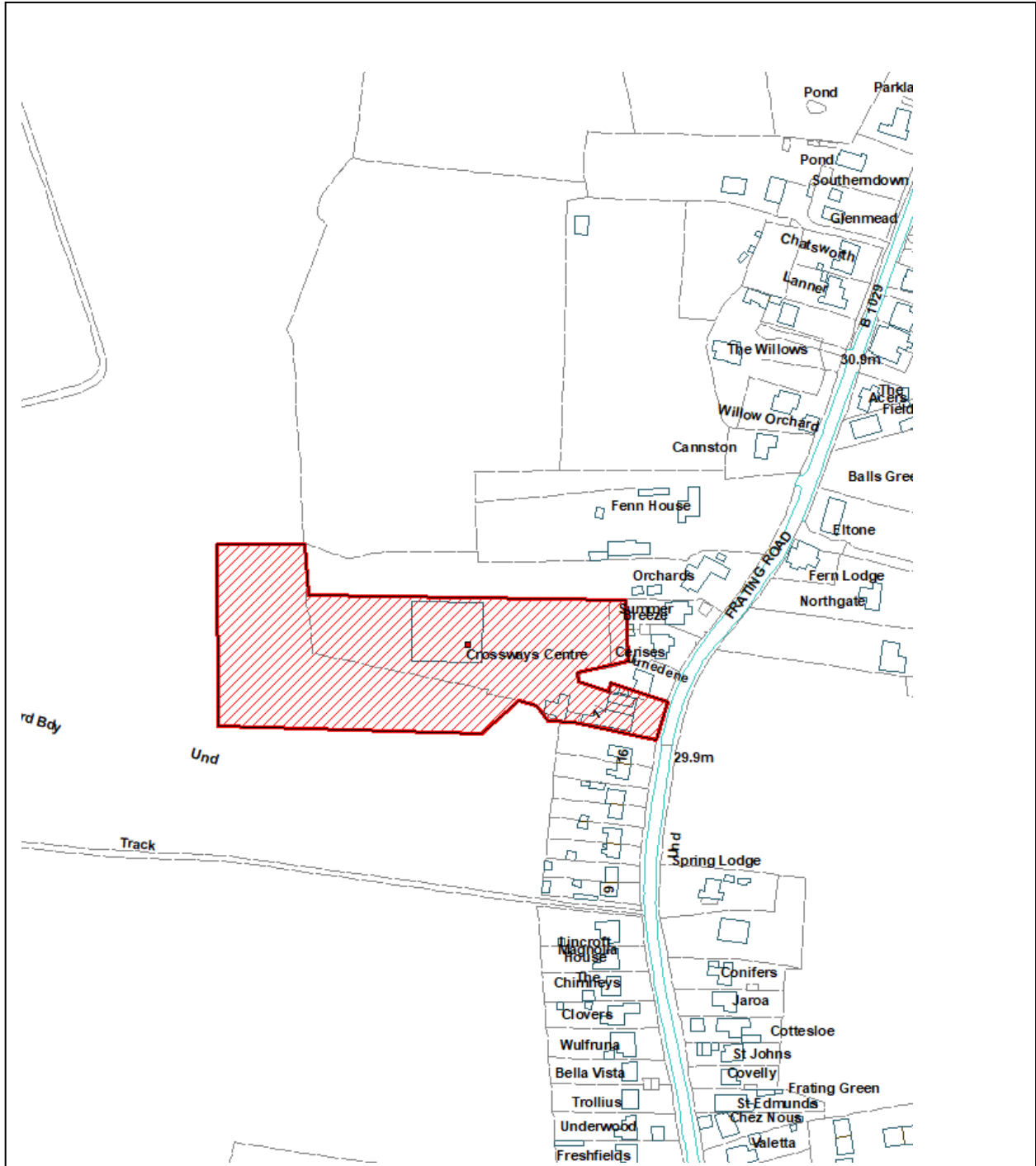


PLANNING COMMITTEE

14 MARCH 2023

REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING

**A.1 PLANNING APPLICATION – 21/00186/FUL – CROSSWAYS CENTRE FRATING ROAD  
GREAT BROMLEY COLCHESTER**



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**Application:** 21/00186/FUL

**Town / Parish:** Great Bromley Parish Council

**Applicant:** Mr Gray Rowe - PalletPlus

**Address:** Crossways Centre Frating Road Great Bromley Colchester Essex CO7 7JW

**Development:** Extension to Crossways Centre to include demolition of buildings fronting the site, surfacing of extension to yard, erection of loading bay, landscape, drainage, infrastructure and ancillary works including additional lighting (part retrospective).

## 1. Executive Summary

- 1.1 The Crossways Centre is located within Frating which is a 'Smaller Rural Village'. Access would not be via the primary highway network. Instead, it would be from the B1029 Frating Road. The site is not a protected or allocated employment site and the proposal is for the expansion and extension of an existing B8 storage and distribution use, as set out above. The expanded part of the site is located outside of the settlement development boundary.
- 1.2 This item was previously presented to Members of Tendring District Council Planning Committee on 7<sup>th</sup> December 2021. Following a detailed presentation, question/answer session and debate, Members of the Planning Committee resolved to defer the item for 4 reasons which include:
1. To allow further dialogue with the Applicant and ECC Highways to discuss a Traffic Management Plan, to include looking at HGV movements/routing plan with particular emphasis on examining/directing traffic to and from the south from the Frating crossroads & any potential improvements to that junction;
  2. Further explore the highways access arrangements and the potential to demolish the front buildings to facilitate two-way movements;
  3. Look at hours of operation and if this could be reduced at night time; and
  4. Explore a temporary planning permission for up to 2 or 3 years with the aim of helping to support the applicant in finding a more appropriate site within the District.
- 1.3 It should also be noted that some time has gone by to explore these issues and a number of changes to the proposal have been made. The policy context since Members considered this development has altered with the adoption of the Local Plan.
- 1.4 In summary and in response to the 4 reasons for deferral above - In terms of reasons for deferral 2 and 3, it is considered that these elements have now been addressed through the provision of additional information and the inclusion of necessary, reasonable and enforceable planning conditions restricting night time activity and night time movement onto the site. It is considered that the first part of reason for deferral 1 has also been addressed (see 'Highways safety/Parking' section below and relevant recommended planning conditions and s106 heads of terms). In terms of the latter part of reason for deferral 1 ('examining any potential improvements to the Frating crossroads junction'), it is considered that this existing junction serves a very broad variety of traffic, mostly unrelated to this development proposal, and any potential improvements to that junction is considered to fall outside the scope of being reasonable and necessary to make this development proposal acceptable in highways safety terms. In terms of reason for deferral 4, the Applicant's 'Alternative Sites Assessment for PalletPlus (ASAPP) demonstrates that the allocated sites in the administrative area of TDC are either not suitable or available (or both) for the proposed development. To consider a

temporary consent in this context would therefore not be justified in this instance because there is a very high likelihood that a temporary consent will not remain temporary due to the significant uncertainty (and resultant unknown timescales) in respect of relocating to a current unknown site, and due to the lack of a suitable or available (or both) site for the proposed development.

1.5 Following the above deferral the proposal is now for:-

- A loading bay extension (approximately 464m<sup>2</sup> in footprint, measured externally).
- The retrospective extension and change of use of the site's service yard area onto adjacent agricultural land.
- The scheme also includes the proposed demolition of buildings fronting the site to facilitate alterations to the main and only site access and egress point.
- A significant landscaping scheme, drainage infrastructure and additional external lighting.

Note: The previous warehouse extension no longer forms part of this application.

1.6 This report can be read in conjunction with the previous superseded Planning Committee report dated 7 December 2021, which is attached to this item for convenience.

1.7 Weighing against the proposal, it is considered that the scheme will continue to harm the living conditions of the occupants of neighbouring dwellings. There will also be a harmful effect on the character and appearance of the area. The expansion results in the loss of agricultural land. Conditions will reduce, but considered not to be fully effective in mitigating the identified elements of harm as outlined by this report. .

1.8 Against this harm, the planning balance must consider benefits of the scheme. There will be benefits to the local and wider economy, the benefits to the storage and distribution sector and all its respective customers. In particular, the scheme, if approved, will result in a local business continuing to operate on and from an extended site, and staying in the district of Tendring, with resultant direct and indirect job retention/creation stemming from this, and substantial weight is attributed to these benefits.

1.9 Previous LPA officer concerns in respect of highway safety have now been fully addressed subject to conditions and further highways improvement works being secured in a timely manner as part of a section 106 agreement. All other material planning considerations, including the remainder of the points set out above, have been taken into account, and / or addressed/covered in the remainder of this report. Where relevant, it is considered that where harm arises, these can be mitigated against by way of planning conditions or s106 obligations as secured in this report, and all these relevant elements, as indicated elsewhere in this report, are neutral in the planning balance.

1.10 Ultimately, the weight given to the benefits as outlined in this report is considered to outweigh the weight given to the harm to amenity of neighbouring dwellings and on the character and appearance of the area. For these reasons, it is recommended that planning permission be granted, subject to the completed S106 legal agreement and the conditions as recommended in section 7.0 below.

**Recommendation:** Approval subject to S106

- 1) On appropriate terms as summarised below and those as may be deemed necessary to the satisfaction of the Assistant Director for Planning to secure the completion of a legal agreement under the provisions of section 106 of the Town and Country Planning Act 1990 dealing with the following matters:

- To impose waiting and parking restrictions on Frating Road either side of the site access junction and on the opposite side of the road prior to the first use of the extended loading bay, the extent of the restrictions to be agreed in advance with the LPA with the Highway's Authority. Such a requirement will have to be secured as part of a section 106 legal agreement as the relevant highways authority, via the LPA, will legally require a financial contribution for this to realise. In terms of the successful introduction of waiting/parking restrictions, there is no guarantee that the parking restrictions can be successfully implemented because this element is subject to separate processes and public consultation(s). However the successful introduction of this element has been confirmed by the Highways Authority as entirely necessary for the development to be acceptable in highway safety terms, and the scheme (the introduction of waiting restrictions) shall be agreed in writing by relevant Highways authority prior to commencement of any works on the extended loading bay, and the agreed schemes shall then be implemented in full before the completion of the extended loading bay. The applicant has accepted this risk.
  - An approved workplace travel plan to be actively implemented for a minimum period of 5 years. It shall be accompanied by a one-off monitoring fee of £6,132 (plus the relevant sustainable travel indexation) to be paid before completion of remainder of the works to cover the 5-year period and incorporated within a S106 obligation.
  - Before the commencement of any works on the loading bay extension, a Traffic Management Plan (TMP) shall be provided and approved outlining a designated route to and from the premises for all HGV movements to be agreed in advance with the Local Planning Authority in consultation with the Highway Authority and incorporated within a S106 obligation.
- 2) That the Assistant Director for Planning be authorised to grant planning permission upon completion of the legal agreement subject to conditions as stated in section 8.2 or as need to be varied\*) and those as may be deemed necessary by the Assistant Director for Planning: and,
- 3) The informative notes as may be deemed necessary.

