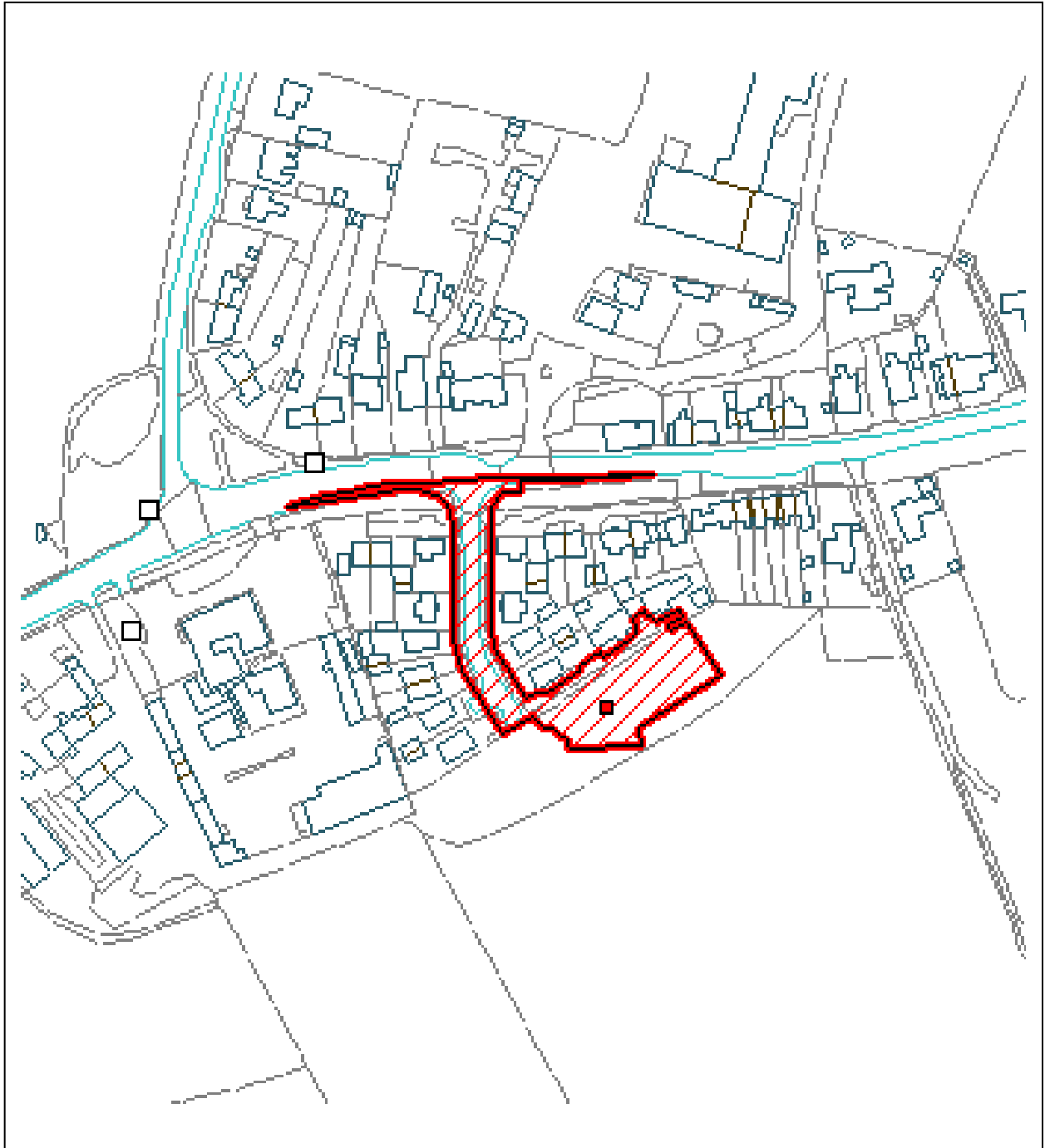


PLANNING COMMITTEE

28th September 2023

REPORT OF THE DIRECTOR OF PLANNING

**A.3 PLANNING APPLICATION – 22/01332/FUL – LAND SOUTH OF VERITY GARDENS WEELEY
CLACTON ON SEA**



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Application:	22/01332/FUL	Expiry Date:	25th October 2022
Case Officer:	Alison Newland	EOT Date:	23rd February 2023
Town/ Parish:	Weeley Parish Council		
Applicant:	Mr Rose and Mrs Limber - Lawford Homes Ltd		
Address:	Land South of Verity Gardens Weeley Clacton On Sea CO16 9FA		
Development:	Proposed 3 dwellings and associated ancillary buildings, drainage systems, boundary treatments, hard surfacing with vehicular access from Thorpe Road.		

