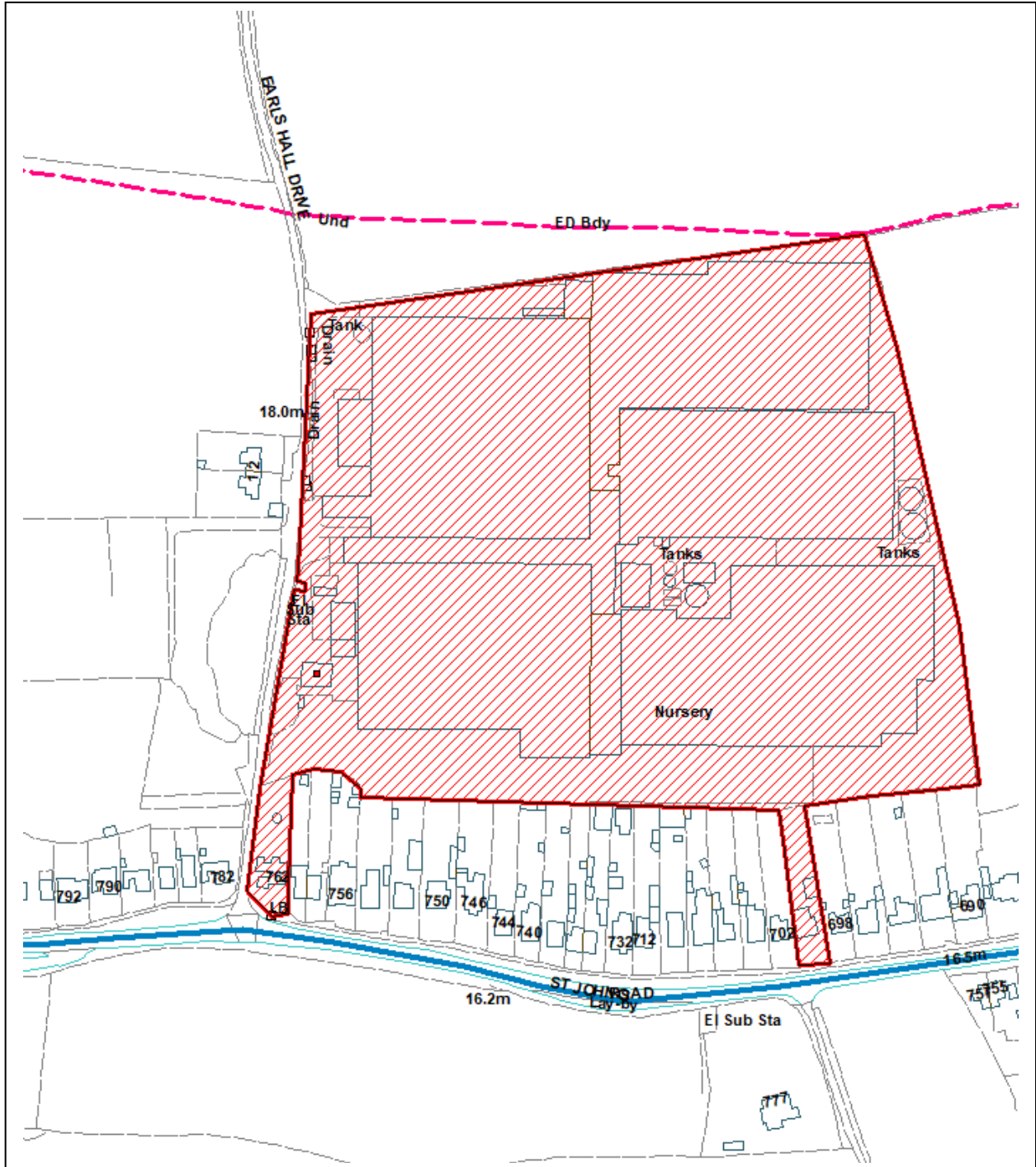


PLANNING COMMITTEE

10th May 2022

REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING

A.1 PLANNING APPLICATION – 21/01000/FUL – ST JOHNS PLANT CENTRE EARLS HALL DRIVE CLACTON ON SEA CO16 8BP



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Application: 21/01000/FUL

Town / Parish: Clacton Non Parished

Applicant: Kelsworth Ltd

Address: St Johns Plant Centre Earls Hall Drive Clacton On Sea CO16 8BP

Development: Proposed demolition of nursery buildings and dwelling house (700 St Johns Road) and erection of 180 residential units (including affordable housing) comprising 10 two bed houses, 83 three bed houses, 24 four bed houses, 15 five bed houses, 16 one-bedroom apartments and 24 two-bedroom apartments and 8 live work units (mixed commercial units totaling 1064 square metres with flats above); and roads, open space, drainage, landscaping and other associated infrastructure.

1. Executive Summary

- 1.1. **This application was deferred by the Planning Committee on 30th March 2022 (updates to the report are in bold). The reasons for deferral were in order to allow Essex County Council Highways Officers to attend a future meeting and Officers were instructed to request the applicant to look at their proposal against policies SP7, SPL3, LP4 and L4 and submit changes if necessary.**
- 1.2. **It has been confirmed that Officers from Essex County Council will be present at the meeting and following correspondence with the agent/applicant no changes to the scheme are proposed.**
- 1.3. The application site comprises 7.6 hectares of horticultural land and is located approximately 300m to the western edge of Clacton on Sea, but now within the Parish of St Osyth. It is to the north of St. Johns Road (B1027), with the majority of the site being to the rear of a ribbon of residential development that fronts onto the road (even nos 690 – 762).
- 1.4. Currently the vehicular access to the site is off Earls Hall Drive, a private road which passes along its western boundary. It is proposed to provide a footpath/cycleway within the current curtilage of 762 St Johns Road adjacent to the existing lane. In addition, the application site also includes a chalet bungalow and its garden at 700 St Johns Road which it is proposed to demolish, in order to provide a new, replacement vehicular access to the site, in lieu of the Earls Hall Drive one.
- 1.5. The site lies within the settlement development boundary for Clacton where there is no principle objection to residential development.
- 1.6. This application seeks full planning permission for the demolition of the nursery glasshouses, buildings and structures and No. 700 St Johns Road and the redevelopment of the site with a predominately residential scheme. The proposed residential scheme comprises of: 180 Residential units comprising 10 no. 2 bed houses; 83 no. 3 bed houses; 24 no. 4 bed houses; 15 no. 5 bed houses; 16 no. 1 bed apartments; 24 no. 2 bed apartments and 8 no. live/work units (mixed commercial totalling 1064 square metres with flats above), with associated roads, open space, drainage, landscaping and other associated infrastructure.
- 1.7. Officers are content that subject to the imposition of reasonable planning conditions and S106 planning obligations, that the general principle of this level of development on the

site is acceptable. It is in keeping with both the site's location on the edge of Clacton, and along with the need to facilitate on site strategic landscaping, open space and the retention of existing landscape features. Furthermore, the proposal would ensure that the living conditions of existing and future residents would be protected from any materially detrimental impacts.

- 1.8. The recommendation is therefore to approve planning permission, subject to the completion of a legal obligation under Section 106 of the Town and Country Planning Act 1990, a dormouse survey and the imposition of a number of controlling conditions.

Recommendation:

That the Assistant Director for Planning be authorised to grant planning permission for the development subject to:-

- a) The submission and approval of a dormouse survey.
- b) Within 6 (six) months of the date of the Committee's resolution to approve, the completion of a legal agreement under the provisions of section 106 of the Town and Country Planning Act 1990 dealing with the following matters (where relevant):
 - Financial Contribution towards RAMS - **£24,650.09** (£137.71 per dwelling)
 - Affordable Housing Provision – 10% on site provision
 - Education – financial contribution towards early years and childcare (£233,118) and libraries (£14,004)
 - NHS – financial contribution TBA
 - Provision, specification and maintenance of on-site Open Space
 - Live/Work units to be constructed and marketed prior to 75% dwelling occupation
 - Highways and Transportation – a financial contribution of £104,000.00 pro-rata for procurement towards the local bus services operating on St Johns Road to serve the development; provision and monitoring of a Residential Travel Plan; Provision of 3 no. bus stops on St Johns Road; Provision/upgrade of a 3-metre wide shared footway/cycleway on the north side of St Johns Road from its junction with Earls Hall Drive eastwards to the main vehicular access to the site and beyond to tie in with the proposed footway/ cycleway for the Rouses Farm development south of St Johns Road (17/01229/OUT);
- c) Subject to the conditions stated in section 8.2

That the Assistant Director for Planning be authorised to refuse planning permission in the event that such legal agreement has not been completed within the period of 6 (six) months, as the requirements necessary to make the development acceptable in planning terms had not been secured through a s106 planning obligation.

2. Planning Policy

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

NPPF National Planning Policy Framework July 2021
National Planning Practice Guidance

Tendring District Local Plan 2013-2033 and Beyond North Essex Authorities' Shared Strategic Section 1 Plan (adopted January 2021)

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

Tendring District Local Plan 2013-2033 and Beyond Section 2 (adopted January 2022)

SPL1 Managing Growth
SPL2 Settlement Development Boundaries
SPL3 Sustainable Design
HP1 Improving Health and Wellbeing
HP3 Green Infrastructure
HP5 Open Space, Sports & Recreation Facilities
LP1 Housing Supply
LP2 Housing Choice
LP3 Housing Density and Standards
LP4 Housing Layout
LP5 Affordable and Council Housing
PP6 Employment Sites
PP12 Improving Education and Skills
PPL1 Development and Flood Risk
PPL4 Biodiversity and Geodiversity
PPL5 Water Conservation, Drainage and Sewerage
PPL10 Renewable Energy Generation
CP1 Sustainable Transport and Accessibility
CP2 Improving the Transport Network

Local Planning Guidance

Essex Design Guide
Essex County Council Car Parking Standards - Design and Good Practice
Provision of Recreational Open Space for New Development

Status of the Local Plan

Planning law requires that decisions on applications must be taken in accordance with the development plan unless there are material considerations that indicate otherwise (Section 70(2) of the 1990 Town and Country Planning Act and Section 38(6) of the Planning and Compulsory Purchase Act 2004). This is set out in Paragraph 2 of the National Planning Policy Framework (the Framework). The 'development plan' for Tendring comprises, in part, Sections 1 and 2 of the Tendring District Council 2013-33 and Beyond Local Plan (adopted January 2021 and January 2022, respectively), together with any neighbourhood plans that have been brought into force.

In relation to housing supply:

The Framework requires Councils boost significantly the supply of housing to meet objectively assessed future housing needs in full. In any one year, Councils must be able to identify five years of deliverable housing land against their projected housing requirements (plus an appropriate buffer to ensure choice and competition in the market for land, to account for any fluctuations in the market or to improve the prospect of achieving the planned supply). If this is not possible or if housing delivery over the previous three years has been substantially below (less than 75%) the housing requirement, Paragraph 11 d) of the Framework requires granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole (what is often termed the 'tilted balance').

The Local Plan fixes the Council's housing requirement at 550 dwellings per annum. On 19 October 2021 the Council's Strategic Housing Land Availability Assessment (SHLAA) updated the housing land supply position. The SHLAA demonstrates in excess of a six-and-a-half-year supply of deliverable housing land. On 14 January 2022 the Government published the Housing Delivery Test (HDT) 2021 measurement. Against a requirement for 1420 homes for 2018-2021, the total number of homes delivered was 2345. The Council's HDT 2021 measurement was therefore 165%. As a result, the 'tilted balance' at paragraph 11 d) of the Framework does not apply to applications for housing.

3. Relevant Planning History

91/00081/FUL	The siting of a mobile home for use by on site staff for security and supervision of the environmental equipment at the nursery on a 24 hour basis.	Approved	08.03.1991
91/00132/FUL	Replacement of fire damaged glasshouse.	Approved	08.03.1991
92/01307/FUL	(Earls Hall Nursery Ltd., Earls Hall Drive, St Johns) Siting of mobile home for use by on-site staff for security and supervision of the environmental equipment at nursery on 24 hour basis (renewal of TEN/91/0081)	Approved	23.12.1992
94/00448/FUL	(Earls Hall Drive, St Johns Road, Clacton on Sea) Continued use of building as office accommodation (Renewal of permission TEN/574/89)	Approved	10.06.1994
94/01303/FUL	(Earls Hall Nursery Ltd., Earls Hall Drive, St John's) Siting of mobile home for use by on-site staff for security and supervision of the environmental equipment at nursery on 24 hour basis (renewal of TEN/92/1307)	Approved	25.11.1994
96/00220/FUL	(St Johns Nursery, Earls Hall Drive, Clacton on Sea) Siting of a mobile home for use by on-site staff for the security and supervision of the nursery and environmental equipment, on a 24 hour basis	Approved	29.03.1996
98/01700/FUL	Demolish existing garages and replace with new with pitched roof and enlarged new roofs to porch and rear bedroom	Approved	12.02.1999
99/01444/FUL	Continued use of building as office	Approved	22.11.1999

	accommodation (Renewal of TEN/94/0448) Continued use of mobile home for use by on site staff (Renewal of TEN/96/0220)		
04/01686/FUL	Demolition of existing glass house and erection of new glass house for horticultural purposes.	Approved	21.10.2004
13/00529/FUL	Demolition and rebuild of attached double garage to match existing on new piled raft foundations.	Withdrawn	23.05.2013
12/00771/AGRIC	Portal framed packing shed with profiled cladding walls/roof.	Determination	07.08.2012
16/00612/FUL	Proposed storage barn.	Approved	07.07.2016
17/01197/FUL	Improvements to Earls Hall Drive.	Refused/ Allowed at Appeal	13.09.2017
17/01198/ADV	1 No. directional sign.	Approved	13.09.2017
17/01770/FUL	Extension to car park.	Approved	08.12.2017
17/01775/FUL	Temporary use of part of nursery as "Christmas Wonderland" - seasonal sales event. Operating from 16th October 2017 to 6th January 2018 - to include a Santa's Grotto and miniature train.	Refused	21.12.2017
17/01935/FUL	Improvements to Earls Hall Drive.	Approved	16.05.2018
18/01779/FUL	Demolition of nursery buildings and dwellinghouse. Erection 195 residential units (comprising 6 two bed houses, 87 three bed houses, 33 four bed houses, 25 five bed houses, 12 one bedroom apartments and 24 two bedroom apartments), and 8 live work units (mixed commercial units measuring 1064 square metres in total with flats above). Associated roads, open space, drainage, landscaping, and other infrastructure.	Refused Dismissed at Appeal	19.02.2020

4. Consultations

Tree & Landscape Officer
18.08.2021

The main body of the application site is covered by
glasshouses and buildings associated with the horticultural
use of the land as a plant nursery and garden centre.

