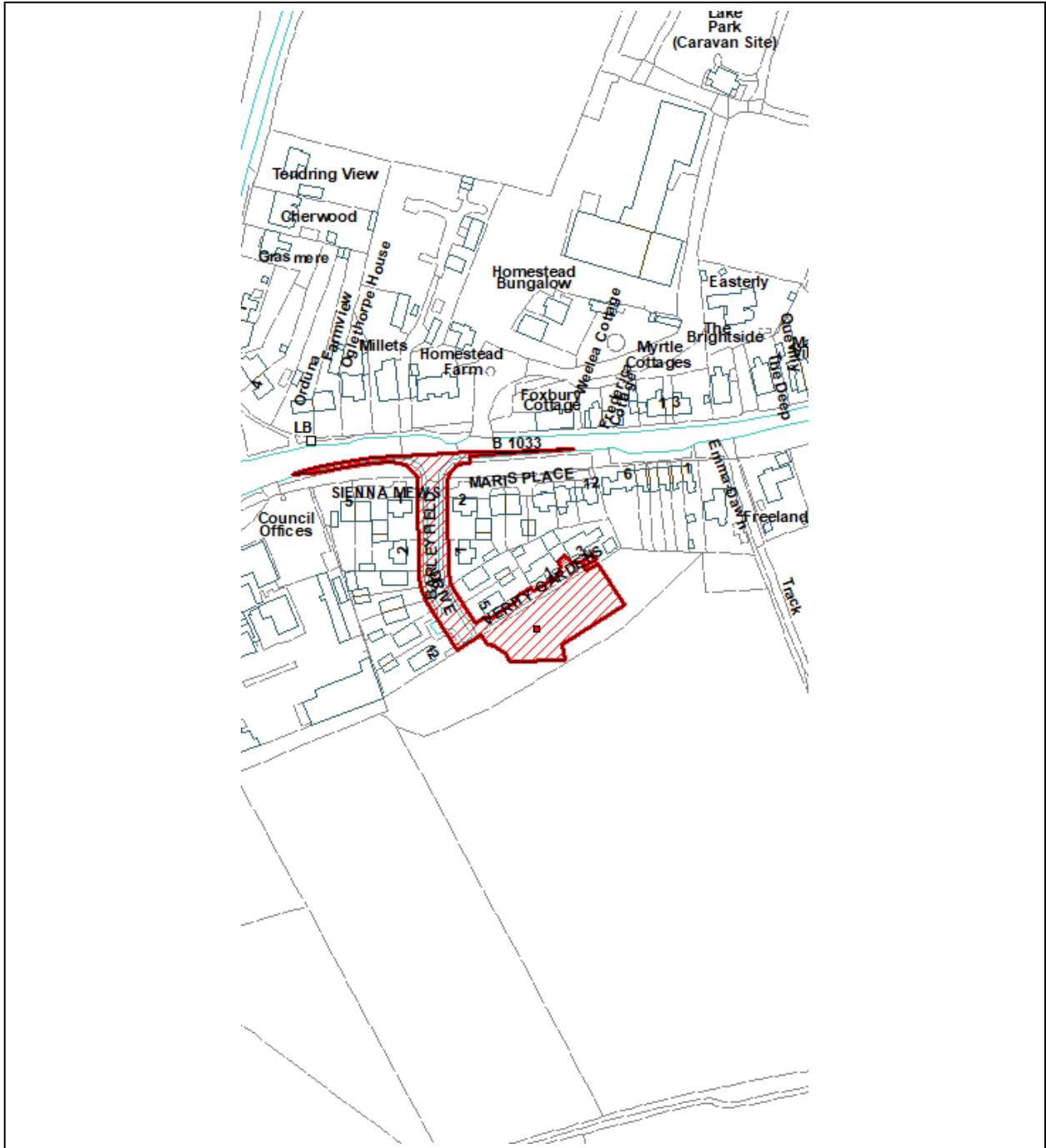


PLANNING COMMITTEE

12th March 2024

REPORT OF THE DIRECTOR OF PLANNING

**A.2 PLANNING APPLICATION – 23/01819/FUL – LAND SOUTH OF VERITY GARDENS WEELEY
CLACTON ON SEA CO16 9FA**



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Application:	23/01819/FUL	Expiry Date:	5th March 2024
Case Officer:	Alison Newland	EOT Date:	29 th March 2024
Town/ Parish:	Weeley Parish Council		
Applicant:	Mr Rose and Mrs Lumber - Lawford Homes Ltd		
Address:	Land South of Verity Gardens Weeley Clacton On Sea CO16 9FA		
Development:	Erection of 3 dwellings and associated ancillary buildings, drainage systems, boundary treatments, hard surfacing with vehicular access from Thorpe Road.		

1. Executive Summary

- 1.1 This application is referred to Planning Committee as it follows a refusal by Members (at Planning Committee on 28th September 2023) of application 22/01332/FUL for the same type of development.
- 1.2 This application seeks full planning permission for the erection of three dwellings on a small parcel of land that forms part of a much larger site which the Council has granted outline planning permission for. The outline planning permission (19/00524/OUT) allowed for up to 280 dwellings, a new primary school and children's nursery, up to 3,000sqm of office floorspace and associated infrastructure. Reserved Matters approval was recently granted by Members (22/00979/DETAIL) for 277 dwellings, 1,910m² commercial floorspace, railway footbridge, and associated infrastructure pursuant to outline planning permission 19/00524/OUT.
- 1.3 Because it is proposed that the three dwellings are accessed across land that is outside the red line of the outline planning permission the applicant was required to submit a separate application for full planning permission, so it is not pursuant to the outline planning permission. If this application is approved this would result in a total of 280 dwellings within the area that has outline planning permission, this would be consistent with the maximum number of dwellings that were allowed under the outline planning permission.
- 1.4 There is no objection to the principle of residential development as the land already has outline planning permission for residential development. Furthermore, the site is located within the Weeley Settlement Development Boundary and is allocated as a mixed-use development in the adopted Local Plan. The detailed design, layout, landscaping and scale are considered acceptable. There are no objections from consultees and Officers consider that the proposal would not result in harm to highway safety, biodiversity or to residential amenity of a level that would warrant the refusal of planning permission. The application is therefore recommended for approval subject to the legal agreement and planning conditions listed.

