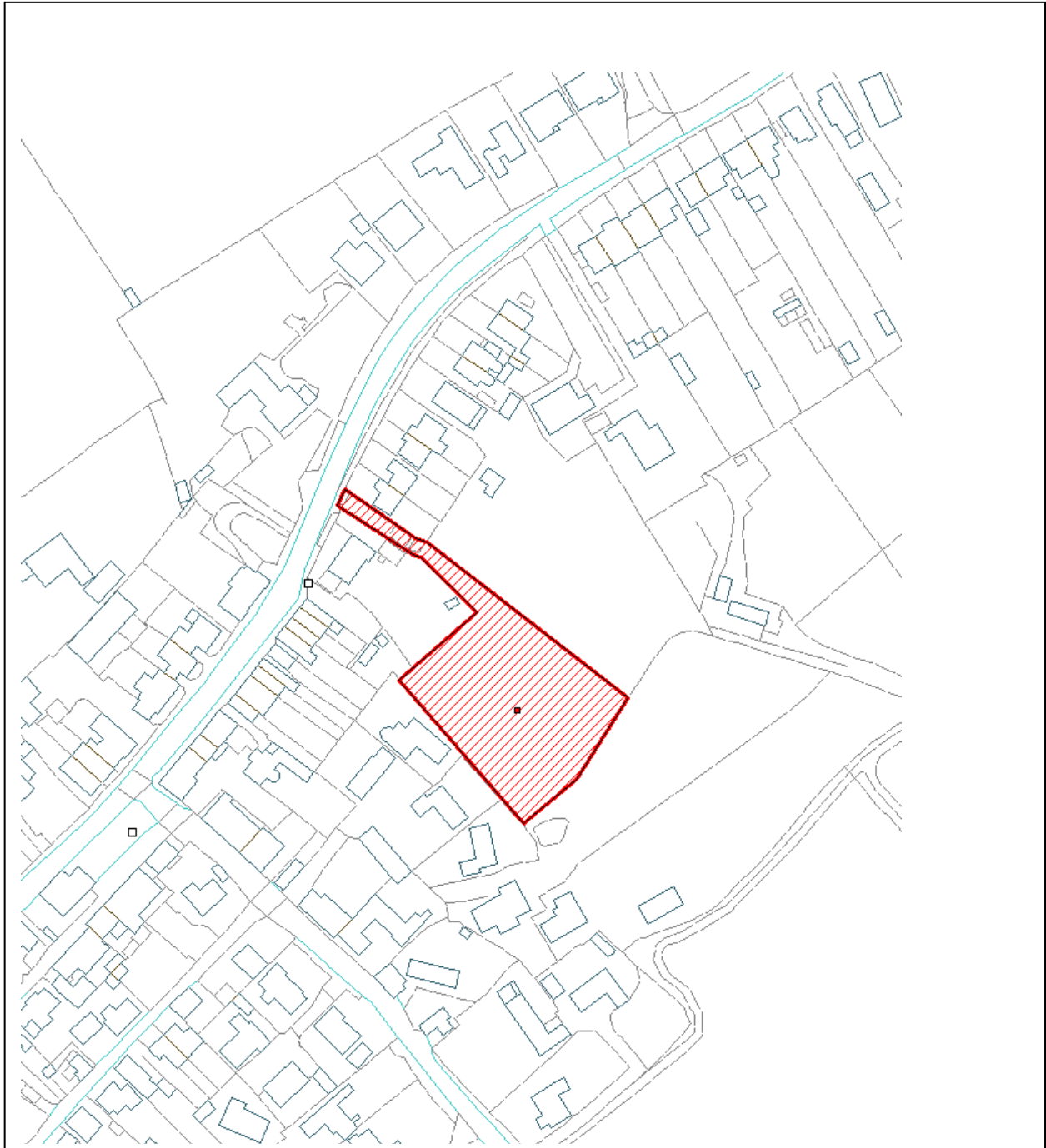


PLANNING COMMITTEE

4 JULY 2023

REPORT OF THE DIRECTOR OF PLANNING

A.2 PLANNING APPLICATION – 23/00255/DETAIL – LAND TO THE REAR OF MILL HOUSE HIGH STREET GREAT OAKLEY HARWICH CO12 5AQ



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Application:	23/00255/DETAIL	Expiry Date:	20th April 2023
Case Officer:	Michael Pingram	EOT Date:	11th July 2023
Town/ Parish:	Great Oakley Parish Council		
Applicant:	Mr Oliver Burfoot - Burfoot Homes Ltd		
Address:	Land to The rear of Mill House High Street Great Oakley, Harwich CO12 5AQ		
Development:	Reserved matters application for the erection of 5 no. four bedroom dwellings, considering details of access, appearance, landscaping, layout and scale, pursuant to outline planning permission 19/00004/OUT.		

