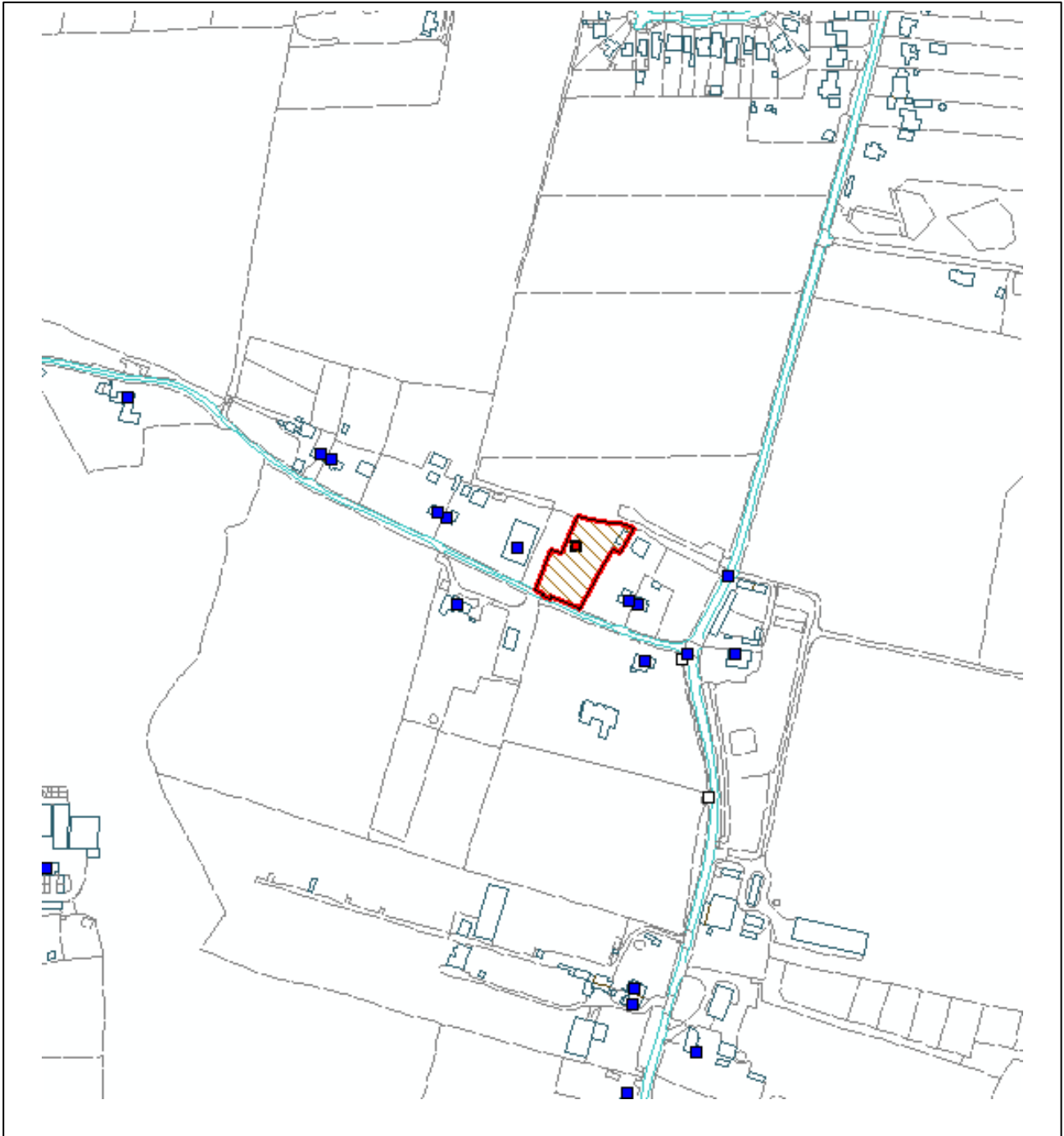


PLANNING COMMITTEE

9 July 2024

REPORT OF THE DIRECTOR OF PLANNING

**A.2 PLANNING APPLICATION – 24/00035/FUL – BARN A TO THE REAR OF 5 HUNTERS CHASE
ARDLEIGH CO7 7LW**



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Application:	24/00035/FUL	Expiry Date:	12th March 2024
Case Officer:	Amy Lang	EOT Date:	31st July 2024
Town/ Parish:	Ardleigh Parish Council		
Applicant:	Bernadette Buck		
Address:	Barn A to the rear of 5 Hunters Chase Ardleigh CO7 7LW		
Development:	Proposed one dwelling in lieu of approved application 22/00359/COUNOT (Barn A). Re-submission of 23/00773/FUL.		

1. Executive Summary

- 1.1 The application is before Members due to the application representing a departure from the Development Plan being a proposal for a new dwelling outside any defined settlement development boundary.
- 1.2 The application site comprises a parcel land to the west of number 5 Hunters Chase, Ardleigh encompassing an existing detached barn to the rear of number 5, located to the north-eastern corner of the application site. The site lies outside of the defined settlement development boundary of Ardleigh.
- 1.3 The application seeks full planning permission for the erection of 1 no. 1 bedroom detached dwelling following the demolition of the existing detached barn to the rear of number 5 Hunters Chase (Barn A). The proposed dwelling would replace the existing barn subject of a prior approval for conversion to a dwelling under application reference 22/00359/COUNOT (representing the 'fall-back' position, covered in more detail in the main assessment below). The development would be accessed via a new access from Hunters Chase and not via the access currently serving no. 5 as approved under the Prior Approval Application.
- 1.4 Officers recognise that the access, siting and layout of the proposed development would be materially different to the Prior Approval it is seeking to replace. However, the proposal is seeking to improve upon the overall layout of the prior approval conversion scheme and would now comfortably appear as a well-planned infill residential development on a site surrounded by residential dwellings, and with consent for one dwelling (in the form of the prior approval).
- 1.5 Having regard to the predominantly semi-rural but residential character of the immediate locality, together with the single storey modest scale of the proposed dwelling and ample screening, the development would not amount to any visual harm, harm to the character of the area or wider landscape harm.
- 1.6 In the absence of any material harm resulting from the proposed development, the application is recommended for approval.

