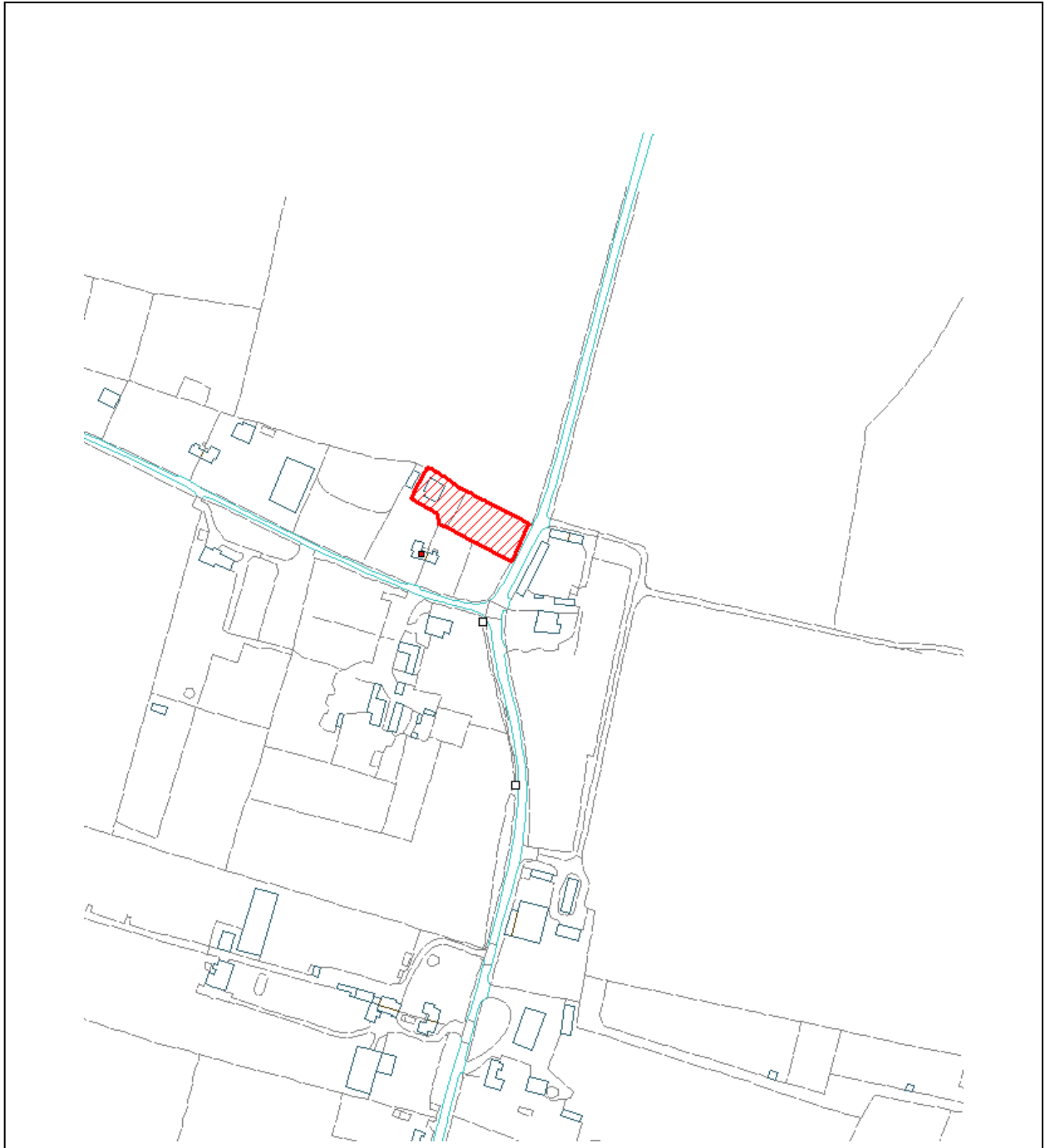


PLANNING COMMITTEE

21st November 2023

REPORT OF THE DIRECTOR OF PLANNING

A.3 PLANNING APPLICATION – 23/00697/FUL – LAND AT 5 HUNTERS CHASE ARDLEIGH COLCHESTER CO7 7LW



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| | | | |
|----------------------|---|---------------------|--------------------|
| Application: | 23/00697/FUL | Expiry Date: | 13th July 2023 |
| Case Officer: | Naomi Hart | EOT Date: | 22nd November 2023 |
| Town/ Parish: | Ardleigh Parish Council | | |
| Applicant: | Mr and Mrs Buck | | |
| Address: | Land at 5 Hunters Chase Ardleigh Colchester, CO7 7LW | | |
| Development: | Proposed erection of one self-build dwelling (in lieu of Prior Approval for one dwelling, subject of application 22/00360/COUNOT for Barn B). | | |

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 Although the proposed dwelling will see an increase in height and slight increase in footprint to the development approved under prior approval 21/00360/COUNOT, due to its location and the existing vegetation and proposed landscaping, it is not considered to cause any harm to the visual or neighbouring amenities.
- 1.3 The Council's Tree and Landscape Officer has raised no concerns, while sufficient parking and private amenity space is provided, and there will not be significant harm to existing neighbouring amenities or ecology impacts. Essex Highways Authority have also raised no objections.

Recommendation: Approval subject to Unilateral Undertaking and Conditions, as follows:

That the Head of Planning and Building Control be authorised to grant planning permission subject to:

- 1) A completed Unilateral Undertaking securing;
 - Financial contribution of £156.76 (index linked) towards RAMS.
- 2) The conditions stated at paragraph 9.2, 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.

