

## DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	MP	27/06/22
Planning Development Manager authorisation:	JJ	30/06/2022
Admin checks / despatch completed	DB	01.07.2022
Technician Final Checks/ Scanned / LC Notified / UU Emails:	ER	01/07/2022

**Application:** 22/00620/FUL **Town / Parish:** Weeley Parish Council

**Applicant:** Mr David Fuller

**Address:** The Oaks Clacton Road Weeley Heath

**Development:** Proposed erection of seven dwellings, garage buildings and associated development following demolition of two existing dwellings.

### **1. Town / Parish Council**

Weeley Parish Council  
17.05.2022

Weeley PC considered this application at its meeting on 16 May 2022 and resolved to object to it for the reasons set out below.

Part of the proposed development falls outside the village envelope shown in the Local Plan.

The current outline permission is for less houses on the site. Parish Councillors are concerned that this application represents a significant increase in the density of the proposed development and would represent over development.

Five bedroom houses in this location would bring a significant number of additional vehicles. It is disingenuous to suggest that the residents would not need to use motor vehicles. This is a rural location with poor public transport facilities. Local residents need to drive motor vehicles.

### **2. Consultation Responses**

ECC Highways Dept  
20.05.2022  
(Initial Comments)

I have been reviewing the above application this morning and I have a couple of points I would like to raise with this application, they are:

- Please can the applicant provide a drawing which shows the appropriate clear to ground visibility splays in both directions with a minor or "X" distance of 2.4 metres by "Y" distance:
  - a. "Y" distance of 56 metres for vehicles travelling along Clacton Road on the approach to the proposed access (vehicles approaching from the south-east).
  - b. "Y" distance of 56 metres for vehicles travelling along Clacton Road on the non-approach to the proposed access (vehicles approaching from the north-west).
- A Highway Boundary Plan should be obtained from ECC Highway Records to establish the line of the highway boundary to the front of the development site splay distance in both directions as measured from and along the nearside edge of the carriageway to establish whether or not the appropriate visibility splays can be achieved. Email address Highway.Status@essexhighways.org
- With the increase in the number of dwellings compared to the

previous applications would the applicant be willing (where possible) to widen the existing footway across the site frontage only to a maximum width of 1.8 metres, within the extents of the public highway?

Tree & Landscape Officer  
05.05.2022  
(Initial Comments)

The application site is well populated with trees several of which make a positive contribution to the character and appearance of the public realm. Trees on the boundary with the highway and adjacent to Tudor lodge are afforded formal legal protection by Tree Preservation Order 19/04/TPO

The site layout appears to show that the positions of the proposed new dwellings is such that construction could take place without resulting in an incursion into the Root Protection Areas of the retained trees.

However the applicant has not provided technical evidence to this effect by way of a tree survey and report.

Therefore in order to demonstrate that the development proposal can be implemented without causing harm to protected and retained trees and to show how retained trees will be physically protected for the duration of any planning permission, that may be granted, the applicant should provide an Arboricultural Impact Assessment (AIA) as part of a Tree Survey and Report.

This information should be provided prior to the determination of the planning application and be in accordance with BS5837: 2012 Trees in relation to design, demolition and construction ' Recommendations

Should planning permission be likely to be granted then a soft landscaping condition should be attached to secure details of new soft landscaping.

UU Open Spaces  
18.05.2022

Response from Public Realm  
Open Space & Play

Application Details

Application No 22/00620/FUL

Site Address: The Oaks Clacton Weeley Heath Clacton on Sea

Description of Development: Proposed erection of seven dwellings, garage buildings and associated development following demolition of two existing dwellings.

Current Position

There is currently a deficit of -2.18 hectares of equipped play and formal open space in Weeley.

Recommendation

No contribution is being requested from Open Spaces on this occasion, however should there be further development at this site a contribution may be required.

