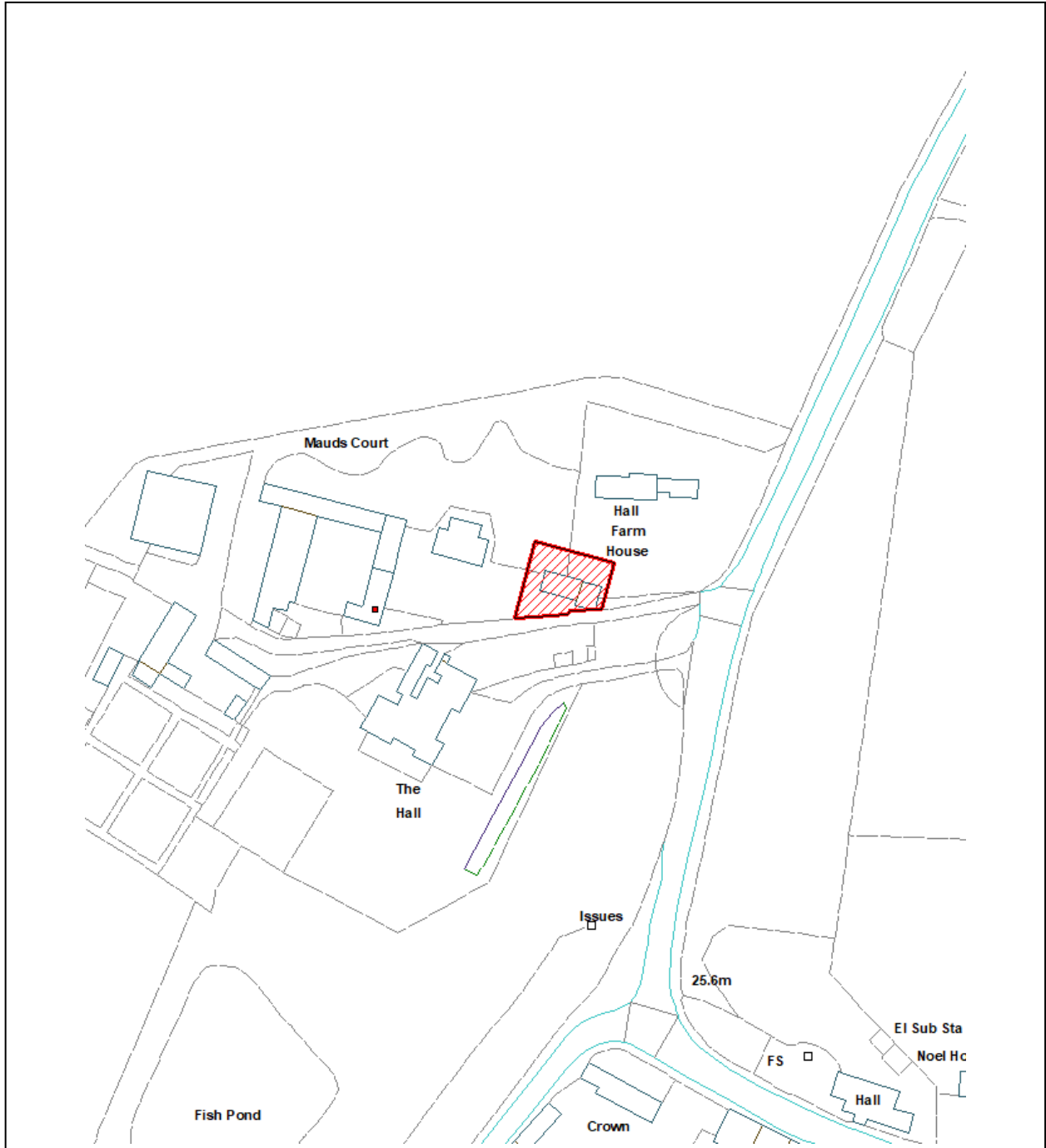


PLANNING COMMITTEE

16<sup>th</sup> January 2024

REPORT OF THE DIRECTOR OF PLANNING

**A.1. PLANNING APPLICATION – 23/01540/FUL AND 23/01539/LBC – MAUDS COURT LONG LANE TENDRING CLACTON ON SEA CO16 0BG**



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<b>Application:</b>	23/01540/FUL and 23/01539/LBC	<b>Expiry Date:</b>	25th December 2023
<b>Case Officer:</b>	Alison Pope	<b>EOT Date:</b>	25th January 2024
<b>Town/ Parish:</b>	Tendring Parish Council		
<b>Applicant:</b>	Mr Joe Plunkett - Maud's Property Management Limited		
<b>Address:</b>	Mauds Court Long Lane Tendring Clacton On Sea CO16 0BG		
<b>Development:</b>	Proposed conversion of a coach house into a 2 bedroom residential dwelling		

