

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
Case officer recommendation:	MP	05/01/24
Planning Manager / Team Leader authorisation:	ML	05/01/2024
Planning Technician final checks and despatch:	ER	05/01/24

Application: 23/01372/FUL **Town / Parish:** Tendring Parish Council

Applicant: Messrs Mr A. Blake and Mr P. Norris

Address: Council House Field The Green Tendring

Development: Proposed agricultural storage building, glasshouse (relocated from Rainbow Nursery site at Weeley), vehicular access and hardstanding.

1. Town / Parish Council

Tendring Parish Council

Tendring Parish Council would like to object to the application 23/01372 on the following grounds:

The visual impact of a building of a 30m length building in a field previously used to grow crops will be detrimental to the character of the Village. It is currently used to grow crops and is part of an extended run of agricultural land alongside the B1035.

The application does not make clear if the site will have 24 hours security lighting and also if the intention is to use growing lights over a 24 hour period. These will impact severely on the wildlife particularly on the owls, bats and other nocturnal animals that inhabit this area. They are a valued resource for the Community and many residents derive a lot of pleasure in coexisting with them.

Our village is a 'dark ' village and this development would alter this status. This development would also impact on the amenity of front gardens for residents bordering the development. There is no mention of screening of the site in the application.

The site is bordered by some ancient Oak trees which will need to be protected to avoid collision with HGV trucks bringing merchandise from the port. These trees form an important part of the ecosystem of this site.

The application mentions the employment of several staff which we assume will be a transfer of personnel from their Weeley depot and so not constitute an appreciable increase in employment opportunities for the area.

Traffic along the B1035 can be heavy and lorries entering and exiting the site would disrupt the traffic flow as well as disturbing the sleep of local residents.

The proposed development is horticultural & does not comply with the current land use class, which is agricultural.

In conclusion, Tendring Parish Council strongly object to this application and feel that a more detailed application needs to be made to ensure the above points are answered.

2. Consultation Responses

Environmental Protection
16.10.2023

With reference to the above; please see below for comments from the EP Team:

Contaminated Land: Given the sites surrounding areas historical use for agriculture, we are requesting a Watching Brief be conditioned (on any subsequent approval) 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.

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

Asbestos: Should any asbestos containing materials be present on the development site, 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 ensure that any risks (to future users of the land and neighbouring land and to controlled waters, property and ecological systems) arising from any land contamination are minimised and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

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

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

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

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

REASON: to protect the amenity of nearby residential premises

Noise: The EP Team have some concerns over the early delivery / collection times at the site, given the proximity to nearby existing residential properties; and as such would like to ensure all noise associated with the operational aspect of this proposal does not exceed +5dB(A) above background. Therefore we are requesting a formal noise impact assessment be performed, The report will need to focus on activities and any plant machinery, vehicular movements etc, associated with this proposal that may have an impact on any (planned) existing neighbouring/noise sensitive properties from the proposed use. Details of any mitigation and the expected noise reduction achievable should also be submitted as part of this assessment and recommendations implemented, as necessary.

REASON: to protect the amenity of nearby existing residential dwellings and future occupants within the premises

*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.

Tree & Landscape Officer
04.01.2024

The application site is in agricultural use and does not contain any trees or other significant vegetation.

Immediately, to the north of the position of the proposed enhanced vehicular access to the site there is an established and fully mature Oak. The northern boundary is demarcated by a drainage ditch and a field boundary hedgerow comprising of primarily Hawthorn.

The hedgerow falls within the scope of the Hedgerow Regulations 1997 but is just off-site and will not be affected by the proposed development.

The Oak is a prominent feature in its setting and has high amenity value. It has extensive dieback in the upper part of the crown which is an early sign of 'retrenchment' that is typical of a tree of this age and species. The tree exhibits good vigour and strong signs of secondary growth resulting in the formation of a lower canopy under the ends of the branches that have died and are dying back. The condition of the tree is such that it has a long safe useful life expectancy.

