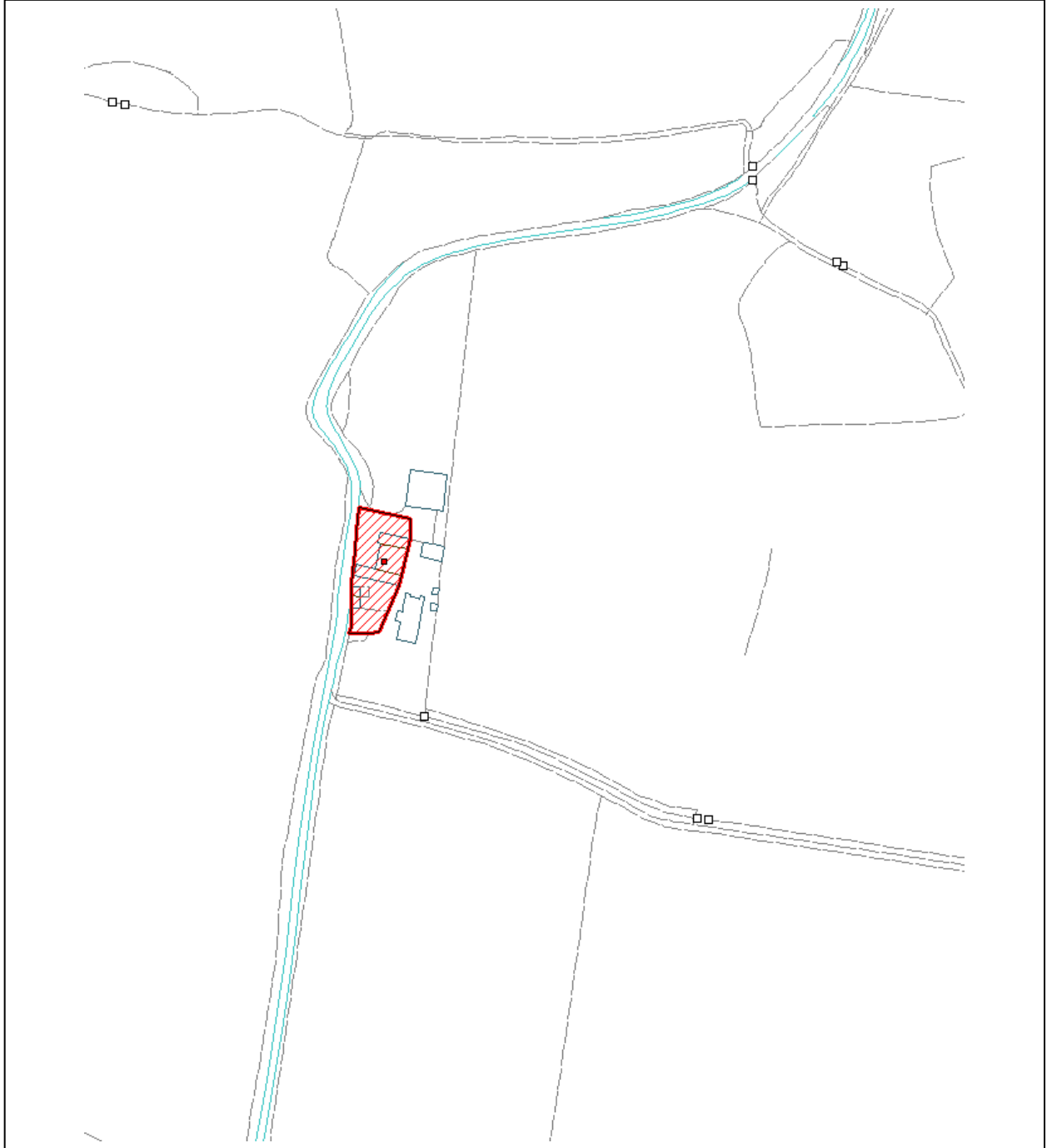


**PLANNING COMMITTEE**

**4<sup>th</sup> JULY 2023**

**REPORT OF THE DIRECTOR OF PLANNING**

**A.3 PLANNING APPLICATION – 22/01138/FUL – STONEHALL FARM BUILDINGS STONEHALL LANE GREAT OAKLEY HARWICH CO12 5DD**



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<b>Application:</b>	22/01138/FUL	<b>Expiry Date:</b>	20th September 2022
<b>Case Officer:</b>	Michael Pingram	<b>EOT Date:</b>	11 <sup>th</sup> July 2023
<b>Town/ Parish:</b>	Great Oakley Parish Council		
<b>Applicant:</b>	Mr and Mrs Brown		
<b>Address:</b>	Stonehall Farm Buildings Stonehall Lane Great Oakley Harwich CO12 5DD		
<b>Development:</b>	Proposed erection of 3no. dwellings (in lieu of Prior Approval for three dwellings, subject of application 21/00788/COUNOT).		

## 1. Executive Summary

- 1.1 The application is referred to Planning Committee as the proposed development would conflict with the requirements of the Development Plan, principally Policy SPL2 (Settlement Development Boundaries) of the Tendring District Local Plan 2013-2033 and Beyond Section 2 (adopted January 2022) being located outside of any defined settlement development boundary and has a recommendation of approval.
- 1.2 The proposed dwellings are sited in slightly different locations and result in a combined total of 65.5sqm additional footprint, however this is not considered to be materially different to the development approved under prior approval 21/00788/COUNOT. The overall height of Plots 1 and 2 are broadly the same as the existing building, with Plot increased but not to a significant extent.
- 1.3 There are no significant issues in respect to neighbouring amenities or harm to trees, and there is sufficient parking provision. In addition, no objections are raised by ECC Ecology subject to conditions. Whilst ECC Highways have objected on the grounds there is a lack of visibility splays information, due to the nature of the site and potential level of activity the existing use provides, as well as the fallback position, it is not considered the impact on the local highway network would be significantly harmful.

### **Recommendation:** Approval

- 1) That the Planning Manager be authorised to grant planning permission subject to the agreed section 106 agreement and 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

SP2 Recreational disturbance Avoidance and Mitigation Strategy (RAMS)

SP3 Spatial Strategy for North Essex

SP7 Place Shaping Principles

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

SPL1 Managing Growth

SPL3 Sustainable Design

LP1 Housing Supply

LP2 Housing Choice

LP3 Housing Density and Standards

LP4 Housing Layout

PPL3 The Rural Landscape

PPL4 Biodiversity and Geodiversity

PPL5 Water Conservation, Drainage and Sewerage

PPL10 Renewable Energy Generation

HP5 Open Space, Sports & Recreation Facilities

DI1 Infrastructure Delivery and Impact Mitigation

CP1 Sustainable Transport and Accessibility

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

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**

21/00788/COUNOT	Proposed change of use from agricultural buildings into three dwellings.	Prior Approval not required	15.06.2021
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### 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/>.

#### **Environmental Protection**

**12.08.2022**

Contaminated Land: Given the site and surrounding areas historical use for agriculture, we are requesting a Watching Brief be conditioned and adhered to throughout the demolition and construction phase - We request that the LPA are contacted in the event of unexpected ground conditions being encountered during construction and that the below minimum precautions are undertaken until such time as the LPA responds to the notification. I would also advise that the developer is made aware that the responsibility for the safe development of the site lies with them.

