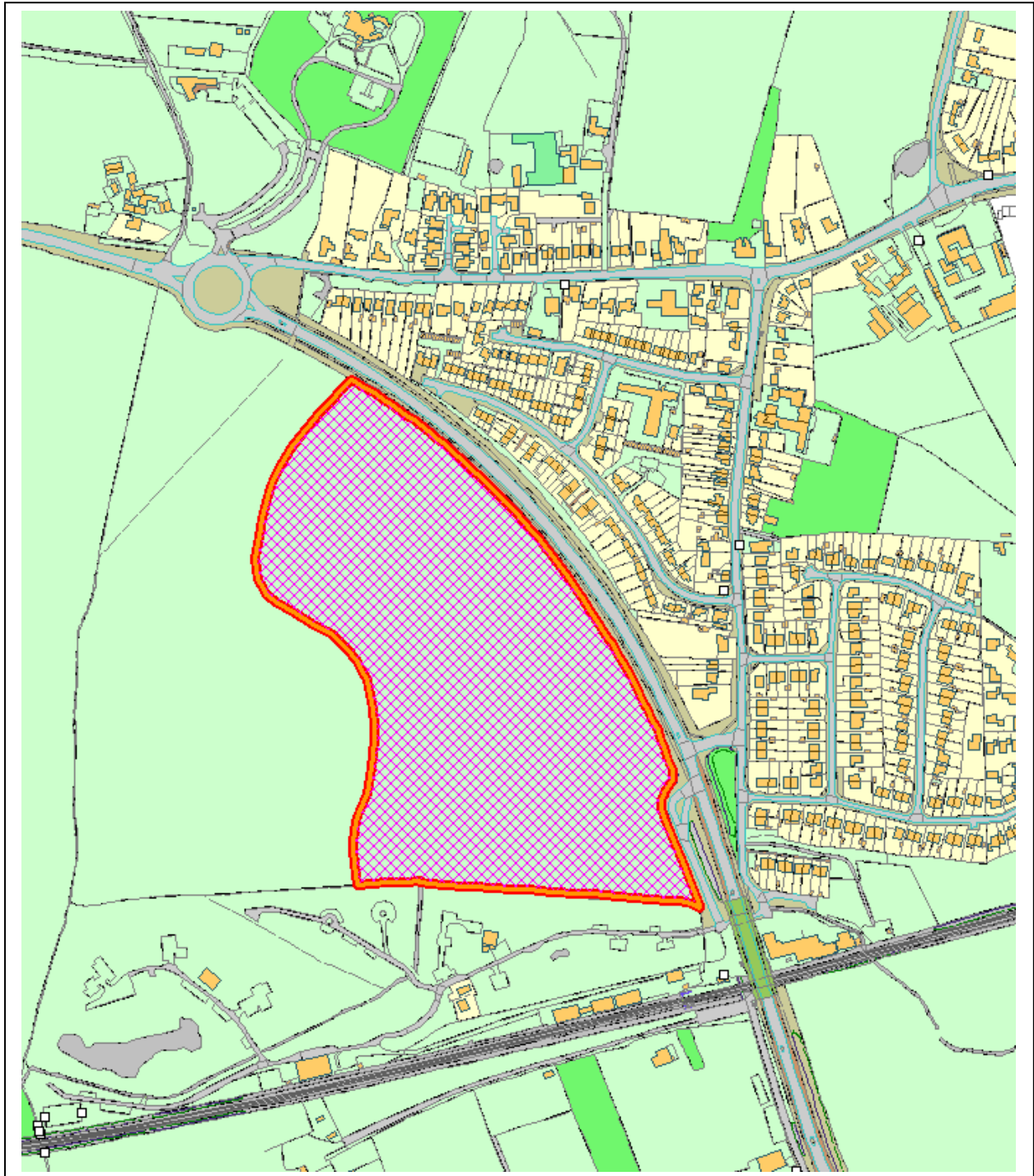


PLANNING COMMITTEE

19 APRIL 2017

REPORT OF THE HEAD OF PLANNING

**A.3 PLANNING APPLICATION – 16/02131/OUT – LAND SOUTH OF COLCHESTER ROAD, WEELEY, CO16 9AG**



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<b>Application:</b>	16/02131/OUT	<b>Town / Parish:</b> Weeley
<b>Applicant:</b>	Mr. Bacon	
<b>Address:</b>	Land South of Colchester Road, Weeley, CO16 9AG	
<b>Development:</b>	Outline planning application with some matters reserved for a residential development of 228 dwellings, primary school, nursery and car park.	

## 1. Executive Summary

- 1.1 This is an outline planning application seeking approval for the principle of a major mixed-use development on land to the west of Weeley village. The development proposes 228 dwellings with a primary school, nursery and a car park. The site forms a part of the wider area of land rear of Tendring Park Services currently shown in the draft Local Plan as a site for mixed-use development as part of the 'expanded settlement' proposal for Weeley. This application was originally submitted as a scheme for 295 dwellings, but it was reduced to 228 dwellings to make room for a two-form entry primary school, to meet with the preferred approach of Essex County Council.
- 1.2 The emerging Local Plan is being revised following last year's public consultation. The Local Plan Committee has already agreed that this site will be deleted from the plan and will not be needed to meet objectively assessed housing needs up to 2033. The landowner had however invested considerable funds in professional advice and technical reports to support the inclusion of his land in the Local Plan and has submitted this application, for development on a portion of the site, as an alternative to the more extensive development proposal in the emerging plan – in the hope that it might still find favour with the Council whilst there remains a shortfall against our five-year housing requirements.
- 1.3 Notwithstanding the current (but rapidly reducing) housing shortfall and the need to judge applications on their merits against the government's 'presumption in favour of sustainable development', Officers are recommending refusal of this application.
- 1.4 With Weeley no longer being promoted as a location for growth on such a strategic scale, this development would bring about an unnecessary change in the character of the area. There are also genuine concerns about such a development proposal being considered ahead of the completion of the new Local Plan without a clear understanding of the likely cumulative impacts on education, health and highways and the measures that would need to be put in place to address these matters.
- 1.5 The proposals for major growth around Weeley are the most controversial in the draft Local Plan and have attracted a considerable level of objection from residents. This particular planning application has only attracted a small number of individual objections but Weeley Parish Council and Weeley Residents Association have submitted very strong objections on behalf of the community highlighting a range of concerns.
- 1.6 The highway authority is not satisfied with the applicants' Transport Assessment and has issued a holding objection and the drainage authority has requested additional information

which has been produced but is still in the process of being considered. The application is therefore also recommended for refusal on highways and flood risk grounds as well as the lack of a s106 legal agreement, but there is a possibility that these issues could be addressed as part of the appeal process, if the applicant were to go down that route. Officers also suggest a reason for refusal in relation to ecology and the need for updated species-specific survey work but again, this could be addressed by the applicant in advance of any future appeal.

- 1.7 Unlike the situation for much of 2016, the urgency to release land for housing development contrary to the Local Plan is now much reduced now that the new Local Plan is progressing well and the Council is very close to being able to identify a full five-year supply of deliverable housing sites. Following the Rush Green Road appeal decision in February 2017, Officers consider that the Council is in a stronger position to uphold the 'plan-led' approach to planning and to resist unnecessary and unwanted development proposals that are contrary to the Local Plan.

### **Recommendation: Refusal**

The development is considered unacceptable for the following (summarised) reasons:

- The site lies outside the settlement development boundary for Weeley as defined in the adopted Local Plan and whilst it forms part of a larger site specifically allocated for mixed-use development in the emerging Local Plan, that allocation is proposed for deletion. The Council is very close to being able to identify a five-year supply of deliverable housing sites and the new Local Plan is progressing well, so the urgency to approve housing developments contrary to the Local Plan is low. The NPPF advocates a plan-led approach that actively seeks to achieve sustainable patterns of growth, recognising the intrinsic character and beauty of the countryside and supporting thriving communities within it. This development would introduce built development into an undeveloped and visually exposed agricultural field that is currently separated from the main built up area of Weeley village by the bypass road, which acts a strong and defensible boundary to the settlement edge. The development would represent a piecemeal intrusion into the countryside that would have an unnecessary adverse impact upon the character of the area. The development also prejudices the effective and coordinated delivery of infrastructure through the plan-making process because ahead of the completion of the Local Plan, the cumulative impact of potentially multiple developments on highways, schools and health provision is uncertain and the measures needed to mitigate such impacts, and which bodies will be responsibility for their delivery, cannot be clearly established at this time. The adverse impacts of the development are not significantly and demonstrably outweighed by the benefits and the proposal does not constitute sustainable development.
- Essex County Council in its capacity as the highway authority has not accepted the findings of the submitted transport assessment. It has not yet been demonstrated that the development, when considered in combination with other potential developments in the area, would not bring about a residual cumulative impact on the capacity and safety of the highway network.

