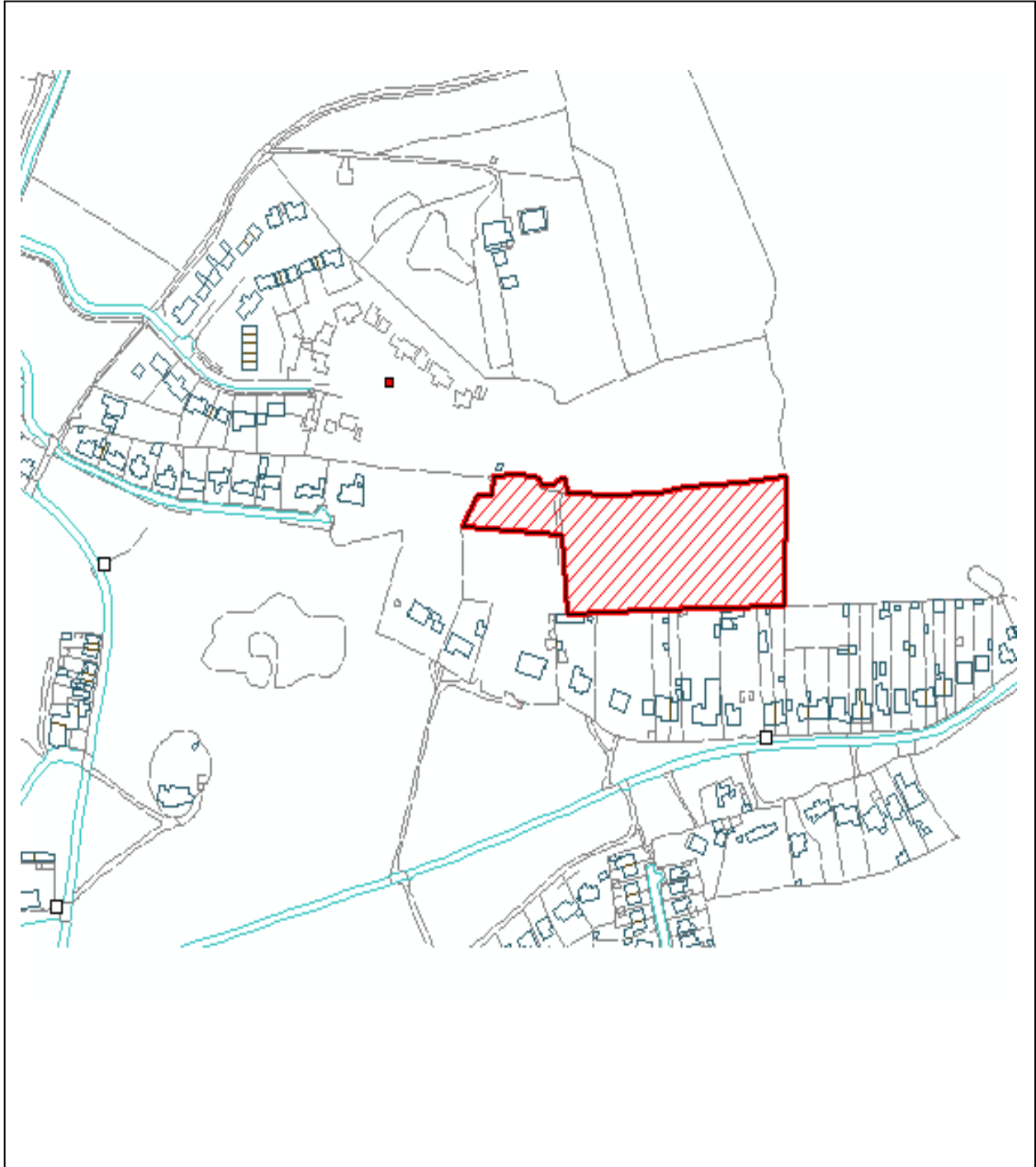


PLANNING COMMITTEE

27th September 2022

REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING

A.3 PLANNING APPLICATION – 21/02176/FUL – LAND AT MOORLANDS FARM, GREAT BENTLEY CO7 8RS



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Application: 21/02176/FUL

Town / Parish: Great Bentley Parish Council

Applicant: Mr and Mrs Frank Strutt

Address: Land at Moorlands Farm, Great Bentley CO7 8RS

Development: Construction of 26 dwellings with associate access, parking, public open space, landscaping and other works

1. **Executive Summary**

- 1.1 The site is in a rural locality and within the sustainable settlement of Great Bentley and proposes 26 Dwellings similar in design and layout to adjacent development.

Recommendation:

(1) On appropriate terms as summarised below and those as may be deemed necessary to the satisfaction of the Assistant Director for Planning to secure the completion of a legal agreement under the provisions of section 106 of the Town and Country Planning Act 1990 dealing with the following matters:

- A financial contribution for Open Space, Schools and RAMS as set out by consultees adjusted to 26 dwellings and indexed linked.
- Affordable House 30%

(2) That the Assistant Director for Planning be authorised to Grant Planning Permission upon completion of the legal agreement subject to conditions as stated in Section 8.2 (or as need to be varied*) and those as may be deemed necessary by the Assistant Director for Planning

(3) And the informative notes as may be deemed necessary:

(4) That in the event of the Planning obligations or requirements referred to in Resolution (1) above not being secured and/or not secured within 6 months that the Assistant Director for Planning be authorised to refuse the application on appropriate ground at their discretion.

*To account for any errors, legal and necessary updates

2. **Planning Policy**

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

National:

National Planning Policy Framework July 2021 (NPPF)

National Planning Practice Guidance (NPPG)

Local Plan:

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

HP5 Open Space, Sports & Recreation Facilities

DI1 Infrastructure Delivery and Impact Mitigation

LP1 Housing Supply

LP2 Housing Choice

LP3 Housing Density and Standards

LP4 Housing Layout

LP5 Affordable and Council Housing

PPL1 Development and Flood Risk

PPL3 The Rural Landscape

PPL5 Water Conservation, Drainage and Sewerage

PPL10 Renewable Energy Generation

CP1 Sustainable Transport and Accessibility

CP2 Improving the Transport Network

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

Essex Design Guide

Status of the Local Plan

Planning law requires that decisions on applications must be taken in accordance with the development plan unless there are material considerations that indicate otherwise (Section 70(2) of the 1990 Town and Country Planning Act and Section 38(6) of the Planning and Compulsory Purchase Act 2004). This is set out in Paragraph 2 of the National Planning Policy Framework (the Framework). The 'development plan' for Tendring comprises, in part, Sections 1 and 2 of the

Tendring District Council 2013-33 and Beyond Local Plan (adopted January 2021 and January 2022, respectively), together with any neighbourhood plans that have been brought into force.

In relation to housing supply:

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

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

3. Relevant Planning History for site and adjacent area

01/01918/OUT	Detached apartment building (comprising two apartments)	Approved	01.02.2002
02/01002/OUT	Detached apartment building comprising three apartments.	Refused	18.09.2002
04/00927/FUL	Erection of detached building to create three apartments	Approved	09.11.2004
05/00898/FUL	Erection of detached garage to flats (approved under 04/00927/FUL)	Approved	13.07.2005
05/01036/FUL	Erection of a detached 4 bedroomed house with garage	Refused	05.08.2005
05/01726/FUL	Re-alignment of site boundary from that approved under 04/00927/FUL		07.10.2005
05/02217/FUL	Erection of additional detached garage to flats approved under 04/00927/FUL	Approved	01.03.2006
06/00511/OUT	Proposed detached dwelling	Refused	15.05.2006
09/00864/FUL	Proposed erection of detached building to create 3 apartments as previously approved under 04/00927/FUL.	Approved	13.10.2009
10/00742/FUL	Erection of detached garages to flats (approved under 04/00927/FUL). (Extension of time on previously approved application 05/00898/FUL).	Approved	25.08.2010
13/00648/FUL	Proposed detached building to create 3 apartments, including 3 garages.	Approved	06.08.2013

