

## DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	MP	29/09/22
Planning Development Manager authorisation:	JJ	30/09/2022
Admin checks / despatch completed	ER	30/09/2022
Technician Final Checks/ Scanned / LC Notified / UU Emails:	CC	30.09.2022

**Application:** 22/01050/FUL **Town / Parish:** Little Clacton Parish Council

**Applicant:** Mr R Oldham

**Address:** Land rear of The Willows Thorpe Road Little Clacton

**Development:** Proposed erection of 6 no. dwellings.

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

Little Clacton Parish Council      No comments received.

### **2. Consultation Responses**

ECC Highways Dept  
06.09.2022

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 a neighbouring 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 same site was granted planning permission in 2016 for the introduction of five dwellings (Ref:16/00912/FUL), however planning permission lapsed. At the time the Highway Authority raised no objection to the approved scheme under planning application 16/00912/FUL. Adjacent to the site is the former Crossways Garden Centre that has planning permission for twenty-one dwellings. Similar to the previous application the proposal will retain adequate off-street parking and turning, considering these factors:

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

1. Prior to occupation of the development, the road junction / access at its centre line shall be provided with a clear to ground visibility splay with dimensions of 2.4 metres by 139 metres to the north and 2.4 metres by 171m metres to the south, 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.

2. As indicated on drawing no. DTR-01 and prior to occupation of the development a minimum size 3 vehicular turning facility, of a design to

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

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

3. Prior to the occupation of any of the proposed dwellings, the proposed private drive shall be constructed to a width of 5.5 metres for at least the first 6 metres from the back of the Highway Boundary and shall be provided with an appropriate vehicular crossing.

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

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

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

5. At no point shall gates be retained at the vehicular access. The access shall remain open and free for use thereafter.

Reason: To give vehicles using the access free and unhindered access to and from the highway in the interest of highway safety and in accordance with policy DM1.

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

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

7. Prior to the occupation of the development the internal layout/footway provision shall be provided in principle with drawing number:

- Drawing: DTR-01 - Site layout drawing

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. 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.

9. Each vehicular parking space which is bounded by walls or other construction shall have minimum dimensions of 3.4 metres x 5.5 metres.

Reason: To encourage the use of off-street parking and to ensure adequate space for parking off the highway is provided in the interest of highway safety in accordance with Policy DM8.

10. Prior to the occupation of the development and where possible a maximum 2- metre-wide footway south of the proposed access will be provided linking it to the footway at the access of the former Crossways Garden Centre site to the south.

Reason: To make adequate provision within the highway for the movement and safety of the additional pedestrian traffic generated as a result of the proposed development in accordance with policy DM1, DM9, and DM17.

Note: Condition 10 requires a Legal Agreement between the Applicant/ Developer and the Highway Authority using the powers of a minor works licence or Section 278 of the Highways Act, 1980.

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

Informative:

1: All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.

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

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

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

Tree & Landscape Officer  
28.07.2022

The main body of the application site is relatively clear of vegetation but contains two large Willow trees neither of which makes a significant positive contribution to the amenities of the locality but both are shown as retained on the site plan. The Planning Statement submitted in support of the application provides details of the fencing to be erected to protect tree roots.

The Planning Statement also makes reference to the retention and protection of the small Oak tree and hedgerow on the boundary with Thorpe Road. The retention of these features is desirable for the screening benefit that they provide. Should it become necessary for part, or all, of the hedgerow to be removed to facilitate access to the land then replacement planting should be secured by a planning condition

Should planning permission be likely to be granted then a condition should be attached, to any such permission, to secure details of soft landscaping to soften, screen and enhance the appearance of the development.

Whilst information has been submitted, on the site layout plan, in relation to new tree planting it will also be necessary for details of low level planting in the front gardens of the proposed dwellings to be provided.

UU Open Spaces  
23.08.2022

Response from  
Open Space & Play

Application Details

Application No: 22/01050/FUL

Site Address: Land rear of The Willows Thorpe Road Little Clacton Clacton On Sea

Description of Development Proposed erection of 7 no. dwellings.  
Current Position

There is currently a deficit of 2.22 hectares of equipped play in Little Clacton.

Recommendation

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

Environmental Protection  
28.07.2022

Please see my comments below;

o Construction Activities: I have reviewed the application and can advise we are satisfied with the submitted CMS, and have no comments to make in relation to this aspect of the proposal.

o Lighting: Should this application be approved the EP team are requesting that the applicant / agent should ensure measures are taken to ensure that any lighting of the development will be located, designed and directed or screened so that it does not cause avoidable intrusion to adjacent residential properties/ constitute a traffic hazard/cause unnecessary light pollution outside the site boundary. "Avoidable intrusion" means contrary to the Code of Practice for the Reduction of Light Pollution issued by the Institute of Lighting Engineers.

