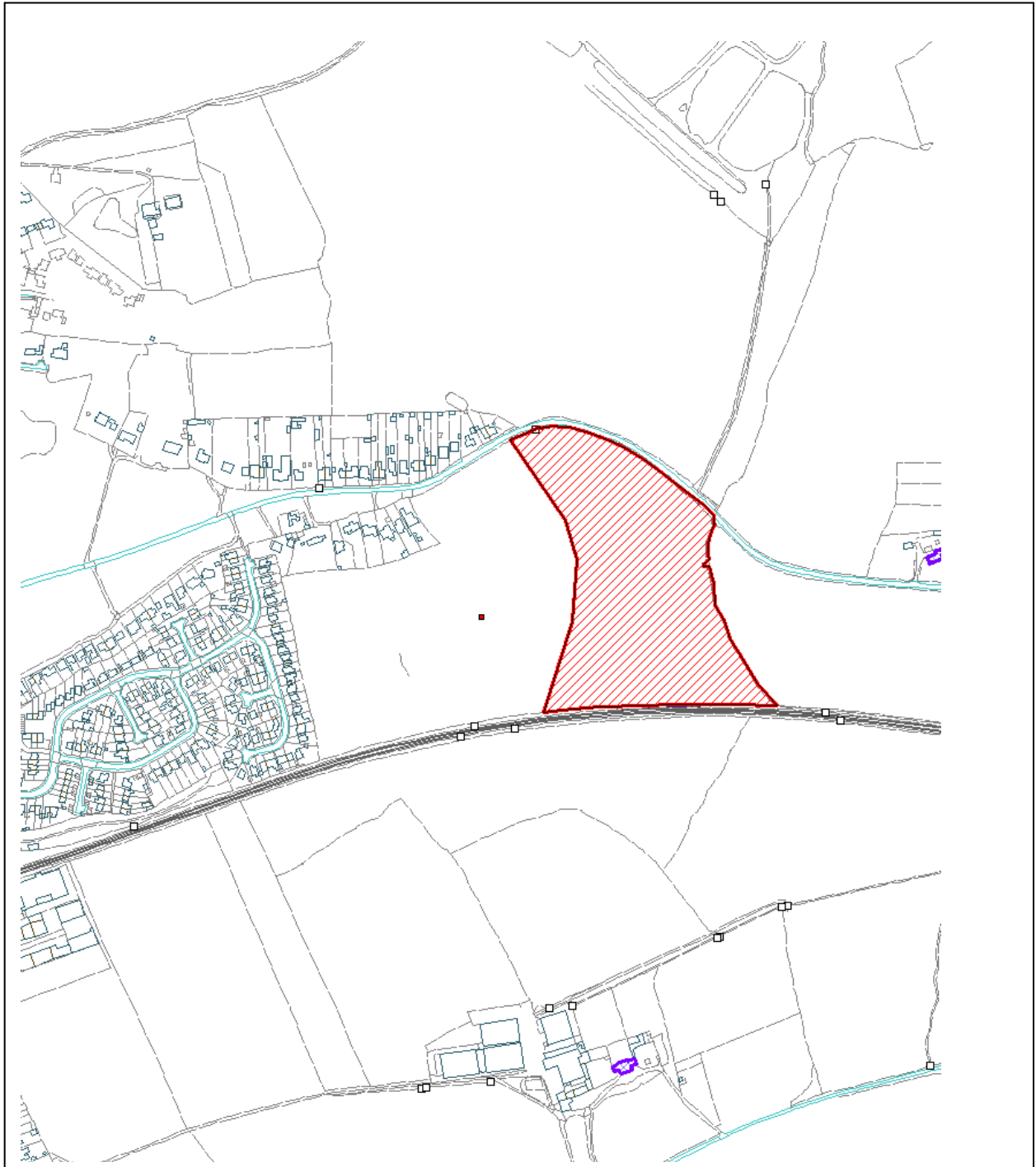


**PLANNING COMMITTEE**

**21<sup>st</sup> December 2021**

**REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING**

**A.3 PLANNING APPLICATION – 21/00978/FUL – LAND TO THE SOUTH OF WEELEY ROAD GREAT BENTLEY**



**DO NOT SCALE**

Reproduced from the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationery Office © Crown Copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings.

**Application:** 21/00978/FUL

**Town / Parish:** Great Bentley Parish  
Council

**Applicant:** Taylor Wimpey London

**Address:** Land to The South of Weeley Road Great Bentley

**Development:** 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.

## 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 was refused by the Local Planning Authority and the decision was overturned by the Planning Inspectorate.
- 1.2 The current application seeks approval of the engineering operations required in support of application for Reserved Matters submitted on adjacent land Ref: 21/00977/DETAIL (136 dwellings) including attenuation basin, public footpath, access visibility and construction access.
- 1.5 The detailed design, layout, landscaping and scale are considered acceptable. The proposal would result in no material harm to residential amenity or highway safety. The loss of the agricultural land is considered acceptable due in part to the modest size of the drainage features proposed and their location.
- 1.6 The application is, therefore recommended for approval subject to a legal agreement to secure the management of the open space, drainage features, landscaping and non-adopted highway network.