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
- SP4 Meeting Housing Needs
- SP7 Place Shaping Principles

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

- SPL1 Managing Growth
- SPL2 Settlement Development Boundaries
- SPL3 Sustainable Design
- LP1 Housing Supply
- LP2 Housing Choice
- LP3 Housing Density and Standards
- LP4 Housing Layout
- HP5 Open Space, Sports & Recreation Facilities
- PPL1 Development and Flood Risk
- 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
- DI1 Infrastructure Delivery and Impact Mitigation

Draft Ardleigh Neighbourhood Plan 2020 – 2033 August 2022 (not yet adopted)

- GDP General Approach to Development
- EP Natural, Built & Historic Environment
- TP Transport & Parking

Essex Minerals Local Plan Adopted July 2014

- S8 Safeguarding mineral resources and mineral reserves
- DM1 Development Management Criteria

Supplementary Planning Documents

- Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy SPD 2020 (RAMS)
- Tendring Provision of Recreational Open Space for New Development SPD 2008 (under review)
- Essex Design Guide
- Statutory guidance -Technical housing standards: nationally described space standard Published 27 March 2015

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.

In relation to housing supply:

- 2.3 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.

Ardleigh Neighbourhood Plan – Examination Stage

- 2.5 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>. In summary, without prejudice, the weight that should be applied to Neighbourhood Plans can be understood as follows:

- Stage 1: Designated neighbourhood area (Limited Weight)
- Stage 2: Preparing a draft neighbourhood plan (Limited Weight)
- Stage 3: Pre-submission publicity and consultation (Limited Weight)
- Stage 4: Submission of a neighbourhood plan (Limited Weight)
- Stage 5: Independent Examination (Limited/Significant Weight)
- Stage 6: Referendum (Significant Weight)
- Stage 7: Adoption by LPA (Full Weight)

- 2.6 On the 14th of June 2023 a Planning Inspector was appointed as the Examiner for the Ardleigh Neighbourhood Plan. The Examination for the Ardleigh Neighbourhood Plan formally opened on Wednesday 12th July 2023.
- 2.7 On the 18th of August, the Examiner sent the Council an Interim Note of Findings which detailed several questions and matters of clarification.
- 2.8 Therefore, the Ardleigh Neighbourhood Plan, and any relevant policies therein, can be understood as reaching 'Stage 4' in terms of the weight that can be attributed to it in the decision-making process, and approaching 'Stage 5' in the near future.

3. Relevant Planning History

| | | | |
|-----------------|---|-----------------------------|------------|
| 06/00724/FUL | Two storey side extension, first floor rear extension and front porch | Approved | 13.06.2006 |
| 22/00359/COUNOT | Proposed conversion of an agricultural building into a dwellinghouse (Barn A). | Prior Approval Not Required | 20.04.2022 |
| 22/00360/COUNOT | Proposed conversion of an agricultural building into a dwellinghouse. (Barn B) | Prior Approval Not Required | 20.04.2022 |
| 22/01784/FULHH | Erection of detached cartlodge and home office. | Approved | 20.12.2022 |
| 23/00773/FUL | Erection of one single-storey self-build dwelling in lieu of Barn A approved under 22/00359/COUNOT and proposed new access. | Refused | 06.10.2023 |

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 with the exception of Essex County Council Ecology, where both the original comments and the most recent comments confirming no objection have been included. Additionally, the Council's Landscape officers' comments have been retained to provide a comprehensive view of the evolution of the landscaping proposals for the benefit of Members of the Planning Committee.
- 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>Essex County Council Ecology</u> | <i>Latest Comments – No objection</i> | 25.08.2023 |
|--|--|-------------------|

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

No objection subject to securing biodiversity mitigation and enhancement measures.
Summary

We have reviewed the Ecological Survey and Assessment (Essex Mammal Surveys, August 2023) relating to the likely impacts of development on designated sites, protected and Priority species & habitats and identification of appropriate mitigation measures. We are now satisfied that there is sufficient ecological information available for determination of this application.

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

The mitigation measures identified in the Ecological Survey and Assessment (Essex Mammal Surveys, August 2023) should be secured by a condition of any consent and implemented in full. This is necessary to conserve and enhance protected and Priority species particularly Hedgehog and Common Toad.

We also support the proposed reasonable biodiversity enhancements of two bird nesting boxes, two solitary beehives, and a Hedgehog nesting box, which have been recommended by the Ecological Survey and Assessment (Essex Mammal Surveys, August 2023) to secure net gains for biodiversity, as outlined under Paragraph 174d of the National Planning Policy Framework (2021). Reasonable biodiversity enhancement measures should be outlined within a Biodiversity Enhancement Strategy and should be secured by a condition of any consent.

In addition, the Ecological Survey and Assessment (Essex Mammal Surveys, August 2023) highlights that it is likely bats could be foraging/commuting within and around the site. Therefore, if any external lighting is to be proposed, it is advised that a sensitive lighting scheme is developed to minimise any impacts. This should summarise the following measures will be implemented:

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

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

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

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

Recommended conditions.

1. ACTION REQUIRED IN ACCORDANCE WITH ECOLOGICAL APPRAISAL RECOMMENDATIONS

"All mitigation measures and/or works shall be carried out in accordance with the details contained in the Ecological Survey and Assessment (Essex Mammal Surveys, August 2023) as already submitted with the planning application and agreed in principle with the local planning authority prior to determination.

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

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

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

- The content of the Biodiversity Enhancement Strategy shall include the following:
- a) Purpose and conservation objectives for the proposed enhancement measures;
 - b) detailed designs or product descriptions to achieve stated objectives;
 - c) locations, orientations, and heights of proposed enhancement measures by appropriate maps and plans;
 - d) persons responsible for implementing the enhancement measures;
 - e) details of initial aftercare and long-term maintenance (where relevant).

