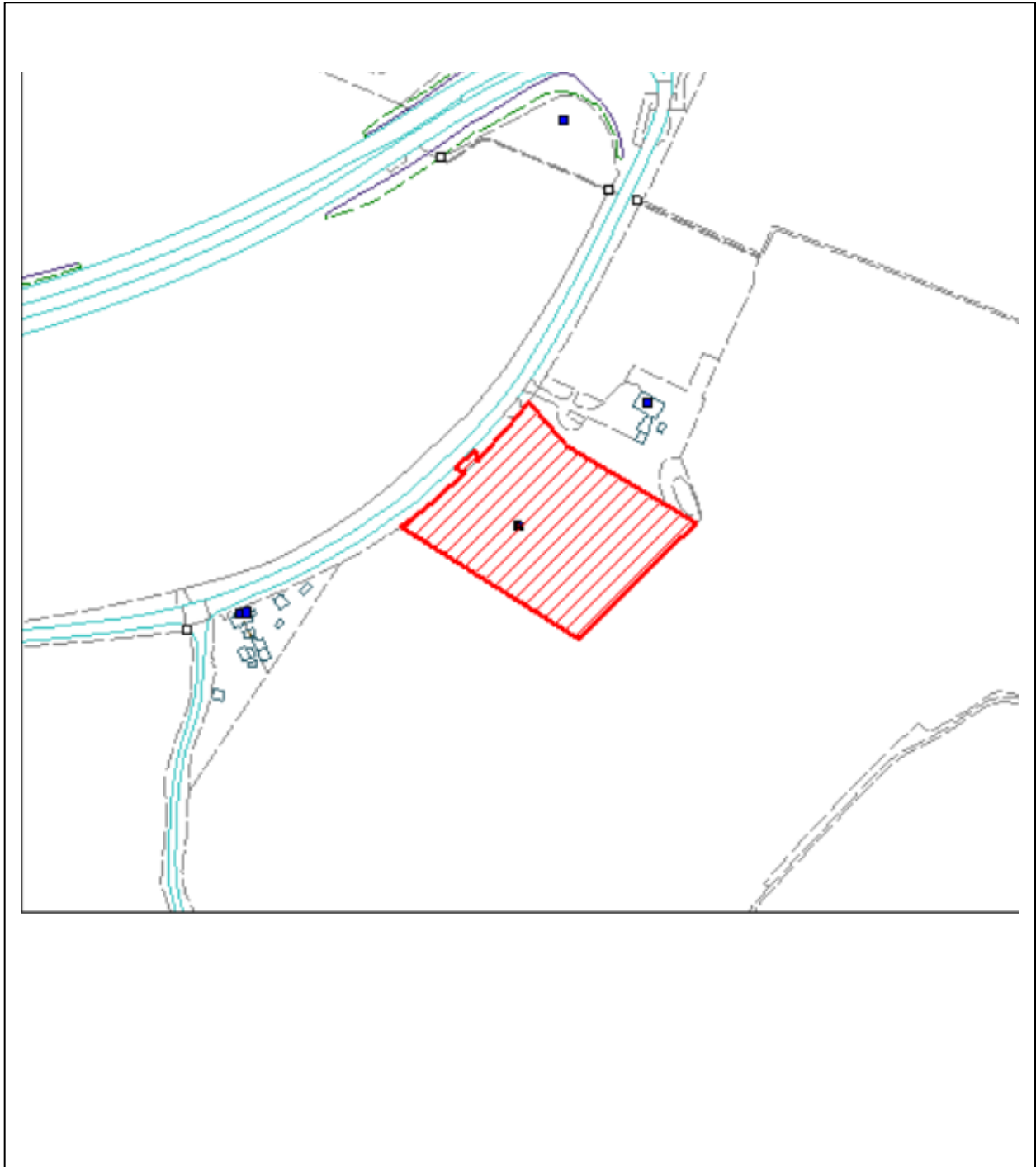


PLANNING COMMITTEE

5 JULY 2022

REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING

**A.1 PLANNING APPLICATION – 21/01523/FUL – LAND ADJACENT CLIPHEDGE FARM  
HARWICH ROAD LITTLE BENTLEY**



DO NOT SCALE

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

**Application:** 21/01523/FUL

**Town / Parish:** Little Bentley Parish Council

**Applicant:** Mr Neil Naphthine - BrandArt Ltd

**Address:** Land adjacent Cliphedge Farm Harwich Road Little Bentley Essex

**Development:** Erection of six buildings to serve Class E(c) and E(e) uses (comprising offices, financial, professional, and medical services) with ancillary car parking, landscaping, new vehicular access point off and stopping up of existing access.

## 1. **Executive Summary**

- 1.1 The application is before the Planning Committee following a call-in request from Councillor McWilliams due to concerns with the highway safety impacts, the increase in size of the development to that previously approved, and the impacts to neighbouring amenities.
- 1.2 The proposal is for the construction of six buildings for Class E use (including offices, financial, professional and medical services) which will amount to 3,016sqm of floorspace, including a new vehicular access off Harwich Road and ancillary works including landscaping and parking provision.
- 1.3 Under relevant appeal decision APP/P1560/W/19/3226387 (dated 26<sup>th</sup> May 2020), planning permission was previously granted on this site for the development of two buildings for office uses measuring 1,687sqm of floorspace, which also included for a new vehicular access off Harwich Road and ancillary parking and landscaping. This permission remains extant and is a material consideration in the determination of this application.
- 1.4 In respect of the development proposal the subject of this report, Officers are content that the buildings are of a suitable design for this rural location and do not consider there to be significant harm to the amenities of any neighbouring residents. Essex Highways Authority raise no objections, and the parking being provided is in accordance with the Essex Car Parking Standards. There is no significant harm to trees and the soft landscaping scheme provided would sufficiently soften, screen and enhance the development. Following the submission of an amended Preliminary Ecological Assessment, ECC Place Services (Ecology) raise no objections, and the Environment Agency, Natural England and Essex SuDS also do not object on flood risk and drainage grounds.
- 1.5 The proposal will result in a significant increase in bulk and floorspace to the scheme previously allowed, as well as a significant increase in hardstanding for car parking, and by its very nature, having regard to the immediate and wider context, will result in a level of harm to the character and appearance of the area, thereby resulting in minor conflict with Adopted Policies SPL3 and PPL3 as well as Paragraph 130 of the NPPF. However, the development does allow for sufficient levels of soft landscaping, particularly to all boundaries, and retains good separation distances between each building, thereby ensuring the development does not appear overdeveloped.
- 1.6 In addition, the proposed development represents a strong economic boost to the District, with provision for up to 152 jobs, which compares favourably to the extant permission that provided for 36 jobs. The proposal would therefore set a positive and progressive tone for commercial development in the district, which currently has very poor provision of commercial office space, and what provision there is, is generally of very poor quality. In addition, a Sequential Test has

been undertaken, which demonstrates there are no other sequentially preferable sites where the development could instead be located.

- 1.7 Taking all of the above into consideration, Officers consider that the strong economic benefits of the proposal outweigh the identified harm to the character and appearance of the area, and on balance are recommending approval.

**Recommendation:**

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

- a) **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):**
  - **Highways Contribution towards speed restrictions, workplace travel plan, provision of bus stops and footways**
- b) Subject to the conditions stated in section 8.2

**2. Planning Policy**

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

National Planning Policy Framework July 2021 (The Framework)  
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  
SP3 Spatial Strategy for North Essex  
SP5 Employment  
SP6 Infrastructure and Connectivity  
SP7 Place Shaping Principles

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

SPL1 Managing Growth  
SPL3 Sustainable Design  
PP4 Local Threshold Impact  
PP5 Town Centre Uses  
PP6 Employment Sites  
PP7 Employment Allocations  
PP13 The Rural Economy  
PPL1 Development and Flood Risk  
PPL3 The Rural Landscape  
PPL4 Biodiversity and Geodiversity  
PPL5 Water Conservation, Drainage and Sewerage  
PPL7 Archaeology  
PPL10 Renewable Energy Generation  
CP1 Sustainable Transport and Accessibility

## CP2 Improving the Transport Network

### Supplementary Planning Guidance:

Essex County Council Parking Standards Design and Good Practice Guide 2009  
Essex Design Guide

### **Status of the Local Plan**

- 2.2 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.

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

10/00799/FUL	Alteration and change of use of redundant agricultural building to storage and distribution (B8) and alteration of existing access to highway.	Withdrawn	12.10.2010
11/00014/FUL	Alteration and change of use of redundant agricultural building to storage and distribution (B8) and alteration of existing access to highway. As amended by Landscape Plan Drawing No. 10.629.1 Rev C received on 26 January 2011 and Proposed Floor Plans, Section and Elevations Drawing dated January 2011 and received on 3 February 2011.	Withdrawn	13.04.2011
17/02014/FUL	Two office buildings, including ancillary site works (car parking, landscaping, surface water management pond, new vehicular access points off Harwich Road and stopping up of existing access).	Refused (Allowed at appeal)	09.10.2018

### **4. Consultations**

ECC SuDS Consultee 12.01.2022	No objection subject to the conditions detailed in paragraph 8.2 below.
Environment Agency 29.12.2021	Foul Drainage  We note that the proposal is to dispose of foul water via a Package Treatment Plant as there is no mains sewerage available in this area.