1. Executive Summary

- 1.1 This application is referred to Planning Committee as when Outline planning permission was granted for a larger site, which included this application site, Members of the Committee agreed that the Reserved Matters application(s) would be referred back to the Planning Committee for determination. Cllr Peter Harris has also requested that the application be 'called in' to Planning Committee for determination, having raised concerns about the access to the site not being suitable, the inability of emergency vehicles to access all dwellings; and the dwellings being too close to existing dwellings, and the adverse impact this will have on residents privacy.
- 1.2 This application seeks full planning permission for the erection of three dwellings on a small parcel of land that forms part of a much larger site which the Council has granted outline planning permission for. The outline planning permission (19/00524/OUT) allows for the erection of up to 280 dwellings, a new primary school and children's nursery, up to 3,000sqm of office (B1) floorspace and associated infrastructure and development including the provision of Public Open Space.
- 1.3 Because it is proposed that the three dwellings are accessed across land that is outside the red line of the outline planning permission the applicant has submitted this application for full planning permission, so it is not pursuant to the outline planning permission. A separate application seeking approval for the Reserved Matters for development (22/00979/DETAIL), including the erection of 277 dwellings on land to the south of this application site, is pending determination by the Council. If both applications are approved a total of 280 dwellings would be erected within the area that has outline planning permission. This would be consistent with the maximum number of dwellings that were allowed under the outline planning permission.
- 1.4 There is no objection to the principle of residential development as the land already has outline planning permission for residential development. Furthermore, the site is located within the Weeley Settlement Development Boundary and is specifically designated to be part of a mixed-use development in the adopted Tendring District Local Plan. The detailed design, layout, landscaping and scale are considered acceptable. There are no objections from consultees and Officers consider that the proposal would not result in harm to residential amenity of a level that would warrant the refusal of planning permission. The application is therefore recommended for approval subject to the legal agreement and planning conditions listed.

Recommendation: Approval subject to S106

- 1) On appropriate terms as summarised below and those as may be deemed necessary to the satisfaction of the Head of Planning and Building Control 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:

- Linking this planning permission to outline planning permission 19/00524/OUT and the associated Section 106 agreement, in order that the dwellings constructed under 22/01332/FUL are dwellings for the purposes of the Section 106 legal agreement and are bound by and subject to the provisions and obligations contained within that agreement.
 - no more than 280 Dwellings shall be constructed on the combined area of the application site (22/01332/FUL) and the outline site (19/00524/OUT) and that the 3 residential units constructed under this application are not in addition to the 280 residential units permitted under the outline planning permission.
 - not to implement the planning permission for this application (22/01332/FUL) unless and until the outline planning permission (19/00524/OUT) has commenced.
 - to implement this planning permission (22/01332/FUL) prior to the occupation of 50 dwellings under the outline planning permission (19/00524/OUT)
- 2) That the Head of Planning and Building Control be authorised to grant planning permission subject to the agreed legal 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 12 months that the Head of Planning and Building Control 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 2023 (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

SP6 Infrastructure and Connectivity

SP7 Place Shaping Principles

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

SPL1 Managing Growth

SPL2 Settlement Boundaries

SPL3 Sustainable Design

HP1 Improving Health and Wellbeing

HP2 Community Facilities

HP3 Green Infrastructure

HP5 Open Space, Sports and Recreation Facilities

LP2 Housing Choice

LP3 Housing Density and Standards

LP4 Housing Layout

PP12 Improving Education and Skills

PPL1 Development and Flood Risk

PPL3 The Rural Landscape

PPL4 Biodiversity and Geodiversity

PPL5 Water Conservation, Drainage and Sewerage

PPL10 Renewable Energy Generation and Energy Efficiency Measures

CP1 Sustainable Transport and Accessibility

CP2 Improving the Transport Network

CP3 Improving the Telecommunications Network

SAMU5 Development South of Thorpe Road, Weeley

DI1 Infrastructure Delivery and Impact Mitigation

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

Essex Design Guide

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:

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').

- 2.4 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

The site is located within an area that is not subject of any emerging or adopted Neighbourhood Plan.

3. Relevant Planning History

14/00082/OUT	Erection of 20 dwellings with associated garages and single access point to Thorpe Road.	Approved	20.06.2014
14/01841/DETAIL	Erection of 20 dwellings with associated garages and single access point to Thorpe Road.	Approved	14.04.2015
15/01443/DISCON	Discharge of condition 8 (details of estate roads and footways), 12 (vehicular turning) and 13 (construction method statement) of planning permission 14/01841/DETAIL.	Approved	20.11.2015
16/00370/DETAIL	Variation of condition 10 of planning permission 14/01841/DETAIL to change wording, removing requirement of construction of estate roads to base course level prior to	Approved	01.06.2016

	commencement of dwellings, to allow construction of houses to commence sooner, reducing the period of disruption to neighbours.		
17/02162/OUT	Outline planning application with all matters reserved, except for access, for 280 dwellings, a 2 Form of Entry primary school, 56 place early years nursery, up to 3000 sqm of office (B1) buildings on 1 hectare and associated ancillary buildings, drainage systems, boundary treatments and hard surfacing as well as public open space, vehicular access from Thorpe Road a pedestrian footbridge and the closure of existing level crossing and formal diversion of public footpath No 5 - Weeley, over the new railway bridge.	Refused	19.11.2018
19/00524/OUT	Outline planning application with all matters reserved, except for access, for 280 dwellings, a 2 Form of Entry primary school, 56 place early years nursery, up to 3000 sqm of office (B1) buildings on 1 hectare and associated ancillary buildings, drainage systems, boundary treatments and hard surfacing as well as public open space, vehicular access from Thorpe Road a pedestrian footbridge and the closure of existing level crossing and formal diversion of public footpath No 5 - Weeley, over the new railway bridge.	Approved	14.08.2019
21/00039/DISCON	Discharge of condition 15 (Archaeology) of approved planning application 19/00524/OUT.	Approved	01.03.2021
21/01143/DISCON	Discharge of condition 4 (Layout and Phasing Plan) of approved application 19/00524/OUT.	Approved	03.09.2021
21/01464/DISCON	Discharge of condition 15 (written scheme of investigation) of application 19/00524/OUT.	Part discharged	01.03.2022
22/00979/DETAIL	Reserved matters application with details of appearance, landscaping, layout and scale for the development of 277 dwellings, 1,910m2 commercial floorspace (B1 Uses),	Current	

