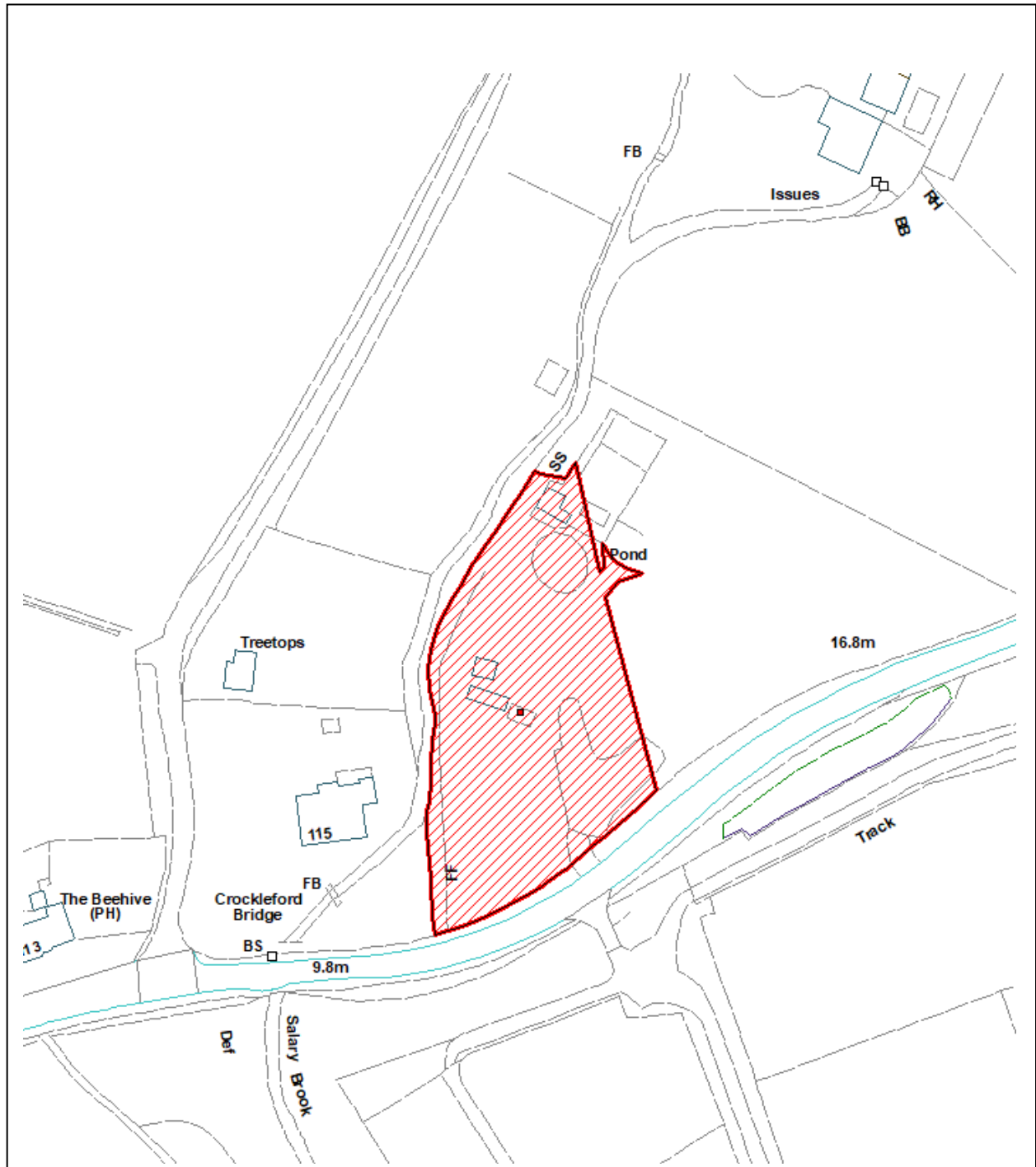


## PLANNING COMMITTEE

Tuesday 20<sup>th</sup> December 2022

### REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING

#### **A.2 PLANNING APPLICATION – 22/00467/DETAIL – LAND NORTH OF BROMLEY ROAD ARDLEIGH COLCHESTER ESSEX CO4 3JG**



## DO NOT SCALE

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**Application:** 22/00467/DETAIL