The proposed access to the application site is situated within the Root Protection Area (RPA) of the tree and consequently has the potential to cause harm to its long-term health and viability. As the tree could be adversely affected by the development proposal a Tree Preservation Order has been made to afford it formal legal protection. The TPO will ensure that any works within the RPA of the tree are carried out in such a way to minimise harm to tree roots.

It is considered that the retention and formal legal protection of the Oak, on land adjacent to the application site, will not necessarily, prevent the implementation of the proposed development but will ensure that measures are put in place to ensure that the RPA is not compromised during the construction phase of any approved development.

To show the extent to which the Oak is a constraint on the development potential of the land and to identify measures that will be put in place to avoid or minimise damage to tree roots the applicant will need to provide an Arboricultural Impact Assessment (AIA). The information should be in accordance with BS5837: 2012 Trees in relation to design, demolition and construction. Recommendations

In terms of the impact of the proposed new building and glasshouse on the local Landscape character it is considered that the size and location of the proposed development is such that the overall proposal has the potential to have an adverse impact on the character and appearance of the local landscape.

The application site is within The Tendring and Wix Clay Plateau Landscape Character area as defined and described in the Tendring District Council Landscape Character Assessment. The LCA is a gently undulating rural agricultural plateau with large scale fields divided by low gappy hedgerows. It has a low-density settlement pattern with a distinctly rural agricultural landscape that is predominantly arable.

The management strategy states that; *'Particular care should be taken in the siting of communications masts or other vertical elements – these have the potential to be highly visible in the open landscape. This also applies for large scale rural buildings used for agriculture'*.

In this regard there will be clear views of the proposed development from the highway to both the north and south of the site.

There will also be clear views of the site from the Public Right of Way (PRoW) to the south of the application site: PRoW - Tendring 3 and from PRoW – Tendring 8, to the north of the application site. Views from this footpath will be limited to those from the western end of the route.

To show the potential impact of the development proposal on the area the applicant will need to provide a Landscape and Visual Impact Assessment (LVIA). This document will need to quantify the likely impact of the completed development on the character and appearance of the local landscape character and identify measure that may be put in place to mitigate harm. The document should identify several locations (visual receptor viewpoints) from which the application site can be viewed.

Without a LVIA it will not be possible to demonstrate that the development proposal could be implemented without causing significant harm to the local landscape character.

At the present time it is considered that development, of the scale proposed, in this location would be likely to result in a significant diminishment in the quality of the landscape and a degradation of the character of the area.

Should planning permission be likely to be granted then details of soft landscaping should be secured by a planning condition. Soft landscaping should include tree planting and aim to soften, screen and enhance the appearance of the development.

ECC Highways Dept
27.11.2023

The documents accompanying the application have been duly considered and site visits have been undertaken. There are a number of outstanding issues that need to be addressed prior to the Highway Authority being able to consider the acceptability of the proposals.

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

1. The developer has not demonstrated that the proposal would be acceptable in terms of highway safety, efficiency and accessibility. The proposal is therefore contrary to policy DM1 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

The following points need to be addressed before the Highway Authority will be in a position to consider the acceptability of the proposals;

- i. A scale drawing showing the full extent of the visibility splays (included within the redline area) proposed as well as all dimensions for the proposed site access. The splays should be based on the posted speed limit or the 85th percentile vehicle speed ascertained from a speed survey. Extent of highway should be coloured (see item 3 below)
- ii. The results of a speed survey if one is conducted to establish the required visibility
- iii. The results of a formal extent of highway search as sourced from <https://www.essexhighways.org/transport-and-roads/highway-schemes-anddevelopments/adoptions-and-land/highway-status-enquiries.aspx> (any problems with online payment/filling in the form the applicant should email highway.status@essexhighways.org who process the requests)
- iv. A swept path analysis for all movements by the largest vehicle likely to use the proposed site access.

Essex County Council
Ecology
25.10.2023

Thank you for consulting Place Services on the above application. Holding objection due to insufficient ecological information on European Protected Species (Great Crested Newts and bats) and protected species (reptiles).