- Both the Environment Agency and Essex County Council in its capacity as the local lead flood authority have issued holding objections to the proposal on flooding risk and drainage grounds that are yet to be resolved.
- The applicant's Phase 1 Ecological Assessment from 2014 recommends further surveys to assess the potential impacts on nearby statutory wildlife sites, reptiles, great crested newts, nesting birds, bats, dormouse and badger which, in line with Natural England guidelines should be undertaken before a planning decision is made.
- No s106 agreement to secure affordable housing, education facilities/contributions, health facilities/contributions and open space has been completed.

## 2. Planning Policy

### National Planning Policy Framework (NPPF)

- 2.1 The National Planning Policy Framework (March 2012) sets out the Government's planning policies and how these are expected to be applied at the local level.
- 2.2 Planning law requires that applications for planning permission be determined in accordance with the 'development plan' unless material considerations indicate otherwise. The NPPF doesn't change the statutory status of the development plan as the starting point for decision taking. Where proposed development accords with an up to date Local Plan it should be approved and where it does not it should be refused – unless other material considerations indicate otherwise. An important material consideration is the NPPF's 'presumption in favour of sustainable development'. The NPPF defines 'sustainable development' as having three dimensions:
  - an economic role;
  - a social role; and
  - an environmental role.
- 2.3 These dimensions have to be considered together and not in isolation. The NPPF requires Local Planning Authorities to positively seek opportunities to meet the development needs of their area whilst allowing sufficient flexibility to adapt to change. Where relevant policies in Local Plans are either absent or out of date, there is an expectation for Councils to approve planning applications, without delay, unless the adverse impacts would significantly and demonstrably outweigh the benefits.
- 2.4 The NPPF, in Section 1, seeks to foster the conditions for a strong, competitive economy. It encourages local authorities to plan proactively to meet the development needs of business and seek to address potential barriers to investment, including a poor environment or any lack of infrastructure, services of infrastructure. It requires that Local Plan policies should be flexible enough to accommodate business needs not anticipated in the plan period and to allow a rapid response to changes in economic circumstances.
- 2.5 Section 4 of the NPPF deals with sustainable transport and requires all developments that will generate significant amounts of movement to be supported by a Transport Assessment.

Opportunities for sustainable transport modes must be taken up; safe and suitable access for all people must be achieved; and improvements to the highway network that address the impacts of the development must be undertaken. A key tool to facilitate sustainable transport modes will be in the form of a Travel Plan. Development should only be prevented or refused on transport grounds where the residual cumulative impacts are 'severe'.

- 2.6 Section 6 of the NPPF relates to delivering a wide choice of quality new homes. It requires Councils to 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 a 5% or 20% buffer to ensure choice and competition in the market for land). If this is not possible, housing policies are to be considered out of date and the presumption in favour of sustainable development is engaged with applications for housing development needing to be assessed on their merits, whether sites are allocated for development in the Local Plan or not.
- 2.7 Paragraph 187 of the NPPF states *“Local planning authorities should look for solutions rather than problems, and decision-takers at every level should seek to approve applications for sustainable development where possible. Local planning authorities should work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area”*.

### **Local Plan**

#### **Local Plan Policy:**

- 2.8 Section 38(6) of the Planning Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the 'development plan' unless material considerations indicate otherwise. In the case of Tendring the development plan consist of the following:

**Tendring District Local Plan (Adopted November 2007)** – as 'saved' through a Direction from the Secretary of State. Relevant policies include:

QL1: Spatial Strategy: Directs most new development toward urban areas and seeks to concentrate development within settlement development boundaries.

QL2: Promoting Transport Choice: Requires developments to be located and designed to avoid reliance on the use of the private car.

QL3: Minimising and Managing Flood Risk: Seeks to direct development away from land at a high risk of flooding and requires a Flood Risk Assessment for developments in Flood Zone 1 on sites of 1 hectare or more.

QL8: Mixed-Use: Promotes mixed-use developments – but particularly within settlement development boundaries, town centres and urban regeneration areas.

QL9: Design of New Development: Provides general criteria against which the design of new development will be judged.

QL10: Designing New Development to Meet Functional Needs: Requires development to meet functional requirements relating to access, community safety and infrastructure provision.

QL11: Environmental Impacts: Requires new development to be compatible with its surrounding land uses and to minimise adverse environmental impacts.

QL12: Planning Obligations: States that the Council will use planning obligations to secure infrastructure to make developments acceptable, amongst other things.

HG1: Housing Provision: Sets out the strategy for delivering new homes to meet the need up to 2011 (which is now out of date and needs replacing through the new Local Plan).

HG3: Residential Development Within Defined Settlements: Supports appropriate residential developments within the settlement development boundaries of the district's towns and villages.

HG3a: Mixed Communities: Promotes a mix of housing types, sizes and tenures to meet the needs of all sectors of housing demand.

HG4: Affordable Housing in New Developments: Seeks up to 40% of dwellings on large housing sites to be secured as affordable housing for people who are unable to afford to buy or rent market housing.

HG6: Dwellings Size and Type: Requires a mix of housing types, sizes and tenures on developments of 10 or more dwellings.

HG7: Residential Densities: Requires residential developments to achieve an appropriate density. This policy refers to minimum densities from government guidance that have long since been superseded by the NPPF.

HG9: Private Amenity Space: Requires a minimum level of private amenity space (garden space) for new homes depending on how many bedrooms they have.

COM2: Community Safety: Requires developments to contribute toward a safe and secure environment and minimise the opportunities for crime and anti-social behaviour.

COM4: New Community Facilities: Supports the development of appropriate community facilities depending on their accessibility to local people, impact on local character and amenities, parking and traffic impacts and infrastructure constraints. Outside of settlement development boundaries, there needs to be a proven local need for the facility and no other suitable site available within the settlement itself.

COM6: Provision of Recreational Open Space for New Residential Developments: Requires residential developments on sites of 1.5 hectares or more to provide 10% of the site area as public open space.

COM21: Light Pollution: Requires external lighting for new development to avoid unacceptable impacts on the landscape, wildlife or highway and pedestrian safety.

COM23: General Pollution: States that permission will be refused for developments that have a significant adverse effect through the release of pollutants.

COM26: Contributions to Education Provision: Requires residential developments of 12 or more dwellings to make a financial contribution, if necessary, toward the provision of additional school places.

COM29: Utilities: Seeks to ensure that new development on large sites is or can be supported by the necessary infrastructure.

COM31a: Sewerage and Sewage Disposal: Seeks to ensure that new development is able to deal with waste water and effluent.

EN1: Landscape Character: Requires new developments to conserve key features of the landscape that contribute toward local distinctiveness.

EN6: Biodiversity: Requires existing biodiversity and geodiversity to be protected and enhanced with compensation measures put in place where development will cause harm.

EN6a: Protected Species: Ensures protected species including badgers are not adversely impacted by new development.

EN6b: Habitat Creation: Encourages the creation of new wildlife habitats in new developments, subject to suitable management arrangements and public access.

EN12: Design and Access Statements: Requires Design and Access Statements to be submitted with most planning applications.

EN13: Sustainable Drainage Systems: Requires developments to incorporate sustainable drainage systems to manage surface water run-off.

EN29: Archaeology: Requires the archaeological value of a location to be assessed, recorded and, if necessary, safeguarded when considering development proposals.

TR1a: Development Affecting Highways: Requires developments affecting highways to aim to reduce and prevent hazards and inconvenience to traffic.

TR3a: Provision for Walking: Seeks to maximise opportunities to link development with existing footpaths and rights of way and provide convenient, safe attractive and direct routes for walking.

TR4: Safeguarding and Improving Public Rights of Way: Encourages opportunities to expand the public right of way network.

TR5: Provision for Cycling: Requires all major developments to provide appropriate facilities for cyclists.

TR6: Provision for Public Transport Use: Requires developments to make provision for bus and/or rail where transport assessment identifies a need.

TR7: Vehicle Parking at New Development: Refers to the adopted Essex County Council parking standards which will be applied to all non-residential development.

### **Tendring District Local Plan 2013-2033 and Beyond: Preferred Options Consultation Document (Published July 2016)**

Relevant policies include:

SP1: Presumption in Favour of Sustainable Development: Follows the Planning Inspectorate's standard wording to ensure compliance with the NPPF.

SP4: Infrastructure and Connectivity: Requires the provision of infrastructure, services and facilities that are identified to serve the needs arising from new development.

SP5: Place Shaping Principles: Requires the highest standards of built and urban design and sets out the key principles that will apply to all new developments.

SPL1: Managing Growth: Identifies Weeley as a 'expanded settlement' within a hierarchy of settlements designed to direct future growth to the most sustainable locations. Weeley is currently identified as a location for major expansion but is set to be re-classified as a rural service centre in the final submission version of the Local Plan with a significant reduction in proposed housing.

SPL2: Settlement Development Boundaries: Seeks to direct new development to sites within settlement development boundaries.

SPL3: Sustainable Design: Sets out the criteria against which the design of new development will be judged.