Recommendation: Approval

- 1) That the Head of Planning and Building Control be authorised to grant planning permission subject to the conditions as stated at paragraph 10.2 (including the RAMS UU Condition), 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,

2) The informative notes as may be deemed necessary as stated at paragraph 10.3.

2. **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 19th 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.

Local Plan Review Informative

The Local Plan Issues and Options Consultation cannot take place until September due to the pre-election period and the summer holidays.

3. **Neighbourhood Plans**

Neighbourhood Plan Overview

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>

- Stage 1: Designated neighbourhood area (Limited Weight)
- Stage 2: Preparing a draft neighbourhood plan (Limited Weight)
- Stage 3: Pre-submission publicity and consultation (Limited Weight)
- Stage 4: Submission of a neighbourhood plan (Limited Weight)
- Stage 5: Independent Examination (Limited/Significant Weight)
- Stage 6: Referendum (Significant Weight)
- Stage 7: Adoption by LPA (Full Weight)

Ardleigh Neighbourhood Plan

The site is located in the parish of Ardleigh and therefore the draft Ardleigh Neighbourhood Plan is relevant. In terms of the progress of the Ardleigh Neighbourhood Plan, the Examiner published her Final Report on the 5th of May 2024. This Final Report found that the Neighbourhood Plan met the Basic Conditions subject to a number of changes. The decision to progress the Plan to referendum was made by the Director for Planning in consultation with the Portfolio Holder for Housing and Planning on the 13th of May 2024. Therefore, the Ardleigh Neighbourhood Plan, and any relevant policies therein, can be understood as reaching 'Stage 6: Referendum' in terms of the weight that can be attributed to it in the decision-making process. The referendum itself will take place in September 2024.

4. Planning Policy

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

National:

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

Local:

Tendring District Local Plan 2013-2033 and Beyond North Essex Authorities' Shared Strategic Section 1 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

Draft Ardleigh Neighbourhood Plan 2020 - 2033 August 2022 (not yet adopted)

GDP General Approach to Development
 EP Natural, Built & Historic Environment
 TP Transport & Parking

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)
 Tendring 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

5. Relevant Planning History

A full planning history for the dwelling and surrounding buildings is available via Public Access.

Site-specific Site History (Barn A)

22/00359/COUNOT	Proposed conversion of an agricultural building into a dwellinghouse (Barn A).	Determination	20.04.2022
23/00773/FUL	Erection of one single-storey self-build dwelling in lieu of Barn A approved under 22/00359/COUNOT and proposed new access.	Refused	06.10.2023

Adjacent Site History (Barn B)

22/00360/COUNOT	Proposed conversion of an agricultural building into a dwellinghouse. (Barn B)	Determination	20.04.2022
23/00697/FUL	Proposed erection of one self-build dwelling (in lieu of Prior Approval for one dwelling, subject of application 22/00360/COUNOT for Barn B).	Approved	27.11.2023
24/00218/DISCON	Discharge of conditions application for 23/00697/FUL - Condition 3 (Residential Travel Pack); Condition 5 (Biodiversity Enhancement Strategy); Condition 10 (Sustainability); Condition 11 (Landscaping)	Approved	19.03.2024

6. 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/>.

ECC Highways Dept

29.01.2024

The information that was submitted in association with the application has been fully considered by the Highway Authority. The information submitted with the application has been thoroughly assessed and conclusions have been drawn from a desktop study with the observations below based on submitted material, google earth image.

From a highway and transportation perspective the impact of the proposal is acceptable to Highway Authority subject to the following requirements;

1. Prior to occupation of the development the vehicular access shall be constructed at right angles to the highway boundary and to the existing carriageway. The width of the access at its junction with the highway shall maximum width of 6 metres, shall be retained at that width for 6 metres within the site and shall be provided with an appropriate dropped kerb vehicular crossing of the verge/carriageway.

Reason: to ensure that vehicles can enter and leave the highway in a controlled manner in the interest of highway safety in accordance with policy DM1 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

2. No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary.

Reason: To avoid displacement of loose material onto the highway in the interests of highway safety in accordance with policy DM1 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

3. Any gates provided at the vehicular access shall be inward opening only and shall be set back a minimum of 6 metres from the back edge the carriageway.

Reason: To enable vehicles using the access to stand clear of the carriageway whilst gates are being opened and closed and to allow parking off street and clear from obstructing the adjacent footway/cycleway/carriageway in the interest of highway safety in accordance with policy DM1 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

4. 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.

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 of the Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011

Environmental Protection

06.02.2024

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

Contaminated Land: Given the site and surrounding areas historical use for agriculture, we are requesting a Watching Brief be conditioned 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.

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 protect the health of site workers and end users

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

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

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

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

REASON: to protect the amenity of nearby residential premises

***INFORMATIVE**

Foul Drainage: The submitted Planning Statement advises a Sewerage Treatment Plant will be utilised as a way of disposing of foul waste; we would request, should the application be approved, that the Applicant / Agent, ensure the installation is fully compliant with the Environment Agency's Binding Rules and any other relevant Government guidance and British standards, in respect of these systems. Information on this can be found at: Septic tanks and treatment plants: permits and general binding rules: The general binding rules - GOV.UK (www.gov.uk). It is strongly recommended these rules are complied with, as they will minimise any potential nuisance to nearby residential dwellings, assist in preventing a potential Public Health nuisance, and minimise the potential for adverse incidents, of which may result in formal enforcement action.

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

UU Open Spaces

29.01.2024

Public Realm Assessment

Play Space - current deficit:

- Deficit of 1.61 hectares of equipped play in Ardleigh

Formal Play - current deficit:

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

Settlement provision:

- Millennium Green LEAP and open space 1.6 miles from the development
- Station Road LEAP 1.7 Miles from the development

Officer Conclusions and Recommendations

Contribution necessary, related, and reasonable?
to comply with CIL Regs*

- No contribution is being requested. Current facilities are adequate to cope with this development.

Identified project*:

(In consultation with Town / Parish Council on upcoming projects or needs for maintenance)

- None

Tree & Landscape Officer

26.01.2024

The demolition of the existing building and construction of the proposed dwelling will not result directly in the removal of any existing trees. The proposed development will however necessitate the removal of three trees to create the vehicular access to the new dwelling and result in an incursion into the Root Protection Area (RPA) of the mature Oak tree situated on land adjacent to the development site.

