

DELEGATED DECISION OFFICER REPORT

AUTHORISATION		INITIALS	DATE
Planning Officer recommendation:		OA	24.10.24
EIA Development - Notify Planning Casework Unit of Decision:	YES / NO	N/A	N/A
Team Leader authorisation / sign off:		JJJ	28/10/2024
Assistant Planner final checks and despatch:		ER	28/10/2024

Application: 24/01281/FUL **Town / Parish:** Elmstead Market Parish Council

Applicant: Mrs Angela Baxter - Elmstead Parish Council

Address: Elmstead Community Centre School Road Elmstead

Development: Planning Application - Proposed Community Centre building and associated car parking (revision of approval 20/00391/FUL)

1. Town / Parish Council

Elmstead Parish Council Elmstead Market Parish Council as the applicant have not commented upon the application.

2. Consultation Responses

ECC Highways Dept
20.09.2024

The information provided with the application has been assessed by the Highway Authority and conclusions reached from a desktop study based on the submitted material and google maps. No site visit was undertaken in conjunction with this planning application. This proposal for a new community centre is a slight modification to the approval application: 20/00391/FUL that was previously acceptable to the Highway Authority. The proposal is in the same location as the building approved under the original application. It is noted that the building will not have an impact on the existing surrounding properties or listed buildings. The building will provide increased community facilities for the village with easy pedestrian and cycle access, along with slight increase in car parking to the original application, considering these factors:

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

1. No development shall take place, including any ground works or demolition, until a Construction Management Plan has been submitted to, and approved in writing by, the local planning authority. The approved plan shall be adhered to throughout the construction period. The Plan shall provide for:
 - i. vehicle routing,
 - ii. the parking of vehicles of site operatives and visitors,
 - iii. loading and unloading of plant and materials,
 - iv. storage of plant and materials used in constructing the development,
 - v. wheel and underbody washing facilities.

Reason: To ensure that on-street parking of these vehicles in the adjoining streets does not occur and to ensure that loose materials

and spoil are not brought out onto the highway in the interests of highway safety and Policy DM 1.

2. Prior to occupation of the development, the road junction / access at its centre line shall be provided with minimum visibility splays dimensions of 2.4 metres by 33 metres in both directions, as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the road junction / access is first used by vehicular traffic and retained free of obstruction above 600mm at all times.

Reason: To provide adequate inter-visibility between vehicles using the road junction / access and those in the existing public highway in the interest of highway safety in accordance with policy DM1.

3. Prior to the occupation of the development the internal layout, access and footway connections shall be provided in principle with drawing number:

- PA-03-C Proposed site layout plan

Reason: To ensure that vehicles using the site access do so in a controlled manner, in the interests of highway safety and in accordance with Policy DM1.

4. The proposed development shall not be occupied until such time as the vehicle parking area indicated on the approved plans, including any parking spaces for the mobility impaired, has been hard surfaced, sealed and marked out in parking bays. The vehicle parking area and associated turning area shall be retained in this form at all times. The vehicle parking shall not be used for any purpose other than the parking of vehicles that are related to the use of the development unless otherwise agreed with the Local Planning Authority.

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

5. The powered two-wheeler/cycle parking facilities as shown on the approved plan are to be provided prior to the first occupation of the development and retained at all times.

Reason: To ensure appropriate powered two-wheeler and bicycle parking is provided in accordance with Policy DM8.

6. Any new boundary planting shall be planted a minimum of 1 metre back from the highway boundary and any visibility splay.

Reason: To ensure that the future outward growth of the planting does not encroach upon the highway or interfere with the passage of users of the highway, to preserve the integrity of the highway and in the interests of highway safety and in accordance with Policy DM1.

The above conditions are to ensure that the proposal conforms to the relevant policies contained within the County Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011 and National Planning Policy Framework 2023.

Informative:

i) All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.

