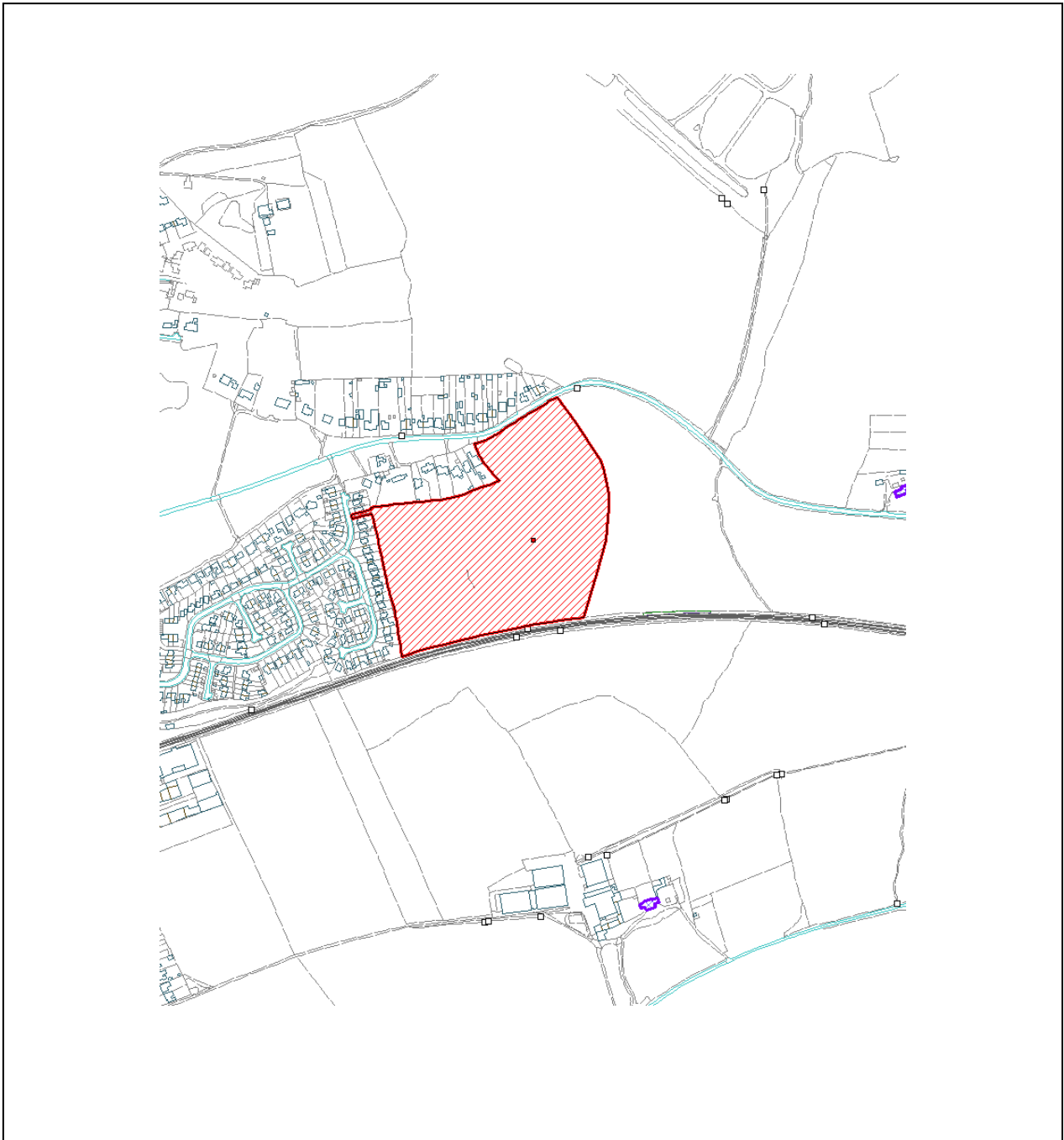


PLANNING COMMITTEE

21st December 2021

REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING

A.1 PLANNING APPLICATION – 21/01257/OUT – LAND TO THE SOUTH OF WEELEY ROAD AND TO THE EAST OF BIRCH AVENUE AND PINE CLOSE GREAT BENTLEY



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Application: 21/01257/OUT

Town / Parish: Great Bentley Parish Council

Applicant: Taylor Wimpey London

Address: Land to The South of Weeley Road and to The East of Birch Avenue and Pine Close Great Bentley

Development: Variation of condition 12 of application 17/01881/OUT (allowed on appeal APP/P1560/W/19/3231554) to remove the reference within condition 12 which requires the pedestrian/cycle link between the site and Birch Avenue to be 3 metres in width. Also allowing for this link between the site and Birch Avenue to be a pedestrian link only.

1. Executive Summary

- 1.1 This application is referred to Planning Committee at the request of the Assistant Director of Planning as the original outline application 17/01881/OUT was refused by the Local Planning Authority and the decision was overturned by the Planning Inspectorate. Within that appeal decision the Planning Inspector included a Planning Condition (no 12) that ensured the 'link' to Birch Avenue from the host site would be 3m wide and a pedestrian and cycle link.
- 1.2 The current application seeks vary condition 12 of application 17/01881/OUT (allowed on appeal APP/P1560/W/19/3231554) to remove the reference within condition 12 which requires the pedestrian/cycle link between the site and Birch Avenue to be 3 metres in width and also allowing for this link between the site and Birch Avenue to be a pedestrian link only. This is because the applicant has discovered there is not 3m between 74 Birch Avenue and 76 Birch Avenue to construct such a link.
- 1.3 As established through the granting of outline application 17/0881/OUT the principle of residential development for up to 136 dwellings on this site is acceptable. Within this application it is considered acceptable that the footpath link between the host site and Birch Avenue can be under 3m in width and pedestrian only as this shall provide benefits to pedestrian safety when using the link rather than sharing the link with cyclists riding their bikes through. Cyclists will be allowed to use the link although they would be allowed to walk their bikes through the link.
- 1.4 The detailed design and layout is considered acceptable. The proposal would not result in any significant material harm to residential amenity or highway safety and would still support sustainable means to access to the village.
- 1.5 The application is, therefore recommended for approval subject to a legal agreement to secure the management of the footpath link, Public Open Space, Drainage features, landscaping and maintenance of the non-adopted highway network. These latter elements are assessed more fully in the Reserve matters application 21/00977/DETAIL.