ECC Highways Dept  
24.05.2022  
(Amended comments)

The information submitted with the application has been fully assessed by the Highway Authority and conclusions reached based on a desktop study in conjunction with a previous site visit. The site is

following submission of additional information)

situated on the B1441 Clacton Road that is subject to a 30-mph speed limit and has an existing 1.2 metre footway running across the frontage of the plot. It is noted that the application is similar to two previous applications (17/02072/OUT and 19/00723/OUT) that the Highway Authority did not object to; with the more recent application being allowed on appeal. The proposed development would re-position and upgrade the existing vehicular access and will provide adequate room and provision for cycle storage and off-street parking and turning, for the proposed development, considering these factors:

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

1. Prior to occupation of the development, the access at its centre line shall be provided with a minimum visibility splay with dimensions of 2.4 metres by 56 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 private 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 1.5 metre x 1.5 metre pedestrian visibility splay, as measured from and along the highway boundary, shall be provided on both sides of the vehicular access. Such visibility splays shall be retained free of any obstruction in perpetuity. These visibility splays must not form part of the vehicular surface of the access.

Reason: To provide adequate inter-visibility between the users of the access and pedestrians in the adjoining public highway in the interest of highway safety in accordance with policy DM1.

3. Prior to the occupation of the development the internal layout and parking proposals shall be provided in principle with drawing numbers:

o09-2022-02p - Proposed site layout plan.

o09-2022-11p - Plots 1, 4 and 5 - proposed garage floor plan and elevations.

o09-2022-12p - Plots 2, 3, 6 and 7 - proposed garage floor plan and elevations.

Reason: To ensure that vehicles using the site access do so in a controlled manner, in the interests of highway safety and in accordance with Policy DM1.

4. Prior to the occupation of any of the proposed dwellings, the proposed private drive shall be constructed to a width of 5.5 metres for at least the first 6 metres from the back of footway and provided with an appropriate dropped kerb crossing of the footway/verge.

Reason: To ensure that vehicles can enter and leave the highway in a controlled manner and to ensure that opposing vehicles can pass clear of the limits of the highway, in the interests of highway safety in accordance with policy DM1.

5. No unbound material shall be used in the surface treatment of the

vehicular access/ private drive throughout.

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

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

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

7. Any part of the redundant existing access at its junction with Clacton Road shall be suitably and permanently closed incorporating the reinstatement to full height of the highway verge / footway / kerbing immediately the proposed new access is brought into first beneficial 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.

8. Any new boundary planting shall be planted a minimum of 1 metre back from the highway boundary and any visibility splay.

Reason: To ensure that the future outward growth of the planting does not encroach upon the highway or interfere with the passage of users of the highway, to preserve the integrity of the highway and in the interests of highway safety and in accordance with Policy DM1.

9. The proposed development shall not be occupied until such time as the vehicle parking area indicated on the approved plans, has been hard surfaced, sealed and if required 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.

10. Prior to occupation of the proposed development, the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack per dwelling, for sustainable transport, approved by Essex County Council, (to include six one day travel vouchers for use with the relevant local public transport operator)

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

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

Informative:

1: All work within or affecting the highway is to be laid out and

constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.

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

2: General Note: The proposed vehicular accesses within the site shall be constructed at right angles to the proposed carriageway and shall be provided with an appropriate dropped kerb vehicular crossing of the footway/highway verge.

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.

Tree & Landscape Officer  
17.06.2022  
(Amended comments following submission of additional information)

In order to demonstrate that the development proposal can be implemented without causing harm to protected and retained trees and to show how retained trees will be physically protected for the duration of any planning permission, that may be granted, the applicant has now provided an Arboricultural Impact Assessment (AIA) as part of a Tree Survey and Report.

This information is in accordance with BS5837: 2012 Trees in relation to design, demolition and construction - Recommendations

The information provided adequately demonstrates that the development proposal can be implemented without causing harm to protected and retained trees.