The Oak tree (T8) is a mature and healthy specimen that is approaching veteran status. The position of the tree is such that it does not feature prominently in the public realm however it has intrinsic value and is an important and historical landscape feature.

The applicant has provided an Arboricultural Impact Assessment (AIA). The AIA shows the extent of the RPA of retained trees and the degree to which they are a constraint on the development potential of the land.

This information is in accordance with BS5837 2012 Trees in relation to design demolition and construction. Recommendations.

The AIA demonstrates that the development would result in an incursion into the RPA of the Oak (T8) by approximately 4.4%. Whilst this should not cause significant harm to the tree it could be avoided if the development were to take place on the footprint of the existing structure or if the position of the new dwelling was moved out of the RPA to avoid any built development within the RPA.

If the development were to be approved, then specialist construction techniques should be implemented for any development within the RPA as described in the Planning Statement submitted in support of the application. In Section 7.22 of the Planning Statement it states: 'Notwithstanding the Consultant's confirmation that the development can be implemented with minimal impact on the existing trees; alternative build solutions could be secured ' for example pile & beam or raft foundations.'

Regarding the creation of the vehicular access to the land from the highway (Hunters Chase) this necessitates the removal of a short section of hedge (already removed), the felling of 2 Poplars (T1 & T3) and a poorly formed False Acacia (T5). The removal of these trees will not have a significant effect on the local landscape character and replacement planting is proposed and shown on the soft landscaping plan submitted in support of the application.

The AIA shows the retention of both the Red Oak (T6) and the Pin Oak (T7).

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

Tree & Landscape Officer

01.05.2024

Notwithstanding previous comments:

The amended layout shows that the position of the proposed dwelling would not result in an incursion into the RPA of the Oak (T8). This is desirable in terms of the long-term retention and viability of the tree.

The creation of the vehicular access to the land from the highway (Hunters Chase) still necessitates the removal of a short section of hedge (already removed), but now shows the retention of 2 Poplars (T1 & T3) and a False Acacia (T5).

It was previously accepted that the removal of these trees would not have a significant adverse effect on the local landscape character and that any harm to the amenity of the locality could be remediated by replacement planting.

In terms of new planting the Amended Tree Protection Plan shows the positions of 3 new trees to be planted. However, the positions of the trees does not accord with the replacement planting shown on the superseded Site Layout Plan and still shown on the Soft Landscaping Plan previously submitted in support of the application.

Therefore, the Amended Tree Protection Plan shows new tree planting that does not accord with that shown on the Soft Landscaping Plan.

It should be noted that that the Soft Landscaping Plan also still shows the removal of trees in accordance with the superseded Site Layout Plan (2 Poplars (T1 & T3) and False Acacia (T5).)

The Soft Landscaping Plan should be updated to ensure that it accords with the current proposal both in terms of tree planting and removal.

The positions and species of new trees should be clarified and further details of tree planting and other soft landscaping, (plant species and specification) should be secured, either prior to the determination of the application or by way of a planning condition.

Tree & Landscape Officer

29.05.2024

The amended layout still shows that the position of the proposed dwelling will not result in an incursion into the RPA of the veteran Oak (T8). This is desirable in terms of the long-term retention and viability of the tree.

The Amended Block Layout Plan now accords with the Amended AIA (Arboricultural Impact Assessment) and the Amended Soft landscaping Plan in terms of tree retention, removal and planting.

The loss of T7 ' Pin Oak will be adequately mitigated by the proposed new tree planting.

In terms of new planting the applicant will need to provide a specification for new trees P1 ' Copper Beech, P2 ' Liquidambar and P3 ' Tulip Tree.

This information can be provided prior to the determination of the application or can be secured by a planning condition attached to any planning permission that may be granted. In this regard new trees should have a minimum girth of 8 ' 10cm at time of planting.

Essex County Council Ecology

12.02.2024 and 08.05.2024

No objection subject to securing:

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

Summary

We have reviewed amended documents and re-assessed the Ecological Survey and Assessment (Essex Mammal Surveys, August 2023) relating to the likely impacts of development on

designated sites, protected 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, 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 Ecological Survey and Assessment (Essex Mammal Surveys, August 2023) should be secured by a condition of any consent and implemented in full. This is necessary to conserve and enhance protected and Priority species.

We also support the proposed reasonable biodiversity enhancements of two bird boxes, two solitary beehives, and one hedgehog box which have been recommended by the Ecological Survey and Assessment (Essex Mammal Surveys, August 2023) 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 Ecological Survey and Assessment (Essex Mammal Surveys, August 2023) indicates 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 (as amended).

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. 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 Ecological Survey and Assessment (Essex Mammal Surveys, August 2023) as

already submitted with the planning application and agreed in principle with the local planning authority prior to determination.

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 (as amended).

2. 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) detailed designs or product descriptions to achieve stated objectives;
- b) locations, orientations, and heights of proposed enhancement measures by appropriate maps and plans;
- c) 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 (as amended).

And if any external lighting is proposed;

3. 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 (as amended).

7. Representations

7.1 Parish / Town Council

Comments in response to original submission:

Ardleigh Parish Council object to the application on the following grounds:

- Our Council has repeatedly raised concerns about the number of Class Q, conversions of agricultural buildings, which later become applications to demolish and rebuild.
- We note the earlier refusal of 23/00773 which concluded that the two schemes (this and 22/00359/COUNOT) were not comparable, reducing weight attributable to

22/00359/COUNOT as a fallback position. The result was an assessment of the proposal against the Development Plan.

- This application should be considered against the Development Plan, including the Ardleigh Neighbourhood Plan and its associated Village Design Statement which is now in its final stages.
- As per the officer report for application 23/00773/FUL (refused) it is important to ensure any replacement dwelling reflects the scale, design and proportions of the existing building to be replaced.
- We share the concerns about changing character of rural areas and feel that the use of COUNOT applications and subsequently the fallback position effectively circumvents the plan-led approach.

Comments in response to amended proposals:

- No comments received.