There are no trees or other significant vegetation in the main body of the land but the site boundaries are demarcated by, and contain, established trees and hedgerows.

Close to the entrance to the Plant Centre car park and adjacent to Earls Hall Drive there are several ornamental trees that appear to have been planted to enhance the entrance to the garden centre/nursery. The trees comprise of Deodar and Atlantic Cedars as well as Silver Birch, Cupressus macrocarpa 'Goldcrest' and a single Cupressocyparis 'Castlewellan'. Further to the north along Earls Hall Drive the boundary of the application site is planted with a coniferous hedge comprising Cupressocyparis 'Castlewellan'.

The northern boundary is planted with a hybrid Poplar and is sparsely interspersed with hedging conifers (probably Cupressocyparis 'Leylandii'.) These trees will almost certainly have been planted as a windbreak associated with the use of the land as a nursery

The eastern boundary and a short section of the eastern end of the northern boundary contains several mature Oaks that are prominent features in their setting although their amenity value is relatively low because of the limited extent to which they can be seen from a public place. The main viewpoint from which the trees can be seen is from the Public Right of Way that runs along Earls Hall Drive from St John's Road to Hartleywood Farm.

There are a few trees in the rear gardens of the properties in St Johns Road that back onto the application site but because of their location these have low amenity value.

In terms of the new access to the application site the demolition of 700 St Johns is required in order to achieve this. The front garden of the property contains 2 small Crab Apples and third situated in the rear garden close to the dwelling. None of these trees have such amenity value that they merit retention or protection by means of a Tree preservation order.

It should be noted that the initial site layout appears to show a good relationship between the proposed dwellings and retained trees but this can only be confirmed, or otherwise, by the provision of a tree survey and report.

In order to show that the development proposal can be implemented without causing harm to important trees on the land the applicant has provided an Arboricultural Impact Assessment (AIA). The AIA is in accordance with BS5837: 2012 Trees in relation to design, demolition and construction; Recommendations.

The information contained in the AIA shows the extent to

which the trees are a constraint on the development potential of the land and shows how retained trees will be physically protected for the duration of the construction phase of any planning permission that may be granted.

A Landscape Strategy submitted in support of the application shows a good level of soft landscaping including tree planting and provides some details relating to structural planting and the palette of species to be incorporated into the soft landscaping scheme. If planning permission were to be granted the further details of new planting should be secured by way of a planning condition unless it is provided prior to the determination of the application.

ECC Schools Service

A development of this size can be expected to generate the need for up to 13.5 Early Years and Childcare (EY&C) places; 45 primary school, and 30 secondary school places.

Please note that any developer contribution figures referred to in this letter are calculations only, and that final payments will be based on the actual dwelling unit mix and the inclusion of indexation.

Early Years and Childcare

Essex County Council has a statutory duty under the Childcare Act 2006 to ensure that there is sufficient and accessible high-quality early years and childcare provision to meet local demand and parental choice. This includes provision of childcare places for children aged between 0-5 years as well as wrap around provision for school aged children (5-11 or up to 19 with additional needs).

The proposed development is located within St Osyth ward and according to latest available childcare sufficiency data, there are 3 early years and childcare providers within the ward. Overall a total of 13 unfilled places were recorded.

Although there is some EY&C capacity in the area, the data shows insufficient provision to meet the additional demand created by this development. It is thereby proposed that a developer contribution of £233,118 index linked to Q1-2020, is sought to mitigate its impact on local primary school provision. This equates to £17,268 per place.

Primary Education

Due to surplus provision in the primary group, a contribution toward primary education will not be requested at this time.

Secondary Education

Due to the completion of the Clacton County High project complete, there is sufficient space to meet the demand created from this development. A contribution toward secondary education will not be requested at this time.

School Transport

Having reviewed the proximity of the site to the nearest

primary and secondary schools, Essex County Council will not be seeking a school transport contribution at this time. However, the developer should ensure that safe direct walking and cycling routes to local primary and secondary schools are available

Libraries

ECC may seek contributions to support the expansion of the library service to meet customer needs generated by residential developments of 20+ homes. The provision of a Library Service is a statutory duty under the 1964 Public Libraries and Museums Act and it's increasingly become a shared gateway for other services such as for accessing digital information and communications.

The suggested population increase brought about by the proposed development is expected to create additional usage of the nearest library. A developer contribution of £14,004.00 is therefore considered necessary to improve, enhance and extend the facilities and services provided. This equates to £77.80 per unit.

Employment and Skills

Both Central and Local Government have a crucial role to play in identifying opportunities to maximise employment, apprenticeships, and to invest in skills to realise personal and economic aspirations.

ECC has a role to play in supporting Local Planning Authorities and helping to ensure that the development industry has the necessary skills to build the homes and communities the county needs. ECC supports Tendring District Council (TDC) in securing obligations which will deliver against this crucial role in supporting employment and skills in the district.

In the current economic climate and national skills shortage, ECC supports TDC in requiring developers to prepare an 'Employment and Skills Plan' (ESP) seeking to drive forward an increase in construction employability levels and workforce numbers. These plans will help to address negative perceptions of the sector and develop a strong future pipeline. This is referred to as the 'development phase'. ECC also supports TD in requiring landowners to produce an ESP for commercial developments, to enable wider employment opportunities for those requiring additional support to enter the job market. This is referred to as the 'end-use phase'. Additionally, ECC encourages TDC to consider the inclusion of other requirements, including financial contributions, to support appropriate employment and skills outcomes as a result of this development.

In view of the above, I request on behalf of Essex County Council that if planning permission for this development is granted it should be subject to a section 106 agreement to mitigate its impact on early years and childcare provision

and libraries.

The contributions requested have been considered in connection with the CIL Regulations 2010 (as Amended) and are CIL compliant. Our standard formula s106 agreement clauses that ensure the contribution would be necessary and fairly and reasonably related in scale and kind to the development are available from Essex Legal Services.

Essex County Council Ecology
25.08.2021

Holding objection due to insufficient ecological information (out of date report)

We have reviewed the documents supplied by the applicant, relating to the likely impacts of development on Protected & Priority habitats and species, identification of proportionate mitigation.

We are not satisfied that there is sufficient ecological information available for determination of this application.

The Chartered Institute of Ecology and Environmental Management (CIEEM) advice note on the lifespan of ecological reports and surveys (April 2019) states that, for ecological reports that are 18 months- 3 years old, "a professional ecologist will need to undertake a site visit and may also need to update desk study information (effectively updating the Preliminary Ecological Appraisal) and then review the validity of the report. The professional ecologist will need to issue a clear statement, with appropriate justification, on; the validity of the report, which, if any, of the surveys need to be updated; and the appropriate scope, timing and methods for the update survey(s)."

As the Bat Survey Report, Preliminary Ecological Appraisal and Reptile Survey Report were all completed by Total Ecology in 2018, we therefore recommend an additional site visit should be completed by the applicant's ecologist. The report can be updated, or an addendum submitted to support the application. This should ascertain the validity of the existing ecological information and identify if any of the previously completed surveys require updating or if any additional surveys are now required.

This is needed to enable the LPA to demonstrate its compliance with its statutory duties including its biodiversity duty under s40 NERC Act 2006.

We note that this application will require the LPA to prepare a project level HRA Appropriate Assessment as the development lies within the Zone of Influence (ZOI) for the Essex Coast RAMS, approximately 3.3km from the Colne Estuary SPA and Ramsar. We have reviewed the Shadow Habitats Regulations Assessment (Total Ecology, 2019) we note that delivery of mitigation measures in perpetuity will be necessary to ensure that this proposal will not have an

adverse effect on the integrity of the above Habitats sites from recreational disturbance, when considered 'in combination' with other plans and projects. A proportionate financial contribution will need to be secured from the applicant under a legal agreement.

Essex County Council Ecology
25.08.2021

Holding objection due to insufficient ecological information on European Protected Species (Hazel Dormouse and Bats)

We are still not satisfied that there is sufficient ecological information available for determination of this application.

The eastern boundary comprises trees, hedgerow and dense scrub which provides suitable habitat for Hazel Dormouse. A mitigation licence for impacts including the destruction of a breeding and resting site for this species from 2013 was located 360m south-west of the site. It is considered possible that Hazel Dormouse could reach the suitable habitats on site from this location through the use of surrounding hedgerows and gardens. Given the scrub and hedgerow habitat is being removed there is potential for impacts upon Hazel Dormouse as part of the proposals. The LPA currently do not have certainty that Hazel Dormouse are not present on site or impacted by the proposals.

Although details in relation to the composition of the existing hedgerow along the eastern boundary have not been provided, and so it is unclear if the hedgerow is a Priority habitat, the 'Hedgerow Planting' along the eastern boundary, as shown in the Landscape Strategy, drawing no. 21.5142.01 (Andrew Hastings, May 2021) shows replacement/strengthening planting of a mixture of six native species along this boundary. This will also be outside the curtilage of the proposed gardens and so cannot be removed or inappropriately managed by the new homeowners. Management of this hedgerow should be for the benefit of wildlife.

Some of the retained trees along the eastern boundary are going to be incorporated into proposed gardens and so there is no guarantee that these features will be retained once new residents move into the properties. It should be confirmed that these trees, as well as any other proposed for removal (as seen within the Arboricultural Impact Assessment (EnviroArb Solutions Ltd., June 2021)), have been assessed for their potential to support roosting bats.

We recommend that details of survey methods, results and any necessary additional mitigation & enhancement measures are required to make this proposal acceptable and is provided prior to determination.

To fully assess the impacts of the proposal the LPA need ecological information for the site, particularly for Hazel Dormouse and bats, European Protected Species. These

surveys are required prior to determination because Government Standing Advice indicates that you should “*Survey for Hazel Dormouse is distribution and historical records suggest dormice may be present or the development will affect an area of woodland, hedgerow or scrub suitable for dormice*” and “*Survey for bats if the area includes buildings or other structures that bats tend to use or there are trees with features that bats tend to use nearby*”.

The results of these surveys are required prior to determination because paragraph 99 of the ODPM Circular 06/2005 highlights that: “*It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision.*”

This information is therefore required to provide the LPA with certainty of impacts on legally protected and Priority species and be able to secure appropriate mitigation either by a mitigation licence from Natural England or a condition of any consent. This will enable the LPA to demonstrate compliance with its statutory duties, including its biodiversity duty under s40 NERC Act 2006 and prevent wildlife crime under s17 Crime and Disorder Act 1998.

Additionally, no biodiversity enhancement measures are identified in the documents provided although it is suggested that enhancements such as the installation of bird and bat boxes on the new buildings are considered. We recommend that, to secure measurable net gains for biodiversity, as outlined under Paragraph 174d and 180d of the National Planning Policy Framework 2021, further details for reasonable biodiversity enhancement measures will need to be provided.

We note that you have screened this proposed development and consider that it falls within the scope of the Essex Coast RAMS, and that you have undertaken a Habitats Regulations Assessment (HRA) (Stage 2: Appropriate Assessment) in order to secure any necessary recreation disturbance mitigation, and note that you have recorded this decision within your planning documentation. We are satisfied that the mitigation described in your Appropriate Assessment is in line with Natural England’s strategic-level advice. The mitigation should rule out an ‘adverse effect on the integrity’ of the European designated sites that are included within the Essex Coast RAMS from increased recreational disturbance. The LPA is therefore advised that a financial contribution should be sought in line with the Essex coast RAMS per dwelling/tariff, from the developer of this residential development. This contribution will need to be secured by legal agreement.

Essex County Council
Archaeology
02.08.2021

This is needed to enable the LPA to demonstrate its compliance with its statutory duties including its biodiversity duty under s40 NERC Act 2006.

A number of cropmark complexes in the surrounding area attest to the archaeological potential of the area of the proposed development. These include settlement enclosures, trackways and linear features of probable agricultural origin. Previous investigation within the surrounding area have shown the field systems to be of Roman origin. The recorded cropmarks are immediately adjacent to the site and can be expected to continue into the development area. There is potential for previous disturbance to the site through quarrying activities and the existing glasshouses, the scale of the quarrying is unclear and the depth of disturbance should be established through a limited programme of archaeological investigation in the first instance.

The following recommendations are made in line with the National Planning Policy Framework:

RECOMMENDATION: A Programme of Archaeological investigation following demolition.

No development or preliminary groundworks of any kind shall take place until a programme of archaeological investigation has been secured in accordance with a written scheme of investigation which has been submitted by the applicant, and approved in writing by the local planning authority.

Following demolition, no preliminary groundworks of any kind shall take place until the completion of the programme of archaeological investigation identified in the WSI defined in 1 above.

