

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	DC	22.07.2022
Planning Development Manager authorisation:	JJ	22/07/2022
Admin checks / despatch completed	ER	22/07/2022
Technician Final Checks/ Scanned / LC Notified / UU Emails:	MP/ER	22/07/2022

Application: 22/00695/FUL **Town / Parish:** Great Bentley Parish Council

Applicant: Mr Steve Williams - Hill Residential Construction Ltd

Address: Admirals Farm Heckford's Road Great Bentley

Development: Proposed revised application for the construction of a new mixed use building consisting of medical wellness and polyfunctional facilities E (e) and retail (Use Class E(a)) alongside associated vehicle access, parking, landscaping and other associated works.

1. Town / Parish Council

Great Bentley Parish
Council
09.06.2022

The Parish Council would object to this planning application for the following reasons:

There is no traffic impact statement. Originally 84 houses - now others added taking the total to over 110 houses. Could have 9 exits onto Heckford Road - safety aspect. Michael Wright Way is designed as an s shaped road - this creates a pinch point at the entrance to any retail area. Light up retail area - negative aspect on rural landscape. Light Pollution. Dangerous pedestrian crossing (has blind bend). The impact of a retail area (Tesco) on the nearby playground. The Parish Council would object to this planning application. Parish Council Meeting 08/06/22.

2. Consultation Responses

Anglian Water Services
Ltd
20.05.2022

ASSETS

Section 1 - Assets Affected

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

WASTEWATER SERVICES

Section 2 - Wastewater Treatment

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

Section 3 - Used Water Network

This response has been based on the following submitted documents:
Application Form Development will lead to an unacceptable risk of

flooding downstream. Anglian Water will need to plan effectively for the proposed development, if permission is granted. We will need to work with the applicant to ensure any infrastructure improvements are delivered in line with the development. (a full assessment cannot be made due to lack of information, the applicant has not identified a discharge rate or connection point)

We therefore request a condition requiring phasing plan and/or on-site drainage strategy.

(1) INFORMATIVE - Notification of intention to connect to the public sewer under S106 of the Water Industry Act Approval and consent will be required by Anglian Water, under the Water Industry Act 1991. Contact Development Services Team 0345 606 6087.

(2) INFORMATIVE - Notification of intention to connect to the public sewer under S106 of the Water Industry Act Approval and consent will be required by Anglian Water, under the Water Industry Act 1991. Contact Development Services Team 0345 606 6087.

(3) INFORMATIVE - Protection of existing assets - A public sewer is shown on record plans within the land identified for the proposed development. It appears that development proposals will affect existing public sewers. It is recommended that the applicant contacts Anglian Water Development Services Team for further advice on this matter. Building over existing public sewers will not be permitted (without agreement) from Anglian Water.

(4) INFORMATIVE - Building near to a public sewer - No building will be permitted within the statutory easement width of 3 metres from the pipeline without agreement from Anglian Water. Please contact Development Services Team on 0345 606 6087.

(5) INFORMATIVE: The developer should note that the site drainage details submitted have not been approved for the purposes of adoption. If the developer wishes to have the sewers included in a sewer adoption agreement with Anglian Water (under Sections 104 of the Water Industry Act 1991), they should contact our Development Services Team on 0345 606 6087 at the earliest opportunity. Sewers intended for adoption should be designed and constructed in accordance with Sewers for Adoption guide for developers, as supplemented by Anglian Water's requirements.

Section 4 - Surface Water Disposal

The preferred method of surface water disposal would be to a sustainable drainage system (SuDS) with connection to sewer seen as the last option. Building Regulations (part H) on Drainage and Waste Disposal for England includes a surface water drainage hierarchy, with infiltration on site as the preferred disposal option, followed by discharge to watercourse and then connection to a sewer.

From the details submitted to support the planning application the proposed method of surface water management does not relate to Anglian Water operated assets. As such, we are unable to provide comments in the suitability of the surface water management. The Local Planning Authority should seek the advice of the Lead Local Flood Authority or the Internal Drainage Board. The Environment Agency should be consulted if the drainage system directly or indirectly involves the discharge of water into a watercourse. Should

the proposed method of surface water management change to include interaction with Anglian Water operated assets, we would wish to be reconsulted to ensure that an effective surface water drainage strategy is prepared and implemented.

Section 5 - Suggested Planning Conditions

Anglian Water would therefore recommend the following planning condition if the Local Planning Authority is mindful to grant planning approval.

Used Water Sewerage Network (Section 3)

We have no objection subject to the following condition:

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

ECC Highways
28.06.2022

(Initial objection due to the lack of a Transport Statement) - From a highway and transportation perspective the impact of the proposal is NOT acceptable to the Highway Authority for the following reasons:

The developer has not demonstrated that the proposal would be acceptable in terms of highway safety and efficiency.

