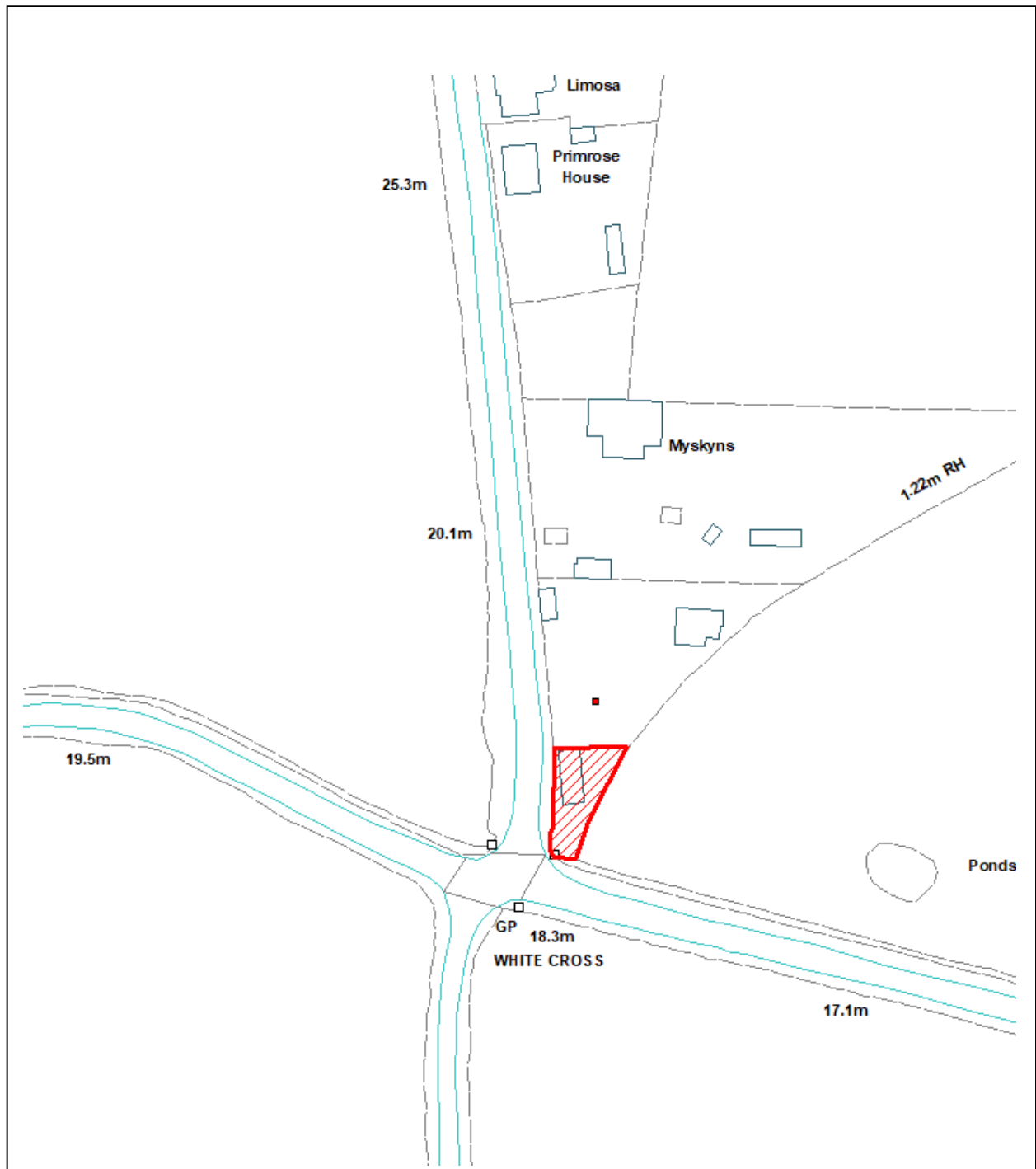


# PLANNING COMMITTEE

20 December 2022

## REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING

### A.1 PLANNING APPLICATION – 21/01891/FUL – BROADFIELDS PRIMROSE HILL WRABNESS CO11 2TZ



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**Application:** 21/01891/FUL

**Town / Parish:** Wrabness Parish Council

**Applicant:** Mr John Acton

**Address:** Broadfields Primrose Hill Wrabness Essex CO11 2TZ

**Development:** Proposed change of use of former forge building to dwelling.

## 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 This application seeks full planning permission for the change of use of the former forge building to a one bedroom dwelling with parking and private amenity space.
- 1.3 Officers are content that subject to the imposition of reasonable planning conditions and the completed unilateral undertaking, that the change of use on the site is acceptable. The proposal is in keeping with the site's rural location on the edge of Wrabness, provides ecological mitigation measures and enhancements, would not result in any material harm to designated landscapes or have any detrimental impact on neighbour amenity and there are no concerns raised in regard to parking and highway matters. Furthermore, the new dwelling will contribute to the generation of renewable energy for sustainable living through solar panels and an air source heat pump.

