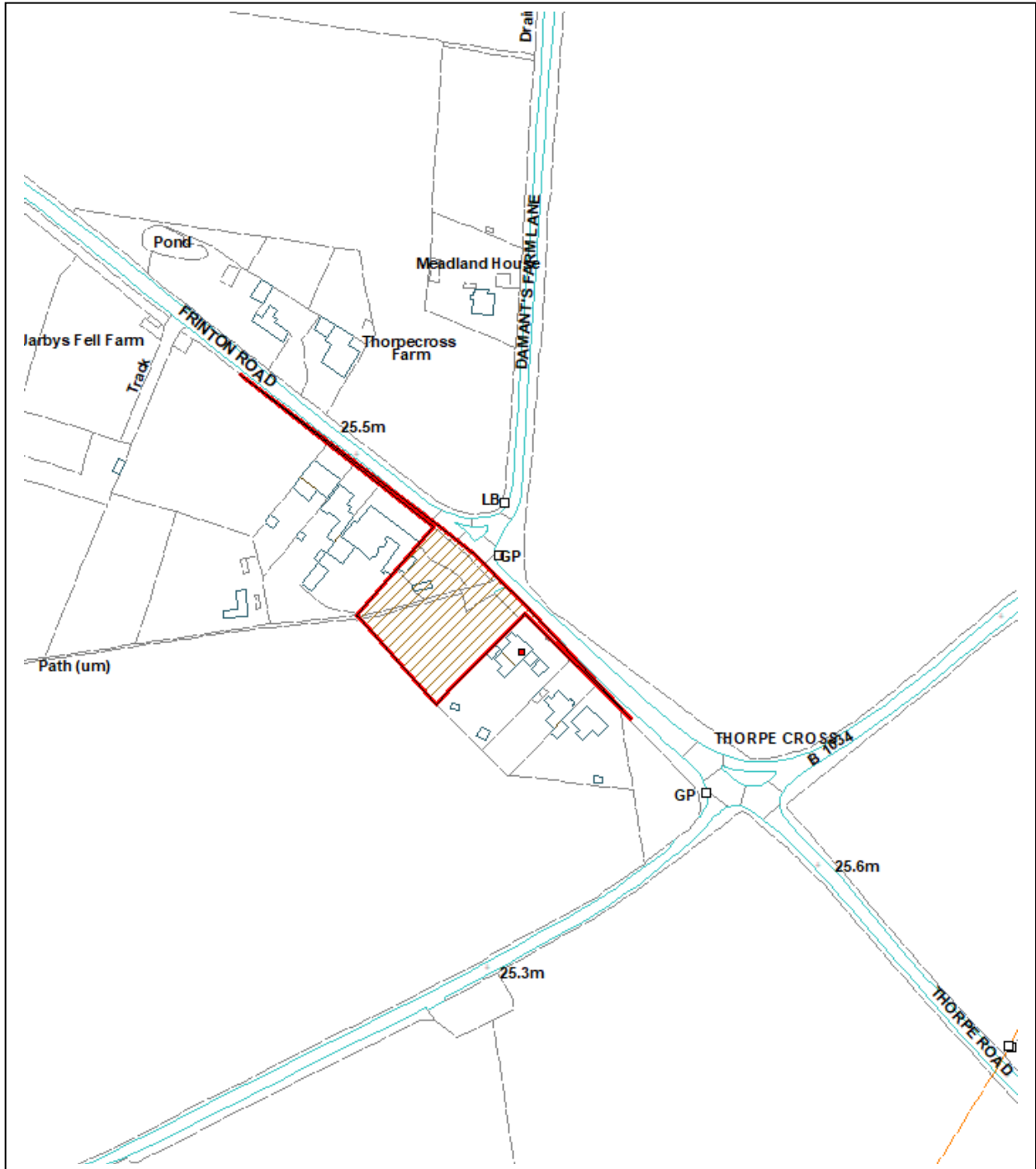


PLANNING COMMITTEE

7<sup>th</sup> December 2021

REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING

**A.3 PLANNING APPLICATION – 21/01411/FUL – LAND ADJACENT THORPE CROSS LODGE 26 FRINTON ROAD THORPE LE SOKEN CLACTON ON SEA ESSEX**



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**Application:** 21/01411/FUL