HP1: Improving Health and Wellbeing: Requires a Health Impact Assessment on all development sites deliver 50 or more dwellings and financial contributions towards new or enhanced health facilities where new housing development would result in a shortfall or worsening of health provision.

HP2: Community Facilities: Requires development to support and enhance community facilities, where appropriate, by providing on site or contributing towards new or enhanced facilities to meet needs arising from the proposed development or growth.

HP4: Open Space, Sports and Recreation Facilities: Requires new developments to contribute to the district's provision of playing pitches and outdoor sports facilities and also requires larger residential developments to provide land as open space with financial contributions toward off-site provision required from smaller sites.

LP1: Housing Supply: Sets out the broad location of where new housing is proposed to be built to over the next 15-20 years to meet objectively assessed needs. This application site



forms part of one of the sites allocated for housing and mixed-use development – but one that is proposed for deletion in the final submission draft.

LP2: Housing Choice: Promotes a range of house size, type and tenure on large housing developments to reflect the projected needs of the housing market.

LP3: Housing Density: Policy requires the density of new housing development to reflect accessibility to local services, minimum floor space requirements, the need for a mix of housing, the character of surrounding development and on-site infrastructure requirements.

LP4: Housing Layout: Policy seeks to ensure large housing developments achieve a layout that, amongst other requirements, promotes health and wellbeing; minimises opportunities for crime and anti-social behaviour; ensures safe movement for large vehicles including emergency services and waste collection; and ensures sufficient off-street parking.

LP5: Affordable and Council Housing: Requires up to 30% of new homes on large development sites to be made available to the Council or a nominated partner, at a discounted price, for use as Affordable Housing or Council Housing.

PP3: Village and Neighbourhood Centres: Proposes a new neighbourhood centre for Weeley Garden Village, although the garden village or 'expanded settlement' proposal for Weeley is set for deletion from the final submission draft.

PP12: Improving Education and Skills: Requires the impacts of development on education provision to be addressed at a developer's costs and also requires applicants to enter into an Employment and Skills Charter or Local Labour Agreement to ensure local contractors are employed to implement the development and that any temporary or permanent employment vacancies (including apprenticeships) are advertised through agreed channels.

PPL1: Development and Flood Risk: Seeks to direct development away from land at a high risk of flooding and requires a Flood Risk Assessment for developments in Flood Zone 1 on sites of 1 hectare or more.

PPL3: The Rural Landscape: Requires developments to conserve, where possible, key features that contribute toward the local distinctiveness of the landscape and include suitable measures for landscape conservation and enhancement.

PPL4: Biodiversity and Geodiversity: Requires existing biodiversity and geodiversity to be protected and enhanced with compensation measures put in place where development will cause harm.

PPL5: Water Conservation, Drainage and Sewerage: Requires developments to incorporate sustainable drainage systems to manage surface water run-off and ensure that new development is able to deal with waste water and effluent.

PPL7: Archaeology: Where developments might affect archaeological remains, this policy requires proper surveys, investigation and recording to be undertaken.

CP1: Sustainable Transport and Accessibility: Requires the transport implications of development to be considered and appropriately addressed.

CP3: Improving the Telecommunications Network: Requires new development to be served by a superfast broadband (fibre optic) connection installed on an open access basis and that can be directly accessed from the nearest British Telecom exchange and threaded through resistant tubing to enable easy access for future repair, replacement or upgrading.

#### Other Guidance

Essex Design Guide

Essex County Council Car Parking Standards - Design and Good Practice

### **3. Relevant Planning History**

3.1 The site has the following planning history:

91/00187/OUT - Site South West of Weeley Village, adjacent to Weeley By-Pass and North of Weeley Bridge Caravan Park, Weeley, Essex, CO16 9AD

Business / Leisure Park comprising B1 and B2 uses and small area of retail and leisure (C1) uses together with a 40 acre park.

Outline Application – Refused – 06/08/1991.

### **4. Consultations**

**TDC Building Control** No adverse comments at this time.

**TDC Principal Tree & Landscape Officer** The main body of the application site is being used for agricultural purposes. The trees and other vegetation on the boundary of the application site and immediately adjacent land provide a good level of screening. Any gaps could be filled by new planting.

In order to show the impact of the development proposal on the trees and other vegetation on the land the applicant has provided a tree report and survey that has been carried out in accordance with BS5837: 2012 Trees in relation to design, demolition and construction. Recommendations

It is important to note that the Tree Report is not site specific as it relates to an area far greater than the application site and was completed in June 2014. Whilst the contents of the report can be considered a reasonable reflection of the extent that the trees, on the application site itself, are a constraint of the development potential of the land, it is not up to date, and therefore cannot be relied on as an accurate description of the health of the trees.

Nevertheless it appears that the development of the land could take place without harm being caused to the majority of trees and vegetation on the perimeter of the application site. It is not considered expedient to protect any of the trees by way of a Tree Preservation Order at the present time.

Trees close to the proposed new access from the highway may be lost as a result of the construction of the new highway however the site has considerable potential for new planting and any tree losses in this could be compensated for by new planting.

In terms of the potential impact of the development on the landscape and visual qualities of the land the applicant has submitted a Landscape and Visual Impact Assessment however this too was carried out in 2014 and relates to a larger area than that covered by the current application. It is difficult to relate the contents of this document to the application site as again, it is not site specific. Nevertheless it reasonably accurately describes the existing baseline situation for topography, vegetation cover and land uses. However in order to assess the impacts of the development on the landscape character the applicant will need to provide additional information to quantify the degree of change that would result from the implementation of the development.

The indicative site layout shows the provision of a new open space and planting on the boundary of the application site. Further details of soft landscaping should be secured by a condition attached to any planning permission that may be granted as soft landscaping will be a key element of the successful integration of the development into the surrounding landscape.

#### **TDC Open Space and Play**

There is currently a deficit of 2.18 hectares of equipped play and formal open space in Weeley. There are two play areas in Weeley; one located at Hilltop Crescent and one along Clacton Road, both of which are classified as Local Equipped Areas for Play. Due to the limited provision in Weeley, in terms of both play and formal open space the onsite provision proposed in this application would go towards reducing the deficit. It is noted that open space and play space will be incorporated within the development. Should the developer wish to transfer the open space and play facilities to the Council upon completion, a commuted sum will be required towards the cost of future maintenance.

#### **ECC Highways**

This Authority has assessed the highway and transportation impact of the proposal and would wish to raise an objection to the above application as the information provided with this application does not allow for a full and meaningful assessment of the proposed impact on the highway infrastructure. We would require the following information:

- Full junction assessments of a number of junctions on the B1033, A133 and A120.
- A full Transport Assessment of the highway network, taking into account sites that have already gained planning permission in the Kirby Cross, Frinton, Walton, Thorpe-le-Soken and Great Bentley areas; and
- Sensitivity testing to allow for other possible developments under consideration in the Weeley area. .

On receipt of this information, further assessment can be made.

**Anglian Water** Assets Affected: Our records show that there are no assets owned by Anglian Water or those subject to an adoption agreement within the development site boundary.

Wastewater Treatment: The foul drainage from this development is in the catchment of Thorpe le Soken Recycling Centre that will have available capacity for these flows.

Foul Sewerage Network: Development would lead to an unacceptable risk of flooding downstream. However a development impact assessment has been prepared in consultation with Anglian Water to determine a feasible mitigation solution. The site should form part of the strategy for the wider development and we will request a condition requiring compliance with the agreed drainage strategy.

Surface Water Disposal: The proposed method of surface water management does not relate to Anglian Water operated assets. The advice of the Lead Local Flood Authority or the Internal Drainage Board should be sought.

**NHS England** This development is likely to have an impact on the services of one GP practice operating within the vicinity of the application site (Great Bentley Survery – The Hollies). This practice does not have capacity for the additional growth resulting from this development. Therefore a Health Impact Assessment has been prepared by NHS England to provide the basis for a developer contribution toward capital funding to increase capacity within the GP Catchment Area.

There is a capacity deficit in the catchment practice and a developer contribution of £79,166 is required to mitigate the 'capital cost' to NHS England for the provision of additional healthcare services arising directly as a result of the development proposal. NHS England requests that this sum be secured through a planning obligation linked to any grant of planning permission, in the form of a Section 106 agreement.

**Environment Agency** Comments on the original proposal: The application site lies within fluvial Flood Zones, 1, 2 and 3a, the low, medium and high probability zones respectively. The proposal is for residential development, a school nursery and car park which is classified as a 'more vulnerable' development. The application is therefore required to pass the Sequential and Exception Test and be supported by a site specific Flood Risk Assessment (FRA) which meets the requirements set out in the National Planning Policy Framework (NPPF).