## 1. Executive Summary

- 1.1 The application is before Members as the proposal represents a departure from the Local Plan, proposing new residential development outside of the Tendring Settlement Development Boundary (SDB) as defined within the adopted Tendring District Local Plan 2013 to 2033 and Beyond.
- 1.2 The application relates to a single storey timber coach house within the setting of the Grade 2 listed Tendring Hall and likely having formed part of the former Tendring Hall Estate. The site is located on the northern side, at the eastern end of Long Lane, with the dwelling of Suffolk Barn immediately to the west and the dwelling of Hall Farm House immediately to the north.
- 1.3 The site lies outside of the defined SDB of Tendring. The application is therefore contrary to the spatial strategy set out within adopted Local Plan Section 1 Policy SP7 and Section 2 Policy SPL2. However, Local Plan Policy SPL2 does not preclude residential development outside of the defined boundary, but rather requires careful consideration of the scale of development in relation to the settlement hierarchy category, site-specific characteristics, and sustainability of the site.
- 1.4 The site-specific merits of the case considers great weight is attributed to the conservation of the designated heritage assets. The coach house lies within the Tendring Conservation Area and within the setting of the listed building. In addition, villages are still under pressure to grow and some small-scale development which is sympathetic to the rural and often historic character of the settlement might help younger people to continue to live in the area, keep services viable and help bring balance to an ageing population.
- 1.5 The proposed two bedroom dwelling will convert the existing coach house, ensuring its external appearance in terms of its form and use of materials remains the same. Officers are satisfied that existing services and facilities within or near Tendring would be capable of supporting the proposed development of one dwelling.
- 1.6 Although the application site is outside of the defined settlement development boundary, the development would not result in any material harm in terms of scale, layout and design, heritage impact, residential amenities or highway safety, and is acceptable in all other regards.

**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:
  - **RAMS financial contribution** of £156.76 for one dwelling (index linked) toward recreational disturbance at the Hamford Water Special Protection Area, Special Area of Conservation and Ramsar site.
- 2) That the Head of Planning and Building Control be authorised to grant planning permission subject to the agreed section 106 agreement and conditions as stated at paragraph 8.2, or varied as is necessary to ensure the wording is enforceable, precise, and reasonable in all other respects, including appropriate updates, so long as the principle of the conditions as referenced is retained; and,
- 3) The informative notes as may be deemed necessary.

**Or;**

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**

### **National:**

National Planning Policy Framework December 2023 ([NPPF](#))

National Planning Practice Guidance ([NPPG](#))

### **Local:**

Tendring District Local Plan 2013-2033 and Beyond North Essex Authorities' Shared Strategic Section 1 (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
HP5	Open Space, Sports and Recreation Facilities
LP1	Housing Supply
LP2	Housing Choice
LP3	Housing Density and Standards
LP4	Housing Layout
PPL3	The Rural Landscape
PPL4	Biodiversity and Geodiversity
PPL5	Water Conservation, Drainage and Sewerage
PPL7	Archaeology
PPL8	Conservation Areas

PPL9	Listed Buildings
PPL10	Renewable Energy Generation and Energy efficiency Measures
CP1	Sustainable Transport and Accessibility
CP2	Improving the Transport Network
DI1	Infrastructure Delivery and Impact Mitigation

#### Supplementary Planning Documents

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

[Essex Design Guide](#)

Tendring Conservation Area Appraisal

#### Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

### **Status of the Local Plan**

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

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

The Local Plan fixes the Council's housing requirement at 550 dwellings per annum. On 19 October 2021 the Council's Strategic Housing Land Availability Assessment (SHLAA) updated the housing land supply position. The SHLAA demonstrates in excess of a six-and-a-half-year supply of deliverable housing land. On 14 January 2022 the Government published the Housing Delivery Test (HDT) 2021 measurement. Against a requirement for 1420 homes for 2018-2021, the total number of homes delivered was 2345. The Council's HDT 2021 measurement was therefore 165%. As a result, the 'tilted balance' at paragraph 11 d) of the Framework does not apply to applications for housing.

### **Neighbourhood Plans**

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>

At the time of writing, there are no adopted or draft neighbourhood plans relevant to this site.

### 3. **Relevant Planning History**

23/01539/LBC	Proposed conversion of a coach house into a 2 bedroom residential dwelling.	Current
23/01540/FUL	Proposed conversion of a coach house into a 2 bedroom residential dwelling	Current

### 4. **Consultations**

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

All consultation responses are available to view, in full (including all recommended conditions and informatives), on the planning file using the application reference number via the Council's Public Access system by following this link <https://idox.tendringdc.gov.uk/online-applications/>.

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

**11.12.2023**

The coach house was not included in a historic buildings survey in 2001 for the farm buildings of Tendring Hall Estate and there is potential that the coach house may also predate the 19th century planned farmstead. Evidence for the age and origin of the building may survive and will be impacted upon by the proposals.