### **3. Planning History**

91/00704/FUL	Detached double garage with storage accommodation	Approved	27.08.1991
96/00415/FUL	(The Oaks, Clacton Road, Weeley Heath) Extension and alteration and use of garage/store for ancillary accommodation	Refused	28.05.1996
97/01565/FUL	(The Oaks, Clacton Road, Weeley Heath) Variation of condition 3 of consent TEN/91/704 to allow usage of Games Room with changing and toilet facilities and render and timber cladding to building	Approved	13.03.1998
17/02072/OUT	Residential development of 0.6 ha of land to create five detached self-build custom-build houses.	Refused	30.01.2018
19/00701/OUT	Proposed demolition of 2no. dwellings & replacement with 3no. detached houses.	Approved	11.12.2019

19/00723/OUT	Proposed demolition of dwelling and development of four self-build or custom built houses.	Refused (allowed at appeal)	11.12.2019
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#### **4. Relevant Policies / Government Guidance**

NPPF National Planning Policy Framework July 2021

National Planning Practice Guidance

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

SP1 Presumption in Favour of Sustainable Development

SP2 Recreational disturbance Avoidance and Mitigation Strategy (RAMS)

SP3 Spatial Strategy for North Essex

SP4 Meeting Housing Needs

SP7 Place Shaping Principles

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

SPL1 Managing Growth

SPL3 Sustainable Design

PPL3 The Rural Landscape

PPL4 Biodiversity and Geodiversity

PPL5 Water Conservation, Drainage and Sewerage

PPL10 Renewable Energy and Energy Efficiency Measures

LP1 Housing Supply

LP2 Housing Choice

LP3 Housing Density and Standards

LP4 Housing Layout

CP1 Sustainable Transport and Accessibility

DI1 Infrastructure Delivery and Impact Mitigation

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

Essex Design Guide

## **Status of the Local Plan**

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

In relation to housing supply:

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

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

## **5. Officer Appraisal**

### **Site Description**

The application site is located on the southern section of Clacton Road within the parish of Weeley, and measures approximately 0.83 hectares in size and forms part of the residential curtilage of The Oaks, Clacton Road, Weeley. The site currently consists of two existing dwellings; The Oaks and Cuckoo's Nest.

The character of the surrounding area is semi-rural, with large areas of grassed and agricultural land further out to all sides, however residential development is present within the immediate surrounding area along Clacton Road as well as the roads leading off Clacton Road further to the north. The site falls outside of a recognised Settlement Development Boundary, as agreed within the Adopted Tendring Local Plan 2013-2033.

### **Site History**

Outline planning permission for five detached dwellings was refused under planning reference 17/02072/OUT at the application site subject of this application. The reasons for refusal were centred around the site not falling within a recognised Settlement Development Boundary and being an unsustainable location for development, and also that it represented a form of backland development that would appear out of character in its setting and could set a harmful precedent at a time where the Council was able to demonstrate a five year supply of housing land. This decision was also dismissed at appeal (appeal reference APP/P1560/W/18/3200806).

Following this, under reference 19/00701/OUT, planning permission was granted in December 2019 for the erection of three dwellings, following the demolition of the two existing dwellings on site.

In addition under reference 19/00723/OUT, an application for the erection of four self-build or custom built dwellings following the demolition of 'Cuckoo's Nest' was refused planning permission on the grounds that it represented a development that would substantially urbanise the character of the area, thereby being significantly intrusive to the rural landscape.

This decision was, however, allowed at appeal (reference APP/P1560/W/20/3246370, dated 7th August 2020). The Inspector considered that "*The proposal would be out of character with the rurality of the surroundings, causing harm to the character and appearance of the area*", however also gave significant weight to the Council at that time being unable to demonstrate a five year housing land supply. Given this, and that the impacts of the development would not be to the wider rural landscape, the Inspector gave more weight to the public benefits of the scheme in providing housing supply and helping support a prosperous rural economy.

It is, however, key to note that the Inspector afforded significant weight to the development being for self-build dwellings, stating within the planning balance section that "*In this instance the housing proposed is of a specific type, being for self-build housing, which is supported by the Framework*" and "*Weighing against this are the significant benefits arising from the development in terms of housing supply and addressing a particular housing need.*"

### Description of Proposal

This application seeks planning permission for the erection of seven dwellings following the demolition of two existing dwellings (The Oaks and Cuckoo's Nest), thereby a net increase of five dwellings.

The dwellings are all to be two storeys and arranged in a cul-de-sac layout, each being served by a detached double garage and accessed via Clacton Road to the east.