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

## **2. Planning Policy**

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

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

National Planning Policy Framework 2021 (the Framework)  
 Planning Practice Guidance

Adopted Tendring District Local Plan 2013-2033 and Beyond (the 2013-33 Local Plan)

Section 1:

- SP1 Presumption in Favour of Sustainable Development
- SP3 Spatial Strategy for North Essex
- SP5 Employment
- SP6 Infrastructure and Connectivity
- SP7 Place Shaping Principles

Section 2:

- SPL1 Managing Growth
- SPL2 Settlement Development Boundaries
- SPL3 Sustainable Design
- HP1 Improving Health and Wellbeing
- PP7 Employment Allocations
- PPL1 Development and Flood Risk
- PPL3 The Rural Landscape
- PPL4 Biodiversity and Geodiversity
- PPL5 Water Conservation, Drainage and Sewerage
- PPL10 Renewable Energy Generation and Energy Efficiency Measures
- CP1 Sustainable Transport and Accessibility
- CP2 Improving the Transport Network
- DI1 Infrastructure Delivery and Impact Mitigation

Supplementary Planning Guidance:

- Essex County Council Development Management Policies 2011 (the Highways SPD)
- Essex County Council Parking Standards Design/Good Practice Guide 2009 (the Parking SPD)
- Tendring Landscape Character Assessment 2001 (TLCA)

**3. Relevant Planning History**

19/00216/FUL	Proposed construction of covered loading bay to existing warehouse building.	Approved	01.05.2019
13/00921/LUEX	Mixed or composite use for Class B8 storage, vehicle repair and maintenance (sui generis) and transport depot (sui generis).	Split decision (considered earlier)	07.07.2014
12/00430/FUL	Variation of condition 03 of planning permission TEN/1729/81 to include use as a distribution warehouse.	Approved	11.06.2012
12/01182/LUEX	Existing Lawful Use Certificate for use as a transport depot, warehouse and distribution centre, and commercial vehicle repair workshop (Breach of Condition 3 of TEN/1729/81) and breach of condition 07 of TEN/1729/81 (hours of operation).	Refused	20.05.2013
12/00430/FUL	Variation of condition 03 of planning	Approved	11.06.2012

	permission TEN/1729/81 to include use as a distribution warehouse.		
12/00482/FUL	Erection of warehouse.	Approved	08.08.2012
07/00893/FUL	Erection of canopy to create covered loading area.	Approved	20.07.2007
98/01525/FUL	(Crossways Centre, 17 Frating Road, Great Bromley) Erection of poles for lighting and CCTV	Approved	02.02.1999
93/00912/FUL	Continuation of display and sale of vehicles	Refusal	12.10.1993
95/01011/FUL	Variation of condition No. 7 of consent TEN/1729/81 to permit the use of bays 1, 2, 3 up to 6pm on Saturdays for the repair and maintenance of commercial vehicles.	Withdrawn	06.10.2004
95/01010/FUL	Variation of condition No. 3 of consent TEN/1729/81 to include the use of bays 5, 6, 7 and 8 by Systematic Logistics Ltd for all purposes falling within Class B8 of the Use Classes Order	Approved	18.10.1995
TEN/1211/84	Additional Office Accommodation	Approved	
TEN/1729/81	Proposed commercial vehicle repair workshop	Approved	
TEN/496/62	Installation of two pumps and tanks for petrol filling station	Approved	

#### 4. Consultations

TDC Tree & Landscape Officer	<p>Please note previous comments as outlined in the 7<sup>th</sup> December 2021 Planning committee report.</p> <p>In respect of the latest consultation response, TDC Landscape officer stated that the Amended Detailed Planting Proposals for the application site shows the extent of the soft landscaping to be carried out on the site boundary.</p> <p>The species selection comprises indigenous species and specimen trees that will be in keeping with the character of the area. The plant species mix includes Ilex aquifolium (Holly) that will provide an evergreen element to the planting that will improve all year round screening.</p> <p>In the long term the proposed soft landscaping will provide a high level of</p>
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	screening for the application site.
ECC Highways Dept 17/01/2023	<p>The additional information that was submitted in association with this application has now been fully considered by the Highway Authority. At the previous Planning Committee, the item was deferred for 4 reasons, and to allow for discussions and a report back with advice on the possibility of a temporary permission to allow the business to operate on an expanded temporary basis, pending a relocation. Two of these reasons were for traffic/highways related reasons and the additional information provided has been reviewed and provides a beneficial improvement within the space available to the working arrangement of the site and all highway users, 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> <p>1. Prior to commencement of works, including any ground works or demolition, a Construction Management Plan shall be submitted to, and approved in writing by, the local planning authority. The approved plan shall be adhered to throughout the construction period. The Plan shall provide for:</p> <ul style="list-style-type: none"> <li>i. vehicle routing,</li> <li>ii. the parking of vehicles of site operatives and visitors,</li> <li>iii. loading and unloading of plant and materials,</li> <li>iv. storage of plant and materials used in constructing the development,</li> <li>v. wheel and underbody washing facilities.</li> </ul> <p>Reason: To ensure that on-street parking of these vehicles in the adjoining streets does not occur and to ensure that loose materials and spoil are not brought out onto the highway in the interests of highway safety and Policy DM1.</p> <p>2. The road junction / access at its centre line shall be provided with a clear to ground visibility splay with dimensions of 2.4 metres by 43 metres in both directions, as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided and retained free of any obstruction at all times. Reason: To provide adequate inter-visibility between vehicles using the road junction / access and those in the existing public highway in the interest of highway safety in accordance with policy DM1.</p> <p>3. A 1.5 metre x 1.5 metre pedestrian visibility splay, as measured from and along the highway boundary, shall be provided on both sides of the vehicular access. Such visibility splays shall be retained free of any obstruction in perpetuity. These visibility splays must not form part of the vehicular surface of the access. Reason: To provide adequate inter-visibility between the users of the access and pedestrians in the adjoining public highway in the interest of highway safety in accordance with policy DM 1.</p> <p>4. The provision of the following improvements shall be implemented:</p> <ul style="list-style-type: none"> <li>a) A priority junction off B1029 Bromley Road to provide access to the proposed site as shown in principle on planning application, amended proposed site access and junction arrangement, drawing number: SK16.</li> <li>b) Carriageway measuring no less than 6.75m in width for the first 22</li> </ul>

metres.

c) A straight section of carriageway to be provided from the entrance junction for 22 metres.

d) 1.8-metre-wide footway on the north side of the junction and continued around both kerb radii and to tie-in with the existing footway.

e) Appropriate pedestrian crossing facilities (drop kerbs/ tactile paving) on either side of the access.

f) Waiting restrictions shall be provided on either side of the site access junction and opposite the junction the extent of the restrictions to be agreed in advance with the Highway Authority in conjunction with the Planning Authority.

g) Associated signing and lining as indicated on drawing no. SK16.

h) Prior to first use of the junction the existing vegetation on southern corner of the access shall be cut back and retained free of any obstruction at all times.

i) No unbound material shall be used in the surface treatment of the vehicular access within 30 metres of the highway boundary.

j) Any other reasonable items to ensure the access is in accordance with current policy standards.

*Officer comment: Point j is considered to be unreasonable because it does not specify precisely which other items would be required.*

*Reason: To ensure that vehicles can enter and leave the highway in a controlled manner and to avoid displacement of loose material onto the highway in the interest of highway safety in accordance with policy DM1.*

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

*Officer comment: The above requirement is considered to fail to meet the NPPF tests of preciseness and necessity, in addition, the LLFA were consulted and raised no objection subject to details requiring further details of foul water drainage and surface water drainage to be completed in accordance with details already submitted, these elements are covered in the relevant section of the report below.*

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

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

7. The implementation of the vehicle parking area indicated on the approved plans, including any parking spaces for the mobility impaired, has been hard surfaced, sealed and marked out in parking bays. The vehicle parking area and associated turning area shall be retained in this form at all times. The vehicle parking shall not be used for any purpose other than the parking of vehicles that are related to the use of the development unless otherwise agreed with the Local Planning Authority.

*Reason: To ensure that on street parking of vehicles in the adjoining streets does not occur in the interests of highway safety and that appropriate parking is provided in accordance with Policy DM8.*

8. The approved workplace travel plan shall be actively implemented for a minimum period of 5 years. It shall be accompanied by a one-off



monitoring fee of £6,132 (plus the relevant sustainable travel indexation) to be paid before completion of works to cover the 5-year period and incorporated within a S106 obligation.

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.

9. The submitted Traffic Management Plan shall be provided and approved outlining a designated route to and from the premises for all HGV movements to be agreed in advance with the Local Planning Authority in consultation with the Highway Authority and incorporated within a S106 obligation.

Reason: To control the location and direction of HGV vehicle movements to and from the site in the interests of highway safety and Policy DM1.

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.

Notes:

(i) Prior to any works taking place in the highway the developer should enter into an S278 agreement with the Highway Authority under the Highways Act 1980 or Minor Works Authorisation to regulate the construction of the highway works.

(ii) The grant of planning permission does not automatically allow development to commence. In the event of works affecting the highway, none shall be permitted to commence until such time as they have been fully agreed with this Authority.

(iii) A formal Stage 2 Road Safety Audit outlining the junction detail/footway design/ improvements will be required.

Informative:

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

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

2: 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.

3: 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

	<p>applicants are invited to sign up to the <a href="#">Essex Developers' Group Climate Charter [2022]</a> and to view the advice contained in the <a href="#">Essex Design Guide</a>. Climate Action <a href="#">Advice guides</a> for residents, businesses and schools are also available.</p>
<p>TDC Waste Management</p>	<p>No further comments</p>
<p>TDC Environmental Protection (EP) (previous comments dated 26/11/2021)</p>	<p>Noise:</p> <p>The submitted Noise Impact Assessment dated November 2020 confirms the undertaking of a relevant noise assessment in relation to the proposal, including that of the Wheel Washing Facility. The report shows that existing noise levels determined at appropriate locations, would not be adversely increased by the introduction of a wheel washing facility. However, it has come to our attention that the wheel washing facility is no longer within the proposal and as such the predicted measurements and impact can be disregarded. However the report still addresses the noise from the HGV's and site activity and stated that ambient levels of the current operations were measured to be 64dB(A)(LAeq 15mins), however there are no predictions for the impact of the increase in HGV movement and site activities may have on this level. In light of this there is some uncertainty as to whether the proposal would result in a significant increase in ambient noise, which may result in an adverse impact to nearby residential dwellings. And as such, with specific reference to the recommendations, shown in section 2, pages 4 – 5; it is noted that these provisions are being implemented under the recommendation of the applicant, rather than any requirement for mitigation highlighted in the report; these measures should assist in the reduction of perceived noise, and we would not be adverse to their implementation, and as such would request this is attached to any approval. These recommendations are outlined in section 2 of the aforementioned report and relate to the provision and installation of acoustic screening. This will assist in dampening any further sound emitted as a result of site activity</p> <p>I can confirm that the EP Team are satisfied with the contents of the above report and would suggest the above proposed attenuation screening are conditioned on any subsequent approval, so as to ensure any disturbance from these activities is minimised.</p> <p>REASON: to protect the amenity of nearby residential dwellings and minimise any potential adverse impact associated with increased noise</p> <p>Officer comment: <i>Considerations in respect of noise and mitigation (for example acoustic screening) are covered in the 'Effect on the Living Conditions of Neighbours' section below.</i></p> <p>*NB: As you are aware the EP Team have been and are currently in receipt of complaints concerning an alleged noise nuisance emanating from the site; the details of the complaints relate to noise associated with site activity and noise associated with vehicular movement off site (movement of HGV entering and leaving the site). I can advise that we have not, at this time, identified a statutory nuisance emanating from the current operations. However our most recent investigation is still ongoing, and as such we will continue to monitor the situation. The</p>

submission of a noise complaint, does not, at this time, negate the above comments

Lighting:

Any lighting of the development shall be located, designed and directed [or screened] so that it does not [cause avoidable intrusion to adjacent residential properties/ constitute a traffic hazard/cause unnecessary light pollution outside the site boundary]. "Avoidable intrusion" means contrary to the Code of Practice for the Reduction of Light Pollution issued by the Institute of Lighting Engineers.