The applicant should be invited to provide such additional information as listed below upon receipt of which would enable further consideration to be given to the application.

The proposal is therefore contrary to policy DM1, DM9, DM13 contained within the County Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

ECC Highways
15.07.2022

(Following consideration of the submitted Transport Statement) - 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 a previous planning application. The information submitted with the application has been assessed and conclusions have been drawn from a desktop study with the observations below based on submitted material.

Access to the development will be from an established access road known as Michael Wright Way and forms part of a 20-mph zone. It is noted that the site currently has planning permission for the construction of a new Doctor's surgery that was allowed at appeal in November 2017 and the Highway Authority did not raise an objection to the proposals, subject to conditions.

The new proposal would see a reduction in the gross floor area of the building compared to the Doctor's surgery, from 929 sqm to 739 sqm, consisting of a 372 sqm food retail unit and 367 sqm of medical wellness facility spaces, spread across 4 units. The assessment undertaken within the supporting information demonstrates that the

proposed change of use will result in a slight increase in vehicle movements to and from the site by 17 during the AM peak hour and 11 during the PM peak hour which is less than 1 additional vehicle every 3 – 5 minutes during the AM and PM peak hours respectively.

However, it is considered that a large majority of the vehicle movements associated with the food retail unit will be pass-by or diverted trips which are already on the road network. The proposals include provision of new pedestrian access to the site connecting the proposed building with the existing Admirals Green pedestrian facilities to encourage local residents to walk to the site, while the site offers adequate off-street, car and cycling parking in accordance with the parking standards, 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 road junction / access at its centre line shall be provided with a visibility splay with dimensions of 2.4 metres by 33 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 obstruction above 600mm 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 the occupation of the development the internal layout and footway connections shall be provided in principle with drawing number:

HBG/5K/101/01 Proposed block plan

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.

3. Prior to occupation of the development the areas within the site identified for the purpose of loading/unloading/reception and storage of deliveries and manoeuvring shall be provided clear of the highway and retained thereafter for that sole purpose.

Reason: To ensure that appropriate loading / unloading facilities are available in the interest of highway safety in accordance with policy DM1.

4. 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.

5. 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.

6. 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.

7. 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.

8. 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. the parking of vehicles of site operatives and visitors,
- ii. loading and unloading of plant and materials, storage of plant and materials used in constructing the development,
- iii. wheel and underbody washing facilities.
- iv. 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:

- A RSA1 for the proposed access and off-site highway improvement scheme to be provided, ideally to be carried out by Essex Highways (to avoid the issue of additional items being identified at RSA2 stage which can then delay technical approval) roadsafety.audit@essexhighways.org
- All highway related details should be agreed with the Highway Authority.
- Priority for pedestrians and cyclists across internal junctions. (Internal layout subject to a 20mph Zone).

Tree & Landscape Officer
19.05.2022

The application site is set to grass and does not contain any trees or other significant vegetation. The site and the land immediately adjacent to the application site is flat and generally featureless with a rural and agricultural character.

Taking into account the location of the proposed building it is likely to appear as an incongruous feature in its setting and has the potential to adversely affect the local landscape character. The application site currently contributes to the soft edge of the Gt Bentley settlement and any development on this land would be likely to erode the rural character of the area.

In order to quantify the likely impact of the building and associated development on the local landscape character it may be desirable for the applicant to provide a Landscape and Visual Impact Assessment (LVIA).

This document would set out the baseline qualities of the existing local landscape character and show the changes to both the character and visual qualities of the area that would result if the proposed development were to be implemented.

Should planning permission be likely to be granted then a condition should be attached to secure details of a comprehensive soft landscaping scheme to soften and screen the building and to, so far as is possible, help to assimilate the building into its setting.

Building Control and
Access Officer
16.05.2022

No adverse comments at this time.

NHS East Essex CCG
06.06.2022

The CCG is aware of the proposals and will not be making any further comment at this stage.

Essex County Council
Archaeology
24.05.2022

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

The proposed development lies immediately north of the historic settlement at Green Corner which appears as a small hamlet which grew up at the junction of Heckford's road at the northern edge of Bentley Green which is likely to be medieval in origin.

To the north the HER records a circular cropmark which may be prehistoric in date and various linears in the surrounding area are mapped. Immediately adjacent to the site an archaeological evaluation revealed medieval to postmedieval features of agricultural origin and a number of undated features. Immediately west of the site evaluation and excavations have revealed well preserved elements of Bronze Age and Iron Age settlement activity. Recent excavation east of Heckford's Road has revealed evidence for Roman activity

associated with settlement.

