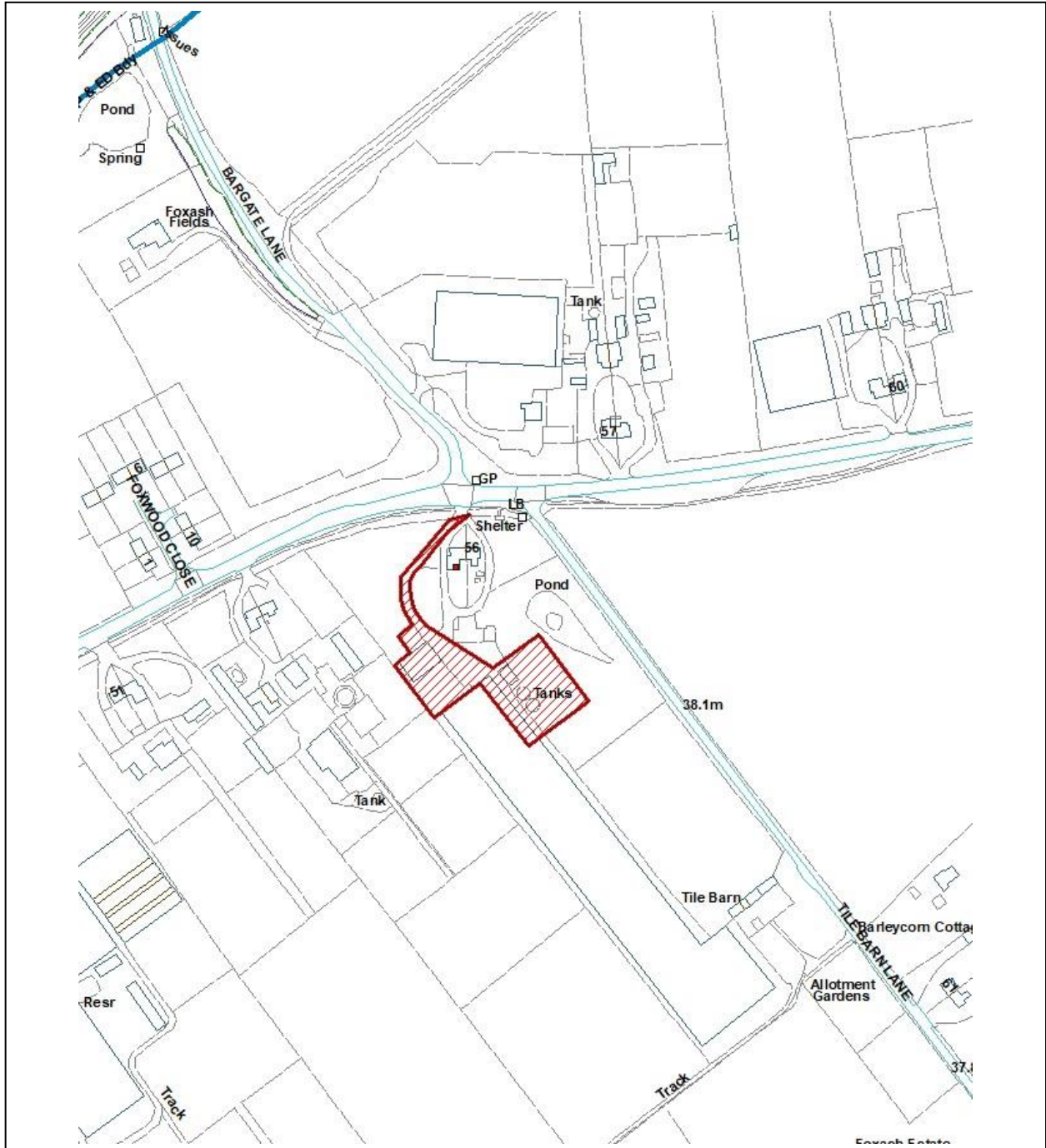


PLANNING COMMITTEE

1st August 2023

REPORT OF THE DIRECTOR OF PLANNING

A.1 PLANNING APPLICATION – 22/00953/FUL – LAND AT 55 HARWICH ROAD LAWFORD MANNINGTREE CO11 2LS



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Application:	22/00953/FUL	Expiry Date:	19th August 2022
Case Officer:	Alison Pope	EOT Date:	20th December 2022
Town/ Parish:	Lawford Parish Council		
Applicant:	Mr and Mrs Allin		
Address:	Land at 55 Harwich Road Lawford Manningtree CO11 2LS		
Development:	Proposed erection of two 3-bedroom dwellings (in lieu of Prior Approval for 3 dwellings, subject of application 20/01708/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 two dwellings with a combined total footprint of 241.64 square metres are sited separately on land to the rear of 55 Harwich Road in Lawford as replacement for existing agricultural buildings in the same locations.
- 1.3 The proposed two dwellings are considered to offer an improved scheme in terms of living accommodation and design, scale and appearance when compared to the conversion of the agricultural buildings to three dwellings under prior approval 20/01708/COUNOT with a reduction in footprint of buildings of 36.36 square metres.
- 1.4 There are no significant issues in respect of neighbouring amenities or harm to trees, and there is sufficient parking and vehicular turning provision. In addition, no objections are raised by ECC Highways or the Councils Environmental Protection Team subject to conditions and therefore the application is recommended for approval.

Recommendation: Approval, subject to S106

- 1) On appropriate terms as summarised below and those as may be deemed necessary to the satisfaction of the Planning Manager to secure the completion of a legal agreement under the provisions of section 106 of the Town and Country Planning Act 1990 dealing with the following matters:
 - **RAMS financial contribution** of of £156.76 per dwelling x 2 units = £313.52 (index linked) toward recreational disturbance at the Stour and Orwell Estuaries Ramsar site and Special Protection Area.
- 2) 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,

3) The informative notes as may be deemed necessary.

Or;

4) That in the event of the Planning obligations or requirements referred to in Resolution (1) above not being secured and/or not secured within 6 months that the Planning Manager be authorised to refuse the application on appropriate grounds at their discretion.

2. Planning Policy

2.1 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

SPL2 Settlement Development Boundaries

SPL3 Sustainable Design

LP4 Housing Layout

LP1 Housing Supply

LP2 Housing Choice

LP3 Housing Density and Standards