In addition to planning permission the applicant may also require an Environmental Permit from the Environment Agency. Please note that the granting of planning permission does not guarantee the granting of an Environmental Permit. Upon receipt of a correctly filled in application form we will carry out an assessment. It can take up to 4 months before we are in a position to decide whether to grant a permit or not.

Domestic effluent discharged from a treatment plant/septic tank at 2 cubic metres or less to ground or 5 cubic metres or less to surface water in any 24 hour period must comply with General Binding Rules provided that no public foul sewer is available to serve the development and that the site is not within a Groundwater Source Protection Zone.

A soakaway used to serve a non-mains drainage system must be sited no less than 10 metres from the nearest watercourse, not less than 10 metres from any other foul soakaway and not less than 50 metres from the nearest potable water supply, spring or borehole.

Where the proposed development involves the connection of foul drainage to an existing non-mains drainage system, the applicant should ensure that it is in a good state of repair, regularly de-sludged and of sufficient capacity to deal with any potential increase in flow and loading which may occur as a result of the development.

Where the existing non-mains drainage system is covered by a permit to discharge then an application to vary the permit will need to be made to reflect the increase in volume being discharged. It can take up to 13 weeks before we decide whether to vary a permit.

Building Control and  
Access Officer  
01.03.2022

No adverse comments at this time.

Regeneration  
25.02.2022

The Economic Growth Team strongly support and endorse this application which seeks to provide circa 37,000 sq.ft of predominantly office accommodation in a development that, if approved, would set a positive and progressive tone for commercial development (with flexible unit sizes) in the district.

The district has very poor provision of commercial office space, and that which is available is generally of very poor quality (with notable exceptions at Lanswood Park near Elmstead Market and the Evolve development on the district's eastern border with Colchester).

Generally private sector developers active in Tendring focus their attention on bringing forward sites for residential development (and sometimes on sites earmarked for employment uses), with little or no interest in bringing forward commercial development for employment. While it is true that some of the district's established

businesses have in recent years invested in the expansion of their current accommodation, this has been facilitated in response to their own business requirements. This application promotes the development of commercial space on (in part) a speculative basis (supported by an identified demand/need) and it is this approach that will assist in growing the district's economy and broadening Tendring's business base.

The proposed development will provide capacity for circa 242 jobs (67 of which are already confirmed) with office accommodation catering for higher value employment uses.

The site occupies a key location in close proximity to strategic transport infrastructure, making the site more attractive than employment sites in Clacton or Harwich. It is not thought that the development of this site would have any negative impact on employment sites or existing commercial activity in the neighbouring settlements of Brightlingsea or Manningtree.

The Council's Employment Land Review and Economic Development Strategy demonstrate there is a need for the district to build its commercial business base. The provision of quality office accommodation, such as that promoted within this application, will help the district provide a competitive working environment that will attract businesses requiring higher level skills, which pay higher level wages - thereby making a significant contribution to the economic growth of the district.

The site would include

- Flexible modern business Space not currently available in the immediate area
- Accommodation suitable for
- Business start-ups
- Hybrid working
- Move-on space
- A net zero carbon development meeting the highest environmental and energy efficiency standards.
- Reducing the need for workers to commute outside of the district.

Businesses have already been identified to occupy Blocks 1, 2 and 6, which amounts to more than 50% of the development. This is will create important new job opportunities for the residents of the district.

The new development would also help support established local supply chain businesses, those which would service businesses within the proposed development and those which would maintain the buildings and the estate. Inter alia these include those supply chain businesses providing:

- Food and welfare for staff
- Office supplies
- Building and site maintenance
- CCTV
- Heating and mechanical engineering

- Landscaping and hard surfaces
- Security
- HR support
- Financial services

The Economic Growth Team also welcome proposals to form a new access onto the site which takes into account the observations raised by ECC Highways.

In conclusion the Council's Economic Growth Team commend this application for approval.

Affinity Water  
22.03.2022

No comments.

Highways England  
22.03.2022

No objections.

Environmental Protection  
16.03.2022

Thank you for your consultation regarding the proposed development above. The Environmental Protection Team's comments are given below:

#### Noise

I have reviewed the noise report compiled SRL dated 30th June 2021 and EP have no comments to make other than it should be noted that the acoustician recommends plant noise limits for future installations. This is noted in the summary on page 3 of the report.

#### Contaminated Land

I have reviewed the Contaminated Land Phase 1 desk study compiled by Geosphere Environmental Ltd dated 19th June 2017. The recommendation on Page 3 should be implemented.

#### Noise from Construction

In order to minimise potential nuisance to nearby existing residents caused by construction, ground work and/or demolition works, Pollution and Environmental Control ask that conditions as detailed within paragraph 8.2 below are attached.

Anglian Water Services  
Ltd  
28.02.2022

Thank you for your consultation. Having reviewed the development, there is no connection to the Anglian Water sewers, we therefore have no comments.

If this is to change, please re-consult with us.

Essex County Council  
Archaeology  
17.03.2022

The Essex Historic Environment Record (HER) shows that the proposed development lies within an area of archaeological interest.

The proposed development lies adjacent to Clip Hedge Farm along the historic Harwich Road. Harwich road is considered to be Roman in origin and Roman pottery has been recovered close to the road at Hare Green to the west. To the north Iron age pottery was found in a pocket of black ash together with some bone while erecting a pylon. Little archaeological investigation has taken place in the area, however aerial photography has revealed cropmarks suggestive of occupation and activity to the south and southwest of the site and find spots of pottery and metal detecting finds dating to the medieval period have been recovered from the surrounding fields. Settlement and activity along the route of the historic road is evident from the medieval period onwards. Clip Hedge Farm is depicted on the Tithe map of c.1840 and may be medieval in origin.

The above application proposes development across much of the site which would require groundworks that is likely to impact on any potential surviving archaeological remains.

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

**RECOMMENDATION:** Archaeological trial trenching and excavation

1. 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.
2. No development or 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.
3. 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 for recommendation

The Essex HER shows that the proposed development is located within an area with potential for below ground archaeological deposits. The development would result in harm to non-designated heritage assets with archaeological interest.

Further Recommendations:

A professional team of archaeologists should undertake the archaeological work. The archaeological work will comprise initial trial trenching evaluation. 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.

If you have any questions about this advice, please do not hesitate to contact me.

ECC Highways Dept  
31.03.2022

The information that was submitted in association with the application has been fully considered by the Highway Authority. A site visit was undertaken in conjunction with this planning application. The information submitted with the application has been thoroughly assessed and conclusions have been drawn from a desktop study with the observations below based on submitted material. It is noted that the application is similar to previous planning application 17/02014/FUL that the Highway Authority did not object to at the time and was allowed on appeal in May 2020; while eighty percent of vehicle movements will be coming from the A120. Similar to the previous application the proposal offers adequate parking (116 spaces including 12 Blue Badge spaces) and turning facilities plus new bus stop and footway infrastructure that will provide a link between these facilities and the site. Taking these factors into account:

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

1. Prior to occupation of the development, the road junction / access at its centre line shall be provided with a minimum clear to ground visibility splay dimensions of 2.4 metres by 185 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.

2. Prior to occupation of the development a vehicular turning facility, of a design to be approved in writing by the Local Planning Authority shall be constructed, surfaced, and maintained free from obstruction within the site at all times for that sole purpose.

Reason: To ensure that vehicles can enter and leave the highway in a forward gear in the interest of highway safety in accordance with policy DM1.

3. The vehicular access/ road junction shall be constructed at right angles to the highway boundary and to the existing carriageway and shall be provided in principle and accord with amended drawing number: 6793-1113-P5, but not be limited to, the following aspects:

-Carriageway measuring no less than 6.75m in width for the first 22 metres.

-Kerb radii measuring a maximum or no more than 8m.

- o A straight section of carriageway to be provided from the entrance junction for 22 metres.
- 2-metre-wide footway on both sides of the junction and continued around the kerb radii.
- Appropriate pedestrian crossing facilities (drop kerbs/ tactile paving).
- Any other reasonable items to ensure the access is in accordance with current policy standards.

Reason: to ensure that vehicles can enter and leave the highway in a controlled manner in the interest of highway safety in accordance with policy DM1.

4.The gradient and proposed vehicular access/ road junction shall be in accordance with DMRB standards.

Reason: to ensure that vehicles can enter and leave the highway in a controlled manner in the interest of highway safety to ensure accordance with safety in accordance with policy DM1.

5.Prior to commencement of the development details showing the means to prevent the discharge of surface water from the development onto the highway shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be carried out in its entirety prior to the access becoming operational and shall be retained at all times.

