

DELEGATED DECISION OFFICER REPORT

| AUTHORISATION | INITIALS | DATE |
|---|----------|------------|
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| Planning Development Manager authorisation: | JJ | 28/07/2022 |
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Application: 21/00428/DETAIL

Town / Parish: Weeley Parish Council

Applicant: Mr T Foster

Address: Heath Lodge Clacton Road Weeley Heath

Development: Reserved matters for appearance, landscaping, layout and scale for the provision of 6 detached houses (pursuant to 19/01283/OUT allowed on appeal).

1. Town / Parish Council

Weeley Parish Council
05.05.2021

Whilst not wishing to register an objection to this detailed application, Weeley Parish Council considers that the positioning of the garages is odd, with, for example, the garages for plots one and two being closer to the houses on plots three and four.

Officer comment:

Amended plans now received.

2. Consultation Responses

ECC Highways Dept
08.06.2021

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

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

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

2. Prior to the occupation of the development the internal layout shall be provided in principal with drawing numbers:

- Drawing: 368/01/103 Proposed Block Plan
- Drawing: 368/01/132 Garages - proposed floor plan and roof plan
- Drawing: 368/01/111 Visibility splays - additional information

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

Reason: To ensure that roads and footways are constructed to an acceptable standard, in the interests of highway safety and in accordance with Policy DM1 and DM6.

4. Prior to the occupation of any of the proposed dwellings, the vehicular access shall be constructed to a width of 5.5 metres for at least the first 6 metres from the back of Carriageway / Footway / Highway Boundary 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. 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.

6. No unbound material shall be used in the surface treatment of the vehicular access throughout.

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

7. The development shall not be occupied until such time as a car parking has been provided in principal with drawing 368/01/103. These facilities shall be retained in this form at all times and shall not be used for any purpose other than the parking and/or turning of vehicles related to the use of the development thereafter.

Reason: To ensure that on-street parking of vehicles in the adjoining streets does not occur, in the interests of highway safety and in accordance with Policy DM 1 & 8.

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

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.

9. 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.

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 or by post to:

SMO1 - Development Management Team
Ardleigh Depot,
Harwich Road,
Ardleigh,
Colchester,
CO7 7LT

2: General note: areas where there is no footway being provided adjacent to the carriageway and the intention is for these areas to be adopted a half a metre 'no build zone' will need to be provided and hard surfaced.

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

Essex County Council
Ecology
17.05.2021

Thank you for consulting Place Services on the above application.

No objection subject to securing biodiversity mitigation and enhancement measures

Summary

We have reviewed the Low Impact Ecological Impact Assessment (Hybrid Ecology, October 2020) relating to the likely impacts of development on designated sites, protected species and Priority species & habitats.

We are satisfied that there is sufficient ecological information available for determination.

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

The mitigation measures identified in the Low Impact Ecological Impact Assessment (Hybrid Ecology, October 2020) should be secured and implemented in full. This is necessary to conserve and enhance protected and Priority Species particularly breeding birds.

We note that this application will require the LPA to prepare a project level HRA Appropriate Assessment as the development lies within the Zone of Influence (ZOI) for the Essex Coast RAMS, approximately 5km from the Colne Estuary SPA and Ramsar, and delivery of mitigation measures in perpetuity will therefore be necessary to ensure that this proposal will not have an adverse effect on the integrity of the above Habitats sites from recreational disturbance, when considered 'in combination' with other plans and projects. A

proportionate financial contribution will need to be secured from the applicant under a legal agreement.

We also support the proposed reasonable biodiversity enhancements, which have been recommended to secure measurable net gains for biodiversity, as outlined under Paragraph 170d of the National Planning Policy Framework 2019. The reasonable biodiversity enhancement measures should be outlined within a Biodiversity Enhancement Strategy and should be secured as a condition of any consent.

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

Impacts will be minimised such that the proposal is acceptable subject to the conditions below based on BS42020:2013.

Submission for approval and implementation of the details below should be a condition of any planning consent.

Recommended conditions:

1. ACTION REQUIRED IN ACCORDANCE WITH ECOLOGICAL APPRAISAL RECOMMENDATIONS

"All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Low Impact Ecological Impact Assessment (Hybrid Ecology, October 2020) as already submitted with the planning application and agreed in principle with the local planning authority prior to determination.

