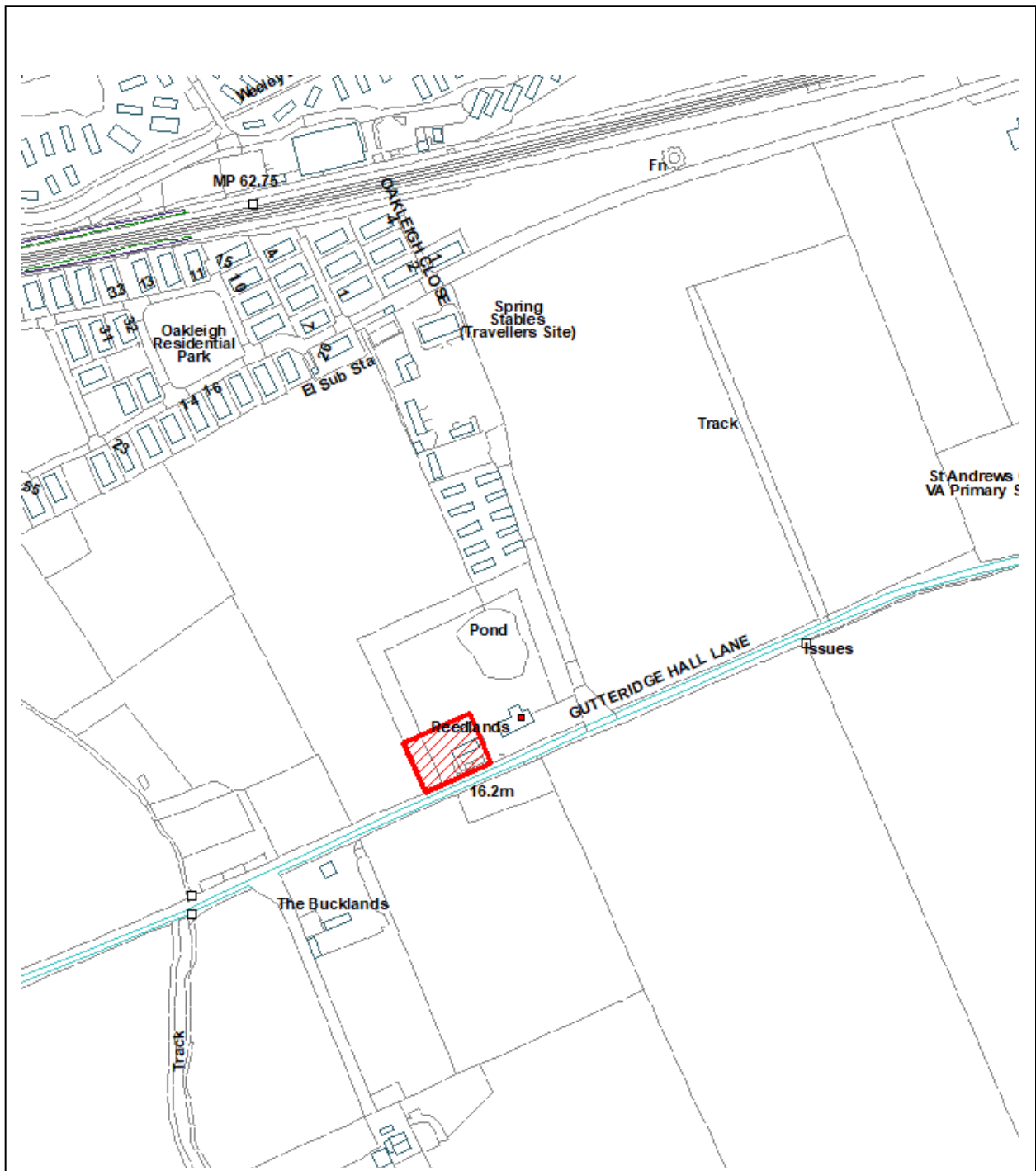


PLANNING COMMITTEE

24th November 2022

REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING

A.5 PLANNING APPLICATION – 22/01232/FUL – LAND AT REEDLANDS GUTTERIDGE HALL LANE WEELEY CLACTON ON SEA



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Application: 22/01232/FUL

Town / Parish: Weeley Parish Council

Applicant: R Godsell and M Putter

Land at Reedlands, Gutteridge Hall Lane, Weeley, Clacton On Sea, CO16 9AS

Erection of one bungalow (in lieu of deemed Prior Approval for a dwelling, subject of application 21/02086/COUNOT). Revised siting to that approved under application 22/00464/FUL.