Recommendation: Approval subject to S106

- 1) On appropriate terms as summarised below and those as may be deemed necessary to the satisfaction of the Head of Planning and Building Control to secure the completion of a legal agreement under the provisions of section 106 of the Town and Country Planning Act 1990 dealing with the following matters:
 - Linking this planning permission to outline planning permission 19/00524/OUT and the associated Section 106 agreement, in order that the dwellings constructed under 23/01819/FUL are dwellings for the purposes of the Section 106 legal

agreement and are bound by and subject to the provisions and obligations contained within that agreement.

- no more than 280 Dwellings shall be constructed on the combined area of the application site (23/01819/FUL) and the outline site (19/00524/OUT) and that the 3 residential units constructed under this application are not in addition to the 280 residential units permitted under the outline planning permission.
- not to implement the planning permission for this application (23/01819/FUL) unless and until the outline planning permission (19/00524/OUT) has commenced.
- to implement this planning permission (23/01819/FUL) prior to the occupation of 50 dwellings under the outline planning permission (19/00524/OUT)

2) That the Head of Planning and Building Control be authorised to grant planning permission subject to the agreed 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;

4) That in the event of the Planning obligations or requirements referred to in Resolution (1) above not being secured and/or not secured within 12 months that the Head of Planning and Building Control be authorised to refuse the application on appropriate grounds at their discretion.

2. Planning Policy

The following Local and National Planning Policies are relevant to this planning application.

National:

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

Local:

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

SP1 Presumption in Favour of Sustainable Development

SP2 Recreational disturbance Avoidance and Mitigation Strategy (RAMS)

SP3 Spatial Strategy for North Essex

SP6 Infrastructure and Connectivity

SP7 Place Shaping Principles

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

SPL1 Managing Growth

SPL2 Settlement Boundaries

SPL3 Sustainable Design

HP1 Improving Health and Wellbeing

HP2 Community Facilities

HP3 Green Infrastructure

HP5 Open Space, Sports and Recreation Facilities

LP2 Housing Choice

LP3 Housing Density and Standards

LP4 Housing Layout

PP12 Improving Education and Skills

PPL1 Development and Flood Risk

PPL3 The Rural Landscape

PPL4 Biodiversity and Geodiversity

PPL5 Water Conservation, Drainage and Sewerage

PPL10 Renewable Energy Generation and Energy Efficiency Measures

CP1 Sustainable Transport and Accessibility

CP2 Improving the Transport Network

CP3 Improving the Telecommunications Network

SAMU5 Development South of Thorpe Road, Weeley

DI1 Infrastructure Delivery and Impact Mitigation

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

Essex Design Guide

Status of the Local Plan

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

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

3. Relevant Planning History

14/00082/OUT	Erection of 20 dwellings with associated garages and single access point to Thorpe Road.	Approved	20.06.2014
14/01841/DETAIL	Erection of 20 dwellings with associated garages and single access point to Thorpe Road.	Approved	14.04.2015
15/01443/DISCON	Discharge of condition 8 (details of estate roads and footways), 12 (vehicular turning) and 13 (construction method statement) of planning permission 14/01841/DETAIL.	Approved	20.11.2015
16/00370/DETAIL	Variation of condition 10 of planning permission 14/01841/DETAIL to change wording, removing requirement of construction of estate roads to base course level prior to commencement of dwellings, to allow construction of houses to commence sooner, reducing the period of disruption to neighbours.	Approved	01.06.2016
17/02162/OUT	Outline planning application with all matters reserved, except for access, for 280 dwellings, a 2 Form of Entry primary school, 56 place early years nursery, up to 3000 sqm of office (B1) buildings on 1 hectare and associated ancillary buildings, drainage systems, boundary treatments and hard surfacing as well as public open space, vehicular access from Thorpe Road a pedestrian footbridge and the closure of existing level crossing and formal diversion of public footpath No 5 - Weeley, over the new railway bridge.	Refused	19.11.2018
19/00524/OUT	Outline planning application with all matters reserved, except for access, for 280 dwellings, a 2 Form of Entry primary school, 56 place early years nursery, up to 3000 sqm of office (B1) buildings on 1 hectare and	Approved	14.08.2019

	associated ancillary buildings, drainage systems, boundary treatments and hard surfacing as well as public open space, vehicular access from Thorpe Road a pedestrian footbridge and the closure of existing level crossing and formal diversion of public footpath No 5 - Weeley, over the new railway bridge.		
21/00039/DISCON	Discharge of condition 15 (Archaeology) of approved planning application 19/00524/OUT.	Part discharged	01.03.2021
21/01143/DISCON	Discharge of condition 4 (Layout and Phasing Plan) of approved application 19/00524/OUT.	Approved	03.09.2021
21/01464/DISCON	Discharge of condition 15 (written scheme of investigation) of application 19/00524/OUT.	Part discharged	01.03.2022
22/00979/DETAIL	Reserved matters application with details of appearance, landscaping, layout and scale for the development of 277 dwellings, 1,910m2 commercial floorspace (B1 Uses), railway footbridge, attenuation basins, open space, play equipment and associated infrastructure pursuant to outline permission 19/00524/OUT (Outline planning application with all matters reserved, except for access, for 280 dwellings, a 2 Form of Entry primary school, 56 place early years nursery, up to 3000 sqm of office (B1) buildings on 1 hectare and associated ancillary buildings, drainage systems, boundary treatments and hard surfacing as well as public open space, vehicular access from Thorpe Road a pedestrian footbridge and the closure of existing level crossing and formal diversion of public footpath No 5 - Weeley, over the new railway bridge) including minor alterations to public footpaths No.3 and No. 4 to allow for the proposed layout.	Approved	04.10.2023
22/01301/DISCON	Discharge of conditions 17 (External lighting), 18 (Refuse collection), 19 (Hard and soft landscaping), 21 (External materials), 23 (Landscape and ecology management plan), 26 (Boundary treatments), 27 (Demolition plan), 36 (On site	Approved	13.11.2023

ecology mitigation), and 38 (Local recruitment strategy) of application 19/00524/OUT.

22/01332/FUL	Proposed 3 dwellings and associated ancillary buildings, drainage systems, boundary treatments, hard surfacing with vehicular access from Thorpe Road.	Refused	04.10.2023
23/01816/DISCON	Discharge of Condition 9 (Construction and Environmental Management Plan), Condition 10 (Surface Water Drainage), Condition 11 (Foul Water Drainage), Condition 12 (Construction Surface Water Management Plan), Condition 13 (Maintenance Plan), Condition 16 (Piling Method), Condition 25 (Cycle Storage), Condition 28 (Existing and Proposed Levels), Condition 29 (Bus Stop Location), Condition 34 (Soil Survey) and Condition 35 (Acoustic Measures) of application 19/00524/OUT.	Current (9, 11, 25, 28 and 35 approved 12/02/24)	

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 Ecology

15.02.2024

No objection subject to securing:

- a) a proportionate financial contribution towards Essex Coast RAMS
- b) biodiversity mitigation and enhancement measures

We have reviewed the submitted documents, including the Preliminary Ecological Appraisal (PEA) (Geosphere Environmental, January 2024) relating to the likely impacts of development on designated sites, protected species and Priority species & habitats and identification of appropriate mitigation measures.