The East Anglian Landscape was of major international importance in the development of the 'Victorian High Farming tradition' when new ideas culminated in significant alterations in the design and layouts of buildings.

The following recommendation is made in line with the National Planning Policy Framework (Para. 205):

1. No demolition or development of any kind shall take place until the applicant has secured the implementation of a programme of historic building recording in accordance with a written scheme of investigation which has been submitted by the applicant, and approved by the planning authority.
2. No development of any kind shall take place until the completion of the programme of investigation identified in the WSI defined in 1 above.
3. The applicant will submit a historic buildings report for approval by the local planning authority and deposition of a digital archive with the Archaeological Data Service (ADS).

#### **ECC Highways Dept**

**08.11.2023**

The information that was submitted in association with the application has been fully considered by the Highway Authority. No site visit was undertaken in conjunction with this

planning application. The information submitted with the application has been thoroughly assessed and conclusions have been drawn from a desktop study. The new dwelling will have two off street parking spaces with easy access to public transport facilities. No new or altered means of vehicular access is proposed, access will be provided via Long Lane as it currently is and will not change, 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.

**No objections subject to conditions.**

**Tree & Landscape Officer**

**10.11.2023**

The information submitted in support of the application identifies the need for the removal of a medium sized conifer situated close to the existing building.

The conifer is a reasonably well formed and healthy specimen however its size and position are such that it makes little contribution to the appearance of the public realm. Consequently, it does not merit retention or formal legal protection by means of a tree preservation order (TPO).

In terms of the impact of the development proposal on the wider appearance of the area there appears to be no public benefit to be gained by securing new soft landscaping associated with the proposed development.

**UU Open Spaces**

**22.11.2023**

The Council's Open Spaces Team have identified a deficit of equipped play and open space, however in this case a financial contribution is not justified or relevant to this application.

**Environmental Protection**

**13.11.2023**

No objections subject to conditions relating to:

1. Contaminated Land watching brief and remediation
2. Management of asbestos
3. Construction activities including working hours and prevention of burning on the site

**Essex County Council Heritage**

**23.11.2023**

The proposal site is the former Coach House to 17th Century Grade II Listed Tendring Hall, within the Tendring Village Conservation Area. The Hall and some of the farm buildings are already depicted in the 1777 Chapman and Andre map of Essex, and the Coach House clearly identifiable on the 1840 Tithe map. It is therefore likely that this was initially built before the 19th century.

Overall, the proposed conversion of the existing Coach House is considered to preserve the character and appearance of the Conservation Area, and those elements of the setting which contributes to the significance of Tendring Hall as a designated heritage asset.

It is not clear whether the proposed replacement Heritage windows and doors are timber frame to match the existing. I anticipate we would not be able to support the use of uPVC windows and doors in Conservation Area and within the setting of a designated heritage asset.

No objections have been raised subject to conditions securing hard landscaping details and details of proposed windows and doors.

## 5. **Representations**

### Parish Council

Tendring Parish Council support this application for 2 bedroom accommodation suitable for downsizers or young couples starting out on the property ladder.

### Other Representations

No individual letters of representation or objection have been received.

## 6. **Assessment**

### Site Context

The application site lies on the northern side, at the eastern end of Long Lane in Tendring. The site includes a timber framed single storey coach house. The front of the site and the coach house lie within the Tendring Conservation Area. The site also lies within the setting of the Grade 2 listed Tendring Hall likely having previously formed part of the Tendring Hall Estate.

The Hall residence lies to the south of Long Lane, while the dwelling of Suffolk Barn lies immediately to the west of the application site and the dwelling of Hall Farm House lies immediately to the north.

Further west along Long Lane agricultural buildings have been converted into offices and these form a courtyard with associated parking.

The site lies outside of the defined Settlement Development Boundary of Tendring and this is covered in further detail within the assessment below.

### Planning History

There is no planning history for this site.

### Proposal

The application seeks full planning permission for the conversion of the existing coach house into a two bedroom dwelling with associated off road car parking and private amenity space.

The form and scale of the coach house will remain with no extensions to the building. Materials that mirror the existing finish will be used where it is not possible to reuse those from the original building.

No new or altered means of vehicular access is proposed, access will be provided via Long Lane as it currently is and will not change.

The private amenity/garden space to the rear of the proposed dwelling will be formed from parts of the gardens of Suffolk Barn and Hall Farm House.

### Principle of Development

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 comprises, the Tendring District Local Plan 2013-2033 and Beyond Section 1 adopted in January 2021 and the Tendring District Local Plan 2013-2033 and Beyond Section 2 adopted in January 2022.