PPL3 The Rural Landscape

PPL4 Biodiversity and Geodiversity

PPL5 Water Conservation, Drainage and Sewerage

PPL10 Renewable Energy Generation

CP1 Sustainable Transport and Accessibility

CP2 Improving the Transport Network

CP3 Improving the Telecommunications Network

DI1 Infrastructure Delivery and Impact Mitigation

Supplementary Planning Documents

Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy SPD 2020 (RAMS)

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

Status of the Local Plan

2.2 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), supported by our suite of evidence base core documents (<https://www.tendringdc.uk/content/evidence-base>) together with any neighbourhood plans that have been brought into force.

2.3 In relation to housing supply:

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

2.5 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.

Neighbourhood Plans

2.6 A neighbourhood plan introduced by the Localism Act that can be prepared by the local community and gives communities the power to develop a shared vision for their area. Neighbourhood plans can shape, direct and help to deliver sustainable development, by influencing local planning decisions as part of the statutory development plan to promote development and uphold the strategic policies as part of the Development Plan alongside the Local Plan. Relevant policies are considered in the assessment. Further information on our Neighbourhood Plans and their progress can be found via our website <https://www.tendringdc.uk/content/neighbourhood-plans>

3. Relevant Planning History

00/00223/FUL	Proposed horticultural building	Approved	29.03.2000
02/00161/FUL	Drainage lagoon to improve current arrangements for run off water from the nursery glass and plastic houses	Approved	20.03.2002
18/00510/FUL	Proposed provision of pitched roof to existing dormers.	Approved	22.05.2018
20/00935/OUT	Proposed erection of one dwelling.	Approved	30.10.2020

20/01708/COUNOT	Proposed conversion of two agricultural buildings into three dwellings.	Prior approval not required – permitted development	18.01.2021
21/01686/FUL	Proposed erection of two 4-bedroom cottages (in lieu of Prior Approval for two x 4-bedroom dwellings, subject of application 20/01708/COUNOT demolition of extensive glasshouses).	Refused	21.02.2022
22/01633/DETAIL	Reserved matters application for the erection of one dwelling, considering details of access, appearance, landscaping, layout and scale, pursuant to outline planning consent 20/00935/OUT.	Approved	16.01.2023

4. **Consultations**

- 4.1 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.
- 4.2 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/>.