REASON – to protect the amenity of nearby residential dwellings

Officer comment: *Since the above EP comment the Applicant submitted an Outdoor Lighting Report with details of external lighting and LUX contours – see updated comments dated 27/09/2022 from EP below. In addition, the matter of External Lighting has been covered in the 'Effect on the Living Conditions of Neighbours' section below.*

Air Quality:

With reference to the potential impact increased HGV movement may have on the current air quality of the vicinity, the EP Team are requesting confirmation on the predicted increase in movement from the site. Available information suggests that increasing the site will therefore reduce the movement of vehicles as there will be space for the fleet on site, where as currently vehicles are arriving on site to drop off, and then having to leave for the evening, and then return for the morning. The proposal would indicate this would in fact reduce the number of vehicle movements to and from the site? However, we have also received information indicating that this proposal would actually increase the vehicle movement? As a result of this confusion we would like confirmation on the expected vehicular movements. We would look to request an Air Quality assessment if there is an increase of:

- 500 LGVs (outside of an Air Quality Management Area) and/or
- Increase by 100 HGVs (outside of an Air Quality Management Area)

This would be identified as daily, on local roads with a nearby receptor. Further information on this and information on assessment criteria in relation to Land Use Planning and Development Control: Planning for Air Quality (Institute of Air Quality Management), can be found at: [air-quality-planning-guidance.pdf](http://air-quality-planning-guidance.pdf) ([iaqm.co.uk](http://iaqm.co.uk))

REASON: to protect public health

Officer comment: *The applicant confirmed that Pallet Plus Ltd operate the following vehicles:*

*Heavy Goods Vehicles (HGV's )/Large Goods Vehicle (LGV's): 15 x articulated 44t tractor units, 5 x 26t rigid vehicles, 13 x 18t rigid vehicles, 5 x 12t rigid vehicles, and 1 x 7.5t rigid vehicle. They also have 8 x 3.5t vans.*

<p>Latest TDC EP comments dated 27/09/2022</p>	<p><i>So in total they operate 47 vehicles either as HGV's or LGV's which is significantly below the above threshold (500 LGVs (outside of an Air Quality Management Area) and/or Increase by 100 HGVs (outside of an Air Quality Management Area) for the submission of an air quality assessment (AQA). As such it is considered unreasonable to insist upon the submission of an AQA however officers will consider to imposition of NPPF tests complaint conditions to ensure the overall number of vehicles operating from the site remain below this threshold.</i></p> <p><b>Acoustic Fencing:</b> We are satisfied with the proposed installation, and have no adverse comments to make.</p> <p><b>Lighting:</b> With reference to the submitted Lighting Report, dated September 2022, I can advise we are satisfied with the report. The report confirms some action is required in relation to the adjustment of angles for specific lights (as shown in section 3); but I can confirm we are satisfied with the proposals laid out in the document; therefore providing all recommendations contained within the report are performed, and maintained, we have no further comments to make in relation to this.</p>
<p>TDC Building Control and Access Officer</p>	<p>No further comments</p>
<p>Anglian Water Services Ltd Most up to date comments received 27/09/2022</p>	<p>ASSETS</p> <p>Section 1 - Assets Affected</p> <p>Our records show that there are no assets owned by Anglian Water or those subject to an adoption agreement within the development site boundary.</p> <p>WASTEWATER SERVICES</p> <p>Section 2 - Wastewater Treatment</p> <p>The foul drainage from this development is in the catchment of Great Bromley Water Recycling Centre that will have available capacity for these flows</p> <p>Section 3 - Used Water Network</p> <p>Development may lead to an unacceptable risk of flooding downstream. Anglian Water will need to plan effectively for the proposed development, if permission is granted. We will need to work with the applicant to ensure any infrastructure improvements are delivered in line with the development. In order to make an accurate capacity assessment, we require the submission of a foul drainage strategy showing the proposed discharge location and conveyance method. We therefore request a condition requiring phasing plan and drainage strategy.</p> <p>1. INFORMATIVE - Notification of intention to connect to the public sewer under S106 of the Water Industry Act Approval and consent will be required by Anglian Water, under the Water Industry Act 1991. Contact Development Services Team 0345</p>

606 6087.

2. INFORMATIVE - Notification of intention to connect to the public sewer under S106 of the Water Industry Act Approval and consent will be required by Anglian Water, under the Water Industry Act 1991. Contact Development Services Team 0345 606 6087.
3. INFORMATIVE - Protection of existing assets - A public sewer is shown on record plans within the land identified for the proposed development. It appears that development proposals will affect existing public sewers. It is recommended that the applicant contacts Anglian Water Development Services Team for further advice on this matter. Building over existing public sewers will not be permitted (without agreement) from Anglian Water.
4. INFORMATIVE - Building near to a public sewer - No building will be permitted within the statutory easement width of 3 metres from the pipeline without agreement from Anglian Water. Please contact Development Services Team on 0345 606 6087.
5. INFORMATIVE: The developer should note that the site drainage details submitted have not been approved for the purposes of adoption. If the developer wishes to have the sewers included in a sewer adoption agreement with Anglian Water (under Sections 104 of the Water Industry Act 1991), they should contact our Development Services Team on 0345 606 6087 at the earliest opportunity. Sewers intended for adoption should be designed and constructed in accordance with Sewers for Adoption guide for developers, as supplemented by Anglian Water's requirements.

#### Section 4 - Surface Water Disposal

The preferred method of surface water disposal would be to a sustainable drainage system (SuDS) with connection to sewer seen as the last option. Building Regulations (part H) on Drainage and Waste Disposal for England includes a surface water drainage hierarchy, with infiltration on site as the preferred disposal option, followed by discharge to watercourse and then connection to a sewer

From the details submitted to support the planning application the proposed method of surface water management does not relate to Anglian Water operated assets. As such, we are unable to provide comments on the suitability of the surface water management. The Local Planning Authority should seek the advice of the Lead Local Flood Authority or the Internal Drainage Board. The Environment Agency should be consulted if the drainage system directly or indirectly involves the discharge of water into a watercourse. Should the proposed method of surface water management change to include interaction with Anglian Water operated assets, we would wish to be re-consulted to ensure that an effective surface water drainage strategy is prepared and implemented. The applicant has indicated on their application form that their method of surface water drainage is via SuDS. If the developer wishes Anglian Water to be the adopting body for all or part of the proposed SuDS scheme the Design and Construction Guidance must be followed. We would recommend the applicant contact us at the earliest opportunity to discuss their SuDS design via a Pre-Planning Strategic Enquiry. The Lead Local Flood Authority (LLFA) are a statutory consultee for all major development and should be consulted as early as possible to ensure the proposed drainage system meets with minimum

	<p>operational standards and is beneficial for all concerned organisations and individuals. We promote the use of SuDS as a sustainable and natural way of controlling surface water run-off. We please find below our SuDS website link for further information.  <a href="https://www.anglianwater.co.uk/developers/drainage-services/sustainable-drainage-systems/">https://www.anglianwater.co.uk/developers/drainage-services/sustainable-drainage-systems/</a></p> <p>Section 5 - Suggested Planning Conditions</p> <p>Anglian Water would therefore recommend the following planning condition if the Local Planning Authority is mindful to grant planning approval.</p> <p>Used Water Sewerage Network (Section 3)</p> <p>Condition Prior to the construction above damp proof course, a scheme for on-site foul water drainage works, including connection point and discharge rate, shall be submitted to and approved in writing by the Local Planning Authority. Prior to the occupation of any phase, the foul water drainage works relating to that phase must have been carried out in complete accordance with the approved scheme. Reason To prevent environmental and amenity problems arising from flooding</p>
Environment Agency	No response received.
ECC SuDS Consultee (latest comments received 20/12/2022)	<p>Thank you for your e-mail re-consultation of 21st November 2022. We apologise for the delayed response.</p> <p>No changes to the proposals which would have a material impact on the surface water drainage appear to have been made since our last correspondence on 18/10/22. Therefore our "no objection" response of 26th October 2021 remains our formal position.</p>

## 5. Representations

5.1 Following the deferral at the 7<sup>th</sup> December 2021 Planning Committee and upon receipt of all the new and updated information and plans provided by the Applicant, a new round of public consultation was carried out which included neighbours of the site and third parties previously consulted. In response to the latest round of public consultations a further 60 objections were received which raise similar issues as outlined in the November 2021 Planning Committee report. Over the course of the application a total of in the region of 130 objections were received, and 132 letters in support. One new issue was raised not previously raised and this includes:

- Potential site contamination

5.2 Frating Parish Council (FPC) send in correspondence in January 2023 objecting to the application stating that they have objected to every stage of the different applications. FPC have requested information about all permissions given to Palletplus but there is still no clarification of the opening hours. TDC gave permission in 2012 which was for 41 vehicle movements a week, they were then granted a certificate of lawfulness which again the parameters of this have never been given to FPC. Essex Highways have objected to the increase in vehicles using the B1029 at any time, this new / extended application does not stop this issue. FPC have been

requesting a change to the traffic lights since 2017 (Palletplus are trying to take credit for it in this application). It is not good enough that this has taken over 12 months and there still is not a decision. Cllr McWilliams advised that the planning committee are waiting for it - but it hasn't been passed to committee, so she thinks there is a lot of work going on behind the scenes. The move to the field opposite TBS as a potential move has now not been mentioned.

5.3 For the avoidance of doubt, Great Bromley Parish Council objects to the application for the following reasons:

- Impact on local residents in terms of noise, particularly outside of permitted hours and overnight disturbing sleep
- Light pollution and impact on local residents
- Increased HGV usage on a B road in a residential area
- Change of use of land not in the application
- Permitted hours not being adhered to in accordance with previous conditions
- Flooding issues along Frating Road

5.4 The application is the subject of a call-in request from the Ward Councillor for Frating, Lynda McWilliams, in the event that approval were recommended. The grounds for the call-in request are:

- Highways impact/highway infrastructure
- Increased flood risk
- Impact on neighbours (noise and disturbance/light pollution)
- Effect on the character and appearance of the area

## 6. **Assessment**

### The Site

6.1 Crossways Centre is operated by Pallet Plus as a B8 storage and distribution centre, comprising warehouse building, loading bay and concrete service yard. Broadly speaking the site as a whole is rectangular in shape with a narrow road frontage with Frating Road from which access is taken, through an archway formed in a flat-roofed building at the front of the site, which is set back from the road behind a small forecourt. At the time of the original application submission, the site included other uses, including a car workshop to the front of the site and a commercial business within the warehouse – it is unclear what the current position is in this regard. To the north and south are dwellings fronting Frating Road. The remainder of the site to the west and south is surrounded by cultivated agricultural land.

### The Proposal

6.2 Permission is sought for an extension to the loading bay (approximately 464m<sup>2</sup> in footprint measured externally) as well as the demolition of buildings fronting the site to alter the vehicular and pedestrian access and egress arrangements, new landscaping, drainage, infrastructure and ancillary works including additional lighting. In terms of the retrospective elements to the proposal, this include the extension of the site's service yard area onto adjacent agricultural land and associated hard surfacing areas and bunds being created along site perimeters.

Materials for the loading bay extension described in the application are insulated steel composite sheeting with plastisol coating, to match the existing. Ridge heights would follow those of the existing loading bay. Two x 3m high noise reduction barriers are proposed along the northern and southern boundaries of the access into the site. The site measures 0.94 hectares and would approximately double the land take of the overall site area.

6.3 Amongst other things, the application is supported by the following main information:

- Full plans, including visualisations
- Transport Note (and subsequent revisions)
- Travel Plan
- Amended Vehicle tracking plans
- Amended site access junction tracking
- Landscape Visual Technical Note
- Noise Assessment
- Preliminary Ecology Appraisal
- SuDS drainage details (and subsequent calculations/revision).
- Detailed Planting Proposals
- Details of boundary fencing
- Justification for planning application

6.4 A warehouse extension initially proposed as part of the application have now been omitted, in order to create more space for HGVs to access the western part of the site and to accommodate an attenuation basin within the site to enable a Sustainable urban Drainage System (SuDS). During the course of considering the application an unauthorised expansion of the site has been undertaken at the applicants own risk, described by them as an '*emergency expansion area*'. As a matter of procedure, the description has therefore been amended with the agreement of the applicant to reflect this, in order to refer to the part-retrospective nature of the proposal, and to more accurately describe the development proposed (deletion of warehouse extension element, car wash and inclusion of attenuation basin).

6.5 Because some works have already taken place, the proposal ought to be considered, in part, under Section 73A of the Town and Country Planning Act 1990 for development already carried out in part. The Planning Practice Guidance (PPG) makes clear it cannot be assumed that planning permission will be granted, and the Local Planning Authority should take care not to fetter its discretion prior to the determination of any application for planning permission - such an application must be considered in the normal way (Paragraph: 012 Reference ID: 17b-012-20140306).