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

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

And if any external lighting is proposed;

3. PRIOR TO OCCUPATION: WILDLIFE SENSITIVE LIGHTING DESIGN SCHEME

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

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

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

Please contact us with any queries.

Essex County Council Ecology

Original Comments – Holding Objection

18.07.2023

Holding objection due to insufficient ecological information on European Protected Species (bats).
(OFFICER NOTE – Resolved – see amended response.)

Environmental Protection

01.11.2023

Contaminated Land: Given the site and surrounding areas historical use for agriculture, we are requesting a Watching Brief be conditioned and adhered to throughout the demolition and construction phase -

We request that the LPA are contacted in the event of unexpected ground conditions being encountered during construction and that the below minimum precautions are undertaken until such time as the LPA responds to the notification. I would also advise that the developer is made aware that the responsibility for the safe development of the site lies with them.

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

1. All site works at the position of the suspected contamination will stop and the Local Planning Authority and Environmental Health Department will be notified as a matter of urgency.
2. A suitably trained geo-environmental engineer should assess the visual and olfactory observations of the ground and the extent of contamination and the Client and the Local Authority should be informed of the discovery.
3. The suspected contaminated material will be investigated and tested appropriately in accordance with assessed risks. The investigation works will be carried out in the presence of a suitably qualified geo-environmental engineer. The investigation works will involve the collection of solid samples for testing and, using visual and olfactory observations of the ground, delineate the area over which contaminated materials are present.
4. The unexpected contaminated material will either be left in situ or be stockpiled (except if suspected to be asbestos) whilst testing is carried out and suitable assessments completed to determine whether the material can be re-used on site or requires disposal as appropriate.
5. The testing suite will be determined by the independent geo-environmental specialist based on visual and olfactory observations.
6. Test results will be compared against current assessment criteria suitable for the future use of the area of the site affected.

7. Where the material is left in situ awaiting results, it will either be reburied or covered with plastic sheeting.
8. Where the potentially contaminated material is to be temporarily stockpiled, it will be placed either on a prepared surface of clay, or on 2000-gauge Visqueen sheeting (or other impermeable surface) and covered to prevent dust and odour emissions.
9. Any areas where unexpected visual or olfactory ground contamination is identified will be surveyed and testing results incorporated into a Verification Report.
10. A photographic record will be made of relevant observations.
11. The results of the investigation and testing of any suspect unexpected contamination will be used to determine the relevant actions. After consultation with the Local Authority, materials should either be: o re-used in areas where test results indicate that it meets compliance targets so it can be re-used without treatment; 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.

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

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

Construction Method Statement: We are satisfied with the submitted CMS and have no comments to make in relation to this document

*INFORMATIVE - Foul Drainage: The submitted application form advises a Sewerage Treatment Plant will be utilised as a way of disposing of foul waste; we would request, should the application be approved, that the Applicant / Agent, ensure the installation is fully compliant with the Environment Agency's Binding Rules and any other relevant Government guidance and British standards, in respect of these systems. Information on this can be found at: Septic tanks and treatment plants: permits and general binding rules: The general binding rules - GOV.UK (www.gov.uk). 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

UU Open Spaces

21.06.2023

Public Realm Assessment

Play Space - current deficit:

- Deficit of 1.61 hectares of equipped play in Ardleigh

Formal Play - current deficit:

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

Settlement provision:

- Millennium Green LEAP and open space 1.6 miles from the development
- Station Road LEAP 1.7 Miles from the development

Officer Conclusions and Recommendations

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

- No contribution is being requested. Current facilities are adequate to cope with this development.

Identified project*:

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

- None

ECC Highways Dept

Original Comment

13.06.2023

Whilst the site is located in the countryside, it is not considered that the use of the building as a dwelling would give rise to a significant increase in vehicle movements to and from the site or result in a material change in the character of the traffic in the vicinity of the site.

The documents accompanying the planning application have been duly considered. Given the scale of the proposed development and the area to be available for parking within the site, which complies with Tendring District Councils adopted parking standards, the proposal is acceptable to the Highway Authority subject to the following mitigation;

1. Prior to occupation of the proposed development, the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack per dwelling, for sustainable transport, approved by Essex County Council, (to include six one day travel vouchers for use with the relevant local public transport operator)

Reason: In the interests of reducing the need to travel by car and promoting sustainable development and transport in accordance with policies DM9 and DM10 of the 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. 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. 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.

3. 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

Tree & Landscape Officer

Original Comments

06.06.2023

The boundary of the application site with Coggeshall Road is demarcated by an established hedge comprising of primarily Hawthorn. As described by the applicant, in their Planning Statement, the hedge currently acts as a good screen for the site.

It appears that the position of the existing access will move slightly to the south of its existing position and that this will necessitate the removal of a short section of the boundary hedge. If this is the case, then replacement planting should be secured by a planning condition attached to any planning permission that may be granted to ensure that the rural character of the area is not significantly diminished.

With regard to the existing tree cover it is noted that there are several early mature trees situated on the grassed area between the position of the proposed dwelling and the access onto Coggeshall Road.

Taking into account the positions of the trees as part of a well treed area, it is considered that the trees on the application site have only moderate visual amenity value.

Planning Drawing HGB ' 01 appears to show indicative new tree planting between the position of the proposed new car parking area and Coggeshall Road. Further details of the tree species and specification should be secured by a planning condition.

Tree & Landscape Officer

Amended Comments

07.11.2023

The amended layout shown on the Amended Block Plan HGB – 01 -C shows the removal of an additional tree however if the indicative tree planting shown on the plan is secured by a planning condition attached to any planning permission that may be granted then the amended layout will not cause any more harm than the development shown on the superseded plans.