Summary

We have reviewed the documents supplied by the applicant, Magic Maps (<https://magic.defra.gov.uk>), Great Crested Newt Risk Zones (Essex) | GCN Risk Zones (Essex) | Natural England Open Data Geoportal (arcgis.com) and aerial photographs relating to the likely impacts of development on designated sites, protected & Priority species and habitats, and identification of proportionate mitigation.

We are not satisfied that there is sufficient ecological information available for determination of this application.

This is because no ecological information has been submitted in support of this application. Furthermore, we note a mature tree at the northwest corner of the site, along Heath Road (B1035). It appears that this tree is adjacent to the proposed driveway, although this is unclear considering the proposed plans submitted. As a result, it is uncertain if this tree is to be felled to facilitate the development or retained. If this mature tree is to be removed, this could impact upon bats (European Protected Species), if potential roost features are present. Therefore, the LPA does not have certainty of the likely impacts to these European Protected Species nor any mitigation to avoid impacts and potentially an offence of disturbing or destroying bats or their roosts.

In addition, sites the site lies within an Amber Risk Zone for Great Crested Newt as shown on the Great Crested Newt Risk Zones (Essex) | GCN Risk Zones (Essex) | Natural England Open Data Geoportal (arcgis.com), with two potentially suitable waterbodies within 250m and potentially suitable terrestrial habitat along the boundaries of the site.

To fully assess the impacts of the proposal the LPA needs ecological information for the site, particularly for bats and Great Crested Newts (GCN), both European Protected Species. These surveys are required prior to determination because Government Standing Advice indicates that you should "Survey for great crested newts if there's a pond within 500 metres of the development, even if it only holds water some of the year" and "Survey for bats if the area includes buildings or other structures that bats tend to use or there are trees with features that bats tend to use nearby".

We also note that the site may have suitable habitat for common reptile species, especially along the northern boundary. Although a small amount of likely suitable habitat is to be cleared, without appropriate mitigation impacts to reptiles (Protected Species) may result.

Therefore, it is considered reasonable that a Preliminary Ecological Appraisal should be prepared by the applicant's ecologist to provide adequate assessment of the proposal to inform the need for any further surveys and, if necessary, mitigation & compensation for impacts from this application. Any surveys must be undertaken by suitably qualified ecologists, at the appropriate time of year, using standard methodologies, and professional judgement should be used to come to reasoned conclusions as to the likelihood of species being present and affected by the proposed development. This should include a Preliminary Roost Assessment of potential roosting features for bats upon trees which are likely to be removed as part of the proposals.

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

This information is therefore required to provide the LPA with certainty of impacts on legally protected species and be able to secure appropriate mitigation either by a mitigation licence from Natural England or a condition of any consent. This will enable the LPA to demonstrate compliance with its statutory duties, including its biodiversity duty under s40 NERC Act 2006 and prevent wildlife crime under s17 Crime and Disorder Act 1998.

The applicant may be interested to know that Natural England's District Level Licensing for GCN is available in Essex- see <https://www.gov.uk/government/publications/great-crested-newts-district-level-licensing-schemes> - where sites can be registered to be covered by this strategic mitigation scheme. Guidance for developers and registration forms to join the scheme are available and the LPA will need a Impact Assessment and Conservation Payment Certificate (IACPC) document countersigned by Natural England as evidence of site registration prior to determination where this European Protected Species is likely to be present and affected by development.

Additionally, no biodiversity enhancement measures are identified in the documents provided. We recommend that, to secure net gains for biodiversity, as outlined under Paragraph 174d and 180d of the

National Planning Policy Framework 2023, reasonable biodiversity enhancement measures will need to be provided.
This is needed to enable the LPA to demonstrate its compliance with its statutory duties including its biodiversity duty under s40 NERC Act 2006.