Minimum requirements for dealing with unexpected ground conditions being encountered during construction.

1. All site works at the position of the suspected contamination will stop and the Local Planning Authority and Environmental Health Department will be notified as a matter of urgency.

2. A suitably trained geo-environmental engineer should assess the visual and olfactory observations of the ground and the extent of contamination and the Client and the Local Authority should be informed of the discovery.
3. The suspected contaminated material will be investigated and tested appropriately in accordance with assessed risks. The investigation works will be carried out in the presence of a suitably qualified geo-environmental engineer. The investigation works will involve the collection of solid samples for testing and, using visual and olfactory observations of the ground, delineate the area over which contaminated materials are present.
4. The unexpected contaminated material will either be left in situ or be stockpiled (except if suspected to be asbestos) whilst testing is carried out and suitable assessments completed to determine whether the material can be re-used on site or requires disposal as appropriate.
5. The testing suite will be determined by the independent geo-environmental specialist based on visual and olfactory observations.
6. Test results will be compared against current assessment criteria suitable for the future use of the area of the site affected.
7. Where the material is left in situ awaiting results, it will either be reburied or covered with plastic sheeting.
8. Where the potentially contaminated material is to be temporarily stockpiled, it will be placed either on a prepared surface of clay, or on 2000-gauge Visqueen sheeting (or other impermeable surface) and covered to prevent dust and odour emissions.
9. Any areas where unexpected visual or olfactory ground contamination is identified will be surveyed and testing results incorporated into a Verification Report.
10. A photographic record will be made of relevant observations.
11. The results of the investigation and testing of any suspect unexpected contamination will be used to determine the relevant actions. After consultation with the Local Authority, materials should either be:
  - o re-used in areas where test results indicate that it meets compliance targets so it can be re-used without treatment;
  - o treatment of material on site to meet compliance targets so it can be re-used;
  - o removal from site to a suitably licensed landfill or permitted treatment facility.
12. A Verification Report will be produced for the work.

Construction Activities: In order to minimise potential nuisance caused by demolition/construction works, Environmental Protection recommend that the following below is conditioned;

- No vehicle connected with the works to arrive on site before 07:30 or leave after 19:00 (except in the case of emergency). Working hours to be restricted between 08:00 and 18:00 Mondays to Saturdays (finishing at 13:00 on Saturdays) with no working of any kind permitted on Sundays or any Public/Bank Holiday whilst construction works and alterations are being carried out.
- No materials produced as a result of the site development or clearance shall be burned on site.
- No dust emissions should leave the boundary of the site

Adherence to the above condition will significantly reduce the likelihood of public complaint and potential enforcement action by Pollution and Environmental Control. The condition gives the best practice for Demolition and Construction sites. Failure to follow them may result in enforcement action under nuisance legislation (Environmental Protection Act 1990), or the imposition of controls on working hours (Control of Pollution Act 1974).

REASON: to protect the amenity of nearby residential premises

INFORMATIVE

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

REASON: to protect the health of site workers and end users

#### INFORMATIVE

Foul Drainage: The submitted Planning Statement advises a Sewerage Treatment Plant will be utilised as a way of disposing of foul waste; we would request, should the application be approved, that the Applicant / Agent, ensure the installation is fully compliant with the Environment Agency's Binding Rules and any other relevant Government guidance and British standards, in respect of these systems. Information on this can be found at: Septic tanks and treatment plants: permits and general binding rules: The general binding rules - GOV.UK ([www.gov.uk](http://www.gov.uk)). It is strongly recommended these rules are complied with, as they will minimise any potential nuisance to nearby residential dwellings, assist in preventing a potential Public Health nuisance, and minimise the potential for adverse incidents, of which may result in formal enforcement action.

REASON: to protect the health of residents and nearby residential premises

#### **Essex County Council Archaeology**

**31.03.2023**

The buildings proposed for demolition as part of the development are historic farm buildings associated with Stonehall Farm. The earliest building is depicted on the Tithe Map of c.1840 and fronts Stonehall Lane, this was formerly part of a larger range of agricultural buildings depicted on the Tithe Map at a time when the house was located to the north with the farmstead located to its west. The earlier ranges of farm buildings had been replaced by the U shaped range by the late 19th century following the demolition of the earlier farm house and its relocation to the south. The earlier farm building is of timber frame while the later 19th century ranges are brick built.

Recent work published in the East Anglian Archaeology: Research and Archaeology: A Framework for the Eastern Counties 2. Research Agenda and Strategy states that the East Anglian Farmstead (1750-1914) are a crucial, but understudied component of the East Anglian Landscape. The area was of major international importance in the development of the 'Victorian High Farming tradition' when new ideas culminated in significant alterations in the design and layouts of buildings. The demolition of the farm buildings will ultimately result in the total loss of any surviving historic fabric and features.

NPPF paragraph 205 requires developers to record and advance understanding of the significance of any heritage assets to be lost (wholly or in part) in a manner proportionate to their importance and the impact, and to make this evidence (and any archive generated) publicly accessible. In accordance with paragraph 205 of the NPPF it is therefore important that a Level 2 historic building record is made before demolition takes place.

The following conditions are recommended in line with the National Planning Policy Framework:

1. No demolition or development of any kind shall take place until the applicant has secured the implementation of a programme of historic building recording in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the planning authority.

2. The applicant will submit a historic buildings report which has been submitted and approved by the local planning authority and deposition of a digital archive with the Archaeological Data Service (ADS).

A professional historic building specialist should undertake any fieldwork. A brief detailing the requirements can be produced from this office. The District Council should inform the applicant of the recommendation and its financial implications.

**ECC Highways Dept**

**02.05.2023**

The information submitted with the application has been assessed and conclusions have been drawn from a desktop study with the observations below based on the submitted material. It is noted that the existing buildings are to be demolished. The proposals dwellings will each have a separate vehicular access that joins Stonehall Lane, classed as a local road, under the County's Route Hierarchy, however:

From a highway and transportation perspective the impact of the proposal is NOT acceptable to the Highway Authority for the following reasons:

It is noted that each dwelling will have a new vehicular access and there is a lack of information on what visibility splay can be achieved for each vehicular access and whether the visibility splays can be provided within land in the control of the applicant or within the extent of the public highway.

Were the applicant to submit additional information as detailed below, the Highway Authority would be able to consider the planning application further:

1. A scale drawing showing the full extent of the visibility splays proposed. The splays should be based on the posted speed limit or the 85th percentile vehicle speed ascertained from a speed survey. Extent of highway should be coloured (see item 3 below)

2. The results of a speed survey if one is conducted to establish the required visibility should be provided in the supporting information.

3. The results of a formal extent of highway search (including the covering letter and/or email) as sourced from <https://www.essexhighways.org/transport-and-roads/highway-schemes-and-developments/adoptions-and-land/highway-status-enquiries.aspx> (any problems with online payment/filling in the form the applicant should email [highway.status@essexhighways.org](mailto:highway.status@essexhighways.org) who process the requests)\*

\*Where there is a roadside ditch or pond, that ditch or pond (even if it has been piped or infilled) would not in the majority of circumstances form part of the highway. Often, roadside ditches, which are apparent on the ground are not indicated on the Ordnance Survey Mapping. The same applies to historic ditches. Therefore, any ditches (including historical) and ponds should also be marked on the drawing.