**Town / Parish:** Ardleigh Parish Council

**Applicant:** Mr John Beton - Seven Developments Limited

**Address:** Land North of Bromley Road Ardleigh Colchester Essex CO4 3JG

**Development:** Reserved matters application for erection of 4 dwellings considering scale, layout, landscape and appearance pursuant to outline planning consent 21/01481/OUT.

### 1. **Executive Summary**

- 1.1 The application is brought to Committee at the request of the Planning Manager. The site is outside the Settlement Development Boundary of Ardleigh, within close proximity to the area designated for the new Tendring and Colchester Garden Community and therefore there is a high level of public interest in the site along with a number of objections made to the outline permission including the Parish Council, to warrant a Committee referral as the recommendation is of Approval.
- 1.2 The application relates to a parcel of land on the northern site of Bromley Road in the small rural settlement of Crockleford Heath. The site is closely connected to the settlement and district boundary of Colchester to the west. Adjacent to the site to the east is a development for 4 dwellings currently under construction which was granted under planning application reference 17/02190/OUT allowed on appeal (reference APP/P1560/W/18/3200898). To the south of the site lies another development currently under construction for 145 dwellings, planning reference 17/00859/OUT allowed on appeal (reference APP/P1560/W/17/3185776).
- 1.4 Outline planning permission for 4 detached dwellings considering access only, on the application site was approved on 4th February 2022 under application reference 21/01481/OUT.
- 1.5 This application seeks permission for the reserved matters of the above outline application in respect to scale, layout, landscape and appearance. Revised drawings were submitted during the course of the application along with an updated Ecology Assessment and a Flood Risk Assessment, and on balance the application is considered to be acceptable in terms of the design, scale, appearance and layout. The proposal is not considered to have a detrimental impact on neighbour amenity and there are no concerns raised in regard to parking and highway matters or flood risk.
- 1.6 Subject to conditions the proposal is consider to protect and enhance the biodiversity of the site, along with acceptable tree retention and tree planting, new hedgerow and a satisfactory soft landscaping scheme.

**Recommendation:** Approval

1) 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) The 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.

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
SP8	Development & Delivery of a New Garden Community in North Essex

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

SPL1	Managing Growth
SPL2	Settlement Development Boundaries
SPL3	Sustainable Design
LP1	Housing Supply
LP3	Housing Density and Standards
LP4	Housing Layout
PPL1	Development and Flood Risk
PPL4	Biodiversity and Geodiversity
PPL5	Water Conservation, Drainage and Sewerage
PPL10	Renewable Energy Generation
CP1	Sustainable Transport and Accessibility
CP2	Improving the Transport Network

Supplementary Planning Guidance

- 2.4 Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy SPD 2020 (RAMS)  
Essex County Council Development Management Policies 2011 (Highways SPD)  
Essex County Council Parking Standards Design and Good Practice Guide 2009 (Parking SPD)

Neighbourhood Plan:

- 2.5 Draft Ardleigh Neighbourhood Plan – Ardleigh Parish Council is working on a Neighbourhood Plan (NP), it would appear that this NP is in its very early stages and only in draft form and is therefore only of very limited weight in the assessment of this application

**Status of the Local Plan**

- 2.6 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.
- 2.7 In relation to housing supply:
- 2.8 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’).
- 2.9 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**