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

3. Planning History

16/01093/OUT	Residential development of 0.4 ha of land to create up to 5 detached dwellings with associated garaging and parking.	Refused	07.09.2016
20/01845/FUL	Proposed 2 dwellings with associated parking and access.	Refused	08.06.2021
23/01623/AGRIC	Prior Approval Application under Part 6, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for an agricultural storage building.	Prior Approval Required - refused.	01.12.2023

4. Relevant Policies / Government Guidance

National:

National Planning Policy Framework December 2023 (NPPF)

National Planning Practice Guidance (NPPG)

Local Planning Guidance

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

SP5 Employment

SP7 Place Shaping Principles

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

SPL1 Managing Growth

SPL3 Sustainable Design

PP7 Employment Allocations

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

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

Essex Design Guide

Status of the Local Plan

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

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>

5. Officer Appraisal

Site Description

The application site is an open parcel of land location on the eastern side of Heath Road, within the parish of Tendring. To the south-west is Greenway Service Station and some residential properties. Despite this, the character is largely rural in nature; the site is open agricultural land, with the land adjacent to the north, south and east similarly rural in nature with no built form. There are residential properties located some 175 metres to the south and approximately 375 metres to the north, but notwithstanding this the predominant built form is currently sited to the western section of this part of Heath Road.

The site falls outside of a recognised Settlement Development Boundary within the adopted Local Plan 2013-2033.

Description of Proposal

This application seeks planning permission for the use of the land for horticultural purposes, which would also see a glasshouse with an attached agricultural storage building, both of which measure 9.6m x 30m with the glasshouse having a height of 3.4m and the agricultural building having a height of 4.7m. The glasshouse would be used for the growth and subsequent distribution of plants to garden centres, with the agricultural building utilised to store machinery, vehicles and harvesting bins which are required to maintain the proposed horticultural use of the wider plot. The buildings are located to the eastern section of the site.

The proposal also includes for a large area of hardstanding which is allocated for seven parking spaces and a turning area, and which measures 20m x 40m, with a further two spaces allocated to the north-eastern corner of the site for use by vans. The hardstanding area is located to the western element of the site, with a driveway which runs along the length of the northern boundary of the site.

The supporting Planning Statement outlines that following the approval of 17/01955/OUT (and subsequently 21/00462/DETAIL) at Rainbow Nurseries in Weeley to convert the site into residential use, this application allows for the relocation of the business and would provide employment for seven full time equivalent staff.

The proposed operating hours are as follows:

Monday - Friday 8am to 4.30pm

Saturdays, Sundays and Bank Holidays - n/a

Assessment

1. Principle of Development

Paragraph 88 of the National Planning Policy Framework (2023) states that planning policies and decisions should enable the sustainable growth and expansion of all types of business in rural areas, both through the conversion of existing buildings and well-designed new buildings.

The latter part of adopted policy PP7 states that proposals for new employment-related development on land outside of allocations will be considered having regard to their potential to support economic growth in the district and the requirements of other policies in this Local Plan.

Paragraph 109 of the National Planning Policy Framework (2023) states that significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes, which can help to reduce congestion and emissions, and improve air quality and public health.

The application site lies outside of a Settlement Development Boundary, with the nearest settlement being Tendring approximately 1,100 metres to the south. Despite there being footways connecting the site to this settlement, the overall rural location of the site and lack of public transport opportunities is likely to result in the majority of journeys generated by the proposal being via private vehicles. However, on this occasion, Officers equally acknowledge the overall low-key nature of the proposal, whilst also noting the minor economic benefits for the local area through seven full time equivalent employees. Therefore, on balance, Officers are content that the principle of development is acceptable and offer a minor level of weight to this in the overall determination of the proposal.

2. Impact to Character of Area

Paragraph 135 of the National Planning Policy Framework (NPPF) (2023) states that developments are visually attractive as a result of good architecture, are sympathetic to local character, and establish or maintain a strong sense of place. Paragraph 180(b) of the NPPF states that planning decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside.

Adopted Policy SP7 of the 2013-33 Local Plan seeks high standards of urban and architectural design, which responds positively to local character and context. Adopted Policy SPL3 Part A (b) requires that development relates well to its site and surroundings, particularly in relation to its siting, height, scale, massing, form, design and materials.