#### Principle of Development

6.6 The spatial strategy for Tendring is set out in Policy SP3, under which existing settlements will be the principal focus for additional growth. Policy SPL1 sets out a settlement hierarchy, within which Frating is identified as a 'Smaller Rural Settlement'. The proposal is located outside of the proposed settlement development boundary (SDB) under Policy SPL2 (Local Map B.9 Frating). The second paragraph of policy SPL2 states outside of Settlement Development Boundaries, 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.

6.7 In terms of specifically tailored local policies for the assessment of a development proposal of this nature, the local plan is silent on development proposals for the expansion of existing B2 and B8 uses onto adjacent land. The above aside, some 32ha of land in the district of Tendring is allocated for new development in use classes B2 (General Industry) and B8 (storage and Distribution) to support a diversity of employment opportunities, the majority of which has already obtained planning permission. These allocated sites are listed in Table 6.1 of local plan policy PP7. The policy states 'on these sites proposals for development in use classes B2 and B8 will be supported'. The application site does not feature in table 6.1 and the Applicant undertook a site based sequential assessment (titled 'Alternative Sites Assessment



for PalletPlus) to review the suitability of all the allocated sites in the district of Tendring as outlined in table 6.1. The findings of which are assessed in the section directly below. The latter part of policy PP7 is not, strictly speaking, relevant because the proposal is not for new employment related development (on land outside of these allocations) but for the expansion of an existing B2/B8 business.

- 6.8 Turning to the provisions of the NPPF, the first part of paragraph 85 is relevant and states Planning policies and decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. In these circumstances it will be important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable (for example by improving the scope for access on foot, by cycling or by public transport). The last sentence of paragraph 85 of the NPPF is not relevant because before the expansion of the business took place, the application site was not previously developed land, but in agricultural use.
- 6.9 Whilst the principle of expansion of an existing employment generating business on land outside SDB such as this location would not be positively supported by Policy PP7, the policy (PP7) clearly envisages that proposals for employment related development may be acceptable on land outside of the allocations included (in policy PP7), having regard to their potential to support economic growth in the district and the requirements of other policies in this Local Plan – the relevant paragraph of the NPPF (as outlined above) has a similar slant. The remainder of this report will cover matters such as the potential for the proposals to support economic growth and it will also assess the proposal against the other policies in the Local Plan in the sections below, including the site's overall sustainability credentials (or lack thereof). The overall balance of the planning considerations is further considered in the section on planning balance below.

#### Availability of other sites including allocated sites

- 6.10 As stated above, some 32ha of land in the district of Tendring is allocated for new development in use classes B2 (General Industry) and B8 (storage and Distribution) to support a diversity of employment opportunities. Due to the allocated status of these sites they are considered to be better suited for a B2/B8 development proposal. It should again be acknowledged that the proposal is not for a new B8 storage and distribution facility, but for the expansion of an existing one. Given the reason for deferral from the 7<sup>th</sup> December 2021 Planning Committee, the LPA asked the Applicant undertake a site based sequential assessment (titled 'Alternative Sites Assessment for PalletPlus (ASAPP) to review the suitability of all six of the allocated sites in the district of Tendring as outlined in table 6.1 of policy PP7. The findings of the ASAPP is set out below:
- 6.11 The LPA's position is that it was reasonable for the ASAPP to focus on allocated sites in the administrative area of TDC only, as the primary purpose of, and intent behind the proposal is to enable the expansion of the business in the Tendring area, due regard is given to the fact that the business is already a Tendring based business
- 6.12 Below is a list the allocated sites in TDC that has been assessed in the ASAPP and a summary of the findings, as well as an overall conclusion.
- (i) Extension to Gorse Lane Industrial Estate, Telford Road, Clacton – 6.8ha;
  - (ii) Land at Stanton Europark, Parkeston, Harwich – 3.3ha;
  - (iii) Land at Harwich Valley, East of Pond Hall Farm, Dovercourt – 6.3 ha; (
  - (iv) Land off Clacton Road//Dead Lane, Mistley – 2 ha;
  - (v) Crown Business Centre, Old Ipswich Road, Ardleigh – 2.3 ha;
  - (vi) Land south west of Horsley Cross – 11.2 ha.

- 6.13 The Applicant explained that insofar as Sites (i), (ii), and (iii) as outlined above, these are located at the eastern end of the A120 so outside the PalletPlus required location. Site (iv) lies around 5kms north of the A120 at Mistley and is reached via the B1035 so is logistically unsuitable. The Crown Business Centre (Site (v)) is currently under construction for 91 small business units and therefore not available or suitable for PalletPlus requirements.
- 6.14 The Applicant explained that the site at Horsley Cross could potentially accommodate PalletPlus and in fact was a site pursued by PalletPlus historically. However, the site is presently unviable requiring significant upfront investment to provide services and utilities. The Council evidence to the Local Plan prepared by Aspinall Verdi (May 2016) confirmed the major obstacle to the development was viability around services and utilities and suggested public sector intervention might be required to “kick start” the site. The LPA does not dispute this position.
- 6.15 In conclusion, the Applicant has satisfactorily demonstrated that the allocated sites in the administrative area of TDC, are either not suitable or available (or both) for the proposed development, and therefore the existing site and potential expansion onto adjacent unallocated land (such as this) need to be considered on its individual planning merits.

#### Economic considerations and potential for proposals to support economic growth in the district

- 6.16 PalletPlus Ltd is a part of the pallet network, specialising in the palletised freight of goods to the UK, Ireland and Europe. The submitted justification states that the application follows a fire in Europa Way, Parkeston in 2007. The Applicant explained that having sought to promote a site at Horsley Cross which was dismissed on appeal, the opportunity to occupy part of the Crossways Centre arose. The applicant has subsequently acquired the site for his business. Following the Planning Committee’s decision to defer the item from the December 2021 Planning Committee for the reasons outlined at the beginning of this report, the Applicant undertook an alternative site assessment which concluded that the allocated sites in the administrative area of TDC, are either not suitable or available (or both) for the proposed development. The Applicant also makes a case in favour of expanding their operations, and that suitable employment land within Tendring for such uses is in short supply – the LPA does not dispute this position. Furthermore it was explained that recent agreements with a competitor in Ardleigh are stated as having saved 27 local jobs, and the existing workforce staff ‘headcount’ at PalletPlus (at the time of writing this report) is in the region of 91 people across various roles. Furthermore, the lease of a site in Ardleigh has expired so relocation to The Crossways Centre was required.
- 6.17 The submission states that an average of 700 deliveries are undertaken every day. The changes in shopping and travel habits brought about by the Covid 19 pandemic has led to Government recognition of the role local transport and logistics play in maintaining the essential supply of goods. The Application also explained that instead of 4 of 5 HGVs delivering to Clacton each day, these are now consolidated onto one vehicle heading that direction. The local market share is cited as being approximately 65-70% which reduces HGV traffic on local roads. Furthermore, other networks have expressed an interest that would further reduce the carbon footprint of local distribution. Earlier objection to unsustainable locations in terms of access to the local employment market have been addressed by the proposed development and expansion of an existing employment site, with good access to existing and proposed housing developments in the immediate and wider vicinity.
- 6.18 Officers recognise that the effects of the fire in 2007 and unsuccessful earlier attempts to secure permission for an alternative site, and the expiry of leases on other sites operated by the Applicant will all have impacted on the business. It is also recognised that the Applicant is an important local employer providing storage and distribution services, the demand for which has grown significantly during and after the pandemic. The Applicant has satisfactorily

demonstrated through the alternative site assessment that the allocated sites in the administrative area of TDC are either not suitable or available (or both) for the proposed development. Moreover, the proposal would assist in employment retention and generation, and support the Council's aims and objectives in this regard. It has been satisfactorily demonstrated that the proposal will support economic growth in the district. There is also general NPPF and local policy support for such proposals, and the benefits to the local economy is considered to be significant. Significant weight should be attached to these benefits. Specifically Paragraph 81 of the Framework makes clear that planning decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.

### Highway Safety/Parking

6.19 The ninth bullet of Policy SP7 requires all new development includes parking facilities that are well integrated as part of the overall design. Policy CP1 states that proposals for new development must be sustainable in terms of transport and accessibility, and therefore should include and encourage opportunities for access to sustainable modes of transport, including walking, cycling and public transport. Part B of Policy SPL3, criterion a), requires that access to the site is practicable and the highway network will, following any required mitigation, be able to safely accommodate the additional traffic the proposal will generate and not lead to a severe traffic impact. Amongst other things, criterion f) requires adequate vehicle and cycle parking.

6.20 Paragraph 104 of the Framework states that transport issues should be considered from the earliest stages of development proposals, amongst other things, so that:

- a) *the potential impacts of development on transport networks can be addressed;*
- b) *opportunities from existing or proposed transport infrastructure, and changing transport technology and usage, are realised – for example in relation to the scale, location or density of development that can be accommodated;*
- c) *opportunities to promote walking, cycling and public transport use are identified and pursued;*
- d) *the environmental impacts of traffic and transport infrastructure can be identified, assessed and taken into account – including appropriate opportunities for avoiding and mitigating any adverse effects, and for net environmental gains; and*
- e) *patterns of movement, streets, parking and other transport considerations are integral to the design of schemes, and contribute to making high quality places.*

6.21 Paragraph 105 states that the planning system should actively manage patterns of growth in support of these objectives. Significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. This can help to reduce congestion and emissions, and improve air quality and public health. However, opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making.

6.22 Paragraph 111 of the Framework makes clear that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or if the residual cumulative impacts on the road network would be severe.

Within this context, Paragraph 112 states that applications for development should:

- a) *give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas; and second – so far as possible – to facilitating access to high quality public transport, with layouts that maximise the catchment area for bus or other public transport services, and appropriate facilities that encourage public transport use;*
- b) *address the needs of people with disabilities and reduced mobility in relation to all modes of transport;*
- c) *create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles, avoid unnecessary street clutter, and respond to local character and design standards;*
- d) *allow for the efficient delivery of goods, and access by service and emergency vehicles; and*
- e) *be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations.*

- 6.23 Paragraph 113 states that all developments that will generate significant amounts of movement should be required to provide a travel plan, and the application should be supported by a transport statement or transport assessment so that the likely impacts of the proposal can be assessed.
- 6.24 At the 7<sup>th</sup> December 2021 Planning Committee and for the reasons set out in the 'Highways Safety and Parking' section of the December 2021 Planning Committee report, the LPA's position at that time was that the proposal, as submitted and presented to the Committee in December 2021, would result in an unacceptable impact on highway safety.
- 6.25 Previously (i.e. before the demolition of the frontage building and other access improvements were included in the development proposal) ECC Highways observed that the width of the site frontage is relatively narrow, and would not appear to be capable of accommodating the radii curves, dropped footway crossing, and pedestrian refuge, that one might expect for development of this nature. Also previously there were no access improvement proposals before the Council.
- 6.26 Following the December 2021 deferral, and as per the revised 'Proposed Site Plan' (drawing no 06) the scheme now includes the complete demolition of the frontage building as well as the removal of 4 car parking spaces along the southern boundary of the access point into the site, and the partial demolition of the existing office building to the west of the 4 car parking space, to facilitate a two way vehicular and HGV access and egress point off and onto Frating Road. The submission is now also accompanied by site access junction tracking drawings indicating how large, 44 ton tractor HGV units (with trailers) will be able to enter and exit the site in two way movements.
- 6.27 The Highway Authority has now considered all the revised information and plans and confirmed that insofar as the first 2 reasons for deferral from the December 2021 planning committee (which were for traffic/highways related reasons), the additional information provided has been reviewed, and provides a beneficial improvement within the space available to the working arrangement of the site and all highway users. ECC Highway confirmed that 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 particular ECC Highways are seeking the following on-site and off-site highways improvements:

On site:

- Carriageway measuring no less than 6.75m in width for the first 22 metres.
- A straight section of carriageway to be provided from the entrance junction for 22 metres
- 1.8-metre-wide footway on the north side of the junction and continued around both kerb radii and to tie-in with the existing footway.
- the existing vegetation on southern corner of the access shall be cut back and retained free of any obstruction at all times.
- No unbound material shall be used in the surface treatment of the vehicular access within 30 metres of the highway boundary.

