

## DELEGATED DECISION OFFICER REPORT

AUTHORISATION		INITIALS	DATE
Planning Officer recommendation:		AN	09/10/24
EIA Development - Notify Planning Casework Unit of Decision:	NO		
Team Leader authorisation / sign off:		ML	09/10/2024
Assistant Planner final checks and despatch:		JJ	10/10/2024

**Application:** 24/00317/FUL **Town / Parish:** Clacton Non Parished

**Applicant:** Benferri Development Ltd

**Address:** South Corner Foots Farm Thorpe Road

**Development:** Planning Application - Erection of 40 no. two and three bedroom bungalows and associated landscaping, roads, parking and drainage infrastructure, an entrance from Thorpe Road and a new area of public open space.

### 1. Town / Parish Council

Not applicable

### 2. Consultation Responses

Affinity Water 26.04.2024 Affinity Water has no comments to make regarding planning application 24/00317/FUL.

Anglian Water Services Ltd 30.04.2024 ASSETS  
Section 1 - Assets Affected

Our records show that there are no assets owned by Anglian Water or those subject to an adoption agreement within the development site boundary.

#### WASTEWATER SERVICES

##### Section 2 - Wastewater Treatment

The foul drainage from this development is in the catchment of Clacton-Holland Haven Water Recycling Centre which currently does not have capacity to treat the flows the development site. Anglian Water are obligated to accept the foul flows from the development with the benefit of planning consent and would therefore take the necessary steps to ensure that there is sufficient treatment capacity should the Planning Authority grant planning permission.

##### Section 3 - Used Water Network

This response has been based on the following submitted documents: Flood Risk Assessment and Drainage Strategy Dated February 2024 The sewerage system at present has available capacity for these flows. If the developer wishes to connect to our sewerage network they should serve notice under Section 106 of the Water Industry Act 1991. We will then advise them of the most suitable point of connection.

1. INFORMATIVE - Notification of intention to connect to the public sewer under S106 of the Water Industry Act Approval and consent will be required by Anglian Water, under the Water Industry Act 1991. Contact Development Services Team 0345 606 6087.

2. INFORMATIVE - Protection of existing assets - If a public sewer is shown on record plans within the land identified for the proposed development. It is recommended that the applicant contacts Anglian Water Development Services Team for further advice on this matter. Building over existing public sewers will not be permitted (without agreement) from Anglian Water.

3. INFORMATIVE - Building near to a public sewer - No building will be permitted within the statutory easement width of 3 metres from the pipeline without agreement from Anglian Water. Please contact Development Services Team on 0345 606 6087.

4. INFORMATIVE: The developer should note that the site drainage details submitted have not been approved for the purposes of adoption. If the developer wishes to have the sewers included in a sewer adoption agreement with Anglian Water (under Sections 104 of the Water Industry Act 1991), they should contact our Development Services Team on 0345 606 6087 at the earliest opportunity.

Sewers intended for adoption should be designed and constructed in accordance with Sewers for Adoption guide for developers, as supplemented by Anglian Water's requirements.

#### Section 4 - Surface Water Disposal

The preferred method of surface water disposal would be to a sustainable drainage system (SuDS) with connection to sewer seen as the last option. Building Regulations (part H) on Drainage and Waste Disposal for England includes a surface water drainage hierarchy, with infiltration on site as the preferred disposal option, followed by discharge to watercourse and then connection to a sewer.

The preferred method of surface water disposal would be to a sustainable drainage system SUDS with connection to the sewer seen as the last option. The Flood Risk Assessment and Drainage Strategy Dated February 2024 submitted with the planning application relevant to Anglian Water indicated a surface water connection at restricted rate 2.9l/s onto Anglian Water surface water sewer which is acceptable in principle however the applicant does not indicate if it is possible to discharge the surface water from the proposed development site to the pond located on site. We would recommend that the applicant as per surface water hierarchy explores this surface water outfall option. We request a condition be applied to the decision notice if permission is granted. The purpose of the planning system is to achieve sustainable development. This includes the most sustainable approach to surface water disposal in accordance with the surface water hierarchy. It is appreciated that surface water disposal can be dealt with, in part, via Part H of the Building Regulations, it is felt that it is too late at this stage to manage any potential adverse effect. Drainage systems are an early activity in the construction process and it is in the interest of all that this is dealt with early on in the development process.

#### Section 5 - Suggested Planning Conditions

Anglian Water would therefore recommend the following planning condition if the Local Planning Authority is mindful to grant planning approval.

##### Surface Water Disposal (Section 4)

No development shall commence until a surface water management strategy has been submitted to and approved in writing by the Local Planning Authority. No hard-standing areas to be constructed until the works have been carried out in accordance with the strategy.

Independent  
Water Networks  
Ltd

No comments received.

ECC  
Archaeology  
07.05.2024

A Desk Based Assessment has been submitted with the application which concludes that there is potential for the survival of medieval remains within the site. Recent archaeological excavation on land east of Thorpe Road has revealed Medieval settlement activity and scattered prehistoric activity. The development site is bounded by a historical route along which medieval to postmedieval settlement is recorded. The potential for earlier archaeological remains is unknown due to lack of investigation in the area, however survival of archaeological remains would be good.

The following recommendations are made in line with the National Planning Policy Framework:

**RECOMMENDATION:** Archaeological trial trenching and excavation

1. No development or preliminary groundworks of any kind shall take place until a programme of archaeological investigation has been secured in accordance with a written scheme of investigation which has been submitted by the applicant, and approved in writing by the local planning authority.
2. No development or preliminary groundworks of any kind shall take place until the completion of the programme of archaeological investigation identified in the WSI defined in 1 above.
3. The applicant will submit to the local planning authority a post excavation assessment (to be submitted within six months of the completion of the fieldwork, unless otherwise agreed in advance with the Planning Authority). This will result in the completion of post excavation analysis, preparation of a full site archive and report ready for deposition at the local museum, and submission of a publication report.

**Reason for recommendation**

The Essex HER shows that the proposed development is located within an area with potential for below ground archaeological deposits.

**Further Recommendations:**

A professional team of archaeologists should undertake the archaeological work. The archaeological work will comprise initial trial trenching evaluation. A brief outlining the level of archaeological investigation will be issued from this office on request. Tendring District Council should inform the applicant of the recommendation and its financial implications

Essex County  
Fire Officer

No comments received.

ECC Green  
Infrastructure  
09.05.2024

Based on the submitted information which includes Biodiversity Assessment, Preliminary Ecology Assessment, Planning Statement, Design and Access Statement, Proposed Site Plan, we wish to issue a holding objection to the granting of 24/00317/FUL based on the net loss in habitats as stated in the Biodiversity Net Gain assessment.

The ECC GI Team welcomes the proposals for a new Public Open Space, that will form a circular route around the site, providing that connectivity, along with extensive tree (including street trees) and hedgerow planting (in that the latter will result in 130.42% net gains in hedgerows, hedgehog highway, bird boxes and play facilities that will form 10% GI/Landscaping of the total area of the site. as stated in the Design and Assess Statement (DAS) and Planning Statement. However, ECC GI team expects this development site to deliver Biodiversity Net-Gain (BNG) in line with the Environment Act and mitigation hierarchy. The Biodiversity Assessment estimates a net loss of 19.16% in habitat for the site

compared with the baseline habitats present, despite the proposed indicative site layout. This does not meet the statutory 10% requirement for 'habitat units'.

It is noted that the Planning Statement mentions that the significant net gains in hedgerows will not mitigate for the loss of habitat units. Therefore, further information is required to demonstrate that onsite habitat net gain cannot be achieved whether in part or in full and will require evidence on how offsite can be delivered, along with any biodiversity credits. As it is recognised that this might not always be conceivable, and that off-site delivery could provide additional benefits and be used to protect areas of land that are of local natural and wildlife value. It is recommended that this is discussed with Tendring District Council and for the Biodiversity Metric and Biodiversity Net Gain Assessment is updated once the landscape provision for both on-site and off-site is known and fixed. A Biodiversity Gain Plan may be required to be submitted to and approved in writing by the local planning authority before commencement.

The proposed landscaping and ecological enhancements set out in the Preliminary Ecological Appraisal (PEA), DAS and Proposed Site Plan will potentially add some biodiversity value to the site and landscape improvements. It is recommended that these are secured through suitably worded condition.

The Proposed Site Plan gives some indication of the potential landscaping however there are no plans or details specific to a Landscape Strategy.

A Construction Environment Management Plan (CEMP), a Landscape Ecological Management Plan (LEMP), and a Habitat Management and Monitoring Plan will be produced, according to both the PEA and the Biodiversity Assessment. The ECC GI Team supports the recommendations for these to be included as a planning condition.

If minded to approve we would recommend the following conditions.

#### Condition 1

No works shall take place until a detailed Landscape/Green Infrastructure Strategy/Plan for the site, based on the Essex Green Infrastructure Strategy and Essex GI Standards and an assessment of the ecological context of the development, has been submitted to and approved in writing by a landscape specialist from the local planning authority. The scheme should include but not be limited to:

- The development should be designed to deliver Biodiversity Net Gain and wider environmental net gains, which forms an important component of nature recovery networks and the wider landscape scale GI network.
- Demonstrate that the development site/setting has been reviewed for multiple functions and benefits (listed in the Essex GI Strategy (chapter 5.1, page 35) and ensure that green/open spaces are designed to ensure multi- purpose and functional use.
- Travel Infrastructure should give consideration to use of GI features to ensure good accessible links across the site, existing settlements, active travel networks and green spaces.
- Demonstrate how the GI has been designed to provide recreational facilities for different user and age groups. It should deliver social inclusive processes that are open to all and incorporate the knowledge and needs of diverse parties.

Reason: GI and its connectivity are to be at the heart of decision making at every stage in the planning and design process for all developments from the

outset, thus GI is integral to place shaping. Planning and design of GI will ensure individual building, street, neighbourhood and landscape scale intervention features contribute to a coherent, meaningful and practical network of high-quality and multi-functional GI, that will provide multiple environment, social and economic benefits within the development and wider area. By ensuring good early design in light of the local context and including local policy context, the GI will more effectively meet local priorities and needs.

