

## DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
Planning Officer recommendation:	AL	17/04/2024
Team Leader authorisation / sign off:	AN	17/04/24
Assistant Planner final checks and despatch:	ER	17/04/24

**Application:** 23/01609/FUL **Town / Parish:** Great Bromley Parish Council

**Applicant:** Mr S Brazier

**Address:** Bush Farm Hall Road Great Bromley

**Development:** The erection of two self-build dwellings (in lieu of Prior Approval for two dwellings, subject of application 23/00249/COUNOT).

### 1. Town / Parish Council

Great Bromley Parish Council      No comments received.

### 2. Consultation Responses

Tree & Landscape Officer  
19.12.2023      No trees or other significant vegetation will be adversely affected by the proposed development.

**NO OBJECTION**      Should planning permission be likely to be granted then details of soft landscaping, as described in section 5.5 of the Planning Statement, submitted with the application, should be secured by a planning condition. Soft landscaping should aim to soften, screen and enhance the appearance of the development.

Building Control and Access Officer      No comments received.

Essex County Council Ecology  
12.12.2023      Holding objection due to insufficient ecological information on European Protected Species (bats).

**FIRST COMMENTS - OBJECTION**      Summary  
We have reviewed the documents supplied by the applicant relating to the likely impacts of development on designated sites, protected & Priority species and habitats and identification of proportionate mitigation. It is noted that Place Services were not consulted on the previously approved change of use application (23/00249/COUNOT) at the same site.

The site falls within the evidenced recreational Zone of Influence (ZOI) of the Essex Coast RAMS. Therefore, given the new building in lieu of conversion of the barn provides an increase in residential dwellings, it is relevant to the Essex Coast RAMS. We note 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 not satisfied that there is sufficient ecological information available for determination of this application. This is because no

ecological information has been submitted in support of this application and the demolition of the barn (consented for conversion under 23/00249/COUNOT) could impact upon bats (European Protected Species), if suitable bat roosting features are present. If present, bats would be affected so therefore, the LPA does not have certainty of the likely impacts to protected species nor any mitigation to avoid impacts and potentially leading to offence of disturbing or killing / injuring bats or destroying their roosts.

Therefore, we recommend that a Preliminary Roost Assessment for bats should be undertaken on the buildings and any trees to be removed. This should be undertaken by a suitably qualified ecologist in line with 4th Ed bat Survey Guidelines (Collins ed, 2023), to inform the need for any further bat surveys and, if necessary, mitigation & compensation for impacts from this application. This type of inspection can be undertaken at any time of year. Mitigation measures may need to be secured by a condition of any consent or a mitigation licence from Natural England.

To fully assess the impacts of the proposal the LPA need ecological information for the site, particularly for bats, European Protected Species. These surveys are required prior to determination because Government Standing Advice indicates that you should "Survey for bats if the area includes buildings or other structures that bats tend to use or there are trees with features that bats tend to use nearby".

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

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

Additionally, no biodiversity enhancement measures are identified in the documents provided. We recommend that, to secure net gains for biodiversity, as outlined under Paragraph 174d and 180d of the National Planning Policy Framework 2023, reasonable biodiversity enhancement measures will need to be provided. We therefore recommend that a suitably qualified ecologist provides sufficient details including locations and measures to be embedded into the design to be secured by a condition of any consent.

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

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

**SECOND COMMENTS –  
NO OBJECTION**

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

No objection subject to securing:

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

Summary

We have reviewed the submitted documents, including the Preliminary Ecological Assessment (ACJ Ecology, 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. Given the residential element of this development is relevant to the Essex Coast RAMS, the LPA has will need to prepare 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 Preliminary Ecological Assessment (ACJ Ecology, January 2024) 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 those recorded in the locality.

We also support reasonable biodiversity enhancements, which are recommended to secure net gains for biodiversity, as outlined under Paragraph 180d of the National Planning Policy Framework (December 2023). The reasonable biodiversity enhancement measures should be outlined within a Biodiversity Enhancement Strategy and should be secured by a condition of any consent.

In addition, the Preliminary Ecological Assessment (ACJ Ecology, January 2024) highlights that it is likely bats could be foraging/commuting within and around the site. Therefore, if any external lighting is to be proposed, it is advised that a sensitive lighting scheme is developed to minimise any impacts. This should summarise the following measures will be implemented:

- Light levels should be as low as possible as required to fulfil the lighting need.
- Warm White lights should be used at <2700k. This is necessary as lighting which emit an ultraviolet component or that have a blue spectral content have a high attraction effect on insects. This may lead in a reduction in prey availability for some light sensitive bat species.
- The provision of motion sensors or timers to avoid the amount of 'lit-time' of the proposed lighting.

- Lights should be designed to prevent horizontal spill e.g. cowls, hoods, reflector skirts or shields.

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

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

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

Recommended conditions

**1. 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).

And if any external lighting is proposed;

**2. PRIOR TO OCCUPATION: WILDLIFE SENSITIVE LIGHTING DESIGN SCHEME**

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

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

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

UU Open Spaces  
05.12.2023

Play Space - current deficit:  
- Deficit of 0.88 hectares of equipped play in Great Bromley

**NO CONTRIBUTION  
SOUGHT**

Formal Play - current deficit:  
- Deficit of 0.27 hectares of Open Space in Great Bromley

Settlement provision:  
- Leap and Open Space provided at Hare Green located 1.9 miles away

#### Officer Conclusions and Recommendations

- No contribution is being requested on this occasion, the provision is adequate to cope with some development  
- Should the development increase in size a contribution maybe required.

ECC Highways Dept  
08.12.2023

**NO OBJECTION**

The information submitted with the application has been assessed by the Highway Authority and conclusions reached based on a desktop study, A previous site visit was undertaken in conjunction with an earlier application. The site is situated off the B1029 Hall Road and has been subject to a number of previous planning applications that the Highway Authority did not object to. It is noted that no new or altered means of access is proposed as part of this application and the proposal will share the use of the established access for the site and it is noted that the existing house to the north adjacent to Hall Road is proposed to be demolished. Having regard that the proposal is for the conversion of the existing barn into two separate dwellings and considering the previous use of the building for agricultural purposes and the current use of the access, the level of activity will be no greater, therefore:

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

1. The existing 4.5 m wide parallel band visibility splay as measured from and along the nearside edge of the carriageway across the entire site frontage with Hall Road shall be retained free of obstruction above 600mm and below 2 metres at all times.

