

**MINUTES OF THE MEETING OF THE PLANNING COMMITTEE,
HELD ON TUESDAY, 21ST DECEMBER, 2021 AT 6.00 PM
IN THE COMMITTEE ROOM - TOWN HALL, STATION ROAD, CLACTON-ON-SEA,
CO15 1SE**

Present:	Councillors White (Chairman), Bray (Vice-Chairman), Alexander, Baker, Casey, Codling, Fowler and Placey
Also Present:	Councillor McWilliams
In Attendance:	Lisa Hastings (Deputy Chief Executive & Monitoring Officer), Gary Guiver (Acting Director (Planning)), Graham Nourse (Assistant Director (Planning)), Trevor Faulkner (Planning Manager), Nick Westlake (Planning Officer), Keith Durran (Committee Services Officer) and Matt Cattermole (Communications Assistant).

182. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

An apology for absence was received from Councillor Harris with no substitution.

183. MINUTES OF THE LAST MEETING

It was moved by Councillor Bray and seconded by Councillor Baker and :-

RESOLVED that the minutes of the last meeting of the Committee held on 7 December 2021 be approved as a correct record.

184. DECLARATIONS OF INTEREST

There were none on this occasion.

185. QUESTIONS ON NOTICE PURSUANT TO COUNCIL PROCEDURE RULE 38

There were none on this occasion.

186. 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

Before the meeting, an update sheet had been distributed to the Committee with details of an update in respect of an Essex Highways Update received on 13/12/2021; building regulations approval; and a recommended additional condition.

It was reported that this application had been referred to the Planning Committee at the request of the Assistant Director (Planning) as the original outline application 17/01881/OUT had been refused by the Local Planning Authority and its decision was then subsequently overturned by the Planning Inspectorate. Within that appeal decision the Planning Inspector had 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.

The Committee was reminded that the current application sought to vary condition 12 of application 17/01881/OUT (allowed on appeal APP/P1560/W/19/3231554) to remove the reference within condition 12 which required the pedestrian/cycle link between the site and Birch Avenue to be 3 metres in width and also allowing for that link between the site and Birch Avenue to be a pedestrian link only. That was because the applicant had discovered there was not 3m between 74 Birch Avenue and 76 Birch Avenue to construct such a link.

Members heard that, as established through the granting of outline application 17/0881/OUT, the principle of residential development for up to 136 dwellings on this site was acceptable. Within this application it was considered acceptable that the footpath link between the host site and Birch Avenue could be under 3m in width and pedestrian only as this should provide benefits to pedestrian safety when using the link rather than sharing the link with cyclists riding their bikes through. Cyclists would be allowed to walk their bikes through the link.

In the opinion of Officers the detailed design and layout was 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 the village.

The application was therefore recommended by Officers 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. Those latter elements were assessed more fully in the Reserved Matters application 21/00977/DETAIL.

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

At the meeting, an oral presentation was made by the Council's Planning Officer (Nick Westlake) in respect of the application.

Samuel Caslin, the agent acting on behalf of the applicant, spoke in support of the application.

Alison Clark, a resident, spoke against the application.

Councillor Lynda McWilliams, the local Ward Member, spoke against the application.

Matters raised by a Committee Member:-	Officer's response thereto:-
Does the Committee have the authority to go against the Planning Inspector's conditions?	Yes, the varied condition application can be considered by the Committee.
The Planning Inspector's condition was very specific and certain, what argument could be put forward that	In consultation with Essex Highways, who had also agreed that the proposed variance was

they were wrong?	acceptable.
<p>Could the following policies from the Local Plan be explained: SPL3 B&C, SP 6, CP 1&2.</p>	<p>Policy SPL3 says that all new development (including changes of use) should make a positive contribution to the quality of the local environment and protect or enhance local character.</p> <p>The adopted policy SP6 stated that the local planning authority shall deliver changes in travel behaviour by applying the modal hierarchy and increasing opportunities for sustainable modes of transport that can compete effectively with private vehicles.</p> <p>Policy CP1 of the Emerging Local Plan section Two 2013 - 2033 (emerging plan) and beyond states that proposals for new development must be sustainable in terms of transport and accessibility and therefore should include and encourage opportunities for access to sustainable modes of transport, including walking, cycling and public transport.</p> <p>Emerging Policy CP2 states proposals for new development which contribute to the provision of a safe and efficient transport network that offers a range of sustainable transport choices will be supported. Major development proposals should include measures to prioritise cycle and pedestrian movements, including access to public transport.</p>