The National Planning Policy Framework 2021 paragraph 8c sets environmental protection and enhancement as one of the 3 objectives of the planning system. Paragraph 98 states that access to a network of high-quality open spaces and opportunities for sport and physical activity is important for the health and well-being of communities and can deliver wider benefits for nature and support efforts to address climate change.

#### Condition 2

No development shall take place until there has been submitted to and approved, in writing, by the Local Planning Authority a Construction Environmental Management Plan (CEMP). Ideally, strategic elements of the GI framework are brought forward in phase one of the development, to create a landscape structure or evidence is shown that substantive GI is secured as early as possible in initial phases of delivery to allow early establishment. Therefore, a CEMP will be required to set out how retained GI, such as trees, hedges and vegetation, as well as any nature designated sites (e.g., SSSI's etc.) will be protected during construction.

Reason: The phased implementation of new GI of the development construction will allow for the GI to mature and it will provide further benefit of reducing/buffering the aesthetic impact from the construction work.

#### Condition 3

No development shall take place until there has been submitted to and approved, in writing, by SuDS and landscape specialists at the Local Planning Authority a Landscape Ecological Management and Maintenance Plan (LEMP) and work schedule for a minimum of 10 years.

Details should include who is responsible for GI assets (including any surface water drainage system) and the maintenance activities/frequencies.

We would also expect details on how management company services for the maintenance of GI assets and green spaces shall be funded and managed for the lifetime of the development to be included.

Reason: To ensure appropriate management and maintenance arrangements and funding mechanisms are put in place to maintain high-quality value and benefits of the GI assets.

Failure to provide the above required information before commencement of works may result in reducing the value of the development, becoming an undesirable place to live that may increase the impacts from climate change, such as flood risk or air pollution from the site.

#### Condition 4

The applicant or any successor in title must maintain yearly logs of maintenance which should be carried out in accordance with any approved

LEMP/Maintenance Plan. These must be available for inspection upon a request by the Local Planning Authority.

Reason: To ensure the GI are maintained for the lifetime of the development as outlined in any approved Maintenance Plan so that they continue to function as intended to ensure the high-quality and multi-functional benefits of GI assets.

#### Condition 5

Planning applications subject to mandatory BNG shall require a Biodiversity Gain Plan to be submitted to and approved in writing by the local planning authority before commencement. The Environment Act, under paragraph 14(2) of Schedule 7A of the Biodiversity Net Gain Planning Practice guidance sets out that the biodiversity gain plan should cover:

- How adverse impacts on habitats have been minimised.
- The pre-development biodiversity value of the onsite habitat.
- The post-development biodiversity value of the onsite habitat.
- The biodiversity value of any offsite habitat provided in relation to the development.
- Any statutory biodiversity credits purchased; plus.
- Any further requirements as set out in secondary legislation.

Reason: Biodiversity Gain Plans sets out the key ecological considerations relevant to the development proposals, the biodiversity management principles for new habitat creation areas and the enhancements that are likely to be achieved through such management. Like Landscape and Ecology Management Plan it aims to:

1. Verify the ecological baseline features of interest.
2. Identify ecological mitigation requirements; and,
3. Identify management and enhancement requirements relevant to the application area.
4. 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).

#### Condition 6

Planning applications subject to mandatory BNG shall require a Biodiversity Habitat Management and Monitoring Plan to be submitted to and approved in writing by the local planning authority. To ensure that the net gain in biodiversity agreed upon in the Biodiversity Gain Plan/ Assessment shall be implemented in full within a 30-year period. The Biodiversity Net Gain Management and Maintenance Plan shall include 30-year objectives, management responsibilities, maintenance schedules and a methodology to ensure the submission of monitoring reports. The Biodiversity Net Gain Management and Maintenance Plan should cover:

- Details of the management and maintenance operations, actions and work schedule for years 1 - 5 and with broader management aims for the lifetime of the BNG commitment of 30 years.
- Proposals for monitoring needed to measure the effectiveness of management, including methods, frequency and timing.
- Details of the roles and responsibilities for implementation and monitoring, as well as the legal, financial, and other resource requirements for BNG delivery, are secured.
- Including setting out the reporting procedures and options for remedial works and adaptive management to account for necessary changes in work schedule to achieve the required targets if needed.

Reason: In order to ensure measurable net gains are being delivered and effectively maintained and in accordance with LPA's BNG Policy, allowing the LPA to discharge its duties under the NPPF (2023).

#### Other considerations

##### Urban Greening Factor

The ECC GI team recommends that the Urban Greening Factor is consulted to establish best practice. The Urban Greening Factor (UGF) is a planning tool to improve the provision of Green Infrastructure (GI) particularly in urban areas. It can be used to increase urban greening and contribute to Biodiversity Net Gain. While it is voluntary, the ECC GI team strongly recommends utilisation of the UGF, and it can significantly contribute to place making, nature recovery, biodiversity enhancement, and connectivity to larger green infrastructure networks within proximity to the development site. More information can be found within the National Green Infrastructure Framework Standards (2023).

##### Sustainable Drainage Systems & Green Infrastructure

ECCs GI Team supports the delivery of 'a variety of green and blue infrastructure that provides an environmental support system for the community and wildlife'. ECC recommends consideration is given to the utilisation of GI as part of Sustainable Drainage Systems (SuDs) design. GI and SuDs should be developed together to maximise benefits through multifunctionality- they do this by helping to reduce flood risk whilst providing biodiversity and amenity benefits.

##### Multifunctional Space

ECC welcome the provision of a Public Open Space. For this, we would expect this is designed to ensure multi- purpose and functional use. To provide green spaces for natural play, sensory areas, areas that enhanced biodiversity and contribute to climate change mitigation and adaptation (flood and water mitigation, shading, air quality etc.). Multifunctional spaces bring a wider spectrum of environmental, social and economic benefits to urban areas, especially for small areas of open spaces and more cost-effective way of addressing many social, wellbeing, drainage and other hard infrastructure needs.

##### Sustainable Design

ECCs GI team support a strategy that seeks to maximise opportunity for habitat retention. To ensure the integration of nature into development, ECCs GI team recommends sustainable design is explored and consideration of the following:

- 
- Wildlife Bricks: The provision of wildlife bricks creates habitats for invertebrates.
- Log piles - for invertebrates.
- Dual street furniture/seating (i.e., a bench including a planter): The design of the street furniture and bin stores can contribute to the landscape character, reduce clutter of an area or street and act as a green corridor/link to the wider landscape scale GI network.]
- Log piles - for invertebrates.
- Planting of night scented and pollinator plants to attract bats and invertebrates.
- SuDs - Rain gardens/ mixed grass verges

##### Natural Play

ECCs GI team supports the consideration of play features and recommended the provision of natural play. For this, we would expect play strategies to be formed by the character and function of the green spaces. It should be imaginatively designed using landforms, level changes and water, as well as

natural materials such as logs or boulders, which create an attractive setting for play.

#### Grassland Alternatives

ECCs GI team support an approach to landscaping that seeks to maximise opportunity for biodiversity enhancement, carbon sequestration, drought resistance, and ease of maintenance and management. To ensure the integration of nature and other multifunctional benefits, ECCs GI team recommends alternatives to low quality, monoculture grasses are explored. ECCs GI team recommends consideration of the following, depending on variables like sunlight and soil type.: -

- Grassland: Consideration of species rich grassland within developments can encourage biodiversity by providing habitat, it is low maintenance as it requires less mowing, and also provides a carbon sink. For more information see Grassland | The Wildlife Trusts.

- Wildflower Meadow's: Meadows can look spectacular and attract a variety of pollinators to enhance biodiversity of an area. A mixture of wildflower species is recommended and there are many Native British species to consider. For example, the Primrose (*Primula vulgaris*). Meadows can also be both small and large scale. For more information see: <https://www.rhs.org.uk/lawns/wildflower-meadow-establishment>

- Orchards, Food Forests and Allotments: Including an orchard, Food Forest and/or an allotment at any scale within a development site can have wide-reaching benefits for the community, for social and mental well-being, provide education, and produce seasonal and local produce. There are also benefits for biodiversity and the climate.

- Lawns: Encouraging residents to keep their lawns longer, especially in the spring can increase the biodiversity within the development. Schemes such as 'no-mow-May' provide an example into the impact 'wild' lawns can have on the biodiversity in a local area.

- Pervious/Permeable driveways and surfaces: It allows rainwater to infiltrate through into underlying layer where it is temporarily stored and fills gaps of exposed turf between plants.

- Wetland and water features: Areas of marsh, fen, peatland, or water—whether they are created naturally or artificially, permanent or temporary, with still or flowing water that is fresh, brackish, or salt—are referred to as wetlands. Constructed wetlands are specially created landscape elements that are installed in order to treat contaminated water, lower the risk of flooding, increase biodiversity, and provide amenity spaces. They do this by utilising naturally occurring physical, ecological, and chemical processes.

- Xeriscaping: Landscaping with minimal use of water and climate resilient planting.

In the event that more information was supplied by the applicants then the County Council may be in a position to withdraw its objection to the proposal once it has considered the additional clarification/details that are required.

#### INFORMATIVES:

- Any GI features proposed for adoption by Essex County Council should be consulted on with the relevant Highways Development Management Office.

- It is not within the scope of the GI team to comment on the overall viability of a scheme as the decision is based on a range of issues which are outside of this authority's area of expertise.

- We will advise on the acceptability of green infrastructure and the information submitted on planning applications based on the key documents listed within this letter. However, any relevant information relating to green infrastructure submitted as part of any previous applications should be submitted with the updated information.



- The GI consultation responses provide a high-level review of the proposals onsite. However, the relevant specialists e.g., ecology and landscape specialists should still be consulted on the information submitted. It should be noted that detailed discharge of condition applications should be referred to technical specialists rather than the GI planning team.

- There are opportunities to work with the Essex Forest Initiative to assist in tree planting for new development, including funding and advice. For more information, please contact Environment@essex.gov.uk who would be very interested in discussing further.

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

ECC Highways  
Dept  
24.09.2024

From a highway and transportation perspective the impact of the proposal is NOT acceptable to the Highway Authority for the following reasons:

The developer has not demonstrated that the proposal would be acceptable in terms of highway safety, efficiency, and sustainability.