7.2 Neighbour / Local Representations

Comments in response to original submission:

1 letter of objection has been received. The objections raised can be summarised as follows:

- Significant Deviation from original plans.
- Detrimental impact on our local environment.
- This application undermines the purpose of the initial application.
- The proposed location and nature of the new dwelling seem to exploit Class Q permissions.
- Could set a concerning precedent that may lead to further misuse of this policy.
- Over 50 trees already felled - disregard for the preservation and enhancement of the local environment.
- Fails to uphold the integrity of local planning policies.
- further deterioration in our local environment.

Comments in response to amended proposals:

- No comments received.

8. Assessment

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

- Site Description and Context
- Description of Development
- Planning History and Fall-back Position
- Principle of Residential Development
- Layout, Design and Landscape Impact
- Trees and Landscaping
- Residential Amenities
- Access and Parking
- Protected Special, Biodiversity Mitigation and Enhancement (including BNG & RAMS)
- Drainage and Foul Sewage Disposal
- Planning Obligation – Open Space and Play Space Provision
- Sustainable Construction & Energy Efficiency

Site Description and Context

- 8.2 The application comprises a parcel land to the west of number 5 Hunters Chase, Ardleigh. The site area is broadly rectangular in shape, extending approximately 0.25 hectares in size encompassing an existing detached barn to the rear of number 5 (referred to as 'Barn A' further below and in the remainder of the report). Barn A is located to the north-eastern corner of the application site. The western part of the field, abutting the application site comprises a small woodland area.
- 8.3 Barn A sits alongside another barn slightly further to the east (and referred to as 'Barn B' in the remainder of this report). Barn B is also to the rear of number 5 Hunters Chase. Barn B is subject of the planning history set out above (references 22/00360/COUNOT and 23/00697/FUL) permitting a prior approval conversion and subsequent 'in-lieu' planning permission for a replacement dwelling. Barn B is accessed via Coggeshall Road to the east. The redevelopment of Barn B was approved by the Planning Committee on 21st November 2023.
- 8.4 The site is located on the northern side of Hunters Chase, outside of the defined settlement development boundary of Ardleigh. The site is semi-rural in character with open fields to the north and sporadic residential properties and agricultural buildings in the locality.

Description of Development

- 8.5 The application seeks full planning permission for the erection of 1 no. 1 bedroom detached dwelling following the demolition of the existing detached barn to the rear of number 5 Hunters Chase (Barn A). The proposed dwelling would replace the existing barn subject of a prior approval for conversion to a dwelling under application reference 22/00359/COUNOT (representing the 'fall-back' position, covered in more detail in the main assessment below).
- 8.6 Following officer advice and review of the scheme during the application, the proposed dwelling would now be sited almost centrally within the site, forward of the position of the existing barn, to the west of 5 Hunters Chase.
- 8.7 The development would be served by a new access from Hunters Chase. The accompanying block plan shows the new access from Hunters Chase joining a proposed 'T' shaped driveway leading to a parking area for 2 cars, with a footway beyond leading to the dwelling itself.

Planning History and Fall-back Position

Planning History

- 8.8 On 20 April 2022 under planning reference 22/00359/COUNOT the Council deemed that prior approval was not required for the conversion of the agricultural building to the rear of 5 Hunters Chase (Barn A) into one dwelling (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).
- 8.9 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 22/00359/COUNOT therefore remains extant (must be completed by no later than 20 April 2025).
- 8.10 This application follows a previously refused application reference 23/00773/FUL for a similar development of 1 no. detached dwelling (in lieu of 22/00359/COUNOT).
- 8.11 Application 23/00773/FUL was refused on the following grounds (officer summary):

1. Unacceptable In Principle (outside Settlement Development Boundary)

2. Harm To Rural Character
3. Failure To Demonstrate – No Harm to Trees
4. Impractical Layout – poor relationship with parking and access

8.12 This revised application addresses the previous reasons for refusal by demonstrating a reduction in the area of hardstanding to serve the access and parking, by amending the siting of the dwelling and layout of the site to deliver, what is considered to be an improve, yet practical layout (see 'Layout, Design and Landscape Impact' section below), taking an opportunity to avoid the loss of significant trees on the boundary. Consequently, the revised proposal would appear as an appropriate infill development bounded by existing residential dwellings to both sides and opposite being well screened by existing and proposed trees and landscaping. These matters are addressed in more detail under the relevant headings below.

Fall-back Position

8.13 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:

8.14 "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."

8.15 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.

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

	22/00359/COUNOT (Prior Approval)	24/00035/FUL (Current application)
Siting	To the rear of 5 Hunters Chase, in the northern corner.	Re-sited, approximately centrally within the adjacent field.
Access	Via the existing access serving number 5 Hunters Chase.	Creation of a new access, driveway and parking areas from Hunters Chase.
Appearance	Minimal changes / no materials details provided.	Natural Larch Wood Elevations Marley Eternit Slate Roof
Ridge Height	3.75 metres	4.8 metres
Eaves Height	2 metres	2.5 metres
Identified site / site area	119m2 / 0.01ha	0.25ha
Floor Area / footprint	53m2	66.8m2

Bedrooms	1 bedroom	1 bedroom
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8.17 Having regard to the above, officers accept that there is a lawful ability to undertake the fall-back use of the building as a dwelling permitted by Class Q, and there is a likelihood or real prospect of this occurring (remains extant until 2025).

8.18 Turning to the third element of the legal fall-back position, namely 'a comparison' between the proposed development and the fall-back use, there are material differences and additions when compared to the prior approval scheme. These can be summarised as follows:

- The proposed dwelling would now be sited centrally within the site with a much-altered access and proposed landscaping.
- The site encompasses a larger area of land that would change use to residential curtilage, again not permitted by the Prior Approval.
- The proposed dwelling would be served by a new access and an area of hard surfacing to create the access, driveway and parking areas.

8.19 Consequently, when assessing the proposed development against the prior approval fallback position and insofar as a direct comparison is concerned, the weight that can be attributed to the fall-back position as a material planning consideration is reduced because the new dwelling will clearly be in a different location, but the scheme nevertheless proposes one dwelling in lieu of the prior approval conversion scheme. The relocation element will be considered in the sections below and weighed in the planning balance and conclusion section.

Principle of Residential Development

Spatial Strategy

8.20 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.