\*INFORMATIVE - Foul Drainage: Section 11 of the submitted Planning Application, advises a Sewerage Package Treatment Plant will be utilised as a way of disposing of foul waste; we would request,

should the application be approved, that the Applicant / Agent, ensure the installation is fully compliant with the Environment Agency's Binding Rules and any other relevant Government guidance and British standards, in respect of these systems. Information on this can be found at: Septic tanks and treatment plants: permits and general binding rules: The general binding rules - GOV.UK (www.gov.uk). It is strongly recommended these rules are complied with, as they will minimise any potential nuisance to nearby residential dwellings, assist in preventing a potential Public Health nuisance, and minimise the potential for adverse incidents, of which may result in formal enforcement action.

### **3. Planning History**

00/01226/FUL	Proposed porch	Approved	12.09.2000
98/00423/FUL	Erection of protective canopy over existing garden centre display area	Approved	18.05.1998
05/02134/FUL	Extension and detached garage/gym	Refused	15.02.2006
06/00349/FUL	Extension and detached garage/gym	Approved	25.04.2006
16/00912/FUL	Erection of 5 No. dwellings with associated garaging and ancillary works.	Approved	14.10.2016

### **4. Relevant Policies / Government Guidance**

National:

National Planning Policy Framework July 2021 (NPPF)

National Planning Practice Guidance (NPPG)

Local:

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

LP8 Backland Residential Development

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.

## **5. Officer Appraisal**

### Site Description

The application site, which measures 0.6 hectares, is located on the eastern side of Thorpe Road within the parish of Little Clacton, and forms part of the garden area associated with the property known as 'The Willows'. It is largely laid to grass with areas of hard landscaping. The perimeters of the site are marked by mature hedging. The site entrance is walled with an entrance gate. The site falls within the Settlement Development Boundary for Clacton-on-Sea within the Adopted Local Plan.

The character of the surrounding area is rather mixed, with the areas to the north and west being large plots of open grassed and vegetated land, but the area to the south is currently under construction following the granting of planning permission 19/01598/FUL for 21 dwellings. Furthermore, to the south-east sees a large residential development of 250 dwellings which is also currently under construction.

### Description of Proposal

This application seeks planning permission for the erection of six dwellings, all of which are to be detached and single storey. Access will be achieved via the existing vehicular access serving 'The Willows'.

The original scheme put forward was for a total of seven dwellings, however Officers raised concerns that the proposal appeared to be of an over-developed and contrived appearance. The agent for the application has since prepared amended drawings to remove one dwelling.

### Site History

Under reference 16/00912/FUL, dated October 2016, planning permission was previously allowed on this site for a total of five detached dwellings. However, it is important to note that the planning permission was never implemented and has since lapsed.

In June 2017, under planning reference 16/00421/FUL, 81 dwellings have been approved on the land immediately to the north of the application site. Since then, while the dwellings are not yet constructed, all conditions have been discharged and implementation of the permission has been carried out via the demolition of the existing dwelling on site.

In July 2021, under planning reference 19/01598/FUL, 21 dwellings were approved on the land directly adjacent to the site. At the time of the site visit the construction works for this development were underway.

### Assessment

#### 1. Principle of Development

The site is located within the Settlement Development Boundary (SDB) for Clacton-on-Sea, 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.

#### 2. Design and Visual Impacts (including backland development)

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

Adopted Policy SP7 of Section 1 of the 2013-33 Local Plan seeks high standards of urban and architectural design, which responds positively to local character and context. Policies SPL3 and LP4 of Section 2 of the 2013-33 Local Plan also require, amongst other things, that developments deliver new dwellings that are designed to high standards and which, together with a well-considered site layout that relates well to its site and surroundings, create a unique sense of place. Furthermore, Adopted Policy LP4 states the design and layout of new residential developments is expected to provide for amenity space of a size and configuration that meets the needs and expectations of residents, and which is commensurate to the size of the dwelling and character of the area.

The development will result in the creation of six detached dwellings located to the side and rear of 'The Willows', and therefore Officers consider that it constitutes a form of backland development.

