission (all matters apart from access - reserved) had been granted on 13th April 2017 for a mixed development of 360 houses and community facilities/open space on 22.76ha of land to the south of Lawford, under application ref. 15/00876/OUT. In 2020, there had been subsequently a Section 73 approval under planning reference 20/00458/OUT, to vary condition 9 of 15/00876/OUT relating to the delivery requirement of the spine road and access to Long Road before the 201st occupation. That application had also included bringing forward the delivery of a mini roundabout at the junction of Wignall Street and Bromley Road to the 180th occupation, as opposed to the 200th occupation as then required.

In accordance with Members' previous request, the current submission had been brought to the Planning Committee seeking its consent with regard to delaying the provision of access onto Long Road from the 261st occupation on site (73% of the total dwellings on site) to the 360th occupation on site (99% of the total dwellings on site).

Members were aware that the site lay outside the defined settlement boundary of the saved Local Plan but within the settlement boundary of the emerging Local Plan. The principle of residential development had been established through the granting of outline planning permission, which had also established the position of the access.

In the opinion of Officers the detailed plans complied with the outline requirements and were considered acceptable with no significant material harm to visual or residential amenity, or highway safety.

Members were advised that a legal agreement, ‘Deed of Variation’ was required for this application in order to ensure the new outline approval linked into the original Section 106 Agreement.

The Committee had before it the published Officer report containing the key planning issues, relevant planning policies, planning history, any response from consultees, written representations received and a recommendation of approval.

At the meeting, an oral presentation was made by the Council’s Planning Manager (TF) in respect of the application.

An update sheet had been circulated to the Committee prior to the meeting with details of an amendment proposed to Condition 5 as follows:

*“5. Unless otherwise agreed in writing with the Local Planning Authority, the Construction Management for Phase 1 and Phase 2 should be implemented in accordance with the details approved in the following discharge of condition applications:*

**18/00304/DISCON and 18/01548/DISCON (Phase 1) and 19/01698/DISCON and 20/01597/DISCON (Phase 2)**

*Prior to the commencement of development in any other defined phase of the approved development, a construction management plan for that phase, to include but should not be limited to details of wheel cleaning facilities within the site and adjacent to the egress onto the highway, should be submitted to and approved in writing by the Local Planning Authority. The relevant phase of the development should be constructed in accordance with the agreed plan.*

*Reason - To protect highway efficiency of movement and safety.”*

Will Vote, the agent acting on behalf of the applicant, spoke in support of the application.

Councillor Coley, a local Ward Member, spoke in favour of the application.

Councillor G V Guglielmi, a local Ward Member, spoke against the application.

<b>Matters raised by a Member of the Committee:-</b>	<b>Officer’s response thereto:-</b>
A member of the Committee requested clarification that approving the roundabout would speed up the development process to 6 months.	The Planning Officer confirmed.
It was raised by a member of the Committee issues regarding the construction traffic.	The Planning Officer confirmed that whilst 359 properties could be occupied through the variation of this condition, at present only circa 260 dwellings could be constructed via Bromley Road/Dead Lane, and the phases beyond this point will need to seek this Council’s agreement via a Construction Management Plan. It may well

	be that the developer will need to seek construction access from Long Lane for these phases.
Concerns regarding the lack of access into and out of the development were raised by another member of the Committee.	The Planning Officer confirmed that ECC Highways looked at the scheme and considered access to the site from a single access road from Bromley Road to be acceptable until such time as the link is created to Long Road
A member of the Committee raised concerns regarding the prolonged use of heavy construction along Dead Lane. The Member suggested a condition whereby, the lane was not used for heavy construction but plumbers and electricians etc.	At present only circa 260 dwellings could be constructed via Bromley Road/Dead Lane, and the phases beyond this point will need to seek this Council's agreement via a Construction Management Plan. It may well be that the developer will need to seek construction access from Long Lane for these phases.

Following discussion by the Committee, it was moved by Councillor Harris, seconded by Councillor Bray and **RESOLVED** that the Assistant Director (Planning) (or equivalent authorised officer) 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 deed of variation to the original legal agreement under the provisions of section 106 of the Town and Country Planning Act 1990.
- b) the conditions stated in section 8.1 of the Officer report and as reproduced below.
- c) the Assistant Director (Planning) being 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 Deed of Variation of the original Section 106 planning obligation.