Adopted Policy PPL3 confirms the Council will protect the rural landscape and refuse planning permission for any proposed development which would cause overriding harm to its character or appearance.

The application site is currently a large, spacious and undeveloped piece of land, which is highly visible and prominent from views along Heath Road to the north and south, as well as longer range views from the east. The land adjacent to the north, east and south is equally undeveloped, with the built form in this location notably only located to the western section of Heath Road. Officers note that there are residential properties to the south, however these are a significant distance apart (approximately 175m).

Against this context the proposal, which is to include a glasshouse building, agricultural building, and a large area of hardstanding for parking/turning, will appear highly prominent and out of character with the rural character of this location, resulting in the significant diminishment in the quality of the landscape, and insufficient evidence has been provided to demonstrate that this identified harm could be mitigated. Furthermore, it is not clear from the information provided whether the greenhouse will be artificially lit for the care and growth of plants, which has the potential to exacerbate the harm of the glasshouse on the local landscape character.

The agent for the application has highlighted decisions 16/01093/OUT and 20/01845/FUL for five and two dwellings respectively, on land to the south of the current application site, where the Inspector did not raise concerns with the impact to the character of the area. Whilst these decisions are acknowledged by Officers, ultimately both applications were refused and then dismissed at appeal, are sited far away from the application site, and are instead more closely related to existing residential properties. Given this, and that the proposals greatly differ from this current planning application, Officers afford very limited weight to the determination of those applications.

3. Impact to Neighbouring Amenities

Paragraph 135 of the National Planning Policy Framework (2023) confirms planning policies and decisions should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.

Policy SP7 of Section 1 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.

It is acknowledged that there are residential properties located to the west of the application site. However, given that there is an approximate separation distance of 40 metres and that the use is overall relatively low key with neighbourly operating hours, Officers do not consider the proposal would generate such levels of harm that it would warrant a reason for refusal.

4. Highway Safety

Paragraph 114 of the National Planning Policy Framework (2023) 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 Adopted Local Plan seeks to ensure that access to a new development site is practicable and the highway network will be able to safely accommodate the additional traffic the proposal will generate, and provision is made for adequate vehicle and cycle parking.

Adopted Policy CP1 (Sustainable Transport and Accessibility) states proposals for new development must be sustainable in terms of transport and accessibility and therefore should include and encourage opportunities for access to sustainable modes of transport, including walking, cycling and public transport.

ECC Highways, upon consultation, have confirmed that from a highway and transportation perspective, the impact of the proposal is not acceptable on the grounds that the submission has failed to demonstrate the proposal would be acceptable in terms of highway safety, efficiency and accessibility. Specifically, the submission has failed to provide details of visibility splay plans to demonstrate the minimum required splays can be achieved on land within the applicant's ownership, in addition to not providing a swept path analysis for all movements by the largest vehicle likely to use the proposed site access. It has therefore not been successfully demonstrated that the proposed development could be implemented without causing an unacceptable degree of hazard to all highway users, to the detriment of highway safety.

Officers have requested the above information be provided to the agent for the application, however this has not been forthcoming at the time of writing.

Furthermore, the proposal allows for a total of seven parking spaces to the south-western corner of the site, and a further two parking spaces to the north-eastern corner. There is also additional space within the large area of hardstanding that could accommodate further vehicles. Officers are content, given the low scale nature of the proposal (with a total of seven employees), that the parking provision is sufficient so do not object on these grounds.

5. Renewable Energy

Paragraph 116 of the Framework states that applications for development should be designed to enable charging of plug-in and other ultra-low emission vehicles (ULEV) in safe, accessible and convenient locations. However, recent UK Government announcements that ULEV charging points will become mandatory for new development have yet to be published.

Policies PPL10 and SPL3, together, require consideration be given to renewable energy generation and conservation measures. Proposals for new development of any type should consider the potential for a range of renewable energy generation solutions, appropriate to the building(s), site and its location, and be designed to facilitate the retro-fitting of renewable energy installations.