The main problems that can arise as a result of backland development include undermining the established character of an area (especially if similar schemes were to be repeated elsewhere in a locality); dwelling plots appearing cramped relative to their surroundings; the fragmentation of established gardens with a loss of mature landscaping; and the infringement of neighbouring residents' amenities. Development behind an established building line can also appear incongruous, particularly with isolated dwellings. There must also be proper means of access to backland development, which is safe and convenient for both drivers and pedestrians, with a turning area where necessary to avoid the need for vehicles to reverse onto a public highway. A proposed access should avoid excessive disturbance or loss of privacy to neighbouring residents through, for example, an access drive passing unreasonably close to an adjoining dwelling. The likely frequency of use by vehicular traffic and the suitability of the access for service vehicles and the emergency services will also be relevant material considerations.

Of particular relevance in this instance is also Policy LP8 of the adopted Local Plan, which states that proposals for the residential development of backland sites must comply with the following criteria (officer assessment in italics):

a) where the development would involve the net loss of private amenity space serving an existing dwelling, that dwelling must be left with a sufficient area of private amenity space having regard to the standards in this Local Plan;

*As stated above, to comply with adopted Policy LP4, the design and layout of new residential developments is expected to provide for amenity space of a size and configuration that meets the needs and expectations of residents, and which is commensurate to the size of the dwelling and character of the area. The proposed dwellings, as well as 'The Willows', will all provide for sufficient private amenity space that will be appropriately sized, and therefore comply with this criterion (and Policy LP4). Matters relating to impact on the character of the area are covered below.*

b) a safe and convenient means of vehicular and pedestrian access/egress must be provided that does not cause undue disturbance or loss of privacy to neighbouring residents or visual detriment to the street scene. Long or narrow driveways will not be permitted;

*The proposal will be accessed via the existing vehicular access point off Thorpe Road to the west of the site. It is acknowledged that there would be some level of disturbance in respect of associated vehicular movements to the occupiers of 'The Willows', however such movements associated with six dwellings (some of which are located either in line or to the front) is not considered to be significant enough to warrant such noise disturbances that would warrant a reason for refusal. Furthermore, the access is existing and therefore would not cause undue visual harm to the street scene. This criterion is therefore met.*

c) the proposal must avoid "tandem" development using a shared access;

*The proposed development will utilise the existing access and will therefore be shared with 'The Willows', however does not result in a form of tandem development, and this criterion is therefore met.*



d) the site must not comprise an awkwardly shaped or fragmented parcel of land likely to be difficult to develop in isolation or involve development which could prejudice a more appropriate comprehensive development solution;

*The site is considered to comprise an irregular and awkward shape, however is unlikely to prejudice a more appropriate comprehensive development solution, and therefore this criterion is met.*

e) the site must not be on the edge of defined settlements where likely to produce a hard urban edge or other form of development out of character in its particular setting; and

*The development of the site would not form a hard urban edge to the edge of the settlement of Clacton-on-Sea. Other residential approvals on different sites close to the application site are also material planning considerations. This criterion is therefore met.*

f) the proposal must not be out of character with the area or set a harmful precedent for other similar forms of development.

*Officers initially raised concerns with the original scheme of seven dwellings, as the layout appeared to be over-developed and had a contrived appearance. Following discussions with the agent for the application this has not been reduced to six dwellings, with three located along the northern boundary and three to the eastern boundary. While Officers still retain some concerns with the layout appearing over-developed, it is acknowledged the removal of one dwelling has removed concerns that one dwelling was previously to be sited in front of Plot 6. In addition it is important to consider the two previous planning permissions adjacent to both the north and south of the development, both of which have now been implemented. Both developments provided for high density layouts, and that being proposed is a much lower density by comparison. Therefore, despite the concerns outlined, on balance this identified harm would not appear out of character within the immediate surrounding area and would not set any future harmful precedents. Therefore Officers consider this criterion to be met.*

### 3. Layout, Design and Appearance

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.

Adopted Policy SP7 of Section 1 of the 2013-33 Local Plan seeks high standards of urban and architectural design, which responds positively to local character and context. Policies SPL3 and LP4 of Section 2 of the 2013-33 Local Plan also require, amongst other things, that developments deliver new dwellings that are designed to high standards and which, together with a well-considered site layout that relates well to its site and surroundings, create a unique sense of place.

Adopted Policy LP4 states the design and layout of new residential developments is expected to provide for amenity space of a size and configuration that meets the needs and expectations of residents, and which is commensurate to the size of the dwelling and character of the area.

The six dwellings are to be of a single storey design, which is in accordance with the dwelling sited adjacent to the north of the site. There can therefore be no in-principle objections to this scale, as it will not appear out of character in this location.

In respect of the detailed design of the dwellings it is acknowledged there are three differing designs in total, and all include key design features to help break up their bulk, such as front gables, canopy's and brick detailing. Given this Officers have not identified significant visual harm that would warrant recommending a reason for refusal.