Reason: To ensure adequate intervisibility between drivers of vehicles using the proposed access and those in the adjoining highway, in the interests of highway safety and in accordance with Policy DM1.

2. The proposed development shall not be occupied until such time as the vehicle parking area indicated on the approved plans, has been hard surfaced, sealed and if required marked out in parking bays. The vehicle parking area 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.

3. Each vehicular parking space shall have minimum dimensions of 2.9 metres x 5.5 metres.

Reason: To ensure adequate space for parking off the highway is provided in the interest of highway safety in accordance with Policy DM8.

4. Cycle parking shall be provided in accordance with the EPOA Parking Standards. The approved facility shall be secure, convenient, covered and provided prior to occupation and retained at all times.

Reason: To ensure appropriate cycle parking is provided in the interest of highway safety and amenity in accordance with Policy DM8.

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

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

6. Areas within the curtilage of the site for the purpose of the reception and storage of building materials shall be identified clear of the highway.

Reason: To ensure that appropriate loading / unloading facilities are available to ensure that the highway is not obstructed during the construction period in the interest of highway safety in accordance with policy DM1.

The above conditions are to ensure that the proposal conforms to the relevant policies contained within the County Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

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](mailto: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

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

**NO OBJECTION**

Construction Method Statement: I can confirm we are satisfied with the submitted CMS and have no adverse comments to make:

Contaminated Land: Given the sites proximity to historical agricultural land, we are requesting a Watching Brief be conditioned (on any subsequent approval) and adhered to throughout the demolition and construction phase. We request that the LPA are contacted in the event of unexpected ground conditions being encountered during construction and that the below minimum precautions are undertaken until such time as the LPA responds to the notification. I would also advise that the developer is made aware that the responsibility for the safe development of the site lies with them.

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

1. All site works at the position of the suspected contamination will stop and the Local Planning Authority and Environmental Health Department will be notified as a matter of urgency.
2. A suitably trained geo-environmental engineer should assess the visual and olfactory observations of the ground and the extent of contamination and the Client and the Local Authority should be informed of the discovery.
3. The suspected contaminated material will be investigated and tested appropriately in accordance with assessed risks. The investigation works will be carried out in the presence of a suitably qualified geo-environmental engineer. The investigation works will involve the collection of solid samples for testing and, using visual and olfactory observations of the ground, delineate the area over which contaminated materials are present.
4. The unexpected contaminated material will either be left in situ or be stockpiled (except if suspected to be asbestos) whilst testing is carried out and suitable assessments completed to determine whether the material can be re-used on site or requires disposal as appropriate.
5. The testing suite will be determined by the independent geo-environmental specialist based on visual and olfactory observations.
6. Test results will be compared against current assessment criteria suitable for the future use of the area of the site affected.
7. Where the material is left in situ awaiting results, it will either be reburied or covered with plastic sheeting.
8. Where the potentially contaminated material is to be temporarily stockpiled, it will be placed either on a prepared surface of clay, or on 2000-gauge Visqueen sheeting (or other impermeable surface) and covered to prevent dust and odour emissions.
9. Any areas where unexpected visual or olfactory ground contamination is identified will be surveyed and testing results incorporated into a Verification Report.
10. A photographic record will be made of relevant observations.
11. The results of the investigation and testing of any suspect unexpected contamination will be used to determine the relevant actions. After consultation with the Local Authority, materials should either be: o re-used in areas where test results indicate that it meets

compliance targets so it can be re-used without treatment; or o treatment of material on site to meet compliance targets so it can be re-used; or o removal from site to a suitably licensed landfill or permitted treatment facility.

12. A Verification Report will be produced for the work.

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

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

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

\*INFORMATIVE - Information submitted in relation to the proposal for the disposal of foul water indicates the applicant will be utilising a Sewerage Treatment Plant for disposal of foul waste, as such we would request the standard informative in respect of the "binding rules" is included with any subsequent approval:

Foul Drainage: No information has been submitted in relation to the proposed discharge of foul waste; should the applicant utilise a Sewerage Treatment Plant as a way of disposing of foul waste; we would request, should the application be approved, that the Applicant / Agent, ensure the installation is fully compliant with the Environment Agency's Binding Rules and any other relevant Government guidance and British standards, in respect of these systems. Information on this can be found at: Septic tanks and treatment plants: permits and general binding rules: The general binding rules - GOV.UK ([www.gov.uk](http://www.gov.uk)). It is strongly recommended these rules are complied with, as they will minimise any potential nuisance to nearby residential dwellings, assist in preventing a potential Public Health nuisance, and minimise the potential for adverse incidents, of which may result in formal enforcement action.

REASON: to protect the health of residents and nearby residential premises

### **3. Planning History**

#### **▪ 23/00249/COUNOT**

Prior Approval Application under Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for a proposed change of use of an agricultural building to 2 single dwellinghouses (Class C3), and for building operations reasonably necessary for the conversion.

Barn A Bush Farm Hall Road Great Bromley Colchester Essex CO7 7TR

**Approved 06.04.2023**



▪ **23/00608/FUL**

Proposed stationing of mobile home for temporary period whilst work is undertaken on the conversion of an agricultural building into two dwellinghouses agreed under application reference 23/00249/COUNOT.

Land at Barn A Bush Farm Hall Road Great Bromley Colchester Essex CO7 7TR

**Full Approval 04.07.2023**

Subject to condition 3:

*The mobile home hereby approved as shown marked in red on amended Site Plan received 04/07/2023 shall be occupied by persons undertaking the conversion of the agricultural building known as Barn A, Bush Farm, Hall Road, Great Bromley shown edged in blue on the amended Site Plan received 04/07/2023 to 2 no. single dwellinghouses (Class C3) and for building operations reasonably necessary for conversion as permitted under Prior Approval application 23/00249/COUNOT, and the said mobile home shall be removed from the site on or before 5 July 2026.*

*REASON: In view of the particular circumstances of the application submission and as the site lies within a rural area beyond any Settlement Development Boundary where there is a general policy constraint on development, including for housing purposes.*

▪ **20/01290/FUL**

Erection of replacement detached dwelling and demolition of existing dwelling with alterations to existing vehicular access. Demolition of existing agricultural/domestic buildings and erection of replacement agricultural/domestic buildings.