Should planning permission be likely to be granted then the details of soft landscaping, shown on the amended site layout plan, including tree planting, should be secured by a planning condition. Soft landscaping should aim to soften, screen and enhance the appearance of the development.

5. Representations

5.1 Ardleigh Parish Council have been consulted as part of this application and have raised an objection on the following grounds:

1. The site is outside any settlement development boundary, on a single track lane, not within easy access of local amenities except by car. The location is unsustainable and the Parish do not consider it to be suitable for further development.
2. This application has the effect of circumventing the Local Plan. By first applying for a conversion, then quickly changing the approach and seeking permission for the demolition and a new build there is effectively a loophole which, if allowed, undermines the Plan-led approach. As stated above, had the application set out to be a demolition and new build the Parish believes it would have been rejected. The Parish would like to see this application rejected and (if appealed) for the Planning Inspector to take a view on all of the relevant precedents and case law to ensure that a properly consistent and Plan-led approach is being taken.
3. Given the number of such cases we think this is the most appropriate response to ensure that the Local Plan (including our Neighbourhood Plan) is given the appropriate level of weight and prominence. For example, regarding self-build a very recent Planning Inspector decision for another application in Ardleigh (Appeal Decision APP/P1560/W/22/3295162) 'In the absence of evidence to compel the appeal scheme to be self- built, there would be no restriction preventing the scheme from evolving into a different type of development.' The Parish would urge the Council to refuse the application. If the Planning Officer were minded to approve the application, we would expect to see a legal agreement to compel the development to be self-build only, (or otherwise comply with the relevant policies of the Local Plan and Ardleigh Neighbourhood Plan -eg 'Allow for the delivery of a modest amount of specialist new homes only, namely: - Rural workers' dwellings (in accordance with policy PP 13); - Affordable housing on Rural Exception Sites (in accordance with policy LP 6); - Certain types of self-build and custom-built homes (in accordance with policy LP 7).' Ardleigh Neighbourhood Plan policy GDP page 54-55).

5.2 No letters of representation have been received.

6. Assessment

Site Description and Context

- 6.1 The application comprises of a parcel land located to the north east of number 5 Hunters Chase, Ardleigh. The site area is broadly rectangular in shape, extending approximately 0.19 hectares in size encompassing an existing detached barn to the rear of number 5, located to the north-western corner of the application site.
- 6.2 The site is located on the northern side of Hunters Chase, outside of the defined settlement development boundary of Ardleigh. The site is rural in character with open fields to the north and sporadic residential properties and agricultural buildings in the locality.

Description of Development

- 6.3 The application seeks full planning permission for the erection of 1 no. 3 bedroom detached dwelling following the demolition of the existing detached barn to the rear of number 5 Hunters Chase (Barn B). The proposed dwelling would replace the existing barn subject of a prior approval for conversion to a dwelling under application reference 22/00360/COUNOT (representing the 'fall-back' position, covered in more detail in the main assessment below).
- 6.4 The proposed dwelling would be sited to the south eastern side of the existing agricultural barn and will overlap part of the existing footprint of the barn.
- 6.5 Previously the application site was linked to the main dwelling at number 5 Hunters Chase however it has since been sold on the open market and the plot is therefore no longer is associated with number 5 Hunters Chase. The development will gain access from Coggeshall Road to serve the proposed dwelling. The accompanying block plan shows the access to the south eastern side of the application site, with a curved driveway leading to the parking and turning area which incorporates a footpath leading to the dwelling.

Assessment

- 6.6 The main issues and considerations relevant to the proposal can be summarised and addressed as follows:
1. Principle of Residential Development
 2. Fall-back Position – Material Consideration
 3. Design, Layout and Appearance
 4. Trees and Landscaping
 5. Residential Amenities
 6. Bin Storage and Waste Collection
 7. Access and Parking
 8. Biodiversity Mitigation and Enhancement
 9. Drainage and Foul Sewage Disposal
 10. Planning Obligation – Recreational Disturbance Financial Contribution
 11. Planning Obligation – Open Space and Play Space Financial Contribution
 12. Sustainable Construction & Energy Efficiency
 13. Conclusion

Principle of Residential Development

- 6.7 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.
- 6.8 Policy SP3 of Section 1 of the 2013-2033 Local Plan sets out the spatial strategy for North Essex and directs growth towards existing settlements. The application site lies outside of the defined

settlement boundary of Elmstead Market within the adopted 2013-2033 Local Plan. The proposed development would therefore extend outside the area planned to provide growth for this settlement. In view of the housing land supply position, the Council does not need to look beyond identified settlements to meet its housing requirement.

- 6.9 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.
- 6.10 The proposal therefore results in conflicts with policies SP3 and SPL2. In this case, however, the principle of one residential dwelling on this site has been established through the prior approval consent granted under planning reference 21/00360/COUNOT in April 2022. On 20 April 2022, under planning reference 22/00360/COUNOT, the Council deemed that prior approval was not required for the conversion of the agricultural building to the rear of 5 Hunters Chase (known as Barn B) into one dwelling (under the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 schedule 2 Part 3, Class Q – agricultural buildings to dwellinghouses).
- 6.11 Development under Class Q is permitted subject to the condition that development must be completed within a period of 3 years starting with the prior approval date. The conversion permitted under 22/00360/COUNOT therefore remains extant (must be completed by no later than 20 April 2025).
- 6.12 In accordance with the procedure for applications for prior approval under Part 3 set out within Paragraph W, (2) (b) of the Order, the prior approval application reference 22/00360/COUNOT was accompanied by 'a plan indicating the site and showing the proposed development'. The plan identified the barn subject of the prior approval with a red line, drawn fairly tightly around the building (0.01ha). The plan also indicated the surrounding land at; number 5 Hunters Chase; the adjacent field; part of the field to the north; and land to the side of 6 Hunters Chase outlined in blue.
- 6.13 The current proposal represents an alternative location (overlapping the existing barn), as well as an increase in height and footprint compared to the extant conversion scheme referred to above. Moreover, the prior approval conversion scheme 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

- 6.14 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. 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:
- 6.15 "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."
- 6.16 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.