Conditions and Reasons:

1. All applications for approved reserve matters shall be in accordance with the approved master plan and phasing plan / program agreed under application 18/00304/DISCON unless otherwise previously agreed in writing with the Local Planning Authority.

Reason - The application is in outline and is for a large development likely to be delivered in phases for which the detail will need to accord broadly with the parameters established at outline stage.

2. Approval of the details of the siting, design and external appearance of the dwellings, the means of access thereto and the landscaping of the site (hereinafter called "the Reserved Matters") shall be obtained for each agreed phase of the development before any development on such phase is commenced.

The development shall be carried out in accordance with any such approval unless agreed in writing by the Local Planning Authority. To date the development shall be implemented in accordance with the details approved in the following applications:

Phase 1 Reserve Matters Approval 17/01527/DETAIL

Phase 2 Reserve Matters Approval 19/01475/DETAIL

Phase 3 Reserve Matters Approval 20/00480/DETAIL

Also, in association with the following alterations to these approved details within the following applications:

- 19/01498/NMA Non Material Amendment to approval of 15/00876/OUT for substitution of "Cornelia" house type for "Barbier" house type at plots 86-87, 90-93, 100-101. Proposed substitution of "Cornelia" house type for "Cornelia Variation" housetype at plots 54-57. Change of rear and side elevations, and internal layout to "Alexander" house type at plots 75-79.
- 19/01751/DETAIL Reserved matters application following outline permission 15/00876/OUT - Application to substitute "Cornelia" house type for "Barbier" house type at plots 86-87, 90-93, 100-101 as previously approved by 17/01527/DETAIL. Proposed substitution of "Cornelia" house type for "Cornelia Variation" house type at plots 54-57. Change of rear and side elevations, and internal layout to "Alexander" house type at plots 75-79.
- 19/00211/FUL Re-location of approved electrical substation (retrospective) and parking spaces.
- 20/00178/NMA Non Material Amendment to approval of 15/00876/OUT for substitution of plots 39, 60 and 81 from "Braithewaite Variation" house type to "Braithewaite" house type. Hand plot 63.
- 21/00741/NMA Application for a Non-Material Amendment to Planning Permission ref: 15/00876/OUT dated 13/04/2017 for the proposed substitution of the hipped Albertine for the gabled Albertine house type
- K287-002C Proposed Mini Roundabout Details Approval of the details of the siting, design and external appearance of the dwellings, the means of access thereto and the landscaping of the site (hereinafter called "the Reserved Matters") shall be obtained for each agreed phase of the development before any development on such phase is commenced. The development shall be carried out in accordance with any such approval.

Reason - The application is in outline and detailed matters require approval before development can commence.

3. The development shall be in general conformity with the principles set out on the submitted drawing entitled Land Use Audit, dated 21/01/16 unless otherwise previously agreed in writing with the LPA.

Reason – To establish reasonable limits to the layout of the development in the interests of good design, layout, appearance and residential amenity.

4. The maximum number of dwellings to be contained in the development shall be up to (but no more than) 360 dwellings.

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

5. Unless otherwise agreed in writing with the Local Planning Authority, the Construction Management for Phase 1 and Phase 2 shall be implemented in accordance with the details approved in the following discharge of condition applications:  
18/00304/DISCON and 18/01548/DISCON (Phase 1) and 19/01698/DISCON (Phase 2)

Prior to the commencement of development in any other defined phase of the approved development, a construction management plan for that phase, to include but shall not be limited to details of wheel cleaning facilities within the site and adjacent to the egress onto the highway, shall be submitted to and approved in writing by the Local Planning Authority. The relevant phase of the development shall be constructed in accordance with the agreed plan.

Reason - To protect highway efficiency of movement and safety.

6. No more than 180 dwellings on the development shall be occupied until a miniroundabout at the junction of Wignall Street and Bromley Road as shown in principle on approved Ardent Consulting Engineers drawings K297-002C has been completed. No more than 200 dwellings on the development shall be occupied until the upgrade to the Public Right of Way which runs through the proposal site between Long Road and Dead Lane (details shall be agreed with the Local Planning Authority prior to commencement of the development) have been completed.