Bush Farm Hall Road Great Bromley Colchester Essex CO7 7TR

**Approved 23.12.2020**

Subject to condition 3:

*Proposed buildings 3 & 4, shown on the 'Site Layout' drawing (drawing no. 1709/1 Rev F) shall only be used for agricultural purposes unless otherwise agreed in writing by the Local Planning Authority.*

*Reason - To ensure the level of domestic accommodation remains ancillary to the main dwelling as the site lies outside any defined settlement limits where strict policies of constraint apply to new dwellings.*

▪ **Various other permissions on the site, including AGRIC and FUL permissions.**

**4. 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 Local Plan 2013-33 and Beyond (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 made and the Minerals and Waste Local Plans adopted by Essex County Council.

In relation to housing supply:

The Framework requires Councils to significantly boost the supply of homes to meet the District's housing need. However, the revised Framework, published on 19<sup>th</sup> December 2023, sets out in Paragraph 76 that (for applications made on or after the date of publication of this version of the Framework) local planning authorities are not required to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing for decision making purposes if the following criteria are met:

- their adopted plan is less than five years old; and

- that adopted plan identified at least a five-year supply of specific, deliverable sites at the time that its examination concluded.

The adopted Local Plan meets these criteria.

Notwithstanding this updated provision, the Council will continue to demonstrate an updated supply of specific deliverable sites within its Strategic Housing Land Availability Assessment (SHLAA), which is published annually. The most recent SHLAA was published by the Council in November 2023, and demonstrates a 6.44-year supply of deliverable housing sites against the annual requirement of 550 dwellings per annum set out within the adopted Local Plan, plus a 5% buffer to ensure choice and competition in the market. (The SHLAA can be viewed on the Council's website: <https://www.tendringdc.gov.uk/content/monitoring-and-shlaa>)

On 19th December 2023 the Government published the Housing Delivery Test (HDT) 2022 measurement. Against a requirement for 1,420 homes for 2019-2022, the total number of homes delivered was 2,207. The Council's HDT 2022 measurement was therefore 155%. As a result, the 'tilted balance' at paragraph 11 d) of the Framework does not apply to decisions relating to new housing development.

## 5. 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.

## 6. Relevant Policies / Government Guidance

### **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

SP4 Meeting Housing Needs

SP7 Place Shaping Principles

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

SPL1 Managing Growth

SPL2 Settlement Development Boundaries

SPL3 Sustainable Design

LP1 Housing Supply

LP2 Housing Choice

LP3 Housing Density and Standards

LP4 Housing Layout

HP5 Open Space, Sports & Recreation Facilities

PPL1 Development and Flood Risk

PPL3 The Rural Landscape

PPL4 Biodiversity and Geodiversity

PPL5 Water Conservation, Drainage and Sewerage

PPL10 Renewable Energy Generation  
CP1 Sustainable Transport and Accessibility  
CP2 Improving the Transport Network  
DI1 Infrastructure Delivery and Impact Mitigation

Essex Minerals Local Plan Adopted July 2014

S8 Safeguarding mineral resources and mineral reserves  
DM1 Development Management Criteria

Supplementary Planning Documents

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

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

**7. Officer Appraisal (including Site Description and Proposal)**

Site Description and Context

The site is located on the western side of Hall Road and once formed part of the active agricultural holding of Bush Farm. The site comprises a newly constructed replacement farmhouse and two large agricultural barns, including Barn A subject of this application. The site is served by an existing access from Hall Road. All boundaries of the site are well screened with fencing and mature planting. Barn A is situated to the southeast of the holding, 42m from the replacement farmhouse. The site lies outside of the defined settlement development boundary for the area.

Relevant Site History

This application follows the Prior Notification application reference 23/00249/COUNOT for the conversion of Barn A into 2 no. dwellings under Class Q of the GPDO.

It was deemed by the Council that prior approval was not required on the 6th of April 2023.

Description of Development

The application seeks full planning permission for the erection of 2 no. 4 bedroom detached dwellings following the demolition of the existing single detached barn.

The 2 no. detached dwellings would replace the existing barn subject of the prior approval under application reference 23/00249/COUNOT (representing the 'fall-back' position, covered in more detail in the main assessment below).

As explained within the accompanying Planning Statement, the proposed self-build dwellings would have an identical floor area to the fall-back scheme of 207m<sup>2</sup> per unit and would have an identical external appearance, except for a 4m distance between the two dwellings thus rendering them detached. The dwellings are a handed version of one another.

The application is accompanied by the following supporting plans and documents (accounting for any amended or additional information):

- Application form - Rec'd 10.11.23 (and amended application form front page - Rec'd 31.01.24)
- 2224/1 Existing Floor Plan - Rec'd 10.11.23
- 2224/2 Existing Elevations - Rec'd 10.11.23
- 2224/3 Existing Side Elevations - Rec'd 10.11.23
- 2309/1 Proposed Floor Plans - Rec'd 10.11.23

- 2309/2 Proposed Elevations - Rec'd 10.11.23
- 2309/3 Proposed Side Elevations - Rec'd 10.11.23
- Site Plan - Rec'd 10.11.23
- Additional Site Plan with Latitude and Longitude – Rec'd 20.11.23
- Amended Block Plan Revision A - Rec'd 14.12.23
- Agent email – Additional Information – Rec'd 14.12.23
- Agent email - Additional Drainage Information – Rec'd 15.01.24
- Construction Method Statement – Rec'd 10.11.2023
- Energy Statement - Rec'd 10.11.23
- EV Charging Details - Rec'd 10.11.23
- Planning Statement Appendices - Rec'd 10.11.23
- Sewage Treatment Plant Details - Rec'd 10.11.23
- Preliminary Ecological Assessment – Rec'd 25.01.24
- Unilateral Undertaking (securing RAMS contribution) – completed 5th February 2024

## Assessment

The main issues and considerations relevant to the proposal can be summarised and addressed as follows:

1. Planning History and Fall-back Position
2. Principle of Residential Development
3. Layout, Design and Landscape Impact
4. Trees and Landscaping
5. Residential Amenities
6. Access and Parking
7. Habitats, Protected Species and Biodiversity Enhancement (including RAMS)
8. Environmental Protection
9. Drainage and Foul Sewage Disposal
10. Planning Obligation - Open Space and Play Space Financial Contribution
11. Renewable Energy Generation and Energy Efficiency Measures
12. Representations
13. Other matters – Temporary Caravan Permission
14. Conclusions and Recommendation

### 1. Planning History and Fall-back Position

#### ***Planning History***

On 6<sup>th</sup> April 2023 under planning reference 23/00249/COUNOT the Council deemed that prior approval was not required for the conversion of the agricultural building at Bush Farm (Barn A) into two dwellings (under the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 schedule 2 Part 3, Class Q - agricultural buildings to dwellinghouses).

