

DELEGATED DECISION OFFICER REPORT

AUTHORISATION		INITIALS	DATE
Planning Officer recommendation:		JJJ	08/08/2024
EIA Development - Notify Planning Casework Unit of Decision:	NO		
Team Leader authorisation / sign off:		AN	12/09
Assistant Planner final checks and despatch:		ER	12/09

Application: 24/00815/FUL **Town / Parish:** Thorpe Le Soken Parish Council

Applicant: Mr De Roy - De Roy Tool Co. Ltd

Address: Unit 5 Rice Bridge Industrial Estate Station Road

Development: Planning Application - First floor extension and conversion of unit in to two residential dwellings (Units 11 and 12).

1. Town / Parish Council

Thorpe Le Soken Parish Council As an industrial estate, the layout and design of the site is not suited to residential occupation. Despite this, a number of units have already been converted to residential units and there is now insufficient parking for the number of cars on the site and access is becoming more of an issue as there are insufficient sight splays exiting this estate onto the highway. The parish council have raised environmental safety concerns regarding conversion of units on this site to residential occupation on previous applications. This is due to flood risks due to the sites proximity to Holland Brook, in addition to this, concerns have been raised regarding refuse collection as there have now been reports of vermin infestation at this site.

Officer comment: *The above concerns raised by the PC are noted and will be covered, and where necessary and relevant, responded to in the main body of the report under the 'Officer Appraisal' section.*

2. Consultation Responses

ECC Highways Dept 15.07.2024 The information submitted with the application has been assessed by the Highway Authority and conclusions have been drawn from a desktop study with the observations below based on submitted material. No site visit was undertaken in conjunction with this planning application. It is noted that this application is similar to a previous application for Units 5, 7 & 7A Rice Bridge Industrial Estate for the conversion of an office block to residential units that was approved in 2020 and 2023. The site is located on a private road and close to reasonably good transport links. No new or altered means of access is proposed for this application. When compared with the current commercial use, the level of activity will be similar or considerably reduced while the nature of vehicles will also change, considering these factors:

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

1. Areas within the curtilage of the site for the purpose of loading / unloading / reception and storage of building materials and manoeuvring of

all vehicles, including construction traffic shall be provided clear of the highway.

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

2. The proposed dwelling shall not be occupied until such time as a domestic car parking for a minimum of two vehicles has been provided, details to be agreed with the Local Planning Authority. The agreed car parking shall be retained at all times for such purpose.

Reason: To ensure that on street parking of vehicles in the adjoining streets/roads does not occur and that appropriate parking is provided in accordance with Policy DM8.

3. Cycle parking shall be provided in accordance with the EPOA Parking Standards. The approved facility shall be secure, convenient, always covered and provided prior to first occupation and retained .

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

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

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.

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

Informative:

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. The vehicular access to the site is situated behind gates located at the entrance to Rice Bridge Industrial Estate; if these are ever closed access would be blocked to the prospective residential unit. Consideration would need to be given to the removal or re-location these gates to maintain access for the proposed residential units at all times.

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.

Tree & Landscape Officer
03.07.2024

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

There appears to be little opportunity or public benefit to be gained by securing new soft landscaping associated with the proposed development.

3. Planning History

20/01015/COUNO T	Proposed conversion of B1 commercial units in to six residential dwelling units.	Determination	27.11.2020
22/00383/LUPRO P	Proposed conversion to residential use in accordance with PD right class PA.	Refused appeal dismissed	27.04.2022
22/01744/LUPRO P	Proposed conversion to residential use in accordance with PD right class PA.	Refused appeal dismissed	09.12.2022
22/01765/LUPRO P	Proposed conversion to residential use in accordance with PD right class PA.	Refused appeal dismissed	09.12.2022
22/01866/LUPRO P	Proposed conversion to residential use in accordance with PD right under Class O.	Refused appeal dismissed	06.01.2023
22/01944/FUL	External alterations including first floor extensions to existing units to facilitate the subdivision of 4 no. units to create 6 no. units.	Approved	16.03.2023
22/02107/LUPRO P	Proposed conversion from existing office/light industrial (B1) to residential use in accordance with PD rights Class O.	Refused appeal dismissed	14.02.2023
23/01721/FUL	Proposed conversion and extension of former Class B1 (now Class E) commercial premises to four live/work units.	Approved	02.05.2024
23/01725/COUNO T	Prior Approval Application under Class MA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for conversion of former Class B1 (now Class E) commercial unit in to a residential dwelling unit.	Determination	23.01.2024
24/00815/FUL	Planning Application - First floor extension and conversion of unit in to two residential dwellings (Units 11 and 12).	Current	

4. Status of the Local Plan

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

respectively), supported by our suite of evidence base core documents (<https://www.tendringdc.uk/content/evidence-base>) together with any Neighbourhood Plans that have been made and the Minerals and Waste Local Plans adopted by Essex County Council.