On and Off-site works:

- Appropriate pedestrian crossing facilities (drop kerbs/ tactile paving) on either side of the access.

6.28 All the above requirements are considered to be reasonable and necessary to make the development acceptable in highway safety terms, and the implementation of these are possible given that the land required to implement appear to be sufficient in size and either fully within the control of the applicant, or within the control of the applicant and on ECC highway owned land, as such it is considered appropriate to seek further details of these requirements as part of a planning condition to be submitted before any works on the loading bay extension can commence, and the full implementation of all the above work before the practical completion of the loading bay extension and the attenuation basin, to ensure the revised site access arrangements are implemented in full before the elements that will enable the controlled on site intensification of the operation becoming operational, and to ensure a safe and suitable access point for all road users.

Off-site:

- A priority junction off B1029 to provide access to the proposed site as shown in principle on planning application, amended proposed site access and junction arrangement, drawing number: SK16.

6.29 The above requirement for a priority junction off the B1029 Frating Road (as the site is approached from the south) is considered to be reasonable and necessary to make the development acceptable in highway safety terms, and the implementation of this element is possible given that the highway land required to implement appear to be sufficient in size and on ECC highway owned land, as such it is considered appropriate to seek further details of this requirements as part of a planning condition to be submitted before any works on the loading bay extension can commence, and the full implementation of the priority junction before the practical completion of the loading bay extension and the attenuation basin, to ensure the revised site access arrangements are implemented in full before the elements that will enable a property controlled on site intensification of the operation becoming operational, and to ensure a safe and suitable access point for all road users.

Further off-site works:

- Waiting restrictions shall be provided on either side of the site access junction and opposite the junction, the extent of the restrictions to be agreed in advance with the Highway Authority in conjunction with the Planning Authority.

6.30 The implementation of waiting restrictions as stipulated above is considered to be necessary, reasonable and directly relevant to the development proposal because without them, parked cars (or other vehicles) in close proximity to the site access and egress point, having regard to the nature of the proposal and the inevitable intensification of the

operation and increase in vehicular movements, will result in obstruction of visibility splays, and as a result, cause highways safety issues in the context of this application and specifically the altered access proposed (required because of the intensification of the use and the current substandard access in operation). It is therefore necessary to impose waiting and parking restrictions on Frating Road either side of the site access junction and on the opposite side of the road prior to the completion of the extended loading bay, the extent of the restrictions to be agreed in advance with the Highway Authority. Such a requirement will have to be secured as part of a section 106 legal agreement as the LPA will legally require a financial contribution for this to realise. In terms of the successful introduction of waiting/parking restrictions, there is no guarantee that the parking restrictions can be successfully implemented because this element is subject to separate processes and public consultation(s). However the successful introduction of this element has been confirmed by the Highways Authority as entirely necessary for the development to be acceptable in highway safety terms, and the scheme (the introduction of waiting restrictions) shall be agreed in writing by relevant Highways authority prior to commencement of any works on the extended loading bay, and the agreed schemes shall then be implemented in full before the completion of the extended loading bay. The applicant has accepted this risk.

Further off-site works:

- Associated signing and lining as indicated on drawing no. SK16.

6.31 The above requirement for associated road signage along the B1029 Frating Road is considered to be reasonable and necessary to make the development acceptable in highway safety terms, and the implementation of this element is possible given that the highway land required to accommodate the signage will be located on ECC highway owned land, as such it is considered appropriate to seek further details of the signage as part of a planning condition to be submitted before any works on the loading bay extension can commence, and the full implementation of the agreed signage before the practical completion of the loading bay extension and the attenuation basin, to ensure the revised site access arrangements and signage are implemented in full, before the elements that will assist to enable the controlled on site intensification of the operation, becoming operational, and to ensure a safe and suitable access point for all road users.

6.32 Other conditions and obligations:

In the interests of highways safety other conditions as set out below are also considered necessary to include:

- A Construction Management Plan condition to include precise details of wheel and road washing facilities and all other measures covering the construction phase of the development;
- An approved workplace travel plan to be actively implemented for a minimum period of 5 years. It shall be accompanied by a one-off monitoring fee of £6,132 (plus the relevant sustainable travel indexation) to be paid before completion of remainder of the works to cover the 5-year period and incorporated within a S106 obligation.
- Before the commencement of any works on the loading bay extension, a Traffic Management Plan (TMP) shall be provided and approved outlining a designated route to and from the premises for all HGV movements to be agreed in advance with the Local Planning Authority in consultation with the Highway Authority and incorporated within a S106 obligation.
- Other highways compliance conditions as set out in section 7.0 below

- 6.33 The above requirements (to be secured in a section 106 legal agreement) are considered to meet the tests set out in Regulation 122(2) of the Community Infrastructure Levy Regulations 2010, and they are consistent with Paragraph 57 of the Framework.
- 6.34 Having regard to the highways implications of the development and subject to the above conditions and obligations, the implementation of which will make an otherwise unacceptable development, acceptable in highway safety terms, the proposal would accord with the requirements of Policies CP1, DI1 and SPL 3, and the Highways and Parking SPDs, and the relevant sections of the NPPF 2021.

#### Landscape Character and Appearance

- 6.35 The first bullet of relevant Policy SP7 states that new development should respond positively to local character and context to preserve and enhance the quality of existing places and their environs. Policy SPL3 Part B criterion c) states that development must respect or enhance local landscape character, views, skylines, landmarks, existing street patterns, open spaces and other locally important features. Amongst other things, criterion d) of Part B requires that the design and layout of development maintains or enhances important existing site features of landscape value.
- 6.36 Paragraph 7.3.3 of the Section 2 Local Plan states that as a largely rural area, Tendring District's countryside is one of its main assets and maintaining an attractive rural environment is important to the quality of life experienced by both residents and visitors. It can also be an important consideration for the location of some businesses and help to expand the tourist economy and related services.
- 6.37 Policy PPL3 is criteria based, and states that the Council will protect the rural landscape and refuse planning permission for any proposed development which would cause overriding harm to its character or appearance, including to:
- a) *estuaries, rivers and undeveloped coast;*
  - b) *skylines and prominent views including ridge-tops and plateau edges;*
  - c) *traditional buildings and settlement settings;*
  - d) *native hedgerows, trees and woodlands;*
  - e) *protected lanes, other rural lanes, bridleways and footpaths; and*
  - f) *designated and non-designated heritage assets and historic landscapes including registered parks and gardens.*
- 6.38 In addition, the last paragraph of policy PPL3 states new development within the rural landscape should minimise the impact of light pollution on the site and its surroundings, in order to protect rural amenity and biodiversity.
- 6.39 The Framework at Paragraph 174 b) states that planning decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside. Under the Tendring Landscape Character Assessment 2001 (TLCA) the site is located within the 7A 'Bromley Heaths' Landscape Character Area. The TLCA describes the Bromley Heaths as an elevated plateau that extends from Colchester to Wix in the east, Thorrington in the south, and corresponds to the highest part of the district. In terms of change the TLCA, amongst other things, recognises pressure for large scale built development at major road junctions with potential for a very high visual impact.
- 6.40 Against this background, initially the Council's Landscape Officer has commented that the proposed change of use of land and the incorporation of agricultural land into the adjacent operational facility have resulted in the removal of the existing boundary hedgerow and trees, and have the potential to adversely affect the character and appearance of the area. The Council's Landscape Officer explained that the extent of the site, prior to this

application, was separated from adjacent agricultural land by an established hedgerow comprising several specimen Oaks. The hedgerow and the trees [now removed] comprised of primarily Hawthorn (*Crataegus monogyna*) and Blackthorn (*Prunus spinosa*) with specimen Oaks (*Quercus robur*) at irregular intervals. The hedgerow was noted as being in reasonable condition, although the Oaks showed weak extension growth and die-back within their crowns, possibly as a result of previous concreting and hard surfacing within the existing Crossways Centre.

- 6.41 Notably, the Council's Landscape Officer further comments that as the hedgerow is on the boundary of land being used for commercial purposes it does not fall within the scope of The Hedgerow Regulations 1997, and does not fall within the scope of any other legislation under which it could be afforded formal legal protection. It was also confirmed by the Landscape Officer that trees which have been removed along the existing boundary were considered to be of low amenity value, would not have met the criteria for legal protection, and wider landscape character would not be significantly altered. The Council's Landscape Officers view is that in the long term the proposed soft landscaping would replicate the previous level of screening. In 2021 and before this application was first reported to the Planning Committee in November 2021, advice was given by LPA officers that further landscape information would be required.
- 6.42 In response to these comments and officer concern that the proposal has the potential to harm landscape character and the character and appearance of the area, the applicant submitted a Landscape and Visual Technical Note (LVTN), and plans detailing soft landscaping proposals relating to replacement trees and a hedgerow along various boundaries of the site. Further detailed planting proposals including details of landscaped bunds along the southern, western and north-eastern boundaries of the site were submitted in 2022. In its own right, in isolation, the landscaping scheme was previously found to be both simple and comprehensive, and over the longer term would be sufficient to secure a satisfactory level of screening which would result in a net increase in the length of the hedge and the number of specimen Oaks – this officer position remains unchanged and in the event that planning permission is granted, a landscaping condition requiring the timely implementation of the planting proposals in full (as shown on the detailed planting proposals plan) during the next planting season (running between 15<sup>th</sup> Oct – 31<sup>st</sup> of March)
- 6.43 The Council's Landscape Officer also provided an assessment of the scope and efficacy of the LVTN, to quantify the impact of the development on the local landscape character. It was acknowledged that Public Footpath GB166-14 runs south from Harwich Road, Gt Bromley to Morehams Farm, and then becomes a Permissive Path southwards towards the A133. The application site can be viewed from both these routes. The LVTN has been completed in accordance with national advice set out in 'Guidance for Landscape and Visual Impact Assessment third edition (published by the Landscape Institute and the Institute of Environmental Management and Assessment 2013), and 'An Approach to Landscape Character Assessment' (published by Natural England, 2014).
- 6.44 The LVTN recognises in Section 5.1.2 that harm to the landscape character will result from the change of use of land from agriculture to commercial use, but that the scale of the change is 'minor' and that it will have only a limited impact on the plateau landscape character. The conclusion section of the LVTN states that 'In visual terms the extended development will only be visible from a very limited number of locations' and that 'in any event these locations already experience a view of built development and that any changes will be seen in that context'
- 6.45 In terms of its efficacy, the LVTN accurately describes the existing baseline qualities of local landscape character, in accordance with the published National, County and District level Landscape Character Assessments. The LVTN provides a realistic reflection of the degree to which the development proposal will affect the landscape character. Concluding on the



effect of the proposal on landscape character and the level of screening that would be achieved by the proposed landscaping, the Council's Landscape Officer concludes that neither significant change nor harm would result.

- 6.46 Nevertheless, together with the long rear gardens of dwellings to the north and tree lined field boundaries, there is a very regular linear edge to this part of the village. This strong spatial character is apparent in views from the permissive path to the south/southwest and the public right of way to the west/northwest. In these views, the edge of the well-established linear edge of the village is clearly defined by existing planted boundaries. The expansion of the site projects abruptly to the west beyond the established settlement fringe, and appears as a somewhat arbitrary extension of the village. HGVs parked on the extended site is currently highly visible from the permissive path to the south/southwest, the public right of way to the west/northwest as well as from Main Road (the A133) much further to the south, especially during winter months when the hedgerow on the north side of the A133 is devoid of any leaves to provide screening. As a result, the expansion of the site in a western direction appears as an incongruous projection into the countryside setting of the village.
- 6.47 It remains officer's position that to some extent, the proposed landscaping would in time provide the same visual screening as was previously afforded. However, in the short, medium and indeed the longer term the development would be conspicuous in terms of its siting and layout, and even effective landscaped screening would not overcome the awkward and incongruous appearance of the development. Notwithstanding the lack of any identified harm to wider landscape character, for the above reasons, officers consider that the proposal would be harmful to the localised character and appearance of the area, and significant weight should be given to this harm. As such, the proposal would result in moderate conflict with Policy SP7, and Policy PPL3 Part A (b). It would also conflict with Paragraphs 174 and 185 (c) of the Framework.