### **Recommendation:** Full Approval

1. That the Planning Manager be authorised to Grant Planning Permission subject to conditions as stated at paragraph 8.2 (or as need to be varied\*) and those as may be deemed necessary by the Planning Manager; and,
2. Any informative notes as may be deemed necessary.

*\*To account for any errors, legal and necessary updates*

## 2. **Planning Policy**

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

### **National:**

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

### **Local:**

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
PPL2	Coastal Protection Belt
PPL3	The Rural Landscape
PPL4	Biodiversity and Geodiversity
PPL5	Water Conservation, Drainage and Sewerage
PL10	Renewable Energy Generation
CP1	Sustainable Transport and Accessibility

#### Supplementary Planning Documents

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

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

#### Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

#### **Status of the Local Plan**

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

In relation to housing supply:

- 2.3 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').
- 2.4 The Local Plan fixes the Council's housing requirement at 550 dwellings per annum. On 19 October 2021 the Council's Strategic Housing Land Availability Assessment (SHLAA) updated the housing land supply position. The SHLAA demonstrates in excess of a six-and-a-half-year supply of deliverable housing land. On 14 January 2022 the Government published the

Housing Delivery Test (HDT) 2021 measurement. Against a requirement for 1420 homes for 2018-2021, the total number of homes delivered was 2345. The Council's HDT 2021 measurement was therefore 165%. As a result, the 'tilted balance' at paragraph 11 d) of the Framework does not apply to applications for housing.

### 3. **Relevant Planning History**

21/01060/FUL	Erection of dwelling to replace former blacksmiths forge.	Withdrawn	29.10.2021
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### 4. **Consultations**

ECC Highways Dept 05.01.2022	<p>The information that was submitted in association with the application has been fully considered by the Highway Authority. No site visit was undertaken in conjunction with this planning application. The information submitted with the application has been thoroughly assessed and conclusions have been drawn from a desktop study with the observations below based on submitted material, google earth image dated September 2021. It is noted that the proposal is for a one-bedroom dwelling and is similar to previous applications, 18/01294/FUL and 21/01060/FUL. The new proposal this will utilise an existing established vehicular access that will be reduced in width. When compared with the buildings previous use, the level of activity will be on a par or possibly reduced, therefore:</p>
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From a highway and transportation perspective the impact of the proposal is acceptable to Highway Authority subject to the following mitigation and conditions:

1. There should be no obstruction above ground level within a 2.4 m wide parallel band visibility splay as measured from and along the nearside edge of the carriageway across the entire site frontage. Such vehicular visibility splays shall be provided before first occupation of the property and retained free of obstruction above 600mm at all times.

Reason: To provide adequate inter-visibility between users of the access and the public highway in the interests of highway safety in accordance with policy DM1.

2. Prior to the occupation of the proposed dwelling, the existing private drive shall be constructed to a maximum width of 5.5 metres for at least the first 6 metres from the back of Carriageway / Footway / 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.

3. No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary.

Reason: To ensure that loose materials are not brought out onto the highway, in the interests of highway safety and in accordance with Policy DM1.

4. The existing access or any part of an access rendered redundant or unnecessary by this development shall be suitably and permanently closed to the satisfaction of the Local Planning Authority,

incorporating the re-instatement to full height of the highway verge/footway/kerbing to the specifications of the Highway Authority, immediately the proposed new accesses are brought into use.

Reason: To ensure the removal of and to preclude the creation of unnecessary points of traffic conflict in the highway and to prevent indiscriminate access and parking on the highway, in the interests of highway safety and in accordance with Policy DM1.

5. At no point shall gates be provided 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. The development shall not be occupied until such time as the car parking and turning area, indicated on the approved plans, has been hard surfaced and sealed. The car parking area shall be retained in this form at all times and shall not be used for any purpose other than the parking of vehicles related to the use of the development thereafter.

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

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

Reason: To ensure appropriate cycle / powered two-wheeler parking is provided in the interest of highway safety and amenity in accordance with Policy DM8.

8. No development shall take place, including any ground works or works of demolition, until a Construction Method Statement (CMS) has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- i. the parking of vehicles of site operatives and visitors
- ii. loading and unloading of plant and materials
- iii. storage of plant and materials used in constructing the development
- iv. wheel and under body washing facilities

Reason: To ensure that on-street parking of these vehicles in the adjoining streets does not occur, in the interests of highway safety and Policy DM1.

9. The proposed 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.

NOTE \*\* the proposed planting at the front shown on the layout drawing numbered 74-2019-13 P is located on the highway verge and is not permitted and should be omitted from the scheme. Highway boundary information can be obtained from [highwayrecords@essexhighways.org](mailto:highwayrecords@essexhighways.org)

10. Prior to occupation of the proposed development, the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack per dwelling, for sustainable transport, approved by Essex County Council, (to include six one day travel vouchers for use with the relevant local public transport operator) Reason: In the interests of reducing the need to travel by car and promoting sustainable development and transport in accordance with policies DM9 and DM10.

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.