The above application proposes development which would require groundworks that are likely to impact on any potential surviving archaeological remains. The following recommendations are made in line with the National Planning Policy Framework (Para 194 and 205):

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.

3. Relevant Planning History

22/00621/FUL	Proposed erection of six detached dwellings, associated garaging and infrastructure and additional public open space.	Current (Opposite the site)	
22/00402/ROC	Removal of condition 12 iii of application 16/00133/OUT as Essex County Council had agreed that bus stops were not required in Heckford's Road and instead a contribution would be made to improve existing bus stops in Great Bentley.	Current (includes part of site)	
21/01560/FUL	Proposed erection of six detached	Refused	28.03.2022

	dwelling and associated garaging and infrastructure (uplift on original application - 16/00133/OUT that approved the erection of 50 dwellings, garages, roads and associated works)	(Opposite the site – awaiting appeal start date)	
20/01054/DETAIL	Reserved matters application for a doctor's surgery for application 16/01999/OUT allowed at appeal APP/P1560/W/17/3174843.	Approved (includes application site)	23.10.2020
21/00739/FUL	Relocation of proposed locally equipped play area (LEAP).	Approved (adjacent to site)	06.07.2021
19/01021/OUT	Variation of condition 12 of approved application 16/00133/OUT to amend clause (ii).	Approved (includes part of site)	17.10.2019
18/01796/DISCON	Discharge of Conditions 7 (tree protection measures), 9 (phasing plan), 10 (landscape & public open space management plan), 14 (ecological mitigation & management plan), 15 (construction method statement), and 17 (local recruitment strategy) of 16/00133/OUT.	Approved (includes landscaping on part of site)	09.01.2019
16/01999/OUT	A doctor's surgery and twenty five dwellings, associated infrastructure and landscaping.	Refused (includes the site - allowed at appeal)	04.04.2017
16/01912/DETAIL	Proposed erection of 50 dwellings, garages and associated works.	Approved (includes part of site)	12.05.2017
16/00133/OUT	Proposed erection of 50 dwellings, garages, roads and associated works.	Approved (includes part of site)	28.09.2016
15/00682/OUT	Proposed erection of 75 dwellings, garages, roads and associated works.	Refused (includes part of site)	08.01.2016

4. Relevant Policies / Government Guidance

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 (The PPG)

Tendring District Shared Strategic Section 1 Local Plan (January 2021)
Tendring District Section 2 Local Plan (January 2022)

Relevant Section 1 Policies

SP1 Presumption in Favour of Sustainable Development
SP3 Spatial Strategy for North Essex
SP6 Infrastructure and Connectivity
SP7 Place Shaping Principles

Relevant Section 2 Policies

SPL1 Managing Growth
SPL2 Settlement Development Boundaries
SPL3 Sustainable Design
HP1 Improving Health and Wellbeing
PP1 New Retail Development
PP2 Retail Hierarchy
PP3 Village and Neighbourhood Centres
PP4 Local Impact Threshold
PP5 Town Centre uses
PPL1 Development and Flood Risk
PPL4 Biodiversity and Geodiversity
PPL5 Water Conservation, Drainage and Sewerage
PPL7 Archaeology
PPL8 Conservation Areas
PPL10 Renewable Energy Generation and Energy Efficiency Measures
CP1 Sustainable Transport and Connectivity
CP2 Improving the Transport Network

Supplementary Planning Guidance

Essex County Council Development Management Policies 2011 (the Highways SPD)
Essex County Council Parking Standards Design and Good Practice Guide 2009
Essex Minerals and Waste Local Plan (Safeguarded Sand & Gravel Area 1)

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. There is no neighbourhood plan for Great Bentley.

5. Representations

The application was publicised by way of site notice and immediate neighbours were notified in writing. In response 63 objections and 2 letters of support were received, comment made on material planning grounds therein may be summarised as follows:

Objection:

- Harm to vehicle and pedestrian safety.
- Increase in congestion on the local highway network which is unsuitable.
- Michael Wright Way has been designed with bends that do not allow two larger delivery vehicles to pass easily without one vehicle giving way to the other.
- No certainty that the existing Tesco store would close – the proposal would compound congestion.
- Poor accessibility/pedestrian connectivity – lack of footpaths and street lighting.
- Parking may be displaced onto surrounding residential streets.
- Absence of a Transport Assessment.