Development under Class Q is permitted subject to the condition that development must be completed within a period of 3 years starting with the prior approval date. The conversion permitted under 23/00249/COUNOT therefore remains extant.

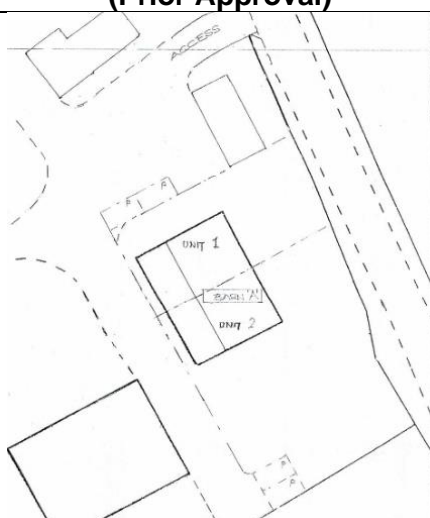
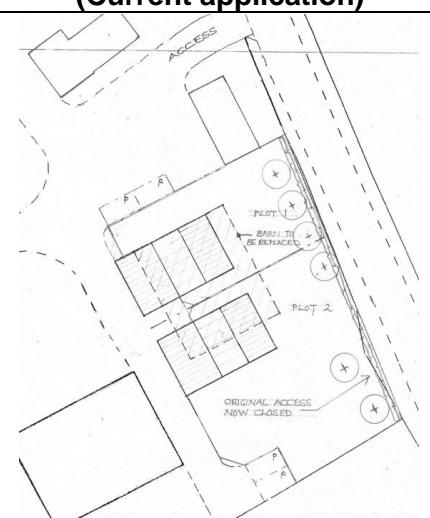
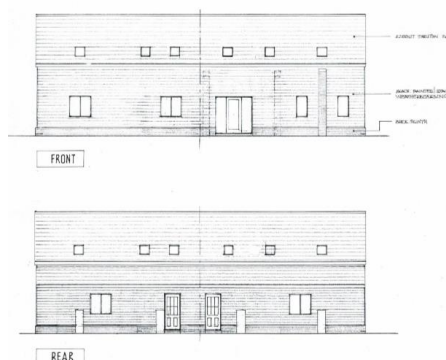

#### ***Fall-back Position***

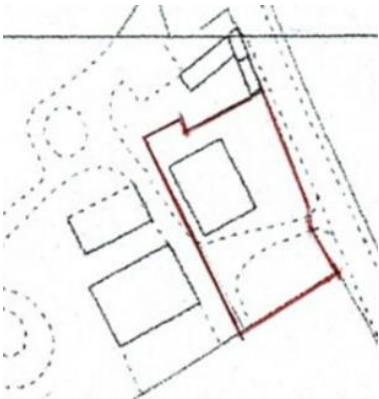

It is established in case law that permitted development rights can legitimately represent a fall-back position when considering alternative proposals for development of the same site. In summary, the relevant legal principles relating to the fall-back position were set out in R v Secretary of State for the Environment and Havering BC (1998) EnvLR189. In that case Mr Lockhart-Mummery QC, sitting as a Deputy High Court Judge, accepted submissions that there were three elements to the fall-back test:

"First whether there is a fall-back use, that is to say whether there is a lawful ability to undertake such a use; secondly, whether there is a likelihood or real prospect of such occurring. Thirdly if the answer to the second question is "yes" a comparison must be made between the proposed development and the fall-back use."

The notion of Class Q providing a lawful fall-back position was subsequently and comprehensively dealt with at the landmark Court of Appeal case, Mansell vs Tonbridge and Malling Borough Council [2017], which concluded that a realistic fall-back position in regard to Class Q would amount to a material consideration in the determining of an application.

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

	<b>23/00249/COUNOT (Prior Approval)</b>	<b>23/01609/FUL (Current application)</b>
<b>Siting</b>	 <p>South-eastern corner of the overall site.</p>	 <p>Same siting - within footprint of prior approval building.</p>
<b>Access</b>	Existing access to the south.	Existing access to the north to be shared. Southern access to be closed.
<b>Appearance</b>		
<b>Ridge Height</b>	6.8 metres (approx.)	6.8 metres (approx.)
<b>Eaves Height</b>	4 metres (approx.)	4 metres (approx.)

<b>Identified site / site area</b>		 <p>Slightly larger (encompassing track to the west) and now includes the shared access to the north.</p>
<b>Floor Area / footprint</b>	414 sqm total (approx.)	207 sqm per unit (approx.) x 2
<b>Bedrooms</b>	4 bedrooms	4 bedrooms

Having regard to the above, officers accept that there is a lawful ability to undertake the fall-back use of the building as 2 dwellings as permitted by Class Q, and there is a likelihood or real prospect of this occurring (remains extant until 2026).

Turning to the third element of the legal fall-back position, namely 'a comparison' between the proposed development and the fall-back use, officers are content that the developments are comparable in position, size, height, and appearance. The replacement rebuild scheme to 2 detached dwellings will not result in a significantly different impact that that of the prior approval scheme. The 2 detached dwellings and 4 metres break / distance between them will be mostly screened by the existing boundary vegetation thus making any wider visual impact negligible in comparison to the prior approval conversion.

Consequently, significant weight can be attributed to the fall-back position as a material planning consideration when assessing the proposed development.

## 2. Principle of Residential Development

### ***Spatial Strategy***

As addressed above (Status of the Local Plan), in line with Section 70(2) of the 1990 Town and Country Planning Act and Section 38(6) of the Planning and Compulsory Purchase Act 2004, planning law requires that planning application decisions must be taken in accordance with the development plan unless there are material considerations that indicate otherwise. 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), together with any neighbourhood plans that have been brought into force. The site is not located within an area subject of any adopted Neighbourhood Plans.