**Town / Parish:** Thorpe Le Soken Parish Council

**Applicant:** Marks Tey Farms Limited

**Address:** Land adjacent Thorpe Cross Lodge 26 Frinton Road Thorpe Le Soken Clacton On Sea Essex CO16 0HR

**Development:** Variation of conditions 3, 5, and 6 (occupation conditions) of planning application 21/00028/FUL

## 1. Executive Summary

- 1.1 This application is referred to the Planning Committee by the Ward Councillor for Thorpe Le Soken for the following reasons:

Negative impact on urban design/street scene  
Highways impact and/or other traffic issues  
Negative Impact on neighbours

- 1.2 This application seeks to alter the wording of Conditions 3, 5, and 6 (occupation conditions) of planning application 21/00028/FUL. The development proposed under application 21/00028/FUL was for the erection of 4 holiday caravans and this was permitted in August 2021.

- 1.3 The imposed conditions and their reason are summarised accordingly:-

	Condition	Reason
3	The use hereby permitted shall be solely for holiday accommodation. No person shall occupy the site for more than 28 consecutive days.	To ensure the site is maintained as a tourist location and not for permanent occupation.
5	No caravan shall be occupied between 1 November and 28 February inclusive in any year.	To ensure that the accommodation remains in holiday use in support of planning policies aiming to encourage tourism and does not become a permanent residential use.
6	Occupation of the caravans is prohibited by those detailed in the Management Strategy (received 14th June 2021); namely no pets are allowed, no children under the age of 16 and no large (6+ people) same-sex groups.	To safeguard the amenities of the adjoining premises.

- 1.4 The proposed variations to these conditions are summarised accordingly:-

	Condition	Variation
3	The use hereby permitted shall be solely for holiday accommodation. No person shall occupy the site for more than 28 consecutive days.	The use hereby permitted shall be solely for holiday accommodation. No person shall occupy the site for more than 56 consecutive days.
5	No caravan shall be occupied between 1 November and 28 February inclusive in any year.	No caravan shall be occupied for any continuous period of 6 weeks, within the winter months, in any year.
6	Occupation of the caravans is prohibited by	Occupation of the caravans is prohibited

those detailed in the Management Strategy (received 14th June 2021); namely no pets are allowed, no children under the age of 16 and no large (6+ people) same-sex groups.	by those detailed in the Management Strategy as submitted and approved by the Council, unless otherwise amended in writing by agreement from the Council.
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- 1.5 The wording and restrictive requirements of all other conditions remain as per the existing approval.
- 1.6 The principle of the development has been established through the granting of application 21/00028/FUL.
- 1.7 The proposal will not result in any material harm to amenity or highway safety.

**Recommendation:**

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

- a) Subject to the conditions stated in section 8.2

**2. Planning Policy**

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

*NPPF National Planning Policy Framework July 2021*

*National Planning Practice Guidance*

*Relevant Section 1 Policies (adopted)*

SP1 Presumption in Favour of Sustainable Development

SP3 Spatial Strategy for North Essex

SP7 Place Shaping Principles

*Adopted Tendring District Local Plan 2007 (part superseded)*

ER16 Tourism and Leisure Uses

ER20 Occupancy Timescales

*Relevant Section 2 Policies (emerging)*

PP8 Tourism

PP10 Camping and Touring Caravan Sites

PP13 The Rural Economy

*Local Planning Guidance*

Essex Design Guide

**Status of the Local Plan**

- 2.1 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).
- 2.2 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 26<sup>th</sup> 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.
- 2.3 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 29<sup>th</sup> June 2021. The Council held a six-week public consultation on the Main Modifications and associated documents which began on 16<sup>th</sup> July 2021. The consultation closed at 5pm on 31<sup>st</sup> 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.

**3. Relevant Planning History**

91/01235/FUL	Protective garden wall.	Refused	11.12.1991
92/00169/FUL	Retention of front boundary wall and side fencing (resubmission of application TEN/91/1235)	Refused	31.03.1992
92/01252/FUL	(Thorpe Cross Lodge, 26 Frinton Road, Thorpe le Soken) Retention of brick store	Approved	14.12.1992
20/00645/FUL	Erection of 4no. holiday caravans.	Refused	08.09.2020
21/00028/FUL	Erection of 4 holiday caravans.	Approved	02.08.2021
21/01411/FUL	Variation of conditions 3, 5, and 6 (occupation conditions) of planning application 21/00028/FUL	Current	

#### 4. Consultations

Due to the nature of the application; no consultations with external consultees were deemed necessary.