railway footbridge, attenuation basins, open space, play equipment and associated infrastructure pursuant to outline permission 19/00524/OUT (Outline planning application with all matters reserved, except for access, for 280 dwellings, a 2 Form of Entry primary school, 56 place early years nursery, up to 3000 sqm of office (B1) buildings on 1 hectare and associated ancillary buildings, drainage systems, boundary treatments and hard surfacing as well as public open space, vehicular access from Thorpe Road a pedestrian footbridge and the closure of existing level crossing and formal diversion of public footpath No 5 - Weeley, over the new railway bridge) including minor alterations to public footpaths No.3 and No. 4 to allow for the proposed layout.

22/01301/DISCON	Discharge of conditions 17 (External lighting), 18 (Refuse collection), 19 (Hard and soft landscaping), 21 (External materials), 23 (Landscape and ecology management plan), 26 (Boundary treatments), 27 (Demolition plan), 36 (On site ecology mitigation), and 38 (Local recruitment strategy) of application 19/00524/OUT.	Current
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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/>.

<u>ECC Highways Dept</u>	16.03.2023
<p>The information submitted with the application has been assessed by the Highway Authority and conclusions have been drawn from a desktop study with the observations below based on the updated drawings. No site visit was undertaken in conjunction with this planning application. It is noted that the changes relate to the front-to-front distances between these two proposed bungalows and the existing bungalows opposite, this has now increased, and the changes have also allowed for greater manoeuvring space for cars accessing the proposed driveways, considering these factors:</p>	

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 commencement of the development a construction traffic management plan, to include but shall not be limited to details of vehicle/wheel cleaning facilities within the site and adjacent to the egress onto the highway, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the agreed plan.

Reason: To protect highway efficiency of movement and safety in accordance with policy DM1 of the Highway Authority's Development Management Policies as adopted as County Council Supplementary Guidance in February 2011

2. No occupation of the development shall take place until the following have been provided or completed:

a) The vehicular and pedestrian access arrangements as shown on the amended planning application drawings.

b) Residential Travel Information Packs in accordance with Essex County Council guidance.

Reason: To protect highway efficiency of movement and safety and to ensure the proposal site is accessible by more sustainable modes of transport such as public transport, cycling and walking, in accordance with policy DM1, DM9 and DM10

3. The proposed development shall not be occupied until such time as the vehicle parking areas indicated on the approved plans, has been hard surfaced, and sealed. The vehicle parking areas 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.

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.

Tree & Landscape Officer

21.03.2023

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

The applicant has provided details of soft landscaping, including tree planting, that will both soften and enhance the appearance of the development.

UU Open Spaces

06.04.2023

Public Realm Assessment

Play Space - current deficit: **Deficit of 1.37 hectares of equipped play in Weeley**

Formal Play - current deficit: **Deficit of 0.85 hectares of Open Space in Great Bromley**

Settlement provision: **Leap and Open Space provided at the village hall and recreation ground on Clacton Road located 1.4 miles away**

Officer Conclusions and Recommendations

Contribution necessary, related, and reasonable?

-No contribution is being requested on this occasion, the provision is adequate to cope with some development

-Should the development increase in size a contribution maybe required.

Identified project*:

(In consultation with Town / Parish Council on upcoming projects or needs for maintenance)

-None on this occasion

5. Representations

5.1 Parish Council Consultation

Weeley Parish Council were consulted on three separate occasions about this application and objected to the application on each occasion. A summary of the main issues raised in each Parish Council consultation response is set out below:

25th March 2023

Object to the applications for the following reasons.

- Object to this revised application for the same reasons that it objected to the original planning application (19/00524/OUT).
- Remain doubtful that the school and offices will be delivered, and they are likely to be replaced with more houses. The developer should be made to provide the school.
- Anglian Water are unable to resolve the foul water drainage issues pertaining to Barleyfields. No new housing should be allowed until this is resolved.

24th March 2023

Object to the applications for the following reasons.

- The revised application does not address the issue of the narrow width of the road. It works at the moment because there are only bungalows on one side of the road and there is a turning head that provides access to the existing garages to Nos. 1 and 2. It is difficult to see how drivers would be able to manoeuvre directly into the garages on proposed plots 2 and 3.
- The revised plans still show the windows of the proposed homes closely overlooking the existing properties.
- Anglian Water are unable to resolve the foul water drainage issues pertaining to Barleyfields. No new housing should be allowed until this is resolved.
- The developer is proposing to shoehorn too many properties onto this site so this is over development.

1st October 2022

Object to the applications for the following reasons.

- These dwellings should have their own access. Verity Gardens does not appear wide enough to accommodate the additional traffic and ensure that emergency vehicles would access the end dwelling.

- The proposed dwellings would be far too close to the existing houses allowing residents to peer into each other's homes.
- This is an example of over development.

5.2 Public Consultation

Representations objecting to the planning application have been received from seven households. A summary of the main issues raised are set out below:

Principle of Development

- The Council can demonstrate a 5-year housing land supply even without the inclusion of a further 277/280 dwellings, so the development is unnecessary.
- This application should be considered with the larger scheme and a new access designed suitable to accommodate the additional traffic from both.