Adopted Tendring District Local Plan 2013-2033 and Beyond Section 1 (TDLPS1) Policy SP1 states that when considering development proposals, Local Planning Authorities will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework. They will always work pro-actively with applicants to find solutions which mean that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area. Development that complies with the Plan will be approved without delay, unless material considerations indicate otherwise. TDLPS1 Policy SP3 describes the overarching spatial strategy for growth across North Essex up to 2033. It provides that existing settlements will be the principal focus for additional growth and that development will be accommodated within or adjoining settlements according to their scale, sustainability and existing role both within each individual district

and, where relevant, across the wider strategic area. It states that future growth will be planned to ensure existing settlements maintain their distinctive character and role, to avoid coalescence between them and to conserve their setting.

Policy SP3 in Section 1 of the Local Plan also provides that the Section 2 Local Plan for each local planning authority will identify a hierarchy of settlements where new development will be accommodated according to the role of the settlement, sustainability, its physical capacity and local needs. It is TDLP Section 2 (TDLPS2) that subsequently gives effect to the overarching spatial strategy through Policy SPL1 which defines the settlement hierarchy in Tendring and Policy SPL2 that determines how sustainable development will be achieved; i.e., by explicitly defining settlement development boundaries around relevant settlements to make land available as necessary for development to meet the planned housing requirement.

Policy SPL2 thus states that to encourage sustainable patterns of growth and to carefully control urban sprawl, each settlement listed in Policy SPL1 is defined within a 'Settlement Development Boundary' as shown on the relevant Policies Map and Local Map. It goes on to state that within the Settlement Development Boundaries, there will be a general presumption in favour of new development subject to detailed consideration against other relevant Local Plan policies.

Whilst the site falls within the Parish of Great Bromley, the application site falls outside of the defined settlement boundary for the area as identified on the Local Plan Policies Maps, and therefore does not benefit from the general presumption in favour of new development offered by Policy SPL2.

### ***Other Material Planning Considerations***

#### ***- Five-year housing land supply***

One of the material planning considerations that might sometimes require the Council to depart from the approach in Policy SPL2 (providing support for development outside of the settlement development boundary) is our ability (or otherwise) to demonstrate a five-year supply of deliverable housing. In the past and particularly before the adoption of the new Local Plan, a number of residential developments outside of settlement development boundaries were granted permission as a departure from policy to address a shortfall in the demonstrable housing supply.

However, at the time of writing, those circumstances do not apply as there is now an up-to-date Local Plan in place and the Council is able to report a comfortable surplus of housing land supply over and above the 5-year requirement. There is consequently no argument in housing supply terms for extending the general presumption in favour of development set out in Policy SPL2 to sites beyond the defined settlement development boundaries.

#### ***- Prior Approvals and the Fall-back Position***

As explained above, another material consideration as established by case law, is the "fall-back position" when considering alternative proposals for development of the same site.

Within the District it has become commonplace for landowners to seek planning permission for a new dwelling once prior approval has been granted for the conversion of an agricultural building to a dwelling. The Council recognises that there are benefits of doing this in respect of the eco-credentials of the resultant building, because a new build is likely to be more thermally efficient and designed to incorporate sustainable construction methods and technologies, thereby reducing the environmental impact of the dwelling. However, the purpose of the prior approval process introduced by the government was to bring existing buildings back into use and to meet housing needs, not to change the character of rural areas to being overly domestic or suburban in their appearance. Therefore, it is important to ensure any replacement dwelling reflects the scale, design and proportions of the existing building to be replaced. Applications for alternative schemes that increase the height, scale or position of the replacement dwelling will be resisted because such a proposal would not be comparable to the fall-back position.

In this instance, for the reasons set out above, the proposal is comparable to the fall-back position.

### ***Principle of residential development - Conclusions***

The application site falls outside of the defined settlement boundary for the area as identified on the Local Plan Policies Maps, and therefore does not benefit from the general presumption in favour of new development offered by Policy SPL2. The site is not recognised within the Local Plan as a location suitable of new housing.

However, the fall-back position is of significant weight in this instance. The proposed development is sufficiently comparable to the prior approval scheme and would not result in any additional impact beyond that of the prior approval scheme.

The principle of 2 dwellings on this site in the manner proposed is therefore considered acceptable having specific regard to the prior approval scheme as a realistic fall-back position.

#### 3. Layout, Design and Landscape Impact

Policy SP7 of Section 1 of the 2013-33 Local Plan seeks high standards of urban and architectural design which responds positively to local character and context. Policy SPL3 of Section 2 of the 2013-33 Local Plan also requires, amongst other things, that the development respects or enhances local landscape character, views, skylines, landmarks, existing street patterns, open spaces and other locally important features.

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

The prior approval scheme and proposed replacement scheme are comparable in terms of the siting, size, footprint, scale, height and appearance. The rebuild scheme to 2 detached dwellings will not result in a significantly different impact than that of the prior approval scheme. The 2 detached dwellings and 4 metres break / distance between them will be mostly screened by the existing boundary vegetation thus making any wider visual impact negligible in comparison to the prior approval conversion.

The design, layout and appearance results in an acceptable development in the context of the site, the context of the existing buildings (old and new) and planning history (prior approval scheme). The development will not result in any landscape harm or harm to the character of the area.

#### 4. Trees and Landscaping

Paragraph 136 of the NPPF sets out the importance of trees and the contribution they make to the character and quality of urban environments. It states that planning policies and decisions should ensure that opportunities are taken to incorporate trees in developments and that existing trees are retained wherever possible.

TDLPS2 Policy LP4 relates to housing layout and states; to ensure a positive contribution towards the District's 'sense of place', the design and layout of new residential developments will be expected to incorporate and maximise the use of green infrastructure, verges, trees and other vegetation.

Consultation has been undertaken with the Council's Tree and Landscape Officer (full comments above). No trees or other significant vegetation will be adversely affected by the proposed development. In order to soften, screen and enhance the development, a condition will be imposed to secure the soft landscaping as described in section 5.5 of the accompanying Planning Statement.

#### 5. Residential Amenities

Paragraph 135 of the NPPF includes that planning decisions should ensure developments create places with a high standard of amenity for existing and future users.