The applicants should be advised to contact the Development Management Team by email at development.management@essexhighways.org

ii) On the completion of the Development, all roads, footways/paths, cycle ways, covers, gratings, fences, barriers, grass verges, trees, and any other street furniture within the Site and in the area, it covers, and any neighbouring areas affected by it, must be left in a fully functional repaired/renovated state to a standard accepted by the appropriate statutory authority.

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

iv) 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.

Essex County Council
Heritage
26.09.2024

The application is for a proposed Community Centre building and associated car parking (revision of approval 20/00391/FUL). The site is located to the south of nine Grade II listed buildings located along Colchester Road and Church Road.

All of the listed buildings are vernacular houses and cottages located in the historic core of the settlement. The open land of the site forms part of their wider landscape setting, however, planning permission has previously been granted for the Community Centre under 20/00391/FUL.

Due to the distance between the listed buildings and the site, intervening development and limited intervisibility, the proposed amendments to the approved building are not considered to be harmful to the significance of the listed buildings in accordance with Chapter 16 of the NPPF. The settings of the listed buildings will be preserved as per Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 are relevant.

Tree & Landscape Officer
16.09.2024

To show the potential impact of the proposed development on the veteran Oak trees on the boundary of the site, with the highway, the applicant has submitted an Arboricultural Impact Assessment (AIA).

The AIA contains an Arboricultural Method Statement (AMS) and a Tree Protection Plan (TPP). Collectively the AMS and the TPP shows

that the proposed development can be implemented without causing harm to the trees.

In terms of soft landscaping the information provided is comprehensive and sufficient to satisfactorily soften, screen and enhance the appearance of the development.

Anglian Water Services
Ltd
04.09.2024

There are no drainage details attached to this application, therefore we have no comments to make.

Please note Anglian Water will only comment on matters relating to drainage/surface water connections to our network.

The applicant should check for any Anglian Water assets which cross or are within close proximity to the site. Any encroachment zones should be reflected in site layout. They can do this by accessing our infrastructure maps on Digdat. Please see our website for further information:

<https://www.anglianwater.co.uk/developers/development-services/locating-our-assets/>

Please note that if diverting or crossing over any of our assets permission will be required. Please see our website for further information: <https://www.anglianwater.co.uk/developers/drainage-services/building-over-or-near-our-assets/>

3. Planning History

14/01728/OUT	Erection of up to 50 dwellings and a new community building, provision of dual-purpose car park, new village allotments and public open space.	Refused (Allowed appeal)	on	05.01.2016
18/00431/DETAIL	Reserved matters application following planning approval 14/01728/OUT - Provision of vehicular & pedestrian access from School Road to the application site in accordance with the Highway Authority's requirements.	Approved		19.10.2018
18/01863/DETAIL	Erection of up to 50 dwellings and a new community building, provision of dual-purpose car park, new village allotments and public open space. (Reserved Matters including Appearance, Layout and Scale)	Approved		14.02.2019
19/00571/DETAIL	Reserved matters application following planning approval 14/01728/OUT- Erection of up to 50 dwellings and a new community building, provision of dual-purpose car park, new village allotments and public open space.	Approved		11.11.2019
19/00572/DISCON	Discharge of conditions 7) Tree protection measures, 12) Ecological Mitigation Scheme & management plan, 13)	Approved		15.05.2019

	Construction Method Statement, 14) Written Scheme of Investigation of Archaeology & 15) Development must not take place other than in accordance with Written Scheme of Investigation approved under Condition 14 - to Approved Planning Application 14/01728/OUT (allowed at Appeal).		
19/00771/DISCON	Discharge of conditions 8, 9, 10 and 11 (all relating to surface water drainage) of application 14/01728/OUT allowed on appeal APP/P1560/W/16/3153567.	Approved	31.07.2019
20/00181/FUL	Proposed amendments to the house type and siting for plots 27,28,31,32,33,34,35, 37,38,39,40, 41,42,43 and 50 approved under 19/00571/DETAIL and 14/01728/OUT.	Approved	11.05.2020
20/00391/FUL	Proposed erection of Elmstead Market's Community Building	Approved	24.08.2020
20/00944/DISCON	Discharge of conditions 16 (broadband) and 17 (bus stops) of application 14/01728/OUT allowed on appeal APP/P1560/W/16/3153567.	Approved	12.08.2020
20/00945/OUT	Removal of condition 18 (residential travel plan) of 14/01728/OUT allowed on appeal APP/P1560/W/16/3153567.	Approved	19.10.2020
21/00410/DETAIL	Proposed relocation of the garage at plot 30. Moved from the front of the dwelling to the side rear.	Withdrawn	05.05.2021

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.