1. **Executive Summary**

- 1.1 The application is referred to Planning Committee as the proposed development would conflict with the requirements of the Development Plan, principally Policy SPL2 (Settlement Development Boundaries) of the Tendring District Local Plan 2013-2033 and Beyond Section 2 (adopted January 2022) being located outside of any defined settlement development boundary and has a recommendation of approval.
- 1.2 The proposed dwelling is not considered to be so materially different in regards to siting, height, footprint and appearance to the development approved under prior approval 21/02086/COUNOT and the new dwelling approved in lieu of this prior approval under application 22/00464/FUL. The proposed dwelling which is the subject of this application is re-located to the east of the existing agricultural building and would utilise an existing secondary access to the site from Gutteridge Hall Lane.
- 1.3 In the absence of any material harm resulting from the development in regards to its individual appearance, impact on the wider streetscene and the character and appearance of the rural landscape, the application is recommend for approval. Furthermore, the proposal would not result in any detrimental impact on neighbour amenity and there are no concerns raised in regard to parking and highway matters.

Recommendation:

- (a) That the Planning Manager be authorised to Grant Planning Permission subject to conditions as stated in Section 8.2 (or as need to be varied) and those as may be deemed necessary by the Planning Manager

2. **Planning Policy**

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

2.2 National:

National Planning Policy Framework July 2021 (NPPF)
National Planning Practice Guidance (NPPG)

2.3 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
LP4	Housing Layout
PPL3	The Rural Landscape
PPL4	Biodiversity and Geodiversity
PPL5	Water Conservation, Drainage and Sewerage
PPL10	Renewable Energy Generation
CP1	Sustainable Transport and Accessibility

2.4 Supplementary Planning Guidance:

Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy SPD 2020 (RAMS)
 Essex County Council Development Management Policies 2011
 Essex County Council Parking Standards Design and Good Practice Guide 2009
 Tendring Provision of Open Recreational Open Space for New Development SPD 2008 (Open Space and Play SPD)

Status of the Local Plan

- 2.5 Planning law requires that decisions on applications must be taken in accordance with the development plan unless there are material considerations that indicate otherwise (Section 70(2) of the 1990 Town and Country Planning Act and Section 38(6) of the Planning and Compulsory Purchase Act 2004). This is set out in Paragraph 2 of the National Planning Policy Framework (the Framework). The 'development plan' for Tendring comprises, in part, Sections 1 and 2 of the Tendring District Council 2013-33 and Beyond Local Plan (adopted January 2021 and January 2022, respectively), together with any neighbourhood plans that have been brought into force.
- 2.6 In relation to housing supply:
- 2.7 The Framework requires Councils boost significantly the supply of housing to meet objectively assessed future housing needs in full. In any one year, Councils must be able to identify five years of deliverable housing land against their projected housing requirements (plus an appropriate buffer to ensure choice and competition in the market for land, to account for any fluctuations in the market or to improve the prospect of achieving the planned supply). If this is not possible or if housing delivery over the previous three years has been substantially below (less than 75%) the housing requirement, Paragraph 11 d) of the Framework requires granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole (what is often termed the 'tilted balance').
- 2.8 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

20/01537/OUT	Demolition of existing barn and erection of one dwelling.	Refused	02.03.2021
21/01692/COUNOT	Proposed conversion of an agricultural building into one dwelling.	Prior Approval Refused	24.11.2021
21/02086/COUNOT	Proposed conversion of an agricultural building into one dwelling.	Prior Approval not required	10.02.2022
22/00464/FUL	Proposed erection of one bungalow (in lieu of deemed Prior Approval for a dwelling, subject of application 21/02086/COUNOT).	Approved	16.06.2022
22/01526/TPO	1 No. Oak - remove and replace with new tree.	Approved	01.11.2022