ECC Highways Dept

Please note this supersedes the previous recommendation dated: 6 April 2023 for this application.

The information submitted with the application has been thoroughly assessed 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 an earlier planning application. It is noted that the amended application seeks to demolish the existing glasshouses and replace it with two new dwellings. With the previous amendment, one of the new dwellings was retaining a private vehicular access from Tile Barn Lane serving plot 2 while plot 1 shared the existing vehicular access with the host dwelling onto Harwich Road. The resubmitted scheme removes the new vehicular access onto Tile Barn Lane with both new two 3-bedroom dwellings utilising the existing vehicular access onto Harwich Road, shared with the host dwelling. When compared with the approved conversion and the former agricultural use in terms of vehicular activity the impact would be no greater, 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:

1. Prior to occupation of the development, there should be no obstruction above ground level within a 2.4 metres wide parallel band visibility splay as measured from and along the nearside edge of the carriageway across the entire site frontage with

Harwich Road. Such vehicular visibility splays shall be retained free of any obstruction at all times.

Reason: To provide adequate inter-visibility between users of the access and the public highway in the interests of highway safety in accordance with policy DM1.

2. Prior to occupation of the proposed development, a minimum size 5 vehicular turning facility (8m x 8m), shall be constructed, surfaced, and maintained free from obstruction within the site at all times for that sole purpose.

Reason: To ensure that vehicles can enter and leave the highway in a forward gear in the interest of highway safety in accordance with policy DM1.

3. No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary.

Reason: To avoid displacement of loose material onto the highway in the interests of highway safety in accordance with policy DM1.

4. Prior to the occupation of the development, the proposed private drive shall be constructed to a width of 5.5 metres for at least the first 6 metres from the back of Carriageway / Highway Boundary and provided with an appropriate dropped kerb crossing of the verge/ footway.

Reason: To ensure that vehicles can enter and leave the highway in a controlled manner and to ensure that opposing vehicles can pass clear of the limits of the highway, in the interests of highway safety in accordance with policy DM1.

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

Reason: To prevent hazards caused by water flowing onto the highway and to avoid the formation of ice on the highway in the interest of highway safety to ensure accordance with policy DM1.

6. The proposed development shall not be occupied until such time as the vehicle parking area indicated on the approved plans, has been hard surfaced, sealed and if required marked out in parking bays. The vehicle parking area and associated turning area shall be retained in this form at all times. The vehicle parking shall not be used for any purpose other than the parking of vehicles that are related to the use of the development unless otherwise agreed with the Local Planning Authority.

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

7. The Cycle / Powered Two-wheeler parking shall be provided in accordance with the EPOA Parking Standards. The approved facility shall be secure, convenient, covered and provided prior to occupation and retained at all times.

Reason: To ensure appropriate cycle / powered two-wheeler parking is provided in the interest of highway safety and amenity in accordance with Policy DM8.

8. Prior to commencement of the development, the areas within the curtilage of the site for the purpose of loading / unloading / reception and storage of building materials and manoeuvring of all vehicles, including construction traffic shall be provided clear of the highway.

Reason: To ensure that appropriate loading / unloading facilities are available to ensure that the highway is not obstructed during the construction period in the interest of highway safety in accordance with policy DM1.

The above conditions are to ensure that the proposal conforms to the relevant policies contained within the County Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

Informative:

1: 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.

2: 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

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

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.

Tree & Landscape Officer

Revised comments to provide an assessment of the effect of the proposed changes in design and access arrangements associated with the proposed development, on the character and appearance locality and the wider landscape.

The application site is currently screened from view by a boundary hedge along Tile Barn Lane comprising primarily of Hawthorn and Blackthorn. It forms part of a long hedge adjacent to the highway and makes a strong contribution to the rural character of the area.