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>

Elmstead Neighbourhood Plan (July 2024)

Policy ELM1: Settlement Development Boundaries
Policy ELM2: Protecting the Setting of Elmstead Market
Policy ELM4: The Former Elmstead Community Centre
Policy ELM8: Zero Carbon Buildings
Policy ELM9: Design Codes
Policy ELM10: Important Views
Policy ELM11: The Village Core
Policy ELM12: Movement and Connectivity
Policy ELM13: Managing Traffic
Policy ELM14: Local Green Spaces
Policy ELM15: Green Ring
Policy ELM16: Nature Recovery
Policy ELM18: Local Community Uses

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
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
HP2 Community Facilities
HP5 Open Space, Sports and Recreation Facilities
PP3 Village and Neighbourhood Centres
PPL1 Development and Flood Risk
PPL4 Biodiversity and Geodiversity
PPL5 Water Conservation, Drainage and Sewerage
PPL9 Listed Buildings
PPL10 Renewable Energy Generation and Energy efficiency Measures
CP1 Sustainable Transport and Accessibility
CP2 Improving the Transport Network
CP3 Improving the Telecommunications Network
DI1 Infrastructure Delivery and Impact Mitigation

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](#)

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

Site Description

The application site is located on the western side of School Road, Elmstead and incorporates part of a wider site which has planning permission for 50 dwellings, open space, allotment provision and community hall. Previous permission for a community hall was granted under reference 20/00391/FUL however this permission has now lapsed.

The red line site plan incorporates the proposed access into the wider site and an area of land to the north of the housing development. The housing to the south is mostly complete but a small area is under construction. To the north are the rear of commercial units and residential properties that front onto Clacton Road. Directly to the east of the site is vegetation that addresses School Road.

Proposal

Proposed Community Centre building and associated car parking (revision of approval 20/00391/FUL – now lapsed)

Assessment

Principle of Development

Paragraph 88 of the NPPF states that planning policies and decisions should enable d) the retention and development of accessible local services and community facilities, such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship.

Further Paragraph 96 of the Framework states that planning policies and decisions should aim to achieve healthy, inclusive and safe place and beautiful buildings which promote social interaction, including opportunities for meetings between people who might not otherwise come into contact with each other – for example through mixed-use developments, strong neighbourhood centres, street layouts that allow for easy pedestrian and cycle connections within and between neighbourhoods, and active street frontages.

Paragraph 97 states to provide the social, recreational and cultural facilities and services the community needs, planning policies and decisions should: a) plan positively for the provision and use of shared spaces, community facilities (such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship) and other local services to enhance the sustainability of communities and residential environments.

Policy HP2 of the TDLPS2 refers to community facilities, it states that the Council will work with the development industry and key partners to deliver and maintain a range of new community facilities. New development should support and enhance community facilities where appropriate by: a. providing on site, where necessary, or contributing towards new or enhanced community facilities to meet needs arising from the proposed development or growth and where possible, encourage co-location.

As stated above the site already has planning permission in place for the construction of a new community hall.

This application is a variation to the previously approved scheme reference 20/00391/FUL dated 24.08.2020. The community centre proposed is approximately 25.9m x 30.575m and 8m high to the ridge which is a slight increase on the previous approval.

The building will accommodate a main hall, small hall, office, sitting area, kitchens, storage areas, scout store, plant room, changing facilities, toilets and a garage for groundskeeping equipment.

