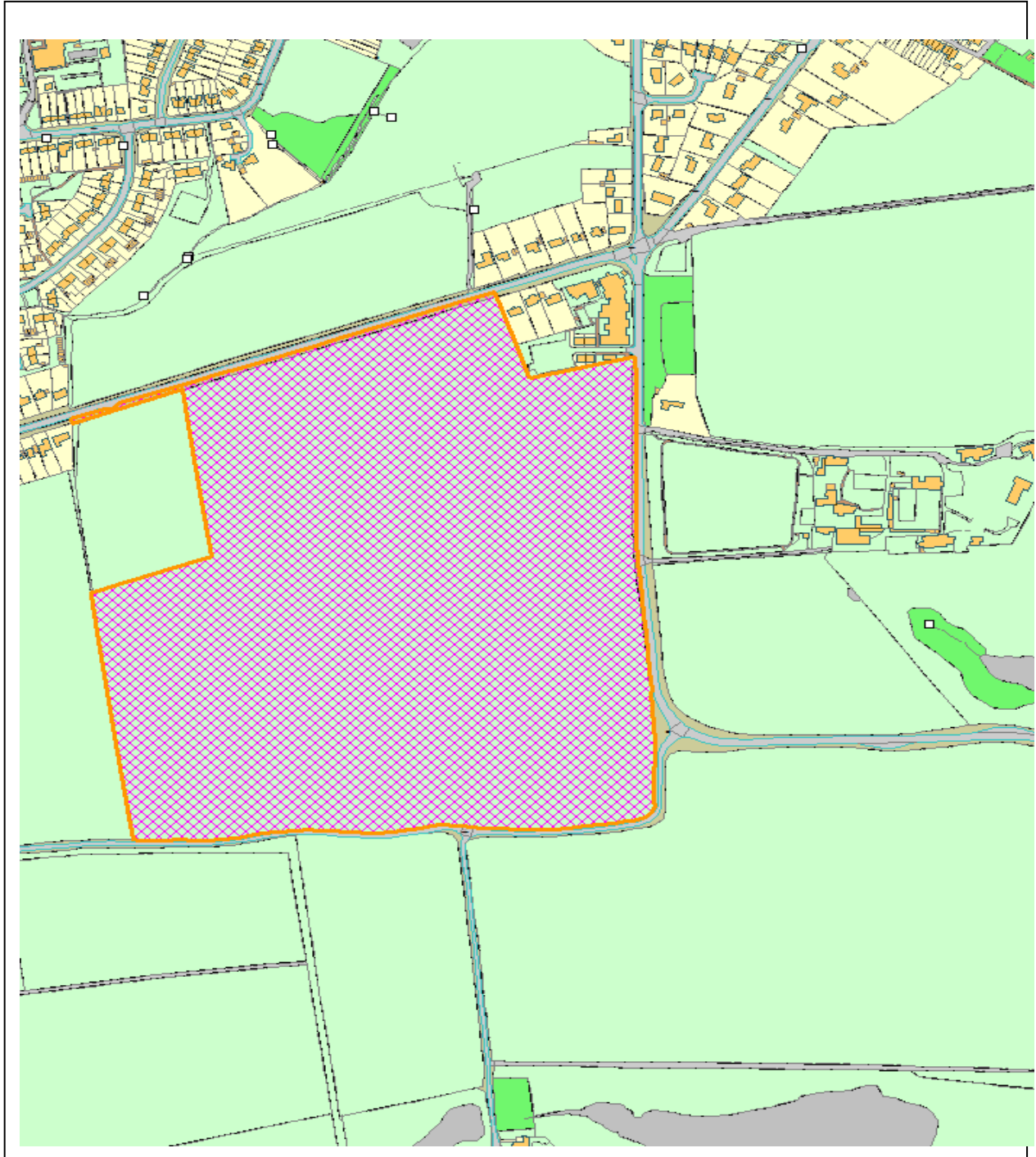


PLANNING COMMITTEE

8 AUGUST 2017

REPORT OF THE HEAD OF PLANNING

A.2 PLANNING APPLICATION – 17/00534/OUT – LAND TO THE SOUTH OF LONG ROAD AND TO WEST OF CLACTON ROAD, MISTLEY, CO11 2HN



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Application:	17/00534/OUT	Town / Parish: Mistley
Applicant:	Tendring Farms Ltd	
Address:	Land to the south of Long Road and to west of Clacton Road, Mistley, Essex CO11 2HN	
Development:	Variation of condition 4 of 15/00761/OUT to change parameter plans. [Related to the outline application with all matters reserved, other than strategic access points onto the public highway, for the erection of up to 300 dwellings, up to 2 hectares of employment land (A2/A3/B1/D1 uses), with associated public open space and infrastructure].	

1. Executive Summary

- 1.1 This land off Long Road and Clacton Road, Mistley already has outline planning permission for 300 homes and 2 hectares of employment land. Planning permission was granted subject to a number of planning conditions including that any detailed plans for the site needed to be in general conformity with the submitted parameter plans which identified, broadly, the location of housing, commercial development and open space as well as the proposed height of development.
- 1.2 This planning application seeks to vary the parameter plans to allow the development to take place in a different way to that originally envisaged. The revised plans seek to:
 - Reduce the overall amount of open space;
 - Enlarge the area of land on which homes will be built;
 - Apply a height limit across the whole site of 2.5 storeys or 13 metres;
 - Change the position of the proposed employment land; and
 - Move the proposed access point onto Clacton Road further north.
- 1.3 No changes to the total number of homes or the amount of employment land are being proposed – this could only be achieved through a whole new planning application for the site.
- 1.4 The proposed changes to the parameter plans have not met with any objections from individual members of the public, but Mistley Parish Council has expressed concerns about moving the Clacton Road access point further north as it might lead to more queuing around the junction of Clacton Road with Long Road, Trinity Road and New Road. .
- 1.5 The Council's Principal Trees and Landscape Officer initially raised concerns about the reduction in open space when compared with the original plans, but following the receipt of further information from the applicant, these concerns have been resolved. The amended plans would still allow for some 26% open space which is more than double what is required by the Local Plan policies and the green spaces would still be positioned and landscaped to minimise the visual and landscape impact of the development.
- 1.6 Natural England was also initially concerned about whether or not the reduction in open space might lead to greater recreational disturbance at the Stour Estuary – possibly requiring a more detailed 'Appropriate Assessment' to be undertaken in line with the