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):**

Drainage

- ensuring the drainage feature outside the red line boundary is linked to this application and has to be constructed and fully operational before any dwelling on the host site is occupied.
- the long-term maintenance of the drainage feature outside of the red line boundary

Landscape Management Company to include maintenance of:

- Link Path to Birch Avenue inc fencing
- Non adoptable Highway (roads and pavements)
- Landscaping Buffers and wider landscaping inc pedestrian link to the North East)
- Public Open space

- 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

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

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

NPPF National Planning Policy Framework July 2021

National Planning Practice Guidance

Adopted Tendring District Local Plan 2007 (part superseded)

QL2	Promoting Transport Choice
QL3	Minimising and Managing Flood Risk
QL12	Planning Obligations
HG3	Residential Development Within Defined Settlements
HG3A	Mixed Communities
HG6	Dwelling Size and Type
HG7	Residential Densities
HG9	Private Amenity Space
COM2	Community Safety
COM4	New Community Facilities (Including Built Sports and Recreation Facilities)
COM6	Provision of Recreational Open Space for New Residential Development
COM21	Light Pollution
COM23	General Pollution
COM29	Utilities
COM31A	Sewerage and Sewage Disposal
EN1	Landscape Character
EN2	Local Green Gaps
EN4	Protection of the Best and Most Versatile Agricultural Land
EN6	Biodiversity
EN6A	Protected Species
EN6B	Habitat Creation
EN11A	Protection of International Sites European Sites and RAMSAR Sites
EN11B	Protection of National Sites SSSI's, National Nature Reserves, Nature Conservation Review Sites, Geological Conservation Review Sites
EN12	Design and Access Statements
EN13	Sustainable Drainage Systems

- EN29 Archaeology
- TR1A Development Affecting Highways
- TR4 Safeguarding and Improving Public Rights of Way
- TR5 Provision for Cycling
- TR6 Provision for Public Transport Use
- TR7 Vehicle Parking at New Development

Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) (Section 1 adopted on 26th January 2021)

Relevant Section 1 Policies (adopted)

- SP1 Presumption in Favour of Sustainable Development
- SP2 Recreational disturbance Avoidance and Mitigation Strategy (RAMS)
- SP4 Meeting Housing Needs
- SP6 Infrastructure and Connectivity
- SP7 Place Shaping Principles

Relevant Section 2 Policies (emerging)

- SPL1 Managing Growth
- SPL2 Settlement Development Boundaries
- SPL3 Sustainable Design
- HP1 Improving Health and Wellbeing
- HP2 Community Facilities
- HP5 Open Space, Sports & Recreation Facilities
- LP1 Housing Supply
- LP2 Housing Choice
- LP3 Housing Density and Standards
- LP4 Housing Layout
- PPL1 Development and Flood Risk

- PPL3 The Rural Landscape
- PPL4 Biodiversity and Geodiversity
- PPL5 Water Conservation, drainage and sewage
- PPL10 Renewable Energy Generation
- CP1 Sustainable Transport and Accessibility
- CP2 Improving the Transport Network

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

Essex Design Guide

Status of the Local Plan

Planning law requires that decisions on planning applications must be taken in accordance with the development plan unless there are material considerations that indicate otherwise (Section 70(2) of the 1990 Town and Country Planning Act and Section 38(6) of the Planning and Compulsory Purchase Act 2004). This is set out in Paragraph 2 of the National Planning Policy Framework 2021 (the Framework).

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.

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. On 24th November 2021, the Council received the Planning Inspectors' final report on the legal compliance and soundness of Section 2 of the emerging Local Plan. The report has confirmed, that with the inclusion of a number of 'Main Modifications' (which have already been the subject of formal public consultation), the Plan is legally compliant and sound and can now proceed to adoption. The report is due to be considered by the Planning Policy and Local Plan Committee on 11th January 2022 which is likely to recommend adoption of the Section 2 Local Plan to Full Council on 25th January 2022. On adoption, the new Section 2 Local Plan will join the new Section 1 Local Plan to form the 'development plan' for Tendring and the old 2007 Local Plan will be superseded in full.

Now that the Inspectors' final report is received, the Section 2 Local Plan has virtually reached the final stage of preparation, all objections have been resolved and the Inspector

has confirmed that the Plan is sound and therefore in conformity with the Framework. For these reasons, Officers now advise that the emerging Plan should now carry 'almost full weight' in decision making.

Until the new Local Plan is adopted in January 2022, the 2007 adopted Local Plan, legally, will still form part of the 'development plan' and there will still be a requirement to refer to the 2007 Local Plan in decision making. However, the level of weight to be afforded to the policies in the 2007 Plan is reduced to very limited weight given that a more up to date Plan has progressed to such an advanced stage of the plan making process.