Adjacent site under construction

17/00056/OUT	Outline application for the erection of two detached dwellings and associated garaging and parking	Approved	08.03.2017
17/02190/OUT	Erection of four detached dwellings.	Refused (Allowed at Appeal)	07.03.2018
19/01101/DETAIL	Reserved matters application for erection of four detached dwellings.	Approved	10.12.2019
21/00498/DETAIL	Reserved matters application for erection of four detached dwellings, to amend the layout and landscaping from approved application 19/01101/DETAIL.	Approved	24.06.2021
21/00771/DISCON	Discharge of Conditions 4 (Details of Estate Roads) and 7 (Construction Method Statement) of approved Planning Permission ref: 21/00498/DETAIL.	Withdrawn	04.05.2022
21/01191/DISCON	Discharge of conditions 4 (Details of the Estate Roads and Footways) and 7 (Construction Method Statement) of approved application 21/00498/DETAIL.		08.04.2022

#### Application Site

21/01481/OUT	Proposed outline application with all matters reserved except access for 4 no. detached dwellings.	Approved	04.02.2022
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#### **4. Consultations (Summarised)**

Ardleigh Parish  
Council  
03.05.2022

Ardleigh Parish Council objected to the original application and followed up with a complaint when it was approved. Concerned with the close proximity to Salary Brook which is an essential wildlife corridor. Dwellings should have as little impact as possible.

The proposed dwellings replicate the four dwellings already under construction, large detached properties. It would be preferred if the new

dwellings are redesigned to be smaller in scale and maximise green space along the edge of Salary Brook.

Tree & Landscape Officer  
14.04.2022 1<sup>st</sup> Consultation

The main body of the application site is set to grass and contains several trees of a mixed age range. Some of these have a moderately positive impact on the character and appearance of the area.

In terms of the overall layout and impact of the development one of the key issues will be the retention of the vegetation on the boundary with the highway or its replacement with new planting if it were necessary for it to be removed in order to facilitate the implementation of the development.

In this regard the applicant does not appear to have submitted soft landscaping details to show what vegetation is to be retained, what is likely to need to be removed and where new planting will be carried out.

In order to secure a satisfactory amount of soft landscaping details of new planting and details of the retention and removal of existing trees and other vegetation should also be provided prior to the determination of the application.

Tree & Landscape Officer  
01.06.2022  
2<sup>nd</sup> consultation following  
additional information

Additional information has been provided by the applicant in relation to the retention of existing trees and boundary hedgerow as well as proposed tree, shrub and hedge planting.

The soft landscaping information shows the retention and strengthening of the hedgerow on the boundary with the highway and new tree and shrub planting in the main body of the land.

The information and level of detail provided is sufficient to secure a satisfactory level of new planting associated with the development of the land

ECC Highways Dept  
14.10.2022 following amended  
plans

It is noted that the proposal has been amended to incorporate a passing place and turning head within the scheme, considering these factors, from a highway and transportation perspective the impact of the proposal is acceptable to Highway Authority subject to mitigation and conditions in regards to off street parking, visibility splays, vehicle turning area and passing place and boundary treatment.

Environment Agency  
28.06.2022 1<sup>st</sup> Consultation

A holding objection is made on flood risk grounds as a Flood Risk Assessment (FRA) has not been submitted.

Maps show the application site lies within fluvial Flood Zone 3, defined by the 'Planning Practice Guidance: Flood Risk and Coastal Change' as having a high probability of flooding. Paragraph 163, footnote 50 of the NPPF requires applicants for planning permission to submit a site-specific FRA when development is proposed in such locations.

An FRA is vital if you are to make an informed planning decision. In the absence of an FRA, the flood risk resulting from the proposed development is unknown. The absence of an FRA is therefore sufficient reason in itself for a refusal of planning permission.

Environment Agency  
03.10.2022 2<sup>nd</sup> Consultation

The new information shows the site boundary is within Flood Zone 3, but the development is located within Flood Zone 1. Which is covered by Local Flood Risk Standing advice. Therefore the holding objection is removed.

ECC SuDS Consultee  
28.09.2022

It is considered that the development does not pose a significant flood risk and there is little opportunity to deliver new SuDS features.

Essex County Council Ecology  
13.10.2022

No objection subject to securing biodiversity mitigation and enhancement measures

It is recommended that conditions requiring the submission for approval and implementation of details in regards to the ecological appraisal recommendations, construction environmental management plan for biodiversity, biodiversity enhancement strategy and a wildlife sensitive lighting design scheme are added to any consent.