1. Executive Summary

- 1.1 The application is before the Planning Committee following a call-in request from Councillor Bush, on the grounds that the layout and scale of the development will be harmful to the areas character, and will be harmful to the nearby heritage assets.
- 1.2 The principle of development for five dwellings was previously approved under planning permission 19/00004/OUT, and therefore the principle of 5no four bedroomed dwellings on this site is accepted.
- 1.3 While a low level of less than substantial harm has been identified in relation to the impacts to the nearby heritage assets, Officers consider that the public benefits of the proposal outweigh this low level of harm.
- 1.4 On balance Officers conclude that there is not significant harm to neighbouring amenities, and it is noted that no objections are raised by the Council's Tree and Landscape Officer, ECC Highways or ECC Place Services.

Recommendation: Approval

- 1) That the Planning Manager be authorised to grant reserved matters approval subject to the conditions as stated at paragraph 8.2, or varied as is necessary to ensure the wording is enforceable, precise, and reasonable in all other respects, including appropriate updates, so long as the principle of the conditions as referenced is retained; and,
- 2) The informative notes as may be deemed necessary.

2. Planning Policy

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

National:

National Planning Policy Framework July 2021 (NPPF)

National Planning Practice Guidance (NPPG)

Local:

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

- SP1 Presumption in Favour of Sustainable Development
- SP3 Spatial Strategy for North Essex
- SP4 Meeting Housing Needs
- SP7 Place Shaping Principles

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

- SPL1 Managing Growth
- SPL2 Settlement Development Boundaries
- SPL3 Sustainable Design
- HP5 Open Space, Sports & Recreation Facilities
- DI1 Infrastructure Delivery and Impact Mitigation
- LP1 Housing Supply
- LP2 Housing Choice
- LP3 Housing Density and Standards
- LP4 Housing Layout
- PPL2 Coastal Protection Belts
- PPL5 Water Conservation, Drainage and Sewerage
- PPL8 Conservation Areas
- PPL9 Listed Buildings
- PPL10 Renewable Energy Generation
- CP1 Sustainable Transport and Accessibility

Local Planning Guidance: Essex Design Guide

Status of the Local Plan

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

In relation to housing supply:

The Framework requires Councils boost significantly the supply of housing to meet objectively assessed future housing needs in full. In any one year, Councils must be able to identify five years of deliverable housing land against their projected housing requirements (plus an appropriate buffer to ensure choice and competition in the market for land, to account for any fluctuations in the market or to improve the prospect of achieving the planned supply). If this is not possible or if housing delivery over the previous three years has been substantially below (less than 75%) the housing requirement, Paragraph 11 d) of the Framework requires granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole (what is often termed the 'tilted balance').

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

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

3. Relevant Planning History

17/01109/OUT	Erection of 5 no. four bedroom dwellings.	Refused	31.08.2017
19/00004/OUT	Erection of 5 no. four bedroom dwellings.	Approved	10.03.2020

4. Consultations

Below is a summary of the comments received from consultees relevant to this application proposal. Where amendments have been made to the application, or additional information has been submitted to address previous issues, only the latest comments are included below.

All consultation responses are available to view, in full (including all recommended conditions and informatives), 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/>.