In relation to housing supply:

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

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

17/01881/OUT	Outline planning permission for up to 136 dwellings, informal recreation space, a local area of play and associated development.	Refused	21.12.2018
20/01176/OUT	Removal of condition 4d for planning application 17/01881/OUT (allowed at appeal APP/P1560/W/19/3231554) as off-site works no longer required.	Approved	30.11.2020
21/30012/PREAPP	Pre-application for Reserved Matters further to Outline Planning Permission reference APP/P1560/W/19/3231554 in relation to 17/01881/OUT for the residential development for up to		10.03.2021

	136 dwellings, informal recreation space, a local area of play and associated development.	
21/00977/DETAIL	Proposed application for approval of all reserved matters including access, layout, scale, appearance and landscaping in relation to outline planning application for up to 136 dwellings, allowed on appeal (ref APP/P1560/W/19/3231554) dated 15/05/2020.	Current
21/00978/FUL	Proposed engineering operations required in support of application for Reserved Matters submitted on adjacent land (136 dwellings) including attenuation basin, public footpath, access visibility and construction access.	Current
21/01257/OUT	Variation of condition 12 of application 17/01881/OUT (allowed on appeal APP/P1560/W/19/3231554) to remove the reference within condition 12 which requires the pedestrian/cycle link between the site and Birch Avenue to be 3 metres in width. Also allowing for this link between the site and Birch Avenue to be a pedestrian link only.	Current
21/01947/DISCON	Discharge of Conditions 11 (Noise survey) and 13 (Bat survey) of application APP/P1560/W/19/3231554 (17/01881/OUT)	Current
21/01949/DISCON	Discharge of Condition 10 (Contamination assessment) of application APP/P1560/W/19/3231554.(17/01881/OUT)	Current
21/02025/DISCON	Discharge of conditions 6 (foul water strategy) and 7 (detailed surface water drainage scheme) of application 17/01881/OUT,	Current

allowed on appeal
APP/P1560/W/19/3231554.

4. Consultations

Natural England
16.11.2021

Natural England is not able to fully assess the potential impacts of this proposal on statutory nature conservation sites or protected landscapes or, provide detailed advice on the application. If you consider there are significant risks to statutory nature conservation sites or protected landscapes, please set out the specific areas on which you require advice.

The lack of detailed advice from Natural England does not imply that there are no impacts on the natural environment. It is for the local authority to determine whether or not the proposal is consistent with national and local environmental policies. Other bodies and individuals may provide information and advice on the environmental value of this site and the impacts of the proposal on the natural environment to assist the decision making process.

ECC Highways
09.12.2021

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 and lengthy discussions with the Local Planning Authority. The residential dwelling has always been in third party ownership and we cannot insist on its demolition, the previous driveway to this property is only in the control of the developer who has maximised what is in its ownership and it is believed that this latest design does achieve this by providing a 2.5-metre-wide link for the majority of its length; the Essex Design Guide does stipulate that where new footways are provided, they should be a minimum 2 metres in width. Where shared footway/ cycleways links are deemed appropriate, they should be a minimum 3 metres wide, where the link is bounded by a building, wall of fence, it should be widened on that side by 0.5 metres, considering these factors:

It is noted that this application concerns variation of Condition 12 only, as such the Highway Authority does not object to the proposals as submitted in accordance with amended drawing no. 48737/C/006 Rev. L.

Note: It is on the understanding that the Highway Authority will not be adopting the link between the development and Birch Avenue.

Informative 1:

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 or by post to:

SMO1 – Development Management Team

Ardleigh Depot,

Harwich Road,

Ardleigh,

Colchester, CO7 7LT

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

Essex Police
16.11.2021

The applicant and the Essex Police have been involved in constructive consultation; Essex Police is content the ethos of Crime Prevention Through Environmental Design (CPTED) is being addressed adequately within this development.

5. Representations

5.1 Great Bentley Parish Council object to the application for the following reasons:

The Planning Inspector specified that it was a fundamental condition of appeal for the pedestrian/cycle link between the site and Birch Avenue to be 3 metres in width as a matter of safety. This Council feels that appeal conditions should not be ignored.

5.2 19 letters of objection have been received which raise the following concerns regarding the proposal:

- The plans continue to show the pedestrian / cycle link downgraded to a 1.9m pedestrian footpath. This is contrary to what the Planning Inspector requested.
- The link to Birch Avenue should be wide enough to provide a safe and convenient route for all users, pedestrians, cyclists, prams, mobility scooters.
- Visibility is a major safety issue for this access
- The chicane would restrict prams, mobility vehicles and wheel chairs
- There is no footpath along Weeley Road and no safe cycle routes
- The fence either side of the path is intimidating
- Cyclists will ignore the request to dismount
- The path is below National and County Highway Standards for a footpath and below levels for cyclists
- Visibility is restricted when large vehicles park on the neighbouring driveways
- The neighbours will be unable to access their drains or services by the side of their houses
- The neighbouring proprietaries will not be able to complete any maintenance to their houses
- There is not sufficient space in front of 74 Birch Avenue to park a car off street
- How will Covid social distancing be maintained via a 2m path
- Lack of security
- Vandalism in the local area
- Reduction in the levels of enjoyment of residential dwellings nearby
- Does not meet the Planning Inspectors objectives
- A Restrictive Covenant is in place for 74 and 76 preventing any fencing beyond the front elevation of the houses
- The 3 metre access within 74 is unachievable unless Taylor Wimpey carry out changes to services for 74 and drainage affecting both properties. Something the developer appears reluctant to do.
- The access should conform to Highways guidance
- The Inspector made his decision having had sight of a copy of option agreements to purchase 74 Birch Avenue and not based on an agreement to buy only the garage of 74 Birch Avenue.
- An accessible cycle link to the amenities within the village was a key factor in determining the appeal
- The developers should obtain and use the additional land that was available at the time of the appeal hearing
- No clear line of sight down the length of the passageway. The points where it narrows to 2m will be blind spots and pedestrians are likely to feel unsafe, especially at night

