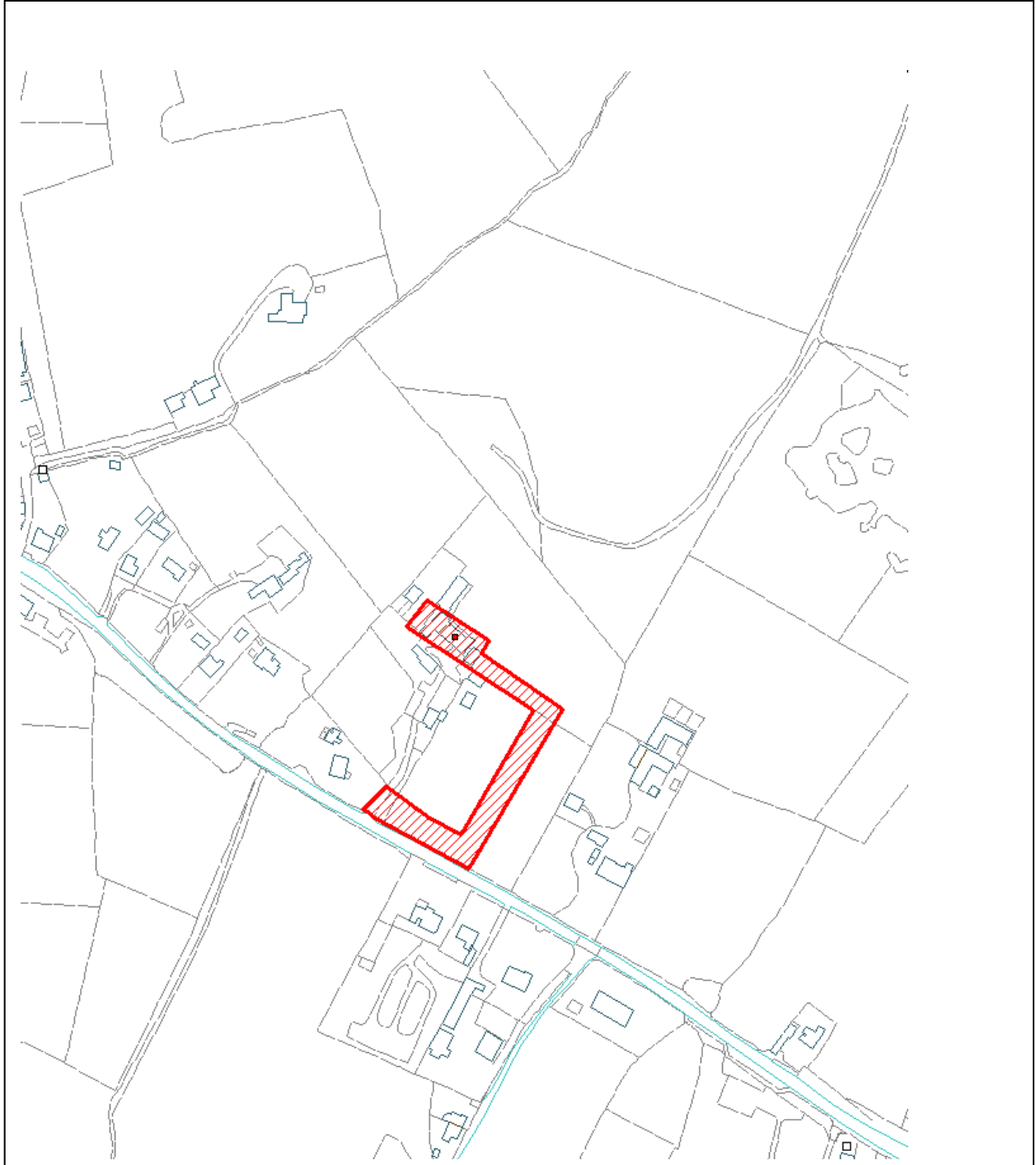


**PLANNING COMMITTEE**

**01<sup>st</sup> SEPTEMBER 2022**

**REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING**

**A.1 PLANNING APPLICATION – 22/00688/FUL – FARM LAND TO NORTH OF  
GLENENNING TENPENNY HILL THORRINGTON COLCHESTER**



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**Application:** 22/00688/FUL

**Town / Parish:** Thorrington Parish Council

**Applicant:** Mr and Mrs Millard

**Address:** Farm Land to North of Glendenning Tenpenny Hill Thorrington Colchester  
CO7 8JB

**Development:** Demolition of barn and extensive stables and replacement with a three bed bungalow (in lieu of deemed Prior Approval for conversion of a barn in to a dwelling subject of application 21/02133/COUNOT).