Essex County Council Heritage

25.03.2023 (initial comments)

The proposal site is within the setting of Great Oakley Conservation Area and of Grade II Listed Mill House. The rural, agrarian landscape is a defining feature of the Conservation Area's setting, enabling Great Oakley to be understood and appreciated as an isolated agricultural settlement which remained largely unchanged until the mid-twentieth century. Therefore, the open and undeveloped nature of the landscape makes an important contribution to the historic significance of the Great Oakley Conservation Area. Post war developments to the East of the High Street and towards the South of the Conservation Area have already eroded the historic agricultural setting of Great Oakley, therefore the proposed development would be considered to have a further additional impact on the significance of the Conservation Area. With regards to the National Planning Policy Framework (2021), the level of harm is considered to be 'less than substantial' and Paragraph 202 is relevant.

The principle of development for this site has however already been established with planning permission 19/00004/OUT for the construction of the erection of 5 four bedroom dwellings, therefore the following advise will only pertain scale, design and materials of the proposed development.

The proposed dwellings are considerably larger in footprint than the ones approved within planning application 19/00004/OUT. This enlarged scheme results in a more cramped and dense site with limited gardens which is not in keeping with the open character of the setting of the Conservation Area and Mill House.

Moreover, the proposed bungalows are a non-traditional building type for the Conservation Area and do not offer a bespoke response, in terms of design, to their historic context. While there are similar modern infills within the Conservation Area, these are considered unsympathetic to their surroundings and do not respond to the traditional palette of materials or design, detailing and fenestration, eroding the historic character and appearance of Great Oakley.

In their current form the proposal does not preserve those elements of the setting that make a positive contribution to the Conservation Area and to Grade II Listed Mill House as

designated heritage assets and which better reveal their significance (Paragraph 206 of the NPPF is relevant here). With regards to the National Planning Policy Framework (2021), the level of harm is considered to be 'less than substantial'. As such the local planning authority should weigh this harm against any public benefits of the proposal including, where appropriate, securing its optimum viable use as per Paragraph 202. Furthermore the proposed fail to make a positive contribution to local character and distinctiveness, as set out in Paragraph 197c of the NPPF.

I believe a more sympathetic development can be achieved here by designing the proposed dwellings in accordance with Essex Design Guideline principles and employing traditional vernacular materials such as clay pantiles, red brick, painted render and weatherboarding in order to preserve the character of the Conservation Area.

Essex County Council Heritage

16.05.2023 (following amended plans)

The application is for reserved matters for the erection of 5 no. four bedroom dwellings, considering details of access, appearance, landscaping, layout and scale, pursuant to outline planning permission 19/00004/OUT. This follows my previous advise dated 24th March 2023 and submission of revised drawings and specifications.

The proposal site is within the setting of Great Oakley Conservation Area and of Grade II Listed Mill House.

The revised proposal does not address the main concern regarding the scale of the proposed dwellings which are larger in footprint than the ones approved within planning application 19/00004/OUT. However, the layout of the proposed dwellings have now been simplified in a more holistic and subtle scheme and using traditional external materials which are more in keeping with the local character. This is considered to minimise the visual impact of the proposed development on the setting of the Conservation Area and of Grade II Listed Mill House.

There is no objection to this application.

ECC Highways Dept

13.03.2023

The information submitted with the application has been assessed by the Highway Authority and conclusions have been drawn from a desktop study with the observations below based on submitted material. A previous site visit was undertaken in conjunction with this planning application. The proposal is within an existing 30-mph speed limit with a generous footway/verge on the High Street, while the site provides adequate room and provision for off street parking and turning, for the development, considering these factors:

From a highway and transportation perspective the impact of the proposal is acceptable to Highway Authority subject to the following mitigation and conditions.

Officer Note: These conditions have been agreed in full and translated into appropriate condition wording to ensure they are reasonable, necessary, precise relevant and enforceable.

Essex County Council Ecology

23.03.2023

Thank you for consulting Place Services on the above reserved matters application.

No objection subject to securing:

- a) a proportionate financial contribution towards Essex Coast RAMS
- b) biodiversity mitigation and enhancement measures

Summary

We have reviewed the submitted information relating to the likely impacts of development on designated sites, protected and Priority species & habitats and identification of appropriate mitigation measures.

The site falls within the evidenced recreational Zone of Influence (ZOI) of Hamford Water Ramsar and SPA. Therefore, given the residential element of this development is relevant to the Essex Coast RAMS, we note that the LPA has prepared a project level HRA Appropriate Assessment to secure a per dwelling tariff by a legal agreement for delivery of visitor management measures at the designated sites. This will mitigate for predicted recreational impacts in combination with other plans and projects and avoid Adverse Effect on Integrity of the designated Habitat sites.