- Families with children and pushchairs as well as mobility scooters will require access to the village via the route. A reduction in the width of the access will restrict movement and present risk because residents will be forced to access the village via Weeley Rd due to the restricted width of the path into Birch Avenue
- No evidence has been put forward to permit the narrower path
- To encourage sustainable transport choices from a young age and throughout life the 3 metre path should be retained
- A narrower footpath will lead to more incidents and injuries.
- Wider path would be more in keeping with the open feeling of the area, less intimidating, safer and more acceptable to residents.
- The development will increase the volume of traffic in an already congested village, a wider path to Birch Avenue will make alternative transport modes more appealing
- Other cycle paths locally are over 1.9metres in width; at Brightlingsea Church and near Weeley Council offices
- How is a 1.9 meter width path wide enough and safe enough for both pedestrians and cyclists to use?
- Who will manage the link

6. **Assessment**

6.1 Site Context

6.2 The host site is located on the eastern side of Great Bentley and found within the emerging settlement boundary of Great Bentley. The area consists of a rectangular open field, presently used for arable farming, measuring approximately 7.7 hectares. The site is bounded on the northern side, in part, by the Weeley Road with the remainder of this boundary being formed by the rear boundaries of the residential curtilages of the dwellings that front the Weeley Road on its southern side. The western boundary is formed by residential properties in Pine Close and Birch Avenue whilst to the south the site is bounded by a railway line, beyond which is agricultural land and the open countryside. Agricultural land and open countryside also bound the site to the east.

6.3 The prevailing pattern of the properties that front the Weeley Road is one of a linear form of development that is rural in nature. The dwellings to the west along Pine Close and Birch Avenue have a more urban and built up feel although, the nature and the predominant character of the area is rural in its nature. Given this land was subject of an approved outline application in 2019 via application 17/01881/OUT, the land has been allocated as being within the settlement development boundary of the emerging local plan. The host site is not neighbouring or near to any Listed Building. The far north western corner of the site is adjacent to the boundary with the Great Bentley Conservation Area. There are no protected trees along within the vicinity of the site. The site slopes steadily downwards from the north west to the south east. There is an approximate fall of 4.5m over a distance of 355m and no public rights of way across the site.

6.4 The specific area of the host site in question that relates specifically to this application is on the far west of the site and involves the space between 74 and 76 Birch Avenue. In particular, the driveway, garage and rear garden space of 74 Birch Avenue that

leads into the main site to the east. Birch Avenue itself is a typical modern housing estate circa 1970's in age the houses are mostly semi-detached two storey dwellings or bungalows.

Planning History

- 6.5 Originally, the Local Planning Authority objected to the principle of the development and refused the application under delegated powers. However, outline planning permission (Ref: 17/01881/OUT) was granted with all matters reserved (layout, access, scale, appearance and landscaping) for up to 136 dwellings, informal recreation space, a local area of play and associated development following an appeal on 15th May 2020 (APP/P1560/W/19/3231554). Within the appeal decision the Planning Inspector permitted in principle a pedestrian / cycle link to be established within the curtilage of 74 Birch Avenue via Condition 12.
- 6.6 As part on the original outline approval there were 18 planning conditions attached these are summarised below.

OUTLINE APPLICATION CONDITIONS 15/00876/OUT		Timing
1	Reserved Matters- appearance, landscaping, layout, access and scale	Reserved Matter
2	Time Frame For Reserved Matters	Three Years post Decision – Must commence 2 Years after the last Reserve Matter application
3	Approved Plans	Reserve Matters
4	Access, Layout and Ecological Requirements	Reserve Matters
5	Construction Method Statement	Prior to Commencement
6	Foul Water Strategy	Prior to Commencement
7	Surface Water Drainage	Prior to Commencement
8	Surface Water Runoff	Prior to Commencement
9	Surface Water Drainage Management	Prior to Commencement
10	Land Contamination Assessment	Prior to Commencement
11	Railway Noise Survey	Prior to Commencement
12	Footpath Link to Birch Avenue and Public Footpath 11 to the North East	Prior to Commencement
13	Bat Survey	Prior to Commencement
14	Travel Information Packs	Prior to Commencement
15	Driveways to be porous material	Compliance
16	Unbound material near highways	Compliance
17	Parking Sizes	Compliance
18	Site clearance	Bird survey Dependant

6.8 The original outline application was also approved with a signed Section 106 document to secure:

- On-site Affordable Housing (30% of the overall development)
- Health contributions
- Education contribution
- Provision of open space including a locally equipped area of play and the need to secure its future management
- RAMS payments, index linked. Therefore, any uplift in required payments over time has been factored into the payment.

Proposal

6.9 This application is a Variation of condition 12 of application 17/01881/OUT (allowed on appeal APP/P1560/W/19/3231554) to remove the reference within condition 12 which requires the pedestrian/cycle link between the site and Birch Avenue to be 3 metres in width. Also allowing for this link between the site and Birch Avenue to be a pedestrian link only.

6.10 Separate to this application there are two other applications being considered, one a Reserve Matters application regarding the host site. The other an application for drainage features on the neighbouring field to the east of the host site. All three applications are listed below, only 21/01257/OUT is assessed in this report.

- 21/01257/OUT (Host Application)

Variation of condition 12 of application 17/01881/OUT (allowed on appeal APP/P1560/W/19/3231554) to remove the reference within condition 12 which requires the pedestrian/cycle link between the site and Birch Avenue to be 3 metres in width. Also allowing for this link between the site and Birch Avenue to be a pedestrian link only

- 21/00977/DETAIL (Reserve Matters Application – Not dealt with under this report)

Proposed application for approval of all reserved matters including access, layout, scale, appearance and landscaping in relation to outline planning application for up to 136 dwellings, allowed on appeal (ref APP/P1560/W/19/3231554) dated 15/05/2020

- 21/00978/FUL (Drainage features on the field to the east of the host site - Not dealt with under this report)

Proposed engineering operations required in support of application for Reserved Matters submitted on adjacent land (136 dwellings) including attenuation basin, public footpath, access visibility and construction access.