Policy SPL2 of Section 2 of the Local Plan confirms that outside of Settlement Development Boundaries, the Council will consider any planning application in relation to the pattern and scales of growth promoted through the Settlement Hierarchy in Policy SPL1 and any other relevant policies in the plan.

Tendring is categorised as a Smaller Rural Settlement as defined in Policy SPL1. It is considered that these smaller rural settlements are the least sustainable, however these villages are still under pressure to grow and some small-scale development which is sympathetic to the rural and often historic character of the settlement might help younger people to continue to live in the area, keep services viable and help bring balance to an ageing population.

The application site lies a distance of approximately 90 metres from the edge of the settlement development boundary of Tendring within walking distance of public transport links, St Edmunds Church, the village hall and the local primary school.

In regard to the location of the site outside the defined settlement development boundary, the scale of development proposed is considered compliant with the settlement hierarchy credentials promoted through Policy SPL1.

The proposed two bedroom dwelling will convert the existing coach house, ensuring its external appearance in terms of its form and use of materials remains the same.

Officers are satisfied that existing services and facilities within or near Tendring would be capable of supporting the proposed development of one dwelling.

For these reasons and with consideration of all material considerations (including areas addressed by the assessment below), the proposal is concluded to represent sustainable development. The specific merits of the application and site would not set a harmful precedent for further development outside defined settlement boundary and would not prejudice the overall spatial strategy of the District.

### Scale, Layout and Appearance

As you enter Long Lane, it is bounded by post and rail fencing and mature vegetation with the view opening as you reach the coach house and the application site. From this point Long Lane has an open character with the coach house being the first building visible as you enter from School Road with a view of the side of the listed building on the southern side of the lane and the former farm buildings, now a dwelling and offices directly in front. The buildings of Long Lane are reflective of its out of settlement location and former farm status.

The proposed conversion of the coach house will maintain the form and design of the building while reusing as many of the original materials as possible, although it is not clearly visible



from School Road it will ensure its appearance remains in keeping with the immediate area of Long Lane.

There will be little change to the area in front of and to the side of the coach house which fronts Long Lane, again ensuring the character of the immediate area is preserved.

The proposed private amenity/garden space at the rear of the coach house is made up of parts of the existing gardens of Suffolk Barn and Hall Farm House. New boundary treatment is required however it will not be publicly visible, is not a change in use, nor is it considered to have a detrimental impact on the setting of the listed building or the conservation area.

The proposal is considered acceptable in terms of its design and appearance.

### Heritage and Archaeology

Paragraph 195 of the National Planning Policy Framework identifies that heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations.

Paragraph 203 of the National Planning Policy Framework confirms that in determining applications, local planning authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation, the desirability of new development making a positive contribution to local character and distinctiveness.

Paragraph 205 of the National Planning Policy Framework affirms great weight should be given to the asset's conservation when considering the impact of a proposed development on the significance of a designated heritage asset.

Policy PPL9 of the Local Plan states that 'Proposals for new development affecting a listed building or its setting will only be permitted where they will protect its special architectural or historic interest, its character, appearance and fabric'.

The building proposed for conversion is the former coach house to Tendring Hall, a 17th century listed building which makes a positive contribution to the conservation area and the setting of the listed building. The coach house was not included in a previous survey of the farm buildings of the estate in 2001 and there is potential it may also predate the 19th century planned farmstead.

The coach house is currently in use as a workshop and for storage. Consideration is given to the viable use of the coach house as a dwelling which is likely to lead to the investment in its maintenance necessary for its long-term conservation and value as a Listed Building.

The applicant has submitted a Design and Access Statement incorporating a Heritage Statement to support the application. The statement explains that through the design process they have been careful to maintain the character and aesthetics of the original coach house using good quality historically appropriate materials.

Place Services were consulted for their advice, they offer no objections confirming the proposed conversion of the existing Coach House is considered to preserve the character and appearance of the Conservation Area, ensure long term preservation of a Listed Building and those elements of the setting which contributes to the significance of Tendring Hall as a designated heritage asset. This is given significant weight in the balance.

It is noted however that as the coach house was not included in the previous survey of buildings, a programme of historic building recording in accordance with a written scheme of investigation is recommended and will be secured via condition on the grant of planning permission.

Furthermore, a condition which secures the type and design of windows and doors to be installed will be imposed on the grant of planning permission.

### Highway Safety/Parking

Paragraph 114 of the National Planning Policy Framework seeks to ensure that safe and suitable access to a development site can be achieved for all users. Paragraph 115 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.

Policy SPL3 (Part B) of the 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.

Vehicular access to the proposed dwelling will be via the existing access of Long Lane which serves a number of offices and businesses on the northern side. Long Lane is a tarmac made road as is the proposed parking area with an area in front of coach house which is currently finished in gravel with raised brick bed. Provision of two car parking spaces for the proposed dwelling that meets the minimum car parking standards where one space measures 5.0 Metres x 2.5 metres is met. The proposal also incorporates sufficient turning space in front of the parking spaces.