The applicant will submit to the local planning authority a post excavation assessment (to be submitted within six months of the completion of the fieldwork, unless otherwise agreed in advance with the Planning Authority). This will result in the completion of post excavation analysis, preparation of a full site archive and report ready for deposition at the local museum, and submission of a publication report.

Further Recommendations:

A professional team of archaeologists should undertake the archaeological work. A brief outlining the level of archaeological investigation will be issued from this office on request. Tendring District Council should inform the applicant of the recommendation and its financial implications.

Waste Management

No comments

02.08.2021

ECC Highways Dept
10.12.2021

All housing developments in Essex which would result in the creation of a new street (more than five dwelling units communally served by a single all-purpose access) will be subject to The Advance Payments Code, Highways Act, 1980. The Developer will be served with an appropriate Notice within 6 weeks of building regulations approval being granted and prior to the commencement of any development must provide guaranteed deposits which will ensure that the new street is constructed in accordance with acceptable specification sufficient to ensure future maintenance as a public highway.

The information that was submitted in association with the application has been fully considered by the Highway Authority. A previous site visit was undertaken in conjunction with this planning application. The information submitted with the application has been thoroughly assessed and conclusions have been drawn from a desktop study with the observations below based on submitted material, google earth image dated April 2019. It is noted that this application is similar to a previous application; 18/01779/FUL for up to 196 residential units which the Highway Authority did not raise an objection to. A public inquiry was held in October 2020 for the previous application, whereby the Planning inspector concluded that the proposed development would not adversely affect the safety and free flow of traffic on the highway network. This application sees a slight reduction in the number of units proposed for this site, considering these factors:

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

Construction Management Plan

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

- the parking of vehicles of site operatives and visitors
- loading and unloading of plant and materials
- storage of plant and materials used in constructing the development
- wheel and underbody washing facilities
- vehicle routing to and from the site
- prior to the commencement of any work on the site, a joint inspection of the route to be used by construction vehicles should be carried out by the Applicant and the Highway Authority, including photographic evidence.

Reason: To ensure that on-street parking of these vehicles in the adjoining streets does not occur and to ensure that loose materials and spoil are not brought out onto the highway in the interests of highway safety and Policy DM1.

Highway improvements

Where possible the provision/upgrade of a 3-metre-wide shared footway/ cycleway and associated tactile paving on the north side of St Johns Road from its junction with Earls Hall Drive eastwards to the main vehicular access to the site and beyond to tie in with the proposed footway/ cycleway for the Rouses Farm development south of St Johns Road (17/01229/OUT).

Prior to the occupation of the first residential dwelling, the upgrade of the three closest bus stops on St Johns Road nearest to the St Johns Road site access/ shared cycleway/ footway onto St Johns Road:

- North Side: outside house nos. 750/ 752; Stop Name: Earls Hall.
- South Side: (within lay-by) opposite house nos. 734/736; Stop Name: Earls Hall.
- North Side; outside house no. 692; Stop Name: Rouse Lane.

Details to be agreed with the Local Planning Authority to encourage use of the public transport network the provision of improvements to include timetable information, bus stop signage and raised kerbs and hardstanding. Including widening of the footway on the north west side; cantilever shelters; Kassel kerbs, bus stop flags/ timetable frames.

Prior to the occupation of 100 units the provision of a £104,000.00 pro-rata contribution (index linked) for procurement towards the local bus services operating on St Johns Road to serve the development.

Prior to occupation of the development, the road junction / access at its centre line shall be provided with a clear to ground visibility splay with dimensions of 2.4 metres by 120 metres in both directions, as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the road junction / access is first used by vehicular traffic and retained free of any obstruction at all times.

Reason: To provide adequate inter-visibility between vehicles using the road junction / access and those in the existing public highway in the interest of highway safety in accordance with policy DM1.

Internal Layout

No occupation of the development shall take place until the

following have been provided or completed:

The highway works as shown in principle on revised site plan drawing no. 4424/CA/PL1000 Rev. P but to include the following:

- A forward visibility splay of 25 metres needs to be provided on each corner of the development these will need to be hardened so they can be adopted.
- The raised table to be extended to include the drive to plot 173.
- The 2-metre-wide footway to continue round on the north side of the bend to tie into the footway at the junction outside plot 94 and from the north boundary to plot 97.
- Speed-restraint measures should be located at maximum intervals of 60m, starting within 50m of the entry junction or zone.
- The proposed build-out on the access road to the site would need to switch to the opposite lane to remove the potential traffic accessing the site backing up onto St Johns Road or change to a raised table.

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

Reason: To ensure that roads and footways are constructed to an acceptable standard, in the interests of highway safety and in accordance with Policy DM 1 and 6.

Residential Travel Plan

Prior to first occupation of the proposed development, the Developer shall submit a residential travel plan to the Local Planning Authority for approval in consultation with Essex County Council. Such approved travel plan shall then be actively implemented for a minimum period from first occupation of the development until 1 year after final occupation. It shall be accompanied by an annual monitoring fee of £1,533.00 per annum (80-449 dwellings) index linked, - dependant on size of development to be paid to Essex County Council.

Reason: Reason: In the interests of reducing the need to travel by car and promoting sustainable development and transport in accordance with policies DM9 and DM10.

The public's rights and ease of passage over public footpath / bridleway / byway no. 167_1 (Great Clacton) shall be maintained free and unobstructed at all times.

Reason: To ensure the continued safe passage of the public

on the definitive right of way and accessibility in accordance with Policies DM1 and DM11.

The Cycle / Powered Two-wheeler parking shall be provided in accordance with the EPOA Parking Standards. The approved facility shall be secure, convenient, covered and provided prior to occupation and retained at all times.

Reason: To ensure appropriate cycle / powered two-wheeler parking is provided in the interest of highway safety and amenity in accordance with Policy DM8

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

Notes:

- LTN 1/20 compliance table/report for cycle routes will be required for the development.
- DMRB compliance table, including any departures or relaxation from standards will be required.
- A RSA1 for each proposed access and off-site highway improvement scheme to be provided, ideally to be carried out by Essex Highways (to avoid the issue of additional items being identified at RSA2 stage which can then delay technical approval)
roadsafety.audit@essexhighways.org

Informative

- The above requirements should be imposed by way of negative planning conditions or a planning obligation.
- All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.
- The applicants should be advised to contact the Development Management Team by email at: development.management@essexhighways.org or by post to:
SMO1 - Development Management Team
Ardleigh Depot,
Harwich Road,
Ardleigh,
Colchester,
CO7 7LT
- The Highway Authority cannot accept any liability for costs associated with a developer's improvement. This includes design check safety audits, site

supervision, commuted sums for maintenance and any potential claims under Part 1 and Part 2 of the Land Compensation Act 1973. To protect the Highway Authority against such compensation claims a cash deposit or bond may be required.

Natural England
24.08.2021

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

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

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

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

Having reviewed the planning documents for this application, it appears that you have not yet undertaken an HRA (Stage 2: Appropriate Assessment) to consider this

issue. We therefore advise that you do so now using our suggested template and that you should not grant permission until such time as the HRA has been carried out and the conclusions confirmed in line with the guidance. Please note that we will only provide further comment on your authority's HRA once completed and not a 'shadow' HRA provided by the applicant

Natural England
03.12.2021

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

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

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

**NO OBJECTION - SUBJECT TO APPROPRIATE
MITIGATION BEING SECURED**

We understand that you have screened this proposed development and consider that it falls within scope of the Essex Coast RAMS, and that you have undertaken a Habitats Regulations Assessment (HRA) (Stage 2: Appropriate Assessment) in order to secure any necessary recreational disturbance mitigation, and note that you have recorded this decision within your planning documentation.

We consider that without appropriate mitigation the application would have an adverse effect on the integrity of European designated sites within scope of the Essex Coast RAMS.

We are satisfied that the mitigation described in your Appropriate Assessment is in line with our strategic-level

advice (our ref: 244199, dated 16th August 2018 and summarised at Annex 1). The mitigation should rule out an 'adverse effect on the integrity' (AEOI) of the European designated sites that are included within the Essex Coast RAMS from increased recreational disturbance.

We advise that an appropriate planning condition or obligation is attached to any planning permission to secure the on-site mitigation measures, including links to footpaths in the surrounding area. The financial contribution (as index linked) should be secured through an appropriate and legally binding agreement, in order to ensure no adverse effect on integrity.

ECC SuDS Consultee
27.08.2021

Having reviewed the Flood Risk Assessment and the associated documents which accompanied the planning application, , we wish to issue a holding objection to the granting of planning permission based on the following:

- Verification of the suitability of infiltration of surface water for the development. This should be based on infiltration tests that have been undertaken in accordance with BRE 365 testing procedure and the infiltration testing methods found in chapter 25.3 of The CIRIA SuDS Manual C753.
- Although storage for 1 in 100 year plus 40% climate change event has been provided but no modelling calculations were provided.
- Demonstrate that all storage features can half empty within 24 hours for the 1 in 30 plus 40% climate change critical storm event. In case the drain down time is more than 24hours then demonstrate that features are able to accommodate a 1 in 10 year storm events within 24 hours of a 1 in 30 year event plus climate change.
- Provide final modelling and calculations for all areas of the drainage system. Attenuation storage and pipe network should be modelled with critical 1yr, 30r and 100 plus 40percent climate change allowance. Attenuation storage should not flood in any event. The network should not predict surcharge in 1yr events, and should not predict flooding in 30year events. During 100 year plus 40pc cc event if any marginal flooding is predicted then it should be directed away from the building using appropriate site grading.
- Demonstrate the appropriate level of treatment for all runoff leaving the site, in line with the Simple Index Approach in chapter 26 of the CIRIA SuDS Manual C753.
- Provide engineering site layout of the proposed drainage network at the site. This should include the following details: manholes cover levels, invert levels, pipes dimensions, slopes, tank cover and invert levels both at inlet and outlets, outflow manholes and pipes levels, and top water level in the

attenuation tank during 100year plus 40percent CC allowance.

- Provide a drainage plan which details exceedance and conveyance routes, FFL and ground levels.
- A maintenance plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies should be provided.
- Should any part be maintainable by a maintenance company, details of long term funding arrangements should be provided.
- The maintenance plan should state that the applicant or any successor in title must maintain yearly logs of maintenance which should be carried out in accordance with any approved Maintenance Plan.
- Provide an updated written report summarising the final strategy and highlighting any minor changes to the approved strategy.

ECC SuDS Consultee
08.10.2021

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

Condition 1

No works except demolition shall takes place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme should include but not be limited to:

- Verification of the suitability of infiltration of surface water for the development. This should be based on infiltration tests that have been undertaken in accordance with BRE 365 testing procedure and the infiltration testing methods found in chapter 25.3 of The CIRIA SuDS Manual C753.
- Limiting discharge rates to 1:1 Greenfield runoff rates for all storm events up to and including the 1 in 100 year rate plus 40% allowance for climate change
- Provide sufficient storage to ensure no off site flooding as a result of the development during all storm events up to and including the 1 in 100 year plus 40% climate change event.
- Demonstrate that all storage features can half empty within 24 hours for the 1 in 30 plus 40% climate change critical storm event.
- In case the drain down time is more than 24 hours then Demonstrate that features are able to accommodate a 1 in 10 year storm events within 24 hours of a 1 in 30 year event plus climate change.

- Final modelling and calculations for all areas of the drainage system.
- The appropriate level of treatment for all runoff leaving the site, in line with the Simple Index Approach in chapter 26 of the CIRIA SuDS Manual C753.
- Detailed engineering drawings of each component of the drainage scheme.
- A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features.
- A written report summarising the final strategy and highlighting any minor changes to the approved strategy.

The scheme shall subsequently be implemented prior to occupation.

Reason

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

Condition 2

No works shall take place until a scheme to minimise the risk of offsite flooding caused by surface water run-off and groundwater during construction works and prevent pollution has been submitted to, and approved in writing by, the local planning authority. The scheme shall subsequently be implemented as approved.

Reason

- The National Planning Policy Framework paragraph 163 and paragraph 170 state that local planning authorities should ensure development does not increase flood risk elsewhere and does not contribute to water pollution.
- Construction may lead to excess water being discharged from the site. If dewatering takes place to allow for construction to take place below groundwater level, this will cause additional water to be discharged. Furthermore the removal of topsoils during construction may limit the ability of the site to intercept rainfall and may lead to increased runoff rates. To mitigate increased flood risk to the

surrounding area during construction there needs to be satisfactory storage of/disposal of surface water and groundwater which needs to be agreed before commencement of the development.

- Construction may also lead to polluted water being allowed to leave the site. Methods for preventing or mitigating this should be proposed.

Condition 3

Prior to occupation a maintenance plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, has been submitted to and agreed, in writing, by the Local Planning Authority.

Should any part be maintainable by a maintenance company, details of long term funding arrangements should be provided.

Reason

To ensure appropriate maintenance arrangements are put in place to enable the surface water drainage system to function as intended to ensure mitigation against flood risk.

Failure to provide the above required information prior to occupation may result in the installation of a system that is not properly maintained and may increase flood risk or pollution hazard from the site.

Condition 4

The applicant or any successor in title must maintain yearly logs of maintenance which should be carried out in accordance with any approved Maintenance Plan. These must be available for inspection upon a request by the Local Planning Authority.

Reason

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

Housing Services
10.08.2021

The Council's emerging Local Plan requires that, on sites delivering 11 dwellings of more, 30% of the dwellings on the site should be delivered as affordable housing. This application proposes the demolition of an existing residential building and the delivery of 180 dwellings thus making a net gain of 179 residential dwellings. There is therefore a requirement to deliver affordable housing under the terms of the emerging Local Plan and 30% of the site would equate to 53 dwellings in total. I note on their application that the applicant has proposed 18 dwellings for affordable housing (12 x 1 bed apartments and 6 x 2 bedroom apartments) but

this falls short of the 53 required.