#### 5. Representations

5.1 One letter of objection has been received which includes the following concerns:-

- road safety
- sanitation
- overcrowding
- accidents opposite the proposed site
- increased possibility of fatalities

**Thorpe Le Soken Parish Council** objects on the basis that the conditions placed on this application were imposed to stop this becoming a permanent habitable residence. The area is not suitable or in keeping to have caravans dotted in between a residential street scene. At that location, the vehicle speeds are fast and there is a slight blind turning from the site which makes it dangerous. The public footpath will also be affected by further residential and vehicle movements.

#### 6. Assessment

##### Site Description

- 6.1 The site extends to approximately 0.32 hectares opposite Damants Farm Lane, Thorpe le Soken. The site lies 1.5 miles to the east of Thorpe le Soken. The site is currently occupied by two caravans which are sited towards the north-west boundary, with residential properties to the north and south with farmland to the west of the site.
- 6.2 A public footpath runs through the site and links to the main settlement which is a short walk away.
- 6.3 The site is of a semi mixed rural character with a hedge running along part of the front boundary with the highway and a newly planted hedge within the site. A fence demarks the route of the public footpath.

##### Relevant History

- 6.4 Application (20/00645/FUL) was refused planning permission for three principle reasons, namely that: (1) the access would not provide for adequate visibility and would intensify use of the footpath at the point of access resulting in the potential for a conflict with users of the footpath; (2) the enclosure of a public footpath and creating 'structures' in the setting of a footpath would result in significant harm; (3) the potential disturbance to neighbouring properties as a result of additional car movements.
- 6.5 Application 21/00028/FUL was accompanied by sufficient additional information and justification to consider recommending approval. Permission was granted in August 2021 with 19 conditions imposed. Four of the conditions pertained to controlling the occupation of the units and eleven conditions pertained to highways requirements.

##### Proposal

- 6.6 When planning permission is granted, development must take place in accordance with the permission and conditions attached to it, and with any associated legal agreements.

- 6.7 New issues may arise after planning permission has been granted, which require modification of the approved proposals.
- 6.8 An application can be made under section 73 of the Town and Country Planning Act 1990 to vary or remove conditions associated with a planning permission. Permission granted under section 73 takes effect as a new, independent permission to carry out the same development as previously permitted subject to new or amended conditions. The new permission sits alongside the original permission, which remains intact and unamended.
- 6.9 This application proposes amending the wording of three of the four occupancy-controlling conditions, which were attached to the approved application. The wording of the other sixteen conditions remain as previously imposed.

### **Assessment**

#### Principle of Development

- 6.10 The principle of the development has been established through the granting of application 21/00028/FUL.

#### Tourist & Leisure Developments

- 6.11 Paragraph 84 of the National Planning Policy Framework 2021 states that planning policies and decisions should enable the sustainable growth and expansion of all types of business in rural areas including sustainable rural tourism and leisure developments which respect the character of the countryside.
- 6.12 Saved Policy ER16 of the Tendring District Local Plan 2007 states that proposals for tourism and leisure uses will be permitted provided that;
- a) The development is accessible to all potential visitors and users
  - b) There is suitable vehicular and public transport access to the site and parking provision, especially where the proposal is likely to generate large traffic volumes. Proposals should be located close to the main road network and link to other public rights of way wherever possible
  - c) The type of use proposed would not cause undue disturbance by reason of noise. Uses creating high levels of noise should be located well away from residential property and sensitive wildlife areas
  - d) There will not be an adverse effect on agricultural holdings and the proposal would not result in an irreversible loss of high quality agricultural land
  - e) Where appropriate opportunities are taken to improve the damaged and despoiled landscapes and enhance the landscape character of the area.

In addition, Saved Policy ER20 states that the occupation of all types of holiday units, including chalets and caravans, will not be permitted between 14 January and 1 March in any year. Occupancy may be further restricted to the period 1 March and 31 October where the site;

- i. Lacks the necessary and appropriate infrastructure and services for longer occupation
  - ii. Is located in an area of flood risk, or adjacent to a site designated for reasons of nature conservation.
- 6.13 It is clear from the set of conditions imposed on planning permission 21 /0028/FUL that the static caravans are to be restricted to holiday usage only; the proposed changes to the wording of the occupancy conditions do not seek to diminish this overarching control over the

wider use of the site. The proposed changes would however give a greater flexibility as to when the use is proposed.