### **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 is linked to the neighbouring site (21/00977/DETAIL) and has to be constructed and fully operational before any dwelling on the neighbouring site is occupied.
- the long-term maintenance of the drainage feature

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

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 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.

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 24<sup>th</sup> 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 11<sup>th</sup> January 2022 which is likely to recommend adoption of the Section 2 Local Plan to Full Council on 25<sup>th</sup> 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 136 dwellings, informal recreation space, a local area of play and associated development.		10.03.2021
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, allowed on appeal APP/P1560/W/19/3231554.	Current

#### 4. Consultations

Natural England  
06.10.2021

#### SUMMARY OF NATURAL ENGLAND'S ADVICE - European designated sites<sup>1</sup>

It has been identified that this development site falls within the 'Zone of Influence' (Zol) of one or more of the European designated sites scoped into the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS).

As you will be aware, the Essex Coast RAMS is a large-scale strategic project which involves a number of Essex authorities, including Tendring, working together to mitigate the recreational impacts that may occur on the interest features of the coastal European designated sites in Essex as a result of new residential development within reach of them; the European designated sites scoped into the RAMS are notified for features which are considered sensitive to increased levels of recreation (e.g. walking, dog walking, water sports etc.) which can negatively impact on their condition (e.g. through disturbance birds, trampling of vegetation, erosion of habitats from boat wash etc.). For further information on these sites, please see the Conservation Objectives and Information Sheets on Ramsar Wetlands which explain how each site should be restored and/or maintained



In the context of your duty as competent authority under the provisions of the Habitats Regulations<sup>2</sup>, it is therefore anticipated that, without mitigation, new residential development in this location is 'likely to have a significant effect' on one or more European designated sites, through increased recreational pressure, either when considered 'alone' or 'in combination' with other plans and projects.

We therefore advise that you consider whether this proposal falls within scope of the Essex Coast RAMS. Where it does, you must undertake a Habitats Regulations Assessment (HRA) (Stage 2: Appropriate Assessment) to secure any necessary recreational disturbance mitigation and record this decision within your planning documentation. We have previously provided you with a suggested HRA Record template and associated guidance to help with this process where recreational disturbance to European sites is the sole HRA issue as appears to be the case in this instance (our ref: 244199, dated 16th August 2018, template and guidance shown within APPENDIX 1 of this letter); the use of this template is not mandatory but we provided it in an attempt to streamline the process and make it as straightforward and consistent as possible for the authorities involved in the RAMS.

Having reviewed the planning documents for this application, it appears that you have not yet undertaken an HRA (Stage 2: Appropriate Assessment) to consider this issue. We therefore advise that you do so now using our suggested template and that you should not grant permission until such time as the HRA has been carried out and the conclusions confirmed in line with the guidance. Please note that we will only provide further comment on your authority's HRA once completed and not a 'shadow' HRA provided by the applicant.

#### Sites of Special Scientific Interest Impact Risk Zones

The Town and Country Planning (Development Management Procedure) (England) Order 2015 requires local planning authorities to consult Natural England on "Development in or likely to affect a Site of Special Scientific Interest" (Schedule 4, w). Our SSSI Impact Risk Zones are a GIS dataset designed to be used during the planning application validation process to help local planning authorities decide when to consult Natural England on developments likely to affect a SSSI. The dataset and user

guidance can be accessed from the data.gov.uk website

ECC SuDS Consultee  
01.12.2021

Lead Local Flood Authority position

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

Condition 1

Prior to occupation of adjacent development a maintenance plan detailing the 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 agreed, 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.

ECC SuDS have the following advisory comments:

- We strongly recommend looking at the Essex Green Infrastructure Strategy to ensure that the proposals are implementing multifunctional green/blue features effectively. The link can be found below.

<https://www.essex.gov.uk/protecting-environment>

INFORMATIVES:

- Essex County Council has a duty to maintain a register and record of assets which have a significant impact on the risk of flooding. In order to capture proposed SuDS which may form part of the future register, a copy of the SuDS assets in a GIS layer should be sent to [suds@essex.gov.uk](mailto:suds@essex.gov.uk).

- Any drainage features proposed for adoption by Essex County Council should be consulted on with the relevant Highways Development Management Office.

- Changes to existing water courses may require separate consent under the Land Drainage Act before works take place. More information about consenting can be found in the attached standing advice note.

- It is the applicant's responsibility to check that they are complying with common law if the drainage

scheme proposes to discharge into an off-site ditch/pipe. The applicant should seek consent where appropriate from other downstream riparian landowners.

ECC Highways Dept  
18.11.2021

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

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

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

Reason: To ensure that on-street parking of these vehicles in the adjoining streets does not occur and to ensure that loose materials and spoil are not brought out onto the highway in the interests of highway safety and Policy DM 1.