15/00682/OUT	Proposed erection of 75 dwellings, garages, roads and associated works.	Refused	08.01.2016
16/00133/OUT	Proposed erection of 50 dwellings, garages, roads and associated works.	Approved	28.09.2016
16/00907/DISCON	Discharge of conditions 2 (materials), 3 (brick courses), 4 (windows), 7 (landscaping), 10 (screen walls/fencing), 11 (onsite parking/loading/turning) and 12 (wheel cleaning) of planning permission 13/00648/FUL.	Approved	06.07.2016
16/01912/DETAIL	Proposed erection of 50 dwellings, garages and associated works.	Approved	12.05.2017
16/01999/OUT	A doctors surgery and twenty five dwellings, associated infrastructure and landscaping.	Refused	04.04.2017
18/01543/TELLIC	Proposal to install electronic communications apparatus/development ancillary to radio equipment housing.	Determination	28.09.2018
18/01796/DISCON	Discharge of Conditions 7 (tree protection measures), 9 (phasing plan), 10 (landscape & public open space management plan), 14 (ecological mitigation & management plan), 15 (construction method statement), and 17 (local recruitment strategy) of 16/00133/OUT.	Approved	09.01.2019
19/00307/DISCON	Discharge of Condition 11 (Surface Water Drainage) of 16/00133/OUT.	Approved	12.03.2019
19/00448/FUL	Proposed detached building to create 3 apartments with associated garages, cartlodge, parking and cycle and bin stores.	Approved	12.07.2019
19/00801/NMA	Non-material amendment for approved application 16/01912/DETAIL.	Withdrawn	18.09.2019
19/01021/OUT	Variation of condition 12 of approved application 16/00133/OUT to amend clause (ii).	Approved	17.10.2019
19/01204/DETAIL	Seeking approval for material changes further to application 16/01912/DETAIL (Plots 1 to 41).	Approved	14.11.2019
20/00489/DETAIL	Reserved matters application for 25 dwellings, open space, associated parking and infrastructure for application 16/01999/OUT allowed at appeal APP/P1560/W/17/3174843.	Approved	01.09.2020
20/00748/FUL	Re-design of the eastern parcel of the original application site to provide 18 new build dwelling houses comprising of 2, 3 and 4 beds.	Approved	06.11.2020

20/00864/DETAIL	Amendments to Layout relating to plots 7, 8, 12, 31, 32, 35, 37, 38 and 39; Boundary conditions and realignments, Site entrance wall added; and Appearance and Scale relating to Plot 8 (approved under 16/01912/DETAIL).	Approved	07.10.2020
20/01054/DETAIL	Reserved matters application for a doctor's surgery for application 16/01999/OUT allowed at appeal APP/P1560/W/17/3174843.	Approved	23.10.2020
21/00104/FUL	Proposal to re-design the Eastern Parcel of a previously approved development, ref: 20/00748/FUL. 18 new build 2,3 and 4 bed homes will be provided within 1.23 hectares.	Approved	08.06.2021
21/00220/DISCON	Discharge of conditions 4 (Foul Drainage), 5 (Ground Risk Assessment), 6 (Construction Method Statement), 7 (Landscape and Public Open Space Management Plan), 9 (Tree Protection Measures), 11 (Surface Water Drainage), 12 (Ecological Mitigation Scheme and Management Plan), 13 (Fibre Optic) and 15 (Driveway Details) of approved planning application 20/00748/FUL.	Approved	09.04.2021
21/00739/FUL	Relocation of proposed locally equipped play area (LEAP).	Approved	06.07.2021
21/00909/DISCON	Discharge of condition 10, (Off Street Parking) 12, (Construction Method Statement) 13, (Landscape Management Plan) 15, (Tree Protection Measures) 16, (Surface Water Drainage) 19, (Archaeology) 20, (Ecological Mitigation Scheme) 21, (Hard surfacing, Lighting, Refuse Storage and Collection Points) and 22 (Fibre Optic Broadband) of approved planning application 16/01999/OUT, approved at appeal via APP/P1560/W/17/3174843		13.07.2021
21/00910/DISCON	Discharge of condition 3 (Materials Plan and Schedule) of approved application 20/00489/DETAIL.	Approved	13.07.2021
22/00695/FUL	Proposed revised application for the construction of a new mixed use building consisting of medical wellness and polyfunctional facilities E (e) and retail (Use Class E(a)) alongside associated vehicle access, parking, landscaping and other associated works.	Refused	22.07.2022
22/00835/DISCON	Seeking confirmation of compliance with condition 1 (Time Limit) of application 19/00448/FUL.	Approved	19.05.2022

4. Consultations

4.1 During the course of the application Consultations and Parish/Town representations have been received. These are summarised below

Great Bentley Parish Council	Objects
UU Open Spaces	Contribution Sought
ECC Highways	No objection subject to conditions recommended
TDC Environmental Protection	Approval subject to conditions recommended
Essex County Council Heritage	Outlines level of harm and need to consider public benefit.
NHS East Essex CCG	No comment
Tree & Landscape Officer	No objections
Anglian Water Services Ltd	Notes need to carry out its duty to provide waste infrastructure for development. Recommendations is conditions.
ECC Schools Service	No objections, outlines contributions sought (These would be adjusted to the development proposed as needed)
TDC Housing Services	Outlines Affordable Housing requirements.
Essex County Council Archaeology	Recommends conditions.
Historic England	Do not wish to offer comments
Essex County Council Ecology	Recommends conditions

Great Bentley Parish Council

4.2 Great Bentley Parish Council wish to OBJECT as follows:

4.3 The Parish Council acknowledge that this application is within the Village Boundary as depicted in Part II of the recently adopted Local Plan, nevertheless the Council object to this Planning Application. A further 31 dwellings is not sustainable in the village that has already experienced a 56% increase in housing stock, despite hundreds of thousands of pounds being paid by developers for health, education, and highways infrastructure there has been no material benefit.

4.4 The Local Plan's Overall Assessed Housing need has been established as 550 per annum. For planning purposes (a 5-year period) Tendring Council can demonstrate a 6.66-years supply of deliverable housing; a surplus of approximately 1000 dwellings.

4.5 The application form describes the site as Moorlands Farm and the current use of the land as former agricultural. This site has not been a farm for some 30 years plus, furthermore a planning application in 1995 changed the use of a significant area of land from agricultural to domestic garden.

4.6 Perusal of the Proposed Site and Location Plans reveal that the Northern edge of the site abuts Michael Wright Way which is in the Admirals Green development. This area of land overlaps the Admirals Green site which is already allocated as Open Space. Plots 1,2,3 and possibly 4 are in the established Conservation Area of the Village – established trees and hedging cannot be removed. These same plots would also obscure the view from the Village Green to the Countryside, maintaining this view was a condition for the Admirals Green development as can be seen in the location plan for the application. If the Application is considered for approval, then the same condition should be also applied to this proposed development.

4.7 The proposed development will add to the pressures on the local sewage infrastructure the capabilities for which are already beyond capacity and literally overflowing on a regular basis. Anglia Water have clearly stated the system does not have the capacity.