The proposal is therefore contrary policies DM1, DM4 and DM7 contained within the County Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

Informative:

- 1: It would appear for each vehicular access there is a setback distance of less than 2 metres as measured from and along the nearside edge of the carriageway due to the proposed building

line for plots 1, 2 and 3, the minimum setback distance the Highway Authority would want to see is 2.4 metres.

2: Visibility splays must be achieved within the limits of public highway and/or land in the control of the applicant.

3: In addition, if the applicant were to base the visibility splays on a speed survey a Site Access as Proposed Layout Plan, shall be provided, which shows the appropriate clear to ground visibility splays in both directions with a minor or "X" distance of 2.4 metres by "Y" distance:

a. "Y" distance appropriate for vehicle speeds travelling along Stonehall Lane on the approach to the proposed access (vehicles approaching from the north) as determined from the outcome of the speed survey for the measured 85th percentile speeds.

b. "Y" distance appropriate for vehicles travelling along Stonehall Lane on the non-approach to the proposed access (vehicles approaching from the south) as determined from the outcome of the speed survey for the measured 85th percentile speeds.

c. The location points of the speed measurement must be shown on a Site Layout Plan.

Each visibility splay shall be measured from and along the nearside edge of the carriageway in both directions for each access.

The Highway Authority reserves making a recommendation until such time as the above information has been considered and provided.

**Tree & Landscape Officer**

**27.03.2023**

No trees or other vegetation will be adversely affected by the development proposal.

At the present time the existing structures are agricultural in their design and appearance and are in keeping with the rural character of the area.

In terms of the impact of the development proposal on the character and appearance of the area it is considered that the retention and renovation of the existing structures would be more in keeping with the rural character of the area than their demolition and replacement with 3 new dwellings.

The harm caused, to the character of the locality, by the proposed development cannot be satisfactorily ameliorated by soft landscaping.

**UU Open Spaces**

**20.04.2023**

Public Realm Assessment

Play Space - current deficit:

Deficit of 0.76 hectares of equipped play in Great Oakley

Formal Play - current deficit:

Adequate formal open space in the area to cope with some future development

Settlement provision:

Orchard Close/School Lane Play area 3.8 miles

Officer Conclusions and Recommendations

Contribution necessary, related, and reasonable to comply with CIL Regs



No contribution is being requested on this occasion.

Identified project:  
N/A

**ECC Ecology**

**06.06.2023**

Thank you for consulting Place Services on the above application.

Holding objection due to insufficient ecological information on European Protected Species (bats).

**Summary**

We have reviewed the documents supplied by the applicant, relating to the likely impacts of development on designated sites, protected & Priority species and habitats and identification of proportionate mitigation.

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 Habitats sites.

We are not satisfied that there is sufficient ecological information available for determination of this application. This is because no ecological information has been submitted in support of this application and the demolition of the agricultural buildings could impact upon bats (European Protected Species). If present, bats would be affected so therefore, the LPA does not have certainty of the likely impacts to protected species nor any mitigation to avoid impacts and potentially leading to an offence of disturbing or destroying bats or their roost.

Therefore, we recommend that a Preliminary Roost Assessment for bats should be undertaken by a suitably qualified ecologist to inform the need for any further bat surveys and, if necessary, mitigation & compensation for impacts from this application. This type of inspection can be undertaken at any time of year. Mitigation measures may need to be secured by a condition of any consent or a mitigation licence from Natural England.

To fully assess the impacts of the proposal the LPA need ecological information for the site, particularly for bats, European Protected Species. These surveys are required prior to determination because Government Standing Advice indicates that you should "Survey for bats if the area includes buildings or other structures that bats tend to use or there are trees with features that bats tend to use nearby".

The results of these surveys are required prior to determination because paragraph 99 of the ODPM Circular 06/2005 highlights that: "It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision."

This information is therefore required to provide the LPA with certainty of impacts on legally protected species and be able to secure appropriate mitigation either by a mitigation licence from Natural England or a condition of any consent. This will enable the LPA to demonstrate

compliance with its statutory duties, including its biodiversity duty under s40 NERC Act 2006 and prevent wildlife crime under s17 Crime and Disorder Act 1998.

Additionally, no biodiversity enhancement measures are identified in the documents provided. We recommend that, to secure net gains for biodiversity, as outlined under Paragraph 174d of the National Planning Policy Framework 2021, reasonable biodiversity enhancement measures will need to be provided.

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

We look forward to working with the LPA and the applicant to receive the additional information required to support a lawful decision and overcome our holding objection.

**ECC Ecology**

**16.06.2023**

Thank you for re-consulting Place Services on the above application.

No objection subject to securing:

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

**Summary**

Further to our comments on the 6th June 2023, we have reviewed the Preliminary Ecological Appraisal (Author, Date) and Ecological Impact Assessment (Liz Lord Ecology, June2022) 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 Essex Coast RAMs. Therefore, given the residential element of this development, we note that the LPA has prepared a project level HRA Appropriate Assessment to secure a per dwelling tariff by a legal agreement for delivery of visitor management measures at the designated sites. This will mitigate for predicted recreational impacts in combination with other plans and projects and avoid Adverse Effect on Integrity of the designated Habitats sites.

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.

The mitigation measures identified in the Ecological Impact Assessment (Liz Lord Ecology, June2022) should be secured by a condition of any consent and implemented in full. This is necessary to conserve and enhance protected and Priority species particularly Great Crested Newts and nesting birds.

We note that the Ecological Impact Assessment (Liz Lord Ecology, June2022), identifies day roosts for Common Pipistrelle, Soprano Pipistrelle, and Brown Long Eared bats at Plots 1, 2, and 3. Therefore, as outline mitigation has been included within the Ecological Impact Assessment (Liz Lord Ecology, June2022), the LPA can consider that there is sufficient certainty to the likely impacts to bats. Therefore, a mitigation licence must be applied for through Natural England and a copy of this licence should be secured by condition of any consent.

We also support the proposed reasonable biodiversity enhancements of three House Sparrow Boxes, one Starling box, two open front bird boxes, and one Barn Owl box, which have been

recommended by the Ecological Impact Assessment (Liz Lord Ecology, June2022) to secure net gains for biodiversity, as outlined under Paragraph 174d of the National Planning Policy Framework (2021). The reasonable biodiversity enhancement measures should be outlined within a Biodiversity Enhancement Strategy and should be secured by a condition of any consent.

In addition, the Ecological Impact Assessment (Liz Lord Ecology, June2022) highlights that it is likely bats could be foraging/commuting within and around the site. Therefore, if any external lighting is to be proposed, it is advised that a sensitive lighting scheme is developed to minimise any impacts. This should summarise the following measures will be implemented:

- Light levels should be as low as possible as required to fulfil the lighting need.
- Warm White lights should be used at <3000k. This is necessary as lighting which emit an ultraviolet component or that have a blue spectral content have a high attraction effect on insects. This may lead in a reduction in prey availability for some light sensitive bat species.
- The provision of motion sensors or timers to avoid the amount of 'lit-time' of the proposed lighting.
- Lights should be designed to prevent horizontal spill e.g. cowls, hoods, reflector skirts or shields.

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

Impacts will be minimised such that the proposal is acceptable, subject to the conditions below based on BS42020:2013.

