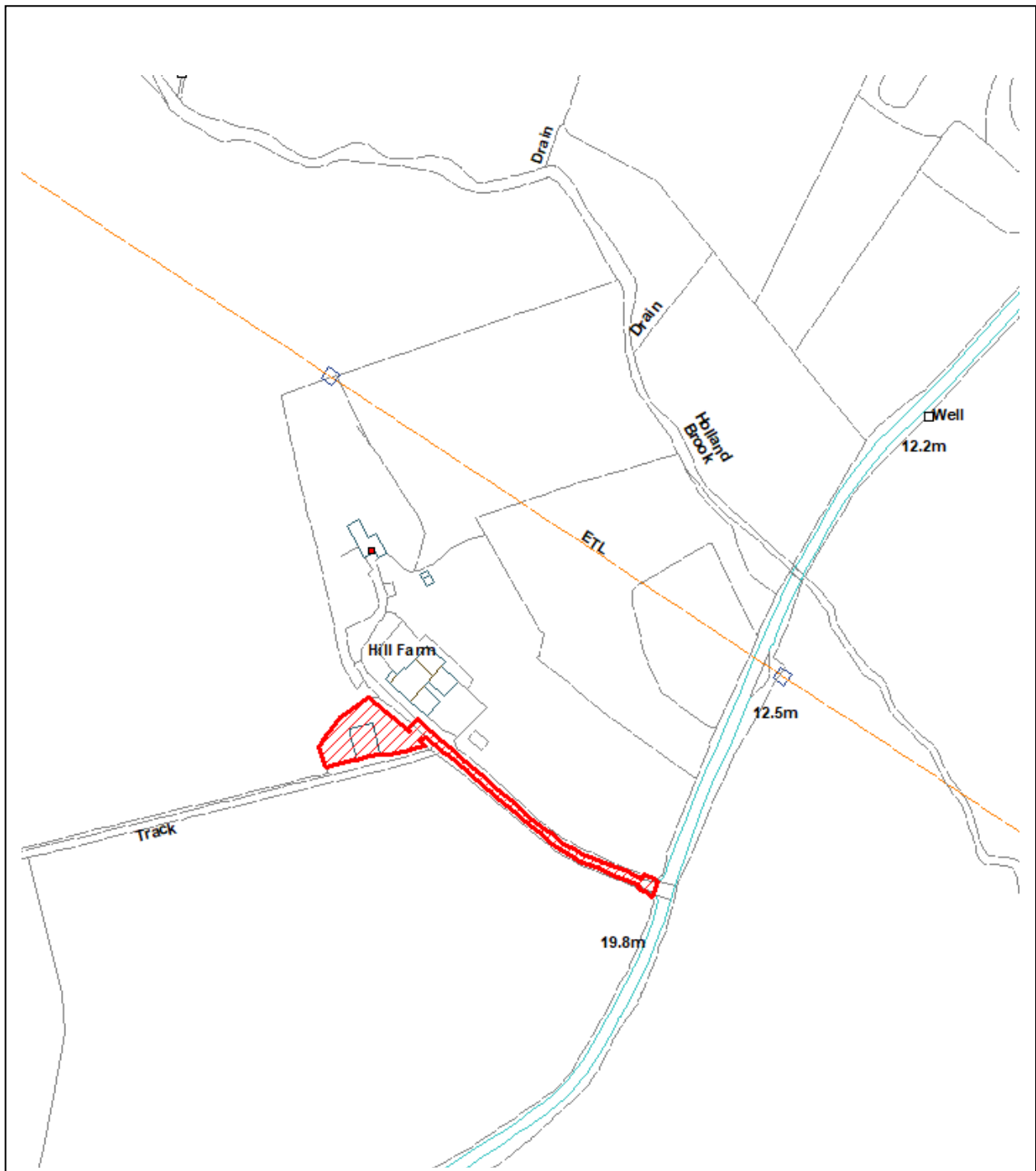


PLANNING COMMITTEE

17 January 2023

REPORT OF THE DIRECTOR FOR PLANNING

A.1 PLANNING APPLICATION – 22/00778/FUL – HILL FARM CROWN LANE TENDRING CLACTON ON SEA



DO NOT SCALE

Reproduced from the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationery Office © Crown Copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings.