The proposed changes to the vehicular and pedestrian access to the site means that the existing boundary vegetation will be retained and the current level of screening will remain in place.

The change in the design of the dwelling situated on plot 2 from a house to a bungalow will also significantly reduce the impact of the building on the surrounding area.

A combination of the retention of the existing boundary vegetation and the decrease in the height of the dwelling, on plot 2, means that the proposed development will not be prominent in its setting and will not cause harm to the visual qualities of the local landscape character.

UU Open Spaces

Public Realm Assessment

Play Space - current deficit:
Deficit of 3.33 hectares of equipped play in Lawford

Formal Play - current deficit:
Deficit of 3.86 hectares of open space in Lawford

Settlement provision:
School Lane LEAP 1.4 miles from site from development site
Waldergrave Way 1.9 miles from development site

Officer Conclusions and Recommendations

Contribution necessary, related, and reasonable?

No contribution is being requested on this occasion. The current facilities are adequate to cope with this development. However, should there be further development in this area a contribution may be required.

Environmental Protection

With reference to the above application, I can advise I have reviewed the proposal and the previous planning applications and relevant consults, therefore please see below for comments from the EP Team:

Contaminated Land: Given the historic use of the site and nearby agricultural land, the EP Team are requesting a Watching Brief be conditioned to any subsequent planning approval and adhered to throughout the demolition / construction phase/s. 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; or o treatment of material on site to meet compliance targets so it can be re-used; or o removal from site to a suitably licensed landfill or permitted treatment facility.

12. A Verification Report will be produced for the work.

REASON: to protect the health of site workers and nearby existing residential dwellings

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

REASON: to protect the amenity of nearby residential premises

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.

REASON: 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).

*INFORMATIVE

Foul Drainage: Section 5.4 of the submitted Planning Statement advises a Sewerage Treatment Plant may be utilised as a way of disposing of foul waste; we would request, should the application be approved, that the Applicant / Agent, ensure the installation is fully compliant with the Environment Agency's Binding Rules and any other relevant Government guidance and British standards, in respect of these systems. Information on this can be found at: Septic tanks and treatment plants: permits and general binding rules: The general binding rules - GOV.UK (www.gov.uk). It is strongly recommended these rules are complied with, as they will minimise any potential nuisance to nearby residential dwellings, assist in preventing a potential Public Health nuisance, and minimise the potential for adverse incidents, of which may result in formal enforcement action.

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

5. Representations

5.1 Parish Council Consultation

Lawford Parish Council object to this application as it is outside of the village envelope.

5.2 Public Consultation

One representation objecting to the planning application has been received and raises the following concerns:

- More housing development and the creation of additional access points will create more traffic on Tile Barn Lane traffic and associated hazards on the single track lane
- There is no street lighting, nor pedestrian footpaths nor amenities on the lane
- A new property currently under construction with a new access point at the top of Tile Barn Lane right next to the T junction has created a potential hazard for traffic turning in to Tile Barn Lane From Harwich Road
- Walkers, horse riders and cyclist will be put at even more risk
- Lawford has suffered massive building projects in recent years- this has added to huge increases in traffic, and on the main and back roads
- The drains in the area cannot cope with the amount of raw sewage which is having to be transported by lorry to be treated

6. Assessment

Site Context

- 6.1 The application site relates to land lying to the rear and south east of a larger, mixed use, residential and horticultural unit known as 55 Harwich Road. The application site is contained within a wider site that is in the same ownership of the applicant. The character of the surrounding area is principally rural, and the site itself is an expansive area of undeveloped rural land. The site lies outside of any Settlement Development Boundary as defined within the Tendring District Local Plan 2013-2033 and Beyond Section 2.

Planning History

- 6.2 20/00935/OUT for one dwelling was approved on land alongside 55 Harwich Road following an appeal decision at 43 Harwich Road reference APP/P1560/W/18/3218683 dated 3rd May 2019 at a time when the Council did not have an up to date Local Plan and could not demonstrate a 5 year housing land supply.
- 6.3 20/01708/COUNOT for the proposed conversion of two agricultural buildings into three dwellings was granted under the prior approval scheme in January 2021.
- 6.4 21/01686/FUL was submitted in lieu of the prior approval scheme, however the circumstances were materially different to that approved under 20/01708/COUNOT and the Council considered it did not constitute a fall back position as the application site was different and a new vehicular access was to be created and therefore the application was assessed on its own merits and refused.