- Juxtaposition with the adjacent children's play area.
- Harmful urbanising effect on village character and appearance.
- Harmful to the setting of Great Bentley Conservation Area.
- Incongruous design, inappropriate layout and scale.
- Loss of public open space.
- Noise, air and light pollution, and litter – harm to living conditions of neighbours.
- Lack of justification for replacement of the approved surgery, which should remain an option until such point as NHS funding is available.
- Existing nearby centres already have large Tesco Stores.
- Harm to the viability of village shops and services.
- The existing more central and accessible store should be improved.
- Concern over antisocial behaviour.
- Loss of agricultural land.
- Harm to ecology.
- The proposed medical facility would be private and not therefore benefit the community.
- The evidence supplied of highway problems with the existing site is unverifiable.
- Increase in carbon emissions.
- There are no public benefits that would outweigh the harm.
- Site area is stated inconsistently through the supplied Planning Statement.

Support:

- The existing store is causing highway safety problems – provided there is a crossing point as part of the proposal, if it alleviates the current situation it would be beneficial to highway safety.
- There is ample parking provided with the proposal.

The Parish Council object for the following reasons:

- Lack of a Traffic Impact Assessment.
- Harm to pedestrian and highway safety.
- Highway safety due to the number of junctions on Heckford Road.
- Light pollution.
- Harm to the rural landscape.
- Impact on the adjacent playground.

Ward Councillor Lynda McWilliams has requested that the application be considered by the Planning Committee in the event that approval were to be recommended, for reasons which can be summarised as follows:

- Harm to the character and appearance of the area and the setting of the village, the conservation area and its village green.
- Inappropriate design, which, together with the car parking, would be out of character.
- Inappropriate scale of retail and business development proposed.
- The amount of development is greater than was for the doctor's surgery.
- Concern over pedestrian accessibility.
- Light pollution.
- Conflict with the adjacent children's play area.
- The same approach to landscaping should be followed as in the case with development [Fusiliers Green] on the opposite side of Heckford's Road.

These issues raised by these representations are considered below.

6. Officer Appraisal

Background

A doctor's surgery was granted outline permission on the site together with 25 dwellings to the east (appeal APP/P1560/W/17/3174843 - application 16/01999/OUT). Reserved matters approval for means of access, appearance, landscaping, layout and scale of the doctor's surgery was granted in October 2020 (application 20/01054/DETAIL). Following these decisions a locally equipped area of play was approved adjacent to the site to the east (application reference: 21/00739/FUL) in a relocation from earlier approvals for housing.

The Site

The application site comprises former agricultural land, the majority of which would appear to be outside of the Settlement Development Boundary (SDB) for Great Bentley. Together with other agricultural land adjoining the site to the northeast, the site contributes significantly to the countryside setting of the village on approach from the north travelling down Heckford's Road.

The proposal

Full planning permission is sought for a two storey mixed-use building which would contain a retail store on the ground floor (Use Class E(a)) with a gross internal area (GIA) of 372m², and a 'Polyfunctional' medical facility (Use Class E(e)) on the first floor with a GIA of 367m², together with access, parking (50 spaces), landscaping and associated works. Hours of opening for the retail store would be 06:00 to 23:00. The Polyfunctional facility would be 08:00 to 20:00 Monday to Friday, and 08:00 to 17:00 on Saturdays. The building would be constructed of brick, roofed in concrete tiles, with white UPVC windows and black steel storefront sliding doors. The application form does not give details of proposed employee numbers, but in a later statement is said to be 15 in relation to the Tesco store.

Principle of Development and Retail Impact

Policy SP3 sets out the Spatial Strategy for North Essex. Existing settlements will be the principle focus for additional growth. Development will be accommodated within or adjoining settlements according to their scale, sustainability and existing role with each district. This policy states that beyond the main settlements, authorities will support diversification of the rural economy and conservation and enhancement of the natural environment. Clacton and Harwich with Dovercourt are classified as strategic urban settlements, whereas Frinton with Walton and Kirby Cross, Manningtree with Lawford and Mistley, Brightlingsea and Weeley are Smaller Urban Settlements (Section 2 Policy SPL1). Below these, Great Bentley is classified as a Rural Service Centre.

Policy SPL1, Paragraph 3.3.1.3.1 states that for Rural Service Centres the Local Plan identifies opportunities for smaller-scale growth. This policy states that to encourage sustainable patterns of growth and carefully control urban sprawl, each settlement listed in Policy SPL1 is defined within a 'Settlement Development Boundary', as shown on the relevant Policies Map and Local Map. Within the Settlement Development Boundaries, there will be a general presumption in favour of new development, subject to detailed consideration against other relevant Local Plan policies and any approved Neighbourhood Plans. Outside of Settlement Development Boundaries, the Council will consider any planning application in relation to the pattern and scales of growth promoted through the Settlement Hierarchy in Policy SPL1 and any other relevant policies in this plan. Paragraph 3.3.3.1 makes clear that, in general terms, development outside of defined Settlement Development Boundaries will be the subject of strict control to protect and enhance the character and openness of the countryside.