4. Consultations (Summarised)

Parish Council 01.10.2022	No objection
UU Open Spaces 07.09.2022	There is currently a deficit of -2.18 hectares of equipped play and formal open space in Weeley. Due to the size of this development it is not thought that there will be an impact on the current deficit. Therefore no contribution is being requested on this occasion.
Tree & Landscape Officer 05.08.2022	There are 6 mature Oaks on the boundary of the application site immediately adjacent to Gutteridge Hall Lane. These trees are afforded formal legal protection by Tendring District Council Tree Preservation Order: Ref TPO/10/00053 In order to show the extent of the constraint that the Oaks on the boundary of the site are on the development potential of the land and to show they will be physically protected for the duration of the construction phase of the proposed development the applicant has provided an Arboricultural Impact Assessment (AIA) The AIA shows the extent of the Root Protection Areas (RPA's) of the trees and how they will be physically protected for the duration of the construction phase of any development for which planning permission may be granted.

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

If the requirements of the AIA are adhered to then the development proposal can be implemented without causing harm to the preserved trees.

ECC Highways Dept
09.09.2022

The proposal site is accessed from and along a local road which is a no through road. The site is approximately 465 metres distance from the main road, Clacton Road. It is noted that this application is similar to previous application 22/00464/FUL and alters the previously approved layout, considering these factors:

The Highway Authority does not object to the proposals as submitted, subject to the previous highway conditions that were imposed for 22/00464/FUL are adhered to.

Environmental Protection
09.08.2022

The submitted Construction Method Statement has been reviewed and there are no adverse comments to make Conditions have been suggested in relation to contaminated land and safe asbestos removal.

5. Representations

No representations have been received following a public consultation which included a site notice posted at the site and neighbouring consultation letters sent out to the adjacent properties.

6. Assessment

Site Context

- 6.1 The application site is located on the northern side of Gutteridge Hall Lane, accessed from Clacton Road (B1441) and sited between the settlements of Weeley and Clacton-on-Sea and therefore outside of any defined settlement development boundary. In terms of the wider 'blue line' site location plan as submitted by the applicant, other buildings in the applicants ownership include a residential dwelling set within the fairly large blue line plot, bordered by mature hedging.
- 6.2 The application site comprises of a timber barn and a paved parking area, accessed from the existing main gate of the dwelling Reedlands and located to the west of the existing residential dwelling. There is also a secondary access to the west of the timber barn.
- 6.3 Further away there is very sporadic housing along Gutteridge Hall Lane, some stand-alone stabling and open paddocks for grazing. There are also a number of static caravan parks to the North.
- 6.4 The site is not located within a Conservation Area and is sited within Flood Zone 1 which has a low risk of flooding.
- 6.5 The proposed development site is located approximately 0.5 miles from Weeley railway station and 0.7 miles from Weeley Post Office and stores and is considered to be within reasonable proximity to a number of other services and potential employment opportunities. The site is a

short distance from the A133 which connects the area to Clacton-on-Sea as well as to Colchester and further via the A12 and Harwich via the A120.

Relevant History

- 6.6 In February 2022 it was deemed that Prior Approval, 21/02086/COUNOT (namely in regard to access, flooding, design, noise, natural light, space standards and contamination) for the conversion of one agricultural building into one two bed dwelling was not required. This scheme is referred to as the 'fall back' scheme. Planning permission ref no: 22/00464/FUL was granted in June 2022 for a new dwelling in lieu of the aforementioned Prior Approval. The previously approved dwelling was sited mainly within the footprint of the existing agricultural building.

Proposal

- 6.7 The application seeks planning permission for one new dwelling in lieu of the prior approval granted for the barn building on site, which is to be fully demolished. The new dwelling is to be sited in a revised location to the dwelling approved under 22/00464/FUL, further to the west, but overlapping both the footprint of the barn and the previously approved dwelling. The new dwelling is provided with two parking spaces and a rear amenity area. This dwelling due to its revised location would utilise the second existing highway access located to the west of the main access to the property Reedlands.
- 6.8 The proposed new dwelling is unaltered from that previously approved and remains a modest bungalow, with an eaves height of some 2.6m and a ridge height in the region of 4.8m. The new dwelling has a gross internal area of around 98sqm which is comparable to that of the dwelling approved under the prior approval scheme.
- 6.9 The proposed dwelling comprises of three bedrooms, bathroom, en-suite, utility room, kitchen and lounge. The external materials proposed are cladding and slate tiles.