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

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

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

Tree & Landscape Officer

08.03.2023

There are no trees or other significant vegetation in the main body of the application site however the implementation of the proposed development may result in the removal of established coarse hedging on the southern side of the proposed new access.

The removal of this vegetation will not adversely affect the character of the area.

The location of the application site is such that it is 'tucked away' behind existing dwellings. Consequently, the development will not feature prominently in the public realm, nevertheless the applicant has provided details of soft landscaping, including tree planting, that will help to soften and enhance its appearance.

5. Representations

5.1 Great Oakley Parish Council object on the same basis they objected to the previous outline planning application. A summary of those previous concerns are as follows:

- The proposed development site is outside of any past, current or proposed housing development boundary for the village;
- At no time during the extensive consultation on the Emerging Local Plan has this site been put forward;
- The site sits within the Coastal Protection Belt;
- The development would require the demolition of at least one existing building within the curtilage of a Grade II Listed Building which would have a significant impact on the listed building's setting and the wider street scene; and

- The proposed access is narrow and would have a detrimental impact on vehicle movements in the already busy centre of the village.

5.2 There have been a further four letters of objection received, with the following concerns raised:

- Site is located in an area with risk of traffic congestion and potential accidents;
- Outside of a recognised Settlement Development Boundary;
- Site is within a Coastal Protection Belt and adjacent to a conservation area;
- Impacts to Grade II Listed Building;
- Harmful impacts to wildlife;
- Flooding risks due to drainage issues;
- Impact to neighbouring amenities; and
- Not enough soft landscaping;

6. **Assessment**

Site Description

- 6.1 The application site, which measures approximately 0.28 hectares, is roughly square in shape (bar the access into the site) and is located to the rear of Mill House, a Grade II Listed Building, and is currently a grassed area of land that has become slightly overgrown. The site is accessed via High Street, to the west of the site.
- 6.2 The character of the immediate surrounding area is urban in nature, with predominantly residential development along High Street to the west and Farm Road to the south. The wider character, however, is more rural with large areas of grassed and agricultural land to all sides.
- 6.3 The site predominantly falls adjacent to, but outside of, the Settlement Development Boundary for Great Oakley within the adopted Local Plan 2013-2033, with only the access being within. It also falls within a Coastal Protection Belt, and is adjacent to the Great Oakley Conservation Area.

Description of Proposal and Site History

- 6.4 Under planning reference 17/01109/OUT, in June 2017 an application was refused for five dwellings due to the site being outside of a recognised settlement development boundary, being in open countryside and harming the Coastal Protection Belt, and also due to a lack of an ecological survey. However, under appeal reference APP/P1560/W/18/3196781, the application was dismissed but only on the grounds of a lack of an ecological assessment. This remains a significant material consideration and further upheld by the following permission 19//00004/OUT
- 6.5 Following this, under planning reference 19/00004/OUT, outline planning consent was granted by Tendring District Council for five dwellings with all matters reserved. This current application is for the agreement of the remaining reserved matters as requested by the approval of the outline application, which are specifically access, appearance, landscaping, layout and scale.
- 6.6 Being reserved matters, principal issues allowing development on this site are no longer for consideration having been concluded under 19/00004/OUT. It is noted that representatives including the Parish Council have raised concerns on principle including settlement boundary and coastal belt, but principle decisions on these matters are not the proposal before Members.

Impact to Coastal Protection Belt

6.7 Adopted Policy PPL2 of the Tendring District Local Plan 2013-2033 seeks to protect the open character of the undeveloped coastline and refuse planning permission for development which does not have a compelling functional or operational requirement to be located there. Where development does have a compelling functional or operational requirement to be there, its design should respond appropriately to the landscape and historic character of its context and applicants will be required to demonstrate that any development proposals will be safe over their planned lifetime.