### Assessment

#### 1. Principle of Development

The application site falls outside of a recognised Settlement Development Boundary within the recently Adopted Local Plan. However, a material consideration to this application is that there are two extant planning permissions on the site for a total of seven dwellings under planning permissions 19/00701/OUT and 19/00723/OUT. While four of these seven approved were for self-build dwellings, it is still a strong material consideration that seven dwellings have extant planning permission on this site, and can be implemented regardless of the determination of this application. Given this the proposal does not look to increase the number of dwellings to that previously approved and accordingly, on balance, the principle of development is acceptable.

That notwithstanding, given that the Council would not typically support new residential development in this location and is only able to because of the extant planning permissions, a condition will be included to restrict the time limit for the commencement of development to accord with the previous permissions, instead of the usual three year time limit condition that would typically be included for such a planning permission.

#### 2. Impact on the Character of the Area

Paragraph 130 of the 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.

Policy SP7 of the 2013-33 Local Plan seeks high standards of urban and architectural design which responds positively to local character and context, and to protect the district's landscape and the quality of existing places and their environs. Policy SPL3 and LP4 of the 2013-33 Local Plan also require, amongst other things, that developments deliver new dwellings that are designed to high standards and which, together with a well-considered site layout which create a unique sense of place.



The seven dwellings are arranged in a cul-de-sac design that broadly follows the indicative layouts shown within the two extant permission on the site. It also partly mirrors the layout agreed and built within Kidby Way, approximately 150 metres to the north. The layout includes two dwellings to the front of the site facing towards Clacton Road, which helps provide visual interest when looking into the site. The dwellings themselves are all reasonably well separated and each include a detached double garage, and overall the proposal does not appear cramped or overdeveloped.

In terms of the design of the dwellings, each are to be two storeys in height, with three differing designs put forwards. These design differences visually enhance the proposal, adding variety and interest to the scheme. The dwellings large and detached nature is also in-keeping with the character of the area, and therefore no objections are raised in this respect.

Initially, concerns were raised with regards to the siting of the bin compound store, located to the north-western corner of the site adjacent to the sites proposed access, in that it had the potential to result in visual harm from the street scene. During discussions with the agent for the application amended plans have been provided that have rotated the bin compound store 90 degrees to reduce its prominence when accessing and egressing the site, and includes additional planting to all sides to screen the area. Consequently, while the bin storage area to the front of the site is not encouraged by Officers, the amended plans result in an enhanced visual appearance that significantly reduce its prominence, and therefore on balance there is not significant harm in this respect to warrant recommending a reason for refusal. A condition will however be recommended for full details of the fencing encompassing the bin compound area.

### 3. Impact to Neighbouring Amenities

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.

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.

The nearest residential properties are located to the north-west (Tudor Lodge) and south-east (Orchard House). However, there is significant separation distance and existing/proposed boundary vegetation that will ensure there will not be significant harm in respect of loss of daylight/sunlight, overlooking or the development appearing oppressive. In addition, the development allows for an internal layout and separation distances that would not detract from the amenities of the future occupiers of the proposed dwellings.

Furthermore, the dwellings are served by a private amenity space of a size and configuration that will appropriately meet the needs and expectations of the future occupants and which is commensurate to the size of dwelling and the character of the area, in accordance with Policy LP4 of the 2013-2033 Local Plan.

The site can satisfactorily accommodate the proposed dwellings without giving rise to detrimental impacts on residential amenities for existing or future occupants.

### 4. Tree Impacts

The Council's Tree and Landscape Officer has been consulted, and initially confirmed that the site layout appeared to show the positions of the proposed new dwellings is such that construction could take place without resulting in an incursion into the Root Protection Areas of the retained trees, however no technical evidence in the form of a tree survey and report had been provided to confirm this.

Accordingly, the applicant has since provided a Tree Survey and Report, and following re-consultation the Council's Tree and Landscape Officer has stated that the Arboricultural Impact

Assessment adequately demonstrates that the development proposal can be implemented without causing harm to protected and retained trees.

In addition, conditions to secure soft landscaping to help soften the impacts of the development will also be attached to this decision.

## 5. Highway Safety

Paragraph 110 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, whilst Paragraph 104 requires that streets, parking and other transport considerations are integral to the design of schemes, and contribute to making high quality places.