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

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

2. PRIOR TO SLAB LEVEL: BIODIVERSITY ENHANCEMENT STRATEGY

"A Biodiversity Enhancement Strategy for Protected and Priority species shall be submitted to and approved in writing by the local planning authority.

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

- a) Purpose and conservation objectives for the proposed enhancement measures;
- b) detailed designs to achieve stated objectives;
- c) locations of proposed enhancement measures by appropriate maps and plans;
- d) persons responsible for implementing the enhancement measures;
- e) details of initial aftercare and long-term maintenance (where relevant).

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

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

3. PRIOR TO OCCUPATION: WILDLIFE SENSITIVE LIGHTING DESIGN SCHEME

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

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

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

ECC SuDS Consultee
12.05.2021

Thank you for your email received on 26/04/2021 which provides this Council with the opportunity to assess and advise on the proposed surface water drainage strategy for the above mentioned planning application.

As the Lead Local Flood Authority (LLFA) this Council provides advice on SuDS schemes for major developments. We have been statutory consultee on surface water since the 15th April 2015.

In providing advice this Council looks to ensure sustainable drainage proposals comply with the required standards as set out in the following documents:

- Non-statutory technical standards for sustainable drainage systems
- Essex County Council's (ECC's) adopted Sustainable Drainage Systems Design Guide
- The CIRIA SuDS Manual (C753)
- BS8582 Code of practice for surface water management for development sites.

Lead Local Flood Authority position

Having reviewed the Flood Risk Assessment and the associated documents which accompanied the planning application, we do not object to the granting of planning permission 21/00428/DETAIL and should subject to the same conditions applied to the outline application 19/01283/OUT.

The proposed development will only meet the requirements of the National Planning Policy Framework if the measures as detailed in the Drainage strategies and the documents submitted with this application are implemented as approved.

We also have the following advisory comments:

- We strongly recommend looking at the Essex Green Infrastructure Strategy to ensure that the proposals are implementing multifunctional green/blue features effectively. The link can be found below.

<https://www.essex.gov.uk/protecting-environment>

Any questions raised within this response should be directed to the applicant and the response should be provided to the LLFA for further consideration. If you are minded to approve the application contrary to this advice, we request that you contact us to allow further discussion and/or representations from us.

Summary of Flood Risk Responsibilities for your Council

We have not considered the following issues as part of this planning application as they are not within our direct remit; nevertheless these are all very important considerations for managing flood risk for this development, and determining the safety and acceptability of the proposal. Prior to deciding this application you should give due consideration to the issue(s) below. It may be that you need to consult relevant experts outside your planning team.

- Sequential Test in relation to fluvial flood risk;
- Safety of people (including the provision and adequacy of an emergency plan, temporary refuge and rescue or evacuation arrangements);
- Safety of the building;
- Flood recovery measures (including flood proofing and other building level resistance and resilience measures);
- Sustainability of the development.

In all circumstances where warning and emergency response is fundamental to managing flood risk, we advise local planning authorities to formally consider the emergency planning and rescue implications of new development in making their decisions.

Please see Appendix 1 at the end of this letter with more information on the flood risk responsibilities for your council.

INFORMATIVES:

- Essex County Council has a duty to maintain a register and record of assets which have a significant impact on the risk of flooding. In order to capture proposed SuDS which may form part of the future register, a copy of the SuDS assets in a GIS layer should be sent to suds@essex.gov.uk.
- Any drainage features proposed for adoption by Essex County Council should be consulted on with the relevant Highways Development Management Office.
- Changes to existing water courses may require separate consent under the Land Drainage Act before works take place. More information about consenting can be found in the attached standing advice note.
- It is the applicant's responsibility to check that they are complying with common law if the drainage scheme proposes to discharge into an off-site ditch/pipe. The applicant should seek consent where appropriate from other downstream riparian landowners.
- The Ministerial Statement made on 18th December 2014 (ref. HCWS161) states that the final decision regarding the viability and reasonableness of maintenance requirements lies with the LPA. It is

not within the scope of the LLFA to comment on the overall viability of a scheme as the decision is based on a range of issues which are outside of this authority's area of expertise.