## 1. **Executive Summary**

- 1.1 The application is put before the Planning Committee as the proposed development would conflict with the requirements of the Development Plan, principally Policy SPL2 (Settlement Development Boundaries) of the Tendring District Local Plan 2013-2033 and Beyond Section 2 (adopted January 2022) being located outside of any settlement development boundary, and is recommended for approval.
- 1.2 The proposed dwelling is not considered to be so materially different in regards to siting, height, footprint to the development approved under prior approval application 21/02133/COUNOT.
- 1.3 In the absence of any material harm resulting from the development in regards to its individual appearance, its impact on the wider streetscene, its impact on the character of the rural landscape, its impact on neighbours in regards to amenity and the parking provision, the application is recommended for approval.

### **Recommendation:**

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

- the conditions stated in section 8.2

## 2. **Planning Policy**

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

*NPPF National Planning Policy Framework July 2021*

*National Planning Practice Guidance*

*Statutory guidance -Technical housing standards: nationally described space standard  
Published 27 March 2015*

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

SP1 Presumption in Favour of Sustainable Development

- SP2 Recreational disturbance Avoidance and Mitigation Strategy (RAMS)
- SP3 Spatial Strategy for North Essex
- SP4 Meeting Housing Needs
- SP7 Place Shaping Principles

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

- SPL1 Managing Growth
- SPL2 Settlement Development Boundaries
- SPL3 Sustainable Design
- LP1 Housing Supply
- LP4 Housing Layout
- PPL4 Biodiversity and Geodiversity
- PPL5 Water Conservation, Drainage and Sewerage
- CP1 Sustainable Transport and Accessibility
- DI1 Infrastructure Delivery and Impact Mitigation

*Supplementary Planning Documents*

Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy SPD 2020 (RAMS)

*Local Planning Guidance*

Essex Design Guide

Essex County Council Car Parking Standards - Design and Good Practice

**Status of the Local Plan**

- 2.2 Planning law requires that decisions on applications must be taken in accordance with the development plan unless there are material considerations that indicate otherwise (Section 70(2) of the 1990 Town and Country Planning Act and Section 38(6) of the Planning and Compulsory Purchase Act 2004). This is set out in Paragraph 2 of the National Planning Policy Framework (the Framework). The 'development plan' for Tendring comprises, in part, Sections 1 and 2 of the Tendring District Council 2013-33 and Beyond Local Plan (adopted January 2021 and January 2022, respectively), together with any neighbourhood plans that have been brought into force.
- 2.3 In relation to housing supply:
- 2.4 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').

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

### 3. Relevant Planning History

21/02133/COUNOT	Proposed conversion of an agricultural storage building into a dwelling.	Determination Approved	07.02.2022
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### 4. Consultations

ECC Highways Dept  
13.07.2022

Refer to consultation response for 21/02133/COUNOT but please add the following conditions:-

- Each vehicular parking space shall have minimum dimensions of 2.9 metres x 5.5 metres.

**Reason:** To ensure adequate space for parking off the highway is provided in the interest of highway safety.

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

**Reason:** To ensure appropriate cycle parking is provided in the interest of highway safety and amenity.

- Areas within the curtilage of the site for the purpose of the reception and storage of building materials shall be identified clear of the highway.

**Reason:** To ensure that appropriate loading / unloading facilities are available to ensure that the highway is not obstructed during the construction period in the interest of highway safety.

Environmental Protection  
18.05.2022

There are no indications of contamination from our potential contaminated land database register but due to previous use (agricultural activities) of the site there

might be some contamination.

Prior to the commencement of the proposed conversion, the applicant is advised to undertake a suitable and sufficient site investigation and any necessary risk assessment to ensure the land is free from significant levels of contamination. Therefore standard contaminated land condition is to be applied.