Environmental  
Protection  
10.12.2021

With reference to the above, please see below for comments from the EP Team:

Contaminated Land: the submitted report, dated 2011, is acceptable, given the guidelines values have not changed; in addition we are satisfied with the findings of the report, and would like a Watching Brief attached as a condition on any subsequent approval. We request that the LPA are contacted in the event of unexpected ground conditions being encountered during construction and that the below minimum precautions are undertaken until such time as the LPA responds to the notification. I would also advise that the developer is made aware that the responsibility for the safe development of the site lies with them.

Minimum requirements for dealing with unexpected ground conditions being encountered during construction.

1. 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.

2. 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.

3. 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.

4. 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.

5. The testing suite will be determined by the independent geo-environmental specialist based on visual and olfactory observations.

6. Test results will be compared against current assessment criteria suitable for the future use of the area of the site affected.

7. Where the material is left in situ awaiting results, it will either be reburied or covered with plastic sheeting.

8. 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.

9. Any areas where unexpected visual or olfactory ground contamination is identified will be surveyed and testing results incorporated into a Verification Report.

10. A photographic record will be made of relevant observations.

11. 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.

12. A Verification Report will be produced for the work.

REASON: to protect the health of site workers and end users

Construction Activities: In order to minimise potential nuisance caused by demolition/construction works, Environmental Protection recommend that the following below is conditioned;

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

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

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

REASON: to protect the amenity of nearby residential premises

Should you have any queries concerning this, please do not hesitate to contact me.

UU Open Spaces  
23.12.2021

Response from Public Realm  
Open Space & Play

Therefore no contribution is required on this occasion.

Tree & Landscape  
Officer  
29.11.2021

There is an established and early mature Oak situated on the eastern boundary of the application site.

The position of the proposed dwelling will not have an adverse impact on the tree as there is sufficient separation between the tree and the proposed position of the dwelling.

The site layout shows that a turning/parking bay will be set out close to the tree. This has the potential to have an adverse impact on the health and viability of the tree.

Therefore in order to minimise the impact of the construction of the turning/car parking bay on the tree it should be constructed using 'No Dig' construction techniques. Details of the method of construction for this space should be provided prior to the determination of the application or secured by a condition attached to any planning permission that may be granted.

To the north of the application site there is an established woodland, Stour Wood, which has high amenity and wildlife value. Stour Wood is registered as ancient woodland and a Site of Special Scientific Interest (SSSI).

Therefore any development should be in accordance with Natural England and the Forestry Commissions standing advice; the main issue being the need to provide a buffer zone of at least 15m between the ancient woodland and the proposed development. This does not appear to be possible in this case.

In terms of the potential impact of the development proposal on the Stour Wood SSSI there is a legal requirement for Natural England to be consulted.

Natural England  
09.03.2022

Thank you for your consultation on the above dated 22 February 2022 which was received by Natural England on 22 February 2022



Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

#### SUMMARY OF NATURAL ENGLAND'S ADVICE - European designated sites<sup>1</sup>

It has been identified that this development falls within the 'Zone of Influence' (Zoi) for one or more of the European designated sites scoped into the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS); see our recent advice to your authority on this issue (our ref: 244199, dated 16th August 2018) for further information.

In the context of your duty as competent authority under the provisions of the Habitats Regulations<sup>2</sup>, it is anticipated that, without mitigation, new residential development in this area and of this scale is likely to have a significant effect on the sensitive interest features of these coastal European designated sites, through increased recreational pressure when considered 'in combination' with other plans and projects. The Essex Coast RAMS is a large-scale strategic project which involves a number of Essex authorities, including Tendring District Council, working together to mitigate the effects arising from new residential development. Once adopted, the RAMS will comprise a package of strategic measures to address such effects, which will be costed and funded through developer contributions.

We therefore advise that you consider, in line with our recent advice, whether this proposal falls within scope of the RAMS as 'relevant development'. Where it does, this scale of development would fall below that at which Natural England would offer bespoke advice on this issue. However, in such cases we advise that you must undertake a Habitats Regulations Assessment (HRA) to secure any necessary mitigation and record this decision within the planning documentation; you should not grant permission until such time as the HRA has been undertaken and the conclusions confirmed.

#### Sites of Special Scientific Interest Impact Risk Zones

The Town and Country Planning (Development Management Procedure) (England) Order 2015 requires local planning authorities to consult Natural England on "Development in or likely to affect a Site of Special Scientific Interest" (Schedule 4, w). Our SSSI Impact Risk Zones are a GIS dataset designed to be used during the planning application validation process to help local planning authorities decide when to consult Natural England on developments likely to affect a SSSI. The dataset and user guidance can be accessed from the [data.gov.uk](https://data.gov.uk) website

Further general advice on the consideration of protected species and other natural environment issues is provided at Annex A.

ECC Highways Dept  
17.11.2022

The Highway Authority does not object to the revised proposals as submitted, subject to the previous highway conditions that were

imposed for 21/01891/FUL, dated 5 January 2022 are adhered to.

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.

Essex County  
Council Ecology  
19.08.2022

We have reviewed the Preliminary Ecological Assessment (Liz Lord Ecology, July 2022) and Bat Survey (Essex Mammal Surveys, April 2022) relating to the likely impacts of development on designated sites, protected species and Priority species & habitats and identification of appropriate mitigation measures.