In relation to housing supply:

The Framework requires Councils to significantly boost the supply of homes to meet the District's housing need. However, the revised Framework, published on 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 July 2024, and demonstrates a 6.26-year supply of deliverable housing sites against the annual requirement of 550 dwellings per annum set out within the adopted Local Plan, plus a 5% buffer to ensure choice and competition in the market. (The SHLAA can be viewed on the Council's website: <https://www.tendringdc.gov.uk/content/monitoring-and-shlaa>)

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

5. **Neighbourhood Plans**

A neighbourhood plan introduced by the Localism Act that can be prepared by the local community and gives communities the power to develop a shared vision for their area. Neighbourhood plans can shape, direct and help to deliver sustainable development, by influencing local planning decisions as part of the statutory development plan to promote development and uphold the strategic policies as part of the Development Plan alongside the Local Plan. Relevant policies are considered in the assessment. Further information on our Neighbourhood Plans and their progress can be found via our website <https://www.tendringdc.uk/content/neighbourhood-plans>

There are no neighbourhood plans in place for this area.

6. **Relevant Policies / Government Guidance**

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 (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
LP7 Self-Build and Custom-Built Homes

PP6 Employment Sites
PP13 The Rural Economy
PPL1 Development and Flood Risk
PPL3 The Rural Landscape
PPL4 Biodiversity and Geodiversity
PPL5 Water Conservation, Drainage and Sewerage
PPL10 Renewable Energy Generation and Energy efficiency Measures

CP1 Sustainable Transport and Accessibility
CP2 Improving the Transport Network

DI1 Infrastructure Delivery and Impact Mitigation

Supplementary Planning Documents

Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy SPD 2020 (RAMS)

[Essex Design Guide](#)

[Technical housing standards](#): nationally described space standard Published 27 March 2015
Biodiversity Net Gain Supplementary Planning Document June 2023 (DRAFT)

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

7. Officer Appraisal (including Site Description and Proposal)

Site Description

Rice Bridge Industrial Estate comprises of a mix of residential, office and light industrial units located close to the railway bridge and railway station in Thorpe-le-Soken. A (former) two storey office building (the L-shaped building to the front of the site) at the entrance to the estate has been converted into residential flats under prior approval application reference 20/00465/COUNOT – this building appears to be currently occupied as residential flats. A number of other buildings to the rear (east) of this building also benefit from either prior approval or planning permission for conversion to residential or mixed 'live work' units. Further to the east the wider Rice Bridge Estate very much retains its industrial characteristics.

The building the subject of this application is indicated in a green colour on the submitted drawing number 5366- EAP-11,12-P05 A. As mentioned, it is located to the north east of the two storey building at the entrance. Unit 5 (i.e. the building the subject of the application) benefits from a Prior Approval under Class MA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for conversion of former Class B1 (now Class E) commercial unit into one residential dwelling unit.

At the time of the officer site visit the unit in question appears to be still in some form of employment use although this is difficult to confirm since the unit was locked.

The site is not in a conservation area and is located in Flood Zone 1 (low risk of flooding) however the areas immediately to the south of the building in question, including the main vehicular access into Rice Bridge Estate, is located in Flood Zone 3 at high risk of flooding. The application site also

lies within the settlement development boundary of Thorpe Station and Thorpe Maltings and within a designated employment site as defined in the Local Plan.

Proposal

Planning Permission is sought for a first-floor extension and conversion of unit in to two residential dwellings (2 x 1 bedroom dwellings). The existing building is a utilitarian looking structure and the proposal is to increase its height in the form of a first-floor extension (keeping the footprint of the building unchanged), as well as incorporating a catslide dormer. The end result would be two fairly modest one-bedroom units with living accommodation on ground floor and a bedroom and study on the first floor (for each unit). Externally the building will be finished in fibrous cement cladding and fibrous cement slate to the roof).