No more than 359 dwellings on the development shall be occupied until the priority junction with right turn lane (with two pedestrian refuge islands) in Long Road to provide access to the proposal site. Priority junction shall have minimum 10.5 metre kerbed radii with dropped kerbs/tactile paving crossing points, a minimum 6.75 metre access road carriageway with one 3 metre footway/cycleway, one 2 metre footway pedestrian/cycle refuge island and a minimum 109 x 2.4 x 120 metre clear to ground visibility splay; as shown in principle on Ardent Consulting Engineers drawing K297-003A.

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.

7. Prior to occupation of any defined phase of the approved development, the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack for sustainable transport (in consultation with Essex County Council), to include six one day travel vouchers per household for use with the relevant local public transport operator.

Reason - In the interests of reducing the need to travel by car and promoting sustainable development and transport.

8. Unless otherwise agreed in writing with the Local Planning Authority, the surface water drainage scheme for Phase 1, Phase 2 and Phase 3 shall be implemented in accordance with the details approved in the following discharge of conditions application:  
18/00304/DISCON (Phase 1) and 19/01698/DISCON (Phase 2) and  
20/00773/DISCON (Phase 3)

No other defined phase of the approved development shall take place until a surface water drainage scheme for that phase, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development has been submitted to and approved in writing by the local planning authority. All phases of the development shall subsequently be implemented in accordance with the approved details.

In particular the drainage scheme shall include:

- Drainage modelling calculations showing how the run-off for all events up to and including the 1 in 100 year plus climate change is controlled within the site.
- Where infiltration techniques are being proposed, and all run-off cannot be infiltrated, attenuation storage must be provided for any overflow volumes calculated.
- Where run-off is proposed to be discharged to a watercourse, discharge should be limited to the greenfield 1 in 1 year rate for all events.
- Where different SuDS features are being proposed, the drainage modelling should show how these are cascaded together and show clearly their combined effect in controlling both the water quantity and improving water quality within the development.
- Account for a 10% urban creep in the calculation of run-off from the development.
- Provide the appropriate number of treatment stages from the different areas of the development.
- Provide the details of the adoption and maintenance of the scheme for the lifetime of the development.
- Provide the Drainage Scheme Layout showing the SuDS features and their dimensions as appropriate.

Reason - To prevent flooding on the proposed site and the local area by ensuring the satisfactory storage of/disposal of surface water in a range of rainfall events and ensure the system operates as designed for the lifetime of the development.

9. Unless otherwise agreed in writing with the Local Planning Authority, the foul water drainage scheme for Phase 1, Phase 2 and Phase 3 shall be implemented in accordance with the details approved in the following discharge of condition applications:

18/00304/DISCON (Phase 1) and 19/01698/DISCON (Phase 2) and 20/00773/DISCON (Phase 3)

No development shall commence on other phases until a foul water strategy has been submitted to and approved in writing by the Local Planning Authority. No dwellings shall be occupied on any defined phase until the works have been carried out in accordance with the foul water strategy so approved unless otherwise approved in writing by the Local Planning Authority.

Reason - To prevent environmental and amenity problems arising from flooding.

10. Unless otherwise agreed in writing with the Local Planning Authority, the hard and soft landscaping scheme for Phase 1, Phase 2 and Phase 3 shall be implemented in accordance with the details approved in the following discharge of conditions application:

18/00304/DISCON & 19/00900/DISCON (Phase 1), 19/01698/DISCON (Phase 2) and 21/00859/DISCON and 20/00773/DISCON (Phase 3)

No other defined phase of the development shall take place until there has been submitted to and approved, in writing, by the Local Planning Authority a scheme of hard and soft landscaping works for that phase, which shall include any proposed changes in ground levels and also accurately identify spread, girth and species of all existing trees, shrubs and hedgerows on the site and indicate any to be retained, together with measures for their protection which shall comply with the recommendations set out in the British Standards Institute publication "BS 5837: 2012 Trees in relation to design, demolition and construction."

Reason - In the interest of visual amenity and the character of the area.

11. All changes in ground levels in relation to the soft landscaping, hard landscaping, planting, seeding or turfing shown on the approved landscaping details shall be carried out during the first planting and seeding season (October - March inclusive) following the commencement of the development or in such other phased arrangement as may be agreed in writing by the Local Planning Authority. Any trees or shrubs which, within a period of 5 years of being planted die, are removed or seriously damaged or seriously diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority agrees in writing to a variation of the previously approved details.

Reason - To ensure that the development provides a satisfactory setting, in the interests of the character and appearance of the landscape and the visual amenity of the site.