The site falls within the evidenced recreational Zone of Influence (ZOI) of Essex Coast RAMs. Therefore, given the residential element of this development, we note that the LPA has prepared a project level HRA Appropriate Assessment to secure a per dwelling tariff by a legal agreement for delivery of visitor management measures at the designated sites. This will mitigate for predicted recreational impacts in combination with other plans and projects and avoid Adverse Effect on Integrity of the designated Habitats sites.

We are satisfied that there is sufficient ecological information available for determination of this application. This provides certainty for the LPA of the likely impacts on designated sites,

protected and Priority species & habitats and, with appropriate mitigation measures secured, the development can be made acceptable.

The mitigation measures identified in the PEA should be secured by a condition of any consent and implemented in full. This is necessary to conserve and enhance protected and Priority species particularly nesting birds, Badger, and Hedgehog.

Furthermore, the PEA recommends that a precautionary method statement for reptiles be produced and included within a Construction and Environmental Management Plan for Biodiversity (CEMP: Biodiversity). This CEMP: Biodiversity should therefore be secured by condition of consent.

We also support the proposed reasonable biodiversity enhancements of bat boxes, bird boxes, log piles, and Hedgehog friendly fencing, which have been recommended by the Preliminary Ecological Appraisal to secure net gains for biodiversity, as outlined under Paragraph 180d of the NPPF. The reasonable biodiversity enhancement measures should be outlined within a Biodiversity Enhancement Strategy and should be secured by a condition of any consent.

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

Recommended conditions

1. ACTION REQUIRED IN ACCORDANCE WITH ECOLOGICAL APPRAISAL RECOMMENDATIONS

"All mitigation measures and/or works shall be carried out in accordance with the details contained in the Preliminary Ecological Appraisal (Geosphere Environmental, January 2024) as already submitted with the planning application and agreed in principle with the local planning authority prior to determination.

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

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

2. PRIOR TO COMMENCEMENT: CONSTRUCTION ENVIRONMENTAL MANAGEMENT PLAN FOR BIODIVERSITY

"A construction environmental management plan (CEMP: Biodiversity) shall be submitted to and approved in writing by the local planning authority.

The CEMP (Biodiversity) shall include the following.

- a) Risk assessment of potentially damaging construction activities.
- b) Identification of "biodiversity protection zones".
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements) including a precautionary method statement for reptiles.
- d) The location and timing of sensitive works to avoid harm to biodiversity features.
- e) The times during construction when specialist ecologists need to be present on site to oversee works.
- f) Responsible persons and lines of communication.

- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
- h) Use of protective fences, exclusion barriers and warning signs.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority"

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

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

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

The content of the Biodiversity Enhancement Strategy shall include the following:

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

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

Reason: To enhance protected and Priority species & habitats and allow the LPA to discharge its duties under the NPPF 2023 and s40 of the NERC Act 2006 (Priority habitats & species).

ECC Highways Dept

16.01.2024

The information submitted with the application has been assessed by the Highway Authority and conclusions have been drawn from a desktop study with the observations below based on the updated drawings. A previous site visit was undertaken in conjunction with an earlier planning application, 22/01332/FUL that was previously acceptable to the Highway Authority. It is noted that following consultation with local stakeholders the applicant has made changes to the previous layout. The proposed bungalows have been reorientated and set back further from the existing homes and improvements to the bin collection point for the existing and proposed dwellings has been improved. Although the previous width of Verity Gardens met with the Essex Design Standards it is noted this has been increased as part of the new application, considering these factors:

From a highway and transportation perspective the impact of the proposal is acceptable to Highway Authority subject to the following mitigation and conditions:

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

Reason: To protect highway efficiency of movement and safety in accordance with policy DM1.

2. No occupation of the development shall take place until the following have been provided or completed:
a) The vehicular and pedestrian access arrangements as shown on the amended planning application drawings.
b) Residential Travel Information Packs in accordance with Essex County Council guidance.
Reason: To protect highway efficiency of movement and safety and to ensure the proposal site is accessible by more sustainable modes of transport such as public transport, cycling and walking, in accordance with policy DM1, DM9 and DM10.

3. The proposed development shall not be occupied until such time as the vehicle parking areas indicated on the approved plans, has been hard surfaced, and sealed. The vehicle parking areas and associated turning area shall be retained in this form at all times. The vehicle parking shall not be used for any purpose other than the parking of vehicles that are related to the use of the development unless otherwise agreed with the Local Planning Authority.
Reason: To ensure that on street parking of vehicles in the adjoining streets does not occur in the interests of highway safety and that appropriate parking is provided in accordance with Policy DM8.

Tree & Landscape Officer

15.01.2024

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

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

Environmental Protection

16.02.2024

Contaminated Land: We are satisfied with the methodology of the report and its findings; providing all recommendations in relation to further investigation / remediation, as outlined in Section 6 of the submitted report, are implemented in relation to this proposal, we have no reason to object.

Construction Method Statement: In order to minimise potential nuisance to nearby existing residents caused by construction and demolition works, Environmental Protection ask that the following is submitted, on any further subsequent planning phase:

Prior to the commencement of any construction or demolition works, the applicant (or their contractors) shall submit a full method statement to, and receive written approval from, the Pollution and Environmental Control. This should at minimum include the following where applicable: [see Informatives for full text].

UU Open Spaces

29.01.2024

Public Realm Assessment

Play Space - current deficit: Deficit of 1.34 hectares of equipped play in Weeley

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

Settlement provision: Weeley Village Hall LEAP & Open Space 0.5 miles from development.
Hilltop LEAP 1 mile from the development

Officer Conclusions and Recommendations: No contribution is being requested on this occasion. The Parish Council are in the process of upgrading the current play area, which will then be adequate to cope with some additional development.

Waste Management

11.01.2024

No comments.

5. Representations

5.1 Parish Council Consultation

Weeley Parish Council considered this application at its meeting on 15 January 2024. It resolved to neither object or comment on it.