#### Proposed Amendment to Condition 3

- 6.14 Currently, Condition 3 controls the length of time that a unit can be occupied. The condition currently reads *'The use hereby permitted shall be solely for holiday accommodation. No person shall occupy the site for more than 28 consecutive days.'*
- 6.15 It is proposed to amend the length of time that the units can consecutively be occupied. The requested amendment is to increase this to 56 days. It is considered that the proposed increase in letting duration would allow for greater flexibility and is likely to further support the sustainable growth and expansion of a business in a rural area, including sustainable rural tourism and leisure developments without diminishing the restrictive aims of Policy ER20 which are that unrestricted occupation of holiday accommodation is *'unsuited for such a purpose by virtue of its construction standards and setting in areas not suitable for permanent residential occupation particularly in the winter months'*.

#### Proposed Amendment to Condition 5

- 6.16 Currently, Condition 5 controls the seasonal period that a unit can be occupied. The condition currently reads *'No caravan shall be occupied between 1 November and 28 February inclusive in any year.'*
- 6.17 It is proposed to amend the restrictive period during the winter; the requested amendment is to restrict occupation to a period of 6 weeks throughout the winter months in order to allow potential maximum local economic benefit. The pre-amble to Policy ER20 states *'...wherever possible occupation of these holiday homes should be restricted to certain times of the year, principally the summer holiday season, the Christmas and New Year period and at weekends'*. Condition 5 currently prevents occupation of the holiday homes at Christmas and New Year. Emerging Policy PP10 states that *'To ensure that any tents and/or touring caravans/motorhomes are not used as permanent dwellings, camping and touring caravan/motorhome sites will be subject to holiday occupancy conditions and their use limited to certain periods of the year.'* The amendment to the wording of Condition 5 does not conflict with the aims of Policy ER20 in regards to limited occupation during certain periods of the year.

#### Proposed Amendment to Condition 6

- 6.18 At present, Condition 6 controls the groups of people who can occupy the caravan units. The groups are laid out in writing in the Management Strategy. The condition currently reads *'Occupation of the caravans is prohibited by those detailed in the Management Strategy (received 14th June 2021); namely no pets are allowed, no children under the age of 16 and no large (6+ people) same-sex groups.'*
- 6.19 It is proposed to amend the condition so that the details (which are stated in the Management Strategy itself) are not replicated in the condition itself. The condition would therefore read as *'Occupation of the caravans is prohibited by those detailed in the Management Strategy as submitted and approved by the Council, unless otherwise amended in writing by agreement from the Council.'*
- 6.20 Paragraph 56 of the National Planning Policy Framework (NPPF) states that *'Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Agreeing conditions early is beneficial to all parties involved in the process and can speed up decision making.'* It is considered that re-listing the prohibitions stipulated in the

Management Strategy within the condition itself was an unnecessary duplication. For this reason it is considered entirely acceptable for the wording of the condition to state "Occupation of the caravans is prohibited by those detailed in the Management Strategy as submitted and approved by the Council, unless otherwise amended in writing by agreement from the Council."

#### Visual and Landscape Impact

- 6.21 Paragraph 8 of the National Planning Policy Framework 2021 (NPPF) sets out the overarching objectives for achieving sustainable development, one being the environmental objective which requires the planning system to contribute to protecting and enhancing our natural, built and historic environment. Furthermore, Paragraph 130 of the NPPF requires that development should respond to local character and history, and reflect the identity of local surroundings. It goes on to say that local distinctiveness should be promoted and reinforced. Draft Policies SPL3 and PPL3 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) seeks to ensure that development is appropriate in its locality and does not harm the appearance of the landscape.
- 6.22 It was previously considered through the originally approved application ref. 21/00028/FUL, that in order to facilitate access to the application site the existing hedgerow across the entire site frontage (in front of the ditch) would need to be removed before first occupation to ensure that the future outward growth of the hedgerow 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. It was concluded that this would not have a significant impact on the character of the area. No other significant trees or hedgerows were considered to be adversely affected by the development proposal.
- 6.23 As previously, details of soft landscaping, including hedgerow planting to strengthen screening and to both soften and enhance the appearance of the development will be secured by condition on this variation of condition application. The proposal ensures a low key, transient visual and landscape impact further minimised by being almost fully screened by proposed boundary planting.
- 6.24 For the reasons set out above, the proposed use as sought to be varied in terms of occupation restrictions, will not result in any significant or demonstrable harm to the landscape character or setting of the heritage assets.