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

| | 22/00360/COUNOT (Prior Approval) | 23/00697/FUL (Current application) |
|------------------------------------|---|--|
| Siting | To the rear of 5 Hunters Chase, in the northern corner. | To the rear of 5 Hunters Chase, in the northern corner, relocated slightly to the south west. |
| Access | Via the existing access serving number 5 Hunters Chase. | Creation of a new access, driveway and parking areas through adjacent field with access from Coggeshall Road. |
| Appearance | Minimal changes / no materials details provided. | Single storey barn like appearance constructed from clad the building in natural larch wood with a Marley Eternit slate roof |
| Ridge Height | 3.8 metres (Single Storey) | 4.9 metres (Single Storey) |
| Eaves Height | 2 metres | 2.5 metres |
| Identified site / site area | 239m2 / 0.02ha (Limited amenity) | 1864m2 / 0.19ha (Garden area included) |
| Floor Area / footprint | 114sqm | 120sqm |
| Bedrooms | 3 bedroom | 3 bedroom |

6.18 Having regard to the above, officers accept that there is a lawful ability to undertake the fall-back use of the building as a dwelling permitted by Class Q, and there is a likelihood or real prospect of this occurring (because the prior approval consent remains extant until 2025).

6.19 Turning to the third element of the legal fall-back position, namely ‘a comparison’ between the proposed development and the fall-back use, there are material differences and additions when compared to the prior approval scheme. 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, scale and external appearance.

6.20 As outlined above in the comparison table, there is a noticeable increase in the ridge height of the new dwelling and a slight increase in footprint. It is noted that within the planning statement, the planning agent has stated that the floorspace has been reduced by 4sqm in comparison to the fall-back position. Officers have undertaken their own assessment based on the information and plans provided and believe that the proposed dwelling will increase the floorspace by approximately 6sqm. Due to the dwelling being set back within the site and the increased height which is not considered to appear significantly out of keeping, it is considered that the increase will appear acceptable in this location. Therefore, the fall-back position is given significant weight in the assessment of this application.

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

Design, Layout and Appearance

- 6.22 Paragraph 126 of the National Planning Policy (NPPF) states that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.
- 6.23 Local Plan 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. Furthermore, 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 and should respect or enhance local landscape character and other locally important features.
- 6.24 The site comprises a parcel of land with several sporadic trees and vegetation, bounded by mature trees and hedgerow with open countryside to the rear. The narrow road, grass verges, vegetated gaps between the built form of sporadic dwellings and agricultural buildings establishes the rural character and appearance of the locality.
- 6.25 The application proposes a modest, single storey dwelling and would replace an existing structure in a similar location. The proposed dwelling would be sited to the south eastern side of the existing agricultural barn and it will overlap part of the footprint. In terms of appearance, the dwelling will be constructed in natural larch wood with Marley Eternit Slate Roof, which are materials that are considered sympathetic to the rural character. The layout of the dwelling will be rectangular in shape consisting of 3 bedrooms which is the same as the fallback scheme. The proposal will result in a slight increase of 6m² of floorspace compared to the fallback scheme however this is not considered to cause any significant impact in terms of design and appearance.
- 6.26 The distance of the proposed dwelling from the highway and the front boundary hedgerows, approximately 59 metres, will help to obscure the view of the development from Coggeshall Road, and the new dwelling will be seen in the context of the small group of buildings, namely Number 5 and 6 Hunters Chase. Therefore, in this particular instance it is considered that the location of the dwellings will have no greater impact than the existing agricultural building and it could be argued that the appearance of the dwellings would provide a better design solution.
- 6.27 In terms of the proposed scale, whilst it is noted that the dwelling is 1.9 metres higher than the existing building, well set back in the site, and set amongst existing built form. Officers consider the development would not appear overly incongruous when considered in this context, and equally would not result in an overly harmful impact on the character and appearance of the area or landscape.
- 6.28 Policy LP4 requires that new residential developments will be expected to provide for private amenity space of a size and configuration that meets the needs and expectations of residents and which is commensurate to the size of dwelling and the character of the area. The plans show that this comfortably adhered to for the proposed dwelling.

Trees and Landscaping

- 6.29 Paragraph 131 of the NPPF sets out the importance of trees and the contribution they make to the character and quality of urban environments. It states that planning policies and decisions should ensure that opportunities are taken to incorporate trees in developments and that existing trees are retained wherever possible.
- 6.30 TDLPS2 Policy LP4 relates to housing layout and states; to ensure a positive contribution towards the District's 'sense of place', the design and layout of new residential developments will be expected to incorporate and maximise the use of green infrastructure, verges, trees and other vegetation.