The design of the building broadly follows the previous approval with large, pitched roofs finished with slate, concrete tiles or standing seam metal sheet roofing with buff facing brickwork and horizontal weather boarded wall finishes. The principle of development is therefore acceptable in accordance with both National and Local policy.

Design, Layout, Scale & Appearance

Section 1 Policy SP7 of the Tendring Local Plan 2013-2033 seeks high standards of urban and architectural design which respond positively to local character and context.

Paragraph 130 of the NPPF states that planning policies and decisions should ensure that developments are visually attractive as a result of good architecture, layout and appropriate and effective landscaping and are sympathetic to local character and landscape setting. Local Plan

Local Plan Policy SPL3 requires that all new development (including changes of use) make a positive contribution to the quality of the local environment and protect or enhance local character, and that development respects or enhances local landscape character, and maintains or enhances important existing site features of landscape or amenity value.

The proposed building would take on a modern appearance incorporating differing roof heights and pitches with a buff brick, white render and light grey weather boarded finish. The form, mass and materiality of the building is considered to represent an appropriate response to the mixed character of the area and the new housing to the south.

Views of the building will be limited to within the development site as the mature vegetation fronting onto School Road would be providing screening.

Precise details of the materials for the site will be secured via condition because it is considered reasonable and necessary to seek these crucial elements as part of further conditions and to ensure a satisfactory development in a key location. A compliance condition is necessary to ensure the landscaping details are implemented.

Residential Amenities

Paragraph 135f of the NPPF states that Planning Policies and decisions should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users⁵²; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

Policy SP7 of Section 1 of the 2013-33 Local Plan requires that the amenity of existing and future residents is protected. Section 2 Policy SPL 3 (Part C) seeks to ensure that development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties.

The nearest residential properties to the north are sited approximately 70m from the development. This degree of separation when considered in conjunction with the fact the site already has permission for a community hall means that any impact upon residents to the north in terms of noise would be minimal. The function room is also located centrally within the building with proposed rooms on the outside providing a further buffer in respect of noise leakage. To the south the proposed dwellings facing the hall are 42m away which again is sufficient to ensure any noise impacts from the use of the building and parking area would be minimal.

The proposed hours of use on the application form are 08:30am-23:00pm. This is considered to be reasonable for a community building that is sited a suitable distance from neighbouring properties. Furthermore, it is noted that the building will be managed by the parish council.

Highways

Paragraph 114 of the NPPF states that in assessing specific applications for development it should be ensured that safe and suitable access to the site can be achieved for all users.

Adopted Policy CP1 (Sustainable Transport and Accessibility) of the Tendring District Local Plan 2013-2033 states that planning permission will only be granted if amongst other things; access to the site is practicable and the highway network will be able to safely accommodate the additional traffic the proposal will generate and the design and layout of the development provides safe and convenient access for people.

ECC Highways reviewed the original plans and note that the proposal is for a slight modification to the approved application 20/00391/FUL that was previously acceptable to the Highway Authority. The proposal is in the same location as the building approved under the original application. It is noted that the building will not have an impact on the existing surrounding properties or listed buildings. The building will provide increased community facilities for the village with easy pedestrian and cycle access, along with slight increase in car parking to the original application.

54 car parking spaces are proposed which is sufficient when having regard to the current parking standards for a community facility of this scale and siting. ECC highways raise no objection subject to conditions, all the recommended conditions are considered to meet the NPPF tests and will be imposed either as suggested (with minor adjustments to ensure they are enforceable and otherwise NPPF test compliant) or where they are similar to the previous highways related conditions imposed on the 2020 permission they will be reimposed.