5.2 Public Consultation

One letter of objection has been received. A summary of the main issues raised are set out below:

- Heavy vehicles will deteriorate road surface and risk damage to parked cars
- Inadequate parking, loading and turning for HGVs
- Construction vehicle pollution, noise, disturbance and damage

6. Assessment

Site Context

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

Planning History

- 6.2 The application site forms part of a larger site that was granted Outline planning permission in August 2019 for a mixed use development containing up to 280 dwellings (19/00524/OUT). The legal agreement for 19/00524/OUT secured 30% affordable housing; 2.1ha of land for a primary school and nursery; education contributions for primary and secondary school places, and secondary school transport; healthcare contribution; public open space, equipped play, and ecology land on site; off site contribution towards Weeley Hall Wood SSSI; RAMS contributions; contributions towards improvements of two local roundabouts; and a footbridge over the railway line to divert the existing public right of way.
- 6.3 Reserved Matters approval (22/00979/DETAIL) for 277 dwellings, offices and associated infrastructure pursuant to that Outline planning permission was granted by Members at Planning

Committee on 28th September 2023. That approval excludes the application site for the current proposal for three dwellings as the driveway serving Verity Gardens was not within the red line site boundary of the Outline planning permission, the Council could not consider those dwellings under the Outline planning permission. The Reserved Matters approval for 277 dwellings plus the current proposal for three dwellings totals 280 dwellings in accordance with the outline planning permission 19/00524/OUT.

- 6.4 At Planning Committee on 28th September 2023, alongside the reserved matters (22/00979/DETAIL) for the wider site, Members also considered application 22/01332/FUL for three dwellings. 22/01332/FUL was refused for the following reasons:
- 6.5 *The proposed development if approved, by reason of its siting, layout, access would be out of keeping with the prevailing spacing and pattern of development of the existing surrounding development. The development fails to enhance the character of locality.*
- 6.6 *Furthermore, if approved, it would likely generate a significant increase in noise levels and disturbance including impact on privacy due to the construction process and subsequent occupation of the three dwellings. By reason of the layout, siting, landscaping and scale of the development this impact would directly affect the quality of life for the neighbouring residents in close proximity, with due regard given to known persons with protected characteristics defined under the Equality Act 2010 who relies on a quiet environment for their well-being and amenity.*
- 6.7 *On this basis the proposal is considered to be contrary to Local Plan Section 1 Policy SP6 part C and Section 2 SPL3 as a whole and including part C and NPPF including Section 8. Promoting healthy and safe communities and Section 12 Achieving well-designed places highlighting Para 130F.*
- 6.8 The current application (23/01819/FUL) is a resubmission which seeks to address the previous reasons for refusal. Just like the outline permission that covers this site, the previous refusal is also a material consideration to be considered alongside the consideration of this application being assessed on its own merits and as a stand-alone application. It is noted that this development is clearly part of the developer's wider plans to develop the land, but this application is assessed on its own merits.

Proposal

- 6.9 This application seeks Full planning permission for the erection of three dwellings on land on the south side of Verity Gardens.
- 6.10 The new dwellings would consist of two detached 2-bed bungalows and one detached 4-bed house. The bungalows are each provided with two parking spaces, the house is provided with a detached double garage plus two parking spaces in front. A visitor parking space and communal bin collection point is also provided along the widened access driveway.

Principle of Development

- 6.11 The principle of residential development at this location has already been established by the granting of outline planning permission 19/00524/OUT which allows for up to 280 dwellings with vehicular access from Thorpe Road; a new Primary School and Early Years Childrens Nursery; up to 3000 sqm of office (B1) buildings; Public Open Space; a new footbridge over the railway line; and associated development.
- 6.12 The site lies within the Settlement Development Boundary (SDB) for Weeley and is also designated for a Mixed-Use development under Policy SAMU5 of the adopted Local Plan. These facts further emphasise that the principle of residential development on this site has been accepted by the Council.

Scale, Layout & Appearance

- 6.13 In refusing 22/01332/FUL Members expressed concern regarding the siting, layout and access being out of keeping with the prevailing spacing and pattern of development failing to enhance the character of the locality.
- 6.14 The refused scheme had the two detached bungalows directly opposite the existing bungalows fronting Verity Gardens, with the main entrance and kitchen and bedroom windows facing the neighbours. The bungalows shared a detached double garage with a second parking space each in front.
- 6.15 The amended proposal reorientates the bungalows so Plot 3 is set just off the rear boundary and Plot 2 is turned (blank) end on to the neighbours with additional separation provided by soft landscaping and a garden brick wall. This creates an open soft landscaped frontage, including parking, for the proposed bungalows to look across and provides substantial separation to the existing bungalows.
- 6.16 Following Member's concerns about the width of the existing access drive (3.8m) this has been widened to 5.5m in excess of the required width for a private drive, and a visitor parking bay has been added. The detached garage and parking serving the proposed house on Plot 1 is also set back further in its plot with more generous soft landscaping.
- 6.17 Plot 1 still proposes a detached four bedroom house and a substantial building of this scale was considered to be appropriate for this location which will be the key entrance to the wider development. The detached house will sit in a generous corner plot, facing out towards Barleyfield Drive. The house will be separated from the bungalows by a detached double garage, and it will also relate to other houses further along Barleyfield Drive and approved to the south. Given all these factors the scale of the three dwellings and the change in scale across the application site is considered to be acceptable.
- 6.18 The detailed design of the three plots reflects the wider development and the architectural style is considered appropriate for the village and site context with the buildings displaying attractive architectural features. All plots meet the nationally described space standards and provide ample private amenity space. The proposed materials are taken from the palette of materials approved for use on the larger site. All three plots and the detached garage are proposed to be clad in a red stock brick. The bungalows and detached garage have a dark red pantile roof covering, with the house being roofed with dark red plain tiles. Hard surfacing comprises block paving to match the existing driveway, with contrasting colour to parking bays and bin collection point.
- 6.19 A 1.8m high brick wall with stone coping will be erected around the public facing boundary to both sides of Plot 1 screening the rear garden, with soft landscaping to the public side. The plot occupies a prominent location within the streetscene and this is considered to be an appropriate means of enclosure. The boundary treatment plan shows no means of enclosure along the outer boundary of Plot 1 and Verity Gardens. This is a relatively long and prominent boundary and Officers consider some form of low level enclosure should be provided to differentiate between the public and private realm. A condition is recommended to obtain and approve these details. Permitted development rights are also recommended to be removed for new enclosures forward and to the north of Plot 1 to prevent harsh or high level boundary treatments being erected in the future to enclose this large and prominent front garden area. A 1.8m high brick wall is also proposed along the side boundary with Plot 2 fronting Verity Gardens with all other boundaries fenced by 1.8m high close boarded fencing in keeping with the wider development.