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

6.The existing access shall be suitably and permanently closed to the satisfaction of the Local Planning Authority, incorporating the reinstatement to full height of the highway verge, to the satisfaction the Highway Authority immediately the proposed new access is brought into use.

Reason: To ensure the removal of and to preclude the creation of unnecessary points of traffic conflict in the highway in the interests of highway safety in accordance with policy DM1.

7.Prior to occupation the two following items shall be provided entirely at the Developer's expense:  
-Two bus stops, shelters x2, timetables, raised kerbs as shown on the submitted plans  
-Sections of footway (2 metres in width) with associated pedestrian drop kerbs and tactile paving as shown on the plans thereby giving pedestrian access to the aforementioned bus stops.

Reason: To make adequate provision within the highway for the additional pedestrian traffic generated within the highway as a result of the proposed development.

This condition requires a Legal Agreement between the Applicant/Developer and the Highway Authority using the powers

in Section 278 of the Highways Act, 1980.

8. A financial contribution of £10,000 (to be index linked) towards future speed reduction measures on Harwich Road in the vicinity of the site (not restricted to but including the introduction of a 50-mph speed limit). This condition requires a Legal Agreement between the Applicant/Developer and the Highway Authority using the powers in Section 106 of the Highways Act, 1980.

Reason: To make the speed limit compatible with the 50-mph speed limit on the other approaches to the A120 roundabout and to protect highway efficiency of movement and safety and to ensure the proposal site is accessible, in accordance with policy DM1 and DM17.

9. Prior to first occupation of the proposed development, the Developer shall submit a workplace travel plan to the Local Planning Authority for approval in consultation with Essex County Council. Such approved travel plan shall be actively implemented for a minimum period of 5 years. It shall be accompanied by a monitoring fee of £6,132 (plus the relevant sustainable travel indexation) to be paid before occupation to cover the 5-year period.

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.

10. The proposed development shall not be occupied until such time as the vehicle parking area indicated on the approved plans, including any parking spaces for the mobility impaired, has been hard surfaced, sealed and marked out in parking bays. The vehicle parking area and associated turning area shall be retained in this form at all times. The vehicle parking shall not be used for any purpose other than the parking of vehicles that are related to the use of the development unless otherwise agreed with the Local Planning Authority.

Reason: To ensure that on street parking of vehicles in the adjoining streets does not occur in the interests of highway safety and that appropriate parking is provided in accordance with Policy DM8.

11. 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.

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

construction period. The Plan shall provide for:

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

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

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

Notes:

- Prior to any works taking place in the highway the developer should enter into an S278 agreement with the Highway Authority under the Highways Act 1980 to regulate the construction of the highway works
- All or some of the above requirements may attract the need for a commuted sum towards their future maintenance (details should be agreed with the Highway Authority as soon as possible)
- Street lighting will be provided in accordance with ECC Operational Plan.
- All highway related details should be agreed with the Highway Authority.
- The proposed junction layout and footway proposals will require an initial Stage 1 Road Safety Audit.

Informative:

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

The applicants should be advised to contact the Development Management Team by email at [development.management@essexhighways.org](mailto:development.management@essexhighways.org)

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

3: 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  
14.03.2022

Thank you for your consultation.

Natural England has previously commented on this proposal and made comments to the authority in our email dated 23rd February 2022 (Our Ref: 384109).

The advice provided in our previous response applies equally to this amendment although we made no objection to the original proposal.

The proposed amendments to the original application are unlikely to have significantly different impacts on the natural environment than the original proposal.

Should the proposal be amended in a way which significantly affects its impact on the natural environment then, in accordance with Section 4 of the Natural Environment and Rural Communities Act 2006, Natural England should be consulted again. Before sending us the amended consultation, please assess whether the changes proposed will materially affect any of the advice we have previously offered. If they are unlikely to do so, please do not re-consult us.

Tree & Landscape Officer  
01.03.2022

With regard to the impact of the development proposal on trees and hedges on the application site and adjacent land the applicant has provided a tree survey and report that has been carried out in accordance with BS5837: 2012 Trees in relation to design, demolition and construction ' Recommendations.

The report adequately demonstrates that the development proposal can be implemented without causing harm to retained trees and that the installation of underground services close to the boundary hedge, adjacent to Cliphedge Farm, will not impinge on the Root Protection Areas (RPA's) of the retained trees or boundary hedge.

The information provided in relation to soft landscaping is sufficient to secure a good level of new planting that will soften screen and enhance the appearance of the development

Tree & Landscape Officer  
23.03.2022

Further to previous comments and in relation to the avoidance of damage to existing vegetation on the application site and on adjacent land it may be possible to investigate the use of 'Trenchless Technology' which avoids the need to excavate a traditional trench to install underground services.

Essex County Council  
Ecology  
13.05.2022

Thank you for re-consulting Place Services on the above application.

Holding objection due to insufficient ecological information on

## European Protected Species (Hazel Dormice)

### Summary

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

Although not mentioned in the Updated Ecology Report (Skilled Ecology, March 2022), NBN Atlas (<https://nbnatlas.org/>) shows two records of Hazel Dormice in 2011 and 2020 within 2km of the proposed development. One record is within the Little Bentleyhall Wood Local Wildlife Site (LoWS), approximately 600m from the site, a coppiced Hazel and Sweet Chestnut Ancient woodland. Suitable habitat appears to be present given the boundary hedgerows and scrub on site, which are both planned to be partly removed. It is considered possible that Hazel Dormice are likely to be present within and around the site.

Therefore, we are not satisfied that there is sufficient ecological information available for determination of this application and recommend that details of survey results, likely impacts and mitigation measures for Hazel Dormice is provided prior to determination.

The results of these surveys are required prior to determination as government advice states that surveys should be asked for if "distribution and historical records suggest dormice may be present" and "the development will affect an area of woodland, hedgerow or scrub suitable for dormice" Furthermore, 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.

Furthermore, the Local Planning Authority, as a competent authority, should have regard to the requirements of The Conservation of Habitats and Species Regulations 2017 (as amended) when reaching planning decisions and must not leave this until the licence application stage (based on the judgement in the Hack Green Group (Appellant) v Cheshire East Council [2006] - APP/R0660/W/15/3131662). Therefore, if a European Protected Species Mitigation Licence is required for this application, appropriate mitigation measures to support the provision of the

licence must also be outlined prior to determination to allow certainty to the LPA that a licence will likely be granted.

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 look forward to working with the LPA and the applicant to receive the additional information required to support a lawful decision and overcome our holding objection.

No objection subject to securing biodiversity mitigation and enhancement measures.

### Summary

We have further reviewed the recently submitted Updated Ecology Report (Skilled Ecology, June 2022), and Consultee Response - Skilled Ecology (Skilled Ecology, June 2022), along with the Ecology Cover Letter (Skilled Ecology, April 2022), MAGIC maps ([magic.defra.gov.uk/](http://magic.defra.gov.uk/)) and aerial photography, relating to the likely impacts of development on designated sites, protected species and Priority species & habitats and identification of appropriate mitigation measures.

Essex County Council  
Ecology  
10.06.2022 (following  
submission of updated  
Preliminary Ecological  
Assessment)

We are now satisfied that there is sufficient ecological information available for determination of this application.

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

The mitigation measures identified in the Updated Ecology Report (Skilled Ecology, June 2022) should be secured by a condition of any consent and implemented in full. This is necessary to conserve and enhance protected and Priority species particularly Hazel Dormice, Great Crested Newt, bats, nesting bird, Hedgehogs, Brown Hare, Badgers, and Reptiles.

We also support the proposed reasonable biodiversity enhancements of 12 Bat bricks, 6 Sparrow terraces, 4 Starling bricks, 5 Swift bricks, 12 Bee bricks, and Hedgehog friendly fencing which have been recommended by the Updated Ecology Report (Skilled Ecology, June 2022) to secure net gains for biodiversity, as outlined under Paragraph 174d of the National Planning Policy Framework (2021). We further support the enhancements of wildflower grassland areas, native scrub areas, further hedge and shrub planting, tree planting, and sedum roofs for bin and cycle stores which have been recommended by the Ecology Cover Letter (Skilled Ecology, April 2022), and demonstrates measurable net gains for biodiversity on site. These reasonable biodiversity enhancement measures should be outlined within a Biodiversity Enhancement Strategy and should be secured by a condition of any consent.

It is also recommended by the Ecology Cover Letter (Skilled Ecology, April 2022), that a Landscape and Ecological Management Plan (LEMP) should be considered to maximise the proposed enhancements and any retained habitat for the benefit of local wildlife. The LEMP should also be secured by a condition of any consent

In addition, the Updated Ecology Report (Skilled Ecology, June 2022), highlights that it is likely bats could be foraging/commuting within and around the site. Therefore, if any external lighting is to be proposed, it is advised that a sensitive lighting scheme is developed to minimise any impacts. This should summarise the following measures will be implemented:

- Light levels should be as low as possible as required to fulfil the lighting need.
- Warm White lights should be used at <3000k. This is necessary as lighting which emit an ultraviolet component or that have a blue spectral content have a high attraction effect on insects. This may lead in a reduction in prey availability for some light sensitive bat species.
- The provision of motion sensors or timers to avoid the amount of 'lit-time' of the proposed lighting.
- Lights should be designed to prevent horizontal spill e.g. cowls, hoods, reflector skirts or shields.