Essex County Council as the Highway Authority were consulted on the application and confirmed the impact of the proposal is acceptable subject to conditions.

The Highway Authority recommend conditions for no unbound materials, cycle parking, residential travel pack and storage of materials and construction vehicles. These conditions will be imposed on the grant of planning permission.

The proposed dwelling will be fitted with an electric vehicle charging point required to support sustainable transport modes. Details of the electric vehicle charging is required to be submitted including its provision in working order and its maintenance prior to occupation of the dwelling, this will be secured by condition on the grant of planning permission.

### Landscaping

The proposal necessitates the removal of a medium sized conifer situated close to the existing building and which lies outside of the conservation area.

The Councils Tree and Landscape Officer has confirmed that the conifer is a reasonably well formed and healthy specimen however its size and position are such that it makes little contribution to the appearance of the public realm. Consequently, it does not merit retention or formal legal protection by means of a tree preservation order (TPO).

The Tree and Landscape officer provides that in terms of the impact of the development proposal on the wider appearance of the area there appears to be no public benefit to be gained by securing new soft landscaping associated with the proposed development.

The siting of the Listed coach house within the setting of the listed hall in its rural location, along with the division of the gardens of Hall Farm House and Suffolk Barn which changes the

shared boundaries requires further details of boundary treatments and associated soft landscaping.

A condition will be imposed on the grant of planning permission to secure these details to prevent incompatible boundary treatments and ensure appropriate planting in this rural location.

### Residential Amenity

Paragraph 135(f) of the National Planning Policy Framework states that planning should always seek to secure a good standard of amenity for all existing and future occupants.

Section 1 Policy SP7 of the 2013-33 Local Plan requires that the amenity of existing and future residents is protected. Section 2 Policy SPL 3 Part C seeks to ensure that development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties. Furthermore, Policy LP4 seeks to ensure that new dwellings are served by a 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 size of the plot and single storey height of the proposed dwelling allows for a development that will achieve a suitable relationship with neighbouring dwellings, that would not result in any material harm to residential amenities in terms of loss of light, sunlight, overlooking, privacy or outlook.

Private amenity/garden space of at least 180 square metres will be provided to the rear of the proposed dwelling. This garden area is acquired from part of the gardens of Hall Farm House and Suffolk Barn, however both dwellings will retain sufficient amenity space for the size of their respective dwellings.

The proposed development will secure a good standard of amenity for existing and future residents.

### Housing Standards

Policy LP3 requires compliance with the nationally described space standards. This standard deals with internal space within new dwellings and is suitable for applications across all tenures. It sets out requirements for the Gross Internal (floor) Area of new dwellings at a defined level of occupancy as well as floor areas and dimensions for key parts of the home, notably bedrooms, storage and floor to ceiling height.

A two bedroom, four person single storey dwelling requires a minimum of 70 square metres of gross internal floor space which includes built in storage of 2 square metres.

From the plans submitted the proposal meets the requirements of the space standards. It is also considered that the internal layout of the proposed dwelling is appropriate, with all habitable rooms having adequate natural light.

### Drainage and Sewerage

Policy PPL5 states that all new development must make adequate provision for drainage and sewerage.

The sewerage from the proposed dwelling will be connected to the mains sewer which is considered the preferred approach and acceptable.

The site does not fall within a critical drainage area and there is a no risk of surface water flooding on the site.

### Renewable Energy

Chapter 14 of the National Planning Policy Framework supports the transition to a low carbon future in a changing climate while Policy PPL10 of the Local Plan supports renewable energy generation and energy efficiency measures for residential development.

An electric car charging point has been shown on the submitted plan and this will be secured by condition on the grant of planning permission. Apart from the EV charging point no other energy efficiency measures have been submitted with the planning application. Officers are mindful of the heritage status of the site and up to date building regulation requirements that would apply in terms of resource and energy savings.

A condition to secure minimum measures of agreement of a scheme for water conservation including greywater recycling and rainwater capture/re-use for new dwellings, agreement of a scheme for a water consumption rate of not more than 110 litres, per person, per day, agreement of heating, agreement of scheme for waste reduction, provision of a fibre optic broadband connection will be secured on the grant of planning permission.

### Environmental Protection

The Council's Environmental Protection team offer no objections to the application subject to conditions relating to a contaminated land watching brief and remediation, the management of asbestos if it discovered or known to be on site and construction activities including working hours and prevention of burning on the site.

The suggested conditions are considered reasonable and necessary and will be imposed on the grant of planning permission.

### Financial Contribution – Recreational Disturbance

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.

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 application scheme proposes one new dwelling on a site that lies within the Zone of Influence (Zol) being approximately 4750 metres from Hamford Water SPA, SAC and RAMSAR. However, new housing development within the Zol would be likely to increase the number of recreational visitors to Hamford Water; and, in combination with other developments it is likely that the proposal would have significant effects on the designated site.