Following discussion by the Committee, it was moved by Councillor Bray, seconded by Councillor Alexander and:-

RESOLVED that the Assistant Director (Planning) (or equivalent authorised Officer) be authorised to refuse planning permission for the development, contrary to the Officers' recommendation of approval, for the following reasons:-

1. The 2021 National Planning Policy Framework (Framework) defines the social objective of sustainable development to

support strong, vibrant and healthy communities, by fostering well-designed, beautiful and safe places, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being. The environmental aspect of sustainable development, as referenced in the Framework, seeks to protect and enhance our natural, built and historic environment; including making effective use of land, mitigating and adapting to climate change, including moving to a low carbon economy.

A move towards the use of sustainable transport modes is a key element in achieving a low car economy. The framework defines sustainable transport modes and being any efficient, safe and accessible means of transport with overall low impact on the environment including walking and cycling. Paragraph 92 of the framework states that Planning policies and decisions should aim to achieve healthy, inclusive and safe place which, are safe and accessible for example through the use of attractive, well designed, clear and legible pedestrian and cycle routes. Paragraph 97 of the framework states planning decisions should promote public safety, this includes appropriate and proportionate steps that can be taken to reduce vulnerability, increase resilience and ensure public safety and security.

Paragraph 104 of the framework states that development proposals should consider opportunities to promote walking and cycling when considering high quality places. Paragraph 106 advises that planning policies should provide for attractive and well-designed walking and cycling networks. Paragraph 110 of the framework states that in assessing sites that may be allocated for development in plans it should be ensured that there is safe and suitable access to the site can be achieved to all users. Paragraph 112 of the framework states developments should give first priority to pedestrians and cycle movements both within schemes and with neighbouring areas. Developments should address the needs of people with disabilities and reduced mobility in relation to all modes of transport. Creating places that are safe, secure and attractive which minimise the scope for conflicts between pedestrians, cyclists and vehicles.

Paragraph 130 of the framework states that decisions should ensure that developments will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development. Developments should be visually attractive as a result of good architecture, layout and appropriate and effective landscaping. Establish a sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit. Also that developments should create places that are safe, inclusive and accessible and which promote health and wellbeing with a high standard of amenity for existing and future

users and where crime and disorder and the fear of crime do not undermine the quality of life or community cohesion and resilience. Finally the framework states in paragraph 134 development that is not well designed should be refused.

At a local level the emerging local plan says in Policy SPL3 that all new development (including changes of use) should make a positive contribution to the quality of the local environment and protect or enhance local character. The design and layout of the development maintains and or provides safe and convenient access for people with mobility impairments and the development incorporates or provides for measures to minimise opportunities for crime and anti-social behaviour. Policy LP3 states that new residential developments has regard to accessibility to local services, and enhance that character in the immediate area.

Policy CP1 of the Emerging Local Plan section Two 2013 - 2033 (emerging plan) and beyond states that proposals for new developments for new development must be sustainable in terms of transport and accessibility and therefore should include and encourage opportunities for access to sustainable modes of transport, including walking, cycling and public transport.. In order to reduce dependence upon private car transport, improve the quality of life for local residents, facilitate business and improve the experience for visitors, all such applications should include proposals for walking and cycling routes and new or improved bus-stops/services. Emerging Policy CP2 states proposals for new development which contribute to the provision of a safe and efficient transport network that offers a range of sustainable transport choices will be supported. Major development proposals should include measures to prioritise cycle and pedestrian movements, including access to public transport.

The pre text to adopted Policy SP6 of the Tendring District Local Plan 2013-2033 and Beyond Section 1 states:

'through implementation of the Essex Cycling Strategy (2016), Cycling Action Plans have been prepared in all the NEAs to increase cycle levels; identify safety issues; identify gaps on key routes; identify ways of closing gaps; and create better cycle connectivity to key employment areas, development zones and schools. The provision of continuous cycle routes and a coherent cycle network will encourage people to make short trips by bicycle rather than by car.'