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

Impacts will be minimised such that the proposal is acceptable, subject to the conditions below based on BS42020:2013. We recommend that submission for approval and implementation of the details below should be a condition of any planning consent.

#### Recommended conditions

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

"All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Updated Ecology Report (Skilled Ecology, June 2022) as already submitted with the planning application and agreed in principle with the local planning authority prior to determination.

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

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



## 2. PRIOR TO ANY WORKS ABOVE SLAB LEVEL: BIODIVERSITY ENHANCEMENT STRATEGY

“A Biodiversity Enhancement Strategy for protected and Priority species shall be submitted to and approved in writing by the local planning authority, following the details contained within Updated Ecology Report (Skilled Ecology, June 2022) and Ecology Cover Letter (Skilled Ecology, April 2022).

The content of the Biodiversity Enhancement Strategy shall include the following:

- a) Purpose and conservation objectives for the proposed enhancement measures;
- b) detailed designs to achieve stated objectives;
- c) locations of proposed enhancement measures by appropriate maps and plans;
- d) timetable for implementation demonstrating that works are aligned with the proposed phasing of development;
- e) persons responsible for implementing the enhancement measures;
- f) details of initial aftercare and long-term maintenance (where relevant).

The works shall be implemented in accordance with the approved details prior to occupation and shall be retained in that manner thereafter.”

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).

## 3. PRIOR TO BENEFICIAL USE: LANDSCAPE AND ECOLOGICAL MANAGEMENT PLAN

“A Landscape and Ecological Management Plan (LEMP) shall be submitted to, and be approved in writing by, the local planning authority prior to the beneficial use of the development [or specified phase of development].

The content of the LEMP shall include the following:

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

And if any external lighting is to be proposed

## 4. PRIOR TO BENEFICIAL USE: WILDLIFE SENSITIVE LIGHTING DESIGN SCHEME

“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 Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species).

## **5. Representations**

5.1 Little Bentley Parish Council have objected to the scheme, raising the following concerns:

- a) Much larger scale than that previously approved;
- b) Speculative development with no particular end users specified, which reduces its economic benefits;
- c) Development such as this should be subject of the sequential test;
- d) Position has now changed following adoption of Local Plan;
- e) Outside of a settlement development boundary and constitutes development in the countryside; and
- f) Design does not represent a rural character.

5.2 Great Bromley Parish Council have objected to the proposed development for the following reasons:

- a) The land is Grade 1 arable;
- b) The Europark development is going ahead within 2 miles and this proposal is not needed;
- c) Believe there is an Article 4 directive on the site;
- d) The site is open countryside;
- e) Loss of wildlife and damage to the environment;
- f) Set a precedent for future developments;
- g) Out of character;
- h) Significant increase in size of the development

5.3 Little Bromley Parish Council have objected to the proposed development for the following reasons:

- a) The site falls outside of a settlement development boundary and Little Bentley is classes as a 'smaller rural settlement', which is the least sustainable location for growth;
- b) The development is out of character with the area, and is much larger in scale to that previously approved;
- c) The scheme is speculative and has no relation to local business and community needs;
- d) Not sensitive to its surroundings;
- e) No significant options to create a significant sustainable access; and
- f) Could set a precedent.

- 5.4 Councillor McWilliams objects to the proposed development and called for it to be determined by the Planning Committee due to highway safety concerns, impacts to neighbouring amenities, and the increase in size of the development to that previously allowed.
- 5.5 In addition, 39 letters of objection (as well as two letters of support) have been received, highlighting the following concerns:
- a) Adverse impacts of increased traffic;
  - b) Inadequate screening of the development;
  - c) Site is a greenfield location;
  - d) No need for the development;
  - e) Impact to local landscape;
  - f) Harm to biodiversity;
  - g) No infrastructure to support development;
  - h) Light pollution;
  - i) Noise pollution;
  - j) Will set a precedent for future development;
  - k) Too close to existing residential properties;
  - l) Outside of a settlement development boundary;
  - m) Insufficient parking provision;

## **6. Assessment**

### Site Description

- 6.1 The application site, which measures 1.30 hectares, lies on the south-eastern side of Harwich Road, midway between the villages of Hare Green to 0.5km the west and Little Bentley 1km to the east. Colchester lies 7km to the west.
- 6.2 The site itself consists of large flat fields, enclosed by trimmed hedges and occasional standard trees. The wider context predominantly consists of a rural character, with large areas of agricultural land to all sides. Immediately adjacent to the north of the site is Clip Hedge Farm including the dwelling and associated outbuildings, with the boundary to this property separated by extensive and mature conifers. To the north-west and north-east lies the A120, with the recently installed roundabout located approximately 250 metres to the north of the site. A pair of cottages ('Thicks Cottages') lie 85m to the west along Harwich Road.
- 6.3 The site falls outside of a recognised settlement development boundary within the adopted local plan, although it does fall within a landscape area described as Bromley Heaths Landscape Character Area (LCA). The neighbouring villages of Frating, Great Bromley and Little Bentley are all classed as Smaller Rural Settlements where there is limited shopping and service opportunities. Elmstead Market (5km) and Great Bentley (3km), which also benefits from a rail station with links to Colchester and Clacton on Sea, are classed as Rural Service Centres and offer a higher standard of provision. Local bus services are limited to an hourly frequency during normal working hours.

### Planning History

- 6.4 In October 2018, under planning reference 17/02014/FUL, an application on this site for 1,687sqm of office development comprising two buildings was refused by the Planning Committee. The reasons for this were that the proposal was considered to be in an isolated location, remote from local services and public transport links and therefore reliant on private vehicles. In addition, the proposal would promote an unacceptable level of traffic visiting the site to the serious detriment of neighbouring amenities, and also it would be harmful to the existing rural character of the locality. A second refusal reason related to the proposal adversely impacting on wildlife and protected species, in particular the presence of Great Crested Newts,

and the suggested mitigation measures were not sufficient to overcome the potential adverse impacts.

- 6.5 An appeal was lodged against this refusal and under appeal reference APP/P1560/W/19/3226387 (dated 26<sup>th</sup> May 2020), the appeal was allowed. The Inspector, in coming to their conclusion, highlighted the proposal would create an attractive hub for a growing business with approximately 36 people being employed, which would be a positive boost for the local economy, and would also sit comfortably within the landscape and would protect the rural character. In addition, the harm to neighbouring amenities and local biodiversity was not considered to be significant. Therefore, whilst it was acknowledged that harm would be caused through conflict with the spatial strategy which directs employment development to defined settlements, this did not significantly and demonstrably outweigh the benefits of the scheme.

### Proposal

- 6.6 This application seeks planning permission for the construction of six buildings to form a commercial business park measuring a total of 3,016sqm.
- 6.7 All of the units will be within Class E(c) and E(e) uses (comprising offices, financial, professional and medical services uses), and are allocated as follows:
- Building 1 - (2.5 storeys with 733sqm floorspace) – Offices
  - Building 2 – (single storey with 236sqm floorspace) – Offices/Studio
  - Building 3 – (two storeys with 618sqm floorspace) - Offices
  - Building 4 – (1.5 storeys with 416sqm floorspace) - Offices
  - Building 5 – (two storeys with 352sqm floorspace) - Offices
  - Building 6 – (single storey with 661sqm floorspace) – medical clinic for preparation and fitting of wheelchairs
- 6.8 Car parking would be provided for 116 cars, including 12 disabled parking spaces. There would also be 54 cycle spaces and 4 motorcycle parking facilities.
- 6.9 The proposal also includes ancillary site works, including landscaping, a new vehicular access from Harwich Road to the north-west, and the stopping of the existing access.

### Principle of Development

- 6.10 Adopted Local Plan Policy PP2 (Retail Hierarchy) states that specific centres across the Tendring District will be the focus for 'town centre uses' which include retail, leisure, commercial, office, tourism and cultural, community and residential development. The Council will promote a mix of appropriate town centre uses within these defined centres with 'active street frontages' at ground floor level. Proposals must be properly related in their scale and nature having regard to the above hierarchy.
- 6.11 Policy PP7 (Employment Allocations) of the Adopted Tendring District Council Local Plan (2022) allocates 32ha of land for new development within use classes B2 (General Industry) and B8 (Storage and Distribution) to support a diversity of employment opportunities. Further, it states that proposals for new employment-related development on land outside of these allocations will be considered having regard to their potential to support economic growth in the district and the requirements of other policies in this Local Plan.
- 6.12 The application site falls outside of a recognised settlement development boundary within the recently adopted local plan. Given the wording of Policy PP7 above, and the recent nature of the Local Plan being adopted, the Council has a sufficient and up to date employment land allocation until the end of the Plan period of 2036. The site is not allocated for employment related uses in the recently adopted Local Plan.