12. Unless otherwise agreed in writing with the Local Planning Authority, the ecological mitigation, management and enhancement for Phase 1, Phase 2 and Phase 3 shall be implemented in accordance with the details approved in the following discharge of condition applications:

18/00304/DISCON (Phase 1) and 19/01698/DISCON (Phase 2) and 20/00773/DISCON (Phase 3)

No other defined phase of the approved development shall commence until an Ecological Mitigation Scheme and Management/Enhancement Plan has been submitted to and approved, in writing, by the Local Planning Authority. The document shall include:

i) A survey to confirm (or otherwise) the presence of protected species on the application site.

If protected species are present, the survey shall be accompanied by a scheme of appropriate mitigation measures (including bat protection measures and precise details of the timing and method/s of protection). No development shall be undertaken except in full accordance with any such approved scheme of mitigation.

ii) A management plan to demonstrate how biodiversity within the site will be encouraged by the development.

Reason - In order to safeguard protected wildlife species and their habitats and in the interests of biodiversity.

13. Unless otherwise agreed in writing with the Local Planning Authority, the tree protection measures for Phase 1, Phase 2 and Phase 3 shall be implemented in



accordance with the details approved in the following discharge of conditions applications:

18/00304/DISCON (Phase 1) and 20/01337/DISCON (Phase 2) and 20/00773/DISCON (Phase 3)

No other defined phase of the development shall commence until details of tree protection measures, including during the construction phase, for that phase, have been submitted to and approved in writing by the Local Planning Authority and such measures as approved shall be implemented fully in accordance with such requirements.

Reason – In order to ensure the protection of trees, in the interests of local and residential amenity.

14. A. The Written Scheme of Investigation for Phase 1, Phase 2 and Phase 3 shall be implemented in accordance with the approved details within the following discharge of condition applications:

18/00750/DISCON (Phase 1) and 19/01698/DISCON (Phase 2) and 20/00773/DISCON and 21/00026/DISCON (Phase 3)

No development or preliminary ground-works within any other defined phase of the development can commence until a programme of archaeological trial trenching for that phase has been secured and undertaken in accordance with a Written Scheme of Investigation, which has been submitted by the applicant, and approved by the Local Planning Authority. Following the completion of this initial phase of archaeological work, a summary report will be prepared and a mitigation strategy detailing the approach to further archaeological excavation and/or preservation in situ through redesign of the development, shall be submitted to the Local Planning Authority.

B. The archaeological fieldwork for Phase 1, Phase 2 and Phase 3 has been approved by the Local Planning Authority within application 18/00750/DISCON, 19/01698/DISCON and 20/00773/DISCON. These works have been fully implemented. No development or preliminary groundwork can commence on those other phases of the development site containing archaeological deposits, until the satisfactory completion of archaeological fieldwork, as detailed in the mitigation strategy, which has been signed off by the Local Planning Authority.

C. The post-excavation assessment for Phase 1 has been approved by the Local Planning Authority within application 19/00274/DISCON. Following completion of the archaeological fieldwork on other phases, the applicant will submit to the Local Planning Authority a post-excavation assessment (within six months of the completion date, unless otherwise agreed in advance with the Local Planning Authority), which 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.

Reason - The proposed development is located within an area with potential for below ground archaeological deposits. The development would result in harm to non-designated heritage assets with archaeological interest.

15. Unless otherwise agreed in writing with the Local Planning Authority, the lighting, refuse storage/collection point and the manufacturer and types and colours of the external facing and roofing materials for the dwellings in Phase 1, Phase 2 and Phase 3

shall be implemented in accordance with the details approved in the following discharge of condition applications:

18/00304/DISCON & 18/01094/DISCON (Phase 1) and 19/01698/DISCON (Phase 2) and 20/00773/DISCON (Phase 3).

Within any other defined phase of the scheme, no development shall commence until precise details of lighting, refuse storage/collection points and the manufacturer and types and colours of the external facing and roofing materials for the dwellings to be used in the construction of that phase have been submitted to and approved, in writing, by the Local Planning Authority. Such lighting, refuse points and materials so approved shall be those used in the development.

Reason - To ensure a satisfactory development in relation to external appearance.