Assessment

Principle of Development

- 6.10 Planning law requires that decisions on planning 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). The development plan for Tendring Council comprises of the adopted Tendring District Local Plan 2013-2033 and Beyond Sections 1 and 2.
- 6.11 Policy SP3 of Section 1 of the 2013-2033 Local Plan sets out the spatial strategy for North Essex and directs growth towards existing settlements. The application site lies outside of the defined settlement boundary of Weeley in the adopted 2013-2033 Local Plan. The proposed development would therefore extend outside the area planned to provide growth for this settlement. In view of the housing land supply position, the Council does not need to look beyond identified settlements to meet its housing requirement.
- 6.12 Policy SPL2 supports new development within defined SDBs which would encourage sustainable patterns of growth and carefully control urban sprawl. Within a defined SDB, there will be a general presumption in favour of new development subject to detailed consideration against other relevant Local Plan policies and any approved Neighbourhood Plans. Under Policy SPL1 Weeley is classified as a Rural Service Centre and are considered to be able to support some smaller-scale growth, within the SDB in order to support the village economy.

- 6.13 With regard to development outside of the defined SDB, the Council will consider any planning application in relation to the pattern and scales of growth promoted through the Settlement Hierarchy in Policy SPL1 and any other relevant policies in this plan.
- 6.14 Therefore there is limited policy support for new dwellings outside of the defined SDB. In this case however Prior Approval has been granted for the conversion of the existing agricultural dwelling to a new dwelling and subsequently a new dwelling in lieu of this Prior Approval. This is considered to form a material consideration in respect of the application and denotes what is considered to be a viable fall-back position as outlined below.

Fallback Position – Material Consideration.

- 6.15 It is established in case law that permitted development rights can legitimately represent a fall-back position when considering alternative proposals for development of the same site.
- 6.16 The relevant legal principles relating to the fall-back position were set out in R v Secretary of State for the Environment and Havering BC (1998) EnvLR189. In that case Mr Lockhart-Mummery QC, sitting as a Deputy High Court Judge, accepted submissions that there were three elements to the fall-back test:
- 6.17 *"First whether there is a fall-back use, that is to say whether there is a lawful ability to undertake such a use; secondly, whether there is a likelihood or real prospect of such occurring. Thirdly if the answer to the second question is "yes" a comparison must be made between the proposed development and the fall-back use."*
- 6.18 The notion of Class Q providing a lawful fall-back position was subsequently and comprehensively dealt with at the landmark Court of Appeal case, Mansell vs Tonbridge and Malling Borough Council [2017], which concluded that a realistic fall-back position in regard to Class Q would amount to a material consideration in the determining of an application.

	21/02086/COUNOT (Prior Approval)	22/00464/FUL (New dwelling previously approved)	22/01232/FUL (New dwelling)
Siting	To the west of the main dwelling, Reedlands	Similar within footprint of existing agricultural building	Further west within the site but adjacent to the existing agricultural building
Access	Shared access with Reedlands from Gutteridge Hall Lane	Shared access with Reedlands from Gutteridge Hall Lane	Would utilise the second access to the site located further west of the main entrance and parking area is moved to the other side of the proposed dwelling away from the main dwelling, Reedlands and its parking area
Appearance	Wooden cladded structure	Cladding and slate tiles	Cladding and slate tiles
Ridge Height	4.5m	4.8m	4.8m
Eaves Height	2.4m	2.6m	2.6m
Gross Internal Area	97sqm	98sqm	98sqm
Bedrooms	2	3	3

- 6.19 In conclusion, having regard to the above, the application is considered to meet all 3 tests set out for a viable fall-back position in terms of the legal position set out earlier. There is a fall-back use in the form of the Prior Approval and it is considered that the proposed development,

is, in the main, comparable to that approved under the Prior Approval, in terms of its sitting, size, scale and external appearance. Lastly there is a realistic prospect of the prior approval scheme being implemented. Therefore the fall-back position is given significant weight in the assessment of this application.