- 6.13 However, a material consideration is the previous appeal decision allowed in May 2020 which has allowed for two office buildings on this site (a total of 1,687sqm of development). Within the decision to allow this development the Inspector has confirmed that the principle of such development on this site is acceptable. That notwithstanding, the proposal subject of this application does provide for a significant expansion of commercial activities compared to this extant planning permission, as well as now including former A2 (financial and professional services) and D1 (non-residential institution) uses.
- 6.14 Chapter 6 of the NPPF (2021) identifies that decisions should help create the conditions in which business can invest and that significant weight should be placed on the need to support economic growth taking into account both local business needs and wider opportunities for development. Paragraph 83 advises that decisions should enable sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings. Paragraph 84 makes it clear that decisions should recognise that sites to meet local business needs in rural areas may have to be found beyond existing settlements and in locations that are not well served by public transport.
- 6.15 The Inspector noted that the principle of encouraging different modes of transport is reflected in the NPPF, however the NPPF also states at paragraph 103 that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and that this should be taken into account in decision making.
- 6.16 Adopted Policy PP13 is concerned with supporting the rural economy and states that, to support growth in the rural economy the Council may grant planning permission for buildings that are essential to support agricultural and farm diversification schemes. This is subject to details consideration against other policy requirements in the Local Plan. The latter part of adopted policy PP7 states that proposals for new employment-related development on land outside of these allocations will be considered having regard to their potential to support economic growth in the district and the requirements of other policies in this Local Plan.
- 6.17 The applicant has provided within their submission a supporting statement that demonstrates the economic benefits of the proposal, which are summarised below:
- The development has the potential to result in up to 152 jobs, with the total number currently confirmed being 67 jobs (this relates purely to Buildings 1, 2 and 6, with the remaining buildings end users not currently known);
  - Following the increase in home/hybrid working following the Covid-19 pandemic, this has created a need for smaller regional centres, and the site could become such a hub, drawing further investment into the district;
  - New businesses located within the site could look to utilise local suppliers within Tendring for a range of needs; and
  - The design of the development incorporates flexibility of unit sizes, enabling businesses to grow and 'move-on' within the development rather than having to seek accommodation outside the district.
- 6.18 The Council's Economic Growth Team have been consulted and strongly support the scheme, as it would set a positive and progressive tone for commercial development in the District. Currently the District has a very poor provision of commercial office space, and that which is available is generally of very poor quality.
- 6.19 Therefore, in this instance it is considered that the proposal is in accordance with the aims and aspirations of national and local plan policies mentioned above, in so far that it concerns the

proposed expansion of an established rural business that would support rural economic growth. This is provided that the proposals can be accommodated without an adverse impact on the landscape character of the countryside and satisfactory access and parking is provided. These issues are covered in more detail below.

### Sequential Test

- 6.19 Paragraph 87 of the NPPF states local planning authorities should apply a sequential test to planning applications for main town centre uses which are neither in an existing centre nor in accordance with an up-to-date plan. Main town centre uses should be located in town centres, then in edge of centre locations; and only if suitable sites are not available (or expected to become available within a reasonable period) should out of centre sites be considered. Paragraph 88 of the NPPF further adds that when considering edge of centre and out of centre proposals, preference should be given to accessible sites which are well connected to the town centre. Applicants and local planning authorities should demonstrate flexibility on issues such as format and scale, so that opportunities to utilise suitable town centre or edge of centre sites are fully explored.
- 6.20 Adopted Local Plan Policy PP4 states that Applications for retail, leisure and office development outside of a centre will require an impact assessment if the development is over specific floorspace thresholds for the nearest defined Town Centre. On this occasion, the nearest defined Town Centre's are Manningtree (4.2 miles apart) and Brightlingsea (4.8 miles apart), and therefore the Sequential Test is required for any developments in excess of 250sqm floorspace.
- 6.21 The Inspector within the previous appeal decision previously reviewed the proposal against the Sequential Test, and confirmed the following:
- "The alternative sites identified would not be suitable for a number of reasons relating specifically to the ability for the business to have a site with a road frontage, and to allow the use of office space and exhibition space. Of those that may offer a road frontage, there was no specific evidence as to when the sites may be available, or if it would match the remaining criteria. Only one of the sites was available with a freehold interest, however that did not meet other criteria. Due to the nature of the appellant's business requiring large exhibition spaces to replicate client retail spaces, and supporting office space, I am satisfied that the alternative sites would not be appropriate, and therefore there are no sequentially preferable sites and the sequential test is passed."*
- 6.22 It is acknowledged that the proposal subject of this application is a significant expansion to that previously assessed by the Inspector. Accordingly, a revised Sequential Test has been provided that has assessed a total of 12 sites in the surrounding area that are either currently being marketed or that have been granted planning consent but are not yet developed. In summary all of these sites are either of an insufficient size to accommodate the development proposed, do not currently have sufficient units remaining, or are not in a suitable location for the development being proposed.
- 6.23 In addition to this, it must also be acknowledged that the intention behind the scheme is to provide a mix of uses and floor spaces contained within Class E, specifically financial, professional, office and medical services. Other uses contained within Class E, such as food and drink consumed on the premises, and retail, do not form part of the proposal. As a result, a scheme of the size being proposed would not be able to be accommodated within the main town centres of Manningtree and Brightlingsea because it has been demonstrated that there are no suitable, available or sufficient sites to accommodate the proposed development. Further, the application site has an extant planning permission for employment uses and it is perfectly reasonable that the applicant would wish to locate this latest extended development proposal, which will continue to include employment uses on this site.

6.24 Given the above, and the Inspector's previous comments within the appeal decision, it is considered that there are no alternative sites that would be appropriate for the development proposed, and as such there are no sequentially preferable sites and the sequential test is therefore passed.

#### Landscape and Visual Impact

6.25 Paragraph 174(b) of the NPPF states that planning decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside.

6.26 Adopted Policy PPL3 confirms the Council will look to protect the rural landscape and refuse planning permission for any proposed development which would cause overriding harm to its character or appearance.

6.27 Adopted Policy SPL3, Part A (c) requires that development respects or enhances local landscape character, views, skylines, landmarks, existing street patterns, open spaces and other locally important features.

6.28 The Inspector in approving the earlier scheme noted, *"the area has a rural feel to it with villages and business sites (a number of which appear as farm clusters that have evolved) interspersed with large fields and open landscapes, delineated by the various trunk roads."*

6.29 However, in also considering the agricultural building design, good landscaping scheme and hard landscaping elements being constructed in light colour permeable block paving, the Inspector concluded *"I find that the proposal would sit comfortably within the landscape and would protect the rural character . . . It would comply with Policies SPL3 and PPL3 of the emerging plan which amongst other things require development to make a positive contribution to the local character and prohibits development that would cause overriding harm to the character of the rural landscape."*

6.30 Upon consultation to this revised larger scheme, the Council's Tree and Landscapes Officer initially confirmed that in terms of the impact of the development on the countryside the application site is situated in the Bromley Heaths Landscape Character Area (LCA) as defined and described in the Tendring District Landscape Character Assessment. The document identifies one of the pressures on the LCA being the 'Urbanising impact of facilities, including buildings and lighting, associated with the A120'. Whilst the development is clearly not directly associated with the A120, the recognised pressure identified in the LCA reflects the potential impact of development associated with, and close to, the A120.

6.31 Therefore the development of the land would, by its very scale and nature, have a detrimental impact on both the character and appearance of the local landscape character. However, a good quality landscaping scheme that addresses both boundary treatment and the internal layout, would soften and screen the development and help to mitigate the harm caused by the change of use of the land.

6.32 Following this, additional landscaping information was provided by the applicant, and the Council's Tree and Landscape Officer, following re-consultation, clarified that the information provided in relation to soft landscaping is sufficient to secure a good level of new planting that will soften screen and enhance the appearance of the development.

6.33 In summary Officers accept that the development results in a degree of harm to the character and appearance of the local landscape by its very nature. However, a material consideration is the extant planning permission for the development of two office buildings on this site, which is the baseline position on which this application must be assessed against. The development

subject of this planning application is larger than the extant planning permission, with six buildings as opposed to two, however a good landscaping scheme has been provided that would help to soften and screen the development. Given this, and that this site has an extant planning permission to be developed regardless of the determination of this planning application, on balance Officers consider that the harm to the landscape is not to such a significant level that it warrants recommending a reason for refusal.

### Impact to Trees

- 6.34 With regard to the impact of the development proposal on trees and hedges on the application site and adjacent land the applicant has provided a tree survey and report that has been carried out in accordance with BS5837: 2012 Trees in relation to design, demolition and construction ' Recommendations.
- 6.29 The report adequately demonstrates that the development proposal can be implemented without causing harm to retained trees and that the installation of underground services close to the boundary hedge, adjacent to Cliphedge Farm, will not impinge on the Root Protection Areas (RPA's) of the retained trees or boundary hedge.
- 6.30 The information provided in relation to soft landscaping is sufficient to secure a good level of new planting that will soften screen and enhance the appearance of the development.