Should the committee resolve to approve the application, a S106 Legal Agreement will secure the necessary financial contributions for RAMS contributions to ensure that the development would not adversely affect the integrity of European Designated Sites in accordance with Section 1 Policy SP2 and Section 2 Policy PPL4 of the Tendring District Local Plan 2013-2033 and Regulation 63 of the Conservation of Habitat and Species Regulations 2017.

## Financial Contribution – Open Space

Policy DI1 states that all new development should be supported by, and have good access to, all necessary infrastructure. Local Plan Section 2 Policy HP5 states that the Council will work with partners and sports providers across the district to maintain, expand, and improve the quality and accessibility of public open space, sports and recreational facilities of different types and will aim to achieve and exceed standards set out in the Council's 2017 Open Spaces Strategy (or any future update).

In line with the requirements of Local Plan Policy HP5 the Council's Open Spaces Team have been consulted on the application to determine if the proposal would generate the requirement for a financial contribution towards public open or play space. Whilst they advise that there is a deficit of equipped play and open space in Tendring, no contribution is being requested on this occasion.

### **7. Conclusion**

The proposal would conserve the heritage assets (conservation area and Grade 2 listed Tendring Hall) in a manner appropriate to their significance with great weight given to the assets conservation as outlined by the NPPF. The relevant policies of the Local Plan as discussed above are given substantial weight in this decision making process. The high-level policy conflict, in regard to the location of the site outside the defined settlement development boundary is not so fundamental that it outweighs the benefits of the scheme, in this case the conservation of heritage assets. Overall taking the policy position and NPPF as a whole, it is considered that this proposal is acceptable in the planning balance.

### **8. Recommendation**

- 8.1 The Planning Committee is recommended to grant planning permission and listed building consent subject to the following conditions in 8.2 and 8.3, informatives and the prior completion of a section106 legal agreement with the agreed Heads of Terms, as set out in the table below:

<b>CATEGORY</b>	<b>TERMS</b>
Financial contribution towards RAMS.	<b>RAMS financial contribution of £156.76</b>

### **8.2 Conditions and Reasons – 23/01540/FUL**

#### **1 COMPLIANCE REQUIRED: COMMENCEMENT TIME LIMIT**

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

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

#### **NOTE/S FOR CONDITION:**

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

## 2 APPROVED PLANS & DOCUMENTS

CONDITION: The development hereby permitted shall be carried out in accordance with the drawings/documents listed below and/or such other drawings/documents as may be approved by the Local Planning Authority in writing pursuant to other conditions of this permission or such drawings/documents as may subsequently be approved in writing by the Local Planning Authority as a non-material amendment following an application in that regard (except for Listed Building Consents). Such development hereby permitted shall be carried out in accordance with any Phasing Plan approved, or as necessary in accordance with any successive Phasing Plan as may subsequently be approved in writing by the Local Planning Authority prior to the commencement of development pursuant to this condition.

The approved red line plan drawing is Site Plan scale 1:1250 received 30 October 2023  
Block Plan 1:500  
Site Plan showing proposed site layout 1:50  
Plan and Elevations 1:50  
Roof plan and section  
Design and Access Statement including Heritage Statement

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

### NOTE/S FOR CONDITION:

The primary role of this condition is to confirm the approved plans and documents that form the planning decision. Any document or plan not listed in this condition is not approved, unless otherwise separately referenced in other conditions that also form this decision. The second role of this condition is to allow the potential process of Non Material Amendment if found necessary and such future applications shall be considered on their merits. Lastly, this condition also allows for a phasing plan to be submitted for consideration as a discharge of condition application should phasing be needed by the developer/s if not otherwise already approved as part of this permission. A phasing plan submission via this condition is optional and not a requirement.

Please note in the latest revision of the National Planning Policy Framework (NPPF) it provides that Local Planning Authorities should seek to ensure that the quality of approved development is not materially diminished between permission and completion, as a result of changes being made to the permitted scheme (for example through changes to approved details such as the materials used). Accordingly, any future amendment of any kind will be considered in line with this paragraph, alongside the Development Plan and all other material considerations.

Any indication found on the approved plans and documents to describe the plans as approximate and/or not to be scaled and/or measurements to be checked on site or similar, will not be considered applicable and the scale and measurements shown shall be the approved details and used as necessary for compliance purposes and/or enforcement action.

## 3 FURTHER APPROVAL: HERITAGE RECORD

CONDITION: No development to the building shall take place until the applicant or developer has secured the implementation of a programme of historic building/s and associated analysis work in accordance with a written scheme of investigation which have been first submitted to and approved, in writing, by the Local Planning Authority. The scheme shall include a timetable for the programme and arrangements for the deposition of

the archive to an appropriate depository as identified by the scheme and the scheme shall be carried out in its entirety.