The applicant should be invited to provide such additional information as listed below upon receipt of which would enable further consideration to be given to the application.

The proposal is therefore contrary to policies DM6, DM9 and DM13 contained within the County Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

Informative:

i). On the spacing of the proposed junction, with Bramwood Road on the opposite side of the road, I note the comments within the additional information provided: 'The proposed access to the application site is in the same place as the junction which served the previous scheme to create 80 new homes on the same land (reference 20/01202/FUL) and the highways team did not raise an objection even though Bramwood Road/Oaks Drive was under construction at the time' however, application: 20/01202/FUL was later withdrawn and since that application was submitted we have received new and amended applications to some of the committed development sites off Thorpe Road and are anticipating additional applications, one of which is a Local Plan site east of Oakwood Park; so the traffic flows on Thorpe Road are anticipated to increase over time. With this in mind, we welcome the suggestion to carry out a staggered junction PICADY analysis to establish if traffic queueing on Thorpe Road due to waiting traffic turning right between the two junctions would conflict with one another. Alternatively, and as per the Essex Design Guide, a review of the spacing of the proposed junction with the existing junction(s) on the opposite side of the road: <https://www.essexdesignguide.co.uk/design-details/highways-technicalmanual/junction-spacing/> the minimum distance we would consider between Bramwood Road and the proposed junction would be 45 metres.

ii). The Highway Authority would like to see the inclusion and provision of a 3.5-metre-wide shared footway/ cycleway set back from Thorpe Road along the entire length of the site and the widening of the existing footway near the roundabout with Centenary Way with the delivery being secured by a condition and planning obligation using Section 278 of the Highways Act. In accordance with aims and objectives of the Tendring District Local Plan 2013-2033, Policy

CP 1 Sustainable Transport and Accessibility, and the aims contained within the County Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

iii) Finally, and similar to application, Foots Farmland South of Centenary Way and West of Thorpe Road, the Highway Authority would like to secure a S106 contribution of £23,000 towards the local bus services operating on Stephenson Road West and/or Thorpe Road, Farmleigh Avenue and Gorse Lane to serve the development or towards the design or delivery of a formalised crossing near the roundabout with Centenary Way /Thorpe Road/ Stephenson Road West.

ECC Schools Service No comments received (chased 10/06/2024, 11/07/2024 and 19/09/2024).

ECC SuDS  
08.05.2024  
**FIRST  
COMMENTS**

Having reviewed the Flood Risk Assessment and the associated documents which accompanied the planning application, we wish to issue a holding objection to the granting of planning permission based on the following:

- Please provide a copy of the BRE365 infiltration testing results.
- As there is a ditch to the east of the site, please clarify if this has been explored as a potential discharge location as this would follow the drainage hierarchy.
- Sufficient storage should be provided to ensure no internal flooding as a result of the development during all storm events up to and including the 1 in 30-year storm event and no off-site flooding as a result of the development during all storm events up to and including the 1 in 100 year plus 45% climate change event.
- Please show that the half drain times are less than 24 hours for the 1 in 100 year storm + 45% climate change event.
- Please provide a more detailed drainage plan. Please show how run off from the roof's will reach the pipe network.
- Please clarify if permeable paving has been considered for the areas of hardstanding.

ECC SuDS  
Consultee  
10.06.2024

Thank you for providing the updated information. Regarding the points below, we are happy to condition the BRE365 testing for this site.

**SECOND  
COMMENTS**

However, we have the following holding objection points:

- Please provide drainage modelling/calculations for the 1 in 1 and 1 in 100 + 45% climate change events.
- With regards to surface water treatment, the LLFA's preference is for above ground SUDS to be used and if they are not, it should be evidenced why. The proprietary treatment system proposed is at risk of failing and requires a rigorous maintenance regime. Therefore, please consider the use of permeable paving again for this development. Any areas not adopted by Essex Highways could be constructed with permeable paving and then piped.
- Furthermore, are there any opportunities for the depressions near the tanks to be used as treatment or are they below ground features?

ECC SuDS  
Consultee  
26.06.2024

Having reviewed the Flood Risk Assessment and the associated documents which accompanied the planning application, we do not object to the granting of planning permission based on the following:

**FINAL  
COMMENTS**

Condition 1

No works except demolition shall takes place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the

development, has been submitted to and approved in writing by the local planning authority. The scheme should include but not be limited to:

- Limiting discharge rates to 3l/s for all storm events up to and including the 1 in 100 year plus 45% allowance for climate change storm event subject to agreement with the relevant third party.
- Provide sufficient storage to ensure no off site flooding as a result of the development during all storm events up to and including the 1 in 100 year plus 45% climate change event.
- Demonstrate that all storage features can half empty within 24 hours for the 1 in 30 plus 45% climate change critical storm event.
- Provision of 10% urban creep allowance applied to the impermeable areas used to calculate the required storage, in accordance with BS8582
- Final modelling and calculations for all areas of the drainage system.
- The appropriate level of treatment for all runoff leaving the site, in line with the Simple Index Approach in chapter 26 of the CIRIA SuDS Manual C753.
- Detailed engineering drawings of each component of the drainage scheme.
- A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features.
- An updated drainage strategy incorporating all of the above bullet points including matters already approved and highlighting any changes to the previously approved strategy.

The scheme shall subsequently be implemented prior to occupation.

#### Reason

- To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site.
- To ensure the effective operation of SuDS features over the lifetime of the development.
- To provide mitigation of any environmental harm which may be caused to the local water environment.
- Failure to provide the above required information before commencement of works may result in a system being installed that is not sufficient to deal with surface water occurring during rainfall events and may lead to increased flood risk and pollution hazard from the site.

#### Condition 2

No works shall take place until a scheme to minimise the risk of offsite flooding caused by surface water run-off and groundwater during construction works and prevent pollution has been submitted to, and approved in writing by, the local planning authority. The scheme shall subsequently be implemented as approved.

#### Reason

The National Planning Policy Framework paragraph 167 and paragraph 174 state that local planning authorities should ensure development does not increase flood risk elsewhere and does not contribute to water pollution.

Construction may lead to excess water being discharged from the site. If dewatering takes place to allow for construction to take place below groundwater level, this will cause additional water to be discharged. Furthermore, the removal of topsoils during construction may limit the ability of the site to intercept rainfall and may lead to increased runoff rates. To mitigate increased flood risk to the surrounding area during construction there needs to be satisfactory storage of/disposal of surface water and groundwater which needs to be agreed before commencement of the development.

Construction may also lead to polluted water being allowed to leave the site. Methods for preventing or mitigating this should be proposed.

### Condition 3

Prior to occupation a maintenance plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies on each parcel, has been submitted to and agreed, in writing, by the Local Planning Authority.

Should any part be maintainable by a maintenance company, details of long term funding arrangements should be provided.

### Reason

To ensure appropriate maintenance arrangements are put in place to enable the surface water drainage system to function as intended to ensure mitigation against flood risk.

Failure to provide the above required information prior to occupation may result in the installation of a system that is not properly maintained and may increase flood risk or pollution hazard from the site.

### Condition 4

The applicant or any successor in title must maintain yearly logs of maintenance which should be carried out in accordance with any approved Maintenance Plan. These must be available for inspection upon a request by the Local Planning Authority.

### Reason

To ensure the SuDS are maintained for the lifetime of the development as outlined in any approved Maintenance Plan so that they continue to function as intended to ensure mitigation against flood risk.

We also have the following advisory comments:

- We strongly recommend looking at the Essex Green Infrastructure Strategy to ensure that the proposals are implementing multifunctional green/blue features effectively. The link can be found below.

<https://www.essex.gov.uk/protecting-environment>

- Please note that the Environment Agency updated the peak rainfall climate change allowances on the 10 May 2022. Planning applications with outline approval are not required to adjust an already approved climate change allowance, however, wherever possible, in cases that do not have a finalised drainage strategy please endeavour to use the updated climate change figures Flood risk assessments: climate change allowances - GOV.UK ([www.gov.uk](http://www.gov.uk))

- Please note that where discharge is to a public sewer, consent from the relevant authority will be required. The links can be found below.

<https://www.anglianwater.co.uk/developing/drainage-services/sustainable-drainage-systems/>

<https://www.thameswater.co.uk/developers>

- Any works to a ditch may require a S23 Ordinary Watercourse Consent. Please see the below link for more information and how to apply.

<https://flood.essex.gov.uk/maintaining-or-changing-a-watercourse/>

INFORMATIVES:

- Essex County Council has a duty to maintain a register and record of assets which have a significant impact on the risk of flooding. In order to capture proposed SuDS which may form part of the future register, a copy of the SuDS assets in a GIS layer should be sent to [suds@essex.gov.uk](mailto:suds@essex.gov.uk).
- Any drainage features proposed for adoption by Essex County Council should be consulted on with the relevant Highways Development Management Office.
- Changes to existing water courses may require separate consent under the Land Drainage Act before works take place. More information about consenting can be found in the attached standing advice note.
- It is the applicant's responsibility to check that they are complying with common law if the drainage scheme proposes to discharge into an off-site ditch/pipe. The applicant should seek consent where appropriate from other downstream riparian landowners.
- The Ministerial Statement made on 18th December 2014 (ref. HCWS161) states that the final decision regarding the viability and reasonableness of maintenance requirements lies with the LPA. It is not within the scope of the LLFA to comment on the overall viability of a scheme as the decision is based on a range of issues which are outside of this authority's area of expertise.
- We will advise on the acceptability of surface water and the information submitted on all planning applications submitted after the 15th of April 2015 based on the key documents listed within this letter. This includes applications which have been previously submitted as part of an earlier stage of the planning process and granted planning permission based on historic requirements. The Local Planning Authority should use the information submitted within this response in conjunction with any other relevant information submitted as part of this application or as part of preceding applications to make a balanced decision based on the available information.

Environmental  
Protection  
02.05.2024

Contaminated Land: with reference to the formal submitted Phase One report, dated December 2023, I can confirm we are satisfied with the methodology and its findings. As such we are requesting a watching brief be imposed on any subsequent approval -

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;
  - o treatment of material on site to meet compliance targets so it can be re-used;
  - 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

Police Strategic  
Planning  
Consultation

No comments received.