16. Unless otherwise agreed in writing with the Local Planning Authority, the Construction

Management Plans of Phase 1 and 2 shall be implemented in accordance with the approved details within the following discharge of condition applications:

18/00304/DISCON (Phase 1), 19/01698/DISCON (Phase 2) and 20/01597/DISCON

Within any other defined phase of the development, none of the development shall take place before a method statement for the construction of the development within that phase has been submitted to, and approved in writing by, the Local Planning Authority. The demolition and construction works for the relevant phase of the scheme shall be carried out in accordance with the approved method statement.

Details submitted in respect of the method statement, incorporated on a plan, shall provide for wheel cleaning facilities during the excavation, site preparation and construction stages of the development. The method statement shall also include details of the loading and unloading of plant and materials, details of the piling method, hours of construction, dust suppression strategy, means of recycling materials, noise and vibration mitigation techniques, lighting to be used during construction showing light spill to neighbouring properties (with methods to be employed to prevent nuisance if required), the provision of parking facilities for contractors during all stages of the development (excavation, site preparation and construction) and the provision of a means of storage and/or delivery for all plant, site huts, site facilities and materials.

Reason - To ensure that development is carried out in a controlled manner while minimising impacts on the surrounding residential properties and also in the interests of highway safety.

17. Within the hereby permitted development, no dwelling shall be occupied until a high-speed broadband connection is installed utilising resistant tubing to that dwelling.

Unless otherwise agreed in writing with the Local Planning Authority, all connections shall be in accordance with the details set out in the GTC letter dated 4 July 2017. If the applicant is unable to achieve this standard of connection, and can evidence through consultation that this would not be possible, practical or economically viable an alternative superfast (i.e. will provide speeds greater than 24mbps) wireless service will be considered acceptable.

Reason - To ensure the development is able to be equipped with high speed broadband to enable opportunities for web-based communication and homeworking.

18. Unless otherwise agreed in writing with the Local Planning Authority, the development shall be built in accordance with the Local Recruitment Strategy documented within approved application 18/00750/DISCON.

Reason - To promote and encourage the recruitment of employees and other staff in the locality of the application site.

19. Unless otherwise agreed in writing with the Local Planning Authority, the development shall be built in accordance with the Resource Efficiency Measures Specification Statement documented within approved application 18/00304/DISCON.

Reason - To enhance the sustainability of the development through better use of water, energy and materials.

20. Unless otherwise agreed in writing with the Local Planning Authority, the land contamination and remediation strategy of Phases 1, 2 and 3 shall be implemented in accordance with the approved details within the following discharge of conditions applications:

18/00750/DISCON (Phase 1) and 19/01698/DISCON (Phase 2) and 20/00773/DISCON (Phase 3)

No other defined phase of development shall commence until an assessment of the risks posed by any contamination within that phase, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), shall have been submitted to and approved in writing by the local planning authority. If any contamination is found, a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the approved development shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures and timescale and a verification report shall be submitted to and approved in writing by the local planning authority. If, during the course of any phase of the development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to the local planning authority within 20 days of the report being completed and approved in writing by the local planning authority.

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

**170. A.2 PLANNING APPLICATION 21/00738/FUL – HIGH BEECH, TURPINS LANE, KIRBY CROSS, FRINTON ON SEA**

The Chairman informed the Committee that this item had been deferred at the request of the Applicant.

The Committee noted the forgoing.

**171. 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**

It was reported that this application had been referred to the Planning Committee at the request of Councillor Anne Davis, due to her stated concerns over the potential, in her opinion for the proposal to adversely affect the living conditions of neighbouring residents, some of whom were elderly, by virtue of noise and disturbance. Furthermore, Councillor Davis had stated that she was concerned that the fencing around the site was not in keeping with the character and appearance of the area, and that there was insufficient parking for the number of residents and staff proposed.

Members were made aware that Frinton and Walton Town Council had also objected to the proposal, due to its concern over land use conflict with adjacent housing. Essex County Council however supported the application, and no other third party representations had been received prior to the publication of the Officer report.

The Committee was informed that the proposal was located within the Settlement Development Boundary and was felt by Officers to be acceptable in principle, in accordance with the policies of the development plan, and a lawful use certificate had previously been granted for a more intensive C2 Residential Institution use of the site. Officers considered that some weight should also be given to the policy compliant reuse of a vacant and underused site.

Members were assured that Officers had fully assessed the proposal having regard to the provisions of the development plan and site specific circumstance. Officers had found 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, and that approval was therefore recommended.