- 6.20 It is considered that the location, siting and size of the agricultural building represents a realistic fall-back position, furthermore a new dwelling in lieu of this Prior Approval has been approved, strengthening the fall-back position therefore should this application fail, it is highly likely that the site would be developed in line with either the Prior Approval consent or the full planning permission for a new dwelling in lieu of the Prior Approval.
- 6.21 Therefore given the circumstances of this case, the principle of development for a new dwelling on this site is considered to be acceptable subject to the detailed consideration against other relevant Local Plan policies and any approved Neighbourhood Plans.

Layout. Scale and Appearance

- 6.22 The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. (Para 126 NPPF).
- 6.23 Policy SP7 states that all new development should respond positively to local character and context to preserve and enhance the quality of existing places and their environs. Policy SPL3 seeks to provide new development which is well designed and maintains or enhances local character and distinctiveness. The development should relate well to its site and surroundings particularly in relation to its siting, height, scale, massing, form, design and materials and should respect or enhance local landscape character, views, skylines, landmarks, existing street patterns, open spaces and other locally important features.
- 6.24 The proposed development comprises of a detached modest bungalow, which is considered to be of a size, scale and design in keeping with the character and appearance of the existing building, having a simple dual pitched roof and external cladding. The form and massing of the proposed dwelling is similar, comprising of unassuming glazed elevations and an uncluttered façade and is proportionate to the plot. For these reasons it is considered that the development would respect the local landscape character, skylines and existing street patterns and is sympathetic to the wider area.
- 6.25 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. The proposal would make more efficient use of the site, consistent with Paragraph 124 of the Framework, and, because it would not be at odds with the character and appearance of the area it would accord with the overall thrust of Policies SP7 and SPL3.

Living Conditions of future Occupiers

- 6.26 In March 2015, the government launched a new approach to housing standards and published a new set of streamlined national technical standards. This included publication of Technical housing standards – nationally described space standards (2015) which sets out minimum gross internal floor space, bedroom sizes and storage requirements for new dwellings.
- 6.27 All new dwellings must therefore accord with the Technical housing standards. A three bedroom, one storey dwelling requires a minimum of 74-95sqm of Gross Internal Floorspace (GIA). From the plans submitted the proposed bungalow meets the requirements of the space standards. It is also considered that the internal layout is appropriate, with all habitable rooms having adequate natural light.

- 6.28 Amenity spaces in the locale vary in both size and configuration and it is considered that the amenity area proposed is considered to meet the needs and expectations of residents and is commensurate to the size of dwelling and the character of the area.
- 6.29 Overall the proposal is considered to secure a good standard of amenity and accommodation for future occupants of the proposed dwelling.

Impact on Residential Amenity

- 6.30 The NPPF, Paragraph 130 maintains that policies and decisions should result in new development that creates places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.
- 6.31 Policy SPL3 seeks new development that is designed and orientated to ensure adequate daylight, outlook and privacy for future and existing residents, provision is made for adequate private amenity space, waste storage and recycling facilities and the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties.
- 6.32 The application site is located within a fairly rural location, neighboured by the dwelling Reedlands, a caravan park further to the north and a residential property The Bucklands, further west.
- 6.33 The proposed development has been designed to minimise any overlooking or loss of privacy issues, with all main habitable rooms located to the front and rear elevations, with no windows proposed, in the eastern flank elevation facing the dwelling Reedlands. Furthermore the new proposed siting of the dwelling would move the dwelling further away from the property Reedlands and by utilising the second access would improve the setting of the two properties and have a positive impact on the residential amenity of the occupiers.
- 6.34 Therefore, given the proposed orientation of the bungalow, in relation to the existing building, the single storey nature of the proposed dwelling and the existing residential use of the building by way of the Prior Approval consent, it is not considered that this development would impact on the residential amenities of these neighbouring occupiers in any regard.