4.8 In summary a further 31 houses are neither needed nor sustainable and should be refused

4.9 *(Officer Note: This is the last response from the Parish Council, the application has been reduced to 26 Dwellings and all units removed from the Conservation Area and the view secured by the Admirals Green development is now maintained. No comment on the amended scheme has been received at the time of writing. If implemented, any application to change to garden would mean in planning terms that area could be considered previously developed land under the definition of the NPPF, but at this time the land is considered not to be previously developed.)*

<p>TDC Environmental Protection 27.01.2022</p>	<p>With reference to the above application, please see below for comments from the EP Team:</p> <p>Contaminated Land: Due to the sites historical use and proximity to historical registered contaminated land, the EP Team are requesting that should this application be approved, the following is condition -</p> <p>(Conditions are copied to the recommendation)</p>
<p>NHS East Essex CCG 28.03.2022</p>	<p>Thank you very much for the email.</p> <p>As a CCG we currently don't respond to planning applications below 50 dwellings so based on this we won't be making any comments on this planning application.</p> <p>We try to record all residential dwelling applications for more than 10 dwellings so we can keep a record of accumulative impact in an area.</p>
<p>Tree & Landscape Officer 08.02.2022</p>	<p>The application is supported by an Arboricultural Impact Assessment (AIA) which shows the extent of the impact of the development proposal on existing trees on the land. The information provided is in accordance with BS5837: 2012 Trees in relation to design, demolition and construction ' Recommendations.</p> <p>The AIA identifies the removal of 4 trees and a hedge that will be required in order to implement the development proposal. Using the numbering system on the above AIA these are; T11 - Norway Maple, T12 - Rowan, T12 Hornbeam, T13 Beech and H2 comprising Holly, Cotoneaster and Beech. Both the Norway Maple and the Rowan are small trees with a category 'C' grading meaning they are not considered a significant constraint on the development potential of the land. The Hornbeam and the Beech have a category 'B' grading and are larger specimens however the location of the trees is such that they do not feature prominently in the public realm and consequently it is not considered expedient or necessary to make them the subjects of a new tree preservation order (TPO).</p> <p>The hedge H2 is a reasonably attractive feature in the garden within which it is situated but does not feature in the public realm and does not merit retention.</p> <p>If consent were likely to be granted then the amenity value of the trees identified for removal could be relatively easily replicated and improved upon by new tree planting and associated soft landscaping.</p> <p>In this regard the applicant has provided a comprehensive planting scheme, including tree planting that will soften and enhance the appearance of the development. With regard to retained trees the information contained in the AIA</p>

	<p>adequately demonstrates that the development proposal could be implemented without causing harm to them. The measures set out in the AIA should be fully implemented to ensure that retained trees are physically protected for the duration of the construction phase of any development for which planning permission is granted</p>
<p>Tree & Landscape Officer 29.06.2022</p>	<p>The amended layout does not alter the impact of the development proposal on existing trees on the site. The details that have been provided relating to the removal, retention and protection of retained trees is acceptable and shows the retention of important boundary trees.</p> <p>Details of soft landscaping are comprehensive and will lead to an increase in the number of trees on the land.</p>
<p>Anglian Water Services Ltd 24.01.2022</p>	<p>Our records show that there are no assets owned by Anglian Water or those subject to an adoption agreement within the development site boundary.</p> <p>Wastewater Treatment</p> <p>The foul drainage from this development is in the catchment of Thorrington Water Recycling Centre which currently does not have capacity to treat the flows the development site. Anglian Water are obligated to accept the foul flows from the development with the benefit of planning consent and would therefore take the necessary steps to ensure that there is sufficient treatment capacity should the Planning Authority grant planning permission.</p> <p>Used Water Network</p> <p>This response has been based on a lack of documentation outlining the intended foul drainage strategy. A full assessment cannot be made without identified points of connection or discharge rates. Development will lead to an unacceptable risk of flooding downstream. Anglian Water will need to plan effectively for the proposed development, if permission is granted. We will need to work with the applicant to ensure any infrastructure improvements are delivered in line with the development.</p> <p>We therefore request a condition requiring an on-site drainage strategy</p> <p>Surface Water Disposal</p> <p>The preferred method of surface water disposal would be to a sustainable drainage system (SuDS) with connection to sewer seen as the last option. Building Regulations (part H) on Drainage and Waste Disposal for England includes a surface water drainage hierarchy, with infiltration on site as the preferred disposal option, followed by discharge to watercourse and then connection to a sewer.</p> <p>From the details submitted to support the planning application the proposed method of surface water management does not relate to Anglian Water operated assets. As such, we are unable to provide comments on the suitability of the surface water management.</p> <p>The Local Planning Authority should seek the advice of the Lead Local Flood Authority or the Internal Drainage Board. The Environment Agency should be consulted if the drainage system directly or indirectly involves the discharge of water into a watercourse. Should the proposed method of surface water management change to include interaction with Anglian Water operated assets,</p>

	<p>we would wish to be reconsulted to ensure that an effective surface water drainage strategy is prepared and implemented. If the developer wishes Anglian Water to be the adopting body for all or part of the proposed SuDS scheme the Design and Construction Guidance must be followed. We would recommend the applicant contact us at the earliest opportunity to discuss their SuDS design via a Pre-Planning Strategic Enquiry. The Lead Local Flood Authority (LLFA) are a statutory consultee for all major development and should be consulted as early as possible to ensure the proposed drainage system meets with minimum operational standards and is beneficial for all concerned organisations and individuals. We promote the use of SuDS as a sustainable and natural way of controlling surface water run-off. We please find below our SuDS website link for further information.</p> <p>https://www.anglianwater.co.uk/developers/drainage-services/sustainable-drainage-systems/</p> <p>Conditions recommended are placed in Section 8.2</p>
<p>ECC Schools Service 07.03.2022</p>	<p>Thank you for providing details of the above planning application proposing 31 residential units consisting of 22 x 2+ bed houses and 9 x 1bed flats. A development of this size can be expected to generate the need for up to 1.98 Early Years and Childcare (EY&C) places; 6.6 primary school, and 4.4 secondary school places.</p> <p>Please note that any developer contribution figures referred to in this letter are calculations only, and that final payments will be based on the actual dwelling unit mix and the inclusion of indexation.</p> <p>Early Years and Childcare Essex County Council has a statutory duty under the Childcare Act 2006 to ensure that there is sufficient and accessible high-quality early years and childcare provision to meet local demand and parental choice. This includes provision of childcare places for children aged between 0-5 years as well as wrap around provision for school aged children (5-11 or up to 19 with additional needs).</p> <p>The proposed development is located within the Bentleys and Frating ward and according to latest available childcare sufficiency data, there are 7 early years and childcare providers within the ward. Overall a total of 1 unfilled place was recorded.</p> <p>Although there is some EY&C capacity in the area, the data shows insufficient provision to meet the additional demand created by this development. A developer contribution of £34,191 index linked to Q1- 2020, is sought to mitigate its impact on local early years & childcare provision. This equates to £17,268 per place.</p> <p>Primary education</p> <p>This development would sit within the priority admissions area of Great Bentley Primary School, which has a published admission number of 30 pupils per year. As at the last school census in October 2021 they had slightly over this number in some year groups, with a total of 213 pupils on roll. Early data for admission into Reception in September suggests that the school will again be full. As set out in the Essex School Organisation Service's 10 Year Plan, to meet growing demand across the area (Tendring Group 3), plans are being drawn up to expand Great Bentley Primary School for the 2024/25 academic year.</p>

The demand generated by this development would be in addition to this demand. A developer contribution of £113,969 index linked to Q1- 2020, is sought to mitigate its impact on local primary school provision. This equates to £17,268 per place.

Secondary Education

Due to the recently completed project to expand Colne Community School a contribution towards secondary education places will not be requested at this time.

School Transport

Having reviewed the proximity of the site to the nearest primary school, the distance is in excess of the statutory walking distance, therefore, Essex County Council will be seeking a school transport contribution toward primary school transport. Based on 6.6 pupils, the transport contribution would be £145,978.14, index linked to Q1 2020. Having reviewed the proximity of the site to the nearest secondary school, the distance is in excess of the statutory walking distance, therefore, Essex County Council will be seeking a school transport contribution toward secondary school transport. Based on 4.4 pupils, the transport contribution would be £21,903.20, index linked to Q1 2020

Libraries

ECC may seek contributions to support the expansion of the library service to meet customer needs generated by residential developments of 20+ homes. The provision of a Library Service is a statutory duty under the 1964 Public Libraries and Museums Act and it's increasingly become a shared gateway for other services such as for accessing digital information and communications.

The suggested population increase brought about by the proposed development is expected to create additional usage of the nearest library. A developer contribution of £2,411.80 is therefore considered necessary to improve, enhance and extend the facilities and services provided. This equates to £77.80 per unit.