The Committee had before it the published Officer report containing the key planning issues, relevant planning policies, planning history, any response from consultees, written representations received and a recommendation of approval.

At the meeting, an oral presentation was made by the Council’s Planning Team Leader (JJ) in respect of the application.

An update sheet had been circulated to the Committee prior to the meeting with details of further third party representations and the comments of the Officers in response thereto.

Karen Carter, the applicant, spoke in support of the application.

Councillor Anne Davis, the local Ward Member, spoke against the application.

<b>Matters raised by a Member of the Committee:-</b>	<b>Officer’s response thereto:-</b>
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<p>A member of the Committee referred to the layout of the individual units and whether there was adequate floor space.</p>	<p>The Planning Officer confirmed that there was a consistent layout throughout including; a bedroom, bathroom, kitchen and living area. Each unit exceeded floor space standards and was policy compliant.</p>
<p>A member of the Committee asked whether the units will be sound proofed from each other.</p>	<p>The Planning Officer confirmed that the conversion works would need to comply with current Building Regulations which include acoustic attenuation for new partition walls</p>
<p>Another member of the Committee asked about the existing approval of use of the building for 6 or more individuals.</p>	<p>The Planning Officer confirmed that in 2020 the Council had approved a Lawful Development Certificate for use as a care home for up to 6 children. This proposal was for up to 4 young adults.</p>
<p>How long on average would individuals live at the premises?</p>	<p>The Planning Officer confirmed that individuals would be at the premises medium to long-term.</p>
<p>What reassurance could be provided if there was a noise concern? What actions could be taken?</p>	<p>In terms of noise concern, the Council was in support of residential units in appropriate locations as set out in 6.3-6.14 of the report. Management and support would be provided 24/7 on site with an appropriate management plan.</p>
<p>A member referred to the hedge located on the main road, and asked if it could be conditioned so that it is maintained.</p>	<p>The Planning Officer referred to condition 7 where the hedge was to be retained. An additional condition could be imposed to seek a Landscape Management Plan or alternatively, condition 7 could be amended to include maintenance provisions.</p>
<p>The report identified complex needs in relation to physical disabilities. Were there considerations to be taken into account with regards to access, doors and floor space?</p>	<p>The Planning Officer referred to 5.4 with regards to the types of disabilities and impairments, the proposal detailed the accommodation necessary fundamentally for C2 use, Planning Services felt that this was substantial.</p>
<p>Could an electrical vehicle charging point be installed?</p>	<p>The Planning Officer confirmed that this could be a condition recommended by the Committee.</p>

Following discussion by the Committee, it was moved by Councillor Casey, seconded by Councillor Harris and unanimously **RESOLVED** that the Assistant Director (Planning) (or equivalent authorised officer) 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 matter:-:

- Financial Contribution towards RAMS

- b) the conditions as stated in section 8.2 of the Officer report apart from condition 7 which is amended to include provisions for maintenance plus the additional condition in respect of an electric vehicle charging point and as reproduced below.
- c) the Head of Planning being 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 Section 106 planning obligation.

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. In addition, prior to occupation of the building a hedge

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maintenance scheme shall be submitted to and agreed in writing by the local planning authority and thereafter maintained in accordance with the approved scheme.

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.

9. Electric Vehicle Charging Point condition (and reason) needs to be added here.

**PLUS ADDITION OF FOLLOWING CONDITION:**

10. Prior to commencement of development a scheme for the provision of an electric vehicle charging facility to serve the use hereby approved shall have first been submitted to and approved in writing by the local planning authority. Thereafter the charging facility shall be installed in a working order prior to first occupation of premises.

Reason: In order to promote sustainable transport.

**172. A.4 PLANNING APPLICATION 21/01374/FUL – JOHN WESTON NATURE RESERVE  
ACCESSED VIA OLD HALL LANE, LOCATED NORTH OF PUMPING STATION,  
WALTON-ON-THE-NAZE CO14 8LQ**

This application was before Members as Tendring District Council was the land owner.

Members were made aware that the proposal involved the formation of a number of ponds within the John Weston Nature Reserve in order to provide additional feeding opportunities for waders and to increase the biodiversity of the overall site. The nature reserve formed part of 'Hamford Water'.