### Design, Layout, Scale and Appearance

- 6.31 Paragraph 130 of the National Planning Policy Framework (NPPF) (2021) requires that developments are visually attractive as a result of good architecture, are sympathetic to local character, and establish or maintain a strong sense of place.
- 6.32 Adopted Policy SP7 of the 2013-33 Local Plan seeks high standards of urban and architectural design, which responds positively to local character and context. Adopted Policy SPL3 Part A (b) requires that development relates well to its site and surroundings, particularly in relation to its siting, height, scale, massing, form, design and materials.
- 6.33 Adopted Policy PPL3 confirms the Council will protect the rural landscape and refuse planning permission for any proposed development which would cause overriding harm to its character or appearance,
- 6.34 In respect of the design of the buildings, the Inspector in allowing the previous development on the site, stated the following:

*“The proposal would incorporate two buildings. Building 1 would face towards the front of the site. At its tallest building 1 would be the same height as the large adjacent farmhouse, however for the majority of its length it would be smaller in scale with a pitched metal roof. The proposed materials would include brick for external surfaces with metal framed openings for doors and windows. Building 2 would be set behind building 1 and would be smaller in scale whilst utilising the same palette of materials. Therefore, whilst the building would have a B1a use, the overall shape and form of the proposal would be similar to agricultural buildings which are commonly found within the area.”*

- 6.35 The proposal includes a mixture of single storey, 1.5 storey, two storey and 2.5 storey buildings, which in line with the extant permission on the site continue to include a shape and form that is of a similar appearance to agricultural buildings, further emphasised with the use of red brick, black timber weather boarding and reconstituted slate/red pan tiles. Building 1, which is located centrally to the front of the site, is the same size and design as that previously approved and will serve as a focal point for the development, with the remaining buildings reduced in size across



the rest of the site. Given the earlier Inspector comments, there are no objections to the proposed design of the buildings.

- 6.36 With respect to the proposed bulk and layout, the proposal will result in a significant increase in the level of floorspace, with the six buildings covering 3,016sqm (as opposed to the previous and extant permission for 1,687sqm).
- 6.37 Within the previous appeal decision, the Inspector was clear that decisions should recognise that sites to meet local business needs in rural areas may have to be found beyond existing settlements, however in these circumstances it is important to ensure the development is sensitive to its surroundings.
- 6.38 Furthermore, the Inspector confirmed support for the use of light colour permeable block paving with differing patterns, as well as the use of extensive trees, shrubs and perennial planting interspersed within the parking area, as these all contributed to breaking up the hard surfaces and adding visual interest to the site.
- 6.39 The proposal submitted includes for a total of six buildings of varying size, with all buildings set back from both the highway and all boundaries. In addition, there are good separation distances between each building, which helps to retain a relatively spacious appearance. However to accommodate this additional floorspace, there is also an increase in the level of hardstanding to facilitate the car parking requirements. Consequently, while there is good levels of soft landscaping to each boundary, this is less than was provided previously, and in addition there is less planting interspersed within the main body of the site, which creates a feeling of overbearing built form in this rural location.
- 6.40 In terms of the impact of the development on the countryside, the application site is situated in the Bromley Heaths Landscape Character Area (LCA) as defined and described in the Tendring District Landscape Character Assessment. The document identifies one of the pressures on the LCA being the '*Urbanising impact of facilities, including buildings and lighting, associated with the A120*'. Whilst the development is clearly not directly associated with the A120, the recognised pressure identified in the LCA reflects the potential impact of development associated with, and close to, the A120.
- 6.41 The development of the land would, by its very scale and nature, have a detrimental impact on both the character and appearance of the local landscape character. However, it is accepted that a good quality landscaping scheme would soften and screen the development and help to mitigate the harm caused by the change of use of the land.
- 6.42 Therefore in summary the proposed development does include good levels of soft landscaping, as well as rural style buildings of a good design and varying sizes which maintain good separation distances, all of which aid in reducing the visual harm and help the proposal assimilate well within this rural location. However, it is also acknowledged that the development would represent a significant increase in bulk, and as a result, the level of floorspace previously allowed at appeal, as well as significant additional hardstanding to accommodate the necessary car parking requirements, which naturally results in a level of harm to the areas character. On balance, whilst it is difficult to conclude that the proposal is a form of overdevelopment, given the spacing/soft landscaping to all boundaries and that sufficient parking is provided, Officers do feel there is a degree of harm to the character and appearance of the surrounding area, representing a minor conflict with the aforementioned national and local planning policies.

#### Highway Safety

- 6.43 Paragraph 108 of the National Planning Policy Framework 2021 seeks to ensure that safe and suitable access to a development site can be achieved for all users. Paragraph 111 of the Framework states that Development should only be prevented or refused on highways grounds

if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. Paragraph 113 states that all developments that will generate significant amounts of movement should be required to provide a travel plan, and the application should be supported by a transport statement or transport assessment so that the likely impacts of the proposal can be assessed.

- 6.44 Policy SPL3 (Part B) of the Adopted Local Plan seeks to ensure that access to a new development site is practicable and the highway network will be able to safely accommodate the additional traffic the proposal will generate and provision is made for adequate vehicle and cycle parking.
- 6.45 Adopted Policy CP1 (Sustainable Transport and Accessibility) states 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. In addition, planning applications for new major development likely to have significant transport implications will normally require a Transport Statement. If the proposal is likely to have significant transport implications or a Transport Assessment, the scope of which should be agreed in advance between the District Council and the applicant, in consultation with Essex County Council as the Highway Authority.
- 6.46 It is acknowledged that the proposed access correlates with that previously approved on the site, however the development would result in an intensification of the use of this access.
- 6.47 Essex Highways Authority have been consulted and do not object to the development subject to a series of conditions relating to visibility splays, a vehicular turning facility, the vehicular access/road junction being constructed at right angles to the existing carriageway, the gradient of the proposed access, details of the means to discharge surface water, the suitable closing of the existing access, provision of two bus stops/shelters and sections of footway two metres in width, the marking out of parking bays, cycle provision, and the submission of a Construction Management Plan. All of these conditions are considered to be reasonable and are recommended to be included in the event planning permission is granted.
- 6.48 In addition two further conditions relating to a financial contribution towards future speed restrictions and the submission of a workplace travel plan have been recommended. However, these cannot be agreed via condition, and instead need to be secured by way of a legal agreement. Given the number of employees the proposal generates and that it is not located in a highly sustainable location, it is considered that these are reasonable requests.
- 6.49 The Essex Parking Standards have not been updated since the introduction of Class E, however do state that Use Class A2 would previously have required one space per 20sqm of floorspace, Use Class B1 would have required one space per 30sqm of floorspace, and for Use Class D1 one space per full time equivalent member of staff as well as three spaces per consulting room. There are four clinic rooms and seven staff members proposed for the proposed medical building (Building 6).
- 6.50 Depending on the eventual use of Buildings 1-5, there would be a requirement for between 79 and 118 parking spaces, with an additional 12 spaces required for Building 6. Therefore a total requirement of 91 and 130 parking spaces are required when assessed against the Essex Parking Standards. The proposal demonstrates a total of 116 parking spaces, 12 of which are for disabled persons, as well as 54 cycle spaces and four PTW spaces. These all adhere with the Essex Parking Standards.
- 6.51 Therefore, subject to the inclusion of the recommended conditions, Officers do not consider that the development would result in significant highway safety harm to justify recommending a reason for refusal.

### Impact to Neighbouring Amenities

- 6.52 Paragraph 130 of the National Planning Policy Framework (2021) confirms planning policies and decisions should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.
- 6.53 Policy SP7 of Section 1 of the 2013-33 Local Plan requires that the amenity of existing and future residents is protected. Section 2 Policy SPL 3 (Part C) seeks to ensure that development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties.
- 6.54 Within the previous decision on this site for two buildings, concern was raised by the Planning Committee in relation to the impacts to neighbouring amenities, particularly to Cliphedge Farm to the north. However, in allowing the application, the Inspector stated the following:
- “Whilst I appreciate that the development would change the view from the windows on the side of Cliphedge Farm and the outbuilding to the front of the property, I do not consider that it would be oppressive or result in a loss of privacy. There is an element of noise from the A120 and Harwich Road, and I do not consider that the proposal would result in an increase in traffic and activity that would be detrimental to the living conditions of those occupying Cliphedge Farm due to noise or disturbance.”*
- 6.55 Given this, the Inspector concluded that the proposal was compliant with local plan policies seeking to ensure adequate daylight, outlook and privacy for existing residents. As such the baseline position is that it has previously been accepted that the development of the application site can be undertaken without significant harm to neighbouring amenities, and therefore the key consideration for this application is to assess the impacts of the additional development being proposed.
- 6.56 The development is larger than that previously approved, and it is acknowledged that Building 2 is located close to the boundary for Cliphedge Farm. Therefore, during discussions with the applicant, amended plans have been provided that have reduced this building from 1.5 storey to single storey. Given this amendment, the overall separation distances and proposed soft landscaping to complement the existing boundary vegetation, there is not considered to be significant harm in respect of loss of daylight/sunlight or the proposal appearing oppressive.
- 6.57 In respect of potential noise disturbances, Officers accept that the increased development will see more vehicular movements from those entering and exiting the site than previously approved. Notwithstanding the earlier comments relating to significant separation distances, the surrounding area (including the A120 and new roundabout) must also be taken in to consideration, as must the extant permission on the site. Given all of the above, and that the application form confirms opening hours of 7am to 6pm Monday to Friday, 9am to 4pm Saturdays and no opening on Sundays/Bank Holidays, the noise generated from the development is not considered to be excessive enough to warrant recommending a reason for refusal.
- 6.58 An objection received has raised concerns with regards to the impacts of the proposed picnic tables, which are located to the north-eastern section of the site, on the amenities of the adjacent property. However, given that these would only be expected to be used at limited hours during the working day, and the significant separation distance discussed above, the harm generated from this is not considered significant enough to recommend a reason for refusal.