6.8 Within the previous appeal decision on this application site (reference APP/P1560/W/18/3196781) the Inspector clarified the following

“The majority of the site is very overgrown and surrounded by dense boundary vegetation. This restricts views to neighbouring properties and gardens to the north, east and south/south-west. As such, the site is very secluded and screened from the surrounding area. Moreover, it cannot be described as open countryside not only due to the density of vegetation but also due to surrounding residential plots. The nearest field to the south-east is separated from the site by a garden and paddock for Acorn Cottage and Oak House, with hedging adjacent to the field preventing views to and from the site. As a consequence, the site’s contribution to the countryside and rural character of the area surrounding Great Oakley, including the Coastal Protection Belt, is very limited. It does not provide an important transition from village to countryside.”

6.9 Taking the above comments from the Appeal Inspector into consideration based on the outline permission, Officers do not raise any objections to the development in relation to impacts to the Coastal Protection Belt and the position is considered unchanged given the merits of the reserved matters before Members.

Scale, Layout, Design and Appearance

6.10 Paragraph 130 of the NPPF (2021) requires that developments are visually attractive as a result of good architecture, are sympathetic to local character, and establish or maintain a strong sense of place.

6.11 Policy SP7 of the 2013-33 Local Plan seeks high standards of urban and architectural design which responds positively to local character and context, and to protect the district's landscape and the quality of existing places and their environs. Policy SPL3 and LP4 of the 2013-33 Local Plan also require, amongst other things, that developments deliver new dwellings that are designed to high standards and which, together with a well-considered site layout which create a unique sense of place. These policies apply and are given full weight in terms of the reserved matters.

6.12 Following the submission of amended plans, there are a total of five detached properties, all of which are single storey and served by three bedrooms, accessed via a new access point to the northern corner of the site off High Street. While no details were provided within the previous outline planning consent, Officers acknowledge that an indicative layout was provided that showed two dwellings on the northern side of the application site and three dwellings to the southern section. This has broadly been followed within the current submission. Given this, that there are reasonable separation distances between the proposed plots, and that the development adjacent to the south-west and south does not follow a set pattern, Officers do not raise any objections to the proposed layout.

6.13 In respect of the scale of the dwellings, it is noted that the development to the south/south-west consist of 1.5 and two storey properties, while the dwellings along High Street are predominantly two storey. The proposed development consists of single storey properties, and given the above is not necessarily in accordance with the existing scale of development. However, given that the site is located to the rear of all existing development, with only partial views via High Street

possible, the five proposed dwellings would not be seen in the same context as the surrounding development. Therefore, on balance, Officers do not consider that this small level of identified harm is sufficient to justify recommending a reason for refusal.

- 6.14 As above, during the course of the determination of the application, amended plans have been provided to show a revised design. The plans show two design types overall, although both are single storey, and each includes features that help break up the overall bulk of the development, notably front gables, window and brick features and a good use of traditional materials. Given this, there are no objections raised in terms of the design proposed.
- 6.15 In addition, there is considered to be sufficient levels of private amenity space for all five new dwellings, thereby according with Policy LP4 which states amenity space should be of a size and configuration that meets the needs and expectations of residents, and which is commensurate to the size of the dwelling and the character of the area.
- 6.16 Furthermore, Officers note that the application site is located to the rear of the established built form along High Street and represents a form of backland development. Adopted Policy LP8 outlines a series of criterion that should be met within such proposals, including sufficient private amenity space for existing dwellings, the need for a safe and convenient means of vehicular/pedestrian access, the avoidance of long and narrow driveways, the avoidance of tandem development, and avoiding development on awkwardly shaped plots and such developments that would be out of character or provide a hard urban edge to a settlement. On this occasion, whilst Officers acknowledge this policy and the criterion contained within, it is noted that the principle of five dwellings on this application site has previously been granted outline planning consent, and it was previously addressed that given the proximity of other nearby recent developments the development would not look out of keeping or set a harmful precedent.