Principle of Development

- 6.11 The principle of development has been established by the granting of outline planning application 17/01881/OUT (allowed on appeal APP/P1560/W/19/3231554).
- 6.12 The original outline permission included one specific condition that needs to be complied with under any Reserve Matter application, namely Condition 12.
- 6.13 Condition 12, that states:

'12) No development shall commence until details of the:

a) Proposed pedestrian/cycle link between the site and Birch Avenue; and

b) A suitable pedestrian/cycle connection between the site and the existing Public Footpath Number 11 to the north east have be submitted to and agreed in writing by the Local Planning Authority. The proposed pedestrian/cycle link between the site and Birch Avenue shall be within the curtilage of 74 Birch Avenue and shall be 3 metres in width. The approved details of a) and b), as set out above, shall be completed in accordance with the approved details prior to occupation of any dwelling hereby permitted. Thereafter the pedestrian/cycle link between the site and Birch Avenue and the pedestrian/cycle connection between the site and the existing Public Footpath Number 11 to the north east shall be retained as such in perpetuity.'

- 6.14 The proposal is to change the wording to the following (words to be deleted highlighted below):

'12) No development shall commence until details of the:

a) Proposed pedestrian/~~cycle~~ link between the site and Birch Avenue; and

b) A suitable pedestrian/cycle connection between the site and the existing Public Footpath Number 11 to the north east have be submitted to and agreed in writing by the Local Planning Authority. The proposed pedestrian/~~cycle~~ link between the site and Birch Avenue shall be within the curtilage of 74 Birch Avenue ~~and shall be 3 metres in width~~. The approved details of a) and b), as set out above, shall be completed in accordance with the approved details prior to occupation of any dwelling hereby permitted. Thereafter the pedestrian/~~cycle~~ link between the site and Birch Avenue and the pedestrian/cycle connection between the site and the existing Public Footpath Number 11 to the north east shall be retained as such in perpetuity.'

- 6.15 At the time of writing there has been a separate Reserved Matters application submitted to approve the details of the application on site. However, that application must conform to the approved Outline planning conditions. Therefore, the only way a narrower footpath for pedestrians only can be achieved on the host development is if there is agreement to a Variation of Conditions application to the original Outline approval.

This application is exactly that, a variation of conditions application of the original approved outline conditions set by the Planning Inspector via within appeal APP/P1560/W/19/3231554 relating to application 17/01881/OUT. This application must be decided before the Reserved Matters application can be assessed. If this host application fails then the applicant shall not be able to implement the permission and shall either have to amend the scheme or appeal to the Planning Inspector again to achieve the narrower footpath link.

- 6.16 Nonetheless, the principle of a 3m wide pedestrian and cycle link within the curtilage of 74 Birch Avenue was agreed via the original outline approval of application 17/01881/OUT. The narrowing of this access and for the access to become pedestrian only is what is being considered in this application and that alone.

Assessment

- 6.17 The principal issues are:

- Access
- Section 106 of the Town and Country Planning Act 1990

Access

- 6.18 Within the original outline decision, the Planning Inspector emphasised the need to connect the new development with the rest of the village via a path (or “Link” as it was referred to) which would accommodate both pedestrians and cyclists. Such comments were made in the following paragraphs of the appeal decision:

- *Paragraph 28: “The Link would be likely to improve the connectivity of the site with the wider village, bringing many of the facilities and services within a reasonable walking distance.*
- *Paragraph 29: “As such I consider The Link would reduce the reliance of occupiers of the site on motor vehicles and provide them with a realistic alternative, being walking or cycling, into the village to access its facilities and services. On this basis, the development site would have an acceptable level of accessibility to Great Bentley ...”.*
- *Paragraph 30: “... with the provision of The Link referred to above, the site would be within a reasonable walking distance of the facilities and services within the village.*
- *Paragraph 56: The Link would enhance access to the open/public amenity space within Great Bentley, as well as improving connectivity with Public Right of Way ... which is located on the southern side of the site and accessed via Pine Close and a pedestrian rail crossing point”.*
- *Paragraph 87: “For reasons of sustainability, improved connectivity and ensuring access to the wider public open space there is a need to secure The Link between the site and Birch Avenue,”*

- 6.19 Therefore, it is clear such a link must remain in place. Indeed, within the Outline application the Inspector says at Paragraph 28, that:

'...the submitted Land Use Parameter Plan (Drawing Number: 9600 Rev A) shows a pedestrian/cycleway link (The Link) that leads from the site through to Birch Avenue. The Link lies within the red line of the site plan (Drawing Number: 9000 Rev A) and indicative plan, Drawing Number SK.01, provides an illustration as to how it could be provided.'

6.20 This 'link' is clearly between the properties of 74 and 76 Birch Avenue, indeed it is within the Red line Site plan of the original application, Drawing Number: 9000 Rev A. Therefore, this shows that the 'link' was intended to be between 74 and 76 Birch Avenue. The initial outline application 17/01881/OUT included part of 76 Birch Avenue within the red line boundary (notice was served on 76 Birch Avenue). The residents of 76 Birch Avenue objected to the original application and continue to object strongly to the proposals. However, the Inspector granted permission on the knowledge that the path would be installed in this location (evidenced by the Parameter Plan). This judgement cannot be revisited as part of this application. However, the width of this 'link' and who uses it can be assessed.