2. On commencement of development the temporary construction access, as shown in principle on drawing 48737\_C\_005, Date (May 2021) shall be constructed at right angles to the existing carriageway. The width of the access at its junction with the highway shall not be less than 7.3 metres retained at that width for 22 metres within the site and shall be provided with an appropriate kerb radius of no less than 15 metres. Upon completion of the development / numbered occupancy, the temporary construction vehicular access shall be suitably and permanently closed incorporating the reinstatement to full height of the highway verge / footway /

cycleway / kerbing . Full details to be agreed in writing with the Local Planning Authority.

Reason: To ensure to ensure that vehicles can enter and leave the highway in a controlled manner and the removal of and to preclude the creation of unnecessary points of traffic conflict in the highway following development in the interests of highway safety in accordance with policy DM1.

3. On commencement of development the temporary 30-mph speed limit and temporary Traffic Regulation Order shall be in place; the extents of the temporary speed limit to be agreed in advance with the local Planning Authority in conjunction with the local Highway Authority. The Traffic Management signage either side of the temporary construction access shall be submitted on a plan as part of this condition prior to the commencement of the development.

Reason: To ensure to ensure that vehicles can enter and leave the highway in a controlled manner and the removal of and to preclude the creation of unnecessary points of traffic conflict in the highway following development in the interests of highway safety in accordance with policy DM1.

Note: The developer will need to pay for the necessary temporary Traffic Regulation Order prior to the temporary construction access coming into use.

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

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

5. Prior to occupation of the site, the temporary road junction / access at its centre line shall be provided with a minimum clear to ground visibility splay with dimensions of 2.4 metres by 97 metres to the south-east and 2.4 metres by 90 metres to the north-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 in accordance with policy DM1.

6. No unbound material shall be used in the surface treatment of the vehicular access within 10 metres of the highway boundary.

Reason: To avoid displacement of loose material onto the highway in the interests of highway safety in accordance with policy DM1.

The above conditions are to ensure that the proposal conforms to the relevant policies contained within the County Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

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](mailto:development.management@essexhighways.org) or by post to:

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

2: 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.

3: The proposed connecting footpath from the development to public footpath no. 11 (Great Bentley\_165) should be permissive though and should not form part of the Public Rights of Way (PROW) network as it does not add anything to the PROW network and will only serve the new development. Therefore, this footpath will need to be clearly marked as permissive. Public footpath no.11 is of limited use as to the north it ends at the A133 as there are no other PROW directly connecting to this public footpath.

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

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

TDC Tree & Landscape Officer  
22.07.2021

No trees or other significant vegetation will be adversely affected by the development proposal.

In terms of the future use of the land it is clear that it is associated with the development of the adjacent land however it does not appear clear how the land will be set out and maintained in the future. In this regard it is not apparent whether the land will remain in agricultural use or set out as informal open space with recreation and/or leisure benefits for the new development and the wider community.

Drawing No 48737/G/FIG02 is annotated to the effect that the land will be available for 'Informal Recreation' however no other information has been

provided regarding the layout of the land. In this regard it would be helpful to know what works will be carried out in terms of preparing the land for this purpose.

If the land is to be used for this purpose it would be desirable to secure details of infrastructure planting; such as specimen tree planting, boundary hedgerows and perhaps one or two small copses.

Whilst outside the remit of the role of trees and landscaping it would appear that the application may need to be amended to deal with the potential change of use of the land from agricultural use to recreational open space.

Essex County Council Ecology  
09.12.2021

No objection subject to securing biodiversity mitigation and enhancement measures

#### Summary

ECC Ecology have reviewed the Preliminary Ecological Appraisal (EECOS, June 2021), Bat Surveys (EECOS, September 2021), Reptile Survey (EECOS, September 2021) and Biodiversity Net Gain Assessment (EECOS, December 2021) relating to the likely impacts of development on designated sites, protected species and Priority species & habitats. A letter from EECOS, dated 25th November 2021, was also considered. This letter assured us that the area impacted by the drainage proposals has been covered by an ecological survey.

A previous holding objection was placed on the residential development application 21/00977/DETAIL due to missing ecological information associated with Otter, Water Vole, farmland birds and Priority habitats (River) (Place Services, 2nd December 2021). However, these potential impacts have been covered in an application for the adjacent land setting out details of the required drainage for the residential development (21/00978/FUL)

A hydrobrake will be installed in the culvert to limit the amount of water entering Weeley Brook from the proposed SuDS which will negate any potential impacts on Otter and Water Vole. Although additional land for nesting Skylark cannot be secured through these applications, provision of undisturbed and open wildflower areas will increase the foraging

capacity of the arable field for farmland birds including Skylark.

The legal agreement secured at outline stage is being updated to secure Public Open Space (POS) within the development and will also include the link from the residential site to existing recreational areas in the vicinity of the site.

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

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

The mitigation measures identified in the Preliminary Ecological Appraisal (EECOS, June 2021), Bat Surveys (EECOS, September 2021) and Reptile Survey (EECOS, September 2021) should be secured and implemented in full. This is necessary to conserve and enhance protected and Priority species particularly bats, Badger, reptiles and nesting birds.