Clacton-on-Sea is the area with the highest demand and there are currently the following number of households on the housing register seeking affordable housing in the Clacton area:

1 bed - 383 households (197 of these households are aged 60 or over and therefore are likely to need accessible accommodation)

2 bed - 206 households

3 bed - 141 households

4 bed - 73 households

Given the high demand for housing in Clacton-on-Sea, my department would like to see 53 dwellings delivered for affordable housing on site. Our preference would be that another registered provider be found to take on the affordable dwellings.

Building Control and Access
Officer
29.07.2021

Designer needs to ensure that the access roads have sufficient width and loadbearing capacity to ensure that a fire fighting appliance can meet the distances prescribed within Approved Document B.

Anglian Water Services Ltd
06.08.2021

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

The foul drainage from this development is in the catchment of St Osyth Water Recycling Centre that will have available capacity for these flows

Environmental Protection
06.08.2021

Contaminated Land

It is noted from the Phase One Desk Top Study, dated March 2018, that a further Phase Two Intrusive Study is required, as well as an Asbestos Survey. We would request that this information is submitted in order for the evaluation of the potential harm impact and any recommended mitigation strategies are appropriate and reasonable. Therefore we are requesting the below be conditioned -

Development shall not begin until a comprehensive site investigation for contaminants or gases likely to be associated with previous uses of the land, in a form to be agreed in writing by the local planning authority, has been submitted and approved in writing by the local planning authority. Such a scheme shall include provision for further soil sampling after treatment in order to ensure compliance with local planning authority requirements. Such a scheme shall be implemented before any building operations begin on site. Where hazards are identified by the site investigation a suitable reclamation strategy shall be drawn up, approved in writing by the local authority and implemented prior to occupation. Such a scheme shall

include measures to protect end users of the site, vegetation, services (particularly water pipes) and structures on the site as appropriate.

An Asbestos Survey should also be undertaken, and submitted to the Local Planning Authority for approval.

REASON: to protect the health of site workers, nearby residential dwellings and end users

Demolition & Construction Method Statement

The applicant (or their contractors) shall submit a full method statement to, and receive written approval from, the Environmental Protection, this document should include, but not be limited to the following information -

Noise Control

- The use of barriers to mitigate the impact of noisy operations will be used where possible. This may include the retention of part(s) of the original buildings during the demolition process to act in this capacity.
- No vehicle connected with the works to arrive on site before 07:30 or leave after 19:00(except in the case of emergency). Working hours to be restricted between 08:00 and 18:00 Monday to Saturday (finishing at 13:00 on Saturday) with no working of any kind permitted on Sundays or any Public/Bank Holidays.
- The selection and use of machinery to operate on site, and working practices to be adopted will, as a minimum requirement, be compliant with the standards laid out in British Standard 5228.
- Mobile plant to be resident on site during extended works shall be fitted with non-audible reversing alarms (subject to HSE agreement).
- Prior to the commencement of any piling works which may be necessary, a full method statement shall be agreed in writing with the Planning Authority (in consultation with Pollution and Environmental Control). This will contain a rationale for the piling method chosen and details of the techniques to be employed which minimise noise and vibration to nearby residents.
- If there is a requirement to work outside of the recommended hours the applicant or contractor must submit a request in writing for approval by Pollution and Environmental Control prior to the commencement of works.

Emission Control

- All waste arising from the demolition process, ground clearance and construction processes to be recycled

or removed from the site subject to agreement with the Local Planning Authority and other relevant agencies.

- No materials produced as a result of the site development or clearance shall be burned on site.
- All reasonable steps, including damping down site roads, shall be taken to minimise dust and litter emissions from the site whilst works of construction and demolition are in progress.
- All bulk carrying vehicles accessing the site shall be suitably sheeted to prevent nuisance from dust in transit.

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

REASON: In the interest of protecting residential amenity

Lighting

The applicant / agent should ensure measures are taken to ensure that any lighting of the development will be located, designed and directed or screened so that it does not cause avoidable intrusion to adjacent residential properties/ constitute a traffic hazard/cause unnecessary light pollution outside the site boundary. "Avoidable intrusion" means contrary to the Code of Practice for the Reduction of Light Pollution issued by the Institute of Lighting Engineers.

REASON: In the interest of protecting residential amenity

UU Open Spaces
08.09.2021

There is currently a deficit of 41.08 hectares of play in the Clacton/Holland area.

Any additional development in Clacton will increase demand on already stretched facilities.

Recommendation

It is noted that due to the size of the development site, on site provision of open space and play facilities to a LEAP standard have been included within the design.

NHS North East Essex CCG

No response received at the time of writing this report.

5. Representations

5.1. St Osyth Parish Council strongly object to the application for the following reasons:

- Whilst it is noted that the revised application is set on a brown field site, the Parish Council maintain the view that this would be an overdevelopment of a site, on which the layout and type of dwellings would have an adverse effect on the population density, and that the design remains 'unsympathetic' to the rural area. Additionally, the demolition and removal of the existing greenhouses, would cause considerable noise and disruption for residents
- The development will not meet the requirement of Policy LP5 of the emerging Tendring District Local Plan, in that only 18 properties have been allocated as being affordable housing. Although paragraph 5.2 of the applicants Planning Statement states that 'the Council will accept a minimum 10% of new dwellings to be made available for use as Council Housing, with financial contributions towards the construction and acquisition of new council housing equivalent to delivering the remainder of the 30% requirement,' the Parish Council would, if the development were to be approved, seek assurance that if approved, the developer would have to commit to the building of a further 36 affordable housing units at the earliest opportunity.
- Given the significant increase in traffic along the B1027, especially during the summer months, the Parish Council does not agree with the Inspectors finding that the development would 'not unacceptably impact upon highway safety or severely impact on the road network.' Furthermore, given the number of pending developments within the Clacton and St Osyth area, the Parish Council remains convinced that the current road system will struggle to accommodate additional traffic, and that the mitigation measures expected to be provided as part of the implementation of the Rouses Farm development (17/01229/OUT refers), will do little to resolve the increase in vehicular movements, and subsequent delays along the B1027.
- Aspects of this revised application, remain in conflict with Policy QL9 (Design of New Development), Policy QL11 (Environmental Impacts and Compatibility of Uses) and Policy HG13 (Backland Residential Development) of the adopted 2007 Tendring District Local Plan, and the Parish Council would endorse the conclusions of the Secretary of State appointed Inspector, in that the matters weighing positively for the development are insufficient to outweigh the significant negative harmful effect.

5.2. A petition with 44 signatures has been received, in addition to 13 letters of objection which raise the following concerns:

- Tendring District Council can demonstrate that a 5 year housing land supply exists. As the Local Plan Part 1 has been approved this gives full weight for this application to be refused.
- The reasons listed for the refusal of the previous application are still relevant.
- Proposed access is not adequate for the volume of new traffic entering or leaving the site.
- Outside of Defined Settlement Boundary
- Traffic along St Johns Road continues to be very busy and often at a crawl due to high volumes of traffic. This can only increase with developments currently in progress and the proposed Rouses Farm Development.
- Since the last application there continues to be accidents/incidents along this stretch of road, two which have had a fatality.
- The three primary schools in the area are either full or very close to being so.
- Health care facilities in the area are already stretched, it is very hard to get an appointment to see a GP.

- As part of the previous application there was a requirement for any new application to incorporate bungalows in full or at least along the adjoining boundary of existing development.
- Site is located within the new boundary of St Osyth Parish yet not accessible by foot, application looks to have pedestrian access alongside Earls Hall Drive. Footpath along St Johns Road towards St Osyth ends at Leisure Glade, with no footpath along a very busy road until the start of St Osyth bypass.
- Having mixed commercial units is totally out of keeping with the surrounding properties.
- There are already far too many new properties that have either just been built or are in the pipeline to be built along this road.
- There will be very few local people that will be able to afford the new houses so it would mainly be for the benefit of non-locals whilst all the local people have to put up with all the noise and inconvenience during the construction phase.
- Overlooking to neighbouring properties in St Johns Road.
- Increase in noise that will be generated by the additional traffic from this development.
- Sewerage system not able to cope with the additional dwellings.
- Development is an over development of the area with no infrastructure.
- The height of the proposed development is out of character with the surrounding area and would be prominent.
- If development were to be granted the Council or Developers should be expected to pay out for all residents cars to be cleaned weekly, carpets and floors cleaned or replaced regularly, just through, much, dirt and dust from the development and roads cleaned every day all year round.

6. Assessment

Site Context

- 6.1. The application site comprises 7.6 hectares of horticultural land which is located approximately 300m to the west of Clacton-on-Sea, within the Parish of St Osyth. It is to the north of St. Johns Road (B1027), with the majority of the site being to the rear of a ribbon of residential development that fronts onto the road (even nos 690 – 762).
- 6.2. Planning permission was granted in 1972 for the construction of glasshouses and ancillary structures, and the majority of the site is covered with pitched roof glasshouses; hardstandings, including car parking and service areas; water and fuel tanks; silos; and a variety of other buildings, including metal clad storage buildings and plant that has developed over the years to serve the nursery business. Currently the vehicular access to the site is off Earls Hall Drive, a private road which passes along the western boundary of the site.
- 6.3. To the northern and eastern site boundaries there are hedgerows with trees within them, which are of variable quality, beyond these are fields that are in agricultural use. To the north of the site, and within arable farmland, there is also the Earls Hall Wind Farm

which contains five turbines. Along the southern boundary are the rear gardens of the dwellings that front St Johns Road, these all tend to be long with most being in excess of 40m deep. To the west of the site is Earls Hall Drive, with the site boundary comprising a mix of tall hedge and timber close boarded fencing where enclosed.

- 6.4. To the west of Earls Hall Drive, the ribbon of development fronting St Johns Road continues, but to the rear of these properties there is either existing development, such as the Leisure Glades Lodge Holiday Park, or land where the Council has previously approved development, including: the grant of Outline planning permission for 14 dwellings (820 St Johns Road, ref. 18/00379/OUT); Outline planning permission for 34 dwellings (Land Forming Part of Earls Hall Farm, Earls Hall Drive, ref. 17/00826/OUT); and a change of use of land for the stationing of up to 62 holiday units was granted in April 2019, to allow an extension to the adjoining Leisure Glades Caravan Park (Land north of 782 and 828 St Johns Road, ref. 18/00952/FUL).
- 6.5. In addition to these developments, to the southern side of St Johns Road and to the east of Rouses Lane, Members of the Planning Committee at Tendring District Council resolved to grant permission for a development of up to 950 residential units, including a new Neighbourhood Centre comprising a local healthcare facility as well class E shops, food and drink establishments and/or D1 (community centre) and a 2.1ha site for a new primary school. This resolution is subject to the agreement and signing of a S106 agreement given the time taken in the completion of the S106 this application will be referred back to Planning Committee in due course.

Planning History

- 6.6. In February 2020 planning permission (18/01779/FUL) for the demolition of the nursery buildings and dwellinghouse and the erection of 195 residential units (comprising 6 two bed houses, 87 three bed houses, 33 four bed houses, 25 five bed houses, 12 one bedroom apartments and 24 two bedroom apartments), and 8 live work units (mixed commercial units measuring 1064 square metres in total with flats above). Associated roads, open space, drainage, landscaping, and other infrastructure was refused by Planning Committee and dismissed at appeal in January 2021.
- 6.7. The full appeal decision is attached but in summary the Inspector concluded the following:
- *'the development would have an unacceptable effect on the character and appearance of the area'*
 - *'the effects of the development on the safety and free flow of traffic on the local highway network would be acceptable'; and*
 - *'The development, through the planning obligations included in the UU, would have a neutral effect on local infrastructure'.*

Proposal

- 6.8. This application seeks full planning permission for the demolition of the nursery glasshouses, buildings and structures and No. 700 St Johns Road and the redevelopment of the site with a predominately residential scheme. The proposed residential scheme comprises of: 180 Residential units comprising 10 no. 2 bed houses; 83 no. 3 bed houses; 24 no. 4 bed houses; 15 no. 5 bed houses; 16 no. 1 bed apartments; 24 no. 2 bed apartments and 8 no. live/work units (mixed commercial totalling 1064 square metres with flats above), with associate roads, open space, drainage, landscaping and other associated infrastructure.
- 6.9. It is proposed to provide a footpath/cycleway within the current curtilage of 762 St Johns Road adjacent to the existing lane. In addition, the application site also includes a chalet

bungalow and its garden at 700 St Johns Road which it is proposed to demolish, in order to provide a new, replacement vehicular access to the site, in lieu of the Earls Hall Drive one.

- 6.10. The proposed houses would variously be two, two and a half and three storeys in height, while the blocks accommodating the flats and live work units would be three storeys high.
- 6.11. The most significant changes proposed when compared to the scheme dismissed at appeal are as follows:
- The removal of a line of 22 dwellings and gardens on the northern boundary of the site and the creation of an area of planted public open space in their place
 - The retention of the mature poplar trees planted on the northern boundary
 - The homes nearest the new northern open space are all reduced from a mixture of two, two and a half and 3 storeys to two storeys.
 - Reduction in height of central flat block C from four to three storeys.
 - Two new 3 storey flat blocks within centre of site (blocks D and E)
- 6.12. In light of the above changes the housing mix has been amended, the following table shows the proposed housing mix compared to that of the dismissed appeal scheme.