- We will advise on the acceptability of surface water and the information submitted on all planning applications submitted after the 15th of April 2015 based on the key documents listed within this letter. This includes applications which have been previously submitted as part of an earlier stage of the planning process and granted planning permission based on historic requirements. The Local Planning Authority should use the information submitted within this response in conjunction with any other relevant information submitted as part of this application or as part of preceding applications to make a balanced decision based on the available information.

Appendix 1 - Flood Risk responsibilities for your Council

The following paragraphs provide guidance to assist you in determining matters which are your responsibility to consider.

- Safety of People (including the provision and adequacy of an emergency plan, temporary refuge and rescue or evacuation arrangements)

You need to be satisfied that the proposed procedures will ensure the safety of future occupants of the development. In all circumstances where warning and emergency response is fundamental to managing flood risk, we advise LPAs formally consider the emergency planning and rescue implications of new development in making their decisions.

We do not normally comment on or approve the adequacy of flood emergency response procedures accompanying development proposals as we do not carry out these roles during a flood.

- Flood recovery measures (including flood proofing and other building level resistance and resilience measures)

We recommend that consideration is given to the use of flood proofing measures to reduce the impact of flooding when it occurs. Both flood resilience and resistance measures can be used for flood proofing.

Flood resilient buildings are designed to reduce the consequences of flooding and speed up recovery from the effects of flooding; flood resistant construction can help prevent or minimise the amount of water entering a building. The National Planning Policy Framework confirms that resilient construction is favoured as it can be achieved more consistently and is less likely to encourage occupants to remain in buildings that could be at risk of rapid inundation.

Flood proofing measures include barriers on ground floor doors, windows and access points and bringing in electrical services into the building at a high level so that plugs are located above possible flood levels. Consultation with your building control department is recommended when determining if flood proofing measures are effective.

Further information can be found in the Department for Communities and Local Government publications 'Preparing for Floods' and 'Improving the flood performance of new buildings'.

- Sustainability of the development

The purpose of the planning system is to contribute to the achievement of sustainable development. The NPPF recognises the key role that the planning system plays in helping to mitigate and adapt to the impacts of climate change, taking full account of flood risk and coastal change; this includes minimising vulnerability and providing resilience to these impacts. In making your decision on this planning application we advise you consider the sustainability of the development over its lifetime.

3. Planning History

| | | | |
|--------------|---|-------------------|------------|
| 06/00192/FUL | Kitchen and garage extensions (plus some renovation) | Approved | 04.04.2006 |
| 19/01283/OUT | Outline planning application for 6 detached houses (considering access only). | Refused | 26.11.2019 |
| | Allowed on Appeal - reference APP/P1560/W/20/3246105 | Allowed on appeal | 12.08.2020 |

4. Relevant Policies / Government Guidance

National:

National Planning Policy Framework July 2021
National Planning Practice Guidance

Local:

Tendring District Local Plan 2013-2033 and Beyond Section 1 (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
- SPL2 Settlement Development Boundaries
- SPL3 Sustainable Design
- HP5 Open Space, Sports & Recreation Facilities
- LP1 Housing Supply
- LP3 Housing Density and Standards
- LP4 Housing Layout
- LP8 Backland Residential Development
- PPL3 The Rural Landscape
- PPL4 Biodiversity and Geodiversity
- PPL5 Water Conservation, Drainage and Sewerage
- PPL10 Renewable Energy Generation
- CP1 Sustainable Transport and Accessibility
- DI1 Infrastructure Delivery and Impact Mitigation

Supplementary Planning Guidance:

Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy SPD 2020 (RAMS)
Essex County Council Development Management Policies 2011
Essex County Council Parking Standards Design and Good Practice Guide 2009

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 (including Site Description and Proposal)

Site Description

The application relates to the property known as Heath Lodge, Clacton Road, Weeley Heath. The site measures approximately 0.38 hectares in size located on the southern side of Clacton Road directly opposite the junction with Victoria Road. The site measures approximately 44 metres in width and 90 metres in depth. The site is occupied by a large, 2 storey detached dwelling and its generous side and rear garden. The site is bordered on the east, south and west by residential dwellings.

Description of Proposal

The application seeks permission for the reserved matters (Appearance, Landscaping, Layout and Scale) pursuant to application 19/01283/OUT (allowed on appeal APP/P1560/W/20/3246105) for the erection of 6 detached houses.