We recommend that submission for approval and implementation of the details below should be a condition of any planning consent.

#### Recommended conditions

#### 1. ACTION REQUIRED IN ACCORDANCE WITH ECOLOGICAL APPRAISAL RECOMMENDATIONS

"All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Ecological Impact Assessment (Liz Lord Ecology, June2022) as already submitted with the planning application and agreed in principle with the local planning authority prior to determination.

This may include the appointment of an appropriately competent person e.g. an ecological clerk of works (ECoW) to provide on-site ecological expertise during construction. The appointed person shall undertake all activities, and works shall be carried out, in accordance with the approved details."

Reason: To conserve and enhance protected and Priority species and allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species).

#### 2. PRIOR TO COMMENCEMENT OF ANY WORKS WHICH WILL IMPACT THE BREEDING / RESTING PLACE OF BATS: SUBMISSION OF EVIDENCE OF SITE REGISTRATION UNDER A BAT MITIGATION CLASS LICENCE FOR BATS

“Any works which will impact the breeding / resting place of bats, shall not in in any circumstances commence unless the local planning authority has been provided with either:  
a) a licence issued by Natural England pursuant to Regulation 55 of The Conservation of Habitats and Species Regulations 2017 (as amended) authorizing the specified activity/development to go ahead; or  
b) evidence of site registration supplied by an individual registered to use a Bat Mitigation Class Licence; or  
c) a statement in writing from the Natural England to the effect that it does not consider that the specified activity/development will require a licence.”

Reason: To conserve protected species and allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 (as amended) and s17 Crime & Disorder Act 1998.

### 3. PRIOR TO ANY WORKS ABOVE SLAB LEVEL: BIODIVERSITY ENHANCEMENT STRATEGY

“A Biodiversity Enhancement Strategy for protected and Priority species shall be submitted to and approved in writing by the local planning authority.

The content of the Biodiversity Enhancement Strategy shall include the following:

- a) Purpose and conservation objectives for the proposed enhancement measures;
- b) detailed designs or product descriptions to achieve stated objectives;
- c) locations, orientations, and heights of proposed enhancement measures by appropriate maps and plans;
- d) timetable for implementation demonstrating that works are aligned with the proposed phasing of development;
- e) persons responsible for implementing the enhancement measures;
- f) details of initial aftercare and long-term maintenance (where relevant).

The works shall be implemented in accordance with the approved details prior to occupation and shall be retained in that manner thereafter.”

Reason: To enhance protected and Priority species & habitats and allow the LPA to discharge its duties under the NPPF 2021 and s40 of the NERC Act 2006 (Priority habitats & species).

And if any external lighting is proposed;

### 4. PRIOR TO OCCUPATION: WILDLIFE SENSITIVE LIGHTING DESIGN SCHEME

“A lighting design scheme for biodiversity shall be submitted to and approved in writing by the local planning authority. The scheme shall identify those features on site that are particularly sensitive for bats and that are likely to cause disturbance along important routes used for foraging; and show how and where external lighting will be installed (through the provision of appropriate lighting plans, drawings and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory.

All external lighting shall be installed in accordance with the specifications and locations set out in the scheme and maintained thereafter in accordance with the scheme. Under no circumstances should any other external lighting be installed without prior consent from the local planning authority.”

Reason: To allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species).

## 5. Representations

5.1 Great Oakley Parish Council object to the application for the following reasons:

- Outside the settlement development boundary
- Overdevelopment
- Impact on heritage asset

5.2 One letter of objection has been received which raises the following planning concerns:

- The buildings to be replaced are historic, Victorian farm structures built to service the original, timber-framed, Elizabethan manor house, Stone Hall, built in 1563 by Richard Stone (hence the name Stones Green)
- To destroy these rare farm buildings would, as the Council's own specialist archaeological advice suggests, "ultimately result in the total loss of any surviving historic fabric and features".
- This application is outside the defined settlement boundaries as allocated in the TDC Local Plan 2022.
- The application is a fundamental shift away from what the Prior Approval system tries to achieve. These farm buildings were never previously residential. To convert them on their existing template is understandable; to knock them down and replace them, patently wrong.
- The siting, scale, massing and look (dark weatherboarding seems out of character with the locality) of these proposed new builds is a stark contrast to appearance of the agricultural buildings they would replace and fails to comply with Policies SPL3 and PPL3.
- Every property on the route from Stones Green to Tendring Green is currently individual and "stand-alone", in keeping with the rural landscape. How long before our once-remote house is encircled by new development becoming a small-scale housing estate.
- The Council has met and surpassed the 5 year housing land supply. Is this application for this style of new build needed? And, if so, is it in the right place?
- The modern design of the proposed dwellings – outwardly more suited to an urban or semi-urban environment - must surely have a negative impact on the landscape; one greater than the "fall-back" plan?
- Replacing a full-length, 14ft-high building that sits precisely on our west boundary with two new gardens looking directly into our rear garden would be a massive loss of privacy. Also, our private, larger, front garden will be overlooked from properties two and three. The largest (east-facing) windows in two of these properties would look directly into what has always been an entirely private and secluded rear garden. No amount of "soft landscaping" will prevent that.
- The continuation of our quite life will be transformed during any development of these barns/new builds. While we would understand and accept some levels of noise, dust and fumes during groundworks and construction, there is an added annoyance factor we have encountered on many occasions before – deliveries.
- Whether sold, rented, or used as holiday lets, these new properties will be seriously overshadowed by the sheer size of our house.

- The most-recent new-build plans show car parking, as designed, would be relatively tight and potentially dangerous, given the small space allowed for manoeuvre or reversing and the closeness of the approaching bend in the road from the North. The proposed new properties are sited very close to the road, which retains a 60mph speed limit.
- Loss of wildlife - the beautiful heart-shaped white face of barn owls (one of them made an appearance flying from one of the barns this week); occasional dark-feathered tawny owls; bats in profusion, both brown long-eared and, less often, common pipistrelle; seasonal nests of swallows and swifts, together with other nesting birds. These buildings are their home. To demolish them without further wildlife investigation might prove a habitat disaster.
- There are other issues attendant to this application relating to the supply of services. Where will the Klargester be sited? Where is the water supply coming from? The existing supply is a “branch” supply whereby pressure already drops dramatically with heavy use on the cattle farm next-door.
- Lack of any local infrastructure – no pubs, restaurants, shops, buses and so on – making these properties entirely reliant of cars.

## 6. **Assessment**

### Site Description

- 6.1 The site is located in a rural area to the east of Stonehall Lane and comprises a group of outbuildings associated with Stonehall Farm. The buildings are primarily of brick construction and set under both tile and slate roofs. The buildings to the north of the site are laid out in a U shaped arrangement with the southern building running parallel to the road. The u-shape building is single storey in height with the building running parallel to the road being one and a half storey.
- 6.2 To the east of the site lies Stonehall Farmhouse which is a residential dwelling under separate ownership. This is a two-storey rendered property which fronts onto the application site. To the north of the site is a steel-clad agricultural building.
- 6.3 The site lies outside of any defined Settlement Development Boundary within the adopted Local Plan 2013-2033.