REASON: To allow proper investigation and recording of the building/s of potential archaeological and historic significance. This condition is required to be agreed prior to the commencement of works to the building/s to ensure matters of archaeological importance are preserved and secured early to ensure avoidance of damage or loss due to the development and/or its construction. If agreement was sought at any later stage there is an unacceptable risk of loss or damage to archaeological and historic assets.

NOTE/S FOR CONDITION:

This condition engages prior to any works/development taking place that affects the building/s the subject of this decision.

#### 4 ELECTRIC VEHICLE CHARGING

CONDITION: Prior to any above ground works, details of the electric vehicle charging facility shall have first been submitted to and approved in writing by the local planning authority. Thereafter the charging facilities shall be installed in a working order, prior to first occupation of the dwelling and maintained thereafter.

REASON: In order to promote sustainable transport in accord with local policy and NPPF.

#### 5 ACCESS MATERIAL

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

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

NOTE/S FOR CONDITION:

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

#### 6 FURTHER APPROVAL: RESIDENTIAL TRAVEL PACK PRIOR TO OCCUPATION

CONDITION: Prior to first occupation of the 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.

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

## 7 ACTION REQUIRED IN THE EVENT OF UNEXPECTED GROUND CONDITIONS

CONDITION: 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.

REASON: It is the responsibility of the developer to ensure the safe development of the site and to carry out any appropriate land contamination investigation and remediation works. The condition is to ensure the risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

## 8 FURTHER APPROVAL: CYCLE PARKING PRIOR TO OCCUPATION



CONDITION: Prior to first occupation of the dwelling, cycle parking shall be provided in accordance with the EPOA Parking Standards. The cycle parking shall be secure, convenient and covered and shall be agreed, in writing, by the local planning authority. The cycle parking shall be maintained and retained in perpetuity.

REASON: To ensure appropriate cycle parking is provided in the interest of highway safety, amenity and promoting sustainable transport.

## 9 AGREEMENT OF MEASURES TO IMPROVE SUSTAINABILITY OF DEVELOPMENT

CONDITION: No development shall commence above slab level until a scheme for the provision and implementation of water, energy and resource efficiency measures for the lifetime of the development shall be submitted to and approved, in writing, by the Local Planning Authority. The scheme shall include as a minimum:-

- Agreement of a scheme for water conservation including greywater recycling and rainwater capture/re-use for new dwellings.
- Agreement of a scheme to achieve as far as possible a water consumption rate of not more than 110 litres, per person, per day for new dwellings.
- Agreement of heating of each dwelling/building
- Agreement of scheme for waste reduction
- Provision of a fibre optic broadband connection to the best possible speed installed on an open access basis and directly accessed from the nearest exchange, incorporating the use of resistant tubing. (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 30mbps) wireless service will be considered.)

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 reduced need, better use or savings in the use of water, energy and resources; reduced 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.

Broadband provision is included to ensure the development is able to be equipped with high speed broadband to enable opportunities for web-based communication and homeworking reducing the need for unsustainable travel.

A water consumption rate of not more than 110 litres, per person, per day adopted as Planning Policy and as imposed by this condition will directly change the building regulations water consumption rate to match as a result of this policy. The introduction of effective utilities, rainwater capture for watering plants, aerators to taps and other water saving options can be considered.

## 10 COMPLIANCE: CONSTRUCTION ACTIVITY TIMES

CONDITION: No vehicle connected with the construction works to arrive on site before 07:30 or leave after 19:00 (except in the case of emergency). Construction working hours to be restricted between 08:00 and 18:00 Mondays to Saturdays (finishing at 13:00 on Saturdays) with no working of any kind permitted on Sundays or any Public/Bank Holiday whilst construction works and alterations are being carried out.

REASON: To protect the amenity of nearby residential properties.

11 COMPLIANCE: NO BURNING OF SITE MATERIALS OR WASTE

CONDITION: No materials produced during construction as a result of the site development or clearance shall be burned on site.

REASON: To protect the amenity of nearby residential properties.

12 APPROVAL REQUIRED: LANDSCAPING SCHEME

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

REASON: In the interests of visual amenity and the character and appearance of the area.

NOTE/S FOR CONDITION:

Slab level is normally refers to the concrete slab supported on foundations or directly on the subsoil and is used to construct the ground floor of the development. In any other case, please assume slab level to be the point before any walls and/or development can be visually above ground level or seek confirmation from the Local Planning Authority for your development.