Proposal

- 6.5 Amendments to this proposal through the course of this application have led to an application seeking permission for the erection of two, three bedroom dwellings following demolition of two agricultural buildings and making use of the existing access from Harwich Road. One proposed dwelling is two storey with associated parking and garden space, and replaces a large barn structure containing office, stores, garage and plant room. The second proposed dwelling is single storey with an integral single garage, associated parking and garden space, and replaces a smaller agricultural building.
- 6.6 The development proposal is a replacement for a previously approved prior approval scheme 20/01708/COUNOT 'Proposed conversion of two agricultural buildings into three dwellings', utilising the same two agricultural buildings as under consideration here.
- 6.7 "Demolition of extensive glasshouses" was originally included in the application description, although this has now been omitted. The agricultural land part of the wider site remains as an agricultural use and benefits from said permitted development rights. Approximately two acres of glasshouses associated with the salad growing business which once operated from the wider site have already been removed however the erection of any other type of building or enclosure for use on the agricultural area of land would require planning permission as would any future change of use to any part of the wider site.

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 Manningtree and Lawford 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 20/01708/COUNOT in January 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:

	20/01708/COUNOT	22/00953/FUL
	(Prior Approval)	(Current Application)
	Plot 1 and 2	Plot 1
Footprint	221m ²	111.82m ²
Eaves Height	4.64 metres	3.40 metres
Ridge Height	6.44 metres	7.29 metres
No. Beds	2 x 4 beds	3
	Plot 3	Plot 2
Footprint	57m ²	129.82m ² including integral single garage
Eaves Height	3.06 metres	2.24 metres
Ridge Height	3.94 metres	5.58 metres
No. Beds	2	3

- 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, in terms of its siting, size and scale.
- 6.18 As outlined above in the comparison table, the number of proposed dwellings reduces from three to two, the total footprint of the buildings is reduced by 36.36 square metres and although the proposed dwelling on Plot 1 is increased in height by 0.85 metres, the eaves are lower and the

roof form intends to break up the bulk which is currently present as part of the agricultural building on this part of the site. The same can be said for the proposed bungalow which has an increased height of 1.64 metres, however the eaves are lower and the roofs hipped to minimise the visual impact. Both new dwellings are set back in the site and the increased height will not appear significantly out of keeping and is considered acceptable in this location.

- 6.19 There is a realistic prospect of the prior approval scheme being implemented. The existing agricultural buildings appear structurally sound and could be converted for habitable use subject to compliance with Building Regulations. Therefore, the fall-back position is given significant weight in the assessment of this application.
- 6.20 Given the circumstances of this case, along with the legal position and the prior approval fall-back position, the principle of development for two new dwellings on this site is considered to be acceptable subject to the detailed consideration against other relevant Local Plan policies.

Scale, Layout and Appearance

- 6.21 The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. (Para 126 NPPF).
- 6.22 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.
- 6.23 The proposed development comprises a detached house and a detached bungalow with integral garage. Both are considered to be of a size, scale and design that is acceptable as replacements for agricultural buildings and reproduces new dwelling designs that are seen in the locality. The submitted drawings show the use of brickwork, render and cladding which is considered acceptable, however to ensure the quality of materials in this rural location a condition will be imposed on the grant of planning permission to secure the exact details of the materials to be used.
- 6.24 The form and massing of the proposed dwelling at Plot 1 has a significantly smaller footprint than the barn it replaces, however the proposed dwelling at Plot 2 has a slightly larger footprint however both are proportionate when compared to the existing agricultural buildings. For these reasons it is considered that the development would respect the local landscape character and is sympathetic to the wider area.
- 6.25 Therefore, having regard to the above policy considerations, the proposal is considered to be policy compliant in terms of its scale, layout, appearance and design according with the overall thrust of Policies SP7 and SPL3.