Appeal Scheme (Dismissed)

Number of Bedrooms	1 Bed	2 bed	3 bed	4 bed	5 bed	Total
Houses		6	87	33	25	151
Apartments	12	24				36
Live/Work Units		8				8
Total	12	38	87	33	25	195

Proposed Scheme

Number of Bedrooms	1 Bed	2 bed	3 bed	4 bed	5 bed	Total
Houses		10	83	24	15	132
Apartments	16	24				40
Live/Work Units		8				8
Total	16	42	83	24	15	180

Principle of Development

- 6.13. The site is located within the Settlement Development Boundary for Clacton, therefore there is no principle objection to the residential development of this site.
- 6.14. The application site has been in employment use as a commercial nursery (horticultural use) for in excess of 40 years. Policy PP6 of the Tendring District Local Plan 2013-2033 and Beyond states that 'the Council will seek to protect existing employment sites, as shown on the relevant Policies Maps and Local Maps. Sites within use classes B2 and B8 will be safeguarded for these purposes. Employment sites falling within Use Class E (g) will be retained and will continue to provide for the employment needs of the district'. The site is not allocated for employment purposes on the Policies Map and Local Maps and therefore, if permitted, this development would not result in the loss of employment land as defined in the Local Plan. Furthermore, the site does not fall within any Use Class Order protected by Policy PP6 (B2, B8 or E(g)). It is therefore considered that there is no policy basis to object to the loss of the existing commercial nursery.

- 6.15. However, the applicant acknowledges the importance of presenting a scheme which also offers modern, purpose built employment space (circa 1000sq m) as part of a mixed use scheme. The applicant opines that if granted planning permission this purpose built business (live-work) accommodation would provide for up to 80 jobs. The business units would provide a valuable resource in the town where the Employment Study reports good demand for such facilities, but which also reports a generally poor quality of accommodation currently available.
- 6.16. It is also relevant to note that Policy LP8 of the Local Plan seeks to guard against the development of inappropriate 'backland' residential development. 'Backland' developments are defined 'as the proposed erection of one or more dwelling houses on a parcel of land:
- Which lies generally behind the line of existing frontage development;
 - Has little or no frontage to existing public highway; and
 - Which would constitute piecemeal development in that it does not form part of a large area allocated for development.
- 6.17. Whilst the development would see residential development on land with little or no frontage to a public highway, as the site is included within the settlement development boundary, it effectively (by default) allocates this land for development. Furthermore, by the very nature of how settlements evolve, quite frequently new development finds itself situated behind existing housing and therefore in many cases a 'backland' scenario is inevitable. In addition, it is the intention of the applicant for the vast majority of the proposed road layout to be adopted by the Local Highway Authority.
- 6.18. Accordingly, it is considered that the proposal does not fall to be considered against Policy LP8, although many of the above considerations still apply to the detailed consideration of this application –the effect of the proposals upon the living conditions of occupiers of existing neighbouring dwellings; ensuring that a safe and convenient means of vehicular and pedestrian access can be provided; and ensuring that the scheme is in keeping with the character of the area.
- 6.19. For the above reasons the principle of development on this site is considered to be acceptable.

Landscape and Visual Impact

- 6.20. The NPPF at para. 174 stipulates that the planning system should contribute to and enhance the natural and local environment by, amongst other things, protecting and enhancing valued landscapes and recognising the intrinsic character and beauty of the countryside.
- 6.21. The application site is located in a semi-rural area beyond the urban fringes of Clacton, however this is a brownfield site. Officers note that although the site is currently almost completely covered with buildings and hard-standing, it is not visually intrusive in the landscape. Although lying beyond the main urban area, there is a ribbon of development along St Johns Road that gives the area a partially residential character.
- 6.22. There are no trees or other significant vegetation in the main body of the site, but along the site's boundaries, there are some established hedgerows and trees which make some contribution towards screening the existing buildings in some views of the site. The trees are varied in species and quality, and include ornamental trees near the entrance on Earls Hall Drive; coniferous hedging and several mature Oaks that are prominent features in their setting, albeit peripheral location.

- 6.23. The northern boundary is planted with a hybrid Poplar and is sparsely interspersed with hedge conifers. These trees will almost certainly have been planted as a windbreak associated with the use of land as a nursery. The eastern boundary and a short section of the eastern end of the northern boundary contains several mature Oaks that are prominent features in their setting although their amenity value is relatively low because of the limited extent to which they can be seen from a public place. The main viewpoint from which the trees can be seen is from the Public Right of Way that runs along Earls Hall Drive from St John's Road to Hartleywood Farm. There are a few trees in the rear gardens of the properties in St Johns Road that back onto the application site but because of their location these have low amenity value. The front garden of the 700 St Johns Road (proposed to be demolished) contains 2 small Crab Apples and a third situated in the rear garden close to the dwelling. None of these trees have such amenity value that they merit retention or protection by means of a Tree preservation order.
- 6.24. In order to show that the development proposal can be implemented without causing harm to important trees on the land the applicant has provided an Arboricultural Impact Assessment (AIA). The AIA is in accordance with BS5837: 2012 Trees in relation to design, demolition and construction; Recommendations. The information contained in the AIA shows the extent to which the trees are a constraint on the development potential of the land and shows how retained trees will be physically protected for the duration of the construction phase of any planning permission that may be granted.
- 6.25. A Landscape Strategy submitted in support of the application shows a good level of soft landscaping including tree planting and provides some details relating to structural planting and the palette of species to be incorporated into the soft landscaping scheme. However, if planning permission were to be granted the further details of new planting would be secured by way of a planning condition.
- 6.26. The submitted report confirms that the retention of the trees with the greatest amenity value close to the western boundary, adjacent to the existing entrance to the garden centre. The tree report also demonstrates the retention and protection of the Oaks on the eastern and north eastern boundaries of the site. The existing Poplars along the northern boundary are also proposed to be retained.
- 6.27. As part of the proposal dismissed at appeal it was proposed that the Poplar trees along the northern boundary be removed as the Council's Tree Officer advised that it would be inadvisable for the Poplar trees to be retained given the proximity to the proposed residential dwellings. Whilst replacement planting along the northern boundary could have been secured by condition any meaningful planting providing visual screening for a row of houses two and three storey in height would take time to establish. The Inspector states that *'I consider it important that the treatment of the site's northern boundary should be handled so that the development would integrate well with its surroundings. I am not persuaded that the development would do that because of the juxtaposition of a row of rear gardens facing directly onto the open farmland to the north. I therefore consider that the appearance of this part of the development would be poor and would fail to provide an appropriate response to its context, at what would become a new point of transition between housing and the open countryside beyond'* (paragraph 20).
- 6.28. Since the appeal decision the scheme has been amended so that there is now an area of open space along the northern boundary measuring 260m by 30m, with the existing Poplar trees being retained, to provide screening. The nearest dwellings now have front or side elevations that face the public open space and will be located at least 32 metres from the northern boundary. The proposed dwellings will also be two storey in height rather than a mixture of two and three storey in height.

- 6.29. Officers consider that the proposed changes overcome the concerns raised by the Inspector. The changes mean that there will be a more gentle transition between the proposed new homes and the countryside to the north and that the actual and perceived impact of the development on the northern boundary will be significantly reduced.

Design and Layout

- 6.30. Paragraph 126 of the NPPF states that the creation of high-quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Being clear about design expectations, and how these will be tested, is essential for achieving this. So too is effective engagement between applicants, communities, local planning authorities and other interests throughout the process.
- 6.31. The applicant's Design and Access Statement states that the buildings have been designed to encompass modern design elements, such as deeper window recesses and feature brickwork panels to create a theme of contemporary design whilst using traditional materials. This approach is intended to produce dwellings that appear modern whilst also incorporating features that would assist the development in relating to the surrounding area.
- 6.32. The majority of dwellings on the site would be houses and these have been designed to be two or three storeys. Parking for the houses would generally be provided on-plot, although there are cul-de-sacs where parking is arranged in courts in front of houses. It is also proposed to construct five blocks of flats all of which are proposed to be three storey in height. Blocks A and B are located on the west side of the site and contain 6 no. flats in each block. Parking for these flats would be either in bays to the front of the block or small courts to the rear. Apartment Blocks C, D and E would all be three storey in height and be located more centrally within, but still to the west of the site.
- 6.33. Block C contains 16 no. flats while Blocks D and E contain 6 no. flats each. Parking for these flats would be provided by external parking courts with a ground floor undercroft car park for some of Block C.
- 6.34. With private rear gardens or communal garden spaces meeting or exceeding the standards set out within the Essex Design Guide (EDG), the scheme would not give rise to an over-development of the site.
- 6.35. Third party views with regard to the scale of the dwellings to the rear of the properties on St John's Road are noted, however the minimum building to building distances between the proposed development and existing dwellings may exceed the EDG standards and overall it is considered that the scheme would not over-dominate its built context.
- 6.36. Local Plan Policy HP5 states that 'all new residential developments of 11 or more dwellings on sites of 1.5 hectares and above will be expected to provide a minimum 10% of the gross site area as open space' and 'no single area of useable open space will be less than 0.15 hectares in size'. The proposal has 3 areas of open space in excess of 0.15 hectares and the amount of open space is in excess of 10% of the gross site area and equates to approx. 17%. Tending This provision must include appropriate equipment and be laid out to a specification agreed with the District Council; this can be secured through the S106 legal agreement, together with any required financial contribution towards maintenance if being transferred to the Council.
- 6.37. The revised site layout shows a good level of soft landscaping, including tree planting, precise details of which should be secured under condition. With no clearly discernible

building form or architectural theme along St John's Road, and with the design of the proposal taking some cues from the Essex Design Guide, Officers consider that the scheme would respond positively to local character, provide buildings that exhibit individual architectural quality and house-types with well-defined public and private spaces.

6.38. Relevant to the design and layout in relation to the scheme dismissed at appeal the Inspector stated the following:

- *I accept that the site is of a scale that could accommodate some new buildings of more than two storeys in height without such buildings becoming disrespectful of the established suburban context. However, I consider it would be inappropriate to have some two and a half and three storey houses that were sited only around 12 metres from the northern boundary, paragraph 21.*
- *Many of the houses and the flat blocks would be taller than the ribbon of dwellings on the northern side of St John's Road and some of those new dwellings would be visible through the roof level gaps between the existing dwellings. However, I consider that only fleeting or distant views of the new houses and flat blocks from St John's Road and further afield to the south would be possible. In that respect I am of the view that the new dwellings would not have an overt presence and that in the views from the south this development would not adversely affect the area's character and appearance paragraph 26.*
- *I consider Block C would be of a scale that would be uncharacteristic of its surroundings, with there being a reliance on what for this area would be a unique flat roofed central spine. I consider that the inclusion of that flat roof element in Block C's design is indicative of this building being over scaled paragraph 27.*

6.39. The Appeal Inspector was clear that the only objection to the proposal was in relation to the northern boundary and the scale/design of Block C. The issue of the relationship with the northern boundary is covered in the section titled Landscape and Visual Impact. Block C has been reduce in height from four to three storey in height and the design has been amended so that there is no flat roofed section.

6.40. Officers consider that the proposed amendments overcome the concerns of the Appeal Inspector and that the scale, layout, density, height and massing of buildings and overall elevational design would harmonise with the character and appearance of the surrounding area.

Highway Safety/Parking

6.41. Paragraph 110 of the NPPF requires Councils when making decisions to ensure:

- appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;
- safe and suitable access to the site can be achieved for all users;
- the design of streets, parking areas, other transport elements and the content of associated standard reflects current national guidance, including the National Design Guide and the National Model Design Code; and
- any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.

- 6.42. Policy CP1 of the Local Plan states that 'proposals for new development must be sustainable in terms of transport and accessibility and therefore should include and encourage opportunities for access to sustainable modes of transport, including walking, cycling and public transport'.
- 6.43. In addition to the existing local services that exist within the west of the town (the applicant's Transport Assessment highlights that there is a nursery, local food shops, post office, community centre and healthcare centre within 15 minutes' walk of the site), the Rouses Farm development on the opposite side of St Johns Road proposes the provision of additional community facilities, which should include the provision of a new primary school, with early years and childcare facility and a new neighbourhood centre. Existing bus services also pass the site, along St John's Road. Consequently, along with other developments proposed to the west of Clacton there are opportunities to increase the attractiveness of more sustainable means of transport, including by walking, cycling and bus services.
- 6.44. Policy CP2 of the Local Plan states that 'proposals will not be granted planning permission if there would be an unacceptable impact on highway safety, or the residual cumulative impact on the road network would be severe'.
- 6.45. It is acknowledged that some local residents and the Parish Council have objected to the proposal with concerns about the development's impact on St John's Road, general road safety and capacity. This was one of the main issues of the Appeal, where the Inspector concluded the following:
- *'The development would cause some additional use of St John's Road and that could affect the entry or exit to the existing dwellings in the vicinity of the appeal site. However, I consider the amount of additional traffic using this part of St John's Road associated with the development would not be so great as to cause unacceptable delays to the entry or exit to the existing nearby dwellings'* paragraph 59.
 - *'That the proposed development would not adversely affect the safety and free flow of traffic on the local highway network'* paragraph 65.
 - *'The access to the site would be practicable and the highway network would be able to safely accommodate the additional traffic the proposal would generate'* paragraph 65.
 - *'There would be no residual cumulative impacts on the road network that would be severe warranting the refusal of planning permission'* paragraph 68.
- 6.46. Since the appeal decision the number of dwellings has been reduced by the access points, pedestrian/cycle links remain the same. Therefore given the Inspector's conclusions it would be unreasonable to raise any objections on highway grounds.
- 6.47. The Essex County Council Parking Standards state that for a 1 bedroom dwelling, 1 vehicular parking space is required, for 2 bedroom dwellings, 2 vehicular parking spaces are required and 1 visitor parking space is required per 4 dwellings. Each parking space should measure 5.5m by 2.9m and garages should measure 7m by 3m. In terms of cycle parking 1 secure space per dwelling is required. The proposal provides adequate vehicle and cycle parking in accordance with the adopted standards.