Arch. Liaison  
Off, Essex  
Police  
02.05.2024

The 'Essex Police – Designing out Crime Office' (DOCO), welcomes the opportunity to comment. We recognise that communities where safety and security has been addressed and 'designed in' at the earliest planning stages, will enhance the health and wellbeing of its residents. Perception of crime and fear of crime can be an influential factor in determining the synergy and ongoing sustainability of a community.

An integrated approach to crime prevention at an early stage is necessary to all significant components of its design, planning, and layout. Good design and early co-ordination, incorporating 'Crime Prevention Through Environmental Design' (CPTED), can avoid the conflicts that may be expensive or impossible to resolve once the construction is complete.

It is encouraging to see the applicant is taking crime into consideration as referenced in paragraph The development incorporates or provides measures to minimise opportunities for crime and anti-social behaviour (Response To Policy SPL 3 page 60 of the DAS). However, the DOCO would like to meet with the applicant to discuss their measures in more detail to ensure the development is safe for future residents.

The would also like to discuss the following:

- Security.
- Access and movement.
- Play area.

Good design is crucial for housing longevity. Creating safe and secure homes AND incorporating the principles of Crime Prevention Through Environmental Design (CPTED) will enhance the lifespan allowing homes to be designed for the future and not just for present day.

North Essex  
Parking  
Partnership  
25.04.2024

Consideration needs to be given to the installation of appropriate parking control measures on all junctions and turning points on any section of road which is likely to be formally adopted in the future.  
Preventing parking at these particular points will ensure that large vehicle access, particularly associated with refuse collection and the emergency services can be maintained at all times.  
Relying on motorists to park considerably will not be sufficient, and adequate measures will need to be introduced.

UU Open  
Spaces  
28.05.2024

Public Realm Assessment

Play Space - current deficit:  
- Deficit of 2.22 hectares of equipped play in Clacton

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

Settlement provision:  
- Foots Farm open space and play area, 0.5 miles from the planned development site.

#### Officer Conclusions and Recommendations

Contribution necessary, related, and reasonable?  
to comply with CIL Regs\*  
- A contribution is relevant and justified to this planning application, there is only provision for open space on site and not play. Any contribution will be used to increase the play provision at the nearest play area known as Foots Farm.

Identified project\*:  
(In consultation with Town / Parish Council on upcoming projects or needs for maintenance)  
- Increase in play equipment for teenagers.

UK Power  
Networks

No comments received.

Tree &  
Landscape  
Officer  
16.05.2024

The application site comprises uncultivated agricultural land with established boundary hedgerows that are important screening features. The main body of the land is populated with young, self-sown, trees comprising Oak, Silver Birch and Blackthorn. There is a single Ash situated in the southwestern corner of the application site. Whilst the trees provide some habitat value, they make little contribution to the amenity of the locality and consequently do not merit retention or formal legal protection by means of a tree preservation order.

To show the extent of the constraint that the hedgerows and the Ash tree are on the development potential of the land the applicant has submitted an Arboricultural Impact Assessment (AIA).

The AIA has been completed in accordance with BS5837: 2012 Trees in relation to design, demolition and construction. Recommendations.

The information contained in the report demonstrates that the Ash tree is not well-formed specimen and consequently is not a significant constraint on the development potential of the land. The Tree Protection Plan (TPP) shows that the Ash (T1) and existing boundary hedgerows, H1, H2 and H3 are to be retained except for a short section of H1 that is to be removed to facilitate access to the land.

Regarding the local landscape character, the application site is situated in the Clacton and the Sokens Clay Plateau Landscape Character Area (LCA). The LCA is a gently undulating clay plateau with low, gappy hedgerows and occasional hedgerow trees that divide arable fields.

The application site is on the urban fringe of Clacton on Sea adjacent to an industrial estate and residential development. Consequently, the character of the immediate local environment is influenced by existing built development.

To show the potential impact of the development proposal on the local landscape character the applicant has provided a Landscape and Visual Impact Assessment (LVIA). This document sets out the baseline qualities and characteristics of the LCA and quantifies the likely impact of the completed development on the local landscape.

The document identifies several locations (visual receptor viewpoints) from which the application site can be viewed.

In the main the viewpoints can be divided into two distinct types. Firstly, the viewpoints closest to the application site where views of the site are clear and potentially harmful. And secondly where viewpoints are more distant, and views of the site are either totally or partially obscured by intervening elements in the landscape.

Firstly, views of the site from those viewpoints closest to the application site (1 to 7 and 11 to 14) are comprehensively screened by existing boundary hedgerows. Considering the single-story style of the development rooftops may be seen above existing hedgerows and filtered views between hedgerows in winter months however the existing vegetation will continue to provide a high level of screening.

From the remaining and more distant viewpoints (8 to 18 excluding 11 to 14) the site is either completely screened by intervening development or elements of the landscape, such as trees and hedgerows or views so distant that the proposed change of use of the land will be barely perceptible in the landscape.

As the proposed development will not be clearly visible from any of the viewpoints the harm caused to the visual qualities of the landscape will be minor and negligible.

In terms of the change of use of the land from agriculture to housing this will result in permanent harm to the character of the application site itself but in wider terms will not have a major impact on the existing landscape character. In this regard the impact and influence of the existing development on the urban fringe of Clacton on Sea heavily influences local landscape character.

On balance It is considered that development in this location would cause negligible harm to the character and visual qualities of the landscape, will not result in a significant diminishment in the quality of the landscape or otherwise significantly affect the character of the area.

Regarding soft landscaping the applicant has submitted detailed plans as part of the Design and Access Statement including details on the plan entitled



Development Layout (MA019-PL-02) that show a high level of new tree, hedge, and shrub planting.

The information provided is acceptable in principle however further details of plant species, quantities and specification will be required and can be secured by a condition attached to any planning permission that may be granted.

It should be noted that the hedgerow on the boundary of the application site with Centenary Way appears to have been planted on highway land at the time Centenary Way was constructed and consequently may not fall under the control of the applicant. It will be important to ensure that this hedgerow is retained and strengthened by adjacent planting for the screening benefit that it provides.

Essex County  
Council Ecology  
17.05.2024

Holding objection due to insufficient ecological information on:

- a) European Protected Species (Great Crested Newt and Hazel Dormouse);
- b) Protected species (reptiles and breeding birds) and;
- c) Mandatory Biodiversity Net Gain.

#### Summary

We have reviewed the Preliminary Ecological Assessment (ACJ Ecology, January 2024), relating to the likely impacts of development on designated sites, protected & Priority species and habitats and identification of proportionate mitigation.

We are not satisfied that there is sufficient ecological information available for determination of this application.

#### Great Crested Newt

We note that the Preliminary Ecological Assessment (ACJ Ecology, January 2024) identifies a pond onsite of the proposed development. Upon review of the proposed plans, it is indicated that this pond will be removed to facilitate the development. As the site lays within an Amber risk zone for the GCN District Level Licensing (GCN Risk Zones (Essex) | Natural England Open Data Geoportal (arcgis.com)) and the site consists of suitable terrestrial habitat, the Preliminary Ecological Assessment (ACJ Ecology, January 2024) recommends that GCN needs further consideration or assessment. However, the recommended consideration or assessment has not been stated within the report and no further ecological information in relation to Great Crested Newt has been submitted. Therefore, the LPA does not have certainty of the likely impacts to GCN (European Protected Species). As a result, it is recommended that this "further consideration or assessment" must be submitted prior to determination. It may be likely that a further presence / likely absence survey for GCN could be recommended within the pond to be removed to inform any further mitigation if necessary. The results of any recommended surveys must also be undertaken prior to determination.

To fully assess the impacts of the proposal the LPA need ecological information for the site, particularly for Great Crested Newt (GCN), European Protected Species. These surveys are required prior to determination because Government Standing Advice indicates that you should "Survey for great crested newts if there's a pond within 500 metres of the development, even if it only holds water some of the year".

The applicant may be interested to know that Natural England's District Level Licensing for GCN is now available in Essex- see <https://www.gov.uk/government/publications/great-crested-newts-district-level-licensing-schemes> - where sites can be registered to be covered by this strategic mitigation scheme. Guidance for developers and registration forms to

join the scheme are available and the LPA will need an Impact Assessment and Conservation Payment Certificate (IACPC) document countersigned by Natural England as evidence of site registration prior to determination where this European Protected Species is likely to be present and affected by development.

#### Hazel Dormouse

We note that the Preliminary Ecological Assessment (ACJ Ecology, January 2024) considered that a no further considerations or survey is necessary for Hazel Dormouse. However, the justification provided for this conclusion is short and vague. We note that the majority of the site (1.88 Ha) is categorised as being dense mixed scrub which could be considered suitable for Hazel Dormouse and is to be cleared by the proposals with suitable connective habitat (hedgerows) leading to and from the site. Therefore, further justification / information should be provided by the applicant's ecologist explaining how Hazel Dormouse are likely to be absent from the site and/or unaffected by the proposals.

However, if further reasonable justification cannot be provided and as greater than 50m<sup>2</sup> of suitable habitat is to be removed, it would be considered best practice that surveys to identify the presence / likely absence of Hazel Dormouse be undertaken and results of submitted prior to determination of this application.

#### Reptiles

We also note that the Preliminary Ecological Assessment (ACJ Ecology, January 2024) considers that the site is not suitable for reptile species, as the site contains dense mixed scrub. However, upon observation of the photograph provided within the Preliminary Ecological Assessment (ACJ Ecology, January 2024) the site appears to contain a mosaic of scrub with patches of shorter areas of rough grassland and therefore could be suitable for common reptile species. Therefore, further justification should be provided by the applicant's ecologist explaining how reptiles are likely to be absent / unaffected by the proposals. If further presence / likely absence surveys for reptiles are required, the results of these surveys should also be submitted prior to determination of this application.