UU Open Spaces  
15.06.2022

Response from Public Realm Open Space & Play

Current Position:-

There is currently a deficit of 0.4 hectares of formal open space in Thorrington.

Recommendation:-

It is felt that there will be no significant impact on the current open space and play facilities, just by this single dwelling, should any further development occur a contribution will become necessary.

## 5. **Representations**

5.1 No comments have been received in response to the publicity of the application.

## 6. **Assessment**

6.1 The main considerations in this instance are:

- Site Context;
- Material Considerations;
- Principle of Development;
- Development Proposal;
- Scale, Layout and Appearance;
- Highway Safety, Access and Parking;
- Landscaping;
- Water Conservation, Drainage and Sewerage;
- Residential Amenities;
- Financial Contribution - Recreational Disturbance;
- Financial Contribution - Open Space and Play Space; and,

### Site Context

6.2 The locale is extremely verdant with sporadic housing on both the north and south sides of Tenpenny Hill; the focus for dwellings is however on the northern side of the road and tends to typically comprise single and chalet bungalows.

6.3 The first 18m or so of the driveway access/crossover from Tenpenny Hill is within the control of the applicant but used by the owners of Glendenning. Access to the farm buildings is obtained through a gated entrance around 9m back from Tenpenny Hill, via a track which leads around the south-east perimeter of land now owned in connection with the original farm house.

- 6.4 The site comprises a vast array of farm buildings which were associated historically with the main farmstead of Glendenning. They are located at the end of the driveway serving the existing dwelling, some 120m north from the main road. When the site was sold, the collection of buildings which remained on the site from the previous farming-activity were disassociated from the dwelling. The majority of the stables have now collapsed or are unsafe for use, although the principal barn still remains and is used for the storage of farm equipment and feed stuffs.

### Material Considerations

- 6.5 Planning law requires that decisions on applications must be taken in accordance with the development plan unless there are material considerations that indicate otherwise. Material considerations are matters or issues which may be relevant to the decision. Principles of Case Law held through the Courts hold significant weight as a material consideration.
- 6.6 In this particular regard the Mansell v Tonbridge and Malling Borough Council 2017 judgement requires the Council to consider the 'fallback position' i.e. what development alternatives we are bound to consider relevant. It is for the decision-maker to make a comparison between the development already approved versus the development proposed. How to interpret the weight attributed to the fallback position is established in caselaw in the R v Secretary of State for the Environment and Havering BC (1998) EnvLR189 judgement.

### *Fallback Position*

In paragraph 22 of the Mansell v Tonbridge judgement, it is stated that "It was not a precondition to the council's consideration of the fallback option that the interested party had made an application indicating an intention to take advantage of Class Q. There was no requirement that there be a formulated proposal to that effect." In direct comparison to the application under consideration, there *is* a formulated Class Q application. For this reason Officers are considered to have properly identified that there is a real prospect of a fallback development being carried out if planning permission were refused.

### *Attributing Weight to the Fallback Position*

The three tests which are necessary to apply are as follows:-

- first, whether there is a fall-back use, that is to say whether there is a lawful ability to undertake such a use;
- secondly, whether there is a likelihood or real prospect of such occurring.
- thirdly, if the answer to the second question is "yes" a comparison must be made between the proposed development and the fall-back use

The lawful ability to carry out the conversion of the existing building to a dwelling exists through the approval of prior approval application 21/02133/COUNOT (7<sup>th</sup> February 2022). The Council have no evidence before them to refute that there is a likelihood or real prospect of such occurring. The siting of the proposed dwelling is not materially different, the heights are comparable (4.5m versus 6.5m) and the proposed footprint is a nominal 10sqm greater than the existing approval. With the current application also proposing the demolition of all 600m<sup>2</sup> of the remaining buildings, these circumstances amount to a sufficient case of there being a fallback position.

### Principle of Development

- 6.7 The current application seeks to demolish the agricultural building subject of 21/02133/COUNOT in addition to the vast array of dilapidated stabling. This scheme is the 'fall

back' scheme and for this reason the principle of the development for one dwelling has been established.

