

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
Case officer recommendation:	AL	17/01/2024
Planning Manager / Team Leader authorisation:	JJJ	17/01/2024
Planning Technician final checks and despatch:	ER	17/01/24

Application: 23/01662/FUL **Town / Parish:** Tendring Parish Council

Applicant: Mr S Tilley - Horizon Construction Ltd

Address: Delta Design Systems Ltd The Green Tendring

Development: Proposed alterations to site layout and access to serve additional production and storage space approved under 22/01924/VOC.

1. Town / Parish Council

Tendring Parish Council
16.1.2024

OBJECTS TO APPLICATION

The council had previously in the meeting discussed their concerns and objections to the proposed entrance particularly in respect of the location of the bus stop and safety of bus users, pedestrians and drivers in the area as the proposed new location would result in congregation of passengers obscuring the view of drivers. There was no safe space whilst waiting for the bus or a sufficient hard standing for bus users and pedestrians in the area.

The council wished to object to the new proposal and ask for reconsideration of the location of the bus stop to its historical original location and hard standing for the persons using the bus stop to maintain safety.

2. Consultation Responses

ECC Highways Dept
20.12.2023
NO OBJECTION

The information submitted with the application has been assessed by the Highway Authority and conclusions have been drawn from a desktop study with the observations below based on the submitted material and in conjunction with a previous site visit. It is noted that the approved new access into the site, with associated visibility splays, remains unchanged by this proposal. The planning consent 19/00960/FUL specifically referred to the construction of a bus layby within Condition 20. This was a re-application of an expired approval from September 2014 under planning reference 14/00780/FUL. However, the proposed bus layby has gone through a technical and a road safety audit and during this recent process the layby design failed on several issues. The layby design did not comply with the current design guidance CD169 - a full width stopping area min 3.5m is required (this proposal only had 2.65m) the entry taper should be 45m in length (this only had 13m) and the exit taper should be 25m in length (this only had 9m). There were also implications for the visibility splays, there are concerns that a bus driver trying to exit from this layby will have poor visibility around the bend of approaching road users from the south. Since the original application back in 2014 passenger transport have changed their position and do not support the provision of bus laybys as bus operators do not like using them as they have difficulty exiting the bays on busy routes, considering these factors:

The Highway Authority does not object to the proposals as submitted.

Notes:

- All highway related details should be agreed with the Highway Authority.
- Prior to any works taking place in the highway the developer should enter into a S278 agreement or Minor Works Authorisation with the Highway Authority under the Highways Act 1980 to regulate the construction of the highway works.
- The proposals will require an initial Stage 2 Road Safety Audit.

Informative:

1: 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

2: 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.

3: 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.

Environmental Protection
27.11.2023

NO OBJECTION

With reference to the above application, I can confirm the EP Team have no further comments to make in relation to this proposal

3. Planning History

00/01602/FUL	Steel framed industrial building to be used as office. Change of use of existing building from storage to storage and manufacturing (electric control panels)	Approved	06.12.2000
03/00708/FUL	Steel portal framed assembly workshop	Approved	25.06.2003
05/02048/FUL	Transfer of motor rewind business - Proposed single storey building, purpose built.	Approved	08.06.2006
14/00780/FUL	Extension and alterations to existing buildings including new and altered access road, provision of coach lay-by, provision of increased paved area.	Approved	19.09.2014

19/00960/FUL	Create additional production and storage space, new and altered accesses, provision of coach lay-by and increased paved area.	Approved	21.10.2019
22/01697/DISCON	Discharge of conditions 10 (Local Recruitment Strategy) 18 (Construction Method Statement) and 26 (Arboricultural Method Statement) of application 19/00960/FUL.	Approved	02.12.2022
22/01924/VOC	Application under Section 73 of the Town and Country Planning Act, to allow a variation of condition 2 (Approved Plans) of 19/00960/FUL to allow changes to design drawings as a result of finding underground high voltage cable out of position.	Approved	18.01.2023
23/00555/DISCON	Discharge of conditions 5 (Surface Water Drainage Strategy), 6 (Minimise Offsite Flooding) and 7 (SuDs Maintenance Plan) of application 22/01924/VOC.	Approved	28.09.2023
23/00844/DISCON	Discharge of conditions 15 (Construction details of the ditch piping and associated works) of application 22/01924/VOC.	Approved	18.07.2023
23/01602/DISCON	Discharge of Condition 4 (Lighting Scheme) of planning application 22/01924/VOC.	Approved	21.12.2023

4. Relevant Policies / Government Guidance

National:

National Planning Policy Framework July 2023 (NPPF)
National Planning Practice Guidance (NPPG)