Highway Safety/Parking

- 6.26 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.

- 6.27 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.
- 6.28 Vehicular access to the proposed dwellings will be via the existing access to 55 Harwich Road and which served the agricultural enterprise at the rear. The access and driveway to the rear is a concrete surface. Provision of at least two car parking spaces for each dwelling that meets the minimum car parking standards where one space measures 5.0 Metres x 2.5 metres is met. The proposal also incorporates sufficient turning space in front of the parking spaces.
- 6.29 Essex County Council as the Highway Authority were consulted on the application and confirmed when compared with the approved conversion (20/01708/COUNOT) and the former agricultural use in terms of vehicular activity the impact would be no greater ensuring from a highway and transportation perspective the impact of the proposal is acceptable subject to conditions.
- 6.30 The Highway Authority recommend conditions for visibility splays, turning facility, no unbound materials, dimensions of private drive, no discharge of water onto the highway, vehicle parking, cycle parking and provision of construction deliveries, storage of materials and construction vehicles.
- 6.31 It is not considered reasonable or necessary to impose the conditions relating to the visibility splays, no unbound materials, dimensions of the private drive, no discharge of water onto the highway and provision of construction deliveries, storage of materials and construction vehicles. The vehicular access as acknowledged by the Highway Authority is existing and is in use, is formed of concrete with the proposed dwellings significantly set back from Harwich Road. A construction method statement has been submitted as part of the application which confirms "All loading and unloading of material will take place on the site" and "On-site parking will be available for contractors at all times". Given the location and size of the application site it is expected that deliveries to the site will utilise the driveway to place the materials close to where they will be used for construction.
- 6.32 Conditions for vehicle parking and turning, and cycle parking will be imposed on the grant of planning permission.
- 6.33 The Planning Statement confirms that each dwelling will be fitted with an electric vehicle charging point required to support sustainable transport modes, however suitable electric vehicle charging point information has not been submitted. Details of the electric vehicle charging is required to be submitted including its provision in working order and its maintenance prior to occupation of the dwelling, this will be secured by condition on the grant of planning permission.

Landscaping

- 6.34 The application site is currently screened from view by a boundary hedge along Tile Barn Lane comprising primarily of Hawthorn and Blackthorn. It forms part of a long hedge adjacent to the highway and makes a strong contribution to the rural character of the area. Along Harwich Road, hedging encloses 55 and 56 Harwich Road with semi-mature trees located to the west of 55 Harwich Road.
- 6.35 Within the site itself, little vegetation exists due to its use for agriculture, although the new dwelling at plot 1 would involve the removal of a semi-mature tree immediately adjacent and to

the east of the existing barn. The tree is in a reasonable condition, however in this instance does not merit retention or formal legal protection by means of a tree preservation order.

- 6.36 Therefore it is considered reasonable to require a full detailed hard and soft landscaping scheme to be submitted and approved which would need to show the trees which are to be retained and those which are to be removed, along with new soft landscaping to the application site. This can be secured by condition.

Residential Amenity

- 6.37 Paragraph 130 of the National Planning Policy Framework 2021 states that planning should always seek to secure a good standard of amenity for all existing and future occupants. Policy SPL3 states that buildings and structures are designed and orientated to ensure adequate daylight, outlook and privacy for future and existing residents; and the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties.
- 6.38 The proposed dwelling at Plot 1 is sited a distance of 42 metres south west of the existing dwelling of 55 Harwich Road and a distance of 43 metres south east of the proposed dwelling approved under reference 20/00935/OUT.
- 6.39 The proposed dwelling at Plot 2 is sited a distance of 55 metres south east from the existing dwelling of 56 Harwich Road and a distance of 53 metres south of the new dwelling constructed under reference 21/00035/FUL.
- 6.40 As a result of the separation distances between the proposals and the existing properties along with the boundary and intervening vegetation that exists there will be no significant impact to any residential amenities.
- 6.41 Both dwellings benefit from private garden space of more than 400 square metres each which is considered more than adequate.