#### Development Proposal

- 6.8 The application seeks full planning permission for a dwelling in lieu of the prior approval issued for conversion of an agricultural building into a dwelling. Appropriate measures would be put in place which would prevent both schemes from being implemented (see Condition 7).
- 6.9 The existing building comprises the main barn and an extension. Both are single storey and constructed with a timber frame and clad in timber weatherboarding with a corrugated cement fibre sheet roof; they have a floor area in the region of 93m<sup>2</sup>.
- 6.10 The dwelling's footprint would be of a simple rectangular form measuring 13m x 9m. The roof would be gabled-ended with eaves in the region of 2.6m and it would have a ridge of approximately 6.6m. The amenity area is proposed to the west and two off-street parking spaces to the east are provided. Access to the dwelling would be from Tenpenny Hill, following around the right-hand perimeter of the paddock area.
- 6.11 Whilst the footprint of the proposed dwelling would be around 11sqm greater than the extant permission, the application includes a commitment to demolish all of the existing buildings on the site. These buildings extend to approximately 600m<sup>2</sup> in addition to the existing barn and their removal will be controlled by way of a planning condition (Condition 8).

#### Scale, Layout and Appearance

- 6.12 Section 1 Policy SP7 of the 2013-33 Local Plan seeks high standards of urban and architectural design which responds positively to local character and context. Section 2 Policy SPL3 of the 2013-33 Local Plan also requires, amongst other things, that the development respects or enhances local landscape character, views, skylines, landmarks, existing street patterns, open spaces and other locally important features. Section 2 Policy LP4 requires that the design and layout of new residential and mixed-use developments in the Tendring District will be expected to deliver new dwellings that are designed to high standards of architecture, which respect local character and which together with a well-considered site layout, create a unique sense of place. Paragraph 130 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.
- 6.13 The proposed dwelling has parameters which closely match those of The Oaks which is around 140m away and would therefore correlate well with the broad range of scale of built form in the locale.
- 6.14 There is no locally-established palette of materials and dwellings/buildings are constructed in a range of finishes which include horizontal timber cladding, self-coloured render and render/brick combinations.
- 6.15 The dwelling would be of simple rectangular form with a semi-rustic external appearance. The external appearance of the replacement building will have a simple profile, clad in horizontal black weatherboarding, a brick plinth and with a red plain tiled roof. The walls would reflect the same material as agreed through the prior approval; the only change to external materials would be the roof having a red plain tile rather than profile sheeting, which is considered a visual enhancement.

#### Highway Safety/Parking

- 6.16 Paragraph 111 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety. Paragraph 112 states that applications for development should (a) give priority first to pedestrian and cycle movements and (c) create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles, avoid unnecessary street clutter. Paragraph 130 of the NPPF seeks to ensure that safe and suitable access to a development site can be achieved for all users. These objectives are supported adopted Policy SP7 of the Tendring District Local Plan 2013-2033.
- 6.17 In terms of access, the scheme follows the same arrangement as shown on the approved scheme although now provided with a consolidated surface. This access is taken from the existing entrance onto Tenpenny Hill which is provided with a bound surface treatment.
- 6.18 The Highway Authority comments that the site is located in the countryside; they do not consider that the use of the building as a dwelling would give rise to a significant increase in vehicle movements to and from the site or result in a material change in the character of the traffic in the vicinity of the site.
- 6.19 The Highway Authority have requested a condition pertaining to the reception and storage of building materials being identified clear of the highway; however this information is included in the Construction Management Plan and a separate condition to control this is not therefore deemed necessary.