- 6.31 Consultation has been undertaken with the Council's Tree and Landscape Officer. The boundary of the application site with Coggeshall Road is demarcated by an established hedge comprising of primarily Hawthorn. As described by the applicant, in their Planning Statement, the hedge currently acts as a good screen for the site.
- 6.32 It appears that the position of the existing access will move slightly to the south of its existing position and that this will necessitate the removal of a short section of the boundary hedge. If this is the case, then replacement planting should be secured by a planning condition attached to any planning permission that may be granted to ensure that the rural character of the area is not significantly diminished.
- 6.33 With regard to the existing tree cover it is noted that there are several early mature trees situated on the grassed area between the position of the proposed dwelling and the access onto Coggeshall Road. Taking into account the positions of the trees as part of a well treed area, it is considered that the trees on the application site have only moderate visual amenity value.
- 6.34 The internal layout of the application site has been amended as shown on amended block plan HGB-01 C which demonstrates the removal of an additional tree however if the indicative tree planting shown on the plan is secured by a planning condition attached to any planning permission that may be granted then the amended layout will result in the same or similar impact than the development shown on the superseded plans. A soft landscaping condition to obtain the details of the soft landscaping on the amended site layout plan including the tree planting will be imposed to soften, screen and enhance the appearance of the development.

Residential Amenities

- 6.35 Paragraph 130 of the NPPF includes that planning decisions should ensure developments create places that are safe, inclusive and accessible, and which promote health and well-being with a high standard of amenity for existing and future users.
- 6.36 Local Plan Policy SPL3, Part B requires that buildings and structures are designed and orientated to ensure adequate daylight, outlook and privacy for future and existing residents. Furthermore, Part B states that, new development must meet practical requirements, including provision for adequate private amenity space, waste storage and recycling facilities, vehicle and cycle parking. Policy LP4 j. states that the design and layout of new residential will be expected to provide for private amenity space of a size and configuration that meets the needs and expectations of residents, and which is commensurate to the size of dwelling and the character of the area.
- 6.37 It is considered that the application site can accommodate sufficient private amenity space to serve the proposed dwelling.
- 6.38 The single storey scale of the dwelling minimises any neighbouring impact with its low eaves' height and low ridge height. This together with the size of the plot and separation distance ensures that no harm to residential amenities in terms of light, sunlight, outlook, overlooking or privacy will result from the development.
- 6.39 The application is accompanied by a Construction Method Statement (CMS) meeting the requirements of the Council's Environmental Protection Team, thus minimising any noise or disturbance to neighbouring properties during construction. A condition will be imposed to ensure that the development is in adherence with the Construction Method Statement.
- 6.40 The amended driveway layout demonstrates that the parking area will be located to the south western side of the application site. This may be visible to the neighbouring dwelling, number 6 Hunters Chase, which adjoins the application site. However, it is considered that due to the neighbouring outbuilding which is currently in situ, as well as the existing boundary treatment, the proposed parking area will not cause any harm to neighbouring amenities.

Bin Storage & Waste Collection

- 6.41 TDLP Policy SPL3 Part states that all new development must meet practical requirements, including provision for adequate waste storage and recycling facilities.
- 6.42 In the interests of meeting practical requirements, the block plan provided demonstrates that a concrete pad will be provided to the front of the application site to house the bin storage and collection point.

Access and Parking

- 6.43 Paragraph 110 of the NPPF seeks to ensure that safe and suitable access to a development site can be achieved for all users. TDLP Policy SPL3 Part B 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.
- 6.44 The EPOA Parking Standards 2009 require that for dwellings with 2 or more bedrooms, a minimum of 2 parking spaces is required. Parking spaces should measure 5.5 metres by 2.9 metres and garages should have internal dimensions of 7 metres by 3 metres (if being replied upon as a parking space). One secure, covered parking space for bicycles is required per dwelling. The submitted plans show that there is sufficient space within the site to provide the necessary parking for the dwelling.
- 6.45 Essex County Council Highways Authority have been consulted on this application and have stated that it is not considered that the use of the building as a dwelling would give rise to a significant increase in vehicular movements to and from the site or result in a material change in the character of the traffic in the vicinity of the site. The Highways Authority have no objections subject to a condition relating to a residential travel information pack.
- 6.46 Following discussions between the planning agent, applicant and case officer, amended plans have been provided which demonstrate a change to the layout of the driveway and parking area. The access point remains the same as previously proposed however the drive itself has now been amended so that it creates a curved access to the dwelling enabling the existing trees to remain (apart from one which is to be removed) and to improve the visual appearance of the key area to the east of the proposed dwelling. The changes are considered to enhance the appearance of the development with the introduction of landscaping to help soften the driveway and parking area. Essex Highways Officers were reconsulted on the application and had no further comments to make. It is considered that the application site can accommodate two parking spaces and sufficient turning in line with Essex Parking Standards.

Biodiversity Mitigation and Enhancement

- 6.47 Paragraph 180 of the NPPF states that, when making planning decisions local planning authorities need to assess whether significant harm to biodiversity could result from the development. The NPPF goes on to state the hierarchy that should be applied to mitigate any harm to ecology that is identified. Paragraph 174 of the NPPF requires that Local Planning Authorities contribute to and enhance sites of biodiversity or geological value whilst Paragraph 179 requires local planning authorities to safeguard components of local wildlife-rich habitats.
- 6.48 TDLP S2 Policy PPL4 states that proposals for new development should be supported by appropriate ecological assessments and, where relevant, provide appropriate mitigation and biodiversity enhancements to ensure a net gain.
- 6.49 Consultation has been undertaken with Essex County Council Place Services Ecology Team (ECC Ecology) who raised an initial holding objection due to the following;

- No ecological information has been submitted in support of this application and the demolition of the barn could impact upon Bats if suitable roosting species are present.
- The application site is also within an Amber Risk Zone for Great Crested Newts

6.50 ECC Ecology have therefore asked for a preliminary ecological appraisal to establish the presence and potential impacts on protected species.