Housing Standards

- 6.42 Policy LP3 requires compliance with the nationally described space standards. This standard deals with internal space within new dwellings and is suitable for applications across all tenures. It sets out requirements for the Gross Internal (floor) Area of new dwellings at a defined level of occupancy as well as floor areas and dimensions for key parts of the home, notably bedrooms, storage and floor to ceiling height.
- 6.43 A three bedroom, six person two storey dwelling as per Plot 1 requires a minimum of 102 square metres of gross internal floor space which includes built in storage of 2.5 square metres. A three bedroom, five person single storey dwelling as per Plot 2 requires a minimum of 86 square metres of gross internal floor space which includes built in storage of 2.5 square metres.
- 6.44 From the plans submitted the proposal meets the requirements of the space standards. It is also considered that the internal layout of both dwellings is appropriate, with all habitable rooms having adequate natural light.

Drainage and Sewerage

- 6.45 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.

- 6.46 Paragraph: 020 of the National Planning Policy Guidance (PPG) 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.
- 6.47 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.
- 6.48 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, a Local Planning Authority (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.
- 6.49 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; the declaration implies that a mains connection is not possible.
- 6.50 In considering the acceptability of the proposed non-mains drainage, Plot 1, the proposed dwelling nearest to Harwich Road where mains sewage is connected is a distance of approximately 65 metres away. 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 Source Protection Zone 1, and the site is sufficiently large enough to accommodate a soakaway. Furthermore, flows from a treatment plant serving two individual dwellings would be low. 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.
- 6.51 The site does not fall within an area of recognised surface water flooding or within a critical drainage area. The proposal is considered a minor development where there is no requirement to consult Essex County Council for sustainable drainage planning advice. Sustainable Drainage Systems (SuDS) are designed to replicate natural drainage systems, to drain surface water run-off, and in this case infiltration within the site, which will need to meet building regulation standards will be installed and is considered acceptable.

Renewable Energy

- 6.52 Chapter 14 of the National Planning Policy Framework supports the transition to a low carbon future in a changing climate while Policy PPL10 of the Local Plan supports renewable energy generation and energy efficiency measures for residential development.
- 6.53 No energy efficiency measures have been submitted with the planning application and therefore a condition to secure minimum measures of a water-butt and compost bin, agreement of heating

for the dwelling and a scheme for waste reduction will be secured on the grant of planning permission to reduce the demand for fossil fuels which are a finite resource and release carbon into the atmosphere and accelerate global warming contributing to climate change.

Environmental Protection

- 6.54 The Council's Environmental Protection team have confirmed that due to the historic use of the site and nearby agricultural land, a Watching Brief is required and shall be adhered to throughout the demolition and construction phase. This requirement shall be imposed as a condition on the grant of planning permission. In addition, conditions that controls the hours of construction and restricts burning of materials on the application site are recommended and shall be imposed upon the grant of planning permission.

Financial Contribution – 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 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.
- 6.57 The application scheme proposes two new dwellings on a site that lies within the Zone of Influence (Zol) being approximately 2400 metres from Stour and Orwell Estuaries SPA and RAMSAR. However, new housing development within the Zol would be likely to increase the number of recreational visitors to Stour and Orwell Estuaries; and, in combination with other developments it is likely that the proposal would have significant effects on the designated site.
- 6.58 Should the committee resolve to approve the application, a S106 Legal Agreement will secure the necessary financial contributions for RAMS contributions to 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.

7. Conclusion

- 7.1 It is considered that the proposed development is consistent with the National and Local Plan Policies identified above – in reaching this conclusion due regard is given to other material planning considerations as per section 70 of the Town and Country Planning Act 1990. In the absence of material harm resulting from the proposal the application is recommended for approval.

8. Recommendation

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

CATEGORY	TERMS
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Financial contribution towards RAMS.	RAMS financial contribution of £156.76 per dwelling x 2 units = £313.52 (index linked)
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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.