#### Breeding Birds

We note that the Preliminary Ecological Assessment (ACJ Ecology, January 2024) only recommends that a nesting bird check should be undertaken prior to the vegetation clearance to mitigation impacts to breeding birds. However, as 1.88Ha of dense scrub is to be removed, this could provide suitable habitat for a variety of breeding bird species which could include, but not limited to, Cetti's Warbler, listed on Schedule 1 of the Wildlife and Countryside Act (1981). As a result, further justification on why no further breeding bird surveys, in line with the Breeding Bird Survey Guidelines, should be provided by the applicant's ecologist.

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

This information is therefore required to provide the LPA with certainty of likely impacts on legally protected species and be able to secure appropriate mitigation either by a mitigation licence from Natural England or a condition of any consent. This will enable the LPA to demonstrate compliance with its

statutory duties, including its biodiversity duty under s40 NERC Act 2006 (as amended) and prevent wildlife crime under s17 Crime and Disorder Act 1998.

#### Biodiversity Net Gain

Furthermore, we have reviewed the Biodiversity Assessment (ACJ Ecology, April 2024) and the Statutory Biodiversity Metric (completed by Andrew May, 21st January 2024) submitted to demonstrate the baseline biodiversity value of the site in addition to demonstrating that a net loss of habitat units will result because of the proposal. It is outlined within the Biodiversity Assessment (ACJ Ecology, April 2024) that development would result in a 19.16% net loss of habitat units across the site and therefore the assessment recommends that it will be necessary that offsite measures should be secured by S106 agreement. However, we are not satisfied that the submitted information includes sufficient information in relation to mandatory Biodiversity Net Gain due to missing and inconsistent information. It is recommended that following below should be addressed and submitted prior to determination of this application, in line with the Biodiversity Net Gain Planning Practice Guidance:

- Condition assessments and justification of condition scores should be provided for all baseline habitat values and linear (Hedge) values;
- We note that the Preliminary Ecological Assessment (ACJ Ecology, January 2024) references that a pond is present onsite, however this has not been appropriately mapped, assessed, or values calculated within either the Biodiversity Assessment (ACJ Ecology, April 2024) or Statutory Biodiversity Metric (completed by Andrew May, 21st January 2024). Using Magic Maps, we note a potential pond onsite measuring approximately 60.5m<sup>2</sup>, which is greater than the "de minimis" value of 25m<sup>2</sup>. Therefore, further justification on why this pond is omitted from the BNG values or the inclusion of this pond including relevant condition assessments should be provided with an amended Biodiversity Assessment (ACJ Ecology, April 2024) and Statutory Biodiversity Metric.
- The Biodiversity Assessment (ACJ Ecology, April 2024) states that habitat units will be purchased to deliver BNG which should be secured by S106 agreement. As offsite measures and s106 is recommended further details of these measures and parties involved should therefore be provided prior to determination.
- However, it is not clear that the BNG hierarchy has been followed and all other considerations for onsite and offsite compensations have been exhausted. This is because buying BNG units should be a "last resort". It is therefore recommended that further justification should be provided or other options for onsite/ offsite measures be explored to demonstrate that the BNG hierarchy has been followed appropriately.

We have also identified some further discrepancies and missing information in regard to the post-implementation habitat creations which should be addressed to ensure that the biodiversity are realistic and deliverable. This includes justification on how the net gain of 130% of hedgerow units, from an enhancement of three "poor" condition hedgerows to three "moderate" condition hedgerows, can be achieved. However, this would not be a reason for determination at this application stage.

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

#### Additional Comments

The site falls within the evidenced recreational Zone of Influence (ZOI) of Essex Coast RAMs. Given the residential element of this development is relevant to the Essex Coast RAMS, the LPA has 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 look forward to working with the LPA and the applicant to receive the additional information required to support a lawful decision and overcome our holding objection.

### 3. **Planning History**

96/00097/OUT	Erection of industrial building (outline)	Approved	17.06.1997
98/00170/DETAIL	Erection of industrial building (details following outline planning permission TEN/96/0097)	Approved	19.05.1998
01/01941/FUL	Erection of industrial building (renewal of planning permissions TEN/96/00097 and 98/00170/DETAIL)	Refused	10.01.2002
24/00317/FUL	Planning Application - Erection of 40 no. two and three bedroom bungalows and associated landscaping, roads, parking and drainage infrastructure, an entrance from Thorpe Road and a new area of public open space.	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 19<sup>th</sup> December 2023, sets out in Paragraph 76 that (for applications made on or after the date of publication of this version of the Framework) local planning authorities are not required to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing for decision making purposes if the following criteria are met:

- their adopted plan is less than five years old; and
- that adopted plan identified at least a five-year supply of specific, deliverable sites at the time that its examination concluded.

The adopted Local Plan meets these criteria.

Notwithstanding this updated provision, the Council will continue to demonstrate an updated supply of specific deliverable sites within its Strategic Housing Land Availability Assessment (SHLAA), which is published annually. The most recent SHLAA was published by the Council in 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 draft or adopted neighbourhood plans relevant to this site.

## 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
- HP1 Improving Health and Wellbeing
- HP3 Green Infrastructure
- HP5 Open Space, Sports and Recreation Facilities
- LP1 Housing Supply
- LP2 Housing Choice
- LP3 Housing Density and Standards
- LP4 Housing Layout
- LP5 Affordable Housing
- PP12 Improving Education and Skills
- PPL1 Development and Flood Risk
- PPL3 The Rural Landscape
- PPL4 Biodiversity and Geodiversity
- PPL5 Water Conservation, Drainage and Sewerage
- PPL6 Strategic Green Gaps
- PPL7 Archaeology
- PPL9 Listed Buildings
- PPL10 Renewable Energy Generation and Energy efficiency Measures
- CP1 Sustainable Transport and Accessibility
- CP2 Improving the Transport Network

### 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

[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 and Context

The application site lies to the north of the town of Clacton-on-Sea and consists of 2.4 hectares of undeveloped land and is surrounded by dense hedgerow/vegetation.

The land is located to the north-west of the roundabout at the intersection of Centenary Way, Thorpe Road, and Stephenson Road. Centenary Way runs along the southern boundary and Thorpe Road along the eastern boundary. To the north-east lies residential development off Bramwood Road and to the east and south east lies commercial development. To the south on the opposite side of Centenary Way is a former riding school which is now under construction for housing. To the north and west is open farmland.

The site lies wholly outside of any settlement development boundary (SDB) with the SDB for the town of Clacton-on-Sea abutting to the east and south. The site lies wholly within the Strategic Green Gap (SGG). Oak House Grade II listed building is the only nearby heritage asset approximately 0.1 miles to the north.

### Proposal

The application proposes erection of 40 two and three bedroom bungalows and associated landscaping, roads, parking and drainage infrastructure, an entrance from Thorpe Road and a new area of public open space.

28 market bungalows are proposed (5 two beds and 23 three beds), and 12 affordable bungalows (7 two beds and 5 three beds). A Local Area of Play is also included within the site and a foul water pumping station.

The application was submitted 28/02/2024 but made valid 15/04/2024. Extensions of time have been secured to allow the applicant to submit additional information in relation to surface water drainage, highways and ecology.

### Relevant Planning History

96/00097/OUT and 98/00170/DETAIL approved erection of an industrial building on the site in 1997/1998.

01/01941/FUL for renewal of those permissions was refused in January 2002 on the grounds that the rural areas outside existing settlements should be protected from inappropriate development. The application was refused for the following reason 'In this instance the site for the proposed development lies in the open countryside and within an area which is specially protected from development through local plan policy TCR2 to retain a clear separation between the settlements of Clacton and Little Clacton particularly by protecting the land either side of Centenary Way. The development approved in 1997 was supported by the Council on the basis of the exceptional needs and circumstances of the developer at that time. It is considered that such extenuating

circumstances no longer prevail, and the proposed development would therefore be fundamentally contrary to the aforementioned planning policies’.

The current application form states the previous use of the site was B2 industrial. However, a letter from the Council dated 29/09/03 scanned to 98/00170/DETAIL confirms works undertaken prior to expiry were considered to be unauthorised as pre-commencement conditions were not discharged.

20/01202/FUL for ‘Proposal to create 58 no. one, two and three bedroom houses and apartments, Medical Centre plus associated infrastructure and public open space (revised description (nr of units) and re-consultation as the proposal constitutes a Departure from the Development Plan)’ was withdrawn in December 2022. The concerns raised within that application related to the height of the two storey houses and Doctor’s surgery; outside SDB; harm to the countryside and SGG; no details of proposed renewable energy; insufficient information relating to highways impacts; no S106 for affordable housing, education, healthcare or public open space; and unknown biodiversity impacts.

### Nearby Relevant Planning History

18/01499/OUT for ‘Outline planning permission for the erection of up to 245 dwellings, provision of public open space and supporting site infrastructure with some matters reserved to form access of Thorpe Rd and Centenary Way’ was subject to a non determination appeal (APP/P1560/W/19/32390302) and was dismissed in August 2020. That application excluded the current application site but included adjoining land to the north and west.



The Inspector accepted that the site was in a sustainable location attaching very limited weight to conflict with TDLP Policies SPL1 and SPL2. At Paragraph 22: “I found that, save for a farmhouse, the appeal site and nearby land within this roughly rectangular block of land at the eastern side of the Gap appears largely free of dwellings and buildings. It affords a break between built form on the edge of the settlements of Clacton and Little Clacton and contributes positively to their rural settings in this area”. Paragraph 23: “The TGLVA noted that an established hedgerow spans the length of the boundary with Thorpe Road providing a visual barrier to the countryside to the west. But one is aware of an absence of development and of open countryside beyond.” Paragraph 24: “Aside from the fallow field fronting the roundabout I saw little evidence of noticeable detracting elements on the Gap side. The experience of travelling along Thorpe Road is generally one of passing along the edge of a settlement, not within the urban fringe.” Paragraph 27: “The clear break between Clacton and Little Clacton would be reduced to a small section west of Reedlands Farmhouse, on Holland Road. A reduction in the width of the Gap from roughly 500m to 300m. Settlements would not physically coalesce, but there would be a perception of the settlements becoming almost joined. The open rural setting of Clacton and Little Clacton and the separate identity of Little Clacton would be eroded. The experience of Little Clacton being set apart and in open countryside would be all but lost. This physical proximity would harm the distinct and separate identities of Clacton and Little Clacton. New woodland buffers and a small open space adjacent to the Farmhouse would not fully mitigate the effects”. Paragraph 38: “There would be an illogical intrusion of built elements into an otherwise open and well-defined block of open countryside.” Paragraph 54: “Notwithstanding the benefits, I conclude, for reasons given, that overall, the proposal would harm settlement pattern, the separation, setting and individual identity of settlements, and the character and appearance of the countryside between Clacton and Little Clacton. These harms attract very substantial weight against the proposal.” The Inspector concluded that the appeal scheme conflicted with the Development

Plan as a whole and that there were no material considerations to warrant approval of the development.