6.51 The planning agent was notified and provided an Ecological Survey and Assessment. The survey concluded that there were no evidence of bats presence on the site however it is probable that bats from nearby roosts would forage across the application site. This behaviour would be expected to continue after the works are completed and it is considered that the proposal will not have a detrimental impact upon the local bat population. There were no latrines or digging by badgers found at the site or within 30m of its boundaries. In terms of Reptiles, there is no evidence of a suitable habitat on the application site this includes Great Crested Newts. The Essex Field Club also has no records of great crested newts in this 10km square during the last 15 years. There is a lack of suitable trees and buildings which would be an unsuitable site for Barn Owls with no evidence found on the site. Hedgehogs and Common Toad are not known to be present on the site. The survey recommended biodiversity enhancements in the form of existing gaps along the site boundaries are retained to allow hedgehogs and common toads to forage. The survey also recommends two bird nesting boxes, a hedgehog nesting box and two solitary bee hives to be erected.

6.52 Essex County Council Place Services Ecology Team were reconsulted on the survey and had no objections subject to securing the biodiversity mitigation and enhancement measures as mentioned above by way of conditions, which will be included in the event that planning permission is granted.

Drainage and Foul Sewage Disposal

6.53 Paragraph 170 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 180 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.

6.54 Adopted Policy PPL5 of Section 2 of the Adopted Local Plan states that all new development must make adequate provision for drainage and sewerage. Connection to the mains is the preferred option having regard to the drainage hierarchy and building regulations requirements. However, where this is not possible, an application will need to confirm how foul sewage disposal will be dealt with in compliance with the building regulations and Environment Agency drainage hierarchy.

6.55 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.

6.56 In considering the acceptability of the proposed non-mains drainage, the site is not close to any designated site of importance to biodiversity, nor is it located within close proximity to any watercourse. The site is not located within a Drinking Water Safeguard Zone or a Source Protection Zone, and the site is sufficiently large enough to accommodate a soakaway. Furthermore, flows from a treatment plant serving one dwelling served by three bedrooms would be very 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.

Planning Obligation – Recreational Disturbance Financial Contribution

6.57 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. The residents of new housing are therefore considered likely to regularly visit relevant designated sites for recreation.

- 6.58 The site is not within or directly adjacent to one of the European designated sites but lies within the Zone of Influence being approximately 3500m away from Stour and Orwell Estuaries RAMSAR and SPA. In accordance with Natural England's advice there is no requirement to consult them due to the specified mitigation secured by Unilateral Undertaking.
- 6.59 The applicant has provided a completed Unilateral Undertaking to secure the required financial contribution in accordance with the adopted Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) and the application is therefore compliant with Local Plan Policies SP2 and PPL4 and Regulation 63 of the Conservation of Habitats and Species Regulations 2017.

Planning Obligation – Open Space and Play Space Financial Contribution

- 6.60 In line with the requirements of adopted Local Plan Section 2 Policy HP5, the Council's Public Realm have been consulted on the application to determine if the proposal would generate the requirement for a financial contribution toward public open or play space.
- 6.61 Whilst it has been established that there is currently a deficit of 1.61 hectares of equipped play in Ardleigh, no contribution is being requested on this occasion as the current facilities are adequate to cope with this development.

Sustainable Construction & Energy Efficiency

- 6.62 Paragraph 112 of the NPPF states that applications for development should be designed to enable charging of plug-in and other ultra-low emission vehicles (ULEV) in safe, accessible and convenient locations. Policies PPL10 and SPL3 require consideration be given to renewable energy generation and conservation measures. Proposals for new development of any type should consider the potential for a range of renewable energy generation solutions, appropriate to the building(s), site and its location, and be designed to facilitate the retro-fitting of renewable energy installations.
- 6.63 The application is accompanied by an electric vehicle charging specification and an energy statement. The energy statement details the sustainability approach of the development including the use of a water butt, a compost bin, scheme of waste reduction and heating in the form of air source heat pumps. The electric vehicle charging specification document states that 'an electric vehicle charging point will be provided to an external wall'. It is concluded that the applicant has set out measures that will be incorporated into the design, layout and construction aimed at maximising energy efficiency and the use of renewable energy. The proposed development is therefore in accordance with Policy PPL10 and SPL3 of the Local Plan 2013-2033 and a compliance condition will be imposed in the event that planning permission is granted.

7. Conclusion

- 7.1 The proposed demolition of an existing agricultural building and its replacement with a three bedroom dwelling is acceptable in principle following the previous prior approval granted on the site under planning reference 22/00360/COUNOT.
- 7.2 Although the position of the dwelling is not the same, the proposed dwelling overlaps the footprint of the agricultural dwelling. The dwelling will result in an increase in height and footprint in comparison to the existing building, however Officers do not consider this is significantly harmful to the character and appearance of the area.

7.3 There are no significant issues in respect to neighbouring amenities or harm to trees. Essex Highways Authority have raised no objections and there is sufficient space for parking. Accordingly, the application is considered to be policy compliant and is recommended for approval.

8. **Recommendation**

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

| CATEGORY | TERMS |
|--------------------------------------|-------------------------------------|
| Financial contribution towards RAMS. | £156.76 x 1 dwelling (index linked) |

8.2 **Conditions and Reasons**

1. COMPLIANCE: TIME LIMIT

CONDITION: The development hereby permitted shall be begun before 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 the Planning and Compulsory Purchase Act 2004.

2. COMPLIANCE: APPROVED PLANS AND 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.

- Drawing no. HGB-01 – Revision C
- Site Location Plan – Scanned 17 May 2023
- Klargester BioDisc Domestic Sewage Treatment Plant – Scanned 17 May 2023
- Planning Statement – dated May 2023 – Scanned 17 May 2023
- Planning Statement – Appendix MRF1 – Scanned 17 May 2023

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

3 FURTHER APPROVAL: RESIDENTIAL TRAVEL PACK PRIOR TO OCCUPATION

CONDITION: Prior to first occupation of the dwelling hereby approved, a Residential Travel Information Pack (travel pack) shall be provided to the 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.