All ecological conditions of the Appeal for the outline application (ref APP/P1560/W/19/3231554) have been met; updated bat surveys have been undertaken, integrated bat boxes have been included in the design and precautionary measures for vegetation clearance on site have been set out.

The biodiversity enhancement measures for the residential development and drainage area including the recommendations in the Biodiversity Net Gain Assessment (EECOS, December 2021), have been recommended to secure net gains for biodiversity, as outlined under Paragraph 174d of the National Planning Policy Framework (2021). These reasonable biodiversity enhancement measures should be laid out in a Biodiversity Enhancement Layout and secured by a condition of any consent. This document should also include a map showing which areas will be sown/planted with the wildflower mixes and native shrubs.

ECC Ecology agree that the areas of wildflower grassland should not be accessible to members of the public and should be retained and managed for wildlife in perpetuity. A Landscape and Ecological Management Plan (LEMP) should be produced to



outline how this will be achieved. This LEMP should be secured by a condition of any consent.

Although recently updated, the Biodiversity Net Gain calculation does not seem to include the baseline condition of the additional arable field needed for the drainage works but does include the proposed habitat creation within and around the SuDS. The proposed gardens could also be included in this assessment. An updated Biodiversity Net Gain report, including these details, should be secured by a condition of any consent.

This will enable LPA to demonstrate its compliance with its statutory duties including its biodiversity duty under s40 NERC Act 2006 as updated by the Environment Act 2021.

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

ECC Ecology recommend that submission for approval and implementation of the details below should be a condition of any planning consent.

#### Recommended conditions

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

All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Preliminary Ecological Appraisal (EECOS, June 2021), Bat Surveys (EECOS, September 2021) and Reptile Survey (EECOS, September 2021) as already submitted with the planning application and agreed in principle with the local planning authority prior to determination.

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

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

s40 of the NERC Act 2006 (Priority habitats & species) as updated by the Environment Act 2021.

## 2. PRIOR TO COMMENCEMENT: UPDATED BIODIVERSITY NET GAIN DESIGN STAGE REPORT

An Updated Biodiversity Net Gain Design Stage Report, in line with Table 2 of CIEEM Biodiversity Net Gain report and audit templates (July 2021), shall be submitted to and approved in writing by the local planning authority which provides a minimum of not net loss using the DEFRA Biodiversity Metric 3.0 or any successor.

The content of the Biodiversity Net Gain report should include the following:

- Baseline data collection and assessment of current conditions on site for both the residential development and drainage area;
- A commitment to measures in line with the Mitigation Hierarchy and evidence of how BNG Principles have been applied to maximise benefits to biodiversity;
- Provision of the full BNG calculations, with detailed justifications for the choice of habitat types, distinctiveness and condition, connectivity and ecological functionality;
- Details of the implementation measures and management of proposals;
- Details of the monitoring and auditing measures.

The proposed enhancement measures shall be implemented in accordance with the approved details and shall be retained in that manner thereafter.

Reasons: In order to demonstrate measurable net gains and allow the LPA to discharge its duties under the NPPF (2021) as updated by the Environment Act 2021

## 3. PRIOR TO ANY WORKS ABOVE SLAB LEVEL: BIODIVERSITY ENHANCEMENT LAYOUT

A Biodiversity Enhancement Layout, providing the finalised details and locations of the enhancement measures contained within the Preliminary Ecological Appraisal (EECOS, June 2021), Bat Surveys (EECOS, September 2021), Reptile Survey (EECOS, September 2021) and Biodiversity Net Gain Assessment (EECOS, December 2021), shall

be submitted to and approved in writing by the local planning authority.

The enhancement measures shall be implemented in accordance with the approved details prior to occupation and all features shall be retained in that manner thereafter.

Reason: To enhance Protected and Priority Species and allow the LPA to discharge its duties under the s40 of the NERC Act 2006 (Priority habitats & species) as updated by the Environment Act 2021.

#### 4. PRIOR TO OCCUPATION: LANDSCAPE AND ECOLOGICAL MANAGEMENT PLAN

A Landscape and Ecological Management Plan (LEMP) shall be submitted to, and be approved in writing by, the local planning authority prior to occupation of the development.

The content of the LEMP shall include the following:

- a) Description and evaluation of features to be managed including wildflower areas within the residential development and within and surrounding the SUDS area.
- b) Ecological trends and constraints on site that might influence management.
- c) Aims and objectives of management.
- d) Appropriate management options for achieving aims and objectives.
- e) Prescriptions for management actions.
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).
- g) Details of the body or organisation responsible for implementation of the plan.
- h) Ongoing monitoring and remedial measures.

The LEMP shall also include details of the legal and funding mechanism(s) by which the longterm implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan will be

implemented in accordance with the approved details."

Reason: To allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 (as amended) and s40 of the NERC Act 2006 (Priority habitats & species) as updated by the Environment Act 2021

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

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

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

Reason: To allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species) as updated by the Environment Act 2021

TDC Environmental Protection  
07/12/2021

#### Construction and Demolition:

In order to minimise potential nuisance to nearby existing residents caused by construction and demolition works, Pollution and Environmental Control ask that the following is submitted:

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

Environmental Control. This should at minimum include the following where applicable.

o Noise Control

1) The use of barriers to mitigate the impact of noisy operations will be used where possible. This may include the retention of part(s) of the original buildings during the demolition process to act in this capacity.