Ecology and Nature Conservation

Protected Species

- 6.48. In support of the application the previous Phase One Habitat Survey was updated to identify potential habitats within the application site and establish whether there are habitats that might indicate the presence of protected species on it. The survey identified that the land surrounding the application site is dominated by both residential dwellings and arable land. Within the site, in areas not covered by buildings or other structures, the ground is varied in its structure and habitats within it form a mosaic, including bare ground, semi-improved amenity grassland, scrub, intact hedgerow and spoil heaps. Having analysed the habitats present, further work was carried out in respect of the following species.
- 6.49. Badgers – As no evidence of badger was noted on site, no further surveys are recommended for this species, however as they are a highly mobile species it is recommended that a walkover survey should be carried out two weeks prior to works on site to ensure that the situation hasn't changed.
- 6.50. Bats – Updated nocturnal bat surveys were carried out in 2021 on the building and trees assessed as having low bat roost potential and originally surveyed, in 2018. No bats roosts were found in the trees and buildings E, I, O, M and N. Building J was confirmed as having roost for both common and soprano pipistrelles as bats were observed emerging from the main doorway on the northern elevation during the update nocturnal survey. Due to the discovery of 2 bat roosts, a European Protected Species Licence will be required prior to any works taking place on building J. Additionally, a further ten trees on the northern boundary have been assessed as having low risk for roosting bats, these trees are to be retained.
- 6.51. Birds – there are a number of nesting birds on the site which would mean that the site should not be cleared / demolished during the bird nesting season as a precautionary measure. To mitigate for the loss of nesting opportunities at the site, bird boxes should be erected at the site / incorporated within the fabric of buildings. Again, it is recommended that these matters are covered by condition.
- 6.52. Great Crested Newts – A small, drainage ditch is present just outside the eastern boundary of the site that was dry at the time of the survey. A total of 4 ponds were noted to be within 500m of the site boundary. Using Natural England's 'Rapid Risk Assessment Tool' the risk of an offence being committed has been assessed as highly unlikely and as a result no further survey work is deemed necessary. But it is recommended that generic precautionary measures are used during demolition and construction phases of development.
- 6.53. Reptiles – Although there is some limited suitable habitat on site, no evidence of native reptiles was recorded throughout any of the six surveys carried out on site. The survey did however highlight that the non-native European Wall Lizard is still present within 2 heated greenhouses on site, this finding is consistent with those made in 2018. The European Wall lizard is listed under the Wildlife & Countryside Act 1981 (as amended) under Section 14 as a non-native animal not normally resident in the UK and it is illegal to release these animals into the wild. The report recommends that prior to the commencement of development works the wall lizards should be removed from site and either humanely disposed of or re-homed in captivity in order to stop any animals escaping into the wider countryside.
- 6.54. Dormouse – The hedge and scrub habitats on site provide opportunities for Dormouse and given that a Natural England Licence was granted in 2013, 360m from the site boundary at the data search also returned records from 2003, they may utilise the site, although no signs were noted during the site visit. The current proposed plans for the site, includes the retention of the trees along the north and eastern boundary and therefore suitable habitat is retained. However as there are areas of overgrown scrub which will be

cleared to make way for private gardens and there is a slight possibility that dormouse may utilise the habitat on site to forage the Council's Ecologist has recommended a Dormouse survey. Officer's views is that this should be carried out prior to the granting of any planning permission and this is included within the recommendation. Once a suitable survey has been carried out which either concluded that dormouse are not present on the site or includes suitable mitigation measures it is considered that planning permission could be granted.

- 6.55. West European Hedgehog – Due to parts of the site providing suitable habitat for hedgehogs, it is recommended that the fences and walls of the gardens in the proposed development include hedgehog passes, both around the perimeter and between gardens.
- 6.56. Having reviewed the Ecology Surveys submitted with the application, it is considered that subject to a dormouse survey, there is sufficient survey & assessment information to determine the likely presence of, and impacts to, Protected & Priority species and internationally designated Habitats sites, to allow the Council to determine the planning application.
- 6.57. The report makes reference to potential ecological enhancements, such as installing bat and bird boxes on the new buildings, but no details of these are given. It is therefore recommended that a condition is imposed requiring details of ecological enhancement to be submitted and agreed.

Habitat Regulations Assessment

- 6.58. The development falls within the 'Zone of Influence' (Zol) for one or more of the European designated sites scoped in the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). This residential development lies within the Zol for Hamford Water SPA and Ramsar, and Essex Estuaries SAC and Colne Estuary (Mid Essex Coast Phase 2) SPA and Ramsar site.
- 6.59. The Council has a duty as a competent authority under the Habitats Regulations, to consider the potential for there to be a significant effect on the sensitive features of European protected coastal sites. It is anticipated that without mitigation, new residential development such as this one would have a likely significant effect on the sensitive features of the coastal European sites, through increased recreational pressure when considered 'in combination' with other plans and projects. It is considered that the proposal falls within the scope of RAMS as 'relevant development'.
- 6.60. Natural England state that provided their guidance is adhered to, an 'adverse effect on the integrity' (AEOI) of the European sites included within the Essex Coast RAMS from increased recreational disturbance can be ruled out, subject to appropriate mitigation.
- 6.61. One recommended way of trying to avoid increasing recreational pressures on the coastal European sites, is to encourage dog owners to exercise their dogs near their homes and not drive to the protected sites. The applicant has submitted details of the strategy that they propose to implement within a shadow Habitat Regulations Assessment (HRA). This highlights that the proposed development site itself contains public open space. Additionally, a PROW runs adjacent to the western boundary of the site, along Earls Hall Drive, this links up with further rights of way and provides circular walking routes of various lengths adjacent to the site. It is anticipated that the Rights of Way network and on-site open space would serve the majority of the everyday recreational needs of the residents.
- 6.62. Information leaflets would also be distributed to new householders highlighting local footpaths within the open countryside and alternative areas of green space including

nearby country parks. Details of the information leaflets and dog waste bins can be secured by condition, with the provision of the latter being prior to first occupation of the development, and retained as approved thereafter. The information leaflet can be included within the residents' welcome pack to every new dwelling. A Planning obligation can also secure the long-term maintenance and management of the green space.

- 6.63. The Council has produced a Habitat Regulations Assessment (HRA) setting out the mitigation that is proposed – namely the details contained within the strategy and a RAMS payment of £127.30 per dwelling, is proposed to be included within the S106 agreement, to enable to fund strategic off-site measures. These measures should be targeted towards increasing the relevant European sites' resilience to recreational pressure (such as schemes to provide wardens at them protected sites who will help manage and educate visitors,) and be in line with the aspirations of the emerging RAMS.
- 6.64. Natural England are satisfied that the mitigation described in the Council's appropriate assessment is in line with their strategic-level advice; and advise that an appropriate planning condition or obligation is attached to any planning permission to secure the on-site mitigation measures, including links to footpaths in the surrounding area. The financial contribution should be secured through an appropriate and legally binding agreement, in order to ensure no adverse effect on integrity i.e. the S106 agreement.
- 6.65. Subject to the mitigation being secured there would be certainty that the development would not adversely affect the integrity of European Designated Sites, in accordance with Policy SP2 and PPL4 of the Local Plan and Regulation 63 of the Conservation of Habitat and Species Regulations 2017.

Impact on Residential Amenity

- 6.66. Para.119 of the NPPF states that planning decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Para.130 of the NPPF also refers to the need to ensure a high standard of amenity for existing and future users.
- 6.67. The EDG sets out guidance on new development, which should be designed in order to provide a decent standard of amenity for future occupants of the development, as well as protecting the amenities of existing residents who live adjacent to the development. The EDG states that "with rear-facing habitable rooms, the rear faces of opposite houses approximately parallel, and an intervening fence or other visual barrier which is above eye level from the potential vantage point, a minimum of 25 metres between the backs of houses may be acceptable". It goes on to state that "where new development backs on to the rear of existing housings, existing residents are entitled to a greater degree of privacy to their rear garden boundary, and therefore where the rear faces of the new houses may not encroach any closer than 15 metres to an existing rear boundary, even though with a closer encroachment 25 metres between the backs of houses would still be achieved".
- 6.68. The proposed dwellings along the southern boundary are a mixture of two storey, two and a half storey and three storey houses. The existing dwellings on St Johns Road do however enjoy deep rear gardens and the new dwellings would be situated at least 15 metres from the boundaries of existing dwellings. Consequently, adherence to these standards would ensure that the living conditions of existing residents would be protected from a material level of overlooking; and no material loss of outlook or daylight/sunlight would ensue either.
- 6.69. With regard to the appeal scheme the Inspector concluded that '*with respect to the siting of the development relative to the existing dwellings in St John's Road I consider that there would be sufficient separation for there to be no unacceptable overlooking of the*

adjoining homes. However, it should be noted that the appeal scheme had only two and two and half storey along the southern boundary. The current scheme has two three storey properties (Plots 1 and 2). The proposed distance between these two properties is approx. 70 metres, which is well in excess of the 25 metres set out by the Essex Design Guide. It is therefore considered that the relationship between the three storey properties and existing properties in St Johns Road is acceptable.

Heritage

- 6.70. Paragraph 189 of the NPPF states that heritage assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations. In determining planning applications, NPPF Para.194 states that in determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance.
- 6.71. The Planning (Listed Buildings and Conservation Areas) Act 1990 is concerned with the protection of the historic environment. Sections 66 of the Act imposes a statutory duty upon local planning authorities to consider the impact of proposals upon listed buildings and their settings, and to have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest that it possesses.
- 6.72. There are no listed buildings within the application site, but there are two Grade II listed buildings relatively nearby - Duchess Farmhouse approximately 110m east of the site and Earls Hall Lodge which is approximately 300m to the north of the site.
- 6.73. The Heritage Impact Assessment submitted by the applicant accepts that the application site is located within the wider setting of Duchess Farm and Earl's Hall Lodge, but states that the impact of the proposed development on the special architectural and historic interest of these buildings and their settings is neutral.
- 6.74. The applicant argues that the proposed development would have little or no bearing on their setting due to screening by mature planting along the nursery site boundaries which would be retained or enhanced, and that where the development is visible in longer views, then this would be seen in the context of nearby 20th century housing along St John's Road.
- 6.75. The redevelopment of the site, including the introduction of buildings that are taller than are currently characteristic of the area, would change the character of the site and would result in it having a more urban character.
- 6.76. As part of the previous application a condition was recommended pertaining to landscape planting to ensure the development is adequately screened from the north side in views from Earls Hall Lodge. Given the changes in the scheme with regard to the retention of the planting and the northern boundary and the area of open space proposed it is considered that this condition is no longer necessary and that the application is considered acceptable, and would preserve the setting of the listed buildings. Therefore no harm would be caused to these designated heritage assets.
- 6.77. Any surviving below ground heritage assets would be damaged or destroyed by the proposed development, much of the site is covered by glasshouses which would need to be demolished prior to an archaeological investigation to determine the potential for survival of archaeological remains. It is recommended that a condition requiring a

Programme of Archaeological trial trenching following demolition be imposed upon any grant of planning permission.

Drainage

- 6.78. Anglian Water raises no objection to the application and have confirmed that the St Osyth Water Recycling Centre would have sufficient capacity to deal with the foul drainage flows from the proposed development.
- 6.79. The applicant has submitted a Drainage Strategy which has been considered by Essex County Council who are the Lead Local Flood Authority (LLFA), who raise no objection to the granting of planning permission subject to conditions relating to the submission and subsequent approval of a detailed surface water drainage scheme, a maintenance plan, and a scheme to minimise the risk of offsite flooding and prevent pollution during construction.
- 6.80. From this basis it is considered that the Council could not substantiate reasons for refusal of planning permission in respect of drainage matters, and the proposal would not give rise to flood risk emanating from surface water generated by the proposal.

Energy Efficiency

- 6.81. Policy PPL10 of the Local Plan states that 'all development proposals should demonstrate how renewable energy solutions, appropriate to the building(s) site, and location have been included in the scheme and for new buildings, be design to facilitate the retro-fitting of renewable energy installations'. The policy also states that 'for residential development proposals involving the creation of one or more dwellings, the Council will expect detailed planning application to be accompanied by a 'Renewable Energy Generation Plan' (REGP) setting out the measures that will be incorporated into the design, layout and construction aimed at maximising energy efficiency and the use of renewable energy. Planning permission will only be granted where the applicant can demonstrate that all reasonable renewable energy and energy efficiency measures have been fully considered and, where viable and appropriate, incorporated into the design, layout and construction. The Council will consider the use of planning conditions to ensure the measure are delivered'.
- 6.82. This application was submitted prior to the adoption of the Local Plan and is not supported by a REGP. However, it is considered that this is an issue which can be reasonably covered by imposing two conditions. One to secure electric vehicle charging points and one to require the submission of an Energy Statement that requires a scheme detailing how a minimum of 20% of the energy needs generated by the development can be achieved through renewable energy sources. With such conditions in place, Officers believe the development can adequately comply with the requirements of Policy PPL10, therefore, no objections on these grounds are raised.