The approved red line plan drawing is the Digimap Ordnance Survey site plan scale 1:1250 received 9 June 2023

DRG.No 1301/06A

DRG.No 1301/07

DRG.No 1301/05

DRG.No 1301/02B

Construction Method Statement

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 Prior to and during construction, if any unexpected ground conditions are encountered, the following processes must be followed:
 - a. 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.
 - b. 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.
 - c. 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.
 - d. 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.
 - e. The testing suite will be determined by the independent geo-environmental specialist based on visual and olfactory observations.
 - f. Test results will be compared against current assessment criteria suitable for the future use of the area of the site affected.
 - g. Where the material is left in situ awaiting results, it will either be reburied or covered with plastic sheeting.
 - h. 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.
 - i. Any areas where unexpected visual or olfactory ground contamination is identified will be surveyed and testing results incorporated into a Verification Report.
 - j. A photographic record will be made of relevant observations.
 - k. The results of the investigation and testing of any suspect unexpected contamination will be used to determine the relevant actions. After consultation with the Local Authority, materials should either be: o re-used in areas where test results indicate that it meets compliance targets so it can be re-used without treatment; or o treatment of material on site to meet compliance targets so it can be re-used; or o removal from site to a suitably licensed landfill or permitted treatment facility.
 - l. A Verification Report will be produced for the work.

Reason - to ensure the risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

- 4 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.

Reason - To protect the amenity of nearby residential properties.

- 5 No materials produced as a result of the site development or clearance shall be burned on site.

Reason - To protect the amenity of nearby residential properties.

- 6 SPECIFIC RESTRICTION OF DEVELOPMENT - ILLUMINATION RESTRICTION

CONDITION: There shall be no means of external illumination installed and/or operated on/at the site except pursuant to the prior grant of a planning permission on an application made in that regard.

REASON: In the interests of amenity to reduce the impact of night time illumination on the character of the area and in the interests of biodiversity and nearby residents.

- 7 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.

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.

- 8 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.

9 ACTION REQUIRED: HIGHWAYS TURNING SPACE

CONDITION: Prior to the building/s being first occupied, the vehicle turning spaces, measuring 8 metres x 8 metres located in front of the parking spaces for each dwelling shown on the hereby approved plans shall be provided in its entirety and shall then be retained in its approved form and used for no other purpose.

REASON: To enable vehicles to enter and exit the public highway in forward gear in the interests of highway safety.

10 ACCESS MATERIAL

CONDITION: The access/s 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.

11 HIGHWAYS PROVISION OF PARKING AND TURNING

CONDITION: The hereby approved development shall not be first occupied until such time as the areas for purposes of manoeuvring and parking (including garage spaces as applicable) of vehicles has been provided and made functionally available. The areas shall then be retained and remain free of obstruction thereafter.

REASON: To ensure that on street parking of vehicles in the adjoining streets does not occur in the interests of highway safety and that appropriate parking and layout is provided To ensure the provision of adequate on-site space for the parking and manoeuvring of vehicles where on-street parking and manoeuvring would otherwise be detrimental to highway safety.

12 Cycle/Powered Two-wheeler parking shall be provided in accordance with the EPOA Parking Standards. The approved facility shall be secure, convenient, covered and provided prior to occupation and retained at all times.

Reason: To ensure appropriate cycle/powered two-wheeler parking is provided in the interest of highway safety.

13 AGREEMENT OF MEASURES TO IMPROVE SUSTAINABILITY OF DEVELOPMENT

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 shall include as a minimum to achieve:-

- An electric car charging point per dwelling
- A Water-butt per dwelling
- Compost bin per dwelling
- Agreement of heating of each dwelling/building
- 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.

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.

14 FURTHER APPROVAL: AGREEMENT OF MATERIALS

CONDITION: No development/works shall be commenced above slab level until precise details of the manufacturer and types and colours of the external facing and roofing materials to be used in construction have been submitted to and approved, in writing, by the Local Planning Authority. Such materials as may be agreed shall be those used in the development and fully applied prior to the first use/occupation.

REASON: To secure an orderly and well designed finish sympathetic to the character of the existing building(s) and in the interests of visual amenity and the character and appearance of the area.

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.

While this condition does not detail in what form the materials sought shall be detailed to the Local Planning Authority, it is suggested that a plan is submitted with the details to show where the materials will be located and the extent of coverage.

8.3 Informatives

Highways Informative

1: 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.

2: 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

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

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.

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/>.