#### Effect on the Living Conditions of Neighbours

- 6.48 The final bullet of Policy SP7 requires that all new development protects the amenity of existing and future residents and users with regard to noise, vibration, smell, loss of light, overbearing and overlooking.
- 6.49 Policy SPL3, Part B criterion e), requires that buildings and structures are designed and orientated to ensure adequate daylight, outlook and privacy for future and existing residents. Part B, criterion f and ), necessitates provision is made for adequate private amenity space, waste storage and recycling facilities, vehicle and cycle parking, and that development reduces flood risk and integrates sustainable drainage within the development, creating amenity and enhancing biodiversity. Part C, criterion a), requires that development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties.
- 6.50 Amongst other things, Framework Paragraph 119 states that planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions.
- 6.51 Paragraph 174 provide that planning decisions should contribute to and enhance the natural and local environment by preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality.

Paragraph 130 f) includes that planning decisions should ensure that developments create places that are safe, inclusive and accessible, and which promote health and well-being with a high standard of amenity for existing and future users.

- 6.54 Previously and as per the Planning Committee report dated December 2021, the officer's position was that the proposal is likely to result in an intensification of the use of the site, and that access to Crossways is sandwiched between residential properties, this continues to be the case. The dwelling to the north is also immediately adjacent to the access, and at a slightly lower level, again this position remains. It is still officer's position that increased HGV movements would have an unacceptable adverse effect on the amenity of the occupants, having regard to noise and disturbance. It is also highlighted that HGV headlights would shine into the main habitable rooms at the front of this dwelling and cause disturbance at night, and during the late afternoon and early morning in autumn and winter months. In mitigation the applicant is proposing a 3.0m high noise reduction barrier along the northern and southern boundaries of the accessway into Crossways and up and including the a point where the site tapers out, however the precise extent of the noise reduction barrier continues to be unclear. It is agreed that such noise barriers have the potential to mitigate against this impact but could also result in an overbearing effect on outlook for the neighbours to the north and south – again it is unclear how such noise barriers will impact upon outlook for these neighbours, because the precise extent of the required noise barriers is unclear. More information on this is therefore required to ensure that such barriers strike an appropriate balance between functionality and not having an overbearing effect on outlook, or indeed a harmful impact on the key frontage part of the site. In the event that planning permission is granted, a condition is considered reasonable and necessary seeking precise details of the noise reduction barriers as well as prompt implementation of these before the completion of the loading bay extension.
- 6.55 The north-western edge of the extension of the service yard wraps around the foot of the garden of a dwelling to the north. While this dwelling has an exceptionally long garden, and there is no right to a view across third party land, the appearance of parked HGVs and boundary fencing at the foot of the garden to this property creates an oppressive outlook. Although the property has ample outdoor amenity space adjacent to the dwelling itself, following numerous site visits by planning officers in the summer and winter months, it is apparent that the end of this garden has been well used in the evenings as it faces west. The proposal, without any mitigation, would also result in a loss of privacy for the occupants. In mitigation, a landscaped bund is proposed along the north-western yard area (and elsewhere along the new perimeter of the current unauthorised extended site). This landscaping would, in time, soften this impact however as stated, the landscaping will take time to grow and be effective as a visual screen. The harm to the western section of the rear garden would be limited in view of the existing high boundary treatment to the south of the garden, and while a significant amount of useable outdoor amenity space would remain available to the occupants that would not be impacted upon, this harm counts against the proposal.
- 6.56 In conclusion and for the reasons stipulated, the proposal would have an unacceptable harmful effect on the living conditions of the occupants of neighbouring dwellings. Significant weight should be attached to this harm, which renders the proposal contrary to Policy SP7 and Policy SPL3. The proposal would also conflict with Paragraph 130 (f) of the Framework.

#### Effect on the Living Conditions of Neighbours – external lighting

- 6.57 Following the December 2021 deferral an Outdoor Lighting Report (dated September 2022) was submitted. This report indicates that the existing lighting on site consists of 16 no. LED luminaires mounted on a combination of buildings and lighting columns at nominal heights of between 4 & 6m around the site. The proposal, insofar as external lighting is concerned,

is for slightly rearranged external lighting to be strategically placed in key areas on site taking into account the expansion (of the site), and the need to focus external lighting away from sensitive neighbours and towards high use areas such as loading bays & doorways. Figure 4 in the submitted Outdoor Lighting Report illustrates the proposed external lighting scheme. The Council's Environmental Protection team have been consulted and advised that they are satisfied with the report providing all recommendations contained within the report are carried out before the completion of the extended loading bay area, which will be a condition should planning permission be granted. The proposal, insofar as the proposed additional external lighting is concerned, is considered to be acceptable and in accordance with relevant policies subject to the imposition of said condition.

#### Loss of Agricultural Land

- 6.58 Former saved Policy EN4 of 2007 Local Plan sought to prevent the unavoidable loss of agricultural land, and loss of the best and most versatile agricultural land unless special justification could be shown. This policy was superseded with the adoption of the Section 2 Local Plan and there is no direct replacement policy.
- 6.59 Nevertheless, Paragraph 7.3.1 of the Section 2 Local Plan states that in order to promote sustainable development, in considering where to select sites for new development in this Local Plan, the Council has taken particular care to assess the value of the landscape and, where practical, allocate sites with the lowest sensitivity, thereby helping to protect valued landscapes and the best and most versatile agricultural land.
- 6.60 The Glossary to the Framework defines best and most versatile agricultural land as land in grades 1, 2 and 3a of the Agricultural Land Classification (ALC). Paragraph 174 a) of the Framework states that planning policies and decisions should contribute to, and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland.
- 6.61 Paragraph: 001 Reference ID: 8-001-20190721 of the NPPG states, amongst other things, that planning decisions should take account of the economic and other benefits of the best and most versatile agricultural land. Paragraph: 002 Reference ID: 8-002-20190721 states that soil is an essential natural capital asset that provides important ecosystem services – for instance, as a growing medium for food, timber and other crops, as a store for carbon and water, as a reservoir of biodiversity and as a buffer against pollution.
- 6.62 According to the Agricultural Land Classification (ALC) Strategic Map, the site is located on land that is predicted to be grade 1 'Excellent', which is land with no or very minor limitations, where yields are high and less variable than on land of lower quality. However, the ALC Strategic Map is a large scale prediction, and it is not suitable for the definitive classification of any local area or site. Post 1998 ALC Magic Map data is inconclusive, and no detailed site survey report has been submitted. Nevertheless, the proposal would lead to a loss of agricultural land with a site area stated as being just under a hectare, and third party objection is made on this basis.
- 6.63 In the absence of a field survey, the Council cannot be certain there would not be a loss of BMV land and/or conflict with the development plan in this regard. The proposal, if approved, will clearly result in the loss of agricultural land and there is therefore conflict with Paragraphs 174 a) and b) of the Framework which weighs against the proposal. This loss will be weighed against other benefits (if any) of the scheme as part of the ultimate planning balance.

- 6.64 In the absence of a field survey the Council cannot be 100% certain that the site is classed as Grade 2 agricultural land. The Applicant explained in supporting statements that the site is 'uncultivated' agricultural land. However officer site visits confirmed there is currently a summer crop growing on the land as such this characteristic put forward by the Applicant has no bearing on the assessment. The proposal, if approved, will clearly result in the loss of agricultural land and there is therefore conflict with Paragraphs 174 a) and b) of the Framework which weighs against the proposal. This loss will be weighed against other benefits (if any) of the scheme as part of the ultimate planning balance.

#### The Fall-back Position

- 6.65 The site has a complex planning history, as set out above. The applicant asserts earlier planning permissions and lawful use certificates granted create a 'fall-back' position; use of the existing site and buildings for a B8 storage and distribution use is lawful on an unrestricted basis. However, upon reviewing the history of the site in conjunction with Legal Services, officers do not draw the same conclusions; some parts of the existing warehouse building are not covered by a lawful use certificate for B8 use, and conditions of some earlier permissions may continue to apply.
- 6.66 While some weight could potentially be given to the site's history and the certificate of lawful use issued by the Council's identified fall-back position, this is substantially reduced by limitations and conditions. In any case, the proposal is for a significantly greater amount of development, both within and outside the existing buildings, and, for the reasons set out below, it remains officers position that the fall-back position would be less harmful. The fall-back position should therefore be afforded reduced weight but there is nevertheless a fall-back position that should be taken into account as part of the consideration of this application.

#### Renewable and Energy Conservation Measures

- 6.67 Policies PPL10 and SPL3, together, require consideration be given to renewable energy generation and conservation measures. Proposals for new development of any type should consider the potential for a range of renewable energy generation solutions, appropriate to the building(s), site and its location, and be designed to facilitate the retro-fitting of renewable energy installations.
- 6.68 Paragraph 112 of the Framework states that applications for development should be designed to enable charging of plug-in and other ultra-low emission vehicles (ULEV) in safe, accessible and convenient locations. However, recent UK Government announcements that ULEV charging points will become mandatory for new development have yet to be published.
- 6.69 The proposal includes a significant amount of new roof space (in addition to that already 'in situ') which have the potential to incorporate solar photovoltaic installation. Car parking areas have the potential for the provision of ULEV charging points for both electric cars and electric HGVs. In the event that planning permission is granted it is considered reasonable and necessary to include a planning condition requiring a scheme, together with a timetable to be submitted for the consideration and installation of these measures as such a condition is capable of addressing these policy requirements.

#### Flood Risk and Drainage

- 6.70 Policy PPL1 states that all development proposals should include appropriate measures to respond to the risk of flooding on and/or off site and that on sites of 1ha or more, development proposals must be accompanied by a Flood Risk Assessment. Furthermore, all major development proposals should consider the potential for new Blue and Green

Infrastructure to help mitigate potential flood risk and include such Green Infrastructure, where appropriate.

- 6.71 Policy PPL5 requires that all new development must make adequate provision for drainage and sewage treatment and should include sustainable drainage systems (SuDS). Applicants should explain and justify the reasons for not using SuDS if not included in their proposals. Furthermore, proposals for development must demonstrate that adequate provision exists for sewage disposal.
- 6.72 Policy SPL3, Part B criterion g), requires that development reduces flood risk and integrates sustainable drainage within development, creating amenity and enhancing biodiversity.
- 6.73 Paragraph 167 of the Framework provides that when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere.
- 6.74 There have been a number of recent surface water flooding events in the locality and understandably a number of local residents and Ward Councillor McWilliams are concerned about the effect of the increase in hard surfacing, and potential for surface water run-off to increase the risk of flooding elsewhere. The Parish Council have been liaising with a number of agencies to seek solutions to local drainage problems.
- 6.75 The site area is below 1 hectare in size and therefore the Environment Agency are not a statutory consultee. However, they were consulted but have not commented in this instance. Nevertheless, in view of the well-founded concerns in relation to the risk of flooding and the above policy requirements, officers have worked with the applicant to secure a SuDS solution. Following the introduction of an attenuation basin with micro calculations and multiple revised drainage engineering details, Essex County Council as Lead Local Flood Authority (LLFA) have withdrawn earlier objections. Subject to conditions to require implementation of the submitted measures, the LLFA are satisfied that the development would not increase the risk of flooding.

#### Protected Species and Biodiversity

- 6.76 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. The preamble to Policy PPL4 states that 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.
- 6.77 Policy SPL3, Part A criterion d), requires that the design and layout of development maintains or enhances site features, including ecological value.
- 6.78 Paragraph 174 d) 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.
- 6.79 Paragraph 180 states that when determining applications, local planning authorities should apply the following principles:
- a) if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;*

- b) *development on land within or outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted. The only exception is where the benefits of the development in the location proposed clearly outweigh both its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of Sites of Special Scientific Interest;*
- c) *development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons<sup>63</sup> and a suitable compensation strategy exists; and*
- d) *development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate.*

6.80 The submitted Preliminary Ecological Appraisal (PEA) finds that the proposal falls outside of identified protected sites (statutory and non-statutory) and any SSSI Impact Risk Zones, and would not be expected to have any effect upon protected sites. The hedgerow removed was found to be species poor, but its removal would result in a low level loss of habitat for tree nesting birds, and a low level loss of potential foraging features for bats. Trees to be felled were found to have a low bat roost potential, and no further survey work was recommended. However, as precautionary measures, mitigation in the form of soft landscaping is recommended to avoid any such impacts, together with a 'soft-fell' approach to tree felling and the installation of bird and bat roost features.