Planning Obligations and Viability

- 6.83. The NPPF states that Local Planning Authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be sought where they meet all the following tests: necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development. These are set out and addressed below under the relevant sub-headings:

Recreational Disturbance (RAMS)

- 6.84. Under the Habitats Regulations, a development which is likely to have a significant effect or an adverse effect (alone or in combination) on a European designated site must provide mitigation or otherwise must satisfy the tests of demonstrating 'no alternatives' and 'reasons of overriding public interest'. There is no precedent for a residential development meeting those tests, which means that all residential development must provide mitigation.
- 6.85. The application scheme proposes new dwellings on a site that lies within the Zone of Influence (Zoi) for Hamford Water SPA and Ramsar, and Essex Estuaries SAC and Colne Estuary (Mid Essex Coast Phase 2) SPA and Ramsar site. New housing development within the Zoi would be likely to increase the number of recreational visitors to these designated sites; and, in combination with other developments it is likely that the proposal would have significant effects on the designated sites. Mitigation measures must therefore be secured prior to occupation. A financial contribution of **£24,650.09** (£137.71 per dwelling) is proposed to be secured by a legal agreement which is still to be completed. This will provide certainty that the development would not adversely affect the integrity of Habitats Sites.

Open Space and Play Space

- 6.86. Policy HP5 of the Local Plan states that 'all new residential developments of 11 or more dwellings on sites of 1.5 hectares and above will be expected to provide a minimum 10% of the gross site area as open space laid out to meet the Council's specifications having regard to the Council's Open Spaces Strategy and the requirements of any SPD. No single area of useable open space will be less than 0.15 hectares in size. Financial contributions will also be sought through s106 legal agreements (or an appropriate alternative mechanism) towards ongoing maintenance'.
- 6.87. The Council's Public Realm Officer has advised that there is currently a deficit of 41.08 hectares of play in the Clacton/Holland area. As the development will increase demand on already stretched facilities it will need to mitigate this impact. The applicant proposes on site provision of open space and play facilities to a LEAP standard have been included within the design. As referred to above, the proposed on-site provision works out to be around 17% of the site area, and this provision must include appropriate equipment and be laid out to a specification agreed with the District Council which can be secured through the S106 legal agreement.
- 6.88. As the level of provision on-site is considered appropriate, no contribution is being requested for off-site provision. The delivery of the Open Space and Play Area will need to be controlled through the S106 agreement, along with suitable arrangements for future ownership and maintenance. In this instance the Public Open Space and Play Area, the developer will need to arrange for this to be transferred to a private Management Company or to the Council with a financial contribution towards future maintenance.

Affordable Housing

- 6.89. Policy LP5 of the Local Plan states that 'for development proposals outside of the Tendring Colchester Borders Garden Community, involving the creation of 11 or more (net) homes, the Council will expect 30% of new dwellings, (including conversions) to be made available to Tendring District Council (subject to viability testing) or its nominated partner(s) to acquire at a proportionate discounted value for use as affordable housing.'
- 6.90. The Council's Housing Officers confirm that Clacton is the area with the highest demand on the housing register within the District with a high level of demand for all sizes of dwellings. As the site is located in the area with the highest demand, there is a need for affordable housing to be provided on site and the Council's preference would be for 30% of the total number of homes to be provided as Affordable Housing on site.

- 6.91. However, due to the presence of the glasshouses that cover the majority of the site, there is a considerable cost to its re-development, taking into account the removal of glass, possible asbestos and the frames, this abnormally effects viability, to the tune of approximately £1.98m. The Council's appointed valuation consultants BNP Paribas Real Estate have liaised with the applicant, in order to ascertain what percentage of affordable housing the development can afford to provide. It has been concluded that the scheme cannot support any affordable housing as it generates a deficit of c. £0.47m. However, the applicants have offered to provide 10% shared ownership in line with the amount of affordable housing secured by the appeal S106. It is therefore proposed that the same is secured as part of this current application.

Education

- 6.92. Policy PP12 of the Local Plan states that 'planning permission will not be granted for new residential development unless the individual or cumulative impacts of development on education provision can be addressed, at the developer's cost, either on-site or through financial contributions (potentially through the Community Infrastructure Levy) towards off-site improvements. Essex County Council as the local education authority will be a key consultee in this regard. Where appropriate, the Council will also consider the use of legal agreements to secure any necessary improvements in education provision arising as a result of development.'
- 6.93. Essex County Council request that if planning permission is granted it should be subject to a S106 agreement to mitigate its impact on early years and childcare provision and libraries.

Early Years and Childcare

Although there is some capacity in the area, the data shows insufficient provision to meet the additional demand created by this development. It is thereby proposed that a developer contribution of £233,118 index linked to Q1- 2020, is sought.

Primary Education

Due to surplus provision in the primary group, a contribution toward primary education will not be requested at this time.

Secondary Education

Due to the completion of the Clacton County High project complete, there is sufficient space to meet the demand created from this development. A contribution toward secondary education will not be requested at this time.

School Transport

Having reviewed the proximity of the site to the nearest primary and secondary schools, Essex County Council will not be seeking a school transport contribution at this time.

Libraries

The suggested population increase brought about by the proposed development is expected to create additional usage of the nearest library. A developer contribution of £14,004.00 is therefore considered necessary to improve, enhance and extend the facilities and services provided.

It is proposed that the required financial contributions will be secured by the S106 agreement.

Healthcare

- 6.94. Policy HP1 of the Local Plan states that ‘the Council will work to improve the health and wellbeing of residents in Tendring by seeking mitigation towards new or enhanced health facilities from developers where new housing development would result in a shortfall or worsening of health provision’.
- 6.95. The Council are currently waiting for a consultation response from NHS North East Essex CCG. As a financial contribution was previously required, it is expected that a financial contribution will be required, however an update will be provided at the Planning Committee.

Highways and Transportation

- 6.96. ECC Highways state that they have assessed the highway and transportation impact of the proposal including full assessment of the Transport Assessment, examination of all documents submitted, and undertaken a site visit and do not wish to raise an objection subject to the imposition of reasonable planning conditions and obligations. It is considered that the majority of the required works can be covered by planning condition, with the exception of the provision of 3no bus stops on St Johns Road; a pro-rata financial contribution of £104,000 to bus services operating along St John’s Road; and the provision/upgrade of a 3-metre wide shared footway/cycleway on the north side of St Johns Road from its junction with Earls Hall Drive eastwards to the main vehicular access to the site and beyond to tie in with the proposed footway/ cycleway for the Rouses Farm development south of St Johns Road (17/01229/OUT).

Live/Work Units

- 6.97. Paragraph 80 of the NPPF states that planning decisions should help create the conditions in which businesses can invest, expand and adapt. It goes on to state that significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.
- 6.98. The applicant acknowledges the importance of presenting a scheme which offers modern, purpose built employment space (circa 1000sq m) as part of a mixed use scheme. The business units would provide a valuable resource in the town where the Employment Study reports good demand for such facilities, but which also reports a generally poor quality of accommodation currently available.
- 6.99. In order to ensure that the live/work units are provided, it is recommended that a trigger of no more than 75% of open market dwellings should be occupied until the live/Work units have been constructed and actively marketed.

7. Conclusion

- 7.1. It is considered that the development would provide the potential for a high quality residential layout that could create a good sense of place and appropriate character whilst complying with the standards for internal and external amenity, as well as the Council’s adopted parking standards. The site could also reasonably be developed without material detriment to the occupants of neighbouring dwellings and heritage assets, and would retain the majority of existing trees considered of amenity value.
- 7.2. The site is also in a sustainable location, within the Settlement Development Boundary which would enable access by foot/cycle/bus to facilities in Clacton such as schools, the GP practice and the town centre, as well as the future development at Rouses Farm.

Therefore, it is considered overall that there would be limited environmental harm connected with the development.

- 7.3. The applicant has submitted a suite of detailed documents which demonstrate that the site is free of any constraints to residential development which cannot be resolved by way of conditions or through planning obligations (the S106 Agreement).
- 7.4. It is considered that the proposal has been amended to overcome the concerns raised by the Inspector and therefore Officers are recommending approval of this application, subject to the specific mitigation set out within this report.

8. **Recommendation**

- 8.1. The Planning Committee is recommended to grant planning permission subject to the following conditions and informatives and the prior completion of a section 106 legal agreement with the agreed Heads of Terms, as set out in the table below:

CATEGORY	TERMS
Financial contribution towards RAMS	£24,650.09 (£137.71 per dwelling)
Affordable Housing	10% on-site provision
Education Contribution	Early Years and Childcare (£233,118) Libraries (£14,004)
NHS Contribution	TBC
Open Space	Provision, specification and maintenance of on-site Open Space and Play Equipment
Live/Work Units	To be constructed and marketed prior to 75% dwelling occupation
Highways and Transportation	<ul style="list-style-type: none"> • Financial contribution of £104,000 pro-rata for procurement towards the local bus services operating on St Johns Road to serve the development • Provision and monitoring of a Residential Travel Plan • Provision of 3 no. bus stops on St Johns Road • Provision/upgrade of a 3-metre wide shared footway/cycleway on the north side of St Johns Road from its junction with Earls Hall Drive eastwards to the main vehicular access to the site and beyond to tie in with the proposed footway/ cycleway for the Rouses Farm development south of St Johns Road (17/01229/OUT)

8.2. **Conditions and Reasons**

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

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

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

PL LW-01 C
PL LW-02 A
PL LW-03 A
PL LW-04 B
PL ADE-01 B
PL ADE-02 A
PL ADE-03 A
PL ADE-04 A
PL ADE-05
PL AC-01 E
PL AC-02 B
PL AC-03 B
PL AAB-01 D
PL AAB-02
PL AAB-03 B
PL AAB-04 C
PL AAB-05
PL 2A-01 A
PL 2A-02
PL 3A-01 C
PL 3A-02 A
PL 3B-01 A
PL 3B-02
PL-3B-10 C
PL-3B-11
PL 3B-21
PL 3B-20 B
PL 3C-01 A
PL 3C-02
PL 3C-10 D
PL 3C-11
PL 3D-20 D
PL 3D-21 A
PL 3D-22
PL 3D-23
PL 3E-01 C
PL 3E-02 A
PL 3E-03 A
PL 4A-01 C
PL 4A-02 A
PL 4A-10 A
PL 4A-11 A
PL 4A-12 A
PL 4A-20 A
PL 4A-21
PL 4B-01 C
PL 4B-02 B
PL 5A-01 A
PL 5A-02 A
PL 5B-01 A
PL 5B-02 A
PL 5B-03 A
PL 0001 B

PL 0100 B
PL 1000 P
PL 1001 H
PL 1002 H
PL 1003 F
PL 1004 M
PL 1030 K
PL 1050 E
PL 1060 E
PL 1070 E
21.5142.1
1040 F
1041 F

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

3. Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (or any Order amending, revoking and re-enacting that Order) the live-work premises on plots 203-201, shall be used as a mixed use of E(c) and/or E(g) at ground and first floor levels; and C3 at second floor level and for no other purposes.

Reason - To protect the amenities of the occupiers of the second floor flats and other nearby residential properties, and to ensure that an element of commercial activity is retained on the application site.

4. All garages and car parking spaces shall be kept available for the parking of motor vehicles at all times. The garages and car parking spaces shall be used solely for the benefit of the occupants of the dwelling/commercial unit of which it forms part/is intended to serve, and their visitors, and for no other purpose, and permanently retained as such thereafter.

Reason - To ensure adequate parking and garage space is provided within the site in accordance with the standards adopted by the local planning authority.

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

the parking of vehicles of site operatives and visitors;
loading and unloading of plant and materials;
access to/from the site, including the routing of construction traffic;
construction working hours;
storage of plant and materials used in constructing the development;
the erection and maintenance of security hoarding, where appropriate;
wheel and under-body washing facilities;
prior to the commencement of any work on the site a joint inspection of the route to be used by construction vehicles should be carried out by the Applicant and the Highway Authority, including photographic evidence;
measures to control the emission of dust and dirt during demolition and construction;
a scheme for recycling/disposing of waste resulting from demolition and construction works;
a scheme to control noise and vibration during the demolition and construction phases, including details of any piling operations; and
details of how the approved Plan will be implemented and adhered to.

6. The approved Plan shall be adhered to throughout the construction process.

Reason - To ensure that the development takes place in a satisfactory manner with regard to its impact on amenity and highways in the local area.

7. In accordance with the Summary and Recommendations of the submitted 'Phase 1 Desk Study Report', prior to the commencement of development a comprehensive survey shall be undertaken to assess the nature and extent of any contamination on the site (including Asbestos Containing Materials), a copy of the survey findings together with a remediation scheme to bring the site to a suitable condition in that it represents an acceptable risk shall be submitted to and agreed in writing with the Local Planning Authority prior to the commencement of development. Formulation and implementation of the remediation scheme shall be undertaken by competent persons and in accordance with 'Model Procedures for the Management of Land Contamination, CLR 11'. Further advice is available in the 'Essex Contaminated Land Consortium's Land Affected by Contamination: Technical Guidance for Applicants and Developers'. Such agreed measures shall be implemented and completed prior to the commencement of development hereby approved.

Notwithstanding the above, should contamination be found that was not previously identified or not considered in the remediation scheme agreed in writing with the Local Planning Authority, that contamination shall be made safe and reported immediately to the Local Planning Authority. The site shall be re-assessed in accordance with the above and a separate remediation scheme shall be submitted to and agreed in writing with the Local Planning Authority. Such agreed measures shall be implemented and completed prior to the first occupation of any parts of the development.