Principle of Development

As alluded to above, the application site lies within the settlement development boundary. Policy SPL2 states that within the settlement development boundary there will be a general presumption in favour of new development subject to detailed consideration against other relevant Local Plan policies. Policy SP3 states that existing settlements will be the principal focus for additional growth across the North Essex Authorities area within the Local Plan period. As well as being sited within the settlement development boundary, the application site lies within a designated employment site as defined in the Local Plan. Policy PP6 is therefore relevant and states *'The Council will seek to protect existing employment sites, as shown on the relevant Policies Maps and Local Maps. Sites within use classes B2 and B8 will be safeguarded for these purposes. Employment sites falling within Use Class E(g) will be retained and will continue to provide for the employment needs of the district.'*

Whilst the above text is noted there are other material planning considerations of direct or indirect relevance. First the building the subject of the application already benefits from a prior approval (under class MA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)). Whilst this prior approval permission is not yet implemented it would be irrational to suggest that there would be no likelihood of it ever being implemented – not least due to the fact that residential land uses already exist at the front (western) end of the site, and recent planning permissions have been granted for other residential mixed uses on site to include live work units at Units 6, 6A and 7B. The prior approval from former Class B1 (now class E) to residential is given moderate to significant weight.

Secondly, the unit in question is moderate in terms of its floorspace and the employment floorspace that would be lost to residential has in theory already occurred (through the prior approval) and this loss (of employment floorspace) is not considered significant. Moreover, only one additional residential unit is proposed in what is classed as a sustainable location due to the site being within the SDB.

As a result, whilst policy conflict in respect of policy PP6 is identified, this conflict is decisively outweighed by the above-mentioned considerations.

The principle of development is therefore acceptable

Flood Risk and surface water flooding

Paragraph 174 of the NPPF states that applications for some minor development and changes of use should not be subject to the sequential or exception tests but should still meet the requirements for site-specific flood risk assessments (FRA). Footnote 59 confirms that a site-specific FRA should be provided for all development in Flood Zones 2 and 3.

Policy PPL1 seeks to ensure development is resilient in the event of a flood.

As mentioned above, the building in question is in flood zone 1 (low risk of flooding) however the access road into Rice Bridge Estate is in flood zone 2 and 3).

An additional residential unit (highly vulnerable use) is proposed but this is within flood zone 1 at low risk of flooding.

In Flood Zone 2 standing advice for vulnerable developments should be followed for developments (including change of use) that will have a vulnerability classification of 'less vulnerable' and is not a waste treatment site, mineral processing site, water treatment plant, or sewage treatment plant.

In Flood Zone 3, the Environment Agency should be consulted in the case of changes of use where the vulnerability classification will be 'more vulnerable' or 'highly vulnerable' or change from 'water compatible' to 'less vulnerable'.

The Environment Agency have been consulted on recent planning applications (to change buildings in very close proximity to this building) to residential or at least include elements of residential), as part of application ref 23//01721/FUL – which include live work units at first floor level) - they raised no objection to the proposal. The LPA also consulted the Environment Agency as part of the prior approval (Class MA) at subject building, that time they did not respond to the consultation. This application will create a first floor area with safe internal refuge to a higher level, where the building in question is already in flood zone 1. It would therefore be unreasonable to object to this proposal on flood risk grounds if it is clear that the flood risk would be further reduced for any potential future residents and compared to the prior approval decision. The proposal is therefore acceptable from a flood risk and surface water flooding perspective (being a conversion scheme with only a first-floor extension on the same building footprint).

Design and Appearance

Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Section 2 seeks to ensure that all new development should make a positive contribution to the quality of the local environment and protect or enhance local character, while meeting practical requirements.

The extension to the existing building would see a first floor added with a catslide dormer and full height doors with Juliet balconies. The materials proposed are fibrous cement cladding and fibrous cement slate (roof)

Overall, the proposal, from a design and appearance perspective is considered to be acceptable and would result in an improved appearance compared to the current building on site.

The majority of the buildings within the industrial estate are two storey and the application site is located between the two-storey residential building at the front of the site and commercial buildings behind which are of a similar height to the proposed development. Therefore, the proposal is considered to reflect and would, to a marginal extent, improve the character and appearance of the unit and the wider industrial site, and is of a visually appropriate design befitting of a commercial industrial estate.

Due to the nature of the proposal, no important trees or other significant vegetation will be affected. Taking into account the immediate surroundings and size of the application site there is little public benefit or opportunity for a landscaping scheme to be established and therefore there is no need to secure landscaping as part of the application.