8.21 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.

8.22 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.

- 8.23 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 and any approved Neighbourhood Plans. In this instance, the Draft Ardleigh Neighbourhood Plan 2020 - 2033 August 2022 (not yet adopted).
- 8.24 Whilst the site falls within the Parish of Ardleigh, 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.

Site-Specific Characteristics

- 8.25 As mentioned above, adopted Local Plan Policy SPL1 identifies a hierarchy of settlements to where new development will be directed. In doing so, it seeks to prioritise locations with access to the strategic road network, public transport, and those with the potential to offer the widest range of services. In areas outside of development settlement boundaries, these are considered to be part of the countryside. Ardleigh is categorised as a 'smaller rural settlement' in recognition of its limited services and amenities. Growth here is limited to within the defined settlement boundary consistent with local community needs.
- 8.26 The application site is located approximately 2 km from the defined settlement boundary of Ardleigh and therefore located within the countryside where development is restricted to protect and enhance the character and openness of the countryside. The nearest bus stop is located on Harwich Road approximately 1 km from the site via an unlit, country road with no pedestrian footpath. The site poorly located in terms of accessibility of local services and future occupants would be reliant on their private car, therefore failing to represent sustainable development.

Other Material Planning Considerations

- Five-year housing land supply
- 8.27 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 and thus a plan-led approach should prevail.

Prior Approvals and the Fall-back Position

- 8.28 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.

- 8.29 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 remains 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 to the extent where clear and overriding harm will ensue, will be resisted because such a proposal would not be comparable to the fall-back position.
- 8.30 The proposed building would reflect the scale, design and proportions of Barn A (to be replaced), albeit in a different location with a much-altered access and different landscaping proposals. For the reasons explained above, the development cannot be considered directly comparable to the "fall-back position" (established by prior approval reference 22/00359/COUNOT) as the dwelling would be re-located into the adjacent field with a larger curtilage, served by a new access with associated hardstanding. This has been a matter of review for your officers, but a planning balance needs to be established between the fallback and creation of place that has advantages in terms of neighbour amenity relationship and protection of space and reduction of risk for important trees. Therefore, the 'fall-back position' holds weight in terms of principle, but there are further considerations on weight in terms of layout, both reduced in terms of fallback, but a fine balance by other planning considerations of good layout and design.
- 8.31 Given the site's location outside of any defined settlement development boundary, the proposed development is considered to represent a new dwelling in the countryside. The fallback is a material planning consideration relevant to the site or development that require the Council to consider in determining the application. The site is not located in an area which is promoted as a suitable location for further housing growth under normal policy consideration. The proposed development would conflict with adopted Local Plan Section 1 Policies SP1, SP3 and Local Plan Section 2 Policies SPL1 and SPL2, and the draft Ardleigh Neighbourhood Plan Policy GDP General Approach to Development.

Layout, Design and Landscape Impact

- 8.32 Paragraph 131 of the National Planning Policy Framework (NPPF) states that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.
- 8.33 Local Plan Policy SP7 states that all new development should respond positively to local character and context to preserve and enhance the quality of existing places and their environs. Furthermore, Policy SPL3 seeks to provide new development which is well designed and maintains or enhances local character and distinctiveness. The development should relate well to its site and surroundings and should respect or enhance local landscape character and other locally important features.
- 8.34 Moreover, Policy PPL3 states that 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.
- 8.35 The site comprises a parcel of land with several sporadic trees and vegetation, bounded by mature trees and hedgerow with open countryside to the rear and a small, wooded area to the west.

- 8.36 The application proposes a modest, single storey dwelling, well set back from the highway. Officers recognise that the set-back siting and minor scale of the dwelling could be screened by existing and new vegetation. Recognising the existing barn it is on a limited plot, cramped and would likely conflict in terms of amenity with the existing neighbour and future new neighbour to the east. The proposal does move the new residential use into the adjacent field of an enclosed paddock nature, and this causes conflict in terms of some urbanisation. However, this paddock is essentially an infill between clear residential developments and would be opposite a recently developed dwelling. It is not open rural land and to establish direct harm would be a subjective argument. In the balance the centralised position provides as much space as possible around the building to maintain the spacious relationships between dwellings in this area, it promotes landscaping potential and space to enable green space, but also ensures suitable distance to rear established boundary treatment and a large tree that may have been a threat to residential use in the fallback was taken forward.
- 8.37 Officers recognise that the access, siting and layout of the proposed development would be materially different to the Prior Approval it is seeking to replace. However, the proposal would comfortably appear as an infill residential development, with neighbouring dwellings to both sides and on the opposite side of Hunters Chase. An observer will experience a very modest dwelling set centrally in the site but set back from the road, and behind existing and proposed landscaping. This arrangement, in officers' opinion, would be superior from a design and layout perspective compared to a location in the far northeastern corner of the site.
- 8.38 Having regard to the semi-rural but residential character of the immediate locality, together with the single storey modest scale of the proposed dwelling and ample screening, the development would not amount to any visual harm, harm to the character of the area or wider landscape harm.

Trees and Landscaping

- 8.39 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.
- 8.40 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.
- 8.41 Whilst the demolition of the existing building and construction of the proposed dwelling will not directly result in the removal of any existing trees, the development will necessitate the removal of T7 ' Pine Oak will be adequately mitigated by the proposed new tree planting.
- 8.42 The amended layout shows that the position of the proposed dwelling will not result in an incursion into the RPA of the veteran Oak (T8) and will ensure the long-term retention and viability of the tree. Furthermore, following initial errors and concerns, the Amended Block Layout Plan accords with the Amended AIA (Arboricultural Impact Assessment) and the Amended Soft landscaping Plan in terms of tree retention, removal and planting.
- 8.43 In terms of new planting the applicant will need to provide a specification for new trees P1 ' Copper Beech, P2 ' Liquidambar and P3 ' Tulip Tree. This can be secured by a planning condition.

Access and Parking

- 8.44 Paragraph 114 of the NPPF seeks to ensure that safe and suitable access to a development site can be achieved for all users. TDLP 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.