6.21 The applicant proposes to keep this vital link in place but wishes to reduce the width of the link and plans for the link to be used by pedestrians only. The applicant has said:

'Since the grant of the outline consent, Taylor Wimpey are now progressing a Reserved Matters application and have undertaken further site investigations and surveys accordingly. This work has highlighted that the land available for providing the connection through to Birch Avenue is in fact only 2.5m at the widest point between Nos 74 and 76 Birch Avenue, and 2.0m at its narrowest point. The specific requirements of Condition 12 are therefore unable to be met in respect of it requiring the link to be 3 metres in width.'

6.22 Officers would stress that this does not mean cyclists cannot use the link, however, they must dismount and push their bikes through the 30m section. Of this new arrangement Essex Highways has said;

'...this latest design does achieve this by providing a 2.5-metre-wide link for the majority of its length; the Essex Design Guide does stipulate that where new footways are provided, they should be a minimum 2 metres in width. Where shared footway/cycleways links are deemed appropriate, they should be a minimum 3 metres wide, where the link is bounded by a building, wall of fence, it should be widened on that side by 0.5 metres'

6.23 In this case therefore, a 2m wide footpath would achieve the minimum width for a pedestrian only footpath. Indeed, the width is actually 2.5m wide other than where the footpath passes the host dwelling (74 Birch Avenue) where it is 2m wide. As the path is a pedestrian link only it does not require the widening by 0.5m the link is bounded by a building, wall of fence. There is a small amount of space beyond the footpath edges before fence line is reached for drainage. This measures between 100mm to 300mm thick in places. Therefore, the actual width of fence to fence within the footpath on plan is slightly greater than the 2m and 2.5m indicated. Although the physical footpath will be limited to either 2.5m or 2.0m throughout the link. There is a chicane and either end of the footpath that would allow all footpath uses including

mobility scooters, wheelchairs and prams to pass. Cyclist could also pass but they must dismount from their bikes and walk their bicycles through this stretch.

- 6.24 In terms of the secondary access to Birch Avenue to the west of the site, there has been a large level of objection to the narrowing of this access and the conversion of the access into a pedestrian only access from being a pedestrian and cycle link. However, the plans have been carefully assessed by both ECC Highways and Essex Police. Neither have offered any objection to the arrangement. The pedestrian link will allow cyclist through, however, they will be encouraged to dismount at the entrances to the link and walk their bikes through. Indeed, one could say physically pushing a bike along this section of path could aid pedestrian safety. Originally it was intended to have cycles along a section of the link and footpath on the remaining width. This could have caused difficulties if two cycles met travelling in different directions. Furthermore, the modern electric powered bikes travel at significantly faster speeds than traditional cycling. Thus, having cyclist dismount and push their bikes along this small stretch would appear sensible. Indeed, Officers view the path to be safer for small children especially if cyclists dismount through this stretched. Officers recommend a condition for a sign to erected on the chicane entering the footpath, that cyclists dismount.
- 6.25 With regards to the impact of the footpath on residential amenity with the most effected neighbours at 76 Birch Avenue, officers have sympathy with this neighbours concerns. Ultimately, the principle of the link was accepted by the Inspector (originally the LPA refused the scheme, and this decision was overturned). Irrespective of whether the link would be 3m or less in width, the issue of how to best erect a boundary treatment between the two sides would have to be addressed. What has been put forward is in Officers option the best option for retaining privacy, accessing household services, ensuring highway safety and ultimately, pedestrian management, through this link to the footpaths beyond. Officers are aware of a legal 'covenant' set when the properties on Birch Avenue were first built forbidding any fencing built forward of the front building line. However, this is civil matter and has no bearing on Planning law or the decision making in this case.
- 6.26 The maintenance of the 'link' including the fencing and any upkeep required will be transferred to a management company. This shall be included within the updated legal agreements. The details of the external street lighting, including that to be provided to any dedicated pedestrian paths and within the site itself, shall be covered by the Reserve Matters application. In terms of drainage, this would still be covered by the original drainage condition (no. 7) of the outline permission that says:

'7) No works shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include but not be limited to:

a) Limiting discharge rates to the 1 in 1 greenfield rate calculated from the area draining to the surface water drainage network for all events up and including the 1 in 100 year rate plus 40% allowance for climate change. The run-off rate should be no higher than 1l/s;

- b) Provide sufficient storage to ensure no off site flooding as a result of the development during all storm events up to and including the 1 in 100 year plus 40% climate change event. Any surface water drainage system should have a suitable half drain time;*
- c) Final modelling and calculations for all areas of the drainage system;*
- d) Further details in regard to the outfall from the site showing how surface water will be conveyed to the ditch proposed to discharge into;*
- e) The appropriate level of treatment for all runoff leaving the site, in line with the CIRIA SuDS Manual C753;*
- f) Detailed engineering drawings of each component of the drainage scheme;*
- g) A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features; and*
- h) A written report summarising the final strategy and highlighting any minor changes to the approved strategy.*

The scheme shall subsequently be implemented in accordance with the approved details and programme for delivery and thereafter retained.

Reason - The scheme shall subsequently be implemented in accordance with the approved details and programme for delivery and thereafter retained.

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

6.27 Therefore, no additional drainage condition is required and the proposal to vary the Planning condition to the following wording, is supported:

Proposed wording of Condition 12:

'No development shall commence until details of the:

- a) Proposed pedestrian link between the site and Birch Avenue; and*
- b) A suitable pedestrian/cycle connection between the site and the existing Public Footpath Number 11 to the north east have be submitted to and agreed in writing by the Local Planning Authority. The proposed pedestrian link between the site and Birch Avenue shall be within the curtilage of 74 Birch Avenue. The approved details of a) and b), as set out above, shall be completed in accordance with the approved details prior to occupation of any dwelling hereby permitted. Thereafter the pedestrian link between the site and Birch Avenue and the pedestrian/cycle connection between the site and the existing Public Footpath Number 11 to the north east shall be retained as such in perpetuity.'*

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'

- 6.28 There is space to park one vehicle at a slight angle in front of the host property 74 Birch Avenue. However, this lies outside the red line of this application or blue land ownership so this cannot be enforced within this application. In any event the loss of the parking spaces for 74 Birch Avenue has been considered by the Planning Inspector given the location of the footpath on the Parameter Plan and the red line area of the original location plan. As on street parking is not a significant concern in this location no objection is raised.