Section 1 Policy SP7 of the Local Plan requires that the amenity of existing and future residents is protected. Section 2 Policy SPL 3 Part C seeks to ensure that development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties.

Policy LP4 j. states that the design and layout of new residential will be expected to provide for private amenity space of a size and configuration that meets the needs and expectations of residents, and which is commensurate to the size of dwelling and the character of the area.

Officers consider that sufficient space is available on the application site to provide a development of 2 dwellings that could achieve an internal layout and separation distances that would not detract from the amenities of nearby properties (namely the replacement dwelling directly to the north) or the future occupiers of the proposed dwellings. Each dwelling will be served by ample private amenity space (to allow for recycling and bin storage facilities) and parking provision.

The application is accompanied by a Construction Method Statement (CMS) meeting the requirements of the Council's Environmental Protection Team, thus minimising any noise or disturbance to neighbouring properties during construction. Adherence with the CMS can be controlled via condition.

## 6. Access and Parking

Paragraph 114 of the National Planning Policy Framework seeks to ensure that safe and suitable access to a development site can be achieved for all users. Policy SPL3 Part B of Section 2 of the Tendring District Local Plan 2013-2033 and Beyond 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.

The EPOA Parking Standards 2009 require that for dwellings with 2 or more bedrooms, a minimum of 2 parking spaces is required. Parking spaces should measure 5.5 metres by 2.9 metres and garages should have internal dimensions of 7 metres by 3 metres (if being replied upon as a parking space).

The development will provide suitable access, parking and manoeuvrability to serve the 2 new dwellings. Officers have no concerns regarding highway safety.

Essex County Council Highway Authority have been consulted on the application and raise no objection subject to conditions. These conditions will be imposed as necessary, in accordance with the legislative and national guidance.

## 7. Habitats, Protected Species and Biodiversity Enhancement

### ***General duty on all authorities***

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.

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.

## ***Habitat and Protected Species***

The preamble to Policy PPL4 states that where a development might harm biodiversity an ecological appraisal will be required to be undertaken, and the potential for harm should be considered and addressed in any application. Policy SPL3, Part A criterion d), requires that the design and layout of development maintains or enhances site features, including ecological value.

Consultation has been undertaken with Essex County Council Place Services Ecology (ECC Ecology).

Following an initial holding objection, additional information has been submitted by the applicant. ECC Ecology are now satisfied that there is sufficient ecological information available for determination of this application. A review of the submitted documents, including the Preliminary Ecological Assessment (ACJ Ecology, January 2024) relating to the likely impacts of development on designated sites, protected species and Priority species & habitats and identification of appropriate mitigation measures, has been undertaken. The mitigation measures identified in the Preliminary Ecological Assessment (ACJ Ecology, January 2024) will be secured by a condition. This is necessary to conserve and enhance protected and Priority species particularly those recorded in the locality. The reasonable biodiversity enhancement measures will also be secured via condition. The biodiversity enhancement strategy should look to include native planting strategies and insect friendly planting, wildlife-friendly infrastructure i.e. nesting boxes, bee bricks and habitat structures.

In addition, the Preliminary Ecological Assessment (ACJ Ecology, January 2024) highlights that it is likely bats could be foraging/commuting within and around the site. Therefore, if any external lighting is to be installed, a sensitive lighting scheme will need to be developed and submitted for approval to minimise any impacts. This will also be controlled via condition.

## ***Planning Obligation - Recreational Disturbance***

The site falls within the evidenced recreational Zone of Influence (ZOI) and seeks consent for residential development. The LPA have prepared a project level Habitat Regulations Assessment (HRA) to secure a per dwelling tariff 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 in accordance with the Essex Coast Recreational disturbance Avoidance & Mitigation Strategy (RAMS).

The applicant has provided a completed Unilateral Undertaking to secure the required financial contribution in accordance with the adopted Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) and the application is therefore compliant with Local Plan Policies SP2 and PPL4 and Regulation 63 of the Conservation of Habitats and Species Regulations 2017.

## ***Conclusion***

Considering the impact of the development and baseline situation on site, subject to the inclusion of the recommended conditions and RAMS mitigation, the application will conserve and enhance biodiversity interests.

## **8. Environmental Protection**

Consultation with the Council's Environmental Protection Team (EPT) confirms that the accompanying Construction Method Statement (CMS) is acceptable. A condition will be imposed to secure compliance with the accompanying CMS during the construction phase of the development to mitigate and minimise harm to highway safety and residential amenities.

EPT also recommend the imposition of a condition to secure that a watching brief is adhered to throughout the demolition and construction phase due to the proximity to historical agricultural land.

#### 9. Drainage and Foul Sewage Disposal

Paragraph 180 of the Framework states that planning policies and decisions should contribute to and enhance the natural and local environment by preventing new development from contributing to unacceptable levels of water pollution. Furthermore, Paragraph 191 of the Framework states that planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects of pollution on the natural environment.

Adopted Policy PPL5 of Section 2 of the Adopted Local Plan states that all new development must make adequate provision for drainage and sewerage. Connection to the mains is the preferred option having regard to the drainage hierarchy and building regulations requirement.

In this instance, the dwelling would be served by a Package Treatment Plant details of which have been provided with the application and can be secured via condition. Further information has been provided by the applicant to demonstrate why a mains connection is not possible in this instance. The Package Treatment Plant is the next suitable option in accordance with Building Regulations drainage hierarchy Approved Document H, thus complying with the above-mentioned policies.

#### 10. Planning Obligation - Open Space and Play Space Financial Contribution

In line with the requirements of adopted Local Plan Section 2 Policy DI1, the Council's Public Realm have been consulted on the application to determine if the proposal would generate the requirement for a financial contribution toward public open or play space.

Whilst it has been established that there is currently a deficit of 0.88 hectares of equipped play and a deficit of 0.27 hectares of Open Space in Great Bromley, no contribution is being requested on this occasion.

#### 11. Renewable Energy Generation and Energy Efficiency Measures

The NPPF requires local planning authorities to adopt proactive strategies to mitigate climate change and promote sustainable development. Local Plan Section 1 Policy SP7 requires new development to include measures to promote environmental sustainability including addressing energy and water efficiency. Policy PPL10 requires proposals for new development to consider the potential for a range of renewable energy solutions and for proposals for residential development to deliver measures that will be incorporated into the design, layout and construction aimed at maximising energy efficiency and the use of renewable energy.