- 8.45 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). One secure, covered parking space for bicycles is required per dwelling.
- 8.46 The submitted plans show that there is sufficient space within the site to provide the necessary parking for the dwelling.
- 8.47 Essex County Council Highway Authority have been consulted on the application and raise no objection subject to conditions. Where necessary and relevant, the conditions have been included within the recommendations in accordance with the legislative and national guidance.

Protected Special, Biodiversity Mitigation and Enhancement (including BNG & RAMS)

General duty on all authorities

- 8.48 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. Section 40 A1 states "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".
- 8.49 The duty to conserve and enhance biodiversity is placed on public authorities with functions exercisable in relation to England, this includes local authorities, which encompass local planning authorities. Section 40 provides authorities must consider what actions they can take to further the general biodiversity objective and, after consideration, determine policies and specific objectives to achieve this goal. The actions mentioned include conserving, restoring, or enhancing populations of particular species and habitats. While the Section doesn't explicitly state that planning decisions must contribute to biodiversity conservation, it's essential to consider the broader context of planning functions within the authority. Typically, local planning authorities play a crucial role in land use decisions, and decisions related to development and land management can have significant implications for biodiversity. In conclusion for decision making, it is considered that the LPA must be satisfied that the development would conserve and enhance.

Mandatory Biodiversity Net Gain

- 8.50 Under the same Act (Environment Act 2021) mandatory Biodiversity Net Gain came into force for applications validated on or after 12th April 2024. In this instance, this application was validated on 16th January 2024 does not require a minimum biodiversity net gain of 10%.
- 8.51 Nevertheless, there is scope to enhance biodiversity through appropriately worded conditions to secure such features as new planting, permeable surfacing, wildlife-friendly fencing and lighting, nesting boxes and rainwater capture. The development will therefore conserve and enhance biodiversity interests.

Protected Designated Habitats

- 8.52 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. Mitigation measures must be secured prior to occupation and are achieved through a financial contribution of £163.86 per dwelling, secured through a legal agreement.

- 8.53 This residential development lies within the Zone of Influence. The site is not within or directly adjacent to one of the European designated sites but is approximately 3 kilometres from Stour and Orwell Estuaries Ramsar site.
- 8.54 To comply with the adopted Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS), Local Plan Policies SP2 and PPL4, and Regulation 63 of the Conservation of Habitats and Species Regulations 2017, an appropriately worded condition will be added to secure the completion of a Unilateral Undertaking thus securing the payment of the required financial contribution prior to the occupation of the development.
- 8.55 The completed UU already provided relates to a different site area and does not reflect the current RAMS contribution amount and therefore a new UU will be required.

Conclusion

- 8.56 In accordance with the overarching duty outlined above, through the imposition of appropriately worded conditions, this development is considered to accord to best practice, policy, and legislation requirements in consideration of the impacts on ecology interests.

Residential Amenities

- 8.57 Paragraph 135 of the NPPF includes that planning decisions should ensure developments create places that are safe, inclusive and accessible, and which promote health and well-being with a high standard of amenity for existing and future users.
- 8.58 Local Plan Policy SPL3, Part B requires that buildings and structures are designed and orientated to ensure adequate daylight, outlook and privacy for future and existing residents. Furthermore, Part B states that, new development must meet practical requirements, including provision for adequate private amenity space, waste storage and recycling facilities, vehicle and cycle parking.
- 8.59 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. The private amenity space is considered excessive for a 1-bedroom dwelling but would not represent a reason for refusal.
- 8.60 The single storey scale of the dwelling minimises any neighbouring impact with its low eaves' height and low ridge height. This together with the size of the plot and separation distance ensures that no harm to residential amenities in terms of light, sunlight, outlook, overlooking or privacy will result from the development.

Drainage and Foul Sewage Disposal

- 8.61 Paragraph 170 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 180 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.
- 8.62 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 requirements. However, where this is not possible, an application will need to confirm how foul sewage disposal will be dealt with in compliance with the building regulations and Environment Agency drainage hierarchy.

- 8.63 In this instance, the dwelling would be served by a Package Treatment Plant. Details of the proposed Package Treatment Plant have not been provided with the application. A condition is therefore included within the recommendation to secure these details.

Planning Obligation - Open Space and Play Space Financial Contribution

- 8.64 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.
- 8.65 Whilst it has been established that there is currently a deficit of equipped play in Ardleigh, no contribution is being requested on this occasion as the current facilities are adequate to cope with this development.

Sustainable Construction & Energy Efficiency

- 8.66 Paragraph 116 of the NPPF states that applications for development should be designed to enable charging of plug-in and other ultra-low emission vehicles (ULEV) in safe, accessible and convenient locations. Policies PPL10 and SPL3 require consideration be given to renewable energy generation and conservation measures. Proposals for new development of any type should consider the potential for a range of renewable energy generation solutions, appropriate to the building(s), site and its location, and be designed to facilitate the retro-fitting of renewable energy installations.
- 8.67 The application is accompanied by a block plan showing the location and specification of the electric vehicle charging point to serve the dwelling. The proposed parking area has been amended since the previous application bringing it closer to the dwelling. This, together with the specification details including a 10m charger at a distance of 7m from the dwelling demonstrates how the development will comply with the aims of Policies PPL10 and SPL3.

Environmental Protection

- 8.68 Consultation with the Council's Environmental Protection Team (EPT) has been undertaken.
- 8.69 The application is accompanied by a Contamination Statement. The previous application was accompanied by a Construction Management Plan, but this has not been provided with this application.
- 8.70 EPT raise no objection to the development subject to conditions securing a contaminated land watching brief and construction management (timing and clearance) and an informative ensuring the Package Treatment Plant accords with current standards. Environmental protection matters can be satisfactorily controlled by the recommended conditions.

9. Overall Planning Balance and Recommendation

- 9.1 The proposal is not in accordance with the Local Plan's spatial approach to housing delivery representing a new dwelling in the countryside. The proposal is therefore contrary to the Council's plan-led spatial strategy to direct development to the main urban areas and manage growth. In terms of its location, the proposal is therefore contrary to Policies SP1, SP3, SPL1 and SPL2, and is unacceptable in principle.
- 9.2 Regard has been given to the material planning consideration of the fall-back position established through the prior approval application reference 22/00359/COUNOT. For the reasons set out above, the weight attributed to this is more complex as the proposal would not result in a comparable development when considered against the prior approval conversion, thus failing the third ('comparability') test cited within the relevant case law. However, the planning balance must be taken as a whole and there are advantages of the proposal to consider on their individual merits.