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

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

We note the site falls within evidence 13km Zone of Influence of the Stour and Orwell SPA, Ramsar and SSSI. Therefore, given the residential nature of this development is relevant to the Essex Coast RAMS, we note that the LPA has prepared a project level HRA Appropriate Assessment to secure a per dwelling tariff by a legal agreement for delivery of visitor management measures at the designated sites. This will mitigate for predicted recreational impacts in combination with other plans and projects and avoid Adverse Effect on Integrity of the relevant Habitats sites.

The mitigation measures identified in the Preliminary Ecological Assessment (Liz Lord Ecology, July 2022) which include, but not limited to, a Great Crested Newt Method Statement and the installation of a permanent 2m high fence, which aims to provide a permanent physical barrier between the site and Stour and Copperas Woods SSSI, which is also an Ancient woodland (irreplaceable habitat). These mitigation

measures should be secured by a condition of any consent and implemented in full. This is necessary to conserve and enhance protected and Priority species particularly Great Crested Newts, Hazel Dormice, bats and nesting birds.

To further mitigate any potential impacts to the adjacent Stour and Copperas Woods SSSI and Ancient woodland, especially through dust and pollution events, a Construction Environmental Management Plan for Biodiversity (CEMP: Biodiversity) should be produced and secured by condition of any consent.

We also support the proposed reasonable biodiversity enhancements of one Sparrow Terrace and one bat box, which have been recommended by Preliminary Ecological Assessment (Liz Lord Ecology, July 2022) to secure net gains for biodiversity, as outlined under Paragraph 174d of the National Planning Policy Framework (2021). The reasonable biodiversity enhancement measures should be outlined within a Biodiversity Enhancement Strategy and should be secured by a condition of any consent.

In addition, the Preliminary Ecological Assessment (Liz Lord Ecology, July 2022) and Bat Survey (Essex Mammal Surveys, April 2022) highlights that it is likely bats could be foraging/commuting within and around the site. Therefore, if any external lighting is to be proposed, it is recommended that a sensitive lighting scheme is developed to minimise any impacts. This should summarise the following measures will be implemented:

- Light levels should be as low as possible as required to fulfil the lighting need.
- Warm White lights should be used at <3000k. This is necessary as lighting which emit an ultraviolet component or that have a blue spectral content have a high attraction effect on insects. This may lead in a reduction in prey availability for some light sensitive bat species.
- The provision of motion sensors or timers to avoid the amount of 'lit-time' of the proposed lighting.
- Lights should be designed to prevent horizontal spill e.g. cowls, hoods, reflector skirts or shields.

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

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

We recommend that submission for approval and implementation of the details below should be a condition of any planning consent.

#### Recommended conditions

#### 1. ACTION REQUIRED IN ACCORDANCE WITH ECOLOGICAL APPRAISAL RECOMMENDATIONS

"All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Preliminary Ecological Assessment (Liz Lord Ecology, July 2022) as already

submitted with the planning application and agreed in principle with the local planning authority prior to determination.

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

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

## 2. PRIOR TO COMMENCEMENT: CONSTRUCTION ENVIRONMENTAL MANAGEMENT PLAN FOR BIODIVERSITY

"A construction environmental management plan (CEMP: Biodiversity) shall be submitted to and approved in writing by the local planning authority.

The CEMP (Biodiversity) shall include the following.

- a) Risk assessment of potentially damaging construction activities.
- b) Identification of "biodiversity protection zones.
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
- d) The location and timing of sensitive works to avoid harm to biodiversity features.
- e) The times during construction when specialist ecologists need to be present on site to oversee works.
- f) Responsible persons and lines of communication.
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
- h) Use of protective fences, exclusion barriers and warning signs.
- i) Containment, control and removal of any Invasive non-native species present on site

## 3. PRIOR TO OCCUPATION: BIODIVERSITY ENHANCEMENT STRATEGY

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

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

- a) Purpose and conservation objectives for the proposed enhancement measures;
- b) detailed designs to achieve stated objectives;
- c) locations of proposed enhancement measures by appropriate maps and plans;
- d) persons responsible for implementing the enhancement measures;

e) details of initial aftercare and long-term maintenance (where relevant).

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

Reason: To enhance protected and Priority species & habitats and allow the LPA to discharge its duties under the s40 of the NERC Act 2006 (Priority habitats & species). And if any external lighting is to be proposed

#### 4. PRIOR TO OCCUPATION: WILDLIFE SENSITIVE LIGHTING DESIGN SCHEME

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

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

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

ECC Highways Dept  
30.11.2022

The Highway Authority does not object to the revised proposals as submitted, subject to the previous highway conditions that were imposed for 21/01891/FUL, dated 5 January 2022 with the following amendment to condition 2 being adhered to also: 2. Prior to the occupation of the proposed dwelling, the existing private drive shall be constructed to a maximum width of 5.5 metres for at least the first 4.3 metres from the back of Carriageway / Footway / 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. 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.

## **5. Representations**

### Wrabness Parish Council

- 5.1 Wrabness Parish Council have no objection to the planning application, however they note that good drainage is required as there is excessive surface water in this locality.

### Representations / Objections

- 5.2 No letters of objection or representation have been received.