Heritage Impacts

- 6.17 Adopted Policy PPL8 states that new development within a designated Conservation Area, or which affects its setting, will only be permitted where it has regard to the desirability of preserving or enhancing the special character and appearance of the area. This repeats in part the provisions of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended. Given the “or” the minimum requirement is normal to preserve the character of the conservation area. Tending has accepted this is possible in principle for five dwellings as indicated under the Outline this reserved matters relates.
- 6.18 Adopted Policy PPL9 (Listed Buildings) states that proposals for new development affecting a listed building or its setting will only be permitted where they will protect its special architectural or historic interest, its character, appearance and fabric' although the Plan recognises that the scope for a listed building to adapt to modern life and requirements will itself depend upon a number of considerations and it will not always be possible to incorporate modern design solutions without also causing harm to its special character fabric, or appearance.
- 6.19 The application site falls adjacent to the Great Oakley Conservation Area, and is adjacent to a series of Listed Buildings, notably Mill House, a Grade II Listed Building to the north-west of the site. Accordingly, ECC Place Services (Heritage) have been consulted on this application, and initially raised an objection on the grounds that the scheme would result in a more cramped and dense site with limited gardens which is not in keeping with the open character of the setting of the Conservation Area and Mill House. In addition, the proposed bungalows were a non-traditional building type for the Conservation Area and do not offer a bespoke response, in terms of design, to their historic context.
- 6.20 In order to address these comments, the agent for the application provided revised plans which have amended the external appearance of the dwellings, incorporating more traditional

materials. Following this ECC Place Services (Heritage) were re-consulted and provided the following comments:

“The revised proposal does not address the main concern regarding the scale of the proposed dwellings which are larger in footprint than the ones approved within planning application 19/00004/OUT. However, the layout of the proposed dwellings have now been simplified in a more holistic and subtle scheme and using traditional external materials which are more in keeping with the local character. This is considered to minimise the visual impact of the proposed development on the setting of the Conservation Area and of Grade II Listed Mill House.

There is no objection to this application.”

- 6.21 Taking all of the above comments into consideration, while the revised plans have reduced the level of harm that was initially identified, it is not removed entirely. Officers therefore consider that there will be a low level of less than substantial harm to the setting of the adjacent heritage assets, and accordingly it is important to assess this level harm against the public benefits of the scheme. On this occasion, Officers note that five dwellings have been previously approved on this site, amendments have been sought during the lifetime of the application to provide for a more suitable appearance, and there will be additional benefits via the occupants of the proposed dwellings utilising local services. As such, the harm identified is to a minor level of less than substantial, and there are some public benefits that the proposal will provide which, on balance, outweigh the low level of harm. Accordingly, Officers do not raise an objection on these grounds.

Impact to Neighbours

- 6.22 Paragraph 130 of the National Planning Policy Framework (2021) confirms planning policies and decisions should 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.
- 6.23 Policy SP7 of Section 1 of the 2013-33 Local Plan requires that the amenity of existing and future residents is protected. Section 2 Policy SPL 3 (Part C) seeks to ensure that development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties.
- 6.24 The application site is surrounding by existing residential properties to the north, south and west in particular, and a key consideration of this application is the impact of the proposal to existing amenities.
- 6.25 On this occasion, while the five dwellings will be visible to some neighbouring properties, particularly the occupants of ‘The Conifers’, ‘Maple House’ and ‘Holly Cottage’ to the south, it is noted that all of the properties are single storey. Within the previous outline permission, while not a material consideration at that time, the dwellings were described as ‘four bedroom dwellings’, which suggests they were likely to be two storey properties. In this context, the single storey nature of the dwellings now represents an improvement to the previous indicative layout. Officers acknowledge that due to approximate separation distances ranging between 6 and 13 metres to the south facing properties, there will be a degree of harm in terms of the dwellings appearing oppressive, however the weight afforded to this is significantly reduced due to them being single storey and thereby resulting in no overlooking and no significant loss of daylight/sunlight.
- 6.26 In addition, a garage measuring 5 metres in height is sited close to the southern boundary (set forward from it by approximately 1 metre). However, given the garage has a pitched roof, is approximately 2.7 metres from the property itself, and that any impact would not be to an area that would likely be used as private amenity space, while it will be visible the harm outlined is not considered to be to a significantly harmful level.

- 6.27 With respect to other nearby residential properties, particularly those along the High Street to the north and west, there is significant separation distances to ensure there will not be any significant harm to existing amenities.

Tree and Landscape Impacts

- 6.28 The Council's Tree and Landscapes Officer has been consulted, and initially stated the following:

“There are no trees or other significant vegetation in the main body of the application site however the implementation of the proposed development may result in the removal of established coarse hedging on the southern side of the proposed new access.