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

13 COMPLIANCE WITH DETAILS AND TIMESCALE REQUIRED - LANDSCAPING SCHEME

CONDITION: All changes in ground levels, soft/hard landscaping shown on the approved landscaping details shall be carried out in full during the first planting and seeding season (October - March inclusive) following the commencement of the development, or in such other phased arrangement as may be approved, in writing, by the Local Planning Authority up to the first use/first occupation of the development. Any trees, hedges, shrubs or turf identified within the approved landscaping details (both proposed planting and existing) which die, are removed, seriously damaged or seriously diseased, within a period of 10 years of being planted, or in the case of existing planting within a period of 5 years from the commencement of development, shall be replaced in the next planting season with others of similar size and same species unless otherwise agreed in writing by the Local Planning Authority.

REASON: To ensure that the approved landscaping scheme has sufficient time to establish, in the interests of visual amenity and the character and appearance of the area.

14 HIGHWAYS RESTRICTION

CONDITION: Prior to the first occupation of the development the areas within the site identified for the purpose of loading/unloading/reception and storage of materials and manoeuvring shall be retained thereafter and remain free of obstruction except for the purpose of loading/unloading/reception and storage of materials and manoeuvring and used for no other purpose. Any other area within the site outlined in red not identified shall not be used as loading/unloading/reception and storage of materials and manoeuvring areas.

REASON: To ensure that appropriate loading/unloading facilities are available in the interest of highway safety.

### 8.3 Conditions and Reasons – 23/01539/LBC

#### 1 COMPLIANCE REQUIRED: COMMENCEMENT TIME LIMIT

CONDITION: The works to which this consent relate must be begun not later than the expiration of three years beginning with the date of this consent.

REASON: To comply with the requirements of Section 18(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004

#### NOTE/S FOR CONDITION:

The development needs to commence within the timeframe provided. Failure to comply with this condition will result in the consent 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 both Enforcement Action and Criminal 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 consent .

The approved red line plan drawing is Site Plan scale 1:1250 received 30 October 2023

Block Plan 1:500

Site Plan showing proposed site layout 1:50

Plan and Elevations 1:50

Roof plan and section

Design and Access Statement including Heritage Statement

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

#### NOTE/S FOR CONDITION:

The primary role of this condition is to confirm the approved plans and documents that form the listed building consent 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.

#### 3 FURTHER APPROVAL: HERITAGE

CONDITION: Prior to any work to the windows and doors, detailed elevation and section drawings of the windows and doors (including sections through head, jamb - including construction details of surrounding fabric - frame, stile, mullion, transom, meeting rail, glazing bar, bottom rail, sill or leaded glazing) at 1:2 or 1:10 as appropriate, to be submitted and agreed, in writing, to the Local Planning Authority for approval. The details shall be carried out in full and as may be approved.

REASON: In the interests of protecting and reducing harm to the designated heritage asset.

#### 8.4 Informatives

##### Positive and Proactive Statement

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

##### Highways Informatives

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](mailto:development.management@essexhighways.org)

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.

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.

##### 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.

##### Asbestos containing materials

Asbestos is the largest single cause of work-related death. People most at risk are those working in the construction industry who may inadvertently disturb asbestos containing materials (ACM's). Where building work is planned it is essential that building owners or occupiers, who have relevant information about the location of ACM's, supply this information to the main contractor (or the co-ordinator if a CDM project) prior to work commencing. For more information, visit the Health and Safety Executive website at [www.hse.gov.uk/asbestos/regulations](http://www.hse.gov.uk/asbestos/regulations)

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.

**9. Additional Considerations**

Public Sector Equality Duty (PSED)

- 9.1 In making this recommendation/decision regard must be had to the public sector equality duty (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 that in summary include
  - A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
  - B. Advance equality of opportunity between people who share a protected characteristic\* (See Table) and those who do not;
  - C. Foster good relations between people who share a protected characteristic\* and those who do not, including tackling prejudice and promoting understanding.
  
- 9.2 It is vital to note that the PSED and associated legislation are a significant consideration and material planning consideration in the decision-making process. This is applicable to all planning decisions including prior approvals, outline, full, adverts, listed buildings etc. It does not impose an obligation to achieve the outcomes outlined in Section 149. Section 149 represents just one of several factors to be weighed against other pertinent considerations.
  
- 9.3 In the present context, it has been carefully evaluated that the recommendation articulated in this report and the consequent decision are not expected to disproportionately affect any protected characteristic\* adversely. The PSED has been duly considered and given the necessary regard, as expounded below

Protected Characteristics *	Analysis	Impact
Age	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Disability	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Gender Reassignment	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Marriage or Civil Partnership	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Pregnancy and Maternity	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral

Race (Including colour, nationality and ethnic or national origin)	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Sexual Orientation	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Sex (gender)	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Religion or Belief	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral

The proposal overall shall have a neutral impact.

Consultations undertaken with the affected communities or groups have not been required in this case.

No mitigation measures required.

#### Human Rights

- 9.4 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.
- 9.5 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).
- 9.6 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

- 9.7 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.
- 9.8 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/>.