The adopted policy SP6 the local planning authority shall deliver changes in travel behaviour by applying the modal hierarchy and increasing opportunities for sustainable modes of transport that can compete effectively with private vehicles. Also provide a comprehensive network of segregated walking and cycling

routes linking key centres of activity. The policy also aims to facilitate the delivery of a wide range of social infrastructure required for healthy, active and inclusive communities, minimising negative health and social impacts, both in avoidance and mitigation. New developments should provide the conditions for a healthy community through the pattern of development, good urban design, access to local services and facilities; green open space and safe places for active play and food growing, and which are all accessible by walking, cycling and public transport.

Adopted policy SP7 of the Tendring District Local Plan 2013-2033 and Beyond Section 1 states that all new development must meet high standards of urban and architectural design. Responding positively to local character and context to preserve and enhance the quality of existing places and their environs. Also create well-connected places that prioritise the needs of pedestrians, cyclists and public transport services above use of the private car.

Policy QL2 of the adopted 2007 Local Plan states that all new development proposals should be located and designed to avoid the reliance on the use of the private car and promote travel choice where cyclists are second in priority behind pedestrians that are first. Adopted Policy TR3a (2007 Local Plan) says where practicable all developments will be required to link with existing footpath and public rights of way networks and provide convenient, safe, attractive and direct routes for walking. Where appropriate, development should also improve links to and between pedestrian routes and public transport facilities, and support pedestrian priority measures.

Adopted Policy TR5 (2007 Local Plan) of the adopted Plan states that all major new developments should provide appropriate facilities for cyclists. These include safe, convenient and clearly defined access to, and circulation within the development site. Cycling provision at developments should link with existing cycle networks, and take account of the need for improvements to the network. Existing and proposed cycle routes will be safeguarded and existing routes should be safeguarded as part of the public highway network by legal order.

Adopted Policy COM1 (2007 Local Plan) states development involving buildings or spaces to which the public will have access as visitors, customers or employees will not be permitted if the design and layout does not provide safe and convenient access for people of all abilities. In particular, to ensure an inclusive environment development shall provide entrances which can be easily and safely accessed by all users, including those with mobility and sensory impairments. Provide safe and convenient access to the development for people of all abilities from parking

areas, drop-off points and adjoining public spaces; and clear signposting of accessible facilities and routes to accessible entrances.

Adopted Policy COM2 (2007 Local Plan) states all new development shall contribute to a safe and secure environment, which reduces the incidence and fear of crime and disorder by reducing criminal opportunity and fostering positive social interactions between legitimate users. In particular development shall:

1. maximise overlooking of areas which may be vulnerable to crime such as public spaces, car parking areas and footpaths;
2. maintain a discernible distinction between public and private spaces; and
3. provide a good standard of lighting to public spaces and routes.
 - i. Measures referred to in (1) above, to protect the security of people and property, must be compatible with the character and amenities of the area, which can be successfully achieved through good design.
 - ii. In appropriate cases the Council may seek developer contributions towards the provision of CCTV, lighting or other security measures.

The proposed pedestrian only footpath link would be contrary to the formation of a pedestrian / cycle link that was requested through the appeal decision associated with the original decision, cumulating in Condition 12 of the original decision being formed as part of the decision. The narrower pathway would be a less sustainable form of access reducing the ability or likelihood of cyclists to use the link significantly reducing the sustainability credentials of the original scheme that was highlighted as being of fundamental importance to the initial decision making process.

The narrowing to the link shall result in a compromised level of public safety for users especially where there is a 'pinch point' between 74 and 76 Birch Avenue. As a result of the reduced width especially via the pinch point throughout the link the possibility of mobility scooters, prams and wheelchair users finding passing difficult or impossible especially during the narrowest section is unacceptable to the local planning authority. Furthermore, the fear or perception of crime shall be increased by having sections along the link (either side of the pinch points) where individuals could hide behind outside of lines of sight of

others using this link. Again, this design element of the link is fundamentally objectionable to the Local Planning Authority. Due to the compromised overall reduced width design this is likely to result in less people using the link and a greater use of car movements to access local services and this is in complete contradiction to the instruction of the original Planning Inspector's decision and policies and guidance on such matters.

Overall, the link, due to its narrowed awkward design is less visually attractive and represents a poor design solution that fails to provide a continuous cycle route between the new development and the key centres of activity in the rural service centre of Great Bentley thus reducing the ability for cycling to compete effectively with private motor vehicles for trips to the centre of Great Bentley. It would fail to make people feel safe and secure when using the link, and fail to adhere to the social and environmental strands of sustainable development as defined by the framework together with aforementioned national and local policies listed above.