Colchester Borough Council

No comments received

## **5. Representations**

- 5.1 One letter of objection has 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.

Summary of Matters raised:

- Concerns raised regarding the number of households using the point of access/egress on Crockleford Hill close to the new 140+ houses of Hollytree Walk (currently under construction) and the possible impact on Highway safety with this increase in cars on this hill.

5.2 All relevant material planning considerations have been taken into account in the assessment section of this report above and with the addition of relevant conditions, the amended proposal is considered to be acceptable.

## **6. Assessment**

The application has been submitted with the following supporting information:

- Topographical Survey - Drawing No: 6798 1103 Rev P1
- Phase 1 Desk Top Study of Soil Conditions and Flood Risk Assessment – NF Moore, Job No: 4685, dated July 2022
- Preliminary Ecological Appraisal – Skilled Ecology Consultancy Ltd, Dated January 2016 and updated September 2022.
- Surface Water Drainage Layout – Drawing No: 4665/D1 dated March 2022
- Surface Water Drainage Calculations – NF Moore, Job No: 4685, dated March 2022

### Site Context

- 6.1 The application relates to a parcel of land on the northern site of Bromley Road in the small rural settlement of Crockleford Heath which is within the Parish of Ardleigh but outside of any defined settlement development boundary as outlined in the Tendring Local Plan. The site is within Flood Zone 1 but is bordered by Salary Brook to the west (Flood Zone 3), open farmland and countryside to the north.
- 6.2 The site is closely connected to the settlement and district boundary of Colchester to the west. Adjacent to the site to the east is a development for 4 dwellings currently under construction which was granted under planning application reference 17/02190/OUT allowed on appeal (reference APP/P1560/W/18/3200898). To the south of the site lies another development currently under construction for 145 dwellings, planning reference 17/00859/OUT allowed on appeal (reference APP/P1560/W/17/3185776).
- 6.3 Outline planning permission for 4 detached dwellings considering access only, on the application site was approved on 4<sup>th</sup> February 2022 under application reference 21/01481/OUT.

### Proposal

- 6.4 This application follows a previously approved outline application (all matters reserved except for access) allowed under planning reference 21/01481/OUT for the development of the site for four detached dwellings. This application is for the agreement of the remaining reserved matters as requested by the approval of the outline application, which are specifically appearance, landscaping, layout and scale.



- 6.5 Following officer and statutory consultee concerns with the layout of the development as originally submitted, a revised scheme has now been received. The application is therefore considered on the basis of the amended plans and a full 21 days re-consultation was undertaken.
- 6.6 The development proposes four x 4 bed detached dwellings of the same design with parking and decking area along with associated amenity space.

#### Principle of Development

- 6.7 The application site is located outside of any defined settlement development boundary as set out within the Local Plan. However, the site is within close proximity to Colchester and a wide range of facilities and outline permission for four detached dwellings was granted in February 2022 (with this reserved matters application having been submitted within the requisite three year time limit). Therefore the principle of residential development on the site has already been established by the approval of outline planning application 21/01481/OUT for the construction of 4 detached dwellings, which remains extant.
- 6.8 The main considerations in this instance relate only to the outstanding reserved matters, namely appearance, layout, landscaping, scale, as well as any impacts to neighbouring amenities, flood risk and ecology enhancement measures.

#### Scale, Layout and Appearance

- 6.9 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). Paragraph 130 of the NPPF (2021) requires that developments are visually attractive as a result of good architecture, are sympathetic to local character, and establish or maintain a strong sense of place.
- 6.10 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.
- 6.11 The submitted plans show the four dwellings are each to be detached, two storeys and served by four bedrooms. The properties each have an attached garage/car port with terrace area above. The proposed layout shows the continuation of the access road from Bromley Road, serving the adjacent four dwellings under construction. The road forms a mini cul-de-sac arrangement with turning head and the dwellings are located around the cul de sac. The dwellings are of the same design, which reflects the dwellings on the adjacent site and are of a more contemporary approach that includes a number of details, including balconies, chimneys and a good use of materials.