The design and scale of the proposal is acceptable and would result in no material harm to visual amenity.

Impact to Residential Amenities

Policy SPL3 seeks new development that does not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties.

The building in question is neighboured to the southwest by a two-storey building which has been converted to residential flats, and to its immediate south and west by modest buildings that benefit from planning approval for first floor extensions and to change those first floor areas to live work

units (to function in connection with their respective ground floors). The proposal would see the addition of a first floor to the existing single storey unit, however, there remains a reasonable separation distance between the building (the subject of this application) and all the above-mentioned buildings to ensure no unacceptable overshadowing or loss of outlook concerns would occur. Rooflights and dormer windows are proposed on the rear and front elevations, the latter will partially face the residential flats (to the west) and the potential future live work units, however again due to the distances and angles, no harmful or unacceptable overlooking or loss of privacy would occur towards current (and potentially future) occupiers of the neighbouring buildings mentioned above.

Turning to the general amenity that future users of the proposed units will experience, the LPA is very concerned about the impact on residential amenity of future occupiers of the units proposed. The dwellings will essentially be located on an occupied industrial site albeit in an area that is slowly evolving to include more residential land uses. However, despite this, the creation of one additional dwelling here is undesirable and will not provide a good living environment for the future occupiers by way of increased noise and disturbance, vibration, poor outlook from windows and in respect of the above, the proposal will result in clear conflict with the relevant residential amenity policy quoted above. However, the LPA is duty bound to determine the application in accordance with the relevant policies in the development plan whilst also having regard to other material considerations (covered below).

Turning to floorspace standards, Policy LP3 requires compliance with the nationally described space standards. This standard deals with internal space within new dwellings and is suitable for applications across all tenures. It sets out requirements for the Gross Internal (floor) Area of new dwellings at a defined level of occupancy as well as floor areas and dimensions for key parts of the home, notably bedrooms, storage and floor to ceiling height. The proposal is for 2 x 1 bedroom units (both with a small study room at first floor level) – these units require a minimum of 39 square metres of gross internal floor space which includes built in storage of 1.0 square metre. From the plans submitted the proposal meets the requirements of the space standards. It is also considered that the internal layout is appropriate, with all habitable rooms having adequate natural light.

The development will benefit from poor quality private amenity space around the building to the side and rear. The development is a compact development and the Essex Design Guide allows for a change in emphasis where schemes in sustainable locations will look different, moreover, the applicant has the fallback position of one unit being approved under the prior approval regime where no external amenity space is provided for that unit. The extended building together with other buildings that already benefit from some form of residential use will create a courtyard area that can be used for sitting out/clothes drying and private activities associated with the living accommodation, whilst not considered ideal and conducive to good placemaking, this arrangement is considered acceptable in this regard.

As already alluded to above, the site is within an operational industrial premises – whilst not all the units/buildings are currently occupied for commercial or industrial purposes, some clearly are, especially those towards the east, south and southeast of the wider estate. The building the subject of this application is located towards the north of the site, somewhat separate from what appear to be industrial units that are currently permanently in use as commercial/industrial/light industrial to the east, south and southeast, but not far enough away to ensure a suitable living environment for future occupiers can be provided having regard to the areas highlighted above. However as mentioned the building at the entrance of the site is already in residential use which is next to the building in question. It is likely that future occupiers will experience noise from the remaining commercial premises nearby and further away, however given the specific circumstances these noise impacts are unlikely to be significant and a refusal on this basis will be difficult to sustain at appeal. In reaching this conclusion specific due regard is given to the existing residential use in the two-storey building at the entrance, which was subject to noise assessment, and the relatively close proximity of the application buildings to this building, however any further expansion of residential uses to the south or east may well alter this finely balanced view taken here. On balance, a residential amenity reason for refusal for the reasons given, will be difficult to defend on appeal.

Access, Parking and Highway Safety

The proposal will utilise the existing vehicular access that serves the Rice Bridge Industrial Estate from Station Road and which is shared with the other residential dwellings and businesses of the estate. The proposed parking is to the south of the site (in line with previously approved applications which included residential elements) and is shown to provide nine off road parking spaces, but again this provision is intended to meet other recently approved permissions for residential / live/work elements. Essex Highways have been consulted and they do not object to the proposal subject to conditions. It is considered reasonable and necessary to impose these suggested conditions to secure the car parking spaces and the residential travel pack, however areas for construction materials and unloading will be added as an informative. The units themselves are modest therefore the future occupiers are unlikely to generate a high number of cycle parking spaces however the units will have space under the stairs or in the hallway/garden for safe and secure cycle storage and therefore it is not necessary to impose a condition in this regard.