European Habitat Regulations. However, because the open space to be provided would still be well above Local Plan requirements and would still provide a substantial useable space for local people, Officers are satisfied that Appropriate Assessment is not necessary. The applicant has submitted an addendum to its original ecological assessments and Natural England has been provided with this. Natural England has now confirmed that it has no objection to the application.

- 1.7 Moving the proposed employment land to the south east corner of the site is not controversial and would be a positive change in terms of ensuring more direct access to the highway and reducing any conflict with the residential development.
- 1.8 The recommendation is approval. If the Committee endorses this recommendation, outline planning permission for the site will be re-issued in full with the relevant planning condition amended to correspond with the new parameters plans. The s106 agreement for the original application which secures affordable housing, education, health off-site highway contributions will also still apply.

Recommendation: Approval

That the Head of Planning be authorised to grant outline planning permission for the proposed development (up to 300 dwellings, up to 2 hectares of employment land (A2/A3/B1/D1 uses), with associated public open space and infrastructure) but with a variation to condition 4 of the decision notice to require the development to be in general conformity with the revised parameters plans.

All other planning conditions are to remain unchanged from the outline planning permission 15/00761/OUT as well as the completed s106 legal agreement to secure education contributions, affordable housing, open space and open space maintenance contribution, healthcare contributions and contributions towards highway improvements to the crossing at Manningtree Station.

2. Planning Policy

National Planning Policy Framework (NPPF)

- 2.1 The National Planning Policy Framework (March 2012) sets out the Government's planning policies and how these are expected to be applied at the local level.
- 2.2 Planning law requires that applications for planning permission be determined in accordance with the 'development plan' unless material considerations indicate otherwise. The NPPF doesn't change the statutory status of the development plan as the starting point for decision taking. Where proposed development accords with an up to date Local Plan it should be approved and where it does not it should be refused – unless other material considerations indicate otherwise. An important material consideration is the NPPF's 'presumption in favour of sustainable development'. The NPPF defines 'sustainable development' as having three dimensions:
 - an economic role;
 - a social role; and
 - an environmental role.