Highway and Parking Considerations

- 6.35 Paragraph 110 of the Framework seeks to ensure that safe and suitable access to a development site can be achieved for all users. Policy SP7 seeks new development to include parking facilities that are well integrated as part of the overall design. The sentiments of this policy are carried forward within Policies SPL3 and CP1. Furthermore, the Essex County Council Parking Standards 2009 set out the parking requirements for new development.
- 6.36 The Essex County Council Parking Standards 2009 require that dwellings with 2 or more bedrooms be served by a minimum of 2 parking spaces. Parking spaces should measure 5.5 metres by 2.9 metres and garages, if being relied upon to provide a parking space, should measure 7 metres by 3 metres internally. The submitted plans show that the new dwelling would utilise the existing access currently serving Reedlands and will be provided with two parking spaces that meet policy requirements. An 8m x 8m turning area is provided to ensure that vehicles entering and leaving the site for both the new dwelling and the existing dwelling at Reedlands can do so in a forward gear in the interests of highway safety.
- 6.37 Subject to the use of conditions, the proposal would accord with Policies SPL3 and CP1 and the Highways and Parking SPDs. The proposal is not therefore considered to result in any unacceptable harm to highway safety.

Trees and Landscaping

- 6.38 Policy SPL3 seeks new development that respects or enhances local landscape character, views, skylines, landmarks, existing street patterns, open spaces and other locally important features. The design and layout of the proposed development should maintain or enhance important existing site features of landscape, ecological, heritage or amenity value.
- 6.39 The application site forms part of the residential curtilage of existing property Reedlands. To the rear of the building it is set out and used as residential amenity space/garden. To the frontage of the site are 6 oak trees which are afforded formal legal protection by Tendring District Council Tree Preservation Order: Ref TPO/10/00053
- 6.40 A full Arboricultural Impact Assessment (AIA) has been submitted in support of the application and assesses the protected trees within the development site. The AIA indicates the extent of the constraint that the protected trees on the boundary of the site have on the development potential of the land and shows the extent of the Root Protection Areas (RPA's) and how these will be physically protected for the duration of the construction phase of any development for which planning permission may be granted.
- 6.41 This information is in accordance with BS5837: 2012 Trees in relation to design, demolition and construction ' Recommendations.
- 6.42 Therefore the requirements of the AIA must be adhered to, to ensure that the development proposal can be implemented without causing harm to the preserved trees. These requirements can be secured by way of a condition to any grant of planning permission.

Water Conservation, Drainage and Sewerage

- 6.43 Paragraph 170 of the Framework states that planning policies and decisions should contribute to and enhance the natural and local environment by preventing new development from contributing to unacceptable levels of water pollution. Furthermore, Paragraph 180 of the Framework states that planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects of pollution on the natural environment.
- 6.44 Policy PPL5 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, which in this case there is not. 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.
- 6.45 The application form accompanying the application has stated that the development would be connected to a package water treatment plant.
- 6.46 Although details of the type of system have been submitted no FDA1 Foul drainage assessment form has been received. This makes it more difficult for the Council to be certain any application for an environmental permit would not be refused, or if any concerns of pollution or nuisance may arise. Nevertheless, the required details in this regard can be secured by condition.

Ecology and Biodiversity Implications

- 6.47 Policy PPL4 seeks to protect and enhance the local biodiversity and geodiversity. Whilst the site is not of any specific designation, it is considered to be within a fairly rural setting. The development has scope to include wildlife friendly, native planting and habitat boxes for roosting

bats and nesting birds. These measures will contribute to biodiversity net-gain in accordance with Paragraph 174(d) of the NPPF (2021).

- 6.48 These measures can be adequately secured by suitable conditions to any grant of planning permission.

Environmental Protection

- 6.49 The applicant has submitted a Construction Method Statement, outlining measures to minimise potential nuisance to nearby existing residents caused by the construction works. This CMS has regard to noise control, vehicle movements and working hours, use of machinery and mobile plant, piling works and both emission and dust control and has been found to be acceptable by the Council's Environmental Protection Officer. Due to the location of the site conditions are recommended in relation to land contamination and safe removal of asbestos.

Renewable Energy

- 6.50 Policy PPL10 addresses renewable energy generation and energy efficiency measures for residential development involving the creation of one or more dwellings. Measures including electric car charging points should be considered. Paragraph 112 e) of the Framework states that applications for development should be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations. This can reasonably be dealt with by the use of a planning condition.