Local:

Tendring District Local Plan 2013-2033 and Beyond North Essex Authorities' Shared Strategic Section 1 Plan (adopted January 2021)

SP1 Presumption in Favour of Sustainable Development
SP3 Spatial Strategy for North Essex
SP7 Place Shaping Principles

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

SPL1 Managing Growth
SPL3 Sustainable Design
PPL1 Development and Flood Risk
PPL3 The Rural Landscape
PPL4 Biodiversity and Geodiversity
PPL5 Water Conservation, Drainage and Sewerage
PP13 The Rural Economy
PP6 Employment Sites

CP1 Sustainable Transport and Accessibility
CP2 Improving the Transport Network
DI1 Infrastructure Delivery and Impact Mitigation

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

5. 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.

6. 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 draft or adopted neighbourhood plans relevant to this site.

7. Officer Appraisal (including Site Description and Proposal)

Site Context

The application relates to the Delta Design Systems Limited site on the western side of Clacton Road / Heath Road (B1035) within the Parish of Tendring. The site is located outside the settlement development boundary for the village. Delta Design Systems (DDS) occupy an area of land

This application relates to the land fronting the site, extending across the junction of Pilcox Hall Lane and encompassing the grass verge beyond (ECC Highway Land)., being approximately 0.16 hectares in size (site frontage of approximately 170 metres in length)

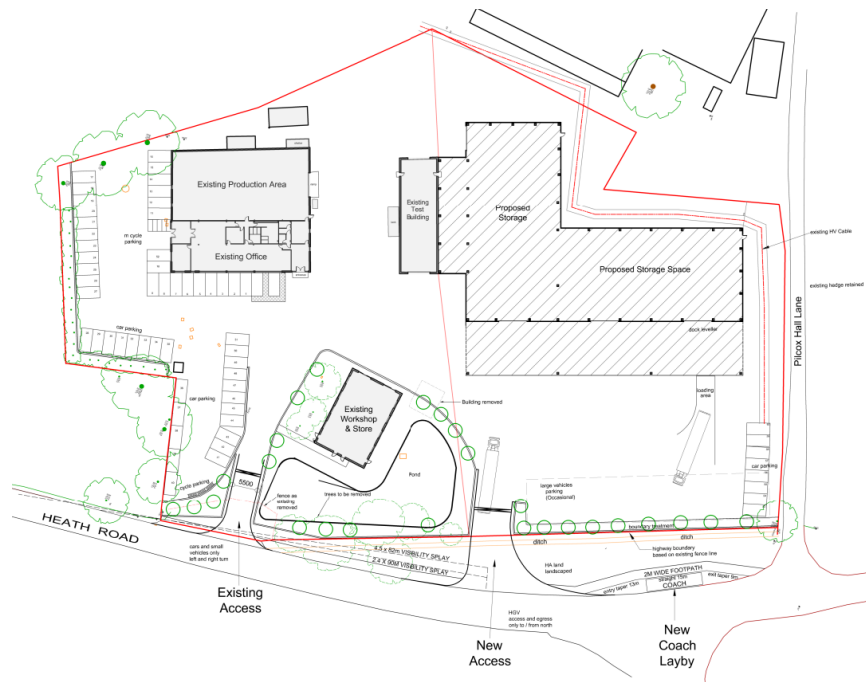
The DDS site is subject of the approved development under application reference 19/00960/FUL, approved on 21 October 2019 for the erection of additional production and storage space, together with new access and alteration to the existing access the provision of coach layby to the front of the and an increased paved area.

19/00960/FUL Approved Site Layout Plan:



Application reference 22/01924/VOC was subsequently approved (varying consent reference 19/00960/FUL) to allow for the repositioning of the approved building by approximately 3 metres to the east and the removal of the building parapet (the overall height of the building remained as approved). The access, parking, landscaping also remained as approved.

22/01924/VOC Approved Site Plan (see overleaf):



Both schemes as approved included a bus layby that had been incorporated following discussions with the Parish Council and the Highway Authority to create a safe refuge, primarily for the children using the school buses.

Since that time further analysis and discussion with the Highway Authority has raised concerns about the safety of such a proposal in terms of manoeuvring and visibility, specifically visibility for vehicles leaving Pilcox Hall Lane. In addition, bus laybys are not now recommended as these restrict buses being able to pull out, into the flow of traffic, and the potential for them to be used for casual parking thus restricting the intended use.