### Description of Proposal

- 6.4 This application seeks full planning permission for the replacement of former agricultural buildings with the erection of 3 no. dwellings. The proposal would represent an alternative development to the Prior Approval for 3 dwellings subject of application 21/00788/COUNOT.
- 6.5 Plots 1 and 2 are proposed to be single storey, with a gross internal floor area of 130m<sup>2</sup> which provides 3 bedrooms. Plot 3 is proposed to be two storey in height with a gross internal floor area of 93m<sup>2</sup> which provides two bedrooms. Two parking spaces are proposed for each dwelling.
- 6.6 The proposed materials are a mix of facing brickwork, cream render and black timber weatherboard cladding with slates and plain roof tiles.

### Planning History

- 6.7 Under planning reference 21/00788/COUNOT, prior approval permission was granted in June 2021 for the conversion of the agricultural buildings subject of this planning application into 3

no. dwellings. This was allowed as assessed against Class Q of the Town & Country Planning (General Permitted Development) (England) Order (2015). Within the determination of this application the Council did not express any concern on the grounds for consideration of the notification application, namely access, noise, contamination, flooding, location, design or natural light.

### Principle of Development

- 6.8 Planning law requires that decisions on planning applications must be taken in accordance with the development plan unless there are material considerations that indicate otherwise (section 70(2) of the 1990 Town and Country Planning Act and section 38(6) of the Planning and Compulsory Purchase Act 2004). The development plan for Tendring Council comprises of the adopted Tendring District Local Plan 2013-2033 and Beyond Sections 1 and 2.
- 6.9 Policy SP3 of Section 1 of the 2013-2033 Local Plan sets out the spatial strategy for North Essex and directs growth towards existing settlements. The application site lies outside of the defined settlement boundary of Elmstead Market within the adopted 2013-2033 Local Plan. The proposed development would therefore extend outside the area planned to provide growth for this settlement. In view of the housing land supply position, the Council does not need to look beyond identified settlements to meet its housing requirement.
- 6.10 Policy SPL2 supports new development within defined Settlement Development Boundary's (SDB) which would encourage sustainable patterns of growth and carefully control urban sprawl. Within a defined SDB, there will be a general presumption in favour of new development subject to detailed consideration against other relevant Local Plan policies and any approved Neighbourhood Plans.
- 6.11 The proposal therefore results in conflict with policies SP3 and SPL2. In this case, however, the principle of residential development on this site has been established through the prior approval consent granted under planning permission 21/00788/COUNOT in September 2021. The current proposal represents an alternative design to the previously granted permission, which is considered to form a material consideration in respect of the application and denotes what is considered to be a viable fall-back position as outlined below.

### Fallback Position – Material Consideration

- 6.12 It is established in case law that permitted development rights can legitimately represent a fall-back position when considering alternative proposals for development of the same site and this was the case for the previous planning approval.
- 6.13 In summary, the relevant legal principles relating to the fall-back position were set out in R v Secretary of State for the Environment and Havering BC (1998) EnvLR189. In that case Mr Lockhart-Mummery QC, sitting as a Deputy High Court Judge, accepted submissions that there were three elements to the fall-back test:
- 6.14 *"First whether there is a fall-back use, that is to say whether there is a lawful ability to undertake such a use; secondly, whether there is a likelihood or real prospect of such occurring. Thirdly if the answer to the second question is "yes" a comparison must be made between the proposed development and the fall-back use."*
- 6.15 The notion of Class Q providing a lawful fall-back position was subsequently and comprehensively dealt with at the landmark Court of Appeal case, Mansell vs Tonbridge and Malling Borough Council [2017], which concluded that a realistic fall-back position in regard to Class Q would amount to a material consideration in the determining of an application.

6.16 The table below provides a comparison between the original prior approval and the new dwelling proposed under this application:

	21/00788/COUNOT (Prior Approval)	22/01138/FUL (Current Application)
Plot 1		
Floorspace	93.5m <sup>2</sup>	130m <sup>2</sup>
Eaves Height	2.5m	2.5m
Ridge Height	4.9m	5m
No. Beds	3	3
Plot 2		
Floorspace	112m <sup>2</sup>	130m <sup>2</sup>
Eaves Height	2.4m	2.5m
Ridge Height	4.9m	5m
No. Beds	4	3
Plot 3		
Floorspace	82m <sup>2</sup>	93m <sup>2</sup>
Eaves Height	2.9m and 1.7m	2.7m and 2.3m
Ridge Height	5.3m and 2.8m	6m and 4m
No. Beds	3	2

6.17 In conclusion, having regard to the above, the application is considered to meet all three tests set out for a viable fall-back position in terms of the legal position set out earlier. There is a fall-back use in the form of the prior approval and it is considered that the proposed development, is, in the main, comparable to that approved under the prior approval.

6.18 As outlined above in the comparison table, there is an increase in floorspace proposed for all three units, which equates to a total of 65.5m<sup>2</sup> which is not considered to be significant, subject to the visual impact as discussed below. There is also an increase in height, which again is not considered to be significant. Plots 1 and 2 are proposed to be set further forward than the existing building, but cannot be built without its demolition. Plot 3 is proposed to be further away from the road and re-orientated, which results in a better relationship with the Plot 2. It also partially overlaps the existing building.

6.19 Therefore, given the circumstances of this case, along with the legal position and the prior approval fall-back position, the principle of development for a new dwelling on this site is considered to be acceptable subject to the detailed consideration against other relevant Local Plan policies.

#### Visual Impacts

6.20 Paragraph 126 of the NPPF states that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.

6.21 Policy SP7 states that all new development should respond positively to local character and context to preserve and enhance the quality of existing places and their environs. Policy SPL3 seeks to provide new development which is well designed and maintains or enhances local character and distinctiveness. The development should relate well to its site and surroundings particularly in relation to its siting, height, scale, massing, form, design and materials and should respect or enhance local landscape character, views, skylines, landmarks, existing street patterns, open spaces and other locally important features.



- 6.22 The site is located in a rural area, which is characterised by open fields and sporadic residential properties and farm buildings.
- 6.23 Plots 1 and 2 are situated further forward on the site than the existing building and Plot 3 is proposed to be set further back on the plot and re-orientated so that it is at right angles to the road. There would be no net increase in the number of dwellings on the site, but there will be a net decrease in the number of bedrooms. A total of 10 bedrooms were approved under application 21/00788/COUNOT and a total of 8 bedrooms are now proposed. There is, however, a net increase of approximately 65.5m<sup>2</sup> gross internal floor space proposed.
- 6.24 The design of the three dwellings will see a pair of semi-detached properties, with Plot 3 being detached to the east of the site. The design is considered to be acceptable for what is a rural location, and includes interesting features and good use of materials to help break up the overall bulk and help it to assimilate well within its rural surrounds. Given this, while Officers acknowledge the proposal will result in a degree of change to the character and appearance of the surrounding area, on balance this is not considered to be sufficient to warrant a reason for refusal as whilst the character will change it is still considered to be appropriate for the rural area.
- 6.25 In terms of the proposed scale, Plots 1 and 2 will broadly have the same eaves and ridge height (a slight increase of 0.1m to the ridge), so will result in a neutral impact to the areas character. Plot 3 will see an increase to the ridge height from between 2.8m and 5.3m to 4m and 6m. Whilst this increase in height will be noticeable, the dwelling has been set back further from the road and the overall increase is not to a significant extent. As such, the harm identified is not considered to be a significant extent.
- 6.26 Policy LP4 requires that new residential developments will be expected to provide for private amenity space of a size and configuration that meets the needs and expectations of residents and which is commensurate to the size of dwelling and the character of the area. The plans show that this comfortably adhered to for both dwellings.