6.81 As the Council's Landscape Officer has commented, the hedgerow that has been removed would not have been protected under the Hedgerow Regulations, and specimen Oaks that have been removed showed weak extension growth and die-back within their crowns, and would not therefore have warranted protection. The application is supported by a detailed planting scheme that would result in a net increase in the length of hedgerow and the number of specimen oaks. This would deliver net gains in biodiversity and address the findings of the PEA.

6.82 Notwithstanding the concerns of objectors, there is no evidence that protected species have been harmed. Subject to the use of conditions to require the implementation of the proposed plantings scheme, the mitigation measures set out in the PEA would be sufficient to ensure no loss of habitat would arise. The proposal would not therefore conflict with the development plan or the Framework in these regards.

#### Other Matters

6.83 An objector refers to a dismissed appeal following refusal of application reference 19/01872/FUL, which was for 5 dwellings. However, the proposal was for a different form of development in a different location, and the merits and site circumstances were not the same. Each case must be considered on its own merits, and this decision should not therefore attract weight.

6.84 Some objectors refer to concern over the effect of the development on local air quality. However, while traffic movements are likely to increase, there is little evidence to suggest that air quality would be unduly impacted, and the proposal does not lie within an air quality management area. Although traffic volumes would be likely to increase, it is not anticipated that this would be to the level where an Air Quality Assessment would be required as

confirmed by the Council's Environmental Protection team (see their comments in the 'Consultations' section above).

- 6.85 An objector raised concerns in respect of possible land contamination resulting from a blue pipe appearing above ground on or close to the boundary fence between a property to the north of the site which shares a boundary with the extended loading area of the site in question. The property in question has a rear garden of significant depth projecting up to the trailer parking/yard area in the far north western corner of the extended commercial site. TDC Environmental Protection (EP) visited the site to inspect the pipe, and it was noted to contain some liquid, which appeared to be clear water at the outlet. The pipe has since been capped by the operators of the commercial site. EP colleagues explained that the pipe was blue (which would "normally" indicate water), and there was no apparent odour or grease like substance on or around the outlet, ground or the pipe itself. EP colleagues explained that they did not witness any discharging from the pipe during their visit, only some pooling of liquid droplets on the top of the outlet. EP also noted what appeared to be an old and decommissioned oil tank on the neighbouring land, and some oily residue on the surface of a dead tree branch, of which was leaning towards the top of what appears to be a plant unit, adjacent to the oil tank. EP colleagues discussed the objector's employment of a geo-environmental specialist, of whom was coming to take some soil samples of the area surrounding the pipe. EP colleagues explained to the objector that it would expect some land contamination in a context such as this given proximity to industrial uses, and in addition, proximity to historical agricultural land. EP colleagues explained that any report's findings would need to confirm the likelihood that any contamination has originated from the pipe in question, in order to confirm whether there is an issue that requires remediation – in line with contaminated land legislation. EP colleagues also stressed that they would be interested to see the results of the soil analysis when the report has been completed, and invited the objector to send a copy should this become available. The LPA is unaware of any soil analysis result being provided to EP, or if it has been, the LPA has not seen any copies of this. Regardless of the outcome of the soil analysis, this particular issue surrounding the implementation, location and discharging from the pipe, would be a civil dispute of which the LPA has no jurisdiction. There are nuances to most investigations and location, impact and significance of such are just some of the factors the LPA, in consultation with EP colleagues, can consider. Given the location of the pipe, and the no obvious signs of significant contamination or risk of harm, given how far away it is located from the third party objector's home, and that the land is not being disturbed at this time; there is little more the LPA or EP can assist with in respect of this matter. Should the results of the soil report indicate there is potential for significant harm and evidence is provided to establish a current and persistent source, EP colleagues may look to take action however such an eventuality will take place outside of the planning system and is not considered to have a bearing on this planning decision. In most instances of land contamination, EH colleagues would look to facilitate and take action where required to under the Environmental Health legislation, and provided the land is legally considered as "contaminated land".
- 6.86 In terms of the latter part of the first reason for deferral (from the Dec 2021 planning committee), Members requested the applicant look into the Frating crossroads & any potential improvements to that junction. It is considered that this existing junction serves a very broad variety of traffic, mostly unrelated to this development proposal, and any potential improvements to that junction is considered to fall outside the scope of being reasonable and necessary to make this development proposal acceptable in highways safety terms.
- 6.87 In terms of the 4<sup>th</sup> reason for deferral (to explore a temporary planning permission for up to 2 or 3 years with the aim of helping to support the applicant in finding a more appropriate site within the District) – the Applicant's 'Alternative Sites Assessment for PalletPlus (ASAPP) demonstrates that the allocated sites in the administrative area of TDC are either

not suitable or available (or both) for the proposed development. To consider a temporary consent in this context would therefore not be justified in this instance because there is a very high likelihood that a temporary consent will not remain temporary due to the significant uncertainty (and resultant unknown timescales) in respect of relocating to a current unknown site, and due to the lack of a suitable or available (or both) site for the proposed development, as demonstrated by the Applicant.

## **7 Planning Balance and Conclusion**

- 7.1 The proposal is for the extension and expansion of an existing storage and distribution onto adjacent agricultural land (retrospective), together with associated loading bay extension and other works as outlined elsewhere in this report. The extended part of the site (which is, in the main, the retrospective element of the proposal) is an unallocated site however it has been adequately demonstrated that the proposal will support economic growth in the district.
- 7.2 Clear policy conflict has been identified in terms of character and appearance harm, as well as the impact of the extended site on residential amenity by way of having a harmful effect on the living conditions of the occupants of neighbouring dwellings, having regard to noise and disturbance, privacy and outlook, especially those residents immediately to the north and south of the access into and out of the site, as well as residential properties further to the north of the site with rear/side amenity areas adjoining the site. These harmful elements attracts significant weight in the overall planning balance. The proposal will also result in the loss of agricultural land and there is therefore conflict with Paragraph 174 a) of the Framework, again this weighs against the proposal.
- 7.3 Against this harm the benefits to the local and wider economy, the benefits to the storage and distribution sector in particular, and direct and indirect job retention/creation would be substantial, and very significant weight is given to these benefits.
- 7.4 All other third party representations, including those from technical consultees and members of the public have been carefully considered, and where necessary, considered as part of the LPA's assessment of this scheme. It is considered that the revised proposals, subject to the imposition of conditions other obligations, have addressed all other technical and fundamental policy matters.
- 7.5 Ultimately and on balance, the weight given to the substantial benefits as outlined above is considered to very marginally outweigh the significant weight given to the character and appearance harm, as well as the identified harm to residential amenity. In reaching this balanced recommendation due regard is given to the requirement to implement the holistic landscape planting scheme during the first planting season post decision (should planning permission be granted) and the effective screening mitigation that the additional planting and landscaped bund will offer over the longer term.
- 7.6 For all these reasons, it is recommended that planning permission be granted, subject to the completed S106 legal agreement and the conditions recommended below.

## **8 Recommendation**

- 8.1 The Planning Committee is recommended to grant planning permission subject to the following conditions and informatives and the prior completion of a section106 legal agreement with the agreed Heads of Terms, as set out in the table below:

<b>CATEGORY</b>	<b>TERMS</b>
Highways Improvements and	<ul style="list-style-type: none"> <li>To impose waiting and parking restrictions on Frating Road either side of the site access junction and on the opposite side</li> </ul>



mitigation	<p>of the road prior to the first use of the extended loading bay, the extent of the restrictions to be agreed in advance with the LPA with the Highway's Authority. Such a requirement will have to be secured as part of a section 106 legal agreement as the relevant highways authority, via the LPA, will legally require a financial contribution for this to realise. In terms of the successful introduction of waiting/parking restrictions, there is no guarantee that the parking restrictions can be successfully implemented because this element is subject to separate processes and public consultation(s). However the successful introduction of this element has been confirmed by the Highways Authority as entirely necessary for the development to be acceptable in highway safety terms, and the scheme (the introduction of waiting restrictions) shall be agreed in writing by relevant Highways authority prior to commencement of any works on the extended loading bay, and the agreed schemes shall then be implemented in full before the completion of the extended loading bay. The applicant has accepted this risk.</p> <ul style="list-style-type: none"> <li>• An approved workplace travel plan to be actively implemented for a minimum period of 5 years. It shall be accompanied by a one-off monitoring fee of £6,132 (plus the relevant sustainable travel indexation) to be paid before completion of remainder of the works to cover the 5-year period and incorporated within a S106 obligation.</li> <li>• Before the commencement of any works on the loading bay extension, a Traffic Management Plan (TMP) shall be provided and approved outlining a designated route to and from the premises for all HGV movements to be agreed in advance with the Local Planning Authority in consultation with the Highway Authority and incorporated within a S106 obligation.</li> </ul>
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## 8.2 Conditions and Reasons

### **Time Limit**

The works yet to be carried out to which this consent relate must be begun not later than the expiration of three years beginning with the date of this consent.

Reason: To comply with the requirements of Section 18(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004

Notes for condition:

The development needs to commence within the timeframe provided. Failure to comply with this condition will result in the consent becoming lapsed and unable to be carried out. If commencement takes place after the time lapses this may result in unlawful works at risk of both Enforcement Action and Criminal proceedings. You should only commence works when all other conditions requiring agreement prior to commencement have been complied with.

### **Approved Plans & Documents**

The development hereby permitted shall be carried out in accordance with the

drawings/documents listed below and/or such other drawings/documents as may be approved by the Local Planning Authority in writing pursuant to other conditions of this permission or such drawings/documents as may subsequently be approved in writing by the Local Planning Authority as a non-material amendment following an application in that regard (except for Listed Building Consents). Such development hereby permitted shall be carried out in accordance with any Phasing Plan approved, or as necessary in accordance with any successive Phasing Plan as may subsequently be approved in writing by the Local Planning Authority prior to the commencement of development pursuant to this condition.

- Drawing No: 06 Rev A – Proposed Site Plan
  - Drawing No: 07 Rev A – Proposed Loading Bay
  - Drawing No: 1433/ENG/001 Rev E – Engineering Layout
  - Drawing No: SK13 Rev B – Vehicle Tracking
  - Drawing No: SK14 Rev C – Site Access Junction Tracking
  - Drawing No: SK16 – New proposed site access junction arrangements
  - Drawing No: 2487-LLA-ZZ-00-DR-L-0201 Rev P03 – Detailed Planting Proposals
  - ‘Proposed Site Plan’ included on page 5 of the Operational Management Plan dated April 2022,
- 
- Operational Management Plan dated April 2022
  - Outdoor Lighting Report dated 16 September 2022
  - Drainage Strategy plus appendixes dated September 2021 and micro drainage calculation dated
  - May 2021 by ASD Consultants
  - Preliminary Ecological Appraisal dated 10 September 2020

Reason: For the avoidance of doubt and in the interests of proper phased planning of the development.

Notes for the condition:

The primary role of this condition is to confirm the approved plans and documents that form the planning decision. Any document or plan not listed in this condition is not approved, unless otherwise separately referenced in other conditions that also form this decision. The second role of this condition is to allow the potential process of Non Material Amendment if found necessary and such future applications shall be considered on their merits. Lastly, this condition also allows for a phasing plan to be submitted for consideration as a discharge of condition application should phasing be needed by the developer/s if not otherwise already approved as part of this permission. A phasing plan submission via this condition is optional and not a requirement.

Please note in the latest revision of the National Planning Policy Framework (NPPF) it provides that Local Planning Authorities should seek to ensure that the quality of approved development is not materially diminished between permission and completion, as a result of changes being made to the permitted scheme (for example through changes to approved details such as the materials used). Accordingly, any future amendment of any kind will be considered in line with this paragraph, alongside the Development Plan and all other material considerations.