Recreational Disturbance Avoidance and Mitigation Strategy (RAMS):

- 6.51 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.
- 6.52 This new residential development lies within the Zone of Influence. The site is not within or directly adjacent to one of the European designated sites, 5900 metres from Hamford Water SPA and RAMSAR and 4217 metres from Colne Estuary RAMSAR and SPA and Essex Estuaries SAC.
- 6.53 The Council's Habitats Regulation Assessment has concluded that, with the proposed mitigation, the project would not have an Adverse Effect on the Integrity of the sites included within the Essex Coast RAMS and therefore the proposal is in accordance with the Essex Coast RAMS SPD.
- 6.54 However, new housing development within the Zol would be likely to increase the number of recreational visitors to Colne Estuary; and, in combination with other developments it is likely that the proposal would have significant effects on the designated site. Mitigation measures must therefore be secured prior to occupation.
- 6.55 In accordance with Natural England's advice there is no requirement to consult them due to the specified mitigation.
- 6.56 A unilateral undertaking was prepared to secure this legal obligation for application. 22/00464/FUL and has been paid in full. Therefore the obligations are completed and a unilateral agreement is not required for this application. The payment made ensures 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.

Conclusion

6.57 It is considered that the proposed development is not consistent with the National and Local Plan Policies identified above, but approval is recommended given the material consideration of the planning history and fall back. . In the absence of material harm resulting from the proposal the application is recommended for approval.

7. Recommendation

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

8. 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 plan(s):

Site Plan - Rec'd 26/09/2022

GGHL-02 - Rev B Proposed block, elevations and floor plans

TPS Arboricultural Impact Assessment, Preliminary Method Statements and Appendices for Land at Reedlands, dated 1st February 2021 Ref: TPSarb3530121

Construction Method Statement - Rec'd 19/07/022

Planning Statement – Rec'd 19/07/2022

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

3. The development hereby approved is not permitted to be constructed alongside the construction of the development approved under planning permission 22/00464/FUL.

Reason – The application submitted is granted permission only by virtue of the fallback position with regard to Prior Approval granted under application 21/02086/COUNOT and as an amended siting of the new dwelling approved under 22/00464/FUL, which is clearly stated in the submitted planning statement.

4. No building or engineering operations authorised by this permission shall be commenced until the existing agricultural building (subject of 21/02086/COUNOT) and shown as being demolished on drawing GGHL-02) on the site have been demolished and all materials resulting therefrom shall be cleared from the site.

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

5. Prior to the commencement of development the tree protection measures outlined in the submitted Arboricultural Impact assessment (AIA) must be in place. All other requirements

of the (AIA) must be complied with fully, prior to, during and after construction of the development hereby approved.

Reason - To ensure that the roots of the protected trees are not harmed by the development.

6. Prior to and during construction, if any unexpected ground conditions are encountered during the following processes must be followed:
 - a. All site works at the position of the suspected contamination will stop and the Local Planning Authority and Environmental Health Department will be notified as a matter of urgency.
 - b. A suitably trained geo-environmental engineer should assess the visual and olfactory observations of the ground and the extent of contamination and the Client and the Local Authority should be informed of the discovery.
 - c. The suspected contaminated material will be investigated and tested appropriately in accordance with assessed risks. The investigation works will be carried out in the presence of a suitably qualified geo-environmental engineer. The investigation works will involve the collection of solid samples for testing and, using visual and olfactory observations of the ground, delineate the area over which contaminated materials are present.
 - d. The unexpected contaminated material will either be left in situ or be stockpiled (except if suspected to be asbestos) whilst testing is carried out and suitable assessments completed to determine whether the material can be re-used on site or requires disposal as appropriate.
 - e. The testing suite will be determined by the independent geo-environmental specialist based on visual and olfactory observations.
 - f. Test results will be compared against current assessment criteria suitable for the future use of the area of the site affected.
 - g. Where the material is left in situ awaiting results, it will either be reburied or covered with plastic sheeting.
 - h. Where the potentially contaminated material is to be temporarily stockpiled, it will be placed either on a prepared surface of clay, or on 2000-gauge Visqueen sheeting (or other impermeable surface) and covered to prevent dust and odour emissions.
 - i. Any areas where unexpected visual or olfactory ground contamination is identified will be surveyed and testing results incorporated into a Verification Report.
 - j. A photographic record will be made of relevant observations.
 - k. The results of the investigation and testing of any suspect unexpected contamination will be used to determine the relevant actions. After consultation with the Local Authority, materials should either be: o re-used in areas where test results indicate that it meets compliance targets so it can be re-used without treatment; or o treatment of material on site to meet compliance targets so it can be re-used; or o removal from site to a suitably licensed landfill or permitted treatment facility.
 - l. A Verification Report will be produced for the work.