#### Impact to Neighbouring Amenities

- 6.27 The NPPF, at paragraph 130 states that development 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. Policy SP7 of the Tendring District Local Plan 2013-2033 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.
- 6.28 The only residential property nearby is Stonehall Farm which is situated to the east of the application site. This property overlooks the application site from windows on the front and side elevation. This means that the gardens of Plots 2 and 3 will be overlooked, however, due to the layout of the proposed buildings and the proposed 1.8m high wall each property will have a small area of private amenity space which on balance is considered to be sufficient.
- 6.29 Plots 1 and 2 are proposed to be single storey in height, Plot 3 is partially single storey and partially one and a half storey in height, with the part closest to the neighbouring property being single storey. Therefore, whilst there are windows on the proposed rear elevation facing the neighbouring property (Stonehall Farm) these are at ground floor level and therefore any direct overlooking will be obscured by the proposed boundary treatment. No details of this have been given but a condition to cover this matter is recommended.
- 6.30 There will also be some impact on the amenities of the neighbouring residents due to the increase in activity on the site, related to the provision of three dwellings, however, this would not be greater than the fallback position of the prior approval.

- 6.31 It is therefore considered that subject to appropriate boundary treatment the proposal would not have a significant impact on the amenities of the neighbouring residents.

#### Highway Safety Impacts

- 6.32 Paragraph 108 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. Paragraph 111 of the Framework states that Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 6.33 Policy SPL3 (Part B) of the Adopted Local Plan seeks to ensure that access to a new development site is practicable and the highway network will be able to safely accommodate the additional traffic the proposal will generate and provision is made for adequate vehicle and cycle parking. Adopted Local Plan Policy CP2 states proposals will not be granted planning permission if there would be an unacceptable impact on highway safety, or the residual cumulative impact on the road network would be severe.
- 6.34 Essex County Council Highways have been consulted on the application and raise an objection due to the fact that there is a lack of information on what visibility splays can be achieved for each vehicular access and whether the visibility splays can be provided within land in the control of the applicant or within the extent of the public highway.
- 6.35 Following the response from Essex County Council Highways the agent has submitted a plan showing that visibility splays of 2.4m by 54m to the north and 2.4m by 203m to the south can be provided.
- 6.36 Whilst the comments from Essex County Council Highways are noted it is considered that given the existing nature of the site (some of which has the potential to be used for informal parking) the potential level of activity that the agricultural use of the building would generate, and that regardless of the determination of the current application there is a fallback position for use of the site for three dwellings, the impact on the local highway network would not be sufficient to warrant a reason for refusal.
- 6.37 Furthermore, the Council's Adopted Parking Standards require that for a dwelling with two or more bedrooms that a minimum of two parking spaces are required. Parking spaces should measure 5.5m x 2.9 metres. The submitted plans show that there is sufficient space within the site to provide the necessary parking for the dwellings.

#### Impacts to Trees and Landscape

- 6.38 Paragraph 174 of the National Planning Policy Framework (2021) states that planning decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside, and should protect and enhance valued landscapes.
- 6.39 Policy PPL3 of the local plan requires that the quality of the district's landscape and its distinctive local character will be protected and, where possible, enhanced. Any development which would significantly harm landscape character or quality will not be permitted.
- 6.40 The Council's Tree and Landscape Officer has been consulted on the application, and has provided the following comments:

*"No trees or other vegetation will be adversely affected by the development proposal."*

*At the present time the existing structures are agricultural in their design and appearance and are in keeping with the rural character of the area.*

*In terms of the impact of the development proposal on the character and appearance of the area it is considered that the retention and renovation of the existing structures would be more in keeping with the rural character of the area than their demolition and replacement with 3 new dwellings.*

*The harm caused, to the character of the locality, by the proposed development cannot be satisfactorily ameliorated by soft landscaping.”*

- 6.41 Given the above comments, a level of harm has been identified in relation to the impact of the development to the rural character of the area. However, on this occasion while these comments are noted it is equally acknowledged that the design provided is also of a rural nature that would be expected in a location such as this, and therefore the change to the areas character will not be to a significant level that would represent such harm that Officers would consider recommending a reason for refusal.

#### Impact on Protected Species

- 6.42 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.
- 6.43 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.
- 6.44 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.
- 6.45 Given that the application site has the potential for hosting protected species, notably bats, the application is supported by a Preliminary Ecological Assessment (PEA). This assessment concludes that there is potential for breeding barn owls to be present in the loft spaces of Plots 2 and 3, but due to it not being possible to fully inspect the loft spaces further surveys were required. Furthermore, roosting bats were confirmed to have been recently present in Plot 1 and whilst the evidence gathered did not indicate the presence of any large roosts, further detailed survey were necessary to confirm the continued presence of bats, and determine all of the species and numbers of bats present.
- 6.46 Given the conclusions within the PEA, a further more detailed Ecological Survey was undertaken. Within its conclusions, it confirms that some of the buildings provide confirmed nesting habitat for common bird species, and the disturbance and destruction of an active nest could have a negative effect on some bird species at the site level, although there will be negligible loss of foraging habitat. Dusk emergence surveys indicate that breeding barn owls are very unlikely to be present on site. With mitigation and enhancement measures, overall there will be no significant adverse effect on bird species at any level and a minor enhancement for house sparrow and starling may result.
- 6.47 With respect to the impact to bats, the surveys indicate that small numbers of common bat species are using various crevices across Plots 2 and 3, and potentially the southern wall of Plot 1, as day roosts. In the absence of avoidance measures and precautionary methods of working, it is very likely that the proposals could result in disturbance, injury or death to small numbers of common species of roosting bats across Plots 1, 2 and 3. However, with the implementation of suggested mitigation measures, no adverse effects are likely upon individual bats or local bat populations, and an overall minor enhancement of the site for roosting bats is possible.

6.48 As part of the determination of the application, ECC Place Services (Ecology) have been consulted. Initially they raised a holding objection due to insufficient information, however this was quickly rectified with the submission of the additional surveys that had previously been undertaken. Following this, ECC Ecology confirm they have no objections subject to conditions relating to the suggested mitigation/enhancement measures, a Biodiversity Enhancement Strategy, and a bat mitigation class license for bats.

### Drainage

6.49 Paragraph 174 of the Framework states that planning policies and decisions should contribute to and enhance the natural and local environment by preventing new development from contributing to unacceptable levels of water pollution. Furthermore, Paragraph 185 of the Framework states that planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects of pollution on the natural environment.

6.50 Paragraph: 020 of the National Planning Policy Guidance states that where a connection to a public sewage treatment plant is not feasible a package sewage treatment plant can be considered. The package sewage treatment plant must comply with the Small sewage discharges in England: general binding rules 2015 (GBR), or a permit will be required. Package sewage treatment plants may only be considered if it can be clearly demonstrated by the applicant that discharging into a public sewer is not feasible (taking into account cost and/or practicability and whether the package treatment plant poses a risk to a designated site) in accordance with Approved Document H of the Building Regulations 2010.