Following concerns with design, layout and landscaping details as originally submitted, a revised scheme has been secured. The development proposes the following housing mix:

- Plot 1 – 4 bedroom detached 2-storey dwelling
- Plot 2 – 4 bedroom detached 2-storey dwelling
- Plot 3 – 4 bedroom detached 2-storey dwelling
- Plot 4 – 4 bedroom detached 1.5 storey dwelling
- Plot 5 – 4 bedroom detached 1.5 storey dwelling
- Plot 6 – 4 bedroom detached 1.5 storey dwelling

Assessment

The main considerations in this instance are:

1. Principle of Development;
2. Requirements of Outline Consent Conditions;
3. Scale, Layout and Appearance;
4. Access, Parking and Highway Safety;
5. Trees and Landscaping;
6. Residential Amenities;
7. Sustainable Drainage;
8. Ecology and Biodiversity;
9. Financial Contribution - Open Space and Play Space;
10. Financial Contribution - Recreational Disturbance;
11. Representations; and,
12. Conclusions and Recommendation.

1. Principle of Development

The principle of residential development on the site has been established by the approval of outline planning application 19/01283/OUT (allowed on appeal APP/P1560/W/20/3246105) for the erection of 6 detached houses.

2. Requirements of Outline Consent Conditions

As set out within the appeal decision, the development was approved subject to the following conditions:

- 1 – 3 Standard reserved matters submission and time limit conditions.
- 4 Approved plans: Refs 368/01/101, 368/01/102, 368/01/103.
- 5 Submission of a Tree Survey and Report.
- 6 Prior to occupation of the development, an appropriate dropped kerb shall be provided.
- 7 The access at its centre line shall be provided with a visibility splay with dimensions of 2.4 metres by 43 metres in both directions.
- 8 No unbound materials within 6 metres of the highway.

3. Scale, Layout and Appearance

Paragraph 127 of the Framework 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. Adopted Policy SP7 of the 2013-33 Local Plan seeks high standards of urban and architectural design, which responds positively to local character and context. Policies SPL3 and LP4 of Section 2 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, create a unique sense of place.

The plots are now considered to be spacious and well laid out with appropriate boundary treatments and landscaping. The amended design of the dwellings incorporates a good mix of house types and use of external materials and finishes. The layout of the dwellings all retain sufficient spacing to their respective boundaries and provide suitable private amenity areas. The properties also have gross internal floorspace in excess of that required by the Technical Housing standards - nationally described space standards with all habitable rooms served by adequate natural light.

It is considered that the proposed dwellings demonstrate sufficient variation in the dwelling design and layout resulting in a visually varied but harmonious appearance and relate well to the surrounding dwellings. Overall, the development is considered to represent an acceptable scale, layout and appearance that will now contribute positively to the area.

4. Access, Parking and Highway Safety

Paragraph 108 of the National Planning Policy Framework 2021 seeks to ensure that safe and suitable access to a development site can be achieved for all users. Policy SPL3 Part B of Section 2 of the Tendring District Local Plan 2013-2033 and Beyond seeks to ensure that access to a new development site is practicable and the highway network will be able to safely accommodate the additional traffic the proposal will generate and provision is made for adequate vehicle and cycle parking.

Furthermore, Policy PPL10 of the Local Plan states that proposals for new development should consider the potential for renewable energy generation, appropriate to the site and its location, and should include renewable energy installations, or be designed to facilitate the retro-fitting of renewable energy installations.

The EPOA Parking Standards 2009 require that for dwellings with 2 or more bedrooms, a minimum of 2 parking spaces is required. Parking spaces should measure 5.5 metres by 2.9 metres and garages, if being relied on to provide a parking space, should measure 7 metres by 3 metres internally.

The Local Highway Authority has been consulted on this application and subject to conditions. Subject to the imposition of suitable conditions, including a condition for electric vehicle charging facilities, the proposal would accord with adopted highway related policy requirements, and the Highways and Parking SPDs.

5. Trees and Landscaping

Paragraph 131 of the NPPF sets out the importance of trees and the contribution they make to the character and quality of urban environments. It states that planning policies and decisions should ensure that opportunities are taken to incorporate trees in developments and that existing trees are retained wherever possible.