Adopted Policy CP1 (Sustainable Transport and Accessibility) of the Tendring District Local Plan 2013-2033 states that planning permission will only be granted if amongst other things; access to the site is practicable and the highway network will be able to safely accommodate the additional traffic the proposal will generate and the design and layout of the development provides safe and convenient access for people.

Essex Highways Authority initially requested additional information to demonstrate clear to ground visibility splays in both directions of the access point, which was subsequently provided. Following this Essex Highways confirmed no objections subject to a number of conditions being imposed. One condition was to request the submission of a Residential Travel Information Pack, however given the minor nature of the scheme it is not considered reasonable to attach such a condition on this occasion.

Furthermore, the Essex County Council Parking Standards (2009) set out the parking requirements for new development, and confirm that for residential properties of two bedrooms or more there should be two parking spaces measuring a minimum of 5.5 metres x 2.9 metres or, if being used as one of the parking spaces, a garage should measure a minimum of 7 metres x 3 metres. The submitted information demonstrates this would be achievable for all proposed dwellings.

## 6. Foul and Surface water Drainage

Paragraph 174 of the Framework states that planning policies and decisions should contribute to and enhance the natural and local environment by preventing new development from contributing to unacceptable levels of water pollution. Furthermore, Paragraph 185 of the Framework states that planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects of pollution on the natural environment.

Policy PPL5 of Section 2 of the adopted Local Plan states that all new development must make adequate provision for drainage and sewerage. Private sewage treatment facilities will not be permitted if there is an accessible public foul sewer. Where private sewage treatment facilities are the only practical option for sewage disposal, they will only be permitted where there would be no harm to the environment, having regard to preventing pollution of groundwater and any watercourses and odour.

The agent for the application has confirmed via an email received 6th May 2022 that the development would be connected to the existing public foul sewer. This is in accordance with the above policy requirements and is therefore considered to be acceptable in the event of an approval.

In terms of surface water drainage there is a risk of the development increasing the risk of surface water flooding to the neighbouring properties. Therefore it is considered reasonable to add a condition to the grant of planning permission seeking surface water drainage details to be submitted and approved by the Local Planning Authority thus to ensure that the development would not be at undue risk of flooding or increase the risk of flooding elsewhere.

## 7. Ecology and Biodiversity

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.

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.

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.

The consideration of the two outline applications on this site did not consider that development at the site would adversely affect any ecological designations, or protected species. The development would not involve the removal of any protected trees or significant vegetation that would raise biodiversity issues, and in any case the two planning permissions on the site are extant and can be implemented regardless of the determination of this application. It would not therefore be reasonable to request ecology surveys are undertaken.

## 8. Climate Change and Renewable Energy

Recently adopted Policy SPL3, Part B criterion d), states that an applicant must demonstrate how the proposal will minimise the production of greenhouse gases and impact on climate change, as per the Building Regulations prevailing at the time and policies and requirements in the Local Plan. Following the Council declaring a climate emergency and its adoption of Policy PPL10, there is a requirement for a Renewable Energy Generation Plan (REGP), to set out measures that will be incorporated into the design, layout and construction, aimed at maximising energy efficiency and the use of renewable energy.

Under Policy PPL10 measures to be considered include the provision of electric vehicle charging points. Paragraph 112 e) of the Framework states that applications for development should be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations.

Given that no information has been provided within the application submission and in accordance with the above policies, the use of a planning condition to require the submission of a REGP is reasonable and necessary, and is recommended to be included as a condition.

## 9. Financial Contributions - Open Space and Rams

### (i) Open Space

Paragraph 55 of the National Planning Policy Framework (2021) states Local Planning Authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Paragraph 57 of the NPPF states planning obligations must only be sought where they are necessary to make the development acceptable in planning terms, directly relate to the development and fairly and reasonably relate in scale and kind to the development.

Section 2 Policy HP5 states that the Council will work with partners and sports providers across the district to maintain, expand and improve the quality and accessibility of public open space, sports and recreational facilities of different types and will aim to achieve and exceed standards set out in the Council's 2017 Open Spaces Strategy or any future update. Financial contributions will also be sought through s106 legal agreements (or an appropriate alternative mechanism) towards ongoing maintenance.