We note that the Sequential Approach has been followed and, whilst part of the southern boundary of the site is within flood zones 2 and 3, all the development is within flood zone 1. We have the following comments on the submitted FRA:

- Drawing 002 Revision A shows all proposed development lies within Flood Zone 1.
- The access and egress route travels through Flood Zone 1 so there is a safe route of access to and from the site.
- Definitive flood depths to the South of the site, which is proposed to be open space, remain unknown because the Flood Zones are

derived from JFlow modelling. If this part of the site is required for access / egress then you may wish to request more detailed modelling for your emergency flood plan.

- Flood Storage Compensation is not required.
- A Flood Evacuation Plan has not yet been proposed.

Additional comments on the revised proposal: We did not raise an application to the original application as the proposed buildings were to be located wholly within Flood Zone 1, but we understand that the layout has changed and the school and nursery will now be located adjacent to the watercourse and the number of dwellings reduced to 228. The Flood Risk Assessment needs to be revised as the July 2014 FRA does not provide a suitable basis for assessment to be made of the flood risks arising from the proposed development. In particular, it fails to demonstrate the location of the proposed buildings in comparison to Flood Zones 2 and 3.

**Essex County Council Flood Authority**

The Drainage Strategy submitted with this application does not comply with the requirements set out Essex County Council's Outline Drainage Checklist. Therefore the submitted drainage strategy does not provide a suitable basis for assessment to be made of the flood risks arising from the proposed development.

**Essex County Council Archaeology**

The planning application has been identified as having the potential to harm non-designated heritage assets with archaeological interest. The historic settlement of Weeley lies just to the north and east and surrounding the settlement is evidence for historical industrial activity such as brick and tile works. Part of the proposed site is shown as containing a brickworks on the 1st edition and the remainder of the site skirts the back of the historic properties along The Street. There is further potential for survival of features relating to industrial or agricultural activities associated with the historic settlement at Weeley. In addition prehistoric flint tools have been recovered from the vicinity which may suggest a possible prehistoric occupation of the area. Planning conditions should be imposed on approval of planning permission to secure, prior to commencement of development:

- a programme of trial trenching and a subsequent summary report and mitigation strategy to be submitted for the Council's consideration
- archaeological fieldwork in any areas of the site considered to contain archaeological deposits
- a post excavation assessment with the full site archive and report to be deposited at the local museum

**Network Rail**

We would advise the council and developers to liaise with Greater Anglia concerning the travel plan for Weeley (in terms of access to the station, traffic, etc).

The developer/applicant must ensure that their proposal, both during construction and after completion of works on site, does not:

- encroach onto Network Rail land;
- affect the safety, operation or integrity of the company's railway and its infrastructure;

- undermine its support zone;
- damage the company's infrastructure;
- place additional load on cuttings;
- adversely affect any railway land or structure;
- over-sail or encroach upon the air-space of any Network Rail land;  
or
- cause to obstruct or interfere with any works or proposed works or Network Rail development both now and in the future.

Network Rail would also require the developer to comply with comments requirements for the safe operation of the railway and protection of Network Rail's adjoining land (as set out in detail within its representation).

As the site is adjacent to Network Rail's operational railway infrastructure, Network Rail strongly recommends the developer contacts us prior to any works commencing on site. Network Rail strongly recommends the developer agrees an Asset Protection Agreement with us to enable approval of detailed works.

## **5. Representations**

5.1 There is a very high level of local objection to the Local Plan in respect of major growth in Weeley. For this particular planning application the Council has received 3 individual public objections which highlight the following matters of concern:

- The Local Plan Committee has voted to re-categorise Weeley as a rural service;
- A development of this size is not wanted or needed;
- The site is outside of the settlement development boundary;
- It is contrary to the NPPF as it would not contribute towards conserving and enhancing the natural environment;
- This is unnecessary overdevelopment and the reduction in numbers does not alter that fact;
- Percentages of types of dwellings are unknown, making it difficult to make an informed planning decision;
- People will be discouraged from taking holidays in the area if urban creep continues at the rate proposed in this application;
- The increase in population would be disproportionate for the village;
- Although the application is for 228 dwellings, the supporting information clearly relates to the larger proposal for 1,000 homes;
- Increase in traffic, congestions and risk to pedestrian safety;
- The existing primary school is full to capacity;
- The nearest education and health services are stretched to the limit, there are no plans for future investment and there are recruitment problems;
- Bus and train services in Weeley are poor;
- Journey times suggested within the application documentation are inaccurate;
- There are no doctors surgery, chemist, dental services, bank or financial services in Weeley;
- Archaeological reports should be undertaken now; and
- Highways figures are based on out-of-date survey data.

- 5.2 One representation of support has been received from a resident who says we need more houses, existing schools in the area are getting overcrowded and Weeley is a great location.
- 5.3 Weeley Parish Council objects to this application for the following reasons: this represents overdevelopment for the size of the village; it is of concern that the number of dwellings is 'illustrative' giving rise to concerns about an increase in numbers; Weeley is still designated as a RURAL Service Centre; the site is outside the village envelope; public transport is poor; the access road is busy and fast; this is prime agricultural land. We are also concerned that there is no indication of the type of housing which is planned, either in actual numbers or in percentage terms.
- 5.4 The Weeley Residents Association has submitted a strong and lengthy objection raising concerns in respect of the following (summarised) issues:
- Weeley cannot sustain the current level or pressure of dwellings without extra homes
  - There have been regular power failures in the village;
  - Local roads are unable to cope now;
  - Further traffic and congestion will impact upon the viability of Weeley bridge holiday park;
  - The proposed car park next to the station is unnecessary as the station only provides infrequent branch-line services and poor passenger facilities;
  - The proposal contravenes the spatial portrait in the emerging Local Plan;
  - The A133 and A120 are gridlocked at most peak times;
  - Increased risk of accidents on the A133;
  - The development would not make a positive contribution to the quality of the local environment, nor would it protect or enhance local character;
  - A survey of local residents has suggested that they do not want intensively huge developments within their small village;
  - The development is not viable nor reasonable;
  - The development will contravene residents right fir improved health and wellbeing;
  - The NHS will not be funding any new schemes and there is no doctors surgery or pharmacy in the area, with the nearest surgeries full and unable to accept additional patients;
  - Loss of agricultural land;
  - Local school is oversubscribed;
  - The development offers no environmental or quality of life benefits;
  - Site too small to comply with the garden city principles;
  - Would increase the housing density of the village;
  - Would impact adversely on Tendring's tourism offer by increasing traffic;
  - The transport assessment for the application is poorly advised, poorly carried out and omits important data;
  - Would considerably increase the risk of flooding and sewage overflow; and
  - Would change the rural landscape beyond all recognition.

## **6. Assessment**

### **The Site**

- 6.1 The application site comprises 11.3 hectares of a much larger parcel of agricultural land west of Bypass Road (B1441), immediately west of the main built up area of Weeley village and north of Weeley Bridge Holiday Park and Weeley Railway Station. The land is generally flat but slopes gently away from the road towards the west. Beyond the site to the west are the A133 and Tendring Park Services. There are no landscape features within the main body of the site making it fairly exposed and visible (particularly from the A133 and viewpoints to the north), but there is a reasonably strong boundary of trees and hedges along the site's eastern boundary with Bypass Road.

### **The Proposal**

- 6.2 This outline planning application with all matters reserved seeks approval for the principle of erecting up to 228 dwellings, a primary school, nursery and a car park close to the railway station. Vehicular access would be taken directly from the B1441 Bypass Road and the development would include open space and play equipment. The application was originally submitted a scheme for 295 dwellings, but with no land for a primary school but the applicant agreed to make room for a school and, as a consequence reduce the total number of dwellings to 228.
- 6.3 An illustrative masterplan has been submitted to set out, in broad terms, how the applicant would envisage the site being developed. It shows 2.5 hectares of land at the southern end of the site, adjoining the holiday park, as the rough location for a school and nursery facilities and a 50-space car park which could serve both the school and the railway station in the very south eastern corner of the site accessed off the slip road down to the station. An illustrative layout for 228 dwellings is shown for the main body of the site with a wide green buffer running parallel with the main road and large areas of open space located opposite the entrance into Weeley from The Street and around the northern and western perimeter of the site. The applicant has also submitted illustrative street scene drawings to show how development might appear along the length of the bypass.

### **Architectural Drawings**

- 0118 001 Location Plan
- 0118 002 Rev. B Illustrative Masterplan
- 0118 003 Rev. A Illustrative Street Scene

### **Reports and Technical Information**

- Design and Access Statement
  - Development Framework
  - Ecological Assessment
  - Flood Risk Assessment
  - Foul Sewage and Utilities Assessment
  - Arboricultural Site Appraisal
  - Landscape/Visual Appraisal and Strategy
  - Transport and Accessibility Appraisal
- 6.4 Please note that most of these reports were prepared on behalf of the landowner in support of the allocation of his whole site in the emerging Local Plan and not specifically for the purposes of this planning application. The planning consultants that commissioned some of



the studies and prepared the landowner's representations on the Local Plan are no longer involved in this project and do not wish to be associated in any way with this application. Although some of the reports do not correspond directly with the current planning application, Officers have referred to them as far as possible, and as necessary to come to a view on the planning merits of the proposal.