20/01130/FUL for 'Erection of 122no. residential units complete with roads and public open space' was approved May 2024 on the opposite side of Centenary Way. This land was previously a horse-riding school and lies within the settlement development boundary.

### Representations

No neighbour letters/public comments have been received.

### Assessment

#### Principle of Development

The site lies wholly outside of any SDB where TDLP Policy SPL2 states the Council will consider any planning application in relation to the pattern and scales of growth promoted through the Settlement Hierarchy in TDLP Policy SPL1 and any other relevant policies in the plan. TDLP 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. 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. TDLP Policy SP7 states all new development should respond positively to local character and context to preserve and enhance the quality of existing places and their environs. TDLP Policy SPL3 states all new development should make a positive contribution to the quality of the local environment and protect or enhance local character.

The site abuts the SDB to Clacton-on-Sea to the east and south. Clacton-on-Sea is identified under Policy SPL1 as a Strategic Urban Settlement. The pre-amble to SPL2 confirms: In general terms, development outside of defined Settlement Development Boundaries will be the subject of strict control to protect and enhance the character and openness of the countryside. The Council has an up to date adopted Local Plan so does not need to look beyond settlement boundaries to provide housing growth.

It is acknowledged that Clacton-on-Sea is a sustainable settlement with a large population which benefits from a range of existing infrastructure and facilities. However, the settlement is already subject to planned growth on both allocated sites and within the defined SDB in close proximity such as the recently approved site for 122 dwellings on the opposite side of Centenary Way (20/01130/FUL) and recently constructed/under construction housing off Bramwood Road (49 dwellings), 323 dwellings at Flint Grange (off Auger Road), and 81 dwellings (22/02123/VOC) on the former chicken farm at the top of Thorpe Road. The application site notably differs from these nearby sites as there is a strong defensible boundary to the application site formed by both Centenary Way to the South, and Thorpe Road to the East where the character starkly changes from built up residential/commercial development to open countryside, as marked by the SGG designation. This physical boundary affords a break between built form on the edge of the settlement of Clacton and contributes positively to the rural setting in this area.

The principle of additional residential development in this location is not therefore accepted and would set an undesirable precedent for further residential development outside of the settlement development boundary in this location contrary to the plan-led approach and the settlement pattern of Clacton-on-Sea.

### Landscape Impact/Strategic Green Gap

The NPPF at paragraph 180 confirms planning policies and decisions should contribute to and enhance the natural and local environment by: b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services.

TDLP S2 Policy PPL3 states the Council will protect the rural landscape and refuse planning permission for any proposed development which would cause overriding harm to its character or



appearance. Policy PPL6 states: The Strategic Green Gaps as shown on the Policies Maps and Local Maps will be protected in order to retain the separate identity and prevent coalescence of settlements. Any development permitted must be consistent with other policies in the plan and must not (individually or cumulatively) lead to the coalescence of settlements.

The site lies outside of any settlement development boundary and within the Strategic Green Gap. The site is outside the urban fringe of Clacton on Sea, on the opposite side of the Thorpe Road to an industrial estate and residential development, and consequently the character of the immediate local environment is influenced by existing built development. The experience of travelling along Thorpe Road is generally one of passing along the edge of a settlement, not within the urban fringe.

The application site is situated in the Clacton and the Sokens Clay Plateau Landscape Character Area (LCA). The LCA is a gently undulating clay plateau with low, gappy hedgerows and occasional hedgerow trees that divide arable fields. The site currently comprises uncultivated agricultural land with established boundary hedgerows and self sown trees, and contributes to the verdant character of the area, softening the urban edge of Clacton.

The submitted Tree Protection Plan (TPP) shows that the Ash (T1) and existing boundary hedgerows, H1, H2 and H3 are to be retained except for a short section of H1 that is to be removed to facilitate access to the land. The applicant has also provided a Landscape and Visual Impact Assessment (LVIA) which identifies several locations (visual receptor viewpoints) from which the application site can be viewed. Views of the site from those viewpoints closest to the application site (1 to 7 and 11 to 14) are comprehensively screened by existing boundary hedgerows, however it is noted that much of this hedgerow along the full boundary with Centenary Way and a large part of the boundary to Thorpe Road lie outside the application site and are not shown to be under the control of the applicant. These hedgerows provide a visual barrier to the open countryside to the west but one is aware of an absence of development and of open countryside beyond. The change of use of the land from agriculture to housing will result in permanent harm to the character of the application site. From the remaining and more distant viewpoints (8 to 18 excluding 11 to 14) the site is either completely screened by intervening development or elements of the landscape, such as trees and hedgerows or views so distant that the proposed change of use of the land will be barely perceptible in the landscape.

The Strategic Green Gaps Review (2020) describes the landscape character of the 'Land between Clacton and Little Clacton' SGG as: "largely made up of flat to gently undulating agricultural land. This is principally in the form of large-scale arable fields, with some smaller-scale pasture fields and paddocks adjacent to settlement edges and around farmsteads. Fields are generally rectilinear and defined by low gappy hedgerows with occasional hedgerow trees". "The landscape within the SGG therefore retains a rural character, albeit with urban-fringe influences in places. Existing land uses and features contribute to the character of the SGG as open and undeveloped land and there is a general absence of built development". "Overall, views to and from Little Clacton and Clacton across the intervening SGG generally contribute to the character of an open and undeveloped landscape and provide a perception of visual separation."

In relation to Gap Extent the Strategic Green Gaps Review (2020) confirms "The main direct route between Clacton and Little Clacton is the B1441 London Road." "Despite the presence of some scattered built forms along the road, there is a distinct sense of leaving one settlement and travelling through the gap before arriving at the other. This sense of separation is strengthened by the presence of the intervening B1442 [Centenary Way] and its roundabout junction with London Road. This provides a clear threshold feature between the two settlements when travelling along London Road. Overall, the SGG maintains a clear physical separation between the two settlements and prevents coalescence."

The B1442 (Centenary Way) and Thorpe Road both provide strong defensible boundaries to the SGG, the proposed development of the application site would breach those boundaries causing a significant physical narrowing of the gap between Clacton and Little Clacton and therefore diminish the role the SGG plays in maintaining separation between the two settlements. The proposal would harm settlement pattern; the separation, setting and individual identity of Clacton and Little Clacton; the character and appearance of the countryside between Clacton and Little Clacton; and would set

a harmful precedent for other development within the SGG to the further detriment of its role in preventing coalescence of the two settlements.

### Design/layout

TDLP Policy SP7 seeks high standards of urban and architectural design, which responds positively to local character and context. TDLP Policies SPL3 and LP4 also require, amongst other things, that developments deliver new dwellings that are designed to high standards and which, together with a well-considered site layout, create a unique sense of place.

The development will be served by a single vehicular access off Thorpe Road, in close proximity to accesses serving residential and commercial development opposite. The bungalows are set back from Thorpe Road behind the existing hedgerow and with additional proposed planting. The site is divided into four blocks of dwellings which face outwards with small front gardens/ample soft landscaping to create an attractive development. Each property is served by ample private amenity space and off street parking with attractive landscaped areas to the south and west incorporating footpaths and a Local Equipped Area of Play which is sufficiently overlooked by dwellings. A foul water pumping station is proposed to the south, it was requested that this was made less prominent by enhanced screening and siting closer to the corner with the footpath redirected in front, however this issue could be addressed by condition as discussed under Drainage below.

The bungalows are of traditional design and materials (as listed on the application form) featuring red, and red multi brick, small areas of weatherboarding in arctic white, with hipped roofs in 3 finishes. There is no objection to the detailed design which is in keeping with the character of the nearby Bramwood Road site. It is acknowledged that the ridge height of the bungalows could enable future loft conversions however it is not considered necessary or reasonable to remove permitted development rights in this case for either design or amenity reasons.

Detailed soft landscaping plans have been submitted which show a high level of new tree, hedge, and shrub planting. Further details of hardsurfacing, plant species, quantities and specification will be required and could be secured by condition. Proposed boundary treatments comprise 1.8m brick walls to all external garden boundaries and 1.8m fencing to internal boundaries/rear of parking spaces which will ensure a quality development.

### Heritage Assets

The site is not within a conservation area. The only nearby heritage asset is Grade II listed Oak House (formally known as Burnt House) which is approximately 0.1 miles to the north. Due to distance and intervening vegetation the proposal will not harm the setting of this heritage asset.

ECC Archaeology have identified the site as having potential to impact on archaeological remains as recent archaeological excavation on land east of Thorpe Road has revealed Medieval settlement activity and scattered prehistoric activity. The development site is bounded by a historical route along which medieval to postmedieval settlement is recorded. An evaluation will therefore be required to determine the nature, extent and significance of any archaeological remains that may be impacted upon by the development. Conditions would therefore be required on any approval securing a programme of archaeological investigation and reporting.

### Residential amenity

Paragraph 130 (f) of the NPPF states that planning should always seek to secure a good standard of amenity for all existing and future occupants. TDLP Policy SP7 requires that the amenity of existing and future residents is protected. TDLP Policy SPL3 Part C seeks to ensure that development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties.

The closest dwellings to the site are located on the opposite side of Thorpe Road off Bramwood Road comprising bungalows and chalet bungalows. Given the separation distance and dense existing and proposed planting to both sides there would be no material harm in terms of loss of

privacy, light or outlook. New dwellings are commencing construction to the south side of Centenary Way under 20/01130/FUL but would also be well separated with dense intervening existing and proposed planting to prevent any loss of privacy, light or outlook.