In line with the requirements of Section 2 Policy HP5 the Council's Open Space Team have been consulted on the application to determine if the proposal would generate the requirement for a

financial contribution toward public open or play space. The outcome of the consultation is that no contribution is being requested on this occasion.

## (ii) Habitat Regulations Assessment

Under the Habitats Regulations, a development which is likely to have a significant effect or an adverse effect (alone or in combination) on a European designated site must provide mitigation or otherwise must satisfy the tests of demonstrating 'no alternatives' and 'reasons of overriding public interest'. There is no precedent for a residential development meeting those tests, which means that all residential development must provide mitigation.

The application scheme proposes a residential use on a site that lies within the Zone of Influence (Zoi) being approximately 5 kilometres from the Hamford Water SAC, SPA and Ramsar. New housing development within the Zoi would be likely to increase the number of recreational visitors to these sites and in combination with other developments it is likely that the proposal would have significant effects on the designated site. Mitigation measures must therefore be secured prior to occupation.

A unilateral undertaking has been prepared to secure this legal obligation. This will ensure that the development would not adversely affect the integrity of European Designated Sites in accordance with Section 1 Policy SP2 and Section 2 Policy PPL4 of the Tendring District Local Plan 2013-2033 and Regulation 63 of the Conservation of Habitat and Species Regulations 2017.

## Other Considerations

Weeley Parish Council object to the application for the following reasons:

1. Site partly outside of a settlement development boundary;
2. The outline permission is for less houses than that proposed;
3. Represents overdevelopment; and
4. Significant increase in vehicles in a rural location with poor public transport facilities.

In answer to this, points 1, 2 and 3 are addressed within the main body of the report above. In response to point 4, Essex Highways Authority do not raise any objections while it is also acknowledge there are extant planning permissions for the same number of dwellings on this site.

In addition there have been two other letters of objection, raising the following concerns:

1. Sited outside of the village envelope;
2. Not in-keeping with street scene/character of the area;
3. Impacts to trees on site;
4. The previous planning permissions were 'either/or' as they overlapped;
5. Highway safety implications;
6. Overdevelopment; and
7. Harm to neighbouring amenities.

In answer to this, points 1, 2, 3, 5, 6 and 7 are addressed within the main body of the report. To respond to point 4, the two planning permissions previously allowed are both in outline form and the layouts provided for these are indicative.

## Conclusion

The application site falls outside of a recognised Settlement Development Boundary within the Adopted Local Plan. However, given that there are two extant planning permissions for a net increase of five dwellings (the same as being proposed within this application) that can be implemented regardless of the determination of this application, the principle of development is acceptable. It is acknowledged that one of the extant planning permissions was for self build dwellings and the make up of this proposal is different (7 market dwellings), however this is not a matter considered to be significant enough to influence the planning balance. Following the submission of additional information there are no significant concerns with regards to visual

impacts or impacts to neighbouring amenities, trees or highway safety. Accordingly the application is recommended for approval.

## **6. Recommendation**

Approval.

## **7. Conditions**

- 1 The development hereby permitted shall be begun before 7th August 2023.

Reason - To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004, and to reflect that residential development is only supported on this site given the extant planning permissions.

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

Drawing Numbers 09-2022-01P, 09-2022-02PB, 09-2022-22PB, 9536-D-AIA Rev A, 09-2022-03P, 09-2022-04P, 09-2022-05P, 09-2022-06P, 09-2022-07P, 09-2022-08P, 09-2022-09P, 09-2022-10P, 09-2022-11P, 09-2022-12P, and the documents titled 'Planning Statement', 'Tree Survey an Arboricultural Impact Assessment Revision A' dated 24th June 2022.

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

- 3 Prior to occupation of the development, the access at its centre line shall be provided with a minimum visibility splay with dimensions of 2.4 metres by 56 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 private access and those in the existing public highway in the interest of highway safety.

- 4 Prior to occupation of the development a 1.5 metre x 1.5 metre pedestrian visibility splay, as measured from and along the highway boundary, shall be provided on both sides of the vehicular access. Such visibility splays shall be retained free of any obstruction in perpetuity. These visibility splays must not form part of the vehicular surface of the access.