Local Plan

- 2.3 Section 38(6) of the Planning Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the 'development plan' unless material considerations indicate otherwise. In the case of Tendring the development plan consists of the following:

Tendring District Local Plan (Adopted November 2007) – as 'saved' through a Direction from the Secretary of State.

Relevant policies include:

QL1: Spatial Strategy

QL2: Promoting Transport Choice

QL3: Minimising and Managing Flood Risk

QL9: Design of New Development

QL10: Designing New Development to Meet Functional Needs

QL11: Environmental Impacts

QL12: Planning Obligations

ER7: Business, Industrial and Warehouse Proposals

HG1: Housing Provision

HG3: Residential Development Within Defined Settlements

HG3a: Mixed Communities

HG4: Affordable Housing in New Developments

HG6: Dwellings Size and Type

HG7: Residential Densities

HG9: Private Amenity Space

COM2: Community Safety

COM6: Provision of Recreational Open Space for New Residential Developments

COM21: Light Pollution

COM23: General Pollution

COM26: Contributions to Education Provision

COM29: Utilities

COM31a: Sewerage and Sewage Disposal

EN1: Landscape Character

EN4: Protection of the Best and Most Versatile Agricultural Land

EN6: Biodiversity

EN6a: Protected Species

EN6b: Habitat Creation

EN11a: Protection of International Sites

EN12: Design and Access Statements

EN13: Sustainable Drainage Systems

EN17: Conservation Areas

EN29: Archaeology

EN36: Area Proposed as an Extension to the Suffolk Coast and Heaths AONB

TR1a: Development Affecting Highways

TR1: Transport Assessment

TR3a: Provision for Walking

TR5: Provision for Cycling

TR6: Provision for Public Transport Use

TR7: Vehicle Parking at New Development

Tendring District Local Plan 2013-2033 and Beyond, Publication Draft (June 2017).

Relevant policies include:

SPL1: Managing Growth

SPL2: Settlement Development Boundaries

SPL3: Sustainable Design

HP1: Improving Health and Wellbeing

HP2: Community Facilities

HP3: Green Infrastructure

HP5: Open Space, Sports and Recreation Facilities

LP1: Housing Supply

LP2: Housing Choice

LP3: Housing Density and Standards

LP4: Housing Layout

LP5: Affordable and Council Housing

PP6: Employment Sites

PP7: Employment Allocations

PP12: Improving Education and Skills

PPL1: Development and Flood Risk

PPL3: The Rural Landscape

PPL4: Biodiversity and Geodiversity

PPL5: Water Conservation, Drainage and Sewerage

PPL6: Strategic Green Gaps

PPL7: Archaeology

PPL8: Conservation Areas

SAE2: Land south of Long Road, Mistley

Other Guidance

Essex County Council Car Parking Standards – Design and Good Practice

Essex Design Guide for Residential and Mixed-Use Areas.

3. Relevant Planning History

3.1 The site has the following planning history:

15/00761/OUT	Outline application with all matters reserved, other than strategic access points onto the public highway, for the erection of up to 300 dwellings, up to 2 hectares of employment land (A2/A3/B1/D1 uses), with associated public open space and infrastructure.	Approved	18.07.2016
17/00534/OUT	Variation of condition 4 of 15/00761/OUT to change parameter plans. [Related to the outline application with all matters reserved, other than strategic access points onto the public highway, for the erection of up to 300 dwellings, up to 2 hectares of employment land (A2/A3/B1/D1 uses), with associated public open space and infrastructure].	Current	
17/00535/DETAIL	Application for phase one reserved matters for access, appearance, landscaping, layout and scale for 96 residential units and 163m ² of retail space following outline planning permission 15/00761/OUT.	Current	

4. Consultations

TDC Regeneration The Regeneration Team have no specific comments to make on this application.