The application site comprises of land forming the residential curtilage of the host property. The part of the application site to the rear of the dwelling has been cleared and does not contain any trees or other significant vegetation. To the front and sides of the existing dwelling there is established vegetation and large trees that feature prominently in the public realm.

The shrubs and low level vegetation makes only a moderate contribution to the appearance of the public realm however the trees are significant features in their setting. To the south east of the existing dwelling there are two mature Oaks that make a positive contribution to the street scene; to the north west of the dwelling there are two Lime trees that similarly make a strong positive contribution to the appearance of the area.

The above 4 trees are afforded formal legal protection by Tendring District Council Tree Preservation Order ref: TPO/19/11 Heath Lodge Clacton Road, Weeley Heath.

In order to show the extent of the constraint that the trees are on the development potential of the land the applicant has provided a Tree Survey and Report containing an Arboricultural Impact Assessment (AIA). This information is in accordance with BS5837: 2012 Trees in relation to design, demolition and construction ' Recommendations.

As originally submitted, the site layout showed an incursion into the Root Protection Areas of the trees. The appeal inspector's decision noted that it should be possible to achieve a site layout that did not result in an incursion into the RPA of protected trees. On this basis, amendments were sought to avoid development within the Root Protection Areas (RPA's) of the protected trees. Furthermore, soft landscaping details were not provided.

- Amended plans

In terms of the impact of the development proposal on retained trees the amended layout shows only a minor incursion into the Root Protection Area (RPA) of one of the trees, in the north western

corner of the application site, as a result of the position of the dwelling on Plot 1. This will not cause harm to the tree or compromise its long term viability. The relationship of the proposed dwelling on Plot 2 and the protected trees is acceptable. The space between the fences and the highway is approximately 2m wide; this would give sufficient space to plant hedging or shrubs to screen the boundary fencing and provide privacy screening where needed.

Subject to conditions securing that the development is in accordance with the accompanying tree survey, tree protection measures and soft landscaping, the development is considered acceptable. A condition will be required to secure hard landscaping details as these have not been provided.

6. Residential Amenities

Paragraph 130 of The Framework maintains that policies and decisions should result in new development that creates 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. Section 1 Policy SP7 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. Furthermore, Section 2 Policy LP 4 seeks to ensure that new dwellings are served by a private amenity space of a size and configuration that meets the needs and expectations of residents and which is commensurate to the size of dwelling and the character of the area.

The amended layout, distance to individual plot boundaries and distance to both existing and proposed residential properties are all considered acceptable. The proposal would result in a development that achieves an internal layout and separation distances that would not detract from the amenities of any nearby dwellings or the future occupiers of the proposed dwellings.

Given the backland location of the development, it is considered necessary to remove permitted development rights with regard to any further development to the approved dwellings in order to prevent any overlooking or loss of privacy concerns, as well as any overshadowing or dominant impacts to the amenities of the neighbouring and future occupiers.

7. Sustainable 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.

Adopted Policy PPL5 of Section 2 of the Adopted Local Plan states that all new development must make adequate provision for drainage and sewerage. Furthermore, Policy SPL3 Part B states that new development (including changes of use) must meet practical requirements, including methods for reducing flood risk and integrated sustainable drainage within the development.

The Lead Local Flood Authority have reviewed the Flood Risk Assessment and associated documents which accompanied the planning application and raise no objection to the granting of planning permission 21/00428/DETAIL subject conditions.

8. Ecology and Biodiversity

Paragraph 174 of the National Planning Policy Framework 2021 require that Local Planning Authorities contribute to and enhance sites of biodiversity or geological value whilst paragraph 179 requires Local Planning Authorities to safeguard components of local wildlife-rich habitats. Paragraph 99 of Circular 06/2005 states that "It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision" it goes on to state "The need to ensure ecological surveys are carried out should therefore only be left to coverage under planning conditions in exceptional circumstances".

Adopted Local Plan Policy PPL4 states that proposals for new development should be supported by appropriate ecological assessments and, where relevant, provide appropriate mitigation and biodiversity enhancements to ensure a net gain.