Heritage Assets

Paragraph 201 of the NPPF refers to proposals affecting heritage assets. It states that Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this into account when considering the impact of a proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset's conservation and any aspect of the proposal. Paragraph 205 extends that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

Paragraph 207 of the NPPF states that where a proposed development will lead to substantial harm to (or total loss of significance of) a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply: a) the nature of the heritage asset prevents all reasonable uses of the site; and b) no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and c) conservation by grant-funding or some form of not for profit, charitable or public ownership is demonstrably not possible; and d) the harm or loss is outweighed by the benefit of bringing the site back into use. Para 208 extends that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

Policy PPL9 of the TDLPS2 states that proposals for new development affecting a listed building or its setting will only be permitted where they will protect its special architectural or historic interest, its character, appearance and fabric. Where a proposal will cause harm to a listed building, the relevant paragraphs of the NPPF should be applied dependent on the level of harm caused. Proposals will be treated favourably where they: a. are explained and justified through an informed assessment and understanding of the significance of the heritage asset (including any contribution made to that

significance by its setting); and b. are of a scale, design and use materials and finishes that respect the significance of the listed building (including any contribution made to that significance by its setting).

There are several Grade II listed properties to the north fronting Clacton Road. A heritage statement has been provided which outlines the listing of the listed buildings and the impact of the development. In this instance, the degree of separation between the development and the listed properties (70m to the closest) in conjunction with the fact the site already has planning permission for a community hall means that any impact upon the setting of those buildings would be minimal. There would be limited intervisibility between the new building and the rear of listed properties to the north due to mature boundary treatment in this location, ensuring that the proposal will have a neutral impact on these heritage assets.

Renewable Energy Generation and Energy efficiency Measures

Policies PPL10 and SPL3, together, require consideration be given to renewable energy generation and conservation measures. Proposals for new development of any type should consider the potential for a range of renewable energy generation solutions, appropriate to the building(s), site and its location, and be designed to facilitate the retro-fitting of renewable energy installations.

Paragraph 111 of the Framework states that applications for development should be designed to enable charging of plug-in and other ultra-low emission vehicles (ULEV) in safe, accessible and convenient locations. However, recent UK Government announcements that ULEV charging points will become mandatory for new development have yet to be published.

The application contains limited information to demonstrate compliance with the above mentioned policies, a condition is therefore considered reasonable and necessary and would be imposed on any approval to ensure the scheme is policy compliant with these aims.

Habitats, Protected Species and Biodiversity Enhancement

Ecology and Biodiversity

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

General duty on all authorities

The Natural Environment and Rural Communities Act 2006 amended by the Environment Act 2021 provides under Section 40 the general duty to conserve and enhance biodiversity: "For the purposes of this section "the general biodiversity objective" is the conservation and enhancement of biodiversity in England through the exercise of functions in relation to England." Section 40 states authorities must consider what actions they can take to further the general biodiversity objective and determine policies and specific objectives to achieve this goal. The actions mentioned include conserving, restoring, or enhancing populations of particular species and habitats. In conclusion for decision making, it is considered that the Local Planning Authority must be satisfied that the development would conserve and enhance.

This development is subject to the general duty outlined above. The following features underscore how the proposal positively impacts biodiversity, offsetting requirements necessary for the development to take place.

Native Planting Strategies, Sustainable Drainage Systems/ Permeable Surfaces. Preservation of Existing Habitat Features. Wildlife-Friendly Infrastructure (fencing/lighting).

A Preliminary Ecological Appraisal, Biodiversity Net Gain Assessment and Ecological Enhancement and Management Plan have been prepared to assess the ecology level of the existing site and provide recommendations to achieve 10% net gain in habitat units.

The proposed landscaping scheme indicates the new tree, hedge and wildflower planting.

Therefore, the development on balance and with consideration of the impact of the development and baseline situation on site, does 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 (excluding Listed Building Consent, Advert Consent, Reserved Matters, Prior Approvals, Lawful Certificates, householders, self builds, and other types of application which are below the threshold i.e. does not impact a priority habitat and impacts less than 25 sq.m of habitat, or 5m of linear habitats such as hedgerow).

The statutory framework for BNG applies. 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 and this can be secured via the governments standard deemed condition which will be imposed in the interest of clarity (should planning permission be granted).