TDC Building Control No comments at this time.

TDC Principal Tree & Landscape Officer Original comments:
The relatively simple and straightforward proposal to replace of the original Masterplan/Site Parameter Plan with the new Site Parameter Documents would bring about a fundamental change to the character and scale of the development of the land. In effect the proposed public open spaces would be reduced to such an extent that they would be little more than corridors and their future functionality and recreational use would be significantly compromised.

The original emphasis of the design of the development appeared to have been to ensure that a large scale development could be assimilated into its setting and sit relatively comfortably in its semi-rural setting. The proposed intensification of the development compromises the ability to achieve a satisfactory layout for the site.

The opportunity to set out top quality open spaces and maximise recreational use of the land will be diminished to such an extent that the nature of the development will not relate to the original proposal.

The application should be refused and any future detailed planning application for the site should relate to the original Site Parameter Plan approved under 15/00761/OUT.

Revised comments following submission of further information:

The response provided by the applicant recognises that the application will result in a change that reduces the open space footprint and changes the character suggested with the outline application, but goes on to say that the quality and functionality will not be affected.

Taking into account the information provided, especially relating to the amount of open space to be provided in relation to that required by the Local Plan: it is considered that an overall provision of open space, in the region of 25% of the development, is acceptable both in terms of amount and quality.

- Anglian Water As this discharge of condition does not relate to anything drainage related, foul water or surface water Anglian Water have no comment to make.
- ECC Highways Whilst this would appear to be a relatively simple application the revised parameters seem to suggest an increase in the size of the development. In this regard there is insufficient information for this Authority to fully assess the final impact on this application on the highway. If confirmation can be sought from the developer to the effect that no increase in residential units or commercial floor space is proposed, further consideration to this application can be given.
- ECC Archaeology The above application seeks variation of the masterplans for the original application 15/00761/OUT. A full archaeological condition was applied to the 2015 application on the basis of the high archaeological potential identified on the HER and through a programme of geophysics survey. A programme of archaeological trial trenching and excavation was recommended to satisfy this condition. This work has not yet taken place and Condition 20 of 15/00761/OUT has not been discharged. Until this work is complete we are unable to comment on the proposed variation.
- Natural England Original comment: Based on the information provided in support of the application, Natural England's view is that there is currently insufficient information to allow likely significant effects to the Stour and Orwell Estuaries Special Protection Area (SPA) and Ramsar site1 to be ruled out. We also consider that there is insufficient information to rule out adverse effects the Stour Estuary and Cattawade Marshes Sites of Special Scientific Interest (SSSIs). We therefore request that the information outlined on page 2 of this letter is provided by the applicant, that we are re-consulted on this accordingly and given a further 21 day period within which to respond.
- Revised comment (following submission of additional information): Based on the information provided in support of the application, it is our view that the proposal is unlikely to have a significant effect on the Stour and Orwell Estuaries Special Protection Area (SPA) and Ramsar site. We also consider that the proposal is unlikely to adversely affect the Stour Estuary and Cattawade Marshes Sites of Special Scientific Interest (SSSIs). We therefore have no objection to this development.
- National Grid National Grid has identified that it has apparatus in the vicinity of your enquiry which may be affected by the activities specified. National Grid should be informed, as soon as possible, of the decision the Council is

likely to take.

Cadent Gas Ltd Cadent Gas Ltd do not object to this proposal

Babergh District Council We have no objections to the proposed alterations subject to no increase in the dwelling numbers on the site.