### 4. Impact to Neighbouring Amenities

Paragraph 130 of the National Planning Policy Framework (2021) confirms planning policies and decisions should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.

Policy SP7 of Section 1 of the 2013-33 Local Plan requires that the amenity of existing and future residents is protected. Section 2 Policy SPL 3 (Part C) seeks to ensure that development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties.

The six dwellings will all be sited to the side and rear of the existing residential dwelling known as 'The Willows'. However, all dwellings are to be single storey and are all located a minimum of 15 metres apart. Accordingly, there will not be any significant impacts in respect of overlooking, loss of sunlight/daylight or the development appearing oppressive.

The amenities of the future occupiers of the dwellings approved to the north and east of the site must also be acknowledged. Plot 4 is most closely related to the boundary of this development, however retains a distance of approximately 2 metres. The other closely related dwellings, Plots 1, 2 and 3, retain approximately 15 metres separation distance. Given this, and the single storey nature of the dwellings, there are not considered to be significant impacts to the amenities of any future occupiers of these properties.

## 5. Highway Safety

Paragraph 110 of the National Planning Policy Framework 2021 seeks to ensure that safe and suitable access to a development site can be achieved for all users, whilst Paragraph 104 requires that streets, parking and other transport considerations are integral to the design of schemes, and contribute to making high quality places.

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

Essex Highways Authority have been consulted and have stated that they have no objections subject to conditions relating to visibility splays, a vehicular turning facility, the access width, no discharge of surface water, no gates being used, boundary planting being adequately sited back from the highway boundary, provision for an internal and external footway, and parking space sizes.

Furthermore, the Essex County Council Parking Standards set out the parking requirements for new development, and confirm that for residential properties of two bedrooms or more there should be provision for two parking spaces measuring a minimum of 5.5 metres x 2.9 metres or, if being used as one of the parking spaces, a garage should measure a minimum of 7 metres x 3 metres. The submitted Block Plan demonstrates that this provision is provided for on all six new dwellings, as well as for the existing property.

## 6. Impact to Trees

The Council's Tree and Landscape Officer has been consulted, and has confirmed the following:

*“The main body of the application site is relatively clear of vegetation but contains two large Willow trees neither of which makes a significant positive contribution to the amenities of the locality but both are shown as retained on the site plan. The Planning Statement submitted in support of the application provides details of the fencing to be erected to protect tree roots.*

*The Planning Statement also makes reference to the retention and protection of the small Oak tree and hedgerow on the boundary with Thorpe Road. The retention of these features is desirable for the screening benefit that they provide. Should it become necessary for part, or all, of the hedgerow to be removed to facilitate access to the land then replacement planting should be secured by a planning condition*

*Should planning permission be likely to be granted then a condition should be attached, to any such permission, to secure details of soft landscaping to soften, screen and enhance the appearance of the development.*

*Whilst information has been submitted, on the site layout plan, in relation to new tree planting it will also be necessary for details of low level planting in the front gardens of the proposed dwellings to be provided."*

## 7. Drainage

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

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.

Adopted 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.

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.

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; the declaration implies that a mains connection is not possible.

In considering the acceptability of the proposed non-mains drainage, while the site is located in close proximity to residential dwellings to the south and south-east, the agent for the application has provided evidence that shows there are no drainage assets within the area that the site can be connected to. The site is not close to any designated site of importance to biodiversity, nor is it located within close proximity to any watercourse. The site 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, flows from a treatment plant serving seven dwellings would be low. Taking all these factors into account, and the absence of a mains connection in close proximity to the site, the proposed foul drainage arrangements are considered to be acceptable on this occasion.

From the above and in order to be policy compliant, had the application been recommended for approval a condition would have been attached to ensure that foul water treatment measures are installed in accordance with full details prior to first use of the new building.

## 8. Financial Contributions - Open Space and RAMS

### (i) Open Space

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

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

In line with the requirements of Section 2 Policy HP5 the Council's Open Space Team have been consulted on the application to determine if the proposal would generate the requirement for a financial contribution toward public open or play space. The outcome of the consultation is that there is currently a deficit 2.22 hectares of equipped play in Little Clacton, however no contribution is requested on this occasion.

### (ii) Habitat Regulations Assessment

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

The application scheme proposes a residential on a site that lies within the Zone of Influence (Zoi) being approximately 6.km away from Hamford Water RAMSAR, SPA and SAC. New housing development within the Zoi would be likely to increase the number of recreational visitors to these sites and in combination with other developments it is likely that the proposal would have significant effects on the designated site. Mitigation measures must therefore be secured prior to occupation.