Whilst the application includes details of EV charging proposed to be provided to an external wall and brief statement setting out the proposed approach to sustainable construction and energy and water demand reduction to be delivered at the development, to ensure full compliance with these policy aims and maximise the energy efficiencies for the lifetime of the development, a condition can be included to secure the submission and approval of a detailed energy efficiency scheme for each dwelling.

#### 12. Representations

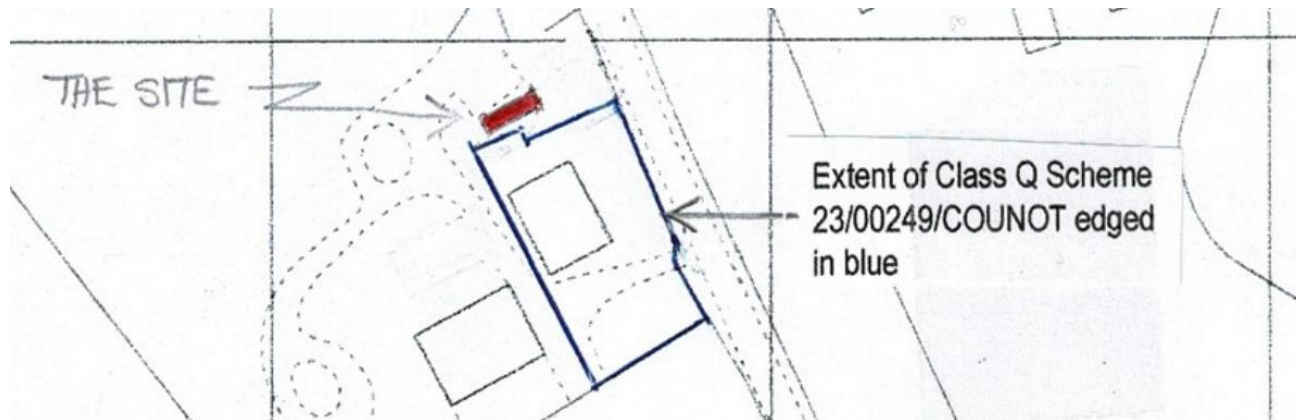
No comments have been received from Great Bromley Parish Council.

No individual letters have been received from third parties.

#### 13. Other matters – Temporary Caravan Permission

As referred to in the history section above, Bush Farm is subject of a planning approval for the stationing of mobile home for a temporary period approved under application reference 23/00608/FUL. This temporary permission was linked to the prior approval application and approved to allow work to be undertaken for the conversion of the existing agricultural building into two dwellinghouses agreed under application reference 23/00249/COUNOT.

The plan extract below (taken from 23/00608/FUL) shows the position of the caravan in relation to the site extent for 23/00249/COUNOT.



The application was approved subject to condition 3, as follows:

*The mobile home hereby approved as shown marked in red on amended Site Plan received 04/07/2023 shall be occupied by persons undertaking the conversion of the agricultural building known as Barn A, Bush Farm, Hall Road, Great Bromley shown edged in blue on the amended Site Plan received 04/07/2023 to 2 no. single dwellinghouses (Class C3) and for building operations reasonably necessary for conversion as permitted under Prior Approval application 23/00249/COUNOT, and the said mobile home shall be removed from the site on or before 5 July 2026.*

*REASON: In view of the particular circumstances of the application submission and as the site lies within a rural area beyond any Settlement Development Boundary where there is a general policy constraint on development, including for housing purposes.*

Application 23/00249/COUNOT and 23/00608/FUL are therefore linked. The temporary caravan will only be applicable if the conversion works approved under 23/00249/COUNOT is implemented.

If this 'in-lieu' scheme is implemented the temporary caravan permission would fall away as this relates solely to the COUNOT conversion. A new application would be required if there is still an intention to site a caravan whilst the in-lieu development is constructed. A Section 73 Variation application of 23/00608/FUL would not be possible as the application description would need to be amended and this is not possible via a S73 application.

#### 14. Conclusions and Recommendation

For the reasons set out above, due to the fall-back position established on the site through the prior approval scheme and the suitably comparable replacement development proposed, there will be no material harm as a result of the development. Subject to suitably worded conditions necessary to make the development acceptable in planning terms, and compliance with the completed UU in accordance with RAMS the application is recommended for approval.

#### 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 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.

- Site Plan - Rec'd 10.11.23
- 2309/1 Proposed Floor Plans - Rec'd 10.11.23
- 2309/2 Proposed Elevations - Rec'd 10.11.23
- 2309/3 Proposed Side Elevations - Rec'd 10.11.23
- Additional Site Plan with Latitude and Longitude – Rec'd 20.11.23
- Amended Block Plan Revision A - Rec'd 14.12.23
- Sewage Treatment Plant Details - Rec'd 10.11.23
- Preliminary Ecological Assessment – Rec'd 25.01.24

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

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

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

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

3. COMPLIANCE: APPROVED CONSTRUCTION MANAGEMENT

CONDITION: The development hereby permitted shall be carried out in accordance with the accompanying approved Construction Method Statement received 10.11.2023, unless otherwise agreed in writing by the local planning authority.

REASON: For the avoidance of doubt and in the interests of proper planning and in the interests of highway safety and residential amenities.

4. FURTHER APPROVAL: HARD AND SOFT LANDSCAPING SCHEME

CONDITION: Prior to the commencement of any above ground works, a scheme of hard and soft landscaping for the entire site shall be submitted to and approved, in writing, by the Local Planning Authority. The scheme shall include any proposed changes in ground levels, accurately identify spread, girth and species of all existing trees, shrubs and hedgerows on the site and indicate any to be retained, together with measures for their protection which shall comply with the recommendations set out in the British Standards Institute publication "BS 5837: 2012 Trees in relation to design, demolition and construction". The scheme shall be in line with the indicative landscape scheme as described in section 5.5 of the accompanying Planning Statement. Furthermore, any new proposed new boundary planting shall be planted a minimum of 1 metre back from the highway boundary and any visibility splay and retained free of obstruction above 600mm at all times.

REASON: In order to enhance the appearance of the development, in the interests of visual amenity and the quality of the development, and in the interests of highway safety as insufficient information has been provided with the application.