## **6. Assessment**

### Site Context

- 6.1 The application site and fairly run down forge building forms a key gateway into the village of Wrabness due to its prominent location at the southern end of Primrose Hill. The character of the surrounding area is semi-rural and the site lies outside any defined settlement development boundary. To the north are scatterings of built form arranged in a linear form, whilst the wider character becomes far more rural, with large areas of agricultural land to the south and west with dense woodland to the east. This pattern of built form viewed in conjunction with roadside hedges and intervening vegetation promotes a semi-rural character and appearance.
- 6.2 The densely wooded area to the east and adjacent to the application site is the Stour Wood ancient woodland benefitting from the landscape designation of Site of Special Scientific Interest. The landscape east of the application site also lies within the Suffolk Coasts and Heaths Area of Outstanding Natural Beauty, with the application site itself lying within the Coastal Protection Belt of Jacques Bay and Copperas Bay.

### Planning History

- 6.3 There is no relevant planning history in relation to the forge building.

### Proposal

- 6.4 The application proposes the change of use of the existing forge building to a one bedroom dwelling with parking and private amenity space.
- 6.5 The change of use will convert the existing building which will also upgrade the external materials and refurbish it for habitation.
- 6.6 The proposed dwelling comprises an entrance hall, W.C., kitchen and lounge/diner at ground floor, with one bedroom and a bathroom at first floor.

### Principle of Development

- 6.7 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.
- 6.8 Section 39 of the Planning and Compulsory Purchase Act 2004 requires decision makers to exercise their functions with the objective of contributing to the achievement of sustainable development.
- 6.9 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 development boundary (SDB) of Wrabness 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.
- 6.10 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 Wrabness is classified as a Smaller Rural Settlement and these smaller villages are considered to be the least sustainable locations for growth. However, these villages are still under pressure to grow and some small-scale development which is sympathetic to the rural settlement might help younger people to continue to live in the area, keep local shops and services viable.
- 6.11 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, any other relevant policies in this plan and overarching national planning policy.
- 6.12 There is limited policy support in the Local Plan for new dwellings outside of the defined SDB. The National Planning Policy Framework (NPPF) however confirms that “in rural areas...decisions should be responsive to local circumstances and support housing developments that reflect local needs”. Paragraph 80 c) of the NPPF supports the re-use of redundant or disused buildings where it will enhance its immediate setting, as in this case.
- 6.13 For the above reasons the principle of development on this site is considered to be acceptable.

#### Layout, Scale and Appearance

- 6.14 Paragraph 126 of the National Planning Policy Framework states that 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.
- 6.15 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.
- 6.16 The forge building will retain its current form in terms of its siting, height, scale and massing as part of the proposed change of use. The external finish of the building will resemble its existing

appearance and will use natural slate coloured pressed metal profiled sheeting to the main roof and natural slate finish to the porch canopy. Five solar panels will be fitted to the southern roof slope. The walls will be finished in a smooth render plinth and black stained featheredged cladding to provide a renewed and improved appearance. The site layout shows planting on the boundary with Primrose Hill, precise details of which should be secured under condition on the grant of planning permission.

- 6.17 Officers consider that the proposed change of use which maintains the scale of the existing building at this prominent gateway position on Primrose Hill harmonises with the character and appearance of the surrounding area.

#### Highway Safety/Parking

- 6.18 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.
- 6.19 The Essex County Council Parking Standards 2009 require that dwellings with 1 bedroom are provided with a minimum of 1 off road parking space. 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 and will be provided with one parking space that meets the standard. A turning space is also provided within the site to ensure that vehicles entering and leaving the site can do so in a forward gear in the interests of highway safety.
- 6.20 Subject to the use of conditions pertaining to: the requirement of a construction method statement, visibility splays, no unbound materials, closing part of the existing access, restricting the use of gates at the vehicular access, no occupation of the dwelling until the parking and turning provision is in place, the width of the private drive, planting a minimum distance of 1 metre from the highway and provision of a travel pack for any new occupiers, there are no objections raised from the Highways Authority. Restricting the use of gates at the vehicular access is not considered reasonable and this condition will not be imposed. It is not considered reasonable or necessary to impose a suggested condition for the provision of two wheeler (bicycle, scooter, motorcycle) parking as there is space in the garage to store such items. The garage, for the purposes of off road car parking does not meet the parking standards for the size of a single garage and can therefore be used for other storage. The proposal is not therefore considered to result in any unacceptable harm to highway safety.
- 6.21 Policy CP1 of the Local Plan states that 'proposals for new development must be sustainable in terms of transport and accessibility and therefore should include and encourage opportunities for access to sustainable modes of transport, including walking, cycling and public transport'.
- 6.22 Although the application site lies outside of the Wrabness settlement development boundary, its location means that sustainable travel within and further afield is possible. The site is approximately 700 metres from Wrabness railway station and the local community shop, while the nearest bus stop is less than 25 metres away. Consequently, there are opportunities for sustainable travel from the site.

#### Landscape, Trees and Biodiversity

- 6.23 Paragraph 174 of the NPPF requires planning decisions to contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes.