- 6.12 With regard to layout, the dwellings are of a similar density, size and scale to the dwelling on the adjacent site, however this site is narrower and longer and therefore does not afford so much open frontage space to Bromley Road. The amended plans have re-orientated the dwellings so that the maximum space is given to Bromley Road and to Salary Brook and this is now mainly bordered by the rear gardens of the dwellings.
- 6.13 In regards to Plots 3 and 4 which are the closest to the boundary with Bromley Road, it is considered that as the access to the site is further along Bromley Road, this boundary will be well screened with trees and hedging, somewhat mitigating the dominance of the dwellings in the streetscene when viewed from Bromley Road and that on balance this layout, scale and appearance is in the main considered to be acceptable.

#### Living Conditions of future Occupiers

- 6.14 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.
- 6.15 All new dwellings must therefore accord with the Technical housing standards. A four bedroom two storey dwelling requires a Gross Internal Floorspace (GIA) of between 97 and 124sqm. From the plans submitted the proposed dwellings exceed these requirements of the space standards. It is also considered that the internal layout is appropriate, with all habitable rooms having adequate natural light.
- 6.16 The amended layout submitted has the dwellings oriented around the new access road and provides the main amenity spaces to the side and rear of the new dwellings, therefore it is considered that the amenity space proposed to each dwelling would meet the needs and expectations of residents and is commensurate to the size of dwelling and the character of the area.
- 6.17 Overall the proposal is considered to secure a good standard of amenity and accommodation for future occupants of the proposed dwelling.

#### Impacts to Residential Amenity

- 6.18 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.
- 6.19 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.

- 6.20 The application site is located within a fairly rural location, with Salary Brook to the west, forming a natural border to the nearest property 115 Bromley Road. To the east are the four previously approved dwellings which are under construction.
- 6.21 There is adequate separation between Plot 4 and the nearest dwelling on the adjacent site, with rear gardens abutting each other. The main parking and terrace areas are located mainly to the front of the new dwellings, therefore minimising any loss of privacy and overlooking concerns. There is a minor concern raised regarding the relationship between plots 3 and 4 as the terrace area for Plot 4 is adjacent to the boundary with Plot 3 and could afford views into the rear amenity space of this dwelling. However on balance, the degree of separation between the dwellings provided by the turning head and the overall orientation of the dwellings and screening provided to the terrace areas, this is considered to be acceptable. As these are new dwellings it would be for any future occupiers to assess any impacts. There are no harmful impacts to any existing dwellings.
- 6.22 Therefore, it is not considered that this development would have any detrimental impacts on the residential amenities of the neighbouring occupiers in any regard.

#### Trees and Landscape Impacts

- 6.23 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 maintains or enhance important existing site features of landscape, ecological, heritage or amenity value. Outside defined settlement development boundaries, the Local Plan seeks to conserve and enhance the countryside for its own sake.
- 6.24 The application site boundary bordering Bromley Road is demarcated by an established hedgerow comprising of primarily Hawthorn and it is considered to provide a good level of screening. The Council's Tree and Landscaping Officer has advised that this should be retained or replaced with similar if it were deemed necessary for it to be removed as part of the development process.
- 6.25 The main body of the site contains a small group of early mature Alder, a Willow and one or two conifers. The western boundary of the site, adjacent to Salary Brook, is well populated with trees including Oak, Willow, Alder and Ash.
- 6.26 Additional landscaping details were submitted during the course of the application, but before the amend plans for the revised layout, therefore whilst the landscaping plans and specification submitted, are considered to be acceptable in regards to the retention of existing trees and boundary hedgerow as well as proposed tree, shrub and hedge planting and indicate the retention and strengthening of the hedgerow on the boundary with the highway and new tree and shrub planting in the main body of the land, they do not show the revised layout of the dwellings. The revised layout is not considered to materially alter the landscape proposal significantly with regard to the tree and hedgerow retention and additional planting. Therefore both hard and soft landscaping details for the amended layout can be secured by condition.