5. COMPLIANCE: IMPLEMENTATION OF 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.

6. REMOVAL OF PERMITTED DEVELOPMENT: FENCING & ENCLOSURES

CONDITION: Notwithstanding the provisions of the Town & Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that order with or without modification), there shall be no other gates/fence and/or other means of enclosure erected anywhere on or within the site, unless details are first agreed, in writing, by the local planning authority.

REASON: In the interests of proper planning of the development, in the interests of visual amenity, the character of the area and the quality of the development.

7. REMOVAL OF PERMITTED DEVELOPMENT: BUILDINGS OR STRUCTURES

CONDITION: Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any other order revoking and re-enacting that order with or without modifications), no sheds or amenity/utility buildings, or other buildings or structures, other

than those shown on the approved plans shall be erected on the site unless details of their size, materials and location have previously been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

REASON: In the interests of proper planning of the development, in the interests of visual amenity, the character of the area and the quality of the development.

#### 8. FURTHER APPROVAL: BIODIVERSITY ENHANCEMENT STRATEGY

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

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

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

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

#### 9. FURTHER APPROVAL: WILDLIFE SENSITIVE LIGHTING DESIGN SCHEME

CONDITION: In the event of any lighting is to be installed; prior to installation, a lighting design scheme for biodiversity shall be submitted to and approved in writing by the local planning authority. The scheme shall identify those features on site that are particularly sensitive for bats and that are likely to cause disturbance along important routes used for foraging; and show how and where external lighting will be installed (through the provision of appropriate lighting plans, drawings and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory. The scheme shall include position, height, aiming points, lighting levels and a polar luminance diagram.

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

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

#### 10. FURTHER APPROVAL: SUSTAINABILITY & ENERGY EFFICIENCY

CONDITION: Full details of the sustainability and energy efficiency measures to be used in the development shall be submitted to and approved in writing by the local planning authority. The design principles set out within the accompanying Energy Statement and EV Charging Details received 10.11.23, shall be applied to the detailed design of the development and demonstrated, where necessary, on the plans. The detailed scheme shall include as a minimum:-

- Electric car charging points per dwelling.
- Agreement of a scheme for water conservation including greywater recycling.
- Agreement of heating of each 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.

#### 11. COMPLIANCE: PERMEABLE SURFACING

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

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

#### 12. COMPLIANCE: VEHICULAR VISIBILITY SPLAYS

CONDITION: The existing 4.5 m wide parallel band visibility splay as measured from and along the nearside edge of the carriageway across the entire site frontage with Hall Road shall be retained free of obstruction above 600mm and below 2 metres at all times.

REASON: To ensure adequate intervisibility between drivers of vehicles using the proposed access and those in the adjoining highway, in the interests of highway safety.

#### 13. COMPLIANCE: PROVISION AND RETENTION OF PARKING

CONDITION: The proposed development shall not be occupied until such time as the vehicle parking area indicated on the approved plans, has been hard surfaced, sealed and if required marked out in parking bays. Each vehicular parking space shall have minimum dimensions of 2.9 metres x 5.5 metres. The vehicle parking area 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.

#### 14. FURTHER APPROVAL: RESIDENTIAL TRAVEL PACK PRIOR TO OCCUPATION

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.



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

## 15. ACTION REQUIRED IN THE EVENT OF UNEXPECTED GROUND CONDITIONS

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

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

1. All site works at the position of the suspected contamination will stop and the Local Planning Authority and Environmental Health Department will be notified as a matter of urgency.
2. A suitably trained geo-environmental engineer should assess the visual and olfactory observations of the ground and the extent of contamination and the Client and the Local Authority should be informed of the discovery.
3. The suspected contaminated material will be investigated and tested appropriately in accordance with assessed risks. The investigation works will be carried out in the presence of a suitably qualified geo-environmental engineer. The investigation works will involve the collection of solid samples for testing and, using visual and olfactory observations of the ground, delineate the area over which contaminated materials are present.
4. The unexpected, contaminated material will either be left in situ or be stockpiled (except if suspected to be asbestos) whilst testing is carried out and suitable assessments completed to determine whether the material can be re-used on site or requires disposal as appropriate.
5. The testing suite will be determined by the independent geo-environmental specialist based on visual and olfactory observations.
6. Test results will be compared against current assessment criteria suitable for the future use of the area of the site affected.
7. Where the material is left in situ awaiting results, it will either be reburied or covered with plastic sheeting.
8. Where the potentially contaminated material is to be temporarily stockpiled, it will be placed either on a prepared surface of clay, or on 2000-gauge Visqueen sheeting (or other impermeable surface) and covered to prevent dust and odour emissions.
9. Any areas where unexpected visual or olfactory ground contamination is identified will be surveyed and testing results incorporated into a Verification Report.
10. A photographic record will be made of relevant observations.
11. The results of the investigation and testing of any suspect unexpected contamination will be used to determine the relevant actions.
12. After consultation with the Local Planning Authority, materials should either be: re-used in areas where test results indicate that it meets compliance targets so it can be re-used without treatment; or treatment of material on site to meet compliance targets so it can be re-used; or removal from site to a suitably licensed landfill or permitted treatment facility.
13. A Verification Report shall be submitted to and approved in writing by the Local Planning Authority before development can proceed.

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

## **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.

### **23/00608/FUL – Falls Away**

Application reference 23/00608/FUL for the temporary stationing of a mobile home is linked to the prior approval application 23/00249/COUNOT, both in terms of the application description and Condition 3.

The temporary caravan will only be applicable if the conversion works approved under 23/00249/COUNOT is implemented. If this 'in-lieu' scheme is implemented the temporary caravan permission would fall away as this relates solely to the COUNOT conversion. If there is still an intention to site a caravan whilst the in-lieu development is constructed, a new application would be required. A Section 73 Variation application of 23/00608/FUL would not be possible as the application description would need to be amended and this is not currently possible via a S73 application.

### **Legal Agreement Informative - Recreational Impact Mitigation**

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

### **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](mailto: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.
4. Areas within the curtilage of the site for the purpose of the reception and storage of building materials shall be identified clear of the highway, to ensure that appropriate loading / unloading facilities are available to ensure that the highway is not obstructed during the construction period in the interest of highway safety.

## 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

## 12. Notification of Decision

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