#### Landscaping/Biodiversity

- 6.20 Section 2 Policy PPL3 of the Tendring District Local Plan 2013-2033 states that, in order to promote sustainable development, in considering where to select sites for new development in this Local Plan, the Council has taken particular care to assess the value of the landscape and, where practical, allocate sites with the lowest sensitivity, thereby helping to protect valued landscapes and the best and most versatile agricultural land. The Landscape Character Assessment (2001) identified 30 areas with different landscape characteristics and highlighted key sensitivities which need to be considered when assessing development proposals in the rural area. Proposals within the rural landscape should have regard to the Landscape Character Assessment (and any subsequent updates) and protect and re-inforce historic landscape features and important characteristics identified within it.
- 6.21 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 estuaries, rivers and undeveloped coast.
- 6.22 The site is within one of the thirty such areas defined in The Landscape Character Assessment, being Alresford Valley System. The Alresford Valley System forms part of the Colne catchment. It is a series of distinct river valleys and is steep sided in places. The south-facing slopes below Thorrington are much less steep and unusual in that they support an area of large scale arable land. The Alresford valleys are sensitive to changes that would affect their rural character. However, their 'hidden' position and high tree cover provides some shelter and reduces visual sensitivity. The location of the development does not encroach any further in to the countryside than the existing expanse of built form; the commitment to demolish this widespread cluster of buildings is also considered to amount to a minor improvement to the rural character of the area.
- 6.23 The access crosses agricultural land that is currently set to pasture. Consideration has to be given to the fact that 21/02133/COUNOT has been approved for the vehicular access in the same location, similarly agricultural permitted development rights would permit the laying of such a hardstanding also and, finally, the south-west boundary of the pasture (fronting



Tenpenny Hill) comprises a dense and established tree-line. For these reasons, on balance, the visual impact of the access drive is not considered sufficient grounds for objection.

#### Water Conservation, Drainage and Sewerage

- 6.24 Paragraph 170 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. Paragraph 180 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. Paragraph: 020 of the National Planning Policy Guidance states that where a connection to a public sewage treatment plant is not feasible a package sewage treatment plant can be considered. The package sewage treatment plant must comply with the Small sewage discharges in England: general binding rules 2015 (GBR), or a permit will be required. Package sewage treatment plants may only be considered if it can be clearly demonstrated by the applicant that discharging into a public sewer is not feasible (taking into account cost and/or practicability and whether the package treatment plant poses a risk to a designated site) in accordance with Approved Document H of the Building Regulations 2010. A completed Foul Drainage Assessment Form 1 (FDA1) form, or equivalent information, should accompany all planning applications where use of a non-mains system is proposed for foul drainage. The operation of small sewage discharges such as those from septic tanks or package treatment plants is regulated under the Environmental Permitting Regulations 2016 (EPR).
- 6.25 Policy PPL5 (Water Conservation, Drainage and Sewerage) of the Adopted Local Plan states private sewage treatment facilities will not be permitted if there is an accessible public foul sewer. Where private sewage treatment facilities are the only practical option for sewage disposal, they will only be permitted where there would be no harm to the environment, having regard to preventing pollution of groundwater and any watercourses and odour.
- 6.26 In relation to non-mains drainage from non-major development the Environment Agency's advice is that to comply with the Framework and PPG on foul drainage matters, an LPA needs to be satisfied that foul drainage can be provided without adverse impact on the environment. This requires ensuring that both those environmental risks outside of the control of the permit and the relevant considerations in the PPG are addressed. The LPA should also be mindful that the developer will need to address foul drainage matters to get their environmental permit and meet building control regulations. Therefore, they should be confident that it is likely that any necessary permits and approvals can be successfully obtained.
- 6.27 Question 11 of the application form states that it is not intended to connect to a mains sewer. Instead, foul sewage will be disposed of by way of a package treatment plant. Details of the proposed treatment plant have subsequently been received which shows that the system to be installed is a Kingspan Klargester, BioDisc Commercial sewage treatment plant.
- 6.28 Having regard to non-mains drainage, the site is not close to any dwelling and in an area where it is unlikely that mains drainage exists for any of the properties, the site is not close to any designated site of importance to biodiversity, is not located within a Drinking Water Safeguard Zone or a Source Protection Zone, and the site is sufficiently large enough to accommodate a soakaway. Furthermore, there is no evidence ground conditions would preclude such a solution. Access for maintenance would be achievable from the existing car park. Taking all these factors into account, the use of the package treatment plant is considered to be the only feasible option available.

#### Residential Amenities

- 6.29 The NPPF, at paragraph 130 states that development should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of

amenity for existing and future users. Section 1 Policy SP7 of the Tendring District Local Plan 2013-2033 requires that all new development protects the amenity of existing and future residents and users with regard to noise, vibration, smell, loss of light, overbearing and overlooking. Section 2 Policy LP4 requires that new residential developments will be expected to provide for 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.