The proposal includes for a development that has the potential to incorporate renewable energy features. There are no details that accompany the planning application that demonstrate the water, energy and resource efficiency measures that the scheme will incorporate, and a condition requesting details of this would be suggested in the event the application was recommended for approval.

6. Tree Impacts

The Council's Tree and Landscape Officer has been consulted, and has provided the following comments:

"The application site is in agricultural use and does not contain any trees or other significant vegetation.

Immediately, to the north of the position of the proposed enhanced vehicular access to the site there is an established and fully mature Oak. The northern boundary is demarcated by a drainage ditch and a field boundary hedgerow comprising of primarily Hawthorn.

The hedgerow falls within the scope of the Hedgerow Regulations 1997 but is just off-site and will not be affected by the proposed development.

The Oak is a prominent feature in its setting and has high amenity value. It has extensive dieback in the upper part of the crown which is an early sign of 'retrenchment' that is typical of a tree of this age and species. The tree exhibits good vigour and strong signs of secondary growth resulting in the formation of a lower canopy under the ends of the branches that have died and are dying back. The condition of the tree is such that it has a long safe useful life expectancy.

The proposed access to the application site is situated within the Root Protection Area (RPA) of the tree and consequently has the potential to cause harm to its long-term health and viability. As the tree could be adversely affected by the development proposal a Tree Preservation Order will be made to afford the tree formal legal protection. The TPO will ensure that any works within the RPA of the tree are carried out in such a way to minimise harm to tree roots.

It is considered that the retention and formal legal protection of the Oak, on land adjacent to the application site, will not necessarily, prevent the implementation of the proposed development but will ensure that measures are put in place to ensure that the RPA is not compromised during the construction phase of any approved development.

To show the extent to which the Oak is a constraint on the development potential of the land and to identify measures that will be put in place to avoid or minimise damage to tree roots the applicant will need to provide an Arboricultural Impact Assessment (AIA). The information should be in accordance with BS5837: 2012 Trees in relation to design, demolition and construction. Recommendations."

Following these comments, a request was made by Officers to the agent for the application for the submission of an Arboricultural Impact Assessment, however this has not been forthcoming. The submission, therefore, has failed to demonstrate that the development can be implemented without causing significant harm to existing trees on site.

7. Impact on Protected Species

Paragraph 180 of the Framework states planning decisions should contribute to and enhance the natural and local environment, by minimising impacts and providing net gains for biodiversity. Paragraph 186(a) of the NPPF confirms that in assessing planning applications where significant harm to biodiversity as a result of a development cannot be avoided, adequately mitigated or, as a last resort, compensated for, then planning permission should be refused.

Adopted Policy SP7 requires that all new development should incorporate biodiversity creation and enhancement measures. Adopted Policy SPL3 Part A(d) includes that the design and layout of development should maintain or enhance ecological value.

Adopted Policy PPL4 states that proposals for new development should be supported by an appropriate ecological assessment, and where new development would harm biodiversity or geodiversity, planning permission will only be granted in exceptional circumstances, where the benefits of the development demonstrably outweigh the harm caused and where adequate mitigation or, as a last resort, compensation measures are included, to ensure a net gain, in biodiversity.

ECC Place Services (Ecology), upon consultation, have confirmed that they raise a holding objection on the grounds that no ecological information has been submitted in support of this application, and to fully assess the impacts of the proposal the applicant should provide a Preliminary Ecological Appraisal to provide an adequate assessment of the proposal and to ascertain if there is a need for further, more detailed, surveys and/or mitigation measures. Specifically, concerns are raised that the site may have suitable habitat for common reptiles species and may impact upon bats and Great Crested Newts.

Following these comments, a request was made by Officers to the agent for the application for the submission of a Preliminary Ecological Appraisal, however this has not been forthcoming. The submission, therefore, has failed to demonstrate that the development can be implemented without causing significant harm to protected species.

8. Drainage

Paragraph 180 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 191 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.