Application: 22/00778/FUL

Town / Parish: Tendring Parish Council

Applicant: Mr Yod Serghiou

Address: Hill Farm Crown Lane Tendring Clacton On Sea CO16 0BJ

Development: Proposed erection of 1 no. 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 The proposed dwelling is not considered to be so materially different in regards to siting and footprint compared to the development approved under prior approval 17/01559/COUNOT and the new dwelling approved in lieu of this prior approval under application 19/00236/FUL. Moreover, in respect of proposed design and external appearance, the proposal is considered to result in a significant improvement compared to the design and external appearance of the dwelling approved under application 19/00236/FUL. The overall height of the proposal exceeds that of the above mentioned approvals however given the citing of the building, coupled with the improvements outlined above, this minor increase in height is not considered to result in harm. The proposed dwelling will continue to utilise an existing private access off Crown Lane to include its widening to 4.8m (wide) for first 6m.
- 1.3 In the absence of any material harm resulting from the development in regards to its individual appearance, impact on the wider streetscene and the character and appearance of the rural landscape, the application is recommended for approval. Furthermore, the proposal would not result in any detrimental impact on neighbour amenity and there are no concerns raised in regard to parking and highway matters.

Recommendation:

That the Planning Manager be authorised to grant planning permission subject to the conditions as stated at paragraph 8.2, or varied as is necessary to ensure the wording is enforceable, precise and reasonable in all other respects, including appropriate updates, so long as the principle of the conditions as referenced is retained.

2. **Planning Policy**

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

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

2.3 Local:

Tendring District Local Plan 2013-2033 and Beyond North Essex Authorities' Shared Strategic Section 1 Plan (adopted January 2021)

SP1	Presumption in Favour of Sustainable Development
SP2	Recreational disturbance Avoidance and Mitigation Strategy (RAMS)
SP3	Spatial Strategy for North Essex
SP4	Meeting Housing Needs
SP7	Place Shaping Principles

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

SPL1	Managing Growth
SPL2	Settlement Development Boundaries
SPL3	Sustainable Design
HP5	Open Space, Sports & Recreation Facilities
DI1	Infrastructure Delivery and Impact Mitigation
LP1	Housing Supply
LP4	Housing Layout
PPL3	The Rural Landscape
PPL4	Biodiversity and Geodiversity
PPL5	Water Conservation, Drainage and Sewerage
PPL9	Listed Buildings
PPL10	Renewable Energy Generation
CP1	Sustainable Transport and Accessibility

2.4 Supplementary Planning Guidance:

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

Status of the Local Plan

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

outweigh the benefits when assessed against the policies in the Framework taken as a whole (what is often termed the 'tilted balance').

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

3. Relevant Planning History

17/01559/COUNOT	Conversion of a former pig farrowing building into a two bed dwelling.	Determination	30.10.2017
19/00236/FUL	Replacement of former pig farrowing building with a three bed dwelling and widening of entrance (in lieu of prior approval for a dwelling subject of application 17/01559/COUNOT).	Approved	13.08.2019
19/00476/COUNOT (different site located adjacent to the north of application site)	Conversion and alterations to the Tyler barn and block built barn to create 1 dwelling.	Determination	10.06.2019
19/01132/COUNOT (different site located adjacent to the north of application site)	Creation of a single residential unit from existing agricultural buildings.	Determination	30.09.2019
21/00743/COUNOT (different site located adjacent to the north of application site)	Application for prior approval for the conversion of an agricultural building into a dwelling.	Determination	18.08.2021

4. Consultations

Parish Council	<p>Tendring Parish Council object to this application, primarily because the proposed development will have an adverse impact on the rural nature and outlook of this part of the village.</p> <p>We note that approval already exists for development on this site under 19/00236/FUL and that, whether or not demolition of the old pig barn counts as starting development on a new build, that there are still around 3 months remaining on the 3 year timeline, so that permission is still valid.</p> <p>We further note that pre-application advice has been sought</p>
----------------	--