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

### Other Considerations

Little Clacton Parish Council have not provided any comments.

There have been no other letters of representation received.

### Conclusion

The application site lies within a settlement development boundary and therefore the principle of development is accepted. Following the submission of amended plans to reduce the scheme to six dwellings, on balance Officers are content that the proposal would result in a scheme that is generally compatible with the character and appearance of the surrounding area, with particular weight given to the previously approved (and implemented) developments sited adjacent to the north and south of the site. There is not considered to be an unacceptable impact on the amenity of existing neighbouring occupiers or indeed amenity levels of future occupiers (of the development) or indeed future neighbouring occupiers. Essex Highways Authority do not object

subject to conditions. Accordingly the application is considered to be policy compliant and is recommended for approval.

## **6. Recommendation**

Approval.

## **7. Conditions**

- 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:

Drawing Numbers DTR-01 Revision A, DTR-02, DTR-03 Revision B, DTR-04 Revision B, the documents titled 'Planning Statement', 'Construction Method Statement', 'Klargester BioDisc Domestic Sewage Treatment Plant' and the untitled Site Location Plan.

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

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

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

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

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

- 5 No development shall take place until the Oak tree on the site has been protected by the erection of temporary protective fences of a height, size and in positions which shall previously have been agreed, in writing, with the Local Planning Authority. The protective fences shall be retained throughout the duration of building and engineering works in the vicinity of the trees to be protected. Any trees dying or becoming severely damaged as a result of any failure to comply with these requirements shall be replaced with trees of appropriate size and species during the first planting season, or in accordance with such other arrangement as may be agreed in writing with the Local Planning Authority, following the death of, or severe damage to the trees.

Reason - To ensure that no development impacts upon the protected trees.

- 6 Prior to occupation of the development, the road junction/access at its centre line shall be provided with a clear to ground visibility splay with dimensions of 2.4 metres by 139 metres to the north and 2.4 metres by 171m metres to the south, 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.

- 7 As indicated on Drawing Number DTR-01 Revision A and prior to occupation of the development, a minimum size 3 vehicular turning facility, of a design to be approved in writing by the Local Planning Authority, shall be constructed, surfaced, and maintained free from obstruction within the site at all times for that sole purpose.

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

- 8 Prior to the occupation of any of the proposed dwellings, the proposed private drive shall be constructed to a width of 5.5 metres for at least the first 6 metres from the back of the Highway Boundary and shall be provided with an appropriate vehicular crossing.

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

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

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

- 10 At no point shall gates be retained at the vehicular access. The access shall remain open and free for use thereafter.

Reason: To give vehicles using the access free and unhindered access to and from the highway in the interest of highway safety.

- 11 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.

- 12 Prior to the occupation of the development the internal layout/footway provision shall be provided in principle with drawing number:

o Drawing: DTR-01 Revision A

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

- 13 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.

- 14 Each vehicular parking space which is bounded by walls or other construction shall have minimum dimensions of 3.4 metres x 5.5 metres.

Reason: To encourage the use of off-street parking and to ensure adequate space for parking off the highway is provided in the interest of highway safety.

- 15 Prior to the occupation of the development and where possible a maximum 2- metre-wide footway south of the proposed access will be provided linking it to the footway at the access of the former Crossways Garden Centre site to the south.

Reason: To make adequate provision within the highway for the movement and safety of the additional pedestrian traffic generated as a result of the proposed development.

## **8. Informatives**

### Positive and Proactive Statement:

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

### Highways Informatives:

1: All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.

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

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

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

4: Condition 10 requires a Legal Agreement between the Applicant/ Developer and the Highway Authority using the powers of a minor works licence or Section 278 of the Highways Act, 1980.

### Environmental Protection Informative:

Foul Drainage: Section 11 of the submitted Planning Application, advises a Sewerage Package Treatment Plant will be utilised as a way of disposing of foul waste; we would request, should the application be approved, that the Applicant / Agent, ensure the installation is fully compliant with the Environment Agency's Binding Rules and any other relevant Government guidance and British standards, in respect of these systems. Information on this can be found at: Septic tanks and treatment plants: permits and general binding rules: The general binding rules - GOV.UK ([www.gov.uk](http://www.gov.uk)). It is strongly recommended these rules are complied with, as they will minimise any potential nuisance to nearby residential dwellings, assist in preventing a potential Public Health nuisance, and minimise the potential for adverse incidents, of which may result in formal enforcement action.

#### 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.