### Impact to Biodiversity

- 6.59 Paragraph 174 of the Framework states planning decisions should contribute to and enhance the natural and local environment, by minimising impacts and providing net gains for biodiversity.
- 6.60 Paragraph 180(a) of the NPPF confirms that in assessing planning applications where significant harm to biodiversity as a result of a development cannot be avoided, adequately mitigated or, as a last resort, compensated for, then planning permission should be refused.
- 6.61 Adopted Policy SP7 requires that all new development should incorporate biodiversity creation and enhancement measures. Adopted Policy SPL3 Part A(d) includes that the design and layout of development should maintain or enhance ecological value.
- 6.62 Following consultation, ECC Place Services (Ecology) initially raised a holding objection given that the Ecological Impact Assessment accompanying the application submission was out of date (being approximately five years old).
- 6.63 Accordingly a further survey was undertaken in March 2022 and an updated Ecology Report was provided by the applicant, alongside a biodiversity net gain calculation document. Following further consultation ECC Place Services (Ecology) again raised a holding objection due to insufficient ecological information on European Protected Species (Hazel Dormice) having been provided. There was therefore not considered to be sufficient ecological information available to be able to determine the planning application.
- 6.64 However, following the submission of a revised Preliminary Ecological Assessment that accounted for Hazel Dormice, the previous objections have now been removed, with ECC Place Services (Ecology) stating that there is now sufficient information to provide certainty of the likely impacts to the Local Planning Authority, and also the information provided demonstrates that with appropriate mitigation measures secured the development can be made acceptable. Conditions to secure such mitigation and enhancement measures are recommended to be included.

#### Drainage

- 6.65 Policy PPL1 states that all development proposals should include appropriate measures to respond to the risk of flooding on and/or off site and that on sites of 1ha or more, development proposals must be accompanied by a Flood Risk Assessment. Furthermore, all major development proposals should consider the potential for new Blue and Green Infrastructure to help mitigate potential flood risk and include such Green Infrastructure, where appropriate.
- 6.66 Policy PPL5 requires that all new development must make adequate provision for drainage and sewage treatment and should include sustainable drainage systems (SuDS). Applicants should explain and justify the reasons for not using SuDS if not included in their proposals. Furthermore, proposals for development must demonstrate that adequate provision exists for sewage disposal.
- 6.67 Policy SPL3, Part B criterion g), requires that development reduces flood risk and integrates sustainable drainage within development, creating amenity and enhancing biodiversity.
- 6.68 Paragraph 167 of the Framework provides that when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere.
- 6.69 Intermodal Transportation Ltd were appointed by the applicant to produce a Flood Risk Assessment. The method proposed for the drainage of surface water from the site would be to discharge a controlled flow from the development into a nearby ditch. The runoff would be collected by a gravity network discharged to an attenuation buried cellular structure. The

discharge from the attenuation would be controlled by a pump at a rate of 1.5l/s to the nearby ditch.

- 6.70 Essex SuDS have been consulted and have stated that having reviewed the Flood Risk Assessment (FRA) and the associated documents which accompany the planning application, they do not object subject to conditions relating to being in accordance with the FRA, the submission of a maintenance plan, and maintaining yearly logs of maintenance.
- 6.71 With regards to foul drainage, this would be achieved by a gravity sewer serving each plot and draining to a pump station in the eastern corner of the site. This would lift the foul sewerage into a treatment plant. The clean water would then be discharged, via a pump at a rate of 1.8l/s, to the nearby ditch. In addition, the site is not close to any designated site of importance to biodiversity, nor is it located within close proximity to any watercourse. The site is not located within a Drinking Water Safeguard Zone or a Source Protection Zone, and the site is sufficiently large enough to accommodate a soakaway.
- 6.72 During the determination of the application, to address potential concerns to the neighbouring residential property, a revised plan has been provided that shows the drainage easement from the site will now run past 'Clip Hedge Farm' and further north away from the site. Initially it was more closely related to this property.
- 6.73 The Environment Agency and Natural England have been consulted and note that foul water is to be disposed of via a Package Treatment Plant as there are no mains sewerage available in the area, and have raised no objections.

#### Planning Balance and Conclusion

- 6.74 This planning application seeks permission for the erection of a commercial business park measuring a total of 3,016sqm and comprising six buildings. Given the context that there is an extant planning permission for 1,687sqm of office development comprising two buildings on this site, Officers are content that the buildings are of a suitable design for this rural location and do not consider there to be significant harm to the amenities of any neighbouring residents. Essex Highways Authority raise no objections, and the parking being provided is in accordance with the Essex Car Parking Standards. There is no significant harm to trees and the soft landscaping scheme provided would sufficiently soften, screen and enhance the development. Following the submission of an amended Preliminary Ecological Assessment, ECC Place Services (Ecology) raise no objections, and the Environment Agency, Natural England and Essex SuDS also do not object on flood risk and drainage grounds.
- 6.75 Officers acknowledge the significant increase in bulk and resultant floorspace to the scheme previously allowed, as well as a significant increase in hardstanding for car parking. The development does allow for sufficient levels of soft landscaping, particularly to all boundaries, and retains good separation distances between each building, thereby ensuring the development does not appear overdeveloped. However due to the increase in bulk and hardstanding for car parking (over and above the levels allowed under the appeal) the proposal results in a level of harm to the character and appearance of the area, and therefore represents a minor conflict with Adopted Policies SPL3 and PPL3 as well as Paragraph 130 of the NPPF.
- 6.76 The above notwithstanding, the proposed development represents a strong economic boost to the District, with provision for up to 152 jobs, which compares favourably to the extant permission that provided for 36 jobs. Given this, the Council's Economic Growth Team offer strong support and consider it would set a positive and progressive tone for commercial development in the district, which currently has very poor provision of commercial office space, and what provision there is, is generally of very poor quality. In addition, a Sequential Test has been undertaken, and Officers are content that it has been demonstrated there are no other sequentially preferable sites where the development could instead be located.

6.77 Taking all of the detailed considerations above into consideration, on balance Officers consider that the strong economic benefits of the proposed development outweigh the identified harm to the character and appearance of the surrounding area, and accordingly the planning application is recommended for approval.

## **7. Recommendation**

7.1 The Planning Committee is recommended to grant planning permission subject to the following conditions and informatives.

### **7.2 Conditions and Reasons**

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

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

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

Drawing Numbers:

6793-1111-P3 - Location Plan, 6793-1113-P5 – Proposed Site Plan, 6793-1311-P2 – Unit 1 Proposed Elevations, 6793-1212-P3 – Unit 2 Proposed Plans & Elevations, 6793-1213-P2 – Unit 3 Proposed Plans, 6793-1313-P3 – Unit 3 Proposed Elevations, 6793-1214-P2 – Unit 4 Proposed Plans, 6793-1314-P3 – Unit 4 Proposed Elevations, 6793-1401-P3 – Site Sections, 6793-1601-P2 – Aerial View, 6793-1602-P2 – Site Entrance View,

2075-WWA-ZZ-XX-DR-L-0300 PL05 – Outline Planting Plan, 2075-WWA-ZZ-XX-DR-L-0100 PL05 – Landscape Layout, 6793-1122-P3 – Vehicle Tracking Plan, 3225.101 1.0 – Site Plan Proposed Amendments to Electricity Infrastructure, IT2199/DE/01 Rev B – Easement Plan for Site Drainage, IT2199/DS/002 Rev B – Proposed Foul Water Drainage Strategy, EDS 07-3102.01 Rev C – Unit or Padmount Substation in a GRP Enclosure Civil Layout – Sheet 1 of 3, EDS 07-3102.01 Rev A – Unit or Padmount Substation in a GRP Enclosure Earthing Layout – Sheet 2 of 3, EDS 07-3102.01 Rev A – Unit or Padmount Substation in a GRP Enclosure Small Power and Lighting – Sheet 3 of 3, EDS 07-3102.15 Rev B – Freestanding brick-built substation for a transformer up to 1000kVA Earth Ring, EDS 07-3102.BE Rev A – Earthing arrangements for freestanding substations with brick enclosures', and EDS 07-3102.BP Rev B – Small power and lighting for brick-built, integral and basement secondary substations.