### **Main Planning Considerations**

6.5 The main planning considerations are:

- Local Plan and Housing Supply Position;
- Principle of development;
- Highways, transport and accessibility;
- Education provision;
- Healthcare provision;
- Landscape, visual impact and trees;
- Flood risk and drainage;
- Ecology;
- Council Housing/Affordable Housing;
- Open space;
- Potential layout and density; and
- Overall planning balance.

### **Local Plan and Housing Supply Position**

6.6 In line with Section 38(6) of the Planning and Compulsory Purchase Act 2014, planning decisions must be taken in accordance with the 'development plan' unless material considerations indicate otherwise. The requirements of the National Planning Policy Framework (NPPF) are a material consideration in this regard.

6.7 The 'development plan' for Tendring is the 2007 'adopted' Local Plan, despite some of its policies being out of date. Paragraph 215 of the NPPF allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF. Paragraph 216 of the NPPF also 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 national policy. As of 14<sup>th</sup> July 2016, the emerging Local Plan for Tendring is the Tendring District Local Plan 2013-2033 and Beyond Preferred Options Consultation Document. As this plan is currently at an early stage of preparation, some of its policies can only be given limited weight in the determination of planning applications, but the weight to be given to emerging policies will increase as the plan progresses through the later stages of the process. Where emerging policies are particularly relevant to a planning application and can be given some weight in line with the principles set out in paragraph 216 of the NPPF, they will be considered and, where appropriate, referred to in planning decisions. In general terms however, more weight will be given to policies in the NPPF and the adopted Local Plan.

6.8 On 19<sup>th</sup> January 2017, the Local Plan Committee resolved to approve a new Local Development Scheme (LDS) setting out a revised timetable for the next stages of plan preparation. The timetable proposes consultation on the final publication version of the Local Plan in June/July 2017 with submission of the plan to the Secretary of State in October 2017. The Local Plan comprises two parts – one jointly prepared on a sub-regional

basis between Braintree, Colchester and Tendring Councils which promotes the establishment of new 'garden communities' and a second part containing policies for the Tendring area only. The examination of part 1 of the Local Plan is timetabled for December 2017 with the examination of part 2 to follow in April 2018. It is envisaged that, following a successful examination, the Local Plan will be adopted, in full, in September 2018.

- 6.9 It has been agreed by the Local Plan Committee that the objectively assessed housing need for Tendring will be set at 550 dwellings per annum based on the evidence contained with the 'Objectively Assessed Housing Need Study' November 2016 update produced by Peter Brett Associates on behalf of Braintree, Chelmsford, Colchester and Tendring Councils. In setting this figure, it has also been agreed that in the final publication version of the plan (due in June/July 2017) some land allocations will be deleted from the plan, namely in the Weeley area because the preferred options version currently over-provides. The sites proposed to be deleted from the Local Plan include the application site.
- 6.10 In the recent appeal decision for land at Rush Green Road, Clacton, the Inspector commented on the use of 550 dwellings per annum as the housing needs figure and concluded that whilst the figure had not been tested through the development plan examination and there was some uncertainty about regarding 'UPC' (Unattributable Population Change), she considered that, in the interim, the Council's application of 550 dpa represented a broadly reasonable and pragmatic approach.
- 6.11 Further to setting the overall housing figure, the Local Plan Committee on 19th January 2017 agreed a methodology for calculating the five-year housing supply requirement of paragraph 47 in the NPPF as well as the calculation of what the Council believes the up to date housing land position to be. The estimated housing supply, predicted for 31<sup>st</sup> March 2017 is 4.4 years. With the approval of more residential planning applications since January, the Council is arguably even closer to achieving a 5-year supply. In the Rush Green Road appeal decision, the Inspector endorsed the Council's general approach to calculating the housing supply calculation and considered that, at the time of the appeal in December 2016, the shortfall was 'limited'.
- 6.12 Whilst the Council remains short of a full 5-year supply, paragraph 49 of the NPPF dictates that relevant policies for the supply of housing should not be considered 'up to date' and, in such cases, the 'presumption in favour of sustainable development' set out in paragraph 14 of the NPPF is engaged. 'Sustainable Development', as far as the NPPF is concerned, is development that contributes positively to the economy, society and the environment and under the 'presumption in favour of sustainable development', authorities are expected to grant permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole; or specific policies in the NPPF indicate development should be restricted.
- 6.13 The Council lost a number of planning appeals in 2016 because the Planning Inspectorate judged that the adverse impacts would not be outweighed by the benefits, particularly in light of the significant housing land shortfall. As the shortfall is eliminated or at least reduces to a negligible level, the pressure or urgency to approve schemes that run contrary to the Local Plan is much less, as evidenced by the Inspector's decision to dismiss the Rush Green appeal. This, combined with the strong progress of the Local Plan towards final

submission stage where sites are to be deleted to reflect the lower agreed figure of 550dpa, leads Officers to recommend a more resistant approach to unnecessary and unwanted development proposals that do not accord with the development plan. In other words, at the present time, Officers consider that, in general terms, the plan-led approach to planning should prevail over the need to release sites in the short term to meet what has become a relatively limited housing land shortfall.

### **Principle of development**

- 6.14 The application site is located to the west of the village of Weeley and is separated from the established built up area only by the Bypass Road. It is outside of, but effectively adjoins the settlement development boundary for Weeley as defined in the adopted Local Plan. In the emerging Local Plan, the site is part of a larger area of land specifically allocated for residential and mixed use development. However, as explained above, this allocation is proposed for deletion in the final submission draft.
- 6.15 Settlement development boundaries are designed to restrict new development to the most sustainable sites and outside of the boundaries the Local Plan generally seeks to conserve and enhance the countryside for its own sake by not allowing new housing unless it is consistent with countryside policies. Because the site lies outside of the settlement development boundary and is not allocated for residential development in the adopted Local Plan, it is contrary to adopted policy. Although the land is allocated for development in the emerging Local Plan, the proposal is subject to a considerable amount of local objection and is proposed to be deleted from the submission version. Officers have therefore given the provisional allocation of this site limited weight only in line with the guidance contained within paragraph 216 of the NPPF.
- 6.16 In any event, where Councils are short of identifying a five-year supply of deliverable housing sites, the NPPF's presumption in favour of sustainable development is engaged and applications must be considered on their merits. Over the course of 2016, this led to a number of major residential proposals being approved either by the Council or following an appeal.
- 6.17 With this in mind, the emerging Local Plan includes a 'settlement hierarchy' aimed at categorising the district's towns and villages and providing a framework for directing development toward the most sustainable locations. Weeley is currently categorised in emerging Policy SPL1 as the only 'expanded settlement' in the district, making it the focus for a strategic-led development, comprising a number of individual mixed use and residential sites to deliver expanded community facilities, retail and employment space, education and other facilities along with other necessary infrastructure. However, Weeley is set to be re-classified as a 'rural service centre' for the purposes of the final submission draft now that the lower housing figures have been confirmed. It should be noted that the proposals for major growth around Weeley were the most contentious issue in the Local Plan amongst local residents, attracting the most objections during last year's consultation stage.
- 6.18 In being re-classified as a rural service centre, Weeley will join Alresford, Elmstead Market, Great Bentley, Little Clacton, St. Osyth and Thorpe-le-Soken in recognition of its size and reasonable range of services and facilities, particularly when compared against many of the

district's smaller rural villages. Rural Service Centres will be the next most sustainable category of settlement following 'strategic urban settlements' and 'smaller urban settlements'. Therefore, a level of housing development for Weeley could have the potential to be considered sustainable so long as detailed matters such as infrastructure provision and environmental impacts are considered and addressed. As currently drafted, the emerging Local Plan envisages rural service centres will accommodate a level of housing that is fair, achievable and sustainable and that will make a meaningful contribution towards addressing housing needs, supporting the village economy and assisting with the overall housing growth proposed for the district.