5. Representations

- 5.1 The Council has only received one objection from a resident of Long Road which states: *“The new plan submitted shows the housing area now a lot closer to our property with a larger spread of housing and a big reduction of green space to both Clacton Road and Long Road. The impact now views as a far greater sized housing development with greatly reduced green spaces. With the housing now closer to the main roads the potential to have on road side parking becoming closer to the entrances will be a big hazard as time goes on there is never enough allocated parking areas as we have seen in all local developments. The commercial area has also been re sited and is now accessed via Dead Lane, the impact will be the lane will become naturally wider from traffic use. By keeping access to the commercial area via the housing development it protects any change of use in the future. The overall developed site increase and the reduction of the green space is a far less favourable option to the previous plan we viewed at Furze Hills. Please consider refusing these large impact changes.”*

6. Assessment

The Site

- 6.1 The land in question lies immediately south of Long Road on the Mistley side of the Mistley/Lawford Parish boundary and borders Clacton Road to east and Dead Lane to the south. The site comprises 23 hectares of arable agricultural land that is roughly square in shape and that rises from its northern boundary but then falls to a relatively flat plateau over the southern part of the site. With limited boundary hedging and vegetation, the site is visually very exposed on entry into the settlement from the south along Clacton Road.
- 6.2 To the west of the site lies open agricultural land that is the subject of separate planning permission for major mixed use development including up to 360 dwellings. The northern edge of the site abuts Long Road which passes through the open gap between the built up areas of Lawford and Mistley. To the north of Long Road is an area of open space that falls towards the built up area and which affords long distance views over the built up area and toward the Stour Estuary. The site abuts a small number of dwellings and recently completed assisted living complex (Mistley Manor) in Clacton Road to the east and there is further open countryside to the south past Dead Lane.

The Proposal

- 6.3 The site has outline planning permission 15/00761/OUT for up to 300 dwellings, up to 2 hectares of employment land (including use classes A2: financial and professional services; A3: restaurants and cafes, B1: business use and D1: non-residential institutions), with associated public open space and infrastructure. This was granted in July 2016.
- 6.4 Condition 4 of the outline planning permission requires that the subsequent reserved matters applications will be in general conformity with the following indicative drawings:

1648 01 A - Outline Landscape Master Plan; 2014-426-13 Rev. A - Parameter Landscape Plan, and; 2014-426-11 Rev. A - Parameters Massing Plan.

- 6.5 This is an application to vary that condition and replace these plans with a single sheet 237738-200 which includes three amended parameters plans – one for land use, one for building heights and one for green infrastructure.
- 6.6 The main differences between the existing masterplan/parameter plans and the proposed amended plan are summarised as follows:
- 1) On the proposed plans, the open space/green infrastructure shown for the north-east, east and south-western parts of the site is narrower than on the original plans;
 - 2) The area devoted to residential development is, as a consequence, larger than on the original plan;
 - 3) The height of development across the whole site is limited to 2.5 storeys or 13 metres, whereas the original plans were more specific in identifying varying heights of development in different parts of the site;
 - 4) The employment area or 'commercial zone' on the proposed plan is relocated to the south east corner of the site, whereas in the original plan it was to be located in the south western corner; and
 - 5) The access point onto Clacton Road is proposed to be around 60 metres further north than was indicated on the original plans.
- 6.7 There have been no changes in circumstances since the original grant of planning permission that might affect the principle of development, so the assessment within this report focusses only on the specific changes to the parameters plans being proposed.

Green infrastructure

- 6.8 In the original plans, a green buffer of some 100m from the frontage of Long Road to the built development on the eastern part of the site and an 80m distance from the corner of the Mistley Manor assisted living complex in Clacton Road was shown with the names 'North Green' and 'Mistley Green'. The equivalent distances in the proposed plan (in which the green spaces are unnamed), are reduced significantly to around 80m and 50m respectively. For the eastern edge of the site running along Clacton Road, the original plan showed a green buffer 'East Green' of some 80m in width but this is reduced to be 30m in the proposed plan. In the south western corner of the site, the 'South Green' on the original plans provided for 50m of green infrastructure between Dead Lane and the built development, whereas the proposed plan shows a narrower strip of 20m. The overall consequence is that the total area of the site proposed for green infrastructure is reduced from around 9 hectares (39%) to around 6 hectares (26%) which is still well in excess of the requirement of 10% in the Local Plan.
- 6.9 The reduction in the area of green infrastructure from the original plans to the proposed plan initially attracted concern from the Council's Principal Trees and Landscape Officer as it raises questions over the potential character of the development, its landscape and visual

impact, its ecological value and its ability to guard against potential increase in recreational disturbance at the Stour Estuary. The one objector to this application also highlights this as a concern. These were all key issues in the determination of the original outline planning application.