Application 19/00960/FUL included reference to **'provision of coach lay-by and increased paved area'** within the application description. These works are situated within highway land and did not form part of the red lined application site area. The permission was subject to a Grampian Condition (A "Grampian condition" is a planning condition attached to a decision notice that prevents the start of a development until off-site works have been completed on land not controlled by the applicant) as follows:

Condition 20 of 19/00960/FUL:

Prior to the occupation of any of the proposed development, the bus layby and associated new footway adjacent the proposed HGV vehicular access shall be provided in accord with the details shown in Drawing Numbered 716/02 Revision E, including the provision of level entry kerbing, any adjustments in levels, surfacing and any accommodation works to the carriageway channel to the specifications of the Highway Authority and being provided entirely at the applicant/Developer's expense.

Reason - To make adequate provision for the additional bus passenger traffic generated as a result of the proposed development.

The subsequent application 22/01924/VOC dealt with the construction of the bus layby within Condition 19 (Grampian Condition).

Description of Proposed Development

This current application proposes alterations to the layout of the site frontage, specifically the omission of the previously shown layby. This is a full application, and the red lined application site area encompasses the site frontage only, with the remainder of the DDS site shown in blue.

The application form is accompanied by the correct certificate of ownership serving notice on Essex County Council Highway Authority.

23/01662/FUL Proposed Layout Plan:



The accompanying Planning Statement explains:

Following detailed consultation with the Highway Authority a revised proposal is suggested, omitting the bus lay-by, and instead creating a new footpath from the existing bus stop to Pilcox Hall Lane and then further to the south side of Pilcox Lane extending to the existing bench location.

This proposal overcomes the safety concerns with the original proposal and provides a footpath for people using the bus stop, where no hardstanding currently exists, and the extended part, reaching to the seat, provides a waiting area if needed, and also gives firm dry access to the existing seat.

All of the work proposed falls within the land under the control of the Highway Authority.

The approved new access into DDS site, with associated visibility splays, remains unchanged by this proposal. The work to construct the extension allowed under 22/01924/VOC is nearing completion and this required change has become apparent relatively recently, as a result of technical input from the Highway Authority.

Assessment

The main consideration relevant to the assessment and determination of this application is highway safety and accessibility. Consequently, the assessment and views of Essex County Council Highway Authority are fundamental.

Consultation with the Highway Authority has been undertaken (comments received set out in full above) who advise that the bus layby proposals fail several technical and a road safety audit requirements under the current design guidance CD169. Since the original application back in 2014 (the layby proposals were simply carried forward to the more recent applications without a full re-assessment under highway technical standards) passenger transport have changed their position and do not support the provision of bus laybys as bus operators do not like using them as they have difficulty exiting the bays on busy routes.

Representations and Comments

Tendring Parish Council raise an objection to the application due to the location of the bus stop. This application does not relate to the bus stops in this location. This matter should be directed to The Highway Authority if the Parish Council have concerns about the bus stop locations.

No third-party letters of objection have been received.

Conclusion and Recommendation

On the basis that the bus layby proposals are outdated and do not meet current highway technical requirements and safety standards, there can be no objection to this application.

8. Recommendation

Approval - Full

9. Conditions

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. COMPLIANCE: PLANS AND SUPPORTING DOCUMENTS

CONDITION: The development hereby permitted shall be carried out in accordance with the drawings/documents listed below (including materials details and block paving details) 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.

- 716/02 G Proposed Site Plan
- 716/H 1 C New Footway Plan
- 716/LOC A Location Plan

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.

10. 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.

NMA and ROC Required

The recent and implemented planning permission for the Delta Design Systems Ltd site approved under 22/01924/VOC, includes the layby within the application description and is subject to the Grampian Condition requiring the bus layby and associated new footway to be provided prior to the occupation of the approved site expansion works.

Whilst this current application provides separate, full planning permission for alternative works on the front portion of the site, a Section 96A Non-material Amendment Application will be required to omit the layby and associate works from the application description, followed by a Section 73 Removal of Condition Application to remove Condition 19 of 22/01924/VOC.

These applications should be submitted and approved **prior to the occupation** of the approved site expansion works to avoid any breach of condition.

Highway Informatives

1. All highway related details should be agreed with the Highway Authority.
2. Prior to any works taking place in the highway the developer should enter into a S278 agreement or Minor Works Authorisation with the Highway Authority under the Highways Act 1980 to regulate the construction of the highway works.
3. The proposals will require an initial Stage 2 Road Safety Audit.
4. 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

5. 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.
6. 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.

11. 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

Overall, the proposal shall have a neutral impact. No consultation or mitigation measures required.

12. Notification of Decision

Are there any letters to be sent to applicant / agent with the decision? If so please specify:	YES	NO
Are there any third parties to be informed of the decision? If so, please specify:	YES	NO