Employment and Skills

Both Central and Local Government have a crucial role to play in identifying opportunities to maximise employment, apprenticeships, and to invest in skills to realise personal and economic aspirations. ECC has a role to play in supporting Local Planning Authorities and helping to ensure that the development industry has the necessary skills to build the homes and communities the county needs. ECC supports Tendring District Council (TDC) in securing obligations which will deliver against this crucial role in supporting employment and skills in the district.

In the current economic climate and national skills shortage, ECC supports TDC Council in requiring developers to prepare an 'Employment and Skills Plan' (ESP) seeking to drive forward an increase in construction employability levels and workforce numbers. These plans will help to address negative perceptions of the sector and develop a strong future pipeline. This is referred to as the 'development phase'. ECC also supports TDC Council in requiring landowners to produce an ESP for commercial developments, to enable wider employment opportunities for those requiring additional support to enter the job market.

This is referred to as the 'end-use phase'. Additionally, ECC encourages TDC Council to consider the inclusion of other requirements, including financial contributions, to support appropriate employment and skills outcomes as a result of this development.

	<p>In view of the above, I request on behalf of Essex County Council that if planning permission for this development is granted it should be subject to a section 106 agreement to mitigate its impact on EY&C, primary education, primary and secondary school transport and libraries. The contributions requested have been considered in connection with the CIL Regulations 2010 (as Amended) and are CIL compliant. Our standard formula s106 agreement clauses that ensure the contribution would be necessary and fairly and reasonably related in scale and kind to the development are available from Essex Legal Services.</p> <p>If your council were minded to turn down the application, I would be grateful if the lack of surplus EY&C, primary education, primary and secondary school transport and libraries provision in the area to accommodate the proposed new homes can be noted as an additional reason for refusal, and that we are automatically consulted on any appeal or further application relating to the site.</p>
<p>Housing Services 29.03.2022</p>	<p>There is a high demand for housing in Great Bentley and from the applications on the council's Housing Register the following have expressed an interest in being housed in the village:</p> <ul style="list-style-type: none"> 1 Bedroom- 139 2 Bedroom- 70 3 Bedroom- 65 4 Bedroom- 34 5 Bedroom- 9 6 bedroom- 1 <p>As such the 30% on site affordable housing provision in accordance with LP5 is what the Housing Service will expect to see on the site. The mix of dwellings as currently proposed is acceptable, however, a preference is for a three bedroom house to be provided in lieu of one of the two bedroom houses or maisonettes. These dwellings should be offered to the Council to purchase initially or another registered provider if the Council decides not to purchase them.</p>
<p>Essex County Council Archaeology 15.07.2022</p>	<p>The above application is for the construction of 31 dwellings with associate access, parking, public open space, landscaping and other works.</p> <p>The Essex Historic Environment (HER) Record shows that the proposed development will affect a site of archaeological interest. A number of cropmark complexes in the surrounding area attest to the archaeological potential of the area of the proposed development. These include ring-ditches of probable Bronze Age date, settlement enclosures and trackways of later prehistoric or Roman date and probable medieval field boundaries.</p> <p>Archaeological investigation adjacent to the northern boundary has demonstrated the survival of medieval archaeological remains and residual prehistoric archaeological remains. Recent excavation further north has revealed significant Late Iron Age/Roman activity, including weaving and metalworking, indicating a nearby settlement. There is potential for further remains associated with the Late Iron Age/Roman activity and medieval evidence in the adjacent fields to continue within the proposed development area. Any surviving below ground heritage assets within the proposed development site would be damaged or destroyed by the proposed development.</p> <p>In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential</p>

	<p>impact of the proposal on their significance (NPPF Para.194). Where a site on which development is proposed includes, or has the potential to include, heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation.</p> <p>Conditions are recommended and included as part of Section 8.2</p>
<p>Essex County Council Heritage 20.05.2022</p>	<p>The application is for the construction of 31 dwellings with associate access, parking, public open space, landscaping and other works. This follows my previous letter dated 9th February 2022 and site meeting with the agent, where we discussed potential alternative solutions and mitigation strategies to reduce the impact of the proposed development on the character and appearance of Great Bentley Conservation Area and on the setting of Moorlands Farm as non-designated assets.</p> <p>The applicant subsequently submitted updated site plans showing a revised layout addressing the main concern as follows:</p> <ul style="list-style-type: none"> - The amount of proposed construction on the area within the Conservation Area has been reduced to two new dwellings only and allocated on the western side of the plot, in order to retain this area of The Green as an open space. I note, however, that the proposed buildings at the back of the dwellings facing Weeley Road are still very close to the boundary of the Conservation Area. A larger buffer along this boundary in order would allow for more planting to mitigate the visual impact of the new development on the character and appearance of the Conservation Area; - Additional open space has been retained within the Conservation Area in connection to the existing one along the northern boundary of the site (now also excluded from the revised site plan). This additional POS helps to maintain the sense of openness and the views through The Green which are representative of the distinctiveness of the Conservation Area; - similar design and materials have been extended to both affordable housing and houses for private sale in order to maintain the high-quality design standard required to positively contribute and enhance the character and appearance of the Conservation Area, a requirement set by Paragraph 197 of the NPPF; - additional artificial lights have been reduced by avoiding new street lights. <p>While the proposed scheme will still result in less than substantial harm to the significance of Great Bentley Conservation Area, the revised layout introduces mitigation measures to lessen the visual impact of the development on the Conservation Area and on the setting of Moorland Farm.</p> <p>The level of less than substantial harm to the Conservation Area is considered to be very low. The local planning authority should weigh this harm against any public benefits of the proposal including, where appropriate, securing its optimum viable use, as per Paragraph 202 of the NPPF. Local planning authorities should look for opportunities for new development within the Conservation Area and within the setting of heritage assets, to enhance or better reveal their significance (paragraph 206 of the NPPF) and, in determining applications, they should take into account of the desirability of making a positive contribution to local character and distinctiveness (paragraph 197c).</p>

<p>Essex County Council Heritage 07.07.2022</p>	<p>The application is for the construction of 26 dwellings with associate access, parking, public open space, landscaping and other works.</p> <p>Comments for a previous revision of the proposed development were issued on 20th May 2022. The current revised proposal, which removes any new dwelling within the boundary of the Conservation Area, is not considered to provide an additional impact on the character and appearance of this designated heritage asset, therefore my previous comments are still relevant.</p>
<p>ECC Highways Dept 15.07.2022</p>	<p>The information that was submitted in association with the application has been fully considered by the Highway Authority. A previous site visit was undertaken in conjunction with an earlier planning application. The information submitted with the application has been assessed and conclusions have been drawn from a desktop study with the observations below based on submitted material. It is noted that the number of dwellings proposed has been reduced from 31 to 26 dwellings, access to the proposed site will still be taken from Michael Wright Way via the Admirals Green residential development. The changes will see an increase in the amount of public open space provided for the development. The dwellings will be located within a cul-de-sac, and retains adequate parking and turning within the site together with footway connectivity with the existing development, taking these factors into consideration:</p> <p>Conditions recommended are found in the recommendation section 8.2</p>
<p>Historic England 22.06.2022</p>	<p>Thank you for your letter of 3 May 2022 regarding further information on the above application for planning permission. On the basis of this information, we do not wish to offer any comments. We suggest that you seek the views of your specialist conservation and archaeological advisers, as relevant.</p> <p>It is not necessary for us to be consulted on this application again, unless there are material changes to the proposals. However, if you would like detailed advice from us, please contact us to explain your request.</p>
<p>UU Open Spaces 20.07.2022</p>	<p>Current Position</p> <p>There is currently a deficit of 1.73 hectares of equipped play in Great Bentley. However, there is more than adequate provision in terms of formal open space.</p> <p>Recommendation</p> <p>Due to the significant deficit of play facilities in the area it is felt that a contribution towards play is justified and relevant to the planning application. The play area in Great Bentley has recently been up dated, however there is still improvements that are needed in this play area the contribution received will be used to make these improvements at Heckford Road, Great Bentley</p>
<p>Essex County Council Ecology 14.09/2022</p>	<p>We note the applicant's intention to commit to the Essex Coast RAMS contribution and that this is being formalised between the respective legal representatives. This will need to be referenced in the LPA's project level HRA to support delivery of mitigation measures for predicted recreational impacts on Habitats sites.</p> <p>We are now satisfied that there is sufficient ecological information available for determination. This provides certainty for the LPA of the likely impacts on designated sites, protected and Priority species & habitats and, with appropriate mitigation measures secured, the development can be made acceptable.</p>

Conditions are recommended.