- 9.3 All other relevant material planning considerations as set out in the main body of the report are either policy compliant, or capable of being policy compliant subject to relevant, necessary and reasonable planning conditions, which can be secured upon any planning approval.
- 9.4 In officers' opinion, holistically the proposal, for the reason given, will result in a superior scheme from a general layout, access, design and landscaping perspective when compared to the prior approval conversion scheme. Accordingly, the proposal is recommended for approval subject to conditions.

10. Recommendation

- 10.1 The Planning Committee is recommended to grant planning permission subject to the following conditions and informatives:

10.2 Conditions

1. COMPLIANCE: TIME LIMIT

CONDITION: The development hereby permitted shall be begun before 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 the Planning and Compulsory Purchase Act 2004.

2. COMPLIANCE: APPROVED PLANS AND 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.

- 1:1250 Ordnance Survey Extract
- 1:500 Amended Block Plan – Revision A
- Planning Statement Revision A
- Amended Hard landscaping and Demolition - Revision A
- Amended Soft Landscaping Retained and Proposed - Revision A
- Amended Arboricultural Impact Assessment (AIA) TPSQU0202 Issue 2
- AIA Appendix 1 Tree survey and explanatory notes
- AIA Appendix 2 Tree Survey and Constraints Plan Dwg. No. TPSQU0202 TSCP
- AIA Appendix 3 & 4 Protective Fencing & Signage
- AIA Appendix 5 Tree Protection Plan Dwg. No. TSPQU0202 TPP Rev. B
- AIA Appendix 6 Arboricultural Monitoring Form
- Amended Proposed Block Plan, Elevations and Floor Plans Dwg. No. BB-01 Revision C
- 1:1250 Visibility Splay Plan
- Dwg. No. AJC/01 Roof Plan
- Amended Parking & Access - Revision A
- Broadband Connection
- Contamination Statement
- Foul Drainage Assessment
- Ecological Survey and Assessment August 2023

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

3. COMPLIANCE: PERMEABLE SURFACING & NO UNBOUND SURFACE MATERIALS

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. No unbound materials shall be used in the surface treatment of the individual private driveways and throughout the development.

REASON: To ensure that loose materials are not brought out onto the highway, in the interests of highway safety, and in the interests of sustainable development to minimise the risk of surface water flooding.

4. FURTHER APPROVAL: MITIGATION TO BE AGREED - RAMS

CONDITION: Prior to the commencement of any works to the development hereby approved, detailed proposals addressing the mitigation of the development's impact on protected Essex Habitats Sites have been submitted to and received written approval from the Local Planning Authority. Such proposals must provide for mitigation in accordance with the joint Habitats Regulations Assessment Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) or demonstrate mitigation measures of an equivalent effectiveness.

These proposals may require on site or off-site mitigation, but in either case must include evidence of the completion of a necessary legal agreement to secure the proposed mitigation and/or contribution towards mitigation. Please note a legal agreement will include legal fees and may require obligations to secure monitoring and associated fees. For any on site mitigation proposals approved, it shall be carried out in full and thereafter shall be maintained as approved.

REASON: In order to safeguard protected wildlife species and their habitats in accordance with the NPPF and Habitats Regulations. Failure to achieve satisfactory mitigation would result in harm by new residents due to the development's impact on protected sites.

NOTE/S FOR CONDITION:

This condition establishes the necessity to ensure the implementation of appropriate mitigation measures due to the impact of the approved development. Such mitigation may be required on-site, off-site, or a combination of both.

Typically, a contribution towards visitor management measures at the protected Habitats Site(s) is the preferred and simplest approach to fulfil the requirements of this condition. To fulfil this requirement, you can contribute funds towards a range of mitigation projects in the protected areas. It is essential to secure this provision through a legal agreement between the Council, Developer/Applicant, and site owners before occupation. If this is the approach to fulfilling this condition you wish to take, you are strongly advised to finalise the legal agreement with the Council before submitting any request to discharge this condition. Failure to conclude the agreement within the discharge of condition application time frame may lead to the refusal to discharge the condition.

LEGAL AGREEMENT REQUIRED

As per the relevant condition above, this application requires mitigation against recreational impact in accordance with The Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) and Regulation 63 of the Conservation of Habitat and Species Regulations 2017. The current RAMS tariff is £163.86 per new dwelling (from the 1st April 2024). To satisfy a RAMS condition and allow a condition to be formally discharged, a completed UU must be submitted with a Discharge of Condition application.

Prior to the submission of the Discharge of Condition application, we can prepare the UU for you (to be reviewed by your solicitor) or we can review a draft UU you have provided (drafted by your solicitor). Both services will incur a charge.

Please see the 'Preparation of a UU' guidance on our website at:
<https://www.tendringdc.gov.uk/content/the-s-106-process>

5. FURTHER APPROVAL: CONSTRUCTION MANAGEMENT TO BE AGREED

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 incorporate the following information:-

- a) Confirmation of the hours of operation on the site. 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.
- 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 wheel and underbody washing facilities to be provided and used at the site.
- e) Details of any protection measures for footpaths and trees surrounding the site.
- f) Details of any means of access to the site during construction.
- g) Details of the scheduled timing/phasing of development for the overall construction period.
- h) 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.
- i) Details of the siting of any on site compounds and portaloos.
- j) Details of the method of any demolition to take place, including the recycling and disposal of said materials resulting from demolition.
- k) Site waste management plan (that shall include reuse and recycling of materials) and the prohibition of the burning of materials on the site.
- l) Scheme for sustainable construction management to ensure effective water and energy use.
- m) A scheme to control noise and vibration during the construction phase, including details of any piling operations. If piling is to be carried out on the site a rationale for the piling method chosen and details of the techniques to be employed which minimise noise and vibration to nearby residents shall be provided.
- n) Scheme of review of complaints from neighbours.
- o) 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 in adverse harm to neighbouring residents' amenities.