The removal of this vegetation will not adversely affect the character of the area.

The location of the application site is such that it is 'tucked away' behind existing dwellings. Consequently, the development will not feature prominently in the public realm, nevertheless the applicant has provided details of soft landscaping, including tree planting, that will help to soften and enhance its appearance.”

- 6.29 Accordingly, no objections are raised in this regard.

Highway Safety

- 6.30 Paragraph 110 of the National Planning Policy Framework 2021 seeks to ensure that safe and suitable access to a development site can be achieved for all users, whilst Paragraph 104 requires that streets, parking and other transport considerations are integral to the design of schemes, and contribute to making high quality places.
- 6.31 Adopted Policy CP1 (Sustainable Transport and Accessibility) of the Tendring District Local Plan 2013-2033 states that planning permission will only be granted if amongst other things; access to the site is practicable and the highway network will be able to safely accommodate the additional traffic the proposal will generate and the design and layout of the development provides safe and convenient access for people.
- 6.32 Essex Highways Authority, upon consultation, have stated they raise no objections subject to conditions relating to visibility splays, the use of no unbound materials, no discharge of surface water onto the highway, and vehicle parking and turning areas.
- 6.33 Furthermore, the Essex County Council Parking Standards (2009) set out the parking requirements for new development, and confirm that for residential properties of three bedrooms there should be two parking space measuring a minimum of 5.5 metres x 2.9 metres or, if being used as one of the parking spaces, a garage should measure a minimum of 7 metres x 3 metres. The site layout demonstrates this is achievable for all of the new dwellings.

Impact on Protected Species

- 6.34 Paragraph 174 of the Framework states planning decisions should contribute to and enhance the natural and local environment, by minimising impacts and providing net gains for biodiversity.
- 6.35 Paragraph 180(a) of the NPPF confirms that in assessing planning applications where significant harm to biodiversity as a result of a development cannot be avoided, adequately mitigated or, as a last resort, compensated for, then planning permission should be refused.

- 6.36 Adopted Policy SP7 requires that all new development should incorporate biodiversity creation and enhancement measures. Adopted Policy SPL3 Part A(d) includes that the design and layout of development should maintain or enhance ecological value.
- 6.37 ECC Place Services (Ecology) have been consulted and have stated they are satisfied that there is sufficient ecological information available for determination of this application, and raise no objections subject to securing mitigation and enhancement measures. In addition, Officers note that within the outline planning consent, an Ecological Impact Assessment Report was submitted, and Condition 7 of that consent requires the suggested mitigation/enhancement measures to be adhered to and Condition 8 requires the submission of a Biodiversity Enhancement Layout.

Other Considerations

- 6.38 A legal agreement has previously been agreed within the outline planning permission to secure financial contributions towards RAMS and Open Space.

7. Conclusion

- 7.1 The principle of development for five dwellings was previously allowed under planning permission 19/00004/OUT, and therefore the principle of five dwellings on this site is accepted. A previous appeal decision on the application site has confirmed such a development provides no harmful impact to the Coastal Protection Belt, and ECC Highways and ECC Place Services (Ecology) have raised no objections.
- 7.2 While a low level of less than substantial harm has been identified in relation to the impacts to the nearby heritage assets, on this occasion Officers consider that the public benefits of the proposal outweigh this low level of harm, but this is still harm in the planning balance.
- 7.3 Officers acknowledge the five proposed dwellings will be visible to the nearby residential properties, notably those along the southern boundary. However, the single storey nature of the dwelling significantly reduces this identified harm to amenity, and on balance Officers do not raise an objection on these grounds.
- 7.4 Taking all of the above into consideration, the proposed development is considered to be compliant with both local and national planning policies taken as a whole, and is therefore recommended for approval.

8. Recommendation

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

8.2 Conditions and Reasons

1 COMPLIANCE REQUIRED: COMMENCEMENT TIME LIMIT

CONDITION: The development hereby permitted shall be begun not later the expiration of three years from the date of this permission.

REASON: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

NOTE/S FOR CONDITION:

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

2 APPROVED PLANS & DOCUMENTS

CONDITION: 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 Numbers 001, 002 (received 27th April 2023), 003 (received 27th April 2023), 004 (received 27th April 2023), 005 (received 27th April 2023), 006 (received 27th April 2023), 007 (received 27th April 2023) and 008 (received 27th April 2023).