#### Highway and Parking Considerations

- 6.27 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.
- 6.28 Following concerns raised initially by the Highways Authority with regard to the length of the cul-de-sac, the orientation of the vehicular accesses and the depth of the space in front of the car ports, amended plans were received which provided the required minimum size 5 turning head (8m x 8m) and passing bay. The vehicle accesses were re-oriented to be at right angles to the carriageway and the space in front of each parking space was amended to at least 5m to ensure that parked vehicles do not overhang the carriageway.
- 6.29 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 dwellings are provided with a minimum of 2 parking spaces, which are policy compliant.
- 6.30 Subject to the use of conditions, the proposal would accord with Policies SPL3 and CP1 and the Highways and Parking SPDs. Furthermore following the amended plans the Highway Authority have no objections to the proposal. The proposal is not therefore considered to result in any unacceptable harm to highway safety.

#### Flood Risk and SuDS and Drainage

- 6.31 Paragraph 167 of the Framework is clear that when determining any planning applications Local Planning Authorities should ensure that flood risk is not increased elsewhere. Policy LP4 states that the design and layout of new residential development will be expected to consider surface water management from the outset of the site layout and master planning and that all surface water should be managed by means of SuDS. Criterion g) of Part B of Policy SPL3 states that opportunities should be taken to incorporate sustainable drainage within development, creating amenity and biodiversity.
- 6.32 The site is located within Flood Zone 1, however the Environment Agency Flood Map for Planning indicates that the area around Salary Brook, which is adjacent to the site, is within Flood Zone 2 and 3 and also has a medium to high risk of surface water flooding. Following the submission of a Flood Risk Assessment the Environment Agency have removed their holding objection and have raised no further issues as the built form of the dwellings is sited within Flood Zone 1.
- 6.33 The surface water calculations and details have been submitted and the Lead Local Flood Authority (ECC SuDs) have no objections to the development based on the information submitted, stating that the development does not pose a significant flood risk and there is little opportunity to deliver new SuDS features.

#### Ecology and Biodiversity Implications

- 6.34 Paragraph 174 of the Framework requires that planning decision should contribute to and enhance the natural and local environment, by minimising impacts on and providing net gains for biodiversity. Paragraph 180 d) states that opportunities to improve biodiversity in and around developments should be integrated as part of their design.
- 6.35 Local Plan Policy PPL4 requires that sites designated for their international, European and national importance to nature conservation will be protected from development likely to have an adverse effect on their integrity. The policy states that as a minimum there should be no significant impacts upon any protected species. Where a development might harm biodiversity, an ecological appraisal will be required to be undertaken, and the potential for harm should be considered and addressed in any application. Policy SPL3, Part A criterion d), requires that the design and layout of development maintains or enhances site features, including ecological value.
- 6.36 An updated Preliminary Ecological Appraisal (PEA) (Skilled Ecology, September 2022) has been submitted with the application in regards to the likely impacts of development on designated sites, protected species and Priority species & habitats and the identification of appropriate mitigation measures.
- 6.37 ECC Ecology have been consulted on the application and they are satisfied that there is sufficient ecological information available for determination of this application, which 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.
- 6.38 The mitigation measures identified in the submitted PEA can be secured by a condition to any consent and must be implemented in full. This will ensure that the necessary measures are implemented in order to conserve and enhance protected and Priority species in particular Great Crested Newts, bats, eels, reptiles, nesting birds, and hedgehogs.
- 6.39 To further mitigate any potential impacts to the adjacent Salary Brook and other retained habitat on and adjacent to the site, especially through dust and pollution events, a Construction Environmental Management Plan for Biodiversity (CEMP: Biodiversity) is required and can be secured by condition of any consent.
- 6.40 The PEA recommends the following biodiversity enhancements of 4 bat boxes, 2 sparrow terraces, 2 swift bricks, 4 bee brick and native species hedgerow planting and this would secure net gains for biodiversity, as outlined under Paragraph 174d of the National Planning Policy Framework (2021). The full details of the biodiversity enhancement measures should be submitted within a Biodiversity Enhancement Strategy and this can also be secured by a condition.
- 6.41 The PEA states 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 and can also be secured by condition.
- 6.42 Therefore with appropriate mitigation measures secured, by way of conditions added to any consent, the development can be made acceptable.