6.51 Adopted Policy PPL5 of Section 2 of the Adopted Local Plan states that all new development must make adequate provision for drainage and sewerage. Private sewage treatment facilities will not be permitted if there is an accessible public foul sewer. Where private sewage treatment facilities are the only practical option for sewage disposal, they will only be permitted where there would be no harm to the environment, having regard to preventing pollution of groundwater and any watercourses and odour.

6.52 In relation to non-mains drainage from non-major development the Environment Agency's advice is that to comply with the Framework and PPG on foul drainage matters, an LPA needs to be satisfied that foul drainage can be provided without adverse impact on the environment. This requires ensuring that both those environmental risks outside of the control of the permit and the relevant considerations in the PPG are addressed. The LPA should also be mindful that the developer will need to address foul drainage matters to get their environmental permit and meet building control regulations. Therefore, they should be confident that it is likely that any necessary permits and approvals can be successfully obtained.

6.53 Question 11 of the application form states that it is not intended to connect to a mains sewer. Instead, foul sewage will be disposed of by way of a package treatment plant; details of which have been provided.

6.54 In considering the acceptability of the proposed non-mains drainage, the site is not located in close proximity to any dwelling, the site is not close to any designated site of importance to biodiversity, nor is it located within close proximity to any watercourse. The site is not located within a Drinking Water Safeguard Zone or a Source Protection Zone, and the site is sufficiently large enough to accommodate a soakaway. Taking all these factors into account, and the absence of a mains connection in close proximity to the site, the proposed foul drainage arrangements are considered to be acceptable.

### Financial Contributions – Recreational Disturbance

- 6.55 Under the Habitats Regulations, a development which is likely to have a significant effect or an adverse effect (alone or in combination) on a European designated site must provide mitigation or otherwise must satisfy the tests of demonstrating 'no alternatives' and 'reasons of overriding public interest'. There is no precedent for a residential development meeting those tests, which means that all residential development must provide mitigation.
- 6.56 The application scheme proposes a residential use on a site that lies within the Zone of Influence (Zoi) being approximately 4.8km away from the Hamford Water SPA (Special Protection Area) and Ramsar. New housing development within the Zoi would be likely to increase the number of recreational visitors to these sites and in combination with other developments it is likely that the proposal would have significant effects on the designated site. Mitigation measures must therefore be secured prior to occupation.
- 6.57 A unilateral undertaking has been prepared to secure this legal obligation. This will ensure that the development would not adversely affect the integrity of European Designated Sites in accordance with Section 1 Policy SP2 and Section 2 Policy PPL4 of the Tendring District Local Plan 2013-2033 and Regulation 63 of the Conservation of Habitat and Species Regulations 2017.

#### Financial Contributions – Open Space and Play Space

- 6.58 Paragraph 54 of the National Planning Policy Framework (2021) states Local Planning Authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Paragraph 56 of the NPPF states planning obligations must only be sought where they are necessary to make the development acceptable in planning terms, directly relate to the development and fairly and reasonably relate in scale and kind to the development.
- 6.59 In line with the requirements of Section 2 Policy HP5 the Council's Open Space Team have been consulted on the application to determine if the proposal would generate the requirement for a financial contribution toward public open or play space. The outcome of the consultation is that there is currently a deficit of 0.76 hectares of equipped play space in Great Oakley, however no contribution is requested on this occasion.

#### Renewable and Energy Conservation Measures

- 6.60 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.
- 6.61 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.
- 6.62 The proposal includes a new roof space which has the potential to incorporate solar photovoltaic installation, and car parking areas have the potential for the provision of ULEV charging points for electric cars.
- 6.63 While the submission confirms that electric vehicle charging points will be provided to an external wall, this is not sufficient to address the full requirements of PPL10. Therefore, 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.

## **7. Conclusion**

- 7.1 The proposed demolition of an existing agricultural building and its replacement with three dwellings is acceptable in principle following the previous prior approval granted on the site for three dwellings under planning reference 21/00788/COUNOT.
- 7.2 There is an increase in floorspace proposed for all three units, which equates to a total of 65.5m<sup>2</sup> additional floorspace, although the number of units is the same and the number of bedrooms is reduced from 10 to 8. The positioning of the dwellings are broadly similar to the existing agricultural buildings, although Plots 1 and 2 are set further forward and Plot 3 is set back away from the road and re-orientated. However, the changes proposed, as well as the design being of a rural nature that would be expected in such a location, ensure that Officers do not consider the works harmful to the character and appearance of the area.
- 7.3 There are no significant issues in respect to neighbouring amenities or harm to trees. In addition, no objections are raised by ECC Ecology subject to conditions. Furthermore, whilst ECC Highways have objected on the grounds there is a lack of visibility splays information, due to the nature of the site and potential level of activity the existing use provides, as well as the fallback position, Officers do not consider the impact on the local highway network would be sufficient to warrant a reason for refusal.
- 7.4 Taking all of the above into consideration, the application is considered to be compliant with local and national planning policies and is recommended for approval.

## **8. Recommendation**

- 8.1 The Planning Committee is recommended to grant planning permission subject to the following conditions and informatives.

### **8.2 Conditions 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 3585-PA-LOC, PA-10-A, PA-11-A, PA-12-B, and the documents titled 'Preliminary Ecological Assessment' and 'Ecological Impact Assessment'.

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: No development shall commence above slab level until a scheme for the provision and implementation of water, 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 should include as a minimum the following:-

- Electric car charging points per dwelling;
- A Water-butts per dwelling;
- Compost bin per dwelling;
- Agreement of heating of each dwelling/building; and
- Agreement of scheme for waste reduction

The scheme shall be fully implemented prior to the first occupancy of the development 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.

- 4      **CONDITION:** If during construction/demolition works evidence of potential contamination is encountered, works shall cease, and the site fully assessed to enable an appropriate remediation plan to be developed. Works shall not re-commence until an appropriate remediation scheme has been submitted to, and approved in writing by, the Local Planning Authority and the remediation has been completed.

Upon completion of the building works, this condition shall not be discharged until a closure report has been submitted to and approved in writing by the Local Planning Authority. The closure report shall include details of;

- a) Details of any sampling and remediation works conducted and quality assurance certificates to show that the works have been carried out in full in accordance with the approved methodology.
- b) Details of any post-remedial sampling and analysis to show the site has reached the required clean-up criteria shall be included in the closure report together with the necessary documentation detailing what waste materials have been removed from the site.
- c) If no contamination has been discovered during the build, then evidence (e.g. photos or letters from site manager) to show that no contamination was discovered should be included.

**REASON** - To ensure that any risks from land contamination to the future users of the land and neighbouring land are minimised.

- 5      **CONSTRUCTION MANAGEMENT TO BE AGREED (PRE COMMENCEMENT)**

**CONDITION:** Prior to the commencement of development details of the construction methodology and timetable shall be submitted to and approved, in writing, by the Local Planning Authority. This shall incorporate the following information:-

- a) Details of the hours of work/construction of the development within which such operations shall take place and the hours within which delivery/collection of materials for the said construction shall take place at the site.
- b) Details of the loading/unloading/storage of construction materials on site, including details of their siting and maximum storage height.
- c) Details of how construction and worker traffic and parking shall be managed. This shall include routing of all traffic and any directional signs to be installed and where.
- d) Details of any protection measures for footpaths and trees surrounding the site.
- e) Details of any means of access to the site during construction.
- f) Details of the scheduled timing/phasing of development for the overall construction period.
- g) Details of measures to control the emission of dust and dirt during construction, and including details of any wheel washing to be undertaken, management and location it is intended to take place.