Reason: To provide adequate inter-visibility between the users of the access and pedestrians in the adjoining public highway in the interest of highway safety.

- 5 Prior to the occupation of the development the internal layout and parking proposals shall be provided in principle with drawing numbers:

09-2022-02pb - Proposed site layout plan, 09-2022-11p - Plots 1, 4 and 5 - proposed garage floor plan and elevations, and 09-2022-12p - Plots 2, 3, 6 and 7 - proposed garage floor plan and elevations.

Reason: To ensure that vehicles using the site access do so in a controlled manner, in the interests of highway safety

- 6 Prior to the occupation of any of the proposed dwellings, the proposed private drive shall be constructed to a width of 5.5 metres for at least the first 6 metres from the back of footway and provided with an appropriate dropped kerb crossing of the footway/verge.

Reason: To ensure that vehicles can enter and leave the highway in a controlled manner and to ensure that opposing vehicles can pass clear of the limits of the highway, in the interests of highway safety.

- 7 No unbound material shall be used in the surface treatment of the vehicular access/ private drive throughout.

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

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

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

- 9 Any part of the redundant existing access at its junction with Clacton Road shall be suitably and permanently closed incorporating the reinstatement to full height of the highway verge / footway / kerbing immediately the proposed new access is brought into first beneficial 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.

- 10 Any new boundary planting shall be planted a minimum of 1 metre back from the highway boundary and any visibility splay.

Reason: To ensure that the future outward growth of the planting does not encroach upon the highway or interfere with the passage of users of the highway, to preserve the integrity of the highway and in the interests of highway safety.

- 11 The proposed development shall not be occupied until such time as the vehicle parking area indicated on the approved plans, has been hard surfaced, sealed and if required 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.

- 12 Prior to above ground works of the development hereby approved, a hard and soft landscaping scheme shall have first been submitted to and agreed in writing by the local planning authority, including details of any boundary treatment. Thereafter, the hard landscaping and boundary treatment shall be implemented in accordance with the details which may have been agreed prior to first occupation. Soft landscaping shall be implemented in accordance with the details which may have been approved in the first planting season following substantial completion of the development. Any species planted becoming diseased or dying within 3 years of planting shall be replaced to the satisfaction of the local planning authority.

Reason - In the interests of visual amenity, biodiversity enhancement and landscape protection.

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

Reason - In order to soften and mitigate the visual impact of the development on the remaining open fields beyond having regard to the semi-rural setting of the site.

- 14 No development shall take place until precise details of the provision, siting, design and materials of screen walls and fences, including to the bin compound area, have been submitted to and approved in writing by the Local Planning Authority. The approved screen walls and fences shall be erected prior to the dwellings to which they relate being first occupied and thereafter be retained in the approved form.

Reason - In the interests of visual amenity.

- 15 Prior to the commencement of development a Renewable Energy Generation Plan (REGP) must be submitted to and approved in writing by the Local Planning Authority. The REGP shall provide details of the electric car charging points for each unit hereby approved and include all other measures that are to be incorporated into the design, layout and construction of the development hereby approved in order to maximising energy efficiency and the use of renewable energy. Thereafter, the development shall comply with the REGP and the approved measures implemented prior to first occupation.

Reason: In order to ensure that the development contributes towards reducing carbon emissions in addressing climate change, in accordance with Policy PPL10 and SPL3.

- 16 No development shall take place until a Sustainable Drainage Strategy and associated detailed design, management and maintenance plan of surface water drainage for the site using SuDS methods has been submitted to and approved in writing by the Local Planning Authority. The approved drainage system shall be implemented in accordance with the approved Sustainable Drainage Strategy prior to the use of the building commencing and maintained thereafter for the lifetime of the development.

Reason: To prevent the increased risk of flooding by ensuring the provision of a satisfactory means of surface water disposal is incorporated into the design and the build and that the principles of sustainable drainage are incorporated into this proposal and maintained for the lifetime of the proposal.

## **8. 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: General Note: The proposed vehicular accesses within the site shall be constructed at right angles to the proposed carriageway and shall be provided with an appropriate dropped kerb vehicular crossing of the footway/highway verge.

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.