Reason - to protect the health of site workers and end users

7. The submitted Construction Method Statement submitted with the application shall be adhered to throughout the construction period for the development.

Reason - In the interests of residential amenity and highway safety and to reduce the likelihood of complaints of statutory nuisance.

8. Prior to the commencement of any above ground works, details of the drainage works for wastewater and foul drainage must be submitted to and approved in writing by the Local

Planning Authority. These works shall subsequently be carried out in accordance with the approved details.

Reason - To ensure satisfactory drainage / surface water disposal / sewerage disposal is provided.

9. Prior to the commencement of any above ground works, a full scheme of hard and soft landscaping works including a detailed plan, showing species to be used, planting positions, numbers of trees and shrubs and the sizes of the plants at time of planting and include wildlife friendly, native planting and locations for habitat boxes for roosting bats and nesting birds shall be submitted to and approved, in writing, by the Local Planning Authority.

Reason - In the interests of visual amenity, the quality of the development and the character of the area.

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

Reason - To ensure the adequate retention and maintenance of the approved landscaping scheme for a period of five years in the interests of visual amenity, the quality of the development and the character of the area.

11. Prior to occupation of the dwelling a 1.5 metre x 1.5 metre pedestrian visibility splay, as measured from and along the highway boundary, shall be provided on both sides of the vehicular access. Such visibility splays shall be retained free of any obstruction in perpetuity. These visibility splays must not form part of the vehicular surface of the access.

Reason: To provide adequate inter-visibility between the users of the access and pedestrians in the adjoining public highway in the interest of highway safety

12. Any gates provided at the vehicular access shall be inward opening only and shall be set back a maximum of 0.5 metres from the back edge of the footway/cycleway or where no provision is present, the carriageway.

Reason: In the interest of highway safety

13. 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

14. Prior to the first occupation of the dwelling hereby approved, the vehicle parking area shown on the approved plans, must be 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.

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

15. Prior to above ground works, a scheme for the provision of electric vehicle charging facilities for the dwelling shall have first been submitted to and approved in writing by the local planning authority. Thereafter the charging facilities shall be installed in a working order, prior to first occupation of the respective plot.

Reason: In order to promote sustainable transport.

16. Notwithstanding the provisions of Schedule 2 Part 1 Classes A, B, C, D and E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any Order revoking and re-enacting that Order with or without modification), no extensions, additions, porches or alterations to the dwellings or their roofs shall be carried out and no outbuildings, enclosures, swimming or other pools shall be erected except in complete accordance with details which shall previously have been approved, in writing, by the Local Planning Authority following the submission of a planning application for such development.

Reason - To minimise and retain control over the amount of development in this rural location as planning permission been granted in lieu of a prior approval for a conversion to a new dwelling and such conversions do not have permitted development rights.

9. 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:

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.

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

The applicant must ensure that no mud or detritus is taken onto the highway, such measures include provision of wheel cleaning facilities and sweeping/cleaning of the highway Under Section 148 of the Highways Act 1980 it is an offence to deposit mud, detritus etc. on the highway. In addition, under Section 161 any person, depositing anything on a highway which results in a user of the highway being injured or endangered is guilty of an offence.

10. Additional Considerations

Public Sector Equality Duty (PSED)

- 10.1 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:
- 10.2 A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
- 10.3 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
- 10.4 C. Foster good relations between people who share a protected characteristic and those who do not, including tackling prejudice and promoting understanding.
- 10.5 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.
- 10.6 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.
- 10.7 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

- 10.8 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.
- 10.9 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).
- 10.10 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

- 10.11 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.
- 10.12 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.

11. **Background Papers**

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