The developer shall give one-month's advanced notice in writing to the Local Planning Authority of the impending completion of the remediation works. Within four weeks of completion of the remediation works a validation report undertaken by competent person or persons and in accordance with the 'Essex Contaminated Land Consortium's Land Affected by Contamination: Technical Guidance for Applicants and Developers' and the agreed remediation measures shall be submitted to the Local Planning Authority for approval. There shall be no residential occupation of the site (or beneficial occupation of the office building hereby permitted) until the Local Planning Authority has approved the validation report in writing. Furthermore, prior to occupation of any property hereby permitted, the developer shall submit to the Local Planning Authority a signed and dated certificate to confirm that the remediation works have been completed in strict accordance with the documents and plans comprising the remediation scheme agreed in writing with the Local Planning Authority.

Reason - To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

8. No development shall take place until full details of the finished levels, above ordnance datum, of the ground floors of the proposed buildings, in relation to existing ground levels have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved levels.

Reason - To avoid the excessive raising or lowering of any building hereby permitted and the alterations of ground levels within the site which may lead to unneighbourly development with problems of overlooking and loss of privacy.

9. No development or preliminary groundworks of any kind shall take place until a

programme of archaeological investigation has been secured in accordance with a written scheme of investigation which has been submitted by the applicant, and approved in writing by the local planning authority.

Following demolition, no preliminary groundworks of any kind shall take place until the completion of the programme of archaeological investigation identified in the written scheme of investigation.

The applicant will submit to the local planning authority a post excavation assessment (to be submitted within six months of the completion of the fieldwork, unless otherwise agreed in advance with the Planning Authority). This will result in the completion of post excavation analysis, preparation of a full site archive and report ready for deposition at the local museum, and submission of a publication report.

Reason - To allow proper investigation and recording of the site, which is potentially of archaeological and historic significance.

10. Prior to the occupation of the development hereby approved, a scheme of landscaping shall be submitted to and approved in writing by the local planning authority. The scheme shall incorporate a detailed specification including plant/tree types and sizes, plant numbers and distances, soil specification, seeding and turfing treatment, colour and type of material for all hard surface areas and method of laying where appropriate.

All areas of hardstanding shall be constructed using porous materials laid on a permeable base unless otherwise agreed in writing by the local planning authority.

All planting, seeding or turfing contained in the approved details of the landscaping scheme shall be carried out in the first planting and seeding seasons after the commencement of the development unless otherwise previously agreed in writing by the local planning authority.

All hard surface areas agreed as part of the scheme shall be carried out before the first occupation of the buildings or upon the completion of the development whichever is the earlier. Any trees or plants which die, are removed, or become seriously damaged, or diseased within a period of 5 years from the completion of the development shall be replaced in the next planting season with others of a similar size and species unless the local planning authority gives written consent to any variation.

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

11. The development shall be carried out in full accordance with the recommendations as set out within section 8 of the submitted 'Arboricultural Impact Assessment' report produced by EnviroArb Solutions Ltd, dated 3rd June 2021. No alterations or variations to the approved works or tree protection schemes shall be made without prior written consent of the local planning authority.

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

12. All ecological mitigation & enhancement measures and/or works shall be carried out in accordance with the details contained in the 'Extended Phase 1 Update Survey Report with Protected Species Surveys by Total Ecology dated October 2021 as submitted with the planning application and agreed in principle with the local planning authority prior to determination. This should include the appointment of an appropriately competent person e.g. an ecological clerk of works (ECoW,) to provide on-site ecological expertise during construction. The appointed person shall undertake all activities, and works shall be carried out in accordance with the approved details.

Reason – To conserve and enhance Protected and Priority species and allow the LPA to discharge its duties under the UK Habitats Regulations, the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species) and s17 Crime & Disorder Act 1998.

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

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

Reason - To allow the LPA to discharge its duties under the UK Habitats Regulations 2017, the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species).

14. Prior to the first occupation of any dwelling hereby permitted, a Biodiversity Enhancement Layout for Protected and Priority species shall be submitted to and approved in writing by the local planning authority. The content of the Biodiversity Enhancement Layout shall include the following:

- Purpose and conservation objectives for the proposed enhancement measures;
- detailed designs to achieve stated objectives;
- locations of proposed enhancement measures by appropriate maps and plans;
- persons responsible for implementing the enhancement measures;
- details of initial aftercare and long-term maintenance.

The works shall be implemented in accordance with the approved details and shall be retained in that manner thereafter in perpetuity.

Reason - To enhance Protected and Priority Species/habitats and allow the LPA to discharge its duties under the s40 of the NERC Act 2006 (Priority habitats & species).

15. No works except demolition shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme should include but not be limited to:

Verification of the suitability of infiltration of surface water for the development. This should be based on infiltration tests that have been undertaken in accordance with BRE 365 testing procedure and the infiltration testing methods found in chapter 25.3 of The CIRIA SuDS Manual C753.

Limiting discharge rates to 1:1 Greenfield runoff rates for all storm events up to and including the 1 in 100 year rate plus 40% allowance for climate change

Provide sufficient storage to ensure no off site flooding as a result of the development during all storm events up to and including the 1 in 100 year plus 40% climate change event.

Demonstrate that all storage features can half empty within 24 hours for the 1 in 30 plus 40% climate change critical storm event.

In case the drain down time is more than 24 hours then Demonstrate that features are able to accommodate a 1 in 10 year storm events within 24 hours of a 1 in 30 year event plus climate change.

Final modelling and calculations for all areas of the drainage system.

The appropriate level of treatment for all runoff leaving the site, in line with the Simple Index Approach in chapter 26 of the CIRIA SuDS Manual C753.

Detailed engineering drawings of each component of the drainage scheme.

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

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

The scheme shall subsequently be implemented prior to occupation.

Reason - To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site; to ensure the effective operation of SuDS features over the lifetime of the development and to provide mitigation of any environmental harm which may be caused to the local water environment.

16. No works shall take place until a scheme to minimise the risk of offsite flooding caused by surface water run-off and groundwater during construction works and prevent pollution has been submitted to, and approved in writing by, the local planning authority. The scheme shall subsequently be implemented as approved.

Reason - To mitigate against increased flood risk to the surrounding area during construction.

17. Prior to occupation a maintenance plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, shall have been submitted to and agreed, in writing, by the Local Planning Authority.

Should any part be maintainable by a maintenance company, details of long term funding arrangements should be provided.

Reason - To ensure appropriate maintenance arrangements are put in place to enable the surface water drainage system to function as intended to ensure mitigation against flood risk.

18. The applicant or any successor in title must maintain yearly logs of maintenance which should be carried out in accordance with any approved Maintenance Plan. These must be available for inspection upon a request by the Local Planning Authority.

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

19. Prior to the construction above damp proof course, a scheme for on-site foul water drainage works, including connection point and discharge rate, shall be submitted to and approved in writing by the Local Planning Authority. Prior to the occupation of any phase, the foul water drainage works relating to that phase must have been carried out in complete accordance with the approved scheme.

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

20. No site clearance, demolition or construction work shall take place on the site, including starting of machinery and delivery of materials, outside the following times:
Monday to Friday 0800 hours - 1800 hours;
Saturday 0800 hours - 1300 hours; and
Sundays, Public and Bank Holidays - no work

Reason - To protect the amenities of the occupiers of nearby residential properties and the surrounding area.

21. No burning of refuse, waste materials or vegetation shall be undertaken in connection with the site clearance or construction of the development.

Reason - To protect the amenities of the occupiers of nearby residential properties and the surrounding area.

22. No dwelling or live-work unit shall be occupied until the refuse and recycling bins, and where applicable, storage areas and collection points, for that dwelling/unit have been provided and are available for use.

Reason - To ensure adequate facilities for refuse and recycling in the interests of residential amenity and in order to prevent the unsightly storage of refuse containers and in the interests of amenity.

23. Prior to the demolition of 700 St John's Road, details of the form of construction of the acoustic wall to be erected along its eastern and western boundaries, adjacent to nos 698 and 702 St John's Road respectively, shall be submitted to and approved in writing by the local planning authority. The walls shall be erected in accordance with the agreed details prior to the construction of the new access road.

Reason - To protect the amenities of the occupiers of nearby residential properties and the surrounding area.

24. Prior to first occupation of the development hereby approved, details of all gates, fences and other walls, or other means of enclosure, shall be submitted to and approved in writing by the local planning authority. The details shall include position, design, height and materials of the enclosures. The enclosures as approved shall be provided prior to the occupation of the development hereby approved and shall be permanently maintained as such.

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

25. Prior to the first occupation of the development hereby permitted, full details of the construction of the footpath/cycleway proposed to run through the existing curtilage of 780 St John's Road shall be submitted to and approved in writing by the local planning authority. The details shall include the extent of demolition of existing extensions/outbuilding/s and the method for making good, with full elevations and floor plans of the resultant works. The development shall be carried out in accordance with the agreed details.

Reason – To provide satisfactory pedestrian access to the development, in the interests of reducing the need to travel by car and promoting sustainable development.

26. The bicycle parking facilities as shown on the approved plan are to be provided prior to the first occupation of the development and thereafter retained at all times.

Reason - To ensure appropriate bicycle parking is provided in accordance with the Council's adopted Parking Standards.

27. No occupation of the development shall take place until the following have been provided or completed: The highway works as shown in principle on revised site plan drawing no. 4424/CA/PL1000 Rev. P but to include the following:

A forward visibility splay of 25 metres needs to be provided on each corner of the development these will need to be hardened so they can be adopted.

The raised table to be extended to include the drive to plot 173.

The 2-metre-wide footway to continue round on the north side of the bend to tie into the footway at the junction outside plot 94 and from the north boundary to plot 97.

Speed-restraint measures should be located at maximum intervals of 60m, starting within 50m of the entry junction or zone.

The proposed build-out on the access road to the site would need to switch to the opposite lane to remove the potential traffic accessing the site backing up onto St Johns Road or change to a raised table.

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

28. Prior to occupation of the development, the road junction / access at its centre line shall be provided with a clear to ground visibility splay with dimensions of 2.4 metres by 120 metres in both directions, as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the road junction / access is first used by vehicular traffic and retained free of any obstruction at all times.

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

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

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

30. The public's rights and ease of passage over public footpath / bridleway / byway no. 167_1 (Great Clacton) shall be maintained free and unobstructed at all times.

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

31. Prior to commencement of above ground works, a scheme for the provision of electric vehicle charging facilities for the new dwellings hereby approved shall have first been submitted to and approved in writing by the local planning authority. Thereafter the charging facilities shall be installed in a working order prior to first occupation of the dwellings.

Reason: In order to promote sustainable transport.

32. Prior to the occupation of any dwelling a scheme detailing how a minimum of 20% of the energy needs generated by the development can be achieved through renewable energy sources shall be submitted to and approved in writing by the local planning authority. The scheme shall detail the anticipated energy needs of the scheme, the specific renewable

technologies to be incorporated, details of noise levels emitted (compared to background noise level) and how much of the overall energy needs these will meet and plans indicating the location of any external installations within the development. The development shall be carried out in accordance with the approved details and shall be retained as such thereafter

Reason: To ensure the development contributes to minimising the effects of, and can adapt to a changing climate.

33. No development shall be commenced until precise details of the manufacturer and types and colours of the external facing and roofing materials to be used in construction have been submitted to and agreed, in writing, by the Local Planning Authority. Such materials as may be agreed shall be those used in the development.

Reason - To ensure that materials of an acceptable quality appropriate to the area are used and insufficient information has been submitted in this regard.

34. Prior to the first occupation of any dwelling hereby permitted, details of information leaflets to be distributed to new householders highlighting local footpaths within the open countryside and alternative areas of green space including nearby country parks shall be submitted to and agreed in writing by the Local Planning Authority. The agreed document shall be provided to all new households.

Reason – To ensure that the development will not have an adverse effect on the integrity of the European sites included within the Essex Coast RAMS.

35. Prior to the first occupation of any dwelling hereby permitted, details of the location and number of dog waste bins shall be submitted to and approved in writing by the Local Planning Authority. The dog waste bins shall be provided in accordance with the approved details and maintained in perpetuity.

Reason – To ensure that the development will not have an adverse effect on the integrity of the European sites included within the Essex Coast RAMS.

Informatives

Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

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

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

SMO1 - Development Management Team
Ardleigh Depot,
Harwich Road,
Ardleigh,
Colchester,

CO7 7LT

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

The applicant / agent should ensure measures are taken to ensure that any lighting of the development will be located, designed and directed or screened so that it does not cause avoidable intrusion to adjacent residential properties/ constitute a traffic hazard/cause unnecessary light pollution outside the site boundary. "Avoidable intrusion" means contrary to the Code of Practice for the Reduction of Light Pollution issued by the Institute of Lighting Engineers.

9. Additional Considerations
Public Sector Equality Duty (PSED)

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

Human Rights

- 9.5. In making your decision, you should be aware of and take into account any implications that may arise from the Human Rights Act 1998 (as amended). Under the Act, it is unlawful for a public authority such as the Tendring District Council to act in a manner that is incompatible with the European Convention on Human Rights.
- 9.6. You are referred specifically to Article 8 (right to respect for private and family life), Article 1 of the First Protocol (protection of property) and Article 14 (right to freedom from discrimination).

- 9.7. It is not considered that the recommendation to grant permission in this case interferes with local residents' right to respect for their private and family life, home and correspondence or freedom from discrimination except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation to grant permission is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

Finance Implications

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

10. Background Papers

- 10.1. Appeal Decision (APP/P1560/W/20/3256190) - 700 St Johns Road and St Johns Nursery site, Earls Hall Drive, Clacton on Sea – dated 7th January 2021.
- 10.2. In making this recommendation, officers have considered all plans, documents, reports and supporting information submitted with the application together with any amended documentation. Additional information considered relevant to the assessment of the application (as referenced within the report) also form background papers. All such information is available to view on the planning file using the application reference number via the Council's Public Access system by following this link <https://idox.tendringdc.gov.uk/online-applications/>.