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. However, the proposal is not for a residential development and there will be no overnight use. For these reasons it is not considered reasonable or necessary for a S106 Legal Agreement/Unilateral Undertaking to be sought to secure the necessary financial contributions for RAMS. The proposals are therefore in accordance with Section 1 Policy SP2 and Section 2 Policy PPL4 of the Tendring District Local Plan 2013-2033 and Regulation 63 of the Conservation of Habitat and Species Regulations 2017.

Protected Species

In accordance with Natural England's standing advice the application site and surrounding habitat have been assessed for potential impacts on protected species.

It is considered that the proposal is unlikely to adversely impact upon protected species or habitats by virtue of the Preliminary Ecological Appraisal findings.

In compliance with relevant wildlife legislation and planning policies, the development will adhere to best practices to protect and enhance the habitat for these protected species. Additionally, ongoing monitoring and adaptive management strategies will be conditioned and implemented as necessary including a detailed Protected Species Mitigation and Management Plan to ensure the continued protection of these species throughout the development process.

Conclusion

In accordance with the overarching duty outlined above, this development is committed to actively contributing to the conservation and enhancement of biodiversity as set out above and within the planning conditions. The development aligns with the statutory framework for biodiversity net gain, striving to achieve a 10% net gain in biodiversity value over 30 years. In conclusion, this development is considered to accord to best practice, policy, and legislation requirements in consideration of the impacts on ecology interests.

8. Other considerations and Recommendation

No third party comments are on file. A number of conditions imposed on the previous (now lapsed) consent remain relevant and will be reimposed on any new permission in addition to any new/amended conditions considered reasonable and necessary. In the absence of any material harm that could not be mitigated by conditions, the scheme is recommended for Approval

9. Conditions

1. COMPLIANCE: TIME LIMIT

CONDITION: The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

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

NOTE/S FOR CONDITION:

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

2. APPROVED PLANS & DOCUMENTS

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

Drawing No. 3704-PA-LOC – Site Plan – Received 22.08.24

Drawing No. PA-02-C – Proposed Block Plan – Received 22.08.24

Drawing No. PA-03-C – Proposed Site Layout Plan – Received 22.08.24

Drawing No. PA-04-C – Proposed Floor Plans & Elevations – Received 22.08.24

Drawing No. 24.5466.01 – Detailed Hard & Soft Landscaping – Received 22.08.24

Drawing No. 08.24.001-101 – Drainage Details – Received 22.08.24

Planning Statement – Received 22.08.24

Preliminary Ecological Appraisal – Received 22.08.24
BNG Metric – Received 04.09.24
Arboricultural Impact Assessment & Appendix – Received 23.08.24

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

NOTE/S FOR CONDITION:

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

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

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

3. FURTHER DETAIL REQUIRED: MATERIALS TO BE AGREED

CONDITION: No above ground works shall take place until precise details of the manufacturer and types and colours of the external facing and roofing materials to be used in construction have been submitted to and agreed, in writing, by the Local Planning Authority. Such materials as may be agreed shall be those used in the development.

REASON: To ensure the garage building is constructed from materials sympathetic to the character and appearance of the area.

4. COMPLIANCE WITH DETAILS AND TIMESCALE REQUIRED – LANDSCAPING SCHEME

CONDITION: All changes in ground levels, hard landscaping, planting, seeding or turfing shown on the approved landscaping details Drawing No. 24.5466.01 shall be carried out during the first planting and seeding season (October - March inclusive) following the commencement of the development or in such other phased arrangement as may be agreed in writing by the Local Planning Authority. Any trees or shrubs which, within a period of 5 years of being planted die, are removed or seriously damaged or seriously diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority agrees in writing to a variation of the previously approved details.

REASON: In the interest of visual amenity and the character of the area.

5. ACTION REQUIRED: PROVISION OF ACCESS

CONDITION: Prior to the first use of the hereby approved development the internal road, access and footway connections between the development and the main spine road and footways layout shall be provided in precise accordance with Drawing Numbered PA-03-C

REASON: To ensure that all vehicles using the site access do so in a controlled manner, in the interests of highway safety.