	<p>21/30022/PREAPP, where guidance was given that it would be likely an amended proposal would be approved.</p> <p>However, as part of our objection it is important to consider the planning history of this site and the immediately-neighbouring site, which until recently was part of the same agricultural holding.</p> <p>The farm as a whole has had two approved Class Q conversions of agricultural buildings. Application 17/01559/COUNOT related to the site of this current application, where a building to replace the 80 sq.m pig barn was approved. A further Class Q application 19/01332/COUNOT on a second agricultural building on the wider farm site was refused as it took the developed area over that which is allowed on one farm (i.e. taken cumulatively with the approved 2017 case).</p> <p>That 2019 refusal was followed by a further, smaller application 21/00743/COUNOT, which was approved. That application also made reference to other “prior approval” applications.</p> <p>Following the Class Q approval on the current application site, a full application (19/00256/FUL) was made to amend some details, move the construction slightly away from a public footpath and increase the size from 80 sq.m to 108 sq.m. That application was for a single-story, low-roof “barn-like” building and conditions were set by TDC Planning to retain the open, rural outlook in this setting – for example, by not allowing boundary fencing to be erected.</p> <p>We now have the amended application, which the Parish Council notes is under a different applicant’s name, this parcel of land having recently been re-registered to a new owner. This new application is for a modern, two storey building covering a much larger ground area of 145 sq.m and including proposals for boundary fencing.</p> <p>Tendring Parish Council considers this new proposal to be unsuitable for its rural location and flies counter to the protective stipulations that TDC applied to the current valid consent. The story here seems to be one of pushing the scale of development step by step to get something that would not be allowed if it were a new application. Compare what is now proposed to what was allowable under the original Class Q consent, and the total allowed as Class Q on the whole farm site.</p> <p>Notwithstanding that approval exists for a built form on this site – one that is in keeping with the rural, open outlook of the area, this new building would jar in the countryside and is of a scale – particularly of now being two storeys but also of the very angular design, large dormer/flat upper section and tall gable end (all glazed) – that is inappropriate for its location and would interrupt the rural view too much</p>
<p>Essex County Council Ecology 04.07.2022</p>	<p>Thank you for consulting Place Services on the above application.</p> <p>No objection subject to securing: a) a proportionate financial contribution towards Essex Coast RAMS b) biodiversity mitigation and enhancement measures</p> <p>Summary We have reviewed the Preliminary Ecological Appraisal (Liz Lord Ecology,</p>

March 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.

As highlighted in the Preliminary Ecological Appraisal (Liz Lord Ecology, March 2022), the site falls within the evidenced Zone of Influence for the Essex Coast RAMS. 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 designated Habitats sites.

The mitigation measures identified in the Preliminary Ecological Appraisal (Liz Lord Ecology, March 2022) 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 bats, nesting birds, and reptiles.

Given that there is a pond within 280 metres from the site and onsite terrestrial habitats is referenced as being moderate for Great Crested Newts (GCN). GCN should be considered as part of this planning application, however, due to the type of development and area impacted, it may be possible to manage potential impacts using a precautionary method statement for GCN for the construction stage, including storage of materials. This precautionary method statement should be secured by a condition of any consent.

We also support the proposed reasonable biodiversity enhancements of three House Sparrow boxes, three bat boxes, a native hedgerow, which have been recommended by the Preliminary Ecological Appraisal (Liz Lord Ecology, March 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 Appraisal (Liz Lord Ecology, March 2022) highlights that it is possible that 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 Appraisal (Liz Lord Ecology, March 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: NON-LICENSED GREAT CRESTED NEWT METHOD STATEMENT

"A Non-Licensed Great Crested Newt Method Statement shall be submitted to and approved in writing by the local planning authority. This will contain precautionary mitigation measures and/or works to reduce potential impacts to Great Crested Newt during the construction phase.

The measures and/works shall be carried out strictly in accordance with the approved details and shall be retained in that manner thereafter."

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 ANY WORKS ABOVE SLAB LEVEL: 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 following the details contained within Preliminary Ecological Appraisal (Liz Lord Ecology, March 2022).

	<p>The content of the Biodiversity Enhancement Strategy shall include the following:</p> <ul style="list-style-type: none"> 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). <p>The works shall be implemented in accordance with the approved details prior to occupation and shall be retained in that manner thereafter."</p> <p>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</p> <p>4. PRIOR TO OCCUPATION: WILDLIFE SENSITIVE LIGHTING DESIGN SCHEME</p> <p>"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 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.</p> <p>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."</p> <p>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)</p>
<p>Environmental Protection 31.05.2022</p>	<p>With reference to the above application, please see below for comments from the EP Team:</p> <p>Contaminated Land: Given the sites proximity to a registered, historic piece of contaminated land, and the historical agricultural use of the surrounding land, we are requesting a Watching Brief be conditioned and adhered to throughout the demolition and construction phase - 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.</p> <p>Minimum requirements for dealing with unexpected ground conditions being encountered during construction.</p> <ol style="list-style-type: none"> 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.

Asbestos: Should any asbestos containing materials be present on the development site, or used within the original construction of the building in question, it must be safely removed by a qualified contractor, with relevant transfer notes being obtained to confirm safe and responsible removal and disposal.