- 6.19 The growth of Weeley as proposed in the draft Local Plan was designed to be a comprehensive package of development that would deliver new housing alongside employment opportunities, infrastructure and community benefits. The scale of development proposed for the village was designed to be at a level that would support and deliver new facilities in a coordinated way to ensure that the overall development would be sustainable and as beneficial to existing and future residents as possible. Now that the expanded settlement proposal for Weeley is being dropped in favour of a much reduced level of development to be delivered on a single site to the east of the village, the consideration of individual development proposals on multiple sites in advance of the Local Plan, and their cumulative impacts on infrastructure, becomes very complicated.
- 6.20 This application, to develop on only a portion of a site that was envisaged to be a larger comprehensive development, raises concerns about the best and most efficient way to deliver infrastructure improvements. Along with the separate proposal for land north of Colchester Road from Taylor Wimpey, infrastructure providers including the highway authority, the education authority and the NHS have found it difficult to advise on necessary mitigation measures in the absence of a clear idea of which sites are now likely to come forward for development. These matters are dealt with in more detail later in this report.
- 6.21 Furthermore, Bypass Road provides a clear, defensible and logical boundary to the western side of Weeley village and marks a clear separation between the built up area and the open countryside. Under the circumstances where the housing need was such that the expanded settlement proposal was still necessary, a breach of this defensible boundary would have been justified and the land would have incorporated a comprehensive development extending westwards to the A133, contained and clearly defined by the bypass, Colchester Road to the north, the railway to the south and the A133 to the west.
- 6.22 With the lower housing numbers agreed, breaching the defensible boundary provided by the bypass is no longer justified if more logical, integrated and defensible sites (like the land east of the village) can provide for the level of new housing needed. Furthermore, because the application is to develop just a portion of the land in a piecemeal way, an artificial boundary would need to be created along the northern and western edges of the site, the definition of the built up area and the countryside would be weakened, and there will always be a longer term pressure to release further phases of the land for future development. If this land is to be developed, it is best done in a comprehensive manner through the Local Plan where infrastructure can be planned for in an integrated and coordinated manner and where strong defensible and logical boundaries to the development can be set.

- 6.23 Now that the Council is very close to identifying a five-year supply of deliverable housing sites and the emerging Local Plan is progressing well, Officers consider that greater weight can be given to the core planning principles under paragraph 17 of the NPPF that development should be genuinely plan-led and that the Council should actively manage patterns of growth should make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable. With this in mind, the Council should now be in a better position to protect villages from unfair, disproportionate, illogical and potentially unlimited levels of new housing.
- 6.24 Officers therefore recommend the refusal of planning permission – principally on the grounds that the proposal is contrary to the adopted Local Plan, is unnecessary and would represent a piecemeal intrusion of development into the countryside beyond a logical and defensible boundary to the village that is no longer justified by the level of housing required up to 2033.

### **Highways, Transport and Accessibility**

- 6.25 Paragraph 32 of the NPPF relates to transport and requires Councils, when making decisions, to take account of whether:
- the opportunities for sustainable transport modes have been taken up depending on the nature and location of the site, to reduce the need for major transport infrastructure;
  - safe a suitable access to the site can be achieved for all people; and
  - improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.
- 6.26 Policy QL2 in the adopted Local Plan and Policy CP1 in the emerging Local Plan seek to ensure that developments maximise the opportunities for access to sustainable transport including walking, cycling and public transport. Although the site is physically separated from the established built up area of Weeley village by the bypass, it is relatively well located, distance-wise, in relation to existing services and facilities. It is within 700 metres of Tendring Park Services which contains a petrol filling station and convenience shop, a McDonalds restaurant, pub/restaurant, hotel and a vehicle hire company. The site is within 500 metres of the railway station, the village hall and the existing primary school and within 300 metres of the Post Office/Shop and bakery in The Street. The more comprehensive package of development envisaged in the draft Local Plan would have also delivered additional local services, facilities and employment opportunities, although this application does at least make provision for a new primary school and nursery. It also provides for a car park which could serve users of the railway station. Under a more comprehensive package of development for Weeley, there may have been greater scope for improving the services, facilities and attractiveness at Weeley Station and working with the train operating companies to improve frequency. With a substantially smaller development, the likelihood of securing substantial improvements to the services are more limited.
- 6.27 It is proposed that employment opportunities and community facilities would form part of the development and footpath and cycleway connections could be extended to existing facilities

in and around the village, with the provision of safe crossing points in the right locations. In terms of existing facilities, the site is located a short distance from Tendring Park Services which contains a petrol filling station and convenience shop, a McDonalds restaurant, pub/restaurant, hotel and a vehicle hire company. The site is approximately 1.2 kilometres from Weeley railway station, 800 metres from the Black Boy Pub and 1 kilometre from

- 6.28 Whilst Weeley enjoys a level of accessibility that partly justified its categorisation originally as an expanded settlement and its proposed re-categorisation as a rural service centre in the emerging Local Plan, a development containing a large amount of housing and a primary school is still likely to generate a significant amount of travel, by car, in and out of the village – particular given the site's proximity to the A133 and A120, the main routes in and out of the district. The impact of development on the capacity and safety of the A133 therefore requires special consideration and the both this Council and Essex County Council already recognise that the stretch of the A133 between Weeley and Frating is a problem in terms of capacity, particularly in peak times.
- 6.29 Policy TRA1a in the adopted Local Plan requires that development affecting highways be considered in relation to reducing and preventing hazards and inconvenience to traffic including the capacity of the road network. Policy CP1 in the emerging Local Plan states that developments will only be acceptable if the additional vehicular movements likely to result from the development can be accommodated within the capacity of the existing or improved highway network or would not lead to an unacceptable increase in congestion.
- 6.30 The landowner has submitted the Transport Assessment that was produced in 2014 in support of the larger, more comprehensive Local Plan allocation. Following careful consideration, ECC Highways have highlighted a number of areas where they consider the Transport Assessment to be deficient. Whilst the applicant could produce the necessary information which might or might not lead to the withdrawal of this objection before a future appeal, there is a general problem with considering the transport implications of a development like this, in advance of the finalisation of the Local Plan, without an accurate idea of what the cumulative impacts of other developments might be.
- 6.31 Knowing that there is an issue with capacity on the A133 and this development is likely to exacerbate this issue, it is likely that some form of mitigation in the form of off-site highway improvements to the carriageway and/or junctions will be needed. Without a clearer idea of how much development will happen in the Weeley area, it is difficult to establish what level of improvement would be needed, what it would cost and who would be responsible for meeting this cost. The situation for Weeley is very complicated with two large sites being the subject of planning applications, two sites proposed for deletion from the Local Plan and an entirely different site to the east of the village that is to be kept in the plan. The Local Plan is the best vehicle for ensuring that the cumulative impacts of various developments are properly identified and properly mitigated.
- 6.32 Officers therefore recommend that the inadequacy of the transport assessment, as identified by ECC, be upheld as a reason for refusal and that this application should be rejected for being premature in advance of the completion of the Local Plan and the proper consideration of cumulative highway impacts.

### **Education Provision**

- 6.33 Policy QL12 in the adopted Local Plan and Policy PP12 in the emerging Local Plan require that new development is supported by the necessary infrastructure which includes education provision. The advice of Essex County Council, in its role as the local education authority, is that the existing primary school at Weeley would not be able to accommodate the expected number of additional pupils likely to come about as a result of any substantial increase in housing and the options for expanding the existing school are very limited.
- 6.34 In anticipation of major growth around Weeley, it was envisaged that a brand new primary school would be delivered through proposals in the emerging Local Plan, most likely as part of the more comprehensive scheme proposed for the land between the bypass and the A133. Even though it is now proposed that this development will be deleted from the new Local Plan, the landowner has taken on board the comments from Essex County Council submitted in response to the Taylor Wimpey application on land north of Colchester Road and has revised their proposal to make provision for 2.1 hectares of land to accommodate a two-form entry (2fe) primary school with commensurate early years and childcare facilities. Based on ECC advice, this is the most efficient form of facility and is most likely to attract funding from central government.
- 6.35 As with highways, where it is known that a major development will necessitate a new piece of infrastructure such as off-site highway works or a new school, it is very difficult to consider individual development proposals in advance of the Local Plan where the cumulative impacts of development are uncertain. It is ECC's clear view that any new primary school should be 2fe with the potential to accommodate a larger number of pupils, in anticipation of further residential development taking place in the future. However, until the Local Plan is finalised, the Council does not know for sure how much development will take place in Weeley and how the additional pupils arising from the development will be best served through the provision of new educational facilities.
- 6.36 At the time of writing, Officers had not received a formal response from the education authority to this planning application but we have been in direct discussion with ECC about this matter. Based on ECC's comments on the Taylor Wimpey application, Officers would expect that as well as a new school at a cost of £7.3million and the need for a land compliance study, a financial contribution in the order of £840,000 for secondary education is likely to be requested. If the formal response arrives before the Committee meeting, Officers will provide the necessary update. For now, the lack of a s106 legal agreement to secure the necessary educational facilities or financial contributions is recommended as an additional reason for refusal – albeit one that could be addressed, if necessary, as part of the appeal process if the landowner decides to lodge an appeal.

### **Health Provision**

- 6.37 The requirement of the NPPF to promote the creation of high quality environments with accessible local services that reflect the community's needs also extends to health provision. Again through Policy QL12 in the adopted Local Plan and Policy HP1 in the emerging Local Plan, new development needs to be supported by the necessary infrastructure, including health provision. As this the case across most parts of the district, local health services are operating either at, close to or above capacity in catering for the needs of the current population. One of the roles of the Local Plan is to ensure that major

residential developments are planned alongside agreed investment in an area's infrastructure to accommodate anticipated increases in population.