- 6.24 Policy PPL2 of the Tendring District Local Plan 2013-2033 and Beyond Section 2 state that new development which does not have a compelling functional need to be located in the Coastal Protection Belt will not be permitted, and even when a compelling functional need is demonstrated, the development should not significantly harm the landscape character and quality of the undeveloped coastline. Furthermore, Policy PPL3 of the adopted Local Plan states that development proposals affecting protected landscapes must pay particular regard to the conservation and enhancement of the special character and appearance of the Dedham Vale and Suffolk Coast and Heaths AONBs, and their settings.
- 6.25 The proposal lies within the Coastal Protection Belt and adjacent to the Suffolk Coasts and Heaths AONB. Officers consider that due to the existing building on the application site, which will retain its existing footprint and the location near to the existing linear form of residential dwellings there would not be a significant impact upon the existing special landscape character of the area. In order to manage any future development on the site in this rural and sensitive location, a condition removing permitted development rights will be secured on the grant of planning permission.
- 6.26 Paragraph 180 of the NPPF states that when determining applications where significant harm to biodiversity cannot be avoided, mitigated or, as a last resort, compensated for, Councils should refuse planning permission. Policy PPL4 of the adopted Local Plan gives special protection to designated sites of international, European and national importance to nature conservation from development likely to have an adverse effect on their integrity.
- 6.27 The application site is not designated, however Stour Wood to the east is designated as a Site of Special Scientific Interest. A site does not have to be designated, however, to have importance to nature conservation.
- 6.28 The applicant prepared and submitted a Bat Survey and Preliminary Ecological Appraisal as the Stour Wood is known to support a number of protected species. The appraisal revealed that the site itself, due to its lack of vegetation does not support any woodland habitat however bats could use the site for commuting and foraging, yet the Bat Survey confirmed there was no evidence of any bats roosting within the site.
- 6.29 Ancient woodland is defined as an irreplaceable habitat. The site is separated from the woodland by a raised earth bank and ditch and although the appraisal confirms it is unlikely there will be any adverse impact to the woodland trees due to the nature of works proposed, measures should be taken during construction to avoid damage to the trees and shrubs. Taking into account Natural England standing advice that a buffer zone may be used, in this case the appraisal confirms that a buffer zone is not feasible given the size of the application site and is likely to be disproportionate to the predicted impacts.
- 6.30 The appraisal concluded that with the mitigation and enhancement measures recommended, the proposals are very unlikely to result in the loss of, or damage/disturbance of, any habitats of value to protected or notable species
- 6.31 Natural England has offered no objection, in principle, to the proposed development however draws attention to their standing advice.
- 6.32 Ecological advice provided by Essex County Council Place Services confirms they have no objection subject to securing of the biodiversity mitigation and enhancement measures.
- 6.33 The Council's Tree and Landscape Officer highlights an early mature Oak tree on the southern boundary of the application site. The parking and turning areas are situated close to the tree and there is the potential for this to have an adverse impact on the tree. The Officer confirms that to minimise the impact of construction of the parking and turning areas they should be developed using no-dig methods.

- 6.34 In conclusion, the impact on biodiversity is expected to be low and through the recommended mitigation measures, the ecological value of the site could be enhanced. Officers consider that these measures are acceptable. Planning conditions that are necessary and relevant to the proposal will be imposed to secure the mitigation measures and enhancements on the grant of planning permission.

#### Housing Standards

- 6.35 The governments Technical housing standards – nationally described space standard - sets out minimum gross internal floor space, bedroom sizes and storage requirements for new dwellings.
- 6.36 All new dwellings must therefore accord with the Technical housing standards. A one bedroom, two person, two storey dwelling requires a minimum of 50 square metres of gross internal floor space which includes built in storage of 1.5 square metres. From the plans submitted the proposal 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.

#### Residential Amenity

- 6.37 Paragraph 130 of the National Planning Policy Framework 2021 states that planning should always seek to secure a good standard of amenity for all existing and future occupants. Policy SPL3 states that buildings and structures are designed and orientated to ensure adequate daylight, outlook and privacy for future and existing residents; and the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties.
- 6.38 The application site is located within a rural location. The vacant land to the north of the application site has planning permission for two detached houses. The land is on higher ground than the application site and therefore there will be no overlooking or loss of privacy concerns. The orientation of the application site, the siting of the forge building and separation distance that will be present when the two detached dwellings are constructed to the north ensure there would be no loss of light of overshadowing.
- 6.39 140 square metres of private amenity space to the rear of the site will serve the proposed dwelling and is considered to meet the needs and expectations of residents and is commensurate to the size of dwelling and the character of the area.

#### Environmental Protection

- 6.40 The applicant submitted a Contaminated Land Site Investigation Report dated 16 September 2011. The Council's Environmental Protection Officer reviewed the contents of the report, confirmed it is acceptable and are satisfied with the findings of the report. The Officer requested a Watching Brief during construction is secured by condition on the grant of planning permission to ensure the local planning authority is advised of any unexpected ground conditions. The unexpected ground conditions however are not defined and are subject to opinion, therefore this condition will not be imposed as it is not enforceable or precise. Furthermore they request conditions are secured on the grant of planning permission to manage the hours of construction and ensure no materials produced as a result of the development is burned on site. The conditions to be imposed will offer protection to existing neighbouring residents, construction workers on the application site and future occupiers of the dwelling.