- 6.20 Concerns were previously raised by existing residents of Verity Gardens about waste collection and the proposal includes a waste collection point sufficient for the existing and proposed dwellings within the required 20 metres of Barleyfield Drive.
- 6.21 **It is considered that the proposed layout overcomes the previous reasons for refusal and would represent an acceptable development of the site in accordance with the provisions of the NPPF and Local Plan Policies SP7 and SLP3.**

Highway Safety/Parking

- 6.22 Paragraph 114 of the NPPF seeks to ensure that safe and suitable access to a development site can be achieved for all users. Paragraph 115 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 6.23 Adopted Local Plan Policy SPL3 (Part B) seeks to ensure that access to a new development site is practicable and the highway network will be able to safely accommodate the additional traffic the proposal will generate, and provision is made for adequate vehicle and cycle parking. Adopted Local Plan Policy CP2 states proposals will not be granted planning permission if there would be an unacceptable impact on highway safety, or the residual cumulative impact on the road network would be severe.
- 6.24 The application site is approximately 85m south of Thorpe Road (B1033). Vehicular access to the proposed dwellings will be from Verity Gardens, which is an existing road leading off Barleyfield Drive, which is currently a 5.5m wide carriageway with footways. Barleyfield Drive is widened to 6.75m as part of the approval for the wider site. Barleyfield Drive currently serves 20 dwellings and Officers do not consider that it would be necessary to condition the widening of Barleyfield Drive to a 6.75m wide carriageway to serve the additional three dwellings proposed by this application.
- 6.25 The Essex Design Guide confirms a 'Type H' road Private Drive is appropriate to serve a maximum of 5 dwellings and should be 5.5m wide for the first 6m then taper down to a lesser, unspecified, width. Verity Gardens (serving the two existing bungalows) currently complies with these standards. Following Member's previous concerns about the width of the existing access drive (3.8m) this is proposed to be widened to 5.5m, in excess of the required width for a private drive, and a visitor parking bay has also been added.
- 6.26 The Highway Authority raised no objection to the refused proposal, and raise no objection to the current proposal, subject to conditions. The recommended conditions require approval of a Construction Traffic Management Plan, Resident's Travel Information Packs, and provision of the parking and turning areas prior to occupation.
- 6.27 The Parking Standards require the provision of at least two car parking spaces for each new dwelling measuring 5.5m x 2.9m, or 7m x 3m within a garage, plus 25% visitor parking. The proposed development exceeds the parking standards with two additional parking spaces provided for the house on Plot 1. Cycle parking provision is also provided, within the garage for Plot 1 and within cycle stores in the rear gardens for Plots 2 and 3. A condition will be imposed to secure provision of the cycle stores prior to occupation to encourage sustainable modes of transport.

Landscaping/Biodiversity

- 6.28 This report addresses the distinct legal requirements, ensuring a comprehensive analysis of the ecology and biodiversity impacts of the proposal in line with regulatory standards.

- 6.29 The site is currently open and relatively bare. No trees or hedges would be affected by the proposals. A soft landscaping scheme has been submitted with the application and the Council's Tree and Landscape Officer raises no objection to the proposals. This area of land was subject to extensive ecological investigation as part of the consideration of the Outline planning permission. The submitted Preliminary Ecological Appraisal Report (02/01/2024) is an up to date assessment of the application site.
- 6.30 The site was also identified as having the potential to impact on the Weeley Hall Wood SSSI (which does not fall within the Essex Coast RAMS). Suitable mitigation has been secured through the legal agreement attached to the Outline planning permission which included this application site. The development will be linked to the main Section 106 agreement and as such Officers are content that no further mitigation needs to be specified in connection with this application.

General duty on all authorities

- 6.31 The Natural Environment and Rural Communities Act 2006 amended by the Environment Act 2021 provides under Section 40 the general duty to conserve and enhance biodiversity: "For the purposes of this section "the general biodiversity objective" is the conservation and enhancement of biodiversity in England through the exercise of functions in relation to England." Section 40 states authorities must consider what actions they can take to further the general biodiversity objective and determine policies and specific objectives to achieve this goal. The actions mentioned include conserving, restoring, or enhancing populations of particular species and habitats. In conclusion for decision making, it is considered that the Local Planning Authority must be satisfied that the development would conserve and enhance.
- 6.32 This development is subject to the general duty outlined above. The following features underscore how the proposal positively impacts biodiversity, offsetting requirements necessary for the development to take place.
- 6.33 The submitted Preliminary Ecological Appraisal Report (02/01/2024) confirms that bird and bat boxes, hedgehog friendly fencing and log piles for invertebrates and reptiles, should be included within the final development design to improve the site for birds, bats, and reptiles. As recommended by ECC Ecology a Biodiversity Enhancement Strategy condition will secure the details, provision and implementation/maintenance of these biodiversity enhancements.

Biodiversity net gain

- 6.34 Biodiversity net gain (BNG) is an approach that aims to leave the natural environment in a measurably better state than it was beforehand. The minimum requirement is for a 10% net gain in biodiversity value achieved on a range of development proposals. As a 'minor' planning application the requirement for BNG does not apply for applications made before 2nd April 2024, so this development is not applicable for Biodiversity Net Gain.

Protected Designated Habitats

- 6.35 The site falls within the recreational Zone of Influence (ZOI) of the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). 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.
- 6.36 A Habitat Regulations Assessment has been completed for the proposal. The new development would be likely to increase the number of recreational visitors to the designated area and, in

combination with other developments, it is likely that the proposal would have significant effects on the designated site. Prior to any approval, a S106 Legal Agreement/Unilateral Undertaking will be sought to tie the permission to the requirements of the outline planning permission S106 which secures the necessary financial contributions for RAMS 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.