Essex County Adopted Parking Standards require that for dwellings with 1 bedroom that a minimum of 1 parking space is required. Parking spaces should measure 5.5 metres by 2.9 metres and the plans show this area on the opposite side of the access into the estate (already benefitting for a change of use to a parking area for the live work units previously approved). The plans also show that this minimum is provided and there is sufficient space for manoeuvring and turning, having regard to the fact that only one additional small unit is proposed and the site is sustainably located close to the train station.

Renewable Energy

Chapter 14 of the National Planning Policy Framework supports the transition to a low carbon future in a changing climate while Policy PPL10 of the Local Plan supports renewable energy generation and energy efficiency measures for residential development.

An energy statement has been provided with details including the means of heating/hot water for the units and details of electric vehicle charging has been provided. In addition, details of water conservation and waste reduction measures have been submitted. All the above measures will be secured by way of a compliance condition on the grant of planning permission.

Drainage and Sewerage

Policy PPL5 states that all new development must make adequate provision for drainage and sewerage.

The sewerage from the unit is already connected to the mains sewer following its existing use as part of the industrial estate and this will continue which is considered the preferred approach and acceptable.

The site does not fall within a critical drainage area. The site slopes down from the railway line and therefore the area where the building exists there is a very low risk of surface water flooding, however surface water flooding may occur on the entrance road to the industrial estate however flood risk as a whole has been considered earlier in the report.

Habitats, Protected Species and Biodiversity Enhancement

Ecology and Biodiversity

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

General duty on all authorities

The Natural Environment and Rural Communities Act 2006 amended by the Environment Act 2021 provides under Section 40 the general duty to conserve and enhance biodiversity: "For the purposes of this section "the general biodiversity objective" is the conservation and enhancement of biodiversity in England through the exercise of functions in relation to England." Section 40

states authorities must consider what actions they can take to further the general biodiversity objective and determine policies and specific objectives to achieve this goal. The actions mentioned include conserving, restoring, or enhancing populations of particular species and habitats. In conclusion for decision making, it is considered that the Local Planning Authority must be satisfied that the development would conserve and enhance.

This development is subject to the general duty outlined above. On that basis a biodiversity enhancement strategy will be secured via condition. Such a strategy may look to include native planting strategies and insect friendly planting, wildlife-friendly infrastructure i.e. nesting boxes, bee bricks and habitat structures

Biodiversity net gain

Biodiversity net gain (BNG) is an approach that aims to leave the natural environment in a measurably better state than it was beforehand. The minimum requirement is for a 10% net gain in biodiversity value achieved on a range of development proposals (excluding Listed Building Consent, Advert Consent, Reserved Matters, Prior Approvals, Lawful Certificates, householders, self builds, and other types of application which are below the threshold i.e. does not impact a priority habitat and impacts less than 25 sq.m of habitat, or 5m of linear habitats such as hedgerow).

The proposal is stated to be for self build dwellings, however no further detail has been provided. The Council is concerned that the proposal does not appear to be self/custom build as there is no evidence that the initial owners of the two homes have had primary input into their final design and layout and if this is the case this would not meet the definition of self-build and custom housing, as such a condition is necessary and reasonable to ensure the dwellings approved by this permission shall be occupied only by persons who have built or commissioned the building of the dwellings for their own occupation and use as a self-build project in accordance with the Self-build and Custom Housebuilding Act 2015 for a minimum of 24 hours from first occupation by said persons.

However this development is not applicable for Biodiversity Net Gain as it does not impact a priority habitat and impacts less than 25 sq.m of habitat – representing a conversion and upwards extension of an existing building.

Protected Designated Habitats

The site falls within the recreational Zone of Influence (ZOI) of the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). Under the Habitats Regulations, a development which is likely to have a significant effect or an adverse effect (alone or in combination) on a European designated site must provide mitigation or otherwise must satisfy the tests of demonstrating 'no alternatives' and 'reasons of overriding public interest'. There is no precedent for a residential development meeting those tests, which means that all residential development must provide mitigation.