## Requirements of Outline Consent Conditions

- 6.43 As set out within the decision notice of the Outline permission (21/01481/OUT) the development was approved subject to the following conditions (officer comments in italics).
- 6.44 Conditions 1 to 3 are Standard reserved matters time limit and submission conditions which are considered to be complied with.  
Condition 4 gives details of the amended plans in regards to the Outline permission.  
Condition 5 and 6 have regard to the access and private drive.  
Condition 7 requires the submission of a Construction Management Plan to be submitted before the development commences. This is still to be discharged.

## **7. Conclusion**

- 7.1 In the absence of any material harm or policy conflict resulting from the reserved matters submission under consideration, the application is on balance recommended for approval subject to conditions.

## **8. Recommendation**

- 8.1 The Planning Committee is recommended to grant planning permission for the reserved matters subject to the following conditions and informatives:

### **8.2 Conditions and Reasons**

1. The development hereby permitted shall be carried out in strict accordance with the following approved plans/documents:

6798/1101 Rev P1 – Site Location Plan  
6798/1201 Rev P1 – Proposed Floor Plans  
6798/1301 Rev P1 – Proposed Elevation Plans  
6798/1104 Rev P4 – Proposed Block Plan  
Phase 1 Desk Top Study of Soil Conditions and Flood Risk Assessment – NF Moore, Job No: 4685, dated July 2022  
Preliminary Ecological Appraisal – Skilled Ecology Consultancy Ltd, Dated January 2016 and updated September 2022.  
Surface Water Drainage Layout – Drawing No: 4665/D1 dated March 2022  
Surface Water Drainage Calculations – NF Moore, Job No: 4685, dated March 2022

Reason: In the interests of proper planning and for the avoidance of doubt.

2. Prior to the commencement of development, 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) including precautionary method statements of nesting bird and small mammals.
- 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

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority

Reason: To conserve 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).

3. Prior to the commencement of any works above slab level, 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) timetable for implementation demonstrating that works are aligned with the proposed phasing of development;
- e) persons responsible for implementing the enhancement measures;
- f) 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).

4. All biodiversity mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Update Preliminary Ecological Appraisal (Skilled Ecology, September 2022). 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)

5. Prior to the first occupation of the development hereby approved, an external 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 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)

6. Prior to the first occupation of the development hereby approved, the internal layout and off-street parking shall be provided in principle and accord with drawing number:
  - 6798/1104 P4 Proposed block plan

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

7. Prior to the first occupation of the development hereby approved a 1.5 metre x 1.5 metre pedestrian visibility splay, shall be provided on both sides of each 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

8. As indicated on drawing no. 6798/1104 P4 and prior to the first occupation of the development hereby permitted, the size 5 vehicular turning facility, shall be constructed, surfaced, and maintained free from obstruction within the site at all times for that sole purpose.

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

9. Prior to the first occupation of the development hereby approved, the vehicle parking, passing place and turning area indicated on the approved plans, has been hard surfaced and sealed. The vehicle parking area, passing place, 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 dwelling.

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.

10. 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 and biodiversity of the area.

11. 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.

### 8.3 Informatives

#### Application Approved Following Revisions

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

#### Highways

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.

Mitigating and adapting to a changing climate is a national and Essex County Council priority. The Climate Change Act 2008 (amended in 2019) commits the UK to achieving net-zero by 2050. In Essex, the Essex Climate Action Commission proposed 160+ recommendations for climate action. Essex County Council is working with partners to achieve specific goals by 2030, including net zero carbon development. All those active in the development sector should have regard to these goals and applicants are invited to sign up to the Essex Developers' Group Climate Charter [2022] and to view the advice contained in the Essex Design Guide. Climate Action Advice guides for residents, businesses and schools are also available

## **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/>.