Access Arrangements

- Verity Gardens is a narrow private drive which is barely wide enough to handle existing vehicle movements. The road is too narrow. Emergency vehicles would have difficulty entering which is particularly worrying as residents living in one of the properties require round the clock care. The three proposed properties should have their own access road.
- Verity Gardens is not owned by the applicant.
- There is no visitor parking.
- Residents do not use garages and end up parking their cars on the street.
- Sienna Mews and Maris Place residents struggle with parking and the day-to-day movement of vehicles and Verity Gardens would be the same.
- There is already overflow parking along Barleyfield Drive as the 20 dwellings have insufficient parking, but Barleyfield Drive will be far busier when it is the vehicular access to the main development.

Impacts on existing residents

- Two residents living in Verity Gardens have severe learning disabilities and will not be able to cope with the change that the new development would bring, and it would adversely affect their quality of life.
- Residents right to privacy would be lost.
- Existing residents would not have bought properties if they knew this development was going to happen opposite their homes.
- The parking for plot 2 is directly in front of a bedroom window so reversing vehicles will be within 3m of their window. The kitchen, dining and lounge window of Plot 2 is 9m from the neighbour's bedroom windows and is slightly further from our other 2 bedrooms and lounge. 4 rooms are overlooked.
- The new properties are too close to the existing properties, which in the future could cause friction. Increasing the separation by 1.2m will have minimal effect.
- Other Councils require minimum of 22m between facing principal windows in order to retain sufficient privacy. Dispute the applicants claim that the proposed properties facing ours are no closer than on the current Barleyfields development.
- Rear gardens with 6-8ft fences would be more acceptable backing on to Verity Gardens.
- Development will add to queuing traffic along Barleyfield Drive resulting in noise and air quality issues for existing residents.
- No indications of how the developer will maintain access to existing residents and minimise pollution and general inconvenience during construction.

Cumulative Impacts

- This application is part of a larger development that would see 280 new dwellings erected, adding 57% to the existing size of Weeley. The development will harm the character of the village. This larger development is mixed use, with offices and a new school, and only has a single point of vehicular access onto the already busy Thorpe Road. Existing and future residents will suffer congestion. These dwellings will add to existing problems with the foul sewage network. Anglian Water have been unable to find a solution to prevent the flooding of gardens and homes that already happens.

5.3 Member Call In

Cllr Peter Harris (Weeley & Tendring Ward) requested that the application is called-in to the Planning Committee for determination if Officers are not minded to refuse the application. Cllr Harris cites the following material planning considerations.

- The proposed 3 new properties are to share the existing access road which currently services 2 properties in Verity Gardens. The access is not suitable to serve a further 3 properties.
- The access road is clearly far too narrow for 5 houses to share as visitors will need to park on the road.
- Having 3 more properties sharing the access road could severely hamper emergency vehicles reaching the properties.
- The proposed properties are also very close to the current properties in Verity Gardens 9m window to window with the existing property opposite – destroying any privacy.

6. **Assessment**

Site Context

- 6.1 Apart from the carriageway along Verity Gardens and Barleyfield Drive the application site is an undeveloped greenfield site. Currently a 1.2m high wooden post and rail fence runs along the southern side of the carriageway. On the northern side of Verity Gardens there are three dwellings – two 3-bedroom detached bungalows and a house on the corner plot facing Verity Gardens but with parking off Barleyfield Drive. The existing bungalows have red brick walls and red pantile roof covering. No.3 Verity Gardens has four parking spaces - two spaces within a double garage which is built at the end of the road and two spaces in front of the garage building. The neighbouring property has two spaces provided in a double garage which is built behind a turning head that extends between the two bungalows.

Planning History

- 6.2 The application site forms part of a larger site that was granted Outline planning permission in August 2019 for a mixed use development containing up to 280 dwellings (application ref.19/00524/OUT).
- 6.3 The applicant has submitted an application for approval of the Reserved Matters pursuant to that Outline planning permission (application ref. 22/00979/DETAIL) which is also pending determination. When first submitted the Reserved Matters application included the land that now forms this application site. The original Reserved Matters application originally sought to deliver three new dwellings on this parcel of land with access over Verity Gardens. However, as Verity Gardens was not within the red line site boundary of the Outline planning permission the Council could not consider those dwellings under the Outline planning permission. The Reserved Matters application has been amended to exclude this parcel of land and now seeks approval for 277 dwellings rather than the original 280.
- 6.4 As the applicant still wishes to develop three dwellings on this land, with access off Verity Gardens this full planning application has been submitted. This application will need to be

assessed on its own merits and as a stand-alone application, despite clearly being part of the developer's wider plans to develop the land.

Proposal

- 6.5 This application seeks Full planning permission for the erection of three dwellings on land on the south side of Verity Gardens.
- 6.6 The new dwellings would consist of two detached 2-bed bungalows and one 4-bed detached house. A double width garage would be constructed between the bungalows providing each dwelling with a parking space and a driveway in front of the garage, which would provide a further space for each dwelling. The house would be provided with its own double garage and two parking spaces in front.