Policy PP1 New Retail Development states that town centres will be the main focus for new additional retail floor space. In order to plan positively to promote the vitality and viability of the town centres, Policy PP2 Retail Hierarchy establishes locations that should be considered as part of a sequential test. The presumption would be that any proposals for a main town centre use would only be permitted if, firstly, every effort had been made to locate it in the defined centres as a preference. This policy sets out the Retail Hierarchy for the district, defining Major Town Centres, Town Centres, and District Centres. These centres will be the focus for 'town centre uses', which includes retail development. Proposals must be properly related in their scale having regard to this hierarchy.

Because the proposal is for a mixed use with retail on the ground floor the proposal is in part for a town centre use (as defined within Annex 2 of the Framework). The site is located outside of any defined centre and does not appear to be wholly within the Settlement Development Boundary. It would not therefore fully comprise an 'out of centre' location as defined in the Local Plan¹. In this context the proposal would fall outside of the Retail Hierarchy. In accordance with the above policies and Paragraph 87 of the Framework, the sequential test should therefore be applied.

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. Where a proposal fails the sequential test planning permission should be refused (Paragraph 91). The proposal is not accompanied by a sequential test and it is therefore contrary to Policy PP2 and the above policies of the Framework.

Paragraph 90 of the Framework states that when assessing applications for retail and leisure development outside of town centres which are not in accordance with an up-to-date plan, local planning authorities should require an impact assessment if the development is over a proportionate, locally set floorspace threshold (if there is no locally set threshold, the default threshold is 2,500m² gross floorspace).

Local Plan Policy PP4 Local Impact Threshold identifies the locally set floorspace thresholds above which a Retail Impact Assessment (RIA) is required. Following the WYG Retail Study (2016) a tiered approach is set, with different thresholds based upon the location, role and function of the centre. For the nearest centre of Brightlingsea, this is set at 250m² gross floorspace. The retail element of the proposal is for 372m² GIA, and an RIA is therefore required. In the absence of any RIA the proposal is therefore contrary to Policy PP4 and the Framework in this regard.

Great Bentley Village Centre is defined on Local Map B.11 to the south of the Village Green and contains the existing Tesco Express store, a butchers, deli and other local services. Policy PP3 states that it will be protected and enhanced. The proposal pulls in the opposite direction to this policy as many objectors comment – the proposal would be likely to divert trade from existing shops and facilities within Great Bentley village centre. The applicant states that the proposal would provide parking which the existing store lacks, a point endorsed by one supporter. However, the existing store is located in a more sustainable location in the village centre which policy seeks to protect, and, as objectors to the scheme highlight, the proposed store is not easily accessible by means other than the private car due to its location and the local pedestrian infrastructure.

The applicant states that the proposal would increase capacity and access to shopping goods in the areas in view of the lack of existing provision. However, there is little substantive evidence to support this. In any case, for the above reasons the proposal is contrary to the scales and patterns of growth promoted under both the settlement and retail hierarchies of the Local Plan.

The proposal would therefore be contrary to Policies SP3, SPL1, SPL2 and PP1. Furthermore, in the absence of a sequential test the proposal is contrary to Policy PP2. In the absence of an RIA it is contrary to Policy PP4. Because the proposal is not small in scale and would be located outside of the village centre, it would also be contrary to Policy PP3. The proposal is therefore unacceptable in principle.

Highway Safety/Parking

Part B of Policy SPL3, criterion a), requires that access to the site is practicable and the highway network will, following any required mitigation, be able to safely accommodate the additional traffic the proposal will generate and not lead to a severe traffic impact.

Paragraph 111 of the Framework makes clear that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or if the residual cumulative impacts on the road network would be severe.

¹ Section 2 Local Plan, Paragraph 6.3.3

National planning policy is reflected in Section 2 Policy CP2 Improving the Transport Network, which states that proposals will not be granted planning permission if there would be an unacceptable impact on highway safety, or if the residual cumulative impact on the road network would be severe. Amongst other things, Policy SPL3 requires that access to the site is practicable and the highway network will, following any required mitigation, be able to safely accommodate the additional traffic the proposal will generate and not lead to severe traffic impact.

While the Council's records show that none were initially submitted via the Planning Portal, a Transport Assessment (TA) dated April 2022 was submitted just before the expiry of the statutory determination period. In approaching decision making in a positive way an extension of time to allow for its consideration was therefore agreed with the applicant. The submitted TA includes swept-path analysis for delivery vehicles and demonstrates that the road geometry of the access road, which had been designed to allow for refuse vehicles, would be capable of accommodating likely delivery traffic.