REASON: to ensure that any risks (to future users of the land and neighbouring land and to controlled waters, property and ecological systems) arising from any land contamination are minimised and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

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

	<p>Saturdays) with no working of any kind permitted on Sundays or any Public/Bank Holiday whilst construction works and alterations are being carried out.</p> <p>No materials produced as a result of the site development or clearance shall be burned on site.</p> <p>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).</p> <p>REASON: to protect the amenity of nearby residential premises</p> <p>*INFORMATIVE</p> <p>Foul Drainage: The submitted application form advises a Sewerage Treatment Plant will be utilised as a way of disposing of foul waste; we would request, should the application be approved, that the Applicant / Agent, ensure the installation is fully compliant with the Environment Agency's Binding Rules and any other relevant Government guidance and British standards, in respect of these systems. Information on this can be found at: Septic tanks and treatment plants: permits and general binding rules: The general binding rules - GOV.UK (www.gov.uk). It is strongly recommended these rules are complied with, as they will minimise any potential nuisance to nearby residential dwellings, assist in preventing a potential Public Health nuisance, and minimise the potential for adverse incidents, of which may result in formal enforcement action.</p> <p>REASON: to protect the health of residents and nearby residential premises</p>
<p>ECC Highways Dept 27.06.2022</p>	<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 however a previous site visit was undertaken. The information submitted with the application has been assessed and conclusions have been drawn from a desktop study with the observations below based on submitted material. It is noted that this application is similar to previous applications 17/01559/COUNOT and 19/00236/FUL that were approved previously. As per the previous applications access to the dwelling will be from an established private access road that serves Hill Farm, the proposal offers adequate off-street parking and turning, considering these factors:</p> <p>From a highway and transportation perspective the impact of the proposal is acceptable to Highway Authority subject to the following mitigation and conditions:</p> <ol style="list-style-type: none"> 1. As per application 19/00236/FUL the existing access road leading to Hill Farm will become a shared private drive. The applicant has adequate room to provide vehicle passing place adjacent to the proposed access drive shown on the block plan, prior to first occupation a suitable vehicle passing place shall be provided within the curtilage with minimum dimensions of 5 metres wide x 6 metres in length. Details to be agreed with the Local Planning Authority

	<p>Reason: To ensure that vehicles can pass clear of the limits of the highway in the interests of highway safety in accordance with policy DM1.</p> <p>2. As per application 19/00236/FUL and prior to the occupation of the proposed dwelling the proposed private drive shall be constructed to a minimum width of 4.8 metres for at least the first 6 metres from the back of Highway Boundary (at its junction with Crown Lane).</p> <p>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.</p> <p>3. Each vehicular parking space shall have minimum dimensions of 2.9 metres x 5.5 metres.</p> <p>Reason: To ensure adequate space for parking off the highway is provided in the interest of highway safety in accordance with Policy DM8</p> <p>4. Cycle parking shall be provided in accordance with the EPOA Parking Standards. The approved facility shall be secure, convenient, covered and provided prior to first occupation and retained at all times. Reason: To ensure appropriate cycle parking is provided in the interest of highway safety and amenity in accordance with Policy DM8.</p> <p>5. Prior to occupation of the proposed dwelling, the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack for sustainable transport, approved by Essex County Council, to include six one day travel vouchers for use with the relevant local public transport operator free of charge.</p> <p>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.</p> <p>6. Areas within the curtilage of the site for the purpose of the reception and storage of building materials shall be identified clear of the highway.</p> <p>Reason: To ensure that appropriate loading / unloading facilities are available to ensure that the highway is not obstructed during the construction period in the interest of highway safety in accordance with policy DM1.</p> <p>7. The public's rights and ease of passage over public footpath no.11 (Tendring_179) shall be maintained free and unobstructed at all times.</p> <p>Reason: To ensure the continued safe passage of the public on the definitive right of way and accessibility in accordance with Policies DM1 and DM11</p> <p>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.</p>
Tree &	There are no trees or other significant vegetation on the application site.

<p>Landscape Officer 24.05.2022</p>	<p>As the application site is in a rural location a dwelling in this location, close to a Public Right of Way has the potential to have an adverse impact on both the character and appearance of the area.</p> <p>If planning permission is likely to be granted then a condition should be attached to secure a comprehensive and detailed soft landscaping plan to soften and screen the development as well as to help with its assimilation into its setting.</p>
<p>UU Open Spaces 16.06.2022</p>	<p>There is currently a deficit of '1.33 hectares of equipped play/formal open space in the village of Tendring.</p> <p>Recommendation</p> <p>No contribution is being requested from open spaces on this occasion. However should the development increase in size a contribution maybe required.</p>

5. Representations

- 5.1 No objections have been received following a public consultation which included a site notice posted at the site and neighbouring consultation letters sent out to the adjacent properties. Two letters of support have been received from members of the public.