187. A.2 PLANNING APPLICATION - 21/00977/DETAIL - LAND TO THE SOUTH OF WEELEY ROAD AND TO THE EAST OF BIRCH AVENUE AND PINE CLOSE GREAT BENTLEY

Before the meeting, an update sheet had been distributed to the Committee with details of an update in respect of two new comments received from neighbouring properties; landscaping & biodiversity; archaeology; and recommended additional conditions.

The Committee was informed that this application had been referred to the Planning Committee at the request of the Assistant Director (Planning) as the original outline application had been refused by the Local Planning Authority and its decision had been subsequently overturned by the Planning Inspectorate.

Members were informed that the current application sought approval of the reserved matters relating to outline planning permission 17/0881/OUT, which granted planning permission for the erection of up to 136 dwellings with access from Weeley Road, informal recreation space, a local area of play and associated development. This application also included details of appearance, landscaping, access, layout and scale which had not been included as part of the outline.

The Committee was made aware that the application also dealt with the 'detail' of a footpath only link to Birch Avenue being under 3m in width. The original outline permission had required this link to be a pedestrian and cycle link and 3m wide. This matter had already been deliberated upon by the Committee earlier in the meeting when it had considered application 21/01257/OUT (Minute 186 referred).

As established through the granting of outline application 17/0881/OUT the principle of residential development for up to 136 dwellings on this site was

acceptable. [However, the Committee had not considered it to be acceptable under application 21/01257/OUT, that the footpath link to Birch Avenue could be under 3m in width and pedestrian only.]

The detailed design, layout, landscaping and scale were considered acceptable by Officers who felt that the proposal would result in no material harm to residential amenity or highway safety.

The application was therefore recommended by Officers for approval subject to a legal agreement to secure the management of the open space, drainage features, landscaping and non-adopted highway network.

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

At the meeting, an oral presentation was made by the Council's Planning Officer (Nick Westlake) in respect of the application.

Samuel Caslin, acting on behalf of the applicant, spoke in support of the application.

Alison Clark, a resident, spoke against the application.

Councillor Lynda McWilliams, the local Ward Member, spoke against the application.

Matters raised by a Committee Member:-	Officer's response thereto:-
Where in the report does it state it has to be 90mtrs splay on either side of the access?	The applicant is adhering to the Essex Highways Design Standards for this speed of road.
Where are the affordable houses? Also is it correct that the affordable houses don't have garages?	They tend to be situated at the western end of the site; albeit they are clustered in groups of no more than 10 dwellings per cluster and as such meet the requirements of the emerging Local Plan, at least 'technically' but perhaps not in the spirit of ensuring that the AH units are pepperpotted across the entire site. Yes none of the affordable houses have garages but in this case neither do many of the private units, so it is reasonable to conclude that the proposed scheme would be 'tenure blind'.
Will the possible archaeological aspect of this site be investigated?	There is a recommendation that assures this must take place.
Is there a way to challenge the	They would need a report from an

decision of the Tree Officer?	expert offering evidence in the contrary to the Officer that would then be considered.
Are the external chimney stacks actual useable chimneys or just faux chimneys?	Faux chimneys

Following discussion by the Committee, it was moved by Councillor Harris, seconded by Councillor Placey and:-

RESOLVED that : consideration of application 21/00977/DETAIL be deferred in order to allow the Officers to attempt to resolve the following matters with the Applicant:-

- The footpath link;
- retention of the oak trees in the field;
- visibility splays to access;
- archaeological exploration;
- clustering of affordable housing to be reconsidered and better 'pepper potted' across development; and
- consideration to be given to extending 30mph speed limit to the east along Weeley Road.

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

Following discussion by the Committee, it was moved by Councillor Baker, seconded by Councillor Harris and:

RESOLVED that consideration of application 21/00978/FUL be deferred in on order to allow the outstanding matters in relation to application 21/00977/DETAIL to be first resolved.

189. A.4 PLANNING APPLICATION - 21/01490/VOC - LAND ADJACENT 2 WIVENHOE ROAD ALRESFORD CO7 8AD

It was reported that this application had been referred to the Planning Committee as one of the landowners was an employee of Tendring District Council. The application sought planning permission for the variation of condition 2 of application 19/01261/FUL to allow for design amendments to plots 2 and 3.