Principle of Development

- 6.7 The principle of residential development at this location has already been established by the granting of outline planning permission 19/00524/OUT which allows for up to 280 dwellings with vehicular access from Thorpe Road; a new Primary School and Early Years Childrens Nursery; up to 3000 sqm of office (B1) buildings; Public Open Space; a new footbridge over the railway line; and associated development.
- 6.8 The site lies within the Settlement Development Boundary (SDB) for Weeley and is also designated for a Mixed-Use development by virtue of Policy SAMU5 of the adopted Tendring District Local Plan 2013-2033 and Beyond (TDLP). These facts further emphasise that the principle of residential development on this site has been accepted by the Council. Whilst the concerns expressed by the Parish Council and local residents about the potential impacts about the development of up to 280 homes are noted, the Council's planning policies and the previous grant of Outline planning permission have all firmly established this to be a location where development is acceptable. Many of the issues raised about development, including traffic congestion, air quality and noise, impact on local character, visual impact, and infrastructure capacity, were all assessed as part of the outline application and were either found to be acceptable, or capable of mitigation as part of the larger development.
- 6.9 In the interests of proper planning the Council would not want to consider an application on part of an allocated mixed use development site that would in some way prejudice the delivery of the remainder of the site. The layout and phasing plan, approved through the discharge of Condition 4 of the Outline planning permission, has shown residential development on this site and Officers do not consider that these proposals would prejudice delivery of any of the other uses envisaged in Policy SAMU5 (up to 280 residential dwellings, up to 3000sqm of office space; a Primary School and Nursery and public open space).

Scale, Layout & Appearance

- 6.10 It is proposed that two no. 2-bedroom detached bungalows are erected opposite the existing two detached bungalows on Verity Gardens. This scale of development is considered to be the appropriate design response in terms of scale. On Plot 1 the applicant proposes a much larger 4-bed detached house. A substantial building of this scale is also considered to be appropriate for this location which will be the key entrance to the development. The transition from bungalow to large, detached family house can sometimes be problematic but in this instance the detached house will sit in a generous corner plot, facing out back towards Barleyfield Drive. The house will also be separated from the bungalows by a detached double garage, and it will also relate to other houses further along Barleyfield Drive. Given all these factors the scale of the three dwellings and the change in scale across the application site is considered to be acceptable.

- 6.11 The two 'house types' are taken from the range of house types proposed for the larger development to the south. The architectural style is considered appropriate for the village and site context and the buildings display attractive architectural features. The proposed materials for the three dwellings are taken from the palette of materials that the applicant has proposed for use on the larger site. The bungalows are proposed to be clad in a red / orange brick, with a black pantile roof covering. Whilst not stated on the materials plan submitted with the application the front projection is shown on the drawing to be clad with a white render. The garage would be built in a matching brick but with a dark red pantile roof. The house in contrast is proposed to be clad in a red stock brick with dark red plain tile on the main roof and imitation slate on the single storey rear 'addition'. The detached garage for the house would be clad in the same brick as the house under a dark red pantile roof. Whilst a material plan is included for approval, listing specific materials, the plan is annotated to say that the actual materials will be as listed or a material of a similar appearance. The Council will need to be clear on the materials that are being used so the submitted materials plan and schedule cannot be approved and details will be required by condition.
- 6.12 The plans show a 1.8m high brick wall will be erected around the public facing boundary to the side of Plot 1 screening the rear garden. The plot occupies an exposed and prominent location within the streetscene. This is considered to be an appropriate means of enclosure, but no details of the material or design of the wall have been supplied. In addition, the boundary treatment plan shows no mean of enclosure along the boundary of Plot 1 and Verity Gardens. This is a relatively long and again prominent boundary and Officers consider some form of enclosure should be provided to differentiate between the public and private realm. A condition is recommended to obtain and approve these details. Permitted development rights are also recommended to be removed for new enclosures forward and to the north of Plot 1 to prevent harsh or high level boundary treatments being erected in the future to enclose this large and prominent front garden area.
- 6.13 A plan showing where refuse and recycling will be presented for collection has been submitted with the application. This shows bins / bags being presented directly in front of the dwellings. These collection points are more than 20m from Barleyfield Drive and would therefore only be acceptable if the Council's refuse vehicles were to enter Verity Gardens. The Council's Waste Manager has not provided a consultation response at the time of writing this report to confirm whether this arrangement is acceptable, so a condition is recommended to ensure that details of appropriate refuse and recycling collection points are agreed by the Council. This could include details of a bin collection point, which would need to be designed in, if required by the Council's Waste Manager.
- 6.14 Subject to these conditions the scale, layout and appearance of the development is considered to be acceptable.

Highway Safety/Parking

- 6.15 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.
- 6.16 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.