#### Space Standards:-

In March 2015, the government launched a new approach to housing standards and published a new set of streamlined national technical standards. This included publication of Technical housing standards – nationally described space standard.

No. of Bedrooms	No. of Bed Spaces	Storeys	Min Requirement	Actual Floorspace	Compliance
3	4	1	74sqm	93sqm	yes

- 6.30 Separation distances in excess of 50m would result from the development therefore no material harm to the amenity of the occupiers of the closest dwelling would ensue. The proposed dwelling exceeds the minimum internal space standards for a three-bedroom, four person single storey occupancy by some quite considerable amount. It is observed that whilst the amenity space is much smaller than those of properties in the immediate locale, at around 137sqm it is comparative to one dwelling (at 171sqm) within 180 linear metres and represents a usable area.
- 6.31 Overall the proposal is considered to secure a good standard of amenity for future occupants of the proposed dwelling.

#### Recreational Disturbance Avoidance and Mitigation Strategy (RAMS)

- 6.32 Under the Habitats Regulations, a development which is likely to have a significant effect or an adverse effect (alone or in combination) on a European designated site must provide mitigation or otherwise must satisfy the tests of demonstrating 'no alternatives' and 'reasons of overriding public interest'. There is no precedent for a residential development meeting those tests, which means that all residential development must provide mitigation.
- 6.33 The application scheme proposes a new dwelling on a site that lies within the Zone of Influence (Zol) being approximately 1,520 metres from Colne Estuary (Mid-Essex Coast Phase 2), SAC, SPA and Ramsar. However, new housing development within the Zol would be likely to increase the number of recreational visitors to the Colne Estuary; and, in combination with other developments it is likely that the proposal would have significant effects on the designated site. Mitigation measures must therefore be secured prior to occupation.
- 6.34 A unilateral undertaking has been prepared to secure this legal obligation. This will ensure that the development would not adversely affect the integrity of European Designated Sites in accordance with Section 1 Policy SP2 and Section 2 Policy PPL4 of the Tendring District Local Plan 2013-2033 and Regulation 63 of the Conservation of Habitat and Species Regulations 2017.

#### Public Open Space

- 6.35 Paragraph 56 of the National Planning Policy Framework (2021) states Local Planning Authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Paragraph 57 of the NPPF states planning obligations must only be sought where they are necessary to make the

development acceptable in planning terms, directly relate to the development and fairly and reasonably relate in scale and kind to the development.

- 6.36 Policy DI1 states that all new development should be supported by, and have good access to, all necessary infrastructure. Permission will only be granted if it can be demonstrated that there is sufficient appropriate infrastructure capacity to support the development or that such capacity will be delivered by the proposal. It must further be demonstrated that such capacity, as is required, will prove sustainable over time both in physical and financial terms. Where a development proposal requires additional infrastructure capacity to be deemed acceptable, mitigation measures must be agreed with the Local Planning Authority and the appropriate infrastructure provider. Such measures may include financial contributions towards Open Space.
- 6.37 The Council's Open Space Team have been consulted on the application to determine if the proposal would generate the requirement for a financial contribution toward public open or play space. The outcome of the consultation is that no contribution is being requested from Open Spaces on this occasion.

## **7. Conclusion**

- 7.1 Whilst the location of the development is not supported by Local Plan policy - with regard to the scale, siting and form of development proposed, the similarities to the prior approval application 21/02133/COUNOT are deemed to hold significant weight as the fallback position. The proposal will have a neutral impact on the character of the landscape in comparison to the fallback scheme, and does not amount to sufficient visual harm, harm to residential amenities nor harm to highway safety that would warrant refusal of planning permission. The application is therefore recommended for approval.

## **8. Recommendation**

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

### **8.2 Conditions and Reasons**

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

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

- 2 The development hereby permitted shall be carried out in accordance with the following approved plan:- GDTP-02 A (received 11 May 2022)

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

- 3 Each vehicular parking space shall have minimum dimensions of 2.9 metres x 5.5 metres.  
Reason - To ensure adequate space for parking off the highway is provided in the interest of highway safety.
- 4 The Cycle parking shall be provided in accordance with the EPOA Parking Standards. The approved facility shall be secure, convenient, covered and provided prior to first occupation and retained at all times.