Section 106 of the Town and Country Planning Act 1990 and Viability Matters

- 6.29 A legal agreement was secured at outline stage requiring:

- On-site Affordable Housing (30% of the overall development)
- Health contributions
- Education contribution
- Provision of open space including a locally equipped area of play and the need to secure its future management
- RAMS payments, index linked. Therefore, any uplift in required payments over time has been factored into the payment.

- 6.30 This legal agreement and all conditions on the outline consent will still apply. The additional legal agreement (Deed of Variation) shall ensure the following:

Landscape Management Company to include maintenance of:

- Link Path to Birch Avenue inc fencing

The other elements mentioned below are to be added to the Deed of Variation, this is covered in the associated Reserve Matters application 21/00798/FUL.

Landscape Management Company to include maintenance of:

- Non adoptable Highway (roads and pavements)
- Landscaping Buffers and wider landscaping inc pedestrian link to the North East)
- Public Open space

Drainage

- ensuring the drainage feature outside the red line boundary is linked to this application and has to be constructed and fully operational before any dwelling on the host site is occupied.
- the long-term maintenance of the drainage feature outside of the red line boundary

Other Matters

- 6.31 None of the original conditions have been discharged therefore, the decision notice replicates that of the original other than the change to the Highway condition, subject of this application.

7. Conclusion

- 7.1 As established through the granting of outline application 17/01181/OUT, at appeal, the principle of residential development for up to 136 dwellings on this site is acceptable. The provision of a link to Birch Avenue was a fundamental factor for the Planning Inspector in approving the application at appeal. The proposed changes remove the possibility of free flowing cyclists on the link by making the link a pedestrian link only.

Cyclists could still walk their cycles the short distance through this access so sustainable forms of transport can still take place from the host site. Indeed, Officers view the path to be safer for small children especially if cyclists dismount through this short section of the link. The detailed design, appearance and layout of this access is considered acceptable. The proposal would result in no significant material harm to residential amenity or highway safety.

- 7.2 The application is, therefore recommended for approval subject to the legal agreement updates and planning conditions listed below.

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 to link this application to the original approval and include within the agreement the agreed Heads of Terms, as set out in the table below:

CATEGORY	TERMS
Drainage	<ul style="list-style-type: none">ensuring the drainage feature outside the red line boundary is linked to this application and has to be constructed and fully operational before any dwelling on the host site is occupied.the long-term maintenance of the drainage feature outside of the red line boundary
Landscape Management Company to include maintenance of:	<ul style="list-style-type: none">Link Path to Birch Avenue inc fencingNon adoptable Highway (roads and pavements)

	<ul style="list-style-type: none"> • Landscaping Buffers and wider landscaping inc pedestrian link to the North East) • Public Open space
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8.2 Conditions and Reasons

1. Details of the access, appearance, landscaping, layout and scale (hereinafter called “the reserved matters”) shall be submitted to and approved in writing by the Local Planning Authority before any development begins and the development shall be carried out as approved.

Reason: The application as submitted does not provide sufficient particulars for consideration of these details.

2. 2) Application for approval of the reserved matters shall be made to the Local Planning Authority no later than the expiration of three years beginning with the date of the grant of this outline permission; and the development to which this permission relates must be begun no later than the expiration of two years from the date of approval of the last of the reserved matters to be approved.

Reason - To comply with the requirements of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

3. The proposed development shall be carried out in accordance with the following approved plans: 9000 Rev A (Site Location Plan) and 9600 Rev A (Parameter Plan - Land Use) but only in respect of those matters not reserved for later approval.

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

4. Details of the reserved matters, submitted pursuant to Condition 1 above, shall include: Full details of access including the following measures:

a) The provision of a right turn in Weeley Road;

b) The provision of a 2 metre wide footway along the Weeley Road frontage of the site between the proposed access road and the western boundary of the site;

c) The provision of a 2 metre wide walkable grass verge to be dedicated as highway land along the Weeley Road frontage of the site between the proposed access road and the eastern boundary of the site;

e) The provision of a 0.5 metre wide overhang strip adjacent to the carriageway.

Full details of appearance, including the following measures:

i) The bat roost features to be incorporated into the fabric of the dwellings, hereby permitted, in accordance with the recommendation made at Paragraph 6.8 of the applicant's Preliminary Ecological Assessment (October 2017).

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. Also, in order to safeguard protected wildlife species and their habitats and in the interests of biodiversity.

5. No development shall take place, including any ground works or works of demolition, until a Construction Method Statement (CMS) has been submitted to, and approved in writing by, the Local Planning Authority. The approved CMS shall be adhered to throughout the construction period. The CMS shall provide for:
 - a) The parking of vehicles of site operatives and visitors;
 - b) Loading and unloading of plant and materials;
 - c) Storage of plant and materials used in constructing the development; and
 - d) Wheel and under body washing facilities.

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

6. No development shall commence until a foul water strategy has been submitted to and approved in writing by the Local Planning Authority. No dwellings shall be occupied until the works have been carried out in accordance with the foul water strategy approved pursuant to this condition. The foul water strategy shall thereafter be maintained in accordance with the approved details.