Protected Species

- 6.37 In accordance with Natural England's standing advice the application site and surrounding habitat have been assessed for potential impacts on protected species. The submitted Preliminary Ecological Appraisal Report (02/01/2024) confirms the habitats onsite have the potential to support breeding birds, reptiles, badgers, and hedgehog. The report details the avoidance measures and timing of works to reduce impact on these protected species. The report refers to further surveys on the wider site but confirms no further surveys are required for the current proposal.
- 6.38 In compliance with relevant wildlife legislation and planning policies, the development will adhere to best practices to protect and enhance the habitat for these protected species. As recommended by ECC Ecology conditions are imposed requiring works to be carried out in accordance with the recommendations of the Preliminary Ecological Appraisal Report, and submission and approval of a Constructional Environmental Management Plan for Biodiversity and a Biodiversity Enhancement Strategy.
- 6.39 **Conclusion: In accordance with the overarching duty outlined above, this development is committed to actively contributing to the conservation and enhancement of biodiversity as set out above and within the planning conditions. In conclusion, this development is considered to accord to best practice, policy, and legislation requirements in consideration of the impacts on ecology interests.**

Impact on Residential Amenity

- 6.40 Paragraph 135 of the NPPF states that planning should always seek to secure a good standard of amenity for all existing and future users. Policy SPL3 states that buildings and structures are designed and orientated to ensure adequate daylight, outlook and privacy for future and existing residents; and the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties.
- 6.41 Plot 1 comprises the detached four bedroom house which will face the new mini roundabout at the entrance to the wider site. This plot is well separated from the approved dwelling to the south, the existing house to the north of Verity Gardens, and the proposed bungalows on Plots 2 and 3 to ensure no material loss of light or outlook. The two small first floor windows to the side elevations serve bathrooms, and the two first floor rear bedroom windows are around 22m from the side bedroom window of the proposed bungalow on Plot 3 with intervening boundary treatment and planting. No material loss of privacy would therefore result from the house on Plot 1.
- 6.42 There are two existing bungalows in Verity Gardens, opposite the application site, who currently have an outlook over fields. Under the previously refused scheme, a number of representations referenced two of the existing residents, living at the end of Verity Gardens, who have severe disabilities which require round the clock care. The family said that they bought the bungalow in the expectation that it would provide suitable living conditions and that the area around their homes would continue to meet their needs. They felt aggrieved that the proposed development will bring changes that their family members may experience difficulty in coping with. Whilst we are sympathetic, any assurances given and subsequently relied upon is a private matter

between the family and the developer and/or their agents and are not material planning considerations in the determination of this application. The Council's planning policies and the previous grant of Outline planning permission have all firmly established this to be a location where residential development is acceptable, and so must be lawfully considered against current planning policy. However, all planning decisions must also have due regard to the impact on those with protected characteristics under the Equality Act 2010 (including section 29(1) and (6); and the general equality duty which is set out in section 149 of the Equality Act 2010). The Local Planning Authority is mindful that development of the nature sought may have a different impact on such individuals as opposed to those without such characteristics, especially through construction as the environment changes and ongoing increased disturbance of increased domestic activity in the surrounding area.

- 6.43 In refusing 22/01332/FUL Members expressed concern regarding the likely significant increase in noise levels, disturbance and loss of privacy due to the construction process and subsequent occupation of the three dwellings. Furthermore, by reason of the layout, siting, landscaping and scale this impact would directly affect the quality of life for the neighbouring residents in close proximity, with due regard given to known persons with protected characteristics who rely on a quiet environment for their well-being and amenity.
- 6.44 The amended proposal reorientates the bungalows so Plot 3 is set just off the far rear boundary and Plot 2 is turned (blank) end on to the neighbours with additional separation provided by soft landscaping. This creates an open soft landscaped frontage, including parking, for the proposed bungalows to look across and provides substantial separation to the existing bungalows. There is also a 1.8m high brick wall along the garden boundary of Plot 2 providing a continuous blank elevation to the bungalow occupied by the residents with protected characteristics. The wall is over 6.5m away and the bungalow on Plot 2 is almost 10m away from the closest point of the neighbouring bungalow. A condition is included to remove permitted development rights for new windows/doors in the end elevation of Plot 2 so the Council can retain control over this in the interests of neighbouring amenity. There is over 21 metres separation at the closest point between the front elevation of Plot 3 and the other existing bungalow. Whilst it is accepted that the development will significantly alter the outlook of these two properties it is not considered that the proposals would have a materially damaging impact on their privacy, or other amenities, such that the application should be refused.
- 6.45 The planning balance is to consider the level of harm to amenity against the benefits and merits of the scheme. In the finer balance it is considered that given the design of the scheme, existing public access, housing need and benefit and noting the surrounding development that a robust refusal on harm to amenity in this regard could not be defended. We consider that the wider public benefit in adding to the available housing stock that this development would bring is also an important consideration and therefore we recommend that approval of the application is a proportionate response to achieving a legitimate aim having regard to the interests of all. The applicant has confirmed they are willing to agree a Construction Management Plan as a pre-commencement condition which will set out the measures they can employ to further limit disturbance during construction. The legal agreement also requires these plots to be completed within the first 50 dwellings which will then provide separation to the rest of the construction site.
- 6.46 An objector has raised concerns about damage, inconvenience and pollution caused by construction vehicles. The required Construction Management Plan will limit these impacts in accordance with the detailed informatives contained within the recommendation.

Drainage

- 6.47 The site area and proposal falls significantly below the threshold where a flood risk assessment would be required. The site lies within Flood Zone 1 at lowest risk of flooding and is not identified as being at surface water flood risk.

- 6.48 TDLP Policy PPL5 states that all new development must make adequate provision for drainage and sewerage. The application form confirms connection will be to mains sewer which is the preferred option having regard to the drainage hierarchy and building regulations requirements.

Section 106 of the Town and Country Planning Act 1990

- 6.49 A planning application providing just three residential dwellings would not usually need to be subject to a Section 106 agreement, however as these three dwellings form part of a larger development they need to be tied to the planning obligations for the larger site.
- 6.50 The applicant has prepared a Unilateral Undertaking that effectively ties this Full application to the main development, and the associated Section 106 agreement, so that the three dwellings are bound by and subject to the provisions and obligations contained within that agreement. The Unilateral Undertaking also ensures no more than 280 Dwellings shall be constructed on the combined area of the application site (23/01819/FUL) and the outline site (19/00524/OUT) and that the 3 residential units constructed under this application are not in addition to the 280 residential units permitted under the outline planning permission. Furthermore, in the interests of proper planning the Council would not want to consider an application on part of an allocated mixed use development site that would in some way prejudice the delivery of the remainder of the site. The Unilateral Undertaking therefore ensures the planning permission for this application (23/01819/FUL) cannot be implemented unless and until the outline planning permission (19/00524/OUT) has commenced. This planning permission (23/01819/FUL) must also be implemented prior to the occupation of 50 dwellings under the outline planning permission (19/00524/OUT), to ensure that the dwellings come forward in a timely manner and to reduce the period of time that the existing residents could be exposed to the potential impact of construction activity on the main site.
- 6.51 The Unilateral Undertaking is signed and awaiting final completion pending Member's determination of this application.