- 6.38 In the absence of an up to date adopted Local Plan, Officers have needed to liaise with NHS England (with a strategic overview of health provision in our area) to calculate what investment will be required to mitigate the impact of this development. Through adopted Policy QL12 and emerging Policy HP1, the Council can require developers to address infrastructure requirements likely to arise from their developments by either building new facilities or making financial contributions towards the creation of additional capacity. It is noted that there is local scepticism about how this will work in practice, but in the absence of an up to date Local Plan, this is an approach that has been accepted by Planning Inspectors. As with highways and education though, it is difficult to properly consider the health requirements arising from this development without a firmer idea of what other developments are likely to come forward in the Weeley area and what cumulative impacts will need to be addressed.
- 6.39 NHS England has undertaken a Health Impact Assessment of this development proposal and has identified that the greatest impact on health services would be felt at Great Bentley surgery. A developer contribution of £79,166 has been requested. However, in the NHS' comments on the Taylor Wimpey scheme north of Colchester Road, they raised the possibility of facilitating or contributing towards the relocation of Great Bentley Surgery to Weeley – and this demonstrates that there a great deal of uncertainty over the way in which the health impacts of major development in Weeley will be addressed. The larger expanded settlement proposal in the draft Local Plan would have delivered a critical mass of development and a comprehensive and coordinated approach to delivering new health care facilities. The consideration of a series of piecemeal development proposals in advance of the Local Plan complicates this issue substantially and the position of the NHS is unclear as a result.
- 6.40 One of the recommended reasons for refusal relates to the lack of an agreed s106 legal agreement to secure the contribution requested by NHS England but the general uncertainty over development in Weeley combined with the uncertainty over health provision again supports Officers' view that this proposal should be rejected for being premature in advance of the completion of the Local Plan and the proper consideration of cumulative health impacts.

### **Landscape, Visual Impact and Trees**

- 6.41 The site is in a prominent location, is large and exposed and contains very limited landscape features, except for the trees and hedges along its boundary with the bypass. A major development in this location would be visible from a number of long-distance views over the site, particularly from the north, east and west and would bring about a significant change in the character of the locality.
- 6.42 Under circumstances where Weeley continues to be earmarked for significant expansion as part of the Local Plan with major development proposed for the whole of the land between the bypass and the A133, concerns about the visual impact of development would be considered in the context of housing need and planned growth for the village. However, as



it is now established that the emerging Local Plan will be amended to delete the development, the impacts of the development also need to be considered in isolation.

- 6.43 The landowner has submitted the Landscape and Visual Appraisal that was prepared in 2014 in support of the allocation of his whole site in the Local Plan. Whilst, the planning application is to only develop part of this larger site, the Council's Principal Trees and Landscape Officer has still assessed the impact of the development, using the information provided in the 2014 assessment as far as is practical. He concludes that the 2014 report is still reasonably accurate in terms of the topography and vegetation cover of the site, but that updated information is necessary to quantify the degree of change that would result from the new development. He does observe that for any planning permission that may be granted, further details of soft landscaping would need to be secured by condition and these would be a key element of the successful integration of the development into the surrounding landscape.
- 6.44 For Trees, again the landowner has submitted a 2014 arboricultural report that was prepared in support of the Local Plan allocation. Whilst the report is nearly three years old and applies to a larger site, our Tree Officer is satisfied that the content of the report can be considered a reasonable reflection of the extent of trees on the application site are a constraint to the development, it is out of date in respect of the description and health of the trees and, if minded to recommend approval, updated information would have been required. The Tree Officer does however conclude that the development of the land could take place without harm being caused to the majority of trees and vegetation on the perimeter of the application site. The illustrative masterplan appears to provide for the retention of the majority of trees on the perimeter of the site along with substantial buffer zones and additional planting throughout the scheme.
- 6.45 If development were considered acceptable in principle, Officers are satisfied that the impacts on landscape character and on trees could be mitigated to an acceptable level. It would therefore not be appropriate to refuse planning permission on such grounds alone. As is always the case with the loss of greenfield land, there will be a degree of harm to landscape character which would be an adverse impact to be weighed against the benefits of development. Because the development is not required to meet local housing needs, and it is recommended that planning permission be refused for the reasons set out in this report, any local concerns about the visual impact of the development and the loss of undeveloped land can be averted. Officers are more concerned that this proposal represents a breach of a strong and defensible edge to the village that would blur the lines between built form and open countryside in an illogical, unnecessary and piecemeal way.

### **Flood Risk and Drainage**

- 6.46 Paragraph 103 of the NPPF requires Councils, when determining planning applications, to ensure flood risk is not increased elsewhere. Although the site is in Flood Zone 1 (low risk), the NPPF, Policy QL3 in the adopted Local Plan and Policy PPL1 in the emerging Local Plan still require any development proposal on site larger than 1 hectare to be accompanied by a site-specific Flood Risk Assessment (FRA). This is to assess the potential risk of all potential sources of flooding, including surface water flooding, that might arise as a result of development.

- 6.47 The landowner had submitted the 2014 Flood Risk Assessment that had been produced in support of the allocation of the larger site in the Local Plan but this has been followed by a more bespoke assessment dated 31<sup>st</sup> March 2017.
- 6.48 ECC issued a 'holding objection' and required this further work to be undertaken to ensure compliance with the guidelines set out in the relevant National Planning Practice Guidance. Given the proximity of the site to Weeley Brook, the Environment Agency have also commented in terms of fluvial flood risk. Whilst they issued no objection to the original scheme of 295 dwellings, they have issued a holding objection to the revised proposal as it shows the location of the new school close to the flood zone around the Brook.
- 6.49 As the new assessment has only just arrived with Officers, it has not been possible to get comments back from ECC and the Environment Agency in time for the meeting of the Planning Committee. For now, it is recommended that one of the reasons for refusal relates to flood risk and, until convinced otherwise, the scheme is contrary to the NPPF and Policies QL3 and PPL1 of the adopted and emerging Local Plans (respectively). This reason for refusal could however be addressed before an appeal if ECC and the Environment Agency are happy to withdraw their objections in response to the new assessment.

### **Ecology**

- 6.50 Paragraph 118 of the NPPF requires Councils, when determining planning applications, to aim to conserve and enhance biodiversity. Where significant harm to biodiversity cannot be avoided, mitigated or, as a last resort, compensated for, Councils should refuse planning permission. Policy EN6 of the adopted Local Plan and Policy PPL4 of the emerging Local Plan give special protection to designated sites of international, national or local importance to nature conservation but for non-designated sites still require impacts on biodiversity to be considered and thereafter minimised, mitigated or compensated for.
- 6.51 Under Regulations 61 and 62 of the Habitats Regulations, local planning authorities as the 'competent authority' must have regard for any potential impact that a plan or project might have on European designated sites. The application site is not, itself, designated as site of international, national or local importance to nature conservation and Officers consider that is sufficiently far from such designated sites not to warrant a further 'appropriate assessment' under the Habitat Regulations.
- 6.52 The landowner has submitted the 2014 ecological assessment that was prepared in support of the Local Plan allocation for the larger site. Within that assessment, the ecologists concluded that suitable habitat for various legally protected species were found to be present on the site, but were almost entirely limited to the field edges and the central ditch line. They considered it likely that potential impacts upon any protected species present could be easily avoided or mitigated against and that the potential for ecological enhancement as part of the development was substantial. They did however suggest that further surveys would be required to assess potential impacts on statutory wildlife sites within 5km of the site, reptiles, great crested newts, nesting birds, bats, dormouse and badger.

- 6.53 Officers consider that there is a reasonable prospect of the development being accommodated on the site, with appropriate mitigation, without causing significant harm to protected species on and around the site but under Natural England guidelines, all of the necessary survey work ought to be undertaken to allow the decision making body (whether that be the Council or the Planning Inspectorate) to make a properly informed decision.
- 6.54 With this in mind, it is recommended that a reason for refusal relating to ecology and the lack of updated species-specific surveys be included in the Council's decision. However, if the applicant decides to appeal and is able to undertake the relevant updated surveys, there is a reasonable prospect of addressing this reason for refusal for the purposes of the appeal.

### **Council Housing/Affordable Housing**

- 6.55 Policy HG4 in the adopted Local Plan requires large residential developments to provide 40% of new dwellings as affordable housing for people who cannot otherwise afford to buy or rent on the open market. Policy LP5 in the emerging Local Plan, which is based on more up to date evidence on viability, requires 30% of new dwellings on large sites to be made available for affordable or Council Housing. The policy does allow flexibility to accept as low as 10% of dwellings on site, with a financial contribution toward the construction or acquisition of property for use as Council Housing (either on the site or elsewhere in the district) equivalent to delivering the remainder of the 30% requirement. If minded to approve this application, up to 68 of the proposed properties would need to be secured for affordable housing purposes through a s106 legal agreement. The lack of such an agreement is included as a recommended reason for refusal.