2) No vehicle connected with the works to arrive on site before 07:30 or leave after 19:00(except in the case of emergency). Working hours to be restricted between 08:00 and 18:00 Monday to Saturday (finishing at 13:00 on Saturday) with no working of any kind permitted on Sundays or any Public/Bank Holidays.

3) The selection and use of machinery to operate on site, and working practices to be adopted will, as a minimum requirement, be compliant with the standards laid out in British Standard 5228.

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

5) Prior to the commencement of any piling works which may be necessary, a full method statement shall be agreed in writing with the Planning Authority (in consultation with Pollution and Environmental Control). This will contain a rationale for the piling method chosen and details of the techniques to be employed which minimise noise and vibration to nearby residents.

6) If there is a requirement to work outside of the recommended hours the applicant or contractor must submit a request in writing for approval by Pollution and Environmental Control prior to the commencement of works.

o Emission Control

1) All waste arising from the demolition process, ground clearance and construction processes to be recycled or removed from the site subject to agreement with the Local Planning Authority and other relevant agencies.

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

3) All reasonable steps, including damping down site roads, shall be taken to minimise dust and litter emissions from the site whilst works of construction and demolition are in progress.

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

Adherence to the above condition will significantly reduce the likelihood of public complaint and potential enforcement action by Pollution and Environmental Control. The condition gives the best practice for Demolition and Construction sites. Failure to follow them may result in enforcement action under nuisance legislation (Environmental Protection Act 1990), or the imposition of controls on working hours (Control of Pollution Act 1974).

## **5. Representations**

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

- The development is outside of the original land edged red development area and would not normally be acceptable.
- However, if improvements to the house types are taken on board, this will act as mitigation towards this development being outside of the original land edged red.
- Concern that documents relating to the application are missing - The proposed Construction access is stated as being on Drawing Ref 48737-C-005 but is not included with the application.

5.2 There have been a number of letters received regarding the neighbouring site 21/00977/DETAIL and 21/001257/OUT however the points raised do not relate specifically this application on the eastern field.

## **6. Assessment**

### Site Context

6.1 The host site is rectangular in nature, measuring 5.52 hectares. The site is bounded on the northern side, by the Weeley Road, to the east by a hedge row with an associated drainage ditch Agricultural land and open countryside also bound the site to the east. The southern boundary is bounded by a railway line, beyond which is agricultural land and the open countryside. This land is presently outside the emerging settlement boundary for Great Bentley and the land is used for arable agricultural purposes. The western boundary borders with the pending residential development associated with outline application 17/01881/OUT.

6.2 The neighbouring field to the east measuring some 7.7ha is the location of the development for upto 136 dwellings approved via 17/01881/OUT allowed on appeal

(ref APP/P1560/W/19/3231554) dated 15/05/2020. That neighbouring site is subject two other applications being considered elsewhere, these are detailed below.

- 21/00977/DETAIL (Reserve Matters Application of the original site)

*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*

- 21/01257/OUT (Section 73 application on Host site – Not Dealt with via this report)

*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*

- 6.3 This application links into the Reserve Matters application Ref: 21/00977/DETAIL as the drainage features and public access through the field are associated with the Reserved Matters approval. However, as the host site is outside the red line of the original outline site and thus the Reserved Matters site of Ref: 21/00977/DETAIL, this application is being dealt with separately.

#### Planning History

- 6.4 Originally, the Local Planning Authority objected to the principle of the development on the neighbouring field to the west for the application for up to 136 dwellings. 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). As part on the original outline approval there were 18 planning conditions attached these are summarised below.

<b>OUTLINE APPLICATION CONDITIONS 15/00876/OUT</b>		<b>Timing</b>
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

6.5 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

6.6 This application seeks planning permission for the creation of the engineering operations required in support of application for Reserved Matters 21/00977/DETAIL submitted on adjacent land (136 dwellings) including an attenuation basin, drainage ditch, public footpath, access visibility and construction access.

6.7 The application site is outside the red line boundary of the original outline approval. Therefore, this application is a separate standalone full application. The pedestrian footpath crossing the field was a requirement of condition 12 of the original outline approval. The drainage features and additional biodiversity planting is taking place to the south of the site and the temporary construction access to the north west of the site. The scheme also offers biodiversity enhancements to the south of the site.

#### Principle of Development

6.8 The proposal is outside the settlement boundary, however no significant built form is proposed. Notably, principle of the footpath link to Public Right of Way 11 to the north west has been established through the approval of the original application via condition 12 of the outline approval. Furthermore, there are significant public benefits to the scheme in that a footpath to the wider public open space is being created, and additional biodiversity measures are proposed to the south of the site. In addition to this, a further landscaping condition can be attached to the recommendation to soften the residential development to the west. Due in part to the modest loss of agricultural land and the significant public and biodiversity benefits created, there is no objection to the principle of the development.