Documents titled 'Noise Impact Assessment' dated 30<sup>th</sup> June 2021, 'Design and Access Statement' dated February 2022, Infiltration Testing at Clip Hedge Farm, Little Bentley', 'Updated Preliminary Ecological Appraisal' dated 2<sup>nd</sup> June 2022, 'Biodiversity Net Gain Calculation' dated 27<sup>th</sup> April 2022, 'Supporting Statement' dated 25<sup>th</sup> April 2022, Flood Risk Assessment and Drainage Strategy' dated March 2022, 'Alder Park Utilities Note' dated 22<sup>nd</sup> February 2022, 'Arboricultural Impact Assessment' dated 23<sup>rd</sup> February 2022, 'Sustainability Statement' dated November 2021, 'Transport Assessment' dated July 2021, 'Travel Plan Framework' dated July 2021, Landscape and Visual Impact Assessment' dated December 2021, and 'Impact Assessment Report' dated 6<sup>th</sup> December 2021.

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

- 3 Prior to first use of the development, the road junction/access at its centre line shall be provided with a minimum clear to ground visibility splay dimensions of 2.4 metres by 185 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.

- 4 Prior to first use of the development a vehicular turning facility, of a design to be approved in writing by the Local Planning Authority shall be constructed, surfaced, and maintained free from obstruction within the site at all times for that sole purpose.

Reason: To ensure that vehicles can enter and leave the highway in a forward gear in the interest of highway safety.

- 5 Prior to the first use of the hereby approved development, the vehicular access/road junction shall be constructed at right angles to the highway boundary and to the existing carriageway and shall be provided in principle and accord with amended drawing number: 6793-1113-P5, but not be limited to, the following aspects:

- Carriageway measuring no less than 6.75m in width for the first 22 metres.
- Kerb radii measuring a maximum or no more than 8m.
- A straight section of carriageway to be provided from the entrance junction for 22 metres.
- 2-metre-wide footway on both sides of the junction and continued around the kerb radii.
- Appropriate pedestrian crossing facilities (drop kerbs/ tactile paving).

Reason: To ensure that vehicles can enter and leave the highway in a controlled manner in the interest of highway safety.

- 6 The gradient and proposed vehicular access/road junction shall be constructed in accordance with DMRB standards.

Reason: To ensure that vehicles can enter and leave the highway in a controlled manner in the interest of highway safety.

- 7 Prior to development exceeding slab level of the development details showing the means to prevent the discharge of surface water from the development onto the highway shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be carried out in its entirety prior to the access becoming operational and shall be retained at all times.

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

- 8 The existing access shown on the approved drawings shall be suitably and permanently closed to the satisfaction of the Local Planning Authority, incorporating the reinstatement to full height of the highway verge, prior to the proposed new access is brought into use unless an alternative timeframe is agreed in writing by the Local Planning Authority.

Reason: To ensure the removal of and to preclude the creation of unnecessary points of traffic conflict in the highway in the interests of highway safety.

- 9 The proposed development shall not be occupied until such time as the vehicle parking area indicated on the approved plans, including any parking spaces for the mobility impaired, has been hard surfaced, sealed and marked out in parking bays. The vehicle parking area and

associated turning area shall be retained in this form at all times. The vehicle parking shall not be used for any purpose other than the parking of vehicles that are related to the use of the development unless otherwise agreed with the Local Planning Authority.

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

- 10 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.

- 11 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 as may be agreed shall be adhered to throughout the construction period. As a minimum the Plan shall provide details for:
- a) vehicle routing,
  - b) the parking of vehicles of site operatives and visitors,
  - c) loading and unloading of plant and materials,
  - d) storage of plant and materials used in constructing the development,
  - e) wheel and underbody washing facilities;
  - f) hours of construction to be agreed;
  - g) mobile plant to be resident on site during extended works shall be fitted with non-audible reversing alarms (subject to HSE agreement);
  - h) details of piling to be carried out;
  - i) details of all construction waste management, including recycling;
  - j) details of dust prevention measures

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.

- 12 Operational use of the site as hereby permitted shall be confined to the following hours:

Mondays to Fridays – 7am – 6pm  
Saturdays – 9am – 4pm  
Sundays and Bank Holidays – Closed

There shall be no working outside of these agreed hours.

Reason – In the interests of protecting the amenities of neighbouring residents.

- 13 The buildings hereby permitted shall not be occupied until works to accommodate charging points for electrical vehicles have been provided on the site to serve the development hereby permitted, in accordance with details that have first been submitted to and approved in writing by the local planning authority. The points shall thereafter be retained.

Reason - In order to support sustainable transport.

- 14 Unless previously agreed in writing by the Local Planning Authority, there shall be no external floodlighting installed or erected within the site.

Reason - To ensure adequate safeguarding of the amenity of nearby properties, protected species and prevent the undesirable, disruptive and disturbing effects of light pollution.



- 15 All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Updated Ecology Report (Skilled Ecology, June 2022).

Reason: To conserve and enhance protected and Priority species.

- 16 Prior to any works above slab level, a Biodiversity Enhancement Strategy for protected and Priority species shall be submitted to and approved in writing by the local planning authority. The content of the Biodiversity Enhancement Strategy shall include the following:

- a) Purpose and conservation objectives for the proposed enhancement measures;
- b) detailed designs to achieve stated objectives;
- c) locations of proposed enhancement measures by appropriate maps and plans;
- d) timetable for implementation demonstrating that works are aligned with the proposed phasing of development;
- e) persons responsible for implementing the enhancement measures;
- f) details of initial aftercare and long-term maintenance (where relevant).

The works shall be implemented in accordance with the approved details prior to occupation or as agreed in the timetable(d) that may be approved and shall be retained in that manner thereafter.

Reason: To enhance protected and Priority species and habitats.

- 17 Prior to occupation of the hereby approved use, a Landscape and Ecological Management Plan (LEMP) shall be submitted to, and be approved in writing by, the local planning authority. The content of the LEMP shall include the following:

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

Reason: To enhance protected and Priority species and habitats.

- 18 Prior to occupation of the hereby approved use, a lighting design scheme for biodiversity shall be submitted to and approved in writing by the local planning authority. 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.

Reason: To enhance protected and Priority species and habitats.

- 19 a) No development or preliminary groundworks of any kind shall take place until a Written Scheme of Investigation has been submitted to, and approved in writing by, the local planning authority.

b) No development or preliminary groundworks of any kind shall take place until the completion of the programme of archaeological investigation identified in the Written Scheme of Investigation.

c) 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: In the interests of preserving any possible historic artefacts found on the host site.

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

Reason: To avoid pollution to local amenity.

- 21 The development permitted by this planning permission shall be carried out in accordance with the approved Flood Risk Assessment and the mitigation measures detailed within it. The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing/phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

Reason: To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site, and to ensure the effective treatment of surface water runoff to prevent pollution.

- 22 Prior to occupation of the hereby approved development, a maintenance plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, shall be 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.

- 23 The applicant or any successor in title must maintain yearly logs of maintenance which should be carried out in accordance with the 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.

- 24 The building shall be used for Class E(c) and E(e) and for no other purpose including any other purpose in Class E of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (or in any provision equivalent to that Class in any Statutory instrument revoking and re-enacting that Order with or without modification).

Reason - In order to allow the Local Planning Authority to assess the impacts of any alternative uses not considered within this application.

### 7.3 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.

Highways Informatives:

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

The applicants should be advised to contact the Development Management Team by email at [development.management@essexhighways.org](mailto:development.management@essexhighways.org)

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

3: 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.

## **8. Additional Considerations**

### Public Sector Equality Duty (PSED)

- 8.1 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:
  - 8.2 A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
  - 8.3 B. Advance equality of opportunity between people who share a protected characteristic and those who do not. This may include removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; taking steps to meet the special needs of those with a protected characteristic; encouraging participation in public life (or other areas where they are underrepresented) of people with a protected characteristic(s); and
  - 8.4 C. Foster good relations between people who share a protected characteristic and those who do not, including tackling prejudice and promoting understanding.
- 8.5 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, being married or in a civil partnership, race including colour, nationality and ethnic or national origin, religion or belief, sex and sexual orientation.
- 8.6 The PSED must be considered as a relevant factor in making this decision but does not impose a duty to achieve the outcomes in section 149 and section 149 is only one factor that needs to be considered, and may be balanced against other relevant factors.
- 8.7 It is considered that the recommendation to grant permission in this case would not have a disproportionately adverse impact on a protected characteristic.

### Human Rights

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

#### Finance Implications

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

### **9. Background Papers**

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