Essex County Council Place Services Ecology have reviewed the Low Impact Ecological Impact Assessment (Hybrid Ecology, October 2020) relating to the likely impacts of development on designated sites, protected species and Priority species & habitats and are satisfied that there is sufficient ecological information available for determination. This provides certainty for the LPA of the likely impacts on protected and Priority species & habitats and, with appropriate mitigation measures secured, the development can be made acceptable.

Appropriately worded conditions in line with the recommendations made by Place Services Ecology will be imposed to ensure the development is acceptable.

9. Financial Contribution - Open Space and Play Space

Policy HP5 and DI1 of the 2013-2033 Local Plan aims to maintain, expand and improve the quality and accessibility of public open space, sports and recreational facilities of different types. For smaller scale developments better served by an existing nearby area of open or play space, a financial contribution may be sought through a s106 legal agreement. The contribution would be used towards the delivery of improvements, expansion or new open spaces and/or sports facilities.

The necessary contribution has been secured by the unilateral undertaking accompanying the outline application during the appeal. The proposal therefore complies with adopted Policies HP5 and DI1, together with the Open Space and Play SPD.

10. Financial Contribution - Recreational Disturbance

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 contribution toward mitigation has been secured by the unilateral undertaking accompanying the outline application during the appeal. Therefore, there is certainty that the development would not adversely affect the integrity of European Designated Sites in accordance with Policies SP2 and PPL4 of the adopted Tendring District Local Plan 2013-2033 and Beyond and Regulation 63 of the Conservation of Habitat and Species Regulations 2017.

11. Representations

Weeley Parish Council raised concerns with the layout of the development, but did not object to the proposal overall. Officers are satisfied that the amended scheme secures design and layout improvements overcoming the Parish Council's concerns.

No individual letters of representations have been received from local residents.

12. Conclusions and Recommendation

It is considered that the amended development is consistent with the National and Local Plan Policies identified above. In the absence of material harm resulting from the proposal the, application is recommended for approval.

6. Recommendation

Approved – Reserved Matters

7. Conditions

- 1 The development hereby permitted shall be carried out in strict accordance with the following approved plans/documents:

368/01/135 REV A
368/01/134 REV A
368/01/133
368/01/131N LANSCP REV C
368/01/131 REV A
368/01/130
368/01/129 REV A
368/01/128
368/01/127
368/01/125 REV A
368/01/124 REV A
368/01/123
368/01/122
368/01/121
368/01/103 REV C
368/01/111

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

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

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

- 3 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.

- 4 No unbound material shall be used in the surface treatment of the vehicular access throughout.

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

- 5 The development shall not be occupied until such time as a car parking has been provided in principal with drawing no. 368/01/103 REV C. These facilities shall be retained in this form at all times and shall not be used for any purpose other than the parking and/or turning of vehicles related to the use of the development thereafter.

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

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

Reason - In the interests of reducing the need to travel by car and promoting sustainable development and transport.

- 7 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.

- 8 All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Low Impact Ecological Impact Assessment (Hybrid Ecology, October 2020) as already submitted with the planning application and agreed in principle with the local planning authority prior to determination.

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

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

- 9 Prior to the commencement of any works above slab level a Biodiversity Enhancement Strategy for Protected and Priority species shall be submitted to and approved in writing by the local planning authority.

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

- Purpose and conservation objectives for the proposed enhancement measures;
- Detailed designs to achieve stated objectives;
- Locations of proposed enhancement measures by appropriate maps and plans;
- Persons responsible for implementing the enhancement measures;
- Details of initial aftercare and long-term maintenance (where relevant).
- The works shall be implemented in accordance with the approved details and shall be retained in that manner thereafter.

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

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

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

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

- 11 Each dwelling shall be provided with an electric vehicle charging point. The charging point shall be provided prior to occupation of each such dwelling.

Reason - In the interests of sustainability and to accord with the requirements of Paragraph 112 e) of the Framework (2021) which 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.

- 12 Notwithstanding the provisions of Schedule 2 Part 1 Classes B and C of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any Order revoking and re-enacting that Order with or without modification), no extensions, additions or alterations to the roofs of the dwellings hereby approved shall be carried out except where express planning permission has been obtained.

Reason - To ensure that private residential amenities of the neighbouring and future occupiers are protected.