- 6.17 The application site is approximately 85m south of the Thorpe Road (B1033). Vehicular access to the proposed dwellings will be from Verity Gardens, which is an existing road leading off Barleyfield Drive, which is currently a 5.5m wide carriageway with footways. It is proposed that Barleyfield Drive is widened to provide a 6.75m wide carriageway on the planning drawings but the purpose of this widening is to serve the much larger development on land further to the south (19/00524/OUT). Barleyfield Drive currently serves 20 dwellings and Officers do not consider that it would be necessary to widen Barleyfield Drive to a 6.75m wide carriageway to serve the additional three dwellings proposed by this application.
- 6.18 The Essex Design Guide Street Type Table sets out the standards for different roads types in Essex. A 'Type H' road – Private Drive – is appropriate to serve a maximum of 5 dwellings and should be 5.5m wide for the first 6m then taper down to a lesser, unspecified, width. Verity Gardens would comply with these standards, with the road serving the two existing bungalows and the three new dwellings.
- 6.19 Essex County Council as the Highway Authority were consulted on the application and they have raised no objection in respect of highway safety or capacity, subject to conditions. The recommended conditions are for the applicant to provide details and get approval for a Construction Traffic Management Plan and Resident's Travel Information Packs. A condition is also recommended requiring that the parking spaces for the dwellings are available prior to the dwellings being occupied. For the reasons set out above Officers have not applied the recommended condition requiring the applicant to carry out the 'vehicular and pedestrian access arrangements as shown on the amended planning application drawings'.
- 6.20 The Council's adopted Parking Standards require the provision of at least two car parking spaces for each new dwelling that meets the minimum car parking standards where one space measures 5.5m x 2.9m, or where parking is provided within garages this must measure 7m x 3m. The proposed development meets the Council's adopted minimum parking standards.
- 6.21 Concerns have been raised about the ability of vehicles to manoeuvre into and out of the parking spaces between the bungalows given the width of carriageway on Verity Gardens. The applicant has acknowledged these concerns and as well as adjusting the distance between the dwellings they have also set the parking spaces further back from the edge of the carriageway. The spaces on the driveway are now set back by 2.5m from the edge of the carriageway with the driveways splayed to further aid driver manoeuvres. Officers consider that the proposed scheme provides sufficient turning space for the parking spaces to be useable.
- 6.22 The Council's parking standards also require that visitor car parking is provided to serve new housing, at a rate of one visitor space for every four dwellings. When Verity Gardens was approved a visitor parking space was incorporated in the layout on the northern side of the road and is secured for retention via condition on 14/01841/DETAIL. The proposed house also includes a third off street parking space as a visitor parking space to serve that dwelling.
- 6.23 All three dwellings will be provided with garages that will be large enough to store a vehicle and a bicycle so there is no requirement for additional cycle parking to be provided. A condition is recommended that each dwelling will be fitted with an electric vehicle charging point required to support more sustainable transport modes.

Landscaping/Biodiversity

- 6.24 The site is currently open and relatively bare. No trees or hedges would be affected by the proposals. A soft landscaping scheme has been submitted with the application and the Council's Tree and Landscape Officer raises no objection to the proposals.
- 6.25 This area of land was subject to extensive ecological investigation as part of the consideration of the Outline planning permission. The applicant has commissioned an updated Protected Species

survey, which included a further assessment of the habitats on the whole of the site which has Outline planning permission. This application site is recorded as being in an area of Improved Grassland. The report references some bat commuting activity, and a low number of adders were noted within the vicinity of the site.

- 6.26 Whilst the Council's Ecologist has not provided a consultation response to this particular application, they have assessed the report as part of the Reserved Matters application for the larger site and they confirmed that the Council has sufficient information to determine the application and that they do not object to the application, subject to the mitigation secured through the Outline planning permission. As protected species were found in the vicinity of the site the principal concern is to make sure that the development does not inadvertently harm any protected species during the construction process. A condition is recommended that the applicant produce a targeted Construction Environment Management Plan to ensure that if this parcel of land were to be developed in isolation suitable measures would be employed to guard against harm to protected species.
- 6.27 The site has been identified as falling within the 'Zone of Influence' (Zoi) of a number of European designated sites scoped into the Essex Coastal Recreational disturbance Avoidance and Mitigation Strategy (RAMS) – namely the Hamford Water Special Protection Area (SPA), Ramsar site and Site of Special Scientific Interest (SSSI); the Essex Estuaries Special Area of Conservation (SAC); the Colne Estuary SPA, Ramsar site and SSSI; and the Stour and Orwell Estuaries SPA, Ramsar site and SSSI. In the context of the Council's duty as 'competent authority' under the provisions of the Habitats Regulations, it is therefore anticipated that, without mitigation, new residential development in this location is *'likely to have a significant effect on one or more European designated sites through increased recreation pressure, either when considered 'alone' or 'in combination' with other plans or projects.'*
- 6.28 The site was also identified as having the potential to impact on the Weeley Hall Wood SSSI (which does not fall within the Essex Coast RAMS).
- 6.29 Suitable mitigation has been secured through the planning conditions and obligations attached to the Outline planning permission which included this application site. The development would be linked to the main Section 106 agreement and as such officers are content that no further mitigation needs to be specified in connection with this application.

Impact on Residential Amenity

- 6.30 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.
- 6.31 Strong objections have been raised by parties objecting to the impact the new dwellings would have on the existing residents of Verity Gardens.
- 6.32 With regards to the potential loss of privacy the development would see residents living opposite the existing residents who currently have an outlook over fields. The existing bungalows do have windows to habitable rooms at the front of the property. Having people living opposite will mean that those windows will have people looking at them more often, but those windows are already exposed to the public realm so neighbours, visitors and delivery drivers will already pass these windows, so there is a reduced expectation of privacy compared to windows which would be on the rear elevation of a dwelling. Even if the development is approved the residents of Verity Gardens will still be likely to have relatively low numbers of people passing their properties and any views that residents opposite would have will only be from ground floor windows.

6.33 The applicant has revisited their original plans and to provide slightly more separation the proposed bungalows have been moved back by 1.2m so that there is now almost 11m between the front elevations of the facing bungalows. This slightly greater separation should also reduce the proximity of vehicle manoeuvres as residents drive in and out of the new dwellings. Whilst it is accepted that the development will significantly alter the outlook of these properties it is not considered that the proposals would have a materially damaging impact on their privacy, or other amenities, such that the application should be refused.