### Loss of Agricultural Land

- 6.9 The land classification maps identifies the site as being Grade 2 and 3 land, that is classed as good to moderate. The drainage features shall involve the loss of some agricultural land. However, the size is not significant given the size of the drainage features. Furthermore, these features are to the far south of the site.
- 6.10 Policy EN4 states *“Development will not be permitted on the best and most versatile land (namely land classified as grades 1, 2 or 3a as defined by the ALC) [Agricultural Land Classification] unless special justification can be shown” and indicates where such development is “...unavoidable, areas of poorer quality agricultural land should be used in preference to that of higher quality agricultural land...”*
- 6.11 The pre-ambble to policy PPL3 in the eLP states *“In order to promote sustainable development, in considering where to select sites for new development in this Local Plan, the Council has taken particular care to assess the value of the landscape and, where practical, allocate sites with the lowest sensitivity, thereby helping to protect valued landscapes and the best and most versatile agricultural land.”*
- 6.12 Given the biodiversity gains achieved, also the lowering of the density per hectare on the development site to the west, officers consider that the loss of the agricultural land at this site would not be significant or unacceptable. This conclusion is based on the modest scale of the loss and the fact that the land in question is at the lower end of the quality range. The scale of loss would be insufficient to adversely affect the development and diversification of agricultural and other land based rural businesses and no objection is raised.

### Landscaping/Biodiversity

- 6.13 No trees or other significant vegetation will be adversely affected by the development proposal. Other than the footpath link, there will be no public access to the rest of the land. The drainage features shall have no disenable impact on the wider landscape and no objection is raised. Officers recommend (as an additional public benefit) a landscaping condition. This can help soften the two dwellings on the neighbouring site that border the host site (plots 136 and 119). Thus, improving views of the wider residential development from the east. There is sufficient Public Open Space (10%) on the residential site (21/00977/DETAIL) and landscaping (12%) to conclude that no further public open space land is required on the host site.
- 6.14 Subject to planning conditions, the proposed works will ultimately not look incongruous once completed within the existing setting of the land. Indeed, they shall be largely indistinguishable from the existing appearance.
- 6.15 From the biodiversity perspective, ECC Ecology have no objections to the scheme, they have noted that a hydrobrake will be installed in the culvert to limit the amount of water entering Weeley Brook from the proposed SuDS which will negate any potential impacts on Otter and Water Vole. Furthermore, the application provides for an additional area of undisturbed and open wildflower to the south of the site. This will increase the foraging capacity of the arable field for farmland birds including Skylark. Subject to the recommended Planning Conditions suggested by ECC Ecology, an acceptable net bio diversity gain shall take place.

- 6.16 Natural England have commented on the scheme and suggested that a Habitats Regulations Assessment (HRA) (Stage 2: Appropriate Assessment) is required. However, this is only if the development proposed 100 dwellings or more. In this case no dwellings are being created hence the assessment is not required. The assessment has taken place on the neighbouring site 21/00977/DETAIL, Natural England have agreed with the findings although at the time of print, their formal comments have not been received. This shall be included in the update sheet.
- 6.17 The legal agreement secured at outline stage is being updated to secure Public Open Space (POS) within the development and will also include the link from the residential site via the footpath to the east to the Public Right of Way 11 to the north west.
- 6.18 Overall, subject to planning conditions, the detailed design, appearance, layout and scale is considered acceptable.

#### Highway Safety/Parking

- 6.19 The Highway Authority has confirmed that they have no objection to the application as submitted from an access and highway layout perspective. As the application involves a temporary construction access ECC Highways have requested on commencement of development a temporary 30-mph speed limit and temporary Traffic Regulation Order shall be in place. This shall include Traffic Management signage either side of the temporary construction access. The reason for this is to ensure that vehicles can enter and leave the highway in a controlled manner and the removal of and to preclude the creation of unnecessary points of traffic conflict in the highway following development in the interests of highway safety.
- 6.20 Further to this, Essex County Council Highways have recommended the following conditions:
- Construction Management Plan
  - Sufficient kerb Radi to be shown
  - temporary 30-mph speed limit and temporary Traffic Regulation Order
  - No discharge of surface water onto the Highway.
  - visibility splays
  - Limits to unbound material within 10 of the highway
- 6.21 All of the above conditions form part of the recommendation below. Officers also recommend a condition which would confirm the material details of the footpath to be agreed before development. Overall, there are no objections to the development in relation to Access matters.

#### Drainage

- 6.22 Essex County Council Flood and Water Management Team have no objection other than to recommend a legal agreement is put in place for the long-term maintenance of the drainage and for this to be linked to the neighbouring development. This has been recommended in the updated legal agreement. The Lead Local Flood Authority have also requested a planning condition relating to the maintenance of the drainage features. This is included in the recommendations. Officers recommend the contaminated land condition that the Planning Inspector used on the neighbouring site to be included with this recommendation.

6.23 S106 of the Town and Country Planning Act 1990

6.24 A legal agreement was secured at outline stage on the neighbouring site to the west (17/0881/OUT) securing:

- 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.