Heritage Assets

- 6.52 The site is not within a conservation area or the setting of any listed buildings. The applicant has agreed a programme of archaeological work with the Council, in accordance with condition 15 on the Outline planning permission (19/00524/OUT). This has included excavation works on the wider site and the applicant continues to comply with the requirements of condition 15 in respect of archaeological mitigation and recording.

Sustainable Construction and Energy Efficiency

- 6.53 Adopted Local Plan Policy PPL10 states that proposals for new development should consider the potential for renewable energy generation, appropriate to the site and its location, and should include renewable energy installations, or be designed to facilitate the retro-fitting of renewable energy installations.
- 6.54 A condition is therefore imposed securing details of water, energy and resource efficiency measures to improve the sustainability of the development.

Contaminated Land

- 6.55 Condition 34 of the outline planning permission (19/00524/OUT) requires soil surveys to be undertaken prior to commencement, and where contamination is identified a scheme for decontamination to be agreed and completed prior to first occupation. At the time of writing this condition is pending discharge. However, the submitted report confirms the contamination is only in the north west of the wider site (around Ash Farm) and not within the application site. The recommendations in relation to further investigation/remediation referred to by

Environmental Protection in their consultee response are therefore not relevant to the application site and no further contamination assessment/remediation needs to be secured under this proposal.

7. Conclusion

- 7.1 The principle of residential development at this location has previously been accepted by the grant of outline planning permission (19/00524/OUT) for up to 280 dwellings. The site now lies within the Settlement Development Boundary for Weeley where there is a presumption in favour of sustainable development. Furthermore, the site forms part of a larger site allocated for mixed-use residential led development in the adopted Local Plan. As such, there is no policy conflict in principle with the proposed residential development of this land.
- 7.2 The scale, appearance and landscaping of the proposal are considered acceptable and would be appropriate in character and appearance with reference to the existing development of twenty dwellings at Barleyfield Drive and the approved development of 277 dwellings to the south. The proposal is acceptable in terms of highway safety and biodiversity, and would not warrant refusal on the grounds of adverse impact on neighbouring amenity. The application is therefore recommended for approval subject to securing an appropriate legal agreement.

8. Recommendation

- 8.1 The Planning Committee is recommended to grant planning permission subject to the following conditions and informatives and the prior completion of a Unilateral Undertaking to link this planning permission to the planning permission 19/00524/OUT and the associated Section 106 agreement, in order that the dwellings constructed under 23/01819/FUL are dwellings for the purposes of the Section 106 legal agreement and are bound by and subject to the provisions and obligations contained within that agreement. No more than 280 Dwellings shall be constructed on the combined area of the application site (23/01819/FUL) and the outline site (19/00524/OUT) and that the 3 residential units constructed under this application are not in addition to the 280 residential units permitted under the outline planning permission. Not to implement the planning permission for this application (23/01819/FUL) unless and until the outline planning permission (19/00524/OUT) has commenced. To implement this planning permission (23/01819/FUL) prior to the occupation of 50 dwellings under the outline planning permission (19/00524/OUT).

8.2 Conditions and Reasons

1. COMPLIANCE REQUIRED: COMMENCEMENT TIME LIMIT

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

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

NOTES FOR CONDITION:

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

2. APPROVED PLANS & DOCUMENTS

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

The approved red line plan drawing is Drawing 21/12/100 Rev.E received 22.12.2023.

Sketch Site Plan – 21/12/SK101
Proposed Block Plan – 21/12/101 Rev. F
Proposed Site Plan – 21/12/102 Rev. F
Parking Plan – 21/12/103 Rev. F
Waste and Recycling Collection Plan – 21/12/104 Rev. F
Boundary Treatment Plan – 21/12/105 Rev. F
Proposed Materials Plan – 21/12/106 Rev. F
External Works Materials Plan – 21/12/106 Rev. F
Plot 1 Floor Plans & Elevations – 21/12/110
Plot 2 Floor Plans & Elevations – 21/12/111
Plot 3 Floor Plans & Elevations – 21/12/112
Proposed Outbuildings - 21/12/113
Detailed Planting Proposals – Plot 1-3 – 2467-LLA-ZZ-00-DR-L-0218 Rev.P05
Landscape Specification & Details - 2467-LLA-ZZ-00-DR-L-0301 Rev. P01
Preliminary Phase 2 Report No 212518B dated November 2021
Preliminary Ecological Appraisal Report dated 02/01/2024

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

NOTES FOR CONDITION:

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

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

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

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

3. FURTHER APPROVAL - CONSTRUCTION MANAGEMENT TO BE AGREED (PRE COMMENCEMENT)

CONDITION: Prior to the commencement of development details of the construction methodology and timetable shall be submitted to and approved, in writing, by the Local Planning Authority. This shall normally expect to incorporate the following information:-

- a) Details of the hours of work/construction of the development within which such operations shall take place and the hours within which delivery/collection of materials for the said construction shall take place at the site.
- b) Details of the loading/unloading/storage of construction materials on site, including details of their siting and maximum storage height.
- c) Details of how construction and worker traffic and parking shall be managed. This shall include routing of all traffic and any directional signs to be installed and where.
- d) Details of any protection measures for roads adjoining the site.
- e) Details of any means of access to the site during construction.
- f) Details of the scheduled timing/phasing of development for the overall construction period.
- g) Details of measures to control the emission of dust and dirt during construction and including details of any wheel washing to be undertaken, management and location it is intended to take place.
- h) Details of the siting of any on site compounds and portaloos.
- i) Details of the erection and maintenance of security hoarding.
- j) Scheme for sustainable construction management to ensure effective water and energy use.
- k) Scheme of review of complaints from neighbours.
- l) Registration and details of a Considerate Constructors Scheme

The said methodology as may be approved shall be implemented in its entirety and shall operate as may be approved at all times during construction.

REASON: To minimise detriment to nearby residential and general amenity by controlling the construction process to achieve the approved development. This condition is required to be agreed prior to the commencement of any development as any construction process, including site preparation, by reason of the location and scale of development may result adverse harm on amenity.