6. COMPLIANCE: IN ACCORDANCE WITH AIA

CONDITION: The development shall be carried out in accordance with the approved Amended Arboricultural Impact Assessment (AIA) TPSQU0202 Issue 2 and accompanying Arboricultural Impact Assessment Appendices 1 to 6. This shall include a qualified Arboriculturalist visiting the site throughout the development process to carry out an assessment of tree health and protection condition and make recommendations when required.

No alterations or variations to the approved works or tree protection schemes shall be made without prior written consent of the local planning authority.

REASON: To ensure existing trees, shrubs and hedges that are identified as being retained are not removed and are protected appropriately during the development, as they are considered essential to enhance the character of the development and contribute positively to the appearance of the area.

7. 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 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 in compliance 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 general conformity with the indicative landscape details shown on the approved drawings, subject to any new boundary planting being 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 to ensure that the future outward growth of the planting does not encroach upon the highway or interfere with the passage of users of the highway, to preserve the integrity of the highway and in the interests of highway safety.

8. 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 is implemented in accordance with the approved scheme and has sufficient time to establish, in the interests of visual amenity and the quality of the development.

9. FURTHER APPROVAL: SUSTAINABILITY & ENERGY EFFICIENCY

CONDITION: No development shall commence above slab level until 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 detailed scheme shall include as a minimum:-

- An electric car charging point scheme
- Agreement of a scheme for water conservation including greywater recycling and rainwater capture/re-use for the new dwelling
- 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 the new dwelling
- Agreement of heating for the new dwelling
- Agreement of scheme for waste reduction
- In line with the accompanying Broadband Statement, the provision of a fibre optic broadband connection to the best possible speed installed on an open access basis and directly accessed from the nearest exchange, incorporating the use of resistant tubing. (If the applicant is unable to achieve this standard of connection and can evidence through consultation that this would not be possible, practical or economically viable an alternative superfast (i.e. will provide speeds greater than 30mbps) wireless service will be considered.)

The scheme shall be fully implemented prior to the first occupancy of the development unless otherwise agreed in writing by the local planning authority. The scheme shall be constructed, and the measures provided and made available for use as may be agreed and thereafter shall be maintained.

REASON: To enhance the sustainability of the development through reduced need, better use or savings in the use of water, energy and resources; reduced harm to the environment; and result in wider public benefit in accordance with the NPPF.

NOTES FOR CONDITION:

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

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

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

10. COMPLIANCE: ACCESS DETAILS AND WIDTH

CONDITION: Prior to occupation of the development the vehicular access shall be constructed at right angles to the highway boundary and to the existing carriageway. The width of the access at its junction with the highway shall maximum width of 5 metres, shall be retained at that width for 5 metres within the site and shall be provided with an appropriate dropped kerb vehicular crossing of the verge/carriageway.

REASON: To ensure that vehicles can enter and leave the highway in a controlled manner in the interest of highway safety.

11. 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), other than the fencing shown on the approved drawings, there shall be no other gates/fence and/or other means of enclosure erected at the point of access or anywhere on or within the site, unless details are first agreed, in writing, by the local planning authority. Any gates provided at the vehicular access shall be inward opening only and shall be set back a minimum of 6 metres from the back edge the carriageway.

REASON: To allow the local planning authority additional control over the erection of fencing and enclosures, in the interests of proper planning of the development, in the interests of highway safety and in the interests of visual amenity and the semi-rural character and appearance of the area.

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

12. REMOVAL OF PERMITTED DEVELOPMENT: NO EXTENSIONS OR OUTBUILDINGS

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), Classes A, B, C and E no extensions or alterations to the dwelling or its roof shall be undertaken, nor shall any 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 and the character and appearance of the area.

13. FURTHER APPROVAL: DRAINAGE DETAILS

CONDITION: Full details of surface and foul water drainage shall be submitted to and approved, in writing, by the local planning authority prior to the commencement of any works to the building/s it would serve. No part of the building/s shall be first occupied or brought into use until the agreed method of surface and foul water drainage has been fully installed and is functionally available for use for that building/s. The surface and foul water drainage scheme shall thereafter be maintained as approved.

REASON: To safeguard the ground water environment from harm and minimise the risk of flooding as insufficient information has been provided with the application.

NOTE/S FOR CONDITION:

This condition shall engage and requires details to be agreed prior to the commencement of works to the building/s approved. This condition is imposed to ensure the potential impact on a sensitive area is considered and harm avoided that may be detrimental to amenity and the environment.

14. COMPLIANCE: ECOLOGICAL APPRAISAL RECOMMENDATIONS

CONDITION: All mitigation measures and/or works shall be carried out in accordance with the details contained in the hereby approved Ecological Survey and Assessment (Essex Mammal Surveys, August 2023).

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 (as amended).

15. FURTHER APPROVAL: BIODIVERSITY ENHANCEMENT STRATEGY

CONDITION: Prior to any above ground works, 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 and habitats.

16. FURTHER APPROVAL: EXTERNAL LIGHTING

CONDITION: Prior to the installation of any external lighting, 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 (as amended).

10.3 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.

Environmental Protection Informatives

Contaminated Land

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.

Asbestos

To protect the health of site workers and end users, 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.

Highways Informatives

- i. 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
- ii. 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.
- iii. The Highway Authority cannot accept any liability for costs associated with a developer's improvement. This includes design check safety audits, site supervision, commuted sums for maintenance and any potential claims under Part 1 and Part 2 of the Land Compensation Act 1973. To protect the Highway Authority against such compensation claims a cash deposit or bond may be required.

11. Additional Considerations

Equality Impact Assessment

- 11.1 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.
- 11.2 It is vital to note that the PSED and associated legislation are a significant consideration and material planning consideration in the decision-making process. This is applicable to all planning decisions including prior approvals, outline, full, adverts, listed buildings etc. It does not impose an obligation to achieve the outcomes outlined in Section 149. Section 149 represents just one of several factors to be weighed against other pertinent considerations.
- 11.3 In the present context, it has been carefully evaluated that the recommendation articulated in this report and the consequent decision are not expected to disproportionately affect any protected characteristic* adversely. The PSED has been duly considered and given the necessary regard, as expounded below.

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

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

Human Rights

- 11.4 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.
- 11.5 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).
- 11.6 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

- 11.7 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.
- 11.8 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.

12. Background Papers

- 12.1 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/>.