The Committee heard how the site fell adjacent to, but outside of, the Alresford Settlement Development Boundary within the Adopted Tendring Local Plan 2007 but fell inside the Settlement Development Boundary for Alresford within the Emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft. It was considered by Officers that the design changes to Plots 2 and 3 were more of a traditional appearance and were in keeping with the different types of housing along Wivenhoe Road.

Members were informed that there would be no impact upon residential amenities, impact on trees or impact upon highways. Alresford Parish Council had no objection and one letter of support had been received.

Is the only reason this application is before the Committee is because the applicant is a TDC staff member?	Yes, that is correct.
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Following discussion by the Committee, it was moved by Councillor Bray, seconded by Councillor Baker and unanimously:-

RESOLVED that the Assistant Director (Planning) (or equivalent authorised officer) be authorised to grant planning permission for the development, subject to the following planning conditions and reasons:-

1. The development hereby permitted shall begin no later than 14 August 2023.

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

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

- Drawing no. 714/1
- Drawing no. 714/2
- Drawing no. 714/3
- Drawing no. 714/4
- Amended Site Plan – Scanned 11 Nov 2021

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

3. The development hereby approved shall be carried out in accordance with drawing no. RS/TP/01 – Tree Constraints Plan and Arboricultural Report – Dated 25/06/13 as submitted under application 21/01572/DISCON.

Reason - To ensure the protection of the retained trees on site.

4. All changes in ground levels, hard landscaping, planting, seeding or turfing shown on approved

Drawing no. 714/1 submitted under 21/01572/DISCON shall be carried out during the first planting and seeding season (October - March inclusive) following the commencement of the development or in such other phased arrangement as may be agreed in writing by the Local Planning Authority. Any trees or shrubs which, within a period of 5 years of being planted die, are removed or seriously damaged or seriously diseased shall be replaced in the next planting season with others of similar size and species, unless

the Local Planning Authority agrees in writing to a variation of the previously approved details.

Reason - To ensure the adequate implementation and maintenance of the approved landscaping scheme for a period of five years in the interests of the character and quality of the development.

5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification) no enlargement of the dwelling houses, additions to their roofs or the construction of buildings incidental to their enjoyment, as permitted by Classes A, B and E of Part 1 of Schedule 2 of that order, shall take place.

Reason - To protect the semi-rural landscape and in the interests of visual amenity.

6. Prior to the first occupation of the dwellings hereby approved, the vehicular access and off street parking and turning facilities in regards to plot 1, as shown on approved drawing 41 Rev B submitted under 20/01409/FUL and in regards to plot 2 and 3 as shown on drawing no. 714/1 and an appropriate dropped kerb vehicular crossing of the footway/highway verge to the specifications of the Highway Authority, shall be provided.

Reason - To ensure that all vehicles using the private drive access do so in a controlled manner and to ensure that opposing vehicles may pass clear of the limits of the highway, in the interests of highway safety.

7. The development hereby approved shall be carried out in accordance with the drawing no. 714/1/CMS and Construction Method Statement scanned 07 Sept 2021 submitted under application 21/01572/DISCON unless otherwise agreed in writing by the local planning authority.

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

**190. A.5 PLANNING APPLICATION - 21/01992/FULHH - 1 MYRTLE COTTAGES
THORPE ROAD WEELEY CLACTON ON SEA CO16 9JL**

It was reported that this application was before Members as the applicant was a member of staff employed by Tendring District Council.

Members heard how the proposed extension would be located to the rear of the property and would be shielded from the street scene by the existing dwelling and garage. The extension was of a single storey nature and was considered to be of a size and scale appropriate to the existing dwelling with the application site retaining adequate private amenity space. The proposal did include the use of differing materials, however, due to its rearward location and the variety of materials within the locale, the use of such was considered acceptable in this instance.

The Committee was informed that the proposal would have some impact to neighbours in regards to residential amenities. However, when applying relevant calculations and assessment the impact would not result in such a significant loss of amenities that it would warrant the refusal of this application.

Is the only reason this is before the Committee because the applicant is a TDC staff member?	Yes, that is correct.
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Following discussion by the Committee, it was moved by Councillor Alexander, seconded by Councillor Morrison and:-

RESOLVED that the Assistant Director (Planning) (or equivalent authorised officer) be authorised to grant planning permission for the development, subject to the following conditions and reasons:-

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

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

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

Drawing No 01 Rev C

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

The meeting was declared closed at 8.27 pm

Chairman