4. COMPLIANCE REQUIRED: – WASTE STRATEGY

CONDITION: The storage and collection areas for refuse/recycling bins as shown on drawing number 21/12/104 revision F shall be provided prior to first occupation/use and thereafter retained as approved, unless otherwise agreed in writing by the Local Planning Authority.

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

5. 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:-

- An electric car charging point per dwelling
- 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.

6. ACTION REQUIRED IN ACCORDANCE WITH ECOLOGICAL APPRAISAL RECOMMENDATIONS

All mitigation measures and/or works shall be carried out in accordance with the details contained in the Preliminary Ecological Appraisal (Geosphere Environmental, January 2024). This may include the appointment of an appropriately competent person e.g. an ecological clerk of works (ECoW) to provide on-site ecological expertise during

construction. The appointed person shall undertake all activities, and works shall be carried out, in accordance with the approved details prior to occupation.

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

7. **PRIOR TO COMMENCEMENT: CONSTRUCTION ENVIRONMENTAL MANAGEMENT PLAN FOR BIODIVERSITY**

Prior to commencement of development a Construction Environmental Management Plan (CEMP: Biodiversity) shall have been submitted to and approved in writing by the Local Planning Authority. The CEMP (Biodiversity) shall include the following. a) Risk assessment of potentially damaging construction activities. b) Identification of "biodiversity protection zones". c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements) including a precautionary method statement for reptiles. d) The location and timing of sensitive works to avoid harm to biodiversity features. e) The times during construction when specialist ecologists need to be present on site to oversee works. f) Responsible persons and lines of communication. g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person. h) Use of protective fences, exclusion barriers and warning signs. The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority.

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

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

Prior to any works above slab level a Biodiversity Enhancement Strategy for protected and Priority species shall have been submitted to and approved in writing by the Local Planning Authority. The content of the Biodiversity Enhancement Strategy shall include the following: a) Purpose and conservation objectives for the proposed enhancement measures; b) detailed designs or product descriptions to achieve stated objectives; c) locations, orientations, and heights of proposed enhancement measures by appropriate maps and plans; d) persons responsible for implementing the enhancement measures; e) details of initial aftercare and long-term maintenance (where relevant). The works shall be implemented in accordance with the approved details prior to occupation and shall be retained as approved thereafter.

REASON: To enhance protected and Priority species & habitats and allow the LPA to discharge its duties under the NPPF 2023 and s40 of the NERC Act 2006 (Priority habitats & species).

9. **RESIDENTIAL TRAVEL INFORMATION PACK**

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

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

10. HIGHWAYS PROVISION OF PARKING AND TURNING

CONDITION: The hereby approved development shall not be first occupied until such time as the areas for purposes of manoeuvring and parking (including garage spaces, visitor parking and cycle stores) of vehicles have been provided and made functionally available. The areas shall then be retained as approved and remain free of obstruction thereafter.

REASON: To ensure that on street parking of vehicles in the adjoining streets does not occur in the interests of highway safety and that appropriate parking and layout is provided to ensure the provision of adequate on-site space for the parking and manoeuvring of vehicles where on-street parking and manoeuvring would otherwise be detrimental to highway safety.

11. FURTHER APPROVAL – SCREEN WALLS AND FENCES

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

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

12. COMPLIANCE WITH DETAILS AND TIMESCALE REQUIRED - LANDSCAPING SCHEME

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

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

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

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

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

14. SPECIFIC RESTRICTION ON DEVELOPMENT: REMOVAL OF PERMITTED DEVELOPMENT RIGHTS NEW OPENINGS

Notwithstanding the provisions of Article 3, Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), no new openings shall be inserted in the north elevation of Plot two except pursuant to the grant of planning permission on an application made in that regard.

REASON: In the interests of the amenities of the occupants of neighbouring property.

8.3 Informatives

Positive and Proactive Statement

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

Highways Informatives

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: 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.

3: Mitigating and adapting to a changing climate is a national and Essex County Council priority. The Climate Change Act 2008 (amended in 2019) commits the UK to achieving net-zero by 2050. In Essex, the Essex Climate Action Commission proposed 160+ recommendations for climate action. Essex County Council is working with partners to achieve specific goals by 2030, including net zero carbon development. All those active in the development sector should have regard to these goals and applicants are invited to sign up to the Essex Developers' Group Climate Charter [2022] and to view the advice contained in the Essex Design Guide. Climate Action Advice guides for residents, businesses and schools are also available.

Construction Management Informatives

Noise Control

1) The use of barriers to mitigate the impact of noisy operations will be used where possible. This may include the retention of part(s) of the original buildings during the demolition process to act in this capacity.

2) 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 Monday to Saturday (finishing at 13:00 on Saturday) with no working of any kind permitted on Sundays or any Public/Bank Holidays.

- 3) The selection and use of machinery to operate on site, and working practices to be adopted will, as a minimum requirement, be compliant with the standards laid out in British Standard 5228.
- 4) Mobile plant to be resident on site during extended works shall be fitted with non-audible reversing alarms (subject to HSE agreement).
- 5) Prior to the commencement of any piling works which may be necessary, a full method statement shall be agreed in writing with the Planning Authority (in consultation with Pollution and Environmental Control). This will contain a rationale for the piling method chosen and details of the techniques to be employed which minimise noise and vibration to nearby residents.
- 6) If there is a requirement to work outside of the recommended hours the applicant or contractor must submit a request in writing for approval by Pollution and Environmental Control prior to the commencement of works.

Emission Control

- 1) All waste arising from the demolition process, ground clearance and construction processes to be recycled or removed from the site subject to agreement with the Local Planning Authority and other relevant agencies.
- 2) No materials produced as a result of the site development or clearance shall be burned on site.
- 3) All reasonable steps, including damping down site roads, shall be taken to minimise dust and litter emissions from the site whilst works of construction and demolition are in progress.
- 4) All bulk carrying vehicles accessing the site shall be suitably sheeted to prevent nuisance from dust in transit.

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).

9. Additional Considerations

Equality Impact Assessment

- 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 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 (As known with application)
Age	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Disability	The proposal put forward will have direct equality impacts on individuals from this target group.	See 9.3 below
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

- 9.3 The proposal put forward will have direct equality impacts on individuals with the protected characteristic of disability as detailed under the Impact on Residential Amenity section above. As assessed within the report the Council has had due regard to the impact on those with protected characteristics. The impacts are satisfactorily reduced by the sensitive design of the proposal in relation to the individuals with protected characteristics, and by the imposition of conditions and a legal agreement to limit disturbance during the construction period.

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/>.