Reason - To ensure appropriate cycle parking is provided in the interest of highway safety and amenity.

- 5 Prior to occupation of the hereby approved development, the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack per dwelling, for sustainable transport, approved by Essex County Council.

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

- 6 In the event that contamination is found which was not previously identified, it shall be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment shall then be undertaken in accordance with the requirements of paragraph 1 above and, where remediation is necessary, a new Remediation Scheme shall be prepared in accordance with the requirements of paragraph 2 above and submitted to and approved in writing by the Local Planning Authority. Following completion of all necessary measures identified in such Remediation Scheme as may be approved, a verification report shall be submitted to and approved in writing by the Local Planning Authority in accordance with paragraph 3 above. In such circumstances, no further works of development shall be carried out to that part of the site until such time as the requirements of this paragraph have been satisfied.

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

- 7 No building or engineering operations authorised by this permission shall be commenced until the agricultural buildings (subject of 21/02133/COUNOT and shown as being demolished on drawing GDTP-02 A received 11 May 2022) on the site have been demolished and all materials resulting therefrom shall be cleared from the site.

Reason - The development hereby permitted has only been supported on the basis that the existing agricultural buildings be removed from the site to justify their replacement with a single dwelling which ordinarily would be contrary to the development plan which directs new development to sites within settlement development boundaries.

- 8 Prior to the occupation of the dwelling, the remainder of all buildings shown hatched on unnumbered plan, received 19th July 2022 shall be demolished and all materials resulting therefrom shall be cleared from the site.

Reason - The development hereby permitted has only been supported on the basis that the existing agricultural buildings be removed from the site to justify their replacement with a single dwelling which ordinarily would be contrary to the development plan which directs new development to sites within settlement development boundaries.

### 8.3 Informatives

Positive and Proactive Statement:-

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

## Environmental Protection:-

In order to minimise potential nuisance to nearby existing residents caused by demolition/construction works, Environmental Protection ask that the following be adhered to:-

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.

The use of barriers to mitigate the impact of noisy operations will be used where possible. This may include the retention of part(s) of the original buildings during the demolition process to act in this capacity.

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

All reasonable steps, including damping down site roads, shall be taken to minimise dust and litter emissions from the site whilst works of construction and demolition are in progress.

Adequate and suitable measures should be carried out for the minimisation of asbestos fibres during demolition, so as to prevent airborne fibres from affecting workers carrying out the work, and nearby properties. Only contractors licensed by the Health and Safety Executive should be employed. Any redundant materials removed from the site should be transported by a registered waste carrier and disposed of at an appropriate legal tipping site.

## Legal Agreement Informative - Recreational Impact Mitigation:-

This application is the subject of a legal agreement and this decision should only be read in conjunction with this agreement. The agreement addresses the following issues: mitigation against any recreational impact from residential developments in accordance with Regulation 63 of the Conservation of Habitat and Species Regulations 2017. Please note that any subsequent variation / removal of condition applications (s73 applications) will require a new legal agreement to secure this obligation unless the development has commenced (subject to all necessary condition discharges) and the contribution has already been paid.

## **9. Additional Considerations**

### Public Sector Equality Duty (PSED)

- 9.1 In making your decision you must have regard to the PSED under section 149 of the Equality Act 2010 (as amended). This means that the Council must have due regard to the need in discharging its functions to:
- A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
  - B. Advance equality of opportunity between people who share a protected characteristic and those who do not. This may include removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; taking steps to meet the special needs of those with a protected characteristic; encouraging participation in public life (or other areas where they are underrepresented) of people with a protected characteristic(s); and
  - C. Foster good relations between people who share a protected characteristic and those who do not, including tackling prejudice and promoting understanding.

- 9.2 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, being married or in a civil partnership, race including colour, nationality and ethnic or national origin, religion or belief, sex and sexual orientation.
- 9.3 The PSED must be considered as a relevant factor in making this decision but does not impose a duty to achieve the outcomes in section 149 and section 149 is only one factor that needs to be considered, and may be balanced against other relevant factors.
- 9.4 It is considered that the recommendation to grant permission in this case would not have a disproportionately adverse impact on a protected characteristic.

### Human Rights

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

## **10. Finance Implications**

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

## **11. Background Papers**

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