5. Representations

5.1 At the time of writing, there have been 48 letters of objection received, with the concerns summarised below:

1. Harm to existing habitat;
2. Impacts to traffic;
3. Loss of designated Public Open Space;
4. Harm to neighbouring amenities;
5. Harm to drainage system;
6. Impacts to local infrastructure;
7. Harm to the Great Bentley Conservation Area;
8. Highway safety concerns;
9. Harm to the character of Great Bentley;
10. Harm to trees;

5.2 In answer to all of the points raised above, these have been addressed within the main body of the report.

6. Assessment

Site Description

6.1 The application site is a parcel of land measuring 1.55 hectares, which is located to the south of south of Michael Wright Way and north of Weeley Road, within the parish of Great Bentley.

6.2 The Application Site is former farmland, which then formed part of the larger garden for 'The Moors', located to the south. It is currently a large open mown amenity lawn with a mature mixed hedgerow on the southern site boundary and a similar hedge section is present within the northern boundary of the site that has associated mature trees.

6.3 The character of the surrounding area is relatively urbanised, particularly following approval and construction of residential properties adjacent to the north. To the south are existing residential dwellings. The character becomes more rural further to the north and east, with large parcels or grassed and agricultural land.

6.4 The site falls within the Settlement Development Boundary for Great Bentley within the Adopted Tendring District Local Plan, and also falls partially within the Great Bentley Conservation Area which is sited to the south of the site.

Description of Proposal

6.5 This application seeks planning permission for the construction of 26 dwellings, of which eight will be affordable housing and 18 will be market housing. The dwellings are to all to be two storeys, with seven served by two bedrooms, eight served by three bedrooms, nine served by four bedrooms, and two by five bedrooms. All dwellings will be provided with off-street parking and private amenity space, and the site will be accessed via Michael Wright Way to the north. During the determination of the application, the applicant has provided for an amended scheme that has seen the number of dwellings reduce from 31 to 26 .

Site History

6.6 The Admirals Farm development, predominantly to the east but including the current application site , originally obtained permission for the erection of 50 dwellings, garages, roads and associated works approved via Outline application 16/00133/OUT and Reserved Matters application

16/01912/DETAIL. An additional 9 dwellings were then added to the total build number in 2020 via application reference 20/00748/FUL. Michael Wright Way also provides access to a not yet constructed Doctors surgery that was approved via application 20/01054/DETAIL on the land immediate to the north of the application site.

6.7 In March 2022, under planning reference 21/01560/FUL, planning permission was refused by the Planning Committee for a scheme for six dwellings on land to the west, on the grounds that the loss of landscaping and Public Open Space would result in a significant reduction in the experience and quality for those using the site, and would represent an unnecessary form of urban sprawl that would lead to the considerable deterioration in the character and openness of the area. Additional refusal reasons related to the lack of financial contributions towards affordable housing, education, public open space and RAMS. This application is currently the subject of an appeal (reference APP/P1560/W/22/3297669) and a revised planning application for the same number of dwellings (reference 22/00621/FUL) at the time of writing.

6.8 To the west of the site at Heckford Road, a new housing development for 49 dwellings was approved via application reference 15/01820/OUT and Reserved Matters application 17/01759/DETAIL.

6.9 In July 2022 under planning reference 22/00695/FUL, planning permission was refused for the construction of a new mixed use building consisting of medical wellness and polyfunctional facilities E (e) and retail (Use Class E(a)). This was proposed to be located to the north-west of the application site. This was refused on two grounds; firstly due to its design, layout, massing and form it would cause unacceptable harm to the character and appearance of the area and the setting of the village, and secondly due to the absence of a Sequential Test or Retail Impact Assessment.

Principle of Development

6.10 The site is located within the Settlement Development Boundary (SDB) for Great Bentley, as established in the adopted local plan. Adopted Policy SPL2 states that within the Settlement Development Boundaries, there will be a general presumption in favour of new development subject to detailed consideration against other relevant Local plan policies. As such, at an overarching high level, the principle of residential development on the site is acceptable, subject to the detailed considerations below. While noting the current housing supply for Tendring, the calculation relies on both designated sites for development coming forward as well as windfall development (Sites not specifically identified in the development plan.) through such proposals as a conversions and development within settlement boundaries. There is no cap on the level of development as such restriction would be in conflict with national policy.

Design, Layout and Appearance

6.11 Paragraph 130 of the National Planning Policy Framework (NPPF) (2021) requires that developments are visually attractive as a result of good architecture, are sympathetic to local character, and establish or maintain a strong sense of place.

6.12 Adopted Policy SP7 of the 2013-33 Local Plan seeks high standards of urban and architectural design, which responds positively to local character and context. Adopted Policy SPL3 Part A (b) requires that development relates well to its site and surroundings, particularly in relation to its siting, height, scale, massing, form, design and materials.

6.13 The proposal would see the erection of a total of 26 residential dwellings, all of which are located to the south of Michael Wright Way. In respect of the site layout, initially the scheme was larger (31 dwellings) and created for a more dense development that would not respect the character of the area. During the course of the determination of this application, the applicant has provided an amended layout that has reduced the number of proposed dwellings, and accordingly Officers now consider that the development provides for a lower, more in-keeping, density and does not appear overdeveloped in this location. The plots are typically of a generous size with good spacing in-

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

6.14 The proposal offers a total of seven different house types, all of which will be two storeys and thereby in-keeping with the surrounding areas typical character. This level of different house type will add a good mix of variety and help to add interest and break up the overall bulk of the development, which is further aided by a mix of materials and key features including front gables, dormers, chimneys and canopy's. Officers therefore do not offer any objections on these grounds. Therefore, having regard to the above policy considerations, the proposal is considered to be policy compliant in terms of its scale, layout, appearance and design.

Impact to Character of Area/Public Open Space

6.15 Paragraph 92 of the framework states that planning policies and decisions should aim to achieve healthy, inclusive and safe place which enable and support healthy lifestyles through the provision of safe and accessible green infrastructure, sports facilities. Paragraph 93 of the framework states that to provide the social, recreational and cultural facilities and services the community needs, planning policies and decisions should plan positively for the provision and use of shared spaces, community facilities (such as open space) to enhance the sustainability of communities and residential environments. Paragraph 98 of the framework states access to a network of high quality open spaces and opportunities for sport and physical activity is important for the health and well-being of communities, and can deliver wider benefits for nature and support efforts to address climate change.