- 13 All landscaping, planting, seeding or turfing shown the approved landscaping details drawing no. 368/01/131N LANSCP REV C 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 - To ensure the implementation of the approved scheme and adequate maintenance of the landscaping for a period of five years in the interests of visual amenity.

- 14 The development shall be constructed in full accordance with the Tree Protection Measures outlined on 'Tree Protection Plan' (Ref – TPSarb1990920TPP).

Reason – To ensure protection of the mature trees present on the site during the construction phase, in the interests of amenity.

- 15 In order to minimise potential nuisance caused by demolition/construction works:

- No vehicle connected with the works to arrive on site before 07:30 or leave after 19:00 (except in the case of emergency). Working hours to be restricted between 08:00 and 18:00 Mondays to Saturdays (finishing at 13:00 on Saturdays) with no working of any kind permitted on Sundays or any Public/Bank Holiday whilst construction works and alterations are being carried out.
- No materials produced as a result of the site development or clearance shall be burned on site.

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

- 16 Areas within the curtilage of the site for the purpose of the reception and storage of building materials and construction workers' vehicles shall be identified clear of the highway to ensure that appropriate loading / unloading facilities and parking areas are made available clear of the highway at all times during the construction period.

Reason - To ensure the highway is not obstructed during construction in the interest of highway safety.

8. Informatives

Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Agent, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in

accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

Planning Obligations

The applicant is reminded that this detailed planning consent is subject to a legal agreement securing financial contributions toward Open Space and Recreational Disturbance. Please refer to the outline planning permission 19/01283/OUT allowed on appeal reference APP/P1560/W/20/3246105 to ensure full compliance with all planning obligations.

Conditions Precedent

The applicant is reminded that this detailed planning consent is subject to conditions attached to the outline permission for this development reference 19/01283/OUT allowed on appeal reference APP/P1560/W/20/3246105. Please refer to the outline planning permission to ensure full compliance with all conditions.

Highway 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 or by post to:

SMO1 - Development Management Team
Ardleigh Depot,
Harwich Road,
Ardleigh,
Colchester,
CO7 7LT

2: General note: areas where there is no footway being provided adjacent to the carriageway and the intention is for these areas to be adopted a half a metre 'no build zone' will need to be provided and hard surfaced.

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

Local Lead Flood Authority Informatives

Essex County Council has a duty to maintain a register and record of assets which have a significant impact on the risk of flooding. In order to capture proposed SuDS which may form part of the future register, a copy of the SuDS assets in a GIS layer should be sent to suds@essex.gov.uk.

- Any drainage features proposed for adoption by Essex County Council should be consulted on with the relevant Highways Development Management Office.
- Changes to existing water courses may require separate consent under the Land Drainage Act before works take place. More information about consenting can be found in the attached standing advice note.
- It is the applicant's responsibility to check that they are complying with common law if the drainage scheme proposes to discharge into an off-site ditch/pipe. The applicant should seek consent where appropriate from other downstream riparian landowners.
- The Ministerial Statement made on 18th December 2014 (ref. HCWS161) states that the final decision regarding the viability and reasonableness of maintenance requirements lies with the LPA. It is not within the scope of the LLFA to comment on the overall viability of a scheme as the decision is based on a range of issues which are outside of this authority's area of expertise.

- We will advise on the acceptability of surface water and the information submitted on all planning applications submitted after the 15th of April 2015 based on the key documents listed within this letter. This includes applications which have been previously submitted as part of an earlier stage of the planning process and granted planning permission based on historic requirements. The Local Planning Authority should use the information submitted within this response in conjunction with any other relevant information submitted as part of this application or as part of preceding applications to make a balanced decision based on the available information.

We also have the following advisory comments:

- We strongly recommend looking at the Essex Green Infrastructure Strategy to ensure that the proposals are implementing multifunctional green/blue features effectively. The link can be found below. <https://www.essex.gov.uk/protecting-environment>
- Please note that the Environment Agency updated the peak rainfall climate change allowances on the 10 May 2022. planning application with outline approval are not required to adjust an already approved climate change allowance, however, wherever possible, in cases that do not have a finalised drainage strategy please endeavour to use the updated climate change figures

Flood risk assessments: climate change allowances - GOV.UK (www.gov.uk)