All the proposed bungalows meet the nationally described space standards, have ample private amenity space to meet their needs and are adequately spaced to ensure satisfactory outlook and light. No first floor accommodation is proposed so there will be no material overlooking subject to securing appropriate boundary treatments by condition. It is acknowledged that the ridge height of the bungalows could enable future loft conversions however it is not considered necessary or reasonable to remove permitted development rights in this case for amenity reasons due to the separation distances between the plots and the limitations on side windows under permitted development rights.

Any approval would be subject to a condition securing a construction management plan in the interests of reducing pollution and disturbance to neighbouring residents.

The Council's Environmental Protection team have reviewed the Phase One contamination report and are satisfied with the methodology and its findings subject to a watching brief being imposed on any approval to ensure the development is safe for the end users.

### Access and Parking

Paragraph 114 of the NPPF seeks to ensure that safe and suitable access to a development site can be achieved for all users, the design of parking areas and other transport elements reflects current national guidance and the content of associated standards and that any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree. Paragraph 115 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

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. TDLP Policy CP1 states proposals for new development must be sustainable in terms of transport and accessibility and therefore should include and encourage opportunities for access to sustainable modes of transport, including walking, cycling and public transport.

The Highway Authority provided informal comments on the original plans which resulted in amended plans being submitted. Negotiations were on going but not fully resolved and the Highway Authority has confirmed their objection to the proposal as it has not been demonstrated that the proposal would be acceptable in terms of highway safety, efficiency, and sustainability. A staggered junction PICADY analysis is required to establish if traffic queueing on Thorpe Road due to waiting traffic turning right between the two junctions would conflict with one another, before the proposed location of the access can be agreed. Alternatively, the proposed site entrance will need to be moved to ensure a minimum distance of 45 metres between the access and Bramwood Road. Due to the likely changes that would be required to the site layout this matter could not be covered by condition so must form a reason for refusal.

The Highway Authority also request the provision of a 3.5 metre wide shared footway/ cycleway set back from Thorpe Road along the entire length of the site and the widening of the existing footway near the roundabout with Centenary Way with the delivery being secured by a condition and planning obligation using Section 278 of the Highways Act. It is considered these matters could be secured by condition/legal agreement so do not need to form a reason for refusal.

The Highway Authority also request a S106 contribution of £23,000 towards the local bus services operating on Stephenson Road West and/or Thorpe Road, Farmleigh Avenue and Gorse Lane to serve the development, or towards the design or delivery of a formalised crossing near the roundabout with Centenary Way /Thorpe Road/ Stephenson Road West. It is considered that such

a request is reasonable and justified by the need to encourage sustainable modes of transport. This would need to be secured by legal agreement which has not been done so this needs to form a reason for refusal.

Each property is served by a minimum of two off street parking spaces and 0.25 visitor parking spaces in accordance with the parking standards and in the interests of highway safety. The submitted Parking Plan also shows EV charging points to every dwelling, a condition will need to be imposed to secure the specific EV equipment proposed and secure its provision prior to occupation. The submitted Parking Plan also shows a two cycle shed to every dwelling's rear garden.

### Drainage

The site lies in Flood Zone 1 at low risk of flooding from rivers and the sea.

The site lies outside the Clacton Critical Drainage Area but contains patches of identified low surface water flood risk to the south eastern and north eastern corners of the site. A flood risk assessment and drainage strategy has been submitted. ECC SUDS initially objected to the proposal as detailed in the consultation responses above. Additional information was provided by the applicant and SUDS confirmed no objection subject to conditions securing further details on surface water drainage and maintenance.

Affinity Water have confirmed they have no comments.

The application form confirms the development will connect to mains drainage. Anglian Water confirm they are obligated to accept the foul flows from the development. They raise concern that contrary to the surface water hierarchy the on site pond has not been considered for surface water disposal and request a pre-commencement condition for the approval of a surface water management strategy. However, the on site pond no longer exists (SUDS also raised the possibility of drainage to a ditch to the east of the site which was also confirmed as not existing). It is therefore considered that the conditions recommended by ECC SUDS will adequately address the surface water drainage of the development.

The proposal includes a foul water pumping station in the south west corner of the site which will need to meet Anglian Water standards. Elevational drawings were requested and the applicant confirmed the following in a covering letter: The space shown on the drawing will be a secure compound, with outward-opening gates on the east side so that the access for tankers and service vehicles is from the adjoining turning head. All infrastructure is below ground level apart from a small control kiosk, therefore the enclosure will be the only the element of the pumping station that will be visible from a distance. However, it is not known if Anglian Water will require a wall or railing to enclose their compound, therefore it is proposed that a condition is used to ensure that a satisfactory appearance can be delivered, and that this can include additional landscaping or re-routing of the perimeter path if the final version of the pumping station compound is considered to be too dominant or will block surveillance of the public realm. This position is agreed.

### 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. The following features underscore how the proposal positively impacts biodiversity, offsetting requirements necessary for the development to take place.

The proposal includes onsite public open space which forms a circular route around the site, providing connectivity, along with extensive tree (including street trees) planting, hedgerow planting, hedgehog highway, and bird boxes. Conditions would be imposed on any approval securing a Construction Environment Management Plan (CEMP), a Landscape Ecological Management and Maintenance Plan (LEMP), and a Habitat Management and Monitoring Plan. Therefore, the development on balance and with consideration of the impact of the development and baseline situation on site, would conserve and enhance biodiversity interests.

### 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. The statutory framework for BNG applies as accepted by the applicant. This involves the imposition (automatically applied as a deemed condition) of a planning condition on approvals to ensure the objective of at least 10% net gain over 30 years. The determination of the Biodiversity Gain Plan (BGP) under this planning condition is the mechanism to confirm whether the development meets the biodiversity gain objective. Development may not be begun until the BGP, via planning condition discharge, is approved.

Given this position, the government strictly provides it would generally be inappropriate for decision makers to refuse an application on the grounds that the biodiversity gain objective will not be met. It is considered logical to confirm this closer to commencement of development, given the potential number of options available. This further supports the position that the biodiversity gain objective can always be met in some form.

### 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. Prior to any approval, a S106 Legal Agreement/Unilateral Undertaking would need to be sought 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. No legal agreement has been provided and this therefore represents a reason for refusal.

### Protected Species

Paragraph 185 of the NPPF confirms that to protect and enhance biodiversity and geodiversity plans should promote the protection and recovery of protected species. TDLP Policy PPL4 confirms proposals for new development should be supported by an appropriate ecological assessment. Where new development would harm biodiversity or geodiversity, planning permission will only be

granted in exceptional circumstances, where the benefits of the development demonstrably outweigh the harm caused and where adequate mitigation or, as a last resort, compensation measures are included, to ensure a net gain, in biodiversity.

In accordance with Natural England's standing advice the application site and surrounding habitat have been assessed for potential impacts on protected species. The Preliminary Ecological Appraisal has been reviewed by colleagues at Place Services Ecology who confirm a holding objection due to insufficient ecological information on: a) European Protected Species (Great Crested Newt and Hazel Dormouse); b) Protected species (reptiles and breeding birds) and; c) Mandatory Biodiversity Net Gain. ECC Green Infrastructure also issue a holding objection based on the net loss in habitats as stated in the Biodiversity Net Gain assessment.

The concerns raised in relation to BNG are addressed in the section above, this matter would be dealt with via condition discharge so does not form a reason for refusal.

Additional information has been provided comprising an Ecology Note (EN) dated 10 June 2024. The EN provides commentary on the potential for the site to be an appropriate habitat for hazel dormouse and reptiles (neither are deemed to be present), sets a timescale for clearance of the existing dense scrub to avoid harm to Cetti's Warblers (if they are present), a review of the mitigation hierarchy and further clarification on offsetting biodiversity net gain. It proposes further investigation in relation to Great Crested Newts (eDNA sample to inform any required mitigation); provision of a Construction Environment Management Plan, Management and Monitoring Plan, Landscape Ecological Management Plan, the ecological context of the Green Infrastructure Plan, and an Urban Green Factor calculation. The application was held in abeyance awaiting receipt of these additional documents however no further ecological information has been provided and the applicant requests this is secured by condition.

The site lays within an Amber risk zone for the GCN District Level Licensing (GCN Risk Zones (Essex)) and the site consists of suitable terrestrial habitat. The Preliminary Ecological Assessment recommends that GCN needs further assessment however this has not been submitted. The results of these surveys are required prior to determination because paragraph 99 of the ODPM Circular 06/2005 highlights that: "It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision." Therefore, the LPA does not have certainty of the likely impacts to GCN (European Protected Species) and this must therefore form a reason for refusal.

Conclusion: In accordance with the overarching duty outlined above, this development subject to conditions would be committed to actively contributing to the conservation and enhancement of biodiversity as set out above. The development would have to align with the statutory framework for biodiversity net gain, to achieve a 10% net gain in biodiversity value over 30 years. In conclusion, this development would be considered to accord to best practice, policy, and legislation requirements in consideration of the impacts on ecology interests subject to conditions on any approval, except in relation to GCN as outlined above and that therefore forms a reason for refusal.

### Sustainable Construction and Energy Efficiency

TDLP Policies PPL10 and SPL3 require consideration be given to renewable energy generation and energy 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. TDLP Policy PPL 5 promotes water conservation and resource efficiency and TDLP Policy CP 3 requires the provision of superfast broadband in all new dwellings.

Page 26 of the Planning Statement states that "the new homes will be zero carbon and zero fossil-fuel, delivering a 103% saving on energy use compared to the current Part L of the Building Regulations (-0.2 kgCO<sub>2</sub>/m<sup>2</sup> versus 66.7 kgCO<sub>2</sub>/m<sup>2</sup> of a typical existing dwelling), meaning that the new bungalows will return more energy to the electricity grid than they use. In short, the proposed scheme will set a strong lead for other developments in the district to follow." The submitted Energy

and Sustainability Strategy also confirms all dwellings will have Air Source Heat Pumps for heating and hot water, solar PV, zero carbon, zero fossil fuel, LED lighting, and EV charging. These sustainability features weigh in favour of the proposal and could be secured by condition alongside the superfast broadband provision.