6. Assessment

Site Context

- 6.1 The application site relates to Hill Farm which is located on the western side of Crown Lane within the Parish of Tendring.
- 6.2 The application site previously consisted of a single storey outbuilding formerly used to house pigs, this building has now been demolished. The site is surrounded by an area of grassland with margins of nettle, red dead nettle and encroaching bramble. A native hedge adjoins the site to the east, and a track accessing both the barn and Hill Farm lies to the west. Arable fields adjoin the site to the north and south. Beyond is Hill Farmhouse, a Grade II Listed building. The above mentioned listed building is located some 60m to the north of the northern-most section of the application site.
- 6.3 The site lies outside of the settlement development boundary for the area as defined within the adopted Tendring District Local Plan 2013-2033.

Proposal

- 6.4 Planning permission is sought for the erection of 1 no. dwelling (3 bedrooms). The dwelling will be set over two floors, with the first floor restrained in terms of its design and bulk, and with predominantly living accommodation on ground floor (one bedroom will be located on the ground floor adjacent to a WC shower and the hallway). There will be two larger bedrooms (one with en-suite) located on first floor.

- 6.5 In terms of access, the site is served by an existing access road off Crown Lane. Under planning approval 19/00236/FUL the existing access was proposed to be widened. This element is still included as part of the new application.

Assessment

Principle of Development

- 6.6 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.
- 6.7 Policy SP3 of Section 1 of the 2013-2033 Local Plan sets out the spatial strategy for North Essex and directs growth towards existing settlements. The application site lies outside of the defined settlement boundary of Tendring 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.
- 6.8 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 the village of Tendring is classified as a Smaller Rural Settlement (the bottom of the settlement hierarchy), and are considered to be the least sustainable locations for growth because there is a concern that encouraging too much development in these areas will only serve to increase the number of people having to rely on cars to go about their everyday lives. However, these villages are still under pressure to grow and some small-scale development which is sympathetic to the rural and often historic character of the settlement might help younger people to continue to live in the area, keep local shops and services viable and help bring balance to an ageing population.
- 6.9 With regard to development outside of the defined SDB, the Council will consider any planning application in relation to the pattern and scales of growth promoted through the Settlement Hierarchy in Policy SPL1 and any other relevant policies in this plan.
- 6.10 The proposal therefore results in conflict with policies SP3 and SPL2. In this case however both a Prior Approval has been granted for the conversion of a former agricultural building (now demolished) and replacement new dwelling has been approved. This proposal represents an alternative design to that implemented and could be completed. This is considered to form a material consideration in respect of the application and denotes what is considered to be a viable fall-back position as outlined below.

Fallback Position – Material Consideration.

- 6.11 It is established in case law that permitted development rights can legitimately represent a fall-back position when considering alternative proposals for development of the same site and this was the case for the previous planning approval.
- 6.12 In summary, the relevant legal principles relating to the fall-back position were set out in R v Secretary of State for the Environment and Havering BC (1998) EnvLR189. In that case Mr Lockhart-Mummery QC, sitting as a Deputy High Court Judge, accepted submissions that there were three elements to the fall-back test:

"First whether there is a fall-back use, that is to say whether there is a lawful ability to undertake such a use; secondly, whether there is a likelihood or real prospect of such occurring. Thirdly if the answer to the second question is "yes" a comparison must be made between the proposed development and the fall-back use."

- 6.13 The notion of Class Q providing a lawful fall-back position was subsequently and comprehensively dealt with at the landmark Court of Appeal case, *Mansell vs Tonbridge and Malling Borough Council* [2017], which concluded that a realistic fall-back position in regard to Class Q would amount to a material consideration in the determining of an application.
- 6.14 The table below provides a comparison between the original prior approval, the dwelling previously approved in 2019 and the new dwelling proposed under this application:

	17/01559/COUNOT (Prior Approval)	19/00236/FUL (New dwelling previously approved)	22/00778/FUL (New dwelling instead of 19/00236)
Siting	Former single storey agricultural building (now demolished) set centrally on site, directly to the north of the southern boundary	Similar footprint and location of previous agricultural building	Similar location however footprint of building extends slightly further northwards
Access	The site is served by an existing access road off Crown Lane.	To be served by an existing access road off Crown Lane. Under planning approval 19/00236/FUL the existing access was proposed to be widened.	Still the same access and existing access is proposed to be widened as per the 19/00236/FUL approval.
Appearance	Horizontal black weatherboarding and profiled sheeting (roof)	Horizontal black weatherboarding and slate roof coverings	Recycled composite (timber effect) slatted cladding, profiled metal roofing and grey window frames
Ridge Height	4.5m	4.4m	5.5m
Eaves Height	2.6m	2.6m	2.6m
Footprint	80sqm	108sqm	130sqm (approx.)
Bedrooms	2	3	3

- 6.15 The 19/00236/FUL remains extant (permission granted in August 2019 with a three year time limit). It appears from Google aerial imagery that the former agricultural building was demolished between June 2020 and March 2022, therefore within the three year time limit set out above. Clearly the former agricultural building would have to be demolished first for the

replacement dwelling to progress. In order to lawfully commence development it is necessary to satisfy the legal requirements in section 56(4) of the Town and Country Planning Act 1990. This says that “development is taken to be begun on the earliest date on which a material operation is carried out”. A material operation is defined in the Act and can include any works of construction, **demolition** (emphasis added), digging foundations, laying out etc.

- 6.16 In conclusion, having regard to the above, the application is considered to meet all 3 tests set out for a viable fall-back position in terms of the legal position set out earlier.
- 6.17 It is also considered that the previously approved new dwelling in lieu of the Prior Approval offers a strengthening of the fall-back position therefore should this application fail, it is highly likely that the site would be developed in line with the full planning permission for a new dwelling in lieu of the Prior Approval.
- 6.18 Therefore given the circumstances of this case, the principle of development for a new dwelling on this site is considered to be acceptable and unlike other similar cases is implemented. However, this alternative design is still subject to the detailed consideration against other relevant Local Plan policies and any approved Neighbourhood Plans.

Layout, Scale and Appearance

- 6.19 The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. (Para 126 NPPF).
- 6.20 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.
- 6.21 The proposed dwelling would have a restrained ‘barn’ like appearance in terms of its overall design and scale, albeit with various subtle modern elements to assist with the successful functioning of the building as a dwelling. For example elements of glazing are introduced in various gables and roof lights feature in the pitched roof of the building. The materials are also different compared to the previous approval however these will continue to be high quality facing materials and final details can be conditioned. Given the proposed location of the site, well set back from Crown Lane, the restrained height of the overall building (maximum ridge height of 5.5m with a sloping roof), coupled with the high quality overall design, with its strong barn like features, the proposal is considered to be in keeping with the surrounding area.
- 6.22 Therefore, having regard to the above policy considerations, the proposal is considered to be policy compliant in terms of its scale, layout, appearance and design. The proposal would make more efficient use of the site, consistent with Paragraph 124 of the Framework, and, because it would not be at odds with the character and appearance of the area it would accord with the overall thrust of Policies SP7 and SPL3.

Highway Safety/Parking

- 6.23 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.

- 6.24 The Essex County Council (ECC) Parking Standards 2009 require that dwellings with 2 or more bedrooms be served by a minimum of 2 parking spaces. Parking spaces should measure 5.5 metres by 2.9 metres and garages, if being relied upon to provide a parking space, should measure 7 metres by 3 metres internally. The submitted plans show that the new dwelling would utilise the existing (albeit widened) access off Crown Lane and there will be sufficient space in the form of a gravelled hardstanding to provide the required two parking spaces to ensure compliance with the above mentioned policy requirements. ECC Highways were consulted and raised no objection to the proposal subject to conditions which will be included should the ultimate recommendation be to approve and where the recommended conditions meet all the relevant NPPF tests for planning conditions.
- 6.25 In conclusion, subject to the use of conditions, the proposal would accord with Policies SPL3 and CP1 and the Highways and Parking SPDs. The proposal is not therefore considered to result in any unacceptable harm to highway safety.

Trees and Landscaping

- 6.26 Policy SPL3 seeks new development that respects or enhances local landscape character, views, skylines, landmarks, existing street patterns, open spaces and other locally important features. The design and layout of the proposed development should maintain or enhance important existing site features of landscape, ecological, heritage or amenity value.
- 6.27 The application site is in a rural location, and a dwelling in this location, close to a Public Right of Way has the potential to have an adverse impact on both the character and appearance of the area. However as outlined elsewhere in this report, the site benefits from a prior approval consent as well as planning permission for a single storey 3 bedroom dwelling. In addition, the existing hedge along the southern boundary of the site is to be retained and extended to increase privacy from the PROW to the south. There are no other trees or features of significant landscape quality on site that will be affected by the proposed development. In the absence of any objection from the Councils' Landscape officer it is considered that the proposal is acceptable and can be implemented without causing harm to existing landscape features on or around the site, subject to relevant and necessary landscaping conditions.