The Local Highway Authority has reviewed the proposal in light of the TA. Noting that access would be via a 20 mph zone and that a doctor's surgery has been consented, the submitted TA demonstrates that AM and PM peaks in traffic flows would not significantly increase. No highway safety objections are raised. While the proposal would generate additional traffic, there is no evidence that this would result in unacceptable highway impacts or residual cumulative impacts on the road network that would be severe. While acknowledging the concerns of objectors in these regard, the proposal would not conflict with the above highway policies and planning permission should not be resisted on these grounds.

Character and Appearance

As a largely rural area Tendring District's countryside is one of its main assets and maintaining an attractive rural environment is important to the quality of life experienced by both residents and visitors. It can also be an important consideration for the location of some businesses and help to expand the tourist economy and related services².

Strategic Policy SP1 states, amongst other things, beyond the main settlements the authorities will support conservation and enhancement of the natural environment. The first bullet of Policy SP7 states that new development should respond positively to local character and context to preserve and enhance the quality of existing places and their environs. Policy SPL3 Part B criterion c) states that development must respect or enhance local landscape character, views, skylines, landmarks, existing street patterns, open spaces and other locally important features. Amongst other things, criterion d) of Part B requires that the design and layout of development maintains or enhances important existing site features of landscape value.

Policy PPL3 is criteria based, and states that 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, including to:

- a) *estuaries, rivers and undeveloped coast;*
- b) *skylines and prominent views including ridge-tops and plateau edges;*
- c) *traditional buildings and settlement settings;*
- d) *native hedgerows, trees and woodlands;*
- e) *protected lanes, other rural lanes, bridleways and footpaths; and*
- f) *designated and non-designated heritage assets and historic landscapes including registered parks and gardens.*

In addition, new development within the rural landscape should minimise the impact of light pollution on the site and its surroundings, in order to protect rural amenity and biodiversity.

Paragraph 7.3.2 of the Section 2 Local Plan states that the Landscape Character Assessment (2001) (the LCA) identified 30 areas with different landscape characteristics and highlighted key sensitivities which need to be considered when assessing development proposals in the rural area.

² Section 2 Local Plan, Paragraph 7.3.3

Proposals within the rural landscape should have regard to the LCA and protect and re-inforce historic landscape features and important characteristics identified within it.

In this case the proposal is located within the 7B St Osyth / Great Bentley Heaths Landscape Character Area. Its character is evaluated as having distinctive character field patterns, settlement character and vegetation types. However, the application site does not contain any mature trees or significant vegetation and is generally flat with a pastoral character. Nevertheless, the open character of the site contributes, in part, to the rural setting of the village on approach along Heckford's Road and give it its strong sense of place. As the landscape officer has commented, the site contributes to the soft edge of Great Bentley, and the proposed development on this land would be likely to erode the rural character of the area.

The applicant refers to the fall-back position under which the previously approved doctor's surgery might be built out. Notwithstanding a shortage of doctors within the County, from the NHS's earlier response at outline stage there would not appear to be funding for a new building facility, and no agreement in place between the NHS, GPs and the applicant. Hence the Inspector did not find it necessary to secure an obligation for its provision as part of the wider scheme which included housing delivery. Instead, under the appeal contributions towards existing facilities were taken into account. Therefore, in view of these considerations it is considered that the likelihood of the extant permission for a doctor's surgery being built out is reduced. In turn, that logically reduces the weight that could be given to the fall back position.

The gross internal floor area of the proposed building would be less than the approved doctor's surgery. However, the amount of car parking would be materially increased (from approximately 38 to 50 spaces). In addition, there would be a greater land take in order to account for access for delivery vehicles. As a result of the need for increased parking and servicing, the spread of the proposal would extend development further across the site bringing it significantly closer to Heckford's Road. This would erode the open character of the area resulting in unacceptable harm. The Council's landscape office comments further that the building is likely to appear as an incongruous feature and has the potential to adversely affect the local landscape character.

Having regard to the design of the proposal it is reasonably well balanced in that it is symmetrical in appearance. However, it would appear as a pair of semi-detached dwellings when viewed from the west, and when viewed from the south it would be reminiscent of a railway building. The approved doctor's surgery had a gambrel roof with dormer projections above lower eaves, and ornate Dutch gables. The proposed building would be less long, but it would be deeper. The combination of the factors means that the proposal would be more assertive, and consequently would have a materially greater and adverse effect on character and appearance of the area.

Objectors have pointed to the loss of open space. However, the site is not designated as such in the Local Plan. However, it is noted that application reference 18/01796/DISCON Drawing No. 16.2030.05 Rev C, Soft Landscape Proposals (Sheet 5 of 6), shows landscaping on the application site. This same drawing formed part of the list of approved plans under 16/01912/DETAIL (pursuant to 16/00133/OUT) and formed part of the landscaping for other approved housing development. Although the loss of this landscape would result from the implementation of the doctor's surgery permission, the loss of this landscaped approach to the wider housing developments to the east is not a positive factor in favour of the proposal.