6.34 A number of representations reference two of the existing residents, living together at the end of Verity Gardens, who have severe disabilities which require round the clock care. The family have said that they bought the property at the end of the cul-de-sac in the expectation that the property would provide suitable living conditions and that the area around their home would continue to meet their needs. They feel aggrieved that the proposed development will bring changes that their family members may experience difficulty in coping with. Whilst we are sympathetic, any assurances given and subsequently relied upon is a private matter between the family and the developer and/or their agents and are not material planning considerations in the determination of this application. The Council's planning policies and the previous grant of Outline planning permission have all firmly established this to be a location where residential development is acceptable, and so must be lawfully considered against current planning policy. However, all planning decisions must also have due regard to the impact on those with protected characteristics under the Equality Act 2010 (including section 29(1) and (6); and the general equality duty which is set out in section 149 of the Equality Act 2010). The Local Planning Authority is mindful that development of the nature sought may have a different impact on such individuals as opposed to those without such characteristics, especially through construction as the environment changes and ongoing increased disturbance of increased domestic activity in the surrounding area. The planning balance is to consider the level of harm to amenity against the benefits and merits of the scheme. In the finer balance it is considered that given the design of the scheme, alternative uses of the site without the need for permission, existing public access, housing need and benefit and noting the surrounding development that a robust refusal on harm to amenity in this regard could not be defended.

6.35 We consider that the wider public benefit in adding to the available housing stock that this development would bring is also an important consideration and therefore we recommend that approval of the application is a proportionate response to achieving a legitimate aim having regard to the interests of all. The applicant has confirmed they are willing to agree a Construction Management Plan as a pre-commencement condition which will set out the measures they can employ to further limit disturbance during construction. Further enquiries are also underway to establish whether there are reasonable adjustments that could be included by way of lawful planning conditions that could mitigate any adverse impact on the individuals concerned, and further information on this point will be available on the update sheet.

6.36 In conclusion, Officers do not consider that the proposed development would be contrary to the Council's planning policies and warrant refusal on grounds of adverse impact on neighbour amenity.

Section 106 of the Town and Country Planning Act 1990 and Viability Matters

6.37 A planning application providing just three residential dwellings would not usually need to be subject to a Section 106 agreement, however the applicant acknowledges that these three dwellings form part of a larger development and they do not seek to separate these dwellings from the planning obligations for the larger site.

6.38 The applicant has prepared a Unilateral Undertaking that effectively ties this Full application to the main development, and the associated Section 106 agreement, so that the three dwellings are bound by and subject to the provisions and obligations contained within that agreement. The

Unilateral Undertaking also ensures no more than 280 Dwellings shall be constructed on the combined area of the application site (22/01332/FUL) and the outline site (19/00524/OUT) and that the 3 residential units constructed under this application are not in addition to the 280 residential units permitted under the outline planning permission. Furthermore, in the interests of proper planning the Council would not want to consider an application on part of an allocated mixed use development site that would in some way prejudice the delivery of the remainder of the site. The Unilateral Undertaking therefore ensures the planning permission for this application (22/01332/FUL) cannot be implemented unless and until the outline planning permission (19/00524/OUT) has commenced. This planning permission (22/01332/FUL) must also be implemented prior to the occupation of 50 dwellings under the outline planning permission (19/00524/OUT), to ensure that the dwellings come forward in a timely manner and to reduce the period of time that the existing residents could be exposed to the potential impact of construction activity on the main site.

6.39 The Unilateral Undertaking is signed and awaiting final completion pending Member's determination of this application.

7. Conclusion

7.1 The principle of residential development at this location has previously been accepted, as evidenced by the grant of outline planning permission (19/00524/OUT) for up to 280 dwellings in 2019. The site now lies within the Settlement Development Boundary for Weeley where there is a presumption in favour of sustainable development. Furthermore, the site forms part of a larger site allocated for mixed-use residential led development in the adopted Development Plan. As such, there is no policy conflict in principle with the proposed residential development of this land.

7.2 There is also no concern over vehicular access from Thorpe Road via Barleyfield Drive. Concerns have been expressed about the narrowness of Verity Gardens and its capacity to accommodate the additional vehicle movements from three additional dwellings. However, the proposed development complies with the Council's adopted parking standards and Officers consider that the proposed dwellings can be safely and reasonably accessed.

7.3 The scale, appearance and landscaping of the proposal are considered acceptable and would be appropriate in character and appearance with reference to the existing development of twenty dwellings at Barleyfield Drive and the proposed development of 277 dwellings to the south. The application is therefore recommended for approval subject to securing an appropriate legal agreement.

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 Unilateral Undertaking to link this planning permission to the planning permission 19/00524/OUT and the associated Section 106 agreement, in order that the dwellings constructed under 22/01332/FUL are dwellings for the purposes of the Section 106 legal agreement and are bound by and subject to the provisions and obligations contained within that agreement. No more than 280 Dwellings shall be constructed on the combined area of the application site (22/01332/FUL) and the outline site (19/00524/OUT) and that the 3 residential units constructed under this application are not in addition to the 280 residential units permitted under the outline planning permission. Not to implement the planning permission for this application (22/01332/FUL) unless and until the outline planning permission (19/00524/OUT) has commenced. To implement this planning permission (22/01332/FUL) prior to the occupation of 50 dwellings under the outline planning permission (19/00524/OUT).

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.

NOTES 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 of 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. 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 Drawing 21/12/100 Rev.E received 09.08.2023.