A Habitat Regulations Assessment has been completed for the proposal. The new development would be likely to increase the number of recreational visitors to the designated area and, in combination with other developments, it is likely that the proposal would have significant effects on the designated site. A Unilateral Undertaking has been completed to secure the necessary financial contributions for RAMS to ensure that the development would not adversely affect the integrity of European Designated Sites in accordance with Section 1 Policy SP2 and Section 2 Policy PPL4 of the Tendring District Local Plan 2013-2033 and Regulation 63 of the Conservation of Habitat and Species Regulations 2017.

Protected Species

In accordance with Natural England's standing advice the application site and surrounding habitat have been assessed for potential impacts on protected species. The site is unlikely to provide habitat for protected species and the proposal is therefore acceptable in this regard subject to a condition for biodiversity improvements as already set about above

Other Considerations

Thorpe Le Soken Parish Council object to the proposal and raise the following concerns:

- Overdevelopment
- Unsuitable for residential use
- Industrial location
- Risk of flooding

Planning Balance and Conclusion

The LPA share some of these concerns raised by the PC above, especially the second and third points made by the PC. The site is within an operational industrial premises – whilst not all the units/buildings are currently occupied for commercial or industrial purposes, some clearly are, especially those towards the east, south and southeast of the wider estate. The building the subject of this application is located towards the north of the site, somewhat separate from what appear to be industrial units that are currently permanently in use as commercial/industrial/light industrial to the east, south and southeast, but not far enough away to ensure a suitable living environment for future occupiers can be provided having regard to the areas highlighted above. However as mentioned the building at the entrance of the site is already in residential use which is next to the building in question. It is likely that future occupiers will experience noise from the remaining commercial premises nearby and further away, however given the specific circumstances these noise impacts are unlikely to be significant and a refusal on this basis will be difficult to sustain at appeal. In reaching this conclusion specific due regard is given to the existing residential use in the two-storey building at the entrance and the relatively close proximity of the application buildings to this building, however any further expansion of residential uses to the south or east may well alter this finely balanced view taken here. On balance, a residential amenity reason for refusal for the reasons given, will be difficult to defend on appeal. The other issues raised by the PC have been comprehensively covered in the main body of the report above, The proposal is, for all these reasons, and on balance, considered acceptable.

8. Recommendation

Approval - Full

9. Conditions / Reasons for Refusal

1 COMPLIANCE REQUIRED: COMMENCEMENT TIME LIMIT

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

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

NOTE/S FOR CONDITION:

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

2 APPROVED PLANS & DOCUMENTS

CONDITION: The development hereby permitted shall be carried out in accordance with the drawings/documents listed below and/or such other drawings/documents as may be approved by the Local Planning Authority in writing pursuant to other conditions of this

permission or such drawings/documents as may subsequently be approved in writing by the Local Planning Authority as a non-material amendment following an application in that regard (except for Listed Building Consents). Such development hereby permitted shall be carried out in accordance with any Phasing Plan approved, or as necessary in accordance with any successive Phasing Plan as may subsequently be approved in writing by the Local Planning Authority prior to the commencement of development pursuant to this condition.

5366-EAP-11, 12-P05 A
Construction Method Statement
Energy Statement
EV Charging Specification

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

NOTE/S FOR CONDITION:

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

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

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

3 ACTION REQUIRED: HIGHWAYS PARKING PROVISION

CONDITION: The dwellings hereby approved shall not be occupied until the areas shown on approved drawing 5366-EAP-11, 12-P05 A for the purposes of parking of vehicles has been provided and made functionally available. The parking area shall then be retained and remain free of obstruction.

REASON: To ensure the provision of adequate on-site space for the parking of vehicles where on-street parking and manoeuvring would otherwise be detrimental to highway safety.

4 RESIDENTIAL TRAVEL INFORMATION PACK

CONDITION: Prior to first occupation of the dwellings hereby approved, a Residential Travel Information Pack (travel pack) shall be provided to each unit for use of its first occupiers. The travel pack shall be agreed, in writing, by the Local planning authority prior

to provision and shall include a minimum of six one day travel vouchers for use with a local transport operator.

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

5 COMPLIANCE REQUIRED: CONSTRUCTION MANAGEMENT

CONDITION: The Construction Method Statement also hereby approved shall be implemented in its entirety and shall operate 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.

6 COMPLIANCE REQUIRED: ELECTRIC VEHICLE CHARGING

CONDITION: The provision of the electric vehicle charging facilities as detailed on the document titled 'EV ELECTRIC VEHICLE SPECIFICATON' shall be installed in a working order, prior to first occupation of the units and thereafter shall be maintained.