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

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

In relation to non-mains drainage from non-major development the Environment Agency's advice is that to comply with the Framework and PPG on foul drainage matters, an LPA needs to be satisfied that foul drainage can be provided without adverse impact on the environment. This requires ensuring that both those environmental risks outside of the control of the permit and the relevant

considerations in the PPG are addressed. The LPA should also be mindful that the developer will need to address foul drainage matters to get their environmental permit and meet building control regulations. Therefore, they should be confident that it is likely that any necessary permits and approvals can be successfully obtained.

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.

In considering the acceptability of the proposed non-mains drainage, the site is not located in close proximity to any dwelling, the site is not close to any designated site of importance to biodiversity, nor is it located within close proximity to any watercourse. The site is not located within a Drinking Water Safeguard Zone or a Source Protection Zone, and the site is sufficiently large enough to accommodate a soakaway. Furthermore, flows from a treatment plant serving a development comprising an agricultural building and greenhouse would be low. In addition, Officers note there is not a mains drainage within proximity of the application site. Taking all these factors into account the proposed foul drainage arrangements are considered to be acceptable.

Other Considerations

Councillor Harris called for the application to be determined by the Planning Committee in the event that it was recommended for approval, highlighting concerns with the visual impacts of the proposal, impact to trees, and highway safety concerns.

Tendring Parish Council have objected on the following grounds:

1. Detrimental visual impact;
2. Impacts to wildlife;
3. Impact to neighbours;
4. Tree impacts; and
5. Highway safety.

There has also been a total of seven letters of objection received, with the following concerns:

1. Light pollution;
2. Harmful visual impacts;
3. Highway safety concerns; and
4. Loss of wildlife habitat.

In answer to all of the above points, all of these comments are addressed within the main body of the report.

Planning Balance and Conclusion

The application site lies outside of a Settlement Development Boundary, with the nearest settlement being Tendring approximately 1,100 metres to the south. However, despite the majority of journeys generated by the proposal being via private vehicles, on balance the low-key nature of the business and the small economic benefits of the area are considered to outweigh this harm, and the principle of development is accepted. In addition, Officers are content the development can be implemented without causing significant harm to neighbouring amenities.

However, the site is currently a large, spacious and undeveloped plot, which is highly visible and prominent from views along Heath Road to the north and south, as well as longer range views from the east. The proposal, which is to include a glasshouse building, agricultural building, and a large area of hardstanding for parking/turning, will appear highly prominent and out of character with the rural character of this location, resulting in the significant diminishment in the quality of the landscape. Furthermore, it is not clear from the information provided whether the greenhouse will be artificially lit for the care and growth of plants, which has the potential to exacerbate the harm of the glasshouse on the local landscape character.

In addition, ECC Place Services (Ecology) have issued a holding objection due to insufficient ecological information being provided, and similarly ECC Highways have raised an objection on the basis the submission has failed to provide details of visibility splay plans to demonstrate the minimum required splays can be achieved on land within the applicants ownership, in addition to not providing a swept path analysis for all movements by the largest vehicle likely to use the proposed site access.

Furthermore, the submission has failed to provide an Arboricultural Impact Assessment, thereby failing to demonstrate the development can be implemented without causing significant harm to existing trees on site.

Accordingly, the application does not comply with local and national planning policies and is therefore recommended for refusal.

6. Recommendation

Refusal.

7. Reasons for Refusal

- 1 Paragraph 135 of the National Planning Policy Framework (NPPF) (2023) requires that developments are visually attractive as a result of good architecture, are sympathetic to local character, and establish or maintain a strong sense of place. Paragraph 174(b) of the NPPF states that planning decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside.

Adopted Policy SP7 of the 2013-33 Local Plan seeks high standards of urban and architectural design, which responds positively to local character and context. Adopted Policy SPL3 Part A (b) requires that development relates well to its site and surroundings, particularly in relation to its siting, height, scale, massing, form, design and materials.

Adopted Policy PPL3 confirms the Council will protect the rural landscape and refuse planning permission for any proposed development which would cause overriding harm to its character or appearance.