#### Residential Amenities

- 6.25 The NPPF, at paragraph 130 states that planning should always seek to secure a good standard of amenity of all existing and future occupants of land and buildings. These sentiments are carried forward in adopted Policy SP7 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).
- 6.26 The positioning of three of the units towards the south-west (rear) boundary of the site - one of these units would be approximately 4m from the side boundary with the residential property No. 26 Frinton Road - has already been agreed through the original permission. It was considered, that in order to protect the amenities of this property a scheme of planting be proposed to act as a buffer and this condition will be carried forward onto this application. In addition, the occupation of the units will still be controlled through the agreed Management Plan referred to in amended condition 6.

#### Access, Highway Safety and Parking

- 6.27 Paragraph 110 of the National Planning Policy Framework 2021 seeks to ensure that safe and suitable access to a development site can be achieved for all users. This sentiment is carried



forward in adopted Policy SP7 of the Tendring District Local Plan 2013 -2033 and Beyond Publication Draft (June 2017).

- 6.28 With respect to the original permission, following negotiations and the submission of speed surveys, the impact of the proposal was considered acceptable to the Highway Authority subject to mitigation and conditions which are carried forward onto this recommendation.

#### Recreational Disturbance

- 6.29 The proposal is for holiday units is outside the scope of the Essex Coast RAMS. However, Natural England state applications involving tourist accommodation could still potentially have recreational disturbance impacts (and other impacts) on designated sites.
- 6.30 With the imposition of an appropriately worded condition restricting the occupation of the site for holiday use only, no harm to designated sites will result from the development and therefore no financial contribution toward mitigation is required in this instance.

### **7. Conclusion**

- 7.1 The proposed changes to the wording of Conditions 3, 5 and 6 (the control of occupation of the approved caravans) do not diminish or undermine the planning controls previously imposed. The changes still ensure the protection of the amenities of adjoining residential amenities and ensure that the development will remain as holiday accommodation.

### **8. Recommendation**

- 8.1 The Planning Committee is recommended to grant planning permission subject to the following conditions and informatives.

#### 8.2 Conditions and Reasons

- 1 The development hereby permitted shall be begun before 2<sup>nd</sup> August 2024.

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 plans:- Y0344-CS-001 REV D, received 23 Dec 2020; Y0344-CS-1250, received 28 Jan 2021; 205687-A-01 REV A, 205687-A-01-AT01, 205687-A-02 REV A received 07 Jun 2021 and the Management Strategy, received 14th June 2021.

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

- 3 The use hereby permitted shall be solely for holiday accommodation. No person shall occupy the site for more than 56 consecutive days.

Reason - To ensure the site is maintained as a tourist location and not for permanent occupation.

- 4 The development hereby permitted shall be occupied for holiday purposes only and shall not be occupied as a person's sole or main place of residence. The operators of the site shall maintain an up-to-date register of the names of all occupiers of the holiday let accommodation and of their main home addresses and shall make this information available at all reasonable times to the Local Planning Authority.

Reason - To prevent the use of the site for permanent accommodation in the interests of the tourism economy and local community infrastructure.

- 5 No caravan shall be occupied for any continuous period of 6 weeks, within the winter months, in any year.

Reason - To ensure that the accommodation remains in holiday use in support of planning policies aiming to encourage tourism and does not become a permanent residential use.

- 6 Occupation of the caravans is prohibited by those detailed in the Management Strategy (received 14th June 2021) as submitted and approved by the Council, unless otherwise amended in writing by agreement from the Council.

Reason - To safeguard the amenities of the adjoining premises.

- 7 Prior to occupation of the development, the road junction / access at its centre line shall be provided with a minimum visibility splay with dimensions of 2.4 metres by 130 metres to the east and 2.4 metres by 121 metres to the west, 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.