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

NOTE/S FOR 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.

- 3 CONDITION: Prior to first use of the access, visibility splays shall be provided with a minimum 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, and shall then be retained in its approved form. Notwithstanding the provisions of Part 2 Class A of the Town & Country Planning (General Permitted Development)(England) Order 2015 (or any Order revoking and

re-enacting that Order with or without modification) no obstruction over 0.6 metres high shall be erected, constructed, planted or permitted to grow within the areas of the visibility splays.

REASON: To ensure vehicles exiting the access would have sufficient visibility to enter the public highway safely and vehicles on the public highway would have sufficient warning of a vehicle emerging in order to take avoiding action.

NOTE/S FOR CONDITION:

It is an OFFENCE to carry out works within the public highway, which includes a Public Right of Way, without the permission of the ECC Highway Authority. Any conditions which involve work within the limits of the public highway do not give the applicant permission to carry them out. Unless otherwise agreed in writing all works within the public highway shall be carried out by Essex County Council or its agents at the applicant's expense.

- 4 CONDITION: Prior to first occupation of the development, 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 hereby permitted 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.

- 5 CONDITION: The access hereby approved shall have a bound material surface and shall be laid out for a minimum distance of 5 metres from the edge of the carriageway prior to first use. The bound material as implemented shall then be retained thereafter.

REASON: In the interests of highway safety to prevent hazards caused by loose materials on the highway.

NOTE/S FOR CONDITION:

Carriageway is the part of a road intended for vehicles rather than pedestrians normally define by kerb if available or edge of a bound surface. It is an OFFENCE to carry out works within the public highway, which includes a Public Right of Way, without the permission of the ECC Highway Authority. Any conditions which involve work within the limits of the public highway do not give the applicant permission to carry them out. Unless otherwise agreed in writing all works within the public highway shall be carried out by Essex County Council or its agents at the applicant's expense.

- 6 CONDITION: Prior to the commencement of any works to the access, details of the means to prevent the discharge of surface water from the development onto the public highway shall be submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority. The approved scheme shall be carried out in its entirety prior to the first use of the access and shall then be retained in the approved form.

REASON: To prevent hazards caused by flowing water or ice on the highway.

- 7 CONDITION: Prior to the first occupation of the development, details of a vehicular turning facility shall be approved, in writing, by the Local Planning Authority. The turning facility shall be constructed, surfaced and thereafter maintained free from obstruction within the site at all times for vehicular use only.

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

8.3 Informatives

Positive and Proactive Statement:

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

Highways Informatives:

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

2: Near to the proposed vehicular access there is an existing gully and manhole cover; these will need to be relocated/ lowered as part of these works.

Any relocation of the gully/ manhole cover would need to be discussed with the Development Management Team prior to works starting on site and all costs will need to be met by the applicant.

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

4: The Highway Authority cannot accept any liability for costs associated with a developer's improvement. This includes design check safety audits, site supervision, commuted sums for maintenance and any potential claims under Part 1 and Part 2 of the Land Compensation Act 1973. To protect the Highway Authority against such compensation claims a cash deposit or bond may be required.

5: 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 collaborating with partners to achieve specific goals by 2030, including net zero carbon development. All those active in the development sector should have regard to these goals and applicants are invited to sign up to the Essex Developers' Group Climate Charter [2022] and to view the advice contained in the Essex Design Guide. Climate Action Advice guides for residents, businesses and schools are also available.

9. Additional Considerations

Public Sector Equality Duty (PSED)

- 9.1 In making your decision you must have regard to the PSED under section 149 of the Equality Act 2010 (as amended). This means that the Council must have due regard to the need in discharging its functions to:

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

Human Rights

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

Finance Implications

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

10. Background Papers

- 10.1 In making this recommendation, officers have considered all plans, documents, reports and supporting information submitted with the application together with any amended documentation. Additional information considered relevant to the assessment of the application

(as referenced within the report) also form background papers. All such information is available to view on the planning file using the application reference number via the Council's Public Access system by following this link <https://idox.tendringdc.gov.uk/online-applications/>.