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

Drainage

- ensuring the drainage feature is linked to the neighbouring site (21/00977/DETAIL) and has to be constructed and fully operational before any dwelling on the neighbouring site is occupied.
- the long-term maintenance of the drainage feature

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

## **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 the neighbouring site is acceptable. This application provides the drainage features of this neighbouring development and also the footpath across the field to the wider Public Rights of Way beyond.

7.2 The proposed developments shall have a negligible impact on the wider landscape. An additional landscaping condition will provide benefits for local biodiversity and help with lessening the impact on residential amenity as well as retaining the character of Great Bentley. The additional also includes a bio diversity net gain that subject to planning conditions is supported by ECC Ecology. The loss of agricultural land can be supported given the wider public benefits of the scheme and the low magnitude of farmland loss.

7.3 In the absence of any significant material harm, the application is, therefore recommended for approval subject to a 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 agreement with the agreed Heads of Terms, as set out in the table below:

CATEGORY	TERMS
Drainage	<ul style="list-style-type: none"> <li>ensuring the drainage feature is linked to the neighbouring site (21/00977/DETAIL) and has to be constructed and fully operational before any dwelling on the neighbouring site is occupied.</li> <li>the long-term maintenance of the drainage feature</li> </ul>
Landscape Management Company to include maintenance of:	<ul style="list-style-type: none"> <li>Link Path to Birch Avenue inc fencing</li> <li>Non adoptable Highway (roads and pavements)</li> <li>Landscaping Buffers and wider landscaping inc pedestrian link to the North East)</li> <li>Public Open space</li> </ul>
CATEGORY	TERMS

**8.2 Conditions and Reasons**

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

21.5138.09	Suds area
------------	-----------

48737/c/004 b	Amended drainage layout - east
48737/c/005 b	Amended construction access
20.1464.40b	Amended proposed site layout (infrastructure)

20.1462.31	Site plan (infrastructure)
------------	----------------------------

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

2. Prior to occupation of adjacent development a maintenance plan detailing the 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 agreed, 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.

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.

3. 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.

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

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

Reason: To ensure that on-street parking of these vehicles in the adjoining streets does not occur and to ensure that loose materials and spoil are not brought out onto the highway in the interests of highway safety.

5. On commencement of development the temporary construction access, as shown in principle on drawing 48737\_C\_005, Date (May 2021) shall be constructed at right angles to the existing carriageway. The width of the access at its junction with the highway shall not be less than 7.3 metres retained at that width for 22 metres within the site and shall be provided with an appropriate kerb radius of no less than 15 metres. Upon completion of the development / numbered occupancy, the temporary construction vehicular access shall be suitably and permanently closed incorporating the reinstatement to full height of the highway verge / footway / cycleway / kerbing . Full details to be agreed in writing with the Local Planning Authority.

Reason: To ensure to ensure that vehicles can enter and leave the highway in a controlled manner and the removal of and to preclude the creation of unnecessary points of traffic conflict in the highway following development in the interests of highway safety.

6. On commencement of development the temporary 30-mph speed limit and temporary Traffic Regulation Order shall be in place; the extents of the temporary speed limit to be agreed in advance with the local Planning Authority in conjunction with the local Highway Authority. The Traffic Management signage either side of the temporary construction access shall be submitted on a plan as part of this condition prior to the commencement of the development.

Reason: To ensure to ensure that vehicles can enter and leave the highway in a controlled manner and the removal of and to preclude the creation of unnecessary points of traffic conflict in the highway following development in the interests of highway safety.

Note: The developer will need to pay for the necessary temporary Traffic Regulation Order prior to the temporary construction access coming into use.

7. 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.

8. Prior to occupation of the site, the temporary road junction / access at its centre line shall be provided with a minimum clear to ground visibility splay with dimensions of 2.4 metres by 97 metres to the south-east and 2.4 metres by 90 metres to the north-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.

9. No unbound material shall be used in the surface treatment of the vehicular access within 10 metres of the highway boundary.

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

10. Prior to the commencement of any construction or demolition works, the applicant (or their contractors) shall submit a full method statement to, and receive written approval from, the Pollution and Environmental Control. This should at minimum include the following where applicable.

- Noise Control

1) The use of barriers to mitigate the impact of noisy operations will be used where possible. This may include the retention of part(s) of the original buildings during the demolition process to act in this capacity.

2) No vehicle connected with the works to arrive on site before 07:30 or leave after 19:00(except in the case of emergency). Working hours to be restricted between 08:00 and 18:00 Monday to Saturday (finishing at 13:00 on Saturday) with no working of any kind permitted on Sundays or any Public/Bank Holidays.

3) The selection and use of machinery to operate on site, and working practices to be adopted will, as a minimum requirement, be compliant with the standards laid out in British Standard 5228.

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

5) Prior to the commencement of any piling works which may be necessary, a full method statement shall be agreed in writing with the Planning Authority (in consultation with Pollution and Environmental Control). This will contain a rationale for the piling method chosen and details of the techniques to be employed which minimise noise and vibration to nearby residents.