Living Conditions of future Occupiers

- 6.28 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.
- 6.29 All new dwellings must therefore accord with the Technical housing standards. A three bedroom, one storey dwelling requires a minimum of 74-95sqm of Gross Internal Floorspace (GIA). From the plans submitted the proposed building meets the requirements of the space standards. It is also considered that the internal layout is appropriate, with all habitable rooms having adequate natural light.
- 6.30 Amenity spaces in the locale vary in both size and configuration and it is considered that the amenity area proposed is considered to meet the needs and expectations of residents and is commensurate to the size of dwelling and the character of the area.
- 6.31 Overall the proposal is considered to secure a good standard of amenity and accommodation for future occupants of the proposed dwelling.

Impact on Residential Amenity

- 6.32 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.
- 6.33 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.
- 6.34 The application site is located within a fairly rural location, neighboured by farm buildings some distance to the north that benefit from prior approvals to be converted to residential use.
- 6.35 The proposed development has been designed to minimise any overlooking or loss of privacy issues, with all main habitable room windows angled away from the area to the north east (the location of the existing farm buildings). Hill Farmhouse, a Grade II Listed building, is located a considerable distance (some 60m) to the north of the northern-most section of the application site and this will ensure the proposal will have no impact on the living conditions of the occupiers of Hill Farmhouse.
- 6.36 Therefore, given the proposed orientation of the new dwelling, in relation to the existing buildings, the restrained scale, bulk and height of the proposed dwelling and the high likelihood of a residential use occurring on the site in any event (by way of the 'in lieu of' planning permission), it is not considered that this development would impact on the residential amenities of these neighbouring occupiers in any regard.

Heritage

- 6.37 Hill Farmhouse is located some 60m to the north of the northern-most section of the application site. There are intervening developments to the north east (the farm buildings), and the existence of planning permission for a 3 bedroom dwelling where development (demolition works necessary to carry out the development) has commenced is sufficient to conclude that the proposal will have a neutral impact on the setting of Hill Farmhouse as a grade II listed building and not result in harm. The proposal therefore results in no conflict with relevant heritage policies.

Water Conservation, Drainage and Sewerage

- 6.38 Paragraph 170 of the Framework states that planning policies and decisions should contribute to and enhance the natural and local environment by preventing new development from contributing to unacceptable levels of water pollution. Furthermore, Paragraph 180 of the Framework states that planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects of pollution on the natural environment.
- 6.39 Policy PPL5 states that all new development must make adequate provision for drainage and sewerage. Private sewage treatment facilities will not be permitted if there is an accessible public foul sewer, which in this case there is not. Where private sewage treatment facilities are the only practical option for sewage disposal, they will only be permitted where there would be no harm to the environment, having regard to preventing pollution of groundwater and any watercourses and odour.
- 6.40 The application form accompanying the application has stated that the development would be connected to a package water treatment plant.

- 6.41 No specific details of the type of system have been submitted and no FDA1 Foul drainage assessment form has been received, but this is not a validation requirement at this time.

Ecology and Biodiversity Implications

- 6.42 Policy PPL4 seeks to protect and enhance the local biodiversity and geodiversity. Whilst the site is not of any specific designation, it is considered to be within a fairly rural setting. The development has scope to include wildlife friendly, native planting and habitat boxes for roosting bats and nesting birds as well as other biodiversity enhancement strategies. These measures will contribute to biodiversity net-gain in accordance with Paragraph 174(d) of the NPPF (2021) subject to conditions to ensure all mitigation and enhancement measures and/or works to include details of sensitive lighting shall be carried out in accordance with the details contained in the Preliminary Ecological Appraisal (Liz Lord Ecology, March 2022).