Reason: In order to promote sustainable transport.

7 MEASURES TO IMPROVE SUSTAINABILITY OF DEVELOPMENT

CONDITION: The development shall be fully implemented in accordance with the document titled 'Energy Statement' and all details and measures set out therein shall be implemented prior to first occupation of the units hereby approved, and retained in perpetuity.

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.

8 FURTHER APPROVAL REQUIRED - BIODIVERSITY ENHANCEMENT STRATEGY CONDITION

Prior to first occupation of each of the dwellings hereby approved 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 to achieve stated objectives;
- c) locations of proposed enhancement measures by appropriate maps and plans;
- d) timetable for implementation demonstrating that works are aligned with the proposed phasing of development;
- e) persons responsible for implementing the enhancement measures;
- f) details of initial aftercare and long-term maintenance (where relevant).

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

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

9 ACTION AND DISCHARGE REQUIRED: REFUSE BINS AND COLLECTION AREAS

CONDITION: Prior to the first occupation of the development, or in accordance with an alternative timetable for provision as may be agreed in writing by the Local Planning Authority, details of the storage for refuse/recycling bins and any collection areas shall be submitted to and approved, in writing, by the Local Planning Authority. The approved areas shall be provided prior to first occupation and thereafter retained as approved.

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

NOTE/S FOR CONDITION:

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.

10 SPECIFIC RESTRICTION ON DEVELOPMENT: SELF-BUILD AND CUSTOM-BUILD

CONDITION: The dwellings approved by this permission shall be occupied only by persons who have built or commissioned the building of the dwellings for their own occupation and use as a self-build project in accordance with the Self-build and Custom Housebuilding Act 2015 for a minimum of 24 hours from first occupation by said persons.

Furthermore, the following scheduled actions shall be undertaken.

- Prior to commencement of any demolition works to facilitate the extensions and conversion works approved by this permission, details of the (a) individuals, (b) associations of individuals, or (c) persons working with or for individuals or associations of individuals, both building the development and who are to occupy the dwelling/s if different shall be confirmed in writing to the local planning authority. Should there be any changes to these details during construction, these shall be updated in writing to the local planning authority.
- On first occupation details of the first occupier of the dwelling/s shall be confirmed in writing to the local planning authority and subsequently the Local Planning Authority shall be informed of if and when that occupier changes within the first year of occupation.

REASON: The dwelling/s approved by this permission shall be occupied only by persons who have built or commissioned the building of the dwelling/s for their own occupation and use as a self-build project in accordance with the Self-build and Custom Housebuilding Act 2015 (as amended) and to accord with provisions of the Local Plan and NPPF.

10. **Informatives**

Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

Highways Informatives

Areas within the curtilage of the site for the purpose of loading/unloading/reception and storage of building materials and manoeuvring of all vehicles, including construction traffic shall be provided clear of the highway to ensure that appropriate loading/unloading facilities are available to ensure

that the highway is not obstructed during the construction period in the interest of highway safety.

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

The vehicular access to the site is situated behind gates located at the entrance to Rice Bridge Industrial Estate; if these are ever closed access would be blocked to the prospective residential unit. Consideration would need to be given to the removal or re-location these gates to maintain access for the proposed residential units at all times.

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.

Recreational Impact Mitigation 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>

11. Equality Impact Assessment

In making this recommendation/decision regard must be had to the public sector equality duty (PSED) under section 149 of the Equality Act 2010 (as amended). This means that the Council must have due regard to the need in discharging its functions that in summary include A) Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act; B. Advance equality of opportunity between people who share a protected characteristic* (See Table) and those who do not; C. Foster good relations between people who share a protected characteristic* and those who do not, including tackling prejudice and promoting understanding.

It is vital to note that the PSED and associated legislation are a significant consideration and material planning consideration in the decision-making process. This is applicable to all planning decisions including prior approvals, outline, full, adverts, listed buildings etc. It does not impose an obligation to achieve the outcomes outlined in Section 149. Section 149 represents just one of several factors to be weighed against other pertinent considerations.

In the present context, it has been carefully evaluated that the recommendation articulated in this report and the consequent decision are not expected to disproportionately affect any protected characteristic* adversely. The PSED has been duly considered and given the necessary regard, as expounded below.

Protected Characteristics *	Analysis	Impact
Age	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral

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

12. Notification of Decision

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