- h) Details of the siting of any on site compounds and portaloos.
- i) Details of the method of any demolition to take place, including the recycling and disposal of said materials resulting from demolition.
- j) Site waste management plan (that shall include reuse and recycling of materials)
- k) Scheme for sustainable construction management to ensure effective water and energy use.
- l) Scheme of review of complaints from neighbours.
- m) Registration and details of a Considerate Constructors Scheme
- n) Details on the provision, location and management of any show home/s or reception, including opening times, parking and advertisements (including flags and directional signs).

The said methodology as may be approved shall be implemented in its entirety and shall operate as may be approved at all times during construction.

REASON: To minimise detriment to nearby residential and general amenity by controlling the construction process to achieve the approved development. This condition is required to be agreed prior to the commencement of any development as any construction process, including site preparation, by reason of the location and scale of development may result adverse harm on amenity.

NOTE/S FOR CONDITION:

You are strongly advised to discuss this condition with the Local Planning Authority and if possible/available local residents likely to be affected by this development prior to submission of details.

6 FURTHER APPROVAL: ARCHAEOLOGICAL WORKS

CONDITION: No development shall take place until a scheme of archaeological evaluation of the site, including timetable, has been submitted to and approved in writing by the Local Planning Authority (including any demolition needing to be carried out as necessary in order to carry out the evaluation). The evaluation shall be carried out in its entirety as may be agreed.

REASON: To safeguard archaeological assets within the approved development boundary from impacts relating to any groundworks associated with the development scheme and to ensure the proper and timely investigation, recording, reporting and presentation of archaeological assets affected by this development. This condition is required to be agreed prior to the commencement of any development to ensure matters of archaeological importance are preserved and secured early to ensure avoidance of damage or loss due to the development and/or its construction. If agreement was sought at any later stage as there is an unacceptable risk of loss and damage to archaeological and historic assets.

7 FURTHER APPROVAL: ARCHAEOLOGICAL WORKS

CONDITION: No development shall take place until a written report on the results of the archaeology evaluation of the site has been submitted to the Local Planning Authority and that confirmation by the Local Planning Authority has been provided that no further investigation work is required in writing.

Should the Local Planning Authority require further investigation and works, no development shall take place on site until the implementation of a full programme of archaeological work has been secured, in accordance with a Written Scheme of Investigation which has been submitted to and approved in writing by the Local Planning Authority.

The scheme of investigation shall include an assessment of significance and research questions; and:

- a. The programme and methodology of site investigation and recording.
- b. The programme for post investigation assessment.
- c. Details of the provision to be made for analysis of the site investigation and recording.
- d. Details of the provision to be made for publication and dissemination of the analysis and records of the site investigation.
- e. Details of the provision to be made for archive deposition of the analysis and records of the site investigation; and
- f. Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.

The written scheme of investigation shall be carried out in its entirety prior to any other development taking place, or in such other phased arrangement including a phasing plan as may be previously approved in writing by the Local Planning Authority.

REASON: To safeguard archaeological assets within the approved development boundary from impacts relating to any groundworks associated with the development scheme and to ensure the proper and timely investigation, recording, reporting and presentation of archaeological assets affected by this development. This condition is required to be agreed prior to the commencement of any development to ensure features of archaeological importance are identified, preserved and secured to avoid damage or loss resulting from the development and/or its construction. If agreement was sought at any later stage, there is an unacceptable risk of loss and damage to archaeological and historic assets.

#### 8 FURTHER APPROVAL: ARCHAEOLOGICAL WORKS 3

CONDITION: No building shall be occupied until the archaeology evaluation, and if required the Written Scheme of Investigation, have been completed, submitted to and approved, in writing, by the Local Planning Authority. Furthermore, no building shall be occupied until analysis, publication and dissemination of results and archive deposition from the archaeology investigations as agreed under the Written Scheme of Investigation has taken place, unless an alternative agreed timetable or phasing for the provision of results is agreed in writing by the Local Planning Authority.

REASON: To safeguard archaeological assets within the approved development boundary from impacts relating to any groundworks associated with the development scheme and to ensure the proper and timely investigation, recording, reporting and presentation of archaeological assets affected by this development.

- 9 CONDITION: All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Ecological Impact Assessment (Liz Lord Ecology, June 2022) as already submitted with the planning application and agreed in principle with the local planning authority prior to determination. This may include the appointment of an appropriately competent person e.g. an ecological clerk of works (ECoW) to provide on-site ecological expertise during construction. The appointed person shall undertake all activities, and works shall be carried out, in accordance with the approved details.

REASON: To conserve and enhance protected and Priority species.

- 10 CONDITION: Any works which will impact the breeding / resting place of bats, shall not in any circumstances commence unless the local planning authority has been provided with either:

a) a licence issued by Natural England pursuant to Regulation 55 of The Conservation of Habitats and Species Regulations 2017 (as amended) authorizing the specified activity/development to go ahead; or

b) evidence of site registration supplied by an individual registered to use a Bat Mitigation Class Licence; or

c) a statement in writing from the Natural England to the effect that it does not consider that the specified activity/development will require a licence.

REASON: To conserve and enhance protected and Priority species.

11 **CONDITION:** A Biodiversity Enhancement Strategy for protected and Priority species shall be submitted to and approved in writing by the local planning authority. The content of the Biodiversity Enhancement Strategy shall include the following:

- a) Purpose and conservation objectives for the proposed enhancement measures;
- b) detailed designs or product descriptions to achieve stated objectives;
- c) locations, orientations, and heights of proposed enhancement measures by appropriate maps and plans;
- d) timetable for implementation demonstrating that works are aligned with the proposed phasing of development;
- e) persons responsible for implementing the enhancement measures;
- f) details of initial aftercare and long-term maintenance (where relevant).

The works shall be implemented in accordance with the approved details prior to occupation and shall be retained in that manner thereafter.

Reason: To enhance protected and Priority species & habitats.

12 **APPROVAL REQUIRED: LANDSCAPING SCHEME**

**CONDITION:** No development above slab level shall take place until there has been submitted to and approved, in writing, by the Local Planning Authority a scheme of hard, soft and boundary treatment landscaping works for the site, which shall include any proposed changes in ground levels.

**REASON:** In the interests of visual amenity and the character and appearance of the area, and to protect the amenities of the neighbouring property.

**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.

Should the landscape works include any new hedgerow, please consider the following planting for a native hedge. Native hedge: 50% hawthorn, 25% blackthorn (but beware – this can spread into adjacent fields), 15% field maple, 2% holly, 2% wild privet, 2% guelder rose, 2% dog rose, 2% buckthorn.

13 **COMPLIANCE WITH DETAILS AND TIMESCALE REQUIRED - LANDSCAPING SCHEME**

**CONDITION:** All changes in ground levels, soft/hard landscaping shown on the approved landscaping details shall be carried out in full during the first planting and seeding season (October - March inclusive) following the commencement of the development, or in such other phased arrangement as may be approved, in writing, by the Local Planning Authority up to the first use/first occupation of the development. 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.

### 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.

## 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/>.