Renewable Energy

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

Recreational Disturbance Avoidance and Mitigation Strategy (RAMS):

- 6.44 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.
- 6.45 This new residential development lies within the Zone of Influence. The site is not within or directly adjacent to one of the European designated sites, 3500 metres from Hamford Water SPA and RAMSAR and 2200 metres from Colne Estuary RAMSAR and SPA and Essex Estuaries SAC.
- 6.46 The Council's Habitats Regulation Assessment has concluded that, with the proposed mitigation, the project would not have an Adverse Effect on the Integrity of the sites included within the Essex Coast RAMS and therefore the proposal is in accordance with the Essex Coast RAMS SPD.
- 6.47 However, new housing development within the Zol would be likely to increase the number of recreational visitors to Colne Estuary; and, in combination with other developments it is likely that the proposal would have significant effects on the designated site. Mitigation measures must therefore be secured prior to occupation.
- 6.48 In accordance with Natural England's advice there is no requirement to consult them due to the specified mitigation.
- 6.49 A unilateral undertaking has been prepared and completed to secure this obligation which ensures that the development would not adversely affect the integrity of European Designated Sites in accordance with Section 1 Policy SP2 and Section 2 Policy PPL4 of the Tendring District Local Plan 2013-2033 and Regulation 63 of the Conservation of Habitat and Species Regulations 2017.

7. Conclusion

- 7.1 Insofar as settlement development hierarchy policies is concerned, it is considered that the proposed development is not consistent with the National and Local Plan Policies identified above, but approval is recommended given the material consideration of the planning history and fall back. The proposal, subject to conditions, is in accordance with all other relevant planning policies and guidance notes. In the absence of material harm resulting from the proposal 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.

8.2 Conditions

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

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

2. The development hereby permitted shall be carried out in accordance with the following approved plan(s):

5695 PA_01 Revision C
5695 PA_02 Revision A
5695 PA_03 Revision A
5695 PA_04 Revision A
5695 PA_05 Revision A
5695 PA_06 Revision A
5695 PA_07 Revision A

Preliminary Ecological Appraisal (by Liz Lord Ecology, March 2022).

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

3. There shall be no development above slab level until a scheme for all hard and soft landscaping works including a detailed plan, showing species to be used, planting positions, numbers of trees and shrubs and the sizes of the plants at time of planting and include wildlife friendly, native planting and locations for habitat boxes for roosting bats and nesting birds shall be submitted to and approved, in writing, by the Local Planning Authority.

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

4. 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.

5. No development above slab level shall commence under details of a suitable vehicle passing place along the access way leading to Hill Farm have been submitted to the LPA for written approval, indicating minimum dimensions of 5 metres wide x 6 metres in length. The details shall thereafter be implemented in accordance with the approved details prior to first occupation of the development hereby approved.

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

6. Prior to the occupation of the development hereby approved the private drive shall be constructed to a minimum width of 4.8 metres for at least the first 6 metres from the back of Highway Boundary (at its junction with Crown Lane).

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.

7. Prior to occupation of the dwelling hereby approved, an electrical charging point, including all necessary switching and cabling to make it operational, shall be made readily available for future occupants of the dwelling.

Reason: In order to promote sustainable transport.

8. 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 that would otherwise be classed as 'permitted development' in this rural location, and due to the unique planning history on the site since planning permission been granted in lieu of a prior approval for a conversion to a new dwelling and such conversions do not have permitted development rights.

9. The development shall be carried out in full accordance with enhancement measures and details contained in Preliminary Ecological Appraisal (by Liz Lord Ecology, March 2022). This includes 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).

10. Prior to above ground works of the development hereby approved, a Biodiversity Enhancement Strategy (BES) for Protected and Priority species shall first been submitted to and approved in writing by the local planning authority. The BES 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."

Thereafter the development shall proceed in accordance with the details as may have been approved. The approved biodiversity enhancement measures shall be retained for the lifetime of the development.

Reason: In order to conserve protected and Priority species and secure a net gain in biodiversity.

11. The development hereby approved shall not be brought into first use until a lighting design scheme shall be submitted to and approved in writing by the local planning authority. The lighting design scheme shall include the following:

- identify those features on site that are particularly sensitive for bats and that are likely to cause disturbance along important routes used for foraging;
- show how and where external lighting will be installed (through the provision of appropriate lighting contour plans, Isolux 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 as well as to minimise the impact of light spillage and luminance on nearby residents.

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. No other lighting except as may be approved by this condition shall be installed on the site.

Reason: In the interest of residential amenity and 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).

Informatives

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

Highways Informatives:

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

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

The applicants should be advised to contact the Development Management Team by email at development.management@essexhighways.org

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

Additional Considerations

Public Sector Equality Duty (PSED)

- a. 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:
 - b. A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
 - c. 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
 - d. C. Foster good relations between people who share a protected characteristic and those who do not, including tackling prejudice and promoting understanding.
- e. 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.
- f. 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.
- g. 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

- h. 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.
- i. 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).
- j. 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

- k. 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.
- l. 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.

14. Background Papers

- a. 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/>.