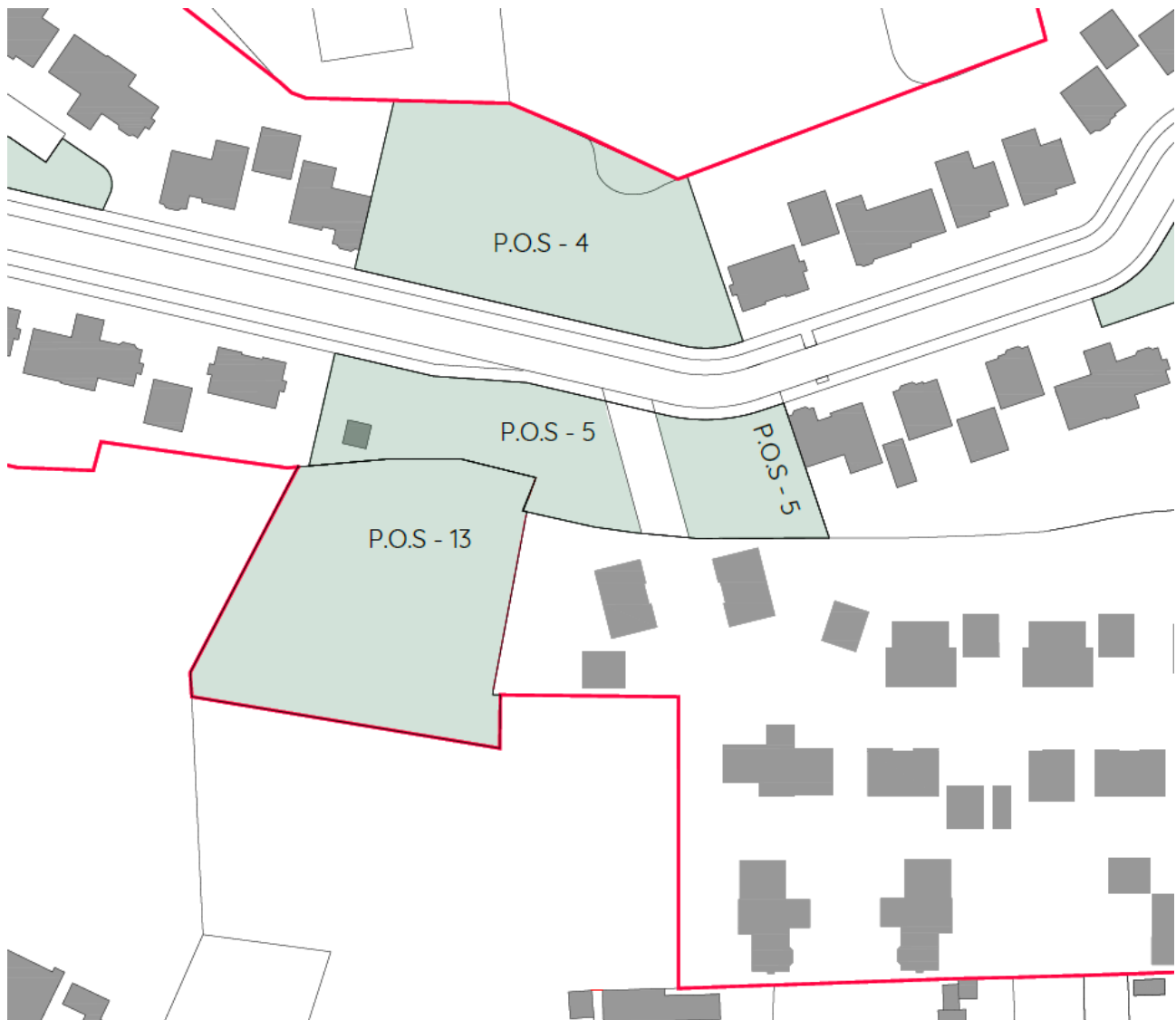
6.16 Paragraph 130 of the National Planning Policy Framework (NPPF) (2021) requires that developments are visually attractive as a result of good architecture, are sympathetic to local character, and establish or maintain a strong sense of place. Paragraph 134 of the NPPF adds that development that is not well designed should be refused.

6.17 Adopted Policy SP7 of the 2013-33 Local Plan seeks high standards of urban and architectural design, which responds positively to local character and context. Adopted Policy SPL3 (Sustainable Design) of the Tendring District Local Plan 2013-2033 states that all new development (including changes of use) should make a positive contribution to the quality of the local environment and protect or enhance local character.

6.18 It is important to establish what the application site was used for within the approved Admirals Farm development for the erection of 50 dwellings, garages, roads and associated works approved via Outline application (Ref: 16/00133/OUT) and Reserved Matters application (Ref: 16/01912/DETAIL). Within the Reserved Matters application, it is clear that the land to the northern section of the site was designated as Public Open Space, with it being highlighted that this is to promote key views south towards the village green.

6.19 The previous proposed development for the larger proposal was in conflict with the views sought to be retained and provision of open space given plots proposed on that north and western area. This is a point the Parish Council had highlighted in their response. However, amended plans received have removed the proposed units from this area. There remains a proposed access point within the previous allocated Public Open Space, but given its nature this would retain the openness in terms of character and views. The removal of public space is proposed to be replaced with significantly more public open space to account for both loss and future need. The advantage of this proposal is the new public space alongside part of an original and retained open space will broaden the available public space to become a more functional space. This is instead of the retained space appearing as a narrower landscape buffer alongside the road. Given the significant size and location of the additional land for expressed public access this is considered to outweigh the access point impact to one side.

6.20 Plan showing Public Open Space. P.O.S 13 would be the additional land to P.O.S 5 secured under the larger adjacent development.



Impact to Conservation Area

6.21 Paragraph 202 of the NPPF states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. Adopted Policy PPL8 (Conservation Areas) states new development within a designated Conservation Area, or which affects its setting, will only be permitted where it has regard to the desirability of preserving or enhancing the special character and appearance of the area.

6.22 The application site is located adjacent and partly within the Great Bentley Conservation Area, but all dwellings are proposed outside of this area. Essex County Council Place Services (Heritage on the behalf of Tendring District Council) have been consulted. Initially, when the scheme was for a total of 31 dwellings, objections were raised as the proposed development would affect the views of The Green with a significant impact on the character and appearance of the Conservation Area and its setting. Furthermore, indirect impacts were noted to the Conservation Area and its setting, due to a dense residential development within the setting of The Green, in addition to the already approved Admiral Green, with this resulting in urbanisation of the area, and also harm to the non-designated heritage asset 'Moorlands Farm'.

6.23 However, following receipt of an amended scheme to reduce the number of dwellings to 26 and revise the layout, ECC Place Services (Heritage) have provided the following comments:

“This follows my previous letter dated 9th February 2022 and site meeting with the agent, where we discussed potential alternative solutions and mitigation strategies to reduce the impact of the proposed development on the character and appearance of Great Bentley Conservation Area and on the setting of Moorlands Farm as non-designated assets.”

6.24 The applicant subsequently submitted updated site plans showing a revised layout addressing the main concern as follows:

- The amount of proposed construction on the area within the Conservation Area has been reduced to two new dwellings only and allocated on the western side of the plot, in order to retain this area of The Green as an open space. I note, however, that the proposed buildings at the back of the dwellings facing Weeley Road are still very close to the boundary of the Conservation Area. A larger buffer along this boundary in order would allow for more planting to mitigate the visual impact of the new development on the character and appearance of the Conservation Area ;
- Additional open space has been retained within the Conservation Area in connection to the existing one along the northern boundary of the site (now also excluded from the revised site plan). This additional POS helps to maintain the sense of openness and the views through The Green which are representative of the distinctiveness of the Conservation Area;
- similar design and materials have been extended to both affordable housing and houses for private sale in order to maintain the high-quality design standard required to positively contribute and enhance the character and appearance of the Conservation Area, a requirement set by Paragraph 197 of the NPPF;
- additional artificial lights have been reduced by avoiding new street lights.

While the proposed scheme will still result in less than substantial harm to the significance of Great Bentley Conservation Area, the revised layout introduces mitigation measures to lessen the visual impact of the development on the Conservation Area and on the setting of Moorland Farm.

6.25 The level of less than substantial harm to the Conservation Area is considered to be very low. The local planning authority should weigh this harm against any public benefits of the proposal including, where appropriate, securing its optimum viable use, as per Paragraph 202 of the NPPF. Local planning authorities should look for opportunities for new development within the Conservation Area and within the setting of heritage assets, to enhance or better reveal their significance (paragraph 206 of the NPPF) and, in determining applications, they should take into account of the desirability of making a positive contribution to local character and distinctiveness (paragraph 197c)." Accordingly, the development is considered to result in a very low level of less than substantial harm. Therefore in accordance with Paragraph 202 of the NPPF, Officers must weigh up this very low level of harm against the public benefits. On this occasion, the economic benefits that will be brought during the construction works and on going service employment, affordable housing, outweighs this identified level of harm and accordingly Officers do not object on these grounds.