6) If there is a requirement to work outside of the recommended hours the applicant or contractor must submit a request in writing for approval by Pollution and Environmental Control prior to the commencement of works.

- Emission Control

1) All waste arising from the demolition process, ground clearance and construction processes to be recycled or removed from the site subject to agreement with the Local Planning Authority and other relevant agencies.

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

3) All reasonable steps, including damping down site roads, shall be taken to minimise dust and litter emissions from the site whilst works of construction and demolition are in progress.

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

Reason: Adherence to the above condition will significantly reduce the likelihood of public complaint and potential enforcement action by Pollution and Environmental Control. The condition gives the best practice for Demolition and Construction sites. Failure to follow them may result in enforcement action under nuisance legislation (Environmental Protection Act 1990), or the imposition of controls on working hours (Control of Pollution Act 1974).

9. Prior to the commencement of the development, details of the footways (including layout, levels, gradients, surfacing, traffic calming and means of surface water drainage) shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that footways are constructed to an acceptable standard, in the interests of highway safety.

10. All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Preliminary Ecological Appraisal (EECOS, June 2021), Bat Surveys (EECOS, September 2021) and Reptile Survey (EECOS, September 2021) as already submitted with the planning application and agreed in principle with the local planning authority prior to determination.

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

Reason: To conserve and enhance protected and Priority species and allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species) as updated by the Environment Act 2021.

11. Prior to commencement an Updated Biodiversity Net Gain Design Stage Report, in line with Table 2 of CIEEM Biodiversity Net Gain report and audit templates (July 2021), shall be submitted to and approved in writing by the local planning authority which provides a minimum of not net loss using the DEFRA Biodiversity Metric 3.0 or any successor.

The content of the Biodiversity Net Gain report should include the following:

- Baseline data collection and assessment of current conditions on site for both the residential development and drainage area;
- A commitment to measures in line with the Mitigation Hierarchy and evidence of how BNG Principles have been applied to maximise benefits to biodiversity;
- Provision of the full BNG calculations, with detailed justifications for the choice of habitat types, distinctiveness and condition, connectivity and ecological functionality;
- Details of the implementation measures and management of proposals;



- Details of the monitoring and auditing measures.

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

Reasons: In order to demonstrate measurable net gains and allow the LPA to discharge its duties under the NPPF (2021) as updated by the Environment Act 2021

12. Prior to any works above slab level a Biodiversity Enhancement Layout, providing the finalised details and locations of the enhancement measures contained within the Preliminary Ecological Appraisal (EECOS, June 2021), Bat Surveys (EECOS, September 2021), Reptile Survey (EECOS, September 2021) and Biodiversity Net Gain Assessment (EECOS, December 2021), shall be submitted to and approved in writing by the local planning authority.

The enhancement measures shall be implemented in accordance with the approved details prior to occupation and all features shall be retained in that manner thereafter."

Reason: To enhance Protected and Priority Species and allow the LPA to discharge its duties under the s40 of the NERC Act 2006 (Priority habitats & species) as updated by the Environment Act 2021.

13. Prior to occupation a Landscape and Ecological Management Plan (LEMP) shall be submitted to, and be approved in writing by, the local planning authority.

The content of the LEMP shall include the following:

- a) Description and evaluation of features to be managed including wildflower areas within the residential development and within and surrounding the SUDS area.
- b) Ecological trends and constraints on site that might influence management.
- c) Aims and objectives of management.
- d) Appropriate management options for achieving aims and objectives.
- e) Prescriptions for management actions.
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).
- g) Details of the body or organisation responsible for implementation of the plan.
- h) Ongoing monitoring and remedial measures.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details."

Reason: To allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 (as amended) and s40 of the NERC Act 2006 (Priority habitats & species) as updated by the Environment Act 2021

14. No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a scheme of soft landscaping works for the

site, which shall include any proposed changes in ground levels and also accurately identify spread, girth and species of all existing trees, shrubs and hedgerows on the site and indicate any to be retained, together with measures for their protection which shall comply with the recommendations set out in the British Standards Institute publication "BS 5837:2012 Trees in relation to design, demolition and construction.

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

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

Reason - In order to ensure a satisfactory development in terms of landscape appearance, character and functionality and ensure the earliest and practicable Implementation of new planting required to mitigate the impact of the development.

### 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 17/0881/OUT that remains unaltered.

#### Highways 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](mailto:development.management@essexhighways.org) or by post to:

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

2: 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.

3: The proposed connecting footpath from the development to public footpath no. 11 (Great Bentley\_165) should be permissive though and should not form part of the Public Rights of Way (PROW) network as it does not add anything to the PROW network and will only serve the new development. Therefore, this footpath will need to be clearly marked as permissive. Public footpath no.11 is of limited use as to the north it ends at the A133 as there are no other PROW directly connecting to this public footpath.

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

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

Drainage Informative

- We strongly recommend looking at the Essex Green Infrastructure Strategy to ensure that the proposals are implementing multifunctional green/blue features effectively. The link can be found below. <https://www.essex.gov.uk/protecting-environment>

## **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/>.