6. ACCESS MATERIALS

CONDITION: Prior to the first use of the development the car parking and turning area, shall be hard surfaced, sealed and marked out in parking bays and provided in accord with the details shown in the Drawing Numbered PA-03-C. The car parking area shall be retained in this form at all times and shall not be used for any purpose other than the parking of vehicles related to the use of the development thereafter.

REASON: To ensure that on-street parking of vehicles in the adjoining streets does not occur, in the interests of highway safety.

7 FURTHER DETAIL REQUIRED: CYCLE STORAGE

CONDITION: The powered two-wheeler/cycle parking facilities as shown on the approved plan are to be provided prior to the first occupation of the development and retained at all times.

REASON: To promote the use of sustainable means of transport.

8 FURTHER DETAIL REQUIRED: CONSTRUCTION METHOD STATEMENT

CONDITION: No development shall take place, including any ground works or works of demolition, until a Construction Management Plan (CMP) has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- i. the parking of vehicles of site operatives and visitors
- ii. loading and unloading of plant and materials
- iii. storage of plant and materials used in constructing the development
- iv. wheel and under body washing facilities

REASON: To ensure that on-street parking of these vehicles in the adjoining streets does not occur, in the interests of highway safety.

9 FURTHER DETAIL REQUIRED: SUSTAINABLE TRANSPORT MODES

CONDITION: The development shall not be occupied until such time as details of public transport facilities (timetables and locations of bus stops etc), walking and cycling being prominently displayed within the site have been submitted to and approved, in writing, by the Local Planning Authority. The approved details shall be regularly updated and maintained in perpetuity.

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

10 HOURS OF OPERATION

CONDITION: The development shall only be open to the general public between the following opening times; - 8:30am - 11pm (7 days a week)

REASON: In the interests of residential amenity.

11 FURTHER DETAIL: SURFACE WATER MANAGEMENT PLAN

CONDITION: No development shall commence until a surface water management strategy for the site has been submitted to and approved, in writing, by the Local Planning Authority. The development shall then be constructed in full accordance with the approved details.

REASON: - To prevent environmental and amenity problems arising from flooding.

12 FURTHER APPROVAL: BIODIVERSITY NET GAIN PLAN

CONDITION: The development may not be begun unless (a) a biodiversity gain plan has been submitted to the planning authority (see note), and (b) the planning authority has approved the plan (see note).

REASON: In order to accord with Schedule 7A of the Town and Country Planning Act 1990 (as inserted by Schedule 14 of the Environment Act 2021) and amended by The Biodiversity Gain (Town and Country Planning) Modifications and Amendments (England) Regulations 2024

NOTE - CONTEXT AND APPLICATION:

Planning conditions are typically established upon the granting of planning permission under sections 70(1) and 72 of the Town and Country Planning Act 1990. However, it's essential to note that the biodiversity gain condition operates under a distinct statutory framework, specifically outlined in paragraph 13 of Schedule 7A of the Town and Country Planning Act 1990.

This condition is deemed to apply to all planning permissions granted for land development in England, unless specific exemptions or transitional provisions are applicable (for further details, please refer to the provided web link <https://www.gov.uk/guidance/biodiversity-net-gain-exempt-developments> or contact us directly.

The government advises against including this condition in decision notices to avoid confusion. However, for clarity and accountability, we have opted to highlight this condition within the decision notice. This ensures that all involved parties are aware of its requirements, facilitating effective tracking and monitoring throughout the development process, including the discharge of conditions.

In certain instances, this condition may be imposed even if the applicant believes that biodiversity net gain (BNG) does not apply. Based on the available information, it is determined that this permission necessitates the approval of a biodiversity gain plan before commencing development, as none of the statutory exemptions or transitional arrangements apply.

For further details, please consult the officer report as needed. If you believe this condition does not apply, we strongly recommend contacting the Local Planning Authority (LPA) for clarification. Tendring District Council serves as the planning authority responsible for determining the approval of a Biodiversity Gain Plan in relation to this permission.