- 6.10 Policy QL9 in the adopted Local Plan and Policy SPL3 in the emerging Local Plan require developments to respect and enhance views, skylines, landmarks, existing street patterns, open spaces and other locally important features. Policy EN1 of the adopted Local Plan and Policy PL3 in the emerging Local Plan seek to protect and, wherever possible, enhance the quality of the District's landscape; requiring developments to conserve natural and man-made features that contribute toward local distinctiveness and, where necessary, requiring suitable measures for landscape conservation and enhancement. Policies QL9 and SPL3 also require developments to incorporate important existing site features of landscape, ecological or amenity value such as trees, hedges, water features, buffer zones, walls and buildings.
- 6.11 With limited boundary hedging and vegetation, the site is visually very exposed on entry into the settlement from the south along Clacton Road and Dead Lane. Development on this site would also be clearly visible from Long Road which currently enjoys a sense of openness on both sides. There are also some long distance views at the northern part of the site over the settlement of Manningtree and Mistley towards the Stour Estuary that would be affected but not lost as a result of development.
- 6.12 With the original outline application, the applicants submitted a Landscape and Visual Impact Assessment and indicative landscape plan which Officers considered acceptable. It was acknowledged that whilst the character of the location would change considerably, there would be scope for a comprehensive package of open space and landscaping that would help to mitigate the visual impact of the development and potentially bring about some environmental enhancements. The applicant also submitted a Tree Survey and Report that demonstrated, to Officers' satisfaction, that development could take place without harm being caused to the trees and other vegetation on the land.
- 6.13 The revised plan with a reduced area of open space will naturally lead to a development with a different impact to that originally envisaged with development being closer to the east and southern peripheries of the site and a greater intrusion of built form into the countryside. That said, the green spaces will still contain considerable landscaping and are still to be positioned in the sensitive parts of the site where they will help to minimise visual and landscape impacts. Officers do not believe that the narrower green spaces now proposed would lead to the development being unacceptable in visual and landscape terms.
- 6.14 Under Regulations 61 and 62 of the Habitats Regulations, local planning authorities as the 'competent authority' must have regard for any potential impact that a plan or project might have on European designated sites. The application site is not, itself, designated as a site of international, national or local importance to nature conservation but the urban area of Manningtree, Lawford and Mistley does abut the Stour Estuary which is designated as a Special Protection Area (SPA), a Ramsar Site and a Site of Special Scientific Interest (SSSI). As the application site is located within 2 kilometres of the Stour Estuary consideration needs to be given to potential indirect effects on the designated area that might result from the proposed development.

- 6.15 In response to the original outline planning application, Natural England highlighted specific concerns about the potential for 'recreational disturbance' to the protected habitat that might arise from the development and the associated increase in population and activity. Recreational disturbance is a significant problem for such habitats and can have a disastrous effect, in particular, on rare populations of breeding and nesting birds. Notable concerns include increased marine activity (boating, jet skiing etc) and people walking their dogs either within or close to the protected areas. Both activities can easily frighten birds that are breeding and nesting and can have an extremely detrimental impact on their numbers.
- 6.16 Natural England, in advising the Council on the potential impacts on the development and the need, or otherwise, for 'Appropriate Assessment' to comply with the Habitat Regulations, accepted the conclusions of the assessments submitted with the original outline application which cited, in particular, the considerable amount of recreational and informal open space to be proposed as part of the development – based on the indicative masterplan and parameters plan. With a reduction in the site area being proposed for green infrastructure, Natural England initially submitted a holding objection with concerns over the absence of sufficient information to assess the potential impact of the revised proposal. The applicants have since issued an addendum to the original Habitats Regulation Assessment and Natural England has confirmed that it no longer objects and that Appropriate Assessment will not be necessary.