### Planning Obligations

Paragraph 55 of the NPPF states that Local Planning Authorities should consider whether otherwise unacceptable development can be made acceptable through the use of conditions or planning obligations. Planning obligations must only be sought where they are necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably relate in scale and kind to the development.

TDLP Policy DI1 states that new development should be supported by, and have good access to, all necessary infrastructure. Where a development proposal requires additional infrastructure capacity mitigation measures must be secured. The need for additional infrastructure can be mitigated by a developer through the payment of financial contributions towards new or expanded facilities, on-site or off-site provision and works; and the provision of land.

### Affordable Housing

TDLP Policy LP 5 requires that on sites that create 11 or more dwellings, 30% of the homes should be provided to the Council, or a nominated partner, as affordable housing. In accordance with this requirement 12 affordable bungalows (7 two beds and 5 three beds) are proposed and they are tenure blind. Full details would need to be secured under a legal agreement.

### Highways requirements

The provision of a 3.5 metre wide shared footway/cycleway set back from Thorpe Road along the entire length of the site and the widening of the existing footway near the roundabout with Centenary Way could be secured by condition or legal agreement.

The financial contribution of £23,000 is requested towards the local bus services operating on Stephenson Road West and/or Thorpe Road, Farmleigh Avenue and Gorse Lane to serve the development, or towards the design or delivery of a formalised crossing near the roundabout with Centenary Way /Thorpe Road/ Stephenson Road West. This would need to be secured by legal agreement which has not been done so this needs to form a reason for refusal.

### Open space

TDLP Policy HP5 requires major residential developments to provide at least 10% of land as public open space or otherwise make financial contributions toward off-site provision.

Adequate on site public open space is provided however suitable management arrangements will need to be put in place to ensure that these spaces are managed appropriately, and this will need to be secured by legal agreement.

There is a deficit of 2.22 hectares of equipped play in Clacton, but adequate formal open space in the area to cope with some future development. A contribution is requested to increase play provision for teenagers at Foots Farm open space and play area, 0.5 miles from the site.

However, the applicant proposes a Local Area of Play within the site. Notwithstanding the submitted details it is considered this point could be addressed by legal agreement to secure either on site provision or off site financial contribution for Foots Farm open space and play area with full details to be agreed by our public realm team based on local need. A legal agreement has not been provided and this therefore needs to form a reason for refusal.

### Education

TDLP Policy PP 12 states: Planning permission will not be granted for new residential development unless the individual or cumulative impacts of development on education provision can be addressed, at the developer's cost, either on-site or through financial contributions towards off-site improvements.

The Education Authority have been consulted and chased for comments three times however no comments have been received.

## RAMS

As detailed above a financial contribution (currently £163.86 per dwelling) towards RAMS is required to mitigate the recreational impacts of the proposal. A legal agreement has not been provided and this therefore needs to form a reason for refusal.

## Conclusion

The application proposes 40 dwellings on land which lies wholly outside of any SDB where in general terms development is subject to strict control to protect and enhance the character and openness of the countryside. The Council has an adopted Local Plan with Clacton-on-Sea in close proximity already subject to planned growth on both allocated sites and within the defined SDB so does not need to look beyond settlement boundaries to provide housing growth. Furthermore, the site lies within the SGG where Centenary Way and Thorpe Road to the immediate east and south provide strong defensible boundaries. The proposed development of the application site would breach those boundaries causing a significant physical narrowing of the gap between Clacton and Little Clacton and therefore diminish the role the SGG plays in maintaining separation between the two settlements. Objections are also raised in relation to highway safety as it has not been demonstrated that safe vehicular access can be achieved. The LPA does not have certainty of the likely impacts to Great Crested Newts (European Protected Species), and a legal agreement has not been provided to secure the required provision of affordable housing, public open space, highway works/financial contribution, and RAMS financial contribution.

The public benefits of the proposal comprise provision of housing with enhanced sustainability features, affordable housing, creation of construction and associated jobs, and BNG. However, these public benefits do not outweigh the harm detailed above and the application is therefore recommended for refusal.

## 8. Recommendation

Refusal - Full

## 9. Reasons for Refusal

1. The application proposes 40 dwellings on undeveloped land which lies wholly outside of any settlement development boundary, where in general terms development will be the subject of strict control to protect and enhance the character and openness of the countryside. The Council has an adopted Local Plan and does not need to look beyond settlement boundaries to provide housing growth. The surrounding settlement of Clacton-on-Sea in close proximity to the site is already subject to planned growth on both allocated sites and within the defined settlement development boundary. The application site notably differs from these nearby sites as it has a strong defensible boundary formed by both Centenary Way to the South, and Thorpe Road to the East where the character starkly changes from built up residential/commercial development to open countryside, as marked by the Strategic Green Gap designation. This physical boundary affords a break between built form on the edge of the defined settlement of Clacton-on-Sea and contributes positively to the rural setting in this area. The proposed development of the application site would breach those two boundaries causing a significant physical narrowing of the gap between Clacton and Little Clacton and therefore diminish the role the Strategic Green Gap plays in maintaining separation between the two settlements.



The proposal would harm settlement pattern; the separation, setting and individual identity of Clacton and Little Clacton; the character and appearance of the countryside between Clacton and Little Clacton; and would set a harmful precedent for other development within the Strategic Green Gap to the further detriment of its role in preventing coalescence of the two settlements. The proposal is therefore contrary to the provisions of the National Planning Policy Framework (2023), Policies SP3 and SP7 of the Tendring District Local Plan 2013-2033 and Beyond North Essex Authorities' Shared Strategic Section 1, and Policies SPL2, SPL3, PPL3, and PPL6 of the Tendring District Local Plan 2013-2033 and Beyond Section 2.

2. Further information is required to establish whether the location of the proposed vehicular access is acceptable. It has not therefore been demonstrated that the proposal would be acceptable in terms of highway safety, efficiency, and sustainability contrary to the provisions of the National Planning Policy Framework (2023) and Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Section 2.

3. The site lays within an Amber risk zone for the Great Crested Newt District Level Licensing (GCN Risk Zones (Essex)) and the site consists of suitable terrestrial habitat. The Preliminary Ecological Assessment recommends that Great Crested Newts need further assessment however this has not been submitted. The results of these surveys are required prior to determination because paragraph 99 of the ODPM Circular 06/2005 highlights that: "It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision." Therefore, the Local Planning Authority does not have certainty of the likely impacts to Great Crested Newt (European Protected Species) contrary to the provisions of the National Planning Policy Framework (2023) and Policy PPL4 of the Tendring District Local Plan 2013-2033 and Beyond Section 2.

4. The application fails to secure the required provision of affordable housing, public open space, highway works/financial contribution, and RAMS financial contribution to mitigate the impacts of the development. The proposal is therefore contrary to the provisions of the National Planning Policy Framework (2023), Policy SP2 of the Tendring District Local Plan 2013-2033 and Beyond North Essex Authorities' Shared Strategic Section 1, Policies SPL3, LP5, HP5, PPL4, CP1 and DI1 of the Tendring District Local Plan 2013-2033 and Beyond Section 2, and Regulation 63 of the Conservation of Habitat and Species Regulations 2017.

## **10. Informatives**

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal. However, the issues in reason for refusal 1 are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm which has been clearly identified within the reasons for the refusal, approval has not been possible.

### Plans and Supporting Documents

The Local Planning Authority has resolved to refuse the application for the reasons set out above. For clarity, the refusal is based upon the consideration of the plans and supporting documents accompanying the application as follows, (accounting for any updated or amended documents):

#### Application form

Amended certificate received 15 April 2024

Location Plan MA019-PL-01 rev. B

Development Layout MA019-PL-02 rev. C

Detailed Layout MA019-PL-03 rev. B

Parking Layout MA019-PL-04 rev. C

Garden Areas Layout MA019-PL-05 rev. B

Storey Heights Layout MA019-PL-06 rev. B

Refuse Layout MA019-PL-07 rev. B

Colour of Materials Layout MA019-PL-08 rev. B  
 Landscape Proposals JCN/1755/23 rev. C  
 Type Aa, Plans and Elevations MA019-HT-Type Aa-01 rev. C  
 Type Ab, Plans and Elevations MA019-HT-Type Ab-02 rev. C  
 Type Ba, Plans and Elevations MA019-HT-Type Ba-01 rev. B  
 Type Ca, Plans and Elevations MA019-HT-Type Ca-01 rev. B  
 Type Cb, Plans and Elevations MA019-HT-Type Cb-02 rev. B  
 Type Da, Plans and Elevations MA019-HT-Type Da-01 rev. B  
 Street Elevations A, B & C MA019-ST-01 rev. A  
 Site Access Arrangements and visibility splays IT2126/TS/02 rev. B  
 Arboricultural Impact Assessment and Primary Method Statement (February 2024)  
 Archaeological Desk-Based Assessment (March 2020)  
 Biodiversity Assessment (February 2024), plus Biodiversity Metric 4.0 Calculation Tool (21 January 2024) in Excel format  
 Design and Access Statement (February 2024)  
 Energy and Sustainability Strategy (February 2024)  
 Flood Risk Assessment & Drainage Strategy (February 2024)  
 Landscape and Visual Impact Assessment (February 2024)  
 Phase 1 Geo-Environmental Desk Study and Preliminary Risk Assessment (December 2023)  
 Planning Statement (February 2024), including an affordable housing statement  
 Preliminary Ecological Appraisal (January 2024)  
 Transport Statement (February 2024)  
 Superfast Broadband Strategy (26 March 2024)  
 Ecology Note by ACJ Ecology, dated 10 June 2024  
 Essex County Council Highways & Transportation consultation response to application 20/01202/FUL, dated 03 February 2021  
 Essex County Council LLFA consultation response email and documents received 25 June 2024

**11. Equality Impact Assessment**

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

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

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

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

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

## 12. Notification of Decision

<b>Are there any letters to be sent to applicant / agent with the decision? If so please specify:</b>		NO
<b>Are there any third parties to be informed of the decision? If so, please specify:</b>		NO
<b>Has there been a declaration of interest made on this application?</b>  <b>Declaration of Interest:</b>  <b>Managing director of the applicant company (Benferri Development Ltd.) is related by marriage to Katie Wilkins, Head of People at Tendring District Council.</b>	<b>YES</b>	