### **Open Space**

- 6.56 Policy COM6 in the adopted Local Plan and Policy HP4 of the emerging Local Plan require large residential developments to provide at least 10% of land as public open space or otherwise make financial contributions toward off-site provision. The Council's Open Space Team has commented on the application and has identified a deficiency of equipped play areas and formal open space in Weeley that would be exacerbated by additional residential development. Due to the size of the site it is recommended that at least 10% of the site is laid out as open space and the site includes play provision to a LEAP standard.
- 6.57 If the on-site open space is to be transferred to Tendring District Council for future maintenance, an additional financial contribution towards maintenance will also need to be secured through a s106 legal agreement. If the Council wanted to approve this application, Officers would engage in negotiations with the applicant to agree the necessary requirements in line with the guidance contained within the Council's Supplementary Planning Document on Open Space. The applicants have indicated, as part of their indicative drawings, how open space could be incorporated as part of their development.
- 6.58 However, if the Committee accepts the officer recommendation of refusal, the lack of a s106 agreement to secure the necessary level of open space and play equipment will be included as a reason for refusal, to ensure that this matter is properly addressed if the applicant decides to appeal.

### **Potential Layout and Density**

- 6.59 As an outline planning application, detailed design and layout is a reserved matter for future consideration but if minded to approve, the Council would need to be satisfied that an appropriate scheme of up to 228 dwellings, a primary school, nursery and car park with associated infrastructure and open space could be accommodated on the site in an appropriate manner.
- 6.60 The applicant has submitted indicative drawings to show how the scheme could potentially be laid out. These show the 2.1ha school and 0.4ha nursery site and 50-place car park on the southern part of the site with residential and open space on the remainder. If approximately 3ha are taken by non-residential uses, approximately 8 ha would be left over for housing and associated open space and infrastructure (the applicant gives a figure of 8.79ha). The indicative residential layout shows a traditional 'perimeter block' form of development with the main areas of open space around the periphery of the site, including a buffer along the eastern edge. .
- 6.61 If we assume that the residential area will include, as a minimum, 10% open space reducing the net developable area to around 7.2ha, the net density of 228 dwellings would be around 32 dwellings per hectare. This is at the upper end of the range of housing density that is generally considered acceptable by modern standards and that can achieve the Council's minimum garden standards. Being a site separated from the existing village by the bypass, there is no nearby development that the residential density ought to specifically reflect.
- 6.62 Officers consider that all of the development proposed could be accommodated on the site in a reasonable manner. Unless the Committee is concerned about the housing numbers from a density perspective, it is not proposed to make density a reason for refusal.

### **Overall Planning Balance**

- 6.63 This development proposal is contrary to the Council's adopted Local Plan but it forms part of a larger site that is allocated for mixed-use development in the emerging Local Plan but proposed for deletion in the final submission version. Throughout 2016, the Planning Committee were presented with a number of outline planning applications recommended for approval contrary to the Local Plan. For many of those proposals, refusal of permission purely on matters of principle could not be justified because the adopted Local Plan was out of date, the emerging Local Plan was at an early and uncertain stage of preparation and the Council was a long way off of being able to identify a five-year supply of deliverable housing sites.
- 6.64 Under these circumstances, government policy in the National Planning Policy Framework (NPPF) required that development be approved unless the adverse impacts would significantly and demonstrably outweigh the benefits, or if specific policies within the NPPF suggest development should be refused. The NPPF in this regard applies a 'presumption in favour of sustainable development' for which sustainable development addresses economic, social and environmental considerations. Many applications were approved, either by the Council or on appeal, because it was judged that the overall balance of benefits against harm weighed in favour of development.

- 6.65 In April 2017 the Council finds itself in a stronger position to resist unnecessary and unwanted development proposals. The adopted Local Plan remains out of date but with the confirmation of the objectively assessed housing need at 550 dwellings per annum, the emerging Local Plan is expected to progress smoothly to the next stage of the process later this year – gaining weight as a material planning consideration at every step. The Council remains slightly short of identifying a full five-year supply of deliverable housing sites, but this is based on cautious assumptions and the Inspector in the Rush Green Road appeal endorsed the Council's general approach to calculating housing supply and commented that the shortfall is now limited.
- 6.66 Whilst it remains the case that the NPPF presumption in favour of sustainable development is still engaged, and applications must be considered on their individual merits, the Council's stronger position means that, in the overall planning balance, there is less urgency to accept developments that are contrary to the Local Plan to meet a short-term housing need. The balanced assessment of economic, social and environmental factors is set out as follows.
- 6.67 Economic: As a mixed used development providing for 228 homes and a primary school, the potential economic benefits of the development, if delivered as proposed, would be positive. The new housing would generate additional expenditure in the local economy which has to be classed as an economic benefit. There will also be temporary jobs in construction whilst the scheme is under construction. The overall economic effect is therefore positive – as long as the development does not lead to severe cumulative transport impacts which, based on the transport assessment provided to date, the highway authority has been unable to determine.
- 6.68 Social: The provision of an additional 228 dwellings toward meeting projected housing need is clearly a social benefit. However, this is tempered by the fact that the housing land shortfall against the five-year requirement is now 'limited' and this is based on cautious assumptions about projected delivery.
- 6.69 A new primary school is primarily needed to mitigate the impact of the additional dwellings but would provide capacity to serve a much larger number of homes than being proposed in the scheme. However, because this proposal is being considered outside of the Local Plan process without a clear idea of what other developments might be contributing towards housing supply and impacting upon infrastructure in the area, it is very uncertain what the best solution in terms of school provision will be. Officers are therefore concerned that this development could prejudice an effective and coordinated approach to infrastructure provision. Similar concerns are raised about the cumulative impact on the highway network (particularly the A133) and the provision of health with the NHS unsure at present as to whether a new surgery or expanding existing surgeries would be the best way to proceed.
- 6.70 Environmental: The environmental impacts of the proposal have required very careful consideration. The ecological impacts are expected to be low, but further survey work would be required, in line with Natural England guidance, before this could be confirmed for sure. There is however potential for the scheme to deliver significant ecological enhancements through tree planting and habitat creation.

- 6.71 The impact on flood risk and drainage are still being assessed by Essex County and the Environment Agency following the submission of an updated Flood Risk Assessment and Drainage report following their initial objections. At the time of writing we are yet to receive confirmation that this assessment adequately addresses the initial objections, but there is a possibility that they could.
- 6.72 The impact on the landscape and the visual character of the area would be significant. Although the site is relatively featureless in landscape terms, it is fairly exposed and has a prominent location on the main road so new development would be very visible. New housing and a school would bring about a significant change to the character of this prominent location. In the circumstances where Weeley is designated as a location for major growth and the whole of this site were to be development in a comprehensive manner, such an impact would be viewed in the context of meeting housing and employment needs in a planned way. However, Weeley is to be re-classified as a rural service centre and a major development to the west of the village and the resultant impact on the character of the area is no longer considered necessary, at least up to 2033.
- 6.73 The bypass marks a strong defensible boundary that maintains clear separation between the built up area of the village and the open countryside. This development would breach that boundary in an unnecessary and piecemeal manner and blur the lines between urban form and countryside.
- 6.74 Concerns over the impact of traffic and associated environmental pollution are noted but the highway authority is yet to be convinced that the impacts of this development on the highway network have been properly assessed and there remain questions over the potential impact on traffic and congestion on the A133.
- 6.75 In the overall planning balance, Officers consider that this development goes against the plan-led approach advocated in the NPPF and which the Council is actively securing through its emerging Local Plan. The housing land shortfall is no longer substantial enough to justify a significant departure from the plan-led approach which aims to direct development to the most suitable and sustainable locations, recognising the intrinsic character and beauty of the countryside and supporting thriving communities within it.
- 6.76 The strategy for growth at Weeley is set to change from a large scale comprehensive and coordinated settlement expansion across a number of sites (including the application site), to a single large development to the east of the village. The application site is no longer required to meet development needs up to 2033 and would introduce piecemeal built development into an open and exposed field, beyond the strong defensible boundary currently provided by the bypass. The development would also have a significant impact on the provision of schooling, health provision and the highway network – yet the measures that would effectively mitigate such impacts are difficult to determine without a clear idea of what other developments are likely to happen in the area. Only through a Local Plan can such cumulative impacts be properly assessed and a coordinated solution be planned; otherwise individual developments could prejudice infrastructure provision.
- 6.77 The development is contrary to the adopted Local Plan, is no longer considered necessary to meet development needs up to 2033 through the emerging Local Plan, complicates the effective and coordinated provision of infrastructure and would be a piecemeal development

that breaches a strong defensible boundary between the village and the open countryside. The adverse impacts of the development are not significantly and demonstrably outweighed by the benefits and the application is recommended for refusal – in the knowledge that the housing land position is improving rapidly and the Local Plan is likely to progress to final submission stage this summer. Additional reasons for refusal relating to unresolved flood risk and drainage issues, the need for further ecological surveys and the lack of a s106 legal agreement are recommended, but there is a possibility that these issues could be addressed by the applicant before, or if, there is an appeal.

#### Background Papers

None.