BIODIVERSITY GAIN PLAN REQUIREMENTS:

For the Biodiversity Gain Plan requirements, please refer to both paragraphs 14 and 15 of the Environment Act Sch 14 Part 2 as amended by The Biodiversity Gain (Town and Country Planning) Modifications and Amendments (England) Regulations 2024.

<https://www.legislation.gov.uk/ukpga/2021/30/schedule/14/enacted>

In summary, the Biodiversity Net Gain (BNG) plan must achieve a minimum biodiversity net gain of 10% and should typically include the following:

- Steps taken or to be taken to minimize adverse effects of the development on the biodiversity of the onsite habitat and any other habitat.
- Pre-development and post-development biodiversity assessments of the onsite habitat.
- Allocation of any registered offsite biodiversity gain to the development and its biodiversity value in relation to the development.
- Details of any biodiversity credits purchased for the development.
- Plans for maintaining and securing the net gain on and/or off site for at least 30 years after completion of the development.

The Local Authority will ensure the submitted details meet the requirements of the Town and Country Planning Act 1990 as amended, Environment Act as amended, associated legislation and guidance.

Ways to achieve 10% BNG may include:

- 1) Enhancement and restoring biodiversity on-site (within the red line boundary of a development site).
- 2) If proposals can only achieve part of their BNG on-site, they can deliver through a mixture of on-site and off-site. Developers can either make off-site biodiversity gains on their own land outside the development site or buy off-site biodiversity units on the market as close as possible to the site.
- 3) If developers cannot achieve on-site or off-site BNG, they must buy statutory biodiversity credits from the government. This must be a last resort. The government will use the revenue to invest in habitat creation in England.

Developers may combine all 3 options but must follow the steps in order. This order of steps is called the biodiversity gain hierarchy.

CONDITIONS AND LEGAL AGREEMENT:

The Local Authority is responsible for ensuring that the biodiversity gain objective is achieved, whether it be onsite, offsite, or through the purchase of credits, and that it is secured by legal agreement as necessary. It is essential to highlight that planning conditions operate within a strict timeframe. Therefore, any legal agreements required to secure the biodiversity gain must be completed prior to the consideration of the planning condition. Failure to comply with this requirement may result in the refusal of the condition.

13 VISIBILITY SPLAYS

CONDITION: Prior to occupation of the development, the road junction / access at its centre line shall be provided with minimum visibility splays dimensions of 2.4 metres by 33 metres in both directions, as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the road junction / access is first used by vehicular traffic and retained free of obstruction above 600mm at all times.

REASON: To ensure a satisfactory development in the interests of highway safety.

14 FURTHER DETAILS – ENERGY EFFICIENCY MEASURES

CONDITION: No development shall commence above slab level until a scheme for the provision and implementation of water, energy and resource efficiency measures for the lifetime of the development shall be submitted to and approved, in writing, by the Local Planning Authority. The scheme should include as a minimum the following:-

- Agreement of carbon level;
- Agreement of provisions to ensure the development is zero carbon ready;
- A Water-butts for the building;

- Compost bin for the building;
- Agreement of heating of the building; and
- Agreement of scheme for waste reduction

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

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

NOTE/S FOR CONDITION:

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

The greatest threat to our planet is the belief that someone else will save it and also forgetting that small acts, when multiplied by millions of people, can transform the world. Developments will provide buildings/homes to thousands/millions of people over their lifetime. A well designed sustainable development in the beginning will restrict the contribution each person makes to that threat and help enable them to transform the world.

10. Informatives

Positive and Proactive Statement:

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

11. Equality Impact Assessment

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

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

In the present context, it has been carefully evaluated that the recommendation articulated in this report and the consequent decision are not expected to disproportionately affect any protected

characteristic* adversely. The PSED has been duly considered and given the necessary regard, as expounded below.

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

12. Notification of Decision

Are there any letters to be sent to applicant / agent with the decision? If so please specify:	YES	NO
Are there any third parties to be informed of the decision? If so, please specify:	YES	NO
Has there been a declaration of interest made on this application?	YES	NO
Please use the below options as required.		
No Declarations Of Interest Made		