#### Drainage and Sewerage

- 6.41 Policy PPL5 states that all new development must make adequate provision for drainage and sewerage.
- 6.42 The sewerage from the proposed dwelling will be connected to the mains sewer located in Primrose Hill which is considered the preferred approach and acceptable.
- 6.43 The proposal is considered a minor development where there is no requirement to consult Essex County Council for sustainable drainage planning advice. Sustainable Drainage Systems (SuDS) are designed to replicate natural drainage systems, to drain surface water run-off, and in this case where the footprint of the building has not increased, infiltration within the site, which will need to meet building regulation standards will be installed and is considered acceptable.

#### Renewable Energy

- 6.44 Chapter 14 of the National Planning Policy Framework supports the transition to a low carbon future in a changing climate while Policy PPL10 of the Local Plan supports renewable energy generation and energy efficiency measures for residential development involving the creation of one or more dwellings.
- 6.45 Five solar panels fitted to the southern roof slope of the building and an air source heat pump will provide energy for the occupiers own use reducing the demand for fossil fuels which are a finite resource and release carbon into the atmosphere and accelerate global warming contributing to climate change.
- 6.46 Electric vehicle charging points are also shown on the submitted drawings. The specification of these and provision in working order prior to occupation of the dwelling will be secured by condition on the grant of planning permission.

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

- 6.47 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.
- 6.48 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.
- 6.49 The application scheme proposes a new dwelling on a site that lies within the Zone of Influence (Zol) being approximately 1km from Stour and Orwell Estuaries SPA and RAMSAR. However, new housing development within the Zol would be likely to increase the number of recreational visitors to Stour and Orwell Estuaries; and, in combination with other developments it is likely that the proposal would have significant effects on the designated site.
- 6.50 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.

## **7. Conclusion**

- 7.1 Whilst the location of the development is not supported by Local Plan policy, the National Planning Policy Framework supports the re-use of redundant or disused buildings where it will enhance its immediate setting.
- 7.2 The change of use of the forge building to a dwelling will offer an enhancement to the immediate setting by way of refurbishment of the building itself in this prominent location with the tidying and clean-up of the site presenting a welcoming picture to the village of Wrabness, preventing the continued disuse and tired forge building and surrounding site from deteriorating further.
- 7.3 The form of the forge building will be retained and no other buildings or extensions to the forge are proposed ensuring with the security of planning conditions which make the proposal acceptable there will be no significant harm generated by the proposal.
- 7.4 Accordingly the application is recommended for approval.

## **8. Recommendation**

- 8.1 The Planning Committee is recommended to grant planning permission subject to the following conditions and informatives and the prior completion of a Unilateral Undertaking for a financial contribution towards RAMS.

### **8.2 Conditions and Reasons**

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

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

- 2 The development hereby permitted shall be carried out in accordance with the following approved drawings / documents, and / or such other drawings / documents as may be approved by the Local Planning Authority in writing pursuant to other conditions of this permission or such drawings / documents as may be subsequently approved in writing by the Local Planning Authority as a non-material amendment following an application in that regard:

- Site Plan 1:2500
- Design and Access Statement
- Drawing No. 74-2019-13PA
- Drawing No. 74-2019-11PB

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

- 3 No vehicle/s connected with the construction works to arrive on site before 07:30 or leave after 19:00. Working hours for construction are restricted to between 08:00 and 18:00 Mondays to Saturdays (finishing at 13:00 on Saturdays) with no construction working of any kind permitted on Sundays or any Public/Bank Holiday.

Reason - To protect the amenity of nearby residential properties.

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

Reason - To protect the amenity of nearby residential properties.

- 5 There should be no obstruction higher than 600mm above ground level within a 2.4 m wide parallel band visibility splay as measured from and along the nearside edge of the carriageway across the entire site frontage. Such vehicular visibility splays shall be provided before first occupation of the property and retained free of obstruction above 600mm at all times.

Reason - To provide adequate inter-visibility between users of the access and the public highway in the interests of highway safety.

- 6 No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary.

Reason - To ensure that loose materials are not brought out onto the highway, in the interests of highway safety.

- 7 Prior to occupation of the hereby approved use the vehicular access shall be suitably and permanently altered as shown on Drawing No. 74-2019-13PA, incorporating the re-instatement to full height of the highway verge/footway/kerbing to the specifications of the Highway Authority.

Reason - To ensure the satisfactory alteration of the vehicular access, in the interests of highway safety.

- 8 The development shall not be occupied until such time as the car parking and turning area, indicated on the approved plans, has been hard surfaced. The car parking area shall be retained in this form at all times and shall not be used for any purpose other than the parking of vehicles related to the use of the development thereafter.

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

- 9 Prior to the occupation of the proposed dwelling, the existing private drive shall be constructed to a maximum width of 5.5 metres for at least the first 4.3 metres from the back of Carriageway / Footway / Highway Boundary.

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.