Taking all the above factors into account, it is considered that the proposal would cause unacceptable harm to the character and appearance of the area and the setting of the village. As such, the proposal would be contrary to Policies SP1, SP7, SPL3 and PPL3. It also be at odds with Paragraphs 126 and 130 of the Framework. Together and amongst other things, these state that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve, and that decisions should be visually attractive as a result of good architecture and be sympathetic to local landscape setting.

Living Conditions of Neighbours

Together, Policies SP7 and SPL3 seek to protect the living conditions of neighbours. Amongst other things, Framework Paragraphs 119 & 174 state that decisions should safeguard and improve

the existing environment ensuring safe and healthy living conditions, and enhance the natural and local environment from unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality. Paragraph 130 f) includes that planning decisions promote health and well-being with a high standard of amenity for existing and future users.

A significant number of objectors point to concerns over the effect of the proposal on their living conditions, amongst other things, due to noise and disturbance and pollution from the comings and goings of customers and deliveries. However, planning permission has previously been granted for a substantial surgery on the site and such concerns did not preclude favourable consideration of it. While there would be greater activity and for longer during the day it is not considered that the proposal would result in any unacceptable harm in this regard. There is no evidence antisocial behaviour would arise. Furthermore, conditions would be capable of addressing concerns in relation noise from plant and equipment, and a management plan for deliveries including hours could be required. A condition to require a scheme of external lighting would address light pollution concerns raised in objection to the scheme. As such, there would be no conflict with the above policies in this regard.

Ecology

Local Plan Policy PPL4 requires that sites designated for their international, European and national importance to nature conservation will be protected from development likely to have an adverse effect on their integrity. The policy states that as a minimum there should be no significant impacts upon any protected species. The preamble to Policy PPL4 states that where a development might harm biodiversity an ecological appraisal will be required to be undertaken, and the potential for harm should be considered and addressed in any application. Policy SPL3, Part A criterion d), requires that the design and layout of development maintains or enhances site features, including ecological value.

Paragraph 174 d) of the Framework requires that planning decision should contribute to and enhance the natural and local environment by minimising impacts on and providing net gains for biodiversity. Paragraph 180 d) states that opportunities to improve biodiversity in and around developments should be integrated as part of their design.

The site is not designated and is free from trees and vegetation. In considering the earlier appeal ecologic mitigation measures were considered to be necessary by planning condition, in order to protect and promote biodiversity. There is no reason why the same condition could not address such concerns in this case.

Flood Risk and Drainage

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.

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.

Policy SPL3, Part B criterion g), requires that development reduces flood risk and integrates sustainable drainage within development, creating amenity and enhancing biodiversity.

Paragraph 167 of the Framework provides that when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere.

In considering the earlier appeal, surface water drainage measures were required by condition, in order to minimise the risk of localised flooding. The site is not at undue risk of flooding and, subject

to a similar condition, it would not increase the risk of flooding elsewhere. As such there would be no conflict with the above policies in this regard.

Renewable Energy/Energy Efficiency Measures

Paragraph 7.9.3 of the Section 2 Local Plan highlights that in 2019 the Council declared a climate emergency, committing it to the preparation of an action plan with the aim of making its own activities carbon neutral by 2030, and acting as a community leader to encourage communities and developers to reduce carbon emissions and tackling climate change.

Policy SPL3 states that all new development should incorporate climate change adaptation measures and technology from the outset including reduction of emissions, renewable and low carbon energy production, passive design, and through green infrastructure techniques, where appropriate. Under Policy PPL10, there is a requirement for all development proposals to demonstrate how renewable energy solutions, appropriate to the building(s) site, and location have been included in the scheme and for new buildings, be designed to facilitate the retro-fitting of renewable energy installations.

There would be the opportunity to install solar panels on the building, and other energy conservation and generation means could be required and considered under a planning condition to require a scheme of such measures.

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. However, this is a matter which the Building Regulations (Approved Document S) now addresses. In any case, this also could be addressed by the use of a planning condition.

Other Matters

Loss of existing ATM

There is no evidence to suggest that were approval to be forthcoming the ATM at the existing storey would be removed or that this would have any unacceptable effects.

Setting of Great Bentley Conservation Area

Some third parties and the Ward Councillor have expressed over the effect of the proposal on the wider setting of the Great Bentley Conservation Area. This is however located some considerable distance away and the site is not a location from which it is appreciated. As a result it would not harm its setting. Moreover, it was not a matter considered to be of concern under earlier proposals.