Impact to Neighbouring Amenities

6.26 Paragraph 130 of the National Planning Policy Framework (2021) confirms planning policies and decisions should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users. Policy SP7 of Section 1 of the 2013-33 Local Plan requires that the amenity of existing and future residents is protected.

Section 2 Policy SPL 3 (Part C) seeks to ensure that development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties.

- 6.27 There are a series of existing residential properties bounding the application site, in particular adjacent to the northern and southern boundaries along Michael Wright Way and Weeley Road respectively. In terms of the impacts to the neighbouring properties to the south along Weeley Road, it is acknowledged that each of these properties have large rear garden areas, and as such there is significant separation between the buildings themselves and the proposed built form. Given this, and the proposed landscaping to the southern boundary, there will be no significant loss of daylight/sunlight or any issues in regards to overlooking and amenity that would be intrusive to warrant refusal. While part of the development will be visible, this would not be to the extent that it would be oppressive enough to warrant recommending a reason for refusal.
- 6.28 In relation to the properties to the north of the site along Michael Wright Way, the majority of the properties along the western section retain good separation distances which significantly reduce the impacts in terms of the development appearing oppressive or resulting in overlooking and loss of daylight/sunlight. However, the properties sited to the north-eastern corner of the application site, namely Plots 10 and 12 Michael Wright Way, are far more closely aligned to the proposed development, with a separation distance of approximately 3.5 metres to the boundary and 16 metres between the properties themselves. Therefore it is concluded that the proposed plots given their location and design shall have an impact on amenity for the occupiers and enjoyment of their gardens, despite the landscaping in the control of the existing neighbours. While it is recognised that there will be impact, the extent of harm to demonstrate and defend at appeal (if needed) is considered to be difficult. It is a subjective judgment, but ultimately concluded against the benefits of the scheme and presumption in favour of development that the development is not so intrusive to warrant refusal on existing amenity grounds.

Highway Safety

- 6.29 Paragraph 108 of the National Planning Policy Framework 2021 seeks to ensure that safe and suitable access to a development site can be achieved for all users. Paragraph 111 of the Framework states that Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 6.30 Adopted Policy CP1 (Sustainable Transport and Accessibility) states proposals for new development must be sustainable in terms of transport and accessibility and therefore should include and encourage opportunities for access to sustainable modes of transport, including walking, cycling and public transport.
- 6.31 Essex Highways Authority have been consulted and have stated that they raise no objections to the proposed development, subject to a series of planning conditions relating to visibility splays, the use of no unbound materials, boundary planting, the vehicular parking area, the submission of a Residential Travel Information Pack, and the submission of a Construction Management Plan. Furthermore, Essex Car Parking Standards (2009) state that for residential dwellings with two or more bedrooms, there should be provision for two parking spaces measuring 5.5m x 2.9m or, if being used as one of the parking spaces, garages should have minimum internal measurements of 7m x 3m. The submitted plans demonstrate that this achieved for all proposed dwellings.

Tree Impacts

- 6.32 The Council's Tree and Landscape Officer has been consulted, and for the initial scheme provided the following comments:

“The application is supported by an Arboricultural Impact Assessment (AIA) which shows the extent of the impact of the development proposal on existing trees on the land. The information provided is

in accordance with BS5837: 2012 Trees in relation to design, demolition and construction ' Recommendations.

The AIA identifies the removal of 4 trees and a hedge that will be required in order to implement the development proposal. Using the numbering system on the above AIA these are; T11 - Norway Maple, T12 - Rowan, T12 Hornbeam, T13 Beech and H2 comprising Holly, Cotoneaster and Beech.

Both the Norway Maple and the Rowan are small trees with a category 'C' grading meaning they are not considered a significant constraint on the development potential of the land. The Hornbeam and the Beech have a category 'B' grading and are larger specimens however the location of the trees is such that they do not feature prominently in the public realm and consequently it is not considered expedient or necessary to make them the subjects of a new tree preservation order (TPO).

The hedge H2 is a reasonably attractive feature in the garden within which it is situated but does not feature in the public realm and does not merit retention.

If consent were likely to be granted then the amenity value of the trees identified for removal could be relatively easily replicated and improved upon by new tree planting and associated soft landscaping.

In this regard the applicant has provided a comprehensive planting scheme, including tree planting that will soften and enhance the appearance of the development.

With regard to retained trees the information contained in the AIA adequately demonstrates that the development proposal could be implemented without causing harm to them. The measures set out in the AIA should be fully implemented to ensure that retained trees are physically protected for the duration of the construction phase of any development for which planning permission is granted."

Following the submission of the amended scheme to reduce the development to 26 dwellings, the following additional comments were provided:

"The amended layout does not alter the impact of the development proposal on existing trees on the site. The details that have been provided relating to the removal, retention and protection of retained trees is acceptable and shows the retention of important boundary trees.

Details of soft landscaping are comprehensive and will lead to an increase in the number of trees on the land."

Accordingly there are no objections with regards to the impacts to trees.

Impact to Biodiversity

6.33 Paragraph 174 of the Framework states planning decisions should contribute to and enhance the natural and local environment, by minimising impacts and providing net gains for biodiversity. Paragraph 180(a) of the NPPF confirms that in assessing planning applications where significant harm to biodiversity as a result of a development cannot be avoided, adequately mitigated or, as a last resort, compensated for, then planning permission should be refused. Adopted Policy SP7 requires that all new development should incorporate biodiversity creation and enhancement measures. Adopted Policy SPL3 Part A(d) includes that the design and layout of development should maintain or enhance ecological value.

6.34 Following the most recent consultation, ECC Place Services (Ecology) after having issued a holding objection due to there being insufficient ecological information, sufficient information has been provided and there follows no further objection subject to conditions and RAMS contribution.

Financial Contributions - Open Space and RAMS

Open Space

- 6.35 Paragraph 55 of the National Planning Policy Framework (2021) states Local Planning Authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Paragraph 57 of the NPPF states planning obligations must only be sought where they are necessary to make the development acceptable in planning terms, directly relate to the development and fairly and reasonably relate in scale and kind to the development.
- 6.36 Section 2 Policy HP5 states that the Council will work with partners and sports providers across the district to maintain, expand and improve the quality and accessibility of public open space, sports and recreational facilities of different types and will aim to achieve and exceed standards set out in the Council's 2017 Open Spaces Strategy or any future update. Financial contributions will also be sought through s106 legal agreements (or an appropriate alternative mechanism) towards ongoing maintenance.
- 6.37 In line with the requirements of Section 2 Policy HP5 the Council's Open Space Team have been consulted on the application to determine if the proposal would generate the requirement for a financial contribution toward public open or play space. The outcome of the consultation is that there is currently a deficit of 1.73 hectares of equipped play in Great Bentley, and a contribution towards play facilities is justified and relevant to this planning application, which would be used towards improvements to the play area at Heckford Road, Great Bentley. A contribution towards improving these facilities in accordance with the Council's Open Space and Play SPD has therefore been recommended alongside the provision on site.
- 6.38 Given the identified deficit in equipped play in Great Bentley, the nature of the housing proposed and its proximity to the site, it is considered that a contribution towards improvements of the play area at Heckford Road, Great Bentley would be necessary to make the development acceptable in planning terms. The contribution would relate fairly and reasonably in scale and kind to the development proposed, and the statutory tests under Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended) would therefore be met. A completed unilateral undertaking to secure the above-mentioned planning obligation has not been provided and the application is therefore contrary to the above-mentioned policies .

Habitat Regulations Assessment

- 6.39 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.
- 6.40 The application scheme proposes a residential on a site that lies within the Zone of Influence (Zoi) being approximately 4.3km away from Colne Estuary Ramsar site and Special Protection Area. New housing development within the Zoi would be likely to increase the number of recreational visitors to these sites and in combination with other developments it is likely that the proposal would have significant effects on the designated site. Mitigation measures must therefore be secured prior to occupation and are recommended.