NOTE FOR CONDITION: Please contact the Travel Plan Team at ECC Highways via email to Travel.PlanTeam@essex.gov.uk to obtain a Residential Travel Information Pack template and the associated day travel vouchers required.

4 COMPLIANCE: IN ACCORDANCE WITH ECOLOGICAL APPRAISAL

CONDITION: All mitigation measures and/or works shall be carried out in accordance with the details contained in the Preliminary Ecological Appraisal (Skilled Ecology, May 2023) as already submitted with the planning application and agreed in principle with the local planning authority prior to determination.

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

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

5 FURTHER APPROVAL: BIODIVERSITY ENHANCEMENT STRATEGY

CONDITION: Prior to commencement of demolition works, a Biodiversity Enhancement Strategy for protected and Priority species shall be submitted to and approved in writing by the local planning authority. The content of the Biodiversity Enhancement Strategy shall include the following:

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

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

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

6 FURTHER APPROVAL: WILDLIFE SENSITIVE LIGHTING DESIGN SCHEME

CONDITION: No means of external lighting shall be installed until details of a lighting design scheme for biodiversity have 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 plans, drawings and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory. Development shall only be carried out in accordance with the approved details.

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 COMPLIANCE: PERMEABLE SURFACING

CONDITION: All new parking areas and areas of hardstanding shall be made of porous materials, or provision shall be made to direct run-off water from the hard surface to a permeable or porous area within the site area.

REASON: In the interests of sustainable development and to minimise the risk of surface water flooding.

8 COMPLIANCE: CONSTRUCTION METHOD STATEMENT

CONDITION: The approved Construction Method Statement Document – Scanned 17 May 2023 shall be strictly adhered to 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.

9 SPECIFIC RESTRICTION ON DEVELOPMENT: REMOVAL OF PD

CONDITION: Notwithstanding Section 55 (2)(a)(ii) of the Town and Country Planning Act 1990 as amended and the provisions of Schedule 2 Part 1 Classes A, B, C, D and E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any Order revoking and re-enacting that Order with or without modification), no extensions, additions, outbuildings, porches or other alterations to the dwellings shall be carried out except in complete accordance with details which shall previously have been approved, in writing, by the Local Planning Authority following the submission of a planning application for such development.

REASON: To minimise and retain control over the amount of development in this rural location and to maintain sustainable development principles.

10 COMPLIANCE: 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 this 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.

11 FURTHER APPROVAL: HARD AND SOFT LANDSCAPING SCHEME

CONDITION: Notwithstanding the landscaping details shown on approved Drawing No HGB-01 Revision C, prior to the commencement of any above ground works, a scheme of hard and soft landscaping shall be submitted to and approved, in writing, by the local planning authority. The scheme shall include any proposed changes in ground levels, accurately identify spread, girth and species of all existing trees, shrubs and hedgerows on the site and

indicate any to be retained, together with measures for their protection which shall comply with the recommendations set out in the British Standards Institute publication "BS 5837: 2012 Trees in relation to design, demolition and construction". The proposed new boundary planting shall be planted a minimum of 1 metre back from the highway boundary and any visibility splay and retained free of obstruction above 600mm at all times. In addition to the new tree planting shown, additional planting in the form of new hedgerow planting on the garden side of Coggeshall Road should be shown.

REASON: In order to enhance the appearance of the development, in the interests of visual amenity and the quality of the development, and in the interests of highway safety.

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 is implemented in accordance with the approved scheme and has sufficient time to establish, in the interests of visual amenity and the character and appearance of the area.

13 COMPLIANCE: ENERGY EFFICIENCY MEASURES

CONDITION - The development shall be carried out in strict accordance with the Energy Statement – Scanned 17 May 2023 and EV Charging Specification – Scanned 17 May 2023.

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.

8.3 Informatives

Positive and Proactive Statement:

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

Highways 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. 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. 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.

3. 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

Legal Agreement Informative - Recreational Impact Mitigation

This application is the subject of a legal agreement and this decision should only be read in conjunction with this agreement. The agreement addresses the following issues: mitigation against any recreational impact from residential developments in accordance with Regulation 63 of the Conservation of Habitat and Species Regulations 2017. Please note that any subsequent variation / removal of condition applications (s73 applications) will require a new legal agreement to secure this obligation unless the development has commenced (subject to all necessary condition discharges) and the contribution has already been paid.

Environmental Protection

- Foul Drainage

The submitted application form advises a Sewerage Treatment Plant will be utilised as a way of disposing of foul waste; we would request, should the application be approved, that the Applicant / Agent, ensure the installation is fully compliant with the Environment Agency's Binding Rules and any other relevant Government guidance and British standards, in respect of these systems. Information on this can be found at: Septic tanks and treatment plants: permits and general binding rules: The general binding rules - GOV.UK (www.gov.uk). 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.

- In the event of unexpected ground conditions

The Local Planning Authority shall be contacted in the event of unexpected ground conditions being encountered during construction and the below minimum precautions shall be undertaken immediately.

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.
12. After consultation with the Local Planning Authority, materials should either be: re-used in areas where test results indicate that it meets compliance targets so it can be re-used without treatment; or treatment of material on site to meet compliance targets so it can be re-used; or removal from site to a suitably licensed landfill or permitted treatment facility.
13. A Verification Report shall be submitted to and approved in writing by the Local Planning Authority before development can proceed.

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/>.