Loss of agricultural land

Loss of agricultural land is raised by some objectors. In this case the proposal would be likely to be located on land that is classified as Best and Most Versatile³. However, the loss would be small and there is a consented scheme on the site for a doctor's surgery. In allowing the appeal for the surgery, the Inspector commented that the loss of agricultural land in this case did not result an impact which would point to dismissal.

Sand and gravel safeguarded area

The site is located within a Safeguarded Sand & Gravel Area 1. However, the scale of the loss would be small and would fall below the thresholds that would require consultation with the Minerals Planning Authority. Furthermore, prior extraction would be likely to be environmentally unacceptable, in view of surrounding residential development and the adjacent consented Locally Equipped Area of Plan.

Locally equipped area of play

³ Natural England, Provisional Agricultural Land Classification (ALC) (England)

Concerns are expressed by the Ward Member and objectors that the site would have a poor relationship with the adjacent Locally Equipped Area of Play. However, the relationship of the approved doctors surgery and its parking with the play area would be little different to the proposal. It would not therefore be reasonable to refuse planning permission on this basis.

Improvements to the safety of the existing Store

An objector supports the proposal provided that a pedestrian crossing is installed (which could if required be the subject of a Grampian style condition) if it would improve highway safety at the existing store. There is however no evidence that this would necessarily be the case and the applicant confirms that the existing store would not close.

Archaeology

As per the earlier appeal, the concerns of ECC Archaeology could be addressed by planning condition to require a written scheme of investigation and recording.

Loss of Approved Surgery

A number of objectors point to the loss of the approved doctor's surgery. However, the land is not allocated for such a use. Furthermore, that permission had not been implemented.

Planning Balance

The proposal is for a mixed use which includes a town centre use, and the site is not located within an existing centre, edge of centre, or out of centre location as defined within the Local Plan, and no sequential test or impact assessment has been submitted. The proposal therefore conflicts with the town centre first approach and retail impact assessment requirements, as set out under Policies PP1, PP2, PP3 and PP4. It would also be contrary to the scales and patterns of growth promoted under Policies SP3, SPL1 and SPL2. In accordance with Paragraph 90 of the Framework planning permission should therefore be refused.

Due to the design, layout, massing and form of the proposal it would result in unacceptable localised harm to the character and appearance of the area and the setting of the village. The proposal would therefore conflict with policies SP1, SP7, SPL3 and PPL3. Both individually and cumulatively, significant weight is given to the identified harm.

In part, the proposal is predicated in part on an earlier approval of a doctor's surgery on the site. The consultation response of the NHS Care Commissioning Group confirms that they do not wish to make any further comment [to their earlier], having previously commented that there is no agreement in place between the NHS, GPs and the applicant. That being so, the weight given to the fall-back position at this point in time is limited.

The proposal would not result in any unacceptable loss of agricultural land. Subject to conditions, there would be no unacceptable harm to the living conditions of neighbours, biodiversity or flood risk considerations, and there would be no unacceptable highway impacts. These are all neutral factors in the planning balance.

In its favour the proposal would create additional employment opportunities via the creation of approximately 15 equivalent jobs in relation to the store and further in relation to the polyfunctional medical facilities, and there would be some economic benefits during construction. These, together with the weight given to the fallback position, would both individually and cumulatively be limited. The combined weight given to these benefits does not outweigh the harm that has been identified and to which significant weight is attached. Planning permission should therefore be refused.

7. Recommendation

Refuse - Full

8. Reasons for Refusal

1. Due to the design, layout, massing and form of the proposal it would cause unacceptable harm to the character and appearance of the area and the setting of the village. As such, the proposal would be contrary to Policies SP1, SP7, SPL3 and PPL3. It also be at odds with Paragraphs 126 and 130 of the Framework.
2. The proposal is for a town centre use outside of any centre identified within the Local Plan and no sequential test has been completed. Further, the site is not wholly within the Settlement Development Boundary. Further still, the proposal is for development above the locally set threshold whereby a Retail Impact Assessment should be carried out and the application is not supported by one. The proposal would therefore be contrary to the scales and patterns of growth promoted under Policies SP3, SPL1, SPL2 and PP1. In the absence of a sequential test the proposal is contrary to Policy PP2. In the absence of a Retail Impact Assessment it is contrary to Policy PP4. Because the proposal is not small in scale and would be located outside of the village centre, it would also be contrary to Policy PP3.

9. Informatives

1. The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and discussing those with the Applicant. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm which has been clearly identified within the reason(s) for the refusal, approval has not been possible.

Are there any letters to be sent to applicant / agent with the decision? If so please specify:		NO
Are there any third parties to be informed of the decision? If so, please specify:		NO