Proposed Site Plan – 21/12/102 Rev.E

The Braithwaite Floor Plans & Elevations – 21/12/38 Rev.D

The Cecilia Floor Plans & Elevations – 21/12/21 Rev.D

Proposed Outbuildings - 21/12/39 Rev.D

External Works Materials Plan – 21/12/107 Rev.E

Detailed Planting Proposals – Plot 1-3 – 2467-LLA-ZZ-00-DR-L-0218 Rev.P03

Amended Parking Layout Plan – 21/12/103 Rev.E

Amended Boundary Treatment Plan – 21/12/105 Rev.E

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

NOTES 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.

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. 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.

3. FURTHER APPROVAL - 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 roads adjoining 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 erection and maintenance of security hoarding.
- j) Scheme for sustainable construction management to ensure effective water and energy use.
- k) Scheme of review of complaints from neighbours.
- l) Registration and details of a Considerate Constructors Scheme

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.

4. FURTHER APPROVAL – WASTE STRATEGY

CONDITION: No development above slab level shall take place until there has been submitted to and approved, in writing, by the Local Planning Authority, details of the storage for refuse/recycling bins and any collection areas shall be submitted to and approved, in writing, by the Local Planning Authority. The approved areas shall be provided prior to first occupation/use and thereafter retained as approved.

REASON: In the interest of highway safety to ensure that refuse/recycling bins do not cause any obstruction or danger on the highway and in the interests of an attractive well-designed development that is not detrimental to visual amenity.

5. 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.

NOTES FOR CONDITION:

Slab level 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 visualised 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.

6. FURTHER APPROVAL – LIGHTING

CONDITION: No development above slab level shall take place until a lighting design scheme for biodiversity has been 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 contour plans, Isolux 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 written 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).

7. 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 has been submitted to and approved, in writing, by the Local Planning Authority. The scheme shall include as a minimum:-

- 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.

NOTES FOR CONDITION:

Slab level 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 visualised 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.

8. FURTHER APPROVAL – CEMP

CONDITION: No development shall take place, (including any demolition, ground works, site clearance, vegetation clearance) until a construction environmental management plan (CEMP: Biodiversity) has been submitted to and approved in writing by the Local Planning Authority. The CEMP: Biodiversity shall include the following:

- i) Risk assessment of potentially damaging construction activities
- ii) Identification of 'biodiversity protection zones'
- iii) Practical measures (both physical measures and sensitive working practices) to avoid or reduce the impacts of construction (this may be provided as a set of method statements)
- iv) The location and timing of sensitive works to avoid harm to biodiversity features
- v) The times during the construction process when specialist ecologists need to be present on site to oversee works
- vi) Responsible persons and lines of communication
- vii) The role and responsibilities on site of an ecological clerk of works (EcOW) or similarly competent person
- viii) Use of protective fences, exclusion barriers and warning signs.
- ix) Containment, control and removal of any Invasive non-native species present on site

The approved CEMP: Biodiversity shall be adhered to and implemented throughout the construction period in strict accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To conserve Protected and Priority species and allow the LPA to discharge its duties under the UK Habitats Regulations 2017, the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species). This condition is required to be agreed prior to the commencement of any development, including site clearance, as any potential disturbance of the site before appropriate measures are put in place could result in harm to protected species.

9. RESIDENTIAL TRAVEL INFORMATION PACK

CONDITION: Prior to first occupation of each dwelling, a Residential Travel Information Pack (travel pack) shall be provided to each dwelling for use of its first occupiers. The travel pack shall be agreed, in writing, by the Local planning authority prior to provision and shall include a minimum of six one day travel vouchers for use with a local transport operator.

REASON: In the interests of reducing the need to travel by car and promoting sustainable development and transport.

10. 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 have been provided and made functionally available. The areas shall then be retained as approved 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.

11. FURTHER APPROVAL – SCREEN WALLS AND FENCES

Prior to first occupation of the development hereby approved details of all gates / fences / walls or other means of enclosure shall be submitted to and approved in writing by the Local Planning Authority. The details shall include position, design, height and materials of the enclosures, and shall include details of a suitable means of enclosure along the boundary of Plot 1 and Verity Gardens. The enclosures as approved shall be provided prior to the occupation of the development hereby approved and shall be permanently maintained as such.

REASON: In order to secure the satisfactory development of the site and in order to protect the privacy of the occupiers of adjoining dwellings.

12. 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.

13. FURTHER APPROVAL – BROADBAND

CONDITION: The hereby permitted development shall not be occupied until a fibre optic broadband connection installed on an open access basis and directly accessed from the nearest exchange, incorporating the use of resistant tubing, has been installed at the site, in accordance with details that shall be submitted and approved, in writing, by the Local Planning Authority. If the applicant is unable to achieve this standard of connection, and can evidence through consultation that it would not be possible, practical or economically viable an alternative superfast (i.e. will provide speeds greater than 24mbps) wireless service will be considered acceptable.

Reason – To ensure the development is able to be equipped with high speed broadband to enable opportunities for web-based communication and homeworking.

14. SPECIFIC RESTRICTION ON DEVELOPMENT: REMOVAL OF PERMITTED DEVELOPMENT RIGHTS ENCLOSURES

CONDITION: Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015, (or any Order revoking and re-enacting that Order with or without modification):- no fence, gate, wall or any other means of enclosure shall be erected forward (west) or north of Plot 1 except pursuant to the grant of planning permission on an application made in that regard.

REASON: To enable the Local Planning Authority to retain control over the development in the interests of the amenity of the locality and to safeguard local distinctiveness.

8.3 Conditions and Reasons

Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

1: The above requirements should be imposed by way of negative planning conditions or planning obligation agreements as appropriate

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

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

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/>.