- 10 No development shall take place, including any ground works or works of demolition, until a Construction Method Statement (CMS) has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- i. the parking of vehicles of site operatives and visitors
- ii. loading and unloading of plant and materials
- iii. storage of plant and materials used in constructing the development
- iv. wheel and under body washing facilities

Reason - To minimise detriment to nearby residential and general amenity by controlling the construction process to achieve the approved development. This condition is required to be agreed prior to the commencement of any development as any construction process, including site preparation, by reason of the location and scale of development may result adverse harm on amenity.

- 11 The proposed 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 occupation of the proposed development, the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack per dwelling, for sustainable transport, to have been previously approved in writing by the local planning authority (to include six one day travel vouchers for use with the relevant local public transport operator).

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

- 13 All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Preliminary Ecological Assessment (Liz Lord Ecology, July 2022) as already submitted with the planning application and agreed in principle with the local planning authority prior to determination.

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

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

- 14 Prior to commencement of the development hereby approved a construction environmental management plan (CEMP: Biodiversity) shall be submitted to and approved in writing by the local planning authority.

The CEMP (Biodiversity) shall include the following.

- a) Risk assessment of potentially damaging construction activities.
- b) Identification of "biodiversity protection zones".
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
- d) The location and timing of sensitive works to avoid harm to biodiversity features.
- e) The times during construction when specialist ecologists need to be present on site to oversee works.
- f) Responsible persons and lines of communication.
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
- h) Use of protective fences, exclusion barriers and warning signs.
- i) Containment, control and removal of any Invasive non-native species present on site.

Reason - To avoid, minimise or mitigate any construction effects on the environment.

- 15 Prior to occupation of the development hereby approved a Biodiversity Enhancement Strategy for protected and Priority species shall be submitted to and approved in writing by the local planning authority.

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

- a) Purpose and conservation objectives for the proposed enhancement measures;
- b) detailed designs to achieve stated objectives;

- c) locations of proposed enhancement measures by appropriate maps and plans;
- d) persons responsible for implementing the enhancement measures;
- e) details of initial aftercare and long-term maintenance (where relevant).

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

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

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

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

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

- 17 Notwithstanding any details submitted in the submitted application, prior to the commencement of development hereby approved, details shall be submitted of a scheme to protect the existing established and early mature Oak Tree located on the southern boundary of the site. The details shall include a scaled plan of the Root Protection Area and shall clearly illustrate the location and width of the proposed driveway, turning area and parking space together with a method of no dig construction and appropriate protective fencing. Upon receipt of acceptable details the Local Planning Authority shall provide written confirmation and the development may progress in accordance with the approved details.

Reason - To ensure that a maximum level of protection in order to safeguard the well being of the Oak Tree at the southern corner of the application site.

- 18 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

- 19 Prior to the commencement of above ground works, a scheme of landscaping, which shall include details of both hard and soft landscape works and earthworks, has been submitted to, and approved in writing by, the Local Planning Authority. The scheme as approved shall be carried out in the first planting season following the completion of the development. Any trees, shrubs or plants that die within a period of five years from the completion of each development phase, or are removed and/or become seriously damaged or diseased in that period, shall be replaced (and if necessary continue to be replaced) in the first available planting season with

others of similar size and species, unless the Local Planning Authority gives prior written permission for any variation.

Reason - To ensure satisfactory landscape treatment of the site which will enhance the character and appearance of the site and the area.

- 20 Prior to any above ground works, a scheme for the provision of electric vehicle charging facilities 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 dwelling.

Reason - In order to promote sustainable transport.

### 8.3 Informatives

#### Highways Informatives

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)

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.

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.

#### Legal Agreement Informative - Recreational Impact Mitigation

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

### 9. Additional Considerations

#### Public Sector Equality Duty (PSED)

- 9.1 In making your decision you must have regard to the PSED under section 149 of the Equality Act 2010 (as amended). This means that the Council must have due regard to the need in discharging its functions to:
- 9.2 A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;



- 9.3 B. Advance equality of opportunity between people who share a protected characteristic and those who do not. This may include removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; taking steps to meet the special needs of those with a protected characteristic; encouraging participation in public life (or other areas where they are underrepresented) of people with a protected characteristic(s); and
- 9.4 C. Foster good relations between people who share a protected characteristic and those who do not, including tackling prejudice and promoting understanding.
- 9.5 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, being married or in a civil partnership, race including colour, nationality and ethnic or national origin, religion or belief, sex and sexual orientation.
- 9.6 The PSED must be considered as a relevant factor in making this decision but does not impose a duty to achieve the outcomes in section 149 and section 149 is only one factor that needs to be considered, and may be balanced against other relevant factors.
- 9.7 It is considered that the recommendation to grant permission in this case would not have a disproportionately adverse impact on a protected characteristic.

#### Human Rights

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

#### Finance Implications

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

### **10. Background Papers**

- 10.1 In making this recommendation, officers have considered all plans, documents, reports and supporting information submitted with the application together with any amended documentation. Additional information considered relevant to the assessment of the application (as referenced within the report) also form background papers. All such information is available to view on the planning file using the application reference number via the

Council's Public Access system by following this link <https://idox.tendringdc.gov.uk/online-applications/>.