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

7. No works shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include but not be limited to:
 - a) Limiting discharge rates to the 1 in 1 greenfield rate calculated from the area draining to the surface water drainage network for all events up and including the 1 in 100 year rate plus 40% allowance for climate change. The run-off rate should be no higher than 1l/s;
 - b) Provide sufficient storage to ensure no off site flooding as a result of the development during all storm events up to and including the 1 in 100 year plus 40% climate change event. Any surface water drainage system should have a suitable half drain time;
 - c) Final modelling and calculations for all areas of the drainage system;

d) Further details in regard to the outfall from the site showing how surface water will be conveyed to the ditch proposed to discharge into;

e) The appropriate level of treatment for all runoff leaving the site, in line with the CIRIA SuDS Manual C753;

f) Detailed engineering drawings of each component of the drainage scheme;

g) A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features; and

h) A written report summarising the final strategy and highlighting any minor changes to the approved strategy

Reason: - The scheme shall subsequently be implemented in accordance with the approved details and programme for delivery and thereafter retained.

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

8. 8) No works shall take place until a scheme to minimise the risk of off-site flooding and the prevention of pollution, caused by surface water run-off and groundwater during construction works, have been submitted to, and approved in writing by, the Local Planning Authority. The scheme approved pursuant to this condition shall be implemented in accordance with the approved details prior to works commencing on site and shall be maintained throughout the construction works.

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. No works shall take place until a Maintenance Plan detailing maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, has been submitted to and approved, in writing, by the Local Planning Authority. Should any part be maintainable by a maintenance company, details of long term funding arrangements should be provided. The applicant or any successor in title shall maintain yearly logs of maintenance which shall be carried out in accordance with the approved Maintenance Plan. These yearly logs of maintenance shall be made available for inspection upon request by the Local Planning Authority.

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

10. No development shall commence until an assessment of the risks posed by any contamination, 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), has been submitted to and approved in writing by the Local Planning Authority (LPA). 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 LPA. The site shall be remediated in accordance with the measures and timescale approved and a verification report confirming the site has been remediated in accordance with the approved details shall be submitted to and approved in writing by the LPA. If, during the course of 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 LPA. 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 LPA within 21 days of the report being completed and shall be approved in writing by the LPA.

Reason - To protect future residents against any potential contaminants present on the site.

11. No development shall commence until a noise survey (undertaken by a competent person) for the proposed residential properties that are adjacent to the railway has been submitted to, and approved in writing by, the Local Planning Authority. The noise survey shall meet the requirements of BS 8233:2014, include periods for daytime 0700-2300 hours and night-time 2300-0700 hours, and propose appropriate mitigation measures should such measures be required. The development shall be carried out in accordance with the approved noise survey and any agreed mitigation measures shall be installed prior to first occupation and thereafter retained in perpetuity.

Reason - In order to safeguard the amenities of adjoining residential occupiers and the details are needed prior to the start of work so that measures can be incorporated into the build.

12. No development shall commence until details of the:

- a) Proposed pedestrian link between the site and Birch Avenue; and

- b) A suitable pedestrian/cycle connection between the site and the existing Public Footpath Number 11 to the north east have be submitted to and agreed in writing by the Local Planning Authority. The proposed pedestrian link between the site and Birch Avenue shall be within the curtilage of 74 Birch Avenue. The approved details of a) and b), as set out above, shall be completed in accordance with the approved details prior to occupation of any dwelling hereby permitted. Thereafter

the pedestrian link between the site and Birch Avenue and the pedestrian/cycle connection between the site and the existing Public Footpath Number 11 to the north east shall be retained as such in perpetuity.'

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

13. No development shall commence until updated surveys for bats, which shall be undertaken in accordance with the recommendations set out in the Preliminary Ecological Appraisal (October 2017), have been submitted to and approved in writing by the Local Planning Authority. The updated surveys, submitted pursuant to this condition shall include any mitigation measures required and a programme for their implementation. The development shall then be carried out in accordance with the approved updated surveys for bats and the mitigation measures shall thereafter be retained in perpetuity.

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

14. No dwelling shall be occupied until details of the Travel Information Pack, which accords with Section 6 of the submitted Transport Assessment dated October 2017, has been submitted to and approved in writing by the Local Planning Authority. The approved details of the Travel Information Pack shall then be implemented in accordance with the approved details and provided to each dwelling on the site prior to its first occupation.

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

15. All new driveways and parking areas shall be made of porous materials, or provision shall be made to direct run-off from the hard surface to a permeable or porous area or surface within the curtilage of the dwelling.

Reason - In the interests of sustainable development and to ensure that run-off water is avoided to minimise the risk of surface water flooding.

16. 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

17. Any vehicular hardstanding shall have minimum dimensions of 2.9 metres x 5.5 metres for each individual parking space, retained in perpetuity.

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

18. No clearance of trees and scrub or shrubs shall be carried out during the bird nesting season (i.e. March to August inclusive), unless supported by a survey,

undertaken by a suitably qualified ecologist, who has examined the site within a 7 day period prior to commencement of works on the site. If any nesting birds are found on site and/or are recorded either by the ecologist during their inspection or subsequently discovered all works must cease in that area until all the young have fledged and the recommencement of tree, scrub and shrub clearance have been previously approved by the above mentioned ecologist.

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

8.3 Informatives

Positive and Proactive Statement

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.

Legal Agreement Informative - Recreational Impact Mitigation

This application is the subject of a supplementary legal agreement (Deed of Variation) and this decision should only be read in conjunction with this agreement and the original Section 106 document that remains unaltered.

Highways Informative:

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 or by post to:

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

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

9. Additional Considerations

Public Sector Equality Duty (PSED)

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

Human Rights

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

Finance Implications

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

10. Background Papers

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