Other Legal Requirements

- 6.41 With regards to Affordable Housing, it is acknowledged that Adopted Policy LP5 states that developments involving the creation of 11 or more (net) homes will be required to make a contribution towards Affordable Housing. There is therefore a requirement to deliver affordable housing on site or to make an off-site financial contribution in lieu of affordable housing.
- 6.42 The application submission confirms that a total of eight dwellings are to be provided as affordable housing, seven of which are two bedrooms and one being three bedrooms. This represents 30.76%

of the total 26 dwellings and therefore accords with the requirements of Policy LP5. The Council's Housing Team have confirmed the mix of dwellings proposed is acceptable and raised no objections.

6.43 The NHS have not requested any contributions. Essex County Council (Education) have been consulted and have requested £318,453.14 towards Education, the breakdown of which is as follows:

Early Years & Child Care, primary and secondary education and libraries:

- EY&C: Contribution of £34,191 @ £17,268 / place - Index Linked to Q1 2020
- Primary Education: Contribution of £113,969 @ £17,268 / place - Index Linked to Q1 2020
- School Transport: Contribution of £167,881.34 - Index Linked to Q1 2020
- Libraries: 31 units x £77.80 / unit - Contribution of £2,411.80

Figures based on 31 dwellings, ECC were re-consulted 12th July and will need to be adjusted to 26 units

Drainage

6.44 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.

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

6.46 The agent for the application has confirmed on the application form that the development would be connected to the existing public foul sewer. This is in accordance with the above policy requirements and is therefore considered to be acceptable in the event of an approval.

7. Conclusion

7.1 The application site is located within the Settlement Development Boundary for Great Bentley, and as such the principle of development in this location is acceptable. There are no objections to the site layout or the design of the proposed dwellings, and Essex Highways Authority offer no objections.

7.2 However, concerns are raised with regards to the impacts of the development to the existing amenities of plots to the north-east of the site, given the close proximity, but not considered sufficient to warrant refusal.

7.3 The scheme provides public benefits that are considered to outweigh the harm to the Conservation Area and in the planning balance with consideration of that heritage harm alongside all other material considerations the proposal is considered to be supportable.

8. Recommendation

8.1 As section 1.1

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 plans and documents:

Drawings to be agreed on release of decision

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

3. Prior to the commencement of development, including any ground works or demolition, until a Construction Management Plan has been submitted to, and approved in writing by, the local planning authority. The approved plan shall be adhered to throughout the construction period. The Plan shall include:

- i. the parking of vehicles of site operatives and visitors
- ii. loading and unloading of plant and materials
- iii. storage of plant and materials used in constructing the development
- iv. wheel and underbody washing facilities
- v. prior to the commencement of any work on the site, a joint inspection of the route to be used by construction vehicles should be carried out by the Applicant and the Highway Authority, including photographic evidence.
- vi. noise control
- vii. emission control
- viii. dust control
- ix. working hours

Reason - To ensure that parking on the highway does not occur and to ensure that loose materials and spoil are not brought out onto the highway in the interests of highway safety and to ensure that construction does not lead to excess water being discharged from the site or the environment is adversely affected.

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

Reason: In the interests of residential amenity

5. Prior to occupation of the development, the road junction / access at its centre line with Michael Wright Way shall be provided with a minimum clear to ground visibility splay with dimensions of 2.4 metres by 33 metres in both directions, as measured from and along the nearside edge of the carriageway.

Such vehicular visibility splays shall be provided before the road junction / access is first used by vehicular traffic and retained free of any obstruction at all times.

Reason: To provide adequate inter-visibility between vehicles using the road junction / access and those in the existing public highway in the interest of highway safety in accordance with policy DM1.

6. No unbound material shall be used in the surface treatment of the private drives throughout.

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

7. Prior to the occupation of any of the proposed dwellings the internal road layout shall be provided in principle and accord with Drawing Number (Drawing No to be agreed on release of decision), Proposed site layout plan.

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

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

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

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

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

10. Any vehicular hardstanding shall have minimum dimensions of 2.9 metres x 5.5 metres for each individual parking space, while each tandem vehicular parking space shall have minimum dimensions of 2.9 metres x 11 metres to accommodate two vehicles, retained in perpetuity.

Reason: To ensure adequate space for parking off the highway is provided in the interest of highway safety in accordance with Policy DM8.

11. Prior to occupation of the proposed dwelling, the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack for sustainable transport, approved by the Local Planning Authority in writing, 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.

12. Notwithstanding the details submitted with this application, no development shall commence other than that required to carry out additional necessary investigation which in this case includes demolition, site clearance, removal of underground tanks and old structures until an investigation and risk assessment has been submitted to and approved in writing by the local planning authority. The risk assessment shall assess the nature and extent of any contamination on the site, whether or not it originates on the site. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced.

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.

13. Prior to the construction above damp proof course, a scheme for on-site foul water drainage works, including connection point and discharge rate, shall be submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of ensuring suitable drainage.

14. 1. No development or preliminary groundworks of any kind shall take place until a programme of archaeological investigation has been secured in accordance with a written scheme of investigation which has been submitted by the applicant, and approved in writing by the local planning authority.

2. No development or preliminary groundworks of any kind shall take place until the completion of the programme of archaeological investigation identified in the WSI defined in 1 above.

3. The applicant will submit to the local planning authority a post excavation assessment (to be submitted within six months of the completion of the fieldwork, unless otherwise agreed in advance with the Planning Authority). This will result in the completion of post excavation analysis, preparation of a full site archive and report ready for deposition at the local museum, and submission of a publication report.

Reason: To secure archaeological works required.

15. Notwithstanding Section 55 (2)(a)(ii) of the Town and Country Planning Act 1990 as amended and the provisions of the Town and Country Planning (General Permitted Development) Order 2015, (or any Order revoking and re-enacting that Order with or without modification):- - no enlargement, improvement, insertion of new openings or other alteration of the dwelling house(s) shall be carried out, except pursuant to the grant of planning permission on an application made in that regard.

Reason: To enable the Local Planning Authority to retain control over the development in the interests of the amenity of the locality and to safeguard local distinctiveness.

16. All changes in ground levels, soft/hard landscaping shown on the approved landscaping details shall be carried out in full 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 approved, in writing, by the Local Planning Authority up to the first use/first occupation of the development. Any trees, hedges, shrubs or turf identified within the approved landscaping details (both proposed planting and existing) which die, are removed, seriously damaged or seriously diseased, within a period of 10 years of being planted, or in the case of existing planting within a period of 5 years from the commencement of development, shall be replaced in the next planting season with others of similar size and same species unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the approved landscaping scheme has sufficient time to establish, in the interests of visual amenity and the character and appearance of the area.

8.3 Informatives

1: 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.

2: 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

3: 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.

4: The internal road layout of the existing development is subject to a 20mph Zone and is designed with appropriate traffic calming features accordingly at regular intervals to ensure drivers adhere to the speed limit, these measures may need to be incorporated within this development.

5: The area(s) directly adjacent to the carriageway(s) in which the trees are to be planted should not be less than 3 metres wide, exclusive of the footway and the trunks of the trees should be no nearer than 2 metres to the channel line of the road. The same dimensions should be used in situations where the footway is located adjacent to the carriageway. In paved areas, whether or not the planted areas are to be adopted highway, trees should be sited no closer than 2 metres to the defined (or undefined) edge of the carriageway. Where the adopted highway is to be an independent path, trees should be planted no closer than 1 metre from the edge of the highway. In all cases, trees should be provided with root barriers to prevent damage to underground services.

6: The Highway Authority cannot accept any liability for costs associated with a developer's improvement. This includes design check safety audits, site supervision, commuted sums for maintenance and any potential claims under Part 1 and Part 2 of the Land Compensation Act 1973. To protect the Highway Authority against such compensation claims a cash deposit or bond may be required.

Positive and Proactive Statement

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

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:
- 9.2 A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
- 9.3 B. Advance equality of opportunity between people who share a protected characteristic and those who do not. This may include removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; taking steps to meet the special needs of those with a protected characteristic; encouraging participation in public life (or other areas where they are underrepresented) of people with a protected characteristic(s); and

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

Human Rights

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

Finance Implications

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

10. Background Papers

- 10.1 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/>.