Reason - To provide adequate inter-visibility between vehicles using the road junction / access and those in the existing public highway in the interest of highway safety.

- 8 Prior to occupation of the development a vehicular turning facility, of a design to be approved in writing by the Local Planning Authority shall be constructed, surfaced, and maintained free from obstruction within the site at all times for that sole purpose.

Reason - To ensure that vehicles can enter and leave the highway in a forward gear in the interest of highway safety.

- 9 No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary.

Reason - To avoid displacement of loose material onto the highway in the interests of highway safety.

- 10 Prior to the occupation of any of the proposed caravans, the proposed private drive shall be constructed to a width of 5.5 metres for at least the first 6 metres from the back of Carriageway / Footway / Highway Boundary (no radius kerbs).

Reason - To ensure that vehicles can enter and leave the highway in a controlled manner and to ensure that opposing vehicles can pass clear of the limits of the highway, in the interests of highway safety.

- 11 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.

- 12 At no point shall gates be provided at the vehicular access. The access shall remain open and free for use thereafter.

Reason - To give vehicles using the access free and unhindered access to and from the highway in the interest of highway safety.

- 13 The existing access into the site as indicated on block plan (DWG. no. Y0344-CS-001 Rev. D) shall be suitably and permanently closed incorporating the reinstatement to full height of the highway verge / footway / cycleway / kerbing immediately the proposed new access is brought into first beneficial use.

Reason - To ensure the removal of and to preclude the creation of unnecessary points of traffic conflict in the highway in the interests of highway safety.

- 14 The public's rights and ease of passage over public footpath no. 14 (Thorpe le Soken\_180) shall be maintained free and unobstructed at all times.

Reason - To ensure the continued safe passage of the public on the definitive right of way and accessibility.

- 15 Any new boundary planting shall be planted a minimum of 1 metre back from the highway boundary and any visibility splay. The planting should be retained free of obstruction above 600mm either side of public footpath no. 14 (Thorpe le Soken\_180) for the first 5 metres where the internal driveway crosses the PROW.

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.

- 16 The proposed development shall not be occupied until such time as the vehicle parking area indicated on the approved plans, including any parking spaces for the mobility impaired, has been hard surfaced, sealed and if required marked out in parking bays. The vehicle parking area and associated turning area shall be retained in this form at all times. 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.

- 17 Each vehicular parking space shall have minimum dimensions of 2.9 metres x 5.5 metres.

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

- 18 Prior to the occupation of the development hereby approved a scheme of soft landscaping shall be submitted to and approved in writing by the local planning authority. The scheme shall incorporate a detailed specification including plant/hedgerow types and sizes.

To enhance the appearance of the development and in the interests of amenity and privacy.

- 19 No building hereby permitted shall be occupied until a waste management plan setting out how waste (sewage and refuse) will be stored and collected has been prepared, submitted to and approved in writing by the Local Planning Authority. The measures shall thereafter be implemented in accordance with the approved waste management plan for the lifetime of the development.

Reason: To ensure appropriate waste management facilities are provided to accommodate all waste generated by the development.

### 8.3 Informatives

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

#### Highway Informatives:-

All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.

The applicants should be advised to contact the Development Management Team by email at [development.management@essexhighways.org](mailto:development.management@essexhighways.org) or by post to:

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

Under Section 23 of the Land Drainage Act 1991, prior written consent from the Environment Agency is required to build any culvert (pipe) or structure (such as a dam or weir) to control or alter the flow of water within an ordinary watercourse. Ordinary watercourses include ditches, drains and any other networks of water which are not classed as Main River.

If you believe you need to apply for consent, please contact the Environment Agency as soon as possible to discuss your plans. Planning permission does not negate the requirement for consent, and full details of the work you propose will be required at least two months before you intend to start. Once preliminary details have been agreed, you will be asked you to fill in an application form, which must be returned with the appropriate fee.

Please call the Environment Agency on 08708 506 506 and ask for the Essex Development and Flood Risk Team to discuss this requirement further.

As discussed with the agent, the existing hedgerow across the entire site frontage (in front of the ditch) should be removed before first occupation to ensure that the future outward growth of the hedgerow 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.

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.

## **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:
- 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.
- 9.2 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.
- 9.3 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.
- 9.4 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

- 9.5 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.
- 9.6 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).
- 9.7 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

- 9.8 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.

## **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/>.