Any indication found on the approved plans and documents to describe the plans as approximate and/or not to be scaled and/or measurements to be checked on site or similar, will not be considered applicable and the scale and measurements shown shall be the approved details and used as necessary for compliance purposes and/or enforcement action.

### **Frontage Building etc to be demolished**

Prior to commencement of any work on the loading bay extension hereby approved, the frontage

buildings and part of the office building all indicated in shaded red on drawing number 06 (Proposed Site Plan) shall be first demolished in their entirety, and the 4 car parking spaces along the southern boundary, also indicated in shared red on drawing number 06 (Proposed Site Plan) shall be removed. All building rubble and material associated with the demolished buildings and areas shall be removed from the site prior to commencement of any work on the loading bay extension hereby approved.

Reason: The existing vehicular access and egress point is unsuitable and unsafe, the demolition of the frontage building is necessary to enable a safe and suitable access into and out of the extended site, and the removal of the frontage building is necessary to discharge other planning conditions relating to access and highways alterations and mitigation as set out below.

### **Highways Conditions**

Condition:

Prior to commencement of any demolition works or works on the loading bay extension hereby approved, including any ground works, a Construction Management Plan shall be submitted to, and approved in writing by, the local planning authority. The approved plan shall be adhered to throughout the construction period and shall provide for:

- i. construction vehicle routing,
- ii. the parking of vehicles of site operatives and visitors,
- iii. loading and unloading of plant and materials,
- iv. storage of plant and materials used in constructing the development,
- v. wheel and underbody washing facilities.

Reason: A pre-commencement condition is necessary to ensure further construction phase(s) are properly controlled, that on-street parking of these vehicles in the adjoining streets does not occur and to ensure that loose materials and spoil are not brought out onto the highway in the interests of highway safety.

Condition:

Prior to completion of the loading bay extension hereby approved, the road junction / access at its centre line shall be provided with a clear to ground visibility splay with dimensions of 2.4 metres by 43 metres in both directions, as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided and retained free of any obstruction at all times.

Reason: To provide adequate inter-visibility between vehicles using the road junction / access and those in the existing public highway in the interest of highway safety

Condition:

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

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

Condition:

Prior to commencement of work on the loading bay extension hereby approved, full design details relating to the required improvements to the main and only vehicular access and exit point off/onto Frating Road and immediate surrounds, shall have first been submitted to and approved by the local planning authority.

Scheme details shall include drawings and documents showing:

- A carriageway measuring no less than 6.75m in width for the first 22 metres.
- A straight section of carriageway to be provided from the entrance junction for 22 metres
- A 1.8-metre-wide footway on the north side of the junction and continued around the kerb radii and to tie-in with the existing footway.
- pedestrian crossing facilities (to incorporate dropped kerbs and tactile paving) on either side of the access.
- A priority junction off the B1029 to provide access to the proposed site as shown in principle on planning application, amended proposed site access and junction arrangement, drawing number: SK16.
- Full details of associated road signage and lining as indicated in principle on drawing SK16.

The approved scheme shall thereafter be implemented, completed in full and made fully operational in accordance with the approved design details before the first use of the loading bay extension hereby approved.

Reason: The design details is required prior to commencement of any works on the loading bay extension so as to ensure a safe and suitable access and egress can be achieved and delivered in the interest of highways safety.

Condition:

No unbound material shall be used in the surface treatment of the vehicular access within 30 metres of the highway boundary of the B1029 (Frating Road).

Reason: Unbound road surface material create hazards and the condition is required to ensure a safe and suitable highways environment for all road users.

Condition:

The vehicle parking area including any parking spaces for the mobility impaired, shall be provided, hard surfaced, sealed and marked out in parking bays in accordance with the approved plans prior to the completion of the loading bay extension hereby approved. The vehicle parking area and associated turning area shall be retained in this form at all times. The vehicle parking shall not be used for any purpose other than the parking of vehicles that are related to the use of the development unless otherwise agreed with the Local Planning Authority.

Reason: To ensure that on street parking of vehicles in the adjoining streets does not occur in the interests of highway safety and that appropriate parking is provided.

### **Compliance with details – Landscaping**

All changes in ground levels, soft/hard landscaping shown on the approved landscaping drawing number Drawing No: 2487-LLA-ZZ-00-DR-L-0201 Rev P03 – ‘Detailed Planting Proposals’ shall be carried out in full during the first planting and seeding season (October - March inclusive) following the date of the issuing of this planning permission, or in such other phased arrangement as may be approved, in writing, by the Local Planning Authority up to the first use of the loading bay extension hereby approved. Any trees, hedges, shrubs or turf identified within the approved landscaping details (both proposed planting and existing) which die, are removed, seriously damaged or seriously diseased, within a period of 10 years of being planted, or in the case of existing planting within a period of 5 years from the commencement of development, shall be replaced in the next planting season with others of similar size and same species unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the approved landscaping scheme has sufficient time to establish, in the

interests of visual amenity and the character and appearance of the area.

### **Environmental Protection Conditions**

#### **Acoustic fencing details**

Prior to commencement of work on the loading bay extension hereby approved, precise details of the provision, siting, design, height and materials of the acoustic fences to be located along the northern and southern boundaries of the site access area, and elsewhere as may be required, shall be submitted to and approved, in writing, by the Local Planning Authority. The acoustic fences as may be approved shall be erected prior to the first use of the loading bay extension and thereafter be retained in the approved form.

Reason: In the interests of residential and visual amenity and the character and appearance of the area.

#### **Lighting to be installed in accordance with plan**

All new outdoor lighting shall be installed strictly in accordance with the details shown on Figure 4, and all recommendations and specifications outlined in paragraph 2.6, Section 3 and Section 4 in the Outdoor Lighting Report. All outdoor lighting shall be carried out and retained as per the details shown in Figure 4, and all recommendations and specifications outlined in paragraph 2.6, Section 3 and Section 4 in the Outdoor Lighting Report. There shall be no other means of external lighting installed and/or operated on/at the site except that approved.

Reason: In the interests of amenity to reduce the impact of night time illumination on the character of the area and in the interests of biodiversity, and to mitigate against lighting impact of the cumulative operation on the site in its entirety.

#### **Access restriction (hours)**

There shall be no HGV access or vehicles used for operational purposes to the site between the hours of 9:00pm – 4:00am the following day.

Reason: To ensure the access times as set out in the Operational Management Plan are adhered to in light of the expansion of the site, and to enable the Local Planning Authority to retain control over the development in the interests of residential amenity within close proximity.

#### **Night time restrictions (hours)**

Night time loading and unloading and associated operations between the hours of 9:00pm – 4am the following day shall be restricted to the areas shaded green and yellow on the 'Proposed Site Plan' included on page 5 of the Operational Management Plan dated April 2022, and the areas shaded green and yellow shall be strictly used for the loading and unloading of goods inside the loading bay and warehouse areas only between the hours of 9:00pm – 4:00am the following day

Reason: To ensure the night time areas of operation as set out in the Operational Management Plan are adhered to in light of the expansion of the site, and to enable the Local Planning Authority to retain control over the development in the interests of residential amenity within close proximity of the site.

#### **Restriction – overall number of commercial vehicles on site/in connection with commercial Business**

The overall number of combustible engine commercial vehicles (i.e. not including trailers) operating on and from the site at any one time shall not exceed 47 in total (15 x articulated 44t tractor units, 5

x 26t rigid vehicles, 13 x 18t rigid vehicles, 5 x 12t rigid vehicles, 1 x 7.5t rigid vehicle and 8 x 3.5t vans).

Reason: To ensure the operational requirements as set out in the Operational Management Plan are adhered to in light of the expansion of the site, in the interest of air quality and to enable the Local Planning Authority to retain control over the development in the interests of residential amenity within close proximity of the site.

### **Foul and Surface water drainage conditions**

#### **Condition:**

Full details of foul water drainage shall have been submitted to and approved, in writing, by the Local Planning Authority prior to commencement of works on the loading bay extension and the attenuation basin and drainage ditch along the southern boundary of the site. No part of the loading bay extension hereby approved shall be brought into use until the agreed method of foul water drainage has been fully installed and is functionally available for use of the site in its entirety. The foul water drainage scheme shall thereafter be maintained as approved.

Reason: To safeguard the ground water environment from harm.

Notes for this condition:

This condition shall engage and requires details to be agreed prior to the commencement of works to the building/s approved. This condition is imposed to ensure the potential impact on a sensitive area is considered and harm avoided that may be detrimental to amenity and the environment. This condition as detailed will apply to the development at all times once agreement is obtained unless varied or removed legally.

#### **Condition:**

The hereby permitted development shall be carried out in accordance with all proposals and recommendations (measures) contained within the approved Drainage Strategy and Appendixes dated September 2021, as well as the Design Calculations as set out in ASD Consultants document dated 19/05/2021 and shall and associated micro drainage calculations as set out in the Anglia Survey & Design documents dated 17/05/2021.

The measures shall be carried out in their entirety in accordance with any timetable approved as apart of the above approved documents, or if not available shall be carried out in their entirety prior to the first use of the loading bay extension hereby approved. All measures shall be maintained thereafter as approved.

Reason: To safeguard the ground water environment and minimise the risk of flooding by ensuring satisfactory storage and disposal of surface water from the site.

### **Renewables**

No works on the loading bay extension shall commence until a scheme for the provision and implementation of energy and resource efficiency measures for the lifetime of the development shall be submitted to and approved, in writing, by the Local Planning Authority. The scheme such include as a minimum to achieve:-

- Agreement of carbon level
- Details of electric car and lorry charging points
- Agreement of scheme for waste reduction

The scheme shall be fully implemented prior to the first use of the loading bay extension hereby approved unless otherwise agreed in writing by the Local Planning Authority. The scheme shall be

constructed and the measures provided and made available for use as may be agreed and thereafter shall be maintained.

Reason: To enhance the sustainability of the development through better use of water, energy and resources reduce harm to the environment and result in wider public benefit in accordance with the NPPF.

**NOTE/S FOR CONDITION:**

Slab level is normally refers to the concrete slab supported on foundations or directly on the subsoil and is used to construct the ground floor of the development. In any other case, please assume slab level to be the point before any walls and/or development can be visually above ground level or seek confirmation from the Local Planning Authority for your development.

The greatest threat to our planet is the belief that someone else will save it and also forgetting that small acts, when multiplied by millions of people, can transform the world. Developments will provide buildings/homes to thousands/millions of people over their lifetime. A well designed sustainable development in the beginning will restrict the contribution each person makes to that threat and help enable them to transform the world.

**Informatives**

INFORMATIVE - 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 seeking additional information from the Applicant 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.

INFORMATIVE - You are strongly advised that failure to comply with any of the pre-commencement or any of the operational and / or compliance conditions as outlined above may result in the Council taking Enforcement Action and may invalidate this planning permission and in turn result in an unauthorised development.

INFORMATIVE - Notification of intention to connect to the public sewer under S106 of the Water Industry Act Approval and consent will be required by Anglian Water, under the Water Industry Act 1991. Contact Development Services Team 0345 606 6087.

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INFORMATIVE - Protection of existing assets - A public sewer is shown on record plans within the land identified for the proposed development. It appears that development proposals will affect existing public sewers. It is recommended that the applicant contacts Anglian Water Development Services Team for further advice on this matter. Building over existing public sewers will not be permitted (without agreement) from Anglian Water.

INFORMATIVE - Building near to a public sewer - No building will be permitted within the statutory easement width of 3 metres from the pipeline without agreement from Anglian Water. Please contact Development Services Team on 0345 606 6087.

INFORMATIVE: The developer should note that the site drainage details submitted have not been approved for the purposes of adoption. If the developer wishes to have the sewers included in a sewer adoption agreement with Anglian Water (under Sections 104 of the Water Industry Act

1991), they should contact our Development Services Team on 0345 606 6087 at the earliest opportunity. Sewers intended for adoption should be designed and constructed in accordance with Sewers for Adoption guide for developers, as supplemented by Anglian Water's requirements.

## 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/>.