The application site is currently a large, spacious and undeveloped piece of land, which is highly visible and prominent from views along Heath Road to the north and south, as well as longer range views from the east. The land adjacent to the north, east and south is equally undeveloped, with the built form in this location notably only located to the western section of Heath Road.

Against this context the proposal, which is to include a glasshouse building, agricultural building, and a large area of hardstanding for parking/turning, will appear highly prominent and out of character with the rural character of this location, resulting in the significant diminishment in the quality of the landscape. Furthermore, it is not clear from the information provided whether the greenhouse will be artificially lit for the care and growth of plants, which has the potential to exacerbate the harm of the glasshouse on the local landscape character.

- 2 Paragraph 114 of the National Planning Policy Framework 2023 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 Adopted Local Plan seeks to ensure that access to a new development site is practicable and the highway network will be able to safely accommodate the additional traffic the proposal will generate, and provision is made for adequate vehicle and cycle parking.

Adopted Policy CP1 (Sustainable Transport and Accessibility) states proposals for new development must be sustainable in terms of transport and accessibility and therefore should

include and encourage opportunities for access to sustainable modes of transport, including walking, cycling and public transport.

The submission has failed to provide details of visibility splay plans to demonstrate the minimum required splays can be achieved on land within the applicant's ownership, in addition to not providing a swept path analysis for all movements by the largest vehicle likely to use the proposed site access. It has therefore not been successfully demonstrated that the proposed development could be implemented without causing an unacceptable degree of hazard to all highway users, to the detriment of highway safety, and contrary to the above local and national planning policies.

- 3 Adopted Policy PPL3 states the Council will protect the rural landscape and refuse planning permission for any proposed development which would cause overriding harm to its character or appearance, including to native hedgerows, trees and woodlands.

Immediately, to the north of the position of the proposed enhanced vehicular access to the site there is an established and fully mature Oak, which is a prominent feature in its setting with a high amenity value. The proposed access is situated within the Root Protection Area of the tree and consequently has the potential to cause harm to its long-term health and viability. An Arboricultural Impact Assessment has not been provided, and it has therefore not been adequately demonstrated that the development can be implemented without causing significant harm to existing tree on site, contrary to the above planning policy.

- 4 Paragraph 180 of the Framework states planning decisions should contribute to and enhance the natural and local environment, by minimising impacts and providing net gains for biodiversity. Paragraph 186(a) of the NPPF confirms that in assessing planning applications where significant harm to biodiversity as a result of a development cannot be avoided, adequately mitigated or, as a last resort, compensated for, then planning permission should be refused.

Adopted Policy SP7 requires that all new development should incorporate biodiversity creation and enhancement measures. Adopted Policy SPL3 Part A(d) includes that the design and layout of development should maintain or enhance ecological value.

Adopted Policy PPL4 states that proposals for new development should be supported by an appropriate ecological assessment, and where new development would harm biodiversity or geodiversity, planning permission will only be granted in exceptional circumstances, where the benefits of the development demonstrably outweigh the harm caused and where adequate mitigation or, as a last resort, compensation measures are included, to ensure a net gain, in biodiversity.

The application site may have suitable habitat for common reptiles species and may impact upon bats and Great Crested Newts. A Preliminary Ecological Appraisal has not been provided, and as such it has not been adequately demonstrated that the development can be implemented without causing harm to protected species, contrary to the above national and local planning policies.

8. Informatives

Positive and Proactive Statement:

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and discussing those with the Applicant. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm which has been clearly identified within the reason(s) for the refusal, approval has not been possible.

Plans and Supporting Documents:

The Local Planning Authority has resolved to refuse the application for the reason(s) set out above. For clarity, the refusal is based upon the consideration of the plans and supporting documents accompanying the application as follows, (accounting for any updated or amended documents):

The documents titled 'Block Plan', 'Parking Layout', 'Klargester BioDisc Domestic Sewage Treatment Plant', 'Glasshouse Plan', 'Agricultural Storage Building', and the untitled Site Location Plan received 2 October 2023.

9. **Equality Impact Assessment**

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.

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.

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