The proposal was considered by Officers to be acceptable and there had been no objections received from Essex County Council's Archaeology or Ecology departments or from Natural England, subject to their recommended conditions to ensure that biodiversity mitigation and enhancement measures were secured.

The Committee had before it the published Officer report containing the key planning issues, relevant planning policies, planning history, any response from consultees, written representations received and a recommendation of approval.

At the meeting, an oral presentation was made by the Council's Planning Team Leader (JJ) in respect of the application.

Following discussion by the Committee, it was moved by Councillor Alexander, seconded by Councillor Placey and unanimously **RESOLVED** that the Assistant Director

(Planning) (or equivalent authorised officer) be authorised to grant planning permission for the development, subject to the following:

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 accordance with the following approved drawings: 2008/00 Site Layout Plan 2008/02A Proposed Elevations and Floor Plans

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

3. Prior to commencement of the development hereby approved, a construction environmental management plan for biodiversity (CEMP: Biodiversity) shall be submitted to and approved in writing by the Local Planning Authority. The CEMP (Biodiversity) shall include the following:

- a) Risk assessment of potentially damaging construction activities.
- b) Identification of “biodiversity protection zones”.
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
- d) The location and timing of sensitive works to avoid harm to biodiversity features.
- e) The times during construction when specialist ecologists need to be present on site to oversee works.
- f) Responsible persons and lines of communication.
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
- h) Use of protective fences, exclusion barriers and warning signs.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.

Reason: To conserve protected and priority species and allow the Local Planning Authority 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).

4. 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 written scheme of investigation defined 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). 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.

Reason: To allow proper investigation and recording of the site which is potentially of archaeological and historic significance.

**173. A.5 PLANNING APPLICATION 21/01707/NMA – LAND ADJACENT TO LOTUS WAY AND BROOKLANDS, JAYWICK SANDS CO15 2JE**

It was reported that this was an application for a Non-Material Amendment (NMA). As the Council was the applicant, and in accordance with the Council's Constitution, the application had been referred to the Planning Committee for its determination.

Members were informed that this application sought changes to the original planning permission (21/00871/FUL - 'Proposed business units, covered market, community garden, public WCs and associated public realm') granted on 9th July 2021 in accordance with the Planning Committee's decision on 6th July 2021.

The Committee was advised that Section 96A of the Town and County Planning Act 1990 stated that in deciding whether a change was material, a Local Planning Authority must have regard to the effect of the change on the planning permission as originally granted. The Planning Practice Guidance confirmed that there was no statutory definition of 'non-material'. It would be dependent on the context of the overall scheme – an amendment that was non-material in one context may be material in another. The local planning authority must be satisfied that the amendment sought was non-material in order to grant such an application.

The key test as to the acceptability of an NMA application was whether the change was material to any development plan policy. If the answer was 'no', as in this case, three further tests should be applied namely:

- "1. Is the proposed change significant in terms of its scale, in relation to the original approval?"*
- 2. Would the proposed change result in a detrimental impact either visually or in terms of amenity?"*
- 3. Would the interests of any third party or body who participated in, or were informed of, the original decision be disadvantaged in any way?"*

Members were informed that it was considered that the answer to all three tests above was no and that the application was therefore recommended by Officers for approval.

The Committee had before it the published Officer report containing the key planning issues, relevant planning policies, planning history, any response from consultees, written representations received and a recommendation of approval.

Councillor Placey had not previously participated in the Committee's site visits to this location and therefore she did not participate in the Committee's deliberations and decision making on this application.

Following discussion by the Committee, it was moved by Councillor Bray, seconded by Councillor Baker and unanimously **RESOLVED** that the Assistant Director (Planning) (or

equivalent authorised officer) be authorised to grant planning permission for the development, subject to the following:

Conditions and Reasons:

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

- 182\_HAT\_PL\_100 P2 (Block Plan)
- 182\_HAT\_PL\_110 P1 (Proposed Ground Floor Plan)
- 182\_HAT\_PL\_111 P1 (Proposed First Floor and Roof Plan)
- 182\_HAT\_PL\_120 P1 (Proposed Streetscene)
- 182\_HAT\_PL\_121 P1 (Proposed East and South Elevations)
- 182\_HAT\_PL\_122 P1 (Proposed West and North Elevations)
- 182\_HAT\_PL\_130 P1 (Proposed Sections)

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

The meeting was declared closed at 7.56 pm

**Chairman**