Residential area

- 6.17 The original outline planning permission is for up to 300 dwellings and there is a specific planning condition that restricts dwellings numbers to that figure. To increase that figure, a new planning application would be required, which would have to be assessed on its own merits at the relevant time. There is no intention in the application to increase dwelling, but the significant increase in the area shown in the proposed plans for 'residential use including roads and associated infrastructure' would lend the scheme to either a significant reduction in housing density, or a future increase in housing numbers. Both Essex County Council as the Highway Authority and Babergh District Council as our neighbouring authority have expressed concern about the potential impact of increased dwelling numbers upon the transport network. At the time of writing, the Council had received a new outline application for the site seeking up to 500 dwellings and this was in the process of validation.
- 6.18 Considering housing density first, the total site area is approximately 23 hectares and the original application drawings made provision for around 9ha approximately of green infrastructure and 2 hectares of employment land. By implication, the residual area of around 13 hectares would accommodate the 300 homes and associated infrastructure at a net density of around 23 dwelling per hectare. This is a relatively low housing density but one that would be wholly appropriate for this semi-rural peripheral location. If the residential area is increased to around 16 hectares to reflect the proposed parameters plans, this would either suggest a reduction in the net density to around 19dph which is relatively low, but wholly appropriate for this peripheral location. As explained above, an increase in housing numbers would require a brand new planning application for the site and s106 requirements would need to be re-assessed.

Development height

- 6.19 The approved parameter plans for the original application showed different zones with the site where different maximum storey heights would apply. These showed a maximum of two storeys across the majority of the site, with 1-2 storeys on a small part of the site to the west and up to 2.5 storeys on central parts of the site surrounding a central open space. The revised plan simply shows the whole of the development area with a maximum of 2.5 storeys or up to 13 metres in height (which would be most applicable to the employment area).
- 6.20 This would prevent future development exceeding 2.5 storeys or 13 metres but would not prevent the Council from withholding planning permission at reserved matters stage if 2.5 storey or 13 metre buildings in certain parts of the site are considered inappropriate or harmful to the character and appearance of the area.

Employment area

- 6.21 The original parameter plans showed the 2 hectares of employment land in the south western corner of the site whereas the revised plan moves it to the south eastern corner. Subject to the detailed design of the commercial units being acceptable given the visually exposed nature of this corner of the site, the principle of locating the employment uses closer to the highway and in a position that allows better separation from the housing is acceptable.

Access via Clacton Road

- 6.22 The revised parameter plan shows the access point onto Clacton Road being approximately 60 metres further north than shown on the original version. This position is now shown as being roughly equidistant to the junctions of Clacton Road/Dead Lane and Clacton Road/Long Road/Trinity Road/New Road. Mistley Parish Council has raised concerns that this change might lead to a greater risk of queuing traffic, however Officers do not believe that moving the position of the junction will bring about such an issue.
- 6.23 As part of the original outline planning application, details were approved for the position and dimensions of the junction onto Long Road, but the junction onto Clacton Road was not approved in detail at that stage. The Highway Authority has not commented specifically on the re-positioning of the junction in response to this application for revised parameters plans, but it has provided detailed comments on the associated reserved matters application for the first phase of the development (which is currently under consideration) indicating no objection in principle.

Conclusion

- 6.24 This application seeks a variation to the parameters plans that will guide the approved development of up to 300 homes and 2 hectares of employment land at Long Road/Clacton Road, Mistley. There is no proposal to increase the number of homes or amount of commercial development going on the site through this application. Officers are however aware of a separate application seeking an increase in housing – but this will need to be determined on its own merits and need not influence the determination of this application.

- 6.25 Although it reduces the amount of open space on the site compared with what was originally proposed, it still significantly exceeds the 10% required by Local Plan policy and will be located in positions that mitigate the visual and landscape impact of the development whilst providing a considerable area for formal and informal recreation and ecological enhancement.
- 6.26 The repositioning of the access point along Clacton Road causes no concerns in terms of highway capacity or safety and the re-positioning of the employment land to the south eastern corner of the site is a sensible change in terms of securing more direct access and protecting residential amenity.
- 6.27 The application is recommended for approval. If the Committee accepts the recommendation, an outline planning permission will be granted with the relevant planning condition amended to reflect the change to the plans. The s106 legal agreement will also continue to apply to the new consent.

Background Papers

None.